

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT:	Agenda Date: December 17, 2015	AB15-100
Resolution No. 15-1062, confirmation of Assignment of MPD Funding Agreement	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	X
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barb Kincaid	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	X
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note): \$	Public Works – Seth Boettcher	
Fund Source: --	Court – Stephanie Metcalf	
Timeline:		
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. 15-1062; Oakpointe Letter: Crown Letter; Letter of Credit		
<p>SUMMARY STATEMENT:</p> <p>The Master Developer BD Village Partners and BD Lawson Partners are assigning its rights and obligations under the MPD Funding Agreement dated December 15, 2011 to CCD Black Diamond Partners. The Master Developer’s Letter of Credit currently held by the city pursuant to Section 10 of the MPD Funding Agreement will remain in place. The city holds an Irrevocable letter of credit No. 70000443 for \$1, 033,618.00 From Seattle Bank.</p>		
<p>FISCAL NOTE (Finance Department):</p>		
<p>COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:</p>		
<p>RECOMMENDED ACTION: MOTION to adopt Resolution No. 15-1062, regarding confirmation of assignment of MPD Funding Agreement.</p>		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
December 17, 2015		

RESOLUTION NO. 15-1062

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON REGARDING CONFIRMATION OF ASSIGNMENT OF MPD FUNDING AGREEMENT

WHEREAS, on December 15, 2011, the City of Black Diamond entered the MPD Funding Agreement with BD Village Partners LP and BD Lawson Partners LP related to The Villages and Lawson Hills Master Planned Developments (the "Funding Agreement"); and

WHEREAS, CCD Black Diamond Partners LLC, a Delaware Limited Liability Company, is acquiring The Villages and Lawson Hills Master Planned Developments from BD Lawson Partners, LP and BD Village Partners, LP; and

WHEREAS, the Funding Agreement authorizes BD Village or BD Lawson "to assign its obligations under this Agreement as the master developer of the Villages MPD and the master developer of the Lawson Hills MPD, respectively, provided BD Village or BD Lawson gives the City thirty (30) days prior written notice of such assignment and successor/assignee provides evidence of its ability to meet the security obligation outlined in Section 10;" and

WHEREAS, BD Lawson Partners, LP and BD Village Partners, LP has given the City notice of its intent to assign all obligations under the Funding Agreement to CCD Black Diamond Partners LLC; and

WHEREAS, Section 10 of the Funding Agreement provides that the current and future security obligation is security in an amount equal to at least 100% of the projected annual City Staffing Shortfalls and MDRT Costs less consultant costs up to a maximum of two million dollars (\$2 million); and

WHEREAS, the existing security put in place by BD Village Partners LP and BD Lawson Partners LP for Section 10 of the Funding Agreement shall remain with the City of Black Diamond for the benefit of CCD Black Diamond Partners LLC; and

WHEREAS, to acknowledge the continued validity of the Funding Agreement in light of the referenced assignment, the City Council wishes to confirm that it has reviewed the BD Lawson Partners and BD Village Partners written notice of assignment; determined that retention of the existing security meets the obligation under Section 10 of the Funding Agreement, and wishes to confirm this Resolution as its final action related to the assignment;

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

Section 1. The City Council hereby confirms that it has been provided notice of the assignment of the Funding Agreement from BD Lawson Partners, LP and BD Village Partners, LP to CCD Black Diamond Partners LLC, confirms this Resolution as its final action related to the assignment, and further confirms that CCD Black Diamond Partners LLC has met the security obligation outlined in Section 10 of the Funding Agreement.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT
A REGULAR MEETING THEREOF, THIS 17TH DAY OF DECEMBER, 2015.**

CITY OF BLACK DIAMOND

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



December 10, 2015

Mayor Benson
City of Black Diamond
P.O. Box 599
Black Diamond, Washington 9801

Andy Williamson
City of Black Diamond
P.O. Box 599
Black Diamond, Washington 98010

Dear Mayor Benson and Mr. Williamson:

In addition to our prior request regarding the Water Agreements, BD Village Partners, LP, BD Lawson Partners, LP (collectively the Master Developer) and CCD Black Diamond Partners LLC (Assignee) respectfully request that the City of Black Diamond's affirmation of the assignment of rights and obligations under the MPD Funding Agreement be added to the agenda for the December 17, 2015 City Council meeting.

The Master Developer is assigning its rights and obligations under the MPD Funding Agreement dated December 15, 2011 to Assignee. Moreover, the Master Developer's Letter of Credit currently held by the City pursuant to Section 10 of the MPD Funding Agreement will remain in place at this time.

Enclosed for your review and consideration is a draft Black Diamond City Council resolution acknowledging the assignment of the MPD Funding Agreement to Assignee.

If you have any questions regarding this letter or the enclosed draft resolution, please call me at 425-898-2100.

Thank you again for consideration.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Colin Lund", is written over a horizontal line.

Colin Lund
BD Village Partners, LP
BD Lawson Partners, LP
CCD Black Diamond Partners LLC

10220 NE POINTS DRIVE
SUITE 310
KIRKLAND, WA 98033

WWW.OAKPOINTE.COM



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
REGARDING CONFIRMATION OF ASSIGNMENT OF MPD
FUNDING AGREEMENT.**

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WHEREAS, the Funding Agreement authorizes BD Village or BD Lawson "to assign its obligations under this Agreement as the master developer of the Villages MPD and the master developer of the Lawson Hills MPD, respectively, provided BD Village or BD Lawson gives the City thirty (30) days prior written notice of such assignment and successor/assignee provides evidence of its ability to meet the security obligation outlined in Section 10;" and

WHEREAS, BD Lawson Partners, LP and BD Village Partners, LP has given the City notice of its intent to assign all obligations under the Funding Agreement to CCD Black Diamond Partners LLC; and

WHEREAS, Section 10 of the Funding Agreement provides that the current and future security obligation is security in an amount equal to at least 100% of the projected annual City Staffing Shortfalls and MDRT Costs less consultant costs up to a maximum of two million dollars (\$2 million); and

WHEREAS, the existing security put in place by BD Village Partners LP and BD Lawson Partners LP for Section 10 of the Funding Agreement shall remain with the City of Black Diamond for the benefit of CCD Black Diamond Partners LLC; and

WHEREAS, to acknowledge the continued validity of the Funding Agreement in light of the referenced assignment, the City Council wishes to confirm that it has reviewed the BD Lawson Partners and BD Village Partners written notice of assignment; determined that retention of the existing security meets the obligation under Section 10 of the Funding Agreement, and wishes to confirm this Resolution as its final action related to the assignment;

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

Section 1. The City Council hereby confirms that it has been provided notice of the assignment of the Funding Agreement from BD Lawson Partners, LP and BD Village Partners, LP to CCD Black Diamond Partners LLC, confirms this Resolution as its final action related to the assignment, and further confirms that CCD Black Diamond Partners LLC has met the security obligation outlined in Section 10 of the Funding Agreement.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT
A REGULAR MEETING THEREOF, THIS ____ DAY OF _____, 2015.

CITY OF BLACK DIAMOND

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



December 11, 2015

Dear Mayor and members of the Black Diamond City Council,

With pleasure we are looking forward to investing in the Black Diamond community with our partners at Oakpointe. And although Crown Community Development has a history of creating large, amenitized master-planned communities in other regions of the U.S. since 1990, this will be our first land investment in the Pacific Northwest.

We understand your need to discover more about us, so allow me to provide a bit of information. I hope this provides the comfort that you need.

Crown Community Development is part of the umbrella of companies and investments associated with the Chicago-based Henry Crown and Company. We are a third-generation, privately-owned family with diverse investments throughout the United States. Henry Crown founded the organization in 1923 with a sand and gravel business investment, today known as Material Services Corporation. For almost a century, the family has invested in a number of real estate assets, majority equity holdings, venture capital opportunities and manufacturing companies.

We are a fairly quiet organization outside of Chicago, but well-known in Chicago business, civic and philanthropic circles. Some of our current investments include Aspen Ski Company, Ojai Valley Inn & Resort and several large manufacturing companies. As a result of our long-term equity investments over the years, a family representative sits on the corporate boards of General Dynamics Corporation and J.P. Morgan among others.

Crown Community Development is the family's master planned community development arm. We have current investments in Florida, Arizona, Illinois and Texas. We currently have slightly over \$100,000,000 invested in land and land development in those markets. The positive cash flow thrown off from our diverse investments allows us to be self-financed.

If there is any additional information that we can provide, please do not hesitate to contact me directly. I serve as the point person for investment in land assets for the Crown Family and have been with the organization for 22 years.

All of us thank you greatly for your consideration, and we look forward to becoming your partners in creating the next generation of residential, recreational, commercial and civic opportunities in the City of Black Diamond.

With respect,

A handwritten signature in black ink, appearing to read 'T. Frankiewicz', with a stylized flourish extending to the right.

Theresa O. Frankiewicz
Vice President
Crown Community Development

cc: Brian Ross, Oakpointe



January 29, 2015

Irrevocable Standby Letter of Credit No. 70000443

Beneficiary:
The City of Black Diamond
Attention: Finance Director
24301 Roberts Drive, P. O. Box 599
Black Diamond, WA 98010

Applicant:
BD Village Partners, L.P. and
BD Lawson Partners, L.P.
C/O Yarrow Bay Development, LLC
10220 NE Points Drive, Suite 310
Kirkland, WA 98033

Amount: \$1,033,618.00

Ladies and Gentlemen:

We hereby establish, at the request and for the account of BD Village Partners, LP and BD Lawson Partners, LP (collectively, "Account Party"), in your favor, this Irrevocable Standby Letter of Credit No. 70000443, in the aggregate amount of \$1,033,618.00, as reduced from time to time pursuant to Annex B attached hereto (the "Total Credit"), effective January 31, 2015, and expiring at the close of banking business at our offices on January 29, 2016.

All written notification shall be sent via Certified mail return receipt requested or via overnight courier service. If we notify you that this Letter of Credit will not be extended, the Stated Amount of this Letter of Credit shall be available to you upon presentation of your sight draft by the current expiration date or within sixty (60) days of your actual receipt of such notification, whichever is later.

Seattle Bank Standby Letter of Credit



We hereby irrevocably authorize you to draw on us, in accordance with the term and conditions hereinafter set forth, in one or more drawings by your draft bearing thereon Letter of Credit No. 70000443, payable at sight on a Banking Day (as defined below), and each accompanied by the original of this Letter of Credit, together with any amendment thereto, and a written and appropriately completed certificate signed by you in the form of Annex A attached hereto (any such draft accompanied by such certificate being a "Demand"). As used herein, "Banking Day" means a day of the year on which banks are not required or authorized to close in Seattle, Washington.

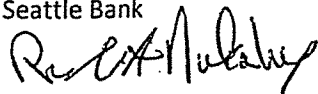
If we receive any such Demand, all in strict conformity with the terms and conditions of this Letter of Credit, not later than 9:00 a.m. (Seattle time) on a Banking Day prior to the termination hereof, we will honor such Demand by making available to you before 1:00 p.m. (Seattle time) on the second Banking day following the date we shall have received such Demand, an amount in same-day funds equal to the amount of the draft submitted with such Demand. If we receive any such Demand, all in strict conformity with the terms and conditions of this Letter of Credit, after 9:00 a.m. (Seattle time) on a banking day prior to the termination hereof, we will honor such Demand by making available to you, before 1:00 p.m. (Seattle time) on the third Banking Day following the date we shall have received such Demand, an amount in same day funds equal to the amount of the draft submitted with such Demand.

In accordance with your instructions, payment under this Letter of Credit may be made by wire transfer of funds from the Federal Reserve Bank of San Francisco to your account in a bank on the Federal Reserve wire system or by deposit of same-day funds into a designated account that you maintain with us.

This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, (except only the certificates and the drafts referred to therein) and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such Demand.

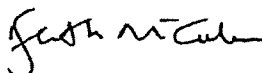
This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 (the "UCP", and as to matters not addressed by the UCP, by the laws of the State of Washington, including the Uniform Commercial Code in effect in such State. Communications with respect to this Letter of Credit shall be in writing and shall be addressed to us at the above address, specifically referring to the number of this Letter of Credit.

Very truly yours,
Seattle Bank



Richard A. Mulcahy
Senior Vice President

Seattle Bank



Keith McCullough
Chief Credit Officer

ANNEX A

CERTIFICATE FOR DRAWING UNDER
IRREVOCABLE STANDBY LETTER OF CREDIT NO. 70000443

The undersigned, a duly authorized representative of The City of Black Diamond, a Washington State municipality ("Beneficiary"), hereby certifies to Seattle Bank ("Issuer"), with reference to Irrevocable Standby Letter of Credit No. 70000443 (the "Letter of Credit") issued by the Issuer in favor of Beneficiary, that this Certificate has been executed and delivered by the Beneficiary pursuant to the MPD Funding Agreement dated December 15, 2011 between BD Lawson Partners, LP, BD Village Partners, LP, and the City of Black Diamond (the "Funding Agreement").

I, the undersigned duly authorized representative of the City of Black Diamond, hereby certify that a drawing under Seattle Bank Letter of Credit No. 70000443 is now authorized under Paragraph 4(H) of the Funding Agreement.

IN WITNESS WHEREOF, Beneficiary has executed and delivered this Certificate as of the _____ day of _____, 2014.

The City of Black Diamond,
A Washington State Municipality

By: _____
Name: _____
Title: _____