

RESOLUTION NO. 16-1118

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, AND THE ENUMCLAW SCHOOL DISTRICT, KING COUNTY, WASHINGTON FOR TRAFFIC MITIGATION CONTRIBUTION FOR IMPROVEMENTS AT 4 INTERSECTIONS

WHEREAS, the Enumclaw School District is in the process of designing, permitting and constructing a new larger elementary school in Black Diamond to replace the existing elementary school, and

WHEREAS, the larger volumes of traffic from the new larger Black Diamond Elementary School will impact three intersections in addition to safety issues at another intersection.

WHEREAS, the City's concurrency ordinance requires, if a project affects an intersection that does not have adequate capacity, either the failing intersection must be fixed, the project is put on hold or a fair and equitable strategy to fix the intersection within 6 years is in place.

WHEREAS, the School District's Mitigated Declaration of Non Significance proposed a traffic mitigation fee of \$54,055 for the intersection noted in the agreement.

WHEREAS, additionally the City and District agreed to an additional voluntary \$20,000 mitigation payment to deal with the safety issues at Parks Street and SR 169 as the District's proportionate share;

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 between the Enumclaw School District and the City of Black Diamond for contribution to improvements at 4 intersections impacted by the new Black Diamond Elementary School project substantially in the form attached hereto as Exhibit A.

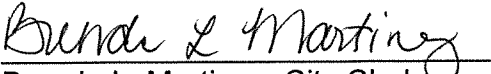
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 18TH DAY OF AUGUST, 2016

CITY OF BLACK DIAMOND:



Carol Benson, Mayor

Attest:



Brenda L. Martinez, City Clerk

MEMORANDUM AGREEMENT REGARDING TRAFFIC MITIGATION

CITY OF BLACK DIAMOND

and

ENUMCLAW SCHOOL DISTRICT

This MEMORANDUM OF AGREEMENT REGARDING TRAFFIC MITIGATION ("the Memorandum") is entered into by and between the City of Black Diamond, a municipal corporation created and existing under the laws of the State of Washington, hereinafter referred to as "the City," and the Enumclaw School District #216, a political subdivision of the State of Washington, hereinafter referred to as "the District," as of August 15, 2016.

RECITALS

- A. The District is requesting a building permit from the City to construct a replacement elementary school located at 25324 Baker Street, Black Diamond, WA 98010 (the "Project"). The building permit application for the Project is filed under the City's permit number BLD16-0014.
- B. The District, acting as Lead Agency under SEPA (State Environmental Policy Act), issued a Mitigated Determination of Non-Significance (MDNS) on March 23, 2016, with the environmental checklist for the Project identifying transportation impacts at the intersections of SR 169/3rd Ave and Baker St, SR 169/3rd Ave and Roberts Dr, and SR 169/3rd Ave and Black Diamond-Ravensdale Rd related to network capacity due to increased trips to and from the school.
- C. The City requires a traffic concurrency evaluation according to Black Diamond Municipal Code chapter 11.11. In reviewing a proposed development, the Public Works Director must determine whether there is capacity available in the existing transportation system to accommodate the proposed development or whether the proposed development will cause the level of service (LOS) of a City-owned transportation facility to decline below City standards. Although the Roberts Drive and Ravensdale intersections are below the City of Black Diamond's level of service, the City has improvements planned as part of Master Planned Development Projects in process and the District is willing to contribute a pro-rata share to the intersection improvements.

- D. The District's MDNS proposed a traffic mitigation fee totaling \$54,055.00, which represents its proportionate share of the capital costs to the system as a direct result of the Project as demonstrated by the District's Transportation Impact Assessment (TIA). The proportionate share calculations for the three affected intersections are, \$4,400 for 3rd Ave/Baker St, \$28,775 for 3rd Ave/Roberts Dr and \$20,880 for 3rd Ave/Black Diamond-Ravensdale Rd.
- E. Goal T-1 of the City's Comprehensive Plan is to, *"Establish an adequate and well-maintained transportation system that provides safe and cost-effective movement of people and goods."* Additionally, Policy T-14 in the Comprehensive Plan allows the City to require impact mitigation payments as a funding source to meet its goals.
- F. During its review of the building permit application and supporting documents, the City noted additional traffic concerns at the intersection of SR 169 and Park St. based upon the geometric constraints of the Park St. approach to 3rd Ave and its relationship to the Project.
- G. The City and District agreed to an additional voluntary mitigation payment to improve the intersection at SR 169 and Park St., in the amount of \$20,000 as the District's proportionate share.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants, and payments set forth herein, the CITY OF BLACK DIAMOND AND THE ENUMCLAW SCHOOL DISTRICT #216, wish to memorialize their Agreement as follows:

1. **PAYMENT.** The District agrees to pay the City traffic mitigation fees for the Project in the total amount of \$74,055. These fees are reasonably necessary to address the direct consequences of the Project. The City will include payment of the mitigation fees pursuant to this Agreement as a condition of building permit approval, and the District shall pay these fees when the building permit issues. The fee calculation is based on an individualized assessment of the Project's direct impacts on each improvement identified in Paragraphs F and G above and represents the total amount due related to the Project. These fees are not duplicated under any other source of authority.
2. **RESERVE ACCOUNT.** The City will hold the traffic mitigation fees in a special reserve account to be expended only to fund the capital improvements agreed upon herein by the parties to mitigate the identified direct impacts of the Project. The fees shall be expended within five years of collections or, if not so expended, shall be refunded to the District with interest, calculated from the original date the deposit was received by the City.

3. **CONCURRENCY COMPLIANCE.** The City finds that by executing and complying with the terms of the Agreement, the District has satisfied the City's Concurrency requirements under Black Diamond Municipal Code Chapter 11.11.
4. **CITY OBLIGATIONS.** The City will utilize the funds received only toward engineering, right of way, permitting, contributions toward construction, inspection and/or project oversight cost of the system improvements identified herein.
5. **DEFAULT; SECURITY.** In the event the District fails to make the payments required under this Agreement, the City may withhold the issuance of any Building Permits or Certificates of Occupancy.
6. **AMENDMENTS.** No modification, amendment, or alteration of the terms or conditions of this Agreement are effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by parties hereto.

IN WITNESS WHEREOF, this Memorandum of Agreement was executed by the parties on dates hereinafter indication.

CITY OF BLACK DIAMOND

By: Carol Benson
Mayor Carol Benson

Dated: 8/19/16

Attest: Brenda L Martinez
Brenda Martinez, City Clerk

Approved as to form by:

David Linehan, City Attorney

ENUMCLAW SCHOOL DISTRICT #216

By: Mike Nelson
(Signature)

Dated: 8.15.16

Mike Nelson

Superintendent, Enumclaw School District #216

2929 McDougall Avenue

Enumclaw, WA 98022