

RESOLUTION NO. 09-601

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON ALLOWING THE MAYOR TO ENTER INTO A CONTRACT WITH B.C. PAVERS, INC. FOR AN AMOUNT NOT TO EXCEED \$34,860 FOR THE CONSTRUCTION OF A PERVIOUS PARKING LOT SYSTEM AT THE LAKE SAWYER BOAT LAUNCH FACILITY

WHEREAS, the City of Black Diamond has been awarded a \$50,000 grant from the King County Department of Executive Services to utilize towards the parking lot construction and design of the boat launch facility; and

WHEREAS, the City of Black Diamond has been awarded a \$30,000 grant from the King Conservation District for the same project; and

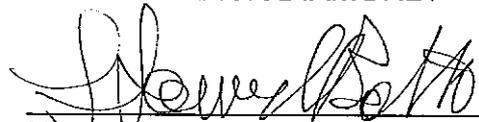
WHEREAS, the City desires to accept the grant funds and move forward with design of the boat launch facility and construction of the parking lot improvements in 2009;

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

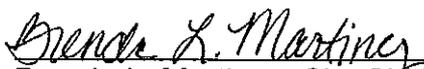
Section 1. Authorize the Mayor to enter into a contract with B.C. Pavers, Inc. for the construction of a pervious concrete parking system as attached hereto as Exhibit A and not to exceed \$34,860.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21st DAY OF MAY, 2009.

CITY OF BLACK DIAMOND:


Howard Botts, Mayor

Attest:


Brenda L. Martinez, City Clerk

**CITY OF BLACK DIAMOND
PARKS CONSTRUCTION CONTRACT
FOR LAKE SAWYER BOAT LAUNCH PARKING AREA**

This Agreement is dated the 22nd day of May, 2009, and is made and entered into by the CITY OF BLACK DIAMOND, WASHINGTON (“CITY”) and B. C. Pavers, Inc. (“CONTRACTOR”), collectively, “the Parties,” for the following project: Lake Sawyer Boat Launch Parking Area Project (“PROJECT”). See attached Scope of Work, which is hereby incorporated by reference to this Agreement. The City and Contractor agree as follows:

1. Contract Documents. The Contractor shall do all work, furnish all tools, material, and equipment, and complete the construction of the Project described in the attached scope of work in accordance with the Contract Documents. The Contract Documents consist of the following:

- a. Scope of work
- b. This Agreement (signed by the City and Contractor)

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Project by the Contractor. These Contract Documents complement each other in describing a complete work. Any requirement in one document binds as if stated in all. The Contractor shall provide any work or materials clearly implied in the Contract even if the Contract does not mention it specifically. If any part of the Contract requires work that does not include a description of how the work will be performed, the work shall be performed in accordance with standard trade practices.

2. Date of Commencement and Substantial Completion Date. The date of commencement shall be immediately after receipt of the Notice to Proceed. The Contractor shall complete the Project not later than sixty (60) calendar days after the date the Notice to Proceed is issued but also as soon as practicable. The Contractor shall submit any requests for time extensions to the City in writing no later than seven days after the delay occurs. To be considered by the City, the request shall be in sufficient detail (as determined by the City) to enable the City to ascertain the basis for the delay and amount of time requested. The request shall include an updated schedule that supports the request and demonstrates that the change or event: (1) had a specific impact on the critical path, and except in cases of concurrent delay, was the sole cause of such impact, and (2) could not have been avoided by resequencing of the work or by using other reasonable alternatives. The City will evaluate and respond within seven days of receiving the request. The authorized time for physical completion will be extended for a period equal to the time the City determines the work was delayed because of: (1) adverse weather causing the time requested to be unworkable; (2) any action, neglect, or default of the City, its officers, or employees, or of any other contractors employed by the City; (3) fire or other casualty for which the Contractor is not responsible; (4) strikes; (5) exceptional causes not specifically identified in items 1 through 4, provided the request letter demonstrates that the Contractor had no control over the cause of the delay and could have done nothing to avoid or shorten it.

3. Contract Sum. The total contract sum is the bid amount of thirty-four thousand eight hundred sixty dollars (\$34,860), plus sales tax. The contract sum shall include all items and services necessary for the proper execution and completion of the Project.

5. Payment. Payment will be made in full to Contractor within thirty (30) days upon receipt of a bill as work is completed.

6. Retainage. Pursuant to RCW 60.28, a sum of five (5) percent of the monies earned by the Contractor will be retained from progress payments. Such retainage shall be used as a trust fund for the protection and payment (1) to the State with respect to taxes imposed pursuant to RCW Title 82, and (2) the claims of any person arising under the Contract.

7. Termination of Contract. This Contract may be terminated by the City at any time upon the default of the Contractor or upon public convenience, in which case Contractor shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination. Contractor shall not be entitled to any reallocation of cost, profit or overhead. Contractor shall not in any event be entitled to anticipated profit on work not performed because of such termination. Contractor shall use its best efforts to minimize the compensation payable under this Contract in the event of such termination. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

8. Warranty. Contractor warrants that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required and permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract.

9. Correction of Work. Contractor shall promptly correct Work rejected by the City as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work. In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after acceptance of the work by the City, correct work not conforming to the requirements of the Contract Documents. If the Contractor fails to correct nonconforming Work within a reasonable time, the City may correct it and Contractor shall reimburse the City for the cost of the correction.

10. Indemnification/Hold Harmless. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

11. Insurance. The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives,

employees or subcontractors. Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit The City's recourse to any remedy available at law or in equity.

A. Minimum Scope of Insurance. Contractor shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for The City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

C. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Commercial General Liability:

1. The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice has been given to the City. Only ten (10) days notice of cancellation will be given for non-payment of premium.

D. Contractor's Insurance for Other Losses. The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools,

machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or contractors as well as to any temporary structures, scaffolding and protective fences.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

F. Verification of Coverage. Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project.

G. Subcontractors. Contractor shall ensure that each subcontractor of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Contractor (with the exception of Builders Risk insurance). Upon request the City, the Contractor shall provide evidence of such insurance.

12. Prevailing Wage Requirements. The Contractor agrees to comply with all state and federal laws relating to the employment of labor and wage rates to be paid. The hourly wages to be paid laborers, workers, or mechanics shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in King County. No payment will be made on this contract until the contractor and each and every subcontractor has submitted a "Statement of Intent to Pay Prevailing Wages" (LI 700-29) that has been approved by the industrial statistician of the Department of Labor and Industries. No final payment or release of any retainage will be made until the contractor and each and every subcontractor has submitted an "Affidavit of Wages Paid" (LI 700-7) that has been certified by the industrial statistician of the Department of Labor and Industries.

The contractor shall post the prevailing rate of wage statement in a location readily visible to workers at the job site, or as allowed by RCW 39.12.020. The "Statement of Intent to Pay Prevailing Wages" shall include:

1. The contractor's registration certificate number; and
2. The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

Statements of intent to pay prevailing wages and affidavits of wages paid shall be on forms approved by the Department of Labor and Industries.

13. Assigning or Subcontracting. Contractor shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City.

14. Independent Contractor. Contractor is and shall be at all times during the term of this Agreement an independent contractor.

15. Notice. Any notices required to be given by the City to Contractor or by Contractor to the City shall be in writing and delivered to the parties at the following addresses:

The City:

Aaron C. Nix
Parks/Natural Resources Director
24301 Roberts Drive
P.O. Box 599
Black Diamond, WA 98010

Phone: 360.886.2560 x220
Fax: 360.886.2592

Contractor:

B.C. Pavers, Inc.
Brian Crooks
P.O. Box 3401
Renton, WA 98056
Renton, WA 98056

Phone: 425.413.2110
Fax: 425.413.5075

16. **Disputes.** Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington. Venue shall be in King County Superior Court.

17. **Attorneys Fees.** In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

18. **Extent of Agreement/Modification.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

CITY OF BLACK DIAMOND

By:



Name:

HOWARD BOTTTS

Title:

MAYOR

Date:

5-21-09

CONTRACTOR

By:



Name:

Brian Crooks

Title:

President

Date:

5/21/09

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, Brian Crooks (Corporate Officer (Not Contract Signer)) certify that I am the President (Corporate Title) of the corporation named as Contractor in the Agreement attached hereto; that Brian Crooks (Contract Signer) who signed said Agreement on behalf of the Contractor, was then President (Corporate Title) of said corporation; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

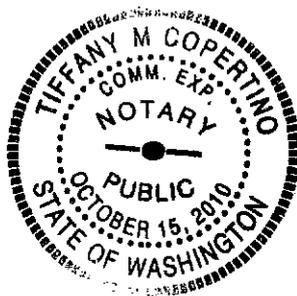
[Signature]
Corp. officer signature (not contract signer)
Brian Crooks
Printed
President
Title

State of Washington

County of King

Brian Crooks, (corporate officer (not contract signer)) being duly sworn, deposes and says that he/she is President (Corporate Title) of BC Pavers Inc. (Name of Corporation)

Subscribed and sworn to before me this 9th day of June, 2009



[Signature]
Notary Public (Signature)

Tiffany M. Copertino
Notary Public (Print)
My commission expires OCT. 15 2010

**DECLARATION OF OPTION FOR MANAGEMENT
OF STATUTORY RETAINED PERCENTAGE**

Note: This form must be submitted at the time the Contractor executes the contract. Contractor shall designate the option desired by checking the appropriate space.

Monies reserved under provisions of RCW 60.28, at the option of the Contractor, shall be:

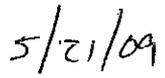
_____ (1) Retained in a fund by the City.

(2) Deposited by the City in an interest-bearing account in a bank, mutual savings bank or savings and loan association.

_____ (3) Placed in escrow with a bank or trust company by the City. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserved payable to the bank or trust company and the Contractor jointly. Such check shall be converted into bonds and securities chosen by the Contractor and approved by the City and the bonds and securities held in escrow. The Contractor in choosing option (2) or (3) agrees to assume full responsibility to pay all costs which may accrue from escrow services, brokerage charges or both, and further agrees to assume all risks in connection with the investment of the retained percentages in securities.



Contractor Signature



Date

Scope of Work/Job Estimate



P.O. Box 3401 ▪ Renton, WA ▪ 98056

Phone: (425) 413-2110 ▪ Fax: (425) 413-5075 ▪ www.bcpavers.com

Job Estimate

Job Information

Customer's Name: City of Black Diamond

Phone: (360) 886-2560

Job Address: Boat Launch Parking Maintenance Project

City: Black Diamond, WA

Job Type: Permeable Paver Installation

Size: Approx. 3,460 sq. ft.

Description of work to be done:

Permeable Paver Installation (approx. 3,460 sq. ft.):

-Excavate the area to be paved to approx. 13" below finished grade. This includes loading the excavated material into the truck provided by the City of Black Diamond.

-Install approx. 4" of 2-4 crushed ballast rock over the area to be paved; this includes proper compaction and grading.

-Install approx. 4" of 1 1/4" clear crushed rock over the area to be paved; this includes proper compaction and grading.

-Cut existing asphalt to give a clean straight edge to install the pavers against.

-Install approx. 2" of course graded bedding material 3/8" x #10 on top of crushed rock base.

-Install 8 x 8 *Eco Priora* pavers in a stack bond pattern on top of the bedding material. Installation of pavers includes proper compaction, installation of jointing material, and all necessary cuts required to fit pavers to desired area.

Concrete Curb Edging Installation (approx. 230'):

-Install a 12" wide x 6" thick concrete curb around the unrestrained perimeter of the paver area. The curb will have 2 sticks of #4 rebar inside for reinforcement and a standard broom finish.

-Fill and blend the gaps between the concrete curb and the existing grass with topsoil and grass seed.

Parking stall striping:

-Use different color pavers to delineate the parking stalls.

<u>Price:</u>	Permeable Paver Installation:	\$30,850.00 (+ tax)
	Concrete Curb Edging Installation:	\$3,560.00 (+ tax)
	Parking stall striping:	\$450.00 (+ tax)

Time: Approximately 8 working days from start to finish. (Weather permitting)

Other notes:

*This estimate includes the cost of all labor, materials, and equipment necessary to perform the work as described above.

*This estimate is based on the plans that were discussed at our previous meeting. Changes to this plan could result in a change of price.

*This estimate is based on the use of the paver listed above, manufactured by Mutual Materials Co. The use of a different paver could alter the above cost.

*This estimate does not include the cost of, or any cost associated with, obtaining a permit. All permits will be the responsibility of the owner.

*This proposal may be withdrawn if not accepted within 60 days.

*If you have any additional questions, please give me a call at (206) 679-5804

Brian Crooks

Date

Acceptance of Proposal:

-All work is to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the proposed price. All agreements are contingent upon strikes, accidents, or delays beyond our control. Our workers are fully covered by Workman's Compensation Insurance. In the event that B. C. Pavers, Inc. is forced into litigation prompted by non-payment of contract, B. C. Pavers, Inc. shall be entitled to full reimbursement of contract plus interest and all reasonable legal expenses.

-The above prices, work description, and conditions are satisfactory and hereby accepted. B. C. Pavers, Inc. is authorized to perform the work as specified above. Payments will be made as follows:

*Balance due upon completion.

Signature

Date

Name (please print)