

COUNTY GOVERNMENT OF BOMET



PROCUREMENT OF: WORKS FOR EXTENSION OF BOMET TOWN SEWER LINES-BOMET MUNICIPALITY

Tender No: CGB/DLHUD/004/2018/19

KENYA URBAN SUPPORT PROGRAM (KUSP)

Closing Date: 28th December 2018

BIDDING DOCUMENTS

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BIDDING DOCUMENTS

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ABBREVIATIONS AND ACRONYMS

CDS	Contract Data Sheet
GCC	General Conditions of Contract
IFT	Invitation for Tender
ITT	Instruction to Tenderers
PE	Procuring Entity
PM	Project Manager
IRA	Insurance Regulatory Authority
PPADA 2015	Public Procurement Asset Disposal Act, 2015
PPDR 2006	Public Procurement and Disposal Regulations, 2006
PPRA	Public Procurement Regulatory Authority
STD	Standard Tender Documents
SOR	Statement of Requirements
SP	Service Provider
TDS	Tender Data Sheet
VAT	Value Added Tax

INVITATION FOR BIDS (IFB)

TENDER No.: CGB/DLHUD/004/2018/19

TENDER NAME: PROCUREMENT OF WORKS FOR EXTENSION OF BOMET TOWN EWER LINES-BOMET MUNICIPALITY

- 1) County Government of Bomet invites sealed bids from eligible and qualified bidders for Works for construction of storm water drains within Bomet Town.

The Scope of works to be undertaken include:

- i). Laying of sewer lines of various diameters within the sewerage network
 - ii). Construction of Manholes and other appurtenances
- 2) Interested bidders who would like to visit and inspect the site are requested to contact the client on week days, under the working hours.
 - 3) The maximum estimated period for completion of works is Six (6) months from signing of Contract.
 - 4) A complete set of tender documents may be obtained by interested bidders by downloading from www.bomet.go.ke free of charge.
 - 5) Qualification requirements include:
 - a) Bidders must be currently registered by the National Construction Authority in category NCA 6 and above,
 - b) Financial capacity evidenced from 3 years audited financial statements and Bid security
 - c) qualification and experience of key personnel proposed for administration and execution of the contract,
 - d) work performed as prime contractor on works of similar nature and volume over the last five years,
 - e) Major items of contractor's equipment proposed for carrying out the works,
 - f) Constitution or legal status, place of registration, location of business and power of attorney of signatory of Bid.
 - 6) Prices quoted should be net inclusive of all taxes, and delivery costs, must be in Kenya Shillings and shall remain valid for (90) days from the closing date of the tender.
 - 7) Bidding will be selected in accordance with the procedures set out in the Public Procurement and Disposal Act 2005 and subsequent Regulations, 2006.

- 8) Interested eligible bidders may obtain Tender Documents with detailed Specifications from Bomet County Website www.bomet.go.ke.
- 9) Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and name and must be delivered to the address below at or before **1100 hours** local time on **28th December 2018**. Electronic bidding shall not be permitted. All bids must be accompanied by a bid security of **2%** of bid price in Kenya shillings in form of a bank guarantee issued by a reputable bank located in Kenya. Late bids will be rejected. Bids will be opened physically in the presence of the bidders' representatives who choose to attend in person at Procurement Offices, Bomet town, at the address below at **100 hours** local time on **28th December 2018**.

SECTION II: INSTRUCTIONS TO TENDERERS (ITT)

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A. Introduction

1. Scope of Tender

- 1.1 The Procuring Entity indicated in the Tender Data Sheet (TDS) invites Tenders for the construction of works as specified in the Tender Data Sheet and Sections VI (Technical Specifications) and VII (Drawings).
- 1.2 The successful Tenderer will be expected to complete the works by the required completion date specified in the Tender Data Sheet.
- 1.3 The objectives of the works are listed in the Tender Data Sheet. These are mandatory requirements. Any subsequent detail is offered to support these objectives and must not be used to dilute their importance.

2. Source of Funds

- 2.1 The county government of Bomet through the Department of Lands, Housing & Urban Planning has received a conditional grant from World Bank under Kenya urban support program and now intend to use the grant from the Word Bank towards the cost of implementing extension of Bomet sewer as recorded in the Tender Data Sheet.
- 2.2 Payments will be made directly to Bomet Municipality by the word bank in the Tender Data Sheet upon request of the Bomet Municipality to pay and will be subject in all respects to the terms and conditions of the resulting contract placed by the Municipal of Bomet.

3. Eligible Tenderers

- 3.1 A Tenderer may be a natural person, private or public company, government-owned institution, subject to subClause 3.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the Tender Data Sheet, all parties shall be jointly and severally liable.
- 3.2 The Invitation for Tenders is open to all suppliers as defined in the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006 except as provided hereinafter.
 - a. Preference will be given to local tenderers with relevant qualification provided the meet required criterial for selection
- 3.3 National Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya, such as the Ministry of Public Works and Ministry of Water and Sanitation.

3.4 A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:

- a. Are associated or have been associated in the past directly or indirectly with employees or agents of the Procuring Entity or a member of a board or committee of the Procuring Entity;
- b. Are associated or have been associated in the past, directly or indirectly with a firm or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications and other documents to be used for the procurement of the works under this Invitation for Tenders;
- c. Have controlling shareholders in common the company that provided the service mention here above
- d. Receive or have received any direct or indirect subsidy from any of them; or
- e. Have the same legal representative for purposes of this Tender; or
- f. Have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
- g. Submit more than one Tender in this Tendering process, However, this does not limit the participation of subcontractors in more than one Tender, or as Tenderer and subcontractor simultaneously.

3.4 A Tenderer will be considered to have a conflict of interest if they participated as a consultant in the preparation of the design or technical specification of the project and related services that are the subject of the Tender.

3.5 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Kenya in accordance with GCC sub-Clause 3.2 Government owned enterprises in Kenya may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependent agency of the Government.

3.6 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

4. One Tender per Tenderer

4.1 A firm shall submit only one Tender, in the same Tendering process, either individually as a Tenderer or as a partner in a joint venture pursuant to ITT Clause 5

4.2 No firm can be a subcontractor while submitting a Tender individually or as a partner of a joint venture in the same Tendering process.

4.3 A firm, if acting in the capacity of subcontractor in any Tender, may participate in more than one Tender but only in that capacity.

4.4 A Tenderer who submits or participates in more than one Tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the Tenders in which the Tenderer has participated to be disqualified.

5. Alternative Tenders by Tenderers

5.1 Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic Tenderer's technical design as indicated in the specifications and Drawings and Bill of Quantities. Alternatives will not be considered, unless specifically allowed for in the Tender Data Sheet. If so allowed, sub-Clause 5.2 and 5.3 shall govern.

5.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the Tender Data Sheet as will the method of evaluating different times for completion.

5.3 If so, allowed in the Tender Data Sheet, Tenderers wishing to offer technical alternatives to the requirements of the Tendering documents must also submit a Tender that complies with the requirements of the Tendering documents, including the basic technical design as indicated in the specifications. In addition to submitting the basic Tender, the Tenderer shall provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including technical specifications, breakdown of prices, and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Procuring Entity.

**6. Cost of Tendering
7. Site Visit and Pre-Tender Meeting**

6.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process

7.1 The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.

7.2 The Procuring shall conduct a site visit and a pre-Tender meeting. The purpose of the pre-Tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

7.3 The Tenderer's designated representative is invited to attend a site visit and pre-Tender meeting which shall take place at the venue and time stipulated in the Tender Data Sheet.

7.4 The Tenderer is requested as far as possible, to submit any questions in writing or by electronic means to reach the procuring Entity before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions, but questions and responses will be transmitted in accordance with sub-Clause 7.5.

7.5 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within the time stated in the Tender Data Sheet to all purchasers of the Tendering documents. Any modification of the Tendering documents listed in sub-Clause 8.1 that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT sub Clause 10.2 and not through the minutes of the pre-Tender meeting.

7.6 Nonattendance during the site visit or pre-Tender meeting will not be a cause for disqualification of a Tenderer unless specified to the contrary in the Tender Data Sheet.

B. Tendering Documents

8. Content of Tendering Documents

8.1 The works required, Tendering procedures, and contract terms are prescribed in the Tendering Documents. In addition to the Section I Invitation for Tenders, Tendering documents which should be read in conjunction with any addenda issued in accordance with ITT sub Clause 10.2 include:

Section II	Instructions to Tenderers
Section III	Tender Data Sheet

Section IV	General Conditions of Contract
Section V	Contract Data Sheet
Section VI	Specifications
Section VII	Drawings
Section VIII	Bill of Quantities
Section IX	Forms of Tender
	•Form of Tender
	•Appendix to Tender
	•Confidential Business Questionnaire
	•Integrity Declaration
	•Letter of Acceptance
	•Form of Contract Agreement
Section X	Forms of Security
	•Tender Security Form
	•Tender Securing Declaration
	•Performance Bank or Insurance Guarantee
	•Advance Payment Guarantee
Section XI	Form RB 1 Application to Public Procurement Administrative Review Board

8.2 The number of copies to be completed and returned with the Tender is specified in the Tender Data Sheet.

8.3 The Invitation for Tenders (Section I) issued by the Procuring Entity is not part of the Tendering Documents and is included for reference purposes only. In case of discrepancies between the Invitation for Tenders and the Tendering Documents listed in sub-Clause 8.1 above, the said Tendering Documents will take precedence.

8.4 The Procuring Entity is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly

from the authorized staff of the Procuring Entity.

8.5 The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tendering documents. Failure to furnish all information required by the Tendering Documents or to submit a Tender substantially responsive to the Tendering documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

9. Clarification of Tendering Documents

9.1 A prospective Tenderer requiring any clarification of the Tendering documents may notify the Procuring Entity in writing, e-mail or facsimile at the Procuring Entity's address indicated in the Tender Data Sheet.

9.2 The Procuring Entity will within the period stated in the Tender Data Sheet respond in writing to any request for clarification provided that such request is received no later than the period indicated in the Tender Data Sheet prior to the deadline for the submission of Tenders prescribed in sub-Clause 22.1.

9.3 Copies of the procuring entity's response will be forwarded to all Purchasers of the Tendering documents, including a description of the inquiry, but without identifying its source.

9.4 Should the Procuring Entity deem it necessary to amend the Tendering documents as a result of a clarification, it shall do so following the procedure under ITT Clause 10.

10. Amendments of the Tendering Documents

10.1 Before the deadline for submission of Tenders, the Procuring Entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, modify the Tendering documents by issuing addenda.

10.2 Any addendum issued shall be part of the Tender documents pursuant to sub-Clause 8.1 and shall be communicated in writing, by e-mail or facsimile to all who have obtained the Tendering documents directly from the Procuring Entity.

10.3 In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity at its discretion shall extend, as necessary, the deadline for submission of Tenders, in accordance with sub-Clause 22.2

C. Preparation of Tenders

11. Language of Tender

11.1 The Tender, and all correspondence and documents related to the Tender exchanged by the Tenderer and the Procuring Entity shall be written in the Tender language stipulated in the Tender Data Sheet. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages in the above stated language, in which case, for purposes of interpretation of the Tender, the translation shall prevail.

12. Documents Constituting the Tender

12.1 The Tender submitted by the Tenderer shall consist of the following components:

- a. The Form of Tender (in the format indicated in Section IX) completed in accordance with ITT Clause 15, 16 and 17;
- b. Information requested by Instructions to Tenderers ITT sub- Clause 13.2; 13.3 and 13.4;
- c. Tender Security or Tender Securing Declaration in accordance with Instructions to Tenderers ITT Clause 19;
- d. Priced Bill of Quantities;
- e. Qualification Information Form and Documents;
- f. Alternative offers where invited in accordance with Instructions to Tenderers ITT Clause 5;
- g. Written confirmation authorizing the signatory of the Tender to commit the Tenderer in accordance with Instructions to Tenderers ITT sub Clause 19.2; and
- h. And any information or other materials required be completing and submitting by Tenderers, as specified in the Tender Data Sheet.

13. Documents Establishing Eligibility and Qualifications of the Tenderer

13.1 Pursuant to ITT Clause 13, the Tenderer shall furnish, as part of its tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.

13.2 In the event that pre-qualification of potential Tenderers has been undertaken, only Tenders from pre-qualified Tenderers will be considered for award of contract. These qualified Tenderers should submit their Tenders with any information updating the original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of

the date of Tender submission. The update or confirmation should be provided in Section IX.

13.3 If the Procuring Entity has not undertaken pre-qualification of potential Tenderers, to qualify for award of the contract, Tenderers shall meet the minimum qualifying criteria specified in the Tender Data Sheet:

13.4 Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the Tender Data Sheet:

- a. The Tender shall include all the information listed in the Tender Data Sheet pursuant to sub-Clause 13.3 above for each joint venture partner;
- b. The Tender shall be signed so as to be legally binding on all partners;
- c. One of the partners will be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;
- d. The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of a joint venture and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
- e. All partners of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contract terms and a statement to this effect shall be included in the authorization mentioned under (c) above as well as in the Tender and in the Agreement (in case of a successful Tender); and
- f. A copy of the joint venture agreement entered into by all partner shall be submitted with the Tender. Alternatively, a Letter of Intent to execute a joint venture agreement in the event of a successful Tender shall be signed by all partners and submitted with the Tender, together with a copy of the proposed Agreement.
- g. The Tender Security and Tender Securing Declaration as stated in accordance with ITT Clause 19, and in case of a successful Tender, the Agreement, shall be signed so as to be legally binding on all partners.

14. Lots Package

14.1 When Tendering for more than one contract under the lot's arrangements, the Tenderer must provide evidence that it meets or exceeds

the sum of all the individual requirements for the lots being tendered in regard to:

- a. Average annual turnover;
- b. Particular experience including key production rates;
- c. Financial means, etc.;
- d. Personnel capabilities; and
- e. Equipment capabilities.

14.2 In case the Tenderer fail to fully meet any of these criteria, it may be qualified only for those lots for which the Tenderer meets the above requirement.

15. Form of Tender

15.1 The Tenderer shall fill the Form of Tender furnished in the Tendering Documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.

16. Tender Prices

16.1 The Contract shall be for the whole Works, as described in sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.

16.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Bill of quantities.

16.3 All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 15 days prior to the deadline for submission of Tenders, shall be included in the rates, prices and total Tender price submitted by the Tenderer.

16.4 The rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the Tender Data Sheet and the provisions of the Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the Contract Data Sheet.

17. Tender Currencies.

17.1 The unit rates and prices shall be quoted by the Tenderer in the currency as specified in the Tender Data Sheet

17.2 Tenderers shall indicate details of their expected foreign currency requirements in the Tender, if any. The rates of exchange to be used by the

Tenderers in arriving at the local currency equivalent shall be the selling rates for similar transactions established by the authority specified in the Tender Data Sheet prevailing on the date 28 days prior to the latest deadline for submission of Tenders. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Tenderer. In any case, payments will be computed using the rates quoted in the Tender.

17.3 Tenderers may be required by the Procuring Entity to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the Contract Data Sheet are reasonable and responsive to sub-Clause 17.1.

18. Tender Validity Period

18.1 Tenders shall remain valid for the period specified in the Tender Data Sheet after the Tender submission deadline prescribed by the Procuring Entity, pursuant to ITT Clause 22. A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

18.2 In exceptional circumstances, prior to expiry of the original Tender validity period, the Procuring Entity may request that Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or by cable. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be executed its Tender Securing declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender, but will be required to extend the validity of its Tender Security or Tender Securing declaration for the period of the extension, and in

18.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor specified in the request for extension. The Tender evaluation shall be based on the Tender price without taking into consideration on the above correction.

19. Tender Security and Tender Securing Declaration

19.1 Pursuant to ITT Clause 12, where required in the Tender Data Sheet, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount and currency specified in the Tender Data Sheet. A Tender Securing Declaration as specified in the Tender Data Sheet in the format provided in section X shall be provided as a mandatory requirement.

19.2 The Tender Security or Tender Securing Declaration is required to protect the Procuring Entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to ITT sub- Clause 19.9.

19.3 The Tender Security shall be denominated in the currency of the

Tender and shall be in one of the following forms:

- Cash;
- A Bank Guarantee;
- An Insurance Bond issued by an insurance firm approved by the PPOA located in Kenya;
- An irrevocable letter of credit issued by a reputable bank.

19.4 The Tender Security shall be in accordance with the Form of the Tender Security included in Section X or another form approved by the Procuring Entity prior to the Tender submission.

19.5 The Tender Security shall be payable promptly upon written demand by the Procuring Entity in case any of the conditions listed in sub-Clause 19.8 are invoked.

19.6 Any Tender not accompanied by a Tender Security in accordance with sub-Clauses 19.1 or 19.3 shall be rejected by the Procuring Entity as non-responsive, pursuant to ITT Clause 28.

19.7 The Procuring Entity shall immediately release any Tender Security if:

- a. The procuring proceedings are terminated;
- b. The Procuring Entity determines that none of the submitted Tenders is responsive;
- c. A contract for the procurement is entered into.

19.8 The Tender Security shall be forfeited and the Tender Securing Declaration executed if the Tenderer:

- a. Withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which Tenders must remain valid;
- b. Rejects a correction of an arithmetic error pursuant to sub- Clause 29.2;
- c. Refuse to enter into a written contract in accordance with ITT Clause 40;
- d. Fails to furnish the Performance Security in accordance with ITT

Clause 41.

19.9 The Tender Security and Tender Securing Declaration of a joint venture must be in the name of the joint venture submitting the Tender.

19.10 A Tenderer shall be suspended from being eligible for Tendering in any contract with the Procuring Entity for the period of time indicated in the Tender Securing Declaration:

- a. If the Tenderer withdraws its Tender, except as provided in ITT sub-Clauses 18.2 and 29.2; or
- b. In the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:
 - i. Sign the contract; or
 - ii. Furnish the required Performance Security.

**20. Format and
Signing of Tender**

20.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT Clause 12 of these Instructions to Tenderers, with the Form of Tender, and clearly marked "**ORIGINAL**". In addition, the Tenderer shall submit copies of the Tender, in the number specified in the Tender Data Sheet, and clearly marked as "**COPIES**". In the event of discrepancy between them, the original shall prevail.

20.2 The original and all copies of the Tenders shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the Tender Data Sheet and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be initialled by the person or persons signing the Tender.

20.3 Any interlineations, erasures, or overwriting shall be valid only if they are initialled by the person or persons signing the Tender.

20.4 The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this Tender and to contract execution if the Tenderer is awarded the contract

21. Sealing and Marking of Tenders

21.1 The Tenderer shall seal the original and each copy of the Tender in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY". The envelopes shall then be sealed in an outer envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.

21.2 The inner and outer envelopes shall:

- a. Be addressed to the Procuring Entity at the address given in the Tender Data Sheet; and
- b. Bear the Project name indicated in the Tender Data Sheet, the Invitation for Tenders (IFB) title and number indicated in the Tender Data Sheet, and a statement: "DO NOT OPEN BEFORE," to be completed with the time and the date specified in the Tender Data Sheet, pursuant to ITT sub-Clause 22.1.

21.3 In addition to the identification required in sub-Clause

21.2, the inner envelopes shall also indicate the name and address of the Tenderer to enable the Tender be returned unopened in case it is declared late, pursuant to sub-Clause 22.1 and for matching purpose under ITT Clause 23

21.4 If the outer envelope is not sealed and marked as required by ITT sub clause 21.2, the Procuring Entity shall assume no responsibility for misplacement or premature opening of the Tender.

D. Submission of Tenders

22. Deadline for Submission of Tenders

22.1 Tenders shall be received by the Procuring Entity at the address specified under ITT sub-Clause 21.2 no later than the date and time specified in the Tender Data Sheet.

22.2 The Procuring Entity may, in exceptional circumstances and at its discretion, extend the deadline for the submission of Tenders by amending the Tendering documents in accordance with ITT Clause 9, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline will thereafter be subject to the new deadline.

22.3 The extension of the deadline for submission of Tenders shall not be made later than the period specified in the Tender Data Sheet before the expiry of the original deadline.

23. Late Tenders

23.1 The Procuring Entity shall not consider for evaluation any Tender that

arrives after the deadline for submission of Tenders, in accordance with ITT Clause 22.

23.2 Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected and returned unopened to the Tenderer

24. Modification, Substitution and Withdrawal of Tenders

24.1 A Tenderer may modify or substitute or withdraw its Tender after it has been submitted, provided that written notice of the modification, including substitution or withdrawal of the Tender, is received by the Procuring Entity prior to the deadline prescribed for submission of Tenders prescribed under ITT sub-Clause 22.1.

24.2 The Tenderer's modification or substitution or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of ITT Clauses 20 and 21 with the outer and inner envelopes additionally marked "MODIFICATION" or SUBSTITUTION or "WITHDRAWAL" as appropriate. The notice may also be sent by electronic mail and facsimile, but followed by a signed confirmation copy, postmarked no later than the deadline for submission of Tenders.

24.3 No Tender may be withdrawn, replaced or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Tender Form. Withdrawal of a Tender during this interval shall result in the Tenderer's forfeiture of its Tender Security or execution of Tender Securing Declaration, pursuant to the ITT subClause 19.9.

22.2 Withdrawal of a Tender between the deadline for submission of Tenders and the expiration of the period of Tender validity specified in the Tender Data Sheet or as extended pursuant to sub-Clause shall result in the forfeiture of the Tender Security and execution of Tender Securing Declaration pursuant to ITT subClause 19.9.

24.4 Tenderers may only offer discounts to, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with this Clause, or included in the original Tender submission.

E. Opening and Evaluation of Tenders

25. Opening of Tenders

25.1 The Procuring Entity will open all Tenders including modifications, substitution or withdraw notices made pursuant to ITT Clause 24, in public, in the presence of Tenderers or their representatives who choose to attend and other parties with legitimate interest and Tender proceedings, at the place on the date and at time specified in the Tender Data Sheet. The Tenderers' representatives who are present shall sign a

register as proof of their attendance.

25.2 Envelopes marked "WITHDRAWAL" shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 24 shall not be opened but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "Power of Attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened subsequently, all envelopes marked "MODIFICATION" shall be opened and the submissions therein read out in appropriate detail. Thereafter all envelopes marked or "SUBSTITUTION" opened and the submissions therein read out in appropriate detail.

25.3 All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender security, and such other details as the appropriate tender opening committee may consider appropriate, will be announced by the Secretary of the Tender Opening Committee at the opening.

25.4 Tenders or modifications that are not opened and not read out at Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at Tender opening shall not be considered further.

25.5 Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the information read out from the submitted documents. Failure to send a representative or to point out any un-read information by the sent Tenderer's representative shall indemnify the Procuring Entity against any claim or failure to read out the correct information contained in the Tenderer's Tender.

25.6 No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the Tenderer, pursuant to ITT Clause 23.

25.7 The Secretary of the appropriate tender opening committee shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender Security or Tender Securing Declaration.

25.8 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record.

25.9 A copy of the minutes of the Tender opening shall be furnished to individual Tenderers upon request.

26. Confidentiality

26.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced.

26.2 Any effort by a Tenderer to influence the Procuring Entity's processing of Tenders or award decisions may result in the rejection of his Tender.

26.3 Notwithstanding sub-Clause 26.2, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

27. Clarification of Tenders

27.1 To assist in the examination, evaluation, comparison of Tenders and post-qualification of the Tenderer, the Procuring Entity may, at its discretion, ask a Tenderer for clarification of its Tender including breakdown of prices. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered.

27.2 The request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of Tenders in accordance with ITT Clause 29.

27.3 From the time of Tender opening to the time of Contract award if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tender it should do so in writing.

28. Preliminary Examination of Tenders

28.1 Prior to the detailed evaluation of Tenders, the Procuring Entity will determine whether:

- a. The Tender has been submitted in the required format;
- b. Any Tender Security submitted is in the required form, amount and validity period;
- c. The Tender has been signed by the person lawfully authorized to

do so;

- d. The required number of copies of the Tender have been submitted;
- e. The Tender is valid for the period required;
- f. All required documents and information have been submitted; and
- g. Any required samples have been submitted.

28.2 The Procuring Entity will confirm that the documents and information specified under ITT Clause 12 and ITT Clause 13 have been provided in the Tender. If any of these documents or information is missing, or is not provided in accordance with the Instructions to Tenderers, the Tender shall be rejected.

28.3 The Procuring Entity may waive any minor informality, nonconformity, or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer

28.4 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tendering documents, without material deviation or reservation. A material deviation or reservation is one that:

- a. Affects in any substantial way the scope, quality, or execution of the Works;
- b. Limits in any substantial way, inconsistent with the Tendering documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
- c. If rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

28.5 If a Tender is not substantially responsive, it will be rejected by the Procuring Entity, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

29. Correction of Errors

29.1 Tenders determined to be substantially responsive will be checked by the Procuring Entity for any arithmetic errors. Errors will be corrected by the Procuring Entity as follows:

- a. If there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected, unless in

the opinion of the Procuring Entity there is an obvious misplacement of the decimal point in the unit price, in which the total price as quoted shall govern and the unit price shall be corrected;

- b. If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- c. Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern.

29.2 The amount stated in the Tender will, be adjusted by the Procuring Entity in accordance with the above procedure for the correction of errors and, with, the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and the Tender Security may be forfeited and the Tender Securing Declaration may be executed in accordance with subClause 19.9.

30. Conversion to Single Currency

30.1 To facilitate the evaluation and comparison, the Procuring Entity will convert all Tender prices expressed in the amounts in various currencies in which the Tender prices are payable to Kenya Shillings at the selling exchange rate established for similar transactions by the Central Bank of Kenya ruling on the date specified in the Tender Data Sheet.

31. Comparison of Tenders

31.1 The Procuring Entity shall evaluate and compare only the Tenders determined to be substantially responsive in accordance to ITT Clause 28.

31.2 In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender price by adjusting the Tender price as follows:

- a. Making any correction for errors pursuant to ITT Clause 29; Excluding provisional sums and the provision, if any for contingencies in the Bill of Quantities, but including Day work, where priced competitively; and
- b. Making appropriate adjustments to reflect discounts or other price modifications offered in accordance with subClause 24.5.

31.3 The Procuring Entity may waive any minor informality or non-conformity, which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative standing of any Tenderer. Variations, deviations, and alternative offers and other factors, which are

in excess of the requirements of the Tendering documents or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.

32. National Preference

32.1 In the evaluation of Tenders the Procuring Entity shall apply exclusive preference to citizens of Kenya where:

- a. The funding is 100% from the Government of Kenya or a Kenyan body;
- b. The amounts are below the prescribed threshold of KShs.200 million;

32.2 To qualify for the preference the candidate shall provide evidence of eligibility by:

- a. Proving Kenyan citizenship by production of a Kenyan Identity Card; or
- b. Providing proof of being a "citizen contractor" in terms of section 3(1) of the Act, i.e. being a natural person or an incorporated company wholly owned and controlled by persons who are citizens of Kenya.

32.3 The Minister of Finance may prescribe additional preference and/or reservation schemes, for example for procurements above these thresholds. If such additional preference schemes apply, details Will be given in the Tender Data Sheet.

33. Determination of the Lowest Evaluated Tender

33.1 The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.

34. Post-qualification of Tenderer

34.1 If specified in the Tender Data Sheet, post-qualification shall be undertaken.

34.2 The Procuring Entity will determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated responsive Tender is qualified to perform the contract satisfactorily, in accordance with the criteria listed in subClause 13.3.

34.3 The determination will take into account the Tenderer's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to sub-Clause 13.3, as well as such other information as the Procuring Entity deems necessary and appropriate. Factors not included in these Tendering documents shall not

be used in the evaluation of the Tenderer's qualifications.

34.4 An affirmative determination will be a prerequisite for award of the contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event the Procuring Entity will proceed to the next lowest evaluated Tender to make a

similar determination of that Tenderer's capabilities to perform satisfactorily.

F. Award of Contract

35. Criteria of Award

35.1 Subject to ITT Clause 35 and 36, the Procuring Entity will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tendering documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:

- a. Eligible in accordance with the provisions of ITT Clause 3;
- b. Is determined to be qualified to perform the Contract satisfactorily;
- c. Successful negotiations have been concluded.

35.2 If, pursuant to sub-Clause 14.1, this Contract is being awarded on a "lot and package" basis, the lowest evaluated Tender price will be determined when evaluating this Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderer for award of more than one Contract.

36. Clarifications

36.1 Clarifications may be undertaken with the lowest evaluated Tenderer relating to the following areas:

- a. A minor alteration to the technical details of the statement of requirements;
- b. Reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the Tendering documents;
- c. A minor amendment to the Contract Data Sheet;
- d. Finalizing payment arrangements;
- e. Mobilization arrangements;
- f. Agreeing final delivery or work schedule to accommodate any changes required by the Procuring Entity;

- g. The methodology or staffing; or
- h. Clarifying details that were not apparent or could not be finalized at the time of Tendering.

36.2 Clarifications shall not change the substance of the tender.

**37. Procuring
Entity's Right to**

37.1 Notwithstanding ITT Clause 35, the Procuring Entity reserves the right to accept or reject any Tender, and to cancel the

Tendering process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers.

37.2 Notice of the rejection of all Tenders shall be given promptly within 14 days to all Contractors that have submitted Tenders.

37.3 The Procuring Entity shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders, but is not required to justify those grounds.

**38. Procuring Entities
Right to Vary
Quantities at the
Time of Award**

38.1 The Procuring Entity reserves the right at the time of contract award to increase or decrease the quantity of goods or related services originally specified in these Tendering documents (schedule of requirements) provided this does not exceed by the percentage indicated in the Tender Data Sheet, without any change in unit price or other terms and conditions of the Tender and Tendering documents.

**39. Notification of
Award**

39.1 The Tenderer whose Tender has been accepted will be notified of the award by the Procuring Entity prior to expiration of the Tender validity period by e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Procuring Entity will pay the Contractor in consideration of the provision and maintenance of the Work(s) as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

39.2 The notification of award will constitute the formation of the Contract, subject to the tenderer furnishing the Performance Security in accordance with ITT Clause 41 and signing the Contract in accordance with sub-Clause 40.2

39.3 At the same time as the person submitting the successful Tender is notified, the Procuring Entity will notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender Security and Tender

Securing Declaration of the Tenderer pursuant to ITT sub Clause 19.7.

40.1 If, after notification of award, a Tenderer wishes to ascertain the grounds on which its Tender or application for prequalification was unsuccessful, it should address its request to the secretary of the Tender Committee that authorized the award of contract. The secretary of the Tender Committee shall, within fourteen days after a request, provide written reasons as to why the Tender, proposal or application to be pre-qualified was unsuccessful. However, failure to take this opportunity to clarify the grounds for rejection does not affect the Tenderer's right to seek immediate review by the Public Procurement Administrative Review Board under Clause 45.

40. Signing of Contract

40.2 Promptly, and in no case later than 14 days, after notification, Procuring Entity shall send the successful Tenderer the Agreement and Contract Data Sheet, incorporating all agreements between the parties obtained as a result of Contract negotiations.

40.3 Within the period specified in the notification or Tender Data Sheet but not earlier than fourteen (14) days since notification of award of contract, the successful Tenderer shall sign and date the contract and return it to the Procuring Entity.

41. Performance Security

41.1 Within thirty (30) days but after 14 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Procuring Entity a Performance Security in the amount and in the form stipulated in the Tender Data Sheet and the Contract Data Sheet, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.

41.2 If the Performance Security is provided by the successful Tenderer in the form of a Bank Guarantee or Insurance Bond, it shall be issued either:

- a. At the Tenderer's option, by a bank or insurance firm located in Kenya, or a foreign bank or insurance firm through a correspondent bank or insurance firm located in Kenya;
- b. With the consent of the Procuring entity, directly by a foreign bank acceptable to the Procuring entity.

41.3 Failure of the successful Tenderer to comply with the requirement of sub-Clause 41.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security, in which event the Procuring Entity may make the award to the next lowest evaluated Tenderer

or call for new Tenders.

42. Advance Payment

42.1 The Procuring Entity will not provide an Advance Payment as stipulated in the Conditions of Contract, subject to a maximum amount, as stated in the Tender Data Sheet.

42.2 The Advance Payment request shall be accompanied by an Advance Payment Security (Guarantee) in the form provided in Section X. For the purpose of receiving the Advance Payment, the Tenderer shall make an estimate of, and include in its Tender, the expenses that will be incurred in order to commence work. These expenses will relate to the purchase of equipment, machinery, materials, and on the engagement of labour during the first month beginning with the date of the Procuring Entity's "Notice to Commence" as specified in the Contract Data Sheet.

43. Adjudicator

43.1 The Procuring Entity proposes the person named in the Tender Data Sheet to be appointed as Adjudicator under the Contract, at an hourly fee specified in the Tender Data Sheet, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in the Tender. If, in the Letter of Acceptance, the Procuring Entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Contract Data Sheet at the request of either party.

G. Review of Procurement Decisions

44. Right to Review

44.1 A Tenderer who claims to have suffered or risk suffering, loss or damage or injury as a result of breach of a duty imposed on a Procuring Entity or an Approving Authority by the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations 2006, the procurement proceedings or processes, may seek administrative review as prescribed by the Act. The following matters, however, shall not be subject to the administrative review:

- a. The choice of procurement method;
- b. a decision by the Procuring Entity to reject all Tenders, proposals or quotations;
- c. Where a contract is signed in accordance to Section 68 of the Public Procurement and Disposal Act,2005;
- d. Where an appeal is frivolous.

45. Time Limit on Review

45.1 The Tenderer shall submit an application for review in the number of copies and pay fees as prescribed by the Public Procurement and Disposal Regulations 2006 within fourteen (14) days of the time the Tenderer became or should have become aware of the circumstances giving rise to the complaint or dispute.

46. Submission of Applications for Review by the Public Procurement Administrative Review Board

46.1 Any application for administrative review shall be submitted in writing to the Secretary, Public Procurement Administrative Review Board on Form RB 1 at the address shown in the Tender Data Sheet. The secretary to the review board shall immediately after filing of the request, serve a copy thereof on the Procuring Entity or Director-General as the case may be.

46.2 The application for administrative review shall be in accordance with the requirements of Regulation 73 of the Public Procurement and Disposals Regulations,2006, including:

- a. Reasons for the complaint, including any alleged breach of the Act or Regulations;
- b. An explanation of how the provisions of the Act and or Regulation has been breached or omitted, including the dates and name of the responsible public officer, where known;
- c. Statements or other evidence supporting the complaint where available as the applicant considers necessary in support of its request;
- d. Remedies sought;
- e. Any other information relevant to the complaint.

47. Decision by the Public Procurement Administrative Review Board

47.1 The Administrative Review Board shall within thirty days after receipt of an application for administrative review deliver a written decision which shall indicate:

- a. Annuling anything the Procuring Entity has done in the procurement proceedings, including annulling the procurement proceedings in their entirety;
- b. Giving directions to the Procuring Entity with respect to anything to be done or redone in the procurement proceedings;
- c. Substituting the decision of the Review Board for any decision of the Procuring Entity in the procurement proceedings;

d. Order the payment of costs as between parties to the review.

47.2 The decision made by the Review Board shall, be final and binding on the parties unless judicial review thereof commences within fourteen (14) days from the date of the Review Board's decision.

48. Appeal on the 48.1 Any party to the review aggrieved by the decision of the **decision** Of the Review Board may appeal to the High Court and the decision of the Review Board High Court shall be final.

SECTION III: TENDER DATA SHEET

Tender Data Sheet (TDS)

Instructions to Tenderers Clause Reference

A. Introduction		
1.	3.8	a. Certificates 1. Availability of appropriate and relevant skills among staff 2. Proof of legal existence
B. Tendering Documents		
3.	8.2	The number of copies to be completed and returned with the Tender is Three (3) clearly marked " ORIGINAL " and " COPY "
4.	8.1	Address for clarification of Tender Document is CHIEF OFFICER, DEPARTMENT OF LANDS, HOUSING & URBAN PLANNING, P.O BOX 19 - 20400, BOMET.
5.	8.2	Period to Respond to request for clarification by the Procuring Entity - 3 working days Period Prior to deadline for submission of Tenders for Tenderers to Request clarification -7 days prior to tender closing date
C. Preparation of Tenders		
7.	11.1	Language of Tender and all correspondence shall be English
8.	13.3	Other information or materials required to be completed and submitted by Tenderers: a) Copies of original documents defining the constitution or legal status, place of registration, and principal, place of business; written power of attorney authorizing the signatory of the Tender to commit the Tenderer. b) The minimum required annual volume of construction work for the successful Tenderer in any of the last 2 years shall be: Kshs. 50 million c) Experience as prime contractor in the construction of at least one project of similar nature and complexity equivalent to the works in the last 2 years d) The essential equipment to be made available for the Contract by the successful Tenderer (proposals for timely acquisition or own, lease, hire, etc.) e) The essential personnel to be made available for the contract by the Contractor f) Evidence of adequate working capital for this contract g) Information regarding litigation

		Equipment Type and Characteristics	Minimum Number Required	
		1. Excavator with a bucket and a hammer	1	
		2. A backhoe	1	
		3. Dewatering pump	1	
		4. Pneumatic compressor	1	
		5. 7 tonne truck	2	
		6. A concrete mixer	1	
		7. A pork vibrator	1	
		8. A pick up	1	
		Essential personnel made available for the contract	Total Work Experience (years)	In Similar Works Experience (years)
		1 No. Project Director (Key Partner/Director)	10	8
		1 No. Site Agent / Contract manager (Registered Civil Engineer)	8	5
		1 No. Water or Wastewater Engineer/ Technologist	8	5
		2 No. Water Inspector of Works/Pipeline Foreman (must be holders of at least Diploma in water engineering or equivalent).	8	5
		1 No. Surveyor (must be holders of at least Ordinary National Diploma (OND) in water engineering or equivalent).	5	3
9.	13.4	In the case of joint venture each partner shall submit information required under Clause ITT Clause 13.4.		
10.	16.4	The price shall be <i>"not adjustable"</i>		
11.	17.1	The currency in which the prices shall be quoted shall be: <i>Kenyan Shillings</i>		
12.	17.2	The authority for establishing the rates of exchange shall be Central Bank of Kenya.		
	30.2	The applicable date for exchange rates for tendering and evaluation purposes is date of tender opening.		
13.	18.1	The Tender validity period shall be 120 Days.		
14.	19.1	The amount of Tender Security shall be 2% of the Tender amount		
15.	20.1	In addition to the original of the Tender, the Tenderer should submit 2 copies of the Tender		
16.	20.2	Written confirmation of authorization is <i>power of attorney</i>		
D. Submission of Tenders				
17.	21.2 a)	Tenders shall be deposited at Tender box room in Bomet Procurement Head offices submitted or to COUNTY SECRETARY COUNTY GOVERNMENT OF BOMET P.O BOX 19 - 20400, BOMET, KENYA		

18.	21.2 b)	Project name : PROCUREMENT OF WORKS FOR EXTENSION OF SEWER LINES WITHIN BOMET TOWN SEWERAGE NETWORK Tender number Tender No:
19.	22.1	The deadline for Tender submission is a. Day Friday b. Date 28th December 2018 c. Time 11:00 a.m East African Time
20.	22.3	If any extension of the deadline for submission of tender it shall be made before expiry of the original deadline.
21.	24.4	Tender validity is one twenty (120) days
E. Opening and Evaluation of Tenders		
22.	25.1	The Tender opening shall take place at: Bomet Procurement Head Offices P.O BOX 19 - 20400 BOMET- Kenya
23.	32.3	Additional Preference (<i>preference to local contractors 6 marks</i>)
24.	34.1	Post- qualification - <i>no pre-qualification</i>
25.	38.1	Percentage for quantities increase or decrease is <i>NA</i>
F. Award of Contract		
26.	41.1	The amount of Performance Security shall be <i>2% of the contract price (Unconditional Bank Guarantee)</i>
27.	42.1	No Advance Payment shall be made
28.	43.1	The proposed adjudicator for the project is: As per GOK procedures
G. Review of Procurement Decisions		
29.	46.1	The address for submitting appeals to Administrative Review Board: The Secretary, Public Procurement Administrative Review Board, The Public Procurement Oversight Authority,

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	<p>A. General</p>
<p>1. Definitions</p>	<p>1.1 Boldface type is used to identify defined terms.</p> <p>The Adjudicator: is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in Clauses 27 and 28 hereunder.</p> <p>Bill of Quantities: means the priced and completed Bill of Quantities forming part of the Tender. Compensation Events: are those defined in Clause 47 hereunder.</p> <p>The Completion Date: is the date of completion of the Works as certified by the Project Manager, in accordance with Sub-Clause 58.1.</p> <p>The Contract: is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below.</p> <p>The Contractor: is a person or corporate body whose Tender to carry out the Works has been accepted by the Procuring Entity.</p> <p>The Contractor's Tender: is the completed Tendering document submitted by the Contractor to the Procuring Entity.</p> <p>The Contract Price: is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.</p> <p>Days are calendar days; months are calendar months.</p> <p>Dayworks are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.</p> <p>A Defect is any part of the Works not completed in accordance with the Contract.</p> <p>The Defects Liability Certificate is the certificate issued by the Project Manager upon correction of defects by the Contractor.</p>

	<p>The Defects Liability Period is the period named in the Contract Data Sheet and calculated from the Completion Date.</p> <p>Drawings include calculations and other information provided or approved by the Project Manager for the execution of the Contract.</p> <p>The Procuring Entity is the party who employs the Contractor to carry out the Works.</p> <p>Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.</p> <p>The Initial Contract Price is the Contract Price listed in the Procuring Entity's Letter of Acceptance.</p> <p>The Intended Completion Date is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data Sheet. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.</p> <p>Materials are : all supplies, including consumables, used by the Contractor for incorporation in the Works.</p> <p>Plant: is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function</p> <p>The Project Manager: is the person named in the Contract Data Sheet (or any other competent person appointed by the Procuring Entity and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract and shall be an "Architect" or a "Quantity Surveyor" registered under the Architects and Quantity Surveyors Act Cap 525 or an "Engineer" registered under engineers registration Act Cap 530.</p> <p>The Site is the area defined as such in the Contract Data Sheet. Site Investigation Reports are those that were included in the Tendering documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.</p> <p>Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.</p> <p>The Start Date is given in the Contract Data Sheet. It is the latest date</p>
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	<p>when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.</p> <p>A Subcontractor is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.</p> <p>Temporary Works are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.</p> <p>A Variation is an instruction given by the Project Manager that varies the Works.</p> <p>The Works are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, as defined in the Contract Data Sheet.</p> <p>"Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.</p>
<p>2. Interpretation</p>	<p>2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.</p> <p>2.2 If sectional completion is specified in the Contract DataSheet references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the 42 Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).</p> <p>2.3 The documents forming the Contract shall be interpreted in the order of priority given in the Contract Data Sheet:</p> <ol style="list-style-type: none"> 1. Agreement; 2. Letter of Acceptance; 3. Contract Data Sheet; 4. Conditions of Contract; 5. Technical Specifications; 6. Contractor's Tender;

	<p>7. Drawings;</p> <p>8. Bill of Quantities; and</p> <p>Any other document listed in the Contract Data Sheet forming part of the Contract.as</p>
<p>3. Language, Law, Fraud and Corruption</p>	<p>3.1 The language of the Contract and the law governing the Contract are stated in the Contract Data Sheet.</p> <p>3.2 The Government requires that Procuring Entities (including beneficiaries of Government funded projects) as well as Tenderers/Suppliers/Contractors under Government financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. It is the responsibility of the Procuring Entity to ensure that Tenderers suppliers, and contractors and their subcontractors observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy:</p> <p>For the purpose of this provision, the following definitions are provided:</p> <p>(i). "Corruption" has the meaning assigned to it in the Anti-Corruption and Economic Crime Act 2003 and includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution;</p> <p>(ii) . "Fraudulent Practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the execution of a contract to the detriment of the Procuring Entity and includes collusive practices amongst Tenderers prior to or after Tender submission designed to establish Tender prices at artificial noncompetitive levels and deprive the Procuring Entity of the benefits of free and open competition;</p> <p>(iii) . "Collusive Practice" means an arrangement between two or more suppliers, contractors and subcontractors designed to achieve an improper purpose, including to influence improperly the actions of the Procuring Entity prior to or after Tender submission, designed to establish Tender prices at artificial noncompetitive levels and to deprive the Procuring Entity of the benefit of free and open competition;</p> <p>(iv) . "Coercive Practice" means impairing or harming, or threatening to impair or harm, directly or indirectly a supplier, contractor or subcontractor or the property of any of them to influence improperly the actions of a Procuring Entity;</p> <p>(v). "Obstructive Practice" means deliberately destroying, falsifying, altering or concealing of evidence material to the</p>

	<p>investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.</p> <p>A Procuring Entity has the right to require that Tenderers, suppliers, and contractors and their subcontractors permit persons duly appointed by KACC/PPOA/KNAO to inspect their accounts and records and other documents relating to the Tender submission and contract performance;</p> <p>The Procuring Entity will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt, fraudulent practices or others stated under Clause m44.1. a in competing for the contract; In pursuit of the policy defined in subClause 44.1 the Procuring Entity will cancel the portion of the funds allocated to a contract for goods, works, or services if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Procuring Entity or Approving Authority or of a beneficiary of the funds during the procurement or the execution of that contract;</p> <p>In the event that the Procuring Entity or Approving Authority does not take timely and appropriate action satisfactory to the Government of Kenya to remedy the situation, then the Director-General may order an investigation of procurement proceedings for the purpose of determining whether there has been a breach of the Public Procurement and Disposal Act, 2005.</p> <p>3.3 The Director-General may, on the advice of the Advisory Board,</p> <p>debar a person from participating in procurement proceedings on the ground that the person has committed an offence under the Public Procurement and Disposal Act, 2005. A debarment shall be for a period of time of not less than five years. Before a person is so debarred, he/she will be given an opportunity to make representations to the Director-General and may request the Review Board to review the debarment .Any communication between the Tenderers and the Procuring Entity related to matters of alleged fraud or corruption must be made in writing.</p>
<p>4. Confidentiality</p>	<p>4.1 The Service Providers, their Subcontractors, and the Personnel of either of them shall not disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Procuring Entity's business or operations without the prior written consent of the Procuring Entity.</p>

5. Project Manager's	5.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.
6. Delegation	6.1 The Project Manager may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.
7. Communications	7.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.
8. Subcontracting	8.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Procuring Entity in writing. Subcontracting shall not alter the Contractor's obligations.

9. Other Contractors	<p>9.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as referred to in the Contract Data Sheet. The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification</p>
10. Personnel	<p>10.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the Contract Data Sheet, who shall be appropriately qualified and registered with the appropriate bodies to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.</p> <p>10.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.</p>
11. Procuring Entity's	<p>11.1 The Procuring Entity carries the risks which this Contract states are aRnisdks Contractor's Procuring Entity's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.</p>
12. Procuring Entity's	<p>12.1 From the Start Date until the Defects Correction Certificate has been Risks issued, the following are Procuring Entity's risks:</p> <p>a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:</p> <p>(i) Use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works; or</p> <p>(ii) Negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.</p> <p>b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting</p>

	the country where the Works are to be executed.
	<p>12.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a Procuring Entity's risk except loss or damage due to:</p> <ul style="list-style-type: none"> a. A Defect which existed on the Completion Date; b. An event occurring before the Completion Date, which was not itself an Procuring Entity's risk; or c. The activities of the Contractor on the Site after the Completion Date.
13. Contractor's Risks	<p>13.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Procuring Entity's risks are Contractor's risks.</p>
14. Insurance	<p>14.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the Contract Data Sheet for the following events which are due to the Contractor's risks:</p> <ul style="list-style-type: none"> a. Loss of or damage to the Works, Plant, and Materials; b. Loss of or damage to Equipment; c. Loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and d. Personal injury or death. <p>14.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.</p> <p>14.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may affect the insurance</p>

	<p>which the Contractor should have provided and recover the</p> <p>premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.</p> <p>14.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.</p> <p>14.5 Both parties shall comply with any conditions of the insurance policies.</p>
15. Site Investigation	15.1 The Contractor, in preparing the Tender, shall rely on any Site Reports Investigation Reports referred to in the Contract Data Sheet, supplemented by any information available to the Tenderers.
16. Queries about the Contract Data Sheet	16.1 The Project Manager will clarify queries on the Contract Data Sheet.
17. Contractor to Construct the Works	17.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
18. Commencement and Completion	18.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Programme submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.
19. Approval by the Project Manager	<p>19.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.</p> <p>19.2 The Contractor shall be responsible for the design of Temporary Works.</p> <p>19.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.</p> <p>19.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.</p> <p>19.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval</p>

	by the Project Manager before their use.
20. Protection of the Environment	<p>20.1 The Contractors shall take all reasonable steps to protect the environment and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.</p> <p>20.2 The Contractors shall ensure that emissions, surface discharges and effluent from his activities shall not exceed prescribed values in the environmental laws.</p>
21. Labour Laws	<p>21.2 The Contractor shall comply with all the relevant labour laws applicable in the Country, including laws relating to workers employment, working hours, health, safety, welfare, and immigration, and shall allow them all their legal rights.</p>
	<p>21.2 The Contractor shall require his employees to obey all applicable laws, including those concerning safety at work.</p>
22. Health and Safety	<p>22.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of his personnel.</p> <p>22.2 The Contractor shall ensure that first aid facilities are available at all times at the site and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.</p> <p>22.3 The Contractor shall notify the Procuring Entity details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety, and welfare of persons, and damage to the property, as the Procuring Entity may reasonably require.</p> <p>22.4 The Contractor shall conduct an HIV-Aids awareness Programme, and shall take other such measures as specified in the Contract Data Sheet to reduce the risk of transfer of HIV virus between and among Contractor personnel, the Procuring Entity's Staff and the surrounding community.</p>
23. Discoveries	<p>23.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for</p>

	dealing with them.
24. Possession of the Site	24.1 The Procuring Entity shall give possession of all parts of the Site to the Site Contractor. If possession of a part is not given by the date stated in the Contract Data Sheet, the Procuring Entity will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.
25. Access to the Site	25.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
26. Instructions, Inspections and Audits	26.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
	26.2 The Contractor shall permit the Kenya Government to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Kenya Government, if so, required by the Kenya Government
27. Disputes	27.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Project Manager's decision.
28. Procedure for Disputes	28.1 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.
	28.2 The Adjudicator shall be paid by the hour at the rate specified in the Tender Data Sheet and Contract Data Sheet, together with reimbursable expenses of the types specified in the Contract Data Sheet, and the cost shall be divided equally between the Procuring Entity and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.
	28.3 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and, in the

	place, shown in the Contract Data Sheet.
29. Replacement of Adjudicator	29.1 Should the Adjudicator resign or die, or should the Procuring Entity and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the Contract Data Sheet at the request of either party, within 14 days of receipt of such request.
	B. Time Control
30. Programme	<p>30.1 Within the time stated in the Contract Data Sheet, the Contractor shall submit to the Project Manager for approval a Programme showing the general methods, arrangements, order, and timing for all the activities in the Works.</p> <p>30.2 An update of the Programme shall be a Programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.</p> <p>30.3 The Contractor shall submit to the Project Manager for approval an updated Programme at intervals no longer than the period stated</p> <p>in the Contract Data Sheet. If the Contractor does not submit an updated Programme within this period, the Project Manager may withhold the amount stated in the Contract Data Sheet from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Programme has been submitted.</p> <p>30.4 The Project Manager's approval of the Programme shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time. A revised Programme shall show the effect of Variations and Compensation Events</p>
31. Extension of the Intended Completion	31.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is

Date	<p>issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.</p> <p>31.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.</p>
32. Acceleration	<p>32.1 When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.</p> <p>32.2 If the Contractor's priced proposals for acceleration are accepted by the Procuring Entity, they shall be incorporated in the Contract Price and treated as a Variation.</p>
33. Delays Ordered by the Project Manager	<p>33.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.</p>
34. Management Meetings	<p>34.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work</p> <p>and to deal with matters raised in accordance with the early warning procedure.</p> <p>34.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.</p>

<p>35. Early Warning</p>	<p>35.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.</p> <p>35.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.</p>
<p>C. Quality Control</p>	
<p>36. Identifying Defects</p>	<p>36.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.</p>
<p>37. Tests</p>	<p>37.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.</p>
<p>38. Correction of Defects</p>	<p>38.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Contract Data Sheet. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.</p> <p>38.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.</p>

	<p>38.3 38.3 If the Contractor has not corrected a defect within the time specified in the Procuring Entity's notice, a penalty for lack of performance will be paid by the Contractor. The amount to be paid will be calculated as a percentage of the cost of having the defect correct, assessed as described in Clause 39.</p>
39. Uncorrected Defects	<p>39.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.</p>
<p>. D-Cost Control</p>	
40. Bill of Quantities	<p>40.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.</p> <p>40.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor shall be paid for the quantity of the work done at the rate in the Bill of Quantities for each item.</p>
41. Changes in the Quantities	<p>41.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.</p> <p>41.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Procuring Entity.</p> <p>41.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.</p>
42. Variations	<p>42.1 All Variations shall be included in the updated Programmes produced by the Contractor.</p>
43. Payments for Variations	<p>43.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation</p>

	<p>is ordered.</p> <p>43.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work is above the limit stated in Sub-Clause 41.1 or the timing of its execution do not cause the cost per unit of</p>
	<p>quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.</p> <p>43.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.</p> <p>43.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.</p> <p>43.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.</p>
44. Cash Flow Forecasts	<p>44.1 When the Programme is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.</p>
45. Payment Certificates	<p>45.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.</p> <p>45.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor within twenty-eight 28 days of receipt of the certificate from the contractor.</p> <p>45.3 The value of work executed shall be determined by the Project Manager.</p> <p>45.4 The value of work executed shall comprise the value of the</p>

	<p>quantities of the items in the Bill of Quantities completed.</p> <p>45.5 The value of work executed shall include the valuation of Variations and Compensation Events.</p> <p>45.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.</p> <p>45.7 The Project Manager shall not be bound to certify any payment, if the net amount, after all retentions and deductions would be less</p>
	<p>than minimum amount of Interim Payment Certificate stated in the Contract Data Sheet.</p>
<p>46. Payments</p>	<p>46.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment in the next payment Interest shall be calculated from the date by which the Payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made as indicated in the Contract Data Sheet.</p> <p>46.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.</p> <p>46.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.</p> <p>46.4 Items of the Works for which no rate or price has been entered in will not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.</p>
<p>47. Compensation Events</p>	<p>47.1 The following shall be Compensation Events:</p> <p>a. The Procuring Entity does not give access to a part of the Site by</p>

	<p>the Site Possession Date stated in the Contract Data Sheet.</p> <p>b. The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.</p> <p>c. The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.</p> <p>d. The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.</p> <p>e. The Project Manager unreasonably does not approve a subcontract to be let.</p> <p>f. Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.</p> <p>g. The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons.</p> <p>h. Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.</p> <p>i. The advance payment is delayed.</p> <p>j. The effects on the Contractor of any of the Procuring Entity's Risks.</p> <p>k. The Project Manager unreasonably delays issuing a Certificate of Completion.</p> <p>l. Other Compensation Events described in the Contract or determined by the Project Manager shall apply.</p>
	<p>47.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be</p>

	<p>increased and whether and by how much the Intended Completion Date shall be extended.</p> <p>47.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event. The Contractor shall not be entitled to compensation to the extent that the Procuring Entity's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager</p>
48. Taxes	<p>48.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of Tenders for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 50.</p>
49. Currencies	<p>49.1 Where payments are made in currencies other than the Kenya Shillings, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Tender.</p>
50. Price Adjustment	<p>50.1 The amounts payable to the Contractor, in various currencies pursuant to Sub-Clause 45.1, shall be adjusted in respect of the rise or fall in the cost of labour, Contractor's Equipment, Plant, materials, and other inputs to the Works, by applying to such amounts the formulae prescribed in this clause based on the prevailing consumer price index obtained from the Central Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya.</p> <p>50.2 To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.</p>
	<p>50.3 The adjustment to be applied to amount payable to the Contractor as certified in Payment Certificates shall be determined formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis</p>

	<p>of Cost or current prices. The formulae shall be as follows;</p> $P_n = \frac{L_n - L_o}{L_n - L_o} \cdot \frac{M_n - M_o}{M_n - M_o} \cdot \frac{E_n - E_o}{E_n - E_o} \cdot \dots$ <p>where;</p> <p>P_n is a price adjustment factor to be applied to the amount in each specific currency for the payment of the work carried out in the subject month, where such variations and daywork are not otherwise subject to adjustment;</p> <p>a is a constant, specified in the Appendix to Tender, representing the nonadjustable portion in contractual payments;</p> <p>b, c, d, etc., are weightings or coefficients representing the estimated proportion of each cost element (labour, materials, equipment usage, etc.) in the Works or sections thereof, net of</p>
	<p>Provisional Sums, as specified in the Appendix to Tender; the sum of a, b, c, d, etc., shall be one;</p> <p>L_n, M_n, E_n, etc., are the current cost indices or reference prices of the cost elements in the specific currency of origin for month "n," determined pursuant to Sub-Clause 50.5, applicable to each cost element; and</p> <p>L_o, M_o, E_o, etc., are the base cost indices or reference prices corresponding to the above cost elements at the date specified in SubClause 50.5</p> <p>The value of net work done, certified by the Project Manager, in any monthly Interim or Final Certificate as payable by the Procuring Entity to the Contractor before deduction of any retention money shall be increased or decreased by an amount of 'F'.</p> <p>F = P_nxP_c</p> <p>where;</p>

	<p>The effective value Pc of work done which is to be subjected to increase or decrease shall be the difference between:</p> <p>i. the amount which, in the opinion of the Project Manager, is due to the Contractor under Clause 45 (before deduction of retention money and before deducting sums previously paid on account) less:</p> <ul style="list-style-type: none"> • any amount for payment or repayment of any advance payment; • any amount for materials on site (if any); • any amounts for nominated subcontractors (if any) • any amounts for any other items based on actual cost or current prices; or • any sums for increase or decrease in the Contract Price paid under this SubClause <p>ii. the amount calculated in accordance with (i) above of this Sub- clause and included in the last preceding statement.</p> <p>The sources of indices shall be those listed in the Appendix to Tender, as approved by the Engineer. Indices shall be appropriate for their purpose and shall relate to the Contractor's proposed source of <u>supply of inputs on the basis of which his Contract Price and expected</u></p>
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	<p>foreign currency requirements shall have been computed. As the proposed basis for price adjustment, the Contractor shall have submitted with his Tender the tabulation of Weightings and Source of Indices in the Appendix to Tender, which shall be subject to approval by the Engineer.</p> <p>50.5 The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of Tenders. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular Interim Payment Certificate is related. If at any time the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available.</p> <p>50.6 If the Contractor fails to complete the Works within the time completion prescribed under Clause 58 adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favorable to the Procuring Entity, provided that if an extension of time is granted pursuant to Clause 28, the above provision shall apply only to adjustments made after the expiry of such extension of time</p> <p>50.7 The weightings for each of the factors of cost given in the Appendix to Tender shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, unbalanced, or inapplicable as a result of varied or additional work already executed or instructed under Clause 43 or for any other reason.</p>
51. Retention	<p>51.1 The Procuring Entity shall retain from each payment due to the Contractor the proportion stated in the Contract Data Sheet until Completion of the whole of the Works.</p> <p>51.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and the other half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.</p>

52. Liquidated Damages	<p>51.3 On completion of the whole Works, the Contractor may substitute retention money with an "on demand" Bank guarantee. (note this clause does not apply)</p> <p>52.1 The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day stated in the Contract Data Sheet for each</p>
	<p>day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the Contract Data Sheet. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.</p> <p>52.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 46.1.</p> <p>52.3 If the Contractor has not corrected a defect within the time specified in the Procuring Entity's notice, the Procuring Entity will assess the cost of having the defect corrected, the Contractor will pay this amount, and a penalty for lack of performance calculated as described in Clause 38.</p>
53. Bonus	<p>53.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day stated in the Contract Data Sheet for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.</p>
54. Advance Payment	<p>54.1 The Procuring Entity shall make advance payment to the Contractor of the amounts stated in the Contract Data Sheet by the date stated in the Contract Data Sheet, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.</p> <p>54.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required</p>

	<p>specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the ProjectManager.</p> <p>54.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the</p>
	<p>Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.</p>
55. Performance	<p>55.1 The Performance Security shall be provided to the Procuring Entity no Securities later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.</p>
56. Dayworks	<p>56.1 If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.</p> <p>56.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.</p> <p>56.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.</p>
57. Cost of Repairs	<p>57.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.</p> <p>E. Finishing the Contract</p>
58. Completion	<p>58.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager will do so upon</p>

Certificate	deciding that the work is completed.
59. Taking Over	59.1 The Procuring Entity shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.
60. Final Account	60.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of
	receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.
61. Operating and Maintenance Manuals	<p>61.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the Contract Data Sheet.</p> <p>61.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the Contract Data Sheet, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the Contract Data Sheet from payments due to the Contractor.</p>
62. Termination	<p>62.1 The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.</p> <p>62.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:</p> <p>a. The Contractor stops work for 28 days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Project Manager;</p> <p>b. The Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;</p> <p>c. The Procuring Entity or the Contractor is made bankrupt or goes</p>

	<p>into liquidation other than for a reconstruction or amalgamation;</p> <p>d. A payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 days of the date of the Project Manager's certificate;</p> <p>e. The Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;</p> <p>f. The Contractor does not maintain a Security, which is required; and</p>
	<p>g. The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the Contract Data Sheet.</p> <p>h. If the Contractor, in the judgment of the Procuring Entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of this paragraph: "corrupt practice "means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution and includes inter alia, bribery and extortion or coercion which involves threats of injury to person ,property or reputation, and "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.</p> <p>62.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub Clause 62.2 above, the Project Manager shall decide whether the breach is fundamental or not.</p> <p>62.4 Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.</p> <p>62.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.</p>
63. Payment upon	63.1 If the Contract is terminated because of a fundamental breach of

Termination	<p>Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the Contract Data Sheet. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.</p> <p>63.2 If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting</p>
	<p>and securing the Works, and less advance payments received up to the date of the certificate.</p>
64. Property	<p>64.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated because of the Contractor's default.</p>
65. Release from Performance	<p>65.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.</p>
66. Suspension of Financing	<p>66.1 In the event that the source of financing is suspended to the Procuring Entity, from which part of the payments to the Contractor are being made:</p> <p>a. The Procuring Entity is obligated to notify the Contractor of such suspension within 7 days of having received the financing agency's suspension notice.</p> <p>If the Contractor has not received sums due it within the 28 days for payment provided for in Sub-Clause 46.1, the Contractor may immediately issue a 14-day termination notice.</p>

SECTION V: CONTRACT DATA SHEET (CDS)

CONTRACT DATA SHEET

INSTRUCTIONS FOR COMPLETING THE CONTRACT DATA SHEET

CDS Clause	GCC Clause	Description
c	1.1	<p>A. General (Itemize definitions take the same numbering as per the General Conditions)</p> <p>The Procuring Entity is</p> <p>COUNTY GOVERNMENT OF BOMET P. O BOX 19-20400 BOMET</p> <p>The Defects Liability Period is <i>twelve (12) Months</i>.</p> <p>The Project Manager is</p> <p>CHIEF OFFICER, LANDS, HOUSING & URBAN PLANNING P. O BOX 19-20400 BOMET</p> <p>The name and identification number of the Contract is</p> <p>EXTENSION OF BOMET TOWN SEWER LINE-BOMET MUNICIPALITY</p> <p>The Start Date shall be immediately after site handover</p> <p>The Intended Completion Date for the whole of the Works shall be the date corresponding to the elapsing of six (6) Months from the date of contract signing</p> <p>The following documents also form part of the Contract:</p> <ol style="list-style-type: none"> i. Letter of Acceptance ii. Form of Tender iii. Conditions of Contract Part I iv. Conditions of Contract Part II and Appendix to Conditions of Contract v. Specifications vi. Drawings vii. Priced Bills of Quantities

2.	2.2	Indicate whether there is sectional completion N/A
3.	2.3(9)	List other documents that form part of the contract if any: N/A
4.	3.1	The language of the Contract documents is <i>English</i> The law that applies to the Contract is the Kenyan Law.
5.	9.1	Include the Schedule of Other Contractors, if any. <i>N/A</i>
6.	10.1	Include the Schedule of Key Personnel. - <i>As indicated in the Instruction to Tenderers</i>
7.	14.1	The minimum insurance covers shall be: loss of or damage to the Works, Plant, and Materials Ksh. 2,500,000 loss of or damage to Equipment Kshs. 2,000,000 loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract Kshs.3,000,000 and
8.	15.1	Site Investigation Reports available to the Tenderers are: N/A
9.	22.4	The other measures include: a) Minimizing the number of migrant workers employed on the project and household in the site camp b) Providing access to voluntary counselling and testing (VCT) c) Providing psychological support and health care including prevention and treatment of opportunistic infections for workers infected and affected, as well as their families d) Providing condoms (male and female) to workers
10.	24.1 & 47.1	The Site Possession Date shall be WITHIN 28 DAYS AFTER SIGNING OF CONTRACT
10.	& 47.1	The Site Possession Date shall be within 28 days after signing of contract
11.	28.2	Hourly rate of Fees payable to the Adjudicator is as per GOK guidelines
12.	28.3	Arbitration will take place at Nairobi, Kenya in accordance with rules and regulations published by the Kenya Chapter of the Chartered Institute of Arbitrators
13.	29.1	Appointing Authority for the Adjudicator: the Kenya Chapter of the Chartered Institute of Arbitrators
B. Time Control		
14.	30.1	The Contractor shall Submit a Programme for the Works within 14 days after signing of the contract
15.	30.3	The period between Programme updates is 28 days.
16.	30.3	The amount to be withheld by the Project Manager in the case the contractor does not submit an updated Programme is: 0.05% of contract amount
C. Quality Control		
17.	38.1	The Defects Liability Period is Twelve (12) Months
D. Cost Control		
18.	45.7	Minimum Amount of Interim Payment Certificate will be 5 million
19.	46.1	The Clause is N/A
20.	47.1(a)	The Site Possession Date shall be within 28 days after signing of contract
21.	50	The contract " <i>is not</i> " subject to price adjustment in accordance with Clause 50 of the General Conditions of Contract.
22.	51.1	The amount of retention is 2% of value of works of the interim

		Payment Certificate'. Limit of retention will be 10% of contract price
23.	52.1	The rate of liquidated damages is 0.075% percent of contract price per day
	52.1 62.2 (g)	The maximum amount of liquidated damages is 7.5% of Contract Price
24.	53.1	The bonus for early completion is N/A
25.	54.1	There shall not be any advance payment
26.	55.1	The Performance Security shall be 10 percent of the contract price (Unconditional Bank guarantee)
E. Finishing the Contract		
27.	61.1	As built drawings shall be supplied by the contractor by 2 months after substantial completion date
28.	61.2	The amount to be withheld by the Project Manager in the case the contractor does not submit as built drawings is: Kshs.500,000
		The amount to be withheld by the Project Manager in the case the contractor does not submit operating manual is: Kshs. 500,000
29.	63.1	The percentage to apply to the value of the work not completed, representing the Procuring Entity's additional cost for completing the Works, is 25%

EVALUATION CRITERIA

Three stages will be considered

Stage 1: Mandatory

No.	Requirement	Yes/No or R/NR
MR 1	Must submit a copy of certificate of Registration/Incorporation	
MR 2	CR 12 (valid for the last 6 months)	
MR 3	Must have Pin No (certificate)	
MR 4	Must submit a copy of valid tax compliance certificate	
MR 5	Bid bond 2%	
MR 6	Valid business permit	
MR 7	Must fill the bill of quantities in the format provided (partial filled BOQ will be rejected)	
MR 8	Must fill the form of tender in the format provided and signed by the authorized person	
MR 9	Must fill and sign the tender security form	
MR 10	S33/business questioner should be duly filled and completed	
MR11	Pretender site visit form filled and stamped by procuring entity	
MR 12	Must be registered with NCA 6 water works and above	
MR 13	All submitted documents should be paginated and duly stamped by commissioner of oaths	

NB: Only bidders who pass preliminary stage will proceed to technical evaluation.

Stage 2: Technical Evaluation

No.	PARAMETER	MAXIMUM SCORE	Score
Relevant experience			
	Experience as prime contractor in the Construction of equivalent Works in at least three projects of similar nature and complexity. <i>Attach at least three copies of LPOs and completion certificate.</i>	15 marks	
	<ol style="list-style-type: none"> 1. One copy of LPO or letter of award and Completion certificate (3marks) 2. Two copies of LPOs or letters of award and Completion certificates (6marks) 3. Three copies of LPOs or letters of award and Completion certificates (9marks) 4. Valid business permit from Bomet (6 marks) <p><i>Copies of LPOs, letters of award and completion certificate for previous work executed with national Government, County Government or any public entity.</i></p>		
Equipment		24 marks	
	<p>Either of 1 or 2</p> <ol style="list-style-type: none"> 1. Excavator with bucket (5mks) 2. Backhoe Excavator (5marks) <p><i>(Maximum marks)</i></p> <p>Either 3 or 4</p> <ol style="list-style-type: none"> 3. Excavator with Harmer (5mks) 4. Pneumatic compressor (5mks) <p><i>(Maximum marks)</i></p> <ol style="list-style-type: none"> 5. Concrete mixer (2mk) 6. Dumping truck (2mks) 7. 7 Tonne lorry 2No (2mks each) 8. Pork vibrator(2mks) 9. Dewatering pumps (2mks) 10. Pick up (2Mark) <p><i>NB/ Prove of ownership and lease must be provided i.e. logbooks or lease agreement</i></p>		
Key Personnel		28 marks	
	<ol style="list-style-type: none"> 1. Project Director. (5mks) 2. Civil Engineer (5mks) 3. Water / Waste water Engineer /water technologist (5mks) 4. Sewer works Inspectors- At least 2No. (5mks) 5. A surveyor (5mrks) 6. Sociologist(3mrks) <p><i>Attach academic certificate. No. 2, 3 and 5 in additional to attach valid up to date professional certificates.</i></p>		

FINANCIAL		9 MARKS	
	Audited Accounts-Financial statements of the firm based on information provided in the last 3 years audited account. <i>Should be duly stamped and signed by registered audit firm</i>		
	<ol style="list-style-type: none"> 1. Audited account 2017-2018 (3marks) 2. Audited account 2016-2017 (3marks) 3. Audited account 2015-2016 (3marks) 		
	<p>Assets and liabilities</p> <ol style="list-style-type: none"> 1. Provide a list of assets (3mrk)-<i>Attach Proof of ownership by the organization</i> 2. Provide list of liabilities (3mrk)- <i>Attach proof of current audited financial reports and duly stamped and signed by a recognized registered audit firm</i> 3. Annual volume (turn over) of construction work for the successful Tenderer in any of the last 2 years shall be' over Ksh 30 million (5mrks)- <i>Attach a duly signed current financial statement from a reputable financial institution.</i> 4. Line of credit of over 30 million (5mrks) - <i>Attach a letter of credit worthiness from a financial institution.</i> 5. Bank statements (last six months to date of tender) (4 marks) 6 Proposed program (Work methodology and schedule) (4mrks)- <i>Attach a work plan duly signed and stamped by authorized person</i> 	24 marks	
	TOTAL	100	

NOTE:

Only bidders who score 75% and above will be subject to financial evaluation. Those who score below 75% will be eliminated at this stage from the entire evaluation process and will not be considered further

The procuring entity will ensure due diligence is done to verify information submitted to be authentic truthful and where necessary verify all the documents. All machinery and equipment should be functional and operational. Any form of forgery or misinformation will lead to cancellation of the bid.

Stage 3 Financial Evaluation

1. This will involve ranking of Bid sum.
2. Award criterion is the lowest evaluated bidder.
3. Make recommendations of award.

SECTION VI: - TECHNICAL SPECIFICATIONS

DESCRIPTIONS

Regulations and Standards

The Works shall comply with the current editions of the following:

- a) The Kenya Government Regulations.
- b) The Kenya Bureau of Standards
- c) The National Environmental Management Authority Regulations.
- d) The Kenya Building Code Regulations
- e) Local Authority By-laws.
- f) British Standard and Codes of Practice as published by the British Standards Institution (BSI)
- g) The United Kingdom Chartered Institute of Building Services Engineers (CIBSE) Guides.
- h) The United Kingdom Institution of Electrical Engineers (IEE) Regulations for the Electrical Equipment of Buildings.
- i) The United Kingdom Chartered Institute of Building Services Engineers (CIBSE) Guides.

A. CIVIL WORKS

This work shall consist of excavating required trenches; laying or constructing therein pipe, encased pipe, or monolithic concrete masonry sewers, as the case may be; along with the construction of new manholes, laterals, catch basins, and other appurtenances; abandonment of certain existing sewer facilities as shown on the plans and in accordance with these specifications.

B. TRENCHES METHODS

- i. **Site Preparation** - Before any excavating is started, adequate protection shall be provided for all lawns, shrubs, landscape work, fences, hydrants, water mains, sidewalks, and curb and gutter that are to remain in place. Adequate protection shall also be provided for vehicle and pedestrian traffic in the vicinity of any open excavation. Such protection shall be maintained as long as necessary to prevent damage from the contractor's operations. Any damage that may occur shall be made good by the contract at no cost to the owner.

When damage is done to water laterals (service), sanitary sewer laterals (house connections), or any other underground facilities belonging to the service provider, which facilities are not being removed or abandoned, such damage will be repaired by the contractor's forces to the satisfaction of the project Engineer. If the contractor cannot, or does not wish to, make such repairs, said repairs will be made by the Owner's forces and the contractor shall be charged for the actual cost of such repairs on a time and material basis any charges for repairs of said damages will be deducted from moneys due the contractor.

- ii. **Open Trench Excavation** - Trenches shall be only of sufficient width to provide free working space on each side of the pipe or sewer, and such space shall not exceed 1/3 of the nominal diameter

of the pipe or size of the sewer, but such space shall never be less than 6 inches; trenches shall have vertical walls to the level of the top of the pipe. However, the required working space will depend upon the size of the pipe or sewer and the character of the materials encountered in the excavation, and in every case, there shall be sufficient space between the pipe or sewer and the sides of the trench or sheeting to make it possible to thoroughly ram the pipe bedding material under the bottom half of the sewer to secure proper foundation under the pipe.

Where necessary, and where required to comply with OSHA regulations, the contractor shall meet or shore all excavations with adequate sheeting and bracing. The sheeting shall be placed in such manner as to support the material in the sides of such excavations and prevent such materials from entering the excavation during the performance of the work. No sheeting below the top of the sewer pipe shall be removed after the backfilling has been begun.

Excavation for the trench shall begin at the downstream end of the proposed sewer and proceed toward the upstream end. The trenches shall be excavated to the required alignment and grades indicated on the plans and as lay out in the field by the engineer. In case the bottom of the excavation is unsuitable as a foundation it shall be further excavated and prepared by depositing in the bottom of the trench Class B concrete, gravel, crushed stone, or crushed gravel as directed by the Engineer may direct. Such authorized work shall be paid for as extra work.

The Engineer may order sheeting and bracing to be left in place at the completion of the work. The contractor shall be paid for such materials left in place in open cut trenches on order of the Engineer as an extra, but no payment shall be made for the placing of same.

- iii. **Disposal of Excavated Materials** - All excavated materials from trenches, not required for, or not permitted to be used for backfilling of such trenches, shall be removed from the site of construction operations as soon as excavated. Such surplus excavation shall be the property of the Owner, (unless otherwise stated in the Special Provisions), and the contractor shall dispose of such excavated materials as directed by the Engineer at the locations spelled out in the Special Provisions.

Where excavated material is permitted for the backfilling of trenches (above the pipe bedding zone), and such material has been approved by the project Engineer as suitable for backfilling, such material shall be stored in a neat pile adjacent to the excavation in a manner so as to interfere as little as possible with traffic.

- iv. **Materials Excavated** - The materials of excavation shall be classified either as earth excavation or as rock excavation.

Earth excavation shall include all clay, silt, loam, sand, gravel, slate, hard pan, pavements of all kinds, soft sandstone or limestone, loose stone, all boulders measuring less than one-third cubic yard in volume, all old sewers and manholes being abandoned and lying in the path of new construction, and all storm sewer laterals and catch basins requiring removal to make way for new sewer construction.

Rock excavation shall include ledge rock, boulders exceeding one-third cubic meter volume, and

concrete or masonry structures (other than those included under earth excavation) which, in the opinion of the project Engineer, require drilling or blasting to facilitate removal. Quantity of rock excavation and unit price therefore, shall be negotiated and agreed upon by the Engineer and the contractor.

- v. **Tunnel Excavation** - Tunnel shafts shall be located as shown on the plans or as approved by the Engineer. The excavation shall be of sufficient size to permit the construction of the sewer to the lines, grades and dimensions called for by the plans.

The contractor shall adequately sheet and brace all tunnel excavations as provided under "open trench excavation" except that no payment will be made for bracing or sheeting left in place in tunnels.

Should the soil be so unstable as to require extraordinary measures to protect the work such as liner plates and/or air pressure, the measures to be adopted and the costs of the extra work shall be agreed upon in advance.

- vi. **Forming Foundation** - The foundation of the trench shall be formed to prevent subsequent settlement so as to avert excessive pressure on the pipes or sewers and avoid consequent rupture thereon.

If the foundation is rock, an equalizing bed of concrete or well compacted sand shall be placed upon the rock. The thickness of such bed below the bottom of the pipe shall be not less than 4 inches. Pipes shall be laid in the bed so that at least the lower third of each pipe is supported its entire length.

If the foundation is undisturbed earth, the earth shall be pared or molded to give full support to the lower third of each pipe. In case the excavation has been made deeper than necessary or if for any other reason proper bearing for the sewer cannot otherwise be secured, a bed of concrete, pea gravel, crushed gravel, or other approved granular material shall be placed to form a satisfactory and well-compacted bed for the sewer. There shall be a minimum thickness of 4 inches of granular bedding material under the

pipe, and loose earth and ridges left in the trench bottom by bucket teeth shall be cleaned out of the trench before placing such granular material, so that a uniformly compacted bed may be formed for the sewer pipe. Special care shall be taken to prepare the bed for Elliptical pipe to insure fully bearing for the bottom half of such pipe.

If the foundation material encountered lacks satisfactory bearing power, the sewer shall be laid in a concrete cradle supported on a masonry foundation carried to a soil of satisfactory bearing power or supported on a structure designed to carry the weight of the sewer and its load to firm bearing.

C. LAYING PIPE SEWERS

All pipes shall be laid to a uniform line and grade, bell end up, with a firm and even bearing along the barrel of the pipe, close joints and smooth invert. The spigot end of the pipe is to be centered in, and shoved tight and secured against, the bell or socket of the previous laid pipe. The

interior of each pipe shall be cleaned all excess joint and foreign material before the next pipe is laid. The pipe shall be laid in the bedding materials heretofore specified. Where Elliptical pipe is being laid, special care shall be taken to insure proper bedding of the pipe, making certain that the space under the bottom half of such Elliptical pipe is completely filled with the bedding material and that such material is properly compacted to prevent settlement of the pipe after the trenches are backfilled.

Where Y's or T's for house connections are called for on the plans, the contractor shall place such appropriate fittings in the sewer line at the locations shown on said plan. Said Y's or T's, as the case may be, shall be factory-built fittings. Hand tapping of sewer mains with cold chisel and hammer will not be permitted. Y or T connections shall be placed as shown on the Standard Detail Sheet, with T connections in the top of the main for riser connections and Y connections tilted up at 45 degrees or more from the horizontal for direct lateral connection to the main.

All Y or T branches not incorporating a house lateral at the time of construction, and all ends of house laterals built under this project, shall be completely and tightly stoppered with an appropriate size stopper mortared into the bell of the fitting or lateral pipe, as the case may be.

During the laying of sewer lines and appurtenances, due care shall be taken to protect pipe, fittings, and joints from disturbance or damage, and the trench shall be kept free of water until the joints shall have set. At the close of each day's work, and at such times when pipe is not being laid, the open end of the pipe shall be protected with a close fitting stopper.

D. JOINTS FOR SEWERS

Specific joints to be used in the construction of sanitary sewers shall be as directed in the Special Provisions, and must be compatible with the type of pipe used. The Special

Provisions will make reference to certain of the following described joints for PVC, clay or concrete sewer pipe:

Flexible Compression Or Gasket Joints - Reference is made to the materials section of these specifications and the part thereof pertaining to the detailed descriptions of the jointing materials to be used with vitrified clay pipe or concrete sewer pipe. The contractor shall make certain that the proper gaskets or seals are used with the particular pipe he is installing. Gasket joints shall be made according to BS standard specification for joints for concrete pipe and manholes using rubber gaskets.

When constructing pipe sewers with the flexible compression or gasket joint, the bell and spigot surfaces shall be carefully and completely cleaned of dirt and foreign matter. The surfaces of the joints shall then be painted with that particular lubricant sealer recommended by the pipe being used. The spigot end of the upstream pipe shall then be carefully positioned into the bell end of the downstream pipe previously laid, and the upstream pipe pushed home to complete the joint. Special care shall be taken in handling both clay and concrete pipe manufactured for use with the compression type joint, to

prevent damage to the ends of the concrete pipe or to the factory applied gaskets in the case of clay pipe.

E. BACKFILLING

Except as otherwise provided for all trenches and excavations shall be backfilled immediately after the sewers have been constructed therein, but in any event backfilling of trenches or structures shall not proceed until approval has been secured from the project Engineer. Before backfilling the main part of the sewer trench, the sewer and all Y's or Ts or other connections shall be carefully covered with well- compacted crushed gravel or other acceptable granular materials having no stones larger than one inch in diameter, to a point at least two feet above the top of the pipe or said connection.

The backfill material shall be carefully deposited in uniform layers and each layer shall be carefully and thoroughly tamped or rammed with proper tools so as not to injure or disturb the sewer. After, or above the initial bedding and covering of the pipe, the uniform layers of backfill referred to above shall be about one foot thick. Said proper tools for tamping shall be either pneumatic or vibratory tampers capable of producing a uniformly and well compacted fill.

Where the sewer trenches lie within the paved area of a street, such trenches shall be backfilled up to subgrade elevation with compacted crushed gravel or other approved granular backfill. Where the sewer trenches lie in the terrace area or outside of paved surface areas, the trenches may be backfilled with satisfactory excavated material up to ground grade unless otherwise noted on the plans, or in the Special Provisions; such materials shall be well compacted and shall be topped with a minimum of 3 inches of topsoil suitable for seeding. Such topsoil shall be finish-graded, ready for seeding.

Normally, jetting or flooding of trenches for compaction will not be permitted. However, if jetting or water flooding for consolidating the backfilling is directed or ordered by the

Engineer the first flooding shall not be applied until after the backfilling, to a height at least two (2) feet above the top of the pipe or sewer, has been thoroughly compacted by tamping, and the second flooding shall be applied during or after the subsequent filling of the trench. An excess of water shall be avoided in order to prevent undue pressure upon the pipe or sewer. When jetting or flooding is authorized such water shall be removed from the trench by well-pointing or a sump pump located downstream from the section being jetted or flooded, in order to get excess water out of the clay trenches and to facilitate better settling of the granular backfill.

In the event excavations have been sheeted or shored, the backfilling shall conform to the requirements hereinbefore set forth, and the contractor shall carefully draw and remove the sheeting and braces in a manner that will not disturb the completed work, and openings left in pulling sheeting shall be carefully refilled with approved backfill material and properly compacted.

Walking or working on the complete pipe sewers, except as may be necessary in tamping or backfilling, shall be prohibited until the trench has been backfilled to height of at least two (2) feet above the top of the pipes.

Filling and compacting of the trench shall be carried on simultaneously on both sides of the sewer in such a manner that injurious side pressures do not occur.

F. CLEAN OUT

All new or re-laid sewers and manholes shall be cleaned of any accumulations of silt, debris, and other foreign matter, and prior to final acceptance such installations shall be tested with water, and under such tests unimpeded flow shall be indicated.

- i. **Testing of Sanitary Sewer Lines-** All sanitary sewer lines installed shall be tested at low pressure air test method. The air test method shall conform to ASTM C828.

The testing procedure as specified by in the BOQ and Drawings shall be performed by the contractor under the observation of the Project Engineer or his representative. The cost of the testing shall be deemed to be included in the BOQ.

Where any section of sewer fails to hold the pressure required, the contractor shall locate the source and repair it. Any visible leaks shall be repaired even though the test requirements are met.

- ii. **Deflection Tests** - These tests shall be performed on all ABS and PVC main line pipe installed using an approved go-no-go testing device. The test shall be conducted after all backfill has been placed and consolidated. If testing occurs within 30 days of placement of final backfill, deflection shall not exceed 5%.

When testing occurs after 30 days of placement of backfill, the deflection shall not exceed 7.5%. All testing shall be done under the observation of the Engineer. For acceptance, the device must pass through the entire section between manholes in one pass when pulled by hand without the use of excessive force. Any section not meeting the requirements shall be repaired and retested.

- iii. **Method of Measurement of Sewers-** Sanitary sewer of the several sizes, for each type will be measured separately by the linear meters. The lengths to be paid for will be the linear meter of sewer complete in place and accepted, measured along the centerline of the sewers from inside wall to inside wall of consecutive manholes. The length to be paid for shall not include the construction into or through manholes.

In the case of sanitary sewer laterals or sections of house lateral, such laterals shall be measured separately by the linear meters of sewer pipe in place and accepted, said measurement to be made from the centerline of the sewer main (to which said lateral is connected) to the property end of the laterals as built. The lateral, when so measured, will include 1/8 bends at the main sewer connection, and also appropriate stoppers for the property end of such laterals. Payment for laterals shall be made on the basis of the previously described measurement, and the unit price bid per foot of lateral so measured shall include said 1/8 bends and stoppers complete, in place, in accordance with the specifications.

Sanitary sewer risers shall be measured by the linear meters of riser completed and accepted; such measurement to be made from the top of the sewer main (on which the riser is built) to

the top of the T-connection for laterals. The contractor's attention is directed to the Standard Detail sheet, included with the plans for this project, for details on the required construction for sewer risers. The unit price bid per foot of the riser measured as aforesaid shall include the necessary T-fitting for lateral or laterals, and the concrete collar for riser support, all complete, in place, and in accordance with said Standard Details.

- iv. **Basis of Payment** - The lengths of sanitary sewers, measured as provided above, shall be paid for at the contract unit price per linear meters for the items of Vitrified Clay Pipe Sewer (size), Reinforced Concrete Pipe (size), Encased (Type) Sewer (size), or PVC, as the case may be, which price shall be full compensation for furnishing all materials, including all T's and Y's, elbows and other connections required; for furnishing Granular Backfill materials; for all excavation and removals (including removal of old existing sewers and appurtenances lying in the path of new sewer construction), sheeting and shoring, forming foundation, laying pipe sewers, constructing encased and monolithic sewers, making all connections to existing fixtures, backfilling, removing sheeting and braces, and restoring the site of the work; and for all labor, tools equipment and incidentals necessary to complete the work in accordance with the plans and contract.

G. ABANDONING CATCH BASINS AND MANHOLES

Where old, existing, active or inactive manholes or catch basins do not lie in the path of new construction, and consequently are not included for removal under the description of excavation (see "Construction Methods, Materials Excavated"), and where such structures or appurtenances are specified for removal or abandonment on the plans, the contractor, when so ordered by the Engineer, shall abandon such facilities in the following manner:

The walls of manholes, catch basins, or similar structures to be abandoned shall be knocked down to or below subgrade elevation; all pipe or laterals or sewer mains entering or leaving such structure shall then be sealed off with a satisfactory plug of Class B concrete. After such concrete has reached its initial set, the manhole, catch basin, or other structure being abandoned shall be backfilled in the same manner and with the same materials as sewer trenches are backfilled, with due care taken to accomplish adequate compaction.

The Project Engineer shall determine at the time of construction where certain manholes or catch basins are to be abandoned or if complete removal is required. If such structures or appurtenances are to be abandoned, such work shall be done by the contractor (unless otherwise noted in the Special Provisions or plans) and shall be measured as units, complete with the sealing of both ends of any piping entering or leaving the manholes or catch basins being abandoned.

Payment for the items of "Abandoning Manholes" and "Abandoning Catch Basins" shall be made at the unit price bid for each such structure abandoned in the manner aforesaid, and such payment shall be full compensation for furnishing all materials and labor necessary to accomplish the work described above, including the sealing of all open ends of sewer lines being abandoned.

H. CONSTRUCTION OF SEWER MANHOLES

DESCRIPTION

This work shall include the construction or reconstruction of manholes consisting of concrete masonry, brick masonry, or concrete block masonry with necessary reinforcement, metal frames and lids, including required excavation and backfilling; all in accordance with the plans and contract.

Materials- The materials furnished and used in the work shall conform to the requirements for the type or class of material named and described in a later section of these specifications.

Specific reference is made to the following:

- Concrete sewer pipe
- Concrete masonry Mortar
- Brick masonry and concrete block masonry miscellaneous metals
- Reinforcement

I. CONSTRUCTION METHODS

- i. **General-** The construction methods used in performing the work shall conform to the pertinent requirements set forth for the classes of work involved in the completion of the structures. Specific reference is made to methods of excavation and backfilling.

Excavation, disposal of excavated materials, and backfilling for manholes and catch basins shall be done in accordance with the methods and materials required in the Detailed Specifications for Sewer Construction.

Manholes shall be constructed of concrete masonry, reinforced where required, concrete block masonry, concrete brick masonry, or reinforced concrete culvert pipe (precast manholes.)

Standard manholes shall be built as shown on the drawings included with the plans, and of such diameter as the pipe size entering the manhole may require or as called for on the plans. However, the project engineer may request the contractor to provide drawing for his approval

Special manholes shall be built of reinforced concrete masonry, in combination with concrete blocks or natural stones masonry, as shown on standard detail drawings included with the sewer plans. Where variations in interior dimensions from those shown on the Standard Detail drawings are required to accommodate unusual pipe entrance conditions, such variations may be made if approved by the Engineer. Manholes are considered "Special Manholes" only if so designated on the plans for this project.

Footings for floors for manholes shall be of the thickness and dimensions shown on the detail drawings, and shall be constructed on Class 20/25 concrete. Those surfaces which will be exposed to the flow of water or sewage inside the manhole shall be given a smooth troweled finish.

In the construction of manholes, care shall be taken to provide walls with smooth interior faces, the masonry being laid up in a workmanlike manner. Concrete block masonry shall be constructed in horizontal courses with vertical joints broken, and where concrete manhole block are used in manholes having inside diameters greater than 1.5 m, such block shall be 225mm long (rather than the usual 400mm) to produce more regular inside walls.

No pipe joint shall fall within the manhole walls, but shall lie far enough inside or outside of such walls to make it possible to joint pipe (in future repair work) without damaging the manhole walls. All manhole masonry shall be constructed with extra care around pipe barrels to prevent leakage into the sewer system around pipe entering and leaving the manhole. Adequate provisions shall be made to support pipe outside the manhole walls to prevent shearing off of said pipe after backfilling and tamping is completed.

When designated within the drawings and/or Special Provisions, sanitary manholes shall be precast reinforced manhole sections and shall conform to ASTM Specification C-478 and shall meet the design, physical tests, finish and marking requirements of this specification. All materials shall be subject to visual inspection by the Owner's representative at the job site. The purpose of this inspection is to cull and reject any materials that fail to conform to the requirements as to general finish, exposed reinforcement and cracked or damaged materials.

Manhole steps shall be approved by the employers and OSHA and shall be installed in all manholes. Such steps shall be placed in the manhole wall in true vertical alignment, with a vertical center to center spacing of approximately 400mm. They shall project uniformly from the inside face of the wall 125mm to the centerline of the step.

Manhole frames shall be set in a bed or mortar at such level that when the cover is placed thereon their top surfaces will conform with existing grades, or in new street construction, with the proposed finish grade of the new pavement which grade shall be set by the Engineer. Surfaces of contact between frames and covers shall be sufficiently true so that no rattling occurs when vehicles pass over the cover. If rattling does occur, the cover shall be removed and machined so as to eliminate the rattling.

The frames and lids shall be accurately set so that the complete installation will be at the correct elevation required to fit the adjoining surfaces. When installed in concrete surfaces, the grates or lids shall not be in place while the adjoining concrete is struck off and finished.

- ii. **Clean Out-** All manholes and similar structures shall be thoroughly cleaned of an accumulation of silt, debris or foreign matter of any kind, and shall be clear of such accumulations at the time of final inspection.
- iii. **Methods of Measurement-** Manholes shall be measured separately as units, classified either as "Standard Manholes" or "Special Manholes". Under either classification a unit shall include the

cast iron manhole frame and cover and all pipe connections into or through the manhole; a unit shall be the complete manhole in place and accepted, backfilled, tamped, and ready for placement of base course for payment.

- iv. **Basis Of Payment-** The work under the item of "Standard Manholes" or "Special Manholes", measured as provided in the foregoing section, shall be paid for at the contract unit price each (lump sum), which price shall be full compensation for furnishing all materials including all masonry, frames and covers; also conduit and sewer connections, steps, and other fittings; for all excavation, backfilling, disposal of surplus material, and restoring the site of the work; and for all labor, tools, equipment, and incidentals necessary for each structure complete.

J. MATERIALS USED IN CONSTRUCTION OF SANITARY SEWER AND APPURTENANCES

- i. **Material Covered-** These specifications cover all those materials intended for use in the construction of sewers, sewer laterals, manholes and special junction structures and other pertinent parts of the sewer system.
- ii. **Pipe Bedding and Backfilling Materials** - Bedding materials for rigid pipe shall conform to ASTM C 12, bedding classes C30/35, C35/40, C40/45. Bedding materials for flexible pipe shall conform to ASTM D 2321, bedding classes I, II or III. The specific bedding class shall be specified by the Engineer for the specific pipe being used.
- iii. **Sand** - Where sand is specified as a pipe bedding or backfill material, it shall be granular material almost entirely passing a No. 10 sieve and predominately retained on a No. 200 sieve. Sand shall be free from deleterious substances, organic impurities, and silt as required in Sub-section 501.3.6.3 Fine Aggregate State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction.
- iv. **Pea Gravel** - Pea gravel shall consist of small or fine natural gravel almost entirely passing a 3/8-inch sieve and predominately retained on a No. 16 sieve. The material shall be washed clean of impurities and deleterious substances, and shall meet with the approval of the Engineer.
- v. **Crushed Gravel** - Crushed gravel shall consist of hard, durable particles of crushed natural gravel and a filler of natural sand. Oversize material encountered in deposits from which the material is taken shall be removed by screening or shall be crushed to the required size. The composite material shall be free from vegetable matter and lumps or balls of clay, and shall meet the requirements of the following gradation schedule:

Sieve Size	Percentage by Weight Passing
25mm	100
18,75mm	85-100
9.375mm	50-80
No. 4	35-65
No. 10	25-50
No. 40	15-30
No. 200	3-10

- vi. **Concrete Cradle** - Where a concrete cradle is specified on the plans, or is required in the opinion of the Engineer, such cradle shall be constructed of Class c, Normal Portland Cement Concrete.

Specifications for classes of concrete appear elsewhere in these specifications.

- vii. **Sand-Gravel Backfill** - This material shall consist of sand or a mixture of sand with gravel, crushed stone or other broken or fragmented material having sufficient fine material to fill all the voids in the coarser material. The Engineer shall approve of the pit and type of material to be used for backfilling trenches, where the Contractor wishes to use pit-run materials.

Sand, gravel backfill shall contain no stone or aggregate larger than 6 inches in diameter, but in no case shall stones of this size (or somewhat smaller) be so numerous as to make the material difficult to place and compact in the trenches or as to make it doubtful that sufficient fines exist to fill all voids in the large material. The Engineer may reject specific loads of pit-run material where he considers the gradation to be unsatisfactory.

- viii. **Reinforced Concrete Pipe** - Where reinforced concrete pipe is specified on the plans, such pipe shall conform to ASTM Specifications Designation C 76, for Reinforced Concrete Culvert, Storm Drain and Sewer Pipe, and shall meet the requirements for the various classes of pipe covered in said Specifications. Unless otherwise specified on the plans, Class III Reinforced Concrete Pipe shall be used except for 12" sewer laterals as noted below. All reinforced concrete pipe shall be tongue and groove type, or shall be modified bell and spigot type if gaskets or compression-type joints are used. ix. **Poly Vinyl Chloride, (Pvc) Pipe** - Where PVC pipe is specified on the plans, said pipe shall conform to ASTM Designation D-3034 and the minimum wall thickness shall conform to SDR-35 unless otherwise specified. All PVC pipe and fittings shall have elastomeric or rubber gaskets positively secured in place at the point of manufacture. The joints shall provide a continuous watertight conduit having an infiltration rate not exceeding 50 gallons per inch of diameter per mile per day.

Note:

All reinforced concrete pipe shall be furnished with "Wall B", as covered in ASTM Specification referred to above, unless otherwise specified in the plans.

K. COMPRESSION TYPE JOINT MATERIALS

These materials shall meet the requirements of applicable ASTM specifications for jointing the particular kind and type of pipe to be used.

When concrete pipe are being used, compression type joint materials shall conform to the requirements of ASTM Designation C 443, or the latest revision of such specifications. The contractor shall use only that joint lubricant-sealer recommended by the pipe manufacturer for his particular joint material.

In any case, when compression type joints are to be used, the contractor shall submit to the Engineer the manufacturer's data on the joint proposed for use in the project, and shall obtain the Engineer's approval therefore before ordering the pipe with such joint.

L. CEMENT MORTAR JOINTS

These joints will not be allowed.

M. MORTAR

Sand for mortar shall conform to the requirements of the specifications for Aggregate for Masonry Mortar, ASTM C-144. The gradation required shall be such as to produce a mortar which is not harsh, not difficult to handle, and will produce a weather-tight joint. However, the gradation shall also be such that the mortar will not require high mixing water content, with resultant loss in strength and increase in shrinkage of the mortar produced.

Water used in mixing mortar shall be clean, potable water fit to drink

Mixing mortar shall be done by first mixing the proper amounts of dry mortar materials to a uniform color in a batch mixer or tight mortar box, and then thoroughly mixing with water added gradually until the required consistency is obtained.

Concrete for pipe cradles or pipe encasement may be Class "C" concrete, unless otherwise noted on the plans.

Where transit mixed concrete is used, truck mixers shall be of the revolving drum type, with the mixing drum watertight when closed. The size of each truck batch shall not exceed the maximum rated capacity of the mixer, as stated on the particular unit by the manufacturer. Where several loads of concrete are required to make a specific pour, the time interval between successive loads shall not exceed 15 minutes.

The maximum allowable slump permitted will be determined by the Engineer for the particular

pour to be made, and such slump shall be as little as possible to make a workable mix for the specific type of work being poured. In general, a maximum slump of 3 inches will be permitted for non-reinforced concrete such as footings or pipe encasement, while for reinforced concrete such as footings or pipe encasements, while for reinforced slabs or similar structures of relatively thin section a maximum slump of 5 inches will be permitted.

N. REINFORCEMENT

Bar Steel Reinforcement shall meet the requirements of the Standard Specifications for Billet-Steel Bars for Concrete Reinforcement AASHTO Designation M-31, Rail-Steel Bars for Concrete Reinforcement AASHTO Designation M-42, Axle-Steel Bars for Concrete Reinforcement AASHTO Designation M-53.

Cold twisted or hot-twisted bars will not be accepted.

Unless otherwise provided on the plans or in the contract, all bar steel reinforcement shall conform to the requirements of the Standard Specifications for Minimum Requirements for the Deformation of Deformed Steel Bars for Concrete Reinforcement, AASHTO Designation M-137.

O. MISCELLANEOUS METALS

Manhole Steps shall be manufactured from high-test cast iron having a minimum tensile strength of 21.8kg/ mm² and shall be true to pattern in form and dimensions, free from pouring faults, sponginess, cracks, blow holes, and other defects affecting their strength and value for the service intended.

Manhole Frames and Covers shall be manufactured from high-test cast iron or gray iron conforming to the requirements for Class 25 of the Standard Specifications for Gray Iron Castings. ASTM Designation A-48, supplemented by the following requirements:

P. PROJECT CLOSEOUT REQUIREMENTS - RECORD DRAWINGS

The contractor shall provide the employer with a digital copy of records drawings for the as built. Submittal shall be made to the attention of the project consultant and accepted by implementing team . Acceptable formats include AutoCAD files, MicroStation files, or ESRI ArcMap files; similar digital files can be accepted with prior approval from the TSC. Handwritten plan sheets, Adobe PDFs, or similar formats are not acceptable.

Q. MACHINES AND EQUIPMENTS

All plant, equipment and materials supplied as part of these works shall be new and of first-class commercial quality, shall be free from defects and imperfections and where indicated shall be of grades and classifications designated herein.

All products or materials shall be products of quality standards.

Materials and apparatus supplied by others for installation and connection shall be carefully examined on receipt. Any defects noted, should be brought to the attention of the Engineer.

Defective equipment or that damaged in the course of installation or tests shall be replaced as required to the approval of the Engineer.

Transport and Storage

All plant and equipment shall, during transportation be suitably packed, crated and protected to minimize the possibility of damage and to prevent corrosion or other deterioration.

Material Tests

All material for plant and equipment to be installed under this works shall be tested, unless otherwise directed, in accordance with the relevant KS or B.S Specification concerned.

For materials where no KS or B.S. Specification exists, tests are to be made in accordance with the best modern commercial methods to the approval of the Engineer, having regard to the particular type of the materials concerned.

Specimens and performance tests and analyses to demonstrate conformance of the various materials with the applicable standards.

If stock material, which has not been specially manufactured for the plant and equipment specified is used, then satisfactory evidence to the Engineer that such materials conform to the requirements stated herein in which case tests of material may be partially or completely waive.

Certified mill test reports of plates, piping and other materials shall be deemed acceptable

R. Manufactured Plant and Equipment - Work Tests

The rights of the Engineer relating to the inspection, examination and testing of plant and equipment during manufacture shall be applicable to the Insurance Companies or Inspection Authorities so nominated by the Engineer.

A two weeks' notice shall be given to the Engineer of the manufacturer's intention to carry out such tests and inspections.

The Engineer or his representative shall be entitled to witness such tests and inspections. The cost of such tests and inspections shall be borne by the Manufacturer.

Six copies of all test and inspection certificates and performance graphs shall be submitted to the Engineer for his approval as soon as possible after the completion of such tests and inspections.

Plant and equipment which is shipped before the relevant test certificate has been approved by the Engineer shall be shipped at the Manufacturer's own risk and should the test and inspection certificates not be approved; new tests may be ordered by the Engineer at the manufacturer's

expense.

S. Pressure Testing

All pipework installations shall be pressure tested in accordance with the requirements of the various sections of this Specification. The installations may be tested in sections to suit the progress of the works but all tests must be carried out before the work is buried or concealed behind building finishes. All tests must be witnessed by the Engineer or his representative and a 48 hours' notice to carry out such tests shall be given to Engineer.

Any pipework that is buried or concealed before witnessed pressure tests have been carried out shall be exposed and the specified tests shall then be applied.

A certificate shall be prepared for signature by the Engineer and shall keep a progressive and up-to-date record of the section of the work that has been tested.

SECTION VIII - BILL OF QUANTITIES

Notes for Preparing Bills of Quantities

- 1.0 The objectives of the Bills of Quantities are;
- (a) to provide sufficient information on the quantities of Works to be performed to enable tenders to be prepared efficiently and accurately; and
 - (b) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Bill of Quantities should be as simple and brief as possible.

BOMET TOWN SEWER LINES EXTENSION

ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE (Kshs)	AMOUNT (KShs.)
1	Contractual Requirements				
1.1	Allow for the provision of performance guarantee in accordance with clause 52.1	P. Sum	1	200,000	200,000.00
1.2	Allow for insurance of works, plant and materials in accordance with clause 13 (a)	P. Sum	1	200,000	200,000.00
1.3	Allow for the insurance against loss of or damage to equipment in accordance with clause 13 (b)	P. Sum	1	200,000	200,000.00
1.4	Allow for insurance of or damage to people's property in accordance with clause 13 c	P. Sum	1	250,000	250,000.00
1.5	Allow for insurance against accident or personal injury or death to workmen and third party in accordance with clause 13 (d)	P. Sum	1	250,000	250,000.00
2	Project Signboards and Marker Posts				
2.1	Provision and erection of sewerline marker posts clearly marked in accordance with the specifications, and at locations specified by the Engineer.	No.	50		
3	Communication equipments for Resident Engineer and His Staff				
3.1	Purchase of laptops for the Engineer and his staff as per the specifications given	No.	8		
3.2	Reimbursement of cost of air time used on mobile phones	Months	6	18,000	108,000.00
3.3	Add over heads and profits for item 3.1-3.2	%	15%		
4	Specified Requirements- Equipment for Engieer's staff				
4.1	Provide and maintain surveying equipment for use by the Engineer's Staff. Equipment to revert back to the client.	Prov. Sum	1	200,000	200,000.00
4.2	Provide for protection, safety equipment and clothing for the use of the Engieer's staff	Prov. Sum	1	100,000	100,000.00
4.3	Provisional sum for camera equipment and site record and progress photographs as specified	Prov. Sum	1	200,000	200,000.00
4.4	Add over heads and profits for item 4.1-4.3	%	15%		
5	Specified requirements-Temporary works				
5.1	Allow a Prime Cost Sum for survey works as directed by the Engineer.	P. Sum	1	200,000	200,000.00
5.2	Allow for keeping the works free from water	L. Sum	1	100,000	100,000.00
5.3	Resident Engineer and supervisory staff allowances (Provisional)	Man/Months	4	225,000	900,000.00
	SUB-TOTAL CARRIED FORWARD THE NEXT PAGE				

BOMET TOWN SEWER LINES EXTENSION

ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE (Kshs)	AMOUNT (KShs.)
	SUB-TOTAL BROUGHT FORWARD FROM PREVIOUS PAGE				
6	CLASS D:PIPEWORK - DEMOLITION AND SITE CLEARANCE.				
	The rate for site clearance and demolition along 3m construction wayleave shall be deemed to include removal of the materials to tips identified by the contractor in liason with the Local Authority.				
6.1	General clearance along 3 m wayleave.(The contractor's rate for this item will be deemed to include for clearance of any extra land that he may consider necessary for Execution of his work and reinstatement of hedges and fences e.t.c removed during construction).	ha	0.5		
7	CLASS I:PIPEWORK - PIPES (EXCAVATION AND BACKFILLING ONLY)				
7.1	The rate quoted shall deem to include excavation and backfilling with selected excavated material of pipe trenches in normal formation of depth n.e 1.5 m.The rates shall include disposal of surplus material to tips identified by the contractor in liason with the local Authority.				
7.1.1	Nominal bore- 160 mm	m ³	1,046		
7.1.2	Ditto but Nominal Bore- 200 mm	m ³	7,193		
7.1.3	Ditto but Nominal Bore- 225 mm	m ³	1,715		
7.1.4	Ditto but Nominal Bore- 250 mm	m ³	0		
7.1.5	Ditto but Nominal Bore- 280 mm	m ³	0		
7.1.6	Ditto but Nominal Bore- 315 mm	m ³	2,091		
7.1.7	E.O for Excavation in formation other than normal formation of depths n.e 1.5m	m ³	1,204		
8	CLASS K:PIPEWORK -MANHOLES AND PIPEWORK ANCILLARIES.				
8.1	900 mm Nominal diameter in-situ cast concrete manhole on sewers all in accordance with details shown in drawings.Include for provision and fixing of cast irons and heavy duty triangular mild steel frame concrete filled cover as per the standard drawing.Allow for lean concrete fill around manhole cover.The rates should be inclusive of two flexible joints adjacent to the manholes as detailed and provision of box cut out and sealing of all pipes. Depth n.e 1.5 m	No.	93		
8.2	Provide all materials and cast 150mm concrete class 15/20 surround to 200mm dia. Sewer pipe.	m ³	1,436		
	SUB-TOTAL CARRIED FORWARD THE NEXT PAGE				

SECTION IX: TENDER FORMS

A. FORM OF TENDER

Date

Tender No.

To:

.....

[Name and address of procuring entity]

Gentlemen and/or Ladies:

1 In accordance with the Conditions of Contract, Specifications and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to supply the items completely

and remedy any defects therein for the sum of Kshs. _____ [Amount in figures]

Kenya Shillings.....

.....

2 We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the notification, and to complete the whole of the assignment comprised in the Contract within the time stated in the Appendix to Conditions of Contract.

3 We agree to abide by this tender until _____ [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.

4 Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.

5 We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20_____

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of

[Name of Tenderer] of

[Address of Tenderer]

Witness; Name _____

Address _____

Signature _____

Date _____

B. Confidential Business Questionnaire

1. Individual Tenderer or Individual Members of joint Ventures

1.1 Constitution or legal status of Tenderer: [attach copy]

Place of registration: [insert]

Principal place of business: [insert]

Power of attorney of signatory of Tender: [attach]

Registration certificate [attach] current Business License [attach]

1.2 Total annual volume of construction work performed in two years, in Kenyan shillings as specified in the Tender Data Sheet; [insert]

1.3 Work performed as prime Contractor on works of a similar nature and volume over the last two years or as specified in the Tender Data Sheet in Kenyan Shillings. Also list details of work under way or committed, including expected completion dates.

Project name and country	Name of client and contact person	Contractors Participation
(a)		
(b)		

1.4 Major items of Contractor's Equipment proposed for carrying out the works. List all information requested below. Refer also to sub-Clause 12.3 of the Instructions to Tenderers.

Item of equipment	Description, make, and age (years)	Condition (new, good, Poor) and number available	Owned, leased (from whom?) or to be purchased (from whom?)
(a)			
(b)			
(c)			
(d)			

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to sub-Clause 12.3 of the Instructions to Tenderers and Sub- Clause 10.1 of the General Conditions of Contract.

Position	Name	Years of experience (general)	Years of experience proposed position
(a)			
(b)			

1.6 Proposed sub-contractor and firms involved. Refer to Clause 7 of General Conditions of Contract.

Sections of the Works	Value of subcontract	Subcontractor (name and address)	Experience in similar work
(a)			
(b)			

1.7 Financial reports for the number of years specified in the Tender Data Sheet.

1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents.

1.9 Name, address, and telephone, e-mail address, and facsimile numbers of banks that may provide references if contracted by the Procuring Entity.

1.10 Information on current litigation in which the Tenderer is involved.

Other party(ies)	Cause of dispute	Amount involved
(a)		
(b)		

1.11 Statement of compliance with the requirements of sub-Clause 3.2 of the Instructions to Tenderers.

1.12 Proposed Program (work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the Tendering documents.

2. Joint Ventures

2.1 The information listed in 1.1 - 1.11 above shall be provided for each partner of the joint venture.

2.2 The information in 1.12 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory (ies) of the Tender authorizing signature of the Tender on behalf of the joint venture.

2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- a. All partners shall be jointly and _____ severally liable for the execution of the Contract in accordance with the Contract terms;
- b. one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
- c. the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

3. Additional Requirements

3.1 Tenderers should provide any additional information required in the Tender Data Sheet or to fulfil the requirements of sub-Clauses 12.1 of the Instructions to Tenderers, if applicable

C. Integrity Declaration

UNDERTAKING BY TENDERER ON ANTI - BRIBERY POLICY / CODE OF CONDUCT AND COMPLIANCE

PROGRAMME

1. Each Tenderer must submit a statement, as part of the Tender documents, in either of the two given formats which must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the Tendering company and, where relevant, of its subsidiary in the Kenya. If a Tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.
2. Tenderers will also be required to submit similar No- bribery commitments from their subcontractors and consortium partners; the Tenderer may cover the subcontractors and consortium partners in its own statement, provided the Tenderer assumes full responsibility.
3. Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.
 - a. Each Tenderer will make full disclosure in the Tender documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the Tender and, if successful, the implementation of the contract.
 - b. The successful Tenderer will also make full disclosure [quarterly or semi- annually] of all payments to agents and other third parties during the execution of the contract.
 - c. Within six months of the completion of the performance of the contract, the successful Tenderer will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that they are sufficient to establish the legitimacy of the payments made.
 - d. Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.
4. Tenders which do not conform to these requirements shall not be considered.
5. If the successful Tenderer fails to comply with its No- bribery commitment, significant sanctions will apply. The sanctions may include all or any of the following:
 - a) Cancellation of the contract; b)

Liability for damages to the public authority and/or the unsuccessful competitors in the Tendering possibly in the form of a lump sum representing a pre- set percentage of the contract value (liquidated).

7. Tenderers shall make available, as part of their Tender, copies of their anti- Bribery Policy/Code of Conduct, if any, and of their-general or project - specific - Compliance Program.

8. The Government of Kenya has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by Tenderers for this contract, and to which in turn all Tenderers and other parties involved or affected by the project shall have full access provided, however, that no proprietary information concerning a Tenderer may be disclosed to another Tenderer or to the public.

ANTI-CORRUPTION DECLARATION COMITMENT/ PLEDGE

(Sections39, 40,41,42,43 & of the PPD Act, 2005)

I/We

of Street, Building, P O Box

Contact/Phone/E mail

declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We

Declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender/Tender No.....

for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature

Name and Title of Signatory.....

D. Letter of Acceptance

[Letter head paper of the Procuring Entity]

[date]

To: [name and address of the Contractor]

This is to notify you that your Tender dated [date] for execution of the [name of the Contract and identification

number, as given in the Contract Data Sheet] for the Contract Price of the equivalent of [amount in numbers and works] [name of currency], as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

We confirm that [insert name proposed by the procuring entity] to be the Adjudicator. We accept that [name proposed by Tenderer] be appointed as Adjudicator.

Or

We do not accept that [name proposed by Tenderer] be appointed as adjudicator, and by sending a copy of this

letter of acceptance to [insert the name of the Appointing Authority], we are hereby requesting [name], the Appointing Authority, to appoint the adjudicator in accordance with Clause 44.1 of the Instructions to Tenderers.

You are hereby instructed to proceed with the execution of the said works in accordance with the Contract documents.

Please return the contract dully signed.

Authorized Signature:

Name and Title of Signatory:.....

Name of Agency:

Attachment: Form of Contract

D. TENDER SECURITY FORM

WHEREAS [name of the tenderer] (hereinafter called "the tenderer") has submitted its tender dated [date of submission of tender] for the Construction of secondary sewer distribution in Bomet in Bomet Municipality[name and/or description of the equipment] (hereinafter called "the Tender") KNOW ALL PEOPLE by these presents that WE of having our registered office at (hereinafter called "the Bank"), are bound unto [name of Procuring entity} (hereinafter called "the Procuring entity") in the sum of for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this day of 20

THE CONDITIONS of this obligation are: -

- 1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
- 2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:
 - a. fails or refuses to execute the Contract Form, if required; or
 - b. (fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

We undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

[signature of the bank]

(Amend accordingly if provided by Insurance Company)

E. Form of Contract Agreement

This Agreement, made the [day] day of..... [month],[year] between
[name and address of Procuring Entity] (hereinafter called "the Procuring Entity") and
.....[name and address of Contractor] (hereinafter called "the Contractor")
of the other part.

Whereas, the Procuring Entity is desirous that the Contractor execute [name and identification number of contract] (hereinafter called "the Works") with the objectives of [insert functional objectives of the works] and the Procuring Entity has accepted the Tender by the Contractor for the execution and completion of such works and the remedying of any defects therein in the sum of [contract price in words and figures] (hereinafter called "Contract Price").

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement;
2. In consideration of the payments to be made by the Procuring Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Procuring Entity to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract;
3. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

In Witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of.....

Was hereunto affixed in the presence of: Signed,
Sealed, and Delivered by the said

In the presence of:.....

Tendering Signature of Procuring Entity..

Binding Signature of Contractor

SECTION X: FORMS OF SECURITY

F. G. Performance Bank Guarantee [Unconditional]

Beneficiary: [insert name and address of Procuring Entity] Date: **[insert date]**

PERFORMANCE GUARANTEE No.: [insert Performance Guarantee number]

We have been informed that [insert name of Contractor]

(hereinafter called "the Contractor") has entered into Contract No. [insert reference number of the Contract] dated with you, for the execution

of..... [insert name of

Contract and brief description of Works] (hereinafter called "the Contract"). Furthermore, we understand that, according to the conditions of the Contract, a Performance

Guarantee is required. At the request of the Contractor, we [insert name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures]

.....([insert amount in words]), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein. We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change, addition or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any change, addition, or modification.

This guarantee shall expire not later than thirty days from the date of issuance of the Taking- Over Certificate.

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

G. Bank Guarantee for Advance Payment

TO

[name of Procuring entity]

[Name of tender]

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment,

.....*[name and address of Tenderer]* hereinafter called "the tenderer")

shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract an amount of

[amount of guarantee in figures and words].

We, the *[bank or financial institutions]*, as instructed by the

tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding *[amount of guarantee in figures and words]*

We further agree that no change or addition to or other modification of the terms of the Contract to be performed there-under or of any of the Contract documents which may be made between the Procuring entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification. This guarantee shall remain valid in full effect from the date of the advance payment received by the tenderer under the Contract until *[date]*.

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

H. LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To:

RE: Tender No.

Tender Name:

This is to notify that the contract/s stated below under the above-mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

**SECTION XI: APPLICATION TO PUBLIC PROCUREMENT
ADMINISTRATIVE**

I. REVIEW BOARD FORM RB 1

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO..... OF 20

BETWEEN

APPLICANT

AND

RESPONDENT (Procuring Entity)

Request for review of the decision of the (Name of the Procuring Entity) of
..... dated the...day of.....20 in the matter of Tender Noof 20

REQUEST FOR REVIEW

I/We, the above-named Applicant(s), of address: Physical
address Fax No..... Tel. No Email

....., hereby request the Public Procurement Administrative

Review Board to review the whole/part of the above-mentioned decision on the following grounds, namely:

- 1.

2.

etc.

By this memorandum, the Applicant requests the Board for an order/orders that: - 1.

2.

etc.

SIGNED.....(Applicant)

Dated on.....day of/ 20.....

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on..... day of
..... 20.....

SIGNED

Board Secretary