

# NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD



## TENDER DOCUMENT FOR SUPPLY AND DELIVERY OF MINERAL WATER (FRAMEWORK CONTRACT FOR TWO YEARS)

TENDER NO . NCCASB/OT/22/12/2019-2020

**CLOSING DATE:  
10<sup>TH</sup> JANUARY 2020, 12:00 NOON**

### CLERK'S CHAMBERS

Telegraphic Address

Telephone 020 2216151

Email: [clerk@nairobiassembly.go.ke](mailto:clerk@nairobiassembly.go.ke)

Web: [www.nairobiassembly.go.ke](http://www.nairobiassembly.go.ke)

### County Assembly

City Hall Buildings

P O Box 45844-00100

Nairobi, Kenya

# NAIROBI CITY COUNTY ASSEMBLY



P. O. BOX 45844 - 00100, NAIROBI - KENYA

Telephone 020 2216151

Web: [www.nrbcountyassembly.go.ke](http://www.nrbcountyassembly.go.ke)

## TENDER NOTICE

The Nairobi City County Assembly Service Board invites eligible competent bidders for the following tenders:-

TENDER NO.	Tender Item Description for Financial Year 2019-2020
NCCASB/OT/22/12/2019-2020	Supply/Delivery of Mineral water (Framework Contract for Two Years)

Tender documents with detailed specifications of the required goods and services may be obtained from the **Procurement Office, City Hall Building, Second Floor, Room 277** upon payment of a non-refundable fee of Kshs. 1,000 paid to Nairobi City County Assembly's Account at the Co-operative Bank of Kenya, City Hall Branch, Account Number 01141232417500;

or downloaded free of charge from the County Assembly website: [www.nairobiassembly.go.ke](http://www.nairobiassembly.go.ke) or Public Procurement Information Portal: [www.tenders.go.ke](http://www.tenders.go.ke)

Completed tender documents must be submitted in enclosed plain sealed envelopes, clearly marked with the **Tender Number** and written, "Tender for Supply /Provision " - "Category Reference/Description" and be deposited in the tender box situated at **Nairobi City County Assembly Service Board, located at Wabera street, City Hall - Assembly Wing, 2<sup>nd</sup> Floor, Room 277,** so as to be received on or before **10<sup>th</sup> January 2020, 12.00noon.**

Opening of tenders documents will take place immediately thereafter at the **Assembly Foyer, City Hall Building - Assembly Wing at 12.00noon** in the presence of the candidates' representatives who choose to be present.

Tenders should be addressed to:-

THE CLERK  
NAIROBI CITY COUNTY ASSEMBLY  
P. O. BOX 45844 - 00100,  
NAIROBI - KENYA

**TENDER NO. NCCASB/OT/22/12/2019-2020 - SUPPLY AND DELIVERY OF MINERALWATER**

The Nairobi City County Assembly (NCCA) invites sealed tenders from eligible candidates for the **Supply and delivery of Mineral Water for a period of 2 years** with an option of renewal for a further twelve (12) months subject to satisfactory performance.

Interested eligible candidates may obtain further information from and inspect the tender documents at the Procurement Office, 2nd Floor, City Hall Building room 277 Nairobi City County Assembly (NCCA).

**This Tender is exclusively reserved for YAGPO.**

**Bids shall be accompanied by a bid securing declaration form.**

**Prices quoted should be net inclusive of all taxes, must be in Kenya Shillings and should remain valid for 120 days.**

Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and be deposited in the **tender box** provided at The Nairobi City County Assembly or be addressed to:

The Clerk  
Nairobi City County  
Assembly  
P.O. Box 45844- 00100, Nairobi, Kenya.  
City Hall Building  
Tel. +254 700 330 486

so as to be received on or before **10<sup>th</sup> January 2020 at 12.00 noon.**

Tenders will be opened immediately thereafter in the presence of the tenderers representatives who choose to attend the opening at the Assembly Foyer, 2<sup>nd</sup> Floor, City Hall Building

## TABLE OF CONTENTS

		Page
SECTION I	INVITATION TO TENDER.....	3
SECTION II	INSTRUCTIONS TO TENDERERS.....	
	APPENDIX TO INSTITUTIONS TO TENDER .....	5
SECTION III	GENERAL CONDITIONS OF CONTRACT.....	17
SECTION IV	SPECIAL COND1TIONS OF CONTRACT.....	18
SECTION V	SCHEDULE OF REQUIREMENTS..... DESCRIPTION OF GOODS.....	19
SECTION VI	STANDARD FORMS.....	21

## SECTION II - INSTRUCTIONS TO TENDERERS

<b>TABLE OF CONTENTS.</b>	<b>Page</b>
2.1 Eligible Tenderers .....	5
2.2 Cost of tendering .....	5
2.3 Contents of tender documents .....	5
2.4 Clarification of Tender documents .....	6
2.5 Amendment of tender documents .....	6
2.6 Language of tenders .....	6
2.7 Documents comprising the tender .....	6
2.8 Form of tender .....	6
2.9 Tender prices .....	7
2.10 Tender currencies .....	7
2.11 Tenderers eligibility and qualifications .....	7
2.12 Tender security .....	7
2.13 Validity of tenders .....	7
2.14 Format and signing of tenders .....	8
2.15 Sealing and marking of tenders .....	9
2.16 Deadline for submission of tenders .....	9
2.17 Modification and withdrawal of tenders .....	9
2.18 Opening of tenders .....	10
2.19 Clarification of tenders .....	10
2.20 Preliminary Examination .....	10
2.21 Conversion to other currencies .....	10
2.22 Evaluation and comparison of tenders .....	11
2.23 Contacting the Nairobi City County Assembly .....	11
2.24 Post-qualification .....	11
2.25 Award criteria .....	12
2.26 Procuring entity's right to accept or reject any or all tenders.....	12
2.27 Notification of award .....	12
2.26 Signing of Contract .....	12
2.27 Performance security .....	13
2.28 Corrupt or fraudulent practices .....	13
2.29 appendix to instruction to tenderers .....	14

## SECTION II - INSTRUCTIONS TO TENDERERS

### 2.1 Eligible tenderers

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the goods for the stipulated duration from the **date** of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The Nairobi City County Assembly employees, members of county assembly, board members and their relatives (spouse and children) are not eligible to participate in the tender unless where specially allowed **under section 131 of the Act**.
- 2.1.3. Tenderers shall provide the qualification information statement that the tenderer (including all members, of a joint venture and subcontractors) is not 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 Nairobi City County Assembly to provide consulting goods for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 2.1.4. Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

### 2.2 Cost of tendering

- 2.2.1. The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the Nairobi City County Assembly, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2. The price to be charged for the tender document shall be Kshs.1,000/= only for bidders obtaining hard copies at the procurement Department. Bidders may also access and download for free the tender documents from the Assembly's website [www.nairobiassembly.go.ke/tenders](http://www.nairobiassembly.go.ke/tenders) or Public Procurement Information Portal: [www.tenders.go.ke](http://www.tenders.go.ke)
- 2.2.3. The Nairobi City County Assembly shall allow the tenderer to review the tender document free of charge before purchase.

### 2.3 Contents of tender documents

- 2.3.1. The tender document comprises of the documents listed below and addenda issued in accordance with clause 5 of these instructions to tenders
- i) Invitation to tender
  - ii) Instructions to tenderers
  - iii) General Conditions of Contract
  - iv) Special Conditions of Contract
  - v) Schedule of Requirements
  - vi) Technical specifications
  - vii) Form of tender
  - viii) Price schedules
  - ix) Contract form
  - x) Performance security form
  - xi) Bank guarantee for advance payment form

- xii) Manufacturer's authorization form
- xiii) Confidential business questionnaire form

2.3.2. The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

## **2.4 Clarification of Documents.**

2.4.1. A prospective candidate making inquiries of the tender document may notify the Nairobi City County Assembly in writing or by post, fax or email at NCCA's address indicated in the Invitation for tenders. The Nairobi City County Assembly will respond in writing to any request for clarification of the tender documents, which it receives no later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the Nairobi City County Assembly. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers who have received the tender documents.

2.4.2. The Nairobi City County Assembly shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

## **2.5 Amendment of documents.**

2.5.1. At any time prior to the deadline for submission of tenders, the Nairobi City County Assembly, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing an addendum.

2.5.2. All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, fax or email and such amendment will be binding on them.

2.5.3. In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Nairobi City County Assembly, at its discretion, may extend the deadline for the submission of tenders.

## **2.6 Language of tender**

2.6.1. The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Nairobi City County Assembly, shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## **2.7 Documents Comprising the Tender**

The tender prepared by the tenderer shall comprise the following components:

- a. A Tender Form and a Price Schedule completed in accordance with paragraph 2.8, 2.9 and 2.10 below.
- b. Documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted.
- c. Tender security furnished is in accordance with Clause 2.12.
- d. Confidential business questionnaire

## **2.8 Form of Tender**

- 2.8.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be performed.

## **2.9 Tender Price**

- 2.9.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the goods it proposes to provide under the contract.
- 2.9.2 Prices indicated on the Price Schedule shall be the cost of the goods quoted including all customs duties and VAT and other taxes payable:
- 2.9.3 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.
- 2.9.4 The validity period of the tender shall be 120 days from the date of opening of the tender.
- 2.9.5 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 2.9.6 Price variation requests shall be processed by the Nairobi City County Assembly within 30 days of receiving the request.

## **2.10 Tender Currencies**

- 2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to Instructions to Tenderers

## **2.11 Tenderers Eligibility and Qualifications.**

- 2.11.1 Pursuant to Clause 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.
- 2.11.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the Nairobi City County Assembly's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

## **2.12 Tender Security**

- 2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.
- 2.12.2 The tender security shall **NOT BE APPLICABLE**
- 2.12.3 The tender security is required to protect the Nairobi City County Assembly against the risk of Tenderers conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7
- 2.12.4 The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:

- a) A bank guarantee. (*Valid for thirty (30) days beyond the validity of tender.*)



- 2.12.5 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Nairobi City County Assembly as non-responsive, pursuant to paragraph 2.20
- 2.12.6 Unsuccessful tenderers security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Nairobi City County Assembly.
- 2.12.7 The successful tenderers tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.26, and furnishing the performance security, pursuant to paragraph 2.37.
- 2.12.8 The tender security may be forfeited:
- (a) If a tenderer **withdraws** its tender **during** the period of tender validity specified by the procuring Entity on the Tender Form; or
  - (b) In the case of a successful tenderer, if the tenderer fails:
    - ☐ To sign the contract in accordance with paragraph 2.26.
    - ☐ To furnish performance security in accordance with paragraph 2.27.
  - (c) If the tenderer rejects, correction of an error in the tender.

## **2.13 Validity of Tenders**

- 2.13.1 Tenders shall remain valid for **120 days** or as specified in the invitation to tender after date of tender opening prescribed by the Nairobi City County Assembly, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Nairobi City County Assembly as nonresponsive.
- 2.13.2 In exceptional circumstances, the Nairobi City County Assembly may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

## **2.14 Format and Signing of Tender**

- 2.14.1 The tenderer shall prepare two copies of the tender, clearly marking each **"ORIGINAL TENDER"** and **"COPY OF TENDER,"** as appropriate. In the event of any discrepancy between them, the original shall govern.
- 2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.
- 2.14.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

## **2.15 Sealing and Marking of Tenders**

- 2.15.1 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. The inner and outer envelopes shall:

- ☐ Be addressed to the Nairobi City County Assembly at the address given in the invitation to tender
- ☐ Bear, tender number and name in the invitation to tender and the words: **“DO NOT OPEN BEFORE 10<sup>th</sup> January 2020 at 12.00 noon**

2.15.2 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

2.15.3 If the outer envelope is not sealed and marked as required by paragraph 2.15.1, the Nairobi City County Assembly will assume no responsibility for the tender’s misplacement or premature opening.

## **2.16 Deadline for Submission of Tenders.**

2.16.1 Tenders must be received by the Nairobi City County Assembly at the address specified in the Appendix to instructions to tenderers no later than **10<sup>th</sup> January 2020 at 12.00 noon.**

2.16.2 The Nairobi City County Assembly may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 5, in which case all rights and obligations of the Nairobi City County Assembly and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.16.3 Bulky tenders which will not fit in the tender box shall be received by the Nairobi City County Assembly as provided for in the appendix.

## **2.17 Modification and withdrawal of tenders.**

2.17.1 The tenderer may modify or withdraw its tender after the tender’s submission, provided that written notice of the modification , including substitution or withdrawal of the tender’s is received by the Nairobi City County Assembly prior to the deadline prescribed for the submission of tenders.

2.17.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, post marked not later than the deadline for submission of tenders.

2.17.3 No tender may be modified after the deadline for submission of tenders.

2.17.4 No tender may be withdrawn 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 may result in the Tenderer’s forfeiture of its tender security, pursuant to paragraph 2.12.8.

2.17.5 The Nairobi City County Assembly may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.17.6 The Nairobi City County Assembly shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **2.18 Opening of Tenders**

- 2.18.1 The Nairobi City County Assembly will open all tenders in the presence of tenderers' representatives who choose to attend, **10<sup>th</sup> January 2020 at 12.00 noon at the Assembly Foyer, City Hall Building** The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.18.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Nairobi City County Assembly, at its discretion, may consider appropriate, will be announced at the opening.
- 2.18.3 The Nairobi City County Assembly will prepare minutes of the tender opening which will be submitted to the tenderers that signed the tender opening register and will have made the request.

## **2.19 Clarification of tenders**

- 2.19.1 To assist in the examination, evaluation and comparison of tenders the Nairobi City County Assembly may at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance shall be sought, offered, or permitted.
- 2.19.2 Any effort by the tenderer to influence the Nairobi City County Assembly in the Nairobi City County Assembly tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers tender.

## **2.20 Preliminary Examination and Responsiveness**

- 2.20.1 The Nairobi City County Assembly will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required securities have been furnished whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.20.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price 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. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security may be forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.
- 2.20.3 The Nairobi City County Assembly may waive any minor informality or 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.
- 2.20.4 Prior to the detailed evaluation, pursuant to paragraph 2.22, the Nairobi City County Assembly will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. The Nairobi City County Assembly determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 2.20.5 If a tender is not substantially responsive, it will be rejected by the Nairobi City County Assembly and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

**2.21 Conversion to a single currency.**

- 2.21.1 Where other currencies are used, the Nairobi City County Assembly will convert those currencies to Kenya shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

**2.22 Evaluation and comparison of tenders.**

- 2.22.1 The Nairobi City County Assembly shall evaluate and compare the tenders within 15 days of the validity period from the date of opening the tender and which have been determined to be substantially responsive, pursuant to paragraph 2.20
- 2.22.2 The comparison shall be of the price including all costs as well as duties and taxes payable on all the DRINKS to be used in the provision of the goods.
- 2.22.3 Pursuant to paragraph 22.3 the following evaluation methods will be applied:

**(a) *Operational Plan.***

The Nairobi City County Assembly requires that the goods under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders' offering to perform longer than the Nairobi City County Assembly required delivery time will be treated as non-responsive and rejected.

**(b) *Deviation in payment schedule.***

Tenderers shall state their tender price for the payment on a schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Nairobi City County Assembly may consider the alternative payment schedule offered by the selected tenderer.

**2.22.4 Preference.**

Preference where allowed in the evaluation of tenders SHALL not exceed 15%

**2.22.5 To qualify for contract awards, the tenderer shall have the following:-**

- (a) Necessary qualifications, capability experience, goods, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing
- (d) Shall not be debarred from participating in public procurement.

**2.23. Contacting the Nairobi City County Assembly.**

- 2.23.1 Subject to paragraph 2.19, no tenderer shall contact the Nairobi City County Assembly on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

- 2.23.2 Any effort by a tenderer to influence the Nairobi City County Assembly in its decisions on tender evaluation tender comparison or contract award may result in the rejection of the tenderers tender.

## **2.24 Award of Contract**

### **a) Post qualification**

- 2.24.1 In the absence of pre-qualification, the Nairobi City County Assembly 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.
- 2.24.2 The determination will take into account the tenderer's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.1.2, as well as such other information as the Nairobi City County Assembly deems necessary and appropriate.
- 2.24.3 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 Nairobi City County Assembly will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

### **b) Award Criteria**

- 2.24.4 Nairobi City County Assembly will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.
- 2.24.5 The Nairobi City County Assembly reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Nairobi City County Assembly action. If the Nairobi City County Assembly determines that none of the tenderers is responsive; the Nairobi City County Assembly shall notify each tenderer who submitted a tender.
- 2.24.6 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

## **2.25 Notification of award**

- 2.25.1 Prior to the expiration of the period of tender validity, the Nairobi City County Assembly will notify the successful tenderer in writing that its tender has been accepted.
- 2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the Nairobi City County Assembly pursuant to clause 2.26. Simultaneously the other tenderers shall be notified that their tenders have not been successful.
- 2.25.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 27, the Nairobi City County Assembly will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

## **2.26 Procuring entity's right to accept or reject any or all tenders**

The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers for grounds for the procuring entity's action. If the procuring entity determines that none of the tenders is responsive, the procuring entity shall notify each tenderer who submitted a tender.

The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

A tenderer who gives false information in the document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in the future public procurement.

## **2.27 Signing of Contract**

- 2.27.1 At the same time as the Nairobi City County Assembly notifies the successful tenderer that its tender has been accepted, the Nairobi City County Assembly will simultaneously inform the other tenderers that their tenders have not been successful.
- 2.27.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Nairobi City County Assembly.
- 2.27.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

## **2.28 Performance Security**

- 2.28.1 Within thirty (30) days of the receipt of notification of award from the Nairobi City County Assembly, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Nairobi City County Assembly.
- 2.28.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Nairobi City County Assembly may make the award to the next lowest evaluated or call for new tenders.

## **2.29 Corrupt or Fraudulent Practices**

- 2.29.1 The Nairobi City County Assembly requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 2.29.2 The Nairobi City County Assembly will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- 2.29.3 Further, a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

## APPENDIX TO INSTRUCTIONS TO THE TENDERERS

The following information for procurement of goods shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

Instruction to tender reference	Particulars of Appendix to instructions to tenderers
<b>Eligible tenderer</b> <b>2.11</b>	All tenderers are eligible: Suppliers and distributors of mineral water
<b>Cost of tender</b> <b>2.2.2</b>	Tender document price shall be <b>Kshs. 1,000</b> paid to <b>Nairobi City County Service Board's Account</b> at the <b>Co-operative Bank of Kenya, City Hall Branch, Account Number 01141232417500</b> ; <b>OR</b> <u>downloaded</u> free of charge from the County Assembly website: <a href="http://www.nairobiassembly.go.ke/tenders">www.nairobiassembly.go.ke/tenders</a> or Public Procurement Information Portal: <a href="http://www.tenders.go.ke">www.tenders.go.ke</a>
<b>Tender currencies</b> <b>2.10</b>	Prices shall be quoted in Kenya Shillings and <b>FIXED</b> for the period of the Contract
<b>Tender eligibilities and qualifications</b> <b>2.11</b>	For the purposes of establishing eligibility, the tenderer shall furnish: i) Certificate of incorporation, ii) Valid Certificate of Tax Compliance, iii) Valid Business Permit, Particulars of eligibility and qualifications documents of evidence required. Please see Mandatory requirements below.
<b>Tender Security</b> <b>2.12</b>	Not Applicable
<b>Validity of Tenders</b> <b>2.13</b>	Tenders shall remain valid for 120 days
<b>Format and Signing of Tender</b> <b>2.14.1</b>	Copies of Tender Documents to be Submitted: <b>An original and one (1) copy</b>
<b>Sealing and Marking of Tenders: 2.15.2(b)</b>	10 <sup>th</sup> January 2020, 12:00noon
<b>2.16.1</b>	10 <sup>th</sup> January 2020, 12:00noon
<b>2.18.1</b>	10 <sup>th</sup> January 2020, 12:00noon Location: Nairobi City County Assembly Service Board, located at Wabera street, City Hall – Assembly Wing, at the Assembly Foyer, City Hall Building – Assembly Wing at 12.00noon
<b>Preliminary Examination</b> <b>2.20</b>	There shall be no correction of arithmetical errors
<b>Conversion to single currency</b> <b>2.23</b>	All prices to be in Kenya shillings.
<b>Award Criteria</b> <b>2.24</b>	Lowest evaluated bidder
<b>Award of Contract</b> <b>2.24.1</b>	Particulars of post – qualification <b>NCCA may inspect the premises and confirm details</b>
<b>Performance Security</b> <b>2.28</b>	Not applicable

## EVALUATION AND COMPARISON OF TENDERS:

The following evaluation criteria shall be applied not withstanding any other requirement in the tender documents.

### *a) Mandatory Requirements (MR).*

**The following requirements must be met by the tenderer. Copies of evidence must be attached**

No.	Requirements
MR1	Copy of Valid Business License.
MR2	Certificate of KRA Valid Tax Compliance.
MR3	Certificate of registration / Incorporation
MR4	Valid certificate of registration of youth, women and people with disability owned business enterprise (AGPO) for National Treasury
MR5	Duly completed and signed Business Questionnaire
MR6	Must attach manufacturers authorization (in manufacturers letterhead)
MR7	Bidder must indicate the brand to be supplied and should indicate the mineral content
MR8	Dully filled and signed price schedule
MR9	Dully filled, stamped and signed form of tender
MR10	Dully filled and signed bid securing declarations form

At this stage, the tenderer's submission will either be responsive or non-responsive. The non-responsive submissions will be eliminated from the entire evaluation process and will not be considered further.



**b) Technical Scores (TS)**

This section (Technical Evaluation) will be marked out of 100 and will determine the technical score (TS)

No.	Evaluation Attribute	Weighting Score	Max. Score
T.S.1	Number of years the firm has been supplying mineral water. Tenderers work experience. i. 0-1 years 5 Mks ii. 1-2 years 10 Mks iii. 2-3 years 15 Mks	Attach copy of certificate of incorporation / registration.	15
T.S.2	Avail references from your current or previous major reputable clients or firms with work of similar nature and volume of over Kshs. 500,000 for the last 3 years. Letters or Contracts should have the following details; i. Name of Client ii. Signature & Stamp of Client iii. Telephone numbers iv. Duration of contract.	Attachments of similar supplies in the last three years 2016, 2017, 2018 [Attach Evidence e.g. LPOs (delivery notes) OR Contract documents]  • 3 LSOs/Contracts (15marks) • Others prorated as: <b><u>No. of LSOs/Contracts X 20marks</u></b> <b>3 years</b>	20
T.S.3	<b>Company profile</b> i. Provide a detailed company profile including the list of directors and key management staff together with their qualifications and experience and physical address must be submitted. ii. Qualification of key personnel. Attach CVs of at least four (4) key personnel to be involved in the assignment	i. Give structure with details of responsibilities for the key personnel to be involved in the assignment	20
T.S.4	Firms to indicate mode of transport and proof of ownership.	i. Owned transport 15 Mks ii. Hired transport 5 Mks	15
T.S.5	Delivery timelines if the firm is awarded the contract.	i. Within 2 Weeks – 15mks ii. Within 3 Weeks 5mks	15
T.S.6	Physical Facilities of firm • Provide details of physical address and contacts – <b>attach evidence</b>	Details of physical address and contacts with copy of either title, lease document or latest utility bills	10
T.S.7	Organization structure	Give structure with details of responsibilities	5
TOTAL MARKS			100
PASS MARK (70 %)			70

**NOTE:** Only bidders who score 70% and above will be subjected to financial evaluation. Those who score below 70% will be eliminated at this stage from the entire evaluation process and will not be considered further.

c) **Financial Score (Evaluation)**

Tenderers shall state their tender bid as detailed on a schedule outlined in bid price schedule. Tenders shall be ranked according to their evaluated price and the successful tender shall be the tender with the lowest evaluated price per item from the bidders who qualify at the technical stage (70% points and above).

It is worthy to note that the comparison shall be of the price including all costs as well as duties and taxes payable in the supply and delivery of the tendered items

### SECTION III - GENERAL CONDITIONS OF CONTRACT

TABLE OF CONTENTS		Page
3.1	Definitions .....	16
3.2	Application .....	16
3.3	Standards .....	16
3.4	Patent Rights .....	16
3.5	Performance security .....	16
3.6	Inspections and tests .....	17
3.7	Payment .....	17
3.8	Prices .....	17
3.9	Assignment .....	17
3.10	Termination for default .....	17
3.11	Termination for insolvency.....	17
3.12	Termination for convenience.....	18
3.13	Resolution of disputes.....	18
3.14	Governing language .....	18
3.15	Force majeure .....	18
3.16	Applicable law .....	18
3.17	Notices .....	18

## GENERAL CONDITIONS OF CONTRACT

### 3.1 Definitions

In this contract the following terms shall be interpreted as indicated:

- a) "The contract" means the agreement entered into between the Procuring entity and the tenderer as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- c) "The services" means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the Procuring entity under the Contract.
- d) "The Procuring entity" means the organization sourcing for the services under this Contract.
- e) "The contractor" means the individual or firm providing the services under this Contract.
- f) "GCC" means general conditions of contract contained in this section g) "SCC" means the special conditions of contract
- h) "Day" means calendar day

### 3.2 Application

- 3.2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other part of contract.

### 3.3 Standards

- 3.3.1 The services provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements

### 3.4 Patent Right's

- 3.4.1 The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

### 3.5 Performance Security

- 3.5.1 Within twenty-eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security where applicable in the amount specified in Special Conditions of Contract.
- 3.5.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 3.5.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of:

- a) Cash
- b) A bank guarantee.
- c) Such insurance guarantee approved by the Authority.
- d) Letter of credit.

3.5.4 The performance security will be discharged by the procuring entity and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer's performance of obligations under the contract, including any warranty obligations under the contract.

### **3.6 Inspections and Tests**

3.6.1 The Procuring entity or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.

3.6.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.6.3 Should any inspected or tested services fail to conform to the Specifications, the Procuring entity may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to the Procuring entity.

3.6.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.7 Payment**

3.7.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in SCC

### **3.8 Prices**

3.8.1 Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, vary from the prices by the tenderer in its tender or in the procuring entity's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

### **3.9 Assignment**

3.9.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this contract, except with the procuring entity's prior written consent.

### **3.10 Termination for Default**

3.10.1 The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:

- a) if the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.
- b) if the tenderer fails to perform any other obligation(s) under the Contract.

c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

- 3.10.2 In the event the Procuring entity terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar services.

### **3.11 Termination of insolvency**

- 3.11.1 The procuring entity may at the anytime terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

### **3.12 Termination for convenience**

- 3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

- 3.13.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor on agreed amount for partially completed services.

### **3.13 Resolution of disputes**

- 3.13.1 The procuring entity's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

- 3.13.2 If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

### **3.14 Governing Language**

- 3.14.1 The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

### **3.15 Force Majeure**

- 3.15.1 The contractor shall not be liable *for* forfeiture of its performance security, or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

### **3.16 Applicable Law.**

- 3.16.1 The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the  
SCC

### **3.17 Notices**

3.17.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC

3.17.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

## SECTION IV - SPECIAL CONDITIONS OF CONTRACT

- 4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.
- 4.2 Special conditions of contract with reference to the general conditions of contract.

General conditions of contract reference	Special conditions of contract
<b>Performance Security 3.5</b>	Specifications of performance security: <b>8% (eight percent) of Contract Sum</b>
<b>Inspections and Tests 3.6</b>	(i) Delivery shall be Nairobi City County Assembly office as specified as and when required for a period of two years. (ii) Order will be placed with the supplier by way of an official Local Purchase Order(LPO) (iii) Orders shall be executed by the supplier as specified on the LPO. (iv) Invoice must be received from supplier immediately on delivery of goods.
<b>Payment 3.7</b>	Credit period shall be from 30 days from the receipt of invoice
<b>Prices 3.8</b>	There shall be no price adjustments
<b>Resolution of disputes 3.13</b>	Specify resolution of disputes. <b>Disputes to be settled as per the Arbitration Laws of Kenya</b>
<b>Applicable Law 3.16</b>	Specify applicable law. <b>Laws of Kenya</b>
<b>Notices 3.17</b>	Indicate addresses. <b>Client: The Nairobi City County Assembly (NCCA) P. O. Box 45844 - 00100 Nairobi</b>
<b>Other's as necessary</b>	Complete as necessary



## **SECTION V - SCHEDULE OF REQUIREMENTS/TECHNICAL SPECIFICATIONS**

### **SPECIFICATIONS AND SCOPE OF MINERAL WATER**

The objective of the specifications is to provide sufficient information to enable the tenderer prepare accurately, especially the price schedules for which a form is prepared.

#### **MINERAL WATER**

- a) The Water supplied shall be pure mineral water bearing the Kenya Bureau of Standards mark
- b) The mineral water shall be packed in clean and new bottles
- c) The source must be certified by the Kenya Bureau of Standards (KEBS) (a copy of the certification must be provided and State Department for Maritime and Shipping Affairs shall verify its authenticity from the relevant authorization body)
- d) KEBS standards of water chemical analysis KS 05-459 part shall apply
- e) Others will be given as and when required

**Prices quoted should be valid for twelve (12 no.) months and be inclusive of delivery charges to:  
Nairobi City County Assembly, City Hall Building, City Hall Way**

## QUANTITY SPECIFICATIONS FOR MINERAL WATER AND PLASTIC CUPS:

Items on this tender will be on **AS WHEN REQUIRED** basis once contract is awarded.  
Local Purchase Orders will be processed for the requirements periodically.

**The schedule of requirements is as follows:**

Item No	Description	Unit Of Measure	Monthly Consumption (estimates)	Unit Cost
1.	20 litre water	bottle	80	
2.	Bottled Water 500 ml	Case of 12	640	
3.	Bottled Water 300 ml	Case of 24	100	
	<b>TOTAL COST</b>			

Signature of tenderer \_\_\_\_\_

## SECTION VI - DESCRIPTION OF GOODS

### **General**

These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply

Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.

All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.

The tenderers are requested to present information along with their offers as follows:

- i. Shortest possible delivery period of each product.
- ii. Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

## SECTION VII - STANDARD FORMS

### Notes on the standard Forms

1. **Form of Tender**-The form of Tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. **Price Schedule Form**-The price schedule form must similarly be completed and submitted with the tender.
3. **Contract Form**-The contract form shall not be completed by the tenderer at the time of submitting the tender. The contract form shall be completed after contract award and should incorporate the accepted contract price.
4. **Confidential Business Questionnaire Form**-This form must be completed by the tenderer and submitted with the tender documents.
5. **Format of Tender Security Instrument**-When required by the tender document the tenderer shall provide the tender security in the form included hereinafter.
6. **Performance security Form**-The performance security form should not be completed by the tenderer at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the Nairobi City County Assembly.
7. **List of Clients**-The form is to be filled in the format provided

#### 4.1 FORM OF TENDER

Date\_\_\_\_\_

Tender \_\_\_\_\_

To: **The CLERK**  
**Nairobi City County Assembly**  
**(NCCA) P. O. Box 45844-00100**  
**NAIROBI**

Sir/Madam:

1. Having examined the Tender documents including Addenda Nos. *[insert addenda numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to **Supply and delivery of mineral water** in conformity with the said Tender documents for the sum of \_\_\_\_\_ *[total Tender amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.
2. We undertake, if our Tender is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.
3. We agree to abide by this Tender for the Tender validity period specified in Clause 2.13 of the Appendix to Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
4. We are not participating, as Tenderers, in more than one Tender in this Tendering process.
5. Our firm, its affiliates or subsidiaries – including any subcontractors or suppliers for any part of the contract – has not been declared ineligible by the Government of Kenya under Kenyan laws.
6. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.
7. We understand that you are not bound to accept the lowest or any tender you may receive.
8. We certify/confirm that we comply with the eligibility requirements as per ITT Clause 3 of the Tender documents

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
*[Signature]*

\_\_\_\_\_  
*[In the capacity of]*

Duly authorized to sign Tender for and on behalf of \_\_\_\_\_

## 4.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2(b) or 2(c) whichever applied to your type of business.

You are advised that it is a serious offence to give false information on this form.

Part 1 General Business Name ..... Location of Business Premises ..... Plot No,.....Street/Road ..... Postal address .....Tel No. ....Fax Email..... Nature of Business ..... Registration Certificate No. .... Maximum value of business which you can handle at any one time – Kshs. .... Name of your bankers..... Branch .....				
Part 2 (a) – Sole Proprietor				
Your name in full.....Age..... Nationality.....Country of Origin..... Citizenship details .....				
Part 2 (b) – Partnership				
Given details of partners as follows				
Name	Nationality	Citizenship details	Shares	
.....	.....	.....	.....	
.....	.....	.....	.....	
.....	.....	.....	.....	
Part 2 (c) – Registered Company				
Private or Public				
State the nominal and issued capital of company				
Nominal Kshs.				
Issued Kshs.				
Given details of all directors as follows				
Name	Nationality	Citizenship details	Shares	
.....	.....	.....	.....	
.....	.....	.....	.....	
.....	.....	.....	.....	
Date.....Signature of Candidate.....				

### 4.3 TENDER SECURITY FORM.

Whereas ..... [Name of the tenderer]

(Hereinafter called "the tenderer") has submitted its tender dated ..... [Date of submission of tender] for the ..... [Name and/or description of the tender]

(Hereinafter called "the Tender") KNOW ALL PEOPLE by these presents that WE ..... of ..... [Name of Insurance Company/Bank] having our registered office at ..... (Hereinafter called "the Guarantor"), are bound unto ..... [Procuring Entity] (Hereinafter called "Procuring Entity") in the sum of ..... (Currency and guarantee amount) for which payment well and truly to be made to the said Nairobi City County Assembly, the Guarantor binds itself, its successors, and assigns by these presents.

Sealed with the Common Seal of the said Guarantor this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

THE CONDITIONS of this obligation are:

1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers, Or
2. If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
  - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, 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 Nairobi City County Assembly up to the above amount upon receipt of its first written demand, without the Nairobi City County Assembly having to substantiate its demand, provided that in its demand the Nairobi City County Assembly 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 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 Guarantor not later than the said date.

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Signature of the Guarantor]

\_\_\_\_\_  
[Witness]

\_\_\_\_\_  
[Seal]

#### 4.4 CONTRACT FORM

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ between.....[Name of Procuring Entity] of .....[Country of Procurement entity](hereinafter called "the Procuring Entity") of the one part and .....[Name of Tenderer] of .....[City and Country of Tenderer](hereinafter called "the tenderer") of the other part.

WHEREAS the procuring entity invited tenders for certain goods and has accepted a tender for the supply of those goods in the sum of.....[brief description of DRINKS and spares] and has accepted a tender by the tenderer for the supply of those DRINKS and spares in the spares in the sum of .....[contract price in words and figures]

#### NOW THIS AGREEMENT WITNESSETH 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 referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) the Tender Form and the Price Schedule submitted by the tenderer;
  - (b) the Schedule of Requirements;
  - (c) the Technical Specifications;
  - (d) the General Conditions of Contract;
  - (e) the Special Conditions of Contract; and
  - (f) The procuring entity's Notification of award.
3. In consideration of the payments to be made by the Nairobi City County Assembly to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Nairobi City County Assembly to provide the DRINKS and spares and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Nairobi City County Assembly hereby covenants to pay the tenderer in consideration of the provision of the mineral water, water dispensers juices, plastic cups and soda:, 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 hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Nairobi City County Assembly)

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer)

in the presence of \_\_\_\_\_.



#### 4.5 PERFORMANCE SECURITY FORM

To: .....

[Name of the Procuring Entity]

**WHEREAS**.....[Name of Tenderer]

(Hereinafter called "the tenderer") has undertaken, in pursuance of Contract No. \_\_\_\_\_ [Reference No. of the contract] dated \_\_\_\_\_ 20\_\_\_\_ to Supply.....

[Description goods](Hereinafter called "the contract")

**AND WHEREAS** it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer's performance obligations in accordance with the Contract.

**AND WHEREAS** we have agreed to give the tenderer a guarantee:

**THEREFORE WE** hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of .....  
[Amount of the guarantee in words and figures],

and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of ..... [Amount of guarantee] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the \_\_\_\_\_ day of 20\_\_\_\_  
\_\_\_\_\_ Signature and seal of the Guarantors

\_\_\_\_\_  
[name of bank or financial institution]

\_\_\_\_\_  
[address]

\_\_\_\_\_  
[date]

(Amend accordingly if provided by Insurance Company)

#### 4.6 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]

#### 4.7 MANUFACTURER'S AUTHORIZATION FORM

To [name of the Procuring entity] .....

WHEREAS .....[Name of the manufacturer] who are established and reputable manufacturers of ..... [Name and/or description of the goods] having factories at ..... [Address of factory] do hereby authorize ..... [Name and address of Agent] to submit a tender, and subsequently negotiate and sign the Contract with you against tender No. .... [Reference of the Tender] for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

---

[Signature for and on behalf of manufacturer]

*Note:* This letter of authority should be on the letterhead of the Manufacturer and should be signed by an authorized person.

#### 4.8 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

## 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  
No.....of.....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)

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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

**MANDATORY; MUST BE FILLED BY ALL BIDDERS**

**ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE**

*(Sections 39, 40, 41, 42, 43 & of the PPD Act, 2005)*

I/We/M/S.....

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.....

## TENDER SECURING DECLARATION

*[The Bidder shall fill in this Form in accordance with the instructions indicated.]*

Date: *[insert date (as day, month and year) of Bid Submission]*

Tender No.....

To:

Nairobi City County  
Assembly P.O Box 15653-  
00503  
NAIROBI

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Tender Securing Declaration.

2. We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of *[insert number of months or years]* starting on *[insert date]*, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have withdrawn our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
- (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the Instructions to Tenderers.

3. We understand this Tender Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

4. We understand that if we are a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid. If the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed: .....*[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Bid Securing Declaration]*

Name: .....*[insert complete name of person signing the Tender Securing Declaration]*

Duly authorized to sign the bid for and on behalf of: *[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*



## 7. LIST OF CLIENTS

Indicate the details of companies in the private / public sector where you have undertaken/are undertaking goods of similar nature where the contract sum is at least **Kshs. 100,000 per month.**

NO	CONTACT INFORMATION	DETAILS
1	<b>Name of company</b>	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	
2	<b>Name of company</b>	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	
3	<b>Name of company</b>	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	
4	<b>Name of company</b>	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	
5	<b>Name of company</b>	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	

**NOTE:**

**Ensure that you have provided reference letters for all the above organizations**