

**RESOLUTION NO. 18-1252**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BLACK DIAMOND, KING COUNTY, WASHINGTON  
ACCEPTING EASEMENTS FROM JAMES THOMPSON  
FOR UTILITIES AND PEDESTRIAN FACILITIES ON KING  
COUNTY PARCEL NUMBER 112106-9045**

**WHEREAS**, the City has a need for a 20-foot wide water and sewer utilities easement on parcel 112106-9045; and

**WHEREAS**, the City has a further need for a pedestrian and utilities easement along State Route 169; and

**WHEREAS**, the property owner was required to provide easements for future pedestrian and utility improvements through the permitting process for a commercial building and a residence;

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


**Section 1.** The City hereby accepts two easements from James Thompson as contained in the forms attached hereto.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A SPECIAL MEETING THEREOF, THIS 25<sup>TH</sup> DAY OF JUNE 2018.**

CITY OF BLACK DIAMOND:

  
\_\_\_\_\_  
Carol Benson, Mayor

Attest:

  
\_\_\_\_\_  
Brenda L. Martinez, City Clerk

FILED FOR RECORD AT REQUEST OF/  
WHEN RECORDED PLEASE RETURN TO:

MUNICIPAL CLERK  
CITY OF BLACK DIAMOND  
24301 Roberts Drive  
Black Diamond, WA. 98010

EASEMENT FOR MUNICIPAL UTILITIES  
and  
PEDESTRIAN SIDEWALK

Parcel No: 112106-9045

JAMES W. THOMPSON, as his Separate Estate, the owner of  
the parcel legally described below and sometimes referred to in  
this Instrument as PARCEL A:

PARCEL A:

Assessor's Parcel No. 112106-9045

Lot 2 of King County Lot-Line Adjustment No.  
BD92-08 recorded on May 13, 1992 under King  
County Recorder's File No. 9205139001, Records  
of the King County Recorder, in Black Diamond,  
King County, Washington.

in order to establish an easement for the location and perpetual  
use by the City of Black Diamond for purposes of the  
installation, reinstallation, repair, inspection and any other  
purpose(s) which in the opinion of the Facilities Manager(s) of  
the City of Black Diamond is deemed to be appropriate, the  
Grantor hereby Gives and Grants to the City of Black Diamond, an  
Easement for the following Public and Municipal Purposes:

PURPOSES AND USE: The Easement and Easement Area granted in  
this Instrument shall be for the following purposes:

1. The installation, repair, inspection and public use of  
a pedestrian sidewalk which may, in future, be  
constructed westerly of State Route 169, a public  
roadway also known as Third Avenue, in Black Diamond,  
Washington;
2. The installation, repair, inspection, municipal use and  
all other public purposes which, in the opinion of the  
Facilities Manager(s) of the City of Black Diamond is  
deemed to be appropriate for the Use of the Easement  
Area described below for the benefit of the  
Municipality of Black Diamond, included, but not  
limited to such uses, shall be the installation of  
water and sewer lines, wires, cables, and all other  
utility transmission purposes and the installation, use  
and maintenance of all related equipment for use in  
connection with municipal services furnished to its  
citizens by the City of Black Diamond.

DURATION OF EASEMENT: This Easement and all rights  
pertaining to this Grant of Easement shall be Perpetual.



**When recorded return to:**

City of Black Diamond  
City Clerk  
24301 Roberts Drive  
Black Diamond, WA 98010

**WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)**

<b>Document Title</b> Water and Sanitary Sewer Utilities Easement
<b>Grantor,</b> James W. Thompson
<b>Grantee(s)</b> THE CITY OF BLACK DIAMOND, a Washington municipal corporation
<b>Subject property:</b> 31880 Railroad Ave, Black Diamond
<b>Legal Description</b> See Exhibit A
<b>Assessor's Property Tax Parcel/Account Number:</b> 112106-9045

## UTILITIES EASEMENT

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

### RECITALS

WHEREAS, the Grantor warrants that it is the owner of the property commonly known as 31880 Railroad Ave in the City of Black Diamond, and legally described on Exhibit A, which is attached hereto and incorporated herein by this reference (the "Property"), to which the Grantor has good title; and

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

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

- 1. Grant of Perpetual Utilities Easement.** Grantor hereby grants and conveys to Grantee, including its successors and assigns, a perpetual easement for utilities over, across, through, under, and upon that portion of the Property legally described in Exhibit B ("Easement Area") attached hereto and incorporated herein by this reference. The purpose of the Easement is for installing, laying, constructing, maintaining, inspecting, repairing, removing, replacing, renewing, using, and operating utility mains, together with all facilities, connectors, and appurtenances.
- 2. Benefit of Easement.** The easement rights granted and conveyed hereunder shall be for the benefit of and use by the Grantee for conveying, storing, managing, operating, maintaining, constructing, improving, repairing, and facilitating public utility mains and public utility appurtenances as reasonably necessary, together with the rights for Grantee to access, ingress and egress, across, over, under, through and upon the Easement Area for said purposes.
- 3. Easement Area.** Grantee shall have the right to utilize all the Easement Area as necessary to accommodate all of the above public purposes without prior institution of suit or proceeding at law, and at times as may be necessary, to enter upon the Property owned by the Grantor, its successors and assigns, and the Easement Area, in order to install, lay construct, renew, reconstruct, operate, repair, and maintain mains and necessary facilities and other equipment for the purposes of serving the property or other properties with utility service.

No other easements for utilities shall be granted within the Easement Area except for necessary crossings as may be mutually approved by the Grantor and Grantee, and the Grantee shall have the exclusive right to construct and/or maintain City-owned utilities within the

easement area except for necessary crossings. In the event that the Grantee is required to totally replace the utility, the Grantor hereby grants a ten foot temporary construction easement on each side of the easement shown in Exhibit C to facilitate the replacement of the Grantor's utility.

**4. Conditions.**

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

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

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

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

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

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

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

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

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

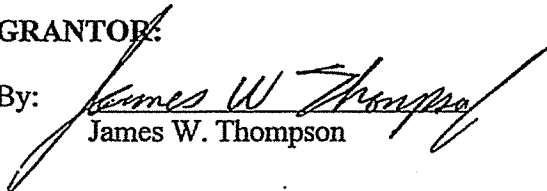
10. **Entire Agreement.** This Easement contains the entire agreement between the Parties with respect to this matter and supersedes all prior discussions, negotiations, and agreements whether written or oral.

11. **Non-waiver.** The failure of Grantee to seek enforcement of any term or condition of this Easement shall not be construed as a waiver of that term or condition or any other term or condition of this Easement, and no waiver is effective unless expressed in a writing signed by a duly authorized agent of Grantee.

DATED this 11<sup>th</sup> of SEPTEMBER, 2017.

GRANTOR:

By:

  
James W. Thompson

GRANTEE:

CITY OF BLACK DIAMOND

By:

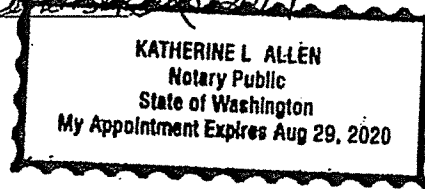
  
Mayor Carol Benson

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

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

Given under my hand and official seal this 11<sup>th</sup> day of SEPTEMBER 2016 2017

Katherine Allen  
Notary Public in and for the State of Washington,  
residing at KING COUNTY  
My appointment expires AUGUST 29, 2020

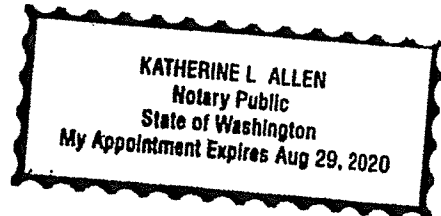


STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

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

Given under my hand and official seal this 11<sup>th</sup> day of SEPTEMBER 2016 2017

KATHERINE ALLEN  
Notary Public in and for the State of Washington,  
residing at KING COUNTY  
My appointment expires AUGUST 29, 2020





# Exhibit A

Lot 2 of King County Lot – Line Adjustment No. BD92-08 recorded on May 13, 1992 under King County Recorder's File Number 9205139001, Records of King Co. Recorder, in Black Diamond, King County, Washington

## Exhibit B

A 20 foot wide easement beginning at the northwest corner of Lot 2 of King County Lot – Line Adjustment No. BD92-08 recorded on May 13, 1992 under King County Recorder's File Number 9205139001, Records of King Co. Recorder, in Black Diamond, King County, Washington, thence east 20 feet along the north boundary of said lot, thence south parallel to the western boundary of said lot, to the south boundary of said lot, thence west along the south boundary of said lot, to the southwest corner of said lot, thence north, along the western boundary of said lot to the point of beginning.