

City Update

For weeks ending: August 29 and September 5

City Council	Mayor & City Administrator
<p><u>Position 1: Deady</u> Attended Labor Day activities 9/4 attended Council mtg 9/5 attended Public Safety Committee mtg</p> <p><u>Position 2: Morgan</u> 8/30, 8/31, 9/1 attended Labor Day activities 9/4 attended Council mtg</p> <p><u>Position 3: Edelman</u> Attended Labor Day activities 8/26 attended Finance Committee mtg 9/4 attended Council mtg</p> <p><u>Position 4: Benson</u> Attended Labor Day activities 8/26 attended Finance Committee mtg 9/4 presided over Council mtg</p> <p><u>Position 5: Taylor</u> Attended Labor Day activities 9/5 attended Public Safety Committee and Public Works Committee meetings</p>	<p><u>Mayor's Activities</u> 8/25 met with Finance and Staff re: 2015 Budget 8/26 attended Finance Committee meeting 8/27 met with Judge and Finance staff re: 2015 Budget Attended Labor Day activities</p> <p><u>City Administrator's Activities</u></p>

Council Commissions, Boards & Committees

- Budget, Finance and Administration Committee. Meeting date: August 26, 2014. Next meeting: September 25, 2014. Meeting time: 4:00 PM. Staff support: May Miller.
- Planning and Community Service Committee. Meeting date: September 9, 2014, 2014. Meeting time: 4:00 pm. Staff support: Aaron Nix.
- Cemetery and Parks Committee. Meeting date: Meeting time: 10:00 AM. Staff support: Seth Boettcher.
- Public Works Committee. Meeting date: _____, 2014. Meeting time: _____. Staff support: Seth Boettcher.
- Public Safety Committee. Meeting date: _____, 2014. Meeting time: _____. Staff support: Chief Kiblinger.

Community Development Activities

- Much activity for the Community Development Department, with significant activity associated with building review and inspections, Special Event processing, Variances and SEPA reviews.
- The Permit Center continues with its' modified hours of 8:30 am – 5:00 pm, Monday, Wednesday and Thursday. The Permit Center is closed on Tuesdays and Fridays.

Planning Commission:

- Further discussion and follow-up on the Public Participation Plan revisions to be forwarded to the City Council.

	2013	2012
Pre-application Conferences Held	2	7
Preliminary Plats Approved (Number of Residential Lots)		
Multi-family units approves		
New Single Family Residential Permits Issued	3	8
New Commercial Square Footage Approved		
Tenant Improvement Permits Issued	1	3
Sign Permits Issued	1	2
Public Hearings Held	1	1

Status of Active Capital Improvement Projects

Springs Project: Administration, Public Works Committee, and Council @ CIP workshop agreed with the consultant's recommendation to tap the artesian spring on the north side of the Green River. Next steps:

- Preliminary design
- Negotiate scope and fee with RH2 ; Met With State Parks to determine requirements and process
- Review scope and fee with funding partners
- Call for funds to cover the next element of work
- Bring contract to the council for approval

Abrams Guard Rail: SEPA process complete; Coordination with Century Link; Project out to bid.

½ Mil Tank Painting: Phase 1 to take tank off line moving forward; Meeting to discuss decision information needed for possible deferral.

Old Sewer Lagoon Decommissioning. Soil samples taken from site where bio solids to be are in. preparing SEPA document. Started Nitrogen application rate for bio-solids application.

Downtown Water Main Project: Considering RFQ for engineer selection. Grant agreement expected in July.

Roberts Drive Reconstruction at Rock Creek Bridge: Legal says that we need to go through an updated consultant selection process.

Lawson Street Sidewalk Project: Project to bid next week, bid opening July 7th, bid award mid July, Notice to proceed early August

SR 169 / North Commercial Storm Pond In design

Morganville Sewer Pump Station Reconstruction The repaired pump station should be reliable till fall. The project will be scheduled for this fall.

Council Chambers Remodel: audience chairs are in.

- Sheet rock / brick wall covering planned for the last week in July and first week of August,
- Carpet In August,
- Council bench: RFP going out next week. Installation in September
- Audio visual: IT is recommending large flat panel with gateway access for presentations
- IF there is budget new council chairs will be purchased.

Summer asphalt patching: Bids are out, contract in July, work in August and or September.

Ginder Creek Trail/Regional Pond: Study completed by Landau Associates. Reviewed by the Parks/Cemetery Committee at their June 19th meeting.

General Administrative Activities

- Pet licenses issued: 1 ; 42 year-to-date; website updates 11 ; 264 year-to-date; passports processed 21 ; 596 year-to-date; business licenses issued: 3; 375 year-to-date; Lake Sawyer parking permits issued: 0 ; 13 .
- Received submittals from _____ for _____ services.
- Other:

Events on the Horizon

- See City calendar at <http://www.ci.blackdiamond.wa.us/calendar.html>
- See Maple Valley Black Diamond Chamber of Commerce calendar at <http://www.maplevalleychamber.org/schedule/calendar/maple-valley-featured-events>
- See Enumclaw School District calendar at: www.enumclaw.wednet.edu
- See Black Diamond Historical Society calendar at <http://www.blackdiamondmuseum.org/calendar.htm>
- See Black Diamond Community Center calendar at <http://www.blackdiamondcc.org/community/community.html>

Adopted Council 2013 Priorities

W2 – Reservoir Painting & Maintenance

10-year plan for asbestos pipe replacement

D2 – North Commercial & State Route 169 Stormwater Pond Design

P2 – Ginder Creek Trail Restoration

F1 & F2 – Fire Engine Replacement

T6 – Rock Creek Bridge

L3 – Police Radio Replacement



CITY OF BLACK DIAMOND
September 18, 2014 Regular Business 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.

PUBLIC HEARINGS: None

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

Mayor's Cemetery Board Appointments

UNFINISHED BUSINESS: None

NEW BUSINESS:

- | | |
|--|----------------|
| 1) AB14-083 – Resolution Authorizing Professional Services Agreement with Parametrix, Inc.
for Surveying Services – MDRT | Mr. Williamson |
| 2) AB14-084 – Resolution Authorizing Professional Services Agreement with Parametrix, Inc.
for Traffic Engineering Services – MDRT | Mr. Williamson |
| 3) AB14-085 – Resolution Authorizing Professional Services Agreement with RH2 – MDRT | Mr. Williamson |
| 4) AB14-086 – Resolution Authorizing Professional Services Agreement with Henderson,
Young & Company – MDRT | Mr. Williamson |
| 5) AB14-087 – Resolution Authorizing Professional Services Agreement with Pertect – MDRT | Mr. Williamson |
| 6) AB14-088 – Resolution Authorizing Professional Services Agreement HWA Geosciences – MDRT | Mr. Williamson |
| 7) AB14-089 – Resolution Authorizing Professional Services Agreement with RH2 – Public Works | Mr. Boettcher |

DEPARTMENT REPORTS: None

MAYOR'S REPORT:

COUNCIL REPORTS:

A. Council Standing Committees and Regional Committees

- Councilmember Benson - Budget, Finance, Administration Committee; South County Area Transportation Board SCATBd); South East Area Transportation Solutions (SEATS) Coalition; Mental Illness and Drug Dependency Oversight Committee

- Councilmember Edelman - Planning and Community Service Committee; Public Issues Committee (PIC)
- Councilmember Dedy - Cemetery and Parks Committee; Growth Management Planning Council (GMPC)
- Councilmember Taylor, Chair - Public Works Committee; Public Safety Committee
- Councilmember Morgan - Water Resource Inventory Area Committee (WRIA 9)

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

8) Claim Checks – September 18, 2014, No. 41350 through No. 41403 in the amount of \$98,125.86

9) Payroll Checks – August 31, 2014 No.18397 through No. 18417 and ACH Pay in the amount of \$259,816.01

10) Minutes – Council Minutes of September 4, 2014

EXECUTIVE SESSION: To discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i)

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 14-972, authorizing the Mayor to execute a contract with Parametrix to serve as the Survey Consultant to the MDRT	Agenda Date: September 18, 2014 AB14-083	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
Cost Impact (see also Fiscal Note):	Public Works – Seth Boettcher	
Fund Source: pass-through expense to Master Developer	Court – Stephanie Metcalf	
Timeline: 2-year contract w/10 day call		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-972, proposed contract, Resolution Nos. 12-820 & 14-951		
SUMMARY STATEMENT: <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDs are implemented over time. There will be significant needs for professional land surveyor (PLS) assistance in the review of specific implementing projects (primarily plats).</p> <p>In July, 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 6 firms submitted their qualifications; two were selected to be interviewed. The interview panel consisted of MDRT/Economic Development Director, Public Works Director Seth Boettcher and Public Works Administrative Assistant, Scott Hanis. The interview panel's unanimous choice is to hire Parametrix.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). Consistent with past direction from the Council, the contract period is two years with a 10-day termination provision is included, should the City decide to seek a different consultant or hire its own staff at a future date.</p> <p>FISCAL NOTE (Finance Department): Per the Funding Agreement, all cost associated will the contract will be reimbursed by the Developer.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 14-972, authorizing the Mayor to execute a contract with Parametrix to serve as Survey Consultant to the MDRT.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
September 18, 2014		

RESOLUTION NO. 14-972

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

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

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

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

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

WHEREAS, the City does not have on sufficient staff resources to provide Surveying Services to meet the needs of the MDRT;

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 2 year contract with Parametrix Inc. to provide Surveyor Services for the MDRT, 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 18TH DAY OF SEPTEMBER, 2014.

CITY OF BLACK DIAMOND:

Dave Gordon, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
FOR SURVEYING SERVICES
BETWEEN THE CITY OF BLACK DIAMOND AND
PARAMETRIX, INC.**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **Parametrix, Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington located and doing business at 1019 39th Avenue SE, Suite 100, Puyallup, WA 98374.

RECITALS

WHEREAS, the City does not have on sufficient staff resources to provide surveying services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from YarrowBay and an approved budget to fund the oversight, engineering review, inspections, development agreement enforcement and assisting the City with the regulatory role; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The municipal fiscal analysis services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is incorporated herein by this reference.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

The Consultant shall perform the work according to the City's direction, as described in Section I of this Agreement. This Agreement shall be in effect for a period of two (2) years from the effective date, which is the date this Agreement is signed by both parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER

ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability

policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 30 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to Independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services

performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Austin R. Fisher, P.E.
Parametrix, Inc.
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374

CITY:

Attn: Andrew Williamson
City of Black Diamond
P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

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

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this
_____ day of _____, 2014.

CONSULTANT

CITY OF BLACK DIAMOND

By: _____
Daniel L. McReynolds
Its: President

By: _____
Dave Gordon, Mayor

Consultant: Parametrix, Inc.

APPROVED AS TO FORM:

Carol A. Morris
City Attorney's Office

ATTEST:

Brenda Martinez
City Clerk

EXHIBIT A
Master Development Review Team
Scope of Survey Work

Primary Task Responsibilities

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

Supplemental Task Responsibilities

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

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

_____	_____
Written Name	Title
_____	_____
Signature	Date

Consultant:

_____	_____
Written Name	Title
_____	_____
Signature	Date

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

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

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

Direct project expenses and reproduction costs are billed at cost plus 15%

Mileage expense is billed at current approved IRS mileage rate

Lodging and PerDiem costs are billed at current GSA rates

Survey equipment except laser scanner billed at \$150/day

Laser Scanner is billed at \$97.40/hour

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

RESOLUTION NO. 12-820

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

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

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

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

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


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

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

Section 1. The Mayor is hereby authorized to execute a contract with Parametrix to provide survey review services for the MDRT.

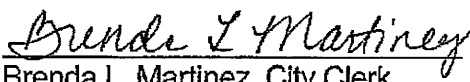
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A SPECIAL MEETING THEREOF, THIS 9TH DAY OF JULY, 2012.

CITY OF BLACK DIAMOND:



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 July 10, 2012 and is entered into by and between

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

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

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

and

Parametrix ("Consultant")

1019 39th Avenue SE, Suite 100

Puyallup, WA 98374

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

Tax Id No.: 91-0914810

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

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

TERMS AND CONDITIONS

1. Services by Consultant

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

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

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

2. Schedule of Work

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

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

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

3. Compensation

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

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

4. Payment

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

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

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

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

5. Discrimination and Compliance with Laws

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

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

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

6. Suspension and Termination of Agreement

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

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

7. Standard of Care

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

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

8. Ownership of Work Product

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

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

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

9. Indemnification/Hold Harmless

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

10. Insurance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Assigning or Subcontracting

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

12. Independent Contractor

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

13. Notice

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

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

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

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

14. Disputes

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

15. Attorney Fees

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

16. General Administration and Management on Behalf of the City

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

17. Extent of Agreement/Modification

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

18. Conflict of Interest; Non-Collusion

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

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

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

CITY OF BLACK DIAMOND

By: Rebecca Olness
Rebecca Olness

Its: Mayor

Date: 7/10/12

CONSULTANT

By: Kathleen Cassou
Printed Name: Kathleen Cassou

Its: Survey Manager

Date: 6/12/12

Attest:

By: Brenda L. Martinez
Brenda L. Martinez
City Clerk

EXHIBIT A
Master Development Review Team
Scope of Survey Work

Primary Task Responsibilities

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

Supplemental Task Responsibilities

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

City of Black Diamond On-Call Task Request

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

Scope of Task Request

[illegible]

Budget Estimate:

Task Request Approval:

City of Black Diamond:

Written Name	Title
Signature	Date

Consultant:

Written Name	Title
Signature	Date

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

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

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

Direct project expenses and reproduction costs are billed at cost plus 15%

Mileage expense is billed at current approved IRS mileage rate

Lodging and PerDiem costs are billed at current GSA rates

Survey equipment except laser scanner billed at \$150/day

Laser Scanner is billed at \$97.40/hour

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

RESOLUTION NO. 14-951

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE THE FIRST
ADDENDUM TO THE PARAMETRIX, INC. CONTRACT TO
SERVE AS THE SURVEYING CONSULTANT TO THE
MASTER DEVELOPMENT REVIEW TEAM**

WHEREAS, on July 9, 2012 the Consultant and the City entered into a contract via Resolution No. 12-820 for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City;

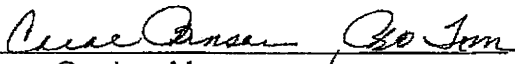
WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

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

Section 1. The Mayor is hereby authorized to execute the first addendum to the Parametrix, Inc. contract 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 5TH DAY OF JUNE 2014.**

CITY OF BLACK DIAMOND:


Dave Gordon, Mayor

Attest:


Brenda L. Martinez, City Clerk

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
Parametrix, Inc.**

THIS FIRST AMENDMENT is made to the Consultant Services Contract via Resolution No. 12-820 executed between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and Parametrix (hereinafter the "Consultant," a corporation organized under the laws of the State of Washington, located and doing business at 1019 – 39th Avenue S.E., Suite 100, Puyallup, WA 98374.

RECITALS

WHEREAS, on **July 9, 2012**, the Consultant and the City entered into a contract for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City;

WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

Section 1. No Change to Terms and Conditions. With the exception of the expiration date of the Contract between the City and the Consultant, all terms and conditions of the Contract shall remain the same.

Section 2. New Expiration Date. The parties agree to extend the expiration date of the Contract June 30, 2014 to **September 30, 2014**.

IN WITNESS WHEREOF, the parties have executed this Agreement on this **5th day of June, 2014**.

CONSULTANT

By: Kathleen Cassou
Kathleen Cassou
Its. Survey Manager

CITY OF BLACK DIAMOND

By: Dave Gordon
Dave Gordon, Mayor

Consultant: Parametrix Inc.

APPROVED AS TO FORM:

Carol L. Morris, City Attorney's Office

ATTEST:

Brenda L Martinez
Brenda Martinez, City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 14-973, authorizing the Mayor to execute a contract with Parametrix to serve as the Traffic Engineering Consultant to the MDRT	Agenda Date: September 18, 2014 AB14-084	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note):	Public Works – Seth Boettcher	
Fund Source: pass-through expense to Master Developer	Court – Stephanie Metcalf	
Timeline: 2-year contract w/10 day call		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-973, proposed contract , Resolution Nos. 12-791 & 14-952		
SUMMARY STATEMENT: <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDS are implemented over time. There will be significant needs for traffic engineering assistance to help with review of specific implementing projects (plats, multifamily housing, commercial projects), plus the periodic running of the new traffic model at the 850 dwelling unit and subsequent dates.</p> <p>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. Only four firms submitted their qualifications; two were interviewed. The interview panel consisted of Public Works Director Seth Boettcher, MDRT/Economic Development Director Andrew Williamson, Administrative Assistant, Scott Hanis. The unanimous choice of the interview panel was to hire Parametrix, which prepared the EIS documents for the MPDs and currently provides on-call traffic consultant work for the remainder of the City.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). Since traffic engineering work will be continually required during MPD implementation, a contract end date is not specified. However, a 60-day termination provision is included, should the City decide to seek a different consultant or hire its own staff at a future date.</p> <p>FISCAL NOTE (Finance Department): Per the Funding Agreement, all cost associated will the contract will be reimbursed by the Developer.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 14-973, authorizing the Mayor to execute a contract with Parametrix to serve as Traffic Engineering Consultant to the MDRT.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 18, 2014		

RESOLUTION NO. 14-973

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

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

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

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

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

WHEREAS, the City does not have on sufficient staff resources to provide Traffic Engineering Services to meet the needs of the MDRT;

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 2 year contract with Parametrix Inc. to provide Traffic Engineering Services for the MDRT, 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 18TH DAY OF SEPTEMBER, 2014.

CITY OF BLACK DIAMOND:

Dave Gordon, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
PARAMETRIX, INC. (Traffic)**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and PARAMETRIX, INC., (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 1019 – 39TH Avenue S.E., Suite 100, Puyallup, WA 98374.

RECITALS

WHEREAS, the City does not have sufficient staff resources to provide municipal fiscal analysis services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from Yarrow Bay and an approved budget to fund the oversight, engineering review, inspections, development agreement, enforcement and to assist the City with its regulatory role; and

WHEREAS, the City has advertised for general traffic engineering services and selected Parametrix, Inc., as the best qualified consultant; and

WHEREAS, the City anticipates the need to process permits, oversee public construction work and coordinate activities with Yarrow Bay to increase over the next year;

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is attached hereto and incorporated herein by this reference.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

The Consultant shall perform the work according to the City's direction, as described in Section I of this Agreement. This Agreement shall be in effect for a period of two (2) years from the effective date, which is the date this Agreement is signed by both parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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

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

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 30 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Austin R. Fisher, P.E.
Parametrix, Inc.
1019 – 39th Avenue S.E., Suite 100
Puyallup, WA 98374

CITY:

Attn: Andrew Williamson
City of Black Diamond
P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

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

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with Exhibits A, B and C attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to

the subject matter hereunder is contained in this Agreement and Exhibits A, B and C attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2014.

CONSULTANT

CITY OF BLACK DIAMOND

By: _____
Daniel L. McReynolds
Its: President

By: _____
Dave Gordon, Mayor

**Consultant: PARAMETRIX,
INC.**

APPROVED AS TO FORM:

Carol Morris, City Attorney

ATTEST:

Brenda Martinez, City Clerk

EXHIBIT A
SCOPE OF SERVICES

Exhibit A

Master Development Review Team

Traffic and Transportation Review Services General Scope of Services

- Traffic Impact Study review and findings
- Traffic Monitoring Report review and findings
- Traffic safety studies
- Travel demand forecasting and modeling
- Traffic operations modeling
- Intersection level of service analysis
- Roundabout evaluation
- Design concept review
- Sight distance evaluation
- Pedestrian and bicycle facility planning and design
- Transit facility planning and design
- Parking management and guidelines
- Code language and design standards review
- Traffic calming strategies review
- Coordination with City staff
- Attendance at City Council or public meetings or hearings

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

Written Name

Title

Signature

Date

Consultant:

Written Name

Title

Signature

Date

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

Exhibit C

Parametrix Maximum Allowable Rates

Classification	Grade	Rate for Billing	Classification	Grade	Rate for Billing
CADD Operator I	8	\$70	Jr. Planner	8/9	\$75
CADD Operator II	9/10	\$85	Planner I	10	\$90
CADD Operator III	11	\$115	Planner II	11	\$100
CADD Tech Lead	12	\$120	Planner III	12/13	\$120
CADD Supervisor	12	\$110	Planner IV	14	\$130
CADD Services Manager	14	\$125	Sr. Planner	15	\$150
			Sr. Planner	16	\$170
			Sr. Planner	17	\$190
Designer I	10	\$100	Jr. Scientist/Biologist	8	\$75
Designer II	11	\$105	Scientist/Biologist I	10	\$85
Designer III	12	\$120	Scientist/Biologist II	11	\$110
Designer III	13	\$135	Scientist/Biologist III	12	\$115
Designer IV	14	\$145	Scientist/Biologist III	13	\$120
Sr. Designer	15	\$150	Scientist/Biologist IV	14	\$135
Sr. Designer	16/17	\$165	Sr. Scientist/Biologist	15	\$150
			Sr. Scientist/Biologist	16	\$165
			Sr. Scientist/Biologist	17	\$175
Engineering Technician I	8	\$75	Environmental Technician I	8	\$85
Engineering Technician II	9	\$85	Environmental Technician II	9	\$90
Engineer I	10	\$95	Environmental Technician III	10	\$100
Engineer II	11	\$100			
Engineer III	12	\$115	Jr. Toxicologist	8	\$75
Engineer III	13	\$125	Toxicologist I	10	\$95
Engineer IV	14	\$135	Toxicologist II	11	\$105
Sr. Engineer	15	\$150	Toxicologist III	12/13	\$115
Sr. Engineer	16	\$170	Toxicologist IV	14	\$140
Sr. Engineer	17	\$190	Sr. Toxicologist	15/16	\$165
Sr. Consultant	18	\$235	Sr. Toxicologist	17	\$210
Sr. Consultant	19	\$250			
Jr. Surveyor	8	\$70	Hydrogeologist I	10	\$95
Surveyor I	9	\$80	Hydrogeologist II	11	\$100
Surveyor II	10	\$85	Hydrogeologist III	12/13	\$115
Surveyor III	11	\$110	Hydrogeologist IV	14	\$115
Sr. Surveyor	12	\$115	Sr. Hydrogeologist	15	\$150
Sr. Surveyor	13	\$140	Sr. Hydrogeologist	16	\$165
Survey Supervisor	14	\$145	Sr. Hydrogeologist	17	\$170
Regional Surveyor	18	\$185			
Construction Technician I	8/9	\$85	GIS Technician	9/10	\$85
Construction Technician II	10	\$90	Sr. GIS Analyst	11	\$95
Construction Technician III	11	\$120			
Construction Technician IV	12	\$135	Graphic Artist	9	\$80
Construction Manager I	11	\$110	Sr. Graphic Artist	10	\$110
Construction Manager II	12	\$125			
Construction Manager III	13	\$135	Technical Aide	7	\$70
Construction Manager IV	14	\$145	Sr. Technical Aide	8	\$75
Sr. Construction Manager	15	\$150	Project Coordinator	9	\$90
Sr. Construction Manager	16	\$170	Sr. Project Coordinator	10	\$95
Sr. Construction Manager	17	\$175	Project Controls Specialist	11	\$100
Site Construction Manager	18	\$180	Project Coordination Supervisor	11	\$100
Operations Manager	16	\$150			
Operations Manager	17	\$170	Project Accountant	8	\$80
Operations Manager	18	\$180	Project Accountant	9	\$85
Division Manager	16	\$165	Sr. Project Accountant	10	\$95
Division Manager	17	\$205	Sr. Accounting Specialist	10	\$100
Division Manager	18/19	\$235	Sr. Contract Administrator	11	\$115
Regional Division Manager	18/19	\$240			
Program Manager	18/19	\$250	Library Specialist	9	\$80
Program Manager	20	\$260	Librarian	11	\$85
Principal Consultant	19	\$270	Information Resource Manager	13	\$125
Principal Consultant	20	\$295	LAN Admin I	11	\$100
Project Delivery Officer	19	\$235	LAN Admin II	12	\$110
Principal	19/20	\$295	Sr. LAN Admin	13	\$105
Word Processor	7	\$65	Office Clerk	4	\$55
Sr. Word Processor	8	\$75	Receptionist	6	\$60
Word Processing Specialist	9	\$95	Admin Assistant	6/7	\$65
Technical Editor	10	\$105	Sr Admin Assistant	8	\$70
Word Proc Mgr/Editor	11	\$110	Sr Admin Assistant	9	\$90
Production Manager	12	\$130	Office Administrator	10	\$95
Expert Witness		\$250	Sr. Office Administrator	11	\$110
Value Engineering		\$250	Office Administrative Manager	12-14	\$130

Direct project expenses and reproduction costs are billed at cost plus 15%
Public hearing testimony services are billed at hourly rates plus 30%

RESOLUTION NO. 12-791

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

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

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

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

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

WHEREAS, the City does not have on staff the full range of expertise to provide traffic engineering to meet the needs of the MDRT; and

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

WHEREAS, after the three firms that submitted their qualifications were interviewed by a panel consisting of staff and one City Council member, the panel unanimously recommended Parametrix as the firm most capable of providing traffic engineering services as desired;

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

Section 1. The Mayor is hereby authorized to execute a contract with Parametrix to provide traffic engineering services for the MDRT, substantially in the form attached hereto as Exhibit A.

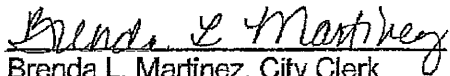
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19th DAY OF APRIL,
2012.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated, April 11th, 2012 and is entered into by and between

CITY OF BLACK DIAMOND, WASHINGTON (the "City")
Physical Address: 24301 Roberts Drive
Mailing Address: PO Box 599
Black Diamond, WA 98010

Contact: Andrew Williamson Phone: 360-886-5700 Fax: 360-886-2592

and

Parametrix, Inc.
1019 39th Avenue SE, Suite 100
Puyallup, WA 98374
Contact: Dan McReynolds Phone: 253-604-6600 Fax: 253-604-6799

Tax ID No.: 91-0914810

For non-exclusive on-call professional services for the City of Black Diamond.

TERMS AND CONDITIONS

1. Services by Consultant

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

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

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

2. Schedule of Work

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

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

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

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

4. Payment

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

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

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

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

5. Discrimination and Compliance with Laws

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

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

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

6. Suspension and Termination of Agreement

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

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

7. Standard of Care

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

8. Ownership of Work Product

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

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

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

9. Indemnification/Hold Harmless

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and 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: Daniel L. McReynolds
Parametrix, Inc.
1019 39th Ave SE, Suite 100
Puyallup, WA 98374
Fax: 253-604-6799

14. Disputes

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

15. Attorney Fees

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

16. General Administration and Management on Behalf of the City

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

17. Extent of Agreement/Modification

17.1 This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. After City Council approval, this Agreement shall be in effect as of April 20, 2012 and shall remain in effect until June 30, 2014, unless sooner terminated as set forth herein. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

18. Conflict of Interest; Non-Collusion

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The 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

By: Rebecca Olness
Rebecca Olness
Its: Mayor

CONSULTANT

By: Daniel L. McReynolds
Printed Name: Daniel L. McReynolds
Its: Principal

Date: 4-20-12

Date: April 11th 2012

Attest:

By: Brenda L. Martinez
Brenda L. Martinez
City Clerk

EXHIBIT A

(General Scope of Work)

Traffic and Transportation Review Services General Scope of Services

- Traffic Impact Study review and findings
- Traffic Monitoring Report review and findings
- Traffic safety studies
- Travel demand forecasting and modeling
- Traffic operations modeling
- Intersection level of service analysis
- Roundabout evaluation
- Design concept review
- Sight distance evaluation
- Pedestrian and bicycle facility planning and design
- Transit facility planning and design
- Parking management and guidelines
- Code language and design standards review
- Traffic calming strategies review
- Coordination with City staff
- Attendance at City Council or public meetings or hearings

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

_____	_____
Written Name	Title
_____	_____
Signature	Date

Consultant:

_____	_____
Written Name	Title
_____	_____
Signature	Date

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

Exhibit C

Parametrix Maximum Allowable Rates through

Classification	Grade	Rate for Billing	Classification	Grade	Rate for Billing
CADD Operator I	8	\$70	Jr. Planner	8/9	\$75
CADD Operator II	9/10	\$85	Planner I	10	\$90
CADD Operator III	11	\$115	Planner II	11	\$100
CADD Tech Lead	12	\$120	Planner III	12/13	\$120
CADD Supervisor	12	\$110	Planner IV	14	\$130
CADD Services Manager	14	\$125	Sr. Planner	15	\$150
			Sr. Planner	16	\$170
			Sr. Planner	17	\$190
Designer I	10	\$100	Jr. Scientist/Biologist	8	\$75
Designer II	11	\$105	Scientist/Biologist I	10	\$85
Designer III	12	\$120	Scientist/Biologist II	11	\$110
Designer III	13	\$135	Scientist/Biologist III	12	\$115
Designer IV	14	\$145	Scientist/Biologist III	13	\$120
Sr. Designer	15	\$150	Scientist/Biologist IV	14	\$135
Sr. Designer	16/17	\$165	Sr. Scientist/Biologist	15	\$150
			Sr. Scientist/Biologist	16	\$165
			Sr. Scientist/Biologist	17	\$175
Engineering Technician I	8	\$75	Environmental Technician I	8	\$85
Engineering Technician II	9	\$85	Environmental Technician II	9	\$90
Engineer I	10	\$95	Environmental Technician III	10	\$100
Engineer II	11	\$100			
Engineer III	12	\$115	Jr. Toxicologist	8	\$75
Engineer III	13	\$125	Toxicologist I	10	\$95
Engineer IV	14	\$135	Toxicologist II	11	\$105
Sr. Engineer	15	\$150	Toxicologist III	12/13	\$115
Sr. Engineer	16	\$170	Toxicologist IV	14	\$140
Sr. Engineer	17	\$190	Sr. Toxicologist	15/16	\$165
Sr. Consultant	18	\$235	Sr. Toxicologist	17	\$210
Sr. Consultant	19	\$250			
Jr. Surveyor	8	\$70	Hydrogeologist I	10	\$95
Surveyor I	9	\$80	Hydrogeologist II	11	\$100
Surveyor II	10	\$85	Hydrogeologist III	12/13	\$115
Surveyor III	11	\$110	Hydrogeologist IV	14	\$115
Sr. Surveyor	12	\$115	Sr. Hydrogeologist	15	\$150
Sr. Surveyor	13	\$140	Sr. Hydrogeologist	16	\$165
Survey Supervisor	14	\$145	Sr. Hydrogeologist	17	\$170
Regional Surveyor	18	\$185			
Construction Technician I	8/9	\$85	GIS Technician	9/10	\$85
Construction Technician II	10	\$90	Sr. GIS Analyst	11	\$95
Construction Technician III	11	\$120			
Construction Technician IV	12	\$135	Graphic Artist	9	\$80
Construction Manager I	11	\$110	Sr. Graphic Artist	10	\$110
Construction Manager II	12	\$125			
Construction Manager III	13	\$135	Technical Aide	7	\$70
Construction Manager IV	14	\$145	Sr. Technical Aide	8	\$75
Sr. Construction Manager	15	\$150	Project Coordinator	9	\$90
Sr. Construction Manager	16	\$170	Sr. Project Coordinator	10	\$95
Sr. Construction Manager	17	\$175	Project Controls Specialist	11	\$100
Site Construction Manager	18	\$180	Project Coordination Supervisor	11	\$100
Operations Manager	16	\$150			
Operations Manager	17	\$170	Project Accountant	8	\$80
Operations Manager	18	\$180	Project Accountant	9	\$85
Division Manager	18	\$165	Sr. Project Accountant	10	\$95
Division Manager	17	\$205	Sr. Accounting Specialist	10	\$100
Division Manager	18/19	\$235	Sr. Contract Administrator	11	\$115
Regional Division Manager	18/19	\$240			
Program Manager	18/19	\$250	Library Specialist	9	\$80
Program Manager	20	\$280	Librarian	11	\$85
Principal Consultant	19	\$270	Information Resource Manager	13	\$125
Principal Consultant	20	\$295	LAN Admin I	11	\$100
Project Delivery Officer	19	\$235	LAN Admin II	12	\$110
Principal	19/20	\$295	Sr. LAN Admin	13	\$105
Word Processor	7	\$65	Office Clerk	4	\$55
Sr. Word Processor	8	\$75	Receptionist	6	\$60
Word Processing Specialist	8	\$95	Admin Assistant	6/7	\$65
Technical Editor	10	\$105	Sr Admin Assistant	8	\$70
Word Proc Mgr/Editor	11	\$110	Sr Admin Assistant	9	\$90
Production Manager	12	\$130	Office Administrator	10	\$95
			Sr. Office Administrator	11	\$110
Expert Witness		\$250	Office Administrative Manager	12-14	\$130
Value Engineering		\$250			

Direct project expenses and reproduction costs are billed at cost plus 15%
Public hearing testimony services are billed at hourly rates plus 30%

RESOLUTION NO. 14-952

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE THE FIRST
ADDENDUM TO THE PARAMETRIX, INC. CONTRACT TO
SERVE AS THE TRAFFIC ENGINEERING CONSULTANT
TO THE MASTER DEVELOPMENT REVIEW TEAM

WHEREAS, on April 19, 2012 the Consultant and the City entered into a contract via Resolution No. 12-791 for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City; and

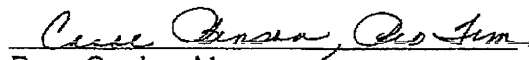
WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

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

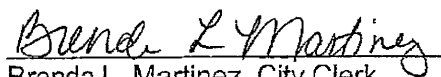
Section 1. The Mayor is hereby authorized to execute the first addendum to the Paramatrix, Inc. contract for Traffic Engineering to the MDRT, substantially in the form attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF JUNE 2014.

CITY OF BLACK DIAMOND:


Dave Gordon, Mayor

Attest:


Brenda L. Martinez, City Clerk

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
Parametrix, Inc.**

THIS FIRST AMENDMENT is made to the Consultant Services Contract via Resolution No.12-791 executed between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and Parametrix (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 1019 – 39th Avenue S.E., Suite 100, Puyallup, WA 98374.

RECITALS

WHEREAS, on **April 19, 2012**, the Consultant and the City entered into a contract for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City;

WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

Section 1. No Change to Terms and Conditions. With the exception of the expiration date of the Contract between the City and the Consultant, all terms and conditions of the Contract shall remain the same.

Section 2. New Expiration Date. The parties agree to extend the expiration date of the Contract June 30, 2014 to **September 30, 2014**.

IN WITNESS WHEREOF, the parties have executed this Agreement on this **5th day of June, 2014**.

CONSULTANT

By: 

Austin R. Fisher, P.E.
Its: Senior Consultant


CITY OF BLACK DIAMOND

By: 

Dave Gordon, Mayor

Consultant: Parametrix, Inc.

APPROVED AS TO FORM:


Carol L. Morris, City Attorney's Office

ATTEST:


Brenda Martinez, City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 14-974, authorizing the Mayor to execute a contract with RH2 to serve as the Civil Engineering Consultant to the MDRT	Agenda Date: September 18, 2014 AB14-085	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
Cost Impact (see also Fiscal Note): Variable	Court – Stephanie Metcalf	
Fund Source: Pass-through expense to Yarrow Bay		
Timeline: Two year contract w/60 day call		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-974, proposed contract, Resolution Nos. 12-792 & 14-956		
SUMMARY STATEMENT: <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDS are implemented over time. There will be significant needs for civil engineering assistance to help with review of specific implementing projects (plats, multifamily housing, commercial projects), plus major infrastructure improvements such a water and sewer line extensions.</p> <p>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 4 firms submitted their qualifications; two were chosen to be interviewed. The interview panel consisted of Public Works Director Seth Boettcher, MDRT/Economic Development Director Andrew Williamson and Executive Administrative Assistant Scott Hanis. The unanimous choice of the interview panel was to hire RH2, which has previously assisted staff in its review of the MPD proposals, DAs and other public works matters.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). This contract is for two years and a 10-day termination provision is included, should the City decide to seek a different consultant or hire its own staff at a future date.</p> <p>FISCAL NOTE (Finance Department): Per the Funding Agreement, all cost associated will the contracted services will be reimbursed by the Developer.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 14-974, authorizing the Mayor to execute an amendment to the contract with RH2 to serve as Civil Engineering Consultant to the MDRT.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
September 18, 2014		

RESOLUTION NO. 14-974

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT
WITH RH2 TO SERVE AS THE CIVIL ENGINEERING
CONSULTANT TO THE MASTER DEVELOPMENT REVIEW
TEAM**

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

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

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

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

WHEREAS, the City does not have on sufficient staff resources to provide Civil Engineering Services to meet the needs of the MDRT;

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 2 year contract with RH2 to provide Civil Engineering Services for the MDRT, 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 18TH DAY OF SEPTEMBER, 2014.

CITY OF BLACK DIAMOND:

Dave Gordon, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
FOR CIVIL ENGINEERING SERVICES
BETWEEN THE CITY OF BLACK DIAMOND AND
RH2 Engineering, Inc.**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **RH2 Engineering, Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington located and doing business at 22722 29th Drive SE, Suite 210, Bothell, WA 98021.

RECITALS

WHEREAS, the City does not have on sufficient staff resources to provide civil engineering services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from YarrowBay and an approved budget to fund the oversight, engineering review, inspections development agreement enforcement and assisting the City with the regulatory role

WHEREAS, the City has advertised for general civil engineering services and selected the best qualified consultant; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The municipal fiscal analysis services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in

accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Five Hundred Thousand Dollars (\$500,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is incorporated herein by this reference.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

The Consultant shall perform the work according to the City's direction, as described in Section I of this Agreement. This Agreement shall be in effect for a period of two (2) years from the effective date, which is the date this Agreement is signed by both parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is Subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to

persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

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

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 30 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance ,and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now

effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing

party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Dan Ervin, P.E.
RH2 Engineering, Inc.
22722 29th Drive SE, Suite 210
Bothell, WA 98021

CITY:

Attn: Andrew Williamson
City of Black Diamond
P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

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

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with Exhibit A, B and C attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as

entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in Exhibits, A, B and C to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2014.

CONSULTANT

CITY OF BLACK DIAMOND

By: _____
Tony V. Pardi
Its: President

By: _____
Dave Gordon, Mayor

Consultant: RH2 Engineering

APPROVED AS TO FORM:

Carol A. Morris
City Attorney's Office

ATTEST:

Brenda Martinez
City Clerk

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A
Scope of Work
City of Black Diamond
Master Development Review Team

May 2014

Background

The Master Development Review Team (MDRT) is a dedicated team of personnel operating within the City of Black Diamond (City) to permit Master Planned Development projects within the City. The MDRT duties and obligations are described in the Development Agreements for the Villages and Lawson Hills, and in the MDRT Funding Agreement between Black Diamond and Yarrow Bay Communities. The MDRT is composed of City staff and contract staff.

RH2 Engineering, Inc., (RH2) is a contract member of the MDRT.

The MDRT is designed to be dynamic and flexible and evolve as needed to facilitate the City's role as a regulator in major development projects. The character and amount of work will vary, from time to time, and this Agreement implies a commitment by RH2 to maintain schedule and personnel flexibility and provide a superior level of professional service. The benchmark for performance evaluations will be established by the City, and these criteria may be subject to change as the MDRT evolves and as the development projects progress.

Some work tasks are anticipated, and those tasks are listed below. Other unanticipated tasks will emerge as the development projects mature and as the MDRT evolves. Unanticipated work will be performed under the most appropriate task listed below or authorized by letter agreement or email directive from the City.

The following tasks are not intended to imply chronological order, but rather serve as general categories of work:

Task 1 – Permit Review

1.1 Review permit applications and other applicant submittals in compliance with: 1) Villages and Lawson Hills Development Agreements, 2) City Municipal Code and Standards, 3) applicable state statutes and requirements, and 4) any other documents or regulations governing the work. It is anticipated that most of the permit submittals will be preliminary plats, site development permits or utility permits for water, sewer, stormwater and street work improvements. The permits and submittals will generally be reviewed for the following items, if applicable:

- Check the general plan layout for ease of interpretation and lack of ambiguity and comment on ways to improve layout if necessary;
- Check the completeness of the design for construction and inspection purposes;
- Perform a check of the supporting engineering calculations;
- Check for compliance with the governing agreement and the applicable minimum design standards, and check for compliance with the generally accepted engineering standard of care;

- Cross-check for conflicts and ambiguities in the design plans and with previous permit approvals;
 - Perform simple value engineering and identify areas for design simplification or cost reduction;
 - Cross check specifications for conflicts and ambiguities;
 - Check reference materials for validity;
 - Check record materials for completeness and the ability to retrace the design process in the future.
- 1.2 Comply with the schedules identified by the City.
- 1.3 Perform any other services as directed by the City.

Task 2 – Conceptual and Collaborative Design

- 2.1 Provide conceptual planning and design services for utilities and infrastructure in collaboration with City staff. Maintain a presence at the City's design meetings to exert a positive influence on the maintainability of the improvements and the quality of the design. Search for and implement ways to improve plans and designs.
- 2.2 Provide primary design services as directed by the City, on behalf of the City.
- 2.3 Perform any other services as directed by the City.

Task 3 – Services During Construction

- 3.1 Provide on-call field inspection services to assist and supplement the experience and resources of City staff. Make periodic site visits at City discretion to maintain a working knowledge of project constraints, requirements, and character.
- 3.2 Perform any other services as directed by the City.

Task 4 – As-Built Review

- 4.1 Facilitate delivery of as-built construction records from the appropriate design teams to Public Works. Check records for compliance with published as-built requirements and accept or reject records as appropriate. Develop new as-built requirements, from time to time, as requested by the City in accordance with City goals and objectives. Check design team compliance with any Washington State professional engineering standards.
- 4.2 Perform any other services as directed by the City.

Task 5 – Testing, Acceptance, and Bonding

- 5.1 Provide facility and utility field testing services to assure that improvements meet the requirements of applicable approved construction plans.
- 5.2 Review and recommend acceptance or rejection (as appropriate) of the permitted utilities and facilities as required in the City's Municipal Code.

- 5.3 Review and accept bonding amounts and certifications for performance bonds and maintenance bonds.
- 5.4 Perform any other services as directed by the City.

Task 6 – Compliance Tracking

- 6.1 Develop and maintain a tracking system to assure compliance with the Development Agreements. Track the following items, including but not limited to: water conservation, impervious area limitations, sewage interceptor capacity, traffic capacity and level of service, and phosphorus discharge.
- 6.2 Perform any other services as directed by the City.

Task 7 – Project Management

- 7.1 Attend meetings, as necessary and as directed by the City, to assure compliance with the Development Agreements and this Scope of Work.
- 7.2 Provide quality control and maintain quality assurance (QA/QC) procedures for RH2 work products. Meet and coordinate with MDRT members as necessary to maintain the QA/QC objectives, meet the schedule requirements and comply with the minimum design and review standards. Provide input as requested to the City regarding the work and progress of RH2 project staff.
- 7.3 Maintain complete and efficient working files of RH2's project activities.
- 7.4 Provide timely and accurate billing invoices and billing records for RH2 and for related subconsultant work.
- 7.5 Provide and maintain an administrative structure that allows efficient access to RH2's project staff members who work on MDRT projects. Maintain sufficient workload flexibility to meet the dynamic workload needs of the MPDs.
- 7.6 Perform any other services as directed by the City.

Task 8 – Engineering Report Review

- 8.1 Review reports and documents created by others for compliance with the Development Agreements and City Municipal Code.
- 8.2 Summarize the work and reports as necessary for presentation to other City departments, City staff or the public regarding reports in support of permits or other development actions.
- 8.3 Provide peer-review services through subconsultants as requested by the City.
- 8.4 Perform any other services as directed by the City.

Task 9 – Liaison with Other Departments

- 9.1 Meet with other City departments and regional agencies as requested by the City to share information and maintain a cooperative working environment.
- 9.2 Perform any other services as directed by the City.

Task 10 – Agency Coordination

- 10.1 Meet with other Agencies as directed by City and assist in developing collaborative and complimentary solutions to City/Regional issues (i.e. sewage conveyance, service area limits, sustainable permitting, etc.). Develop briefing materials for City staff as appropriate and provide data identifying lifecycle cost impacts, LOS impacts, regulatory impacts, and other pertinent data or evaluations requested by the City.

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

Written Name

Title

Signature

Date

Consultant:

Written Name

Title

Signature

Date

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

EXHIBIT C
RH2 Engineering, Inc.
SCHEDULE OF RATES AND CHARGES

2012 HOURLY RATES

CLASSIFICATION		RATE	CLASSIFICATION		RATE
Professional	IX	\$199.00	Technician	IV	\$127.00
Professional	VIII	\$199.00	Technician	III	\$119.00
Professional	VII	\$191.00	Technician	II	\$88.00
			Technician	I	\$83.00
Professional	VI	\$177.00			
Professional	V	\$168.00	Administrative	V	\$118.00
Professional	IV	\$158.00	Administrative	IV	\$98.00
			Administrative	III	\$84.00
Professional	III	\$148.00	Administrative	II	\$68.00
Professional	II	\$137.00	Administrative	I	\$57.00
Professional	I	\$125.00			

1

IN-HOUSE SERVICES

In-house copies (each)	8.5" X 11"	\$0.09	CAD Plots	Large	\$25.00
In-house copies (each)	8.5" X 14"	\$0.14	CAD Plots	Full Size	\$10.00
In-house copies (each)	11" X 17"	\$0.20	CAD Plots	Half Size	\$2.50
In-house copies (color) (each)	8.5" X 11"	\$0.90	CAD System	Per Hour	\$27.50
In-house copies (color) (each)	8.5" X 14"	\$1.20	GIS System	Per Hour	\$27.50
In-house copies (color) (each)	11 X 17"	\$2.00	Technology Charge	2.5% of Direct Labor	
			Mileage	Current IRS Rate	

OUTSIDE SERVICES

Outside direct costs for permit fees, reports, maps, data, reprographics, corners, postage, and non-mileage related travel expenses that are necessary for the execution of the project and are not specifically identified elsewhere in the contract will be invoiced at cost.

All Subcontractor services are billed at cost plus 16%.

CHANGES IN RATES

Rates listed here are adjusted annually. The current schedule of rates and charges is used for billing purposes. Payment for work accomplished shall be based on the hourly rates and expenses in effect at the time of billing as stated in this Exhibit.

RESOLUTION NO. 12-792

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH RH2 TO SERVE AS THE CIVIL ENGINEERING CONSULTANT TO THE MASTER DEVELOPMENT REVIEW TEAM.

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

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

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

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

WHEREAS, the City does not have on sufficient staff resources to provide civil engineering services to meet the needs of the MDRT; and

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

WHEREAS, a panel consisting of staff and one City Council member reviewed the submittals, subsequently interviewed four firms and then unanimously recommended RH2 as the firm most capable of providing civil engineering 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 RH2 to provide civil engineering services for the MDRT, substantially in the form attached hereto as Exhibit A.

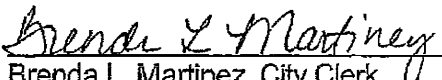
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19th DAY OF APRIL,
2012.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated, April 11th, 2012 and is entered into by and between

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

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

Contact: Andrew Williamson

Phone: 360-886-5700

Fax: 360-886-2592

and

RH2 ENGINEERING, INC (the "Consultant")

Physical Address: 22722 29th Drive SE, Suite 210

Bothell, WA 98021

Contact: Dan Ervin, P.E

Phone: 425-951-5400 Fax: 425-951-5401

Tax ID No.: 91-11008443

For non-exclusive on-call professional services for the City of Black Diamond.

TERMS AND CONDITIONS

1. Services by Consultant

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

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

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

of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

2. Schedule of Work

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

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

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

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

4. Payment

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

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

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

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

5. Discrimination and Compliance with Laws

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

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

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

6. Suspension and Termination of Agreement

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

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

7. Standard of Care

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

8. Ownership of Work Product

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

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

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

9. Indemnification/Hold Harmless

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and 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: Dan Ervin, P.E.
Vice President
RH2 Engineering, Inc.
22722 29th Drive SE, Suite 210
Bothell, WA 98021
Fax: 425-951-5401

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 April 20, 2012 and shall remain in effect until June 30, 2014, unless sooner terminated as set forth herein. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

18. Conflict of Interest; Non-Collusion

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The 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

By: Rebecca Olness
Rebecca Olness
Its: Mayor

Date: 4-20-12

CONSULTANT

By: Dan Ervin
Dan Ervin, P.E.
Its: Vice President

Date: April 11th 2012

Attest:

By: Brenda L. Martinez
Brenda L. Martinez
City Clerk

EXHIBIT A
Scope of Work
City of Black Diamond
Master Development Review Team

March 2012

Background

The Master Development Review Team (MDRT) is a dedicated team of personnel operating within the City of Black Diamond (City) to permit Master Planned Development projects within the City. The MDRT duties and obligations are described in the Development Agreements for the Villages and Lawson Hills, and in the MDRT Funding Agreement between Black Diamond and Yarrow Bay Communities. The MDRT is composed of City staff and contract staff.

RH2 Engineering, Inc., (RH2) is a contract member of the MDRT.

The MDRT is designed to be dynamic and flexible and evolve as needed to facilitate the City's role as a regulator in major development projects. The character and amount of work will vary, from time to time, and this Agreement implies a commitment by RH2 to maintain schedule and personnel flexibility and provide a superior level of professional service. The benchmark for performance evaluations will be established by the City, and these criteria may be subject to change as the MDRT evolves and as the development projects progress.

Some work tasks are anticipated, and those tasks are listed below. Other unanticipated tasks will emerge as the development projects mature and as the MDRT evolves. Unanticipated work will be performed under the most appropriate task listed below or authorized by letter agreement or email directive from the City.

The following tasks are not intended to imply chronological order, but rather serve as general categories of work:

Task 1 – Permit Review

1.1 Review permit applications and other applicant submittals in compliance with: 1) Villages and Lawson Hills Development Agreements, 2) City Municipal Code and Standards, 3) applicable state statutes and requirements, and 4) any other documents or regulations governing the work. It is anticipated that most of the permit submittals will be preliminary plats, site development permits or utility permits for water, sewer, stormwater and street work improvements. The permits and submittals will generally be reviewed for the following items, if applicable:

- Check the general plan layout for ease of interpretation and lack of ambiguity and comment on ways to improve layout if necessary;
- Check the completeness of the design for construction and inspection purposes;
- Perform a check of the supporting engineering calculations;
- Check for compliance with the governing agreement and the applicable minimum design standards, and check for compliance with the generally accepted engineering standard of care;

- Cross-check for conflicts and ambiguities in the design plans and with previous permit approvals;
 - Perform simple value engineering and identify areas for design simplification or cost reduction;
 - Cross check specifications for conflicts and ambiguities;
 - Check reference materials for validity;
 - Check record materials for completeness and the ability to retrace the design process in the future.
- 1.2 Comply with the schedules identified by the City.
- 1.3 Perform any other services as directed by the City.

Task 2 – Conceptual and Collaborative Design

- 2.1 Provide conceptual planning and design services for utilities and infrastructure in collaboration with City staff. Maintain a presence at the City's design meetings to exert a positive influence on the maintainability of the improvements and the quality of the design. Search for and implement ways to improve plans and designs.
- 2.2 Provide primary design services as directed by the City, on behalf of the City.
- 2.3 Perform any other services as directed by the City.

Task 3 – Services During Construction

- 3.1 Provide on-call field inspection services to assist and supplement the experience and resources of City staff. Make periodic site visits at City discretion to maintain a working knowledge of project constraints, requirements, and character.
- 3.2 Perform any other services as directed by the City.

Task 4 – As-Built Review

- 4.1 Facilitate delivery of as-built construction records from the appropriate design teams to Public Works. Check records for compliance with published as-built requirements and accept or reject records as appropriate. Develop new as-built requirements, from time to time, as requested by the City in accordance with City goals and objectives. Check design team compliance with any Washington State professional engineering standards.
- 4.2 Perform any other services as directed by the City.

Task 5 – Testing, Acceptance, and Bonding

- 5.1 Provide facility and utility field testing services to assure that improvements meet the requirements of applicable approved construction plans.
- 5.2 Review and recommend acceptance or rejection (as appropriate) of the permitted utilities and facilities as required in the City's Municipal Code.

- 5.3 Review and accept bonding amounts and certifications for performance bonds and maintenance bonds.
- 5.4 Perform any other services as directed by the City.

Task 6 – Compliance Tracking

- 6.1 Develop and maintain a tracking system to assure compliance with the Development Agreements. Track the following items, including but not limited to: water conservation, impervious area limitations, sewage interceptor capacity, traffic capacity and level of service, and phosphorus discharge.
- 6.2 Perform any other services as directed by the City.

Task 7 – Project Management

- 7.1 Attend meetings, as necessary and as directed by the City, to assure compliance with the Development Agreements and this Scope of Work.
- 7.2 Provide quality control and maintain quality assurance (QA/QC) procedures for RH2 work products. Meet and coordinate with MDRT members as necessary to maintain the QA/QC objectives, meet the schedule requirements and comply with the minimum design and review standards. Provide input as requested to the City regarding the work and progress of RH2 project staff.
- 7.3 Maintain complete and efficient working files of RH2's project activities.
- 7.4 Provide timely and accurate billing invoices and billing records for RH2 and for related subconsultant work.
- 7.5 Provide and maintain an administrative structure that allows efficient access to RH2's project staff members who work on MDRT projects. Maintain sufficient workload flexibility to meet the dynamic workload needs of the MPDs.
- 7.6 Perform any other services as directed by the City.

Task 8 – Engineering Report Review

- 8.1 Review reports and documents created by others for compliance with the Development Agreements and City Municipal Code.
- 8.2 Summarize the work and reports as necessary for presentation to other City departments, City staff or the public regarding reports in support of permits or other development actions.
- 8.3 Provide peer-review services through subconsultants as requested by the City.
- 8.4 Perform any other services as directed by the City.

Task 9 – Liaison with Other Departments

- 9.1 Meet with other City departments and regional agencies as requested by the City to share information and maintain a cooperative working environment.
- 9.2 Perform any other services as directed by the City.

Task 10 – Agency Coordination

- 10.1 Meet with other Agencies as directed by City and assist in developing collaborative and complimentary solutions to City/Regional issues (i.e. sewage conveyance, service area limits, sustainable permitting, etc.). Develop briefing materials for City staff as appropriate and provide data identifying lifecycle cost impacts, LOS impacts, regulatory impacts, and other pertinent data or evaluations requested by the City.

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:
City of Black Diamond:

Written Name

Signature

Date

Consultant:

Written Name

Signature

Date

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

EXHIBIT C
RH2 Engineering, Inc.
SCHEDULE OF RATES AND CHARGES

2012 HOURLY RATES

CLASSIFICATION		RATE	CLASSIFICATION		RATE
Professional	IX	\$199.00	Technician	IV	\$127.00
Professional	VIII	\$199.00	Technician	III	\$119.00
Professional	VII	\$191.00	Technician	II	\$88.00
			Technician	I	\$83.00
Professional	VI	\$177.00			
Professional	V	\$168.00	Administrative	V	\$118.00
Professional	IV	\$158.00	Administrative	IV	\$98.00
			Administrative	III	\$84.00
Professional	III	\$148.00	Administrative	II	\$68.00
Professional	II	\$137.00	Administrative	I	\$57.00
Professional	I	\$125.00			

IN-HOUSE SERVICES

In-house copies (each)	8.5" X 11"	\$0.09	CAD Plots	Large	\$25.00
In-house copies (each)	8.5" X 14"	\$0.14	CAD Plots	Full Size	\$10.00
In-house copies (each)	11" X 17"	\$0.20	CAD Plots	Half Size	\$2.50
In-house copies (color) (each)	8.5" X 11"	\$0.90	CAD System	Per Hour	\$27.50
In-house copies (color) (each)	8.5" X 14"	\$1.20	GIS System	Per Hour	\$27.50
In-house copies (color) (each)	11 X 17"	\$2.00	Technology Charge	2.5% of Direct Labor	
			Mileage	Current IRS Rate	

OUTSIDE SERVICES

Outside direct costs for permit fees, reports, maps, data, reprographics, courier, postage, and non-mileage related travel expenses that are necessary for the execution of the project and are not specifically identified elsewhere in the contract will be invoiced at cost.

All subcontractor services are billed at cost plus 15%.

CHANGES IN RATES

Rates listed here are adjusted annually. The current schedule of rates and charges is used for billing purposes. Payment for work accomplished shall be based on the hourly rates and expenses in effect at the time of billing as stated in this Exhibit.

RESOLUTION NO. 14-956

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE THE FIRST ADDENDUM TO THE RH2, INC. CONTRACT TO SERVE AS THE CIVIL ENGINEERING CONSULTANT TO THE MASTER DEVELOPMENT REVIEW TEAM

WHEREAS, on April 19, 2012 the Consultant and the City entered into a contract via Resolution No. 12-792 for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City; and

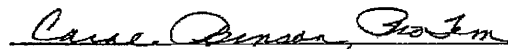
WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

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

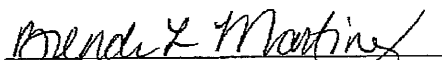
Section 1. The Mayor is hereby authorized to execute the first addendum to the RH2 contract, substantially in the form attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF JUNE 2014.

CITY OF BLACK DIAMOND:


Dave Gordon, Mayor

Attest:


Brenda L. Martinez, City Clerk

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
RH2 Engineering, Inc.**

THIS FIRST AMENDMENT is made to the Consultant Services Contract via Resolution No.12-792 executed between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and RH2 Engineering, Inc., (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 22722 – 29th Drive S.E., Suite 210, Bothell, WA 98021.

RECITALS

WHEREAS, on **April 19, 2012** the Consultant and the City entered into a contract for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City;

WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

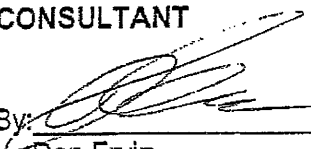
TERMS

Section 1. No Change to Terms and Conditions. With the exception of the expiration date of the Contract between the City and the Consultant, all terms and conditions of the Contract shall remain the same.

Section 2. New Expiration Date. The parties agree to extend the expiration date of the Contract, June 30, 2014 to **September 30, 2014**.

IN WITNESS WHEREOF, the parties have executed this Agreement on this **5th** day of **June, 2014**.

CONSULTANT

By: 
Dan Ervin
Its: Vice President

Consultant: RH2 Engineering

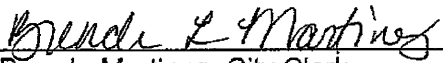
CITY OF BLACK DIAMOND

By: 
Dave Gordon, Mayor

APPROVED AS TO FORM:


Carol A. Morris, City Attorney's Office

ATTEST:


Brenda Martinez, City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 14-975, authorizing the Mayor to execute a contract with Henderson, Young & Company Inc. to serve as the Municipal Fiscal Analysis Consultant to the MDRT	Agenda Date: September 18, 2014	
	AB14-086	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
Cost Impact(also see Financial Note): Variable		
Fund Source: Pass-through expense to Yarrow Bay	Public Works – Seth Boettcher	
Timeline: Two year contract w/60 day call	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-975 , proposed contract, Resolution Nos. 12-793& 14-955		
SUMMARY STATEMENT: <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDs are implemented over time. Section 13.6 of the two DAs provides the basic structure of how the periodic fiscal analyses are to be performed.</p> <p>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 3 firms submitted their qualifications; two were chosen to be interviewed. The interview panel consisted of Finance Director May Miller, Assistant City Administrator Brenda Martinez and Tracey Redd MDRT Administrative Assistant/Senior Accountant. The unanimous choice of the interview panel was to hire Henderson & Young, which has performed fiscal analysis work in the past for the City.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). This contract is for two years and a 10-day termination provision is included, should the City decide to seek a different consultant at a future date.</p> <p>FISCAL NOTE (Finance Department): Per the Funding Agreement, all cost associated will the contract will be reimbursed by the Developer.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to MOTION to adopt Resolution 14-975, authorizing the Mayor to execute an amendment to the contract with Henderson, Young & Company, Inc. to serve as Municipal Fiscal Analysis Consultant to the MDRT.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 18, 2014		

RESOLUTION NO. 14-975

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT
WITH HENDERSON, YOUNG & COMPANY TO SERVE AS
THE MUNICIPAL FISCAL ANALYSIS CONSULTANT TO
THE MASTER DEVELOPMENT REVIEW TEAM**

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

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

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

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

WHEREAS, the City does not have on sufficient staff resources to provide Municipal Fiscal Analysis services to meet the needs of the MDRT

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 2 year contract with Henderson, Young & Company to provide Municipal Fiscal Analysis Services for the MDRT, 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 18TH DAY OF SEPTEMBER, 2014.

CITY OF BLACK DIAMOND:

Dave Gordon, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
HENDERSON & YOUNG AND COMPANY, INC.**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and Henderson, Young and Company, Inc., (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 8060 – 165th Avenue N.E., Suite 220, Redmond, WA 98052.

RECITALS

WHEREAS, the City does not have sufficient staff resources to provide municipal fiscal analysis services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from Yarrow Bay and an approved budget to fund the oversight, engineering review, inspections, development agreement, enforcement and to assist the City with its regulatory role; and

WHEREAS, the City has advertised for municipal fiscal analysis services and selected the best qualified consultant; and

WHEREAS, the City anticipates the need to process permits, oversee public construction work and coordinate activities with Yarrow Bay to increase over the next year;

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The municipal fiscal analysis services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is attached hereto and incorporated herein by this reference.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

The Consultant shall perform the work according to the City's direction, as described in Section I of this Agreement. This Agreement shall be in effect for a period of two (2) years from the effective date, which is the date this Agreement is signed by both parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY

FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the

City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 30 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to Independent contractors including,

but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Randall Young
Henderson, Young & Co.
8060 165th Ave. N.E., Suite 200
Redmond, WA 98052

CITY:

Attn: Andrew Williamson
City of Black Diamond
P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

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

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and

form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2014.

CONSULTANT

CITY OF BLACK DIAMOND

By: _____
Randall L. Young
Its President

By: _____
Dave Gordon, Mayor

**Consultant: Henderson Young
& Co.**

APPROVED AS TO FORM:

Carol Morris, City Attorney

ATTEST:

Brenda Martinez, City Clerk

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A

General Scope of Work

The Consultant will provide municipal fiscal analysis services to the City for the benefit of the City, including but not limited to the following services:

1. Research, analysis and recommendation of comparable cities to be used in fiscal impact analysis.
2. Review and evaluation of each fiscal impact analysis submitted by the Master Developer, including evaluation of the consistency of the Master Developer's fiscal impact analysis with the requirements of the Development Agreements, and the specific methodologies, data, assumptions, calculations, spreadsheets and conclusions provided by the Master Developer.
3. Monitor changes in municipal finance caused by new laws, voter initiatives, regulations, court decisions, and best practices and advise the City when changes effect the fiscal analysis of the City.
4. Preparation of annual review of projections of fiscal analysis compared to the City's budget.
5. Preparation of payment schedule for funding of any deficits.
6. Preparation of reports, memos, and presentations of the results of municipal fiscal analyses reviews, evaluations, and recommendations prepared by Consultant.
7. Preparation for and participation in meetings of MDRT and the Master Developer
8. Preparation for and participation in meetings of the MDRT, Planning Commission, and/or City Council.
9. Preparation for and participation in other meetings that the City authorizes Consultant to attend.
10. Provide expert testimony.
11. Other municipal fiscal analysis services requested by the City.

As provided by Section 2.1 of this Agreement, the municipal fiscal analysis services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on-call task request issued by the City in the form attached as Exhibit "B." Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (the "Scope of Task Request").

City of Black Diamond On-Call Task Request

Consultant:	
_____	_____
Written Name	Title
_____	_____
Signature	Date

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

EXHIBIT C

Billing Rates and Reimbursable Expenses

Henderson,
Young &
Company

**RATE SCHEDULE
2014**

Category	Rate	
Principal	\$215.00	per hour
Associate	\$165.00	per hour
Support	\$ 75.00	per hour
Mileage	\$0.56	per mile
Miscellaneous	At Cost	

RESOLUTION NO. 12-793

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT
WITH HENDERSON & YOUNG TO SERVE AS THE
MUNICIPAL FISCAL ANALYSIS CONSULTANT TO THE
MASTER DEVELOPMENT REVIEW TEAM.**

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

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

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

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

WHEREAS, the City does not have on staff the full range of expertise to provide municipal fiscal analysis to meet the needs of the MDRT; and

WHEREAS, private firms providing municipal fiscal analysis services were invited to submit Statements of Qualifications for review and consideration; and


WHEREAS, a panel consisting of staff and one City Council member reviewed the submittals, subsequently interviewed three firms and then unanimously recommended Henderson & Young as the firm most capable of providing municipal fiscal analysis 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 Henderson & Young to provide municipal fiscal analysis services for the MDRT, substantially in the form attached hereto as Exhibit A.

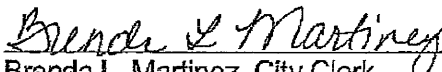
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19th DAY OF APRIL,
2012.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated, April 11th, 2012 and is entered into by and between

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

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

Contact: Andrew Williamson

Phone: 360-886-5700

Fax: 360-886-2592

and

Henderson, Young & Company ("the Consultant")

8060 – 165th Ave, NE, Suite 220

Redmond, WA 98052

Contact: Randall Young

Phone: 425-869-1786 Fax: 425-869-5669

Tax ID No.: 84-0780133

For non-exclusive on-call professional services for the City of Black Diamond.

TERMS AND CONDITIONS

1. Services by Consultant

1.1 Consultant has been retained by the City to provide professional municipal fiscal analysis on-call services generally described in the Scope of Work attached to this Agreement as Exhibit

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

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

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

of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

2. Schedule of Work

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

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

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

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

4. Payment

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

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

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

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

5. Discrimination and Compliance with Laws

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

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

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

6. Suspension and Termination of Agreement

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

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

7. Standard of Care

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

8. Ownership of Work Product

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

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

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

9. Indemnification/Hold Harmless

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and 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: Randall Young, President
Henderson, Young & Company
8060 – 165th Ave. NE Suite 220
Redmond, WA 98052
Fax: 425-869-5669

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 April 20, 2012 and shall remain in effect until June 30, 2014, unless sooner terminated as set forth herein. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

18. Conflict of Interest; Non-Collusion

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The 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

By: Rebecca Olness
Rebecca Olness

Its: Mayor

Date: 4-20-12

CONSULTANT

By: Randall L. Young
Printed Name: Randall L. Young

Its: Vice President

Date: April 11th 2012

Attest:

By: Brenda L. Martinez
Brenda L. Martinez
City Clerk

EXHIBIT A

General Scope of Work

The Consultant will provide municipal fiscal analysis services to the City for the benefit of the City, including but not limited to the following services:

1. Research, analysis and recommendation of comparable cities to be used in fiscal impact analysis.
2. Review and evaluation of each fiscal impact analysis submitted by the Master Developer, including evaluation of the consistency of the Master Developer's fiscal impact analysis with the requirements of the Development Agreements, and the specific methodologies, data, assumptions, calculations, spreadsheets and conclusions provided by the Master Developer.
3. Monitor changes in municipal finance caused by new laws, voter initiatives, regulations, court decisions, and best practices and advise the City when changes effect the fiscal analysis of the City.
4. Preparation of annual review of projections of fiscal analysis compared to the City's budget.
5. Preparation of payment schedule for funding of any deficits.
6. Preparation of reports, memos, and presentations of the results of municipal fiscal analyses reviews, evaluations, and recommendations prepared by Consultant.
7. Preparation for and participation in meetings of MDRT and the Master Developer
8. Preparation for and participation in meetings of the MDRT, Planning Commission, and/or City Council.
9. Preparation for and participation in other meetings that the City authorizes Consultant to attend.
10. Provide expert testimony.
11. Other municipal fiscal analysis services requested by the City.

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

EXHIBIT B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

Written Name

Title

Signature

Date

Consultant:

Written Name

Title

Signature

Date

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

Professional Services Agreement

EXHIBIT C

Billing Rates and Reimbursable Expenses

Henderson,
Young &
Company

**RATE SCHEDULE
2012**

Category	Rate	
Principal	\$215.00	per hour
Associate	\$165.00	per hour
Support	\$ 75.00	per hour
Mileage	\$0.50	per mile
Miscellaneous	At Cost	

RESOLUTION NO. 14-955

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE THE FIRST ADDENDUM TO THE HENDERSON, YOUNG & COMPANY, INC. CONTRACT TO SERVE AS THE MUNICIPAL FISCAL ANALYSIS CONSULTANT TO THE MASTER DEVELOPMENT REVIEW TEAM

WHEREAS, on April 19, 2012 the Consultant and the City entered into a contract via Resolution No. 12-793 for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City; and

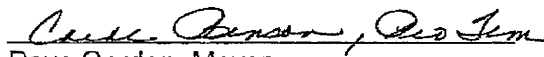
WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

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

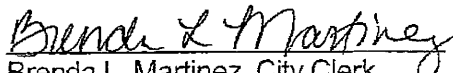
Section 1. The Mayor is hereby authorized to execute the first addendum to the Henderson, Young & Company contract, substantially in the form attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF JUNE 2014.

CITY OF BLACK DIAMOND:


Dave Gordon, Mayor

Attest:


Brenda L. Martinez, City Clerk

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
Henderson, Young & Co.**

THIS FIRST AMENDMENT is made to the Consultant Services Contract via Resolution No.12-793 executed between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and Henderson Young & Co., (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 8060 - 165th Ave. N.E., Suite 220, Redmond, WA 98052.

RECITALS

WHEREAS, on April 19, 2012, the Consultant and the City entered into a contract for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City;

WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

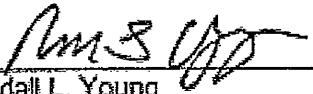
TERMS

Section 1. No Change to Terms and Conditions. With the exception of the expiration date of the Contract between the City and the Consultant, all terms and conditions of the Contract shall remain the same.

Section 2. New Expiration Date. The parties agree to extend the expiration date of the Contract June 30, 2012 to September 30, 2014.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 5th day of June, 2014.

CONSULTANT

By: 
Randall L. Young
Its: President

Consultant: Henderson, Young
& Company, Inc.

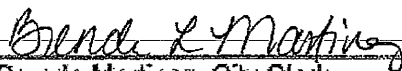
CITY OF BLACK DIAMOND

By: 
Dave Gordon, Mayor

APPROVED AS TO FORM:

Carol A. Morris, City Attorney's Office

ATTEST:


Brenda Martinez, City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 14-976, authorizing the Mayor to execute contract with Perteet, Inc. to serve as the Wetland/Environmental Consultant to the MDRT	Agenda Date: September 18, 2014 AB14-087	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
Cost Impact (see also Fiscal Note): Variable		
Fund Source: Pass-through expense to Yarrow Bay		
Timeline: Two year contract w/10 day call		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-976, proposed contract, Resolution Nos. 12-802 & 14-954		
SUMMARY STATEMENT: <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDS are implemented over time. There will be significant needs for professional wetland review assistance to help with review of specific implementing projects (plats, multifamily housing, commercial projects), and possibly infrastructure improvements such a water and sewer line extensions.</p> <p>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 3 firms submitted their qualifications; two were chosen to be interviewed. The interview panel consisted of Community Development/Natural Resources Director Aaron Nix, MDRT/Economic Development Director Andrew Williamson and Public Works Administrative Assistant Scott Hanis. The choice of the interview panel was to hire Perteet Inc.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). This agreement shall be in effect for two years. However, a 10-day termination provision is included, should the City decide to seek a different consultant or hire its own staff at a future date.</p> <p>The Professional Services Agreement is consistent with the format recently accepted by Council.</p> <p>FISCAL NOTE (Finance Department): Per the Funding Agreement, all cost associated will the contract will be reimbursed by the Developer.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 14-976, authorizing the Mayor to execute an amendment to the contract with Perteet, Inc. to serve as Environmental Consultant to the MDRT.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 18, 2014		

RESOLUTION NO. 14-976

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

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

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

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

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

WHEREAS, the City does not have on sufficient staff resources to provide Environmental Services to meet the needs of the MDRT;

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 2 year contract with Perteet Inc. to provide on-call Environmental Consulting Services for the MDRT, 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 18TH DAY OF SEPTEMBER, 2014.

CITY OF BLACK DIAMOND:

Dave Gordon, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
FOR ENVIRONMENTAL SERVICES
BETWEEN THE CITY OF BLACK DIAMOND AND
Perteet, Inc.**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **Perteet, Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington located and doing business at 2707 Colby Avenue, Suite 900, Everett, WA 98201.

RECITALS

WHEREAS, the City does not have on sufficient staff resources to provide environmental consulting services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from YarrowBay and an approved budget to fund the oversight, engineering review, inspections development agreement enforcement and assisting the City with the regulatory role

WHEREAS, the City has advertised for environmental consulting services and selected the best qualified consultant; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The municipal fiscal analysis services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in

accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is incorporated herein by this reference.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

The Consultant shall perform the work according to the City's direction, as described in Section I of this Agreement. This Agreement shall be in effect for a period

of two (2) years from the effective date, which is the date this Agreement is signed by both parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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

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

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 30 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Jason Walker
Pertee, Inc.
2707 Colby Avenue, Suite 900
Everett, WA 98201

CITY:

Attn: Andrew Williamson
City of Black Diamond
P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

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

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached

hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibit A, B and C to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2014.

CONSULTANT

CITY OF BLACK DIAMOND

By: _____
Crystal Donner
Its: President

By: _____
Dave Gordon, Mayor

Consultant: Perteet, Inc.

APPROVED AS TO FORM:

Carol Morris
City Attorney's Office

ATTEST:

Brenda Martinez, City Clerk

EXHIBIT A
SCOPE OF SERVICES

Agreement with Perteet Inc.

The City of Black Diamond will contract with Perteet Inc. to provide on-call environmental consulting services on an as-needed basis to conduct third-party development reviews associated with environmentally sensitive areas and related documents (i.e. wetlands, streams, and fish and wildlife conservation areas, buffers, and related resources) as described in the Black Diamond Municipal Code (Code).

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

- Pre-submittal consultation with applicants and/or city staff
- Review and findings of submitted applications, sensitive areas studies, SEPA Checklists/EISs, mitigation plans, and related documents prepared by others for the purpose of sensitive areas identification, review of impacts, and mitigation evaluation
- Field inspections and findings to verify conditions of sensitive areas relating to proposed impacts and/or mitigation
- Review and findings of utilities plans, grading plans, stormwater management plans, stream culvert designs, geotechnical reports, and other reports, studies, and drawings for the evaluation of impacts and mitigation to sensitive areas and related habitats
- Code consistency and/or related policy review and findings
- Review and findings of exceptions, variances, or other requested deviations from Code
- Review and findings of draft sensitive areas notices to be recorded on title
- Review and findings of mitigation, maintenance, and monitoring costs estimates for the posting of financial guarantees by applicants
- Verbal and written correspondence and coordination with applicants and/or City staff
- Assistance with staff reports and preparation/review of meeting/hearing materials and exhibits
- Interagency coordination
- Attendance and/or testimony at city council or other public meetings or hearings
- Pre-construction meeting attendance and related correspondence
- Review and findings of demarcated clearing limits for the protection of sensitive areas by applicants prior to the commencement of construction
- Construction and post-construction related third-party monitoring inspections and compliance review and findings
- Review and findings of any reported violations and subsequent corrective restoration or mitigation for violations caused by applicants or their contractors

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

Written Name

Title

Signature

Date

Consultant:

Written Name

Title

Signature

Date

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

Exhibit "C"

PERTEET, INC.
Schedule of 2014 Billing Rates

<u>Engineering, Planning and Environmental Classifications</u>	<u>2014 Hourly Rate</u>
Principal	190.00
Senior Associate	180.00
Senior Engineer/Manager	170.00
Lead Engineer/Manager	140.00
Engineer III	120.00
Engineer II	100.00
Engineer I	85.00
Senior Planner/Manager	160.00
Lead Planner/Manager	140.00
Planner III	115.00
Planner II	100.00
Planner I	80.00
Senior Ecologist/Manager	160.00
Lead Ecologist/Manager	140.00
Ecologist III	115.00
Ecologist II	100.00
Ecologist I	80.00
Lead Technician/Designer	110.00
Technician III	95.00
Technician II	80.00
Technician I	70.00
Contract Administrator	95.00
Accountant	85.00
Clerical	70.00

Expert Witness Rates:

Consulting & Preparation Time	@ standard hourly rates
Court Proceedings & Depositions (4 hour minimum)	@ 1.5 times hourly rates



PERTEET, INC.
Schedule of 2014 Billing Rates
Exhibit "C", Page 2

Direct Expenses

	<u>Rate</u>
Living & travel expenses outside of service area	Cost plus 10 percent
Authorized Subconsultants	Cost plus 10 percent
Outside Services (printing, traffic counts, etc.)	Cost plus 10 percent
CADD Station	\$10.00 per hour
Project Controls / Primavera	\$10.00 per hour
GIS / Traffic Modeling	\$15.00 per hour
Color Copies	\$.80 each
Mileage	@ current federal rate

Survey Classifications

2014 Hourly Rate

Principal Surveyor	185.00
Survey Manager	135.00
Senior Professional Land Surveyor	130.00
Professional Land Surveyor	115.00
Office Technician	100.00
Field Technician III	90.00
Field Technician II	75.00
Field Technician I	65.00
One Person Survey Crew	90.00
Two Person Survey Crew	165.00
Three Person Survey Crew	235.00

Direct Survey Expenses

Rate

Dual Frequency GPS Receiver	\$150.00 per unit per day
Robotic Total Station Data Collection System	\$100.00 per day
Digital Level	\$50.00 per day
Survey monuments & cases	Cost plus 10 percent



PERTEET, INC.
Schedule of 2014 Billing Rates
Exhibit "C", Page 3

<u>Construction Classifications</u>	<u>2014 Hourly Rate</u>
Construction Engineering Supervisor	175.00
Construction Engineering Manager	165.00
Construction Manager	120.00
Assistant Construction Manager	105.00
Construction Engineer III	120.00
Construction Engineer II	100.00
Construction Engineer I	85.00
Senior Construction Observer	110.00
Construction Observer II	80.00
Construction Observer I	70.00
Senior Construction Technician	105.00
Construction Technician III	95.00
Construction Technician II	80.00
Construction Technician I	70.00

RESOLUTION NO. 12-802

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PERTEET INC. TO SERVE AS THE WETLAND CONSULTANT TO THE MASTER DEVELOPMENT REVIEW TEAM.

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

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

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

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

WHEREAS, the City does not have sufficient staff resources to provide wetland review services to meet the needs of the MDRT; and

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

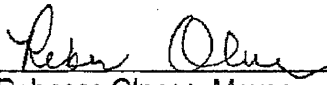
WHEREAS, a panel consisting of staff and one City Councilmember reviewed the submittals, subsequently interviewed four firms and then recommended Perteet Inc. as the firm most capable of providing wetland review services as desired;

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

Section 1. The Mayor is hereby authorized to execute a contract with Perteet Inc. to provide wetland review services for the MDRT, substantially in the form attached hereto as Exhibit A.

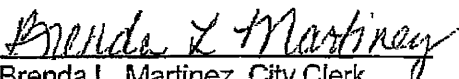
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 17th DAY OF MAY, 2012.

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:



Brenda L. Martinez, City Clerk

Client#: 326377

PERTEINC

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/02/2012

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

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

PRODUCER Kibbie & Prentice, a USI Co PR 601 Union Street, Suite 1000 Seattle, WA 98101	CONTACT NAME: PHONE (A/C, No, Ext): 206 441-6300 FAX (A/C, No): 610-362-8528 E-MAIL ADDRESS: PL.Certrequest@kpcom.com
INSURED Pertec, Inc. P.O. Box 1186 Everett, WA 98206-1186	INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Indemnity Company of INSURER B: XL Specialty Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL SUBROGATION WAIVED	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		6807251L042	12/31/2011	12/31/2012	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMPIOP AGG \$2,000,000 \$
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>					
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		BA6778L235	12/31/2011	12/31/2012	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE					EACH OCCURRENCE \$ AGGREGATE \$ \$
	DED <input type="checkbox"/> RETENTION \$					
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		6807251L042 (WA Stop Gap)	12/31/2011	12/31/2012	WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	Professional Liability		DPR9692741	06/27/2011	06/27/2012	\$2,000,000 per claim \$2,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Project Name: City of Black Diamond Environmental On-Call Services

City of Black Diamond is included as an additional insured on the General Liability policy where required by written contract.

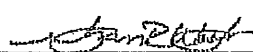
CERTIFICATE HOLDER

CANCELLATION

City of Black Diamond
Attn: Steve Pilcher
24301 Roberts Dr.
Black Diamond, WA 98010

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

AUTHORIZED REPRESENTATIVE



© 1988-2010 ACORD CORPORATION. All rights reserved.

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CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

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

CITY OF BLACK DIAMOND, WASHINGTON (the "City")
Physical Address: 24301 Roberts Drive
Mailing Address: PO Box 599
Black Diamond, WA 98010

Contact: Steve Pilcher Phone: 360-886-5700 Fax : 360-886-2592

and

Pertect, Inc. ("Consultant")
2707 Colby Avenue, Suite 900
Everett, WA 98201

Contact: Jason Walker Phone: 425-252-7700 Fax: 425-339-6018

Tax Id No.: 91-1505037

For non-exclusive on-call professional services for the City of Black Diamond.

TERMS AND CONDITIONS

1. Services by Consultant

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

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

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

2. Schedule of Work

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

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

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

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

4. Payment

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

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

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

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

5. Discrimination and Compliance with Laws

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

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

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

6. Suspension and Termination of Agreement

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

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

7. Standard of Care

7.1 Consultant represents and warrants that it has the requisite training, skill, and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services

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

8. Ownership of Work Product

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

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

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

9. Indemnification/Hold Harmless

9.1 Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and 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: Jason Walker, PM
Crystal Donner, President
Pertect, Inc.
2707 Colby Avenue, Suite 900
Everett, WA 98201
Fax: 425-339-6018

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 May 18, 2012 and shall remain in effect until June 30, 2014, unless sooner terminated as set forth herein. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

18. Conflict of Interest; Non-Collusion

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The 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.

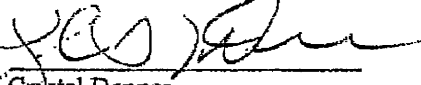
CITY OF BLACK DIAMOND

By: 
Rebecca Olness

Its: Mayor

Date: 5/18/12

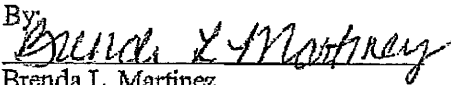
CONSULTANT

By: 
Crystal Donner

Its: President

Date: 05/11/12

Attest:

By: 
Brenda L. Martinez
City Clerk

The City of Black Diamond will contract with Perteet Inc. to provide on-call environmental consulting services on an as-needed basis to conduct third-party development reviews associated with environmentally sensitive areas and related documents (i.e. wetlands, streams, and fish and wildlife conservation areas, buffers, and related resources) as described in the Black Diamond Municipal Code (Code).

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

- Pre-submittal consultation with applicants and/or city staff
- Review and findings of submitted applications, sensitive areas studies, SEPA Checklists/EISs, mitigation plans, and related documents prepared by others for the purpose of sensitive areas identification, review of impacts, and mitigation evaluation
- Field inspections and findings to verify conditions of sensitive areas relating to proposed impacts and/or mitigation
- Review and findings of utilities plans, grading plans, stormwater management plans, stream culvert designs, geotechnical reports, and other reports, studies, and drawings for the evaluation of impacts and mitigation to sensitive areas and related habitats
- Code consistency and/or related policy review and findings
- Review and findings of exceptions, variances, or other requested deviations from Code
- Review and findings of draft sensitive areas notices to be recorded on title
- Review and findings of mitigation, maintenance, and monitoring costs estimates for the posting of financial guarantees by applicants
- Verbal and written correspondence and coordination with applicants and/or City staff
- Assistance with staff reports and preparation/review of meeting/hearing materials and exhibits
- Interagency coordination
- Attendance and/or testimony at city council or other public meetings or hearings
- Pre-construction meeting attendance and related correspondence
- Review and findings of demarcated clearing limits for the protection of sensitive areas by applicants prior to the commencement of construction
- Construction and post-construction related third-party monitoring inspections, compliance reviews and findings
- Review and findings of any reported violations and subsequent corrective restoration or mitigation for violations caused by applicants or their contractors

City of Black Diamond On-Call Task Request

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

Exhibit "C"

PERTEET, INC.
Schedule of 2012 Billing Rates

<u>Engineering, Planning and Environmental Classifications</u>	<u>2012 Hourly Rate</u>
Principal	185.00
Senior Associate	175.00
Senior Engineer/Manager	165.00
Lead Engineer/Manager	140.00
Engineer III	120.00
Engineer II	100.00
Engineer I	85.00
Senior Planner/Manager	160.00
Lead Planner/Manager	140.00
Planner III	115.00
Planner II	100.00
Planner I	80.00
Senior Ecologist/Manager	160.00
Lead Ecologist/Manager	140.00
Ecologist III	115.00
Ecologist II	100.00
Ecologist I	80.00
Lead Technician/Designer	105.00
Technician III	95.00
Technician II	80.00
Technician I	70.00
Contract Administrator	95.00
Accountant	80.00
Clerical	70.00

Expert Witness Rates:

Consulting & Preparation Time	@ standard hourly rates
Court Proceedings & Depositions (4 hour minimum)	@ 1.5 times hourly rates

PERTEET, INC.
Schedule of 2012 Billing Rates
Page 2

<u>Direct Expenses</u>	<u>Rate</u>
Living & travel expenses outside of service area	Cost plus 10 percent
Authorized Subconsultants	Cost plus 10 percent
Outside Services (printing, traffic counts, etc.)	Cost plus 10 percent
CADD Station	\$10.00 per hour
Project Controls / Primavera	\$10.00 per hour
GIS / Traffic Modeling	\$15.00 per hour
Color Copies	\$.80 each
Mileage	@ current federal rate

<u>Survey Classifications</u>	<u>2012 Hourly Rate</u>
Principal Surveyor	185.00
Survey Manager	130.00
Senior Professional Land Surveyor	130.00
Professional Land Surveyor	105.00
Project Surveyor II	100.00
Project Surveyor I	95.00
Survey Technician III	85.00
Survey Technician II	75.00
Survey Technician I	65.00
One Person Survey Crew	90.00
Two Person Survey Crew	150.00
Three Person Survey Crew	215.00

<u>Direct Survey Expenses</u>	<u>Rate</u>
Dual Frequency GPS Receiver	\$150.00 per day
Robotic Total Station Data Collection System	\$100.00 per day
Digital Level	\$50.00 per day
Survey monuments & cases	Cost plus 10 percent

PERTEET, INC.
Schedule of 2012 Billing Rates
Page 3

<u>Construction Classifications</u>	<u>2012 Hourly Rate</u>
Construction Engineering Supervisor	175.00
Construction Engineering Manager	165.00
Construction Manager	120.00
Assistant Construction Manager	105.00
Construction Engineer III	120.00
Construction Engineer II	100.00
Construction Engineer I	85.00
Senior Construction Observer	110.00
Construction Observer II	80.00
Construction Observer I	70.00
Senior Construction Technician	105.00
Construction Technician III	95.00
Construction Technician II	80.00
Construction Technician I	70.00

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to WHO IS AN INSURED (Section II):

Any person or organization that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with "your work" and included within the "products-completed operations hazard".

~~Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.~~

The insurance provided to such additional insured is limited as follows:

- d. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- e. This insurance does not apply to the rendering of or failure to render any "professional services".
- f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF

INSURANCE (Section III) for this Coverage Part.

B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

However, if you specifically agree in a "contract or agreement requiring insurance" that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily

COMMERCIAL GENERAL LIABILITY

injury" or "property damage" occurs, or the "personal injury" offense is committed.

D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Cov-

erage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

RESOLUTION NO. 14-954

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE THE FIRST
ADDENDUM TO THE PERTEET, INC. CONTRACT TO
SERVE AS THE ENVIRONMENTAL CONSULTANT TO THE
MASTER DEVELOPMENT REVIEW TEAM

WHEREAS, on May 17, 2012 the Consultant and the City entered into a contract via Resolution No. 12-802 for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City; and

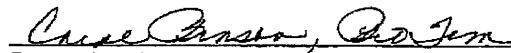
WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

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

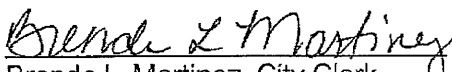
Section 1. The Mayor is hereby authorized to execute the first addendum to the Perteet contract, substantially in the form attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF JUNE 2014.

CITY OF BLACK DIAMOND:


Dave Gordon, Mayor

Attest:


Brenda L. Martinez, City Clerk

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND**

Perteet, Inc.

THIS FIRST AMENDMENT is made to the Consultant Services Contract via Resolution 12-802 executed between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and Perteet, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 2707 Colby Avenue, Suite 900, Everett, WA 98201.

RECITALS

WHEREAS, on **May 17, 2014**, the Consultant and the City entered into a contract for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City;

WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

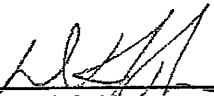
TERMS

Section 1. No Change to Terms and Conditions. With the exception of the expiration date of the Contract between the City and the Consultant, all terms and conditions of the Contract shall remain the same.

Section 2. New Expiration Date. The parties agree to extend the expiration date of the Contract June 30, 2012 to **September 30, 2014**.

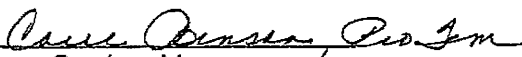
IN WITNESS WHEREOF, the parties have executed this Agreement on this **5th day of June, 2014**.

CONSULTANT

By: 
Daniel J. Hansen
Its: Vice President

Consultant: Perteet, Inc.

CITY OF BLACK DIAMOND

By: 
Dave Gordon, Mayor

APPROVED AS TO FORM:

Carol A. Morris, City Attorney's Office

ATTEST:


Brenda Martinez, City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 14-977 authorizing the Mayor to execute a contract with HWA Geosciences Inc. to serve as the Geotechnical Engineering Consultant to the MDRT	Agenda Date: September 18, 2014 AB14-088	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	X
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): Up to \$100,000	Public Works – Seth Boettcher	
Fund Source: Pass-through expense to Yarrow Bay	Court – Stephanie Metcalf	
Timeline: Two year contract		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-977, proposed contract, Resolution Nos. 12-819 & 14-953		
SUMMARY STATEMENT: <p>The Funding Agreement approved in conjunction with the two Development Agreements (DAs) for the approved Master Planned Developments (MPDs) of Lawson Hills and The Villages assumes that consultants will be hired to augment City staff in their work as the MPDS are implemented over time. There will be significant needs for geotechnical engineering assistance to help with review of specific implementing projects (plats, multifamily housing, commercial projects), plus major infrastructure improvements such a water and sewer line extensions.</p> <p>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 6 firms submitted their qualifications; two were chosen to be interviewed. The interview panel consisted of Community Development and Natural Resources Director Aaron Nix, MDRT/Economic Development Director Andrew Williamson, and Public Works Administrative Assistant Scott Hanis. The unanimous choice of the interview panel was to hire HWA Geosciences.</p> <p>Per the terms of the DAs, all costs for consultants must be paid for by the Master Developer (Yarrow Bay). This contract is for two years and a 10-day termination provision is included, should the City decide to seek a different consultant or hire its own staff at a future date.</p> <p>FISCAL NOTE (Finance Department): Per the Funding Agreement, all cost associated will the contracted services will be reimbursed by the Developer.</p>		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution 14-977 authorizing the Mayor to execute a contract with HWA Geosciences Inc. to serve as the geotechnical engineering consultant to the MDRT.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 18, 2014		

RESOLUTION NO. 14-977

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

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

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

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

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

WHEREAS, the City does not have on sufficient staff resources to provide Geotechnical Services to meet the needs of the MDRT;

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 2 year contract with HWA Geosciences, Inc. to provide Geotechnical Services for the MDRT, 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 18TH DAY OF SEPTEMBER, 2014.

CITY OF BLACK DIAMOND:

Dave Gordon, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
FOR GEOTECHNICAL ENGINEERING SERVICES
BETWEEN THE CITY OF BLACK DIAMOND AND
HWA GEOSCIENCES INC.**

THIS AGREEMENT is made by and between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and **HWA GEOSCIENCES Inc.**, (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington located and doing business at 21312 30th Drive SE, Suite 110, Bothell, WA 98021.

RECITALS

WHEREAS, the City does not have on sufficient staff resources to provide Geotechnical Engineering services to meet the needs of the MDRT; and

WHEREAS, the City has funding available from YarrowBay and an approved budget to fund the oversight, engineering review, inspections, development agreement enforcement and assisting the City with the regulatory role; and

WHEREAS, the Consultant has agreed to provide the services described in Exhibit A (scope of work) under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall be prepared to assist the City with all of the work described in Exhibit A (General Scope of Work), which is attached hereto and incorporated herein by this reference. The municipal fiscal analysis services to be provided to the City by the Consultant shall be identified in on-call task requests for each project task for which the City requires Consultant services. No work shall be commenced by Consultant under this Agreement except pursuant to such an on call task request issued by the City in the form attached as Exhibit B, which is incorporated herein by this reference. Consultant shall perform the services described in the on-call task request in accordance with the schedule and scope of work set forth in the on-call task request (Exhibit B).

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed One Hundred Thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The progress billings for the work completed shall be compensated according to the rates and charges identified in Exhibit C, which is incorporated herein by this reference.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

The Consultant shall perform the work according to the City's direction, as described in Section I of this Agreement. This Agreement shall be in effect for a period of two (2) years from the effective date, which is the date this Agreement is signed by both parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER

ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 30 days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Arnie Sugar, L.G., L.H.G.
HWA Geosciences Inc.
21312 30th Drive SE, Suite 110

CITY:

Attn: Andrew Williamson
City of Black Diamond
P.O. Box 599

Bothell, WA 98021

24301 Roberts Drive
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

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

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on
this _____ day of _____, 2014.

CONSULTANT

CITY OF BLACK DIAMOND

By: _____
Arnie Sugar
Its: President

By: _____
Dave Gordon, Mayor

Consultant: HWA Geosciences

APPROVED AS TO FORM:

Carol A. Morris
City Attorney's Office

ATTEST:

Brenda Martinez
City Clerk

EXHIBIT A

SCOPE OF WORK CITY OF BLACK DIAMOND GEOTECHNICAL ENGINEERING SERVICES MASTER DEVELOPMENT REVIEW TEAM

The work to be performed by HWA GeoSciences Inc. may consist of some or all of the following types of tasks, as directed by the City:

MDRT

- Participation in preliminary design meetings and other activities as a member of the Master Development Review Team (MDRT)
- Review of and preparation of written comments on submitted engineering drawings for compliance with City codes and standards and any applicable provisions of the approved MPDs.
- Coordination with other consulting professionals and staff of the MDRT
- On-site inspection during construction of individual engineering projects

COMMUNITY DEVELOPMENT

- Evaluating coal mine hazards and related studies in evaluating the levels of mine hazards throughout the City of Black Diamond in accordance with Black Diamond Municipal Code 19.10.430-450.
- Evaluating sites and soils and preparing studies for potential contamination and remediation if appropriate.

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

_____	Written Name	_____	Title
_____	Signature	_____	Date

Consultant:

_____	Written Name	_____	Title
_____	Signature	_____	Date

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

Exhibit C

HWA GEOSCIENCES INC.

2014 BILLING RATES (Effective 01/01/2014)

EMPLOYEE	TITLE	BILLING RATE
Sa Hong	Principal IX	\$240.00 *
Ralph Boirum	Principal IX	\$240.00 *
Arnie Sugar	Principal VIII	\$240.00 *
Steve Greene	Geologist VII	\$190.00
Bryan Hawkins	Geotechnical Engineer VI	\$160.00
Donald Huling	Geotechnical Engineer IV	\$150.00
JoLyn Gillie	Geotechnical Engineer IV	\$133.00
Norm Nielsen	Hydrogeologist IV	\$170.00
Cliff Nale	Geologist III	\$119.00
Brad Thurber	Geologist V	\$110.00
Vasiliy Babko	Controller	\$100.00
Desiree Rosa	Marketing coordinator	\$90.00
Tori Hesedahl	Geotechnical Engineer I	\$82.00
Sandybell Ramos	Geotechnical Engineer I	\$82.00
Daniel Coltrane	Geologist I	\$82.00
Brett Salazar	Geologist I	\$82.00
Kimberly Stilson	Geologist I	\$78.00
Tink Kinney	CAD	\$75.00
Christiana Fisk	Administrative Support	\$71.00
Jessica Herrera	Lab/Field Technician II	\$90.00
Scott Johnson	Lab/Field Technician II	\$80.00
Daniel Walton	Lab/Field Technician I	\$60.00
Jacob Thurber	Lab/Field Technician I	\$50.00
Adam Chidester	Lab/Field Technician I	\$50.00

Notes: * Represents Capped Billing Rate



HWA GEOSCIENCES INC.

www.hwageo.com

STANDARD SCHEDULE OF FEES AND CHARGES

All prices are effective January 1, 2014 and are subject to change without notice.

HWA GeoSciences Inc. holds accreditations from the American Association of State Highway and Transportation Officials (AASHTO R-18), American Association for Laboratory Accreditation (A2LA) and validation from the U.S. Army Corps of Engineers (USACE). We participate in the sample proficiency program from AMRL for soil classification, coarse and fine aggregates, Hot Mix Asphalt, California Bearing Ratio, and compaction; and CCRL for concrete.

PROFESSIONAL SERVICES

Request Labor Rate Schedule

EXPENSES

All Outside Expenses (i.e., airfare, subsistence, equipment rental, materials, reproduction, etc.)..... Cost plus 10%
 Drilling & Chemical Laboratory Subcontractors... Cost plus 15%
 Mileage (per mile) Current IRS Rate
 Tests Conducted on Contaminated Soils..... Cost plus 20%
 Project Sample Storage Beyond 30 Days from Final Report
 Per sample, per day\$0.50
 Rush Testing.....Rate plus 100%

LABORATORY TESTS

Soil Laboratory Tests

All contaminated soils will be returned to client for disposal.

Atterberg Limits

Liquid Limit and Plastic Limit (ASTM D 4318)

One Point \$110.00
 Three Point \$150.00

California Bearing Ratio (ASTM D 1883)

(Requires Moisture/Density Relationship Test)

One Point \$175.00
 Three Point..... \$450.00

Consolidation Test Incremental Loading (ASTM D 2435)

9 Loads, 0.125 TSF to 32 TSF, 4 Unloads \$575.00
 Each Additional Load \$50.00

Consolidation Test, Controlled Strain (ASTM D 4186).... \$650.00

Grainsize Analysis

Combined Analysis (ASTM D 422) \$230.00
 Hydrometer Analysis (ASTM D 422)..... \$170.00
 Passing #200 Sieve (ASTM D 1140)..... \$55.00
 PSEP Particle Size (Less than 4 Phi)..... \$260.00
 Sieve Analysis-Wet (ASTM D 422)..... \$95.00

Moisture/Density Relationship

Proctor - Cohesive (ASTM D 698, D 1557) \$225.00
 Proctor - Granular (ASTM D 698, D 1557) \$210.00

Moisture Content w/Description..... \$18.00

One-Dimensional Swell (ASTM D 4546) \$625.00

Organic Content Test (ASTM D 2974)..... \$65.00

Permeability Tests

Permeability of Granular Soils (ASTM D 2434)..... \$250.00
 Falling Head Test (WSDOT 605)..... \$225.00
 Triaxial with Back Pressure
 2 days (ASTM D 5084) \$450.00
 Each additional day \$125.00
 Triaxial with Back Pressure
 (6-in diameter) (ASTM D 5084) \$500.00

LABORATORY TESTS (Continued)

Permeability Tests (Con't)

Estimate of Effective Porosity \$545.00
 Field Capacity (sand) \$195.00
 Sand Drainage Characteristic Curve \$375.00
 Relative Density (ASTM D 4253 / D 4254) \$350.00
 Shelby Tube Extrusion and Sample Description..... \$40.00
 Soil Resistivity & pH (WSDOT 417)..... \$100.00
 pH Only \$35.00
 Resistivity Only..... \$65.00
 Specific Gravity Test (ASTM D 854) \$80.00

Strength Testing

Direct Shear Strength (per point) (ASTM D 3080) ... \$160.00
 Residual Shear (per point)..... \$160.00
 Triaxial (c-u) (ASTM D 4767) \$550.00
 with K0 Consolidation \$750.00
 Stress Path Tests..... \$650.00
 Triaxial (c-u) 3pts (ASTM D 4767) \$1,200.00
 Triaxial (u-u) (ASTM D 2850) \$215.00
 Unconfined Compressive Strength (ASTM D 2166) .. \$110.00
 Modulus and Dampening of Soils under
 Cyclic Loading (ASTM D 3999) \$750.00
 Resilient Modulus of Base/Subgrade
 (AASHTO T296) \$500.00

Unit Weight

Cohesive Soil by Waxing (USCOE) \$90.00
 Percent of Solids Calculation \$18.00
 Porosity (includes specific gravity/unit weight) \$100.00
 Soil in Ring (ASTM D 2937) \$38.00
 Bulk Density of Solid Waste (ASTM E 1109) \$40.00
 Soil in Shelby Tube (ASTM D 2937) \$45.00
 Visual Soil Classification \$16.00

Aggregate Quality Tests

Clay Lumps and Friable Particles (ASTM C 142) \$90.00
 Degradation Test (WSDOT 113) \$225.00
 Fracture Face Count (without sieve) (WSDOT 103) \$40.00
 Grain Size (ASTM C 136, C 117) \$95.00
 Los Angeles Abrasion (ASTM C 131, C 535) \$195.00
 Organic Impurities (ASTM C 40)..... \$70.00
 Percentage of Material Passing #200 Sieve (ASTM C 117) \$55.00
 Sand Equivalent (ASTM C 2419) \$90.00
 Soundness Using MgSO₄ (ASTM C 88)..... \$375.00
 Specific Gravity Test
 Coarse Aggregate (ASTM C 127) \$70.00
 Fine Aggregate (minus #4 mesh) (ASTM C 128)..... \$80.00
 Unit Weight by Dry Rodding (ASTM C 29) \$60.00
 Uncompacted Voids Content of FA (ASTM C1252) \$115.00

Exhibit C

STANDARD SCHEDULE OF FEES AND CHARGES (Continued)



All prices are effective January 1, 2014 and are subject to change without notice.

Concrete and Masonry Tests

Compression Testing of Concrete Cores (includes trimming) (ASTM C 42, C 513)	\$90.00
Compression Testing of Concrete Cylinders (ASTM C 39)	\$25.00
Compression Testing of Grout and Mortar Specimens (per specimen) (UBC 21-18, 21-16)	\$18.00
Concrete Beam Flexural Strength Test (ASTM C 78)	\$90.00
Concrete Cylinder Molds	\$2.50
Concrete Cylinders Sampled and Cured (not tested)	\$25.00
Concrete Mix Design (fixed gradation)	\$2,000.00
Density Test	
Concrete Cylinders	\$35.00
Light Weight Concrete Cylinders	\$80.00
End Trimming of Samples (if needed)	\$20.00
Splitting Tensile Strength Test (ASTM C 496)	\$90.00
Shotcrete Panel (cut three cores & compression test) ..	\$300.00

Geosynthetics Tests

Shear/Peel Strength Test (ASTM D 4437)	\$125.00
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Asphaltic Concrete Tests

Bitumen Content by Extraction	
Extraction only (ASTM D 6307)	\$90.00
with Gradation (ASTM D 5444, D 6307)	\$150.00
Bulk Specific Gravity and Density - SSD Method (per specimen) (ASTM D 2726)	\$45.00
Bulk Specific Gravity and Density - Wax Method (per specimen) (ASTM D 1188)	\$70.00
Marshall Stability & Flow Determination (3 specimens) (ASTM D 6927)	\$500.00
Percent Air Voids in Compacted or Open Bituminous Mixtures (ASTM D 3203)	\$150.00
Rice Density (WSDOT 705)	\$90.00
TSR	\$550.00

Rock Tests

Abrasion Resistance (ASTM C 535)	\$200.00
Ethylene Glycol Accelerated Expansion	\$200.00
Riprap Soundness (ASTM D 5240)	\$300.00
Specific Gravity and Absorption (ASTM C 127)	\$70.00
Splitting Tensile Strength of Rock Cores (10 Discs) (ASTM D 3967)	\$220.00

EQUIPMENT CHARGES

Labor will be charged in addition to equipment charges	
Air Filters for Development (per day)	\$50.00
BK Development Pump/Surge Block (per day)	\$20.00
Bolt Tension Calibrator (per day)	\$50.00
Carbon Filter (per day)	\$50.00
Coating Thickness Gauges (per day)	\$25.00
Combustible Gas Tech Meter (GT 302 / 3220)	
Per day	\$100.00
Per week	\$300.00

Coring Equipment Charge Request Schedule

Data Logger and Transducers	
Per day	\$150.00
Per week	\$500.00
Dissolved Oxygen Meter	
Per day	\$95.00
Per week	\$300.00
Falling Weight Deflectometer (Hourly Rental)	
0-8hrs	\$175.00
8-40hrs	\$100.00
40+hrs	\$50.00
Double Ring Infiltrometer	\$50.00
Flow Monitoring Set	
Per day	\$105.00
Per week	\$400.00
Geomembrane Tensiometer (per day)	\$100.00
Grundfos Redi Flow II Pump and Generator	
Per day	\$100.00
Per week	\$300.00
Landfill Gas Monitoring Equipment (GEM 500)	
Per day	\$95.00
Per week	\$300.00
Level and Stadia Set	\$25.00
Nuclear Density Gauge (per day)	\$30.00
Per month	\$300.00
Peristaltic Sampling Pump	
Per day	\$50.00
Per week	\$90.00
pH-Conductivity Temperature Meter	
Per day	\$40.00
Per week	\$100.00
Photoionization Detector (Mini Rae / HNU / Microtip)	
Per day	\$100.00
Per week	\$300.00
QED Bladder Pump Controller	
Per day	\$50.00
Per week	\$90.00
Safety Equipment	
Level D (solvex gloves, disposable suit)	\$25.00
Level C2 (above plus respirator)	\$50.00
Level C1 (above plus chemical suit)	\$95.00
Level B (above plus SCBA)	\$300.00
Sensidyne Monitoring Equipment (does not include tubes) ..	\$15.00
Sediment Coring or Soil Sampling Kit (does not include shelby tubes) (per day)	\$50.00
Torque Wrench (per day)	\$25.00
Turbidity Meter (per day)	\$40.00
Turbidity Meter (per week)	\$150.00
UT Thickness Gauge (per day)	\$50.00
Well Probe (per day)	\$15.00
Well Probe (per week)	\$50.00

For additional information, please contact 425-774-0106.

Bryan Hawkins, PE, for Geotechnical Services (Ext. 245, bhawkins@hwageo.com)

Arnie Sugar, LG, LHG, for GeoEnvironmental & Hydrogeology Services (Ext. 227, asugar@hwageo.com)

Ashley Crane for Laboratory Services (Ext. 261, acrane@hwageo.com)

RESOLUTION NO. 12-819

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

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

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

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

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

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

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

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

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

Section 1. The Mayor is hereby authorized to execute a contract with SubTerra, Inc. as attached hereto as Exhibit A to provide geotechnical engineering review services for the MDRT.

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

CITY OF BLACK DIAMOND:



Rebecca Olness, Mayor

Attest:

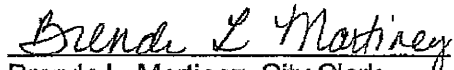

Brenda L. Martinez, City Clerk

EXHIBIT A

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated July 10, 2012 and is entered into by and between

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

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

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

and

SubTerra, Inc. ("Consultant")

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

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

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

Tax Id No.: 91- 152- 9101

for professional services in connection with the following project:

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

TERMS AND CONDITIONS

1. Services by Consultant

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

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

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

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

2. Schedule of Work

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

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

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

3. Compensation

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

4. Payment

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

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

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

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

5. Discrimination and Compliance with Laws

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

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

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

6. Suspension and Termination of Agreement

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

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

7. Standard of Care

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

8. Ownership of Work Product

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

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

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

9. Indemnification/Hold Harmless

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

10. Insurance

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

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

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

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

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

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

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

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

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

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

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

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

11. Assigning or Subcontracting

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

12. Independent Contractor

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

13. Notice

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

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

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

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

14. Disputes

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

15. Attorney Fees

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

16. General Administration and Management on Behalf of the City

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

17. Extent of Agreement/Modification


17.1 This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. After City Council approval, this Agreement shall be in effect as of July 10, 2012 and shall remain in effect until June 30, 2014, unless sooner terminated as set forth herein. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

18. Conflict of Interest; Non-Collusion

18.1 No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The 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

By: 
Rebecca Olness
Its: Mayor

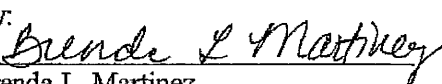
Date: 7-10-12

CONSULTANT

By: 
Printed Name: Chris D. Breeds
Its: President

Date: 7-16-2012

Attest:

By: 
Brenda L. Martinez
City Clerk

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

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

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

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

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate: \$

Task Request Approval:			
Written Name		Title	
Signature		Date	

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

SubTerra, Inc.

Payment Terms and Rate Sheet

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

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

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

Payment Terms for Technical Services

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

Payment Terms for Rental, Lease or Purchase of Equipment

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

RESOLUTION NO. 14-953

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

WHEREAS, on July 9, 2012 the Consultant and the City entered into a contract via Resolution No. 12-819 for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City; and

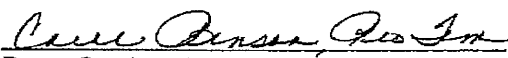
WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

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

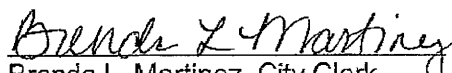
Section 1. The Mayor is hereby authorized to execute the first addendum to the SubTerra, Inc contract, substantially in the form attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF JUNE 2014.

CITY OF BLACK DIAMOND:


Dave Gordon, Mayor

Attest:


Brenda L. Martinez, City Clerk

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
SubTerra, Inc.**

THIS FIRST AMENDMENT is made to the Consultant Services Contract via Resolution No. 12-819 executed between the City of Black Diamond, a Washington municipal corporation (hereinafter the "City"), and Sub Terra, Inc. (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington, located and doing business at 218 East North Bend Way, North Bend, WA 98045.

RECITALS

WHEREAS, on **July 9, 2012**, the Consultant and the City entered into a contract for on-going services as described in that Contract; and

WHEREAS, the Contract will soon expire, and the City would like to extend the contract while it complies with state law for the selection of consultants and the execution of new contracts with the City;

WHEREAS, the Consultant agrees to continue its performance of services under the same terms and conditions in the original Contract;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

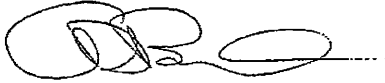
TERMS

Section 1. No Change to Terms and Conditions. With the exception of the expiration date of the Contract between the City and the Consultant, all terms and conditions of the Contract shall remain the same.

Section 2. New Expiration Date. The parties agree to extend the expiration date of the Contract June 30, 2014 to **September 30, 2014**.

IN WITNESS WHEREOF, the parties have executed this Agreement on this **5th day of June, 2014**.

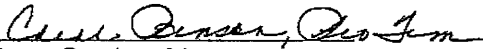
CONSULTANT



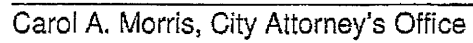
By:
Chris Breeds
Its: President

Consultant: SubTerra Inc.

CITY OF BLACK DIAMOND

By: 
Dave Gordon, Mayor

APPROVED AS TO FORM:


Carol A. Morris, City Attorney's Office

ATTEST:


Brenda Martinez, City Clerk

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 14-978, authorizing the Mayor to execute a contract with RH2 Engineering, Inc. to serve as the Civil Engineering Consultant to the Water, Sewer, and Stormwater utilities.	Agenda Date: September 18, 2014 AB14-089	
	Mayor Dave Gordon	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Aaron Nix	
	Finance – May Miller	
	MDRT/Eco Dev – Andy Williamson	
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	X
Cost Impact (see also Fiscal Note): \$100,000 Fund Source: Water/Sewer/Storm Water Timeline: 2 years	Court – Stephanie Metcalf	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 14-978, Contract forms		
<p>SUMMARY STATEMENT:</p> <p>The City is in need of on-going water, sewer, and stormwater engineering services. At the beginning of September, the City went through a consultant selection process and through that process selected RH2 Engineering, Inc.</p> <p>The City has used RH2 in the past for on-call tasks and has received responsive, technically sound engineering with accurate and clear billing. Having received very good engineering service from RH2, staff is recommending a two year civil engineering contract with RH2 Engineering, Inc. for water, sewer, and stormwater engineering services.</p> <p>Tasks under this agreement will be executed via an on-call task request. Tasks over \$7,500 will require City Council approval. The staff will use this contract for initial study and investigation work for capital project development, Maintenance and Operation trouble shooting and assistance, serving development needs and review (reimbursable).</p> <p>FISCAL NOTE (Finance Department): Engineering costs cover Developer or reimbursable costs, Utility development work for future capital projects, or for Utility Maintenance & Operation trouble shooting and assistance. Amounts over \$7,500 will have council approval which will included reviewing the budget or reimbursement amount for each approval.</p>		
<p>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</p> <p>Public Work Committee recommends adoption.</p>		
<p>RECOMMENDED ACTION: MOTION to adopt Resolution No. 14-978 authorizing the Mayor to execute a professional services agreement with RH2 Engineering, Inc. to serve as the Civil Engineering Consultant to the Water, Sewer, and Stormwater Utilities.</p>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 18, 2014		

RESOLUTION NO. 14-978

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH RH2 ENGINEERING, INC. TO SERVE AS THE CIVIL ENGINEERING CONSULTANT TO THE WATER, SEWER, AND STORM WATER UTILITIES

WHEREAS, the City does not have sufficient staff resources to provide civil engineering services to meet the needs of the water, sewer, and storm water utilities; and

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

WHEREAS, a panel consisting of staff reviewed the submittals, subsequently interviewed two firms and then unanimously recommended RH2 Engineering, Inc. as the firm most capable of providing Civil Engineering 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 RH2 Engineering, Inc. to provide Civil Engineering Services to the Water, Sewer, and Stormwater Utilities, 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 18TH DAY OF SEPTEMBER, 2014.

CITY OF BLACK DIAMOND:

Dave Gordon, Mayor

Attest:

Brenda L. Martinez, City Clerk

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF BLACK DIAMOND AND
RH2 ENGINEERING**

THIS AGREEMENT is made by and between the CITY OF BLACK DIAMOND, a Washington municipal corporation (hereinafter the "City"), and RH2 ENGINEERING, INC., (hereinafter the "Consultant,"), a corporation organized under the laws of the State of Washington and doing business at 22722 29th Drive SE, Suite 210, Bothell, WA 98021.

RECITALS

WHEREAS, the City does not have sufficient staff resources to provide full service water, sewer, and storm water engineering services to meet the needs of the City; and

WHEREAS, the Consultant has agreed to provide on-call water, sewer, and storm water engineering services as requested by the City as described herein; and

WHEREAS, the City advertised for engineering services and has selected RH2 Engineering, Inc. as the most qualified;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

A. The Consultant shall be prepared to provide all work described in Exhibit A, which is attached hereto and incorporated herein by this reference.

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials according to the list of billing rates and reimbursable expenses attached hereto as Exhibit C. The total amount of services under this contract shall not exceed One hundred thousand Dollars (\$100,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in

Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount.

B. Compensation for the services provided pursuant to an on-call task request shall not exceed \$7,500 without the written authorization of the City Council. In the event that, after the commencement of the work, the Consultant anticipates that the work for an on-call task request will exceed \$7,500, Consultant shall promptly notify the City and provide the City with whatever documents or information is necessary to request approval of any amounts in excess thereof.

C. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

A. The City and the Consultant agree that work will begin on the tasks described in Exhibit A upon execution of this Contract. The parties agree that the work described in Exhibit A shall be completed two years after execution of this contract; provided however, that additional time shall be granted by the City for any task orders which will not be completed prior to the two-year deadline, in which case the terms and

conditions of this contract shall apply. No new task orders shall be executed two years after the execution of this Contract.

This Agreement shall expire in two years from the effective date, which shall be the date that both parties sign this Agreement. The Consultant agrees that there will be a deadline for completion of the work assigned in each individual Task Order, which may or may not be different from the expiration date of this Agreement. The Consultant agrees to complete all work assigned in a Task Order on the deadline set forth in each individual Task Order, unless such deadline is amended by the City in an amended Task Order.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the negligent performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance

of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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

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

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is

required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Black Diamond shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Black Diamond at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Geoff Dillard
RH2 Engineering, Inc.
22722 29th Drive SE, Suite 210
Bothell, WA 98021

CITY:

Attn: Seth Boettcher
City of Black Diamond
P.O. Box 599
24301 Roberts Drive
Black Diamond, WA 98010

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

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

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2014.

CONSULTANT

CITY OF BLACK DIAMOND

By: _____
Its: _____

By: _____
Dave Gordon, Mayor

Consultant: _____

APPROVED AS TO FORM:

City Attorney's Office

ATTEST:

City Clerk

Exhibit A

Scope of Work

Background

In the course of a year and from time to time, the City will be in need of engineering assistance for the City's water, sewer and stormwater utilities as well as capital project design work for these utilities. This scope of work is intended to disclose the types of services the City may be seeking but is not intended to be all inclusive of the City's needs nor is it intended to be a complete list of all services that the City will be requesting.

The following tasks are not intended to imply chronological order, but rather serve as general categories of work that may be required by this contract.

Task 1 - Computer modeling of City Utility systems

- Review various utility system performance and constraints using computer modeling for the water, sewer and stormwater systems.
- Evaluate different utility system configurations to meet City needs or to address identified problems.

Task 2 - Agency Coordination

- Assist the City with processing projects through various state and local agencies.
- Assist the City with preparing, presenting and advocating for solutions to City utility needs before various state and local agencies.

Task 3 – Professional Assistance to Address Utility System Urgent Needs

- Provide the City with professional engineering and technical advice to deal with system operations and maintenance problems that may arise.
- Assist the City with responding to regulatory requirements, new technology, or new demands on the utility systems.

Task 4 – Capital Project Engineering

- Provide the City with early project planning engineering to define a general scope and budget.
- Provide the City with preliminary project engineering to find creative, technically sound and practical solutions to address City needs.

- Provide efficient, clear drawings and contract documents for bidding public works projects.
- Attend meeting as necessary and as directed by the City to ensure compliance with City needs.
- Provide quality control and maintain quality assurance procedures for work products.
- Maintain complete and efficient working files of project activities.
- Provide timely and accurate billing invoices and billing records.
- Provide peer-review services as requested by the City.
- Meet with other City departments and as requested by the City to share information and maintain a cooperative working environment.

Task 5 – Mapping and As-built Drawings

- Provide mapping services for the City as requested.
- Update City maps with information collected by the City or from developers.
- Assist City with GIS systems and as-built formatting.

Task 6 – Services During Construction

- Provide on-call field inspection services to assist and supplement the experience and resources of City staff.
- Assist the City with project management activities as requested.

Task 7 – Rates and Financial Analysis

- Provide the City with rate studies, capital facility charge analysis, cost benefit analysis and funding recommendations.

Task 8 – General

- Provide professional technical assistance related to the planning, review, permit requirements, capital project implementation, operations, maintenance and reporting for the City's water, sewer and storm water utilities as directed by the City.

Exhibit B

City of Black Diamond On-Call Task Request

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

Scope of Task Request

Budget Estimate:

Task Request Approval:

City of Black Diamond:

Written Name

Title

Signature

Date

Consultant:

Written Name

Title

Signature

Date

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

EXHIBIT C
RH2 ENGINEERING, INC.
SCHEDULE OF RATES AND CHARGES

2014 HOURLY RATES

CLASSIFICATION		RATE	CLASSIFICATION		RATE
Professional	IX	\$209.00	Technician	IV	\$135.00
Professional	VIII	\$209.00	Technician	III	\$127.00
Professional	VII	\$201.00	Technician	II	\$95.00
			Technician	I	\$90.00
Professional	VI	\$186.00			
Professional	V	\$177.00	Administrative	V	\$126.00
Professional	IV	\$167.00	Administrative	IV	\$105.00
			Administrative	III	\$91.00
Professional	III	\$157.00	Administrative	II	\$75.00
Professional	II	\$147.00	Administrative	I	\$63.00
Professional	I	\$135.00			

IN-HOUSE SERVICES

In-house copies (each)	8.5" X 11"	\$0.09	CAD Plots	Large	\$25.00
In-house copies (each)	8.5" X 14"	\$0.14	CAD Plots	Full Size	\$10.00
In-house copies (each)	11" X 17"	\$0.20	CAD Plots	Half Size	\$2.50
In-house copies (color) (each)	8.5" X 11"	\$0.90	CAD System	Per Hour	\$27.50
In-house copies (color) (each)	8.5" X 14"	\$1.20	GIS System	Per Hour	\$27.50
In-house copies (color) (each)	11 X 17"	\$2.00	Technology Charge	2.5% of Direct Labor	
			Mileage	Current IRS Rate	

OUTSIDE SERVICES

Outside direct costs for permit fees, reports, maps, data, reprographics, couriers, postage, and non-mileage related travel expenses that are necessary for the execution of the project and are not specifically identified elsewhere in the contract will be invoiced at cost.

All Subconsultant services are billed at cost plus 15%.

CHANGES IN RATES

Rates listed here are adjusted annually. The current schedule of rates and charges is used for billing purposes. Payment for work accomplished shall be based on the hourly rates and expenses in effect at the time of billing as stated in this Exhibit.