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RESOLUTION NO. 397

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE THE AMENDED
ROADS FUNDING AGREEMENT

WHEREAS, the City has previously executed the Roads Funding Agreement as authorized by Resolution No.05-391; and

WHEREAS, the City has determined it would be in the best interests of the City and its citizens to include a provision with respect to the assignment of said agreement; now, therefore

BE IT RESOLVED that the Mayor is hereby authorized to enter into the amended Roads Funding Agreement, substantially in the form attached as Exhibit A;

BE IT FURTHER RESOLVED that the Mayor is authorized to make minor changes to said Agreement in order to take into account scrivener's corrections or administrative matters that do not affect the substance of the Agreement and are within his authority as the City's Chief Administrative Officer; and

BE IT FURTHER RESOLVED that before the Mayor enters into the Agreement he shall have proof that the property owners executing the Agreement are in fact the legal owners of the property to which the Agreement applies.

ADOPTED by the City Council at an open public meeting held on the 8th day of December, 2005.


Howard Botts, Mayor

Attest:


Cris Kandior, City Clerk

MAJOR ROAD ACCESS FUNDING AGREEMENT
FOR
WEST ANNEXATION AREA

1. Date and Parties. This Agreement (“Agreement”), for reference purposes only, is dated the ___ day of December, 2005 and is entered into by and between Plum Creek Land Company, a Delaware Corporation (“Plum Creek”), the City of Black Diamond, a Washington municipal corporation (“City”), and King County (“County”).

2. General Recitals.

A. Plum Creek Timber Company, L.P., the County, the City, and others are parties to the Black Diamond Urban Growth Area Agreement dated December 31, 1996 (“BDUGAA”).

B. The interests of Plum Creek Timber Company, L.P. relative to that agreement have been assigned to Plum Creek.

C. The West Annexation Area, as defined in the BDUGAA, cannot be annexed until major road access, which shall include an east-west connection (“Pipeline Road”), for the West Annexation Area is available at the time of annexation or contracts for construction of such infrastructure have been awarded, or the County, City and Plum Creek agree that commitments to construct and provide such infrastructure are in place so that service can be provided at the time of project completions (see BDUGAA section 5.2(b)).

D. The purpose of this Agreement is to satisfy the requirement of BDUGAA section 5.2(b) that commitments to construct and provide major road access are in place so that service can be provided at the time of project completions and it is not intended to supersede any of the BDUGAA provisions.

3. Plum Creek’s Commitment to Construct Major Road Access.

A. Subject to the provisions of this Agreement, Plum Creek commits to construct and provide major road access, including an east-west connection (“Pipeline Road”), to the West Annexation Area, so major road access service for the West Annexation Area can be provided at the time of project completions.

B. The City and Plum Creek agree that the West Annexation Area shall be developed subject to a Master Plan Development permit issued pursuant to City Ordinance 05-779 and any amendments thereto. The details, timing and phasing for the construction of said major road access improvements shall be determined during the

Master Plan Development permit approval process and shall be incorporated into the Master Plan Development permit approval conditions.

C. Plum Creek may assign its rights and obligations herein subject to the City's reasonable determination that the Assignee is financially capable of performing the obligations. A request for assignment shall be acted upon within sixty (60) days or shall be deemed approved.

PLUM CREEK LAND COMPANY
a Delaware Corporation

By: Larry D. Neilson
Title: Vice President Real Estate

CITY OF BLACK DIAMOND

Howard Botts, Mayor

Attest:

Cris Kandior, City Clerk

KING COUNTY

Ron Sims, Executive