



CITY OF BLACK DIAMOND
May 19, 2026 Council Meeting Agenda
Council Chambers, 25510 Lawson St.
Black Diamond, WA 98010

THIS IS OFFERED AS A HYBRID MEETING AND MAY BE ATTENDED IN PERSON AT THE ABOVE NOTED ADDRESS OR BY JOINING VIRTUAL/TELEPHONICALLY. CALL IN AND JOINING INFORMATION FOLLOWS:

Zoom link to join meeting: <https://zoom.us/j/4454477047?pwd=eGxRY3ZEeU14SVM2cGRBcUxCSjdmZz09>

(Note: You do not need a web cam to join the meeting, but you will need audio to hear the proceedings.)

Meeting ID: 445 447 7047 Password: Council

Telephone dial in options: +1 253 215 8782 US (Tacoma) +1 206 337 9723 US (Seattle) Meeting ID: 445 447 7047

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

AGENDA REVIEW AND APPROVAL:

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 360-851-4500. Thank you for attending.

APPOINTMENTS, ANNOUNCEMENTS, PROCLAMATIONS AND PRESENTATIONS:

1) AB26-050 - Council Vacancy Interviews

- a) Interviews with Applicants for Position #7
- b) Possible Executive Session – Pursuant to RCW 42.30.110(1)(h)
- c) Public Comments Regarding Council Candidates
- d) Possible Appointment and Oath of Office

COMMITTEE REPORTS:

DEPARTMENT REPORTS:

CONSENT AGENDA:

- 2) **Claim Checks** – May 19, 2026, Check No. 57310 through Check No. 57360 in the amount of \$1,057,857.08
- 3) **Payroll** – April 2026, Check No. 20610 through 20619 and EFTs in the amount of \$716,071.77
- 4) **AB26-051** – March 2026 Monthly Financial Report Mr. Mason

PUBLIC HEARINGS:

UNFINISHED BUSINESS:

- 5) **AB26-052** – Ordinance Amending Black Diamond Municipal Code Chapter 8.24 Regarding Water Safety Chief Kiblinger

- 6) **AB26-053** – Ordinance Approving a Major Amendment to The Villages MPD Development Agreement Regarding the Construction Timing of Pipeline Road Mr. Linehan

NEW BUSINESS:

- | | | |
|----|---|-----------|
| 7) | AB26-054 – Resolution Authorizing Renewal of Agreement with King County for Lake Sawyer Water Quality Monitoring | Mr. Hanis |
| 8) | AB26-055 - Resolution Authorizing Professional Services Agreement with Stantec, Inc. for 2026 Utility Rates Development Fees Study | Mr. Hanis |
| 9) | AB26-056 - Ordinance Granting to Forged Fiber 37, LLC, a Nonexclusive Telecommunications Franchise | Mr. Hanis |

MAYOR'S REPORT:

COUNCIL REPORTS:

- Councilmember Sorci
- Councilmember Young
- Councilmember Dal Santo
- Councilmember Deady
- Councilmember Nielsen
- Councilmember Peterson

CITY ADMINISTRATOR REPORT:

ATTORNEY REPORT:

PUBLIC COMMENTS:

EXECUTIVE SESSION:

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Council Vacancy Interviews for Position No. 7	Agenda Date: May 19, 2026 AB26-050	
	Mayor John Adler	
	City Administrator - Kevin O'Neill	
	City Attorney - David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev – Hal Hart	
	Finance – Xavier Mason	
	MDRT/Ec Dev – Michelle Wright	
	Police – Chief Kiblinger	
	Public Works – Scott Hanis	
Cost Impact (see also Fiscal Note): N/A	Court – Judge Swain/Tawnya Parks	
Fund Source:		
Timeline:		
Agenda Placement: ☐ Mayor ☐ Two Councilmembers ☐ Committee Chair ☒ City Administrator		
Attachments: Council Applications		
SUMARY STATEMENT: Due to the resignation of Monica Kumar from Position No. 7 on March 10, staff advertised for this vacancy and received five (5) applications. Below are the names of those applicants: • Geoff Bowie • Pam McCain • Charles Menkens • Tommy Paramo-Gomez • Ryan Reed The Council must fill this vacancy within 90 days of the occurrence, which will be June 7 th . At tonight's meeting Council will be interviewing each applicant and could choose to appoint tonight or wait until the following Council meeting. FISCAL NOTE (Finance Department): N/A		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: 1) motion to appoint, or 2) appoint at the next Council meeting.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
May 19, 2026		

Received
03/27/28

APPLICATION FOR APPOINTMENT TO BLACK DIAMOND CITY COUNCIL POSITION #7

Applicant Information

(Please type or print)

Applicant Name

Geoffrey T. Rawia (Geoff)

98010

Residence Address

[Redacted]

Black Diamond, WA

Home Phone

[Redacted]

Work Phone

[Redacted]

Email

[Redacted]

Cover Letter and Resume

Please attach a one-page cover letter and a resume of no more than two pages to this application.

Supplemental Questions

Please respond to the following questions regarding your interest in the position of Councilmember for the City of Black Diamond on separate pages, using no more than 3 pages total:

1. Why are you interested in serving as a Black Diamond City Councilmember?
2. What strength would you bring to the Council?
3. What are the three highest priorities and/or issues you believe the City needs to address? How would you propose to address these issues?
4. Explain your current and past community involvement and/or service on city, nonprofit, or public boards, committees, task forces, or commissions and how this has contributed to the Black Diamond community. Address its relevance to the position of Black Diamond City Councilmember.
5. What do you wish to accomplish during this appointed term as a Black Diamond City Councilmember?
6. What is your vision for our City and community?
7. Is there anything else you would like to add that would help us get to know you a little better?

Please return this form, your cover letter, resume and answers to the supplemental questions to the City Clerk at Black Diamond City Hall (24301 Roberts Drive, mail at PO Box 599, Black Diamond, WA 98010, or by email to bmartinez@blackdiamondwa.gov no later than 3:00 p.m. on April 15, 2026. Applications received after 3:00 p.m. will not be accepted.

If delivered or mailed the application and any correspondence should be addressed to:

Brenda L. Martinez, City Clerk
Black Diamond Councilmember Recruitment
PO Box 599/24301 Roberts Drive
Black Diamond, WA 98010

Geoffrey (Geoff) T. Bowie
Black Diamond, WA

January 6, 2025

March 27, 2026

COVER LETTER

Dear City Council,

You know me from my speaking at City Council meetings because I care deeply about making the best possible future for our city. It would be an honor to serve on the City Council again. Here is a little background.

Back in the 1980's as my family was growing in in Black Diamond, and working in the construction industry, and observing what was or was not happening here in town I felt that I somehow needed help the City. Development was sometimes haphazard, so I got involved.

The summer of 1995 Mayor Howard Botts and Administrator Rick Luther contacted me to let me know there was a vacancy on the Planning Commission. At that time, the Planning Commission did City Planning very directly, as there was no position of Planner or Development Director. Before I knew it, I got know the Planning Commission Chairman Robert (Bob) Kaye.

In September of 1997, Council Member David Paules left the Council. The filling of this position would be an appointment, and I ran run for election at the next regular election. I applied because I wanted to make the time to better help the City of Black Diamond.

On October 8th, 1997 at my first Council meeting, and I felt a bit like I got tossed into an open fire, as on the agenda for this meeting was a Vote for the Annexation of the "Lake Sawyer" area to the City. I felt that I did not have a good handle on the pros and cons of this issue to Vote Yes or No on the matter, so I abstained from voting on that issue. I learned a lot that first meeting from the city attorney at the time.

After 13 years on Council, Mayor Botts presented me with a plaque in appreciation of my creativity, dedication, and leadership in making the city a better place to live, work, and play.

Thank you,
Geoff Bowie

RESUME – Geoff Bowie

CASCADE UTILITIES – October 1989 to Present

In 1989, I was hired as an estimator by the owner of a utility contractor in Redmond, WA, where I still work. My responsibilities include bidding and creating estimates for construction projects, obtaining estimates for needed materials and work to be sub-contracted out, managing the project and arranging resources, from project acquisition through buildout. Fleet management of equipment and vehicles, scheduling the repair and maintenance of tools, to large excavators and trucks.

Local projects included building the Coby Short Plats, the 129-lot Plat of Morgan Creek in Black Diamond, the 80-lot Plat of Willowgate in Enumclaw & an addition of the Flenstad Plat in Enumclaw, the soccer building and manufacturing buildings in Enumclaw. All of these projects Included clearing & grubbing, earthwork & grading, sanitary sewer system, water supply system, storm drainage system including retention/detention facilities of various types(infiltration, wet pond, & detention pipe), and pavements.

Other residential Plat work in all parts of King, Pierce, & Snohomish Counties, and even Moses Lake and Ephrata in Eastern Washington.

Commercial and multi-family projects have included sitework, pavements, sewer, water, and storm improvements throughout the same area.

PARTIAL LIST OF FORMAL CERTIFICATIONS

- Stormwater CESCL Certification (Certified Erosion Sedimentation Control Lead).
- Trench Safety and Confined Space Entry and Training.
- L&I "Competent Person" (required for excavations at each site).
- First Aid for L&I
- MSHA (Mine Safety and Health Administration) Experienced Miner in metal/non-metal program. Requires Yearly Continuing Education.
- EMT Defib, EMT MAST Trousers.
- EMT Certification x2 & recertification 1984.

BLACK DIAMOND CITY COUNCIL 13 YEARS, PLANNING COMMISSION 3 YEARS

Past years in Black Diamond were painful watching haphazard development, so I asked to be placed on the Planning Commission (1993-1996). Then, I filled a vacancy on the City Council and spent a total of 13 years serving on the City Council (1996-2009).

I saw the city through its Comprehensive Plan at that time, which was the first Plan to roughly match our current trajectory. Was part of the original planning for what became Ten Trails and the master planned developments, and hundreds of other decisions on our city code and policies.

ROAD CONSTRUCTION AND LAND DEVELOPMENT

Prior to working at Cascade Utilities, I owned my own excavating business for three years. I went into this after 1 1/2 years in my career working in forest road building, and working for a land development company in Maple Valley.

- January 1970 - 6th Grade Elementary School, started getting paid for working on/repairing equipment at outdoor power equipment shop in above. This work continuing thru end of senior year of high school.
- September 1973 - 10th -12th Grade High School. Worked on the construction/building of the new Enumclaw high school baseball field with other high school classmates. (Our Wood Shop Teacher was also the High School Baseball Coach). The Enumclaw School District got a deal on the cost of building this new baseball facility as it was constructed with a whole bunch of donated student labor.
- October 1973 - 10th Grade. Met my high school sweetheart (Emmy Jo Poleski) in a 10th grade driver's education class.
- July 1973 - June 1974 - 11th Grade. Joined the all-volunteer Fire Department training for basic first aid, learning S.C.B.A. (self-contained breathing apparatus) operations, hose evolutions/pumping drafting procedures and driver training on all of the department Fire Trucks. Responded to fire calls when alerted after school, from work, or home.
- September 1975 - June 1976 11th and 12th Grade. Worked special construction projects for the school as requested by the High School Vice-Principal.
- September 1975 - June 1976 - 12th Grade. Continued volunteering on Fire Department, adding night sleeper shifts at the headquarters fire station. (Enumclaw had been resistive to adding an aid car to the Fire Station, Fred's Towing in town provided ambulance service to the area).
- June 1976 - Last day of High School, I moved into the empty a spare bedroom at the headquarters fire station to live there and volunteer full time when not working my other job.
- July 1976 - Began work at large department store in Enumclaw, getting on the job training in the Sporting Goods department. The Vice-President of this store recruited me away from working at the outdoor power shop after working there for the six years prior.
- June 1977 - Moved into the Single Bay/ Fire Truck Satellite Station west of Enumclaw.
- December 1977 - Began work for Don Walker Logging, Palmer, WA. I was recruited due to my experience driving the tandem axle fire truck. Began driving a tandem axle dump truck working on a road building project to repair a road that had washed out above the Maywood area on the way to the Town of "Lester" up in the Tacoma Watershed East of Palmer, WA.
- February 1979 - My high school sweetheart Emmy Jo Poleski accepts my proposal to get married, and we purchase our first home together in Enumclaw.
- Summer 1980 - Enumclaw adds an Aid Car to the Fire Department. Myself and almost a dozen volunteer firefighters complete the King County E.M.S. Emergency Medical Technician training and receive E.M.T. Certification. Continue responding to fire & aid calls when alerted if available.
- Summer 1980 - At work, a large-diameter cable parted/failed and struck me on the head while loading logs in the upper Seattle Watershed. This was the second such accident and that day I gave my two weeks' notice that I was leaving to stay alive.
- Summer 1980 - 1982 - DeGross Construction - Worked for a local contractor who built and maintained logging roads. I drove a dump truck or pioneered new road rights-of-way during construction.
- October 1981 - My wife Emmy Jo and myself are pleased to announce the birth of our first son.
- Summer 1982 - Become a Founding Member of "Rescue One" described on my resume.
- September 1986 - My wife Emmy Jo and myself are pleased to announce the birth of our second son.
- Summer 1982 - 1988 - Graddon Land Development. As the family was growing, I was looking to get into a more controlled work environment. My position included coordinating the improvement of land, be it a short plat or larger residential plat.
- June - August 1988 - With our family of four, our first home was a bit tight, so we decide to build a new home in Black Diamond on a portion of the old family homestead.

A FOUNDING MEMBER OF "RESCUE ONE" FIRST ENUMCLAW AREA EMERGENCY MEDICAL RESPONSE.

In the early 1980's myself along with other local firefighters and EMT's, local King County Paramedics, local State Patrol Officers, local King County Sheriff's Deputies, we formed an all-volunteer Search and Rescue unit called "Rescue One" under the authority of the Fire District # 28. With private donations we built our own 4 x 4 Rescue vehicle which was staffed and operated by all volunteers and funded by donations.

King County Medic One created a system for us that would allow our King County Paramedics to utilize their skills with our group under their Medical Control System. We were able to take the King County EMS system up East of Enumclaw outside the established boundaries of a King County Fire District. This allowed us to render aid to many that worked, played and traveled the area East of Enumclaw. Later, our off-duty King County Paramedic Use program became the start of a similar program on Snoqualmie Pass and Skykomish both in King County.

FIRE DEPARTMENT VOLUNTEER AND EMT

I responded to Enumclaw Fire calls for nine years which exposed me to a huge number of fire service events, and over a thousand fire and aid calls. While working out of Maple Valley I was asked to lend a hand to King County Fire District # 43 by responding out of Station # 83 just next door to the Playmor Tavern.

During my 11th grade year in 1975 I joined the Enumclaw Fire Department as a volunteer. By my twelfth grade I was leaving high school to jump on a fire truck and go on a fire call during school (perhaps drive), after school was work until 6 p.m. and then to the fire station. My employer would allow me to stop work for fire call response as long as I made up the missed time later that day.

Fire Department expertise was gained through attending department drills, & training, when the opportunity arose live fire training was a must when available. In my spare time I gained exposure to the King County Medic One System by grabbing every ride along shift I could in a King County Medic Unit (as Enumclaw was then not part of that provider system).

LOCAL KNOWLEDGE AND PERSONAL LIFE

My family moved to Enumclaw when I was young and my Dad was hired into the Boeing SST Project In Seattle. I was at Byron Kibler Elementary school for grades 1 - 3, then grades 4 -6 at J.J. Smith School. I started working at an outdoor power equipment shop in Enumclaw during my 6th grade year, which was where I started learning my people skills. Junior high school was in the original 3-story school building on Porter Street, which was torn down years ago. High school was at Enumclaw High School where during my 9th grade year I was drafted into the volunteer crew building the new high school baseball field (Osborne Field). More details are below in my "PRIOR LIFE EXPERIENCE"

Our two boys are the fifth generation of the Poleski family that grew up in Black Diamond on a portion of the Poleski family homestead. Our grandchildren are the sixth generation of the Poleski family that are growing up on the family property.

ANSWERS TO SUPPLEMENTAL QUESTIONS – Geoff Bowie.

1. Why are you interested in serving as a Black Diamond City Councilmember?

I felt the need to get involved for the betterment of the city.

2. What strength would you bring to the Council?

My past experience from being on Council. Knowledge of public works infrastructure, and general knowledge of the city government and construction. A voice as an independent thinker.

3. What are the three highest priorities and/or issues you believe the City needs to address? How would you propose to address these issues?

Finish important required plans on time and to benefit the citizens. Plans like the city's Water System Comprehensive Plan should not linger for years, and this is the kind of issue I would use my experience to address.

Our stormwater system needs to be improved for the health environment, including local fish and other wildlife.

Make sure the city is mindful spending its money. We should not become a tax and spend, but make sure every dollar is spent wisely.

4. Explain your current and past community involvement and/or service on city, nonprofit, or public boards, committees, task forces, or commissions and how this has contributed to the Black Diamond community. Address its relevance to the position of Black Diamond City Councilmember.

My resume provides the answer to this question.

5. What do you wish to accomplish during this appointed term as a Black Diamond City Councilmember?

To help make the city of Black Diamond a better place to live and work.

6. What is your vision for our City and community?

Fiscal responsibility and careful spending, as I have spoken about many times at City Council meetings. Responsible growth that honors the historic character and value of our city. Our city needs to avoid the problems of over-development, such as gridlock or environmental harm.

7. Is there anything else you would like to add that would help us get to know you a little better?

A council member uses all their experiences so here is more history that I would bring to Council.

- January 1958 - Born in Hancock, Michigan. In 1960, moved to Minnesota with parents & 2 Siblings
- 1962 - Moved to Christchurch, New Zealand w/Mom & 2 Siblings while father went to McMurdo Sound, Antarctica to conduct research for his doctorate. 1963 - Moved back to Rosemount, MN.
- 1964 - Moved to Enumclaw, WA w/Parents & 3 Siblings, started first grade in school.
- June 1969 - 6th Grade Elementary School, started internship on Saturdays and weekdays after school at an outdoor power equipment shop. Learned to repair all types of two-cycle and four-cycle gasoline engines, and equipment.

BLACK DIAMOND CITY COUNCIL

*This Award is
Presented to*

GEOFF BOWIE

In appreciation for many years of selfless dedication
to the City of Black Diamond. Your creativity,
leadership and dedication to service has made this
city a better place to live, work and play.

*Given this 17th day of December, 2009
Howard Botts, Mayor*

Black Diamond History

News reports and photos from Black Diamond and the towns of Bayne, Cumberland, Danville, Durham, Elkcoal, Franklin, Kangley, Krain, Kummer, Lawson, Navy, Palmer, Ravensdale, and Selleck

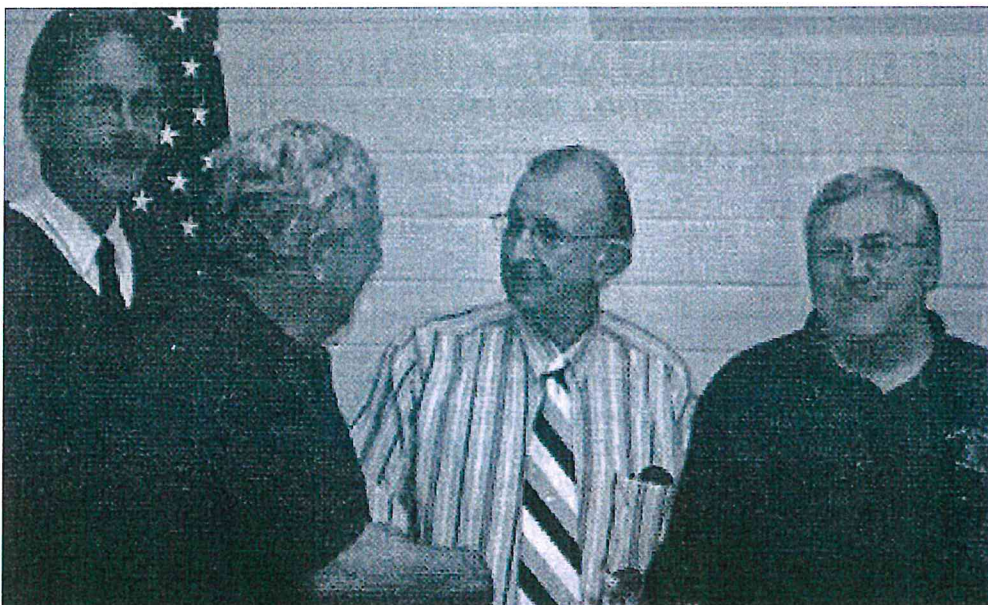
Feeds: [Posts](#) [Comments](#)

Black Diamond/Mountain View Fire Departments join forces

April 18, 2020 by [Black Diamond History](#)

Originally published in the Voice of the Valley, April 18, 2006

By Kathleen Kear



(<https://blackdiamondhistory.wordpress.com/wp-content/uploads/2020/04/fire-combine.png>).

Black Diamond Councilmembers recently approved an Interlocal Agreement with Mountain View Fire & Rescue for fire and emergency medical services. (L-R) Chief Greg Smith, Commissioner Jim Farrel congratulating Mayor Howard Botts, and IFC Steve Marstrom.

While the City of Black Diamond was in hunt for a new fire chief, Interim Fire Chief (IFC) **Steve Marstrom** made an inquiry of city officials as to whether they had considered any other possibilities aside from hiring a new chief. Although Mayor **Howard Botts** and the council had not considered any other options, they indicated they were open to more information.

After being directed by the mayor and council to put a report together of what other options there might be on the horizon other than hiring a new chief, IFC Marstrom spent the next month researching various ideas. By early September, one month after arriving in the city, IFC Marstrom brought a report to the council, which included the idea of consolidating (taking two fire departments and making them one). Intrigued with the idea, he was once again directed to further look into the idea of consolidation.

During his in depth research in consolidation, IFC Marstrom went to Maple Valley Fire & Life Safety (District 43) as well as Mountain View Fire & Rescue (District 44) to inquire what they might be able to offer. By November, it appeared that a real viable option was possible along with a preliminary set of costs. Formal proposals continued to be worked out for another month so that by December 2005 they were ready for presentation at a workshop attended by the City Council and Commissioners from Fire District 17. Fire District 17 is the area outside of the city that is also part of the service area of the Black Diamond Fire Department.

Once it was decided to move forward with the proposal from District 44, negotiating the finer details of an agreement commenced. After a couple of months of development, an Interlocal Agreement was ready for presentation to the City Council. Meanwhile, Maple Valley Fire & Life Safety came to the aid of Black Diamond numerous times over the past year and for that the city of Black Diamond is very grateful.

Then, just nine months after arriving in Black Diamond, IFC Marstrom stood before the mayor and council during their Thursday, April 6 City Council meeting with a resolution for an Interlocal Agreement for "Fire Protection and Related Emergency Services between King County Fire Protection District No. 44 and the City of Black Diamond." Prior to considering whether to pass the resolution, IFC **Marstrom answered a number of questions brought out by Councilmember Goeff Bowie.**

While answering the questions, IFC Marstrom pointed out some of the many benefits available under the contractual consolidation through the Interlocal Agreement. For one, response time would be improved. As it stood before the proposed agreement, only one firefighter was guaranteed to be available each day from 6 a.m. to 6 p.m. Under the new agreement, 2 firefighters will be available each day, 24 hours a day.

Even though Mountain View Fire & Rescue will be Black Diamond's fire department, the Black Diamond name will continue to be visible on the sides of the fire department vehicles and on the front of the fire stations. The firefighter uniforms will also continue to display the Black Diamond Fire Department shoulder patch. Long standing prevention and education programs will also continue including parades and public displays such as Fourth of July and Labor Days; Thursday blood pressure checks at the Black Diamond Community Center; and one of the most important programs—giving Santa a ride into the city for the annual tree lighting ceremony.

Duplication efforts in administrative as well as maintenance will give way to a more efficient running of business thereby bringing a cost saving to both entities. For instance, instead of paying for two chiefs, there would be one; records and paperwork would be handled through one administrative staff; and maintenance would also function as one rather than two. Cost savings through the agreement would free up the ability to add more staffing in fire stations.

Present for the possible passage of the resolution were District 17 Commissioner and Board Chair **Robin Mauro** and Commissioner **Rusty Mines**; District 44 Commissioner and Board Chair **Jim Farrel**, Commissioners **Steve Shropshire** and **Fred Heistuman**; Mountain View Fire & Rescue Fire Chief **Greg Smith**; and several firefighters from both agencies. Both Mauro and Farrel encouraged the council to give their stamp of approval on the agreement.

When the vote was finally taken, Councilmembers **Rebecca Olness**, **George McPherson**, and **Mike Cline** voted in favor of the agreement while **Geoff Bowie** voted against. Following the passage of the agreement, Marstrom was no longer the Interim Fire Chief, but rather shifted his duties over to Mountain View's Fire Chief Smith. Over the past few days Marstrom has been busy with transition details and will continue until all is ready to roll ahead in the new Interlocal Agreement.

Posted in [Infrastructure](#), [People](#), [Towns](#) | Tagged [Black Diamond](#), [fire department](#), [Maple Valley](#), [parade](#), [Voice of the Valley](#) | 1 Comment

One Response

Philip Acosta

on [September 14, 2025 at 1:46 pm](#) | [Reply](#)

Could you possibly ask Geoff Bowie to respond to his reasoning for voting against this proposal...be nice to here as he appears to me to thoughtful and community oriented and the agreement passed anyway



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WPThemes.

CITY OF BLACK DIAMOND

ENGINEERING DESIGN AND CONSTRUCTION STANDARDS

2009



PREPARED BY



PACWEST ENGINEERING LLC

**5009 Pacific Hwy E, Unit 9-0
Fife, WA 98424
(253) 926-3400**

CITY OF BLACK DIAMOND

ENGINEERING DESIGN AND CONSTRUCTION STANDARDS

PREPARED BY:

PACWEST ENGINEERING, LLC

Leonard L. Smith, PE/PLS
Christine J. Smith, PE
L. Brandon Smith, PE
Erik P. Martin, PE

APPROVED BY:

CITY OFFICIALS & STAFF

Howard Botts, Mayor
Gwendolyn Voelpel, City Administrator
Seth Boettcher, Public Works Director
Dan Dal Santo, Utilities Supervisor

CITY COUNCIL MEMBERS

Bill Boston
Geoff Bowie
Kristine Hanson
Leih Mulvihill
Rebecca Olness

Adopted by Council Ordinance No. 09-915, Date June 25, 2009

APPLICATION FOR APPOINTMENT TO BLACK DIAMOND CITY COUNCIL POSITION #2026



Applicant Information

(Please type or print)

Applicant Name Pam McCain

Residence Address [REDACTED] Black Diamond, WA 98010

Home Phone [REDACTED] Work Phone [REDACTED]

Email [REDACTED]

Cover Letter and Resume

Please attach a one-page cover letter and a resume of no more than two pages to this application.

Supplemental Questions

Please respond to the following questions regarding your interest in the position of Councilmember for the City of Black Diamond on separate pages, using no more than 3 pages total:

1. Why are you interested in serving as a Black Diamond City Councilmember?
2. What strength would you bring to the Council?
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6. What is your vision for our City and community?
7. Is there anything else you would like to add that would help us get to know you a little better?

Please return this form, your cover letter, resume and answers to the supplemental questions to the City Clerk at Black Diamond City Hall (24301 Roberts Drive, mail at PO Box 599, Black Diamond, WA 98010, or by email to bmartinez@blackdiamondwa.gov no later than 3:00 p.m. on April 15, 2026. Applications received after 3:00 p.m. will not be accepted.

If delivered or mailed the application and any correspondence should be addressed to:

**Brenda L. Martinez, City Clerk
Black Diamond Councilmember Recruitment
PO Box 599/24301 Roberts Drive
Black Diamond, WA 98010**



Pam McCain
REALTOR®



Brenda L. Martinez, City Clerk
Black Diamond Council Member Recruitment
PO Box 599/24301 Roberts Dr
Black Diamond, WA 98010

I am writing to express my interest in serving on the Black Diamond City Council in Position #7. With more than 45 years of experience in real estate, service on the Black Diamond Planning Commission, and a strong commitment to public service, I believe my background would allow me to contribute thoughtfully to the work of the Council.

Black Diamond has been my home since 1996, and I care deeply about the character and future of our community.

I graduated from Kent Meridian High School in 1975 and became a professional REALTOR® in 1981. My career in the local real estate industry has provided a strong understanding of housing, land use, and the opportunities and challenges facing growing communities.

I have attended more than 150 Black Diamond Planning Commission meetings along with numerous public hearings, public meetings, and town halls. I have also participated in REALTOR® Hill Day at the Capitol for more than ten years advocating for updated real estate laws and private property ownership, and I moderated the Black Diamond Candidate Debate in 2025. During my time on the Planning Commission, I have served multiple times as both Chair and Vice Chair.

I respectfully offer my service to continue the work of Position #7 on the Black Diamond City Council and would welcome the opportunity to contribute my experience and perspective to the future of our city.

Sincerely,

Pam McCain



Black Diamond, WA 98010

Pam McCain

RESUME



www.PamMcCain.com



- REALTOR® since 1981
- Managing Broker at John L. Scott in Covington
- Maple Valley John L. Scott Agent of the Year 2010, 2011, 2012, 2013, 2014
- Chairman's Elite, Chairmans's Circle, President's Elite, President's Gold and President's Designation 2001 thru 2025
- SRES Designation - Senior Real Estate Specialist
- CPRES Designation - Certified Probate Real Estate Specialist
- CSMS Designation - Certified Seller Marketing Specialist
- CBRIS Designation - Certified Buyer Representation Specialist
- ADU Specialist
- City of Black Diamond Planning Commissioner from 2012-2025
- Seattle King County REALTOR® Governmental Affairs Committee since 2000, and Volunteer of the Year in 2020
- Seattle King County REALTOR® Director at Large 2025-2026
- Seattle King County Residential Zoning Task Force since 2022
- King County Health Department OSS TAC team member since 2022
- Recipient of the Award for Outstanding Leadership in Real Estate 2020
- Recipient of the Award for Outstanding Community Contributor in Real Estate 2021
- Quarter 4 Good Neighbor Award Winner in 2024 Benefiting Black Diamond Community Center
- Recipient of the Award for Outstanding Client Relations in Real Estate 2025

I have been a licensed REALTOR® since 1981 and have had experience in the King County Real Estate market from South Bellevue to Tacoma. My goal is to assist my real estate clients build wealth through strategic real estate purchases as well as places they "love" to live! Homes, as well as investment properties, are available with more choices today than in years.

Supplemental Questions

Pam McCain, REALTOR® | [REDACTED]

1.) Why are you interested in serving as a Black Diamond City Councilmember?

I have served as a Planning Commissioner for the City of Black Diamond for the past 12 years and have lived in the community for more than 30 years. I care deeply about the future of our city and plan to remain here long term.

During my time on the Planning Commission, I have followed many of the major issues shaping Black Diamond, including the 2011 development agreements, the growth of Ten Trails, and the broader Master Planned Development. Through my real estate career I have also worked with many clients who are interested in the long term plans for the city.

Growth is expected, but managing that growth while balancing infrastructure, community priorities, and legal obligations requires thoughtful leadership. I would like to continue contributing to that work as a member of the City Council.

2.) What strength would you bring to the Council?

I have been a REALTOR® since 1981 and have served in leadership roles throughout my career. For the past 15 years I have served on the Seattle King County REALTORS® Governmental Affairs Committee, participating in regional policy and planning discussions affecting South King County.

I currently serve as a Director at Large with SKCAR through 2026 and as liaison to the King County Department of Public Health On Site Sewage System Technical Advisory Committee, where I help review septic and water quality issues.

These roles have given me strong experience in housing policy, infrastructure planning, and coordination between local and regional agencies.

3.) What are the three highest priorities and/or issues you believe the City needs to address? How would you propose to address these issues?

First, implement state required middle housing changes with careful attention to infrastructure capacity and community impact.

Second, address transportation challenges through stronger coordination with state and regional partners to improve mobility and keep pace with growth.

Third, expand critical infrastructure such as sanitary sewer systems in areas that were historically rural to support responsible development and protect waterways like Lake Sawyer.

Supplemental Questions, Cont.

Pam McCain, REALTOR® | [REDACTED]

4.) Explain your current and past community involvement and/or service on city, nonprofit, or public boards, committees, task forces, or commissions and how this has contributed to the Black Diamond community. Address its relevance to the position of Black Diamond City Councilmember.

As a member of the Black Diamond Planning Commission, I have participated in many public hearings, meetings, and community outreach efforts. I have also volunteered at community events, including Labor Day celebrations, and participated in public outreach efforts such as gathering feedback for the city skate park design.

Throughout my 45 year real estate career, I have also been an advocate for housing and property rights. I have attended Hill Day in Olympia many times to discuss housing legislation and policy issues with state lawmakers.

These experiences have helped me understand how state legislation and regional planning decisions affect local communities and how cities work to implement those changes.

5.) What do you wish to accomplish during this appointed term as a Black Diamond City Councilmember?

As a new member of the Council, my first priority will be to listen carefully, learn from my colleagues, and collaborate with Councilmembers and staff. I hope to contribute my planning experience and community knowledge to help support thoughtful decisions for the city.

6.) What is your vision for our City and community?

My vision for Black Diamond is a community that respects the agreements made in the past while thoughtfully addressing the needs of today's residents.

As the city continues to grow, it will be important to balance responsible development, infrastructure improvements, and environmental protection while maintaining the character and sense of community that make Black Diamond special.

7.) Is there anything else you would like to add that would help us get to know you a little better?

I grew up near Lake Meridian and graduated from Kent Meridian High School. Over the years I have seen significant growth and change throughout this region.

While much has changed since the 1970s, I believe growth can be managed in a way that protects what makes our communities special. Black Diamond is a place I care deeply about, and I would be honored to continue serving the community.

APPLICATION FOR APPOINTMENT TO BLACK DIAMOND CITY COUNCIL POSITION #7

Applicant Information

(Please type or print)

Applicant Name Charles Mentkus

Residence Address [REDACTED] Black Diamond, WA, 98010

Home Phone [REDACTED] Work Phone

Email [REDACTED]

Cover Letter and Resume

Please attach a one-page cover letter and a resume of no more than two pages to this application.

Supplemental Questions

Please respond to the following questions regarding your interest in the position of Councilmember for the City of Black Diamond on separate pages, using no more than 3 pages total:

1. Why are you interested in serving as a Black Diamond City Councilmember?
2. What strength would you bring to the Council?
3. What are the three highest priorities and/or issues you believe the City needs to address? How would you propose to address these issues?
4. Explain your current and past community involvement and/or service on city, nonprofit, or public boards, committees, task forces, or commissions and how this has contributed to the Black Diamond community. Address its relevance to the position of Black Diamond City Councilmember.
5. What do you wish to accomplish during this appointed term as a Black Diamond City Councilmember?
6. What is your vision for our City and community?
7. Is there anything else you would like to add that would help us get to know you a little better?

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If delivered or mailed the application and any correspondence should be addressed to:

Brenda L. Martinez, City Clerk
Black Diamond Councilmember Recruitment
PO Box 599/24301 Roberts Drive
Black Diamond, WA 98010

Charles Menkens

Black Diamond, WA



April 13, 2026

City of Black Diamond

Black Diamond City Council

Black Diamond, WA 98010

Dear Mayor and Members of the City Council,

I am writing to express my sincere interest in appointment to the Black Diamond City Council. My family and I are proud to call Black Diamond home, and I believe that the skills and values I have developed — as a professional, a volunteer, and a parent — position me to contribute meaningfully to the future of our city.

My connection to this community is personal and ongoing. My wife and I are raising our daughter here, and I currently serve as head coach of a local youth T-ball team — an experience that has deepened my appreciation for the role that community investment plays in the lives of our kids. I have also volunteered with other local organizations, and I bring that same spirit of service to this application. Black Diamond is not just where I live; it is the community I want to help shape for the next generation.

Professionally, I serve as a Technical Product Manager at Lowe's Companies, Inc., where I lead complex, cross-functional initiatives that require exactly the skills public service demands: listening carefully to stakeholders with competing priorities, building governance frameworks that are fair and transparent, translating complicated information into clear decisions, and holding myself accountable to measurable outcomes. I have led enterprise-scale programs affecting thousands of employees and partners, and I have learned that the most important part of any initiative is ensuring the people it affects feel heard, respected, and informed throughout the process.

If appointed, my focus will be on three areas that I believe are essential to Black Diamond's future. First, I want to champion programs and infrastructure that put our children and families at the center of how we grow — from youth programs and recreational opportunities to safe neighborhoods and accessible public spaces. Second, I want to invest in the parks, green spaces, and family amenities that make Black Diamond a place where people genuinely want to put down roots — outdoor spaces where kids can play, families can gather, and neighbors can build the connections that make a community feel like home. Third, I am committed to the kind of transparent, data-informed governance that builds public trust — where decisions are clearly explained, community input is genuinely sought, and results are honestly measured.

I would be honored to bring this commitment, this professional experience, and this deep personal investment in Black Diamond to the City Council. I welcome the opportunity to speak further about my candidacy and am available at your convenience. Thank you sincerely for your time and consideration.

Respectfully,

Charles Menkens

Black Diamond, WA



Charles Menkens

Candidate for Appointment — Black Diamond City Council | Black Diamond, WA | [REDACTED]

STATEMENT OF INTEREST

As a Black Diamond resident, husband, and father of a daughter growing up in this community, I am committed to helping shape a city that invests in its children, welcomes its neighbors, and creates real opportunities for everyone who calls it home. I bring a professional background in leading complex, cross-functional initiatives and translating competing needs into clear, actionable outcomes — skills I believe translate directly to thoughtful, accountable public service.

COMMUNITY INVOLVEMENT

- Head Coach, Black Diamond Youth T-Ball — Leading youth athletic development, fostering teamwork, inclusion, and a love of community participation for young players and their families.
- Volunteer, local community organizations — Active contributor to neighborhood initiatives focused on community connection and resident well-being.

PRIORITIES FOR BLACK DIAMOND

Inclusive, Child-Centered Community Growth

Advocate for programs, infrastructure, and partnerships that expand opportunities for children and youth — from recreational facilities and after-school programs to safe streets and accessible green spaces.

Parks, Green Spaces & Family Amenities

Invest in the parks, green spaces, and family amenities that make Black Diamond a place where people want to put down roots. Advocate for outdoor spaces where children can play safely, families can gather, and neighbors can build lasting connections — ensuring that as our city grows, quality of life grows with it.

Transparent, Data-Informed Governance

Apply professional experience in stakeholder alignment, structured decision-making, and clear communication to ensure city initiatives are well-scoped, inclusive of resident input, and accountable to measurable outcomes.

PROFESSIONAL BACKGROUND

Technology Operations Analyst (Technical Product Manager) — Lowe's Companies, Inc. (2023–Present)

- Led enterprise-scale platform migrations and cross-functional initiatives impacting thousands of users across the organization.
- Built governance frameworks, stakeholder communication plans, and adoption strategies to drive complex change across diverse teams.
- Skilled at translating technical complexity into clear, accessible language for non-technical audiences — a capability directly applicable to public communication and council deliberation.
- 3+ years managing competing priorities, aligning stakeholders with differing needs, and delivering outcomes through structured, transparent processes.

SKILLS RELEVANT TO PUBLIC SERVICE

Stakeholder & Community Engagement Cross-functional alignment, public communication, expectation management, conflict resolution

Governance & Process Design Policy framework development, structured decision-making, accountability systems

Data-Informed Decision Making KPI development, reporting, evidence-based prioritization, budget and resource planning

EDUCATION

[B.S Global Wine Studies, Central Washington University — 2016]

Charles Menkens

Application Questions — Black Diamond City Council Appointment

1. Why are you interested in serving as a Black Diamond City Councilmember?

Black Diamond is home, the place where my wife and I are raising our daughter and building our life. That personal stake is exactly why I want to serve. I want to be part of the decisions that shape the community she grows up in, and I want to bring real skills to that work, not just good intentions.

Professionally, I spend my days leading complex initiatives that require listening carefully, aligning people with competing priorities, and delivering clear outcomes. I have found that the same discipline that makes a good product manager — honest scoping, transparent communication, accountability to results — is exactly what good governance requires. Serving on the City Council is an opportunity to apply that discipline where it matters most to me personally.

2. What strength would you bring to the Council?

My greatest strength is translating complexity into clarity. In my work as a Technical Product Manager at Lowe's, I regularly navigate situations where stakeholders disagree, systems are tangled, and the path forward is unclear. My job is to cut through that — to ask the right questions, map out what is actually possible, and build alignment around a plan everyone can execute against.

On a City Council, that skill is invaluable. Residents bring real, competing needs to every decision. Budgets are constrained. Timelines matter. I know how to hold space for those tensions without letting them stall progress, and I know how to communicate decisions in a way that builds trust even when not everyone gets exactly what they wanted.

3. What are the three highest priorities you believe the City needs to address? How would you propose to address them?

Children and family-centered growth. Black Diamond is growing, and how we manage that growth will define the community for a generation. I would prioritize ensuring that development decisions keep families — especially children — at the center. That means advocating for safe walking routes, accessible recreational programming, and community spaces designed for all ages. I would propose a structured community input process before major development approvals so resident voices shape outcomes, not just react to them.

Parks, green spaces, and family amenities. Outdoor spaces are the connective tissue of a healthy community. They are where neighbors meet, where kids play, and where families build memories. I would advocate for a parks and amenities plan that keeps pace with population growth — ensuring that as new residents arrive, the spaces that make Black Diamond feel like a community expand alongside them. I would look to peer cities of similar size and growth trajectory to identify best practices and funding models.

Transparent, accessible governance. Residents can only engage with a government they understand and trust. I would prioritize clear, consistent communication from the Council — plain-language summaries of decisions, accessible public meeting formats, and deliberate outreach to residents who do not typically participate. I would propose regular community feedback touchpoints so the Council stays connected to what residents actually need, not just what is already on the agenda.

4. Explain your current and past community involvement and its relevance to this position.

I will be honest: my formal community volunteering experience is still developing. I currently serve as head coach for a youth T-ball team in Maple Valley, and that hands-on role has given me a real, ground-level understanding of what community investment looks like in practice.

What I bring in place of a long volunteer resume is a professional background built entirely around the skills community service demands. Managing cross-functional teams, navigating competing stakeholder needs, building governance frameworks, and communicating clearly under pressure — these are things I do every day at work. I understand what it takes to earn trust, facilitate difficult conversations, and move a group toward a shared outcome. Those abilities do not disappear when the context shifts from a corporate boardroom to a city council chamber.

5. What do you wish to accomplish during this appointed term?

In this appointed term, I want to accomplish three concrete things. First, I want to establish myself as a Council member who can trust to listen and communicate honestly.

Second, I want to make a meaningful contribution to at least one initiative that directly improves daily life for Black Diamond families — whether that is a parks improvement, a youth program, or a process that makes it easier for residents to engage with city government.

Third, I want to build the foundation for continued service. An appointed term is an opportunity to learn — to understand the budget, the processes, the history of decisions, and the relationships that make effective governance possible. I intend to use that time well so that whatever comes next, I am better equipped to serve.

6. What is your vision for Black Diamond?

My vision for Black Diamond is a city where every family — regardless of how long they have lived here or where they came from — feels genuinely at home. A city that grows thoughtfully, preserving the character and community feel that makes it special while creating real opportunities for the people who live here.

I envision a Black Diamond where children have safe places to play and learn, where neighbors know each other, where public spaces invite gathering rather than just passing through, and where city government is something residents trust rather than tolerate. A city that makes decisions transparently, spends resources carefully, and holds itself accountable to the outcomes it promises.

7. Is there anything else you would like to add?

I want to say that I am aware of the responsibility an appointed seat carries. I would not take a position earned by election lightly, and I would spend every day of this term earning the trust of the residents who did not get to vote on my appointment. That means being accessible, being honest when I disagree, and always remembering that the people of Black Diamond — my neighbors — are who I am accountable to.

Thank you for the opportunity to be considered. I would be honored to serve.

APPLICATION FOR APPOINTMENT TO BLACK DIAMOND CITY COUNCIL POSITION #7



Applicant Information

(Please type or print)

Applicant Name Tomas Paramo-Gomez

Residence Address [REDACTED]

Home Phone

Work Phone [REDACTED]

Email [REDACTED]

Cover Letter and Resume

Please attach a one-page cover letter and a resume of no more than two pages to this application.

Supplemental Questions

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Black Diamond, WA 98010

Cover Letter - Paramo - Black Diamond City Council Position #7

As a resident and active community member, I am excited to express my interest in Council Position #7 for the City of Black Diamond. My background in policy, governance, business ownership, and community leadership equips me with a strong foundation to contribute meaningfully to the city's planning and development goals.

I am a proud graduate of the University of Washington, where I earned my degree in Global and Regional Studies and was honored to serve as the College of Arts & Sciences Gonfalonier at the 2024 Commencement Ceremony. My academic journey, complemented by my professional experience, has shaped a strong understanding of civic leadership and governance.

Currently, I serve on the Board of Directors for the Maple Valley-Black Diamond Chamber of Commerce, as Vice-Chair on the City of Maple Valley's Economic Development Commission, and on the City of Black Diamond's Planning Commission. These roles have given me firsthand insight into the physical and community development needs of our region. As the owner of Bada Boom Detailing, I am deeply invested in the area's economic prosperity, and I am committed to representing the interests of both residents and small businesses alike.

My public service experience includes work at the Washington State Senate, where I was elected Party Leader by my peers during a senatorial simulation. This was an opportunity that sharpened my skills in collaboration, policy analysis, and intergovernmental communication. My role as a Director at NMUN has honed my ability to maintain impartiality and an apolitical stance, crucial attributes in environments where heated discussions are the norm. Moreover, I have had the privilege of co-authoring four published works, demonstrating my proficiency in rigorous research and collaborative endeavors.

With my unique skillset and experience, I aim to support growth that reflects the values of our residents while preserving the character of Black Diamond.

Thank you for your consideration.

Tommy Paramo

 | badaboomdetailing.com | www.linkedin.com/in/tomas-paramo

Business Owner | Community Builder & Project Manager | Cross-Functional Leader |

PROFESSIONAL EXPERIENCE

Owner — Bada Boom Detailing

2025 – Present

- Built a detailing business into a locally renowned brand.
- Managed all community engagement, social media campaigns, outreach, and branding.
- Operated with excellence across marketing, partnerships, and service delivery to ensure consistent customer experience.

Board of Directors — Maple Valley Black Diamond Chamber of Commerce

2025 — Present

- Collaborated with business leaders and executives to shape regional economic development and community engagement initiatives.
- Provided strategic oversight and execution for projects impacting hundreds of local businesses.
- Strengthened cross-functional collaboration between public, private, and nonprofit partners.

Vice-Chair, Economic Development Commission — City of Maple Valley

Commissioner, Planning Commission — City of Black Diamond

2025 – Present

- Served in appointed leadership roles, collaborating with city executives, businesses, and residents to strengthen community development strategies.
- Led cross-functional initiatives that align stakeholders, balance competing priorities, and deliver measurable impact.
- Balanced public engagement, stakeholder communication, and community-focused projects.

Director — National Model United Nations (New York City)

2022 – 2025

- Led an international team of volunteers across time zones (Americas, Europe, Asia).
- Mediated debate in groups of 50+ international people
- Managed project lifecycle of research, writing, editing, and publication of global policy background guides.
- Coordinated with executive leadership and oversee communications with 400+ international delegates.
- Published 4 official UN global policy background guides (2022–2025).

Legislative Intern — Washington State Senate

2024

- Collaborated with legislators, policy staff, and constituents on community-facing initiatives.
- Drafted communications and policy research under tight deadlines.

Independent Tutor & Mentor (Model UN & Public Speaking)

2020 – Present

- Coached students in leadership, international policy, and communications, building programs that improved community participation and engagement.
- Provided one-on-one mentorship to prepare students for public speaking and Model UN conferences.

VOLUNTEER & LEADERSHIP

- **Director & Assistant Director**, NMUN NY (2021–2025)
- **Director**, Northwest Model UN (2023)
- **Officer**, Model UN Club, University of Washington (2022–2023)
- **Vice President**, UNA-USA Club, Bellevue College (2021–2022)

EDUCATION

University of Washington — B.A., Global & Regional Studies, Gonfalonier, Class of 2024

Bellevue College — A.A.S., High Distinction, 2022

Issaquah High School / Running Start — 2018–2022

AWARDS

- Gonfalonier, College of Arts & Sciences, University of Washington (2024 Commencement)
- Recognition for Outstanding Position Paper, NMUN NY (2021)
- National Society of Leadership and Success (NSLS); Phi Theta Kappa Honor Society
- Multiple Dean's List honors (UW, Bellevue College)

Supplemental Questions - Paramo - Black Diamond City Council Position #7

1. Why are you interested in serving as a Black Diamond City Councilmember?

I care deeply about the future of this community and want to play an active role in shaping it. As someone who is professionally and civically engaged in the Maple Valley-Black Diamond area, I see both the opportunities and challenges that come with growth.

Through my work with the chamber and both commissions, I have seen how thoughtful and balanced decision-making can positively impact residents and local businesses. I want to bring that same approach to Black Diamond, supporting responsible growth, strengthening the local economy, and helping preserve the character that makes the city unique.

2. What strength would you bring to the Council?

I bring a combination of business experience, public sector involvement, and strong communication skills.

As a small business owner, I understand the realities of operating and growing a business, managing finances, and navigating regulations. This gives me a practical perspective when evaluating policies that impact local business and the broader economy.

My experience in the Washington State Senate has strengthened my ability to analyze issues, collaborate with stakeholders, and contribute to thoughtful policy discussions. I am comfortable reviewing legislation, asking questions, and working toward balanced solutions.

Additionally, I bring a disciplined and respectful approach to communication. I value listening, engaging with different perspectives, and making decisions based on both facts and community input.

3. What are the three highest priorities and/or issues you believe the City needs to address? How would you propose to address these issues?

1. Managing Growth

Black Diamond is experiencing growth, it is essential that infrastructure and planning keep pace.

Approach: Advocate for a comprehensive review of the city's current budget to identify inefficiencies and areas of realignment, ensure that spending priorities are clearly tied to community needs; and support the development of a long-term

financial plan that accounts for continued growth. This includes prioritizing essential services, improving transparency around how funds are allocated, and maintaining a disciplined approach to spending so that taxpayer dollars are used effectively and sustainably.

2. Economic Development and Local Business Support

A strong local economy benefits the entire community.

Approach: Work with local organizations to support small businesses (like the Chamber), reduce unnecessary barriers, and promote Black Diamond as a place to invest and operate. Black Diamond needs to follow the footsteps of Maple Valley in regards to the partnership it has created with the chamber to increase visibility for small businesses.

3. Preserving Community Character and Quality of Life

Growth should not come at the expense of what makes Black Diamond unique.

Approach: Support policies and initiatives that preserve community identity, such as; investing in public spaces and encouraging events and programs that bring residents together.

4. Explain your current and past community involvement and/or service on city, nonprofit, or public boards, committees, task forces, or commissions and how this has contributed to the Black Diamond community. Address its relevance to the position of Black Diamond City Councilmember.

I currently serve on the Board of the Maple Valley–Black Diamond Chamber of Commerce, where I support local businesses and regional economic initiatives. This role involves collaboration with business owners, community leaders, and public partners to strengthen our community.

I also serve on the City of Maple Valley's Economic Development Commission and Black Diamond's Planning Commission. I work with city staff and fellow commissioners to evaluate policies, review initiatives, and provide recommendations related to economic development and long-term planning.

These experiences are directly relevant to serving on the Black Diamond City Council. They have given me insight into how local government operates, how policy decisions impact the community, and how to work effectively with stakeholders to achieve positive outcomes.

5. What do you wish to accomplish during this appointed term as a Black Diamond City Councilmember?

During this appointed term, my goal is to contribute meaningfully and responsibly.

I want to build strong working relationships with fellow councilmembers, city staff, and community members, while taking the time to listen and understand the perspectives of residents.

I also aim to support thoughtful decision-making on key issues, particularly those related to fiscal planning, economic development, and community quality of life. My focus will be on being prepared, engaged, and consistent in contributing to council discussions and decisions.

Ultimately, I want to be a reliable and effective member of the Council who adds value and helps move the city forward.

6. What is your vision for our City and community?

My vision for Black Diamond is a community that grows with intention. This can be done by balancing development with preservation, supporting a strong local economy, and maintaining a high quality of life for residents.

Most importantly, I see a city where local businesses can succeed, residents feel connected and heard, and decisions are made with long-term impacts in mind.

This includes fiscal responsibility, supporting community spaces and events, and ensuring that growth reflects the values and character of the city. The goal is to maintain what makes Black Diamond special while preparing for the future.

7. Is there anything else you would like to add that would help us get to know you a little better?

I fell in love with urban planning during my time living in Italy. I learned how residential and commercial areas can come together to form something beautiful. I would love the opportunity to bring what I learned back to our community by joining the council.

I am highly motivated, engaged, and prepared to dedicate the time and effort required to serve effectively. I value accountability and take public service seriously.

If appointed, I will approach the position with focus, responsibility, and a genuine desire to make a positive impact.

received 04/15/26 8:00am

APPLICATION FOR APPOINTMENT TO BLACK DIAMOND CITY COUNCIL POSITION #7

Applicant Information

(Please type or print)

Applicant Name Ryan Reed
Residence Address _____
Home Phone _____ Work Phone _____
Email _____

Cover Letter and Resume

Please attach a one-page cover letter and a resume of no more than two pages to this application.

Supplemental Questions

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Brenda L. Martinez, City Clerk
Black Diamond Councilmember Recruitment
PO Box 599/24301 Roberts Drive
Black Diamond, WA 98010

Dear Ms. Martinez and Members of the Black Diamond City Council,

I am writing to express my interest in being appointed to Black Diamond City Council Position #7. It would be an honor to serve this community in a more direct way.

Black Diamond has become home for my family, and over the past several years I have come to appreciate just how special this city is. It is a place with deep history, strong community pride, and a character that people genuinely care about protecting. At the same time, it is continuing to grow and change. I am interested in serving on the Council because I believe this is an important moment for Black Diamond, and I want to help ensure that growth is guided thoughtfully, responsibly, and in a way that strengthens our sense of community rather than diminishing it.

I bring a professional background in product management, where my work centers on listening carefully, weighing competing needs, understanding tradeoffs, and helping groups make sound decisions. Much of that work involves balancing the needs of an organization with the needs of the people it serves. I see a strong connection between those responsibilities and the work of a City Councilmember. I would bring a steady, practical, and thoughtful approach to the role, along with a willingness to do the homework, ask good questions, and work collaboratively.

What motivates me most is the opportunity to contribute to the place where my family lives. My wife and I are raising our children here, and like many residents, we care deeply about the future of this city. We want Black Diamond to remain a welcoming, family-friendly community where people feel connected to one another and confident that their local government is acting with integrity and common sense.

My community involvement has often been behind the scenes, supporting local events and helping where needed, and that experience has given me an even greater appreciation for the people who invest their time and energy into making this city better. Serving on the Council would be a meaningful opportunity to give back in a more formal capacity and to put my professional skills to work on behalf of the community.

Thank you for your time and consideration. I would be grateful for the opportunity to serve the residents of Black Diamond and help contribute to the city's future.

Sincerely,
Ryan Reed



I live in Black Diamond with my wife, Gwen, our two children, Lily (9) and James (5), and our dog, Rusty. We moved here in 2022 and live near the Black Diamond Gym property.

Over the past couple of years, we've been restoring our property—removing invasive species, cleaning up debris left by previous occupants, and working to improve the natural environment around our home.

Professionally, I work remotely as a Product Manager for Best Buy, focusing on website performance, engineering tools, and internal systems. Outside of work, I enjoy homebrewing and host an annual Oktoberfest-style gathering called "Reedtoberfest." We are preparing for our fifth annual event in September 2026 and look forward to continuing that tradition with friends and family.

Ryan Reed

Black Diamond, WA 98010

<https://www.linkedin.com/in/ryan-reed-10696b38/>

Objective: Experienced Product Manager and technologist with a proven ability to lead projects, solve problems, and keep the needs of the people being served at the center of decision-making. I am seeking the opportunity to give back to Black Diamond and help the city navigate growth in a thoughtful, balanced way. My background in product management and quality-focused work has given me strong skills in collaboration, careful analysis, and long-term problem solving.

Professional Experience

Best Buy - Product Manager

December 2019 - Present

- Designed and implemented performance solutions for app and web customer experiences, utilizing internal monitoring tools to track P75 performance data impact to revenue
- Planned Quarterly initiatives for our ecommerce team based on value/company priority and team capacity.
- Led product discovery, story refinement and sprint ceremonies with our engineering and UX cross functional teams.
- Drove a multitude of projects for Best Buy web and app ecommerce experiences; Buy Now, preferred payment method enhancements, Apple Pay in App, High Velocity item Purchase, In store self checkout.
- Analyzed customer analytics and reviewed customer feedback and user studies to understand problems and determine solutions that also provide benefit to BBY bottom line.
- Created AB test hypothesis and design to measure project success including primary, secondary and guard rail metrics definitions.
- Led feature development for various customer-facing retail features, including Out of Stock Notifications, Combo deals, Rewards redemption in Cart, Preferred payment methods propensity, Device Trade In, and High-velocity purchase.
- Spearheaded project planning and delivery for a significant app overhaul and transition from Native to React Native, enabling more efficient feature delivery and cross-functional collaboration.
- Established standards for estimating and tracking technology transformations within the BBY Mobile team.
- Collaborated cross-functionally with UX, BSA's, Engineering, QA, and product management to deliver high-quality features.
- Managed stakeholder expectations regarding project cost, delivery timelines, and opportunities/trade-offs.
- Created and reviewed AB tests in Optimizely, analyzing feature financial performance in Adobe Omniture.
- Developed a multi-tenancy app structure concept supporting localization for multiple markets BBY operates in (US/CA/MX).

Best Buy - Quality Assurance Manager - Mobile Apps

December 2015 - December 2019

- Built and led the Mobile Apps QA team from 3 to 15 on-site and 10 offshore resources, supporting various apps across iOS and Android platforms.
- Pioneered quality initiatives at BBY, consistently being recognized as a leader in launching new projects.
- Worked cross-functionally with engineering and product leadership to streamline software release processes.

- Oversaw hiring, performance coaching, and growth of QA team members, promoting several to managerial roles.
- Supported transitions from Native apps to React Native with the BBY Home App.
- Designed and implemented mobile test automation using the Page Object Model (POM) and industry-standard UI automation practices.
- Significantly reduced crash rates in Android (from 1% to 0.2%) and iOS (from 0.4% to 0.02%) for the Retail app.
- Designed quality and release processes for Over The Air (OTA) updates using React Native.
- Led Correction of Error (COE) processes to gain insights from production issues.
- Supported Android retail app rewrite, launching one day earlier than the committed timeline in 2016.

Starbucks - Quality Assurance Manager for Starbucks' Android App

May 2015 - December 2015

- Oversaw multiple Android releases for Starbucks' Android app, including mobile ordering.
- Led hiring processes, managed development plans, and acted as Release Manager.
- Owned Quality Assurance processes for the Android team and managed both on-site and offshore teams.
- Conducted Proof of Concept analysis for new tools and processes.
- Managed Starbucks' internal Beta program for Android.

Starbucks - Quality Assurance Analyst

May 2012 - May 2015

- Led Quality Assurance efforts during the rewriting of Starbucks' Android App, including localization for the US, UK, and Canada markets.
- Implemented a comprehensive QA process, including:
 - Definition of test Entry/Exit Criteria for success measurement
 - Standardization of test artifacts such as test cases, bug reports, and release readiness documentation
 - Scope of testing
- Reviewed requirements and test cases, actively participated in Bug triage meetings.
- Conducted candidate interviews and provided weekly status updates to stakeholders at various levels, including SVP, CIO, and Managers.
- Utilized proxy tools like Charles to analyze API Requests/Responses, even rewriting responses to simulate API errors and edge scenarios.
- Took responsibility for procuring devices and other testing equipment for the team.

Education / Certifications

CSPO - Certified Scrum Product Owner - 2021-2023

ACSPPO - Advanced Certified Scrum Product Owner - Dec 2023-present

ISTQB - Certified Tester - Foundation Level - 2014

ISTQB - Certified Tester - Advanced Level - Test Analyst - 2015

DeVry University, Federal Way

Associate of Applied Science Degree in Network Systems Administration

More information available upon request.

1. Why are you interested in serving as a Black Diamond City Councilmember?

The city of Black Diamond has a long and storied history. From a small mining town to a modern rural suburb, it has continuously evolved. I believe our city is at a critical point where we must thoughtfully balance growth with the changing needs of our constituents while honoring our city's roots.

I grew up in the small town of Monroe, Washington, and witnessed its transformation from a farming community into a more modern suburb in the 1990s. Along the way, I saw local businesses and proprietors displaced by larger corporations. While basic needs were met, a sense of community was lost.

I see Black Diamond at a similar crossroads. While I do not oppose the development agreements already in place, I believe careful attention must be given to how these plans continue to be implemented to ensure we preserve and strengthen our community.

2. What strength would you bring to the Council?

My professional background is in Technical Product Management, a field centered on balancing the needs of 'the business' and its customers. This work requires understanding tradeoffs, identifying biases, and making informed, data-driven decisions that maximize overall benefit.

Similarly, City Councilmembers must balance the needs of the city as an organization with those of its constituents. While the subject matter differs, the underlying principles are the same: thoughtful analysis, stakeholder awareness, and responsible decision-making. I bring these skills and perspectives to the role.

3. What are the three highest priorities and/or issues you believe the City needs to address? How would you propose to address these issues?

My primary concern is **community safety** - not in terms of crime, but emergency preparedness, specifically fire services. Growing up, I knew a family whose home burned down. They survived because our city had a funded and staffed fire department, but they lost everything.

We should prioritize establishing a permanently staffed fire station in Black Diamond, particularly given the age of many homes and potential electrical risks. I support the upcoming annexation vote and would advocate for its passage as a step toward improving fire service coverage.

Second, we must find a more effective way to **protect and utilize our natural spaces**. On my own property, I've partnered with the King Conservation District to remove invasive species and restore native habitat. Expanding that mindset citywide, I see opportunities to transform overgrown or underutilized areas into community assets.

I've spoken with city employees who want to maintain certain areas but are limited by our municipal code. I would work to reduce unnecessary red tape and align our municipal code with established, science-based guidance from county and state agencies.

By partnering more closely with organizations like the King Conservation District, we can access available funding, improve environmental outcomes, and create more usable green spaces for our community.

There is an existing perception of division between Old Town and Ten Trails. While I live in Old Town, I did not grow up here and do not carry those historical biases.

An adversarial relationship between different parts of our city does not serve anyone. As councilmembers, we must represent all residents and foster collaboration rather than division. Our strength lies in our **shared community**, and we should actively work to build connections, not reinforce separations. As Lawson Hills becomes established, this will become an issue at the forefront of people's minds.

4. Explain your current and past community involvement...

This is my first step toward direct civic involvement. However, I have long supported community efforts through my wife, Gwen Reed, who has been deeply involved in local nonprofits and initiatives, including the Preschool Board of Directors, the Black Diamond Parent-Teacher Organization, and the Yes4RKids campaign.

My role has often been supportive - helping with events, volunteering where needed, and contributing behind the scenes. Whether that is watching our children, grilling burgers for teacher appreciation lunch at Black Diamond Elementary, or helping load or unload people from the tractor rides at Hometown Christmas. Through this, I've developed a strong appreciation for community service and have been inspired to take a more active role. I believe my professional skills and perspective are well-suited to serving on the City Council.

5. What do you wish to accomplish in this appointed term?

I aim to modernize our city code by aligning it with county and state environmental standards, reducing unnecessary barriers to maintaining our waterways and green spaces.

I also want to expand the use of available grant funding—particularly from organizations like the King Conservation District—to improve our natural areas and community spaces.

Equally important, I want to build trust with both the Council and the community by demonstrating integrity, thoughtful decision-making, and a commitment to serving the best interests of our residents.

6. What is your vision for our City and community?

Black Diamond is a city rich in history and increasingly diverse in its population. With ongoing development and change, we are in a formative stage - one that will define our future.

There are many competing perspectives and external pressures, but it is ultimately the responsibility of residents and leaders to guide growth in a way that prioritizes long-term community benefit over short-term gains.

My vision is for Black Diamond to remain a welcoming, family-friendly community where residents feel confident that their leaders are acting with integrity to create a resilient and lasting community.

7. Is there anything else you would like to add...



CERTIFICATION

Finance Committee: May 12, 2026

Council Date: May 19, 2026

Check No.'s / EFT	Batch Name	Check / EFT Date	Amount
57310 & 57311	May 2026 - Early Batch 1	5/6/2026	\$ 12,598.51
57312 - 57360	May 2026 - Regular Batch 2	5/20/2026	\$ 1,045,258.57
TOTAL:			\$ 1,057,857.08

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.

Xavier Mason

Xavier Mason, Finance Director

DATE: 05/06/2026

John Adler, Mayor

DATE



Register

Fiscal: 2026
Deposit Period: 2026 - May
Check Period: 2026 - May - 05/26 Early Batch 1, 2026 - May - 05/26 Regular Batch 2

	Name	Clearing Date	Amount
	4026		
	King County Prosecuting Attorney		\$149.15
	Washington State Treasurer		\$12,449.36
	AHBL, Inc.		\$16,810.25
	ALS Group USA Corp		\$325.00
	Alsco		\$355.08
	AramSCO		\$1,852.56
	Art Gamblin Motors		\$259.82
	Bill's Locksmith Service Inc.		\$200.72
	Bitco Software LLC		\$13,516.00
	Black Diamond Auto Parts		\$1,271.51
	Johnson, Nicholas		\$150.00
	CenturyLink (WA)		\$732.39
	City of Enumclaw		\$15,792.27
	ClearGov Inc.		\$15,000.00
	Cues, Inc.		\$3,434.44
	Datec Incorporated		\$1,487.85
	Elwalu LLC (Elephant Car Wash)		\$266.34
	Enumclaw School District		\$24,906.00
	Guardian Alliance Technologies, Inc.		\$12.00
	HWA GeoSciences Inc.		\$1,197.50
	Jaydn Bond		\$1,055.00
	Jessica Zielinski		\$60.00
	Johnsons Home & Garden		\$408.67
	KD Water Systems LLC		\$414.20
	King County Finance		\$136,073.56
	King County Prosecuting Attorney		\$104.47
	Language Line Services, Inc.		\$201.59
	Madrona Law Group LLC		\$17,960.00
	Mountain View Fire & Rescue		\$680,855.56
	Office Products Nationwide		\$191.51
	Orkin Commercial Services		\$172.88
	Palmer Coking Coal Company		\$153.01
	Parametrix, Inc.		\$57,964.20
	Pye-Barker Fire & Safety LLC		\$3,844.18
	Raedeke Associates Inc		\$840.00
	RH2 Engineering Inc.		\$10,242.51

Number	Name	Print Date	Clearing Date	Amount
	Royal Towing Black Diamond			\$462.16
	Ryan Sweet			\$227.65
	Scott Hanis			\$145.98
	Severson's Building Maintenance			\$3,300.00
	SHI International Corp.			\$43.60
	Shope Concrete Products			\$354.80
	Somer Johnson			\$3,665.00
	South Correctional Entity			\$5,167.28
	Summit Law Group, PLLC			\$2,666.50
	Third Ave Eco Wash			\$168.00
	Thomson Reuters - West			\$499.01
	Valley Communications Center			\$9,361.49
	Vision Municipal Solutions, LLC			\$1,190.74
	Washington State Treasurer			\$9,745.29
	Water Management Laboratories, Inc.			\$150.00
		Total		\$1,057,857.08
		Total		\$1,057,857.08
		Grand Total		\$1,057,857.08

City of Black Diamond

Payroll Register - April 2026

Number	Name	Fiscal Description	Amount
EFT March 2026 Aflac	Aflac	2026 - April - Month End	(\$43.03)
20610 March 2026 Aflac	Aflac	2026 - April - Month End	\$43.03
20611	Employee Paycheck	2026 - April - Month End	\$704.42
20612	BD Police Officers Association	2026 - April - Month End	\$1,200.00
20613	City of Black Diamond	2026 - April - Month End	\$1,025.00
20614	HRA VEBA	2026 - April - Month End	\$300.00
20615	Joseph Kaufman	2026 - April - Month End	\$223.20
20616	Minnesota Child Support Payment Ctr	2026 - April - Month End	\$440.00
20617	Teamsters Local 117	2026 - April - Month End	\$3,029.04
20618	TPSC Benefits	2026 - April - Month End	\$130.00
20619	Western States Police Medical	2026 - April - Month End	\$600.00
April 2026 AW Severance	Employee Paycheck	2026 - April - Month End	\$48,144.41
April 2026 Draw	Payroll - Draw	2026 - April - Month End	\$61,551.40
April 2026 Month End	Payroll - Month End	2026 - April - Month End	\$260,843.15
EFT April 2026 Aflac	Aflac	2026 - April - Month End	\$43.03
EFT April 2026 DRS: DCP1	DOR - Deferred Comp	2026 - April - Month End	\$13,496.35
EFT April 2026 DRS: Ret	Dept of Retirement Systems	2026 - April - Month End	\$54,009.83
EFT April 2026 ESD	Employment Security Dept	2026 - April - Month End	\$1,081.06
EFT April 2026 Fed Taxes #1	City of Black Diamond Taxes	2026 - April - Month End	\$32,885.20
EFT April 2026 Fed Taxes #2	City of Black Diamond Taxes	2026 - April - Month End	\$118,792.96
EFT April 2026 L&I	Dept of Labor and Industries	2026 - April - Month End	\$8,453.77
EFT April 2026 Medical Ins	AWC Employee Benefit Trust	2026 - April - Month End	\$101,343.83
EFT April 2026 PFML	PFML ESD	2026 - April - Month End	\$6,119.51
EFT April 2026 WA Cares	WA Cares ESD	2026 - April - Month End	\$1,612.58
			\$716,071.77

I hereby certify that payroll and benefits have been processed and delivered as required under contract or legal obligation.

Finance
Director

Karen Mason

Date 5-7-2026

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: March 2026 Monthly Financial Report	Agenda Date: May 19, 2026 AB26-051	
	Mayor John Adler	
	City Administrator - Kevin O'Neill	
	City Attorney - David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev - Hal Hart	
	Finance – Xavier Mason	X
	MDRT/Ec Dev – Michelle Wright	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): N/A	Public Works – Scott Hanis	
Fund Source: N/A	Court – Judge Swain/Tawnya Parks	
Timeline: 2026		
Agenda Placement: ☐ Mayor ☐ Two Councilmembers ☐ Committee Chair ☒ City Administrator		
Attachments: March 2026 Monthly Financial Report		
SUMMARY STATEMENT: The March 2026 Monthly Financial Report is meant to provide a high-level overview of the City's fiscal solvency. The Black Diamond February 2026 Monthly Financial Report includes the following information: • A comprehensive summary of 2026's revenues and expenditures • An evaluation of actual General Fund revenues earned from 2022 – Present by month, for comparative purposes. • A multi-year analysis of the General Fund's revenues and expenditures from 2019 – Present. • A targeted analysis, General Fund Revenues Snapshot, that details property and sales tax trends (2023 - Present) accompanied with a department-level budget-to-actual expenditure comparison. • Lastly, there is a detailed summary of the Enterprise Funds' performance from 2020 - Present, specifically tracking revenues, expenditures, and surpluses/deficits. FISCAL NOTE (Finance Department): N/A		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: Reviewed by the Budget, Finance, and Administration Committee on May 12th, 2026		
RECOMMENDED ACTION: N/A		

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>



Black Diamond March 2026 Monthly Financial Report

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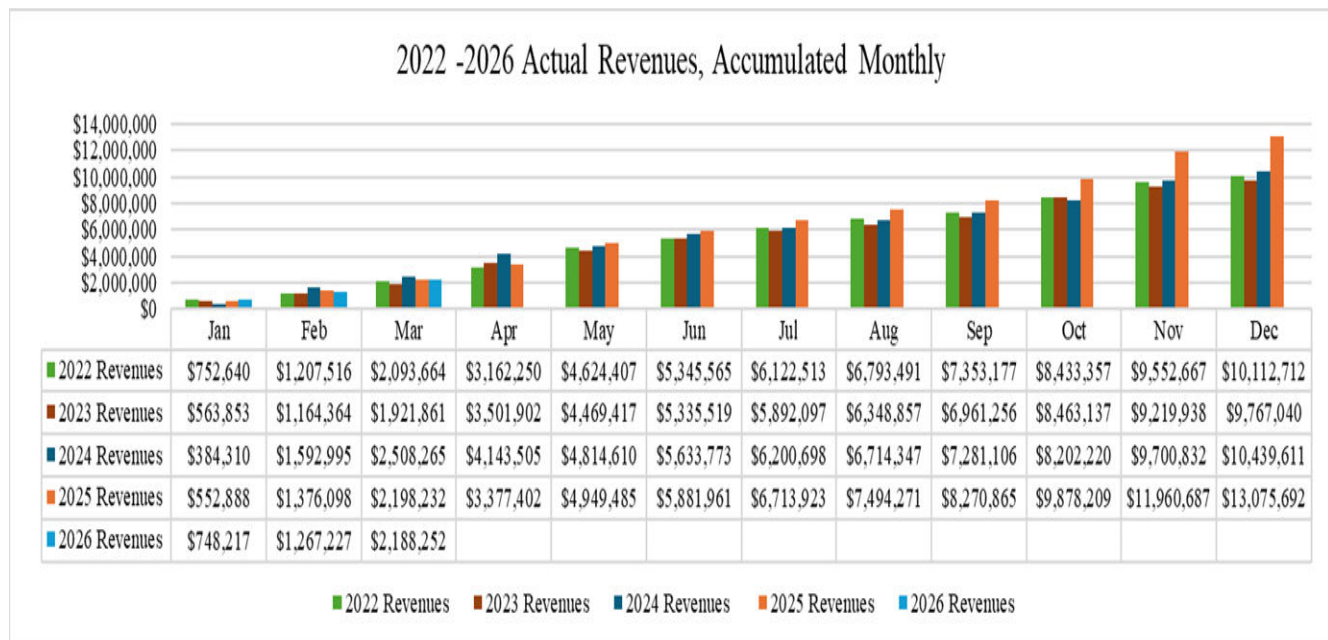
Monthly Highlights

1. The General Fund has a significantly increased deficit due to the interfund loan from the recent land acquisition.
2. As expected in the first quarter, the Sewer and Stormwater Funds are utilizing reserve funds for operations.
3. The General Fund's revenues are earning right on par with budgeted projections.

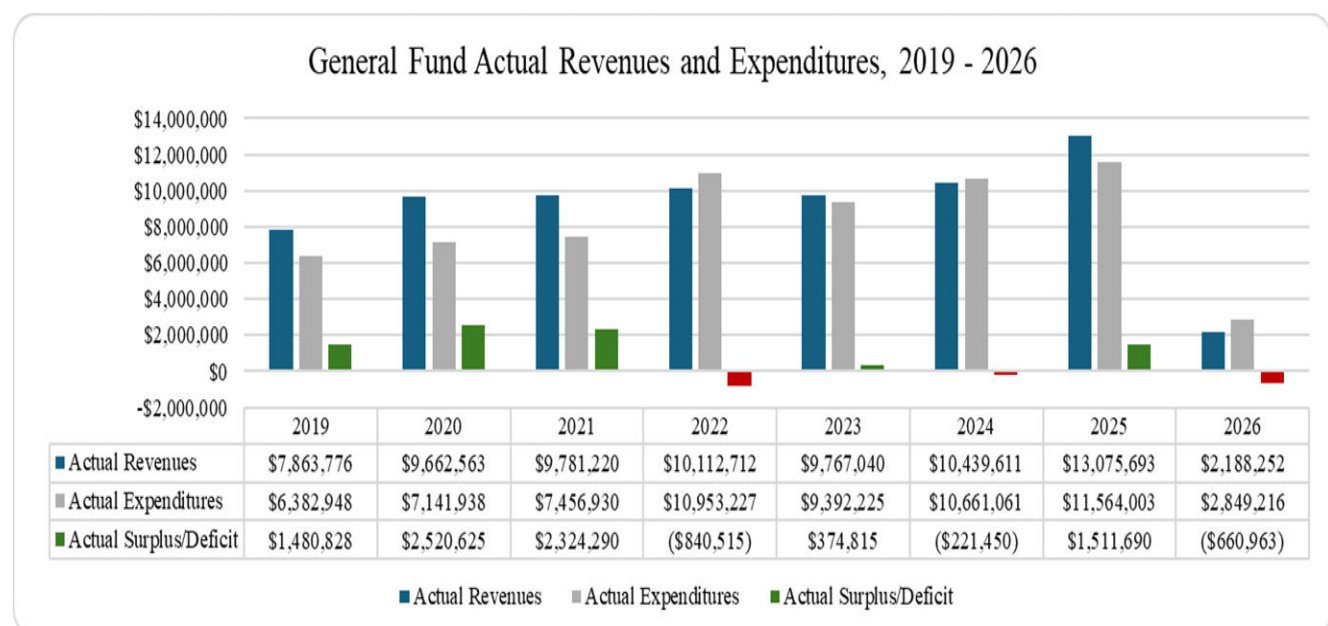
General Fund Revenues	Budget	Actual	Difference	% Collected
Property Taxes	\$3,321,799	\$120,666	\$3,201,133	3.6%
Sales & Use Taxes	\$1,551,500	\$444,474	\$1,107,026	28.6%
Utility and Gambling Taxes	\$1,325,586	\$377,928	\$947,658	28.5%
Cable Franchise Fees	\$80,000	\$16,684	\$63,316	20.9%
Business License Fees	\$54,000	\$13,125	\$40,875	24.3%
Land Use and Permitting Fees	\$1,672,800	\$315,962	\$1,356,838	18.9%
Liquor Tax and Profits	\$110,000	\$24,826	\$85,174	22.6%
Investments and Miscellaneous Revenue	\$297,500	\$86,981	\$210,519	29.2%
Parks and Gym Revenue	\$71,000	\$17,643	\$53,357	24.8%
Cemetery Fees	\$625	\$1,471	\$846	235.3%
Police Department Revenue	\$671,031	\$132,216	\$538,815	19.7%
Municipal Court Revenue	\$425,150	\$42,966	\$382,184	10.1%
Subtotal Operating Revenue	\$9,580,991	\$1,594,941	\$7,986,050	16.6%
AWC Insurance and Flex Deposit	\$0	\$2,700	\$2,700	N/A
MDRT Revenues	\$3,073,985	\$590,611	\$2,483,374	19.2%
Total Revenue	\$12,654,976	\$2,188,252	\$10,466,724	17.3%
General Fund Expenditures	Budget	Actual	Difference	% Expended
City Council	\$22,521	\$2,904	\$19,617	12.9%
Mayoral Department	\$16,272	\$3,421	\$12,851	21.0%
City Administrator	\$272,282	\$47,992	\$224,290	17.6%
General Government	\$827,930	\$305,488	\$522,442	36.9%
Legal Services	\$293,000	\$61,363	\$231,638	20.9%
Municipal Court	\$835,577	\$144,041	\$691,536	17.2%
Police Department	\$3,985,015	\$966,036	\$3,018,979	24.2%
Fire Department	\$1,396,586	\$25,068	\$1,371,518	1.8%
Recycle/ Animal Control/ Mental Health	\$158,900	\$12,225	\$146,675	7.7%
Master Development Review Team	\$1,218,985	\$289,287	\$929,698	23.7%
Community Development	\$1,609,327	\$287,083	\$1,322,245	17.8%
Parks Department	\$364,077	\$167,273	\$196,804	45.9%
Cemetery Department	\$69,675	\$41,231	\$28,444	59.2%
Total Operating Expenditures	\$11,070,148	\$2,353,412	\$8,716,736	21.3%
Transfers	\$147,393	\$0	\$147,393	0.0%
AWC Insurance and Flex Deposits	\$0	\$832	-\$832	N/A
Master Development Review Team Consultants	\$1,855,000	\$167,332	\$1,687,668	9.0%
Interfund Loan	\$0	\$327,641	-\$327,641	N/A
Total Expenditures	\$13,072,541	\$2,849,216	\$10,223,325	21.8%
Surplus/Deficit	-\$417,565	-\$660,963	-\$243,399	-58.3%

General Fund Revenue Summary

The graph below, 2022 - 2026 Actual Revenues, Accumulated Monthly is meant to provide a Year-over-Year monthly comparison of each month's General Fund Revenue earnings for comparative purposes.



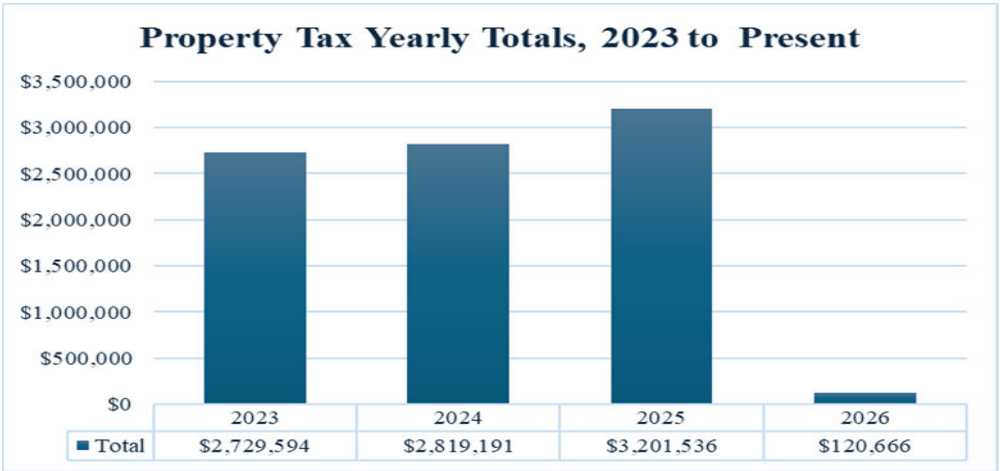
The graph, *General Fund Actual Revenues and Expenditures*, depict the City's actual revenues and expenditures from 2019 through February 2026. For five of the past seven years, the City achieved a surplus within the General Fund. The expenditures include transfers made to other internal funds. The City, generally, transfers roughly \$600,000 per year out to other funds. This year, the General Fund is transferring \$147,393 to Capital Projects.



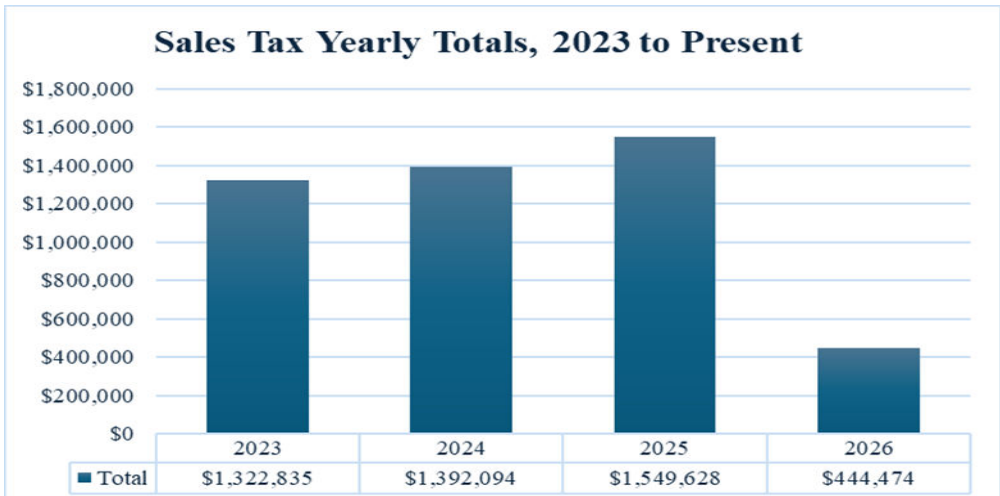
General Fund Revenues "Snapshot"

The following graphs depict the yearly totals of select General Fund revenue streams. For the year 2026, the total amounts include up to the month of March, 2026.

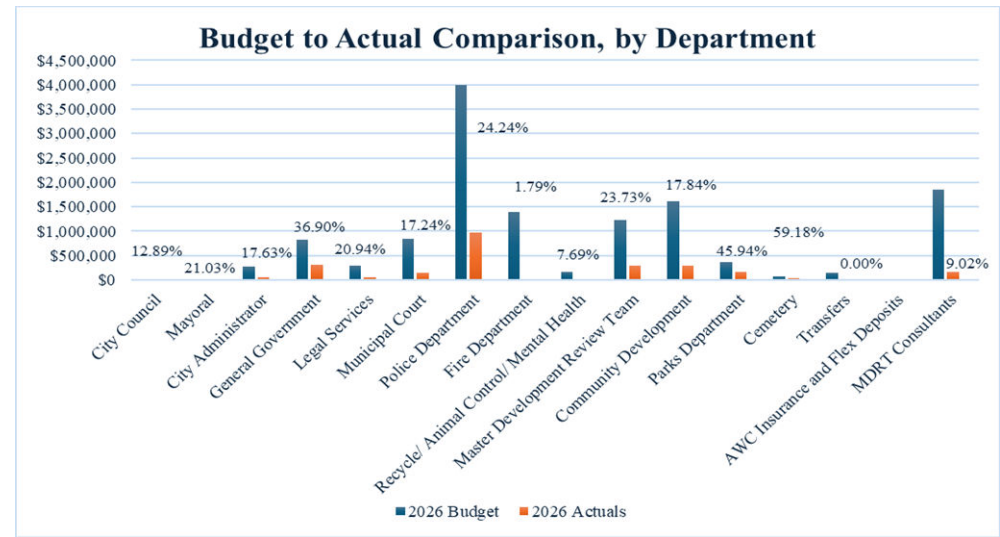
Property taxes serve as the financial backbone and single largest source of locally-generated revenue. Property Taxes in 2026, are estimated to account for 33% of General Fund revenues.



Sales taxes are a critical and flexible source of revenue. The sales taxes collected by Black Diamond are used to support the functions of General Government, with a portion being earmarked for capital projects.



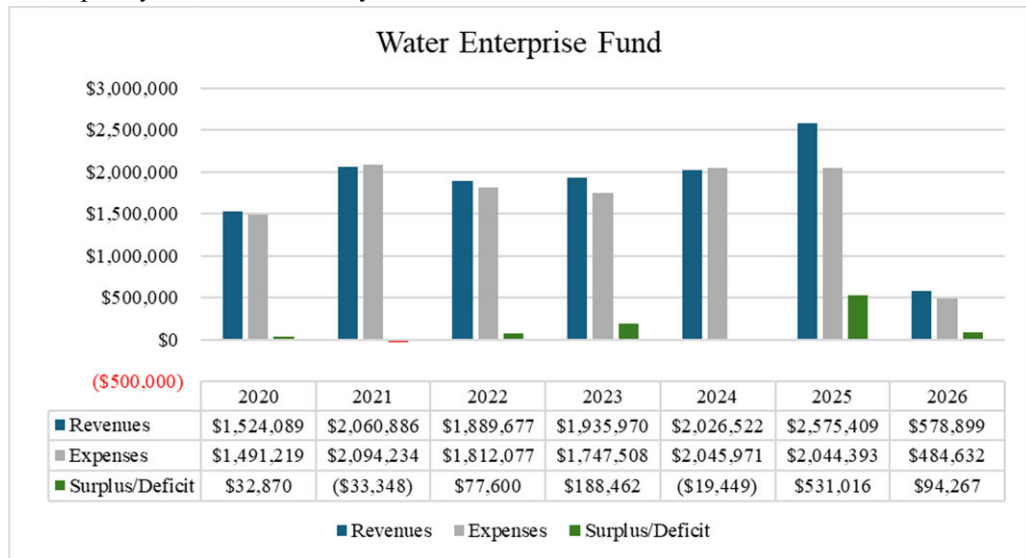
This graph, *Budget to Actual Comparison by Department*, compares each department's expenditures within the General Fund up to the the end of March, 2026.



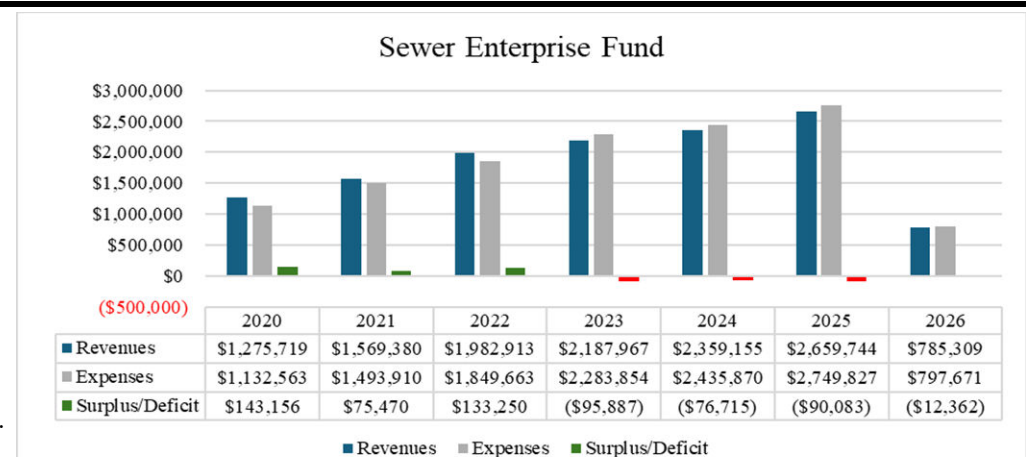
Enterprise Funds

Enterprise funds operate differently from the General Fund and other Special Revenue Funds. These funds must operate similar to a private business, in that, their operational revenues must consistently and sustainably cover their operational expenditures. As a full-service City, Black Diamond has three enterprise funds: Water, Sewer, and Stormwater. The following graphs, one for each fund, depict the actual revenues and expenditures from 2020 to March, 2026. It is important to note some deficits, in prior years, were caused by internal transfers.

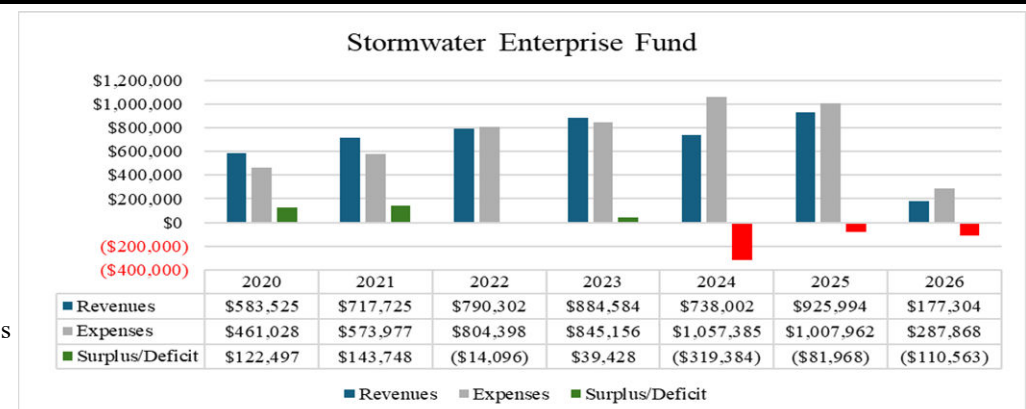
The Water Operational Fund is responsible for the delivering of safe, high-quality, and reliable drinking water. The core revenues are: water charges; sales from irrigation; and new meter fees due to the amount of new construction.



The Sewer Operational Fund is responsible for the collection and conveyance of wastewater from homes and businesses within the City. This fund's largest revenues are: sewer charges; sewer investigations; and reviews.



The Stormwater Operational Fund is responsible for managing the City's infrastructure to reduce flooding, protect water quality, and the roadway system. This fund's primary revenue source is Stormwater Charges.



CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Proposed Ordinance Amending Chapter 8.24 BDMC – Boating and Water Safety Regulations	Agenda Date: May 19, 2026 AB26-052	
	Mayor John Adler	
	City Administrator Kevin O'Neill	X
	City Attorney David Linehan	X
	City Clerk – Brenda L. Martinez	
	Com Dev –	
	Finance – Xavier Mason	
	MDRT/Ec Dev Hal Hart	
	Police – Chief Kiblinger	X
Fund Source: General Fund	Public Works – Scott Hanis	
Timeline:	Court – Tawyna Parks	
Agenda Placement: ☐ Mayor ☐ Two Councilmembers ☐ Committee Chair ☒ City Administrator		
Attachments: Proposed Ordinance		
SUMMARY STATEMENT: This Ordinance updates Chapter 8.24 of the Black Diamond Municipal Code to improve boating and water safety regulations. The amendments are based on a staff review, identifying gaps in the City's existing code. Key changes include: - Expanding and clarifying definitions related to watercraft. - Establishing new regulations for electric hydrofoil (e-foil) boards. - Adding provisions governing the operation of seaplanes and how watercraft must interact with aircraft. - Strengthening safety requirements, including updates to personal flotation device and equipment standards. - Introducing rules addressing inattentive operation of watercraft to enhance public safety. - Revising provisions related to traffic control, vessel speed, and emergency authority on City waters. The Ordinance also includes a standard severability clause and establishes an effective date five days after publication. FISCAL NOTE (Finance Department): N/A		

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:	
RECOMMENDED ACTION: MOTION to approve Ordinance No. 26-1249, amending Chapter 8.24 of the Black Diamond Municipal Code concerning water safety to update various regulations, add regulations regarding use of personal watercraft and electric hydrofoil boards, to prohibit the inattentive operation of vessels and watercraft, and to address seaplanes; providing for severability, and establishing an effective date.	
RECORD OF COUNCIL ACTION	
Meeting Date	<i>Action</i> <i>Vote</i>
May 5, 2026	Public Hearing
May 19, 2026	

ORDINANCE NO. 26-1249

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING CHAPTER 8.24 OF THE BLACK DIAMOND MUNICIPAL CODE CONCERNING WATER SAFETY TO UPDATE VARIOUS REGULATIONS, ADD REGULATIONS REGARDING USE OF PERSONAL WATERCRAFT AND ELECTRIC HYDROFOIL BOARDS, TO PROHIBIT THE INATTENTIVE OPERATION OF VESSELS AND WATERCRAFT, AND TO ADDRESS SEAPLANES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City has adopted boating and water safety regulations in Chapter 8.24 of the Black Diamond Municipal Code (BDMC); and

WHEREAS, City staff has undertaken a review of Chapter 8.24 BDMC and recreational water use regulations in other jurisdictions and identified several areas for improvement in the BDMC; and

WHEREAS, Chapter 8.24 BDMC does not currently include sufficient regulation of personal watercraft use; and

WHEREAS, Chapter 8.24 BDMC does not currently address use of electric hydrofoil boards; and

WHEREAS, inattentive operation of watercraft, vessel or personal watercraft poses a danger to the public which the City desires to minimize; and

WHEREAS, Chapter 8.24 BDMC does not currently address the operation of seaplanes or how vessel or watercraft operators should interact with them;

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

Section 1. BDMC 8.24.050 Amended. Section 8.24.050 BDMC, "Definition," is hereby amended as shown in Exhibit A hereto.

Section 2. BDMC 8.24.185 Added. A new Section 8.24.185 BDMC, "E-foil regulations," is hereby added as shown in Exhibit A hereto.

Section 3. BDMC 8.24.190 Amended. Section 8.24.190 BDMC, "Lake Sawyer restrictions," is hereby amended as shown in Exhibit A hereto.

Section 4. BDMC 8.24.195 Added. A new Section 8.24.195 BDMC, "Aircraft," is hereby added as shown in Exhibit A hereto.

Section 5. BDMC 8.24.210 Amended. Section 8.24.210 BDMC, “Personal flotation devices, equipment, and navigation lights,” is hereby amended as shown in Exhibit A hereto.

Section 6. BDMC 8.24.215 Added. A new Section 8.24.215 BDMC, “Inattention,” is hereby added as shown in Exhibit A hereto.

Section 7. BDMC 8.24.280 Amended. Section 8.24.280 BDMC, “Directing traffic, restricting vessel speed, suspending activities, emergency powers,” is hereby amended as shown in Exhibit A hereto.

Section 8. Severability. Each and every provision of this Ordinance is severable. If any provision of this Ordinance is found to be unconstitutional or otherwise unenforceable or contrary to law by a court of competent jurisdiction, that finding shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

Section 9. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY A MAJORITY OF THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 19TH DAY OF MAY, 2026.

CITY OF BLACK DIAMOND:

John Adler, Mayor

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

David Linehan, City Attorney

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Chapter 8.24 WATER SAFETY¹

8.24.010 Authorization; application of regulations.

The city, in the exercise of its police power, assumes control and jurisdiction over all lakes, rivers, and all other waters within its corporate limits, within unincorporated areas inside its geographical boundaries, and over adjacent waters as provided in RCW 35.21.160 and RCW 35A.11.160.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.020 Application of regulations.

The provisions of this chapter shall be applicable to all recreational vessels and related uses in and upon all lakes within the geographical boundaries of the city and all other waters within the city's jurisdiction as set forth in BDMC 8.24.010, including any future amendments thereto. The provisions of this chapter shall be construed to supplement United States laws and state laws and regulations when not expressly inconsistent therewith.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.030 Revised Code of Washington provisions adopted by reference.

- A. The following provisions of Chapter 88.02 RCW entitled "Vessel Registration," including any future amendments, additions thereto and repeals thereof, are hereby adopted by reference and incorporated herein:

RCW

88.02.550 Registration and display of registration number and decal required—Exemptions.

88.02.570 Exemptions.

88.02.340 Inspection of registration certificates, out of state vessels.

88.02.380 Penalties—Disposition of moneys collected—Enforcement authority.

- B. The following provisions of Chapter 79A.60 RCW entitled "Regulation of Recreational Vessels," including any future amendments, additions thereto and repeals thereof, are hereby adopted by reference and incorporated herein:

RCW

79A.60.010 Definitions.

79A.60.020 Violations of chapter punishable as misdemeanor—Circumstances—Violations designated as civil infractions.

¹Ord. No. 1192, § 1(Exh. A), adopted July 20, 2023, Chapter , §§ 8.24.100—8.24.120, 8.24.200—8.24.220, 8.24.300, 8.24.310, 8.24.400—8.24.440 and 8.24.500—8.24.540 and enacted a new Chapter 8.24 as set out herein. The former Chapter 8.24 pertained to similar subject matter and derived from Ord. No. 1054, adopted July 2, 2015; Ord. No. 1148, adopted September 3, 2020 and Ord. No. 1156, adopted March 4, 2021.

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- 79A.60.030 Operation of vessel in a negligent manner—Penalty.
- 79A.60.040 Operation of vessel in a reckless manner—Operation of a vessel under the influence of intoxicating liquor, cannabis, or any drug—Consent to breath or blood test—Penalty.
- 79A.60.045 Vessel impoundment—Procedure—Forfeiture.
- 79A.60.080 Failure to stop for law enforcement officer.
- 79A.60.100 Enforcement—Chapter to supplement federal law.
- 79A.60.110 Equipment standards—Rules—Penalty.
- 79A.60.120 Tampering with vessel lights or signals—Exhibiting false lights or signals—Penalty.
- 79A.60.130 Muffler or underwater exhaust system required—Exemptions—Enforcement—Penalty.
- 79A.60.140 Personal flotation devices—Inspection and approval—Rules.
- 79A.60.150 Failure of vessel to contain safety equipment—Owner/operator may be cited for applicable infraction or crime.
- 79A.60.160 Personal flotation devices required—Penalty.
- 79A.60.170 Water skiing safety—Requirements.
- 79A.60.180 Loading or powering vessel beyond safe operating ability—Penalties.
- 79A.60.190 Operation of personal watercraft—Prohibited activities—Penalties.
- 79A.60.200 Duty of operator involved in collision, accident, or other casualty—Immunity from liability of persons rendering assistance—Penalties.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.040 Washington Administrative Code provisions adopted by reference.

The provisions of Chapter 352-60 WAC, Recreational Vessel Equipment and Operation, as currently enacted or later amended, are hereby adopted by reference and incorporated herein.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.050 Definitions.

For the purpose of this chapter, in addition to the definitions set forth in RCW 79A.60.010 adopted in BDMC 8.24.030, the following terms shall have the meaning ascribed in this section:

"Authorized emergency vessel" means any authorized vessel of the city's police or fire departments, the United States government, and State of Washington authorized patrol boats or vessels.

"Boat basin" means the submerged waters surrounding the boat launch ramp and boarding float through which boats travel for the purpose of entering and exiting lake waters.

"City" means the City of Black Diamond.

["Congested conditions" means any period when vessel density, swimmer presence, or weather conditions create an unsafe environment as determined by the Black Diamond Police Department marine patrol unit](#)

["E-Foil" means motorized electric hydrofoil board capable of lifting above the water surface.](#)

"Obstruction" means any matter which may in any way blockade, interfere with, or endanger any vessel or impede navigation including but not limited to rafts, log booms, trees, lumber, and other similar material or objects.

"Oil" means any oil or liquid, whether of animal, vegetable, or mineral origin, or a mixture, compound, or distillation thereof.

"Pier" means any pier, wharf, dock, float, gridiron, or other structure to promote the convenient loading or unloading or other discharge of a vessel, or the moorage of a vessel.

"Police" or "police department" means the police department of the City of Black Diamond.

"Restricted area" means an area that has been marked in accordance with and as authorized by the law or regulations of the city, to be used for certain designated purposes such as swimming and aquatic events or otherwise closed to use by vessels, the method of marking and designation of which shall have been made by the city in accordance with the provisions of this chapter.

"Seaplane" means an aircraft that is capable of landing and taking off on the water.

"Skin diving" means any free-swimming person and/or any person who uses an artificial or mechanical means to replace his or her air, including self-contained underwater breathing apparatus (SCUBA diving), snorkel tube equipment, and free diving gear.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.060 Motor-powered vessels prohibited—Exception.

Except on lakes otherwise specifically provided for in this chapter, no motor-powered vessels shall be operated on any lake within the city.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.070 Required distance from motor-powered vessels to swimmers and other vessels.

Except as provided in BDMC 8.24.190, it is unlawful for any motor-powered vessel to be operated while the propeller is engaged within fifty feet of any swimmer or any row boat, canoe, or other vessels.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.080 Dumping trash in lakes prohibited.

The dumping, depositing, placing, or leaving of any garbage, ashes, debris, brush, or other material into any lake, is prohibited.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.090 Floating objects adrift.

All vessels, or any other articles of value found adrift in any lake in the city, may be taken into possession and removed by the police or other authorized city official or agent and shall be subject to reclamation by the owner thereof, on payment by him or her to the city of any expenses incurred by the city and in case of failure to reclaim may be sold or disposed of according to law.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.100 Sunken vessels.

When any vessel or obstruction has been sunk or grounded, or has been delayed in such manner as to stop or seriously interfere with or endanger navigation, the police may order the same immediately removed and if the owner, or other person in charge thereof, after being so ordered, does not proceed immediately with such removal, the police or other authorized city official or agent may take immediate possession thereof and remove the same, using such methods as in his or her judgment will prevent unnecessary damage to such watercraft or obstruction, and the expense incurred by the city in such removal shall be paid by the owner or other person in charge of such vessel or obstruction; and in case of failure to pay the same, the city may maintain an action for the recovery thereof.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.110 Intoxication.

- A. It is unlawful for the owner of any vessel or any person having charge or control of such to authorize or knowingly permit the same to be operated by any person who is under the influence of intoxicating liquor, cannabis, or any drug as determined by the criteria in RCW 79A.60.040.
- B. Whenever it appears reasonably certain to any police officer that any person under the influence of, or affected by the use of, intoxicating liquor or of any drug is about to operate a vessel in violation of subsection A above, said officer may take reasonable measures to prevent any such person from so doing.
- C. A violation of this section shall constitute a gross misdemeanor.
- D. Whenever the operator of a vessel is arrested for a violation of Section 8.24.110(A), BDMC, the arresting officer, or another officer acting at the arresting officer's direction, has authority to impound the vessel as provided in RCW 79A.60.045.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.120 Incapacity of operator.

It is unlawful for the owner of any vessel or any person having charge or control of such to authorize or knowingly permit the same to be operated by any person who by reason of physical or mental disability is incapable of operating such vessel under the prevailing circumstances.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.130 Reckless operation of a vessel prohibited.

It is unlawful for any person to operate a vessel in a reckless manner. This includes, but is not limited to, operating a vessel in a manner so as to create tight circles or "donuts" in the water. A violation of this section shall constitute a misdemeanor.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.140 Vessel operation within or bordering park property.

No person shall have, keep, or operate any boat, float, raft, or vessel in or upon any lake, within the limits of any park property, or launch the same at any point upon the shores thereof bordering upon any park property, except at places set apart for such purposes by the public works department and so designated by signs.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.150 Restricted areas.

In the interests of safe navigation, life safety, and the protection of property, the city may designate restricted areas and the purpose for which same shall be used on any lake authorized for vessel use. No person shall operate a watercraft within a restricted area; provided, that this section shall not apply to vessels engaged in or accompanying the activity to which the area is restricted, nor to patrol or rescue craft or in the case of an emergency.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.160 Swimming, flotation devices, and buoys.

- A. Swimming in city lakes shall be confined to:
 - 1. Restricted swimming areas;
 - 2. Within a distance of fifty feet from the shore, or a pier, or an occupied vessel accompanying the swimmer in the water; or
 - 3. Those areas as may be identified by the city as the course for competitive swimming training or events; or
 - 4. Those waters of the lake that are a distance of one hundred feet away from the boat basin, the boat launch, the boarding float, and the temporary moorage associated with the boat launch.
- B. Use of inflatable flotation or similar devices, not propelled by instruments such as oars and paddles, including, but not limited to, tubes, boards, and inflatable rafts, are only allowed during non-speeding hours within a distance of fifty feet from shore in non-designated swimming areas.
- C. No person shall cause to be tied to any marker buoy, any watercraft, boat, or similar craft or flotation device such as a tube, board, or inflatable raft. It is unlawful to move, remove, tamper with, destroy or attempt to destroy a marker buoy.
- D. No person shall give or transmit a false signal or false alarm of drowning in any manner.
- E. Floats, rafts and docks not attached to the shore shall be maintained in a safe and reasonable manner by the owner(s) of such facilities. Such facilities shall be located between the buoy line and the shoreline. In general, buoys shall be placed approximately two hundred feet from the shoreline around the lake. Buoys are to be provided and maintained only by the city unless otherwise officially delegated to a community organization.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.170 Skin diving.

Skin diving shall be prohibited in the waters of the city within three hundred feet of any public boat ramp, patrolled public beach designated as a swimming area, except pursuant to permit therefor issued by the city and

except for commercial diving, or in any other area unless the diver shall be accompanied by a vessel or the area in which he/she is diving shall be marked by an adequately displayed diver's flag.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.180 Water skiing.

Water skiing is prohibited on all lakes within the city except for Lake Sawyer which shall be regulated as set forth in BDMC 8.24.190.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.185 E-Foil regulations.

A. Operating Rules.

1. Operation of e-foils is prohibited on all lakes within the city except for Lake Sawyer.
2. E-foils shall yield right-of-way to all non-motorized watercraft, swimmers, and anglers at all times.
3. E-foil operation is prohibited in the following areas:
 - a. Within 200 feet of designated swimming areas;
 - b. Within 100 feet of shorelines, docks, boat ramps, or anchored vessels, except when traveling to or from the shore or dock; or
 - c. In-posted no-wake or restricted zones, except when traveling to or from the shore or dock; and
 - d. During the during the hours before sunrise or after sunset, regardless of season or lake conditions.
4. Speed.
 - a. Speeding hours are designated as Monday through Friday from two p.m. to seven p.m. and Saturdays, Sundays, and holidays from eleven a.m. to three p.m.
 - b. During speeding-hours, e-foils shall maintain a minimum 100-foot lateral distance from all other vessels and swimmers and avoid high-traffic corridors when practicable.
 - c. During non-speeding hours, e-foils must operate below 36mph and counter-clockwise.
 - d. E-foils must operate at 5mph or less at all times between buoys and the shoreline or dock.

B. Congestion and Safety Restrictions.

1. During congested conditions, authorized enforcement officials may:
 - a. Temporarily restrict e-foil operation;
 - b. Limit e-foil use to specific areas of the lake, or
 - c. Require operators to return to shore.:
2. Determinations of congestion shall be made by City officials based on:
 - a. Volume of boat traffic;
 - b. Presence of swimmers or paddlecraft;
 - c. Special events; or

d. Weather or visibility conditions.

C. Operator Requirements.

1. E-foil operators must be a minimum of fourteen years of age or older. Violation of this subsection shall constitute a misdemeanor
2. Operators must wear a U.S. Coast Guard–approved personal flotation device (PFD).
3. Operators must carry valid identification verifying their age.

D. E-Foil Equipment and Registration.

1. E-foils must be equipped with:
 - a. An emergency shut-off or kill switch; and
 - b. A sound-producing device such as a whistle or horn.:
2. E-foils must be registered with the Washington State Department of Licensing, unless exempt under WAC 308-93-030. Registration decals must be visibly displayed at all times. E. A parent or guardian may not authorize, knowingly permit, or by insufficient control allow a minor in their care to operate an E-foil in violation of this section. Violation of this subsection shall constitute a misdemeanor and a parent or guardian who authorizes, knowingly permits, or by insufficient control allows a minor in their care to operate an e-foil in violation of this section shall be jointly and severally liable with the minor for the penalties for the violation set forth in BDMC 8.24.290.

8.24.190 Lake Sawyer restrictions.

A. Generally. A complete copy of this Section shall remain on file with the City Clerk for in-person inspection and shall be available on the City's website. The city shall post a ~~complete copy of this section~~notice of these rules and information on how to access the full text at all public and commercial access areas to Lake Sawyer.

1. It is unlawful to use or operate any vessel powered by motor power on Lake Sawyer, except that vessels with the following engines will be permitted:
 - a. Water-cooled outboard engines of stock manufacture or stock manufactured inboard engines with outboard drive units (inboard/outboards) which vent all exhaust gases through the lower drive unit in conjunction with cooling water and/or vent at a point on the drive unit which is under water at all times; or water-cooled direct drive inboard engines equipped with a muffler or silencer of sufficient size and capacity to effectively muffle and reduce noise similar to that of outboards and inboard/outboards. This includes both propeller and jet propulsion watercraft.
 - b. Air-cooled outboard or inboard engines of stock manufacture rated by the manufacturer at ten horsepower or less.
2. Speed.
 - a. The speed limit on Lake Sawyer is five miles per hour except during "speeding hours" at which time the maximum speed is thirty-six miles per hour. Speeding hours are designated as Monday through Friday from two p.m. to seven p.m. and Saturdays, Sundays, and holidays from eleven a.m. to three p.m.
 - b. Vessels operating at speeds in excess of five miles per hour shall not operate within one hundred feet from other vessels and swimmers, and shall proceed around the lake in a counterclockwise direction.
 - c. Vessels must operate at no-wake speed between buoys and the shoreline at all times.

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3. Vessels shall not be used for residential purposes, or living on the vessel, while anchored or moored on the lake, even for short-term or temporary periods regardless of whether the vessel is a primary or secondary residence.
 4. Kayaks, canoes, stand-up paddleboards, and other paddlecraft are required to stay between the shoreline and the buoys during the speeding hours established in subsection (A)(2) of this section.
 3. All vessels shall carry United States Coast Guard approved [UL listed](#) personal flotation devices in good condition for each person in the vessel.
 4. Motor-powered vessels operating after sundown shall be equipped with and have lit proper running lights.
 5. The anchorage or moorage of unoccupied vessels is prohibited except when tied to a pier or dock with the permission of the owner of the pier or dock. However, an unoccupied vessel may only be anchored or moored to a city pier or dock while the vessel's trailer is being parked or retrieved.
 6. No remote controlled vessels powered by internal combustion engines shall operate before nine a.m. or after six p.m. Additionally, such remote controlled vessels may only be operated in those areas as may be designated by the public works director, and shall not be operated within one hundred feet of any fishing pier, designated swimming area, or boat launch ramp and dock.
- B. Water skiing. The following regulations apply to all water skiing activities as defined in RCW 79A.60.010 including, but not limited to, being towed behind a vessel on skis, an aquaplane, kneeboard, tube, or similar device:
1. No vessel which has in tow a person shall be operated or propelled in the waters of the city unless such vessel is occupied by at least two competent persons. (Competent shall be defined as a person responsible and capable of alerting the driver of the boat of any activities that require the attention of the driver.) The primary responsibility of the driver is to operate the vessel and the other person will act as an observer of the person in tow. It is the observer's responsibility to immediately inform the driver when a person under tow falls or is otherwise disengaged from the tow boat and to immediately raise a signal flag that is at least twelve inches square of bright orange or red material and mounted on a twenty-four inch or longer rod. Violation of this subsection shall constitute a misdemeanor.
 2. No operator shall have in tow a person before sunrise or after sunset. Violation of this subsection shall constitute a civil infraction.
 3. All persons in vessels towing persons on water skis, tubes, surfboards, or similar contrivance shall remain seated at all times.
 4. All persons being towed by vessel shall wear personal flotation devices that are approved by the United States Coast Guard. Violation of this subsection shall constitute a civil infraction.
 5. All operators of vessels having in tow or otherwise assisting a person on water skis, tubes, surfboards, or similar contrivance shall comply with BDMC 8.24.070.
 6. Regulations stated in this subsection shall not apply to vessels used in water ski tournaments, competitions, expositions, or trials therefor, which have been duly authorized by the city.

D.C. Personal Watercrafts.

1. [A person shall not operate a personal watercraft unless each person aboard the personal watercraft is wearing a United States Coast Guard or UL approved personal flotation device.](#)
2. [A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to their person, clothing, or personal flotation device as](#)

appropriate for the specific vessel. It is unlawful for any person to remove or disable a cutoff switch that was installed by the manufacturer.

3. A person shall not operate a personal watercraft during the hours before sunrise or after sunset, regardless of season or lake conditions.
4. A person under the age of fourteen shall not operate a personal watercraft on the waters of the city.
5. A parent or guardian may not authorize, knowingly permit, or by insufficient control allow a minor in their care operate a personal watercraft in violation of this section. A parent or guardian who authorizes, knowingly permits, or by insufficient control allows a minor in their care under the age of fourteen to operate a personal watercraft in violation of this subsection shall be jointly and severally liable with the minor for the penalties set forth in BDMC 8.24.290.
6. A person shall not operate a personal watercraft in a reckless manner, including recklessly weaving through congested vessel traffic, recklessly jumping the wake of another vessel unreasonably or unnecessarily close to the vessel or when visibility around the vessel is obstructed, or recklessly swerving at the last possible moment to avoid collision.
7. Violations of subsections (2) through (6) of this section constitute a misdemeanor. Violation of subsections (1) ~~and (7)~~ of this section shall constitute a civil infraction.

D. E-Foil operation. E-foil operation shall comply with BDMC 8.24.185.

E. Parking. A vehicle may park at the Lake Sawyer Boat Launch Park only in accordance with Chapter 10.04, BDMC.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.195 Aircraft.

- A. All vessels or watercraft shall keep clear of seaplanes landing within any area now or hereafter set aside for such purpose.
- B. All seaplanes must comply with all applicable laws that govern the operation of seaplanes.
- C. All vessels or watercraft shall yield to seaplanes that are preparing to land, landing, taking off, or maneuvering on the water and shall maintain a safe distance so as not to create a collision hazard or hazardous wake.

8.24.200 Public disturbance noises.

- A. Every motor-powered vessel shall at all times be equipped with a functioning underwater exhaust or a properly installed and adequately maintained muffler or other similar device to reduce the sound of engine exhaust. A person shall not remove, alter, or otherwise modify in any way an exhaust or muffler system in a manner that will prevent it from being operated in accordance with this chapter; nor shall a person use a muffler or pipes with pinched outlets, holes or rusted-through areas, or similar condition or defect where the result of the condition or defect does or could increase the level of noise of the motor-powered vessel over the level that would reasonably result if the motor-powered vessel were equipped with standard and/or properly maintained equipment.
- B. It is unlawful for any person operating a watercraft upon any lakes, rivers and all other waters within the corporate boundaries of the city knowingly to cause or make, or knowingly to allow or permit to originate from the watercraft, a public disturbance noise in violation of BDMC 8.12.040, including the following:

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1. The frequent, repetitive or continuous sounding of any horn or siren, except as a warning of danger or as specifically permitted or required by law;
 2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any watercraft, so as to unreasonably disturb or interfere with the peace, comfort and repose of others, including owners or possessors of real property;
 3. Yelling, shouting, hooting, whistling or singing, particularly between sunset and sunrise or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of others, including owners or possessors of real property;
 4. Sound from any audio sound system, such as tape players, radios and compact disc players, operated at volumes so as to be audible greater than fifty feet from the watercraft itself or which unreasonably interferes with the peace, comfort and repose of others, including owners or possessors of real property.
- C. The following types of sounds shall be exempt from this section:
1. Sounds created by safety and protective devices where noise suppression could defeat the intent of the device;
 2. Sounds created by a warning device not operating continuously for more than five minutes;
 3. Sounds created by emergency equipment for emergency work necessary in the interest of public safety for the health, safety, and welfare of the community;
 4. Sounds created by the normal docking, undocking, and waterskier pick-up and drop-off operations.
- D. A violation of this section constitutes a civil infraction. Each day, location, violator and incident shall constitute a separate infraction under this section.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.210 Personal flotation devices, equipment, and navigation lights.

All vessels operating on navigable waters in the city shall be equipped as required pursuant to the following provisions:

WAC

352-60-030 Personal flotation devices required.

~~352-60-040 Visual distress signals.~~

352-60-050 Ventilation.

352-60-060 Navigation lights and shapes.

352-60-080 Fire extinguisher required.

352-60-090 Backfire flame control.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.215 Inattention.

A. It is unlawful for any operator of a watercraft, vessel, e-foil, or personal watercraft to operate such craft in an inattentive manner.

B. For the purpose of this section “inattentive manner” means operation that is not reasonable and prudent under the conditions or that indicates a failure to maintain proper situational awareness and active monitoring of passengers and of the water for potential hazards, including but not limited other lake users or vessels.

8.24.220 Oil.

No owner, operator, or other person in charge of any vessel, and no person along or upon the shore of the waters of the city, shall spill, throw, pump, or otherwise cause oil of any description to be or float upon the waters of the city. Any person causing oil to be upon the waters of the city as aforesaid shall remove the same and upon his or her failure to do so, the same may be removed by the city or other appropriate agency and the expense thereof shall be paid by and recoverable from the person causing said oil to be upon the water. The payment of such sum or the maintenance of an action therefor, shall not be deemed to exempt such person from prosecution for causing such oil spillage. Any willful violation of this section shall constitute a misdemeanor.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.230 Nuisances.

Sunken vessels, refuse of all kinds, structures, or pieces of any structure, timber, logs, piles, boom sticks, lumber, boxes, empty containers, and oil of any kind floating uncontrolled on the water, and all other substances or articles of a similar nature, are hereby declared to be public nuisances and it is unlawful for any person to throw or place in, or cause or permit to be thrown or placed, any of the above named articles or substances in any lake in the city, or upon the shores thereof or in such position that same may or can be washed into said lakes of the city, either by storms, floods, or otherwise. Any person causing or permitting said nuisances to be placed as aforesaid shall remove the same and upon his or her failure to do so, the same may be removed by the city or other appropriate agency and the expense thereof shall be paid by and recoverable from the person creating said nuisance. In all cases such nuisances may be abated in the manner provided by law. The abatement of any such public nuisances shall not excuse the person responsible therefore from prosecution hereunder. A violation of this section shall constitute a misdemeanor.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.240 Abandoned and derelict vessels.

Abandoned or derelict vessels found on or above aquatic lands within the city shall be subject to disposition by the city under Chapter 79.100 RCW.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.250 Public health.

All vessels entering or in any lake in the city shall comply with the applicable public health laws and regulations of the United States, the state of Washington and its political subdivisions.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.260 Liability for damages.

Nothing in this chapter shall be construed so as to release any person owning or controlling any vessel, pier, obstruction, or other structure, from any liability for damages, and the safeguards to life and property required in

this chapter shall not be construed as relieving any person from installing and maintaining all other safeguards that may be required by law.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.270 Authorized emergency and patrol vessels.

The provisions of this chapter shall be applicable to the operation of any and all vessels on any lake in the city except that they shall not apply to any emergency and patrol watercraft performing the authorized duties for which such emergency and patrol vessels were established.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.280 Directing traffic, restricting vessel speed, suspending activities, emergency powers.

- A. ~~The police are hereby authorized to direct all vessel traffic on city lakes in person or by means of visible or audible signal in conformance with the provisions of this chapter; provided, that where necessary to expedite vessel traffic, or to prevent or eliminate congestion or to safeguard persons or property, such officers, and other authorized officers of appropriate governmental agencies or authorities, may direct vessel traffic as conditions may require, notwithstanding the provisions of this chapter.~~ Police may, in response to vessel traffic volume, direct any vessel not remaining within the established flow of traffic to relocate its activity to the area between the shoreline and the designated buoys.
- B. The public works director, or his or her designee, may restrict vessel speed or suspend any or all vessel activities on Lake Sawyer due to conditions on the lake such as flooding, high water, or other events, conditions, or occurrences when, in the reasonable discretion of the public works director or his or her designee, such action is deemed necessary to protect persons or property from injury or damage.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.285 Dock rules.

The following rules apply to all users of the city's Lake Sawyer boat launch:

- A. Lifejackets are required for children twelve years and under.
- B. Swimming or diving from the dock is prohibited.
- C. Overnight moorage on the dock is prohibited.
- D. Fueling at the boat launch is prohibited.
- E. Fishing from the dock is prohibited whenever the boat launch is sufficiently busy to create safety concerns. Fishing is limited to the end of the dock only.
- F. Temporary loading and unloading of passengers on the dock is allowed, subject to a fifteen-minute limit.
- G. No personal watercraft (e.g., jet skis) may be launched from the dock.
- H. Use of the dock is at the user's risk. The city is not responsible for any personal injuries to users or damage to their personal property.
- I. Boats left unattended are subject to impound.

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- J. Violations of any park rules or other civil ordinances may result in immediate removal from the park and issuance of a trespass citation. Violation of any trespass citation or other criminal law will subject the violator to possible arrest and prosecution.

(Ord. No. 24-1206, § 1, 7-11-2024)

8.24.290 Penalties.

The following penalties shall apply for violations of this chapter:

- A. Civil infraction. Except as provided in subsections B and C of this section or as otherwise provided in this chapter, a violation of any of the provisions of this chapter shall constitute a class 3 civil infraction in accordance with RCW 7.80.120(1)(c), as currently enacted or hereafter amended. Pursuant to Chapter 7.84 RCW, any violation of the provisions of Chapter 79A.60 RCW adopted herein which constitutes an infraction shall be assessed a monetary penalty as established in the penalty schedule currently set forth and as hereinafter amended in Rule 6.2 of Infraction Rules for Courts of Limited Jurisdiction (IRLJ) adopted herein by reference. Each separate day, or portion thereof, during which any violation occurs shall constitute a separate violation. If the current violation is the person's third violation of the same provision of this section during the past three hundred sixty-five days, then the violation shall be a misdemeanor.
- B. Misdemeanor. Any violation of any provision established in this chapter which constitutes a misdemeanor shall be punishable in accordance with BDMC 9.00.120. Each separate day or portion thereof during which such violation occurs shall constitute a separate violation.
- C. Gross misdemeanor. Any violation of any provision established in this chapter which constitutes a gross misdemeanor shall be punishable in accordance with BDMC 9.00.115. Each separate day or portion thereof during which such violation occurs shall constitute a separate violation.
- D. Aiding and abetting violations. It is unlawful to counsel, aid, or abet the violation of, or failure to comply with, any of the provisions of this chapter.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.300 Authority of officers to board vessels.

Commissioned officers of the city are hereby given the authority to board any vessel found underway on any lake of the city for the purpose of inspection and enforcement of this chapter.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.310 Interlocal cooperation.

Nothing in this chapter shall preclude the city from entering into interlocal agreements with cities and towns for the administration and enforcement of this chapter.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

8.24.320 Enforcement.

It shall be the duty of the police department or other city department or official as authorized by the mayor to enforce all sections of this chapter.

(Ord. No. 1192, § 1(Exh. A), 7-20-23)

(Supp. No. 38)

Created: 2026-02-09 10:58:13 [EST]

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Ordinance approving a major amendment to The Villages MPD Development Agreement regarding Pipeline Road Construction Timing	Agenda Date: May 19, 2026 AB26-053	
	Mayor John Adler	
	City Administrator - Kevin O'Neill	X
	City Attorney - David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev – Hal Hart	
	Finance – Xavier Mason	
	MDRT/Ec Dev – Michelle Wright	
	Police – Chief Kiblinger	
	Public Works – Scott Hanis	
Cost Impact (see also Fiscal Note): n/a	Court – Judge Swain/Tawnya Parks	
Fund Source: n/a		
Timeline:		
Agenda Placement: ☐ Mayor ☐ Two Councilmembers ☐ Committee Chair ☒ City Administrator		
Attachments: Proposed Ordinance		
SUMMARY STATEMENT: On May 5, 2026, a majority of the City Council passed a motion to approve a major amendment to The Villages MPD Development Agreement (DA) concerning the timing for construction of Pipeline Road, subject to certain additional conditions. Specifically, the Council approved an amendment to Section 6.4.3 of the DA to change the deadline for the Master Developer to construct Pipeline Road to the earlier of (i) the City's approval of a building permit for the 2,866th dwelling unit in the MPD, or (ii) when the DA's traffic monitoring plan shows that construction is necessary to prevent significant degradation of LOS on Roberts Drive. The Council's approval was conditioned on Oakpointe committing to beginning construction within 30 days of obtaining all necessary approvals and completing construction within 18 months thereafter; diverting construction vehicle traffic to the new South Connector EVA road once it is approved and constructed; constructing a new pedestrian crosswalk at Bruckner's Way, per CIP Project T24; and providing annual updates to the City Council as to MPD status and Pipeline Road construction progress. The Council asked the City Attorney to prepare and make available for the next meeting an Ordinance formalizing the Council's approval and adopting findings and conclusions in support of the decision, as required under BDMC 18.08.070.A.3. FISCAL NOTE (Finance Department): n/a		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Ordinance No. 26-1250 approving a major amendment to The Villages MPD Development Agreement regarding Pipeline Road construction timing; providing for severability; and establishing an effective date.		

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 19, 2026		

ORDINANCE NO. 26-1250
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
APPROVING A MAJOR AMENDMENT TO THE VILLAGES
MPD DEVELOPMENT AGREEMENT REGARDING THE
CONSTRUCTION TIMING FOR PIPELINE ROAD;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN
EFFECTIVE DATE

Whereas, the Applicant, CCD Black Diamond Partners LLC (“Oakpointe” or “Applicant”) has filed an application requesting a Major Amendment to The Villages Master Planned Development (MPD) Development Agreement (“DA”) Section 6.4.3 to modify the timing of construction of the future roadway to be known as Pipeline Road, as more fully described below; and

Whereas, the DA requires that Major Amendments be processed as Type 4 decisions under the vested Black Diamond Municipal Code (“Vested Code” or “BDMC”), which requires that the Hearing Examiner hold an open-record hearing and issue a recommendation to the City Council, with the City Council then holding a closed-record hearing before rendering a final decision; and

Whereas, after the conclusion of the required closed-record hearing and deliberations in a closed session pursuant to RCW 42.30.140(2), a majority of the City Council voted on May 5, 2026, to approve the Applicant’s proposed Major Amendment, subject to additional conditions proposed by the Applicant; and

Whereas, the City Council requested that the City Attorney prepare for the next City Council Meeting an Ordinance with findings and conclusions supporting the Council’s decision to approve the Major Amendment, as required by BDMC 18.08.070.A.3;

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

Section 1. Findings. The City Council makes the following findings:

- A. The Villages Master Planned Development (MPD) is an approved MPD within the City of Black Diamond. The MPD Permit for The Villages (n/k/a Ten Trails) was adopted by the City Council via Ordinance No. 10-946. The Development Agreement (DA) for The Villages MPD was adopted by the City Council via Ordinance No. 11-970.
- B. Under Section 10.4.2 of the DA and Section 18.08.070 of the Vested Code, a Major Amendment to the DA requires a Type 4 quasi-judicial decision process.

- C. Currently, Section 6.4.3 of the DA requires that Pipeline Road be constructed and open for traffic, and the right-of-way dedicated to the City, prior to the earlier of (i) the City's approval of a building permit for the 1,746th dwelling unit of The Villages MPD; or (ii) when the Traffic Monitoring Plan shows that construction is necessary to prevent a significantly adverse degradation of Level of Service on Roberts Drive.
- D. The Applicant, Oakpointe, requests a Major Amendment to DA Section 6.4.3. Specifically, Oakpointe requests that the text of Section 6.4.3 be modified such that Pipeline Road shall be constructed and open for traffic, and the right-of-way dedicated to the City, prior to the earlier of (i) the City's approval of a building permit for the 2,866th dwelling unit of the Villages MPD; or (ii) when the Traffic Monitoring Plan shows that construction is necessary to prevent a significantly adverse degradation of Level of Service on Roberts Drive.
- E. Oakpointe applied for the amendment to Section 6.4.3 of the DA on February 4, 2025. Oakpointe's application was deemed complete for processing on March 4, 2025. Public notice of the application was issued on March 17, 2025, pursuant to BDMC 18.08.120.
- F. The Notice of Application issued by the City for Oakpointe's proposed amendment stated that the Designated Official had determined that the application would be processed as a request for a Major Amendment, and further noted an opportunity to appeal that determination to the Hearing Examiner. No appeal of the determination that the application constituted a request for a Major Amendment was filed.
- G. The City issued a Notice of Public hearing on the application for Major Amendment on December 1, 2025, pursuant to BDMC 18.08.180, with the open-record hearing to be held December 15, 2025.
- H. The Hearing Examiner conducted the open-record public hearing on the Major Amendment application on December 15, 2025, at City Council chambers.
- I. As detailed in the Hearing Examiner's Recommendations to the City Council dated January 7, 2026 ("Initial Recommendation"), nearly 100 public comments were received in response to the Notice of Public Hearing. Nearly all of the comments were in opposition, with the notable exception of Palmer Coking Coal, which owns the property on which Pipeline Road will be constructed.
- J. The Hearing Examiner's Initial Recommendation identifies and summarizes the exhibits and testimony received into the record as part

of the open-record hearing held on December 15, 2025, as well as the additional materials received into the record at the Hearing Examiner's request after the conclusion of the in-person proceedings on December 15, 2025.

- K. Environmental review of Oakpointe's application resulted in the City adopting The Villages MPD Final Environmental Impact Statement (FEIS). The adoption of the FEIS was issued on December 1, 2025.
- L. As noted by the Hearing Examiner, traffic studies prepared by the City's transportation engineering consultants at Parametrix demonstrate that deferring construction of Pipeline road until the 2,866th dwelling unit would not negatively impact Level of Service on Roberts Drive. See Exhibit 6 to Hearing Examiner's Initial Recommendation. The Hearing Examiner concluded, and the City Council agrees, that the Parametrix traffic studies relied on by City Staff in reviewing the proposed Major Amendment are properly done, accurate, and reliable. See Initial Recommendation, page 12.
- M. City staff determined in their Staff Report (see Exhibit 7 to the Initial Recommendation), commencing at page 3 and continuing to page 7, that the Major Amendment meets all applicable regulatory codes, standards, and procedures, including the requirements of the DA, The Villages MPD Permit, Chapters 18.08, 18.66, and 18.98 BDMC, and therefore recommended approval. The Hearing Examiner concurred with City Staff that the requested Major Amendment would satisfy the requirements of the MPD Permit, the DA, and the relevant provisions of the BDMC. The City Council agrees with the Hearing Examiner's and City Staff's determination.
- N. However, the Hearing Examiner's Initial Recommendation was to deny the proposed Major Amendment unless the City Council determined that there were sufficient benefits to the City from approval that outweighed the expectation of an earlier construction threshold. The Hearing Examiner concluded that it was within the City Council's discretion to determine whether there were sufficient benefits to the City to warrant approving the deferred construction trigger for Pipeline Road.
- O. The City issued public notice of the closed-record hearing before the City Council, detailing the procedures to be followed for the hearing.
- P. The City Council held a closed-record hearing on February 19, 2026, in City Council chambers, following the rules of procedure established in the City Council Rules of Procedure for quasi-judicial matters, consistent with the public notice.

- Q. The City Council, following the closed-record hearing held on February 19, 2026, determined that it needed additional information before it could reach a final decision on the proposed Major Amendment. Accordingly, the City Council remanded the matter to the Hearing Examiner for further development of the record, with a list of 81 specific questions that the Council wanted answered in the course of the remand hearing. Some of the questions were posed to City Staff; some were posed to Oakpointe; and some were posed to the Enumclaw School District.
- R. On March 23, 2026, the City issued public notice of the remand hearing, to be held on April 6, 2026, at 6:00 p.m. The notice identified the limited scope and purpose of the remand hearing, which was to invite further evidence and testimony from the Applicant, City Staff, and the public on the 81 specific questions posed by the City Council.
- S. A remand hearing was conducted by the Hearing Examiner on April 6, 2026. In preparation for the remand hearing, City Staff prepared and submitted answers to the Council's questions that were directed to the City Staff. Oakpointe likewise prepared and submitted its own answers to the Council's questions. The City Staff and Oakpointe submitted their separate responses on April 6, 2026. The Hearing Examiner's Supplemental Report to the City Council ("Supplemental Recommendation") provides detailed summaries of the responses submitted by the City Staff and Oakpointe.
- T. In connection with the remand hearing, twelve additional exhibits were admitted into the record, along with testimony provided in-person from representatives of the City, Oakpointe, and members of the public.
- U. In further response to the City Council's remand questions, Oakpointe expressed its willingness to have additional conditions imposed if the City were to approve the proposed Major Amendment. Specifically, the conditions suggested by Oakpointe were as follows (collectively, "Additional Conditions of Approval"):
- (i) The Master Developer shall, in conformance with the terms of Exhibit "F" of the Development Agreement:
 - a. Within 30 days of receipt of approvals from both the City of Black Diamond and Tacoma Water for the construction of two vehicular lanes and Stormwater improvements for Pipeline Road ("Pipeline Road Improvements"), the Master Developer shall commence construction of the Pipeline Road Improvements; and

- b. The Master Developer commits to complete construction of the Pipeline Road Improvements within 18 months following the above commencement date.
- (ii) Following City approval of and completion of construction of an Emergency Vehicle Access as the first phase of the South Connector road across Ten Trails (see PLN24-0080), the Master Developer shall direct its general contractor's construction vehicles and that general contractor's subcontractors to use the South Connector EVA for construction access to Ten Trails.
 - (iii) At the City's option, the Master Developer shall either construct, or pay the City to construct the Bruckner's Way crosswalk project, Project T24 in the City's 2026-2031 CIP.
 - (iv) The Master Developer will present the City Council with an annual update on the development progress of Ten Trails, and the Pipeline Road construction. The Master Developer and the Mayor are to work together to find mutually agreeable time for this presentation and the Mayor is responsible for adding the presentation to the City Council agenda.
- V. The Enumclaw School District also responded to the City Council's questions pertaining to the potential impacts to the proposed new elementary school in Ten Trails if the Major Amendment were denied. The Enumclaw School District submitted a written letter on April 3, 2026, describing likely impacts to the financing of the new school, potential permitting and construction delays, and the possibility that denial of the Major Amendment would render the new school infeasible. The District noted that if the proposed Major Amendment were denied, Oakpointe may abandon the closing on its purchase of the High School Site, in which case the District's primary funding source for school construction would disappear. Further, even if Oakpointe proceeded with the purchase of the High School Site, if the City determined that all MPD development permits had to be paused until completion of Pipeline Road, the ensuing escalation of construction costs would likely render the project financially infeasible. In the District's words, "Any disruption places the entire School Project at risk—jeopardizing its financial foundation, halting progress, and ultimately preventing the District from delivering this essential school to the students and families it is intended to serve." The District concluded as follows: "In summary, the Proposed Amendment is essential to preserving the viability, timing, and funding of the School Project—an urgently needed investment supported by a creative, non-taxpayer funding structure that serves directly the growing Black Diamond community. Any delay or disruption risks not only significant cost escalation, but the complete loss of the project's funding framework and the District's ability to deliver the school. The

consequences would be long-term, including continued overgrowing, extended student transportation, and stalled community planning efforts.” Accordingly, the School District urged the City to carefully consider “the irreversible damage of a delay,” and requested approval of the Major Amendment.

- W. At the conclusion of the in-person remand hearing on April 6, 2026, the Hearing Examiner determined it would be appropriate to hold the hearing open until the end of the week to give the public, as well as City Staff and Oakpointe, an opportunity to submit further explanatory or rebuttal information in response to questions and comments received.
- X. On Friday, April 10, 2026, the City Staff, Oakpointe, and members of the public submitted timely additional information. Three additional comments from the public were also received. In total, five new exhibits were added to the record, at which point the Hearing Examiner formally closed the remand hearing on April 10, 2026.
- Y. On April 14, 2026, the Hearing Examiner issued his Supplemental Report to the City Council (“Supplemental Recommendation”). The Supplemental Recommendation concluded as follows (see page 45) (emphasis added):

The information provided by all parties leaves little question that the amendment should be approved. I strongly recommend its approval subject to the conditions offered by Oakpointe.

- Z. Key factual grounds for the Hearing Examiner’s strong recommendation in support of the Major Amendment were spelled out in pages 4 through 43 of his Supplemental Recommendation, with particular emphasis on the benefits to the City of securing the new elementary school and avoidance of substantial budget impacts that would flow from a slowdown or cessation of residential and commercial building permit activity if development were required to stop at the 1,746th dwelling unit until Pipeline Road is completed and open for traffic.

Section 2. Conclusions. The City Council reaches the following conclusions:

- A. The Applicant’s requested amendment to Section 6.4.3 of the DA to modify the construction timing of Pipeline Road is a Major Amendment under Section 10.4.2 of the DA and BDMC 18.98.100 (Vested Code).
- B. Pipeline Road is an essential component of the required traffic mitigation for The Villages MPD, which was approved for up to 4,800 dwelling units, 775,00 square feet of commercial, retail, office, and light industrial uses, multiple

schools, and other public/civic uses. As described in the DA and MPD Permit approval, Oakpointe's entitlement to full buildout of the MPD's residential, commercial, and school properties was conditioned upon the Master Developer's completion of numerous transportation mitigation projects, including Pipeline Road.

- C. Under the DA, the number of dwelling units serves as the "clock" that the Master Developer and City use for determining when various required infrastructure improvements must be constructed before further development within the MPD may continue.
- D. Under Section 6.4.3 of the DA, Pipeline Road must be constructed and open for traffic by no later than the City's approval of the building permit for the 1,746th dwelling unit.
- E. If Pipeline Road is not constructed and open for traffic as of the time that the building permit for the 1,746th dwelling unit is approved, then no further development within the MPD would be allowed to proceed, including residential, commercial, school, and all other types of development.
- F. The requirement to stop all new development within the MPD, including commercial and school property, if Pipeline Road is not completed by the 1,746th dwelling unit building permit is a direct consequence of several provisions of the Vested Code and the DA, and is memorialized in prior plat approvals and recorded final plats.
 - (i) Section 18.98.090 of the Vested Code requires that the MPD Conditions of approval (such as mandatory traffic mitigation measures) be incorporated into a development agreement, and that development agreement "shall be binding on all MPD property owners and their successors, and shall require that they develop the subject property only in accordance with the terms of the MPD approval." No distinction is made in the Vested Code between residential, commercial, and school property with respect to compliance with mitigation conditions imposed by the DA and MPD Permit; therefore all uses of property within the MPD must be developed consistent with the requirements of the DA.
 - (ii) The DA establishes dwelling unit permits as the "clock" that determines when various infrastructure improvements must be built. Under the Section 6.4.3 of the DA, Pipeline Road, which serves as traffic mitigation for the entire MPD, must be constructed by no later than issuance of the building permit for the 1,746th dwelling unit within the MPD.
 - (iii) A development permit for a commercial or school project issued after the building permit for the 1,746th dwelling unit would not be consistent with the DA if Pipeline Road has not yet been constructed and is not open for

traffic. The dwelling unit “clock” tells the City *when* Pipeline Road must be constructed; it does not distinguish what types of development must comply with the “clock.” The DA does not excuse commercial or school uses from having to demonstrate that traffic mitigation is in place at the time the “clock” says it’s due.

- (iv) This interpretation of the DA is consistent with all prior final plat approvals by the City. Indeed, the need for construction of Pipeline Road by the 1,746th dwelling unit is noted in the Infrastructure Improvement Timing table recorded on the face of the final plats approved by the City Council, including plats that include commercial property. See, e.g., Final Plat for Phase 1B, Plat A (Mountain View) Division 1-3 & 7-9, Sheet 10. Development within an approved plat cannot be approved unless all infrastructure improvements have been completed per the schedule.
- (v) The Recitals to the DA further confirm this interpretation. Recital H to the DA states that “any and all Implementing Projects necessary to build out The Villages MPD will be processed under the terms and conditions of The Villages MPD Permit Approval and this Agreement.” No exception is made for school or commercial Implementing Projects to be excused from complying with the terms and conditions of the DA and MPD Permit. The DA defines “Implementing Projects” broadly, as “a development project . . . which implements or is otherwise consistent with this Agreement and the MPD Permit Approval, including but not limited to Construction Permits and Land Use Permit.” Neither of those categories of permits is limited to residential development. By definition, school and commercial projects anticipated by the MPD are Implementing Projects and therefore must adhere to all requirements of the DA, such that development cannot be approved unless required mitigation, such as Pipeline Road, is in place at the time it is required.
- (vi) Finally, this interpretation is logical. It would be highly irresponsible of the City, and inconsistent with the clear intent of the DA and MPD Permit, to permit retail “big box” stores, major restaurant chains, and other large trip-generating uses to proceed with development in the MPD without the construction of Pipeline Road to mitigate traffic impacts. Transportation infrastructure requirements, such as Pipeline Road, are intended to offset traffic impacts across the entire MPD, including commercial, industrial, and school uses, not just the impact of new dwelling units.

G. Amending Section 6.4.3 of the DA to extend the Pipeline Road construction trigger to the 2,866th dwelling unit is necessary for the buildout of the MPD to continue without interruption or delay. The Council concludes that it is in the City’s vital interest to avoid significant delay of commercial and school projects, particularly the proposed elementary school in Ten Trails—while Oakpointe

diligently proceeds with completion of design, permitting, and construction of Pipeline Road.

- H. If the proposed Major Amendment is not approved, the new elementary school would likely be delayed for a significant period of time, with the District's sources of financing and increased costs of construction jeopardizing the feasibility of the project and impairing the District's ability to deliver an essential educational facility to the residents of Black Diamond. The need to preserve the viability and timing of the elementary school project is all the more urgent in light of the unique, non-taxpayer funding sources for the school, as well as the need to alleviate overcrowding and avoid the need to transport students across the District.
- I. Approving the proposed Major Amendment will also avoid the likely dramatic impacts that would result to the City budget if the amendment were denied and all MPD development permitting stopped. These fiscal consequences include reduced permitting fees, sales tax, and REET revenues associated with construction and sales of new homes and commercial property in the MPD. Halting MPD buildout pending completion of Pipeline Road would also avoid serious impacts to City staffing levels and the City's ability to deliver capital improvement projects identified in the City's planning documents.
- J. The City Council adopts the reasoning of the Hearing Examiner regarding benefits to the City from approving the Major Amendment, as explained in his Supplemental Recommendation.
- K. Amending Section 6.4.3 of the DA to extend the Pipeline Road construction trigger to the 2,866th dwelling unit is not expected to have detrimental impacts to the City's adopted level of service (LOS) for City streets and intersections, as noted in the Findings above.
- L. The additional conditions proposed by Oakpointe will serve to:
 - (i) ensure that Pipeline Road is completed as soon as possible and no later than the 2,866th dwelling unit, following necessary approvals by the Tacoma Water District;
 - (ii) improve driver experience, reduce wear-and-tear, and reduce the potential for pedestrian-vehicle conflicts, by redirecting MPD construction traffic away from Roberts Drive and onto the new South Connector roadway to be built in the southern portion of Ten Trails.
 - (iii) improve pedestrian safety along Roberts Drive by funding construction of a new crosswalk at Bruckner's Way, per the City's adopted CIP, without additional costs to the City; and

- (iv) increase transparency and accountability by establishing regular check-ins by Oakpointe with the City Council to monitor progress toward fulfillment of Oakpointe's obligations under the DA.
- M. Approving the requested Major Amendment, with the Additional Conditions of Approval, delivers solid benefits to the City, avoids potentially devastating impacts to the City budget, staffing, and capital projects, and preserves the financial viability of the proposed elementary school in Ten Trails, and is therefore in the City's best interests.

Section 3. Decision. The decision of the City Council on the Applicant's proposed Major Amendment to The Villages MPD Development Agreement (DA) is as follows:

- A. The Major Amendment is **APPROVED**, subject to Oakpointe's compliance with the conditions specified in subsection 3.B, below. The text of Section 6.4.3 of the DA is hereby amended to read, in relevant part, as follows (deletions shown in strikethrough; added text shown in underline format):

The Pipeline Road shall be constructed by the Master Developer and open for traffic, and the right-of-way dedicated to the City, prior to the earlier of: (i) the City's approval of a building permit for the ~~1,746th~~ 2,866th Dwelling Unit of The Villages MPD; or (ii) when the Traffic Monitoring Plan (Exhibit "F") shows that construction is necessary to prevent a significantly adverse degradation of Level of Service on Roberts Drive.

All other language in Section 6.4.3 of the DA remains unaltered.

- B. As a condition of the City's approval of the Major Amendment set forth in subsection 3.A, above, Oakpointe shall comply with the following conditions:
 - (ii) The Master Developer shall, in conformance with the terms of Exhibit "F" of the Development Agreement:
 - a. Within 30 days of receipt of approvals from both the City of Black Diamond and Tacoma Water for the construction of two vehicular lanes and Stormwater improvements for Pipeline Road ("Pipeline Road Improvements"), commence construction of the Pipeline Road Improvements; and
 - b. Complete construction of the Pipeline Road Improvements within 18 months following the above commencement date.
 - (ii) Following City approval of and the Master Developer's completion of construction of an Emergency Vehicle Access as the first phase of the South Connector road across Ten Trails

(see PLN24-0080), the Master Developer shall direct its general contractor's construction vehicles and that general contractor's subcontractors to use the South Connector EVA for construction access to Ten Trails.

- (iii) The Master Developer shall, at its own expense, construct the Bruckner's Way crosswalk project, Project T24 in the City's 2026-2031 CIP.
- (iv) The Master Developer will present the City Council with an annual update on the development progress of Ten Trails and the Pipeline Road construction. The Master Developer and the Mayor are to work together to find mutually agreeable times for such presentations and the Mayor is responsible for adding such presentations to the City Council agenda.

Section 4. Severability. Each and every provision of this Ordinance is severable. If any provision of this Ordinance is found to be unconstitutional or otherwise unenforceable or contrary to law by a court of competent jurisdiction, that finding shall not affect the validity of the remaining provisions, which shall remain in force and effect.

Section 5. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication, in accordance with law.

PASSED BY A MAJORITY OF THE CITY COUNCIL AT A MEETING HELD ON THE 19TH DAY OF MAY, 2026.

CITY OF BLACK DIAMOND:

John Adler, Mayor

Attest:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

David Linehan, City Attorney

Published: _____

Posted: _____

Effective Date: _____

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution authorizing the Mayor to execute an Agreement with King County to renew services through the Lake Stewardship Program for monitoring water quality for Lake Sawyer	Agenda Date: May 19, 2026 AB26-054	
	Mayor John Adler	
	City Administrator - Kevin O'Neill	
	City Attorney - David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev –Hal Hart	
	Finance – Xavier Mason	
	MDRT/Ec Dev – Michelle Wright	
	Police – Chief Kiblinger	
	Public Works – Scott Hanis	X
Cost Impact (see also Fiscal Note): \$41,701 Fund Source: Stormwater Timeline: 2026-2028	Court – Judge Swain/Tawnya Parks	
Agenda Placement: ☐ Mayor ☐ Two Councilmembers ☐ Committee Chair ☐ City Administrator		
Attachments: Resolution; Agreement		
SUMMARY STATEMENT: King County has been providing water quality monitoring, lab services, and volunteer training for sample collection on Lake Sawyer for several years. The previous contract for these services expired in December 2025. The services provided by King County are through the County's Lake Stewardship Program and will monitor water quality through the growing season (May-Oct) on an annual basis. This includes the necessary training for City staff and volunteers. Monitoring on Lake Sawyer includes sampling for water temperature, Secchi depth (water clarity), phosphorus, chlorophyll, nitrogen, etc. This information is helpful for analyzing the status of Lake Sawyer, particularly trends with phosphorus. FISCAL NOTE (Finance Department): The Stormwater Department budgets for this testing every year. Increasing from last year, the costs in 2026 will be \$13,500. In 2027 and 2028 the prices will increase to become \$13,908 and \$14,293, respectively.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 26-1743 authorizing the Mayor to execute an Agreement with King County to provide water quality monitoring, lab services, and volunteer training for sample collection on Lake Sawyer.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
May 19, 2026		

RESOLUTION NO. 26-1743

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE AN
AGREEMENT WITH KING COUNTY TO PROVIDE WATER
QUALITY MONITORING, LAB SERVICES, AND
VOLUNTEER TRAINING FOR LAKE SAWYER THROUGH
2028**

WHEREAS, the City has identified the need for continued water quality monitoring, lab services, and volunteer training for sample collection on Lake Sawyer; and

WHEREAS, King County's Lake Stewardship Program (KC-LSP) has been providing these services through the Water and Land Resources Division (WLRD); and

WHEREAS, this Agreement will cover costs associated with these services from 2026 through 2028; and

WHEREAS, the City has funds available to cover these services;

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

Section 1. The Mayor is hereby authorized to execute an Agreement with King County to provide water quality monitoring, lab services, reporting and volunteer training for sample collection on Lake Sawyer through 2028.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF MAY, 2026.**

CITY OF BLACK DIAMOND:

John Adler, Mayor

Attest:

Brenda L. Martinez, City Clerk

Technical Services Agreement Between King County and City of Black Diamond for Lake Support Services

This Agreement is made and entered into by King County, a home rule charter county and political subdivision of the State of Washington, hereinafter referred to as “King County” or “the County,” and the City of Black Diamond, hereinafter referred to as the “City” or “Black Diamond,” collectively referred to as the “Parties,” for the provision of lake stewardship services to the City.

The Parties mutually agree as follows:

I. Purpose

The purpose of this Agreement is to provide a mechanism whereby the County, through its Water and Land Resources Division (WLRD), will provide lake stewardship services to the City, and the City will pay for such services. The services to be provided are described in Exhibit One, attached to this Agreement and incorporated herein and made a part hereof.

II. Administration

- A.** The provision of services under this Agreement will be managed for King County by Chris Knutson, Water Quality Planner, or other staff as designated by the County, and for the City by Scott Hanis, or other staff as designated by the City (collectively, the “Project Administrators”).
- B.** In the event that a dispute arises under this Agreement, it shall be resolved by the Project Administrators. If the dispute cannot be resolved by the Project Administrators, it shall be referred for resolution for the County to the Division Director of WLRD, or other representative as designated by the County, and for the City to Mayor John Adler, or other representative as designated by the City.

This dispute resolution provision shall not be construed as prohibiting the County or City from seeking enforcement of the terms of this Agreement, or relief or remedy from a breach of the terms of this Agreement, in law or in equity.

III. Responsibilities

A. The County shall:

1. Provide the technical services, as provided for in Exhibit One;
2. Work with City staff, if needed, to coordinate and provide these services.
3. Provide the City with annual invoices for services as provided herein.

B. The City shall:

1. Work with WLRD staff if needed to coordinate and facilitate the provision of services described in Exhibit One and as otherwise needed.
2. Obtain any right of entry permissions and any permits required to perform the activities described in Exhibit One.
3. Provide reimbursement to pay for the County's costs to provide services.

IV. Costs

The City shall pay the actual costs incurred by the County to provide the services described in Exhibit One. The estimated total cost of services to be provided to the City is \$41,701, as shown in Exhibit One. The total to be invoiced to the City will not exceed this amount unless agreed to by the Parties in writing before any work exceeding this amount is performed.

V. Billing

The Parties agree that billing and payment for services under this Agreement will be as follows:

- A.** King County will provide the City with an annual itemized invoice for services it provides under this Agreement.
- B.** Payment to King County for submitted invoices will be made by

the City within forty-five (45) days of the date that the City receives an invoice from the County.

VI. Effective Date, Duration, Termination, and Amendment

- A.** This Agreement is effective May 1, 2026, and will remain in effect until December 31, 2028 unless amended by written agreement or terminated earlier pursuant to the provisions hereof. Services performed prior to the date of execution of this Agreement are hereby ratified and confirmed within the scope of the terms of this Agreement.
- B.** This Agreement may be terminated by either Party upon 30 days written notice. In the event of termination, payment will be made by the City for work performed by the County to the date of termination.
- C.** This Agreement may be amended only by written agreement of the Parties.
- D.** King County's obligation to provide services under this Agreement is contingent on appropriation of funding by King County's legislative body. If no such appropriation is made for any future year, this Agreement will terminate at the close of the appropriation year for which the last appropriation that funds these activities is made, and the costs associated with such a termination shall not exceed the appropriation for the fiscal period in which termination occurs.
- E.** This Agreement is not assignable by either Party, either in whole or in part.
- F.** This Agreement is a complete expression of the intent of the Parties and any oral or written representations or understandings not incorporated herein are excluded. The Parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification

of the terms of the Agreement.

VII. Reporting Obligation

King County's sole reporting obligation under this Agreement is to provide the results of laboratory analytical services to the City. The Parties agree that King County's reporting obligations do not extend to any third party, including any regulatory agency that may seek to obtain or require the results of laboratory analyses. The Parties further agree that any reporting obligations that may exist with regard to third parties, including regulatory agencies, shall remain solely the responsibility of the City. King County shall have no liability for any failure to meet any existing reporting requirements and the City agrees to defend, indemnify and hold harmless King County for any damages, suits or claims by third parties related to the failure to report the results of the laboratory analyses.

VIII. Counterparts

This Agreement may be executed in counterparts.

IX. Indemnification and Hold Harmless

King County shall protect, defend, indemnify, and save harmless the City, its officers, officials, representatives, and employees, while acting within the scope of their duties, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from King County's own negligent acts or omissions, or the negligent acts or omissions of King County's officials, officers, or employees in connection with activities conducted under this Agreement. The City shall protect, defend, indemnify, and save harmless King County, its officers, officials, and employees, while acting within the scope of their employment, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from the City's own negligent acts or omissions, or the negligent acts or omissions of the City's officials, officers or employees in connection with activities conducted under this Agreement. Each Party agrees that its obligations under this Article IX

extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event that either Party incurs any judgment, award, and/or cost arising therefrom, including attorney's fees, to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the responsible Party. The indemnification provided for in this Article IX shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the _____ day of _____, 2026.

Approved as to Form

King County:

By: _____

By: _____

Title: Sr. Deputy Prosecuting Attorney

Title: Director, Water and Land Resources

Approved as to Form

City of Black Diamond:

By: _____

By: _____

Title: _____

Title: _____

Exhibit One

City of Black Diamond Lake Support Services 2026-2028

The King County Water and Land Resources Division will provide services through the Lake Stewardship Program (KC-LSP, “The Program”) to the City of Black Diamond (“City”) for monitoring water quality and quantity for Lake Sawyer. This Scope of Work covers services conducted in 2026-2028.

Monitoring services include sample pickup and delivery to the King County Environmental Lab for analysis, compilation and quality control of data collected by volunteers, reporting the data back to the City and volunteers online or by other preferred means, and providing technical assistance to the City and the public regarding questions about water quality, best management practices, and ecosystem function.

Annual monitoring program:

KC-LSP will train designated volunteers (if annual volunteers are available) in the correct methods for measuring daily precipitation and lake water levels, weekly measurements of surface water temperature and Secchi transparency, and observations on particles in the water, goose abundance, and gathering information on lake use. The Program will provide and maintain the proper equipment and will consult or supervise on proper installation and use. Volunteers will provide a boat and safety equipment necessary for getting to the specified sampling site on the lake. When possible, the Program will install automated loggers to collect continuous lake level and temperature readings.

KC-LSP will also provide blank field sheets or Excel spreadsheet templates for data reporting on a quarterly basis and will accept either completed field sheets or Excel files in return.

Seasonal monitoring program:

Volunteers will collect water samples on a biweekly basis from May through October for a total of 12 sampling events per season. KC-LSP will train volunteers in the correct sample collection and storage methods, measurements of surface water temperature and Secchi transparency, and making observations on particles in the water, goose abundance, and gathering information on lake use. The Program will provide proper sampling equipment and will be responsible for repair or replacement if necessary. The Program will also provide all sample bottles, properly labeled, and will pick up filled bottles at a designated site to deliver to the King County Environmental Lab for analysis.

Volunteers will also search for scum accumulations of cyanobacteria during the routine monitoring and, if found, will take a sample to be submitted to King County Environmental Labs for toxin analysis through the Washington State Toxic Algae program, with location identified. King County will provide technical assistance as needed for this effort.

Due to the volunteer nature of participation in the KC-LSP Program, the parties understand and acknowledge that occasionally sampling frequency may be affected due to unexpected issues such as volunteer unavailability, but the Program will make best efforts to ensure suitable replacement volunteers are provided and all samples are collected as intended.

Database management, data analysis, quality assurance, and reporting:

The Program will:

- enter all data received from monitors and the King County Environmental Lab into a database available online at the King County Small Lakes Data webpage.
- analyze all data for consistency and general water quality conditions.
- pursue explanations for anomalies and look for trends or indicators of change in the parameters over time.
- if requested, make management suggestions to the City or volunteers based upon the data and findings.
- if participating in the annual WQ monitoring, lake level and temperature data will be uploaded to the King County Hydrologic Information Center (HIC) webpage.

The Program will also provide Excel files of the data on request.

Additional technical assistance:

At the specific request of City staff, the Program can provide the following additional services outside the scope of seasonal and annual water quality monitoring activities:

- technical assistance to City staff on lake monitoring issues, such as collecting and analyzing additional samples and preparing technical memos
- special educational activities for City staff or residents on the nature and management of lake ecosystems

Additional outreach or monitoring assistance outside the scope of the Lake Stewardship Program will be billable by the hour and for materials or equipment required. Prior to providing services, KC-LSP and the City will agree in writing (can be via email) on a scope of work and cost ceiling for additional services provided. Billing for any services provided will be included in annual invoices to the City.

Budget	2026	2027	2028
Seasonal WQ monitoring	\$12,500	\$12,908	\$13,293
Flat fee subtotal	\$12,500	\$12,908	\$13,293
Additional technical assistance (request basis)	\$1,000	\$1,000	\$1,000
Total	\$13,500	\$13,908	\$14,293

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Professional Services Agreement with Stantec Inc. for the 2026 Utility Rates and Development Fees Study	Agenda Date: May 19, 2026 AB26-055	
	Mayor John Adler	
	City Administrator - Kevin O'Neill	
	City Attorney - David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev – Hal Hart	
	Finance – Xavier Mason	
	MDRT/Ec Dev – Michelle Wright	
	Police – Chief Kiblinger	
	Public Works – Scott Hanis	X
Cost Impact (see also Fiscal Note): \$83,700	Court – Judge Swain/Tawnya Parks	
Fund Source: Water, Sewer, Storm, Permitting		
Timeline: 2026		
Agenda Placement: ☐ Mayor ☐ Two Councilmembers ☐ Committee Chair ☐ City Administrator		
Attachments: Resolution; Professional Services Agreement; Exhibits A-D		
SUMMARY STATEMENT: The City last completed a rate study in 2019. The City has planned and budgeted to conduct a rate study to determine rates and fees for the water utility, sewer utility, stormwater utility, and permit-related fees. City staff sent a Request for Qualifications to 59 firms on the City's Small Works Roster. The City received Statements of Qualification from four firms. Two firms were interviewed and City staff recommends Stantec Inc. to assist with this work. Each utility and the permitting department have different needs. To determine the scope and pricing, City staff and Stantec looked at the needs and challenges of each. Water has the most variables and has a higher fee. We were able to work a review of the Capital Facilities Charge for water into the scope as well. Sewer and Storm have less variables but both have upcoming challenges with King County rate increases for Sewer and increasing and costlier requirements from the Department of Ecology for Stormwater. The permitting fees will be a simpler exercise of finding the gaps between the fees and actual costs of permit implementation (Note: the scope for permitting is included as Task 5 in the Water Budget Table. Stantec will look at different options for implementing recommended rate changes. Once we have recommended approaches, Stantec will present findings to Council. FISCAL NOTE (Finance Department): The Water, Sewer, and Stormwater Funds each have \$10,000 in the 2026 budget allocated towards the conduction of a study. However, Community Development did not budget for a rate study to be conducted this year within the Permitting division of the department. Depending on spending, each of the funds may require a budget amendment to cover the additional costs. The breakdown of costs on this contract is as follows:		

Water: \$45,325
 Sewer: \$15,200
 Storm: \$15,200
 Permit: \$7,975
TOTAL: \$83,700

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to adopt Resolution No. 26-1744 authorizing the Mayor to execute a professional services agreement with Stantec Inc. for the 2026 Utility Rates and Development Fees Study**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 19, 2026		

RESOLUTION NO. 26-1744

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A
PROFESSIONAL SERVICES AGREEMENT WITH
STANTEC INC. FOR THE 2026 UTILITY RATES AND
DEVELOPMENT FEES STUDY**

WHEREAS, the water, sewer, and stormwater utilities are overdue for rate calculations;
and

WHEREAS, permitting fees are in need of analysis and determination of required fees;
and

WHEREAS, rate and fee calculations will help determine how the City may need to
adjust over the next several years; and

WHEREAS, City staff issued a Request for Qualifications to consulting firms with
experience in conducting rates studies; and

WHEREAS, City staff, through the selection process, has selected and negotiated a
scope and contract with Stantec Inc.; and

WHEREAS, Stantec has experienced staff that will be able to analyze the City's rates
and provide recommendations for rate adjustments over the next several years; and

WHEREAS, City staff recommends executing an agreement with Stantec for this work;

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

Section 1. The Mayor is hereby authorized to execute a professional services
agreement with Stantec Inc. for the 2026 Utility Rates and Development Fees Study,
significantly in the form attached hereto.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF MAY, 2026.**

CITY OF BLACK DIAMOND:

John Adler, Mayor

Attest:

Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the or this "Agreement"), for reference purposes only, is dated [REDACTED], 2026 and is entered into by and between

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

Physical Address: 24301 Roberts Drive

Mailing Address: PO Box 599

Black Diamond, WA 98010

Contact: Scott Hanis Phone: 360-851-4521 Fax : 360-851-4501

and

Stantec Inc. ("Consultant")

1687 114th Ave. SE, Suite 100

Bellevue, WA 98004-6965

Contact: Courtney Black, Sr. Principal Phone: (425) 602-3545 Fax: _____

Tax Id No.: _____

for professional services in connection with the

Financial Services for Utility Rates and Development Fees

TERMS AND CONDITIONS

1. Services by Consultant

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

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

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

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

2. Schedule of Work

2.1 Consultant shall perform the services described in the Scope of Work Exhibit "A" in a timely manner as allowed by the applicable professional standard of care with the goal to meet the project schedule as outlined in Exhibit "B". There may be delays due to unforeseen circumstances (i.e., additional meetings or extended review periods) which may result in additional effort necessary for project management, design, research and administration in order to keep the work on schedule.

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

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

3. Compensation

TIME AND MATERIALS NOT TO EXCEED. Compensation for the services provided in the Scope of Work shall not exceed \$83,700 , as estimated by category of work and totaled on Exhibit "C", ,without the written authorization of the City and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit "D."

4. Payment

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

4.2 All invoices shall be paid by City warrant within forty-five (45) days of actual receipt by the City of an invoice conforming in all respects to the terms of this Agreement.

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

4.4 If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement.

5. Discrimination and Compliance with Laws

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

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

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

6. Suspension and Termination of Agreement

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

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

7. Standard of Care

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

shall have authority to authorize, approve, direct or control any of the services rendered to the City pursuant to this Agreement.

8. Ownership of Work Product

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

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

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

9. Indemnification/Hold Harmless

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

10. Insurance

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

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

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

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

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

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

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

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

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

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

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

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

11. Assigning or Subcontracting

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

12. Independent Contractor

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

13. Notice

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

City: Public Works Director
City of Black Diamond
P.O. Box 599
Black Diamond, WA 98010
Fax: 360-851-4501

With a copy to: City Attorney

Consultant: Courtney Black, Sr. Principal

1687 114th Ave. SE, Suite 100

Bellevue, WA 98004

Fax:

14. Disputes

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

15. Attorney Fees

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

16. General Administration and Management on Behalf of the City

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

17. Extent of Agreement/Modification

17.1 This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, in order to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.

18. Conflict of Interest; Non-Collusion

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

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

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

CITY OF BLACK DIAMOND

CONSULTANT

By: _____
John Adler

Its: Mayor

Date: _____

Attest:

By:

Brenda L. Martinez
City Clerk

By: _____
Printed Name: Courtney Black

Its: Sr. Principal

Date: _____



Stantec Consulting Services Inc.
1687 114th Avenue Suite 100, Bellevue, WA 98004

April 30, 2026

Attention: Mr. Scott Hanis
Public Works Director
City of Black Diamond
24301 Roberts Drive
Black Diamond, WA 98010

Reference: Scope of Services and Fee Schedule to Provide Financial Services for Utility Rates and Development Fees

Dear Mr. Hanis,

This scope of services and budget represent a task structure and level of effort targeted to meet the City's objectives for this study. We are tentatively targeting a mid-May kick-off.

Scope of Work Exhibit A

Task 1 Project Kick-Off and Orientation

Task 1.1 Conduct one (1) one hour project kick-off and orientation meeting with the City Team to discuss study objectives, schedule, communication, roles and responsibilities, and initial data collection

Task 1.2 Project management including scope, schedule, budget, invoicing, start-up, close-out, and communication

Task 1.3 Prepare and submit the study data request, work with the City team to complete data collection

Task 2 Revenue Requirement and Financial Plans Development – Water, Wastewater, and Stormwater

Task 2.1 Tailor financial plan models for the water, wastewater, and stormwater utilities and incorporate data, assumptions, and policies for water, wastewater, and stormwater

Task 2.2 Conduct one (1) one-hour meeting with the City team to review baseline draft financial forecast results and collect feedback on application of data and assumptions

Task 2.3 Update forecast based on City team feedback, prepare up to two (2) scenario alternatives considering alternative assumptions such as pace of growth, capital funding alternatives, and other meaningful variables the City team would like to have sensitivity tested

Task 2.4 Review utility financial policies for alignment with industry best practice and current and future utility financial scale and risk

Task 2.5 Conduct one (1) meeting with the City team to review updated baseline, scenarios, and financial policy impacts to facilitate selection of three alternatives to present to City Council

Task 3 Cost of Service Analysis and Rate Design – Water

Task 3.1 Tailor Cost of Service Analysis (COSA) models for water, wastewater, and stormwater and incorporate data from financial plan test year, system planning information, customer billing data, and other inputs

Task 3.2 Conduct one (1) one-hour meeting with the City team to review first draft COSA results

Task 3.3 Update COSA and review materials based on City team feedback

Task 3.4 Perform rate structure review and identify opportunities to better align rate structures with City objectives

Task 3.5 Conduct one (1) one-hour meeting with the City team to review updated COSA results and proposed rate structure adjustments

Task 4 Capital Facilities Charge Update - Water

Task 4.1 Update the Water Capital Facilities Charge (CFC), considering alternative methodology approaches as warranted.

Task 4.2 Conduct one (1) one hour meeting with the City Team to review CFC findings.

Task 5 Permit Fee Review

Task 5.1 Assess the gap between permit fee revenue and program costs and develop recommendations to move toward full cost recovery and managing revenue variability

Task 5.2 Prepare presentation materials summarizing permit fee review findings

Task 5.3 Conduct one (1) one-hour meeting with the City team to review permit fee survey results and cost recovery alternatives

Task 6 Study Documentation

Task 6.1 Prepare and Submit Draft Rate Study Report

Task 6.2 Revise Draft Report in response to City Team Review and submit for Second Draft Review

Task 6.3 Revise and submit Final Rate Study Report

Task 6.4 Prepare rate study presentation materials

Task 6.5 Attend and present study results at one (1) Council meeting

Project Schedule – Exhibit B

Study Milestone	Target Date
Study Kick-Off Meeting	13-May
Review Draft Financial Plans	27-May
Updated Financial Plans Review	10-Jun
Review Draft COSA Findings	24-Jun
Updated COSA Findings and Proposed Rate Structure Adjustments	8-Jul
Capacity Charge Review	22-Jul
Permit Fee Review	5-Aug
Draft Study Technical Memorandum Submitted	14-Aug
City Council Presentation	15-Sep

Project Budget – Exhibit C

The following tables summarize Stantec’s estimated level of effort by utility and task with a \$53,300 Water Utility study budget, \$15,200 for the Sewer Utility, and \$15,200 for the Stormwater Utility, totaling \$83,700 for all three.

The task budget for each utility is shown in the tables that follow.

Table 1 Water Study Budget

Project Tasks		Estimated Labor-Hours					Total Project
		Project Manager	Principal / Technical Review	Consultant	Analyst	Admin	
		Black	Stewart	Britt	Barber	Lambert	
		\$350	\$300	\$200	\$175	\$100	
Task 1 Project Kick-off and Orientation							
1.1	Conduct one (1) one hour project kick-off and orientation meeting with the City Team to discuss study objectives, schedule, communication, roles and responsibilities, and initial data collection.	0.50		0.50	0.50	0.50	2
1.2	Project management including scope, schedule, budget, invoicing, start-up, close-out, and communication.	2.00				0.50	3
1.3	Prepare and submit the study data request, work with the City team to complete data collection	1.00		2.00	2.00		5
Task 2 Revenue Requirement and Financial Plans Development							
2.1	Tailor financial plan model and incorporate data, assumptions, and policies.	3.00		6.00	10.00		19
2.2	Conduct up one (1) one-hour meeting with the City team to review baseline draft financial forecast results and collect feedback on application of data and assumptions.	0.50		0.50	0.50		2
2.3	Update forecast based on City team feedback, prepare up to two (2) scenario alternatives considering alternative assumptions such as growth speed, capital funding alternatives, and other meaningful variables the City team would like to have sensitivity tested.	3.00		3.00	5.00		11
2.4	Review utility financial policies for alignment with industry best practice and current and future utility financial scale and risk.	1.00					1
2.5	Conduct one (1) meeting with the City team to review updated baseline, scenarios, and financial policy impacts to facilitate selection of three alternatives to present to City Council.	1.00		1.00	1.00		3
Task 3 Water Cost of Service Analysis and Rate Design							
3.1	Tailor Cost of Service Analysis (COSA) model and incorporate data from financial plan test year, system planning information, customer billing data, and other inputs.	14.00		16.00	20.00		50
3.2	Conduct up one (1) one-hour meeting with the City team to review first draft COSA results.	2.00		2.00	2.00		6
3.3	Update COSA and review materials based on City team feedback	4.00		4.00	8.00		16
3.4	Perform rate structure review and identify opportunities to better align rate structures with City objectives.	8.00	1.00	2.00	0.00		11
3.5	Conduct up one (1) one-hour meeting with the City team to review updated COSA results and proposed rate structure adjustments.	1.00		1.00	1.00		3
Task 4 Water Capital Facilities Charge Update							
4.1	Update the Water Capital Facilities Charge Calculation (CFC), considering alternative methodology approaches as warranted	8.00	1.00	6.00	12.00		27
4.3	Conduct one (1) one hour meeting with the City Team to review CFC findings	2.00		2.00	2.00		6
Task 5 Permit Fee Review							
5.1	Assess the gap between permit fee revenue and program costs and develop recommendations to move toward full cost recovery and managing revenue variability	5.00	0.00	8.00	10.00		23
5.2	Prepare presentation materials summarizing permit fee review findings	2.00	0.00	2.00	6.00		10
5.3	Conduct one (1) one-hour meeting with the City team to review permit fee survey results and cost recovery alternatives.	1.00	0.00	1.00	1.00		3
Task 6 Study Documentation							
6.1	Prepare and Submit Draft Rate Study Technical Memorandum	4.00	1.00	0.00	6.00		11
6.2	Revise Draft TM in response to City Team Review and submit for Second Draft Review	1.00		2.00	2.00		5
6.3	Revise and submit Final Rate Study TM	1.00		2.00	2.00		5
6.4	Prepare rate study presentation materials			1.00	1.00		2
6.5	Attend and present study results at one (1) Council meeting.	1.00					1
Total Estimated Labor Hours		66	3	62	92	1	224
Total Estimated Fee		\$ 23,100	\$ 900	\$ 12,400	\$ 16,100	\$ 100	\$ 52,600
Total Estimated Expenses							700
Total Task Budget							\$ 53,300

Table 2 Sewer Study Budget



City of Black Diamond
Sewer Utility Financial Services Scope of Work
Project Budget

Project Tasks	Estimated Labor-Hours					Total Project
	Project Manager	Principal / Technical Review	Consultant	Analyst	Admin	
	Black	Stewart	Britt	Barber	Lambert	
Resources → Hourly Rates →	\$350	\$300	\$200	\$175	\$100	
Task 1 Project Kick-off and Orientation						
1.1 Conduct one (1) one hour project kick-off and orientation meeting with the City Team to discuss study objectives, schedule, communication, roles and responsibilities, and initial data collection.	0.50		0.50	0.50	0.50	2
1.2 Project management including scope, schedule, budget, invoicing, start-up, close-out, and communication.	2.00				0.50	3
1.3 Prepare and submit the study data request, work with the City team to complete data collection	1.00		2.00	2.00		5
Task 3 Revenue Requirement and Financial Plans Development						0
3.1 Tailor financial plan model and incorporate data, assumptions, and policies.	3.00	0.50	6.00	10.00		20
3.2 Conduct up one (1) one-hour meeting with the City team to review baseline draft financial forecast results and collect feedback on application of data and assumptions.	0.50		0.50	0.50		2
3.3 Update forecast based on City team feedback, prepare up to two (2) scenario alternatives considering alternative assumptions such as growth speed, capital funding alternatives, and other meaningful variables the City team would like to have sensitivity tested.	3.00	0.50	3.00	5.00		12
3.4 Review utility financial policies for alignment with industry best practice and current and future utility financial scale and risk.	1.00	0.50				2
3.5 Conduct up to one (1) meeting with the City team to review updated baseline, scenarios, and financial policy impacts to facilitate selection of three alternatives to present to City Council.	1.00		1.00	1.00		3
Task 6 Study Documentation						0
6.1 Prepare and Submit Draft Rate Study Technical Memorandum	3	1	6	5		15
6.2 Revise Draft TM in response to City Team Review and submit for Second Draft Review	1		1	1		3
6.3 Revise and submit Final Rate Study TM	1		1	1		3
Total Estimated Labor Hours	16	3	21	26	1	67
Total Estimated Fee	\$5,600	\$750	\$4,200	\$4,550	\$100	\$15,200
Total Estimated Expenses						
Total Task Budget						\$15,200

Table 3 Stormwater Study Budget



City of Black Diamond
Stormwater Utility Financial Services Scope of Work
Project Budget

Project Tasks	Estimated Labor-Hours					Total Project
	Project Manager	Principal / Technical Review	Consultant	Analyst	Admin	
	Black	Stewart	Britt	Barber	Lambert	
Resources → Hourly Rates →	\$350	\$300	\$200	\$175	\$100	
Task 1 Project Kick-off and Orientation						
1.1 Conduct one (1) one hour project kick-off and orientation meeting with the City Team to discuss study objectives, schedule, communication, roles and responsibilities, and initial data collection.	0.50		0.50	0.50	0.50	2
1.2 Project management including scope, schedule, budget, invoicing, start-up, close-out, and communication.	2.00				0.50	3
1.3 Prepare and submit the study data request, work with the City team to complete data collection	1.00		2.00	2.00		5
Task 3 Revenue Requirement and Financial Plans Development						0
3.1 Tailor financial plan model and incorporate data, assumptions, and policies.	3.00	0.50	6.00	10.00		20
3.2 Conduct up one (1) one-hour meeting with the City team to review baseline draft financial forecast results and collect feedback on application of data and assumptions.	0.50		0.50	0.50		2
3.3 Update forecast based on City team feedback, prepare up to two (2) scenario alternatives considering alternative assumptions such as growth speed, capital funding alternatives, and other meaningful variables the City team would like to have sensitivity tested.	3.00	0.50	3.00	5.00		12
3.4 Review utility financial policies for alignment with industry best practice and current and future utility financial scale and risk.	1.00	0.50				2
3.5 Conduct up to one (1) meeting with the City team to review updated baseline, scenarios, and financial policy impacts to facilitate selection of three alternatives to present to City Council.	1.00		1.00	1.00		3
Task 6 Study Documentation						0
6.1 Prepare and Submit Draft Rate Study Technical Memorandum	3	1	6	5		15
6.2 Revise Draft TM in response to City Team Review and submit for Second Draft Review	1		1	1		3
6.3 Revise and submit Final Rate Study TM	1		1	1		3
Total Estimated Labor Hours	16	3	21	26	1	67
Total Estimated Fee	\$5,600	\$750	\$4,200	\$4,550	\$100	\$15,200
Total Estimated Expenses						
Total Task Budget						\$15,200

Billing Rates – Exhibit D

Project Role	Hourly Rate
Project Manager	\$350
Principal / Technical Review	\$300
Consultant	\$200
Analyst	\$175
Admin	\$100

On behalf of the Stantec team, we look forward to supporting the City in this important work.

Courtney Black

Senior Principal, [Management & Technology Consulting: Financial Management](#)

Direct: 425.602.3545

courtney.black@stantec.com

Stantec

1687 114th Avenue SE, Suite 100, Bellevue WA 98004-6965, United States



CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Ordinance establishing a nonexclusive, ten-year telecommunications franchise with Forged Fiber 37, LLC	Agenda Date: May 19, 2026 AB26-056	
	Mayor John Adler	
	City Administrator - Kevin O'Neill	
	City Attorney - David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev – Hal Hart	
	Finance – Xavier Mason	
	MDRT/Ec Dev – Michelle Wright	
	Police – Chief Kiblinger	
	Public Works – Scott Hanis	X
Cost Impact (see also Fiscal Note): N/A	Court – Judge Swain/Tawnya Parks	
Fund Source: --		
Timeline: 10-year agreement		
Agenda Placement: ☐ Mayor ☐ Two Councilmembers ☐ Committee Chair ☒ City Administrator		
Attachments: Proposed Ordinance		
SUMMARY STATEMENT: Forged Fiber 37 (FF37), a wholly-owned subsidiary of AT&T and sometimes referred to as Quantum Fiber from AT&T recently acquired Lumen Technologies' fiber internet business. FF37 reached out to the City to negotiate a non-exclusive franchise agreement for FF37 to install, construct, maintain, repair, and operate a fiber optic telecommunications system within the City right-of-way (ROW). The franchise agreement lays out the rights of FF37 to be in the City ROW but also the limitations, such as the rights of the City to alter the ROW, including the City's water, sewer, and stormwater utilities. The franchise agreement will not exempt FF37 from needing to obtain ROW permits to perform their work within the City ROW and are required to restore the ROW to a condition "as good or better" than it was before. Per RCW 35A.47.040, code cities like Black Diamond cannot adopt or pass a franchise agreement on the day of its introduction nor for five days thereafter. Adoption can only happen during a regular Council meeting. With the introduction on May 19, 2026, the earliest this franchise agreement can be adopted is at the June 2, 2026 regular City Council meeting. FISCAL NOTE (Finance Department): FF37 submitted a deposit of \$5,000 to cover attorney fees and staff time for the negotiation of this franchise agreement. Unused funds from the deposit, if any, will be returned to FF37.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: 1st reading only, no action in the May 19th meeting.		

In the June 2nd meeting: MOTION to adopt Ordinance 26-xxx, granting to Forged Fiber 37, LLC, a Delaware limited liability company, a nonexclusive telecommunications franchise to install, construct, maintain, repair, and operate a telecommunications system within the public rights-of-way; providing for severability; and establishing an effective date.

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
May 19, 2026		

CITY OF BLACK DIAMOND, WASHINGTON

ORDINANCE NO. 26-1251

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, WASHINGTON, GRANTING TO FORGED FIBER 37, LLC, A NONEXCLUSIVE TELECOMMUNICATIONS FRANCHISE TO INSTALL, CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE A TELECOMMUNICATIONS SYSTEM WITHIN THE PUBLIC RIGHTS OF WAY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Forged Fiber 37, LLC, a Delaware limited liability company, (hereinafter “Franchisee”) has made application to the City to construct, install, maintain, repair, and operate a fiber optic telecommunications system with the public rights-of-way of the City; and

WHEREAS, Franchisee represents that it has the legal, technical, and financial qualifications to operate in the rights-of-way of the City as a telecommunications company within the meaning of Title 80 RCW; and

WHEREAS, based on representations and information provided by Franchisee, and in response to its request for the grant of a franchise, the City Council has determined that the grant of a nonexclusive franchise, on the terms and conditions herein and subject to applicable law, are consistent with the public interest; and

WHEREAS, the City is authorized by applicable law to grant nonexclusive telecommunications franchises within the boundaries of the City;

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

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EXHIBITS:

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- C. Description of Franchise Area
- D. Insurance Requirements
- E. Financial Security
- F. Contractor/Subcontractor Insurance Requirements

ARTICLE 1. DEFINITIONS.

For the purposes of this Franchise and the Exhibits attached hereto, the following terms, phrases, words, and their derivations where capitalized have the meanings given herein. Words not defined herein have the meaning given pursuant to the federal statutes, rules, or regulations that apply to and regulate the services provided by the Franchisee. Words not otherwise defined will be given their common and ordinary meanings. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word “shall” is always mandatory and not merely directory. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law, regulation, or rule referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision.

“Affiliate” when used in connection with Franchisee means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with Franchisee.

“City” means the City of Black Diamond, a municipal corporation organized as a non-charter code city, operating under the laws of the state of Washington.

“Construct” (and other forms of the word) means to construct, reconstruct, install, reinstall, align, realign, locate, relocate, adjust, affix, attach, remove, or support.

“Default” means any failure of a Party to keep, observe, or perform any of its duties or obligations under this Franchise beyond applicable notice and cure periods.

“Design Document(s)” means the plans and specifications for the Construction of the Facilities meeting the minimum applicable general plan submittal requirements for engineering services plan review as set forth in the City's Engineering Design and Construction Standards manual, illustrating and describing the refinement of the design of the Telecommunications System Facilities to be Constructed, establishing the scope, relationship, forms, size and appearance of the Facilities by means of plans, sections and elevations, typical construction details, location, alignment, materials, and equipment layouts. The Design Documents shall include specifications that identify utilities, major material and systems, Public Right-of-Way improvements, restoration, and repair, and establish in general their quality levels.

“Direct Costs” means all reasonable costs and expenses incurred by the City and directly related to a particular activity or activities, including by way of example:

- i. All costs and expenses of materials, equipment, supplies, utilities, consumables, goods, and other items used or incorporated in connection with and in furtherance of such activity or activities, and any taxes, insurance, and interest expenses related thereto, including costs for crews and equipment;
- ii. All costs and expenses of labor inclusive of payroll benefits, non-productive time, and overhead for each of the labor classifications of the employees performing work for the activity and determined in accordance with the City's ordinary governmental

accounting procedures; and,

iii. All costs and expenses to the City for any work by consultants or contractors to the extent performing work for a particular activity or activities, including by way of example and not limitation, engineering, surveying, and legal services.

“Dispute” means a question or controversy that arises between the Parties concerning the observance, performance, interpretation, or implementation of any of the terms, provisions, or conditions contained in this Franchise or the rights or obligations of either Party under this Franchise.

“Effective Date” means and refers to that term as it is defined at Section 4.3.

“Emergency” means a sudden condition or set of circumstances that (a) significantly disrupts or interrupts the operation of Facilities in the Public Rights-of-Way and Franchisee's ability to continue to provide services if immediate action is not taken, or (b) presents an imminent threat of harm to persons or property if immediate action is not taken.

“Environmental Law(s)” means any federal, state, or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction, or common law pertaining in any way to the protection of human health or the environment, including, without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

“Facility” or “Facilities” means any part or all of the facilities, equipment, and appurtenances of Franchisee whether underground or overhead and located within the Public Rights-of-Way as part of the Franchisee's Telecommunications System, including, but not limited to, conduit, case, pipe, line, fiber, cabling, equipment, equipment cabinets and shelters, vaults, generators, conductors, poles, carriers, drains, vents, guy wires, encasements, sleeves, valves, wires, supports, foundations, anchors, transmitters, receivers, antennas, and signage.

“Franchise” means the grant, once accepted, giving general permission to the Franchisee to enter into and upon the Public Rights-of-Way to use and occupy the same for the purposes, and subject to the terms and conditions, authorized in this Ordinance.

“Franchisee” means Forged Fiber 37, LLC, and any of its Affiliates.

“Franchise Area” means collectively or individually the Public Rights-of-Way located within the area described in Exhibit “C”.

“Franchise Ordinance” means this Ordinance authorizing the Franchise.

“Hazardous Substance” means those substances that have been recognized as dangerous or potentially dangerous to health, welfare, or the environment by any federal, municipal, state, City, or other governmental or quasi-governmental authority, and/or any department or agency

thereof; those substances that use, or have as its component thereof or therein, asbestos or lead-based paint; petroleum oil and any of its fractions; and any other similarly dangerous substances that have been defined, listed, or regulated as dangerous or potentially dangerous to human health or the environment under any Environmental Law.

“Law(s)” means all present and future applicable laws, ordinances, rules, regulations, resolutions, environmental standards, orders, decrees, and requirements of all federal, state, and local governments, the departments, bureaus, or commissions thereof, or other governmental authorities, including the City acting in its governmental capacity. References to Laws shall be interpreted broadly to cover government actions, however nominated, and include Laws now in force or hereinafter enacted or amended.

“Noticed Party” means the Party in receipt of notice that it is in Default.

“Person” means and includes any individual, corporation, partnership, association, joint-stock-company, limited liability company, political subdivision, public corporation, taxing district, trust, or any other legal entity, but not the City or any Person under contract with the City to perform work in the Public Rights-of-Way.

“Party(ies)” means either the City or the Franchisee or both.

“Private telecommunications system” means a telecommunications system controlled by a person or entity for the sole and exclusive use of such person, entity, or affiliate thereof, including the provision of private shared telecommunications services by such person or entity. “Private telecommunications system” does not include a system offered for hire, sale, or resale to the general public.

“Public Rights-of-Way” means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle, or other public right-of-way, including any easement now or hereafter held by the City within the corporate boundaries of the City, as now or hereafter constituted, for the purpose of public travel, and over which the City has authority to grant permits, licenses, or franchises for use thereof, or otherwise has regulatory authority, excluding railroad rights-of-way, airports, harbor areas, buildings, parks, poles, and conduits, and excluding such similar facilities or property owned, maintained or leased by the City in its proprietary capacity.

“Public Works Director” means and refers to the Public Works Director for the City or his or her designee or such officer or person who has been assigned the duties of public works director by the Mayor.

“Regulatory Permit” means a permit issued under the regulatory authority of the City that provides specific requirements and conditions for Work to Construct Facilities within the Public Rights-of-Way and includes, by way of example and not limitation, a construction permit, building permit, street excavation permit, barricade permit, right-of-way permit, and clearing and grading permit.

“Remedy”, “Remediate”, and “Remedial Action” have the same meaning as these are given under the Model Toxics Control Act (Chapter 70.105D RCW) and its implementing regulations at Chapter 173-340 WAC.

“Section” means the numbered paragraphs contained within the articles of this Ordinance.

“Service” shall mean the service or services authorized to be provided by the Franchisee under the terms and conditions of this Franchise.

“Telecommunications Service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, for the purpose of providing internet access service. Telecommunications Service excludes radio and television audio and video programming services (as defined below). Radio and television audio and video programming services include cable service as defined in 47 U.S.C. Sec. 522(6), audio and video programming services delivered by commercial mobile radio service providers, as defined in section 20.3, Title 47 C.F.R., and over the air broadcast radio and television services.

“Transfer” means any transaction in which all or a portion of the Telecommunications System is sold, leased, or assigned (except a sale or transfer that results in removal of a particular portion of the Telecommunications System from the Public Rights-of-Way); or the rights and/or obligations held by the Franchisee under the Franchise are transferred, sold, assigned, or leased, in whole or in part, directly or indirectly, to another Person. A transfer of control of an operator shall not constitute a transfer as long as the same person continues to hold the Franchise both before and after the transfer of control.

“Telecommunications System” means collectively the Facilities that together with other facilities, appurtenances, and equipment of Franchisee or other Persons are used to provide Telecommunications Services.

“Work” means any and all activities of the Franchisee, or its officers, directors, employees, agents, contractors, subcontractors, volunteers, invitees, or licensees, within the Public Rights-of-Way to Construct the Facilities.

ARTICLE 2. FRANCHISE GRANT.

2.1 Public Right-of-Way Use Authorized. Subject to the terms and conditions of this Franchise, the City hereby grants to Franchisee a nonexclusive Franchise authorizing the Franchisee to Construct, maintain, repair, and operate Facilities in, along, upon, across, above, over, and under the Public Rights-of-Ways located within the Franchise Area.

2.2 Authorized Services. The grant given herein expressly authorizes Franchisee to use the Public Rights-of-Way to Construct, maintain, repair, and operate its Facilities as part of its Telecommunications System to provide Telecommunications Services. This authorization is limited and is not intended nor shall it be construed as granting Franchisee or any other Person

the right, duty or privilege to use its Facilities or the Public Rights-of-Way to provide Services not specifically authorized herein. This Franchise shall not be interpreted to prevent the City from lawfully imposing additional conditions, including additional compensation conditions, if authorized by applicable law for Franchisee's use of the Public Rights-of-Way for any undertaking other than to provide the Service specifically authorized by this Franchise.

2.3 No Rights by Implication. No rights accrue to the Franchisee by implication. Without limiting the foregoing and by way of example, this Franchise does not include, nor is it a substitute for:

2.3.1 Any other authorization required for the privilege of transacting and carrying on a business within the City that may be lawfully required by the Laws of the City;

2.3.2 Any Regulatory Permit required by the City for Public Rights-of-Way users in connection with operations on or in Public Rights-of-Way or public property; or

2.3.3 Any licenses, leases, easements, or other agreements for occupying any other property or infrastructure of the City or other Persons to which access is not specifically granted by this Franchise including, without limitation, agreements for placing devices on poles, on light standards, in conduits, in vaults, in or on pipelines, or in or on other structures or public buildings.

2.3.4 Any permits or other authorizations that may be required under the land use code and development regulations of the City for the construction of Facilities within a particular zoning district in the City, including, by way of example and not limitation, a conditional use permit or a variance.

2.4 Interest in the Public Right-of-Way/Release/Indemnity. This Franchise does not operate, nor may it be construed, to convey title, equitable or legal, in the Public Rights-of-Way. This Franchise shall be deemed to grant no more than those rights which the City may have the undisputed right and power to give. The grant given herein does not confer rights other than as expressly provided in the grant hereof and is subject to the limitations in applicable Law. Such right may not be subdivided or subleased to a person other than the Franchisee except as set forth in Section 2.8 below.

CITY DOES NOT WARRANT ITS TITLE OR PROPERTY INTEREST IN OR TO ANY FRANCHISE AREA NOR UNDERTAKE TO DEFEND FRANCHISEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.

Franchisee hereby releases City from any and all liability, cost, loss, damage or expense in connection with any claims that City lacked sufficient legal title or other authority to convey the rights described herein. In case of eviction of Franchisee or Franchisee's contractors by anyone owning or claiming title to, or any interest in the Franchise Area, City shall not be liable to Franchisee or Franchisee's contractors for any costs, losses or damages of any Party.

2.5 Rights Subordinate. Franchisee further acknowledges that Franchisee's rights under

this Franchise to Construct Facilities in the Franchise Area, are subject and subordinate to all outstanding rights and encumbrances on the City's Public Rights-of- Way.

2.6 Condition of Franchise Area. Franchisee has inspected or will inspect the Franchise Area described on the attached Exhibit C, and enters upon each portion of the Franchise Area with knowledge of its physical condition and the danger inherent in operations conducted in, on, or near any Franchise Area. Franchisee acknowledges that Hazardous Substances or other adverse matters may affect the Franchise Area that were not revealed by Franchisee's inspection.

CITY HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF THE FRANCHISE AREA, INCLUDING THE ENVIRONMENTAL CONDITION OF THE FRANCHISE AREA, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE PUBLIC RIGHT-OF-WAY, OR THE CONFORMITY OF ANY PART OF THE PUBLIC RIGHT-OF-WAY TO ITS INTENDED USES. CITY SHALL NOT BE RESPONSIBLE TO FRANCHISEE OR ANY OF FRANCHISEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PART OF THE PUBLIC RIGHT-OF-WAY WITHIN THE FRANCHISE AREA, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES, EXCEPT TO THE EXTENT ANY DAMAGES RELATING TO THE CONDITION, QUALITY, OR SAFETY OF ANY PART OF THE PUBLIC RIGHT-OF-WAY ARISE FROM THE CITY'S NEGLIGENCE OR WILLFUL MISCONDUCT.

2.7 Franchise Nonexclusive. This Franchise shall be nonexclusive. Subject to the terms and conditions of this Franchise, the City may at any time grant authorization to others to use the Public Rights-of-Way for any lawful purpose on terms and conditions that are competitively neutral and nondiscriminatory among similarly situated franchisees. No other Person holding a valid franchise has or will be granted superior rights to Franchisee to use and occupy the space within the Public Right-of-Way lawfully occupied by Franchisee Facilities, except as provided pursuant to Section 7.8 (Facility Relocation) hereof.

2.8 Transfer. Franchisee may Transfer this Franchise upon written notice to the City and transferee's written commitment, in substantially the form of the agreement attached hereto as Exhibit "B", delivered to the City, that transferee(s) shall thereafter be responsible for all obligations of Franchisee with respect to the Franchise and guaranteeing performance under the terms and conditions of the Franchise and that transferee(s) will be bound by all the conditions of the Franchise and will assume all the obligations of the Franchisee. Such a Transfer will relieve the Franchisee of any further obligations under the Franchise, including any obligations not fulfilled by Franchisee's transferee(s); however, the Transfer shall not in any respect relieve the Franchisee, or any of its successors in interest, of responsibility for acts or omissions, known or unknown, or the consequences thereof, occurring prior to the effective date of the Transfer. This Franchise may not be transferred without filing with the City the insurance certificates, security fund and performance bond (all of which are subject to approval in form and content by the City Attorney), as required pursuant to this Franchise and paying all Direct Costs to the City related to the Transfer.

Notwithstanding the foregoing, notice to the City shall not be required for a mortgage, hypothecation, or an assignment of Franchisee's interest in the Franchise in order to secure indebtedness.

Franchisee may, without the prior written notice to or consent of the City: (i) lease the Telecommunications System, or any portion thereof, to another Person; or (ii) offer or provide capacity or bandwidth in its Telecommunications System to another Person, so long as: (i) Franchisee at all times retains exclusive ownership over its Telecommunications System and remains responsible for Constructing its Facilities pursuant to the terms and conditions of this Franchise; (ii) Franchisee does not purport to grant rights to any such Person that are greater than any rights Franchisee has pursuant to this Franchise; (iii) such Persons acknowledges in writing that is not a third-party beneficiary of this Franchise; and (iv) no such Person uses the Telecommunications System for any purpose not authorized in this Franchise.

2.9 Street Vacation. If any Public Right-of-Way or portion thereof used by Franchisee is to be vacated during the term of this Franchise, unless as a condition of such vacation the Franchisee is granted the right to continue to occupy the vacated Public Right-of-Way, Franchisee shall, without delay or expense to City, remove its Facilities from such Public Right-of-Way and restore, repair, or reconstruct the Public Right-of-Way where such removal has occurred, and place the Public Right-of-Way in such condition as may be required by the City. Nothing herein is intended to operate as a waiver of Franchisee's right or entitlement under state law or City ordinance to receive notice of or to object to vacation of the Public Right-of-Way occupied by Franchisee Facilities.

2.10 Reservation of City Use of Public Rights-of-Way. Nothing in this Franchise prevents the City from constructing sanitary or storm sewers; grading, changing grade, paving, repairing, widening or otherwise altering any Public Right-of-Way; laying down, repairing or removing water mains; installing conduit or fiber optic cable; or making or allowing any other use of the Public Rights-of-Way.

ARTICLE 3. COMPLIANCE WITH LAWS/ORDER OF PRECEDENCE.

3.1 Alteration of Material Terms and Conditions. Subject to federal and State preemption, the material rights, benefits, obligations or duties as specified in this Franchise may not be unilaterally altered or impaired by the City through subsequent amendments to, or enactment of, any ordinance, regulation, resolution or other enactment of the City. Notwithstanding the foregoing, the City specifically reserves its right to make and enforce those Laws that are within the lawful exercise of the City's police power.

3.2 Compliance with Laws. Except as provided herein pursuant to Section 3.1, the Franchisee agrees to comply with all applicable Laws as now or hereafter in effect, and any lawful orders from regulatory agencies or courts with jurisdiction over Franchisee and its Facilities, or over the City and the Public Rights-of-Way.

3.3 Reservation of Rights/Waiver. The City expressly reserves all of its rights,

authority, and control arising from any relevant provisions of federal, State or local Laws granting the City rights, authority, or control over the Public Rights-of-way or the activities of the Franchisee.

3.4 Change in Form of Government. Any change in the form of government of the City will not affect the validity of this Franchise. Any governmental unit succeeding the City will, without the consent of Franchisee, succeed to all of the rights and obligations of the City provided in this Franchise.

ARTICLE 4. ACCEPTANCE.

4.1 Acceptance. Within thirty (30) days after the passage and approval of this Franchise by the City Council, this Franchise shall be accepted by Franchisee by filing with the City Clerk during regular business hours, three originals of this Franchise with its original signed and notarized written acceptance of all of the terms, provisions, and conditions of this Franchise in conformance with Exhibit “A”, together with the following:

4.1.1 Payment in readily available funds of the administrative costs for issuance of the Franchise in conformance with the requirements of Section 5.6.

4.1.2 Submission of proof of financial security in accordance with Section 5.3.

4.1.3 Submission of an insurance certificate in accordance with Section 5.2.

4.1.4 Payment of the costs of publication of this Franchise Ordinance in conformance with the requirements of Section 8.18.

In the event that the thirtieth day falls on a Saturday, Sunday, or legal holiday during which the City is closed for business, the Franchisee must file its written acceptance no later than the last business day before such Saturday, Sunday, or legal holiday.

4.2 Failure to Timely File Acceptance. The failure of Franchisee to timely file its written acceptance will be deemed a rejection by Franchisee of this Franchise, and this Franchise will then be void.

4.3 Effective Date: Term.

4.3.1 Effective Date. Except as provided pursuant to Section 4.2 of this Franchise, the Effective Date of this Ordinance and Franchise is 12:01 a.m. on the day following Franchisee's timely acceptance under Section 4.1. This Franchise and the rights, privileges, and authority granted hereunder and the relationship established hereby takes effect and will be in force from and after the Effective Date of this Ordinance for the term hereof.

4.3.2 Term. The term of this Franchise commences on the Effective Date for a period of ten (10) years (“Term”), unless sooner terminated, revoked, or rendered void. Upon expiration of the initial ten (10) year term, the Franchise will automatically renew for successive

one (1) year terms (each a “Renewal Term”), unless either Party notifies the other in writing of its intention to terminate the Franchise at the expiration of the then-current Term or Renewal Term. However, a notice of intent to terminate that is delivered within the final 90 days of the then-current Term or Renewal Term will not be effective until the end of the following Renewal Term.

4.4 Effect of Acceptance. By accepting the Franchise, the Franchisee:

4.4.1 Accepts and agrees to comply with and abide by all of the lawful terms and conditions of this Franchise;

4.4.2 Acknowledges and agrees that it has carefully read the terms and conditions of this Franchise; it unconditionally accepts all of the terms and conditions of this Franchise; it unconditionally agrees to abide by the same; it has relied upon its own investigation of all relevant facts; it has had the assistance of counsel; it was not induced to accept a Franchise; and, that this Franchise represents the entire agreement between the Franchisee and the City;

4.4.3 Warrants that Franchisee has full right and authority to enter into and accept this Franchise in accordance with the terms hereof, and by entering into or performing this Franchise, Franchisee is not in violation of its charter or by-laws, or any law, regulation, or agreement by which it is bound or to which it is subject; and

4.4.4 Warrants that the signatories for Franchisee hereto are authorized to sign the Franchise acceptance, and that the joinder or consent of any other party, including a court, trustee, or referee, is not necessary to make valid and effective the execution, delivery, and performance of this Franchise.

4.5 Effect of Expiration/Termination. Upon expiration, revocation, or termination of the Franchise without renewal or other authorization, Franchisee will no longer be authorized to operate the Facilities within the Franchise Area and shall, to the extent it may lawfully do so, cease operation of the Facilities. Forthwith thereafter, except as provided in this Section, or as otherwise provided by ordinance, Franchisee shall: (1) remove its Facilities from the Public Rights-of-Ways and restore the Public Rights-of-Way in accordance with Section 7.12.1 (Restoration of Public Rights-of-Way) hereof; (2) sell its Facilities to another entity authorized to operate Facilities within the Franchise Area (which may include the City) in accordance with the transfer provisions under Section 2.8; or (3) abandon any Facilities in place in the Public Rights-of-Way in accordance with Section 7.14 (Abandonment of Facilities).

ARTICLE 5. PROTECTION OF THE CITY AND PUBLIC.

5.1 Limitation of Liability.

5.1.1 INDEMNITY/RELEASE/DEFENSE. TO THE FULLEST EXTENT PERMITTED BY LAW, FRANCHISEE RELEASES, INDEMNIFIES, AND WILL DEFEND AND HOLD HARMLESS THE CITY AND THE CITY'S SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS (ELECTED OR APPOINTED), EMPLOYEES, AND

AGENTS (COLLECTIVELY, “INDEMNITEES”) FOR, FROM, AND AGAINST CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, REASONABLE ATTORNEYS' FEES, AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION, AND GOVERNMENTAL OVERSIGHT COSTS), ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY “LIABILITIES”) ARISING OUT OF, RESULTING FROM, OR RELATED TO (IN WHOLE OR IN PART):

5.1.1.1 FRANCHISEE'S OCCUPATION AND USE OF THE PUBLIC RIGHT-OF-WAY;

5.1.1.2 FRANCHISEE'S OPERATION OF THE TELECOMMUNICATIONS SYSTEM;

5.1.1.3 ENVIRONMENTAL CONTAMINATION CAUSED BY, AGGRAVATED BY, OR CONTRIBUTED TO, IN WHOLE OR IN PART, BY FRANCHISEE OR ITS CONTRACTORS, SUBCONTRACTORS, OR AGENTS (BUT ONLY TO THE EXTENT OF SUCH AGGRAVATION OR CONTRIBUTION); AND

5.1.1.4 ANY ACT OR OMISSION OF FRANCHISEE OR FRANCHISEE'S CONTRACTORS, SUBCONTRACTORS, AGENTS AND SERVANTS, OFFICERS OR EMPLOYEES IN CONNECTION WITH WORK IN THE PUBLIC RIGHTS-OF-WAY.

THE ONLY LIABILITIES WITH RESPECT TO WHICH FRANCHISEE'S OBLIGATION TO RELEASE AND INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE NEGLIGENCE OR INTENTIONAL MISCONDUCT OF AN INDEMNITEE OR FOR LIABILITIES FOR WHICH, BY LAW, THE INDEMNITEES CANNOT BE INDEMNIFIED.

This covenant of indemnification includes, but is not limited to, Liabilities arising (1) as a result of the negligent acts or omissions of Franchisee, its agents, servants, officers, or employees in barricading, instituting trench safety systems, or providing other adequate warnings of any excavation, construction, or work in any public Rights-of-Way or other public place in performance of work or services Permitted under this Franchise; and (2) solely by virtue of the City's ownership or control of the Public Rights-of-Way or other public properties occupied or used by Franchisee.

The fact that Franchisee carries out any activities under this Franchise through independent contractors does not constitute an avoidance of or defense to Franchisee's duties of defense and indemnification under this Section 5.1.

5.1.2 Tender of Defense. Upon written notice from the City, Franchisee agrees to assume the defense of any lawsuit, claim, or other proceeding brought against any Indemnatee by any entity, relating to any matter covered by this Franchise for which Franchisee has an obligation to assume liability for and/or save and hold harmless any Indemnatee. Franchisee shall pay all costs incident to such defense, including, but not limited to, reasonable attorneys' fees, investigators'

fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments. Further, said indemnification obligations extends 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. The City has the right to defend and may participate in the defense of a claim and, in any event, Franchisee may not agree to any settlement of claims financially affecting the City without the City's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed. If separate representation to fully protect the interests of both Parties is necessary, such as a conflict of interest between the City and the counsel selected by Franchisee to represent the City, Franchisee shall select additional counsel with no conflict with the City. Franchisee's indemnification obligations do not apply to any lawsuit, claim, or proceeding, including any settlement or compromise of a claim that is not reduced to a suit, if the City fails to provide timely notice and the delay causes prejudice to Franchisee's ability to defend the City, or if City enters into a settlement or compromise, or consents to entry of judgment, without Franchisee's prior written consent.

5.1.3 Refusal to Accept Tender. In the event Franchisee refuses the tender of defense in any suit or any 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 agree to decide the matter), to have been a wrongful refusal on the part of Franchisee, then Franchisee 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.

5.1.4 Title 51 Waiver. THE FRANCHISEE WAIVES IMMUNITY UNDER RCW TITLE 51 AND AFFIRMS THAT THE CITY AND THE FRANCHISEE HAVE SPECIFICALLY NEGOTIATED THIS PROVISION, AS REQUIRED BY RCW 4.24.115, TO THE EXTENT IT MAY APPLY.

5.1.5 Inspection. Inspection or acceptance by the City of any Work performed by Franchisee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification.

5.2 Insurance Requirements. See Attached Exhibit "D".

5.3 Financial Security. See Attached Exhibit "E".

5.4 Contractors/Subcontractors. Franchisee's contractors and subcontractors performing Work in the Public Rights-of-Way shall comply with all bond, indemnity, and insurance requirements as may be required by City code or regulations, or other applicable Law. If no such requirements are set forth in the City code or regulations, the Franchisee's contractors and subcontractors shall comply with the requirements set forth in attached Exhibit "F".

5.5 Liens. In the event that any City property becomes subject to any claims for mechanics', artisans', or materialmen's liens, or other encumbrances chargeable to or through Franchisee which Franchisee does not contest in good faith, Franchisee shall promptly, and in any event within thirty (30) days from receipt of written notice of such lien, cause such lien claim or

encumbrance to be discharged or released of record (by payment, posting of bond, court deposit, or other means), without cost to the City, and shall indemnify the City against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing such claim of lien or encumbrance. If any such claim or encumbrance is not so discharged and released, the City may pay or secure the release or discharge thereof at the expense of Franchisee after first giving Franchisee ten (10) business days' advance written notice of its intention to do so. Nothing herein shall preclude Franchisee's or the City's contest of a claim for lien or other encumbrance chargeable to or through Franchisee or the City, or of a contract or action upon which the same arose.

5.6 Financial Conditions.

5.6.1 Franchise Fees. During the term of this Franchise, if federal and/or state Law changes or the statutory prohibition or limitation upon assessment of Franchise fees be invalidated, amended, or modified allowing revenues derived by Franchisee from any Services provided by Franchisee using the Franchise Area to be subject to a Franchise fee or other fee in lieu of a Franchise fee that was otherwise prohibited or limited on the Effective Date, the City and Franchisee shall in good faith endeavor to negotiate a reasonable Franchise fee or other fee or other consideration in lieu of a Franchise fee, consistent with federal and/or state Law. The fee or other consideration shall be comparable to Franchise or similar fees received by the City, or other cities of comparable population or assessed property value, for other similar uses of the Public Rights-of-Way by similar users.

5.6.2 Reimbursement of Direct Costs of Application, Administration, and Amendment. Franchisee agrees to pay an application fee, pursuant to RCW 35.21.860, of \$5,000 to cover the City's legal and administrative costs for negotiation, review, and approval of this Franchise. Thereafter, Franchisee shall reimburse the City for the City's Direct Costs (as defined in Section 5.6.3, below) and the cost of negotiation, review, and approval of any amendments to this Franchise requested by or for the benefit of the Franchisee.

5.6.3 Reimbursement of Direct Costs of Design Review and Inspection. City approvals and inspections, as provided for in this Franchise, are for the sole purpose of protecting the City's rights as the owner or manager of the road Public Rights-of-Way and are separate and distinct from the approvals and inspections and fees that may be required pursuant to a Regulatory Permit. Therefore, Franchisee shall reimburse to the City, its Direct Costs of approvals and inspections, to the extent that such Direct Costs are not included in the costs for issuance of and compliance with a Regulatory Permit. Approvals and inspection, by way of example and not limitation, include review of design documents and inspection for compliance with the City's Engineering Design and Construction Standards and Design Document submittal. Nothing in this Franchise precludes the City from requiring Franchisee to pay applicable permit fees pursuant to chapter 12.04 of the Black Diamond Municipal Code and the City's fee schedule, as currently adopted or as later amended.

5.6.4 Franchisee Responsibility for Costs. Except as expressly provided otherwise in this Franchise, any act that Franchisee, its contractors, or subcontractors are required to perform under this Franchise shall be performed at their sole cost and expense.

5.6.5 Franchisee Work Performed by the City. Any work performed by the City that Franchisee has failed to perform as required pursuant to this Franchise and which is performed by the City in accordance with the terms of this Franchise, shall be performed at the cost and expense of the Franchisee. Franchisee shall be obligated to pay the Direct Costs to the City for performing such work.

5.6.6 Costs to be Borne by Franchisee. In addition to the Direct Costs referenced in section 5.6.2, above, Franchisee shall reimburse the City for all costs of publication of this Franchise, and any notices prior to any public hearing regarding this Franchise, contemporaneous with its acceptance of this Franchise.

5.6.7 Taxes and Fees. Nothing contained in this Franchise Agreement exempts Franchisee from Franchisee's obligation to pay any utility tax, business tax, or ad valorem property tax, now or hereafter levied, consistent with applicable law, against real or personal property within the City, or against any local improvement assessment imposed on Franchisee. Any fees, charges, and/or fines provided for in the City Municipal Code or any other City ordinance, whether pecuniary or in-kind, are separate from, and additional to, any and all federal, state, local, and City taxes as may be levied, imposed, or due from Franchisee.

5.6.8 Itemized Invoice. Upon request and as a condition of payment by the Franchisee of Direct Costs payable by Franchisee under this Franchise, City shall submit an itemized billing so as to specifically identify the Direct Costs incurred by the City for each project for which the City claims reimbursement.

5.6.9 Time for Payment. All non-contested amounts owing shall be paid within sixty (60) days of receipt of invoice, or itemized invoice if requested; provided that, in the event that an itemized invoice is not provided at the time of receipt of invoice and the City receives a request from Franchisee for an itemized invoice within thirty (30) days of receipt of invoice, such amounts shall be paid within sixty (60) days of receipt of the itemized invoice.

5.6.10 Overdue Payments. Any amounts payable under this Franchise by Franchisee which are not paid upon the due date thereof, shall bear interest at the lower of (x) the maximum interest rate allowed by law, and (y) a rate of twelve (12%) percent per annum.

5.6.11 Contesting charges. Franchisee may contest all or parts of amounts owed within sixty (60) days of receipt of any invoice. The City will investigate Franchisee's contest and will make appropriate adjustments to the invoice, if necessary, and resubmit the invoice to Franchisee. Franchisee shall pay any amounts owing as itemized in the resubmitted invoice which amounts shall be due within thirty (30) days of receipt of the resubmitted invoice. However, Franchisee does not waive its rights to further dispute resolution processes pursuant to Section 6.1 of this Franchise. Submittal of a dispute over amounts owing pursuant to Section 6.1 does not relieve the Franchisee of its obligation to pay amounts due under the resubmitted invoice.

5.6.12 Receivables. Either Party hereto may assign any monetary receivables due them under this Franchise upon notice to the other. However, (i) such assignment will not relieve

the assignor of any of its rights or obligations under this Franchise, and (ii) Franchisee shall have no such notice obligation with respect to any receivables other than those owed by the City.

ARTICLE 6. ENFORCEMENT AND REMEDIES.

Communication and Discussion. The Parties are fully committed to working with each other throughout the term of this Franchise and agree to communicate regularly with each other at all times so as to avoid or minimize Disputes. The Parties agree to act in good faith to prevent and resolve potential sources of conflict before they escalate into a Dispute. The Parties each commit to resolving a Dispute in an amicable, professional, and expeditious manner. The Parties further agree that in the event a Dispute arises, they will attempt to resolve the Dispute through good faith discussions between representatives of each Party. Each Party will exchange relevant information that will assist the Parties in resolving the Dispute.

6.1 Remedies. The Parties have the right to seek any and all remedies, in equity, at law, or in contract. Remedies are cumulative; the exercise of one will not foreclose the exercise of others. No provision of this Franchise bar either Party from seeking appropriate judicial relief.

Neither the existence of other remedies identified in this Franchise nor the exercise thereof bars or may be deemed to bar or otherwise limit the right of either Party to recover monetary damages, as allowed under applicable Law, or to seek and obtain judicial enforcement by means of specific performance, injunctive relief, or mandate, or to commence an action for equitable or other relief, and/or proceed against the other Party and any guarantor for all direct monetary damages, costs, and expenses arising from the Default and to recover all such damages, costs, and expenses, including reasonable attorneys' fees.

The City specifically does not, by any provision of this Franchise, waive any right, immunity, limitation, or protection otherwise available to the City, its officers, officials, City Council, Boards, commissions, agents, or employees under federal, State, or local law.

6.2 Right to Cure Default.

6.2.1 Notice. If a Party believes that the other Party is in default, such Party shall give written notice to the Noticed Party stating with reasonable specificity the nature of the alleged default. The Noticed Party shall have thirty (30) days, or such greater time as specified in the notice or such lesser time as specified in the event that there is an imminent threat of harm to the public health, safety or welfare resulting from the default, from the receipt of such notice to:

6.2.1.1 Respond to the other Party, contesting that Party's assertion that a Default has occurred; or

6.2.1.2 Cure the default; or

6.2.1.3 Notify the other Party that the Noticed Party cannot cure the default within the time provided in the notice, because of the nature of the Default. In the event the Default cannot be cured within the time provided in the notice, the Noticed Party shall promptly take all

reasonable steps to begin to cure the Default and notify the other Party in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the other Party may set a meeting to determine whether additional time beyond the time provided in the notice is indeed needed, and whether the Noticed Party's proposed completion schedule and steps are reasonable.

6.2.2 Time to Cure. When specifying the time period for cure, the Party giving notice shall take into account the nature and scope of the alleged Default, the nature and scope of the work required to cure the Default, whether the Default has created or will allow to continue an unsafe condition, the extent to which delay in implementing a cure will result in adverse financial consequences or other harm to the Party giving notice, and whether delay in implementing a cure will result in a violation of Law or Default of contract.

6.2.3 Failure to Cure. If the Noticed Party fails to promptly commence and diligently pursue cure of a Default to completion to the reasonable satisfaction of the Party giving notice and in accordance with the agreed upon timeline or the time provided for in the Notice of Default, then the parties may pursue any remedies available to them.

6.3 Termination/Revocation. In addition to the remedies available to the City as provided at Law, in equity, or in this Franchise, upon a Default without cure, the City may revoke this Franchise and rescind all rights and privileges associated with this Franchise in accordance with the following:

6.3.1 Notice. Prior to termination of the Franchise, the City shall give written notice to the Franchisee of its intent to revoke the Franchise. The notice shall set forth the exact nature of the Default. If Franchisee objects to such termination, Franchisee shall object in writing and state its reasons for such objection and provide any explanation.

6.3.2 Hearing. The City may then seek a termination/revocation of the Franchise in accordance with this Subsection.

6.3.2.1 The City's Hearing Examiner shall conduct a public hearing pursuant to BDMC 2.30 to determine if termination/revocation of the Franchise is warranted.

6.3.2.2 The City shall schedule a public hearing before the Hearing Examiner and issue a public hearing notice that shall establish the issue(s) to be addressed in the public hearing; provide the time, date, and location of the hearing; provide that the Hearing Examiner shall hear any Persons interested therein; and provide that the Franchisee shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, to be represented by counsel, and to question witnesses. The public hearing notice shall be provided to Franchisee in accordance with Section 8.13 hereof and public notice of the hearing shall be provided at least ten (10) days prior to the hearing, as provided under BDMC 2.30.100.

6.3.2.3 The Hearing Examiner shall issue a recommendation to the City Council within thirty (30) days following the close of the public hearing, and the City Council

shall make a decision upon the recommendation of the Hearing Examiner after a closed record hearing and within sixty (60) days following receipt of the recommendation of the Hearing Body/Officer. The decision of the City Council shall be final. The Parties recognize that a decision to terminate/revoke a Franchise is not a land use decision that is subject to appeal pursuant to the Land Use Petition Act (Chapter 36.70C RCW). Failure to render a decision within the required time period shall not be a basis for invalidation of the decision that is made. Any appeal to which the Franchisee may be entitled (e.g., constitutional or statutory writ of review) shall be filed within 30 calendar days of issuance of the final decision of the City Council.

6.3.3 Decision to Terminate. The City Council may consider one or more of the following when determining whether or not to terminate/revoke the Franchise based upon the material Default:

6.3.3.1 The history of repeated non-compliance by Franchisee with material terms and conditions of this Franchise;

6.3.3.2 Whether other remedies will achieve compliance with this Franchise;

6.3.3.3 Whether the Franchisee has acted in good faith;

6.3.3.4 Whether the acts or omissions that gave rise to the Default were willful or indifferent to the requirements that gave rise to the Default;

6.3.3.5 Whether the type of services provided by the Franchisee will be available to the general public through other providers;

6.3.3.6 Whether services provided by the Franchisee are essential public services or regulated utilities;

6.3.3.7 The impact or potential impact of the Default upon the public health, safety and welfare;

6.3.3.8 The economic risk the City is exposed to as a result of the Default;

6.3.3.9 Whether consent, permission, adjudication, an order or other authorization of a governmental agency or body, is required as a condition precedent to the City ordering the Franchisee to abandon or remove Facilities from the Public Rights-of- Way or to cease operations (temporarily or otherwise) of the Facilities.

6.3.3.10 Such other facts and circumstances that are relevant to the controversy that gave rise to the Default and/or to whether or not the continued presence and operation of the Franchisee Facilities with the Franchise Area will be harmful to the public health, safety or welfare.

6.4 Receivership. At the option of the City, subject to applicable law and lawful orders of courts of competent jurisdiction, this Franchise may be revoked after the appointment of a receiver or trustee to take over and conduct the business of Franchisee whether in a receivership, reorganization, bankruptcy, or other action or proceeding, unless:

6.4.1 The receivership or trusteeship is timely vacated; or

6.4.2 The receiver or trustee has timely and fully complied with all the terms and provisions of this Franchise and has remedied all defaults under the Franchise. Additionally, the receiver or trustee shall have executed an agreement duly approved by the court having jurisdiction, by which the receiver or trustee assumes and agrees to be bound by each and every term, provision, and limitation of this Franchise.

ARTICLE 7. CONDITIONS UPON USE OF PUBLIC RIGHTS-OF-WAY.

7.1 Regulatory Permit. If Franchisee has submitted an application for a Regulatory Permit to perform work in the Public Rights-of-Way, the City shall, to the extent practicable, consider such application contemporaneously with the design review requirements hereunder.

7.2 Submission/Approval of Design Documents.

7.2.1 Submission. At the time of application for a Regulatory Permit, or in the event that Franchisee seeks to alter or change the location of Facilities in a Franchise Area, Franchisee shall submit its Design Documents to the City for review and approval in accordance with the City's plan review process and Chapter 12.04, BDMC.

7.2.2 Use of Public Rights-of-Way. Within parameters reasonably related to the City's role in protecting the public health, safety, and welfare, and except as may be otherwise preempted by Law, the City may require that Facilities be installed at a particular time, at a specific place, or in a particular manner as a condition of access to the proposed Franchise Area and may deny access if Franchisee is not willing to comply with such requirements, and may require removal of any Facility that is not installed in compliance with the Standards (defined in Section 7.3 below) or which is installed without prior City approval of the time, place, or manner of installation.

7.2.3 Approval of Plans. Work may not commence without prior approval by the City of the Design Documents submitted by the Franchisee, which approval will not be unreasonably withheld, conditioned, or delayed. The City may review and approve the Franchisee's Design Documents with respect to:

7.2.3.1 Location/Alignment/Depth;

7.2.3.2 The manner in which the Facility is to be installed;

7.2.3.3 Measures to be taken to preserve safe and free flow of traffic;

7.2.3.4 Structural integrity, functionality, appearance, compatibility with and impact upon roadways, bridges, sidewalks, planting strips, signals, traffic control signs, intersections, or other facilities and structures in the Public Rights-of-Way;

7.2.3.5 Ease of future road maintenance, and appearance of the roadway;

7.2.3.6 Compliance with applicable Standards (as defined below) and codes; and

7.2.3.7 Compliance and compatibility with the City's comprehensive plan, six-year transportation plan, capital improvements plan, and regional transportation improvement plans.

7.3 Compliance with Standards/Codes. Except as may be preempted by federal or state Laws, all Facilities shall conform to and all Work shall be performed in compliance with the following “Standards” as now or may be hereafter revised, updated, amended, or re-adopted:

7.3.1 Standards for Public Works Engineering and Construction. The most current edition of the City Standards for Public Works Engineering and Construction as adopted from time to time by the City. This document includes the City's Engineering Design and Construction Standards Manual, Design Standards Detail, and appendixes, and the most recently City adopted edition of the Standard Specifications for Road, Bridge and Municipal Construction as prepared by the Washington State Department of Transportation (“WSDOT”) and the Washington State Chapter of American Public Works Association (“APWA”);

7.3.2 MUTCD. The Federal Highway Administration Manual of Uniform Traffic Control Devices (“MUTCD”);

7.3.3 Special Conditions. Generally applicable requirements and standards set forth as additional conditions in a Regulatory Permit;

7.3.4 City Regulations. City ordinances, codes, and regulations (e.g., Chapter 12.04 BDMC) establishing standards for placement of Facilities in Public Rights-of-Way, including by way of example and not limitation, the specific location of Facilities in the Public Rights-of-Way;

7.3.5 Other Regulatory Requirements. Applicable requirements of federal or state governmental authorities that have regulatory authority over the placement, construction, or design of Franchisee Facilities;

7.3.6 Industry Standards. All Facilities shall be durable and Constructed in accordance with good engineering practices and standards promulgated by the government and industry for placement, Construction, design, type of materials, and operation of Franchisee Facilities;

7.3.7 Safety Codes and Regulations. Franchisee Facilities and Work shall comply

with all applicable federal, State, and City safety requirements, rules, regulations, Laws, and practices. By way of illustration and not limitation, Franchisee shall comply with the National Electrical Safety Code and the Occupational Safety and Health Administration (OSHA) Standards; and

7.3.8 Building Codes. Franchisee Facilities and Work shall comply with all applicable City Building Codes.

7.4 Conditions Precedent to Work. Except as may be otherwise required by applicable City code, rule, regulation, or Standard, Franchisee shall comply with the following as a condition precedent to Work:

7.4.1 Regulatory Permits Required. Except in the event of an Emergency, prior to performing any Work in the Public Right-of-Way, Franchisee shall apply for, and obtain, in advance, such appropriate Regulatory Permits from the City as are required by ordinance or rule, including a Type B ROW Utility Permit as provided in Chapter 12.04 BDMC. Franchisee shall pay all generally applicable and lawful fees for the requisite City Regulatory Permits.

7.4.2 Compliance with Franchise. Franchisee shall be in material compliance with the Franchise.

7.5 Work in the Public Rights-of-Way.

7.5.1 Permit required. Pursuant to Chapter 12.04 BDMC, a permit will be required for any work performed in the Public Rights-of-Way. Restoration will be required per Section 7.12 and Chapter 12.04 BDMC.

7.5.2 Least Interference. Work in the Public Rights-of-Way shall be done in a manner that does not unnecessarily hinder or obstruct the free use of the Public Rights-of-Way or other public property and which causes the least interference with the rights and reasonable convenience of property owners, businesses, and residents along the Public Rights-of-Way. Franchisee Facilities shall be designed, located, aligned and Constructed so as not to disturb or impair the use or operation of any street improvements, utilities, and related facilities of City or City's existing lessees, licensees, permittees, franchisees, easement beneficiaries, or lien holders, without prior written consent of City or the Parties whose improvements are interfered with and whose consent is required pursuant to agreements with the City existing prior to the Effective Date.

7.5.3 Work Subject to Inspection. The City may observe or inspect the Construction Work, or any portion thereof, at any time to ensure compliance with applicable Regulatory Permits, this Franchise, applicable Law, the applicable approved Design Documents, the Standards, and to ensure the Work is not being performed in an unsafe or dangerous manner.

7.5.4 Notice to the Public. Except in the case of an Emergency, City retains the right to require the Franchisee to notify the public prior to commencing any significant planned Construction that Franchisee reasonably anticipates will materially disturb or disrupt public

property or have the potential to present a danger or affect the safety of the public generally.

7.5.5 Work of Contractors and Subcontractors. Franchisee's contractors and subcontractors performing Work in the Franchise Area shall be licensed and bonded in accordance with the City's and State's applicable regulations and requirements. Any contractors or subcontractors performing Work within the Public Rights-of-Way on behalf of the Franchisee shall be deemed servants and agents of the Franchisee for the purposes of this Franchise and are subject to the same restrictions, limitations, and conditions as if the Work were performed by Franchisee. It is Franchisee's responsibility to verify that contractors, subcontractors, or other Persons performing Work on Franchisee's behalf are familiar with the requirements of this Franchise and other applicable Laws governing the Work performed by them.

7.5.6 Emergency Permits. In the event that Emergency repairs are necessary, Franchisee shall perform such Work, provide such notices, and obtain Regulatory Permits in conformance with applicable Standards and Laws.

7.5.7 Stop Work. On notice from the City that any Work does not comply with the Franchise, the approved Design Documents for the Work, the Standards, or other applicable Law, or is being performed in an unsafe or dangerous manner as reasonably determined by the City, the non-compliant Work may immediately be stopped by the City pursuant to BDMC 8.02.090. The stop work order shall be in writing, given to the Person doing the Work and be posted on the Work site, indicate the nature of the alleged violation or unsafe condition; and establish conditions under which Work may be resumed. If so ordered, Franchisee shall cease and shall cause its contractors and subcontractors to cease such activity until the City is reasonably satisfied that Franchisee is in compliance. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable Law, may order Franchisee to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes in its reasonable discretion. The City has the right to inspect, repair and correct the unsafe condition if Franchisee fails to do so, and to reasonably charge Franchisee for the actual, reasonable costs incurred to perform such inspection, repair, or correction. Payment by Franchisee will be made in accordance with Section 5.6.9. The authority and remedy set forth herein in this section is in addition to, and not a substitute for, any authority the City may otherwise have to take enforcement action for violation of City Codes or Standards.

7.5.8 Discovery of Hazardous Substances/Indemnity. In the event that the Work of the Franchisee in, on, and upon the Franchise Area results in the discovery of the presence of Hazardous Substances (**"Discovered Matters"**) in, on, or upon the areas excavated or otherwise opened or exposed by Franchisee within the Franchise Area (the **"Excavated Areas"**), the Franchisee shall immediately notify the City and take whatever other reporting action is required by applicable Environmental Law as it relates to the Discovered Matters in the Excavated Areas.

In the event the Franchisee's Work, in, on or upon the Franchise Area within the Excavated Areas results in a release (as determined under applicable Environmental Laws) of Hazardous Substances which were, before such activities, confined to areas within the Excavated Areas, but which after such activities by Franchisee are released beyond the Excavated Areas, and if the release is caused by the Franchisee, then the Franchisee shall indemnify, defend, and hold the City

harmless from the costs of all necessary Remedial Actions which are required under the applicable Environmental Laws, to the extent of Franchisee's share of the liability for the release. Franchisee's liability for the release may, inter alia, be determined by a final non-appealable decision by a court of competent jurisdiction, or as provided in a final non-appealable administrative order issued by the Environmental Authority, or by a consent decree entered by Franchisee and the Environmental Authority.

7.6 Alterations. Except as may be shown in the Design Documents or Regulatory Permits approved by the City or the record drawings, or as may be necessary to respond to an Emergency, Franchisee, and Franchisee's contractors and subcontractors, may not make any material alterations to the Franchise Area, or permanently affix anything to the Franchise Area, without the City's prior written consent, which shall not be unreasonably withheld, delayed, or conditioned. Material alterations include, by way of example and not limitation, a change in the dimension or height of the above-ground Facilities. If Franchisee desires to change either the location of any Facilities or otherwise materially deviates from the approved design of any of the Facilities, Franchisee shall submit such change to the City in writing for its approval pursuant to Section 7.2 of this Franchise. Franchisee shall have no right to commence any such alteration until after Franchisee has received the City's approval of such change in writing, provided that City's approval shall not be unreasonably withheld, delayed, or conditioned.

7.7 General Conditions.

7.7.1 Right-of-Way Meetings. Subject to receiving advance written notice, Franchisee will make reasonable efforts to attend and participate in meetings of the City regarding Right-of-Way issues that may impact the Telecommunications System. The Franchisee designates William Soards to be the primary contact (via email William.soards@forgedfiber37.com) and will provide notice upon any changes.

7.7.2 Compliance Inspection. Franchisee's Facilities are subject to the City's right of periodic inspection upon at least ten (10) days' written notice, or, in case of an emergency, upon demand without prior notice, to determine compliance with the provisions of this Franchise or other applicable Law over which the City has jurisdiction. Franchisee shall respond to reasonable requests for information regarding its Telecommunications System as the City may from time to time issue in writing to determine compliance with this Franchise, including requests for information regarding the Franchisee's plans for Construction and the purposes for which the Facility is being constructed.

7.7.3 One Call. If Franchisee places Facilities underground, Franchisee shall, at its own expense, continuously be a member of the State of Washington one number locator service under Chapter 19.122 RCW, or an approved equivalent, and shall comply with all such applicable rules and regulations. The Franchisee shall locate and field mark its Facilities for the City at no charge.

7.7.4 Graffiti Removal. Within twenty (20) business days after notice from the City, Franchisee shall remove any graffiti on any part of its Telecommunications System, including, by way of example and not limitation, equipment cabinets. If the Franchisee fails to do

so within twenty (20) business days, in the City's discretion and subject to advance written notice to the Franchisee, the City may remove the graffiti and bill the Franchisee for the reasonable cost thereof.

7.7.5 Dangerous Conditions, Authority for City to Abate. Whenever Construction of Facilities has caused a condition that, in the reasonable opinion of the City Engineer, substantially impairs the lateral support of the adjoining Public Right-of-Way, street, or public place, or endangers the public, any utilities, or City-owned property, the City may reasonably require the Franchisee to take action to protect the Public Right-of-Way, the public, adjacent public places, City-owned property, streets, and utilities. Such action may include compliance within a prescribed time. In the event that the Franchisee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if Emergency conditions exist which require immediate action, the City may, to the extent it may lawfully do so, take such actions as are necessary to protect the Public Right-of-Way, the public, adjacent public places, City-owned property, streets, and utilities, to maintain the lateral support thereof, or actions regarded as necessary safety precautions; and the Franchisee shall be liable to the City for the reasonable costs thereof to the extent Franchisee is determined to be the cause of such condition.

7.7.6 No Duty. Notwithstanding the right of the City to inspect the Work, issue a stop work order, and order or make repairs or alterations, the City has no duty or obligation to observe or inspect, or to halt Work on, the applicable Facilities, it being solely Franchisee's responsibility to ensure that the Facilities are Constructed and operated in strict accordance with this Franchise, the approved Design Documents, the Standards, and applicable Law. Neither the exercise nor the failure by the City to exercise any right set forth in this Article 7 shall alter the liability allocation set forth in this Franchise.

7.7.7 Roadside Hazard. All of Franchisee's Facilities shall be kept by Franchisee at all times in a safe and hazard-free condition. Franchisee shall ensure that Facilities within the Public Rights-of-Way do not become or constitute an unacceptable roadside obstacle and do not interfere with or create a hazard to maintenance of and along the Public Rights-of-Way. In such event, the Franchisee shall take corrective action. In the event that the City reasonably determines that a Facility within the Public Rights-of-Way has become or constitutes an unacceptable roadside obstacle or may interfere with or create a hazard to maintenance of and along the Public Rights-of-Way, following written notice explaining with reasonable specificity the nature of any such matter and a reasonable opportunity to cure of not less than thirty (30) days, the Franchisee shall take corrective action; provided that, nothing herein shall relieve the Franchisee from keeping its Facilities at all times in safe and hazard-free condition.

Franchisee, at all times, shall employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to the public or to Franchisee's agents or employees. Franchisee, at its own expense, shall repair, renew, change, and improve its Facilities from time to time as may be necessary to accomplish this purpose. Franchisee shall use suitable barricades, flags, flaggers, lights, flares, and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle, or property by reason of such Work in or affecting such Public Rights-of-

Way or property. All excavations made by Franchisee in the Public Rights-of-Way shall be properly safeguarded for the prevention of accidents. Franchisee agrees to repair or remove surplus materials including excess wire within thirty (30) days upon prior written notice or actual notice by Franchisee.

7.7.8 Verification of Alignment/Depth. Upon the reasonable request and prior written notice, in non-Emergency situations at least sixty (60) days' notice by the City and in order to facilitate the location, alignment, and design of Public Improvements (defined below), Franchisee agrees to locate, and if reasonably determined necessary by the City, excavate and expose portions of its Facilities for inspection so that the location of same may be taken into account in the Public Improvement design; PROVIDED that, Franchisee shall not be required to excavate and expose its Facilities unless the Franchisee's record drawings and maps of its Facilities submitted pursuant to Section 7.11 of this Franchise are reasonably determined by the City to be inadequate for purposes of this paragraph.

7.8 Facility Relocation at Request of the City.

7.8.1 Public Improvement. The City may require Franchisee, at Franchisee's sole expense, to alter, adjust, relocate, or protect in place its Facilities within the Public Rights-of-Way when reasonably necessary for construction, alteration, repair, or improvement of any portion of the Public Rights-of-Way or the Construction of any public improvement or structure by any governmental agency acting in a governmental capacity for the public benefit for purposes of public welfare, health, or safety ("Public Improvements"). Such Public Improvements include, by way of example but not limitation, Public Rights-of-Way construction; Public Rights-of-Way repair (including resurfacing or widening); change of Public Rights-of-Way grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, communication lines, or any other type of government-owned communications, utility or public transportation systems, public work, public facility, or improvement of any government-owned utility; and Public Rights-of-Way vacation. Franchisee's obligation to pay for relocation expenses under Section 7.8 includes all related design, engineering, labor, and material costs.

7.8.2 Alternatives. If the City requires Franchisee to relocate its Facilities, the City shall make a reasonable effort to provide Franchisee with an alternate location within the Public Right-of-Way. The Franchisee may, after receipt of at least sixty (60) days' written notice requesting a relocation of its Facilities, propose design alternatives that would mitigate or lessen the impact upon Franchisee's Facilities. The City shall provide a full and fair evaluation of such proposed design alternatives that, in the reasonable judgment of the City, would not impair, interfere with, or materially alter the scope, purpose or functioning of the Public Improvement and would not increase the anticipated public costs of the Public Improvement. If so requested by the City, Franchisee shall submit additional information to assist the City in making such evaluation. In the event that the City reasonably determines that it does not have available resources within the existing Public Improvement budget to fully and fairly evaluate Franchisee's proposal, the City shall not be obligated to further consider such proposal unless and until the Franchisee funds the additional costs to the City to complete its evaluation.

7.8.3 Notice. The City shall notify Franchisee in writing as soon as practicable of

the need for relocation and shall specify the date by which relocation shall be completed. Except in case of Emergency such notice shall be no less than one hundred and eighty (180) days. In calculating the date that relocation must be completed, City shall consult with Franchisee and consider the extent of Facilities to be relocated, the service requirements, and the construction sequence for the relocation, within the overall project construction sequence and constraints, to safely complete the relocation. Franchisee shall complete the relocation by the date specified, unless the City, or a reviewing court, establishes a later date for completion, after a showing by the Franchisee that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements.

7.8.4 Coordination of Work. Franchisee acknowledges and understands that any delay by Franchisee in performing the Work to alter, adjust, relocate, or protect in place its Facilities within the Public Rights-of-Way may delay, hinder, or interfere with the work performed by the City and its contractors and subcontractors in furtherance of construction, alteration, repair, or improvement of the Public Improvement, and result in damage to the City and/or its contractors, including but not limited to, delay and disruption claims. Franchisee shall reasonably cooperate with the City and its contractors and subcontractors to coordinate such Franchisee Work to accommodate the Public Improvement project and project schedules to avoid delay, hindrance, or disruption of such project, but Franchisee will be financially responsible for damages or additional costs incurred by the City due to any delay, hindrance, or disruption of such City work.

7.8.5 Assignment of Rights. In addition to any other rights of assignment the City may have, the City may from time to time assign or transfer to its contractors or subcontractors its rights under Section 7.10 of this Franchise.

7.8.6 Reimbursement for Costs. Notwithstanding the cost allocation provisions set forth in this Franchise, Franchisee does not waive its right(s) to and shall be entitled to seek reimbursement of its relocation costs as may be otherwise specifically set forth and authorized by Law, including in statute. Further, if the City reimburses or pays the relocation costs of another telecom or cable (i.e. wired technology) franchisee for a given Public Improvement project, the City shall reimburse or pay Franchisee's relocation costs on the same basis.

7.9 Movement of Facilities for Others.

7.9.1 Private Benefit. If any alteration, adjustment, temporary relocation, or protection in place of the Telecommunications System is required solely to accommodate the Construction of facilities or equipment that are not part of a Public Improvement project, Franchisee shall, after at least one hundred eighty (180) days advance written notice, take action to effect the necessary changes requested by the responsible Person; provided that, (a) the Person requesting the same pays for the Franchisee's time, design, engineering, and material costs associated with the requested work; (b) the alteration, adjustment, relocation, or protection in place is reasonably necessary to accommodate such work; (c) Franchisee's services are not interrupted; and (d) such alteration, adjustment, or relocation is not requested for the purpose of obtaining a competitive advantage over the Franchisee.

7.9.2 Temporary Changes for Other Franchisees. At the request of any Person holding a

valid permit and upon at least sixty (60) days' advance written notice, Franchisee shall temporarily raise, lower, or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the Person making such request.

7.10 Movement of Facilities During Emergencies.

7.10.1 Immediate Threat. In the event of an unforeseen event, condition, or circumstance that creates an immediate threat to the public safety, health, or welfare, the City may require Franchisee to relocate, remove, replace, modify, or temporarily disconnect Franchisee's Facilities located in the Public Rights-of-Way at the expense of the Franchisee without regard to the cause or causes of the immediate threat.

7.10.2 Emergency. In the event of an Emergency, or where a Facility creates or is contributing to an imminent danger to health, safety, or property, the City retains the right and privilege to protect, support, temporarily disconnect, remove, or relocate any or all parts of the Telecommunications System located within the Public Rights-of-Way, as the City may determine to be reasonably necessary, appropriate, or useful in response to any public health or safety Emergency and charge the Franchisee for costs incurred.

7.10.3 Notice. During Emergencies the City shall endeavor to, as soon as practicable, provide notice to Franchisee of such Emergency at a designated Emergency response contact number, to allow Franchisee the opportunity to respond and rectify the problem without disrupting Telecommunications Service. If, after providing notice, there is no immediate response, the City may protect, support, temporarily disconnect, remove, or relocate any or all parts of the Telecommunications System located within the Public Rights-of-Way in accordance with this Section 7.10.

7.10.4 Limitation on Liability. The City shall not be liable for any direct, indirect, or any other such damages suffered by any person or entity of any type as a direct or indirect result of the City's actions under this Section except for damages caused by the negligence or willful misconduct of the City, its employees, contractors or subcontractors.

7.11 Record of Installations.

7.11.1 Map/Record Drawing of Telecommunications System. Upon request by the City, Franchisee shall search for and provide the City with the most accurate and available maps and record drawings in a form and content reasonably prescribed by the City reflecting the horizontal and vertical location and configuration of its Telecommunications System within the Public Rights-of-Way and upon City property in a format reasonably acceptable to the City. Franchisee shall provide the City with updated record drawings and maps within a reasonable period of time following receipt of written request. As to any such record drawings and maps so provided, Franchisee does not warrant the accuracy thereof and to the extent the location of the Telecommunications System is shown, such Telecommunications System is shown in its approximate location.

7.11.2 Maps/Record Drawings of Improvements. After Construction involving the locating or relocating of Facilities, the Franchisee shall provide the City with accurate copies of all record drawings and maps showing the horizontal and vertical location and configuration of all located or relocated Facilities within the Public Rights-of- Way. These record-drawings and maps shall be provided at no cost to the City and shall include hard copies and digital copies in a format reasonably specified by the City. As to any such record drawings and maps so provided, Franchisee does not warrant the accuracy thereof and to the extent the location of the Telecommunications System is shown, such Telecommunications System is shown in its approximate location.

7.12 Restoration of Public Rights-of-Way, Public and Private Property.

7.12.1 Restoration after Construction. Franchisee shall, after completion of Construction of any part of its Telecommunications System, leave the Public Rights-of- Way and other property disturbed thereby in as good or better condition in all respects as it was in before the commencement of such Construction. Franchisee agrees to promptly complete restoration work to the reasonable satisfaction of the City and in conformance with City Standards, including, by way of example and not limitation, backfilling and restoration requirements as set forth in City Standards.

7.12.2 Notice. If Franchisee's Work causes unplanned, unapproved, or unanticipated disturbance of or alteration or damage to Public Rights-of-Way or other public or private property, the Franchisee shall promptly notify the property owner within twenty-four (24) hours of such disturbance, alteration, or damage.

7.12.3 Duty to Restore. If Franchisee's Work causes unplanned, unapproved, or unanticipated disturbance of or alteration or damage to Public Rights-of-Way or other public property, it shall promptly remove any obstructions therefrom and restore such Public Rights-of-Way and public property to the reasonable satisfaction of the City and in accordance with City Standards.

7.12.4 Temporary Restoration. If weather or other conditions do not allow the complete restoration required by this Section 7.12, Franchisee shall temporarily restore the affected Public Right-of-Way or public property. Franchisee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

7.12.5 Survey Monuments. All survey monuments that are disturbed or displaced by any Work shall be referenced and restored, as per WAC 332-120, as the same now exists or may hereafter be amended, and all pertinent federal, state, and local standards and specifications.

7.12.6 Approval. The City Operations and Maintenance Superintendent, or designee, shall be responsible for observation and final approval of the condition of the Public Rights-of-Way and City property following any restoration activities therein. Franchisee is responsible for all testing and monitoring of restoration activities.

7.12.7 Warranty. Franchisee shall warrant any restoration work performed by

Franchisee in the Public Rights-of-Way or on other public property for two (2) years following completion of restoration, normal wear and tear and damage by casualty excepted, unless a longer period is required by applicable City Standards. If restoration is not satisfactorily and timely performed by the Franchisee, the City may, after prior written notice to the Franchisee, or without notice where the disturbance or damage may create an imminent risk to public health or safety, cause the repairs to be made and recover the reasonable cost of those repairs from the Franchisee. Franchisee shall pay the City for such costs in accordance with Section 5.6.9.

7.12.8 Restoration of Private Property. When Franchisee does any Work in the Public Rights-of-Way that affects, disturbs, alters, or damages any adjacent private property, it shall, at its own expense, be responsible for restoring such private property to the reasonable satisfaction of the private property owner.

7.13 Approvals. Nothing in this Franchise imposes any duty or obligation upon the City to determine the adequacy or sufficiency of Franchisee's Design Documents or to ascertain whether Franchisee's proposed or actual Construction is adequate or sufficient or in conformance with the Design Documents reviewed and approved by the City. No approval given, inspection made, review or supervision performed by the City pursuant to or under authority of this Franchise constitutes or may be construed as a representation or warranty express or implied by the City that such item reviewed, approved, inspected, or supervised, complies with applicable Laws or this Franchise or meets any particular Standard, code or requirement, or is in conformance with the approved Design Documents, and no liability may attach with respect thereto. City approvals and inspections as provided herein, are for the sole purpose of protecting the City's rights as the owner and/or manager of the Public Rights-of-Way and do not constitute any representation or warranty, express or implied, as to the adequacy of the design or Construction of the Facilities or Telecommunications System, suitability of the Franchise Area for Construction, or any obligation on the part of the City to insure that Work or materials are in compliance with any requirements imposed by a governmental entity. The City is under no obligation or duty to supervise the design, Construction, or operation of the Telecommunications System.

7.14 Abandonment of Facilities. If Franchisee intends to discontinue use or abandon its Telecommunications System or Facilities within the City, Franchisee must give written notice to the City of such intent. Unless otherwise agreed in writing by the City, Franchisee must then remove its abandoned Facilities by a date specified by the City and restore the Public Rights-of-Way in accordance with City Standards.

ARTICLE 8. MISCELLANEOUS.

8.1 Headings. Titles to articles and sections of this Franchise shall not affect the construction or interpretation of any part hereof.

8.2 Entire Agreement. This Franchise contains all covenants and agreements between the City and the Franchisee relating in any manner to the Franchise, use and occupancy of the Public Rights-of-Way, and other matters set forth in this Franchise. No prior agreements or understanding pertaining to the same, written or oral, are valid or of any force or effect, and the covenants and agreement of this Franchise may not be altered, modified, or added to except in

writing signed by the City and Franchisee and approved by the City in the same manner as the original Franchise was approved.

8.3 Incorporation of Exhibits. All exhibits annexed hereto at the time of execution of this Franchise or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

8.4 Calculation of Time. Except where a period of time refers to “business days,” all periods of time referred to herein include Saturdays, Sundays, and legal holidays in the State of Washington, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Washington, the period shall be extended to include the next day that is not a Saturday, Sunday, or legal holiday in the State of Washington; provided that, the Effective Date shall be determined as provided at Section 4.3 of this Franchise.

8.5 Time Limits Strictly Construed. Whenever this Franchise sets forth a time for any act to be performed by Franchisee, such time is of the essence, and any failure of Franchisee to perform within the allotted time may be considered a Default of this Franchise.

8.6 No Joint Venture. Nothing contained in this Franchise creates, or may be construed to create, any partnership, joint venture, or principal-agent relationship or other arrangement between Franchisee and the City. Neither Party is authorized to, nor may either Party, act toward third Persons or the public in any manner which would indicate any such relationship with the other. The Parties intend that the rights, obligations, and covenants in this Franchise and the collateral instruments be exclusively enforceable by the City and Franchisee, their successors, and assigns. No term or provision of this Franchise is intended to benefit any Person not a Party hereto, and no such Person has any right or cause of action hereunder, except as may be otherwise provided in this Franchise. Further, the Franchisee has no right or authority, express or implied, to assume or create any obligation or responsibility on behalf of or in the name of the City. Nothing in Section 8.6 may be construed to prevent an assignment as provided for at Sections 2.8 or 7.8.5 of this Franchise.

8.7 Approval Authority. Except as may be otherwise provided by Law or this Franchise, any approval or authorization required to be given by the City shall be given by the Public Works Director or by the Public Works Director's designee.

8.8 Binding Effect upon Successors and Assigns. All of the provisions, conditions, and requirements contained in this Franchise shall further be binding upon the heirs, successors, executors, administrators, receivers, trustees, legal representatives, transferees, and assigns of the Franchisee; and all privileges, as well as all obligations and liabilities of the Franchisee shall inure to its heirs, successors, and assigns equally as if they were specifically mentioned wherever the Franchisee is named herein.

8.9 Waiver. No failure by either Party to insist upon the performance of any of the terms of this Franchise or to exercise any right or remedy consequent upon a Default thereof, will constitute a waiver of any such Default or of any of the terms of this Franchise. None of the terms of this Franchise to be kept, observed, or performed by either Party, and no Default thereof, may

be waived, altered, or modified except by a written instrument executed by the injured Party. No waiver of any Default will affect or alter this Franchise, but each of the terms of this Franchise will continue in full force and effect with respect to any other then existing or subsequent Default thereof. No waiver of any default of the defaulting Party hereunder will be implied from any omission by the injured Party to take any action on account of such default if such default persists or is repeated, and no express waiver will affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. One or more waivers by the injured Party will not be construed as a waiver of a subsequent Default of the same covenant, term or conditions.

8.10 Severability. If any word, article, section, subsection, paragraph, provision, condition, clause, or sentence of this Franchise, or its application to any person or circumstance (collectively referred to as “Term”), is held to be illegal, invalid, or unconstitutional for any reason by any court or agency of competent jurisdiction, such Term declared illegal, invalid, or unconstitutional shall be severable and the remaining Terms of the Franchise shall remain in full force and effect unless to do so would be inequitable or would result in a material change in the rights and obligations of the Parties under the Franchise.

8.11 Signs. No signs or advertising are permitted in the Franchise Area except as may be required by Law or as may be required by the City for the protection of the public health, safety, or welfare, to the extent it has authority to do so.

8.12 Discriminatory Practices Prohibited. Throughout the term of this Franchise, Franchisee shall fully comply with all equal employment and nondiscrimination provisions of applicable Law.

8.13 Notice. Any notice required or permitted to be given hereunder shall be in writing, unless otherwise expressly permitted or required, and shall be deemed effective either (i) upon hand delivery to the person then holding the office shown on the attention line of the address below, or, if such office is vacant or no longer exists, to a person holding a comparable office, or (ii) or when delivered by a nationally recognized overnight mail delivery service, to the Party and at the address specified below, or (iii) upon receipt or refusal following its deposit with the United States Postal Service, first class and certified or registered mail, return receipt requested, postage prepaid, properly sealed and addressed as follows:

Franchisee's address:	Forged Fiber 37, LLC c/o AT&T 208 S. Akard Street Dallas, TX 75202-4206 Attn: Legal Department Re: Franchise Agreement – City of Black Diamond, WA
-----------------------	---

the City's Address:	City of Black Diamond 24301 Roberts Drive Black Diamond, WA 98010
---------------------	---

Attention: City Administrator

The City and Franchisee may designate such other address from time to time by giving written notice to the other, but notice cannot be required to more than two addresses, except by mutual agreement.

8.14 Survival of Terms. Upon the expiration, termination, revocation, or forfeiture of the Franchise, the Franchisee shall no longer have the right to occupy the Franchise Area for the purpose of providing services authorized herein. However, the Franchisee's obligations under this Franchise to the City will survive the expiration, termination, revocation, or forfeiture of these rights according to its terms for so long as the Franchisee's Telecommunications System or any part thereof remains in whole or in part in the Public Rights-of-Way, or until such time as the Franchisee transfers ownership of all Facilities in the Franchise Area to the City or a third party, all as provided herein. Said obligations include, by way of illustration and not limitation, Franchisee's obligations to indemnify, defend, and protect the City, to provide insurance, to relocate its Facilities, to remove its Facilities following abandonment, and to reimburse the City for its costs to perform Franchisee's Work.

8.15 Force Majeure. In the event Franchisee is prevented or delayed in the performance of any of its obligations under this Franchise due to circumstances beyond its control or by reason of a force majeure occurrence, such as, but not limited to, acts of God, acts of terrorism, war, riots, civil disturbances, natural disasters, floods, tornadoes, earthquakes, severe weather conditions, employee strikes, and unforeseen labor conditions not attributable to Franchisee's employees, Franchisee will not be deemed in Default of provisions of this Franchise.

If Franchisee believes that circumstances beyond its control or by reason of a force majeure occurrence have prevented or delayed its compliance with the provisions of this Franchise, Franchisee shall provide documentation as reasonably required by the City to substantiate the Franchisee's claim. Franchisee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is reasonably satisfactory to the City; provided that, the Franchisee shall perform to the maximum extent it is able to perform and shall take reasonable steps within its power to correct such cause(s) in as expeditious a manner as possible, provided that the Franchisee takes prompt and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with the Franchise without unduly endangering the health, safety, and integrity of the Franchisee's employees or property, or the health, safety, and integrity of the public, Public Rights-of- Way, public property, or private property.

8.16 Attorneys' Fees. In the event a suit, action, arbitration, or other proceeding of any nature whatsoever, whether in contract or in tort or both, is instituted to interpret or enforce any word, article, section, subsection, paragraph, provision, condition, clause, or sentence of this Franchise or its application to any person or circumstance, the prevailing Party is entitled to recover from the losing Party its reasonable attorneys, paralegals, accountants, and other experts fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as allowed by Washington law and as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided

by Law. This provision covers costs and attorneys' fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

8.17 Venue/Choice of Law. This Franchise shall be governed by, and construed in accordance with, the laws of the State of Washington without reference to its choice-of-law principles or doctrines. Any action brought concerning the interpretation, construction, or enforcement of this Franchise shall be initiated in the state or federal court located in King County, Washington, which shall be the exclusive venue for any disputes related to this Franchise.

8.18 Publication. This Ordinance, or a summary hereof, shall be published in the official newspaper of the City, the expense of which shall be borne by Franchisee, and will take effect and be in full force in accordance with Section 4.3 of this Ordinance.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND AT
A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2026.**

CITY OF BLACK DIAMOND

John Adler, Mayor

ATTEST/AUTHENTICATED:

Brenda L. Martinez, City Clerk

Approved as to form:

David Linehan, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.:
Date of Publication:

EXHIBIT “A”

(Acceptance of Franchise)

Franchise issued pursuant to City of Black Diamond Ordinance No. _____.

I, _____, am the _____, and am the authorized representative to accept the above-referenced Franchise on behalf of _____. In my capacity as _____, and not individually, I certify that this Franchise and all terms and conditions thereof are accepted by Forged Fiber 37, LLC, without qualification or reservation and that Forged Fiber 37, LLC unconditionally guarantees performance of all such terms and conditions.

DATED this _____ day of _____, 2026.

Forged Fiber 37, LLC

By: _____

Its: _____

Tax Payer ID# _____

STATE OF _____)
) ss
CITY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument and acknowledged it as the _____ of Forged Fiber 37, LLC, to be the free and voluntary act of such corporation/individual for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2026.

(Signature of Notary)

Printed Name _____
Notary public in and for the state of _____,
residing at _____

My appointment expires _____

EXHIBIT “B”

(Form of Transfer Agreement)

THIS TRANSFER AGREEMENT (“Agreement”) is made this _____ day of _____, 20__, by and between:

1. PARTIES.

1.1 City of Black Diamond, a political subdivision of the state of Washington (“City”).

1.2 _____ (“Franchisee”).

1.3 _____ (“Transferee”).

RECITALS

WHEREAS the City has issued a single Franchise (the “Franchise”) to Franchisee, which was authorized on the ____ day of _____, _____, pursuant to Ordinance No. _____, and

WHEREAS Franchisee has reached an agreement with Transferee on a *(describe transaction, example. conveyance of benefited property)* _____ with Transferee, to *(example: acquire Franchisee facilities and equipment located in the Public Rights-of-Way)* _____, and

WHEREAS Franchisee and Transferee have requested that the City approve a transfer of the Franchise from Franchisee to Transferee, and

WHEREAS, as a result of the transfer of the Franchise, Transferee will assume all rights, duties, and obligations that Franchisee has under the Franchise, will be responsible for full compliance with the Franchise, and will meet or exceed all applicable and lawful federal, state, and local requirements, and

WHEREAS, relying on the representations made by the Transferee and Franchisee, the City, on the ____ day of _____, 20__, and the Franchise, approved the transfer upon the terms and conditions as stated herein;

NOW, THEREFORE, in consideration of the City's approval of the transfer, subject to the terms and conditions of this Agreement, THE PARTIES DO HEREBY AGREE as follows:

2. TRANSFER. Transfer of the Franchise shall be effective upon the following conditions precedent:

2.1 Receipt by the City of the fully executed acceptance of Franchise attached hereto as Exhibit B-1 together with all required certificates of insurance, security fund, and performance bond;

2.2 Payment to the City of the Transfer fees; and

2.3 The date of closing of the sale/conveyance of the property benefited by this Franchise and/or the Facilities located in the Franchise Area or upon a date as mutually agreed to by the City, Franchisee and Transferee as follows: _____

3. ACCEPTANCE OF FRANCHISE OBLIGATIONS.

3.1 The Franchisee and Transferee hereby accept, acknowledge, and agree that neither the proposed transaction between Franchisee and Transferee nor the City's approval of this Agreement diminishes or affects the existing and continuing commitments, duties, or obligations, present, continuing, and future, of the Franchisee and Transferee embodied in the Franchise.

3.2 Transferee and Franchisee agree that neither the transfer nor the City's approval of this Agreement and the resulting transfer in any respect relieves Franchisee, or any of its successors in interest, of any obligation or liability arising from acts or omissions occurring prior to the transfer of the Franchise, whether known or unknown, or the consequences thereof.

3.3 The transfer is not intended and may not be construed to authorize the Franchisee to take any position or exercise any right that could not have been exercised prior to the Transfer.

3.4 Notwithstanding anything to the contrary herein, Transferee shall not be responsible for any of Franchisee's financial liabilities and obligations under the Franchise or pursuant to the City code, rules, and regulations that accrued before the Transfer of the Franchise, and Franchisee shall not be responsible for any financial liabilities and obligations under the Franchise or pursuant to the City code, rules, and regulations that accrue on or after the Transfer of the Franchise.

3.5 The City waives none of its rights with respect to the Franchisee's or Transferee's compliance with the terms, conditions, requirements, and obligations set forth in the Franchise. The City's approval of this Agreement may in no way be deemed a

representation by the City that Franchisee is in compliance with all of Franchisee's obligations under the Franchise.

3.6 Franchisee and Transferee acknowledge and agree that the City's approval and acceptance of this Agreement and the resulting transfer is made in reliance upon the representations, documents, and information provided by the Franchisee and Transferee in connection with the request for Transfer.

4. MISCELLANEOUS PROVISIONS.

4.1 Conditions Precedent. The Agreement will be effective and binding upon the signatories once it has been signed by all signatories; provided that, within 30 days of execution of the Agreement by all of the signatories, Transferee has provided to the City the following: (1) all fees required for this Transfer, (2) its acceptance of the Franchise in substantially the form of the document attached hereto as Exhibit B-1; (3) its insurance certificate in conformance with the requirements of the Franchise; (4) a performance bond or cash deposit in conformance with the requirements of the Franchise.

4.2 Entire Agreement. The Agreement constitutes the entire agreement of the Parties with respect to the matters addressed herein. No statements, promises, or inducements inconsistent with the Agreement made by any Party are valid or binding, unless in writing and executed by all Parties.

4.3 Binding Acceptance. The Agreement binds and benefits the Parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors, and assigns, and the promises and obligations herein will survive the expiration date hereof. Any purported transfer of the Agreement is void without the express written consent of the signatories.

4.4 Severability. In the event that any provision of the Agreement is, to any extent, held to be invalid, preempted, or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

4.5 Defined Terms. Terms not defined in this Agreement have the same meaning as given in the Franchise.

4.6 Governing Law. The Agreement is governed in all respects by the laws of the state of Washington, without reference to its choice-of-law rules or doctrines.

4.7 Notice. Pursuant to Section 8.13 of the Franchise, Notices to Transferee shall be delivered to:

Transferee's address: **

And to:

**

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the day and year first written above.

CITY:

FRANCHISEE:

By: _____,
Mayor

By:
It's:
Title: _____

TRANSFeree:

By: _____
Title: _____

Tax Id. No. _____

TRANSFER EXHIBIT B-1
Acceptance of Franchise

Franchise issued pursuant to Ordinance No. _____ and accepted _____,
2026; Transfer authorized effective _____, ____ 20____.

I, _____, am the _____, and am the
authorized representative to accept the above-referenced Franchise on behalf of
_____. In my capacity as _____, and not individually, I certify
that this Franchise and all terms and conditions thereof are accepted by _____,
without qualification or reservation and that unconditionally guarantee(s) performance of all
such terms and conditions.

DATED this _____ day of _____, 20____

By: _____
Its: _____
Tax Payer ID# _____

STATE OF _____ SS
CITY OF _____

I certify that I know or have satisfactory evidence that
_____ is the person who appeared before me, and said person
acknowledged that said person signed this instrument, on oath stated that said person was authorized
to execute the instrument and acknowledged it (as the
_____ of _____, a _____
corporation,) to be the free and voluntary act of such corporation/individual for the uses and
purposes mentioned in the instrument.

Dated this _____ day of _____

(Signature of Notary)

Print Name

Notary public in and for the state of
_____, residing at _____

My appointment expires: _____

EXHIBIT “C”

(Description of Franchise Area)

The area within the jurisdictional boundaries of the City of Black Diamond, Washington, and such additional areas as may be included in the jurisdictional boundaries of the City of Black Diamond, Washington, during the term of this Franchise.

EXHIBIT "D"

(Insurance Requirements)

1. General Requirement. Franchisee shall have adequate insurance at all times while Franchisee owns or operates Facilities in the Public Rights-of-Way, to protect the City against claims for death or injuries to Persons or damages to property or equipment which in any way relate to, arise from or are connected with the Work, the Facilities, or the activities of Franchisee, its employees, agents, representatives, contractors, subcontractors and their employees, within the Franchise Area.

2. Minimum Insurance Limits. The Franchisee shall maintain the following minimum insurance coverages and limits:

2.1 Commercial General Liability: insurance to cover liability, bodily injury, and property damage. The Commercial General Liability insurance shall be written on an occurrence basis, and shall provide coverage for any and all costs, including reasonable defense costs, and losses and damages resulting from personal injury, bodily injury and death, property damage, products liability and completed operations. Such insurance shall include broad form and blanket contractual coverage, including coverage for the Franchise as now or hereafter amended. Coverage must be written with the following limits of liability:

\$2,000,000 per occurrence,
\$4,000,000 general aggregate and
\$1,000,000 products/completed operations aggregate.

2.2 Automobile Liability: shall include owned, hired, and non-owned vehicles on an occurrence basis with coverage of at least \$2,000,000 per occurrence.

2.3 Workers Compensation Insurance: shall be maintained during the life of this Franchise to comply with statutory limits for all employees, and in the case any work is sublet, the Franchisee shall require its contractors and subcontractors similarly to provide workers' compensation insurance for all the employees. The Franchisee shall also maintain, during the life of this policy, employer's liability insurance with limits of \$1,000,000 each occurrence.

2.4 Excess or Umbrella Liability: \$5,000,000 each occurrence and \$5,000,000 policy limit.

3. Endorsements. Franchisee Commercial General Liability insurance policies are to contain, or be endorsed to contain, the following:

3.1 The Franchisee's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Franchisee's insurance and shall not contribute to it.

3.2 Franchisee, through policy endorsement, shall waive its rights of subrogation against the City for all claims and suits against the City for damage to Franchisee's property.

3.3 That the coverage shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.4 The Franchisee's insurance shall include the City as an additional insured, to protect or insure as an additional insured, from and against Liabilities arising out of work performed in the Public Rights-of-Way under a grant of authority of the City.

3.5 The Franchisee's insurance shall include a requirement that the "railroad exclusion" be deleted or may include, in the alternative, ISO endorsement CG 24 17 or the equivalent.

3.6 The insurance coverages and limits provided herein shall not be canceled without thirty (30) days' prior written notice first being given to the City, with the exception that ten (10) days' notice shall be required for cancellation resulting from non-payment of premium. If the insurance is canceled or reduced in coverage, Franchisee shall provide a replacement policy.

4. Acceptability of Insurers. Each insurance policy obtained pursuant to this Franchise shall be issued by financially sound insurers who may lawfully do business in the State of Washington with a financial strength rating at all times during coverage of no less than an "A-" and in a financial size category of no less than "VII", in the latest edition of "Best's Rating Guide" published by A.M. Best Company. In the event that at any time during coverage, the insurer does not meet the foregoing standards, Franchisee shall give prompt notice to the City and shall seek coverage from an insurer that meets the foregoing standards. The City reserves the right to change the rating or the rating guide depending upon the changed risks or availability of other suitable and reliable rating guides.

5. Verification of Coverage. The Franchisee shall furnish the City with signed certificates of insurance and a copy of the amendatory endorsements, including, but not necessarily limited to, the additional insured endorsement, evidencing the Automobile Liability, Commercial General Liability and Umbrella or Excess insurance of the Franchisee upon acceptance of this Franchise. The certificate for each insurance policy is to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificate for each insurance policy must be on standard forms or on such forms as are consistent with standard industry practices. The Franchisee hereby warrants that its insurance policies satisfy the requirements of this Franchise.

6. Deductible. Commercial General Liability Insurance policies and coverage required herein may include a deductible; provided, however, that if Franchisee elects to include any deductible, Franchisee shall itself directly cover, in lieu of insurance, any and all City Liabilities that would otherwise in accordance with the provisions of this Franchise be covered by Franchisee insurance if Franchisee elected not to include a deductible. Such

direct coverage by Franchisee shall be in an amount equal to the amount of Franchisee's actual deductible.

7. No Limitation. Franchisee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by Franchisee or limit the liability of Franchisee to the coverage provided in the insurance policies or otherwise limit the City's recourse to any other remedy available at law or in equity.

EXHIBIT “E”

(Financial Security)

1. Performance Bond.

1.1 Franchisee shall provide to the City a faithful performance and payment bond in the initial amount of **\$50,000** to ensure the full and faithful performance of all of its responsibilities under this Franchise and applicable Laws, including, by way of example and not limitation, its obligations to relocate and remove its Facilities, to restore the Public Rights-of-Way and other property when damaged or disturbed, to reimburse the City for its Direct Costs and keeping Franchisee's insurance in full force.

1.2 The performance bond shall be in a form with terms and conditions reasonably acceptable to the City and reviewed and approved by the City Attorney.

1.3 The performance bond shall be with a surety with a rating no less than “A- VII” in the latest edition of "Bests Rating Guide," published by A.M. Best Company.

1.4 The Franchisee shall pay all premiums or costs associated with maintaining the performance and payment bond and shall keep the same in full force and effect at all times. If Franchisee fails to provide or maintain the bond, then the City, in its sole discretion, may require Franchisee to substitute an equivalent cash deposit as described below in lieu of the bond.

1.5 Franchisee's maintenance of the bond(s) shall not be construed to excuse unfaithful performance by Franchisee, or limit the liability of Franchisee to the amount of the bond(s), or otherwise limit the City's recourse to any other remedy available at law or in equity.

1.6 The amount of the bond may, in the reasonable discretion of the City, be adjusted by the City to take into account (1) cumulative inflation, (2) increased risk to the City, (3) the experiences of the Parties regarding Franchisee compliance with its obligations under the Franchise, and (4) issuance of Site Specific Permits for installation of new Facilities. Prior to adjusting the amount of the bond, the City shall provide reasonable notice to the Franchisee and an opportunity to provide comments, and the City shall review and consider such comments that are timely made.

2. Cash Deposit/Irrevocable Letter of Credit in Lieu of Bond.

Franchisee may, at its election substitute an equivalent cash deposit with an escrow agent approved by the City or an irrevocable letter of credit in form and content reasonably approved by the City Attorney, instead of a performance and payment bond. This cash deposit or irrevocable letter of credit shall ensure the full and faithful performance of all of Franchisee's responsibilities hereto under this Franchise and all applicable Laws. This

includes but, is not limited to, its obligations to relocate or remove its facilities, restore the Public Rights-of-Way and other property to their original condition, reimbursing the City for its costs, and keeping Franchisee's insurance in full force.

In the event that the Franchisee fails to cure a Default as provided in Section 6 of the Franchise, the City may, at its option, draw upon the cash deposit or letter of credit up to the amount of the City's costs incurred to cure Franchisee's default. Upon the City's cure of Franchisee's default, the City shall notify Franchisee in writing of such cure.

In the event that the City draws upon the cash deposit or letter of credit, Franchisee shall thereupon replenish the cash deposit or letter of credit to the full amount as specified herein or provide a replacement performance and payment bond.

EXHIBIT “F”

(Contractor/Subcontractor Insurance Requirements)

1. General Requirement. Prior to commencing and during the period of Work performed within the Franchise Area, Franchisee contractors and subcontractors (hereafter the “Contractors”) must have in place adequate insurance to protect the City against claims for death or injuries to Persons or damages to property or equipment which in any way relate to, arise from or are connected with this such Work.

2. Minimum Insurance Limits. The Contractors shall maintain the following minimum insurance coverages and limits:

2.1 Commercial General Liability: insurance to cover liability, bodily injury, and property damage. The Commercial General Liability insurance shall be written on an occurrence basis, , and shall provide coverage for any and all costs, including reasonable defense costs, and losses and damages resulting from personal injury, bodily injury and death, property damage, products liability and completed operations. Coverage must be written with the following limits of liability:

\$1,000,000 per occurrence,
\$2,000,000 general aggregate and
\$1,000,000 products/completed operations aggregate.

2.2 Automobile Liability: shall include owned, hired, and non-owned vehicles on an occurrence basis with coverage of at least \$1,000,000 per occurrence.

2.3 Workers Compensation Insurance: shall be maintained during the period of such Work to comply with statutory limits for all employees.

3. Endorsements. Commercial General Liability insurance policies are to contain, or be endorsed to contain, the following:

3.1 The Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute to it.

3.2 Contractor, through policy endorsement, shall waive its rights of subrogation against the City for all claims and suits.

3.3 That the coverage shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.4 The Contractor's insurance shall name the City as an additional insured, to protect or insure as an additional insured, from and against Liabilities arising out of Work performed in the Public Rights-of-Way under a grant of authority of the City.

3.5 The Contractor's insurance shall include a requirement that the "railroad exclusion" be deleted or may include, in the alternative, ISO endorsement CG 24 17 or equivalent.

3.6 The insurance coverages and limits provided herein shall not be canceled without thirty (30) days written notice first being given to the City, with the exception that ten (10) days' notice shall be required for cancellation resulting from non-payment of premium. If the insurance is canceled or reduced in coverage, Franchisee shall provide a replacement policy.

4. Acceptability of Insurers. Each insurance policy required herein shall be issued by financially sound insurers who may lawfully do business in the State of Washington with a financial strength rating at all times during coverage of no less than an "A-" and in a financial size category of no less than "VII", in the latest edition of "Best's Rating Guide" published by A.M. Best Company. In the event that at any time during coverage, the insurer does not meet the foregoing standards, Contractor shall give prompt notice to the City and shall seek coverage from an insurer that meets the foregoing standards. The City reserves the right to change the rating or the rating guide depending upon the changed risks or availability of other suitable and reliable rating guides.

5. Verification of Coverage. The Franchisee shall furnish the City with Contractors' signed certificates of insurance and a copy of the amendatory endorsements, including, but not necessarily limited to, the additional insured endorsement, evidencing the Automobile Liability, and Commercial General Liability policies of the Contractors. The certificate for each insurance policy is to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificate for each insurance policy must be on standard forms or on such forms as are consistent with standard industry practices.

6. No Limitation. Contractor's maintenance of insurance policies required herein shall not be construed to excuse unfaithful performance by Franchisee or limit the liability of Franchisee or contractor to the coverage provided in the insurance policies, or otherwise limit the City's recourse to any other remedy available at law or in equity.