

**RESOLUTION NO. 12-783**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, REJECTING THE PETITION OF VILLAGE PARTNERS, LP AND YARROWBAY DEVELOPMENT LLC FOR FORMATION OF CFD NO. 2011-1**

**WHEREAS**, Black Diamond is a municipal corporation operating as a non-charter code city under the laws of the State of Washington and is authorized pursuant to RCW 35A.21.160 and 35A.11.030 to exercise all powers reserved to any city of any class and to exercise all powers of taxation in the manner provided by the general laws of the State; and

**WHEREAS**, in year 2010 the Washington State Legislature enacted Engrossed Substitute Senate Bill 6241 (codified at RCW Ch. 36.145) authorizing legislative authorities, such as the Black Diamond City Council, to form special taxing districts known as Community Facilities Districts (“CFD”), to provide an option for landowners to voluntarily finance local improvements through special assessments upon their property; and

**WHEREAS**, the Legislature found that such legislation was necessary because inadequate community facilities and infrastructure exist to support growth over the next 20 years and current financing options are not adequate or flexible enough to fund these needed facilities; and

**WHEREAS**, chapter 36.145 RCW (the “CFD Statute”) provides that the City Council may consider approval of formation of a CFD only after a petition meeting the requirements of the CFD Statute has been filed by 100% of the property owners owning land within the district, as certified by the County, and the City Council finds, within the time periods prescribed in the CFD Statute, that formation of the District meets the following requirements: (a) the petitioners will benefit from the proposed district; (b) the formation of the district will be in the best interest of the City; and (c) the formation of the District is consistent with the requirements of Washington’s Growth Management Act; and

**WHEREAS**, on October 26, 2011, BD Village Partners, LP and YarrowBay Development LLC (hereafter “Petitioners”) submitted their petition (hereafter the “Petition”) to King County Record and Licensing Services for certification for the formation of CFD No. 2011-1 (hereafter “CFD No. 2011-1”) with its proposed district boundaries located entirely within the corporate boundaries of the City of Black Diamond, King County, Washington; and

**WHEREAS**, on October 31, 2010, the Office of the King County Executive forwarded to the City of Black Diamond its certificate of sufficiency of the Petition confirming, as required pursuant to RCW 36.14.020(2), that 100% of the owners of the properties located within the proposed district boundaries had executed the Petition; and

**WHEREAS**, the City is required by law to give notice of and conduct a public hearing regarding the formation of a CFD by no later than 60 days from the date a certificate of sufficiency is issued; and

**WHEREAS**, the City Council conducted a public hearing regarding the formation of CFD No. 2011-1 on December 15, 2011, at which time the City Council took public testimony and received evidence; and

**WHEREAS**, on December 27, 2011, the City Council conducted a special meeting and voted to approve Resolution No. 11-770 authorizing formation of CFD No. 2011-1; and

**WHEREAS**, the CFD Statute provides at RCW 35.145.070(2) that the decision to approve formation is deemed final only if no appeal has been filed within 30 days following the effective date of the resolution approving formation; and

**WHEREAS**, because the decision to approve formation is not deemed final until 30 days following approval, the City Council may reconsider its decision to authorize formation of CFD No. 2011-1 prior to such formation being deemed final by operation of law; and

**WHEREAS**, on January 5, 2012, the City Council reconsidered its action taken pursuant to Resolution No. 11-770 to authorize formation of CFD No. 2011-1 and determined that the City Council did not have adequate time to consider the Petition and did not have sufficient information upon which to determine whether or not the Petition was in the best interest of the City, and thereupon voted to rescind Resolution No. 11-770 with the intent that such action would immediately nullify and render inoperative its authorization to form CFD No. 2011-1; and

**WHEREAS**, the City Council desires now to take formal action upon the Petition for CFD No. 2011-1; and

**WHEREAS**, the City Council, having reconsidered the public testimony and evidence provided at the public hearing and subsequent thereto, and having reconsidered the formation Petition, the Special Benefit Apportionment Analysis prepared by David Taussig & Associates, Inc. dated November 28, 2011, the independent analysis of the Taussig Report by Henderson, Young and Company, the additional written comments submitted by Henderson, Young and Company, the Petitioner and members of the public, and having otherwise considered relevant authorities and materials;

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

**Section 1. Incorporation of Recitals.** The above stated recitals are true and correct and are incorporated as though fully set forth herein.

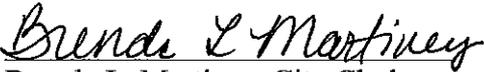
**Section 2. Rejection of Petition and Formation of CFD No. 2011-1.** Based upon the foregoing, and pursuant to its authority granted under RCW Ch. 36.145, the City Council does hereby reject the Petition for formation of CFD No. 2011-1.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, AT A SPECIAL MEETING THEREOF, THIS 26TH DAY OF  
JANUARY, 2012.**

CITY OF BLACK DIAMOND:

  
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Rebecca Olness, Mayor

Attest:

  
Brenda L. Martinez, City Clerk

Filed with the City Clerk:  
Passed by the City Council: *1-26-12*  
Resolution No.: *12-783*  
Date Posted: *1-27-12*