

BID NUMBER PA-00211

TO: CITY OF LONG BEACH
CITY MANAGER
ATTN: CITY CLERK
333 West Ocean Boulevard, Plaza Level
Long Beach, California 90802



INVITATION TO BID
RENTAL OF PORTABLE
CHEMICAL TOILETS

CONTRACT NO. 32010

1. COMPLETE CONTRACT:

This Invitation to Bid, together with THE NOTICE INVITING BIDS, the entire Bid (including Specifications), or any items(s) thereof, the signature page, Instructions to Bidders, General Conditions, Special Conditions, Bid Section, Addendums, and when required, CONTRACTOR'S BOND shall become the Contract upon its acceptance by the City Manager or designee on behalf of the City of Long Beach, Contractor will be provided with a copy of the executed Contract. All materials or services provided by the Contractor shall comply with the City Charter, and all applicable Federal, State and City Laws.

2. SERVICES TO BE PROVIDED BY THE CONTRACTOR:

Contractor shall upon acceptance of this Bid by the City, furnish the goods and services herein specified according to the terms and conditions set forth herein.

3. AMOUNT TO BE PAID:

The City shall pay Contractor for the goods or services as described in the section entitled "PAYMENT" in the Instructions to Bidders.

4. CHOICE OF ALTERNATE PROVISIONS; OPTIONS; NOTIFICATION:

When alternative provisions are requested, or options are offered, Contractor will be notified as to which provision, or option, is being accepted at the same time that he is notified that he is the successful Bidder.

5. DECLARATION OF NON-COLLUSION:

The undersigned certifies or declares under penalty of perjury that this Bid is genuine and not sham or collusive, or made in the interest or on behalf of any person or entity not herein named; that the Bidder has not directly or indirectly induced or solicited any other Bidder to submit a sham bid, or any other person or entity to refrain from bidding, and that the Bidder has not in any manner sought by collusion to secure to himself any advantage over other Bidders.

BIDDER MUST COMPLETE AND SIGN BELOW:

(Signature of Corporate Officers or persons authorized to sign bids and contracts on behalf of the Contractor – refer to page 2 Instructions Concerning Signatures.)

EXECUTED AT: San Marcos CA ON THE 11 DAY OF November, 20 10.
CITY STATE MONTH

COMPANY NAME: Diamond Environmental Services TIN: _____
(FEDERAL TAX IDENTIFICATION NUMBER)

STREET ADDRESS: 807 East Mission Rd CITY: San Marcos STATE: CA ZIP: 92069

PHONE: (760) 744-7191 FAX: (760) 744-7184

S/ [Signature] owner
(SIGNATURE) (TITLE)

Eric de Jong ericdj@diamondprovides.com
(PRINT NAME) (EMAIL ADDRESS)

S/ _____
(SIGNATURE) (TITLE)

(PRINT NAME) (EMAIL ADDRESS)

ALL SIGNATURES MUST BE NOTARIZED FOR ALL COMPANIES LOCATED OUTSIDE THE STATE OF CALIFORNIA.
NO OUT-OF-STATE BID WILL BE CONSIDERED UNLESS A NOTARIAL ACKNOWLEDGMENT IS ATTACHED.
NOTARIES ARE NOT REQUIRED FOR CALIFORNIA BIDDERS.

IN WITNESS WHEREOF the City of Long Beach has caused this contract to be executed as required by law as of the date stated below.

THE CITY OF LONG BEACH

BY [Signature] 2-23-2011
Director of Financial Management Date

APPROVED AS TO FORM 2-16, 2011

[Signature]
ROBERT E. SHANNON
CITY ATTORNEY
Deputy

Rev 03/09/07

BID NUMBER PA-00211

The City of Long Beach is committed to provide maximum opportunities for Disadvantaged, Minority, Women, Long Beach and Other Business Enterprises (DBEs, MBEs, WBEs, LBBEs and OBEs) to compete successfully in supplying our needs for products and services.

The following information is submitted regarding the Bidder:

Legal Form of Bidder:

Corporation State of _____
Partnership State of CA
General Limited
Joint Venture
Individual DBA _____
Limited Liability Company State of _____

Composition of Ownership (more than 51% of ownership of the organization):

OPTIONAL

Ethnic (Check one):

Black Asian Other Non-white
 Hispanic American Indian Caucasian

Non-ethnic Factors of Ownership (check all that apply):

Male Yes - Physically Challenged Under 65
 Female No - Physically Challenged Over 65

Is the firm certified as a Disadvantaged Business: Yes No

Has firm previously been certified as a minority-owned and/or woman-owned business enterprise by any other agency?

Yes No

Name of certifying agency: _____

INSTRUCTIONS CONCERNING SIGNATURES

Please use the proper notary form, which applies to your type of organization on all Bid documents, attachments and bonds requiring a signature by officers of your company.

NOTE: FAILURE TO COMPLY MAY RESULT IN DISQUALIFICATION OF YOUR BID.

INDIVIDUAL (Doing Business As)

- a. The only acceptable signature is the owner of the company. (Only one signature is required.)
- b. The owner's signature must be notarized if the company is located outside of the state of California.

PARTNERSHIP

- 1) The only acceptable signature(s) is/are that of the general partner or partners.
- 2) Signature(s) must be notarized if the partnership is located outside of the state of California.

CORPORATION

- a. Two (2) officers of the corporation must sign.
- b. Each signature must be notarized if the corporation is located outside of the state of California.

OR

- a. The signature of one officer or the signature of person other than an officer is acceptable if the Bid is accompanied by a certified corporate resolution granting authority to said person to execute contracts on behalf of the corporation.
- b. Signature(s) must be notarized if the corporation is located outside of the state of California.

LIMITED LIABILITY COMPANY

- a. The signature on the Bid must be a member or, if the Articles provide for a manager, must be the manager. (Only one signature is required.)
- b. Signature must be notarized if the company is located outside of the state of California.

THIS INFORMATION IS AVAILABLE IN AN ALTERNATIVE FORMAT BY CONTACTING 562-570-6362.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

On 11-11-10 Before me, Tina Lovato, Notary Public
DATE NAME, TITLE OF OFFICER - E.G. "JANE DOE, NOTARY PUBLIC"

Personally appeared Eric de Jong
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is) are subscribed to the within instrument and acknowledged to me that (he)/she/they executed the same in (his)/her/their authorized capacity (ies), and that by (his)/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Tina Lovato
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER

- PARTNER(S) LIMITED
 GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER:

DESCRIPTION OF ATTACHED DOCUMENT

Invitation to Bid
Rental of Portable
Chemical Toilets
TITLE OR TYPE OF DOCUMENT

2
NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES):

SIGNER(S) OTHER THAN NAMED ABOVE

INSTRUCTIONS TO BIDDERS

1. PREPARATION OF BID:

The preparation of the Bid, including visits to the Site prior to submittal of the Bid, shall be at the expense of Bidder. All prices and notations must be typewritten or written in ink. Any markings in pencil shall not form part of the Bid and shall be disregarded by the City. Any changes or corrections in the Bid must be initialed in ink by the person signing the Bid. Bidder shall state brand name or make of each item bid. If not bidding on item as described, the manufacturer's name and catalog number of the substitute must be given. Bidder shall also attach specifications and furnish other data to establish the suitability of the substitute. Bidder shall quote separately on each item. Bidder shall quote his lowest price and best delivery date as no changes are permitted after the bid opening. Cash discounts offered for payment within fourteen (14) days or less will not be considered when evaluating bids. No telephonic, telegraphic or fax Bids are acceptable.

NOTE: ALL PAGES OF THE INVITATION TO BID MUST BE RETURNED.

2. EXAMINATION OF BID:

Bidder is responsible for examining the Invitation to Bid and submitting its Bid complete and in conformance with these instructions.

3. CONDITIONS OF WORK:

Bidder shall carefully examine the Site to become fully informed regarding all existing and expected conditions and matters, which could affect performance, cost or time of the Work.

4. DISCREPANCIES IN BID DOCUMENTS:

If Bidder finds discrepancies in or omissions from the Invitation to Bid, if the intent of the Invitation is not clear, or if provisions of the Specifications restrict Bidder from bidding, he may request in writing that the deficiency(s) be modified. Such request must be received by the City Purchasing Agent at least five (5) working days before bid opening date. Bidders will be notified by Addendum of any approved changes in the Invitation to Bid.

5. ORAL STATEMENTS:

The City of Long Beach shall not be bound by oral statements made by any employee or agent concerning this Invitation to Bid. If Bidder requires specific information, Bidder must request it in writing and obtain a reply in writing from the City.

6. BRAND NAMES AND SPECIFICATIONS:

The detailed specifications and/or brand names stated are descriptive only and indicate quality, design and construction of items required. **Offers will be considered to supply articles substantially the same as those described herein but with minor variations. Bidders must describe variations in the Bid.** Substitute items must be equal in quality, utility and performance. **The phrase "or approved equal" throughout the specifications means that the City in its sole and absolute discretion shall make the final determination whether or not the substitute items are equal.**

7. AWARD:

Bid shall be subject to acceptance by the City for a period of three (3) months unless a lesser period is prescribed in the quotation by Bidder. The City reserves the right to award all items to one Bidder, or to award separate items or groups of items to various Bidders, or to increase or decrease the quantities of any item. Bidder may submit alternate prices or name a lump sum or discount conditional on two or more items being awarded to him.

The City's purchases of goods and services are based on the City's actual needs and requirements. The City is obligated under this contract/purchase order to purchase and pay for only those goods and services that the City needs and requires, and that the City actually orders and receives. Any dollar amount identified as a "not to exceed:" amount in any City document is not a guaranteed payment amount to any contractor or service provider. Furthermore, the City may determine that its needs and requirements may be met by City labor or by a second contractor or service provider, even after an award is made to one contractor or service provider. An award is not a promise or guarantee of exclusivity.

Bidders are cautioned that comments and statements, whether oral or written, made by City employees regarding the validity of Bids, the waiver of deviations from Specifications, the possibility or probability of an award being made to a particular Bidder, and other similar matters are NOT binding on the City. Bidders should not order materials, obtain financing or take other actions based on such comments and statements. Only authorization of a Contract by the City Council or issuance of a Purchase Order is conclusive and binding on the City with respect to this Bid and its resulting Contract or Purchase Order. However, prior to authorization by the City Council or issuance of the Purchase Order, Bidders may rely on: (1) approval of an "equal" or "substitute" item which will be issued in writing, and (2) written notice of intent to award by the City Council, which is often issued prior to the authorization by the City Council so that a Bidder can order materials that have a long lead time.

8. PAYMENT:

Payment terms are NET/30 unless Bidder otherwise quotes. All Cash Discounts shall be taken and computed from the date of delivery or completion and acceptance of the material, or from date of receipt of invoice, whichever occurs last. Invoices must be submitted as specified at the time of shipping authorization. Partial payments may be made by the City on delivery & acceptance of goods and on receipt of goods and on receipt of Contractor's invoice.

In the event the Contract to be awarded hereunder, including specifications and other documents incorporated therein by reference, provides for the withholding of moneys by the City to ensure performance of such Contract, Contractor may deposit with the City, as a substitute for said withheld moneys, securities listed in Section 16430 of the California Government Code or bank or savings and loan certificates of deposit, or both, equivalent to the amount withheld, provided Contractor requests permission to make such substitution and bears all expenses in connection therewith.

9. SAFETY APPROVAL:

Where required by City Regulations, any items delivered must carry Underwriters Laboratories Approval or City of Long Beach City Safety Officer approval. Failure to so comply will be cause to reject Bid. Also, any equipment must conform to the Safety Orders of the California Division of Industrial Safety and OSHA regulations.

INSTRUCTIONS TO BIDDERS

10. PUBLIC WORK AND PREVAILING WAGES:

In the performance of public work under any Contract, Contractor shall comply with the provisions of Standard Specifications for Public Works Construction, latest edition, and City of Long Beach Amendments thereto. Where labor is required for public work as part of this Contract, Contractor shall pay no less than the prevailing wages set by the Director of the Department of Industrial Relations of the State of California. A copy of the wage schedule can be obtained from the City Engineer.

The Director of Public Works of the City by and on behalf of the City Council has obtained from the Director of the Department of Industrial Relations of the State of California the general prevailing rate of per diem wages and the general prevailing rate of holiday and overtime work in the locality in which the public work is to be performed for each craft, classifications or type of workers needed to execute the Contract, and the same is on file with the City Engineer, 9th floor, City Hall, 333 W. Ocean Boulevard, Long Beach, California 90802. It shall be mandatory upon the Contractor to whom the Contract is awarded, and his Subcontractors to pay no less than the said prevailing rate of wages to all workers employed by Contractor or said Subcontractors in the execution of the Contract.

11. RIGHT TO REJECT:

The City reserves the right to reject at any time any or all Bids, or parts thereof, and to waive any variances, technicalities and informalities which do not impair the quality, utility, durability or performance of the items.

12. SAMPLES:

Samples of items when requested or required must be furnished to the City free of expense to the City and, if not destroyed by tests, will upon request be returned at Bidder's expense.

13. PRICES:

Prices shall be in accordance with those extended to other governmental agencies. In case of error in extension of prices, unit price will govern. All prices must be firm for the Contract term unless the City specifically provides for adjustment.

14. CITY'S POLICY FOR MINORITY AND WOMEN-OWNED BUSINESSES:

The City of Long Beach is committed to providing maximum opportunities for Disadvantaged, Minority, Women, Long Beach and Other Business Enterprises (DBEs, MBEs, WBEs, LBEs, and OBEs) to compete successfully in supplying our needs for products and services.

Please visit <http://www.longbeach.gov/diversity> for more information on the City's Diversity Outreach Program.

SUBCONTRACTORS

To assist the City in maintaining records of its Minority and Women Outreach Program, Bidder is requested to provide the following information. Answers are optional, and failure to answer will not disqualify Bid. If additional space is required, Bidder shall attach a separate sheet.

The following Minority- or Woman-owned subcontractors are to be utilized to provide equipment, material, supplies and/or services for this Contract requirement:

Company Name: _____

Address: _____

Commodity/Service Provided: _____

Circle appropriate designation: MBE WBE

Ethnic Factors of Ownership: (more than 51%)
Black () American Indian ()
Hispanic () Other Non-white ()
Asian () Caucasian ()

Certified by: _____

Valid thru: _____

Dollar value of participation: \$ _____

15. BID SUBMITTAL AND WITHDRAWAL OF BIDS:

Each Bid must be delivered to the location and received on or before the due date and time stated herein. Bids will not be accepted after the date and time stated herein. Bids may be withdrawn without prejudice providing the written request is received by the City Clerk no later than the time set for opening Bids. Withdrawals will be returned to Bidder unopened. Failure to respond to three (3) Invitations to Bid without reason may constitute cause to remove Bidder's name from the bidding list.

SUBMIT TO:
CITY OF LONG BEACH
CITY CLERK
333 W OCEAN BLVD/PLAZA LEVEL
LONG BEACH CA 90802

BID DUE DATE: November 2, 2010
TIME: 11:00 am

IF BIDDER HAS ANY QUESTIONS REGARDING THIS INVITATION TO BID PLEASE CONTACT THE FOLLOWING CITY PERSONNEL.

- A. COMMERCIAL (TERMS AND CONDITIONS, ETC)

<u>Regina Benavides</u>	<u>562-570-6164</u>
BUYER	TELEPHONE NUMBER
- B. TECHNICAL (SPECIFICATIONS, DRAWINGS, ETC.)

<u>Regina Benavides</u>	<u>562-570-6164</u>
DEPARTMENT CONTACT	TELEPHONE NUMBER

16. BID OPENING PROCEDURES:

All Bids will be publicly opened and read at the date and time specified in Instructions to Bidders, item 15.

It is our policy **not** to release price information on these Bids until the department has reviewed them and award has been approved by the City Council and the City Attorney. At that time, the information becomes public. You are welcome to review the results at that time by calling the buyer that handled that Bid and setting up an appointment. Due to the large volume of Bids received, Bid results will **not** be given out by phone and information will not be faxed.

After the Purchasing Division has analyzed the Bids, the name of the **apparent** low Bidder will be posted on the Internet for a period of one (1) month, together with the rankings of the top three Bidders. These rankings will not contain price information.

CAUTION: Only the City Council has authority to make an award, and a contract is not in effect until the City Council makes an award and contract documents (including insurance and bonds) are signed, submitted and approved.

Bid protest procedures may be obtained from the Buyer. Protests must be submitted within seven (7) calendar days after the date of the Bid opening.

INSTRUCTIONS TO BIDDERS

17. INTER-AGENCY PARTICIPATION:

IF OTHER AGENCIES EXPRESS AN INTEREST IN PARTICIPATING IN THIS BID, WOULD YOU SUPPLY THE SAME ITEMS?

YES _____ NO _____

(If yes, any agency electing to participate in this Bid will order its own requirements without regard to the City of Long Beach. The City of Long Beach assumes no liability or payment guarantee on any units sold to participating agencies.)

18. AMERICANS WITH DISABILITIES ACT:

Contractor shall have and be allocated the sole responsibility to comply with the Americans with Disabilities Act of 1990 ("ADA") with respect to performance hereunder and contractor shall defend, indemnify and hold the City, its officials and employees harmless from and against any and all claims of failure to comply with or violation of the ADA as said claim relates to this Contract.

CONTRACT – GENERAL CONDITIONS

1. Acceptance of the offer contained in this Contract is expressly limited to the terms and conditions of such offer as herein stated.
2. No charges for taxes, transportation, boxing, packaging, crating or returnable containers will be allowed and paid by the City unless separately stated hereon. All sales, use, excise or similar taxes to be paid by the City must be itemized separately hereon and on invoices. The City is exempt from payment of Federal Excise Tax under Certificate No. 95-73 0502K and none shall be charged to the City.
3. The City's obligation to pay the sum herein stated for any one fiscal year shall be contingent upon the City Council of the City appropriating the necessary funds for such payment by the City in each fiscal year during the term of this Contract. For the purposes of this section a fiscal year commences on October 1 of the year and continues through September 30 of the following year. In the event that the City Council of the City fails to appropriate the necessary funds for any fiscal year, then, and in that event, the Contract will terminate at no additional cost or obligation to the City.
4. Contractor shall deliver the materials, equipment, supplies or services, or cause the work to be performed, within the time and in the manner specified in the Contract. Times and dates stated herein are of the essence. If at any time Contractor has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay shall be given immediately to the City. Deliveries must be prepaid. C.O.D. shipments will not be accepted.
5. The City reserves the right at any time to make changes in drawings and specifications, in methods of shipment and packaging and in place of delivery as to any articles covered by this Contract. In such event there will be made an equitable adjustment in price and time of performance mutually satisfactory to Contractor and the City; but any claim by Contractor for such an adjustment must be made within thirty (30) days of such change.
6. Contractor warrants that the goods, machinery or equipment delivered or the work performed hereunder shall conform to the specifications, drawings, samples or other description specified by the City and shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, in good working order and free from defect or faulty workmanship for a period of ninety (90) days. When defective goods, machinery, or equipment or faulty workmanship is discovered which requires repair or replacement pursuant to this warranty, Contractor shall provide all labor, materials, parts and equipment to correct such defect at no expense to the City.
7. Contractor shall defend, indemnify and hold the City, its officials and employees harmless from any and all loss, damage, liability, demands, claims, causes of action, costs and expenses (including reasonable attorney' fees) for injuries to persons (including death) or damage or destruction of property connected with or arising from the negligent acts or omissions of Contractor, its officers, agents and employees in the performance of this Contract.
8. The City reserves the right to terminate this Contract at any time in whole or in part even though Contractor is not in default hereunder. In such event there will be made an equitable adjustment of the terms that is mutually satisfactory to the City and Contractor. Upon receipt of any notice of such termination, Contractor shall, unless such notice otherwise directs, immediately discontinue all work on the Contract and deliver, if and as directed, to the City all completed and partially completed articles, work in process and materials purchased or acquired for performance of the Contract. The provisions of this section shall not limit or affect the right of the City to terminate this Contract immediately upon written notice of breach.
9. The City reserves the right to cancel this Contract or any part thereof and reject delivery of goods if delivery is not undertaken and completed when specified and in accordance with specifications. Contractor shall be charged for any direct losses, but not any consequential damages, sustained by the City by reason of such delay or failure, excepting losses caused by a delay for reasons beyond Contractor's reasonable control. Direct losses shall include any costs to the city in excess of the Contract price of obtaining goods from other sources similar to those cancelled or rejected hereunder.
10. The City shall pay to Contractor the price(s) specified in the Contract on delivery of the materials, equipment, supplies or services and acceptance thereof by the City Manager or his designee, or upon completion of the work to be performed and accepted thereof, as specified in the Contract. Defective articles or articles not in accordance with the City's specifications shall be held for Contractor's instructions at Contractor's risk, and if Contractor so directs will be returned at Contractor's expense.
11. No return or exchange of material, equipment or supplies shall be permitted without written approval of the City Purchasing Agent.
12. All royalties for patents, or changes for the use of patents, which may be involved in any article to be furnished under this Contract shall be included in the Contract price.
13. In cases where a price subject to escalation has been agreed upon, the price escalation shall be shown as a separate item on the invoice. Unless an escalator clause has been shown as a specific part of this Contract Contractor shall not be entitled to reimbursement for costs incurred due to escalation.

CONTRACT – GENERAL CONDITIONS

14. All materials, supplies and equipment provided under this Contract shall be in full compliance with the Safety Orders and Regulations of the Division of Industrial Safety of the State of California, Title 8, California Code of Regulations (CAL/OSHA) and all applicable OSHA regulations as well as all other applicable California Code of Regulations. Contractor shall indemnify and hold the City, its officials, and employees harmless for, of and from any and all loss, including but not limited to fines, penalties and corrective measures, the City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Contract.
15. Contractor shall keep confidential and not disclose to others or use in any way to the detriment of the City confidential business or technical information that the City may disclose in conjunction with this Contract or Contractor may learn as a result of performing this Contract.
16. This Contract shall not be assigned in whole or in part, nor any duties delegated without the City's prior written approval.
17. The remedies herein reserved shall be cumulative and additional to any other remedies at law or in equity. The waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach. The City's failure to object to provisions contained in any communication from Contractor shall not be deemed an acceptance of such provisions or a waiver of the provisions of this Contract.
18. This Contract shall not be amended or modified, except by written agreement signed by the parties and expressly referring to this Contract.
19. Contractor shall indemnify, hold harmless and defend the City, its officials and employees from any damage, claim, loss, cost, liability, cause of action or expense, including reasonable attorney's fees, whether or not reduced to judgment, arising from any infringement or claimed infringement of any patent, trademark or copyright, or misappropriation of confidential information or trade secrets of any third party and based on the manufacture, sale or use of goods, machinery or equipment supplied hereunder.
20. Contractor shall furnish further itemization and breakdown of the Contract price when requested by the City.
21. Contractor, in the performance of any work or the furnishing of any labor under this Contract, shall be considered as an independent contractor. Contractor, his agents and employees shall not be considered as employees of the City.
22. Contractor and subcontractor(s) shall not discriminate against any person in the performance of this Contract and shall comply with applicable federal, state and city equal employment opportunity laws, ordinances, rules and regulations. Contractor and subcontractor(s) shall not discriminate against any employee or applicant for employment or against any subcontractor on the basis of race, color, religion, national origin, sex, sexual orientation, AIDS, HIV status, age, disability, or handicap, subject to federal and state laws, rules and regulations.
23. Contractor shall comply with all applicable federal, state and local laws pertaining to the subject matter hereof.
24. Contractor shall submit samples of all documents that Contractor may require the City to execute to complete this transaction. By accepting these samples as part of the bid or by awarding the Contract to a Contractor who has submitted said samples, the City does not agree to the terms stated in said samples. This Invitation to Bid and Contractor's bid shall take priority over said samples and this Invitation and Contractor's bid shall become the Contract between the City and the Contractor.
25. All quantities stated herein are only ESTIMATES. The City reserves the right to increase or decrease these estimated quantities based on its actual needs and funds available.
26. The City reserves the right to exercise, at its option, an increase in expenditures by ten (10) percent annually, but the City does not guarantee such an increase.
27. Contractor shall cooperate with the City in all matters relating to taxation and the collection of taxes, particularly with respect to the self-accrual of use tax. Contractor shall cooperate as follows: (i) for all leases and purchases of materials, equipment, supplies or other tangible personal property totaling over \$100,000 shipped from outside California, a qualified Contractor shall complete and submit to the appropriate governmental entity the form in Appendix "A" attached hereto; and (ii) for construction contracts and subcontracts totaling \$5,000,000 or more, Contractor shall obtain a sub-permit from the California Board of Equalization for the Work site. "Qualified" means that the Contractor purchased at least \$500,000 in tangible personal property that was subject to sales or use tax in the previous calendar year.

In completing the form and obtaining the permit(s), Contractor shall use the address of the Work site as its business address and may use any address for its mailing address. Copies of the form and permit(s) shall also be delivered to the Purchasing Agent. The form must be submitted and the permit(s) obtained as soon as Contractor receives a notice of award. Contractor shall not order any materials or equipment over \$100,000 from vendors outside California until the form is submitted and the permit(s) obtained and, if Contractor does so, it shall be a material breach of the Agreement. In addition, Contractor shall make all purchases from its Long Beach sales office and the Long Beach sales office of its vendors if those vendors have a Long Beach office and all purchases made by Contractor under this Agreement which are subject to use tax of \$500,000 or more shall be allocated to the City of Long Beach. Contractor shall require the same form and permit(s) from its subcontractors.

CONTRACT – GENERAL CONDITIONS

Contractor shall not be entitled to and by signing this Contract waives any claim or damages for delay against City if Contractor does not timely submit these forms to the appropriate governmental entity. Contractor may contact Eugene Fong at 562-570-5023 for assistance with the form.

28. The California Integrated Waste Management Act (Public Resources Code, Sec. 40000 et seq.) requires governmental entities to achieve fifty (50) percent diversion of waste. In conjunction with the City's Integrated Resources Bureau, the City is currently developing an Environmentally Preferable Product (EPP) procurement plan. These guidelines enable the City Purchasing Agent to greatly expand procurement programs by moving beyond a singular consideration of "recycled-content". EPP procurement facilitates the purchase of products that qualify within a broad range of "environmentally preferable" criteria, such as: minimal packaging; energy savings; non-toxic; manufactured from sustainably-harvested materials. Contractor shall monitor products that fall within the EPP guidelines and document all criteria that qualify the product as an EPP. Documentation from the manufacturer will be acceptable and may be required during the term of the Contract.

29. **NOTICE TO BIDDERS REGARDING THE PUBLIC RECORDS ACT:**

Responses to this Invitation to Bid become the exclusive property of the City of Long Beach. All Bids submitted in response to this Invitation to Bid are a matter of public record and shall be regarded as public records. Exceptions will be only those elements in each Bid that are defined by the Bidder as business or trade secrets and are marked as "Trade Secrets", "Confidential" or "Proprietary".

The City shall not be liable or responsible in any way for disclosure of any records not marked as "Trade Secrets", "Confidential" or "Proprietary". The City shall not be liable or responsible in any way for disclosure of any records so marked if disclosure is deemed to be required by law or by a court order.

30. **THE FOLLOWING ADDITIONAL CONDITIONS APPLY ONLY IN CASES WHERE CONTRACTOR IS TO PERFORM WORK ON CITY PROPERTY:**

A. If at any time during the progress of the Work, Contractor shall allow any indebtedness to accrue for labor, equipment or materials, or which may become a claim against the City, Contractor shall immediately upon request from the City pay such claim or indebtedness or cause such lien to be dissolved and discharged by giving a bond or otherwise and, in case of his failure so to do, the City may withhold any money due Contractor until such claim or indebtedness is paid or may apply such money toward the discharge thereof; or in such event the City may, at its option, declare this Contract to be terminated, take possession and control of the Work, and complete the same or cause the same to be completed according to the specifications. Contractor shall pay to the City the difference between the Contract price and the actual cost to the City in completing or causing the Work to be completed.

B. Contractor shall carry on the Work at its own risk until the same is fully completed and accepted and shall, in case of any accident, destruction or injury to the Work or materials before its final completion and acceptance, repair or replace the Work or materials so injured, damaged and destroyed, at his own expense and to the satisfaction of the City. When materials and equipment are furnished by others for installation or erection by Contractor, Contractor shall receive, unload, store and handle same at the Site and become responsible therefore as though such materials and equipment were being furnished by Contractor under the Contract.

C. Contractor shall procure and maintain at Contractor's expense for the duration of the Contract the following insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Contract by Contractor, its agents, representatives, employees or subcontractors:

- (1) Comprehensive General Liability: \$1,000,000 combined single limit for each occurrence or \$2,000,000 General Aggregate for bodily injury, personal injury and property damage, including products and completed operations coverage.

The City, its officials, employees and agents shall be named as additional insured as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; and premises owned, leased or used by Contractor.

- (2) Automobile Liability: \$500,000 combined single limit per accident for bodily injury and property damage covering owned, non-owned and hired vehicles.

- (3) Workers' Compensation as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

Any self-insurance program and self-insured retention must be separately approved in writing by the City.

Each insurance policy shall be endorsed to state that coverage shall not be cancelled by either party or reduced in coverage except after thirty (30) days prior written notice to the City.

CONTRACT – GENERAL CONDITIONS

Contractor shall maintain at its expense, until completion of performance and acceptance by City, from an insurer:

- a. Admitted (licensed) in the State of California with a current financial responsibility rating of A (Excellent) or better and a current financial size category (FSC) of V (capital surplus and conditional surplus funds of greater than \$10 million) or greater rating as reported by A.M. Best Company or equivalent, unless waived in writing by City's Risk Manager, or
- b. Non-admitted in the State of California with a current financial responsibility rating of A (Excellent) or better and a current financial size category (FSC) of VIII (capital surplus and conditional surplus funds of greater than \$100 million) or greater rating as reported by A.M. Best Company or equivalent, unless waived in writing by City's Risk Manager.

All coverages for Subcontractors shall be subject to the requirements stated herein and shall be maintained at no expense to the City.

Contractor shall furnish the City with certificates of insurance and original endorsements providing coverage as required above. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Before any of Contractor's or Subcontractor's employees shall do any Work on the City's property, Contractor shall furnish the City with the required certificates evidencing that such insurance is being maintained. Such certificates shall specify the date when such insurance expires. Such insurance shall be maintained until after the Work under the Contract has been completed and accepted.

Such insurance as required herein or in any other documents to be considered a part hereof shall not be deemed to limit Contractor's liability under this Contract.

- D. Contractor shall defend, indemnify and hold harmless the City, its officials and employees from and against any and all liability for claims for bodily injury and property damage arising out of negligent acts, omissions or errors of any employee of Contractor at the Site.
- E. Contractor shall list the name and location of the place of business of each Subcontractor who will perform work, labor or services for Contractor, or who specially fabricates and installs a portion of the Work or improvement in an amount in excess of one-half of one percent of Contractor's total contract cost. The Subcontractor list shall be submitted with Contractor's Bid.

TERM OF CONTRACT

The contract period is twelve (12) months from date of award. This Contract may be extended by mutual agreement for up to two (2) additional periods of one year each, in accordance with terms and conditions stated herein. It is agreed that, if the City intends to exercise its extension option for the two additional one-year periods, the City shall so notify the Contractor no later than thirty (30) days prior to the expiration date.

No price increases will be allowed during the first twelve-month contract period. Notwithstanding the foregoing, the City and the Contractor may agree to a price increase during the first twelve-month contract period only in the event of a governmental or other act or event beyond either party's control that directly impacts the prices quoted in this bid by the Contractor.

BASIS OF AWARD

The City reserves the right to award portions of this bid to one or more Contractors, or to withdraw this bid at any time.

Without limiting the power and authority with which it is vested, the City shall be the sole authority in determining the lowest responsible bidder, taking into consideration bidder's experience, references, equipment, facility, operations, quality, fitness, capacity, and adaptability in respect to the requirements of the specifications for the services proposed. Bid completeness, clarity, accuracy, and compliance with City requirements shall also be determining factors of award. The City reserves the right to award contracts on an "All or None" or on an "Individual" basis.

Award may be made to different Contractors for all items for the sections listed below, or on an "all or none" basis to one Contractor. Contractor must quote on all items within each section, or the bid for that section will be deemed not responsive.

SECTION A – LONG-TERM PORTABLE TOILET RENTAL SERVICE
SECTION B – SHORT-TERM PORTABLE TOILET RENTAL SERVICE
SECTION C – MISCELLANEOUS SERVICES

ADDENDUM

Bidders are responsible for and shall check the purchasing web page at www.longbeach.gov/purchasing or contact the assigned buyer three (3) days prior to the bid closing date to inquire about and include any addenda incorporated into this bid. Bidder must download bid specifications and addenda from the City's website. Failure to include the addenda with the bid will cause the bid to be rejected.

FUTURE AMENDMENTS

The City reserves the right to add and/or delete portable toilets, service and/or supply items, as necessary. Any such revisions shall be accomplished by an amendment to the Contract.

EXTENSIONS

This Contract is subject to extension for two additional one (1) year periods from the date of expiration of this Contract, at the option of the City, in accordance with the option granted in your bid.

Price increase shall not exceed 0 % during first renewal.

Price increase shall not exceed 0 % during second renewal.

SUPPLEMENTAL PROVISIONS

REFERENCES AND QUALIFICATION REQUIREMENTS

Competency of Contractors: No quote will be accepted from or contract awarded to a contractor who is not licensed in accordance with the law, who does not hold a license qualifying him to perform work under this Contract, to whom a quote form has not been provided, and who has not successfully performed on projects of similar character and scope.

Each Contractor shall be fully qualified by ability, knowledge and experience to satisfactorily perform the work required in these specifications. Contractor must present evidence indicative of its ability to finance, provide, and sustain the specified services to the satisfaction of the City. Failure to include any of the following information as requested below may cause bid to be deemed non-responsive if the City has no recent experience with Bidder.

- 1. **Client References:** Contractor shall furnish on a separate sheet of paper a list of five (5) current customers, including company name, street address, telephone number and contact person, for whom bidder has provided similar services. The City intends to contact these customers to determine reliability, Contractor's performance, service and other information.
- 2. **General Business Statement:** Contractor shall furnish a statement of all of the important business activities of Contractor's major business. This statement should emphasize the required minimum of three (3) consecutive years of recent experience in the provision of the specified maintenance services at similar sized facilities with similar service levels as those required for this Contract.
- 3. **Proof of Insurability:** Contractor shall furnish a letter of commitment from an insurance company, acceptable to the City, setting forth that adequate insurance coverage (as further described in the General Conditions hereof) will be available at the time of award of Contract. Letters of intent from insurance brokers will not be considered acceptable substitutes.
- 4. **License Certification:** Contractor shall provide a copy of each valid license listed below, must be submitted with this bid package.

The undersigned hereby declares that he is a Contractor and has been in business for 12 years; has a valid State of California Contractor's License sufficient to qualify as a Contractor in this case and a current City of Long Beach Business License; and will obtain all required permits.

A. California Contractor's License No.: N/A
Expires: _____ Classification: SAUNITATION

B. Long Beach Business License No.: BU 20943950
(Required upon notification of award)

SUPPLEMENTAL PROVISIONS

REFERENCES AND QUALIFICATION REQUIREMENTS (continued)

- 5. **Contact Information:** Contractor shall provide contact information under emergency and non-emergency conditions:

PRIMARY CONTACT:

NAME: TANNO GOMOLKA
 TITLE: SALES MANAGER
 ADDRESS: 807 EMISSION RD SAN MARCOS
 OFFICE PHONE: 888-744-7191
 FAX: 760-290-3336
 CELL: 760-290-3336
 EMAIL: TANNOG@DIAMONDPROVIDES.COM

SECONDARY CONTACT:

NAME: CARLOS ACOSTA
 TITLE: SITE SUPERVISOR
 ADDRESS: 1801 VIA BURTON, FULLERTON
 OFFICE PHONE: 888-744-7191
 FAX: 714-975-5509 760-290-3343
 CELL: 760-290-3343
 EMAIL: CARLOSA@DIAMOND...

EMERGENCY CONTACT (24/7):

NAME: WARREN VAN DAM
 TITLE: OPS MANAGER
 CELL: 760-290-3306

Tanno Gomolka - Sales Manager
 Diamond Environmental Services
 : 807 E. Mission Rd. San Marcos CA 92069
 (760) 744-7191 office (760) 290-3336 fax
 tanno@DiamondProvides.com

SUPPLEMENTAL PROVISIONS**BOND PROVISIONS**

N/A

INSURANCE AND ENDORSEMENTS**AMENDMENTS TO INSURANCE**

Item #30, page 9, "Contract - General Conditions", is **supplemented** with the following:

- (a) **All Risk Property Insurance** in an amount sufficient to cover the full replacement value of Contractor's personal property, improvements and equipment used or stored on City premises. With respect to damage to property, City and Contractor hereby waive all rights of subrogation, one against the other, but only to the extent that collectible commercial insurance is available for said damage.

ENDORSEMENTS

All applicable original endorsements must also be filled with the City of Long Beach before the purchase order is issued, including but not limited to:

- a. An additional insured endorsement (equivalent in coverage to ISO form CG 20 10 11 85 or CG 20 26 11 85) naming "The City of Long Beach, its officials, employees and agents" as additional insured under the general liability policy. Failure to comply with this requirement will prevent the City from issuing a purchase order.
- b. An endorsement to each policy stating that such policy shall not be cancelled by either party or reduced in coverage except after thirty (30) days prior written notice to the City and that the policy shall apply on a primary, non-contributing basis in relation to any insurance or self-insurance, primary or excess, maintained by or available to the City or any employee or agent of the City.

Other Insurance Provisions

No policy required by this section shall prohibit Contractor from waiving any right of recovery prior to loss. Contractor hereby waives such right with regard to the indemnities.

All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Contract limits the application of such insurance coverage.

Verification of Coverage and Certificates of Insurance

Contractor shall furnish the City with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the City before work commences and must be in effect for the duration of the contract. The City reserves the right to require complete, certified copies of all required policies and endorsements.

CONTRACT SPECIFICATIONS**SCOPE OF WORK**

The Contractor shall provide rental of portable chemical toilets as provided in the specifications to various City locations.

The portable toilet units listed in the schedule of bid items are defined as follows:

Standard Portable Toilet	3 ft. x 3 ft.
ADA Portable Toilet	6 ft. x 6 ft. (with full wheelchair accessibility)

Portable toilets shall be enclosed with a door that can be locked from the inside and include a commode, urinal and dispensers for toilet paper and disposable paper seat covers. A padlock hasp or handle that will accept a padlock will be provided when requested by the City. The Contractor shall provide and maintain a written service log affixed to the inside of the portable toilet that lists the date of each service visit.

Units shall be delivered with the following items and ready for use:

A	Toilet Paper
B	Seat Covers
C	Fresh Deodorant, Air Sanitizer
D	Water, where applicable (approximately 5 gallons)
E	Hand Sanitizer

CONTRACT SPECIFICATIONS

SERVICE OF UNITS

Service visits shall include the following: pump out waste, remove litter, clean and disinfect interior surfaces, provide and replenish toilet paper, seat covers, fresh deodorant, hand sanitizer and water, where applicable. Remove graffiti from interior and exterior of portable toilet and perform repairs as needed to make the toilet usable and maintain user privacy.

NOTE: Portable toilet units that cannot be repaired to usable condition on site must be replaced. Contractor is responsible for proper and lawful disposal of all waste removed from the portable toilets.

DISPOSAL OF WASTE

The Contractor is responsible for the disposal of waste in each unit.

NOTE: See RECYCLABLES, RECYCLED CONTENT for further details. It is the intent of the provision described below to inform prospective contractors that the City will expect the successful contractor to use, whenever possible, recycled and/or recyclable products during the performance of the contract.

SERVICE HOURS

The Contractor shall service the portable toilets only between the hours of 7:00 AM and 4:00 PM unless directed otherwise by City staff. The City may also specify the day of the week and time of day for servicing of the portable toilets to accommodate City requirements.

EMERGENCY SERVICE

The City will request emergency service under two circumstances: 1) Contractor fails to adequately service toilet during regular scheduled service leaving the toilet unusable. This service will be provided at no cost to the City. 2) For reasons beyond the control of the Contractor, toilets require service in addition to the regularly scheduled service. This service will be charged at the emergency service rates listed in the schedule of bid items.

The Contractor shall furnish and deliver emergency units within four (4) hours after notification from the City.

SERVICE LOG

The Contractor shall provide and maintain a written service log affixed to the inside of each portable toilet that lists the date of each service visit.

CONTRACT SPECIFICATIONS**RENTAL TERM**

Long-term rental of portable toilets under this agreement shall be on a month-to-month basis and may be cancelled by the City with 24-hour notice to the Contractor. The charges for long-term toilets that are cancelled during the course of a month shall be determined by prorating the amount based on the number of calendar days involved. Event rental portable toilets shall be charged on a rental period not to exceed seven consecutive days.

DELIVERY, PLACEMENT AND REMOVAL**ORDERING TOILETS**

The City will provide a minimum 24-hour advance notice when ordering toilets for delivery. Toilets ordered by 12:00 p.m. (Noon) shall be delivered by the next business day unless the City representative specifies a later day and time. The Contractor will be provided a list of City staff authorized to order portable toilets. Acceptance of unauthorized orders for portable toilets may result in delayed payment while the charge is being investigated.

PLACEMENT OF TOILETS

The Contractor shall advise the City's requesting department of delivery time and confirm placement locations prior to delivery of units. The City and the Contractor will coordinate the placement of portable toilets to accommodate the intended users and to allow access for service by the Contractor at all times. At the City's direction, the Contractor shall secure portable toilets sited on soil or mulch with stakes or other attachment methods to prevent the unit from being tipped. No portable toilets sited on turf shall be staked.

REMOVAL OF TOILETS

The Contractor shall remove portable toilets rented by the City for special events within forty-eight (48) hours after the event closes. Long-term portable toilets shall be removed by the end of the third business day following notice of cancellation by the City.

The Contractor shall remove and replace damaged or vandalized units within four (4) hours after notification from the City.

ADDING TOILETS TO THE CONTRACT

The City may add portable toilets to the contract, as needed, based on the City's requirements. The cost per service for portable toilets added to the contract will be based on the cost per service quoted by the bidder for similar portable toilets listed in the schedule of bid items.

CONTRACT SPECIFICATIONS

SPECIAL EVENTS (NON-CITY)

Various organizations hold special events throughout the City, including, but not limited to, filming events, Grand Prix, etc., which require the sponsors to provide their own portable toilets. These toilets are not included in the City's Contract. However, the successful bidder may extend contractual pricing to these organizations, at their discretion.

PADLOCKS

Portable toilets and access gates leading to portable toilet locations will be padlocked at the City's discretion. The City will provide the Contractor with a minimum of two (2) keys for each padlocked location. The Contractor is not authorized to duplicate City keys and shall request replacement or additional keys from the City's contract administrator. Portable toilets provided under this contract will be furnished with installed padlock hasps at no additional charge whenever requested by the City.

ENVIRONMENTAL REQUIREMENTS

The Contractor shall conduct all aspects of its operation in compliance with all state and federal laws and regulations. The Contractor shall immediately inform the City of any investigation, citation or legal action by any regulatory agency related to the Contractor's obligations under this Contract.

STORM WATER MANAGEMENT PLAN

The Contractor shall ensure that all personnel whose responsibilities involve cleaning or waste disposal are trained in Best Management Practices, as set forth in the City's NPDES permit and Storm Water Management Plan. The Contractor must conduct its services in accordance with the City's Stormwater Management Plan (i.e. National Pollutant Discharge Elimination Program, or NPDES).

- a. Appurtenances must be cleaned by method(s), which do not result in runoff going into any water, gutter or storm drains. Only potable water may flow into any water, gutter or storm drains.
- b. All wash water must be disposed of to a sanitary sewer.**
- c. No litter, debris, or other materials and substances may be washed, swept, or blown into the street or storm drains.
- d. All liquids, including but not limited to, rinse water and cleaning agents, must be properly disposed of in compliance with all laws and regulations. No liquid or product of any kind may be discharged to a gutter, storm drain or paved surface where it could be carried to the storm drain system or to water.

CONTRACT SPECIFICATIONS**RECYCLABLES, RECYCLED CONTENT**

NOTE: It is the intent of the provision described below to inform prospective Contractors that the City will expect the successful Contractor to use, whenever possible, recycled and/or recyclable products during the performance of the Contract.

Recycled Content Preference

It is the City policy, whenever practicable, to purchase functional products which contain, in order of preference:

1. The highest percentage of post-consumer recovered material available in the marketplace; and
2. The highest percentage of secondary waste recovered material available in the marketplace.

Recyclability and Waste Reduction

In addition to the recovered material content of a product, important criteria in selecting products shall also be:

1. The ability of the product and its packaging to be reused, reconditioned for use, or recycled through existing recycling collection programs; and
2. The volume and toxicity of waste and by-product a given product and its packaging generate in their manufacture, use, recycling, and disposal. Products and packaging designed to minimize waste and toxic by-products in their manufacture, use, recycling, and disposal shall be preferred.

Equipment Compatibility

Equipment purchased or rented by the City shall be compatible, whenever practicable, with the use of recycled-content products.

Minimum Content Requirements

For the purposes of this general provision, the following minimum content requirements apply:

1. Recycled paper products shall consist of at least 30 percent, by fiber weight, post consumer fiber.
2. For recycled compost, at least 80 percent of the product shall consist of materials that would otherwise be normally disposed of in landfills.
3. For recycled plastic products the total weight shall consist of at least 10 percent post consumer material.

[Source: California Public Contract Code, Section 12207 and 12209].

CONTRACT SPECIFICATIONS**LIQUIDATED DAMAGES**

Time is of the essence. If delivery is not completed by the time stated previously for delivery, Contractor acknowledges and agrees that such delay would seriously affect the public welfare and the operation of the City and those damages for such delay would be impracticable or extremely difficult to determine. The parties agree that the sum of \$100 per day for each day of delay for each unit shall be fixed as liquidated damages (and not as a penalty or forfeiture for breach). Liquidated damages shall apply where delivery is delayed beyond the time stated and where delivery of materials to replace materials deemed substandard or nonconforming by the City is delayed beyond the time specified for such replacement. Liquidated damages shall not apply to the time between the date Contractor delivers the unit(s) and the date the City notifies Contractor that the City has rejected the units due to substandard or nonconforming materials.

Should the successful Contractor be obstructed or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of the City, or by strikes, fire, act of God, or by the inability to obtain materials, equipment, or labor due to Federal Government restrictions, then the time of completion shall be extended for such period as may be agreed between the City and Contractor. The City may, at the time of acceptance of the work, waive liquidated damages which may have accrued for failure to complete on time due to any of the above reasons after hearing evidence to the reasons for such delay and making a finding as to the cause of same.

PAYMENT DEDUCTIONS INVOLVING CONTRACTOR'S NON-COMPLIANCE

Payments shall be made for monthly services completed in accordance with tasks identified in each "Bid Section" hereof for each City facility. No payments shall be made for **non-performance** of services.

The City may make deductions from Contractor's invoice if work is not performed or is not performed to the City's satisfaction. The City will give verbal notification describing the deficient work or work not performed. If, in the judgment of the City, a correction has not occurred after verbal notification, a written notice to the Contractor for failure to correct the deficiencies shall be issued. If, in the judgment of the City, after receiving the written notice, the deficiency is not corrected in a timely manner, or continues to re-occur, **\$100 shall be deducted from the payment for each deficiency** at the facility not maintained in accordance with the provisions of these specifications.

Thereafter, if Contractor is deemed in default, the City at its option in addition to, or in lieu of, other remedies provided herein, **may withhold the entire monthly payment.** The deduction shall not be construed as a penalty but as an adjustment of payment to Contractor in order to recover a portion of the City's costs due to the failure of the Contractor to complete or comply with the provisions of this Contract.

In addition to the remedies provided heretofore, the Contract may be terminated in accordance with and as described in "Default by Contractor/Termination/Obligation of Surety", upon Contractor's failure to correct deficiencies in a timely manner.

CONTRACT SPECIFICATIONS**DEFAULT BY CONTRACTOR/TERMINATION/OBLIGATION OF SURETY**

Notwithstanding and in addition to "Payment Deductions Involving Contractor's Non-Compliance" described previously, the City may terminate this Contract without liability for damages when, in the City's sole opinion, the Contractor is not diligently performing or otherwise not complying in good faith with the Contract, has become insolvent, has assigned or subcontracted any part of the work without the consent of the City, or has otherwise defaulted in performance of the Contract, and has not otherwise cured such default after a period of ten (10) days notice given by the City to do so.

If the City terminates the Contract, the City will give notice to that effect to the Surety and Surety shall, within five (5) business days after delivery of the notice, assume control and perform the work as successor to the Contractor, and shall be paid by the City for all work performed.

If the Surety does not comply with such notice within said five (5) day period or, after starting to comply, fails to continue, the City may exclude the Surety and the Contractor from all City facilities and have the work completed by City employees, by another Contractor, or by a combination of such methods.

All costs incidental to the default of the Contractor shall be charged to the Contractor and the Surety, and may be deducted from any monies due the Contractor. Surety shall pay, within fifteen (15) calendar days after receipt of an invoice, all such incidental costs less any amount deducted from monies due.

TEMPORARY SUSPENSION OF WORK**SUSPENSION BY CITY**

The City's representative(s) shall have the authority to suspend work by the Contractor, wholly or in part for such period as necessary due to unsuitable work conditions, failure of Contractor to carry out directions, unsafe or hazardous conditions, or failure to perform in accordance with these specifications.

SUSPENSION BY CONTRACTOR

The Contractor shall request permission of the City's representative(s), during City business hours, to temporarily suspend work wholly or in part for such period as necessary due to unsuitable, unsafe, or hazardous work conditions or failure of the City to notify the Contractor of changes in locks, security codes or access to facilities being cleaned.

CONTRACT SPECIFICATIONS**SUBCONTRACTING**

No performance of this Contract or any portion thereof may be assigned or subcontracted by Contractor without the express written consent of the City. Any attempt by the Contractor to assign or subcontract any performance of the terms of this Contract without said consent shall be null and void and shall constitute a default under this Contract. In the event of such a default, the City may immediately terminate this Contract.

In the event the City consents to assignment or subcontracting, each term and condition of this Contract shall be binding on the assigns, successors or administrators of the respective parties.

In the event the City consents to subcontracting, the Contractor shall include in all subcontracts the following provision: "This Contract is a subcontract under the terms of a prime Contract with the City of Long Beach. All provisions of that prime Contract shall apply to this subcontract."

The Contractor and all subcontractors must obtain and maintain in effect a valid City of Long Beach Business License prior to commencement of work, and during the entire time that work is being performed under the Contract. All permits and licenses necessary to the performance of custodial services shall be secured by the Contractor at the Contractor's own expense. The Contractor shall pay all taxes properly assessed against any equipment or property used or required in connection with the performance of custodial services.

Contractor shall indemnify, defend, and hold harmless the City and its employees and agents from any and all liability arising or resulting from the employment of any subcontractors and their employees in the same manner as for Contractor's own employees.

INDEPENDENT CONTRACTOR

The Contract between City and Contractor is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association, as between the City and Contractor. The Contractor understands and agrees that all persons furnishing services to the City pursuant to this Contract are, for purposes of Workers' Compensation Liability, employees solely of Contractor and not of the City. The Contractor shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services provided to the City hereunder.

VALIDITY

The invalidity, unenforceable or illegality of any provision of the Contract shall not render the other provisions invalid, unenforceable, or illegal.

CONTRACT SPECIFICATIONS**CONFLICT OF INTEREST**

The Contractor represents and warrants that no City employee whose position in the City enables him/her to influence the award of the Contract or any competing Contract, and no spouse or economic dependent of such employee is or shall be employed in any capacity by the Contractor herein, or does or shall have any direct or indirect financial interest in this Contract.

NON-COLLUSION AFFICATION

The Contractor represents and warrants, that:

- a. The bid is not made in the interest of, or on behalf of, any undisclosed person or entity.
- b. The bid is genuine and not collusive or false.
- c. The Contractor has not, directly or indirectly
 - i. Induced or solicited any other contractor to submit a false bid;
 - ii. Colluded, conspired, or agreed with any contractor or anyone else to submit a false bid; or
 - iii. Induced anyone to refrain from bidding.
- d. The Contractor has not, directly or indirectly, sought by agreement, communication or conference with anyone to
 - i. Fix the bid price of the Contractor or any other bidder;
 - ii. Fix any overhead, profit or cost element of the bid price, or of that of any other contractor; or
 - iii. Secure any advantage against the public body awarding the Contract of anyone interested in the proposed Contract.
- e. All statements contained in the bid are true.
- f. The Contractor has not, directly or indirectly, submitted his or her bid or any breakdown thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any person or entity to effectuate a collusive or false bid.

CONTRACT SPECIFICATIONS**COMPLIANCE WITH LAWS**

The Contractor shall keep fully informed, and shall at all times observe and comply with all laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority that affect those employed hereunder, and Contractor's performance.

If any discrepancy or inconsistency in relation to any such law, ordinance, regulation, order or decree should be discovered in the Contract, or which may become effective before the expiration of the Contract, the Contractor shall report the same in writing to the City.

The Contractor shall perform all services described herein in compliance with all applicable Federal, State and local laws, rules, regulations and ordinances, including but not limited to, (i) the Americans With Disabilities Act (ADA) of 2090, (42 U.S.C. 12101, et seq.), and any regulations and guidelines issued pursuant to the ADA, which prohibits discrimination against individuals with disabilities and may require reasonable accommodations; and (ii) and California Labor Code Sections 1700-1775, which require prevailing wages (in accordance with DIR schedule at (www.dir.ca.gov) be paid to any employee performing work covered by Labor Code Section 1720 et seq. It shall be the sole obligation hereunder of Contractor to obtain any and all licenses, permits and/or clearances necessary and appropriate for performance of the work.

CONTRACT SPECIFICATIONS**RECORD RETENTION, INSPECTION AND AUDIT**

City, State and Federal representatives shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time card or other records relating to work hereunder. The Contractor shall retain such material, including all pertinent costs, accounting, financial records and proprietary data for a period of five (5) years after termination or expiration of the Contract.

The City shall have the right to conduct, at any reasonable time, an audit and re-audit of the books, records, and business conducted by the Contractor and observe the operation of the business so that accuracy of the above records and any of the Contractor's invoices for services provided can be confirmed. The City reserves the right to require the Contractor to provide additional reports and record-keeping processes as the City deems reasonable in order to verify the Contractor's services and invoices for same. All information obtained in connection with the City's inspections of records or audit shall be treated as confidential information and exempt from public disclosure thereof to the extent possible under the law.

If authorized representatives of the City conduct an audit of the Contractor regarding the services provided hereunder and if such audit finds that the City's liability for such services is less than the payments made by the City to the Contractor, then, at the City's discretion, either (a) the Contractor shall immediately repay to the City the overpayment, or (b) the City will give to the Contractor a credit against any future payments due to the Contractor. If such an audit finds that the City's liability for services provided hereunder is more than payments made by the City to the Contractor, then the City shall pay the difference to the Contractor provided that in no event shall the City's maximum obligation exceed the Contract price as originally bid or as stated in an amendment.

CONTRACT SPECIFICATIONS**WAIVER**

Any waiver by the City of any default of any one or more of the terms, covenants or conditions of the Contract shall not be construed to be a waiver of any subsequent or other default of the same or of any other term, covenant, or condition, nor shall failure on the part of the City to require exact and complete compliance with any of the terms, covenants, or conditions be construed as in any manner changing the terms of the Contract or stopping City from enforcing the full provisions thereof.

No delay, failure or omission of the City to exercise any right, power, privilege or option arising from any default, nor any subsequent payments made by the City thereafter shall impair any such right, power, privilege or option, or be construed as a waiver of or acquiescence in such default or as a relinquishment of any right.

No notice to Contractor shall be required to restore or revive "time is of the essence" after the waiver by the City of any default.

No option, right, power, remedy or privilege of the City shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given the City hereunder shall be cumulative.

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay timely performance that party shall, within five (5) days, give notice hereof including all relevant information with respect thereto, to the other party.

NON-INTERFERENCE

The Contractor shall not interfere with the public use of the sites and shall conduct its operations as to offer the least possible obstruction and inconvenience to City employees and the public or disruption to the peace and quiet of the area within which the custodial services are performed.

SIGNS AND ADVERTISING

The Contractor shall not post signs or advertising matter on City property without the prior written approval from the City.

CONTRACT SPECIFICATIONS

WORK AND WORKMANSHIP

The Contractor shall thoroughly complete each task in a professional, workmanlike manner, and shall use quality equipment and materials that comply with all current regulations. The safety of workers, passersby and the public shall be paramount.

The Contractor shall provide the labor, materials and equipment necessary for cleaning and maintenance services, except as otherwise specified hereinafter. Tasks shall be performed with nothing but the highest of standards at no less than the frequencies set forth herein.

The Contractor is hereby required to render and provide custodial services pursuant to the specifications and frequencies established by the City of Long Beach, as set forth herein or revised by the City. The specific frequencies per site are identified in the "Bid Section" and govern the Contractor's completion of required operations.

The Contractor shall designate or assign a representative(s) to act on behalf of the Contractor, if other than the Contractor himself, on all matters affecting work hereunder. Should this individual change, the City's representative(s) must be notified in writing within five (5) days after the change.

The Contractor recognizes that other activities and operations may be conducted by City work forces and other parties under contract with the City. The Contractor may be required to modify or curtail certain tasks and operations and shall promptly comply with any request therefore by the City.

The Contractor shall not work or perform any operations, particularly during periods of inclement weather, which may destroy or damage facilities or turf areas. During the periods when inclement weather hinders normal operations, the Contractor shall adjust its work force and schedule. The Contractor shall immediately notify the City when the work force has been removed from the job site due to inclement weather, or other reasons.

Under no circumstances shall a contracted employee bring children, spouses, relatives or friends to a City facility during contracted working hours.

CONSTRUCTION ACTIVITY & MAINTENANCE FUNCTIONS

In the event that construction activity prevents or limits the Contractor from performing certain maintenance operations, the City, at its discretion, may temporarily or permanently remove the affected areas, or maintenance functions, from the Contract and the Contract price shall be reduced pro rata. The City may also request the Contractor to modify maintenance operations, perform other maintenance operations, or perform additional frequencies of other maintenance operations, in lieu of reducing the Contractor's payment.

CONTRACT SPECIFICATIONS**INQUIRIES AND COMPLAINTS**

The Contractor shall maintain an office located within one (1) hour's response time from the facilities requiring maintenance services under this contract and shall maintain a telephone there, listed in the telephone directory in its own name or in the firm name by which it is most commonly known. During the daily hours of maintenance operation, the Contractor shall have a responsible person, who is proficient in English, employed to take the necessary action regarding all inquiries and complaints that may be received from the City. An answering service shall be considered an acceptable substitute to full-time coverage, provided that Contractor is advised of any complaint within one (1) hour after receipt of such complaint by the answering service.

During normal working hours, the Contractor's Foreman or an employee of the Contractor who is responsible for providing services shall be available for notification through electronic communications.

During normal days and hours of operation, whenever immediate action is required to prevent impending injury, death or property damage, the City may, after reasonable attempt to notify the Contractor, cause such action to be taken by the City work force and charge the cost thereof as determined by the City to the Contractor or may deduct such cost from an amount due to the Contractor from the City.

The Contractor shall maintain a written log of all complaints, the date and time thereof, and the action taken pursuant thereto or the reason for non-action. The log of complaints shall be open to the inspection of the City at all reasonable times.

All complaints shall be resolved as soon as possible after notification, but in all cases within twenty-four (24) hours, and to the satisfaction of the City representative(s). If any complaint is not resolved within this time, the City shall be notified immediately of the reason for not resolving the complaint, followed by a written report to the City within five (5) days. If the complaints are not resolved within the time specified or to the satisfaction of the City, the City may correct the specific complaint and the total cost incurred by the City will be deducted from the payments owing to the Contractor from the City.

ACCIDENT REPORTING

The Contractor shall immediately notify the designated City Representative(s) of any accident, regardless of whether or not injury or damage is evident, involving patrons and the Contractor's staff, vehicles, and/or equipment. The Contractor shall provide all written reports and/or documentation requested by the City.

CONTRACT SPECIFICATIONS**DAMAGE CAUSED BY CONTRACTOR**

The Contractor shall be responsible for ensuring that all reasonable precautions are taken to protect grounds, landscaping, ground fixtures, equipment, and electrical equipment and cables, and all other physical objects upon delivering, servicing, maintenance and removal of portable toilet units. Upon verification by the City's Representative(s) of causes and costs of damage, Contractor shall pay City for said damage.

All damage to components (i.e. appurtenances) caused by the Contractor, shall be corrected at the Contractor's sole expense.

If the Contractor, its employees or subcontractors cause damage to any City property, then the Contractor shall repair and/or replace such damage at its own cost within a reasonable time or the City may repair or cause the repair of such damage and the cost thereof shall be deducted from monies due to the Contractor from the City.

BLANKET PURCHASE ORDER (BPO) / AUTHORIZED PERSONNEL

A Blanket Purchase Order (BPO) will be sent to the Contractor by the City Purchasing Agent. City personnel authorized to make releases (purchase orders) against the BPO will be indicated on the BPO. Shipment shall be made against the BPO release number. Releases shall be allowed only if the appropriate BPO number is indicated on the BPO release issued by the using department. Contractor must reference the BPO release number and not the BPO number on all invoices.

METHOD OF BILLING

The Contractor shall submit an original invoice and two (2) copies to the City of Long Beach Accounts Payable and one (1) copy to each City Representative(s) of a facility or sections of facilities. Said invoice shall include all required certifications and reports as specified herein. Billing invoice shall include Purchase Order Number and department or bureau name. The City will not make the monthly payments until it has received and approved such invoices. Contractor shall mail monthly original invoices to:

**City of Long Beach, Accounts Payable
333 West Ocean Blvd., 6th floor
Long Beach, CA 90802**

BID SECTION

**RENTAL OF PORTABLE CHEMICAL TOILETS, CITY OF LONG BEACH, PA-00211
REVISED**

WE ARE PLEASED TO SUBMIT THIS BID IN ACCORDANCE WITH THE CITY OF LONG BEACH INVITATION TO BID, SPECIFICATIONS AND TERMS AND CONDITIONS TO FURNISH AND DELIVER THE FOLLOWING EQUIPMENT, MATERIAL, SUPPLIES OR SERVICES **FOB DESTINATION** CITY OF LONG BEACH.

SALES TAX

UNIT EXTENSION PRICES STATED HEREIN SHALL **NOT** INCLUDE SALES TAX.

SUMMARY OF BID ITEMS

Bidders are required to submit quotes on all bid items. Failure to comply with this requirement will be justification to declare the bid non-responsive.

The cost per service shall include all charges associated with the rental of portable toilets including, rental charges, service and maintenance charges, disposal, round trip transportation charges for delivery and pick-up, taxes, and fees.

SECTION NO. 1 – LONG TERM PORTABLE TOILET RENTALS					
<u>Item</u>	<u>Annual Service Visits</u>	<u>Bid Item Description</u>	<u>Location</u>	<u>Unit Price per Service Visit</u>	<u>Annual Amount</u>
1.	104	Standard Portable Toilet (QTY 1) Service Visit Per Week (QTY 2)	Houghton Park 6301 Myrtle Ave Long Beach, CA	\$ <u>845</u>	\$ <u>878.80</u>
2.	312	Standard Portable Toilet (QTY 2) ADA Portable Toilet (QTY 1) Service Visit Each Per Week (QTY 2)	Lincoln Park 200 W. Broadway Long Beach, CA	\$ <u>845</u>	\$ <u>2636.40</u>
3.	416	Standard Portable Toilet (QTY 3) ADA Portable Toilet (QTY 1) Service Visit Per Week (QTY 2)	Chittick Field 1900 Walnut Ave Long Beach, CA	\$ <u>845</u>	\$ <u>3515.20</u>
4.	208	Standard Portable Toilet (QTY 2) Service Visit Per Week (QTY 2)	Belmont Veterans Memorial Pier Ocean and 39th Long Beach, CA	\$ <u>845</u>	\$ <u>1757.60</u>

BID SECTION

5	208	Standard Portable Toilet (QTY 2) Service Visits Per Week (QTY 2)	Volleyball Court – Granada Beach One Granada Ave Long Beach, CA	\$ <u>8⁴⁵</u>	\$ <u>1757⁶⁰</u>
6	208	Standard Portable Toilet (QTY 2) Service Visits Per Week (QTY 2)	DeForest Park 6255 DeForest Ave Long Beach, CA	\$ <u>8⁴⁵</u>	\$ <u>1757⁶⁰</u>
			Section 1 Total Amount		\$ <u>12308²⁰</u>

SECTION NO. 2 – SHORT TERM PORTABLE TOILET RENTALS					
Item	# of Service Visits	Bid Item Description	Location	Unit Price per Service Visit	Unit Price per Toilet/Hand Wash Station
5.	1*	Standard Portable Toilet	Event Rental (7-days or fewer, various locations)	\$ <u>38⁰⁰</u>	\$ <u>36⁵⁰</u> EACH
6.	1*	ADA Portable Toilet	Event Rental (7-days or fewer, various locations)	\$ <u>69⁰⁰</u>	\$ <u>52⁰⁰</u> EACH
7.	1*	Hand Wash Station	Event Rental (7-days or fewer, various locations)	\$ <u>35⁰⁰</u>	\$ <u>35</u>
			Section 2 Total Amount	\$ <u>142⁰⁰</u>	\$ <u>123⁵⁰</u>

* Estimated Quantities for Purposes of Bid Evaluation

SECTION NO. 3 – MISCELLANEOUS SERVICES				
Item	# of Service Visits	Bid Item Description	Location	Unit Price per Service Visit
8.	1*	Additional Service Visit For Portable Toilets Monday – Saturday, 7:00 am to 4:00 pm	All	\$ <u>8⁴⁵</u>
9.	1*	Additional Service Visit for Portable Toilets Evenings, Sundays, Holidays	All	\$ <u>9⁷⁵</u>
10.	1*	Emergency Service Visit for Portable Toilets Monday – Saturday, 7:00 am to 4:00 pm 2-hour response time	All	\$ <u>49⁰⁰</u>
11.	1*	Emergency Service Visit for Portable Toilets Monday – Saturday, 7:00 am to 4:00 pm 4-hour response time	All	\$ <u>49⁰⁰</u>
12.	1*	Emergency Service Visit for Portable Toilets Evenings, Sundays, Holidays 2-hour response time	All	\$ <u>125⁰⁰</u>
13.	1*	Emergency Service Visit for Portable Toilets Evenings, Sundays, Holidays 4-hour response time	All	\$ <u>125⁰⁰</u>

BID SECTION

14.	1*	After hours service (overtime) 4:00 pm to 7:00 am	All	\$ <u>129⁰⁰</u>
15.	1*	Cost for staking portable toilet to the ground (performed as needed)	Various	\$ <u>19⁵⁰</u>
16.	1*	Cost for chaining portable toilet to a tree or post (performed as needed)	Various	\$ <u>29⁵⁰</u>
17.	1*	Cost for standard unit secured to trailer (per unit)	Various	\$ <u>45⁰⁰</u>
18.	1*	Pumping service for City-owned units for any day or time (standard unit)	All	\$ <u>8⁴⁵</u>
Section 3 Total Amount				\$ <u>597.⁶⁵</u>

* Estimated Quantities for Purposes of Bid Evaluation

PAYMENT TERMS

In compliance with the above, the undersigned offers and agrees, if this Bid is accepted, to furnish any or all of the items upon which prices are offered at the price set opposite each item, delivered at the designated point(s) within the time specified in the Schedule. Discounts will be allowed for prompt payment as follows:

_____ Percent, 30 calendar days.

Name and Address of Bidder: <u>DIAMOND ENVIRONMENTAL SVC</u>	Signature of Person Authorized to Sign: 
Phone No. <u>760-744-7191</u>	
Date of Bid: <u>11-11-2010</u>	Please Type Signer's Name & Title: <u>ERIC DE JONG - OWNER</u>

BID ITEM(S) AVAILABLE FOR OTHER AGENCY "PIGGY-BACK" PROCUREMENT: ___ YES ___ NO

NOTE: Prospective sellers are referred to GENERAL CONDITIONS for terms and conditions of Inter-Agency Participation.

11/12/10

Bid PA-00211 City of Long Beach

Section No 1	Annual Svc Visits	Unit Price per Svc Visit	Annual Amount
1	104	\$8.45	\$878.80
2	312	\$8.45	\$2,636.40
3	416	\$8.45	\$3,515.20
4	208	\$8.45	\$1,757.60
5	208	\$8.45	\$1,757.60
6	208	\$8.45	\$1,757.60

Section No 1 Total Amount

\$12,303.20

Section No 2	Annual Svc Visits	Unit Price per Svc Visit	Annual Amount
5	1	\$38.00	\$38.00
6	1	\$69.00	\$69.00
7	1	\$35.00	\$35.00

Section No 2 Total Amount

\$142.00

Section No 3	Annual Svc Visits	Unit Price per Svc Visit	Annual Amount
8	1	\$8.45	\$8.45
9	1	\$9.75	\$9.75
10	1	\$49.00	\$49.00
11	1	\$49.00	\$49.00
12	1	\$125.00	\$125.00
13	1	\$125.00	\$125.00
14	1	\$129.00	\$129.00
15	1	\$19.50	\$19.50
16	1	\$29.50	\$29.50
17	1	\$45.00	\$45.00
18	1	\$8.45	\$8.45

Section No 3 Total Amount

\$97.65

2



Toll Free 888-744-7191

Se Habla Español



- Home
- Company
- About Us
- Mission Statement
- All Products & Services
- The Tissue Newsletter
- Construction
- Special Events
- Movie & Film Co.'s
- en Español
- Dumpsters/Storage
- Temporary Fence
- Temporary Power
- Pumping Services
- Emergency Services
- Areas We Service
- Just For Fun
- Facts and Info
- Request A Quote
- Pay Your Bill Online
- Contact Us

About Us

The de Jong name, synonymous with the waste industry, has long been associated with hard work, ethics, fairness and loyalty. Ask anyone and they will tell you that Eric de Jong, owner of Diamond Environmental Services is an honest, hardworking ethical family man of great character.

Eric's father, Arie de Jong, knows first hand that hard work builds character. His own hard work turned Coast Waste Management, a company he picked up at auction, into a well established refuse removal company. Raised with the same beliefs and following in his father's footsteps Eric has built a medium sized highly respected empire.

December 2007 marked Diamond's 10th Anniversary, a major milestone that allows Eric and Operations Manager, Warren Van Dam, to lean back in their chairs and reflect on the challenges they faced to bring Diamond to where it is today.

With fondness Arie de Jong, Eric's father, recalls the day he sold Coast Waste. "Eric had only worked for me you know, and I thought he should experience the corporate structure, so I encouraged him to stay on at Coast with the new owners." Smiling he adds, "Eric only stayed with them for three months. He's always been a people person and he suddenly found himself in meeting after meeting and with no time for sales or customers. It bothered him that customers weren't taken care of the way we had always taken care of them. Eric has always been a people person."

Eric along with Operations Manager Warren Van Dam knew from day one that they would be the best portable restroom rental company in Southern California. Both Eric and Warren worked long hard days to establish Diamond as a reputable company. The company of choice, Diamond started out a two truck, one route operation with Eric filling the role as the company's only sales rep and Warren driving the route truck.

Both are proud of Diamond's facility, staff and reputation, referred to by others in the industry as "the cleanest restroom facility in the country."

Eric's dedication to customer service and Dutch clean continues. "I have never felt that customers are just accounts..." he says before adding, "Every customer we have the honor of serving is one of many critical and important clients that are the very foundation of Diamond, its history, and its future."



Eric de Jong & Warren Van Dam

Simplicity ♦ Reliability ♦ Personal Attention

~ Southern California's Premier Provider ~

Portable Toilets ♦ Hand Wash Stations ♦ Temp Fence ♦ Dumpsters ♦ Storage Containers
Pumping Services ♦ Restroom Trailers ♦ Shower Trailers ♦ Barricades ♦ Disaster & Emergency Services

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[SiteMap](#)

General business statement

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 Section 1. Chapter 2.73 is added to the Long Beach Municipal Code to
2 read as follows:

3 Chapter 2.73

4 EQUAL BENEFITS TO EMPLOYEES OF CITY CONTRACTORS

5
6 2.73.010 Title and purpose.

7 This ordinance shall be known as the "Long Beach Equal Benefits
8 Ordinance". The purpose of this Chapter is to protect the public health,
9 safety and welfare by requiring that public funds be expended in such a
10 manner as to prohibit discrimination in the provision of employee benefits by
11 City contractors between employees with spouses and employees with
12 domestic partners, and/or between domestic partners and spouses of such
13 employees.

14
15 2.73.020 Definitions.

16 A. "Contractor" shall mean any person or persons, firm,
17 partnership, corporation, or combination thereof, who enters into a contract
18 with the City.

19 B. "Domestic partner" shall mean any person who has a currently
20 registered domestic partnership with a governmental body pursuant to state
21 or local law authorizing such registration or with his or her employer or his or
22 her domestic partner's employer.

23 C. "Non-profit" shall mean a non-profit organization described in
24 Section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt
25 from taxation under Section 501(c)(3) of that Code, or any nonprofit
26 educational organization qualified under Section 23701(d) of the Revenue
27 and Taxation Code.

28 ///

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- 1 2.73.030 Contractors subject to requirements.
- 2 A. The following contractors are subject to this Chapter:
- 3 1. For-profit entities which enter into an agreement with
- 4 the City for public works or improvements to be performed, or for goods or
- 5 services to be purchased, for an amount of One Hundred Thousand Dollars
- 6 (\$100,000) or more; and
- 7 2. For-profit entities which generate Three Hundred Fifty
- 8 Thousand Dollars (\$350,000) or more in annual gross receipts and which
- 9 occupy City property pursuant to a written agreement for the exclusive use
- 10 or occupancy of said property for a term exceeding twenty-nine (29) days in
- 11 any calendar year.
- 12 B. The requirements of this Chapter shall only apply to those
- 13 portions of a contractor's operations that occur (i) within the City; (ii) on real
- 14 property outside the City if the property is owned by the City or if the City
- 15 has a right to occupy the property, and if the contractor's presence at that
- 16 location is connected to a contract with the City; and (iii) elsewhere in the
- 17 United States where work related to a City contract is being performed. The
- 18 requirements of this Chapter shall not apply to subcontracts or
- 19 subcontractors of any contract or contractor.
- 20 C. The City Manager or designee will provide a report to the City
- 21 Council regarding the implementation of this ordinance no later than one
- 22 year following the effective date of this Ordinance, and will consider among
- 23 other items, whether the dollar thresholds set forth in subsections (A) and
- 24 (B) should be modified.
- 25
- 26 2.73.040 Non-discrimination in provision of benefits.
- 27 A. No contractor subject to this Chapter pursuant to Section
- 28 2.73.030 shall discriminate in the provision of bereavement leave, family

1 medical leave, health benefits, membership or membership discounts,
2 moving expenses, pensions and retirement benefits or travel benefits or in
3 the provision of any benefits other than bereavement leave, family medical
4 leave, health benefits, membership or membership discounts, moving
5 expenses, pensions and retirement benefits or travel benefits between
6 employees with domestic partners and employees with spouses, and/or
7 between the domestic partners and spouses of such employees except as
8 set forth in Subsections 2.73.040.A.1 and 2 below;

9 1. In the event that the contractor's actual cost of
10 providing a particular benefit for the domestic partner of an employee
11 exceeds that of providing it for the spouse of an employee, or the
12 contractor's actual cost of providing a particular benefit for the spouse of an
13 employee exceeds that of providing it for the domestic partner of an
14 employee, the contractor shall not be deemed to discriminate in the
15 provision of employee benefits if the contractor conditions providing such
16 benefit upon the employee agreeing to pay the excess costs.

17 2. The contractor shall not be deemed to discriminate in
18 the provision of employee benefits if, despite taking reasonable measure to
19 do so, the contractor is unable to extend a particular employee benefit to
20 domestic partners, so long as the contractor provides the employee with a
21 cash equivalent.

22 B. Provided that a contractor does not discriminate in the
23 provision of benefits between employees with spouses and employees with
24 domestic partners, a contractor may:

25 1. Elect to provide benefits to individuals in addition to
26 employees' spouses and employees' domestic partners;

27 2. Allow each employee to designate a legally domiciled
28 member of the employee's household as being eligible for spousal

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equivalent benefits; or

3. Provide benefits neither to employees' spouses nor to employees' domestic partners.

C. A contractor will not be deemed to be discriminating in the provision of benefits where the implementation of policies ending discrimination in benefits is delayed following the first award of a City contract to a contractor after the effective date of this Chapter:

1. Until the first effective date after the first open enrollment process following the date the contract with the City is executed, provided that the contractor submits evidence that it is making reasonable efforts to end discrimination in benefits. This delay may not exceed two (2) years from the date the contract with the City is executed and only applies to benefits for which an open enrollment process is applicable.

2. Until administrative steps can be taken to incorporate nondiscrimination in benefits in the contractor's infrastructure. The timer allotted for these administrative steps shall apply only to those benefits for which administrative steps are necessary and may not exceed three (3) months. An extension of this time may be granted at the discretion of the City Manager upon the written request of a contractor, setting forth the reasons that additional time is required.

3. Until the expiration of a contractor's current collective bargaining agreement(s) where all of the following conditions have been met:

a. The provision of benefits is governed by one or more collective bargaining agreement(s); and

b. The contractor takes all reasonable measures to end discrimination in benefits by either requesting that the union(s) involved agree to reopen the agreement(s) in order for the contractor to take

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1 whatever steps are necessary to end discrimination in benefits or by ending
2 discrimination in benefits without reopening the collective bargaining
3 agreement(s); and

4 c. In the event that the contractor cannot end
5 discrimination in benefits despite taking all reasonable measure to do so,
6 the contractor provides a cash equivalent to eligible employees for whom
7 benefits are not available. Unless otherwise authorized, in writing by the
8 City Manager, this cash equivalent payment must begin at the time the
9 union(s) refuse to allow the collective bargaining agreement(s) to be
10 reopened, or in any case no longer than three (3) months from the date the
11 contract with the City was executed. This cash equivalent payment shall not
12 be required where it is prohibited by federal labor law.

13 D. Employers subject to this Chapter pursuant to Section
14 2.73.030 shall give written notification to each current and new employee of
15 his or her potential rights under this Chapter in a form specified by the City.
16 Such notice shall also be posted prominently in areas where it may be seen
17 by all employees.

18
19 2.73.050 Required contract provisions.

20 Every contract subject to this Chapter shall contain provisions
21 requiring it to comply with the provisions of this Chapter as they exist on the
22 date when the contractor entered the contract with the City or when such
23 contract is amended. Such contract provisions may include but need not be
24 limited to the contractor's duty to promptly provide to the City documents
25 and information verifying its compliance with the requirements of this
26 Chapter and sanctions for noncompliance.

27 ///

28 ///

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- 1 **2.73.060 Waivers and exemptions.**
- 2 **A. The City may waive the requirements of this Chapter where**
- 3 **the City Manager makes one or more of the following findings:**
- 4 1. **Award of a contract or amendment is necessary to**
- 5 **respond to an emergency;**
- 6 2. **The contractor is a sole source;**
- 7 3. **The contractor is a non-profit entity as defined in**
- 8 **Section 2.73.020, above;**
- 9 4. **Non compliant contractors are capable of providing**
- 10 **goods or services that respond to the City's requirements;**
- 11 5. **The contractor is a public entity;**
- 12 6. **The requirements of this Chapter are inconsistent with**
- 13 **a grant, subvention or agreement with a public agency;**
- 14 7. **The City is purchasing through a cooperative or joint**
- 15 **purchasing agreement;**
- 16 8. **The contract involves specialized legal services such**
- 17 **that it would be in the best interests of the City to waive the requirements of**
- 18 **this Chapter, as determined by the City Attorney;**
- 19 9. **The contract involves investment of trust moneys or**
- 20 **agreements relating to the management of trust assets, City moneys**
- 21 **invested in U.S. government securities or under pre-existing investment**
- 22 **agreements, or the investment of City moneys where no person, entity or**
- 23 **financial institution doing business with the City which is in compliance with**
- 24 **this Chapter is capable of performing the desired transactions or the City will**
- 25 **incur financial loss if the requirements of this Chapter are enforced;**
- 26 10. **After taking all reasonable measures to find an entity**
- 27 **that complies with this Chapter, the City may waive any or all requirements**
- 28 **of this Chapter for any contract or bid package advertised and made**

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1 available to the public, or any competitive or sealed bids received by the
2 City as of the effective date of this Chapter under the following
3 circumstances:

4 a. There are no qualified responsive bidders or
5 prospective contractors who comply with this Chapter and the contract is for
6 goods, a service or a project that is essential to the City or City residents; or

7 b. The requirements of this Chapter would result in
8 the City's entering into a contract with an entity that was set up, or is being
9 used for the purpose of evading the intent of this Chapter.

10 B. The requirements of this Chapter shall not be applicable to
11 contracts executed or amended prior to the effective date of this Chapter, or
12 to bid packages advertised and made available to the public, or any
13 competitive or sealed bids received by the City prior to the effective date of
14 this Chapter, unless and until such contracts are amended after the effective
15 date of this Chapter and would otherwise be subject to this Chapter.

16 C. The City Manager or designee may issue regulations from
17 time to time implementing the provisions of this ordinance.

18 D. The City Manager shall report to the City Council annually on
19 the status of waivers and exemptions.

20
21 2.73.070 Retaliation and discrimination prohibited.

22 A. No employer shall retaliate or discriminate against an
23 employee in his or her terms and conditions of employment by reason of the
24 person's status as an employee protected by the requirements of this
25 Chapter.

26 B. No employer shall retaliate or discriminate against a person in
27 his or her terms and conditions of employment by reason of the person
28 reporting a violation of this Chapter or for prosecuting an action for

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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enforcement of this Chapter.

2.73.080 Employee complaints to City.

A. An employee who alleges violation of any provision of the requirements of this Chapter may report such acts to the City. The City Manager may establish a procedure for receiving and investigating such complaints and take appropriate enforcement action.

B. The City shall have the power to examine contractors' benefit programs covered by this Chapter.

C. Any complaints received shall be treated as confidential matters, to the extent permitted by law. Any complaints received and all investigation documents related thereto shall be deemed exempt from disclosure pursuant to California Government Code Sections 6254 and 6255.

2.73.090 Remedies.

A. Upon a finding by the City Manager that a contractor has violated the requirements of this Chapter, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided at law or in equity.

1. The City Manager shall be authorized to terminate said contract and bar the contractor from bidding on future contracts with the City for three (3) years from the effective date of the contract termination.

2. In the City Manager's sole discretion, a contractor found to have willfully violated the requirements of this Chapter may be required to pay liquidated damages.

3. The City may seek recovery of reasonable attorneys' fees and costs necessary for enforcement of this Chapter.

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B. Notwithstanding any provision of this Chapter or any other Chapter to the contrary, no criminal penalties shall attach for any violation of this Chapter.

C. No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a cause of action to enforce any rights hereunder in a court of law. This Chapter shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

D. Nothing in this Chapter shall be interpreted to authorize a right of action against the City.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of December 8, 2009, by the following vote:

Ayes: Councilmembers: Garcia, Lowenthal, DeLong,
O'Donnell, Schipske, Andrews,
Reyes Uranga, Gabelich, Lerch.


Noes: Councilmembers: None.

Absent: Councilmembers: None.



City Clerk

Approved: 12/11/09
(Date)



Mayor

ATTACHMENT "2"

EQUAL BENEFITS ORDINANCE DISCLOSURE

As a condition of being awarded a contract with the City of Long Beach ("City"), the selected Contractor/Vendor ("Contractor") may be required during the performance of the Contract, to comply with the City's nondiscrimination provisions of the Equal Benefits Ordinance ("EBO") set forth in the Long Beach Municipal Code section 2.73 et seq. The EBO requires that during the performance of the contract, the Contractor shall provide equal benefits to its employees with spouses and employees with domestic partners. Benefits include but are not limited to, health benefits, bereavement leave, family medical leave, membership and membership discounts, moving expenses, retirement benefits and travel benefits. A cash equivalent payment is permitted if an employer has made all reasonable efforts to provide domestic partners with access to benefits but is unable to do so. A situation in which a cash equivalent payment might be used if where the employer has difficulty finding an insurance provider that is willing to provide domestic partner benefits.

The EBO is applicable to the following employers:

- For-profit employers that have a contract with the City for the purchase of goods, services, public works or improvements and other construction projects in the amount of \$100,000 or more
- For-profit entities that generate \$350,000 or more in annual gross receipts leasing City property pursuant to a written agreement for a term exceeding 29 days in any calendar year

Contractors who are subject to the EBO must certify to the City before execution of the contract that they are in compliance with the EBO by completing the EBO Certification Form, attached, or that they have been issued a waiver by the City. Contractors must also allow authorized City representatives access to records so the City can verify compliance with the EBO.

The EBO includes provisions that address difficulties associated with implementing procedures to comply with the EBO. Contractors can delay implementation of procedures to comply with the EBO in the following circumstances:

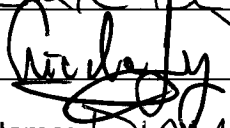
- 1) By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or
- 2) At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or
- 3) Upon expiration of the contractor's current collective bargaining agreement(s).

Compliance with the EBO

If a contractor has not received a waiver from complying with the EBO and the timeframe within which it can delay implementation has expired but it has failed to comply with the EBO, the Contractor may be deemed to be in material breach of the Contract. In the event of a material breach, the City may cancel, terminate or suspend the City agreement, in whole or in part. The City also may deem the Contractor an irresponsible bidder and disqualify the Contractor from contracting with the City for a period of three years. In addition, the City may assess liquidated damages against the Contractor which may be deducted from money otherwise due the Contractor. The City may also pursue any other remedies available at law or in equity.

By my signature below, I acknowledge that the Contractor understands that to the extent it is subject to the provisions of the Long Beach Municipal Code section 2.73, the Contractor shall comply with this provision.


Printed Name: ERIC DE JONG Title: OWNER

Signature:  Date: 11/12/10

Business Entity Name: DIAMOND ENVIRONMENTAL
SERVICES LP

EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE

Section 1. CONTRACTOR/VENDOR INFORMATION

Name: DIAMOND ENVIRONMENTAL Federal Tax ID No. 
Address: 807 E. MISSION RD
City: SAN MARCOS State: CA ZIP: 92069
Contact Person: BELEN GARCIA Telephone: 888-744-7191
Email: 760-290-3303 Fax: 760-290-3303

Section 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this Contract because the Contractor/Vendor has no employees. ___ Yes No
- B. Does your company provide (or make available at the employees' expense) any employee benefits? Yes ___ No
(If "yes," proceed to Question C. If "no," proceed to section 5, as the EBO does not apply to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee?
 Yes ___ No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee?
 Yes ___ No (If you answered "no" to both questions C and D, proceed to section 5, as the EBO is not applicable to this contract. If you answered "yes" to both Questions C and D, please continue to Question E. If you answered "yes" to Question C and "no" to Question D, please continue to section 3.)
- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of an employee?
 Yes ___ No
(If "yes," proceed to section 4, as you are in compliance with the EBO. If "no," continue to section 3.)

Section 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:

_____ By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor/vendor submits evidence of taking reasonable measures to comply with the EBO; or

_____ At such time that the administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three months; or

_____ Upon expiration of the contractor's current collective bargaining agreement(s).

- B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent? (The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.)

___ Yes ___ No

Section 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statement, etc.) to verify that you do not discriminate in the provision of benefits.

Section 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Long Beach Municipal Code and in the terms of the contract of purchase order with the City.

Executed this 12 day of NOV, 2010, at 12:00 pm

Name [Signature]

Signature [Signature]

Title owner

Federal Tax ID No. [Redacted]



City of Long Beach

Department of Financial Management
Division of Procurement
333 W Ocean Blvd. 7th floor, Long Beach, California 90802
562.570.6164

October 28, 2010

NOTICE TO BIDDERS

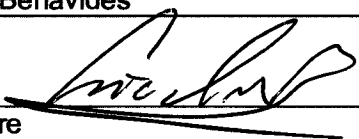
ADDENDUM NO. 1
BID NO. PA-00211
RENTAL OF PORTABLE CHEMICAL TOILETS

Please acknowledge receipt of this addendum by signing and returning with your bid.

This addendum is issued to advise all prospective bidders that the bid due date has been extended to **Tuesday, November 16, 2010, at 11:00 am**. An addendum no. 2 is forthcoming which will include a revised bid section.

If you have any questions regarding this addendum please submit to Regina.Benavides@longbeach.gov

Prepared By: Regina Benavides Date: October 28, 2010
Buyer

Acknowledged By:  Date: 11/10/12
Signature

Eric de Jure
Print Name

owner
Title

Diamond Environmental Services LLC
Company Name



City of Long Beach

Department of Financial Management
Division of Procurement
333 W Ocean Blvd. 7th floor, Long Beach, California 90802
562.570.6164

November 4, 2010

NOTICE TO BIDDERS

ADDENDUM NO. 2
BID NO. PA-00211
RENTAL OF PORTABLE CHEMICAL TOILETS

Please acknowledge receipt of this addendum by signing and returning with your bid.

This addendum includes a revised Bid Section. The following changes have been made to Section 2 on Page 32 –

- The number of estimated service visits has been updated
- The pricing columns have been revised.

Please complete the attached version of the bid section and submit with your bid.

If you have any questions regarding this addendum please submit to Regina.Benavides@longbeach.gov

Prepared By: Regina Benavides Date: November 4, 2010
Buyer

Acknowledged By: [Signature] Date: 11/12/10
Signature

ERIC DE JONG
Print Name

Owner
Title

DIAMOND ENVIRONMENTAL SERVICES LP
Company Name