

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution No. 18-1235, approving the acquisition of an easement for pedestrian and non-motorized vehicle access to the Ginder Creek Trail.	Agenda Date: March 15, 2018	
	AB18-042	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res –	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$3,000	Public Works – Seth Boettcher	X
Fund Source: Grant funds	Court – Stephanie Metcalf	
Timeline: February 2018		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 18-1235; Easement		
SUMMARY STATEMENT: The City has planned for the Ginder Creek Trail across the City’s Ginder Creek property for five years. The trail would cross the City’s property between Morgan Street and Roberts Drive, but to access the southern portion, an easement is required to cross Evan Morris Foundation property on Morgan Street. The Evan Morris Foundation has agreed to provide a recreational trail easement along the western portion of their property to the City for this project.		
FISCAL NOTE (Finance Department): The cost of this recreational easement would be \$3,000 and will be covered by the Revenue received from King County from their Parks and Trail levy.		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: Parks and Cemetery Committee recommends approval.		
RECOMMENDED ACTION: MOTION to adopt Resolution 18-1235, approving the acquisition of an easement for pedestrian and non-motorized vehicle access to the Ginder Creek Trail.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
March 15, 2018		

RESOLUTION NO. 18-1235

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
APPROVING THE ACQUISITION OF AN EASEMENT FOR
PEDESTRIAN AND NON-MOTORIZED VEHICLE ACCESS
TO THE GINDER CREEK TRAIL**

WHEREAS, the City has planned for the Ginder Creek Trail across the City's Ginder Creek property; and

WHEREAS, access across private property at the south end of the proposed trail location is required to complete the trail between Morgan Street and Roberts Drive; and

WHEREAS, the Evan Morris Foundation has agreed to provide a recreational trail easement along the western portion of their property to the City for this project for \$3,000;

WHEREAS, this project has been a high priority on the City's Capital Improvement Plan; and

WHEREAS, the City has budgeted for this project;

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

Section 1. A recreational trail easement crossing a portion of King County parcel number 142106-9042 is hereby approved.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF MARCH
2018.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

WHEN RECORDED, RETURN TO:

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

Document Title Trail and Non-Motorized Access Easement
Grantor(s): EMF Enterprises, LLC
Grantee(s): THE CITY OF BLACK DIAMOND, a Washington municipal corporation
Abbreviated Legal Description (property where easement will exist):
Legal Description See Exhibit A
King Co. Assessor's Tax Parcel No.: 1421069042

TRAIL AND NON-MOTORIZED ACCESS EASEMENT

1. GRANTOR, EMF Enterprises, LLC (“Grantor”), the owner of that real property described on **Exhibit A** attached hereto and incorporated herein, for valuable mutual benefits and public purposes, hereby grants and conveys to GRANTEE, CITY OF BLACK DIAMOND, a Washington municipal corporation (“Grantee”), a perpetual easement over, across, along, under, through, and upon the real property described in **Exhibit B** (the “Easement Area”) and depicted on **Exhibit C** (Map), all of which are attached hereto and by this reference incorporated herein. This easement is granted for the purposes of constructing, maintaining, providing, operating, and repairing a recreational trail and non-motorized access facility (“Trail”), together with related improvements, for pedestrian, bicycle, and other non-motorized recreational uses by the public, and includes the right of ingress and egress for maintenance vehicles (the “Easement”).

2. The Grantee shall pay the Grantor \$3000 as full consideration for this Trail and non-motorized access easement.

3. The Trail referenced in this Easement shall consist of an eight-foot (8’) wide gravel, board walk, asphalt and/or wood chip surface and associated improvements, which may include fencing, landscaping, seating, and signage. Grantee agrees to maintain the surface of the trail/access facility by replenishing the gravel and/or wood chip surface at least every two years or as needed. The Grantee also agrees to maintain any additional improvements such as signage or seating installed by the Grantee.

4. Grantor grants this Easement solely for recreation uses, and Grantor and Grantee agree that Grantor and Grantee are entitled to those protections set out in RCW 4.24.200 and 4.24.210.

5. Grantee shall comply and shall cause all of its agents, employees, and representatives to comply with all applicable government laws and regulations while exercising its rights under this Easement. The public shall have the right to use the Trail within the limitations ordered by the City, which shall prohibit operation of motorized vehicles on the Trail. The City will provide garbage cans and “dog poop” bags at the Trail head on either end.

6. Grantee does hereby release, indemnify and promise to defend and save Grantors harmless from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney’s fees incurred by Grantor in defense thereof, resulting or arising directly or indirectly on account of or out of negligent acts or omissions of Grantee or its servants, agents, employees or contractors in the exercise of the rights granted herein; provided, however, this paragraph does not indemnify Grantors against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of Grantors, their agents or employees. “Loss” includes any loss, liability, damage, claim, demand, action, cause of action, penalty, cost, or expense of any nature, including court costs and attorneys’ fees.

7. In the event of litigation between or among the parties hereto, declaratory or otherwise, in connection with or arising out of this Easement, the prevailing party shall recover from the non-prevailing party all costs, including reasonable attorneys' fees, paralegals' fees, and other professional or consultants' fees expended or incurred in connection therewith, as set by the court, including for appeals, which shall be determined and fixed by the court as part of the judgment.

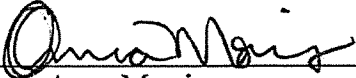
8. The laws of the state of Washington, excluding its conflict-of-laws rules, shall govern the interpretation of this Easement. Any action brought to enforce or interpret any term of this Agreement or to establish its validity or enforceability, shall be brought exclusively in the Superior Court for King County, Washington. The parties hereby submit to personal jurisdiction in King County, Washington.

9. This easement is a covenant running with the land and shall forever bind Grantor, and its heirs, successors, and assigns.

10. This Easement may not be modified except by written instrument signed by all parties hereto. Grantor agrees not to grant or convey to any other person or entity any other easements within the Easement Area without the express written consent of Grantee.

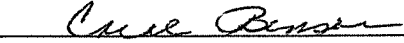
Dated this 26th day of SEPTEMBER, 2017.

GRANTOR: EMF Enterprises, LLC. ,

By 
Anna Morris
Title Managing Member

Accepted and Approved:

GRANTEE: CITY OF BLACK DIAMOND, a Washington municipal corporation

By 
Carol Benson, Mayor

NOTARY ACKNOWLEDGMENT FOR GRANTOR

State of Washington)
) ss.
County of King)

I certify that I know or have satisfactory evidence that ANNA MORRIS is the person who appeared before me, and said person acknowledged that ~~(he)~~/she signed this instrument, on oath stated that ~~(he)~~/she was authorized to execute the instrument, and acknowledged it as the Managing Member of EMF Enterprises, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____ Notary Public
Signature: Katherine L. Allen
(Seal or stamp)



My appointment expires: August 29, 2017

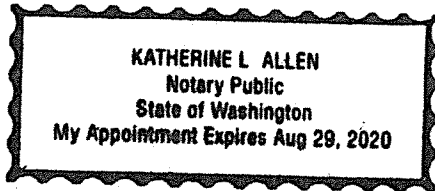
NOTARY ACKNOWLEDGMENT FOR GRANTEE:

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that CAROL BENSON signed this instrument and, on oath, stated that she/he was authorized to execute the instrument and acknowledge it as the Mayor of the City of Black Diamond, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 27th day of SEPTEMBER, 20 .

(SEAL)



Katherine Allen
Notary Public in and for the State of
King County. My commission
expires: August 29, 2020
Printed Name: KATHERINE ALLEN

A PORTION OF SECTION 14
TOWNSHIP 21 NORTH, RANGE 6 EAST W.M.
KING COUNTY, WA

LEGAL DESCRIPTION FOR PARCEL NO. 1421069042

LOT 1 OF BLACK DIAMOND SHORT PLAT #83-020, RECORDED UNDER
AUDITOR'S FILE NUMBER 8407119003, RECORDS OF KING COUNTY,
WASHINGTON.



EXHIBIT A

BLACK DIAMOND, WA
25010 MORGAN ST
Easement Area in:
PARCEL # 1421069042

FILE: SV-3043013P20T01-EXH

DATE: Aug 09, 2017

A PORTION OF SECTION 14
TOWNSHIP 21 NORTH, RANGE 6 EAST W.M.
KING COUNTY, WA

LEGAL DESCRIPTION FOR TRAIL EASEMENT

THE WEST 20.00 FEET OF LOT 1 OF BLACK DIAMOND SHORT PLAT #83-020,
RECORDED UNDER AUDITOR'S FILE NUMBER 8407119003, RECORDS OF KING
COUNTY, WASHINGTON.

EASEMENT AREA CONTAINS 7,500 SQUARE FEET, MORE OR LESS.



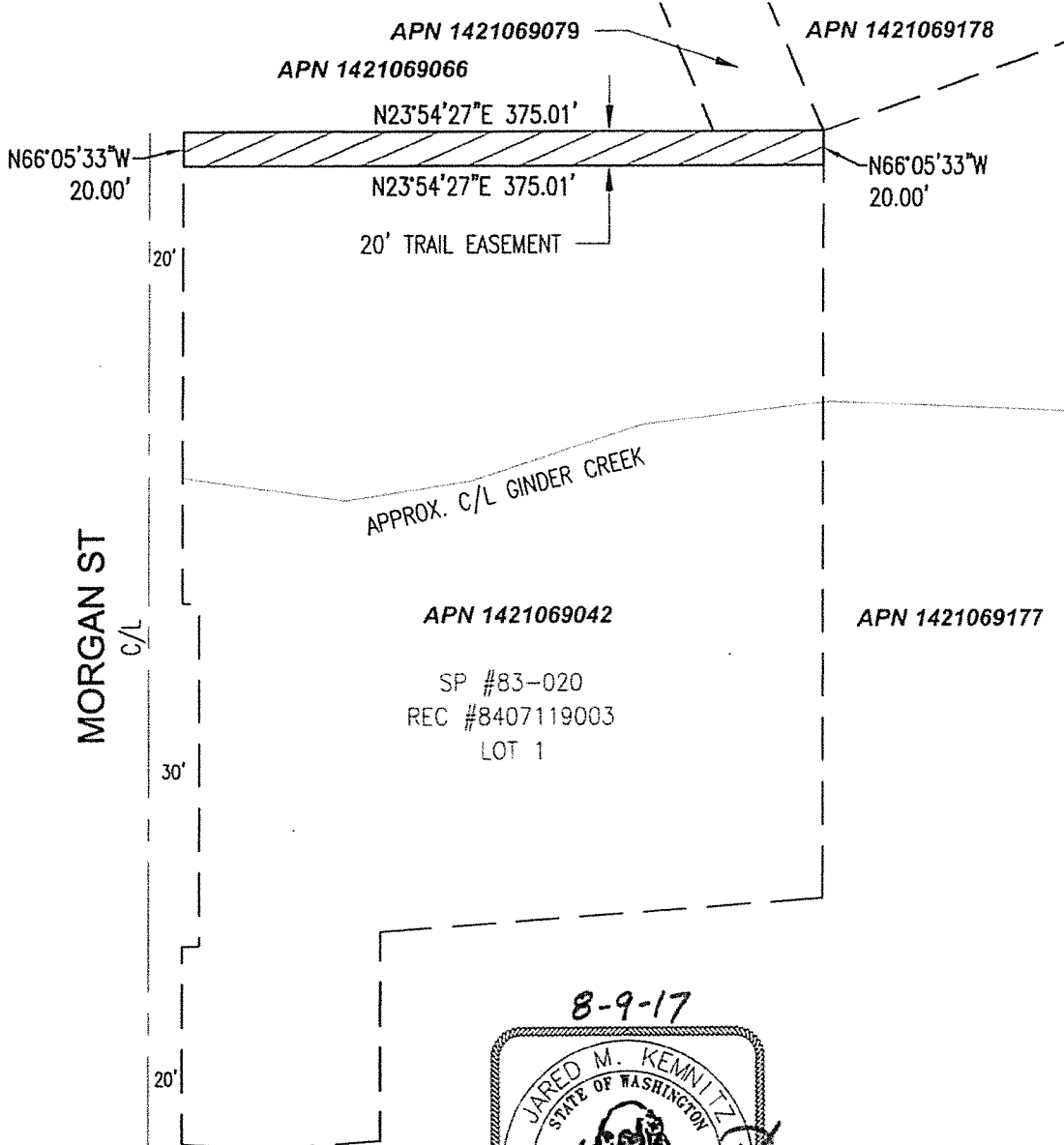
EXHIBIT B

BLACK DIAMOND, WA
25010 MORGAN ST
Easement Area in:
PARCEL # 1421069042

FILE: SV-3043013P20T01-EXH

DATE: Aug 09, 2017

A PORTION OF SECTION 14
 TOWNSHIP 21 NORTH, RANGE 6 EAST W.M.
 KING COUNTY, WA



APN 1421069042
 SP #83-020
 REC #8407119003
 LOT 1



Parametrix

SCALE IN FEET

LEGEND

20' WIDE TRAIL EASEMENT AREA

EXHIBIT C

BLACK DIAMOND, WA
 25010 MORGAN ST
 Easement Area in:
 PARCEL # 1421069042

AREA=7,500 S.F.

FILE: SV-3043013P20T01-EXH DATE: Aug 09, 2017