CITY OF BLACK DIAMOND

June 7, 2018 Regular Business Meeting Agenda

25510 Lawson St., Black Diamond, Washington

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

AGENDA REVIEW AND APPROVAL:

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

CONSENT AGENDA:

1) **Claim Checks** – June 7, 2018 – Check No. 46242 through 46298 in the amount of $502,794.94

2) **Minutes** – Council Meeting of December 15, 2016

3) **Minutes –** Council Meeting of May 17, 2018

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. 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:

4) **AB18-059A** – Continuation of Public Hearing on Resolution No. 18-1249 Proposed 2019-2024 Six Year Transportation Improvement Program — Mr. Boettcher
(Council action may follow public hearing)

UNFINISHED BUSINESS:

5) **AB18-057A** – Ordinance No. 18-1105 Re-establishing a Non-exclusive, Ten Year Franchise with PSE — Mr. Boettcher

6) **AB18-040A** – Ordinance No. 18-1101 Regarding CCD Black Diamond Partners LLC and Ten Trails Residential Owners Association a Non-Exclusive Franchise to Use and Occupy Certain Public Rights of Way — Mr. Williamson

NEW BUSINESS:

7) **AB18-061** – Resolution No. 18-1250 Approval of Deed of Dedication for Right of Way in Tract "T" of the Ten Trails P1A Division 1 Final Plat and Track "A" of the Ten Trails 2C Division 1 Final Plat — Mr. Williamson

8) **AB18-062** – Resolution No. 18-1251 Approving Acquisition of a Utilities Easement for Water at the Black Diamond Elementary School — Mr. Boettcher

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

- Councilmember Deady -
- Councilmember Oglesbee
- Councilmember Edelman
- Councilmember Stout
- Councilmember Wisnoski

ATTORNEY REPORT:

PUBLIC COMMENTS:

EXECUTIVE SESSION:

ADJOURNMENT:

CERTIFICATION

Date: June 7th, 2018 Council Meeting

Check No.'s/EFT	Batch Name	Check/EFT Date	Amount
46242 - 46296	May – 3rd May Batch for 06/07 Council	06/08/2018	$ 499,002.19
46297 - 46298	June – 1st June Batch for 06/07 Council	06/08/2018	$ 3,792.75
		TOTAL	$ 502,794.94

I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER THE PENALTY OF PERJURY, THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED AND OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF BLACK DIAMOND, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

MAY MILLER, FINANCE DIRECTOR

5-31-2018
DATE

CAROL BENSON, MAYOR

DATE

COUNCILMEMBERS

DATE

Register

Fiscal: 2018
Deposit Period: 2018 - June, 2018 - May
Check Period: 2018 - June - 1st Jun Batch for 06/07 Council, 2018 - May - 3rd May Batch for 06/07 Council

Number	Name	Print Date	Amount
Check			
46242	AHBL, Inc.	6/8/2018	$30,352.50
46243	Alejandra Contreras	6/8/2018	$155.97
46244	Art Gamblin Motors	6/8/2018	$128.72
46245	BHC Consultants, LLC	6/8/2018	$29,598.43
46246	Big Mountain Electric, Inc	6/8/2018	$271.50
46247	CenturyLink (AZ)	6/8/2018	$31.88
46248	CenturyLink (WA)	6/8/2018	$1,121.86
46249	CHS/Cenex	6/8/2018	$3,441.89
46250	City of Black Diamond/Retained Funds	6/8/2018	$11,300.28
46251	Comcast (34744)	6/8/2018	$322.52
46252	Criminal Justice Training Commission	6/8/2018	$500.00
46253	Datec Incorporated	6/8/2018	$1,316.23
46254	Eric Cutshall	6/8/2018	$264.50
46255	Ferguson Waterworks #3011	6/8/2018	$5,569.82
46256	Firestone Complete Auto Care	6/8/2018	$32.55
46257	Francotyp-Postalia, Inc.	6/8/2018	$130.32
46258	Greater Maple Valley-Black Diamond Chamber of Commerce	6/8/2018	$66.00
46259	H.D. Fowler Company	6/8/2018	$129.11
46260	Home Depot Credit Service	6/8/2018	$675.70
46261	Honey Bucket/Northwest Cascade Inc.	6/8/2018	$261.70
46262	HWA GeoSciences Inc.	6/8/2018	$200.00
46263	Johnsons Home & Garden	6/8/2018	$387.67
46264	Kara Murphy Richards	6/8/2018	$3,400.00
46265	King County Finance	6/8/2018	$1,732.60
46266	King County Finance - Mental Health	6/8/2018	$298.13
46267	King County Fire District #44	6/8/2018	$262,762.63
46268	Krista White Swain	6/8/2018	$3,600.00
46269	Kyocera	6/8/2018	$826.54
46270	L.N. Curtis & Sons	6/8/2018	$150.64
46271	Legend Data Systems, Inc.	6/8/2018	$148.50
46272	Les Schwab Tire Ctr - MV	6/8/2018	$1,062.97
46273	McGann Electric LLC	6/8/2018	$293.22
46274	Michael and/or Terri Yankovich	6/8/2018	$32.09
46275	Office Products Nationwide	6/8/2018	$574.51
46276	Olbrechts & Associates, PLLC	6/8/2018	$628.68
46277	Olympic Environmental Resources	6/8/2018	$8,644.96
46278	Palmer Coking Coal Company, LLP	6/8/2018	$141.14
46279	Parametrix, Inc.	6/8/2018	$16,402.93
46280	Perteet Inc.	6/8/2018	$1,645.00
46281	Puget Paving & Construction, Inc.	6/8/2018	$64,034.92

46282	Puget Sound Energy	6/8/2018	$7,280.70
46283	Rasmussen Wire Rope & Rigging Co	6/8/2018	$247.73
46284	Regional Animal Services of King County	6/8/2018	$60.00
46285	Republic Services, Inc. #176	6/8/2018	$693.08
46286	Safe Security	6/8/2018	$52.48
46287	South Correctional Entity	6/8/2018	$267.43
46288	Stephanie Metcalf	6/8/2018	$189.61
46289	Summit Law Group	6/8/2018	$5,340.74
46290	Valley Communications Center	6/8/2018	$9,449.06
46291	Varius Inc.	6/8/2018	$17,928.00
46292	Verizon Wireless	6/8/2018	$1,615.75
46293	Voice of The Valley	6/8/2018	$260.00
46294	Washington State Department of Ecology	6/8/2018	$2,886.00
46295	Washington State Patrol	6/8/2018	$72.00
46296	Water Management Laboratories, Inc.	6/8/2018	$21.00
46297	ADT Security Services (PA)	6/8/2018	$49.99
46298	Sorci Family LLC	6/8/2018	$3,742.76
		Total	**$502,794.94**

Voucher Directory with Transaction Date

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
AHBL, Inc.			
46242	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
107397			
Spartan Self Storage			
001-000-240-558-51-41-10		Prof. Svs - Spartan	$1,347.50
03/26-04/25 Services			
Total 107397			**$1,347.50**
46242	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
107432			
On Site Planning Services			
001-000-240-558-51-41-01		Prof Svs.Comm Dev. Pass Thru	$8,360.00
03/26-04/25 Services			
Total 107432			**$8,360.00**
46242	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
107433			
MDRT Planning Services			
001-000-246-558-70-41-00		MDRT Professional Services	$20,645.00
03/26-04/25 Services			
Total 107433			**$20,645.00**
Total 46242			**$30,352.50**
Total AHBL, Inc.			**$30,352.50**
Alejandra Contreras			
46243	**5/9/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
207 AC			
05/09/18 Services			
001-000-120-512-50-41-04		Court Interpreter	$155.97
Total 207 AC			**$155.97**
Total 46243			**$155.97**
Total Alejandra Contreras			**$155.97**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title		Void Amount
Art Gamblin Motors				
46244	**5/16/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
266063				
2002 Chevy Silverado				
001-000-181-518-30-48-00		Facility-Vehicle Mtc. & Repair		$128.72
Total 266063				**$128.72**
Total 46244				**$128.72**
Total Art Gamblin Motors				**$128.72**
BHC Consultants, LLC				
46245	**5/7/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
0009826				
On-Call Planning Services				
001-000-240-558-51-41-03		CD-Bldg /Code Inspc. Svs		$13,346.20
03/24-04/20 Services				
Total 0009826				**$13,346.20**
46245	**5/11/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
0009866				
MDRT Commercial Review				
001-000-257-558-70-49-01		MDRT Bldg Ins/Bld Off/Plan Exam Expense		$425.00
03/24-04/20 Services				
Total 0009866				**$425.00**
46245	**5/21/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
0009875				
Building Inspection Services				
001-000-240-558-51-41-03		CD-Bldg /Code Inspc. Svs		$15,827.23
03/24-04/20 Services				
Total 0009875				**$15,827.23**
Total 46245				**$29,598.43**
Total BHC Consultants, LLC				**$29,598.43**
Big Mountain Electric, Inc				
46246	**5/22/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
3417				
001-000-248-518-20-48-00		MDRT-Bldg/Gen Mtc Costs		$108.60

Vendor / Transaction Number / Transaction Reference	Invoice Date	Fiscal Description / Name	Void Amount
Account Number		Title	
001-000-254-518-20-49-01		Facilities Bldg.Custodial & Maint.	$162.90
Total 3417			**$271.50**
Total 46246			**$271.50**
Total Big Mountain Electric, Inc			**$271.50**

CenturyLink (AZ)

46247	**5/11/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
1440731977			
04/12-05/11 Services			
001-000-254-518-20-42-00		Facilities-Communication	$31.88
Facilities-Old City Hall Main Line # 360-886-2560			
Total 1440731977			**$31.88**
Total 46247			**$31.88**
Total CenturyLink (AZ)			**$31.88**

CenturyLink (WA)

46248	**5/11/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
051118 CL			
05/11-06/11 Services			
001-000-120-512-50-42-00		Telephone/DSL	$48.78
360-886-2456 160B: PD/CT Security Line			
001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	$183.44
253-631-1012 182B: Police-Main Line			
001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	$65.68
360-886-2901 325B: Police-Fax			
001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	$65.28
360-886-2862 596B: Police-Line 2			
001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	$140.36
206-T54-3585 584B: Police-T1 Line-KC Inet			
001-000-270-576-80-42-00		Telephone/DSL/Radios	$5.07
360-886-2523 656B: PW Shop Allocation			
001-000-280-536-20-42-00		Telephone, DSL & Radios	$2.54
360-886-2523 656B: PW Shop Allocation			
101-000-000-542-90-42-01		Telephone/DSL/Radios	$27.92
360-886-2523 656B: PW Shop Allocation			
401-000-000-534-80-42-00		Telephone/DSL/Radios	$30.46
360-886-2523 656B: PW Shop Allocation			

Vendor / Transaction Number / Transaction Reference	Invoice Date	Fiscal Description / Name	Void Amount
Account Number		Title	
401-000-000-534-80-42-00		Telephone/DSL/Radios	$285.46
360-886-7235 830B: Water Reservoir			
407-000-000-535-80-42-00		Telephone/DSL/Radios	$58.28
360-886-8146 712B: Old Lawson Pump Station			
407-000-000-535-80-42-00		Telephone/DSL/Radios	$53.37
360-886-2835 784B: Morganville Pump Station			
407-000-000-535-80-42-00		Telephone/DSL/Radios	$45.52
360-886-0474 006B: Ridge Sewer Pump Station			
407-000-000-535-80-42-00		Telephone/DSL/Radios	$48.78
360-886-0537 580B: Diamond Glen Sewer			
407-000-000-535-80-42-00		Telephone/DSL/Radios	$30.46
360-886-2523 656B: PW Shop Allocation			
410-000-000-531-10-42-00		Telephone/DSL/Radios	$30.46
360-886-2523 656B: PW Shop Allocation			
Total 051118 CL			**$1,121.86**
Total 46248			**$1,121.86**
Total CenturyLink (WA)			**$1,121.86**

CHS/Cenex

46249	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
124244 043018			
Apr 2018 City Fuel			
001-000-180-518-50-32-01		Fuel-Central Services	$52.00
001-000-181-518-30-32-00		Fuel	$569.99
001-000-215-521-10-32-00		Marine Fuel VRF	$96.01
001-000-246-558-70-32-00		Fuel	$377.90
001-000-246-558-70-32-00		Fuel	$42.56
001-000-270-576-80-32-00		Fuel	$37.19
001-000-280-536-20-32-00		Fuel	$18.60
101-000-000-543-50-32-00		Fuel	$204.58
401-000-000-534-80-32-00		Fuel	$223.18
407-000-000-535-80-32-00		Fuel	$223.18
410-000-000-531-10-32-00		Fuel	$223.18
Total 124244 043018			**$2,068.37**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
46249	4/30/2018	2018 - May - 3rd May Batch for 06/07 Council	
128275 043018			
Apr 2018 PD Fuel			
001-000-210-521-10-32-00		Fuel	$1,373.52
Total 128275 043018			**$1,373.52**
Total 46249			**$3,441.89**
Total CHS/Cenex			**$3,441.89**
City of Black Diamond/Retained Funds			
46250	5/9/2018	2018 - May - 3rd May Batch for 06/07 Council	
18-093-1 R			
Puget Paving Retainage			
320-000-035-595-30-63-01		Puget Paving Retainager	$11,300.28
2018 Patching Project			
Total 18-093-1 R			**$11,300.28**
Total 46250			**$11,300.28**
Total City of Black Diamond/Retained Funds			**$11,300.28**
Comcast (34744)			
46251	5/16/2018	2018 - May - 3rd May Batch for 06/07 Council	
0106156 051618			
05/25-06/24 Services			
001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	$95.00
Police Internet Act 8498 34 014 0106156			
Total 0106156 051618			**$95.00**
46251	5/10/2018	2018 - May - 3rd May Batch for 06/07 Council	
0106172 051018			
05/17-06/16 Services			
001-000-214-521-20-42-00		Police Telephone/DSL/Air Cards	$3.29
Police Cable TV Act 8498 34 014 0106172			
Total 0106172 051018			**$3.29**
46251	5/12/2018	2018 - May - 3rd May Batch for 06/07 Council	
0122286 051218			
05/22-06/21 Services			
001-000-120-512-50-42-00		Telephone/DSL	$224.23

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
Court Phone Act 8498 34 014 0122286			
Total 0122286 051218			**$224.23**
Total 46251			**$322.52**
Total Comcast (34744)			**$322.52**
Criminal Justice Training Commission			
46252	**5/18/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
201130356			
PD Training: W. Riepl			
001-000-210-521-10-49-01		Training	$425.00
Instructor Development			
Total 201130356			**$425.00**
46252	**5/18/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
201130373			
PD Training: M. Henrich			
001-000-210-521-10-49-01		Training	$75.00
Interviewing Techniques			
Total 201130373			**$75.00**
Total 46252			**$500.00**
Total Criminal Justice Training Commission			**$500.00**
Datec Incorporated			
46253	**3/15/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
33618			
PD Equipment			
001-000-210-594-21-64-05		Traffic Safety Equipment-Grant only	$1,316.23
Total 33618			**$1,316.23**
Total 46253			**$1,316.23**
Total Datec Incorporated			**$1,316.23**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
Eric Cutshall			
46254	5/10/2018	2018 - May - 3rd May Batch for 06/07 Council	
BLD18-0055			
BLD Change of Scope Refund			
001-000-240-322-10-00-00		Building Permits	$190.00
001-000-240-341-81-00-00		Technology Cost Recovery Fee	($45.00)
001-000-240-345-83-00-00		Plan Check Review Fees	$124.00
633-000-000-389-40-10-00		State-Building Fees Receipt	($4.50)
Total BLD18-0055			**$264.50**
Total 46254			**$264.50**
Total Eric Cutshall			**$264.50**
Ferguson Waterworks #3011			
46255	5/14/2018	2018 - May - 3rd May Batch for 06/07 Council	
0656216			
Water Meters			
401-000-000-534-80-31-04		Water Meters	$5,569.82
Total 0656216			**$5,569.82**
Total 46255			**$5,569.82**
Total Ferguson Waterworks #3011			**$5,569.82**
Firestone Complete Auto Care			
46256	4/28/2018	2018 - May - 3rd May Batch for 06/07 Council	
61817			
PW Veh Maint			
101-000-000-544-90-48-02		PW Clearing- Shared Veh/Equip Maint	$32.55
Total 61817			**$32.55**
Total 46256			**$32.55**
Total Firestone Complete Auto Care			**$32.55**
Francotyp-Postalia, Inc.			
46257	5/14/2018	2018 - May - 3rd May Batch for 06/07 Council	
RI103660802			
05/14 - 08/13 Postage Meter Rental			
001-000-180-518-50-45-01		Postage Meter Rental & Maint.	$130.32
Total RI103660802			**$130.32**
Total 46257			**$130.32**
Total Francotyp-Postalia, Inc.			**$130.32**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
Greater Maple Valley-Black Diamond Chamber of Commerce			
46258	**5/17/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
10624			
05/16 Luncheon			
001-000-110-511-60-43-00 M. Oglesbee		Lodging, Meals and Mileage	$22.00
001-000-110-511-60-43-00 E. Stout		Lodging, Meals and Mileage	$22.00
001-000-130-513-10-43-00 C. Benson		Lodging, Meals & Mileage	$22.00
Total 10624			**$66.00**
Total 46258			**$66.00**
Total Greater Maple Valley-Black Diamond Chamber of Commerce			**$66.00**
H.D. Fowler Company			
46259	**5/8/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
I4816836			
407-000-000-535-80-31-01		Swr. Operating Supplies	$129.11
Total I4816836			**$129.11**
Total 46259			**$129.11**
Total H.D. Fowler Company			**$129.11**
Home Depot Credit Service			
46260	**5/15/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
3011987			
CD Bldg Maint			
001-000-254-518-20-49-01		Facilities Bldg.Custodial & Maint.	$74.43
Total 3011987			**$74.43**
46260	**5/15/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
3031119			
Marine/Dock Repair & Maint			
001-000-215-521-14-48-00		Marine Grt-Repair & Mtc.	$87.89
Total 3031119			**$87.89**
46260	**5/15/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
3571083			
Gym Maint			
001-000-270-575-51-48-00		Gym Facility Repair & Maintenance	$45.28
Total 3571083			**$45.28**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title		Void Amount
46260	5/11/2018	2018 - May - 3rd May Batch for 06/07 Council		
7574975				
PD Maint & Repairs				
001-000-212-521-50-48-02			Police Bldg Repairs & Maintenance	$134.66
Total 7574975				$134.66
46260	5/31/2018	2018 - May - 3rd May Batch for 06/07 Council		
7584730				
CD Bldg Maint				
001-000-254-518-20-49-01			Facilities Bldg.Custodial & Maint.	$37.67
Total 7584730				$37.67
46260	5/10/2018	2018 - May - 3rd May Batch for 06/07 Council		
8595706				
PD Maint & Repairs				
001-000-212-521-50-48-02			Police Bldg Repairs & Maintenance	$96.12
Total 8595706				$96.12
46260	5/29/2018	2018 - May - 3rd May Batch for 06/07 Council		
9584556				
Gym Maint				
001-000-270-575-51-48-00			Gym Facility Repair & Maintenance	$199.65
Total 9584556				$199.65
Total 46260				$675.70
Total Home Depot Credit Service				**$675.70**
Honey Bucket/Northwest Cascade Inc.				
46261	5/10/2018	2018 - May - 3rd May Batch for 06/07 Council		
0550643761				
001-000-270-576-80-31-00			Portable Restroom Facilty	$89.00
Parks-Boat Launch Rental				
Total 0550643761				$89.00
46261	5/11/2018	2018 - May - 3rd May Batch for 06/07 Council		
0550644616				
001-000-270-576-80-31-00			Portable Restroom Facilty	$172.70
Lake Sawyer Park				
Total 0550644616				$172.70
Total 46261				$261.70
Total Honey Bucket/Northwest Cascade Inc.				**$261.70**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
HWA GeoSciences Inc.			
46262	**4/28/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
28264			
MDRT On Call Services			
001-000-257-558-70-41-05		MDRT Geotech- Services through 04/28/18	$200.00
Total 28264			**$200.00**
Total 46262			**$200.00**
Total HWA GeoSciences Inc.			**$200.00**
Johnsons Home & Garden			
46263	**5/9/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
426119			
PD Bld Maint			
001-000-212-521-50-48-02		Police Bldg Repairs & Maintenance	$15.19
Total 426119			**$15.19**
46263	**5/14/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
426270			
PD Bld Maint			
001-000-212-521-50-48-02		Police Bldg Repairs & Maintenance	$22.76
Total 426270			**$22.76**
46263	**5/16/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
426350			
CD Bld Maint			
001-000-254-518-20-49-01		Facilities Bldg.Custodial & Maint.	$21.86
Total 426350			**$21.86**
46263	**5/16/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
426352			
PW Operating Supplies			
001-000-280-536-20-31-02		Cemetery Operating Supplies	$93.33
401-000-000-534-80-31-01		Wtr. Operating Supplies	$94.97
Total 426352			**$188.30**
46263	**5/29/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
426702			
Gym Bld Maint			
001-000-270-575-51-48-00		Gym Facility Repair & Maintenance	$15.29
Total 426702			**$15.29**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
46263	5/30/2018	2018 - May - 3rd May Batch for 06/07 Council	
426726			
Gym Bld Maint			
001-000-270-575-51-48-00		Gym Facility Repair & Maintenance	$5.10
Total 426726			$5.10
46263	5/30/2018	2018 - May - 3rd May Batch for 06/07 Council	
426727			
CD Bld Maint			
001-000-254-518-20-49-01		Facilities Bldg.Custodial & Maint.	$73.83
Total 426727			$73.83
46263	5/30/2018	2018 - May - 3rd May Batch for 06/07 Council	
426735			
Marine Rep & Maint			
001-000-215-521-10-48-00		Repairs and Maintenance VRF	$43.17
Total 426735			$43.17
46263	5/31/2018	2018 - May - 3rd May Batch for 06/07 Council	
426762			
CD Bld Maint			
001-000-254-518-20-49-01		Facilities Bldg.Custodial & Maint.	$2.17
Total 426762			$2.17
Total 46263			$387.67
Total Johnsons Home & Garden			**$387.67**
Kara Murphy Richards			
46264	5/31/2018	2018 - May - 3rd May Batch for 06/07 Council	
053118 KMR			
May Services			
001-000-151-515-30-41-04		Court Legal-Pros Attorney	$3,400.00
Total 053118 KMR			$3,400.00
Total 46264			$3,400.00
Total Kara Murphy Richards			**$3,400.00**
King County Finance			
46265	4/30/2018	2018 - May - 3rd May Batch for 06/07 Council	
91502-91502			
Signal Maint at 219 Ave & SE 297th			
101-000-000-542-64-48-01		Traffic Signal Maintenance	$314.00
Total 91502-91502			$314.00

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
46265	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
91574-91574			
Signal Mint at 216 Ave & CV-Swyr			
101-000-000-542-64-48-01		Traffic Signal Maintenance	$1,418.60
Total 91574-91574			**$1,418.60**
Total 46265			**$1,732.60**
Total King County Finance			**$1,732.60**
King County Finance - Mental Health			
46266	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
2103383			
1st Quarter 2018			
001-000-182-566-00-51-00		KC Mental Health	$298.13
Total 2103383			**$298.13**
Total 46266			**$298.13**
Total King County Finance - Mental Health			**$298.13**
King County Fire District #44			
46267	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
18-174			
Fire Protection Services Jan-Jun 2018			
001-000-530-522-10-41-00		Fire Dist 44 Prof Serv	$260,028.83
2018 Annual Contract			
Total 18-174			**$260,028.83**
46267	**5/22/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
CBD18-101			
Fire Engine 98 Repair			
001-000-530-522-10-48-00		Repair & Mtc. of Bldg & Equip.	$2,733.80
Total CBD18-101			**$2,733.80**
Total 46267			**$262,762.63**
Total King County Fire District #44			**$262,762.63**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
Krista White Swain			
46268	**5/22/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
052218 KWS			
May 2018 Services			
001-000-120-512-50-41-00		Court Judge	$3,600.00
Total 052218 KWS			**$3,600.00**
Total 46268			**$3,600.00**
Total Krista White Swain			**$3,600.00**
Kyocera			
46269	**5/18/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
55T1039223			
02/21-05/20 Copy Overages			
001-000-210-521-10-45-00 Police Dept		Lease Payments - US Bank/Copier	$115.89
001-000-248-518-20-45-03 MDRT		MDRT-Copier Costs	$42.57
001-000-254-518-20-45-04 City Hall		Facilities Copier Maint Lease	$520.38
001-000-254-518-20-45-04 Community Dev		Facilities Copier Maint Lease	$147.70
Total 55T1039223			**$826.54**
Total 46269			**$826.54**
Total Kyocera			**$826.54**
L.N. Curtis & Sons			
46270	**4/27/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
180038			
PD Uniforms			
001-000-210-521-10-31-04		Uniforms	$24.75
Total 180038			**$24.75**
46270	**5/4/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
181957			
PD Uniforms			
001-000-210-521-10-31-04		Uniforms	$74.74
Total 181957			**$74.74**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title		Void Amount
46270	**5/4/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
181980				
PD Uniforms				
001-000-210-521-10-31-04		Uniforms		$51.15
Total 181980				**$51.15**
Total 46270				**$150.64**
Total L.N. Curtis & Sons				**$150.64**
Legend Data Systems, Inc.				
46271	**5/15/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
122539				
Photo ID Cards				
001-000-180-518-50-41-04		Miscellaneous Costs		$148.50
9 Printed Cards				
Total 122539				**$148.50**
Total 46271				**$148.50**
Total Legend Data Systems, Inc.				**$148.50**
Les Schwab Tire Ctr - MV				
46272	**5/9/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
39800310539				
PD Veh Maint				
001-000-210-521-10-48-01		Vehicle Maintenance & Repair		$385.23
2008 Dodge Charger #24				
Total 39800310539				**$385.23**
46272	**5/11/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
39800310863				
PD Veh Maint				
001-000-210-521-10-48-01		Vehicle Maintenance & Repair		$79.23
2008 Dodge Charge #22				
Total 39800310863				**$79.23**
46272	**5/14/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
39800311251				
PD Veh Maint				
001-000-210-521-10-48-01		Vehicle Maintenance & Repair		$598.51

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
2008 Dodge Charge #24			
Total 39800311251			**$598.51**
Total 46272			**$1,062.97**
Total Les Schwab Tire Ctr - MV			**$1,062.97**
McGann Electric LLC			
46273	**5/22/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
1020c			
001-000-248-518-20-48-00		MDRT-Bldg/Gen Mtc Costs	$117.28
001-000-254-518-20-49-01		Facilities Bldg.Custodial & Maint.	$175.94
Total 1020c			**$293.22**
Total 46273			**$293.22**
Total McGann Electric LLC			**$293.22**
Michael and/or Terri Yankovich			
46274	**5/17/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
051718 MTY			
Water Refund Acct # 4309.0			
401-000-000-343-40-00-01		Water Charges	$32.09
New Owner Effective 04/16/18			
Total 051718 MTY			**$32.09**
Total 46274			**$32.09**
Total Michael and/or Terri Yankovich			**$32.09**
Office Products Nationwide			
46275	**5/2/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
972886-0			
001-000-180-518-50-31-99		Office Supplies CD Bldg Clearing	$42.51
CD Office Supplies			
001-000-254-518-20-31-00		Facilities Operating Supplies	$36.91
Bldg Maint Supplies			
Total 972886-0			**$79.42**

Vendor	Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
46275		5/15/2018	2018 - May - 3rd May Batch for 06/07 Council	
	975384-0			
		001-000-180-518-50-31-00	Office Supplies City Hall	$30.40
		CH Office Supplies		
	Total 975384-0			$30.40
46275		5/15/2018	2018 - May - 3rd May Batch for 06/07 Council	
	975482-0			
		001-000-180-518-50-31-99	Office Supplies CD Bldg Clearing	$98.13
		CD Office Supplies		
	Total 975482-0			$98.13
46275		5/17/2018	2018 - May - 3rd May Batch for 06/07 Council	
	975482-1			
		001-000-180-518-50-31-99	Office Supplies CD Bldg Clearing	$209.59
		CD Office Supplies		
	Total 975482-1			$209.59
46275		5/21/2018	2018 - May - 3rd May Batch for 06/07 Council	
	976205-0			
		001-000-120-512-50-31-00	Operating Supplies	$132.34
		Crt Office Supplies		
	Total 976205-0			$132.34
46275		5/22/2018	2018 - May - 3rd May Batch for 06/07 Council	
	976591-0			
		001-000-180-518-50-31-00	Office Supplies City Hall	$24.63
		CH Office Supplies		
	Total 976591-0			$24.63
Total 46275				$574.51
Total Office Products Nationwide				**$574.51**
Olbrechts & Associates, PLLC				
46276		5/4/2018	2018 - May - 3rd May Batch for 06/07 Council	
	050418 OA			
		Apr 2018 Services		
		001-000-242-558-60-41-00	Prof Serv-Hearing Examiner	$628.68
	Total 050418 OA			$628.68
Total 46276				$628.68
Total Olbrechts & Associates, PLLC				**$628.68**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title		Void Amount
Olympic Environmental Resources				
46277	**5/22/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
18OER1				
	2018 BD Recycling Program Implementation			
	001-000-182-554-90-41-00		Recycling Program- KC Grant	$8,644.96
Total 18OER1				**$8,644.96**
Total 46277				**$8,644.96**
Total Olympic Environmental Resources				**$8,644.96**
Palmer Coking Coal Company, LLP				
46278	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
4912				
	Parks Maint			
	001-000-270-576-80-48-02		Parks Maintenance Repairs	$63.76
Total 4912				**$63.76**
46278	**5/21/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
5099				
	PD Maint			
	001-000-212-521-50-48-02		Police Bldg Repairs & Maintenance	$77.38
Total 5099				**$77.38**
Total 46278				**$141.14**
Total Palmer Coking Coal Company, LLP				**$141.14**
Parametrix, Inc.				
46279	**3/12/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
01-80367				
	SR 169 RBT Coordination			
	001-000-257-558-70-41-03		MDRT Traffic Engineering-Parametrix	$3,453.34
	01/28-02/24 Services			
Total 01-80367				**$3,453.34**
46279	**4/4/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
01-80469				
	Plat C Illumination			
	001-000-257-558-70-41-03		MDRT Traffic Engineering-Parametrix	$573.34
	02/25-03/31 Services			
Total 01-80469				**$573.34**

Vendor	Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
46279		4/4/2018	2018 - May - 3rd May Batch for 06/07 Council	
	01-80470			
		SR 169 RBT Cordination		
		001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	$4,041.25
		02/25-03/31 Services		
	Total 01-80470			$4,041.25
46279		4/4/2018	2018 - May - 3rd May Batch for 06/07 Council	
	01-80471			
		Ten Trails Pkwy RBT		
		001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	$1,090.00
		02/25-03/31 Services		
	Total 01-80471			$1,090.00
46279		4/4/2018	2018 - May - 3rd May Batch for 06/07 Council	
	01-80472			
		Ten Trails PP1A Div 3-7 Ped X Eval		
		001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	$470.00
		02/25-03/31 Services		
	Total 01-80472			$470.00
46279		5/22/2018	2018 - May - 3rd May Batch for 06/07 Council	
	01848			
		Ten Trails PP1A Div 3-7 Illumination		
		001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	$596.25
		04/01-04/28 Services		
	Total 01848			$596.25
46279		5/22/2018	2018 - May - 3rd May Batch for 06/07 Council	
	01849			
		Ten Trails Plat 2A		
		001-000-257-558-70-41-03	MDRT Traffic Engineering-Parametrix	$2,158.75
		04/01-04/28 Services		
	Total 01849			$2,158.75
46279		5/23/2018	2018 - May - 3rd May Batch for 06/07 Council	
	01850			
		TIF Program Scoping		
		101-000-000-544-40-41-00	Prof Services Transportation	$1,740.00
		04/01-04/28 Services		
	Total 01850			$1,740.00

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title		Void Amount
46279	**5/23/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
01851				
Roberts Dr 236th to Bruckners				
320-000-020-595-10-63-00		Roberts Dr to Bruckner-Eng		$2,280.00
04/01-04/28 Services				
Total 01851				**$2,280.00**
Total 46279				**$16,402.93**
Total Parametrix, Inc.				**$16,402.93**
Perteet Inc.				
46280	**5/9/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
20170202.002-1				
BD MDRT Villages Phase 2				
001-000-257-558-70-41-04		MDRT Environmental Consultant-Perteet		$1,645.00
04/18-04/29 Services				
Total 20170202.002-1				**$1,645.00**
Total 46280				**$1,645.00**
Total Perteet Inc.				**$1,645.00**
Puget Paving & Construction, Inc.				
46281	**5/9/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
18-093-1				
2018 Patching Project				
320-000-002-595-30-63-00		Street Preservation		$28,426.97
320-000-035-595-30-63-00		TRB Gr Patching		$35,607.95
Total 18-093-1				**$64,034.92**
Total 46281				**$64,034.92**
Total Puget Paving & Construction, Inc.				**$64,034.92**
Puget Sound Energy				
46282	**5/7/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
050718 PSE				
Apr 2018 Services				
001-000-212-521-50-47-00		Electric/gas		$81.70
220013379882: Police Storage				
001-000-212-521-50-47-00		Electric/gas		$526.93
200009377470: PD/CT Elec				
001-000-248-518-20-47-00		MDRT Electricity		$213.39
220013379841: MDRT Mod Bldgs Elec				

Vendor / Transaction Number / Transaction Reference	Invoice Date	Fiscal Description / Name	Void Amount
Account Number		Title	
001-000-254-518-20-47-00		Facilities-Utilities	$320.08
220013379841: CD/PW Mod Bldgs Elec			
001-000-254-518-20-47-00		Facilities-Utilities	$81.80
200008062016: City Hall Elec			
001-000-254-518-20-47-00		Facilities-Utilities	$153.45
200008061844: City Hall Elec			
001-000-270-575-30-47-00		Museum Electric/Gas	$290.80
220013378793: Museum			
001-000-270-575-51-47-00		Gym- Electricity and Gas	$215.63
220013379652: Gym			
001-000-270-576-80-47-00		Electric/Gas	$3.24
220013379635: PW Shop-Parks 4%			
001-000-270-576-80-47-00		Electric/Gas	$10.76
220013379221: Lake Sawyer Boat Launch			
001-000-280-536-20-47-00		Electric/Gas	$1.62
220013379635: PW Shop-Cemetery 2%			
101-000-000-542-63-47-01		Street Lighting	$63.66
220013379817: Ped Lighting Roberts			
101-000-000-542-63-47-01		Street Lighting	$2,263.25
220013397355: PSE Streetlights			
101-000-000-542-63-47-01		Street Lighting	$192.26
220014704229: Intersection Light 219th & SE 296th St			
101-000-000-542-63-47-01		Street Lighting	$13.97
220013379601: Baker St Crosswalk			
101-000-000-542-63-47-01		Street Lighting	$10.76
220013379247: 216th Signal & Street Lights			
101-000-000-542-63-47-01		Street Lighting	$43.74
220013379197: Cov Sawyer & 216th			
101-000-000-543-31-47-00		Electric/Gas	$17.84
220013379635: PW Shop-Street 22%			
401-000-000-534-80-47-00		Electric/Gas	$2,250.47
220013378835: Booster Station			
401-000-000-534-80-47-00		Electric/Gas	$19.46
220013379635: PW Shop-Water 24%			
401-000-000-534-80-47-00		Electric/Gas	$323.77
220013378868: 4.3 Mil Gal Resv			
401-000-000-534-80-47-00		Electric/Gas	$17.80
220013378850: .5 Mil Gal Resv			
407-000-000-535-80-47-00		Electric/Gas	$81.90
220013378819: Morganville Lift Station			
407-000-000-535-80-47-00		Electric/Gas	$31.49
220013379643: Diamond Glen Sewer			

Vendor / Transaction Number / Transaction Reference	Invoice Date	Fiscal Description / Name	Account Number / Title	Void Amount
		407-000-000-535-80-47-00	Electric/Gas	$12.01
		220013379619: Sewer Pump		
		407-000-000-535-80-47-00	Electric/Gas	$19.46
		220013379635: PW Shop-Sewer 24%		
		410-000-000-531-10-47-00	Electric/Gas	$19.46
		220013379635: PW Shop-Drainage 24%		
Total 050718 PSE				**$7,280.70**
Total 46282				**$7,280.70**
Total Puget Sound Energy				**$7,280.70**
Rasmussen Wire Rope & Rigging Co				
46283	**5/15/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
221987				
Parks Operating				
		001-000-270-576-80-31-03	Operating Supplies	$247.73
Total 221987				**$247.73**
Total 46283				**$247.73**
Total Rasmussen Wire Rope & Rigging Co				**$247.73**
Regional Animal Services of King County				
46284	**5/11/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
051118 RAS				
05/11 Pet Licenses				
		633-000-000-589-90-00-01	King County Animal License	$15.00
Total 051118 RAS				**$15.00**
46284	**5/14/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
051418 RAS				
05/14 Pet Licenses				
		633-000-000-589-90-00-01	King County Animal License	$15.00
Total 051418 RAS				**$15.00**
46284	**5/18/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
051818 RAS				
05/18 Pet Licenses				
		633-000-000-589-90-00-01	King County Animal License	$30.00
Total 051818 RAS				**$30.00**
Total 46284				**$60.00**
Total Regional Animal Services of King County				**$60.00**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
Republic Services, Inc. #176			
46285	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
5354580			
Apr 2018 Services			
001-000-248-518-20-47-03 MDRT		MDRT-Waste Disposal Costs	$127.04
001-000-254-518-20-47-01 City Hall		Facilities-Waste Disposal	$84.69
Total 5354580			**$211.73**
46285	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
5354899			
Apr 2018 Services			
001-000-270-576-80-47-04 PW-Parks		Waste Disposal	$10.78
001-000-280-536-20-47-04 PW-Cemetery		Waste Disposal	$5.39
101-000-000-543-31-47-04 PW-Street		Waste Disposal	$59.32
401-000-000-534-80-47-04 PW-Water		Waste Disposal	$64.71
407-000-000-535-80-47-04 PW-Sewer		Waste Disposal	$64.71
410-000-000-531-10-47-04 PW-Drainage		Waste Disposal	$64.71
Total 5354899			**$269.62**
46285	**4/30/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
5355054			
Apr 2018 Services			
001-000-212-521-50-47-04 Police		Waste Disposal	$211.73
Total 5355054			**$211.73**
Total 46285			**$693.08**
Total Republic Services, Inc. #176			**$693.08**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title		Void Amount
Safe Security				
46286	**5/14/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
4423487				
Apr 2018 Services				
101-000-000-544-90-48-01		PW Clearing-shared Shop Cost		$52.48
Total 4423487				**$52.48**
Total 46286				**$52.48**
Total Safe Security				**$52.48**
South Correctional Entity				
46287	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
3088				
April 2018 Inmate Days				
001-000-211-523-60-49-00		Jail Costs		$175.00
1 day				
Total 3088				**$175.00**
46287	**5/15/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
3120				
January 2018 Outside Health Services				
001-000-211-523-60-49-00		Jail Costs		$92.43
Total 3120				**$92.43**
Total 46287				**$267.43**
Total South Correctional Entity				**$267.43**
Stephanie Metcalf				
46288	**5/23/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
052318 SM				
Employee Reimburesment				
001-000-120-512-50-43-01		Lodging, Meals & Mileage		$189.61
347.9 Miles @ .545/mile				
Total 052318 SM				**$189.61**
Total 46288				**$189.61**
Total Stephanie Metcalf				**$189.61**

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void Amount
Summit Law Group			
46289	**5/17/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
92508			
Services through 04/30			
001-000-150-515-30-41-08		Legal Svcs-Union Contracts	$5,340.74
Total 92508			**$5,340.74**
Total 46289			**$5,340.74**
Total Summit Law Group			**$5,340.74**
Valley Communications Center			
46290	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
0022080			
911 Calls Apr 2018			
001-000-214-521-20-41-00		Valley Comm - Dispatch Service	$9,449.06
226 calls			
Total 0022080			**$9,449.06**
Total 46290			**$9,449.06**
Total Valley Communications Center			**$9,449.06**
Varius Inc.			
46291	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
1011 VI			
TA5-Preliminary Plat 2A			
001-000-257-558-70-41-02		MDRT Civil Engineering-	$11,609.00
Total 1011 VI			**$11,609.00**
46291	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
1012 VI			
TA4-SR169 Roundabout Review			
001-000-257-558-70-41-02		MDRT Civil Engineering-	$6,319.00
Total 1012 VI			**$6,319.00**
Total 46291			**$17,928.00**
Total Varius Inc.			**$17,928.00**
Verizon Wireless			
46292	**5/10/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
9806962668			
04/11-05/10 Services			
001-000-145-518-80-42-00		Communications	$68.57
IT			

Vendor / Transaction Number / Transaction Reference	Invoice Date	Fiscal Description / Name	Void Amount
Account Number		Title	
001-000-214-521-20-42-00 Police		Police Telephone/DSL/Air Cards	$617.13
001-000-240-558-51-42-00 Community Development		Telephone	$121.72
001-000-246-558-70-42-01 MDRT (Funding)		Telephones	$235.74
001-000-254-518-20-42-00 City Clerk (Funding)		Facilities-Communication	$74.57
001-000-270-576-80-42-00 PW/Facilities		Telephone/DSL/Radios	$19.94
001-000-280-536-20-42-00 PW/Facilities		Telephone, DSL & Radios	$9.96
101-000-000-542-90-42-01 PW/Facilities		Telephone/DSL/Radios	$109.56
401-000-000-534-80-42-00 PW/Facilities		Telephone/DSL/Radios	$119.52
407-000-000-535-80-42-00 PW/Facilities		Telephone/DSL/Radios	$119.52
410-000-000-531-10-42-00 PW/Facilities		Telephone/DSL/Radios	$119.52
Total 9806962668			**$1,615.75**
Total 46292			**$1,615.75**
Total Verizon Wireless			**$1,615.75**
Voice of The Valley			
46293	**5/7/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
20512			
PW Public Hearings			
001-000-240-558-60-41-75		Advertising	$260.00
Total 20512			**$260.00**
Total 46293			**$260.00**
Total Voice of The Valley			**$260.00**
Washington State Department of Ecology			
46294	**5/4/2018**	**2018 - May - 3rd May Batch for 06/07 Council**	
2018-RS-WAR045505			
Annual SAM Invoice 2018			
410-000-000-531-10-41-04		Dept of Ecology - Stormwater Permit	$2,886.00

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title		Void Amount
		Stormwater Action Monitoring		
Total 2018-RS-WAR045505				**$2,886.00**
Total 46294				**$2,886.00**
Total Washington State Department of Ecology				**$2,886.00**
Washington State Patrol				
46295	**5/3/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
I18007398				
Apr 2018 Services				
633-000-000-589-90-00-06		Due to WSP-FBI Fingerprinting-Background		$72.00
Total I18007398				**$72.00**
Total 46295				**$72.00**
Total Washington State Patrol				**$72.00**
Water Management Laboratories, Inc.				
46296	**5/8/2018**	**2018 - May - 3rd May Batch for 06/07 Council**		
167031				
401-000-000-534-80-41-02		Water Testing and Sampling		$21.00
Total 167031				**$21.00**
Total 46296				**$21.00**
Total Water Management Laboratories, Inc.				**$21.00**
Vendor Count	**55**		**Grand Total**	**$499,002.19**

Voucher Directory with Transaction Date

Vendor / Transaction Number / Transaction Reference / Account Number	Invoice Date	Fiscal Description / Name / Title	Void / Amount
ADT Security Services (PA)			
46297	**5/13/2018**	**2018 - June - 1st Jun Batch for 06/07 Council**	
660721416			
06/01-06/30 Services			
001-000-270-576-80-49-02		Security	$0.99
001-000-280-536-20-49-02		Security	$2.00
101-000-000-542-90-49-03		Security	$11.00
401-000-000-534-80-49-07		Security	$12.00
407-000-000-535-80-49-05		Security	$12.00
410-000-000-531-10-49-04		Security	$12.00
Total 660721416			**$49.99**
Total 46297			**$49.99**
Total ADT Security Services (PA)			**$49.99**
Sorci Family LLC			
46298	**5/31/2018**	**2018 - June - 1st Jun Batch for 06/07 Council**	
053118 SFLLC			
June 2018 Rent			
001-000-248-518-20-45-02		MDRT Property Rental Cost	$647.43
001-000-254-518-20-45-02		Facilities-Prop Rental	$970.12
001-000-254-518-20-45-05		Facilities City Hall Bldg Rental	$2,125.21
Total 053118 SFLLC			**$3,742.76**
Total 46298			**$3,742.76**
Total Sorci Family LLC			**$3,742.76**

Vendor Count 2 **Grand Total $3,792.75**

BLACK DIAMOND CITY COUNCIL MINUTES
December 15, 2016 Regular Business Meeting
Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular meeting to order at 7:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Morgan, Edelman, Weber, and Pepper.

ABSENT: None

Staff present: Jamey Kiblinger, Police Chief; David Linehan, City Attorney; Kevin Esping, Facilities Equipment Coordinator; Brian Martinez, Police Commander; Brian Lynch, Sergeant; May Miller, Finance Director; Scott Hanis, Capital Projects/Program Manager; Deanna Humphreys, Police Clerk; and Brenda L. Martinez, City Clerk.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson read a letter the City received from Association of Washington Cities Risk Management Services Agency regarding the lawsuit filed by CCD Black Diamond Partners, LLC. She also read a litigation hold letter from Allied Law and noted it being sent out to all Councilmembers and City staff.

Councilmember Pepper asked to be recognized several times.

Mayor Benson announced it is public comments.

Councilmember Pepper appealed the decision of the chair several times.

Councilmember Morgan stated Councilmember Pepper appealed the decision of the chair and that means you have to take a vote. Councilmember Pepper stated, “you have to take a vote”.

Mayor Benson stated we are on public comments.

Councilmember Pepper stated I am asking to be recognized and further stated, Madam Chair needs to take a vote.

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There was Council discussion and Councilmember Pepper stated she would like to have the floor and further stated she appealed the decision of the chair; and this requires a vote. She further stated the vote is the Councilmembers who agree with you, say yes; Councilmembers that don't agree with you, say no.

Mayor Benson noted to Councilmember Pepper she is not the Chair and let Councilmember Pepper know we are following the agenda and will get back to her after public comments. Councilmember Pepper again appealed the decision of the chair.

Mayor Benson called Councilmember Pepper out of order.

Councilmember Pepper appealed the decision of the chair and asked for a voice vote.

Mayor Benson called Councilmember Pepper out of order, again.

Councilmember Pepper continued with the voice vote and stated if you are in favor of the Mayor's decision then vote yes and if you disagree with the Mayor's decision vote no.

Councilmember Pepper asked Councilmember Deady how she would like to vote. No response from Councilmember Deady.

Councilmember Morgan called point of order for the public to be quiet please.

Councilmember Deady stated she would like to be recognized, and Councilmember Pepper stated right now, we are in the middle of a vote.

Councilmember Pepper asked Councilmember Morgan how she would like to vote. Councilmember Morgan stated she votes against the decision of the Mayor.

Councilmember Pepper asked Councilmember Edelman how she would like to vote. No response from Councilmember Edelman.

Mayor Benson stated to Councilmember Pepper that she does not get to call for a vote and reminded Councilmember Pepper this is time for public comments.

Councilmember Pepper asked Councilmember Weber how he would like to vote. Councilmember Weber voted against the Mayor's decision.

Councilmember Pepper stated she would vote against the Mayor's decision and the Council has voted against the Chair's decision and Councilmember Pepper has the floor.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to adopt a resolution authorizing a professional services contract with Kevin Connelly for registered parliamentarian services.

There was Council discussion on this.

Councilmember Edelman stated she has the floor.

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Councilmember Morgan called point of order, germane to the subject.

Mayor Benson told Councilmember Pepper she cannot run the meeting.

There was continued Council discussion.

Councilmember Edelman asked the audience to please sit down and be quiet.

Mayor Benson called order in the chambers.

Councilmember Pepper asked if we are going to take the vote. Mayor Benson conceded and after the vote was taken told Councilmember Pepper that she has no authority.

Vote: Motion **passed** 3-2 (Edelman, Deady).

There continued to be Council discussion on the above item.

Point of order raised by Councilmember Pepper to Councilmember Deady.

Point of order raised again by Councilmember Pepper, courtesy 6.3.

PUBLIC COMMENTS:

Leslie Cooley, Black Diamond spoke to Council.

Gary Davis, Black Diamond spoke to Council.

Brock Deady, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Bob Edelman, Black Diamond spoke to Council.

Sam Pace, King County spoke to Council.

Kayla Anderson, Black Diamond spoke to Council.

Judy Carrier, Auburn spoke to Council.

Pat Nelson, Black Diamond spoke to Council.

Councilmember Pepper noted she has item number 26; a Resolution Approving Legal Services for the City, she stated she has a motion regarding the agenda, an urgent item.

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that we suspend the rules to immediately approve this resolution titled a Resolution Approving a Contract between the City of Black Diamond and Lighthouse Law Group.

Councilmember Pepper spoke to her motion and stated first, because there is a legal deadline related to a lawsuit the City needs to take action tonight. She noted this is why she moved to suspend the rules, so we can approve this resolution tonight. Second, she stated the City has been operating without valid legal services for months in conflict with RCW 35A.12.090 that requires the City have legal services. The Mayor has no authority to

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pick the City Attorney in Black Diamond. Our code does not define an appointed office of City Attorney, therefor, the Council contract authority under RCW 35A.11.0.1 means the Council selects the Attorney; the fact that Kenyon Disend is operating under illegal serial contracts and has been voted against multiple times by Council gives them a conflict of interest in representing our City. She further noted that she spoke to a number of Attorneys about the need to deal with the lawsuit against the City and the City's other legal needs. She noted that she is pleased to highly recommend to the Council the firm of Lighthouse Law. Again, she noted her motion was to suspend the rules and immediately approve the resolution approving a contract between the City of Black Diamond and Lighthouse Law.

Councilmember Edelman expressed her concern that the rest of the Council doesn't know anything about this and noted this is the first-time hearing about this contract.

Councilmember Edelman **moved** to **amend** the motion stating pursuant to the requirements of Black Diamond Municipal Code 2.66.020, that we approve the retention of legal counsel to represent Councilmember Pat Pepper in the OPMA lawsuit that has been filed by CCD Black Diamond Partners against the City, the City Council, and three individual Councilmembers, and further, that because of the actual or potential for conflict of interest between Councilmember Pat Pepper and the City, that this legal representation of Councilmember Pat Pepper be by an attorney other than the current City Attorney, who has already advised that his ethical obligations to the City likely prevent him from representing both the City and the individually named Councilmembers in the lawsuit.

During the above amended motion, an out of order was called by Councilmember Morgan stating there is already a motion and second on the floor and the need to take care of the motion on the floor. Councilmember Morgan continued to call Councilmember Edelman out of order.

Councilmember Deady **seconded** the amended motion and **moved** to **amend** the amended motion that pursuant to Council Rule 8.5.2 that Councilmember Pat Pepper be disqualified from voting on the motion on whether to provide her legal representation at the City's expense in the OPMA lawsuit. Under Council 8.3.1 and 8.5.1, a Councilmember is required to abstain from voting when she has a conflict of interest and the City Attorney advises that abstention is required because of the conflict of interest.

During the above amendment Councilmember Morgan called out of order. Councilmember Morgan also called a point of order as this is not germane to the subject at hand. In unison both Councilmembers Morgan and Pepper called "out of order".

Again, during the above amendment Councilmember Pepper appealed. Mayor Benson called Councilmember Pepper out or order.

Councilmember Edelman **seconded** Councilmember Deady's **amended motion**.

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Councilmember Pepper noted that a motion and a second are already on the floor and there is a need to take a vote.

Councilmember Morgan stated we need to take a vote, and Councilmember Pepper concurred.

Councilmember Deady continued to speak to her amended motion and stated when a Councilmember refuses to abstain from voting on a matter in which she has a monetary self-interest, despite the City Attorney's opinion that abstention is required, then Rule 8.5.2 allows the remaining councilmembers to vote to disqualify the conflicted Councilmember from voting on the issue on which she has a conflict. Councilmember Pat Pepper may not vote on this motion to disqualify, as stated in Council Rule 8.5.2. And if we vote affirmatively on this motion to disqualify, then she will be disqualified from voting on the motion to provide legal representation.

During the above statement Councilmember Morgan raised a point of order for comments to remain germane and speaking to a different motion than the one that is on the floor. Councilmember Morgan continued to call out of order and to speak to the motion that is on the floor and if this continues we need to recess the meeting until tomorrow.

Mayor Benson noted she agrees with that and Councilmember Pepper is disqualified.

Councilmember Edelman called for the vote.

There was discussion on the motions on the floor and the process to clear them up.

Attorney Linehan stated that he understands that Councilmember Edelman's motion was an amendment to the pending motion from Councilmember Pepper. Councilmember Deady's motion was an amendment to Councilmember Edelman's motion.

Councilmember Pepper called point of order for Councilmember Edelman's comments to remain germane and for courtesy and decorum. Councilmember Pepper asked that Councilmember Edelman's amended motion and Councilmember Deady's amendment to the amended motion be read again.

Mayor Benson called upon Councilmember Edelman to re-read the motion.

Councilmember Edelman re-read her amended motion which stated pursuant to the requirements of Black Diamond Municipal Code 2.66.020, that we approve the retention of legal counsel to represent Councilmember Pat Pepper in the OPMA lawsuit that has been filed by CCD Black Diamond Partners against the City, the City Council, and three individual Councilmembers, and further, that because of the actual or potential for conflict of interest between Councilmember Pat Pepper and the City, that this legal representation of Councilmember Pat Pepper be by an attorney other than the current City Attorney, who has already advised that his ethical obligations to the City likely present him from representing both the City and the individually named Councilmembers in the lawsuit.

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Councilmember Deady stated she seconded that and said she'd like to amend that motion and moved pursuant to Council Rule 8.5.2 that Councilmember Pat Pepper be disqualified from voting on the motion on whether to provide her legal representation at the City's expense in the OPMA lawsuit. Under Council Rule 8.3.1 and 8.5.1, a Councilmember is required to abstain from voting when she has a conflict of interest and the City Attorney advises that absentation is required because of the conflict of interest.

Councilmember Deady then noted there was a discussion and she read the following:

When a Councilmember refuses to abstain from voting on a matter in which she has a monetary self-interest, despite the City Attorney's opinion that abstention is required, then Rule 8.5.2 allows the remaining Councilmembers to vote to disqualify the conflicted Councilmember from voting on the issue on which she has a conflict. Councilmember Pat Pepper may not vote on this motion to disqualify, as stated in Council Rule 8.5.2. And, if we vote affirmatively on this motion to disqualify, then she will be disqualified from voting on the motion to provide legal representation.

Mayor Benson noted she agreed with that.

There was Council discussion around the amendment to the amendment.

Councilmember Pepper discussed the amendments and noted she will be voting no.

Vote: 2-3 (Morgan, Weber, Pepper) amendment to disqualify Councilmember Pepper from voting. Councilmember Pepper stated she voted no so she is not disqualified. Mayor Benson noted Councilmember Pepper is disqualified from voting therefore it was a **tie** vote 2-2 (Morgan, Weber). Mayor Benson **broke** the tie vote. Amended motion to disqualify Councilmember Pepper from voting **passed** 3-2 (Morgan, Weber).

During the above vote Councilmember Pepper and Morgan both stated that Councilmember Pepper is not disqualified. Councilmember Pepper continued to say she is voting no and that her vote counts.

Also during the above vote City Attorney Linehan read Council rule 8.5.2, and noted this language is in rules pre-2016 and post 2016. He read refusal to abstain. Should the Mayor or a Councilmember refuse to abstain from participation and voting on an issue after the City Attorney has determined that abstention is necessary, the challenged person may be disqualified from participating and voting on that issue upon a vote to disqualify that is passed by the majority of other Councilmembers present or eligible to vote.

Councilmember Pepper stated she votes no and is eligible to vote as she is an elected Councilmember and represents hundreds of people and has the right to vote in this meeting and she votes no and it counts.

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Councilmember Pepper commented on moving on to the next motion from Councilmember Edelman.

Councilmember Edelman commented on her amended motion and stated the following:

I (Councilmember Edelman) oppose this motion and believe it should be rejected pursuant to BDMC 2.66.030, which clearly states that "in no event shall protection be offered under this chapter by the City to: 1. Any dishonest, fraudulent, criminal, willful, intentional, or malicious act or course of conduct of any official or employee."

Councilmember Edelman further stated, the claims asserted against Councilmember Pepper are for alleged "willful" and "intentional" violations of the OPMA, not mere negligence or carelessness. This is the basis on which AWC RMSA denied insurance coverage for this lawsuit, and it only makes sense that the City also deny paying for the defense or indemnification of Councilmember Pepper on this basis.

Councilmember Edelman also noted that under BDMC 2.66.040; the determination of whether a City official should be afforded a defense at City expense is a "legislative determination of the Council," based on a "recommendation of the mayor". So, we call the vote on this motion, I would ask the Mayor for her recommendation whether the City should pay to defend or indemnify Councilmember Pat Pepper.

Mayor Benson stated she votes against paying to defend or indemnifying Pat Pepper. There was Council discussion and Mayor Benson clarified this was a recommendation.

Councilmember Edelman called the question *of the motion to provide legal defense and indemnification for Pat Pepper.*

Clarification was sought on the motion.

Councilmember Edelman re-read the motion and stated the motion is to provide legal defense and indemnification for Pat Pepper.

Vote: 3-2 (Edelman, Deady). Mayor Benson noted that Councilmember Pepper cannot vote therefore the motion to provide legal defense and indemnification for Councilmember Pepper **failed** due to a **tie** vote 2-2 (Edelman, Deady). There continued to be discussion on whether or not Councilmember Pepper can vote.

There continued to be discussion on whether or not Councilmember Pepper can vote.

Councilmember Pepper stated there is a main motion on the floor that is left. She further stated we did the Tami Deady motion amendment and we did the Janie Edelman amendment and now we are back to the main motion.

Councilmember Edelman stated she has another amendment and **moved** pursuant to the requirements of Black Diamond Municipal Code 2.66.020, that we approve the retention of

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legal counsel to represent Councilmember Brian Weber in the OPMA lawsuit that has been filed by CCD Black Diamond Partners against the City, the City Council, and three individual Councilmembers, and further, that because of the actual or potential for conflict of interest between Councilmember Brian Weber and the City, that this legal representation of Councilmember Brian Weber be by an attorney other than the current City Attorney, who has already advised that his ethical obligations to the City likely prevent him from representing both the City and the individually named Councilmembers in the lawsuit.

Councilmember Deady **seconded** the **amended motion** and **moved** to amend the **amended motion** that pursuant to Council Rule 8.5.2 that Councilmember Brian Weber is disqualified from voting on the motion on whether to provide his legal representation at the City's expense in the OPMA lawsuit. Under Council Rule 8.3.1 and 8.5.1, a Councilmember is required to abstain from voting when he has a conflict of interest and the City Attorney advises that abstention is required because of the conflict of interest; **second** Councilmember Edelman.

Councilmember Deady spoke to her amendment of the amended motion and stated when a Councilmember refuses to abstain from voting on a matter in which he has a monetary self-interest, despite the City Attorney's opinion that abstention is required, then Rule 8.5.2 allows the remaining councilmembers to vote to disqualify the conflicted Councilmember from voting on the issue on which he has a conflict. Councilmember Brian Weber may not vote on this motion to disqualify, as stated in Council Rule 8.5.2. And if we vote affirmatively on this motion to disqualify, then he will be disqualified from voting on the motion to provide legal representation.

Councilmember Edelman called for the question.

Councilmember Morgan noted the City does not have a City Attorney at this point and also noted this was read out twice and we first have to vote on the amendment.

Vote: 2 – 3 (Morgan, Weber, Pepper) on **amended motion** to disqualify Councilmember Weber from abstaining from voting. Mayor Benson stated Councilmember Weber cannot vote so it is **tie** vote 2-2 (Pepper, Morgan). Councilmember Morgan stated Councilmember Weber has a right to vote as he is a member of this body. Mayor Benson **broke** the **tie** vote. Amended motion to disqualify Councilmember Weber from voting **passed** 3-2 (Morgan, Pepper).

Councilmember Edelman spoke to her amended motion regarding providing legal defense and indemnification for Brian Weber and stated the following:

I, (Councilmember Edelman), oppose this motion and believe it should be rejected pursuant to BDMC 2.66.030, which clearly states that "in no event shall protection be offered under this chapter by the City to: 1. Any dishonest, fraudulent, criminal, willful, intentional, or malicious act or course of conduct of any official or employee."

Mayor Benson called point of order for audience to be quiet.

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Councilmember Edelman stated she has the floor as an audience member continued to speak out.

Councilmember Edelman added the claim asserted against Councilmember Brian Weber are for alleged "willful" and "intentional" violations of the OPMA, not mere negligence or carelessness. This is the basis on which AWC RMSA denied insurance coverage for this lawsuit and it only makes sense that the City also deny paying for the defense or indemnification of Councilmember Brian Weber on this basis.

I, (Councilmember Edelman) also note that under BDMC 2.66.040, the determination of whether a City official should be afforded a defense at City expense is a "legislative determination of the council," based on a "recommendation of the mayor". So, before we call the vote on this motion, I would ask the Mayor for her recommendation whether the City should pay to defend or indemnify Councilmember Brian Weber.

Mayor Benson recommended that we deny coverage for Brian Weber.

There was Council discussion.

Councilmember Morgan called for the question.

Councilmember Pepper called for the question.

Councilmember Pepper asked for clarification on what is being voted on.

Councilmember Edelman stated she made a motion to provide legal defense and indemnification for Councilmember Brian Weber.

Vote: 3-2 (Edelman, Deady). Mayor Benson announced the amended motion to provide legal defense and indemnification for Councilmember Brian Weber **failed** due to a **tie** vote 2-2 (Edelman Deady) as Councilmember Weber cannot vote.

There continued to be discussion on whether or not Councilmember Weber can vote.

Councilmember Edelman announced she has another amendment and **moved** pursuant to the requirements of Black Diamond Municipal Code 2.66.020, that we approve the retention of legal counsel to represent Councilmember Erika Morgan in the OPMA lawsuit that has been filed by CCD Black Diamond Partners against the City, the City Council, and three individual Councilmembers, and further, that because of the actual or potential for conflict of interest between Councilmember Erika Morgan and the City, that this legal representation of Councilmember Erika Morgan be by an attorney other than the current City Attorney, who has already advised that his ethical obligations to the City likely prevent him from representing both the City and the individually named Councilmembers to the lawsuit.

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Councilmember Morgan called for the vote. Mayor Benson noted there is no vote on the floor at the moment.

Councilmember Deady **seconded** the amended motion and **moved** to amend the amended motion that pursuant to Council Rule 8.5.2 that Councilmember Erika Morgan be disqualified from voting on the motion on whether to provide her legal representation at the City's expense in the OPMA lawsuit. Under Council rule 8.3.1 and 8.5.1, a Councilmember is required to abstain from voting when she has a conflict of interest and the City Attorney advises that abstention is required because of the conflict of interest; **second** Councilmember Edelman.

Councilmember Deady spoke to her amendment and stated the following:

When a Councilmember refuses to abstain from voting on a matter in which she has a monetary self-interest, despite the City Attorney's opinion that abstention is required, then Rule 8.5.2 allows the remaining councilmembers to vote to disqualify the conflicted Councilmember from voting on the issue on which she has a conflict. Councilmember Erika Morgan may not vote on this motion to disqualify, as stated in Council Rule 8.5.2. And if we vote affirmatively on this motion to disqualify, then she will be disqualified from voting on the motion to provide legal representation.

Vote: 2-3 (Morgan, Weber, Pepper) amended motion to disqualify Councilmember Morgan from voting. Mayor Benson stated Councilmember Morgan cannot vote so it is **tie** vote 2-2 (Weber, Pepper). Councilmember Morgan stated she has a right to vote as she is part of the Council. Mayor Benson **broke** the **tie** vote. **Amended motion** to disqualify Councilmember Morgan from voting **passed** 3-2 (Weber, Pepper).

Councilmember Edelman spoke to her amended motion regarding providing legal defense and indemnification for Councilmember Erika Morgan and stated the following:

I, (Councilmember Edelman), oppose this motion and believe it should be rejected pursuant to BDMC 2.66.030, which clearly states that "in no event shall protection be offered under this chapter by the City to: 1. Any dishonest, fraudulent, criminal, willful, intentional, or malicious act or course of conduct of any official or employee."

The claims asserted against Councilmember Erika Morgan are for alleged "willful" and "intentional" violations of the OPMA, not mere negligence or carelessness. This is the basis on which AWC RMSA denied insurance coverage for this lawsuit, and it only makes sense that the City also deny paying for the defense or indemnification of Councilmember Erika Morgan on this basis.

I, (Councilmember Edelman) also noted that under BDMC 2.66.040, the determination of whether a City official should be afforded a defense at City expense is a "legislative determination of the council", based on a "recommendation of the mayor." So, before we call the vote on this motion, I would ask the Mayor, again for her recommendation whether the City should pay to defend or indemnify Councilmember Erika Morgan.

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Mayor Benson recommended the City does not pay to defend Erika Morgan.

Councilmember Edelman called for the question.

Vote: 3-2 (Edelman, Deady). Mayor Benson announced the amended motion to provide legal defense and indemnification for Councilmember Erika Morgan **failed** due to a **tie** vote 2-2 (Edelman Deady) as Councilmember Morgan cannot vote. Councilmembers Morgan and Pepper stated Councilmember Morgan has the right to vote and it is not a tie vote. .

Councilmember Pepper called the question on the **main motion** regarding the agenda and it is that we suspend the rules immediately and approve this resolution titled a Resolution approving a contract between the City of Black Diamond and Lighthouse Law Group. Councilmember Morgan had seconded the motion and Councilmember Pepper called the question again.

Mayor Benson noted there is discussion so everyone has a chance to respond.

Councilmember Pepper noted there has been discussion and called for the vote and asked for a roll call vote.

Councilmember Morgan called for the vote.

Councilmember Pepper called for the question.

Mayor Benson said everyone gets a chance for discussion.

Councilmember Pepper appealed the decision of the chair and stated she called for the question and asked for a roll call vote.

Councilmember Deady raised a point of order on Councilmember Pepper and stated that she has the right to have a discussion on this topic.

Councilmembers Pepper and Morgan called point of order.

There was Council discussion.

Councilmember Pepper stated she has called the question and there is no more discussion.

There was continued Council discussion.

Councilmember Pepper started to call the roll call vote.

Mayor Benson called Councilmember Pepper out of order.

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Councilmember Pepper appealed the decision of the chair and stated she called for the question and asked for a roll call vote.

Councilmember Pepper called the question and stated that she has called for a roll call vote.

There was continued Council discussion.

Councilmember Pepper called the question, again.

Councilmember Pepper called the Chair out of order.

There was continued Council discussion.

At 8:10 p.m. Mayor Benson called a five -minute recess.

Councilmember Pepper stated, "you can't call a recess unless there is a motion and voted on by the body."

There was discussion on the process to call a recess. Audio was turned off at this time and the Clerk left the Chambers.

At 8:16 p.m. Mayor Benson called the meeting back to order.

There continued to be discussion from Councilmember Deady on the contract to hire an attorney.

Councilmember Morgan noted there was already a vote taken on this resolution. She noted that two Councilmembers left the room in violation of their duties to this space on the table, they left the room.

Mayor Benson noted that Councilmember Morgan has no authority to run the meeting.

Councilmember Morgan responded she has to run the meeting when the presider leaves her post and it is in the state law 42.30.050 and we took the vote and passed this item and let's proceed back on to the regular agenda.

City Attorney Linehan asked if he was correct that the Police Chief ordered the room cleared for safety reasons and that is the reason why the Mayor was leaving the room?

Mayor Benson responded yes that is correct.

A point of order was raised by Councilmember Morgan toward Councilmember Edelman.

Councilmember Edelman commented she has been recognized and has the floor.

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Councilmember Morgan told her to “stay in order”.

Point of order was raised by Councilmember Edelman to Councilmember Morgan for making snide comments in public.

Council discussion continued with Councilmember Edelman discussing the RFP process.

Councilmember Weber discussed the need for a vote for a recess and the need for an RFP for an Attorney and there was no response to his inquiry of when this would happen.

Councilmember Edelman commented on the applicants that were received from the RFP that was already put out by the City and their qualifications and experience.

Councilmember Deady asked what two Councilmembers brought this forth.

Councilmember Pepper responded she is bringing this forth. Councilmember Morgan stated she seconded it.

Councilmember Deady asked each of the Councilmembers if they had a chance to read this. Councilmember Weber said no, Councilmember Morgan said she read it this afternoon. Councilmember Deady noted that she has it on recording that they have all said it is okay for Mayor Benson to continue with serial contracts. She noted they all said, you can just do serial contracts. She noted the concern over Council giving mixed messages all the time. She noted concern that Mr. Weber hasn’t read it but is agreeing to it.

There was Council discussion over contract authority and Councilmember Morgan pointed out that all contracting authority resides with the Council. She noted the Mayor’s responsibility is to execute and govern.

Councilmember Pepper stated she would like to read the whereas’ of this resolution and stated we voted on this and would like to remind the Chair that there is no recess and no adjournment without a motion and vote of the body.

Mayor Benson stated that is not true.

Councilmember Pepper stated she has the floor and read the whereas’ and sections of the resolution.

Councilmember Deady called for the vote.

Councilmember Weber called a point of order.

Councilmember Pepper stated she has the floor and stated this resolution was already voted on.

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Mayor Benson noted the vote was taken during recess and the vote doesn't count as it wasn't recorded.

Councilmember Morgan stated the vote has been taken and recorded (she held up a handheld recorder).

Mayor Benson called for the vote, again. She noted this vote needs to be done at a regular meeting, not during recess.

Vote on main motion: Main motion **passed** 3-2 (Edelman, Deady).

Councilmember Edelman commented that she doesn't think that Mr. Weber voted. Councilmember Weber noted he did vote. She also noted that most of these whereas has to deal with the lawsuit. She noted that they have no authority to run out and just hire an attorney.

Councilmember Deady asked who wrote the contract, and Councilmember Pepper stated "the lawyer".

Councilmember Morgan spoke about lawyers writing their own contracts.

Mayor Benson stated she is going to deny the hiring of an attorney.

There was Council discussion.

Mayor Benson stated, "I don't have to take a vote". She further stated she can deny the contract.

Councilmember Pepper appealed the decision of the chair to deny the contract.

Mayor Benson called Councilmember Pepper out of order.

Councilmember Morgan seconded the appeal.

Councilmember Pepper again appealed the decision of the chair.

Mayor Benson stated again, she will deny this contract and will move on to the consent agenda.

Councilmember Pepper called for the vote on the appeal.

Mayor Benson stated she would entertain a motion for the consent agenda.

CONSENT AGENDA:

DRAFT

Councilmember Edelman **moved** to adopt the consent agenda; **second** Councilmember Deady.

There was continued Council discussion over the vote of the appeal.

Councilmember Edelman stated we have a motion and a second for the consent agenda.

Councilmember Edelman called the question on her motion.

Mayor Benson stated several times "you cannot appeal my decision".

There was continued discussion over authority.

Councilmember Pepper noted the chair has made a decision to deny a contract the Council has voted for. If you agree, say yes and you disagree, say no. Morgan, Weber, and Pepper disagree with the Mayor's decision.

There was Council discussion.

Councilmember Edelman again called the question.

Councilmember Morgan noted needing some vouchers pulled from the consent agenda. They are 44181 and 44209 both for RH2 Engineering from the December 15th batch.

Councilmember Morgan spoke to the motion.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber for both vouchers for RH2 are not approved for payment until this is cleared up.

Councilmember Morgan withdrew her above motion.

Councilmember Edelman, under protest, withdrew her motion regarding the consent agenda.

Councilmember Morgan **moved** to place the two RH2 vouchers 44181 and 44209 under new business and to approve the rest of the claims checks and to approve the payroll and remove the Council meeting minutes under new business too. **Second** Councilmember Weber.

There was Council discussion.

Vote: Motion **passed** 5-0.

The consent agenda was approved as follows.

1) Claim Checks – December 15, 2016 - No. 44176 through No. 44227 (void

44155) and EFTs in the amount of $67,039.58 (except 44181 and 44209)

2) **Payroll –** November 30, 2016 No. 19241 – No. 19254 (voids 19255) and EFTs in the amount of $268,322.61

PUBLIC HEARINGS: None

UNFINISHED BUSINESS:

4) Claim Checks – November 17, 2016 – No. 44093 through No. 44125 and EFTs in the amount of $83,444.74

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to pull 44096 (BHC) and 44119 (RH2).

There was Council discussion.

Point of order was raised by Councilmembers Pepper and Morgan for comments to remain germane.

Vote: Motion **passed** 3-2 (Edelman, Deady).

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to approve the rest of the November 17, 2016 claim checks with the exception of 44096 and 44119. Motion **passed** with all voting in favor (5-0).

5) Claim Checks – December 1, 2016 – No. 44126 through No. 44175 and EFTs in the amount of $393,922.99

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to pull the Icicle Creek, Kenyon Disend, and RH2 claim checks from the batch as they are not approved, and Kenyon Disend is not authorized to work for the City. Motion **passed** 3-2 (Edelman, Deady).

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Weber to approve for payment the rest of the December 1, 2016 Claim Checks. Motion **passed** with all voting in favor (5-0).

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan that items 6-10, 12, 14, and 22 not be taken up by the Council this evening.

Councilmember Edelman called a point of order for rationale.

Councilmember Pepper stated she has the floor.

Councilmember Pepper spoke to her motion and there was Council discussion.

DRAFT

Vote: Motion **passed** 3-2 (Edelman, Deady).

The following items were removed from the agenda.

~~**6) Minutes** - Council meetings of July 21, 2016 and August 18, 2016, Council/Planning Commission Joint Meeting of August 23, 2016, Special Meeting of August 25, 206, and Council meeting of September 1, 2016~~

~~**7) Minutes** - Special Meeting of October 18, 2016, Special Meeting of October 27, 2016, and Council meeting of November 3, 2016~~

~~**8) Minutes –** Council Work Session of November 10, 2016 and Council Meeting of November 17, 2016~~

~~**9) AB16-063A –** Ordinance Granting Franchise Agreement with CCD Black Diamond Partners, LLC~~

~~**10) AB16-064A –** Ordinance Granting Franchise Agreement with Astound Broadband, LLC~~

~~**12) AB16-077A –** Resolution Confirming Mayor's Re-appointment to Planning Commission Pos. # 3~~

~~**14) AB16-072 –** Resolution Adopting the 2017-2022 Capital Improvement Plan~~

~~**22) AB16-086 –** Resolution Adopting RH2 Agreement for On-Call Services for Public Works~~

11) AB16-071A - Ordinance Approving Interfund Loan from Sewer Capital Reserve Fund to Equipment Replacement for Purchase of Four Police Vehicles in 2017

Finance Director Miller reported to Council on this item.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Deady to adopt an ordinance approving an interfund loan from the Sewer Capital & Reserve Fund to the Equipment Replacement Fund for the replacement of four police vehicles for 2017. Motion **passed** 4-1 (Weber).

13) AB16-078A – Resolution Confirming Mayor's Re-appointment to Planning Commission Pos. #5

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to confirm the Mayor's re-appointment of Tom Ekberg to Position #5 of the Planning Commission. Motion **passed** with all voting in favor (5-0).

NEW BUSINESS:

DRAFT

15) AB16-079 – Ordinance Amending the 2016 Budget

Finance Director Miller reported to Council on this item.

There was Council discussion on this item.

Councilmember Edelman stated let the record show everyone is biting their lips and there is no response whatsoever.

Councilmember Edelman stated she has the floor.

Councilmember Pepper called a point of order for comments to remain germane.

Council discussion continued.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt an ordinance amending the 2016 budget. Motion **failed** 2-3 (Morgan, Weber, Pepper).

16) AB16-080 – Ordinance Approving Sewer Pass-Through Rate Increase

Finance Director briefed Council on this proposed ordinance.

A **motion** was made by Councilmember Morgan and **seconded** by Councilmember Deady to adopt an ordinance relating to adjustments to sewer charges; amending section 13.25.010 of the Black Diamond Municipal Code to increase the sewer rate commensurate with the increase imposed by King County Metro on its customers; and establishing an effective date of the new rate increase on sewer customers. Motion **passed** with all voting in favor (5-0).

17) AB16-081 – Resolution Declaring Certain City Property Surplus

Facilities Equipment Coordinator Kevin Esping briefed Council on the proposed items being declared as surplus.

There was Council discussion on this item.

Councilmember Morgan noted the item was for first reading and recommendation that it go before the Government Operations Committee.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to suspend the rules and have the Council move to pass this tonight. Motion **passed** 3-2 (Morgan, Pepper)

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A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt a resolution declaring certain City property surplus to the needs of the City. Motion **passed** 4-1 (Pepper).

Councilmember Edelman noted to the Mayor let the record show that Councilmember Morgan did not vote on this.

18) AB16-082 – Resolution Authorizing Interlocal Agreement with AWC RMSA

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt a resolution regarding membership in the Association of Washington Cities Risk Management Service Agency. Motion **passed** with all voting in favor (5-0).

19) AB16-083 – Resolution Authorizing Agreement with Black Diamond Community Center

Councilmember Pepper noted this item is for first reading and assigned to the Budget and Finance Committee.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt a resolution authorizing the Mayor to execute an agreement with the Black Diamond Community Center for the City's payment of $10,000 for the Community Center's liability insurance for the year 2017.

There was Council discussion.

Councilmember Edelman **rescinded** her **motion**.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Weber to suspend the rules to act on this item tonight. Motion **passed** with all voting in favor (5-0).

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt a resolution authorizing the Mayor to execute an agreement with the Black Diamond Community Center for the City's payment of $10,000 for the Community Center's liability insurance for the year 2017.

There was Council discussion.

Point of order raised by Councilmember Morgan as there needs to be a motion to suspend the rules to vote on this. It was noted there was already a motion passed on that.

Vote: Motion **passed** with all voting in favor (5-0).

20) AB16-084 – Ordinance Adopting 2012 Stormwater Manual for Western

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Washington

Capital Projects/Program Manager Scott Hanis briefed Council on this item and recommended adoption.

A **motion** was made by Councilmember Deady and **seconded** by Councilmember Edelman to adopt an ordinance adopting new stormwater management regulations and amending Chapter 14.04 of the Black Diamond Municipal Code.

There was Council discussion.

Councilmember Edelman called for the question.

Vote: Motion **failed** 2-3 (Morgan, Weber, Pepper).

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Weber to adopt the ordinance that was amended by the Growth Management Committee.

There was Council discussion.

City Attorney Linehan clarified that since this motion is referring to the vetoed ordinance it would need a super majority vote in the affirmative to pass.

Vote: 3-2 (Edelman, Deady). Motion **failed** due to the failure of a super majority passing it.

21) AB16-085 – Resolution Adopting 2017 Stormwater Management Program

Capital Projects/Program Manager Scott Hanis briefed Council on this item and recommended adoption.

There was Council discussion and a suggestion from Councilmember Edelman for Councilmember Pepper to work with staff to put together an educational program.

A **motion** was made by Councilmember Edelman and **seconded** by Councilmember Deady to adopt a resolution adopting the Stormwater Management Program (SWMP) Plan for 2017 update. (No vote taken as below motion takes precedence).

An **amended motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to postpone this item. Motion **passed** 3-2 (Edelman, Deady).

23) AB16-087 – Resolution Accepting 2015-2017 Stormwater Capacity Grant

Capital Projects/Program Manager Scott Hanis reported to Council on this item.

There was Council discussion.

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A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to postpone until the staff has let Council know how this money will be spent.
Vote: 3-2 Motion **passed** (Edelman, Deady).

There was continued Council discussion around the $25, 000 Grant and citizen taxpayer dollars.

Councilmember Edelman **motioned** to adopt resolution authorizing the Mayor to execute a grant agreement with the Department of Ecology for the 2015-2017 Stormwater capacity grant **seconded** Councilmember Deady.

Councilmember Weber stated to the Mayor there was a **motion** on the floor and it was **seconded** to table this item, postpone.

Vote: 3-2 Motion **passed** to postpone (Edelman, Deady)

24) AB16-088 – Ordinance Adopting 2017 Budget

Finance Director Miller briefed Council on this proposed ordinance.

Mayor Benson asked Councilmember Weber if he was prepared in regard to the email he sent out yesterday. Councilmember Weber responded, "I do".

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Edelman to adopt an ordinance adopting the 2017 budget. He further stated he would like to **move** to substitute his substitute ordinance and would like to speak to it. Councilmember Morgan **seconded** this motion to substitute his substitute ordinance. Motion **passed** 4-1 (Edelman)

Councilmember Edelman stated we need to have a reading from our City Attorney.

Councilmember Weber spoke to his motion and had the clerk distribute copies to the Councilmembers.

Mayor Benson read an excerpt from MRSC regarding budgets.

There was Council discussion on this item.

A **motion** was made by Councilmember Weber and **seconded** by Councilmember Pepper to **amend** his **motion** to hold a special meeting on December 19, 2016. No vote was taken as it was rescinded.

There was Council discussion on this motion and following discussion. Councilmember Weber **withdrew** his motion.

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There was Council discussion over what dates work best for the Attorney and May Miller of Finance department to go over funds.

Councilmember Weber stated he has the floor still.

There was continued Council discussion over the budget.

An **amended motion** was made by Councilmember Weber and **seconded** by Councilmember Deady to pull his motion back and move to hold a special meeting at 5:00 p.m. on December 27, 2016. Motion **passed** 4-1 (Pepper).

Mayor Benson stated we can have an emergency ordinance that we adopt.

Attorney Linehan clarified the information for an emergency ordinance to take place.

Councilmember Weber noted the need to take a vote on the substitute agenda. Clerk noted this had been seconded. Motion **passed** 4-1 (Edelman)

25) AB16-089 – Resolution Regarding Contracting Procedures and Policies

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to adopt this resolution on contracting procedures and policies.

There was Council discussion.

City Attorney Linehan noted that many of the changes in this resolution contradict the Black Diamond Municipal code and resolution cannot override provision, needs to be adopted through an ordinance if any of these changes will go into effect.

Mayor Benson noted even if this resolution is adopted, she will deny it.

Mayor Benson raised a point of order to Councilmember Pepper.

Vote: Motion **passed** 3-2 (Edelman, Deady)

Mayor Benson discussed further why the resolution will be denied.

Mayor Benson announced she is going to skip all the council reports and to directly to public comments.

DEPARTMENT REPORTS: NONE
MAYOR'S REPORT: NONE
COUNCIL REPORTS: NONE

DRAFT

PUBLIC COMMENTS:

Brock Deady, Black Diamond spoke to Council.

Terry Yankovich, Black Diamond spoke to Council.

Leslie Cooley, Black Diamond spoke to Council.

Jackie Buss, Black Diamond spoke to Council.

Mitch Neary, Black Diamond spoke to Council.

Colin Lund, OakPointe spoke to Council.

Kristen Bryant, Bellevue spoke to Council.

Lorraine Howard, Black Diamond spoke to Council.

Deanna Humphreys, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Daryl Buss, Black Diamond spoke to Council.

Judy Goodwin, Black Diamond spoke to Council.

Brian Derdowski, Bellevue spoke to Council.

Point of Order was raised by Councilmember Pepper.

Bob Edelman, Black Diamond spoke to Council.

Sam Pace, unincorporated Black Diamond spoke to Council.

Judy Watson, Black Diamond spoke to Council.

Dennis Boxx, Black Diamond spoke to Council.

Mayor Benson asked Council if anyone would like to reconsider the budget tonight and experience the happy holidays ahead.

There was brief Council discussion.

EXECUTIVE SESSION: None

ADJOURNMENT:

A **motion** was made by Councilmember Pepper and **seconded** by Councilmember Morgan to adjourn the meeting. Motion **passed** with all voting in favor (5-0).

The meeting ended at 11:43:21 p.m.

ATTEST:

Carol Benson, Mayor

Katherine Allen, Deputy City Clerk

DRAFT

BLACK DIAMOND CITY COUNCIL MINUTES
May 17, 2018

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Benson called the regular meeting to order at 7:00 p.m. and led us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Deady, Oglesbee, Edelman, Stout, and Wisnoski.

ABSENT: None

Staff present: Andrew Williamson, MDRT/Ec Dev/Interim Community Development Director; Seth Boettcher, Public Works Director; Kevin Esping, Facilities Coordinator; Jamey Kiblinger, Police Chief, Larry Colagiovanni, Commander; Stephanie Metcalf, Court Administrator; Deanna Humphreys, Police Clerk; Peter Altman, Labor Attorney; David Linehan, City Attorney, and Brenda L. Martinez, City Clerk.

CONSENT AGENDA:

Councilmember Edelman **moved** to adopt the Consent Agenda; **second** Councilmember Deady. Motion **passed** with all voting in favor (5-0). The Consent Agenda was approved as follows:

1) **Claim Checks** – May 17, 2018 – Check No. 46191 through 46241 and EFTs in the amount of $545,223.57
2) **Payroll –** April 30, 2018 – Check No. 19535 through 19555 (void 19545) in the amount of $315,578.27
3) **Minutes** – March 10, 2016, October 6, 2016, October 20, 2016, November 3, 2016, November 10, 2016, November 17, 2016, November 29, 2017, December 1, 2016, December 6, 2016, December 22, 2016, January 5, 2017, January 19, 2017, January 24, 2017, February 2, 2017, February 9, 2017, February 16, 2017, March 16, 2017, April 6, 2017, April 20, 2017, May 24, 2017, June 8, 2017, June 15, 2017
4) **Minutes –** Council Meeting of May 3, 2018

AGENDA REVIEW AND APPROVAL:

DRAFT

Councilmember Edelman **moved** to adopt the agenda; **second** Councilmember Deady. Motion **passed** with all voting in favor (5-0).

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

Mayor Benson shared with Council and attendees the State of the City Address.

PUBLIC COMMENTS:

Patrick Nelson, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

Kristen Bryant, Black Diamond spoke to Council.

PUBLIC HEARINGS:

5) AB18-057 – Ordinance Regarding Re-establishing a Non-exclusive, Ten-Year Franchise with PSE

Public Works Director Boettcher reported on this item.

Mayor Benson open the public hearing at 7:24 p.m. There were no written comments received and no oral testimony. Mayor Benson closed the public hearing at 7:24 p.m.

6) AB18-058 – Re-establishing Goals for Water Use Efficiency

Public Works Director Boettcher briefed Council and the public on this item.

Mayor Benson opened the public hearing at 7:29 p.m.

James Stout, Black Diamond asked that in light of the Cedarbrook development and their huge water leak what provisions are there to get this stopped and is there anything in place to fine or force a repair of this massive leak. He also noted in the future should this happen again is there a way to address this sooner, such as fines or you do this, and we will do this. He also wondered if something can be added to this where if somebody does not respond or make repairs the City has some kind of teeth to force it.

Mayor Benson closed the public hearing at 7:32 p.m.

7) AB18-059 – Proposed 2019-2024 Six Year Transportation Improvement Program

Public Works Director Boettcher reviewed the proposed Transportation Improvement Program with Council and the public.

Mayor Benson opened the public hearing at 7:35 p.m.

Robbin Taylor, Black Diamond commented on item #9 (Morgan Creek Pedestrian Connection) of the TIP and noted the funding source says it's developer funded. She

wondered who the developer is that is providing those funds and if the frontage improvements are on 169.

Kristen Bryant, Bellevue discussed the bumpy ride on some portions of Roberts Drive and noted some areas have been fixed with blacktop due to the replacement of the watermain by Oakpointe, however that is not the same quality of long lasting material that the old concrete road was. She noted some of the public are asking why the city is putting off the improvements to the bad parts of this road from the library on Roberts to 169. She also noted it would be wonderful for more information about each of these projects, especially the projects coming up near term be put online and more accessible as it's hard to make significant comments based on the one line of information as some have multiple sources and you don't know what the breakdown is of the expected sources - you can't really say much about any of the projects with just a very high-level overview. She commented she would like to see the documents on how costs and priorities were determined made available to the public.

UNFINISHED BUSINESS: None

NEW BUSINESS:

8) AB18-060 – Resolution No. 18-1248 Accepting the 2018 Patching Project

Public Works Director Boettcher presented this item to Council.

Councilmember Deady **moved** to adopt Resolution No. 18-1248, accepting the 2018 Patching Project by Puget Paving and Construction, Inc. as complete according to the contract documents; **second** Councilmember Stout. Motion **passed** with all voting in favor (5-0).

DEPARTMENT REPORTS:

Fire Department – Chief Smith updated Council with the incident report for March and noted 1/6th of the calls were from Black Diamond. He discussed the types of calls the department receives and noted the new rescue tools (jaws of life) have been ordered. He also reported attending the public safety meeting and invited Councilmembers to the graduation for the volunteer academy this June.

MAYOR'S REPORT:

Mayor Benson reported attending the SCATBd meeting, Kiwanis luncheon, Finance and Public Works Committee meetings, Welcome to Black Diamond meeting, and the Chamber luncheon.

COUNCIL REPORTS:

Councilmember Stout reported attending the Public Works Committee meeting and noted reviewing the public comments from the last Council meeting; attended the Finance Committee meeting and Kiwanis luncheon. She discussed going to our Lake Sawyer

Regional Park to see the signs that were installed and noted this area being a great resource that is under used. She also noted that she read through all the minutes that were on the agenda for tonight and it was painful to read what went on.

Councilmember Wisnoski commented that it has been pretty quiet for him and he has started to study transportation in this area. He noted his bus commute to Bellevue has only one connection.

Councilmember Deady reported attending the Public Safety Committee meeting, SCATBd meeting, Mother's Day lunch at the Community Center and added that the Police and Fire departments are at the Community Center serving lunch and checking blood pressures. She thanked Mayor Benson for her presentation and discussed signs at the regional park and would like to have a night where Councilmember Dunn can be invited to show the hard work that went into it. She also commented that she is happy with the letter the City Attorney drafted to King County regarding the 169/288th intersection and hopes the letter can get signed tonight.

Councilmember Oglesbee discussed the Labor Days Committee meetings and invited people to attend. They are held at the Black Diamond Bakery at 6:30 p.m. on the second and fourth Wednesdays of the month. She also reported attending the Public Safety and Finance Committee meetings, Welcome to Black Diamond Committee meeting, Kiwanis luncheon, Chamber luncheon and noted having the pleasure to work with Patrick Nelson on the Police sign he presented at tonight's meeting. Lastly, she reported meeting with Public Works Director Boettcher to discuss the items that were on the agenda for public hearings.

Councilmember Edelman also discussed the intersection of 169/288th and the Cedar to Green Trail running though it. She noted there being safety issues as this intersection and the need for a bridge there. She also discussed the meeting minutes that were on the consent agenda. She reported attending the Public Works Committee meeting and PIC meeting. She noted in June Ann Macfarlane (Jurassic Parliament) will be presenting at the pre-PIC meeting and encouraged Councilmembers to attend. She shared ideas for welcoming new citizens to the City and noted if anyone is interested they can see the first draft she prepared. She also added the Black Diamond fun map will also be included in the brochure and hopes to have another draft out next month.

Mayor Benson discussed the July 5th meeting and asked Council if they would be okay cancelling it.

Councilmember Deady **moved** to cancel the July 5, 2018 Council meeting; **second** Council member Edelman. Motion **passed** with all voting in favor (5-0).

Mayor Benson also discussed with Council the June 21st meeting as both her and Councilmember Edelman (Mayor Pro-Tem) will be out of town. She noted the Council has options, they can either hold the meeting and elect a Mayor Pro-Tem for the meeting or

cancel the meeting. There was discussion and it was suggested to postpone the meeting to June 25th.

Councilmember Edelman **moved** to postpone the June 21st regular business meeting to the following Monday June 25th at 7 p.m.; **second** Councilmember Stout. Motion **passed** with all voting in favor (5-0).

ATTORNEY REPORT: None

PUBLIC COMMENTS:

Kevin Esping, Black Diamond spoke to Council.

Robbin Taylor, Black Diamond spoke to Council.

EXECUTIVE SESSION: None

ADJOURNMENT:

Councilmember Wisnoski **moved** to adjourn the meeting; **second** Councilmember Edelman. Motion **passed** with all voting in favor (5-0).

The meeting ended at 8:12 p.m.

ATTEST:

Carol Benson, Mayor

Brenda L. Martinez, City Clerk

Following adjournment Council went into a closed session to discuss with our Labor Attorney collective bargaining pursuant to RCW 42.30.140(4).

DRAFT

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION

SUBJECT:
Continuation of public hearing on Resolution adopting the 2019-2024 Six Year Transportation Improvement Program

Agenda Date: June 7, 2018 **AB18-059A**

Mayor Carol Benson	
City Administrator	
City Attorney David Linehan	
City Clerk – Brenda L. Martinez	
Com Dev/Nat Res –	
Finance – May Miller	
MDRT/Ec Dev – Andy Williamson	
Police – Chief Kiblinger	
Public Works – Seth Boettcher	X
Court – Stephanie Metcalf	

Cost Impact (see also Fiscal Note): Planning for various budgets

Fund Source: Various

Timeline: As per individual project schedules

Due July 1, 2018

Agenda Placement: ☒ Mayor ☐ Two Councilmembers ☐ Committee Chair ☐ City Administrator

Attachments: Resolution and 2019-2024 Six Year Transportation Improvement Program

SUMMARY STATEMENT:
The City is required to update its Six Year Transportation Improvement Program (TIP) per Revised Code of Washington (RCW) 35.77.010 and file the TIP with the Washington State Department of Transportation (WSDOT).

Most grant programs require projects to be on the City's Six Year TIP. The City is required by State law to update the TIP prior to July 1st of each year.

FISCAL NOTE (Finance Department):
This pending action is a Plan and does not bring in revenue nor does it cause expense other than advertising, printing, mailing, and staff labor costs already budgeted for.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:
Public Works Committee recommends forwarding to Council for their approval.

RECOMMENDED ACTION: **MOTION to adopt Resolution 18-1249, approving the 2019-2014 Six Year Transportation Improvement Program.**

RECORD OF COUNCIL ACTION

Meeting Date	*Action*	*Vote*
May 17, 2018	Public hearing. Hearing left open to the June 7 Council meeting.	
June 7, 2018		

RESOLUTION NO. 18-1249

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON APPROVING THE 2019-2024 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM

WHEREAS, per RCW 35.77.010, the City is required to annually update its Six Year Transportation Improvement Program (TIP) before July 1st of each year and file the updated Transportation Improvement Program with the Washington State Department of Transportation within thirty days of adoption; and

WHEREAS, per RCW 35.77.010, the purpose of the requirement for annual updates is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program; and

WHEREAS, it is also an eligibility requirement of many grant programs that the City update its Transportation Improvement Program as required by RCW 35.77.010; and

WHEREAS, per RCW 35.77.010, a public hearing was held on the proposed updates to the Transportation Improvement Program;

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

Section 1. The City Council does hereby approve the 2019-2024 Six Year Transportation Improvement Program, a copy of which is attached as Exhibit "A" and incorporated herein by reference.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 7TH DAY OF JUNE 2018.

CITY OF BLACK DIAMOND:

_____
Carol Benson, Mayor

Attest:

_____
Brenda L. Martinez, City Clerk

City of Black Diamond 6 Year Transportation Improvement Plan 2019 - 2024

PUBLIC HEARING: Held Thursday, May 17, 2018,
7:00 p.m., Black Diamond City Council Chambers
Edited based on public comments May 29, 2018

2019-2024 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM
EXHIBIT "A"

Rank	Year	Improvement	From	To	Type of Improvement	Length in Miles	Estimated Cost	Funding
1	2019	General Street Improvement	N/A	N/A	Use for opportunities to leverage private funds, short overlays, chip sealing, crack sealing, patch work, addressing minor safety problems	N/A	$30,000/year; $180,000 total	Local City Funds
2	2019	Grant Matching for Street Projects	N/A	N/A	Use for grant applications to provide the required match	N/A	$40,000/year; $240,000 total	Local City Funds
3	2019	Roberts Drive, 236th to Bruckners	236th Ave. SE	Bruckners Way	Sidewalk on the south side of the road, including pedestrian bridge attached to the Rock Creek Bridge	0.18	$ 420,000	TIB Grant/ Local City Funds/ Developer Mitigation
4	2019	Roberts Drive/SR 169/BD-Ravensdale Roundabouts	N/A	N/A	Two 2-lane Roundabouts	N/A	$ 12,000,000	Developer Mitigation & possible Grant funding
5	2019	Park St. & SR 169 Intersection Safety Improvements	N/A	N/A	Site distance improvements and/or other safety improvements	N/A	$ 30,000	Local City Funds, Developer Funds
6	2019	232nd Ave. SE Overlay, Ph. I	SE 288th St.	SE 293rd Pl.	Asphalt patching and overlay	0.30	$ 175,000	Grant/ TIB, Local City Funds
7	2020	Downtown Public Parking	N/A	N/A	Develop additional public parking in the downtown area of Baker St. and Railroad Ave.	N/A	$ 145,000	Local City Funds/Grants
8	2020	216th Ave. SE Overlay	SE 288th St.	SE 296th St.	Patch and overlay	0.41	$ 210,000	Grant/ TIB, Local City Funds
9	2020	Morgan Creek Pedestrian Connection	Kanasket Dr.	SR 169	Pedestrian connection from the backside of the Morgan Creek Neighborhood to SR 169	0.14	$ 200,000	Developer-Funded Frontage Improvements
10	2020	Roberts Drive, West City Limits to 236th Ave. SE Frontage Improvements	West City Limits	236th Ave. SE	Frontage improvements including overlay, widening, sidewalks, bike lanes, and street lights	0.46	$ 1,000,000	Developer

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2019-2024 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM
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Rank	Year	Improvement	From	To	Type of Improvement	Length in Miles	Estimated Cost	Funding
11	2021	Roberts Drive Rehabilitation, Library to SR 169	King County Library	S.R. 169	Widening and overlay, sidewalk, street lighting, and stormwater improvements	0.56	$ 1,750,000	TIB Grant, Local City Funds
12	2021	SR 169, Roberts Drive to James Street Sidewalk	Roberts Dr.	James St.	6-foot wide sidewalk on the west side of SR 169	0.20	$ 550,000	TIB Grant, Local City Funds
13	2021	224th Ave. SE Guardrail	N/A	N/A	Install guardrail(s) on 224th Ave. SE above Covington Creek culverts	N/A	$ 50,000	Local City Funds
14	2021	North Connector	169	South to new commercial and multi family housing	New minor arterial connection to SR 169 with roundabout	0.25	$ 1,000,000	Developer Funded
15	2021	Annexation Road	South end of Ten Trails Phase 1A	Phase 2 Plats	Extend minor arterial in the Ten Trails Development	0.70	$ 2,900,000	Developer
16	2022	Morgan Creek Neighborhood Roads Preservation	N/A	N/A	Seal Coat	1.19	$ 75,000	Local City Funds
17	2022	Downtown Pedestrian & Bicycle Link Study	James St.	Jones Lake Road	Study to identify best routes for pedestrians to bypass SR 169 through the downtown area	0.88	$ 30,000	Grant/Local City Funds
18	2022	James/Park/Baker/ 4th/2nd	N/A	N/A	Patching and overlay, including some widening	0.39	$ 110,000	Grant/ TIB, Local City Funds
19	2022	Hammond/Baker/ 5th/6th Overlay	N/A	N/A	Widening and overlay local access streets.	0.39	$ 145,000	Grant/ TIB, Local City Funds
20	2023	Lawson Street Ph. I	S.R. 169	HL Botts Dr. SE	Surface grinding, select panel replacement, shoulder widening	0.37	$ 175,000	Grant/ TIB, Local City Funds
21	2023	232nd Ave. SE Overlay, Ph. 2	SE 296th St.	End of Public Road (302nd)	Asphalt patching and overlay	0.42	$ 230,000	Grant/ TIB, Local City Funds
22	2023	Rainer View Overlay	Baker St.	SR 169	Patch and overlay in the Rainier View Senior Housing Neighborhood	0.41	$ 150,000	Grant/ TIB, CDBG Grant, Local City Funds

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2019-2024 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM
EXHIBIT "A"

Rank	Year	Improvement	From	To	Type of Improvement	Length in Miles	Estimated Cost	Funding
23	2023	Diamond Glen Neighborhood Improvements	N/A	N/A	Patching, crack sealing, and overlay	0.26	$ 175,000	Grant/ TIB, Local City Funds
24	2023	Lawson Connector/ Lawson Parkway	SR 169	Lawson St.	New 36' wide minor arterial connection to SR 169 with pedestrian facilities, bike lanes, and street lighting	0.60	$ 3,200,000	Developer
25	2024	Roberts Drive Rehabilitation, City Hall to Library	City Hall	King County Library	Grind, patch, replace panels, crack sealing, shoulder widening; street lighting improvements at Morgan/Roberts intersection	0.23	$ 200,000	Pavement Preservation Grant, Local City Funds
26	2024	Downtown Pedestrian & Bicycle Link	James St.	Jones Lake Rd.	Sidewalk extensions and bike lanes	0.88	$ 440,000	Grant Funds
27	2024	Lawson Street Sidewalk, Ph. II	6th Ave.	Newcastle Dr.	6-foot wide sidewalk on Lawson Street	0.19	$ 400,000	Grant/Safe Routes to School, Developer Mitigation
28	2024	228th Ave. SE/229th Ave. SE/229th Pl. SE/SE 292nd Pl.	228th Ave. SE	232nd Ave. SE	Chip sealing, crack sealing, including 236th Ave. SE between SE 291st & SE 293rd	0.59	$ 80,000	Grant/ TIB, Local City Funds
29	2024	Lawson Street Ph. II	HL Botts Dr. SE	City Limits	Chip sealing, crack sealing	0.41	$ 60,000	Grant/ TIB, Local City Funds
30	2024	Lawson Parkway/ Lawson Street/ Botts Drive Intersection Improvements	N/A	N/A	Intersection controls for new intersection, include stop controls	N/A	$ 500,000	Developer
31	2024	Intersection Improvements, 216th Ave. SE & SE 288th St.	N/A	N/A	Intersection controls for intersection	N/A	$ 800,000	Grant/TIB, Local City Funds
					TOTAL ALL PROJECTS		**$ 27,620,000**	

PUBLIC HEARING: Held Thursday, May 17, 2018,
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Edited based on public comments May 29, 2018

2019-2024 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM
EXHIBIT "A"

Rank	Year	Improvement	From	To	Type of Improvement	Length in Miles	Estimated Cost	Funding

**NOTE: The City has identified the need for maintenance on these streets. There are more projects in these categories than can be funded or completed in six years. Projects in the earlier years have a higher probability of getting funded and completed. Projects in the later years have a lower probability of being funded and completed. If funding does become available and is secured for any project on the list, it will be moved to the top of the list for construction.*

PUBLIC HEARING: Held Thursday, May 17, 2018,
7:00 p.m., Black Diamond City Council Chambers
Edited based on public comments May 29, 2018

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: **Ordinance No. 18-1105, re-establishing a non-exclusive, ten-year franchise with Puget Sound Energy, Inc. to provide electric service within City limits**	**Agenda Date: June 7, 2018**	**AB18-057A**
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
Cost Impact (see also Fiscal Note): N/A	Police – Chief Kiblinger	
Fund Source: --	Public Works – Seth Boettcher	X
Timeline: 10 year agreement	Court – Stephanie Metcalf	

Agenda Placement: ☒ Mayor ☒ Two Councilmembers ☐ Committee Chair ☐ City Administrator

Attachments: Ordinance 18-1105

SUMMARY STATEMENT:
Granting Puget Sound Energy, Inc. a non-exclusive franchise to set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate, and use facilities within the City to provide for the transmission, distribution, and sale of energy.

The previous franchise for electric service with Puget Sound Energy is set to expire in August. This agreement would replace the expiring agreement. A public hearing was held May 17, 2018.

Puget Sound Energy meets the qualifications of an electricity company as set in RCW 80.

Puget Sound Energy will be required to obtain any and all regulatory permits required by the City prior to beginning work in the City's Right-of-Way. Following any work within the Right-of-Way, Puget Sound Energy will be required to restore the area to the reasonable satisfaction of the City.

FISCAL NOTE (Finance Department): N/A

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:
Public Works Committee recommends forwarding to Council for their approval.

RECOMMENDED ACTION: **A motion to adopt Ordinance 18-1105, authorizing the re-establishment of a non-exclusive, ten-year franchise with Puget Sound Energy, Inc., to provide electric service within the City limits; providing for severability; and establishing an effective date.**

RECORD OF COUNCIL ACTION		
Meeting Date	***Action***	***Vote***
May 17, 2018	Public Hearing	
June 7, 2018		

ORDINANCE NO. 18-1105

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE RE-ESTABLISHMENT OF A NON-EXCLUSIVE, TEN-YEAR FRANCHISE WITH PUGET SOUND ENERGY, INC., TO PROVIDE ELECTRIC SERVICE WITHIN THE CITY LIMITS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the original term of the previous electric franchise with Puget Sound Energy, Inc. (formerly known as Puget Sound Power & Light Company), is set to expire; and

WHEREAS, the City and Puget Sound Energy, Inc., desire to have electric service provided for the current and future citizens and businesses of Black Diamond; and

WHEREAS, the City and Puget Sound Energy, Inc., desire to formalize their cooperative and mutually beneficial relationship for the provision of electric service within the City of Black Diamond;

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

Section 1. The Mayor is authorized to execute a non-exclusive Franchise Agreement with Puget Sound Energy, Inc., to provide electric service for a period of ten (10) years within the City of Black Diamond on the terms and conditions set forth in the Franchise Agreement attached hereto as Exhibit A.

Section 2. Effective Date. This Ordinance shall be in full force and effect five (5) days after its passage, approval, posting, and publication as provided by law. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is 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 section, sentence, clause or phrase of this Ordinance.

INTRODUCED ON THE ____ DAY OF _____, 2018.

PASSED BY A MAJORITY OF THE CITY COUNCIL AT A MEETING HELD ON THE ____ DAY OF _____, 2018.

CITY OF BLACK DIAMOND:

_____
Carol Benson, Mayor

Attest:

_____
Brenda L. Martinez, City Clerk

Approved as to form:

_____
David Linehan, City Attorney

Published: _____

Posted:_____

Effective Date: _____

EXHIBIT A
To
Black Diamond Ordinance No. _____

FRANCHISE AGREEMENT BETWEEN THE CITY OF BLACK DIAMOND AND PUGET SOUND ENERGY, INC.

1. Parties and Effective Date. This Franchise Agreement ("Franchise") is entered into between the City of Black Diamond, a Washington municipal corporation ("City"), and Puget Sound Energy, Inc., a Washington corporation ("PSE"). This Franchise takes effect on the effective date referenced in the Ordinance ("Effective Date").

2. Definitions.

2.1. Where used in this Franchise:

2.1.1. "PSE" means Puget Sound Energy, Inc., a Washington Corporation, and its successors and assigns.

2.1.2. "City" means the City of Black Diamond, a code city of the State of Washington, and its successors and assigns.

2.1.3. "Franchise Area" means any, every, and all of the roads, streets, avenues, alleys, highways and public rights-of-way controlled by the City as now laid out, platted, dedicated or improved; and any, every, and all roads, streets, avenues, alleys, highways and public rights-of-way controlled by the City that may hereafter be laid out, platted, dedicated or improved within the territorial limits of the City as they presently exist or may be hereafter extended by annexation or otherwise.

2.1.4. "Facilities" means, collectively, any and all electric transmission and distribution systems, including, but not limited to, poles (with or without crossarms), wires, lines, conduits, cables, braces, guys, anchors and vaults, meter-reading devices, and Communication Systems (as defined in Section 2.1.5); and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way pertaining to any and all of the foregoing, whether the same be located over or under ground.

2.1.5. "Communication Systems" means equipment, devices, and other items used for communication purposes in connection with PSE's construction, use, operation, maintenance, repair or replacement of its Facilities in the Franchise Area and other permitted activities under this Franchise, including, without limitation, the operation and management of its utility systems. Communications Systems specifically excludes any equipment, devices, or systems installed or

constructed to provide consumer telecommunications, cable television, or broadband data services at wholesale or retail within the City, whether by wire or wireless means, to persons other than PSE agents, employees, affiliates, contractors, or consultants.

2.1.6. "Ordinance" means Ordinance No.18-1105, by which the City Council approves, adopts, and establishes the Effective Date of this Franchise.

2.1.7. "Public Improvement" means any capital improvement or repair within the Franchise Area that is undertaken by or on behalf of the City and is funded by the City (either directly with its own funds or with other public monies obtained by the City). For the avoidance of doubt, the term "Public Improvement" shall include any such capital improvement or repair undertaken by the City which requires the relocation of PSE's Facilities within the Franchise Area, even if the capital improvement or repair entails, in part, related work performed for a third party county or municipality under a valid interlocal agreement between the City and such county or municipality (except to the extent the relocation of PSE's Facilities is caused by the work done for such third party), but shall not include, without limitation, any other improvements or repairs undertaken for the benefit of third party private entities.

3. Franchise Granted; Facilities Within Franchise Area.

3.1. Pursuant to RCW 35A.47.040, the City hereby grants to PSE the right, privilege, authority, and franchise to set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate, and use Facilities in, upon, over, under, along, across and through the Franchise Area to provide for the transmission, distribution, and sale of energy for any purpose for which energy may be used.

3.2. This Franchise shall not convey any right to PSE to install its Facilities outside the Franchise Area; provided, however, that PSE shall retain the right to maintain, repair, and operate Facilities installed pursuant to prior franchise agreements with the City regardless of whether said Facilities are outside the Franchise Area, but such right shall be subject to the provisions of Section 3.3.

3.3. Existing Facilities installed or maintained by PSE on public grounds and places within the City in accordance with prior franchise agreements (but which are not within the Franchise Area as defined in this Franchise) may continue to be maintained, repaired, and operated by PSE at the location such Facilities exist as of the Effective Date of this Franchise for the term of this Franchise; provided, however, that no such Facilities may be enlarged, improved or expanded without the prior review and approval of the City pursuant to applicable ordinances, codes, resolutions, standards, and procedures.

4. Noninterference and Maintenance of Facilities.

4.1. PSE's Facilities shall be constructed, installed, maintained, and repaired within the Franchise Area so as not to unreasonably interfere with the free passage of traffic, and in accordance with the laws of the State of Washington, and the ordinances, rules, and regulations of the City that are not inconsistent with the terms of this Franchise. PSE shall exercise its rights within the Franchise Area in accordance with applicable City codes and ordinances governing use and occupancy of the Franchise Area; provided, however, that in the event of any conflict or inconsistency of such codes and ordinances with the terms of this Franchise, the terms of this Franchise shall govern and control; provided further that nothing herein shall be deemed to waive, prejudice, or otherwise limit any right of appeal afforded PSE by such City codes and ordinances.

4.2. Any repair of PSE's Facilities within the Franchise Area shall be made within the time and in a manner that conforms with generally accepted customs, practices, and standards in the industry. In the event of any emergency in which PSE's Facilities located in or under the Franchise Area break or are damaged, or if PSE's Facilities within the Franchise Area are otherwise in a condition as to immediately endanger the property, life, health, or safety of any individual, PSE shall, upon receipt of notification from the City of the existence of such condition, take all reasonable actions to correct the dangerous condition.

4.3. Whenever PSE permanently discontinues use of any above-ground or at-grade Facilities within the Franchise Area due to modifications or upgrades to PSE's Facilities within the Franchise Area, the discontinued Facilities shall be removed promptly. If PSE permanently discontinues use of and abandons any underground Facilities within the Franchise Area and the parties thereafter determine that the removal of any such Facilities is required to avoid interference with a Public Improvement undertaken by the City, PSE will, upon request by the City, remove any such Facilities that require removal within ninety (90) days after its receipt of the City's written request. The parties will work together in good faith to avoid or minimize the need to remove any permanently discontinued and abandoned underground Facilities within the Franchise Area.

5. Permits; Restoration.

5.1. Whenever it is necessary for PSE to engage in any work within the Franchise Area, PSE shall apply for all necessary City permits to do such work, and shall, except to the extent inconsistent with the terms and conditions of this Franchise or where expressly provided otherwise herein, comply with all requirements and conditions of such permits, including but not limited to location restrictions, traffic control, and restoration, repair, or other work to restore the surface of the Franchise Area, as nearly as practicable, to its condition immediately prior to the work, or as otherwise specified in the permit issued by the City in connection with the work. If, at any time during the term of this Franchise, a PSE Facility or trench within the Franchise Area causes a street to crack, settle or otherwise fail, the City will notify PSE of the deficiency and PSE will correct the deficiency and repair the damage within thirty (30) days after its receipt of written notice from the City. Such restoration responsibility shall include restoration performed

by PSE prior to the execution of this Agreement and shall continue for ten years or the remaining life of the existing structure, pavement, and/or surface in which the work was accomplished, whichever is longer, but shall not apply to any subsequent repair or restoration made necessary by the acts or omissions of the City or any third party. It is further provided that in the event that PSE has any work in the Franchise Area completed by any of its authorized agents or subcontractors, PSE shall remain fully responsible for the permit, permitted work, and any other permit requirements, notwithstanding any provisions of this Franchise to the contrary.

5.2. In the event of an emergency situation in which PSE's Facilities within the Franchise Area cause or are in a condition that immediately endangers the property, life, health, or safety of any individual, PSE must take immediate action to correct the dangerous condition without first obtaining any required permit, provided that PSE shall notify the City telephonically or in person within twenty-four (24) hours of the event, and provided that PSE applies for any necessary permit(s) from the City for such work as soon as reasonably practicable thereafter. For the purposes hereof, "as soon as reasonably practicable" means that the permit application shall be submitted to the City not later than ten (10) business days after the date of the commencement of the action that requires such permit.

5.3. Nothing in this Franchise is intended, nor shall it be construed, as a hindrance to PSE's ability to take such actions as it deems necessary to discharge its public service obligations in accordance with the laws of the State of Washington.

6. Maps and Drawings.

6.1. PSE shall provide the City, upon the City's reasonable request, copies of available drawings in use by PSE showing the location of its Facilities within the Franchise Area, provided the request is limited to Facilities at specific locations in the Franchise Area and is made in connection with the City's planning of Public Improvements. Further, PSE shall, upon the City's reasonable request, discuss and explore ways in which PSE and the City may cooperate and coordinate activities with respect to the development of drawing file layers compatible with the City's Geographic Information System ("GIS") which show PSE's Facilities at specific locations in the Franchise Area.

6.2. As to any such drawings and drawing file layers so provided, PSE does not warrant the accuracy thereof and, to the extent the locations of Facilities are shown, such Facilities are shown in their approximate locations. With respect to any excavations within the Franchise Area undertaken by or on behalf of PSE or the City, nothing herein is intended (nor shall be construed) to relieve either party of their respective obligations arising under applicable law with respect to determining the location of utility facilities.

6.3. Upon the City's reasonable request in connection with the City's design of new streets and intersections and major renovations of existing streets and intersections, and any other Public Improvement undertaken by the City, PSE shall further provide to the City (a) the location and grade of PSE's underground Facilities at those specific locations within the Franchise Area

affected by the project by either field markings or by locating the Facilities in the City's design drawings, and (b) other reasonable cooperation and assistance; provided, however, that nothing in this Section 6.3 or any other provision of this Franchise is intended to (or shall) relieve any person or entity of its obligations under applicable law with respect to determining the location of underground facilities.

7. Right to Complete Work.

7.1. In the event that PSE fails to perform any work to restore the surface of the Franchise Area to enable the free passage of traffic by the traveling public as required by this Franchise or any permit issued by the City relating to such work, and such failure continues for a period of ten (10) days after PSE receives written notice from the City regarding such failure (or, in the event of an emergency situation, such shorter period of time after receipt of notice from the City as is reasonably required in the circumstances), the City may, but in no event is obligated to, perform or contract for such work and, thereafter, PSE shall, upon the City's written request, reimburse the City for the reasonable costs incurred by the City in having such work performed.

8. Relocation of Facilities.

8.1. Whenever the City causes a Public Improvement to be undertaken within the Franchise Area, and such Public Improvement requires the relocation of PSE's then existing Facilities within the Franchise Area (for purposes other than those described in Section 8.2 below), the City shall:

8.1.1. Provide PSE, within a reasonable time prior to the commencement of such Public Improvement, written notice requesting such relocation; and

8.1.2. Provide PSE with reasonable plans and specifications for such Public Improvement, including a proposed relocation of PSE's Facilities.

After receipt of such notice and such plans and specifications, PSE shall relocate such Facilities within the Franchise Area at no charge to the City. If the City requires the subsequent relocation of any Facilities within five (5) years from the date of relocation of such Facilities pursuant to this Section 8.1, the City shall bear the entire cost of such subsequent relocation.

8.2. Whenever (i) any public or private development within the Franchise Area, other than a Public Improvement, requires the relocation of PSE's Facilities within the Franchise Area to accommodate such development; or (ii) the City requires the relocation of PSE's Facilities within the Franchise Area for the benefit of any person or entity other than the City, then in such event, PSE shall have the right as a condition of such relocation, to require such benefitted developer, person, or entity to make payment to PSE, at a time and upon terms acceptable to PSE, for any and all costs and expenses incurred by PSE in the relocation of PSE's Facilities.

8.3. Any condition or requirement imposed by the City upon any person or entity, other than PSE, that requires the relocation of PSE's Facilities shall be a required relocation for purposes of Section 8.2 above (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development).

8.4. Nothing in this Section 8 "Relocation of Facilities" shall require PSE to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from this Franchise.

9. Shared Use of Excavation.

9.1. In the event either PSE or the City shall cause excavations to be made within the Franchise Area, the party causing such excavation shall afford the other, upon receipt of a written request to do so, an opportunity to use such excavation so long as such joint use is arranged and accomplished upon terms and conditions reasonably satisfactory to the party causing such excavation.

10. Indemnification.

10.1. PSE shall indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, volunteers, engineers, and consultants from any and all claims, costs (including reasonable attorney fees), judgments, awards, liability, and demands made against it on account of injury or death to any person or damage to property of another, to the extent such injury, death, or damage is caused by the negligent acts or omissions of PSE, its agents, servants, officers, or employees in exercising the rights granted to PSE in this Franchise. This covenant of indemnification shall include, but not be limited by this reference, to claims against the City arising as a result of the negligent acts or omissions of PSE, its agents, servants, officers, or employees in barricading, instituting trench safety systems, or providing other adequate warnings of any excavation, construction, or work in the Franchise Area or in any other public place in performance of work or services permitted under this Franchise.

10.2. In the event any such claim or demand for which indemnification is provided under Section 10.1 is presented to or filed with, or suit or action is commenced against, the City based upon any such claim or demand, the City shall promptly notify PSE thereof, and PSE may elect, at its sole cost and expense, to settle and compromise such claim, demand, suit, or action, or defend the same with attorneys of its choice; provided further, that in the event any suit or action is begun against the City based upon any such claim, demand, suit, or action, the City shall likewise promptly notify PSE thereof, and PSE shall have the right, at its election and its sole cost and expense, to settle and compromise such claim, demand, suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

10.3. Inspection or acceptance by the City of any work performed by PSE at the time of completion of construction shall not be grounds for avoidance of any of these covenants of

indemnification. Said indemnification obligations shall extend to claims that are not reduced to a suit and any claims that may be compromised prior to the culmination of any litigation or the institution of any litigation.

10.4. In the event that PSE refuses the tender of defense in any suit or any claim for which indemnification is provided under Section 10.1, said tender having been made pursuant to this indemnification clause, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal on the part of PSE, then PSE shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees, and the reasonable costs of the City, including reasonable attorneys' fees, of recovering under this indemnification clause.

10.5. 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 PSE and the City, and their respective officers, employees, representatives, consultants, engineers, volunteers, and agents, PSE's liability hereunder shall be only to the extent of PSE's negligence. It is further specifically and expressly understood that, solely to the extent required to enforce the indemnification provided herein, PSE waives its immunity under RCW Title 51; provided, however, the foregoing waiver shall not in any way preclude PSE from raising such immunity as a defense against any claim brought against PSE by any of its employees. This waiver has been mutually negotiated by the parties.

10.6. In the event it is determined that RCW 4.24.115 applies to this Franchise, PSE's indemnification obligations under Section 10.1 shall apply to the maximum extent permitted thereunder, to the full extent of PSE's negligence. Further, the City shall have the right to participate, at its sole cost and expense, through its own attorney in any suit or action which arises pursuant to this Franchise when the City determines that such participation is in the City's best interest.

10.7. The provisions in this Section 10 shall survive the expiration or termination of this Franchise with respect to any claim, cost (including reasonable attorney fees), judgment, award, liability, demand, suit or action for which indemnification is provided under Section 10.1 and which is based on an act or omission that occurred during the term of this Franchise.

11. Reservation of Rights.

11.1. In the event the City vacates any portion of the Franchise Area during the term of this Franchise and PSE's Facilities are located within the area to be vacated, then the City shall, in its vacation procedure, reserve and grant an easement to PSE for PSE's existing Facilities unless the City reasonably determines that to do so would be impracticable or unlawful in light of the nature of the vacation. In cases where the City determines that reserving and granting an easement to PSE is impracticable or unlawful, the City will notify PSE thirty (30) business days prior to any final vacation action.

11.2. The existence of this Franchise shall not preclude the City from acquiring by condemnation, in accordance with applicable law, all or any portions of PSE's Facilities within the Franchise Area.

12. Abandonment.

12.1. No above-ground Facilities of PSE within the Franchise Area may be abandoned by PSE without the express written consent of the City. Any plan for abandonment or removal of PSE's above-ground Facilities within the Franchise Area must be first approved by the Public Works Director, and all necessary permits must be obtained prior to such work. The provisions of this Section shall survive the expiration, revocation, or termination of this Franchise.

13. Recovery of Costs: Permit Fees.

13.1. As specifically provided by RCW 35.21.860, which is applicable to the City pursuant to RCW 35A.21.160, the City may not impose a franchise fee or any other fee or charge of whatever nature or description upon PSE as a result of this Franchise. However, as provided in RCW 35.21.860, the City may recover from PSE, and PSE agrees to pay, the actual administrative expenses incurred by the City including, but not limited to the reasonable costs of outside consultants and legal fees incurred by the City, that are directly related to: (i) receiving and approving a permit, license or this Franchise, (ii) inspecting plans and construction, or (iii) preparing a detailed statement pursuant to Chapter 43.21C RCW. With respect to its payment of such administrative expenses, the City shall submit to PSE statements/billings which specify the amounts due. PSE shall make payment to the City in reimbursement of such expenses within thirty (30) days of the receipt of such statements/billings. Failure by PSE to pay such amount within such thirty (30) day time period shall constitute a failure to comply with the Franchise for the purposes of Section 14, Default, hereof. Additionally, the failure by PSE to timely pay said amounts shall be grounds for the City to preclude the processing of any applications and/or issuing permits until payment has been fully made. Furthermore, any late payment shall also accrue interest computed at the rate of twelve percent (12%) per annum from the thirtieth day.

13.2. With respect to the payment of permit fees, PSE shall comply with all applicable payment terms set forth in applicable codes, ordinances, or permits of the City, including, without limitation, any such terms relating to the schedule for payment and the City's right to withhold permits or charge interest in connection with any payment default by PSE; provided, however, the City shall accept payment of such permit fees directly from contractors of PSE that perform work in the Franchise Area on behalf of PSE so long as PSE has notified the City in writing that the contractor is authorized to do so on PSE's behalf and PSE remains responsible for compliance with the terms of the permit.

14. Default.

14.1. If PSE shall fail to comply with the provisions of this Franchise, the City may, without limiting any injunctive relief that the City may be entitled to by applicable law, serve upon PSE a written order to so comply within thirty (30) days from the date such order is received by PSE. If PSE is not in compliance with this Franchise after the expiration of said thirty (30) day period, the City may, by ordinance, declare an immediate forfeiture of this Franchise. The parties expressly acknowledge and agree, however, that the forgoing rights and obligations of the parties are subject in all respects to excused performance based on a Force Majeure Event (as defined in Section 23.14).

15. Nonexclusive Franchise.

15.1. This Franchise is not, and shall not be deemed to be, an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area that do not interfere with PSE's rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof.

16. Franchise Term.

16.1. This Franchise is and shall remain in full force and effect for a period of ten (10) years from and after the Effective Date of the Ordinance; provided, however, PSE shall have no rights under this Franchise nor shall PSE be bound by the terms and conditions of this Franchise unless PSE shall, within sixty (60) days after the Effective Date of the Ordinance, file with the City its written acceptance of the Ordinance. It is further provided that upon PSE's request for an extension, this Franchise may be extended by the City, upon approval of the Mayor, for up to five (5) additional years beyond the initial term, provided that PSE is in full compliance with the terms and conditions of the Franchise. In any such extension, the terms and conditions of this Franchise shall remain in full force and effect, except as may be otherwise mutually agreed by the parties hereto.

17. Insurance; Bond.

17.1. PSE shall maintain the following liability insurance coverages, insuring PSE and including the City and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insureds against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges, and authority granted to PSE under this Franchise, or the use, construction, installation, removal, or maintenance of any PSE Facilities under this Franchise:

17.1.1. General liability insurance, to include a combination of self-insurance and excess/umbrella liability policies as PSE may elect, with limits not less than $5 million per occurrence/$5 million general aggregate. Coverage shall not exclude:

(a) bodily injury or death;
(b) property damage, including loss of use;
(c) sudden and accidental pollution;
(d) premises-operations,
(e) explosions, collapse and underground hazards; and
(f) products - completed operations hazard

17.1.2. Automobile liability for owned, non-owned and hired vehicles with a combined single limit of $5,000,000.

17.1.3. Worker's compensation with statutory limits and employer's liability insurance with limits of not less than $1,000,000.

17.2. PSE's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of PSE to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

17.3. The liability insurance described herein shall be maintained by PSE throughout the term of this Franchise, and such other period of time during which PSE is operating its Facilities within the Franchise Area without a franchise, or is engaged in the removal of its Facilities from the Franchise Area. Payment of deductibles and self-insured retentions shall be the sole responsibility of PSE. Coverage under applicable policies shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The City shall be included as an insured under PSE's excess/umbrella liability insurance policy. PSE shall be the primary insured as respects the City, its officers, officials, employees, agents, consultants, and volunteers. Any insurance maintained by the City, its officers, officials, employees, consultants, agents, and volunteers shall be in excess of PSE's insurance and shall not contribute with it.

17.4. The liability insurance described herein, and any subsequent replacement policies, shall provide that insurance shall not be cancelled or materially changed so as to be out of compliance with these requirements without first providing thirty (30) days' written notice to the City. If the insurance is cancelled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, PSE shall provide a replacement policy. PSE agrees to maintain continuous uninterrupted insurance coverage, or provide self-insurance, in at least the amounts required for the duration of this Franchise and, in the case of any policy written on a "claims-made" form, for at least three (3) years after expiration of the term of

this Franchise. Any lapse in the required insurance coverage shall be cause for termination of this Franchise.

17.5. In lieu of the insurance requirements set forth in this Section 17, PSE may self-insure against such risks in such amounts as are consistent with good utility practice. Upon the City's request, PSE shall provide the City with reasonable written evidence that PSE is maintaining such self-insurance.

17.6. Any PSE insurance policies used to meet the insurance obligations set forth in this Section 17 will be placed with insurers licensed to do business in the state of Washington and with a current A.M. Best rating of not less than A-VII, or financial equivalent. PSE shall provide the City with certificates of the required insurance within twenty (20) days of the Effective Date of the Ordinance.

18. Assignment.

18.1. PSE shall not assign or transfer its rights, benefits and privileges in and under this Franchise without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. Prior to any assignment, the intended assignee shall, within thirty (30) days of the proposed date of any assignment, file written notice of the intended assignment with the City together with its written acceptance of all terms and conditions of this Franchise. Notwithstanding the foregoing, PSE shall have the right, without such notice or such written acceptance, to mortgage its rights, benefits and privileges in and under this Franchise for the benefit of bondholders.

19. City Ordinances and Regulations.

19.1. Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances made in the exercise of its police powers in the interest of public safety and for the welfare of the public, including regulations adopted by ordinance relating to the use of the City's property, streets, and rights-of-ways; provided, however, the City shall adopt and enforce those ordinances in a manner consistent with the terms and conditions of this Franchise.

20. Acceptance.

20.1. Within sixty (60) days after the passage and approval of this Ordinance, PSE may accept this Franchise by filing with the City Clerk an unconditional written acceptance thereof. PSE's failure to so accept this Franchise within said period of time shall be deemed a rejection thereof by PSE, and the rights and privileges herein granted shall, after the expiration of the sixty (60) day period, absolutely cease and terminate, unless the time period is extended by ordinance duly passed for that purpose.

21. Notice.

21.1. Any notice or other communication required or permitted to be given to the parties under this Franchise shall be sent to the following addresses unless otherwise specified in writing:

City of Black Diamond
P.O. Box 599
Black Diamond, WA 98010
Attn: Public Works Director

Puget Sound Energy, Inc.
3130 S. 38th Street
Tacoma, WA 98409
Attn: Municipal Liaison Manager

With a copy to:

Puget Sound Energy, Inc.
P.O. Box 90868
Bellevue, WA 98009-0868
Attn: General Counsel

The City and PSE may change their respective notice addresses and designated recipient by written notice to the other party at any time.

22. No Third Party Beneficiary.

22.1. Nothing in this Franchise shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party. This Franchise shall not confer any right or remedy upon any person other than the City and PSE. No action may be commenced or prosecuted against either the City or PSE by any third party claiming as a third-party beneficiary of this Franchise. This Franchise shall not release or discharge any obligation or liability of any third party to either the City or PSE.

23. Miscellaneous.

23.1. If any term, provision, condition, or portion of this Franchise is held to be invalid, or is held to be inapplicable to any person or circumstance, such invalidity or inapplicability shall not affect the validity or applicability of the remaining portions of this Franchise, which shall continue in full force and effect, and its application to other persons and circumstances shall not be affected. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

23.2. This Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 10 above) shall govern and

supersede and shall not be changed, modified, deleted, added to, supplemented, or otherwise amended by any permit, approval, license, agreement, or other document required by or obtained from the City in conjunction with the exercise (or failure to exercise) by PSE of any and all rights, benefits, privileges, obligations, or duties in and under this Franchise, unless such permit, approval, license, agreement, or other document specifically:

23.2.1. references this Franchise; and

23.2.2. states that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement, or otherwise amend the terms and conditions of this Franchise.

In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

23.3. This Franchise is subject to the provisions of any applicable tariff on file with the Washington Utilities and Transportation Commission or its successor. In the event of any conflict or inconsistency between the provisions of this Franchise and such tariff, the provisions of such tariff shall control, subject only to Section 25 with respect to any such tariff that is adopted after the date of this Franchise.

23.4. PSE shall bear the cost of the publication of this Franchise Ordinance as and to the extent permitted and required under Section 13.

23.5. All of the provisions, conditions, and requirements of Section 8 "Relocation of Facilities," Section 10 "Indemnification," and Section 12 "Abandonment" shall survive the expiration or termination of this Franchise (however, such survival period extends only through the applicable statute of limitations period). All of the provisions, conditions, regulations and requirements contained in this Franchise shall be binding upon the successors, legal representatives, and assigns of each party and all privileges, as well as all obligations and liabilities of each party shall inure to its successors, legal representatives and assigns equally as if they were specifically mentioned wherever such party is named herein.

23.6. In connection with its performance of work under this Franchise, PSE shall, during the term of this Franchise, fully comply with all applicable equal employment or nondiscrimination provisions and requirements of federal, state and local laws.

23.7. PSE and the City shall, as reasonably requested by the other party from time to time, discuss and coordinate their activities with respect to construction that may affect the public ways in any manner in an effort to minimize public inconvenience, disruption or damages.

23.8. This Franchise is binding upon the parties hereto and their permitted successors and assigns.

23.9. Nothing herein is intended to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor may either party, act toward third persons or the public in any manner that would indicate any such relationship with the other.

23.10. The failure of either party at any time to require performance by the other party of any provision hereof in no way affects the right of such party thereafter to enforce the same. Nor may the waiver by a party of any breach of any provision hereof by the other party be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

23.11. This Franchise is governed by and shall be construed in accordance with the laws of the State of Washington, excluding its choice-of-law rules. Any dispute related to this Franchise shall be brought in the King County Superior Court, Regional Justice Center, Kent, Washington (or, if the Regional Justice Center is no longer in operation, such other local facility as is then operated by the King County Superior Court), which the parties agree has exclusive jurisdiction and is the exclusive venue for resolving such disputes.

23.12. If either party brings any action to enforce or interpret any provision of this Franchise, or is required to defend any action brought by the other party with respect to this Franchise, and in the further event that one party shall prevail in such action, the other party shall, in addition to all other payments required therein, pay all of the prevailing party's reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.

23.13. This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral negotiations between the parties.

23.14. In the event that either party is prevented or delayed in the performance of any of its obligations under this Franchise by any event or circumstance beyond its reasonable ability to control (a "Force Majeure Event"), then that party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; storm or other condition which necessitates the mobilization of the personnel of a party or its contractors to restore utility service; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a party, its contractors or a third party; or any failure or delay in the performance by the other party or a third party whose performance itself is prevented or delayed by a Force Majeure Event. Upon removal or termination of the Force Majeure Event, the party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation. The parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.

24. Dispute Resolution.

24.1. The parties recognize that cooperation and communication are essential to resolving issues quickly and efficiently. If any dispute arises in regard to the terms or conditions of this Franchise, then the parties shall meet and engage in good faith discussions with the objective of settling the dispute within ten (10) days after either party requests such a meeting. If the parties cannot resolve the dispute within such ten (10) day period, the parties will, upon the written request of either party, seek to resolve the dispute in accordance with the following dispute resolution process:

Level One — A representative from PSE and the Mayor (or the Mayor's delegate) shall meet to discuss and attempt to resolve the dispute in a timely manner. If these representatives cannot resolve the dispute within fourteen (14) calendar days after referral of the dispute to Level One, either party may by written notice to the other party refer the dispute to Level Two.

Level Two — In the event either party properly refers the dispute to Level Two, the parties shall mediate using a mediator mutually agreeable to the parties. The parties agree to use all reasonable efforts to resolve the dispute as expeditiously as possible. If the parties cannot resolve the dispute within sixty (60) calendar days after the date of the initial written request for mediation, then either party may seek resolution of the dispute through litigation or other judicial proceedings in the court specified in Section 23.11.

24.2. Notwithstanding Section 24.1 or any other provision of this Franchise to the contrary, with respect to any dispute arising under this Franchise, either party may commence litigation or other judicial proceedings within thirty (30) days prior to the date after which the commencement of litigation could be barred by any applicable statute of limitations or other law, rule, regulation, or order of similar import. In such event, the Parties will (except as may be prohibited by judicial order) nevertheless continue to follow the procedures set forth in this Section 24. Additionally, nothing in Section 24.1 or any other provision of this Franchise precludes either party from commencing a judicial action to request temporary or preliminary injunctive or other equitable relief necessary to prevent irreparable harm.

25. Changes in Laws.

25.1. If, during the term of this Franchise, there becomes effective any change in federal or state law (including, but not limited to, a change in any tariff filed by PSE with the Washington Utilities & Transportation Commission) and such change:

25.1.1. specifically requires the City to enact a code or ordinance which conflicts or is inconsistent with any provision of this Franchise; or

25.1.2. results in a PSE tariff which conflicts or is inconsistent with any provision of this Franchise;

then, in such event, either party may, within ninety (90) days of the effective date of such change, notify the other party in writing that such party desires to commence negotiations to amend this Franchise. Such negotiations shall only encompass the specific term or condition affected by such change in federal or state law and neither party shall be obligated to reopen negotiations on any other term or condition of this Franchise. Within thirty (30) days from and after the other party's receipt of written notice to so commence such negotiations, the parties shall, at a mutually agreeable time and place, commence such negotiations. The parties shall thereafter conduct such negotiations at reasonable times, in a reasonable manner, in good faith and with due regard to all pertinent facts and circumstances; provided, however, that (a) in the event the parties are unable, through negotiation, to reach mutual agreement upon terms and conditions of such amendment, then either party may, by written notice to the other, demand that the parties seek to arrive at such agreement through mediation or, if no such demand has previously been submitted, terminate this Franchise upon not less than ninety (90) days prior written notice to the other party; and (b) pending such negotiations, mediation and/or termination, and except as to any portion thereof which is in conflict or inconsistent with such change in federal or state law, the Franchise shall remain in full force and effect. For purposes of this Section, the term "mediation" shall mean mediation at the local offices of Judicial Arbitration and Mediation Services, Inc. ("JAMS") or a similar organization. The parties may agree on a jurist from the JAMS panel. If they are unable to agree, JAMS will provide a list of the three available panel members and each party may strike one. The remaining panel member will serve as the mediator

25.2. PSE shall, in connection with any application for changes in its tariffs that would be in conflict or inconsistent with the provisions of this Franchise or would modify the rights or responsibilities of either party under this Franchise, notify the City in writing of the application promptly after it is filed with the Washington Utilities & Transportation Commission.

26. Severability.

26.1. If any section, sentence, clause or phrase of this Ordinance is 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 section, sentence, clause, or phrase of this Ordinance.

AGREED TO AND ACCEPTED BY:

CITY OF BLACK DIAMOND	PUGET SOUND ENERGY, INC.
_____	By: _____
Carol Benson, Mayor	_____ (Printed Name)
	Its: _____

ATTEST:

_____
Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

_____
David Linehan, City Attorney

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION

SUBJECT:

Ordinance No. 18-1101, regarding CCD Black Diamond Partners LLC and Ten Trails Residential Owners Association a Non- Exclusive Franchise to use and occupy certain public right of ways

Agenda Date: June 7, 2018 | **AB18-040A**

Mayor Carol Benson	
City Administrator	
City Attorney David Linehan	
City Clerk – Brenda L. Martinez	
Com Dev/Nat Res – Andy Williamson	
Finance – May Miller	
MDRT/Ec Dev – Andy Williamson	X
Police – Chief Kiblinger	
Public Works – Seth Boettcher	
Court – Stephanie Metcalf	

Cost Impact - N/A

Fund Source:

Timeline: Immediately

Agenda Placement: ☒ Mayor ☐ Two Councilmembers ☐ Committee Chair ☐ City Administrator

Attachments: Ordinance No. 18-1101

SUMMARY STATEMENT:

Granting CCD Black Diamond and the Ten Trails Residential Owners Association, Non-Exclusive franchise to use and occupy certain public rights-of-way for the purpose of construction, maintaining, and operating private drainage systems, including rain gardens and systems; irrigation systems, including reclaimed water distribution; landscaping lighting; private sanitary sewer systems; and appurtenances.

CCD Black Diamond and the Ten Trails Residential Owners Association meets the qualifications to operate within the City Right-of-Way per the Development Agreement, chapter 7.1.7

CCD Black Diamond and the Ten Trails Residential Owners Association will be required to obtain any and all regulatory permit required by the City prior to beginning work in the City's Right-of-Way. Following any work within the Right-of-Way, CCD Black Diamond and the Ten Trails Residential Owners Association will be required to restore the area of construction to the reasonable satisfaction of the City.

FISCAL NOTE: No Fiscal impact

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to adopt Ordinance No. 18-1101, authorizing the Mayor to execute an agreement with CCD Black Diamond Partners LLC and Ten Trails Residential Owners Associate a Non- Exclusive Franchise to use and occupy certain public right of ways.**

RECORD OF COUNCIL ACTION

Meeting Date	*Action*	*Vote*
March 1, 2018	Pulled from agenda.	
June 7, 2018		

ORDINANCE NO. 18-1101

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON, GRANTING TO CCD BLACK DIAMOND PARTNERS LLC, TEN TRAILS COMMUNITY COUNCIL, AND TEN TRAILS RESIDENTIAL OWNERS ASSOCIATION A NON-EXCLUSIVE FRANCHISE TO USE AND OCCUPY CERTAIN PUBLIC RIGHTS-OF-WAY FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING, AND OPERATING PRIVATE STORM DRAINAGE SYSTEMS, INCLUDING RAIN GARDENS AND BIO RETENTION SYSTEMS; IRRIGATION SYSTEMS, INCLUDING RECLAIMED WATER DISTRIBUTION; LANDSCAPE LIGHTING; PRIVATE SANITARY SEWER SYSTEMS; AND APPURTENANCES.

WHEREAS, RCW 35A.47.040 authorizes code cities to issue non-exclusive franchises for use of public street and rights-of-way, and

WHEREAS, the City has determined that the improvements contemplated and regulated by this ordinance are appropriate and in the best interests of current and future residents of the City; and

WHEREAS, this ordinance has been introduced more than five (5) days prior to its passage by the City Council, and

WHEREAS, this ordinance has been submitted to the City Attorney and has received at least a majority vote of the entire City Council at a regular meeting, now, therefore

THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Rights Granted. The right is hereby granted to CCD BLACK DIAMOND PARTNERS LLC, the TEN TRAILS COMMUNITY COUNCIL, and the TEN TRAILS RESIDENTIAL OWNERS ASSOCIATION, their heirs, successors, legal representatives and assigns (collectively hereinafter referred to as the "Grantee") to lay, construct, extend, maintain, repair, renew, operate, and replace private storm drainage systems, including rain gardens and bio retention systems, irrigation systems, including reclaimed water distribution, landscape lighting, private sanitary sewer systems, and appurtenances in, on, under, over, though, along and/or across the public right-of-ways within The Villages Master Planned Development as legally described in Exhibit B to The Villages Master Planned Development Agreement dated December 12, 2011 recorded under King County recording no. 2012013000065 as amended (the "Development Agreement") located in the City of Black Diamond (hereinafter referred to as the "City") for the term of ten (10)-years from and after the effective date of this ordinance, except as hereinafter provided. At the end of the ten (10)-year period this franchise shall automatically renew on the anniversary date each year thereafter unless one party gives the other party written notice of intent to terminate the franchise at least six (6) months in advance of the anniversary date. The City of

Black Diamond agrees to not unreasonably withhold such franchise renewal provided the purpose of the franchise has not substantially changed. In the event that this franchise continues beyond the existence of the Master Development Review Team ("MDRT") as defined in the Development Agreement, the City Public Works Director shall succeed the MDRT with regard to all rights and obligations conferred by this franchise.

Section 2. City's Reservation of Rights. Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances, and permit requirements regulating the performance of the conditions of this franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control by appropriate regulations the location, elevation, manner of construction and maintenance of any facilities of the Grantee, and the Grantee shall promptly conform with all such regulations, and permit requirements, unless compliance would cause the Grantee to violate other requirements of law.

Section 3. Franchise Fee. In consideration of the fact that i) the Development Agreement requires the recharge of groundwater with stormwater infiltrated using low impact development techniques and infiltration facilities, ii) the City requires adaptive management of detention and discharge rates and maintenance of hydrology for Black Diamond Lake and wetlands on the site through recharge, and iii) that the only feasible route to achieve these standards and conditions is by crossing and within the City right of way, the City will not impose a franchise fee. Further, in consideration for Grantee providing and paying for the cost of irrigation systems, reclaimed water systems, and water necessary for irrigation of landscape improvements on City-owned property, at no charge to the City, the City will not impose a franchise fee. In addition, in consideration of landscape lighting being provided where appropriate to enhance the character of the community while providing a higher level of security for all citizens of the community who may use the parks and trails at night and that the cost to operate the lights will be at no cost to the City, the City will not impose a franchise fee. Finally, in consideration of the fact that private side sewers are required by the City to be placed in City right of way because it is the most protected and practical route, the City will not impose a franchise fee.

Section 4. Approval of Plans. Prior to construction of any of the facilities in the area described in Section 1 herein, the Grantee shall submit to the City's MDRT , in triplicate, plans drawn to an accurate scale, showing the exact location, character, position, depth and height of the work to be done. The plans shall accurately depict the relative position and location of all lines, facilities and appurtenances to be constructed, hung, laid, re-laid, installed, replaced, repaired, connected or disconnected, in the existing street or public right-of-way. All streets and public right-of-way denoted thereon shall be designated by their name and number and any local improvements therein such as roadway pavement, shoulders, sidewalks, curbs, gutters, ditches, driveways, parking strips, telephone or electric distribution poles, conduits, storm, gas or water pipes as may exist on the ground or area above sought to be occupied shall be outlined.

In the construction proposed by the Grantee, all materials and equipment shall be of the first class type and kind. The exact class and type to be used shall be shown on the plans,

as will the equipment to be used and the mode of safeguarding and facilitating the public traffic during construction. The manner of excavation, construction installation, backfill and temporary structures (such as traffic turnouts, road obstructions, etc.) shall meet with the approval of, pass all requirements of, and be constructed under the supervision of the MDRT. Prior to approval of any work under this franchise, the MDRT may require such modifications or changes, deemed necessary to properly protect the public in the use of the public places, and may fix the time or times within and during which such work shall be done. The Grantee shall submit a Right-of-Way Use Permit and/or Utility Permit as required by the MDRT prior to work within the City's right-of-way.

Section 5. Requirement for Work in Public Rights-of-Way. Whenever the Grantee shall excavate in any public right-of-way for the purpose of installation, construction, repair, maintenance or relocation of its facilities, it shall apply to the City for a permit to do so and, in addition, shall give the City at least ten (10) working days' notice of intent to commence work on main lines in the right-of-way, unless such notice is waived by the MDRT. In no case shall any work commence within any public right-of-way without a permit, except as otherwise provided in this franchise ordinance.

During any period of relocation, installation, construction or maintenance, all surface structures, if any, shall be erected and used in such places and positions within said public right-of-ways and other public properties so as to interfere as little as possible with the free passage of traffic and the free use of adjoining property, and the Grantee shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or the laws of the State of Washington, including RCW 39.04.180 for the construction of trench safety systems.

If the Grantee shall at any time plan to make excavations in any area covered by this franchise and as described in this Section, the Grantee shall afford the City, upon receipt of a written request to do so, an opportunity to share such excavation, PROVIDED THAT:

A. Installation of any lines is compatible with all federal, state and local regulations and Grantee's construction standards;

B. Such joint use shall not unreasonably delay the Grantee's work;

C. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties;

D. The Grantee may deny such request for safety reasons.

Section 6. Protection of the Public Health, Safety and Property. Whenever an accident, faulty operation, excavation, fill or other condition associated with the construction, installation, maintenance or repair of the facilities authorized under this franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining

street or public place, or endanger the public, and adjoining public place or street utilities or City property, the MDRT may direct the Grantee, at its own expense, to take actions to protect the public, adjacent public places, City property and street utilities, and may require compliance within a prescribed time.

In the event that the Grantee fails or refuses to take the actions directed promptly, or fails to fully comply with such directions given by the MDRT, or if emergency conditions exist which require immediate action, the City may enter upon the property and take such actions necessary to protect the public, the adjacent streets, or streets, or street utilities, or to maintain the lateral support thereof, including placing of temporary shoring, backfilling, alteration of drainage patterns and any other actions reasonable necessary to decrease the possibility of earth movement, or actions regarded as necessary safety precautions; and the Grantee shall be liable to the City for the costs thereof.

Section 7. Records. Grantee shall at all times keep complete records showing the relative location and size of all facilities heretofore installed in public right-of-ways within the City. Such records shall be kept current by the Grantee, who shall provide as-builts to the City when this franchise is granted, and if the City permits additional installations, then immediately after construction is complete.

Upon the City's request for information on the location of Grantee's facilities prior to the designing of rights-of-way improvements or other City improvements, the Grantee shall respond with the information on both the horizontal and vertical depth location of the Grantee's facilities no later than two (2) business days after the receipt of the request, unless otherwise agreed by the parties in writing. The City, as excavator, shall have the right to receive compensation from the Grantee for all costs incurred if the Grantee does not accurately locate its facilities as required by this section and in accordance with RCW 19.122.030. Such compensation shall be paid by the Grantee to the City within thirty (30) days after receipt of an invoice

Section 8. Recovery of Costs. During the term of the Development Agreement, Grantee shall be responsible for all costs associated with activities undertaken through the authority granted in this franchise ordinance in accordance with the terms of the MPD Funding Agreement, Exhibit N to the Development Agreement. Thereafter, the Grantee shall be responsible for all permit fees associated with activities undertaken through the authority granted in this franchise ordinance or under the laws of the City. When the City incurs costs and expenses for review, inspection or supervision of activities undertaken through the authority granted in this franchise or any ordinances relating to the subject for which a fee is not established, the Grantee shall pay such costs and expenses directly to the City.

Section 9. Restoration. The Grantee shall, after installation, construction, relocation, maintenance or repair of its facilities within the franchise area, restore the surface of the right-of-way to at least the same condition the property was in immediately prior to any such installation, construction, relocation, maintenance or repair. The MDRT shall have final approval of the condition of such streets after restoration or repair. All concrete encased monuments which have been disturbed or displaced by such work shall be restored pursuant to all federal, state and local standards and specifications. The Grantee agrees to promptly complete all restoration work and

to promptly repair any damage caused by such work to the affected area at its sole cost and expense.

Section 10. Indemnification. The Grantee hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents, volunteers, and representatives from any and all claims, injuries, damages, costs, judgments, awards or liability to any person, including claims by the Grantee's own employees to which the Grantee might otherwise be immune under Title 51 RCW, arising out of or related to any activities or operations performed by Grantee or on Grantee's behalf under or in connection with this franchise, except for injuries or damages to persons or property caused by the sole negligence of the City.

The Grantee further releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents, volunteers, and representatives from any and all claims, injuries, damages, costs, judgments, awards or liability to any person including claims by the Grantee's own employees, including those claims to which the Grantee might otherwise be immune under Title 51 RCW, arising against the City (1) solely by virtue of the City's ownership or control of the rights-of-way; (2) by virtue of the Grantee's exercise of the rights granted herein; or (3) by virtue of the City's permitting the Grantee's use of the City's rights-of-way; which claims are based upon the City's inspection or lack of inspection of work performed by the Grantee, its employees, agents, officers or representatives, in connection with the work authorized on the City's property or property over which the City has control, pursuant to this franchise or pursuant to any other permit or approval issued in connection with this franchise.

This covenant of indemnification shall include, but not be limited by this reference, claims against the City arising as a result of negligent acts or omissions of the Grantee, its employees, officers, representatives or agents in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction or work in any public right-of-way in the performance of the work or services permitted under this franchise.

Inspection or acceptance by the City of any work performed by the Grantee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

In the event that the Grantee refuses the tender of defense in any suit or claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter) to have been a wrongful refusal on the part of the Grantee, then the Grantee shall pay all of the City's costs of defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable attorneys' fee for recovering under this indemnification clause.

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 Grantee and the City, its officers, employees and agents, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence. It is further specifically and expressly understood that the indemnification provided herein covers claims by the Grantee's own employees from which the Grantee might otherwise be immune under Title 51 RCW, and this waiver has been mutually negotiated by the parties.

Section 11. Bond. Except for a street-restoration bond applicable to future repair and maintenance projects undertaken by the developer, the City will not require the Grantee to post bond for the faithful performance of the terms and conditions of this franchise.

Section 12. Relocation. Grantee agrees and covenants at its sole cost and expense, to protect, support, temporarily disconnect, or relocate any of its installations within City right-of-ways when so required by the City by reason of traffic conditions or public safety, dedications of new rights-of-way and the establishment and improvement thereof, widening and improvement of existing rights-of-way, street vacations, change or establishment of street grade, or the construction of any public improvement or structure by any governmental agency acting in a governmental capacity (any or all of which, individually or collectively, constitute a "Public Project").

Any condition or requirement (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permit for zoning, land use, construction or development) imposed by the City upon any third party or agreed upon between the City and any third party that reasonably necessitates the relocation of Grantee's facilities within the franchise area shall be deemed to be at the request of and to accommodate such third party.

If the City determines that a Public Project necessitates the relocation of Grantee's then existing facilities, the City shall:

A. At least sixty (60) days prior to the notice to proceed with the Public Project, provide Grantee with written notice requiring such relocation; and

B. Provide Grantee with copies of pertinent portions of the plans and specifications for the Public Project and a proposed location for Grantee's facilities so that Grantee may relocate its facilities in other City right-of-way in order to accommodate the Public Project.

C. After receipt of the notice to relocate and the plans and specifications for the Public Project, Grantee shall complete relocation of its facilities at least ten (10) days prior to commencement of the City's Public Project at no charge or expense to the City. Relocation shall be accomplished in such a manner as to accommodate the Public Project.

Grantee may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise Grantee in writing if one or more of the alternatives are suitable to accommodate the work

which would otherwise necessitate relocation of the facilities. If so requested by the City, Grantee shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by Grantee full and fair consideration. In the event the City ultimately determines that there is no other reasonable or feasible alternative, Grantee shall relocate its facilities as otherwise provided in this Section. The provisions of this Section shall survive the expiration or termination of this franchise agreement.

The provisions of this Section shall in no manner preclude or restrict Grantee from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person or entity other than the City, where the facilities to be constructed by said person or entity are not or will not become City-owned, operated or maintained facilities, provided that such arrangements do not unduly delay a City construction project.

Section 13. Non-Exclusive Franchise Grant. This franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any of said streets, avenues, alleys or public rights-of- way of every type and description. Such franchise shall in no way prevent or prohibit the City from using any of said roads, streets or public rights-of-way, or affect the City's jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new rights-of-way of every type and description.

Section 14. Forfeiture and Revocation. If Grantee willfully violates or fails to comply with any of the provisions of this franchise, or through willful misconduct or gross negligence fails to heed or comply with any notice given the Grantee by the City under the provisions of this franchise, then the Grantee shall, at the election of the City Council, forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the Council after a hearing held upon at least thirty (30) days notice to the Grantee. Prior to or at the hearing, the Grantee may request a reasonable time within which to remedy the default.

The City may elect, in lieu of the above and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling the Grantee to comply with the provisions of this ordinance, and to recover damages and costs incurred by the City by reason of the Grantee's failure to comply.

In addition to any other remedy provided herein, the City reserves the right to pursue any legal remedy to compel or force the Grantee to comply with the terms of this franchise, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

Section 15. Insurance. Grantee shall procure and maintain for the duration of this franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to the Grantee, its officials, employees and representatives. Grantee shall provide a copy of its insurance policy(ies) to the City for its inspection prior to the adoption of this franchise ordinance.

Grantee shall obtain and maintain insurance of at least the following types of coverage and minimum coverage limits:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01, and shall have a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.

2. Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from operations, products-completed operations, and stop-gap liability, and shall be written with limits no less than $1,000,000 each occurrence, $2,000,000 general aggregate, and a $2,000,000 products- completed operations aggregate limit. There shall be no exclusion for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.

Any deductibles or self-insured retentions must be declared to and approved by the City. Payment of deductible or self-insured retentions shall be the sole responsibility or the Grantee. If the Grantee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Grantee, irrespective of whether such limits maintained by the Grantee are greater than those required by this franchise or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Grantee.

The insurance policy obtained by Grantee shall name the City, its officers, officials, employees, and volunteers as additional insureds with regard to activities performed by or on behalf of the Grantee. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, or volunteers. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Grantee's insurance shall be primary insurance as respects the City, its officers, officials, employees or volunteers. Any insurance, self-insurance, or self-insured pool coverage maintained by the City, its officers, officials, employees, and volunteers shall be in excess of Grantee's insurance and shall not contribute with it. The insurance policy or policies required by this clause shall be endorsed to state that coverage shall not be suspended, voided, or canceled by either party, or reduced in coverage or in limits, except after thirty (30) days prior written notice, by certified mail, return receipt requested, has been given to the City. Any failure to comply with the reporting provisions of the policies required herein shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. Before beginning any work under this Agreement, Grantee shall provide evidence, in the form of an original Certificate of Insurance, and a copy of the amendatory endorsements, including the additional insured endorsement, of the insurance requirements specified above. Grantee's failure to maintain the insurance as required shall constitute a material breach of the franchise, upon which the City may, after giving five business days' notice to Grantee to correct the breach, immediately terminate the franchise or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand.

Grantee's maintenance of insurance as required by this franchise does not limit the liability of the Grantee to the coverage provided by such insurance, nor does it otherwise limit the City's recourse to any remedy available at law or in equity.

Section 16. Assignment. This agreement may not be assigned or transferred without the prior, written approval of the City. The Grantee shall provide prompt, written notice to the City of any such proposed assignment. All of the provisions, conditions, regulations and requirements contained in this franchise ordinance shall be binding upon the successors and assigns of the Grantee, and all privileges of the Grantee shall inure to the successors and assigns as if they were mentioned herein.

Section 17. Abandonment of Facilities. Any plan for abandonment of any of Grantee's facilities installed under this franchise or any of its predecessors must be submitted to the City for its written consent. The MDRT shall review the plan for abandonment prior to commencement of any work, and all necessary permits must be obtained prior to such work. The provisions of this Section shall survive the expiration, revocation or termination of this franchise ordinance.

Section 18. Modification. The City and Grantee hereby reserve the right to alter, amend or modify the terms and conditions of this franchise upon written agreement of both parties to such alteration, amendment or modification.

Section 19. Integration. The written provisions and terms of this franchise ordinance shall supersede all prior verbal statements of either party, and any prior franchise ordinance between the parties. Such statements or prior franchise ordinances shall not be effective or be construed as entering into, forming a part of, or altering in any manner whatsoever, this Agreement.

Section 20. Street Vacations. This section will only become operative in those instances where the street vacation is subject to the City's street vacation ordinance, and not in those situations where the street has been vacated by the lapse of time and operations of law. The City may have occasion to vacate certain streets, public ways or areas that have Grantee's facilities located thereon. City agrees to exert reasonable good faith efforts to reserve an easement for Grantee's facilities when a street, public way or area is vacated. If it is not feasible for City to reserve an easement for Grantee's facilities, the proponents of the vacation shall be required (by City) as part of land use or other permitting approvals, to reimburse Grantee all costs to relocated said facilities, as allowed by law.

Section 21. Notice. Any notice or information required or permitted to be given to the parties under this franchise agreement may be sent to the following addresses unless otherwise specified:

City of Black Diamond
PO Box 599
Black Diamond, WA 98010
Attn: MDRT

Grantee c/o Oakpointe LLC
3025 112th Ave NE, Suite 100
Bellevue, WA 98004
Attn: Brian Ross

Section 22. Binding Effect. All of the provisions, conditions, regulations and requirements contained in this franchise ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of the Grantee and all privileges, as well as all obligations and liabilities of the Grantee shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever the Grantee is mentioned herein.

Section 23. Compliance with Law. The Grantee, is subcontractors, employees and any person acting on behalf of the Grantee shall keep him/herself fully informed of all federal and state laws and regulations, and all municipal ordinances and regulations which in any manner affect the work or performance of the work authorized under this franchise ordinance, whether or not such laws, ordinances, or regulations are mentioned herein, and shall indemnify the City, its officers, agents, employees, volunteers, or representatives against any claim or liability arising from or based upon the violation of any such laws and regulations.

Section 24. Survival. All of the provisions, conditions, and requirements of Sections 6, 7, 9, 10, 17, and 22 shall survive the City's franchise to the Grantee for the use of the areas mentioned in Section 1 herein, and any renewals or extensions thereof.

Section 25. Severability. If any section, sentence, clause or phrase of this franchise ordinance should be 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 section, sentence, clause or phrase of this franchise ordinance. In the event that any of the provisions of this franchise are held to be invalid by a court of competent jurisdiction, the parties reserve the right to renegotiate the grant of franchise and may amend, repeal, add, replace or modify any other provision of this franchise, or may terminate this franchise.

Section 26. Acceptance. This franchise is granted upon the express condition that Grantee, within thirty (30) days after the adoption of this ordinance, shall file with the Clerk of the City a written acceptance of the same together with the other documentation required in this franchise, and when so accepted by the Grantee shall constitute a contract between the City and Grantee for all of the uses, services and purposes herein set forth.

Section 27. Emergency Work – Permit Waiver. In the event of any emergency in which any of Grantee's facilities located in or under any right-of-way breaks, becomes damaged, or if Grantee's construction area is otherwise in such a condition as to immediately endanger the

property, life, health or safety of any individual, Grantee shall immediately take the proper emergency measures to repair its facilities, to cure or remedy the dangerous conditions for the protection of property, life, health or safety of individuals without first applying for and obtaining a permit as required by this franchise. However, this shall not relieve Grantee from the requirement of obtaining any permits necessary for this purpose, and Grantee shall apply for all such permits not later than the next succeeding day during which the Black Diamond City Hall is open for business.

Section 28. Effective Date. This Ordinance shall take effect on the date of its first publication in the City's official newspaper, or on the date the Grantee submits the written acceptance required by Section 26 above, or on the date when Grantee has executed deeds of dedication for public right-of-way purposes the real property referred to as Tract T in Ten Trails Preliminary Plat 1A, Division 1, and Tract A in Ten Trails Preliminary Plat 2C, Division 1, whichever occurs later.

PASSED BY THE COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AND APPROVED BY ITS MAYOR AT A REGULAR MEETING OF SAID COUNCIL HELD ON THIS 7TH DAY OF JUNE 2018.

APPROVED:

_____
Mayor

ATTEST/AUTHENTICATED:

_____
CITY CLERK,

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
David A. Linehan

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO._____

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION

SUBJECT:

Resolution approving Deed of Dedication for Right of Way in Tract "T" of the Ten Trails P1A Div 1 Final Plat and Tract "A" of the Ten Trails 2C Div 1 Final Plat.

Agenda Date: June 7, 2018 AB18-061

Mayor Carol Benson	
City Administrator	
City Attorney David Linehan	
City Clerk – Brenda L. Martinez	
Com Dev/Nat Res –	
Finance – May Miller	
MDRT/Ec Dev – Andy Williamson	X
Police – Chief Kiblinger	
Public Works – Seth Boettcher	
Court – Stephanie Metcalf	

Cost Impact (see also Fiscal Note): $ N/A

Fund Source: N/A

Timeline: Immediately

Agenda Placement: ☒ Mayor ☐ Two Councilmembers ☐ Committee Chair ☐ City Administrator

Attachments: Resolution and Deed of Dedication

SUMMARY STATEMENT:

In order to pass Ordinance No. 18-1101, regarding CCD Black Diamond Partners LLC and Ten Trails Residential Owners Associate a Non- Exclusive Franchise to use and occupy certain public right of ways. The city must obtain the Deed of Dedication for the public use of right-of-way as described in the next paragraph.

The Subject Property dedicated for use as public right-of-way is further described as "Tract T" as shown on Sheet 4 of 8 of the Ten Trails PP1A Division 1 final plat, recorded under King County recording number 20171107001311, and "Tract A" as shown on Sheet 5 of 13 of the Ten Trails Phase 2 Plat C Division 1 final plat, recorded under King County recording number 20171227000503, both of which are incorporated herein by reference.

FISCAL NOTE (Finance Department): N/A

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to approve Resolution No. 18-1250, accepting and authorizing the Mayor to execute the Deed of Dedication for the use as public Right-of-Way in Tract T of P1A Div 1 final plat and Tract A of P2C Div 1 final plat.**

RECORD OF COUNCIL ACTION		
Meeting Date	***Action***	***Vote***
June 7, 2018		

RESOLUTION NO. 18-1250

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ACCEPTING DEDICATION OF PUBLIC RIGHTS-OF-WAY IN TEN TRAILS PLAT 1A DIVISION 1 AND PLAT 2C DIVISION 1

WHEREAS, the City Council previously approved final plats for two subdivisions known as Plat 1A Division 1 and Plat 2C Division 1 of the master planned development now known as "Ten Trails," on October 19, 2017, and December 7, 2017, respectively; and

WHEREAS, both of these final plats include tracts that were designated as private road and utility tracts at the time of recording—namely, Tract T of Ten Trails Plat 1A Division 1, and Tract A of Ten Trails Plat 2C Division 1; and

WHEREAS, both of these final plats include a recorded requirement that the master developer, CCD Black Diamond Partners, LLC, direct the Ten Trails Community Council to execute a deed of dedication granting these private road and utility tracts to the City for public right-of-way purposes at such time as the City Council approves a franchise agreement with the Ten Trails Community Council for operation and maintenance of private facilities located within these tracts (such as rain gardens, drainage easements, irrigation lines, and cable and broadband facilities); and

WHEREAS, the Ten Trails Community Council, as grantor, has now executed a Right-of-Way Deed of Dedication of the aforementioned tracts to the City for use as public right-of-way, as shown on Attachment A hereto; and

WHEREAS, it is in the City's interest to accept this dedication and thereby assume control and maintenance of the aforementioned rights-of-way for the permanent use and enjoyment of City residents;

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

Section 1. Acceptance of Dedication. The Black Diamond City Council hereby accepts the dedication of public rights-of-way described in Attachment A hereto.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 7TH DAY OF JUNE 2018.

CITY OF BLACK DIAMOND:

_____

Carol Benson, Mayor

Attest:

_____

Brenda L. Martinez, City Clerk

WHEN RECORDED RETURN TO:

CITY CLERK
CITY OF BLACK DIAMOND
P O BOX 599
BLACK DIAMOND, WA 98010

RIGHT-OF-WAY DEED OF DEDICATION (PUBLIC STREET)

Grantor:	Ten Trails Community Council, a Washington nonprofit corporation
Grantee:	City of Black Diamond, a Washington municipal corporation
Legal Description:	See Exhibit A, attached
Abbreviated Legal:	Tract T of Ten Trails PP1A Division 1, as per plat recorded in Volume 280 of Plats, pages 1-8, under King County Recording Number 20171107001311; Together with Tract A of Ten Trails Phase 2 Plat C Division 1, as per plat recorded in Volume 281 of Plats, pages 1-13, under King County Recording Number 20171107001311.

Tax Parcel Identification Number: 8576001030; 8576011120

Reference Numbers of Related Documents: 20171107001311; 20171227000503

Ten Trails Community Council ("Grantor"), a Washington nonprofit corporation, for and in consideration of plat approvals for subdivisions known as Ten Trails PP1A Division 1 and Ten Trails Phase 2 Plat C Division 1, and in fulfillment of final plat requirements recorded thereon, hereby dedicates, conveys, and quitclaims to the City of Black Diamond ("Grantee"), a

Washington municipal corporation, for use as a public right-of-way, all of Grantor's interest in the real property legally described as follows ("Subject Property"):

See Exhibit A, attached hereto and incorporated herein.

The Subject Property dedicated for use as public right-of-way is further described as "Tract T" as shown on Sheet 4 of 8 of the Ten Trails PP1A Division 1 final plat, recorded under King County recording number 20171107001311, and "Tract A" as shown on Sheet 5 of 13 of the Ten Trails Phase 2 Plat C Division 1 final plat, recorded under King County recording number 20171227000503, both of which are incorporated herein by reference.

Said dedication is situated in County of King, State of Washington and comprises King County Tax Parcel Numbers 8576001030 and 8576011120, which are owned by Grantor as of the date hereof.

The above-described dedication is subject to all matters of record, including without limitation: any easements, restrictions, reservations, covenants, and/or agreements of record.

The obligations set forth herein are binding on and shall inure to the benefit of Grantee, Grantor, and their successors and assigns.

[SIGNATURE APPEARS ON THE FOLLOWING PAGE]

DATED this _____ day of _____, 2018.

GRANTOR: _____

Printed name: _____
Title: _____
Ten Trails Community Council

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument on oath stated that he was authorized to execute the instrument and acknowledge it as the _____ of Ten Trails Community Council to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this ____ day of _____, 2018.

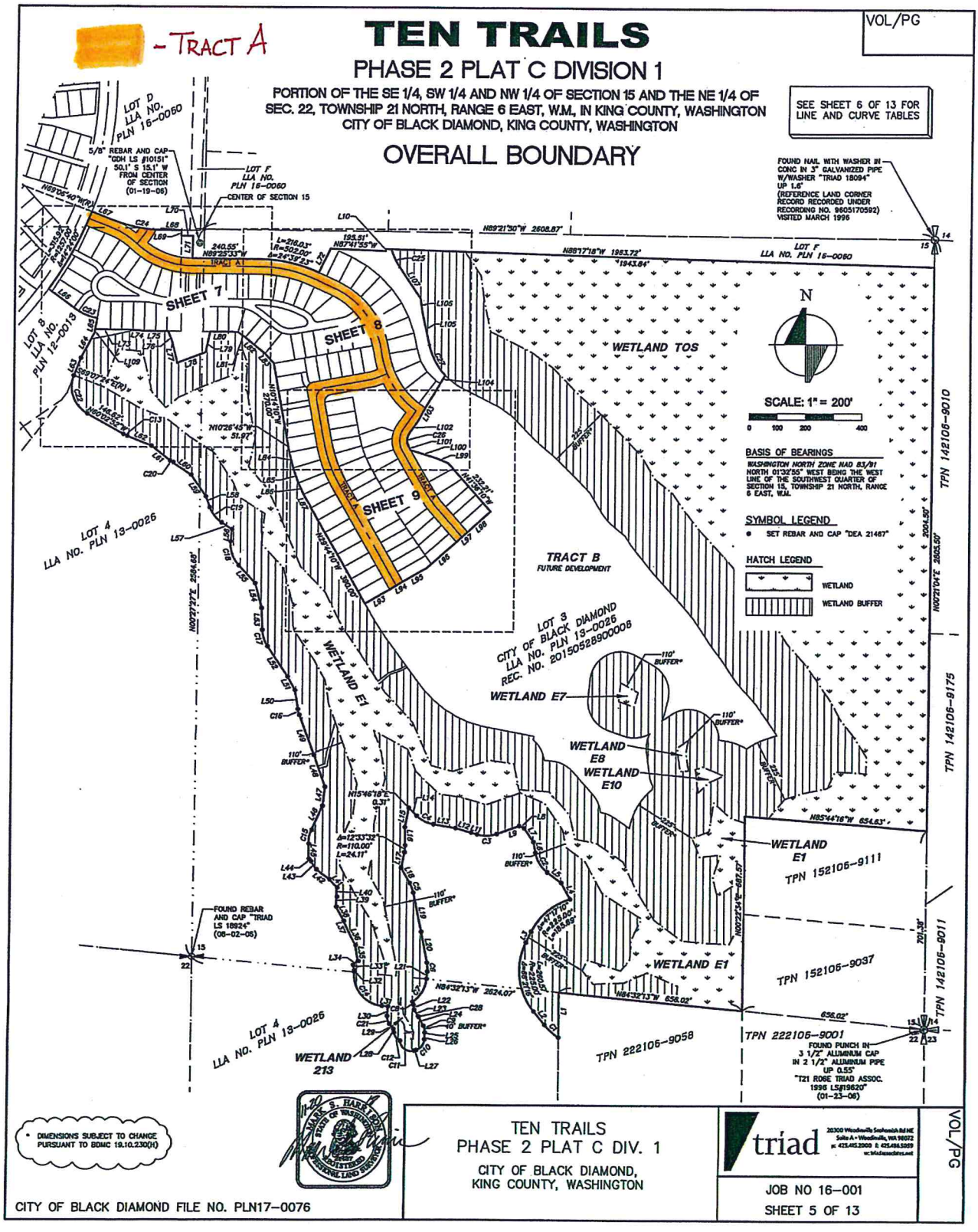
_____
NOTARY PUBLIC in and for the State of Washington
Residing at: _____
My appointment expires: _____

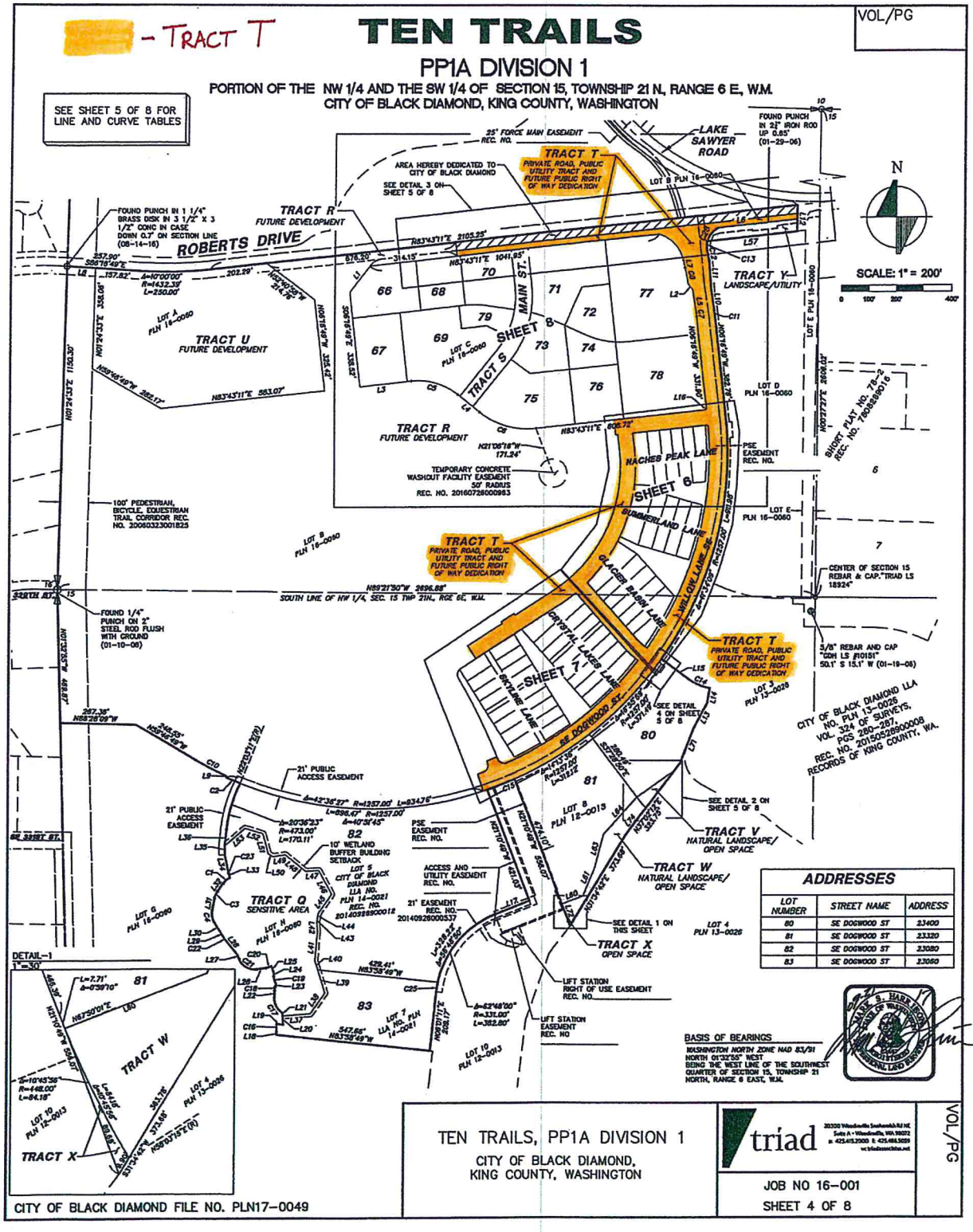
EXHIBIT A
TEN TRAILS PP1A DIVISION 1 AND PLAT 2C OAKPCBDP-6001
PUBLIC ROAD DEDICATION LEGAL DESCRIPTION: MAY 21, 2018

TRACT T, TEN TRAILS PP1A DIVISION 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 280 OF PLATS AT PAGES 1-8, UNDER KING COUNTY RECORDING NUMBER 20171107001311;
CONTAINING 274,489 SQUARE FEET, MORE OR LESS (6.30 ACRES, MORE OR LESS);

TOGETHER WITH TRACT A, TEN TRAILS PHASE 2 PLAT C DIVISION 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 281 OF PLATS AT PAGES 1-13, UNDER KING COUNTY RECORDING NUMBER 20171227000503;
CONTAINING 164,823 SQUARE FEET, MORE OR LESS (3.78 ACRES, MORE OR LESS);

ALL SITUATE IN THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON.


- TRACT A
TEN TRAILS
PHASE 2 PLAT C DIVISION 1
PORTION OF THE SE 1/4, SW 1/4 AND NW 1/4 OF SECTION 15 AND THE NE 1/4 OF SEC. 22, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON
CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON
OVERALL BOUNDARY
VOL/PG
SEE SHEET 6 OF 13 FOR LINE AND CURVE TABLES
SHEET 7
SHEET 8
SHEET 9
TRACT A
TRACT B
FUTURE DEVELOPMENT
WETLAND TOS
WETLAND E1
WETLAND E7
WETLAND E8
WETLAND E10
WETLAND 213
110' BUFFER*
225' BUFFER*
40' BUFFER*
SCALE: 1" = 200'
BASIS OF BEARINGS
WASHINGTON NORTH ZONE NAD 83/91
NORTH 01°32'55" WEST BEING THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.
SYMBOL LEGEND
SET REBAR AND CAP "DEA 21467"
HATCH LEGEND
WETLAND
WETLAND BUFFER
LOT D LLA NO. PLN 16-0060
LOT F LLA NO. PLN 16-0060
LOT 8 LLA NO. PLN 12-0013
LOT 4 LLA NO. PLN 13-0026
CITY OF BLACK DIAMOND LLA NO. PLN 13-0026 REC. NO. 20150528900008
TPN 142106-9010
TPN 142106-9175
TPN 152106-9111
TPN 152106-9037
TPN 142106-9011
TPN 222106-9058
TPN 222106-9001
5/8" REBAR AND CAP "CDH LS #10151" 50.1' S 15.1' W FROM CENTER OF SECTION (01-19-06)
CENTER OF SECTION 15
FOUND NAIL WITH WASHER IN CONC IN 3" GALVANIZED PIPE W/WASHER "TRIAD 18094" UP 1.6' (REFERENCE LAND CORNER RECORD RECORDED UNDER RECORDING NO. 9605170592) VISITED MARCH 1996
FOUND REBAR AND CAP "TRIAD LS 18924" (08-02-05)
FOUND PUNCH IN 3 1/2" ALUMINUM CAP IN 2 1/2" ALUMINUM PIPE UP 0.55' "T21 R06E TRIAD ASSOC. 1996 LS#19620" (01-23-06)
N89°21'50"W 2608.87'
N88°17'18"W 1983.72'
*1943.84'
N89°25'33"W 240.55'
L=216.03'
R=502.00'
Δ=24°39'23"
N87°41'55"W 193.51'
N85°44'16"W 654.63'*
N00°21'04"E 2605.50'
N00°22'34"E 687.57'
N00°22'34"E 2584.68'
N84°32'13"W 2624.07'
N84°32'13"W 658.02'
656.02'
701.39'
2004.50'
DIMENSIONS SUBJECT TO CHANGE PURSUANT TO BDMC 19.10.230(H)
CITY OF BLACK DIAMOND FILE NO. PLN17-0076
TEN TRAILS
PHASE 2 PLAT C DIV. 1
CITY OF BLACK DIAMOND,
KING COUNTY, WASHINGTON
triad
JOB NO 16-001
SHEET 5 OF 13
VOL/PG


- TRACT T
TEN TRAILS
PP1A DIVISION 1
PORTION OF THE NW 1/4 AND THE SW 1/4 OF SECTION 15, TOWNSHIP 21 N, RANGE 6 E, W.M.
CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON
VOL/PG
SEE SHEET 5 OF 8 FOR LINE AND CURVE TABLES
TRACT T
PRIVATE ROAD, PUBLIC UTILITY TRACT AND FUTURE PUBLIC RIGHT OF WAY DEDICATION
TRACT R
FUTURE DEVELOPMENT
TRACT U
FUTURE DEVELOPMENT
TRACT S
TRACT Y
LANDSCAPE/UTILITY
TRACT Q
SENSITIVE AREA
TRACT V
NATURAL LANDSCAPE/ OPEN SPACE
TRACT W
NATURAL LANDSCAPE/ OPEN SPACE
TRACT X
OPEN SPACE
ROBERTS DRIVE
LAKE SAWYER ROAD
MAIN ST.
NACHES PEAK LANE
SUMMERLAND LANE
CRYSTAL LAKES LANE
SE DOGWOOD ST.
SE 312TH ST.
SHEET 6
SHEET 7
SHEET 8
SCALE: 1" = 200'
ADDRESSES
LOT NUMBER | STREET NAME | ADDRESS
80 | SE DOGWOOD ST | 23400
81 | SE DOGWOOD ST | 23320
82 | SE DOGWOOD ST | 23080
83 | SE DOGWOOD ST | 23060
BASIS OF BEARINGS
WASHINGTON NORTH ZONE NAD 83/91
NORTH 01°32'55" WEST
BEING THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.
TEN TRAILS, PP1A DIVISION 1
CITY OF BLACK DIAMOND,
KING COUNTY, WASHINGTON
triad
JOB NO 16-001
SHEET 4 OF 8
VOL/PG
CITY OF BLACK DIAMOND FILE NO. PLN17-0049

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION

SUBJECT:

Resolution approving the acquisition of a utilities easement for water at Black Diamond Elementary.

Agenda Date: June 7, 2018 **AB18-062**

Mayor Carol Benson	
City Administrator	
City Attorney David Linehan	
City Clerk – Brenda L. Martinez	
Com Dev/Nat Res –	
Finance – May Miller	
MDRT/Ec Dev – Andy Williamson	
Police – Chief Kiblinger	
Public Works – Seth Boettcher	X
Court – Stephanie Metcalf	

Cost Impact (see also Fiscal Note): $200

Fund Source: Water funds

Timeline: June 2018

Agenda Placement: ☒ Mayor ☐ Two Councilmembers ☐ Committee Chair ☐ City Administrator

Attachments: Resolution; Easement and Exhibits

SUMMARY STATEMENT:
Black Diamond Elementary has completed the installation of water utilities for the new school. In order to close out their permit with the City, the Enumclaw School District was required to grant the City a utility easement for a water line. The Enumclaw School District Board has approved granting the easement and it is ready for the City's acceptance.

FISCAL NOTE (Finance Department): N/A

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:
Public Works Committee recommends forwarding to the Council for their approval.

RECOMMENDED ACTION: **MOTION to adopt Resolution 18-1251, approving the acquisition of a utilities easement for water at Black Diamond Elementary.**

RECORD OF COUNCIL ACTION

Meeting Date	*Action*	*Vote*
June 7, 2018		

RESOLUTION NO. 18-1251

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON APPROVING THE ACQUISITION OF A UTILITIES EASEMENT FOR WATER AT BLACK DIAMOND ELEMENTARY

WHEREAS, the Enumclaw School District has completed work at Black Diamond Elementary; and

WHEREAS, the Enumclaw School District was required in their permit to provide a utilities easement for water to the City; and

WHEREAS, the Enumclaw School District Board granted the utilities easement to the City in their May 21, 2018 meeting;

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

Section 1. The City hereby accepts a utilities easement from the Enumclaw School District as contained in the form attached hereto.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 7TH DAY OF JUNE 2018.

CITY OF BLACK DIAMOND:

_____
Carol Benson, Mayor

Attest:

_____
Brenda L. Martinez, City Clerk

UTILITIES EASEMENT

This Utilities Easement ("Easement") is made as of the date set forth herein, by and between Enumclaw School District, ("Grantor"), and the City of Black Diamond, ("Grantee") referred to herein collectively as "the Parties" and individually as termed above or as "Party."

RECITALS

WHEREAS, the Grantor warrants that it is the owner of the property commonly known as 25314 Baker St in the City of Black Diamond, and legally described on Exhibit A, which is attached hereto and incorporated herein by this reference (the "Property") to which the Grantor has good title; and

WHEREAS, the Grantor has agreed to dedicate an easement to the City on the Property to allow the City to operate and maintain public utilities, including public water mains and appurtenances, installed by the Grantor;

NOW, THEREFORE, in furtherance of the recitals set forth above, which are incorporated herein by reference, and in consideration of the mutual obligations and benefits created by this Easement for utilities, the sufficiency and receipt of which is hereby acknowledged, the Parties agree to the following:

1. **Grant of Perpetual Utilities Easement**. Grantor hereby grants and conveys a perpetual, non-exclusive easement for utilities over, across, under, and upon the Property to the City of Black Diamond, its successors, and assigns. The Easement is required for utility mains and appurtenances. The Easement Area is legally described in Exhibit B, and shown on the map in Exhibit C, both of which are attached hereto and incorporated herein by this reference. The Grantor shall bear all installation costs and expenses associated with the initial construction of the utility facilities installed in the Easement Area.
2. **Benefit of Easement**. The easement rights granted and conveyed hereunder shall be for the benefit of and use by the Grantee for conveying, storing, managing, operating, maintaining, constructing, improving, repairing, facilitating and constructing, improving, repairing, and maintaining utility mains, roadways, including road cuts and fills, sidewalks, other access infrastructure, and other utilities and utility systems as reasonably necessary, together with the right for Grantee to access, ingress and egress, across, over, under and upon the Easement Area for said purposes.
3. **Easement Area**. Grantee shall have the right to utilize all the Easement Area as necessary to accommodate all of the above public purposes, including any operation, repair, maintenance, and reinstallation of any utility facilities, without prior institution of suit or

proceeding at law, and at times as may be necessary, to enter upon the Property owned by the Grantor, its successors and assigns, and the Easement Area, in order to install, lay construct, renew, reconstruct, operate, repair, and maintain mains and necessary facilities and other equipment for the purposes of serving the property or other properties with utility service. No other easements for utilities shall be granted within the Easement Area except for necessary crossings as may be mutually approved by the Grantor and Grantee, and the Grantee shall have the exclusive right to construct and/or maintain City owned utilities within the easement area except for necessary crossings. In the event that the Grantee is required to totally replace the utility, the Grantor hereby grants a ten foot temporary construction easement on each side of the easement shown on the attached Exhibit C, to facilitate the replacement or repair work on the public water mains and appurtenances.

4. **Conditions.**

A. *Maintenance and Repair.* Grantee shall be solely responsible for the maintenance, operation, repair and reinstallation of the utilities in the Easement Area. If during the repair or replacement of the water utility facilities within the easement Grantor's surface improvements are damaged, the Grantee will be responsible for restoring the surface of the easement. Restoration will include re-leveling, raking, reseeding, spreading bark or gravel and patching asphalt or concrete. Some impact resulting from the City's right to access the utilities is expected and unavoidable. Grantee shall not be responsible for any damage caused by the Grantor or its agents.

B. *Egress and Ingress.* This Easement includes a right of egress and ingress in reasonable locations, for the Grantee to access the Easement. The Grantee shall exercise its rights under this Agreement so as to minimize interference with the Grantor's use of his/her Property. The Grantee shall have all necessary access to the Easement Area without prior notification to the Grantor.

C. *Conflicts and Additional Easements.* The Grantor agrees that he/she shall not interfere with the Grantee's use of the Easement for the purposes described herein. Grantor agrees that the Grantor shall not grant any additional easements within the Easement area to any other party, without the prior written consent of the Grantee (or as otherwise described in Section 3 herein). Grantor agrees that the following improvements are prohibited within the Easement Area: (1) Structures, permanent or temporary; (2) trees or shrubs; (3) terraced landscape; (4) irrigation systems; (5) landscape water features; (6) any surface improvement that will inhibit access to the utility provided for in the Easement; (7) fences along the easement that would narrow the access. The following surface improvements are allowed within the Easement Area: (1) natural native volunteer vegetation; (2) lawn; (3) bark or gravel surfacing; (4) asphalt or concrete; (5) a fence across the Easement Area will only be allowed by written permission from the City. Additional City terms and conditions may apply.

D. *Indemnity.* In the event of liability for damages arising out of bodily injury to persons or damages to property cause by or resulting from the actions of the Grantee, its officers, officials, employees or agents, the Grantee's liability shall be only to the extent of the Grantee's negligence.

5. **Attorneys' Fees.** In the event it is necessary for either party to initiate any legal proceeding to enforce any provision of this Easement agreement, the substantially prevailing party shall be entitled to an award of reasonable attorney fees, including costs and expert witness expenses.

6. **Termination**. This Easement agreement shall remain in effect perpetually unless a written termination agreement is executed by the Parties.

7. **Successors and Assigns**. This Easement agreement shall be recorded against the Property, and shall be a covenant running with the land, binding the heirs, successors and assigns of the Parties.

8. **Governing Law and Venue**. This Easement agreement shall be governed by and interpreted in accordance with Washington law. Any litigation arising out of or in connection with this Agreement shall be conducted in King County, Washington.

9. **Amendment**. This Easement agreement shall not be modified or amended except by written instrument executed by the duly authorized representatives of the Parties.

DATED this 21st day of May, 2018.

GRANTEE:

CITY OF BLACK DIAMOND

By: _____

_____

Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF K I N G)

The undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, affirms that _____ personally appeared before me, is known to be the _____ of the City of Black Diamond, a Washington municipal corporation, who executed the foregoing instrument, and acknowledged this instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Given under my hand and official seal this _____day of _____, 2018.

_____
Notary Public in and for the State of Washington,
residing at _____
My appointment expires_____

GRANTOR:

_____

By: William Hatzenbeler
William Hatzenbeler
Title: Director of Business + Operations

STATE OF WASHINGTON)
) ss.
COUNTY OF K I N G)

The undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, affirms that William Hatenbeler personally appeared before me, is known to be the Director of Business + Operations of the , a Washington municipal corporation, who executed the foregoing instrument, and acknowledged this instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Given under my hand and official seal this 23 day of May, 2018.

Rachel L McMullen
Notary Public in and for the State of Washington,
residing at Enumclaw, WA
My appointment expires May 11, 2020

RACHEL L. McMULLEN
Notary Public
State of Washington
My Appointment Expires
May 11, 2020

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

LOT 10 AND 11, BLOCK 6, BLACK DIAMOND TOWNSITE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 35 OF PLATS, PAGE 23 TO 27 INCLUSIVE, RECORDS OF KING COUNTY, STATE OF WASHINGTON;

TOGETHER WITH VACATED STREETS AND/OR ROADS ADJOINING, IN ACCORDANCE WITH ORDINANCE NO.V-758, DATED AUGUST 11, 1958.

SITUATE IN THE CITY OF BLACK DIAMOND, COUNTY OF KING, STATE OF WASHINGTON.

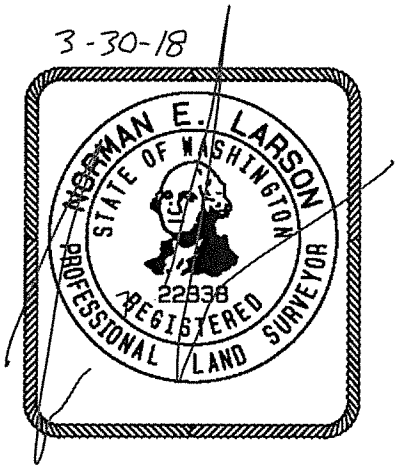


EXHIBIT "B"
LEGAL DESCRIPTION 15' WATERLINE EASEMENT

THAT PORTION OF THE FOLLOWING DESCRIBED PROPERTY:

LOT 10 AND 11, BLOCK 6, BLACK DIAMOND TOWNSITE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 35 OF PLATS, PAGE 23 TO 27 INCLUSIVE, RECORDS OF KING COUNTY, STATE OF WASHINGTON;

TOGETHER WITH VACATED STREETS AND/OR ROADS ADJOINING, IN ACCORDANCE WITH ORDINANCE NO.V-758, DATED AUGUST 11, 1958.

SITUATE IN THE CITY OF BLACK DIAMOND, COUNTY OF KING, STATE OF WASHINGTON.

LYING IN A STRIP OF LAND 15.00 FEET IN WIDTH BEING 7.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE(S):

COMMENCING AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED PROPERTY;
THENCE NORTH 01°33'34" EAST, ALONG THE EAST LINE THEREOF, A DISTANCE OF 114.37 FEET TO A POINT HEREINAFTER REFERRED TO AS **"POINT A"**;
THENCE CONTINUING NORTH 01°33'34" EAST, ALONG SAID EAST LINE, A DISTANCE OF 57.15;
THENCE CONTINUING ALONG SAID EAST LINE, NORTH 12°38'26" WEST, A DISTANCE OF 102.00 FEET TO A POINT HEREINAFTER REFERRED TO AS **"POINT B"**;
THENCE CONTINUING ALONG SAID EAST LINE, NORTH 12°38'26" WEST, A DISTANCE OF 52.26 FEET TO THE **TRUE POINT OF BEGINNING**;
THENCE LEAVING SAID EAST LINE, NORTH 58°02'20" WEST, A DISTANCE OF 8.61 FEET;
THENCE SOUTH 76°56'16" WEST, A DISTANCE OF 212.43 FEET;
THENCE NORTH 57°59'12" WEST, A DISTANCE OF 22.60 FEET;
THENCE SOUTH 76°56'08" WEST, A DISTANCE OF 2.19 FEET TO A POINT HEREINAFTER REFERRED TO AS **"POINT C"**;
THENCE CONTINUING SOUTH 76°56'08" WEST, A DISTANCE OF 43.99 FEET;
THENCE NORTH 80°32'20" WEST, A DISTANCE OF 25.06 FEET;
THENCE SOUTH 76°57'39" WEST, A DISTANCE OF 30.62 FEET TO THE WEST LINE OF SAID LOT 10 AND THE TERMINUS OF SAID LINE;

AND

BEGINNING AT THE AFOREMENTIONED **"POINT A"** ;
THENCE NORTH 81°00'25" WEST, A DISTANCE OF 7.50 FEET TO THE TERMINUS OF SAID LINE;

AND

BEGINNING AT THE AFOREMENTIONED **"POINT B"**;
THENCE SOUTH 76°58'25" WEST, A DISTANCE OF 7.50 FEET TO THE TERMINUS OF SAID LINE;

AND

BEGINNING AT THE AFOREMENTIONED **"POINT C"**;
THENCE NORTH 13°02'21" WEST, A DISTANCE OF 17.25 FEET TO THE TERMINUS OF SAID LINE;

IT IS THE INTENT OF THIS EASEMENT THAT SIDELINES BE EXTENDED TO AND/OR TRUNCATED AT PROPERTY LINES.

SITUATE IN THE CITY OF BLACK DIAMOND, COUNTY OF KING, STATE OF WASHINGTON.

3-30-18

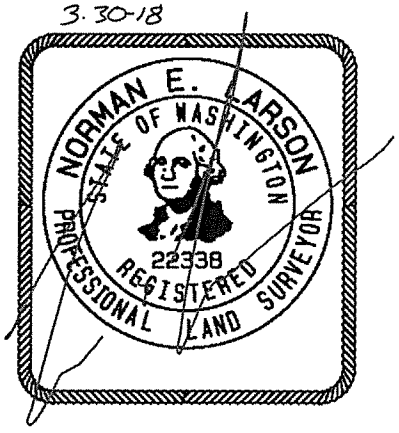
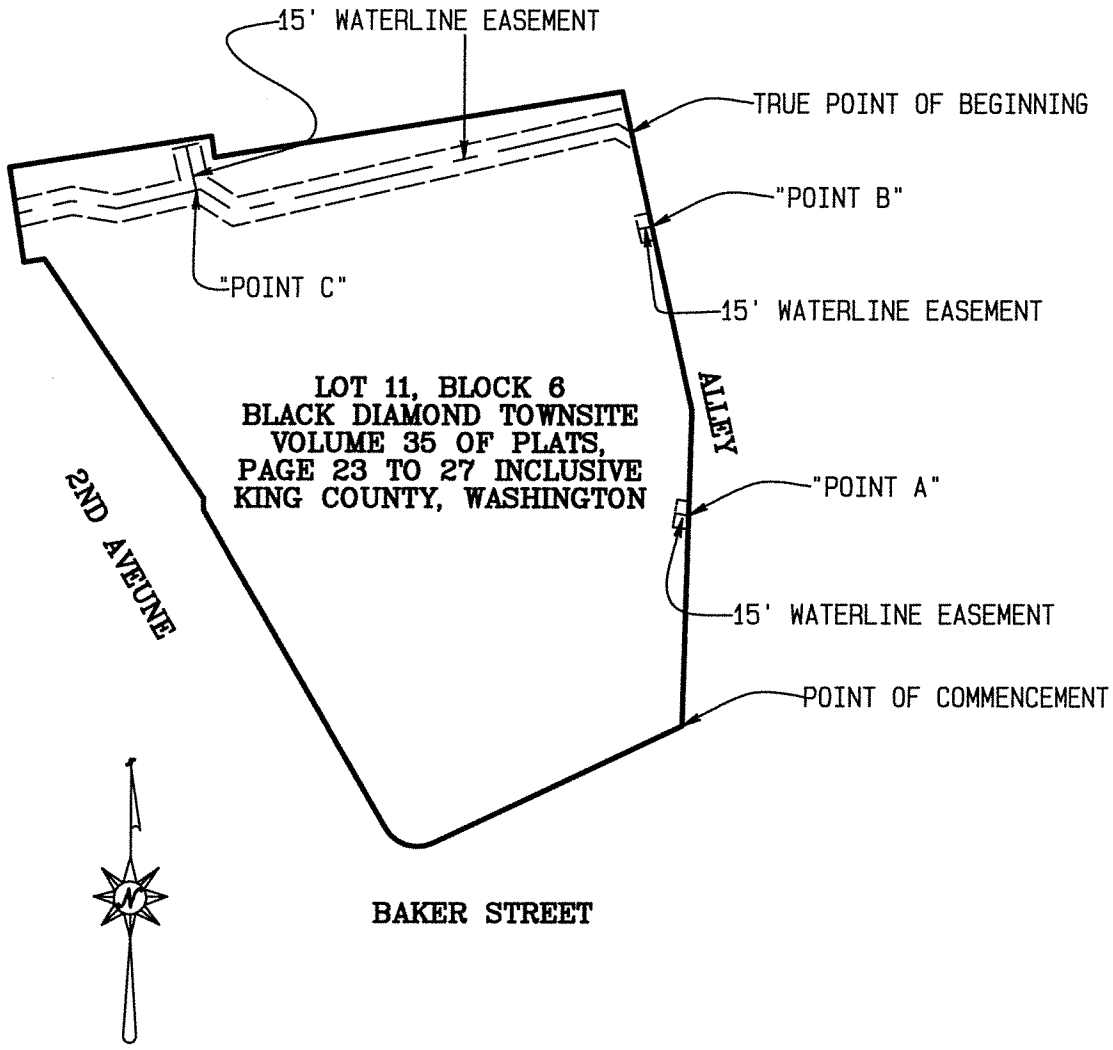


EXHIBIT "C"
15' WATER EASEMENT
SW–NE 14, T.21 N., R.6 E., W.M.



1" = 100'

CENTRE POINTE Consultants, Inc., P.S.
14209 29th Street East, #105 – Sumner, WA 98390
253–987–5924 main 253–987–7859 fax

3-30-18

NORMAN E. LARSON
STATE OF WASHINGTON
22338
REGISTERED
PROFESSIONAL LAND SURVEYOR