



**COUNTY GOVERNMENT OF LAMU
DEPARTMENT OF WATER AND IRRIGATION**



TENDER DOCUMENT

**FOR SUPPLY, DELIVERY AND INSTALLATION OF
DESALINATION PLANT AND A 31KV GENERATOR AT
MKOKONI VILLAGE IN KIUNGA**

TENDER NO.CGL/KIUNGA/ONT/049/2019-2020

(NEGOTIATION NUMBER 781301)

CGL/KIUNGA/ONT/049/2019-2020

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21ST February, 2020

SECTION I: INVITATION TO TENDER

TENDER REF NUMBER: CGL/KIUNGA/ONT/049/2019-2020

TENDER NAME: SUPPLY, DELIVERY AND INSATALLATION OF DESALINATION PLANT AND A 31KVA GENERATOR FOR MKOKONI VILLAGE IN KIUNGA

- 1.1 The County Government Of Lamu invites sealed tenders from eligible candidates for **Supply, Delivery And Installation Of Desalination Plant And A 31KVA Generator For Mkokoni Village In Kiunga**
- 1.2 Interested eligible candidates may obtain further information from and inspect the tender documents at Supply Chain Management office at The County Headquarters Located at Mokowe or visit Lamu County Government website <http://www.lamu.go.ke>.
- 1.3 A complete set of tender documents shall be made available on the Lamu County Government website: <http://www.lamu.go.ke> and obtained by interested candidates without paying any fee.
- 1.4 Prices quoted should be net inclusive of all taxes, must be in Kenya Shillings and shall remain valid for **120 days** from the closing date of the tender.
- 1.5 Completed tender documents are to be addressed to **(COUNTY GOVERNMENT OF LAMU P.O BOX 74- 80500 LAMU and should be submitted electronically through IFMIS supplier portal at www.supplier.treasury.go.ke** so as to be received on or before **Monday 09th March, 2020 at 11.00 a.m.**
- 1.6 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at the County's Board room.

For *(Accounting Officer/County Government of Lamu)*

CGL/KIUNGA/ONT/049/2019-2020

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SECTION II – INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful tenderers shall complete the supply, install and commissioning of the equipment by the intended completion date specified in the tender documents.
- 2.1.2 The County Government’s employees, committee members, board members and their relative (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 County government to provide consulting services 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 Eligible Equipment

- 2.2.1 All equipment to be supplied and installed under the contract shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, “origin” means the place where the equipment(s) are produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components
- 2.2.3 The origin of equipment is distinct from the nationality of the tenderer and shall be treated thus in the evaluation of the tender.

2.3 Cost of Tendering

- 2.3.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the County Government, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.3.2 The price to be charged for the tender document shall not exceed Ksh 5000.00

2.3.3 The County government shall allow the tenderer to review the tender document free of charge before purchase.

2.4. Contents of Tender Document

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to tenderers

- (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) Tender Form and Price Schedules
- (viii) Tender Security Form
- (ix) Contract Form
- (x) Performance Security Form
- (xi) Bank Guarantee for Advance Payment Form
- (xii) Manufacturer's Authorization Form
- (xiii) Confidential Business Questionnaire Form
- (xiv) Declaration form
- (xv) Request for Review Form

2.4.2 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.

2.5 Clarification of Tender Documents

2.5.1 A prospective tenderer making inquiries of the tender documents may notify the county government in writing or by post at the entity's address indicated in the invitation for tenders. The County Government will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the County. 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 that have received the tender document.

2.5.2 The County 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.

2.6 Amendment of Tender Documents

- 2.6.1 At any time prior to the deadline for submission of tender, the County Government, 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.
- 2.6.2 All prospective tenderers that have obtained the tender documents will be notified of the amendment in writing or by post and will be binding on them.
- 2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the County, at its discretion, may extend the deadline for the submission of tenders.

2.7 Language of Tender

- 2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the **County**, shall be written in English language, provided that 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.

2.8 Documents Comprising the Tender

- 2.8.1 The tender prepared by the tenderers shall comprise the following components.
- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
 - (b) documentary evidence established in accordance with paragraph 2.12 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
 - (c) documentary evidence established in accordance with paragraph 2.13 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
 - (d) tender security furnished in accordance with paragraph 2.14
 - (e) Confidential Business Questionnaire

2.9 Tender Form

- 2.9.1 The tenderer shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the equipment to be supplied, installed and commissioned and a brief description of the equipment, their country of origin, quantity, and prices.

2.10 Tender Prices

- 2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices where applicable and total tender price of the equipment and installation it proposes to supply under the contract.
- 2.10.2 Prices indicated on the Price Schedule shall be entered separately in the following manner:
- (i) the price of the equipment quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable;
 - (ii) charges for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination; and
 - (iii) installation charges shall also be indicated separately for each equipment
- 2.10.3 Prices quoted by the tender shall remain fixed during the Tender's performance of the contract. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22 unless otherwise agreed by the parties.

2.11 Tender Currencies

- 2.11.1 Prices shall be quoted in the following currencies:
- (a) For equipment that the tenderer will supply from within Kenya, the prices shall be quoted in Kenya Shillings; and
 - (b) For equipment that the tenderer will supply from outside Kenya, the prices may be quoted in US Dollars or in another freely convertible currency.
 - (c) Cost of installation and commissioning will be in Kenya Shillings.

2.12 Tenderers Eligibility and Qualifications

- 2.12.1 Pursuant to paragraph 2.1. The tenderers 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.
- 2.12.1 The documentary evidence of the tenderers eligibility to tender shall establish to the County's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1

- 2.12.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the County's satisfaction;
- (a) that, in the case of a tenderer offering to supply equipment under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the equipment, Manufacturer or producer to supply the equipment
 - (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
 - (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

2.13 Goods Eligibility and Conformity to Tender Document

- 2.13.1 Pursuant paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all equipment which the tenderer proposes to supply under the contract
- 2.13.2 The documentary evidence of the eligibility of the goods shall consist of statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 2.13.3 The documentary evidence of conformity of the equipment to the tender documents may be in the form of literature, drawings, and data, and shall consist of:
- a) a detailed description of the essential technical and performance characteristic of the equipment
 - b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the equipment for a period of two (2) years, following commencement of the use of the equipment by the County; and
 - c) a clause-by-clause commentary on the County's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.
- 2.13.4 For purposes of the commentary to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative

standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

2.14 Tender Security

2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Appendix to Instructions to Tenderers.

2.14.2 The tender security shall be in the amount not exceeding 2 percent of the tender price, from a reputable bank or Insurance companies approved by Public Procurement Regulatory Authority.

2.14.3 The tender security is required to protect the County against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, 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.

2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the County as non-responsive, pursuant to paragraph 2.22

2.14.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the County.

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

- a) if a tenderer withdraws its tender during the period of tender validity specified by the County on the Tender Form; or
- b) in the case of a successful tenderer, if the tenderer fails:
 - i) to sign the contract in accordance with paragraph 2.27
 - or
 - ii) to furnish performance security in accordance with paragraph 2.28

- c) If the tenderer rejects correction of an arithmetic error in the tender.

2.15 Validity of Tenders

2.15.1 Tenderers shall remain valid for **120** days or as specified in the tender documents after date of tender opening prescribed by the County, pursuant to paragraph 2.20. A tender valid for a shorter period shall be rejected by the County as non-responsive.

2.15.2 In exceptional circumstances, the County Government 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 2.14 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.

2.16 Format and Signing of Tender

2.16.1 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.

2.16.2 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.

2.16.3 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.

2.17 Sealing and Marking of Tenders

2.17.1 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.

2.17.2 The inner and outer envelopes shall:

- (a) Be addressed to the County at the address given on the Invitation to Tender.

- (b) Bear the tender number and name in the Invitation to Tender and the words "DO NOT OPEN **BEFORE 09th March, 2020 at 11.00 am**"

2.17.3 Tenders shall be submitted electronically through IFMIS at www.supplier.treasury and be received on or before **9th March, 2020 at 11:00 a.m.**

2.18 Deadline for Submission of Tenders

2.18.1 Tenders must be received at the address specified under paragraph 2.17.2 not later than **09th March, 2020 at 11: 00 a.m.**

2.18.2 The County may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the County Government and candidates previously subject to the deadline will therefore be subject to the deadline as extended

2.18.3 Bulky tenders which will not fit in the tender box shall be received by The County government as provided for in the Appendix.

2.19 Modification and Withdrawal of Tenders

2.19.1 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 tenders, is received by The County prior to the deadline prescribed for submission of tenders.

2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

2.19.4 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 2.14.7

2.20 Opening of Tenders

The County Government will open all tenders in the presence of tenderers' representatives who choose to attend, **09th March, 2020 at 11: 00 a.m. at the County's Board Room.**

The tenderers' representatives who are present shall sign a tender opening register evidencing their attendance.

2.20.1 The tenderers' names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details, at its discretion, may consider appropriate, will be announced at the opening.

2.20.2 The appointed tender opening committee will prepare minutes of the tender opening.

2.21 Clarification of Tenders

2.21.1 To assist in the examination, evaluation and comparison of tenders the County government 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 of the tender shall be sought, offered, or permitted.

2.21.2 Any effort by the tenderer to influence in the **County's** Government tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.22 Preliminary Examination and Responsiveness

2.22.1 The **County Government** will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

2.22.2 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

2.22.3 The County Government may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or effect the relative ranking of any tenderer.

2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the County Government 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 County Governments' determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.22.5 If a tender is not substantially responsive, it will be rejected by the County Government and may not subsequently be made responsive by the tenderer by correction of the non conformity.

2.23 Conversion to Single Currency

2.23.1 Where other currencies are used, the County Government 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.

2.24 Evaluation and Comparison of Tenders

2.24.1 The County Government will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

2.24.2 The County Government evaluation of a tender will exclude and not take into account

- (a) in the case of equipment manufactured in Kenya or equipment of foreign origin already located in Kenya, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the tenderer; and
- (b) any allowance for price adjustment during the period of execution of the contract, if provided in the tender.

2.24.3 The comparison shall be of the ex-factory/ex-warehouse/off-the-shelf price of the goods offered from within Kenya, such price to include all costs, as well as duties and taxes paid or payable on components and raw material incorporated or to be incorporated in the goods.

2.24.4 The County's evaluation of a tender will take into account, in addition to the tender price and the price of incidental services, the following factors, in the manner and to the extent indicated in paragraph 2.23.5 and in the technical specifications:

- (a) delivery and installation schedule offered in the tender;
- (b) deviations in payment schedule from the specifications in the Special Conditions of Contract;
- (c) the cost of components, mandatory spare parts and service;

- (d) the availability in Kenya of spare parts and after-sales service for the equipment offered in the tender;

2.24.5 Pursuant to paragraph 2.24.4 the following evaluation methods will be applied

(a) *Delivery schedule*

- (i) The County Government requires that the equipment under the Invitation for Tenders shall be delivered at the time specified in the Schedule of Requirements. Tenders offering deliveries longer than the 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 of 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 County Government may consider the alternative payment schedule offered by the selected tenderer.

(c) *Spare parts and after sales service facilities*

Tenderers must offer items with service and spare parts back-up. Documentary evidence and locations of such back-up must be given. Where a tenderer offers items without such back-up in the country, he must give a documentary evidence and assurance that he will establish adequate back-up for items supplied.

2.24.6 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

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

2.25 Contacting the County Government.

2.25.1 Subject to paragraph 2.21 no tenderer shall contact the County Government on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

2.25.2 Any effort by a tenderer to influence the County Government in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

2.26 Award of Contract

(a) **Post-Qualification**

2.26.1 In the absence of pre-qualification, The County 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.

2.26.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the County deems necessary and appropriate.

2.26.3 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 County will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

(b) Award Criteria

2.26.4 The County will award the contract to the successful tenderer(s) 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.

2.26.5 To qualify for contract awards, the tenderer shall have the following:

- a) Necessary qualifications, capability experience, services, 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.

(c) County's Right to Accept or Reject Any or All Tenders

2.26.6 The County 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 tenderer of the grounds for the County's action

2.26.7 The County may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination

2.26.8 The County 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.

2.26.9 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.

2.27 Notification of Award

2.27.1 Prior to the expiration of the period of tender validity, the County will notify the successful tenderer in writing that its tender has been accepted.

2.27.2 The notification of award will signify the formation of the Contract but will have to wait until the contract is finally signed by both parties. Simultaneous other tenderers shall be notified that their tenders have not been successful.

2.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29, the County will simultaneously inform the other tenderers that their tenders have not been successful.

2.28 Signing of Contract

2.28.1 At the same time as the County notifies the successful tenderer that its tender has been accepted, the County will simultaneously inform the other tenderers that their tenders have not been successful.

2.28.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the County.

2.28.3 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.

2.29 Performance Security

2.29.1 Within Thirty (30) days of the receipt of notification of award from the County, 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 County.

2.29.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.28 or paragraph 2.29 shall constitute sufficient grounds for the annulment of the

award and forfeiture of the tender security, in which event the County may make the award to the next lowest evaluated Candidate or call for new tenders.

2.30 Corrupt or Fraudulent Practices

2.30.1 The County 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 and will not be involved in corrupt or fraudulent practices.

3.30.2 The County 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.

3.30.3 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 TENDERERS

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision 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.

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.1	<p>This Invitation for Tenders is open to all tenderers eligible as described below:</p> <ul style="list-style-type: none"> (a) the person has the legal capacity to enter into a contract for procurement or asset disposal; (b) the person is not insolvent, in receivership, bankrupt or in the process of being wound up; (c) the person, if a member of a regulated profession, has satisfied all the professional requirements; (d) the procuring entity is not precluded from entering into the contract with the person under section 38 of PPAD Act (MUST complete the attached form); (e) the person and his or her sub-contractor, if any, is not debarred from participating in procurement proceedings under Part XI of PPAD Act (MUST complete the attached form); (f) the person has fulfilled tax obligations; (g) the person has not been convicted of corrupt or fraudulent practices; and (h) is not guilty of any serious violation of fair employment laws and practices.
2.4.2	<p>Tenderers are required to provide copies of the following documents:</p> <ul style="list-style-type: none"> a) Audited Financial Accounts for the last three years: (2016 – 2018) b) Certified Copy of Certificate of Incorporation/Registration. c) Certified Copy of Current Tax Compliance certificate from Kenya Revenue Authority. d) Certified Copy of Valid and current Business Permit. e) Disclosure of business ownership (Directors/ Partners /Sole Proprietor). Attach a copy of CR12 Form
2.14.1	<p>The tender security shall be 2% of the tender amount and submitted in any of the following forms:</p> <ul style="list-style-type: none"> a) Cash

	<ul style="list-style-type: none"> b) A bank guarantee c) Such insurance guarantee approved by the Authority (PPRA) d) Letter of credit.
2.17.1	Site visit will be on 25th February, 2020 (All interested bidders to assemble at Lamu Water and Sewerage Company) LAWASCO at 9:30 a.m.
2.18.1	Tenders will close on 9th March, 2020 at 11: 00 a.m.
2.20.1	Tenders will open on 9th March, 2020 at 11: 00 a.m.
2.29.1	The successful tenderer will be required to submit a not less than two years warranty for the equipment supplied and installed to LAWASCO.
2.4.1	No advance payment acceptable for this tender
2.5.1	The inquiry address is hereby given as P.O BOX 74 LAMU-80,500. LAMU. Only written inquiries are accepted
2.13.3	Documentary evidence for those submitting tenders for the Desalination Plant shall comprise of: <ul style="list-style-type: none"> a) Written brochures/literature/pamphlets b) Drawings c) Equipment Data Sheet d) Performance charts, and e) Explanations/comments on how equipment responds to specifications f) CVs for 2 technical persons g) Work plan/schedule
2.15.1	Tenders validity shall be 120 days from the date of Tender Opening
2.17.1	Tenders shall be submitted electronically through the IFMIS at supplier.treasury.go.ke .
2.22.2	Price offers as read during Tender Opening shall be evaluated as is without conducting arithmetic checks
2.26(a)	Post-qualification shall not be done.
2.26.4	Qualification criteria has been detailed further in Section VIII of this Tender Document (Evaluation Criteria)

SECTION III: GENERAL CONDITIONS OF CONTRACT

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SECTION III- GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

3.1.1 In this Contract, the following terms shall be interpreted as indicated:-

- (a) “The Contract” means the agreement entered into between the County 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 Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the County under the Contract.
- (d) “The County” means the organization purchasing the Goods under this Contract.
- (e) “The Tenderer” means the individual or firm supplying the Goods under this Contract.

3.2 Application

3.2.1 These General Conditions shall apply in all Contracts made by the County for the procurement installation and commissioning of equipment to the extent that they are not superceded by provisions of other part of contract.

3.3 Country of Origin

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer and will be treated thus in the evaluation of the tender.

3.4 Standards

3.4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

3.5 Use of Contract Documents and Information

3.5.1 The Candidate shall not, without the County’s prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the County in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without the County's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the County and shall be returned (all copies) to the County on completion of the Tenderer's performance under the Contract if so required by the County

3.6 **Patent Rights**

3.6.1 The tenderer shall indemnify the County against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the County's country

3.7 **Performance Security**

3.7.1 Within twenty eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the County the performance security where applicable in the amount specified in Special Conditions of Contract.

3.7.2 The proceeds of the performance security shall be payable to the County as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the County and shall be in the form of

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

3.7.4 The performance security will be discharged by the County and returned to the Candidate not late than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract

3.8 **Inspection and Tests**

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

- 3.8.2 The inspections and tests may be conducted in the premises of the tenderer. All reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the County.
- 3.8.3 Should any inspected or tested equipment fail to conform to the Specifications, the County may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the County.
- 3.8.4 The County's right to inspect test and where necessary, reject the equipment after the equipment arrival and installation shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the County or its representative prior to the equipment delivery.
- 3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.9 Packing

- 3.9.1 The tenderer shall provide such packing and packaging of the equipment as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.
- 3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

3.10 Delivery and Documents

- 3.10.1 Delivery of the equipment, documents and installation of the same shall be made by the tenderer in accordance with the terms specified by The County in its Schedule of Requirements and the Special Conditions of Contract

3.11 Insurance

- 3.11.1 The equipment supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

3.12 Payment

- 3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract
- 3.12.2 Payments shall be made promptly by the County as specified in the contrac

3.13 Prices

- 3.13.1 Prices charged by the tenderer for equipment delivered and installation performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.
- 3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 3.13.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 3.13.4 Price variation requests shall be processed by the County within 30 days of receiving the request.

3.14. Assignment

The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the County's prior written consent

3.15. Subcontracts

- 3.15.1 The tenderer shall notify the County in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract

3.16. Termination for Default

- 3.16.1 The County 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 deliver any or all of the equipment within the period(s) specified in the Contract, or within any extension thereof granted by the County
 - (b) if the tenderer fails to perform any other obligation(s) under the Contract
 - (c) if the tenderer, in the judgment of the County has engaged in corrupt or fraudulent practices in competing for or in executing the Contract
- 3.16.2 In the event the County terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, equipment similar to those undelivered, and the tenderer shall be liable to the County for any excess costs for such similar equipment.

3.17. Termination for convenience

3.18. Liquidated Damages

3.18.1 If the tenderer fails to deliver and/or install any or all of the items within the period(s) specified in the contract, the County shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

3.19. Resolution of Disputes

3.19.1 The County and the tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract

3.19.2 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.

3.20. Language and Law

3.20.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise specified in the SCC

3.21. Force Majeure

3.21.1 The Tenderer 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.

3.22 Notices

3.22.1 Any notice given by one party to the other pursuant to this contract shall be sent to other party by post or by fax or Email and confirmed in writing to the other party's address specified.

3.22.2 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. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.

4.2 Special conditions of contract as relates to the GCC

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.7.1	The performance security shall be 10% of the contract amount in Kenya Shillings, or in a freely convertible currency acceptable to the County and shall be in the form of : a) Bank guarantee b) Such insurance guarantee approved by the Authority
3.12.1	Payment shall be done after testing and inspection of the equipment and other works
3.18.1	Disputes shall be resolved through arbitration and could further proceed to high court as would be appropriate.

SECTION V - SCHEDULE OF REQUIREMENTS AND PRICES

No.	Item Description	Quantity	Unit Price Kshs	Installation Period	Price Kshs.	Total Price Kshs.
1.	Supply, Delivery and Installation of Desalination Plant	1No.		1 Month		
2.	Supply and Install 31KVA Generator for the Desalination Plant	1No.		1 Month		
					Total Price Kshs. Inclusive VAT	

Authorized Official: _____
Name

Signature

Date

SECTION VI- TECHNICAL SPECIFICATIONS

6.1 GENERAL

- 6.1.1. These specifications describe the basic requirements for equipment. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply.
- 6.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specific requirement.
- 6.1.3 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 County reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products
- 6.1.4 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

Evaluation criteria

	MADATORY REQUIREMENTS	POINTS
1.	<p>Particulars of the Tendering Company (Attach Copies)</p> <p>Certified copies of statutory documents as follows: -</p> <ul style="list-style-type: none"> • Certificate of incorporation/registration. • Current Tax Compliance certificate. • Valid NCA certificate category 8. • Valid and current trade/ Business license. • Site Visit Certificate. • PIN Certificate. • Serialization of all pages including the attachments. • Completed confidential business questionnaire and declaration form duly filled, signed and stamped. • Disclosure of business ownership (Directors/ Partners /Sole Proprietor). Attach a copy Business CR 12 Form. • Bidder to provide self-declaration that the person/tenderer is not debarred in the matter of the public procurement and asset disposal act 2015(As per section 62 of PPDA 2015). • Bidder to provide self-declaration that the person/tenderer will not engage in any corrupt or fraudulent practice • Duly signed, stamped and filled Form Of Tender 	Mandatory
	TECHNICAL/GENERAL REQUIREMENTS	
2.	<p>Provide details of;</p> <ul style="list-style-type: none"> • Company profile (state whether joint venture or not) (2 Marks). • Contact person(s) (1 mark) • Physical address/location (2 Marks) 	5
3	<p>Evidence of adequacy of working capital for this Contract</p> <ul style="list-style-type: none"> • Access to line(s) of credit (attach evidence 5 Marks). • Availability of other financial resources(attach evidence 5 Marks) 	10
4	<p>Proof of Having undertaken at least 3 works of a similar nature in the last ten years. (Each @ 5 marks).</p>	15
4	<p>Bidder to provide a preliminary description of the proposed work; i.e. Method and schedule (5 marks).</p> <ul style="list-style-type: none"> • The drawings (5 marks). • The charts, as necessary (5 marks). 	15
5.	<p>Documentary evidence for those submitting tenders for this works shall comprise of;</p> <p>a) Equipment Data Sheet b) Performance charts,</p>	15

	c) Work plan/schedule Each @ 5 marks (10 Marks)	
6	Qualifications and experience of key site management and technical personnel proposed for the assignment, at least a total of four officers for both site management and technical personnel (10 Marks) (Attach Cvs.	10
7	Free from any litigation, current or during the last five years, in which the tenderer is involved. (5 Marks)	5
8	Well bound and serialized tender document. (5 Marks)	5
	Total	80

All information provided may be subject to confirmation by COUNTY GOVERNMENT OF LAMU providing false information will lead to disqualification. **NOTE:** Only tenders that score 60% out of 80% on technical evaluation will qualify to have their proposals for financials evaluated. Those scoring below 60% will be disqualified at this stage. Award will be given to the highest combined scorer.

Financial Evaluation

The financial evaluation shall comprise 20% of the total marks

The formulae for determining the financial score (SF) shall be as follows;

$$SF = 20 FM/F$$

Where: SF is the financial score

FM is the lowest fees quoted and

F is the fees of the quotation under consideration.

The lowest fees quoted will be allocated the maximum score of 20%. The bidder with the combined highest technical and financial score shall be awarded the tender.

SECTION VI – TECHNICAL SPECIFICATIONS



PARTICULARS/BILL OF QUANTITIES



**BILL OF QUANTITIES
FOR SUPPLY AND INSTALLATION OF
DESALINATION PLANT AND CONSTRUCTION
OF
MKOKONI PLANT HOUSE**

BILLS OF QUANTITIES
SUPPLY OF WATER TREATMENT PLANT (DESALINATION PLANT)

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT KSHS.
1.	Supply and installation of complete Water Treatment System capable of delivering treated water at a rate of 1,000Liters per hour (1.0m ³ /hr	No.	1		
2.	Supply and installation of 31Kva 3-phase generator, with canopy, ability to run at high temperature range, ability to run for 12hours a day at 75% load with an inbuilt automatic change over switch	No.	1		
	Totals				

CONSTRUCTION OF PLANT HOUSE.

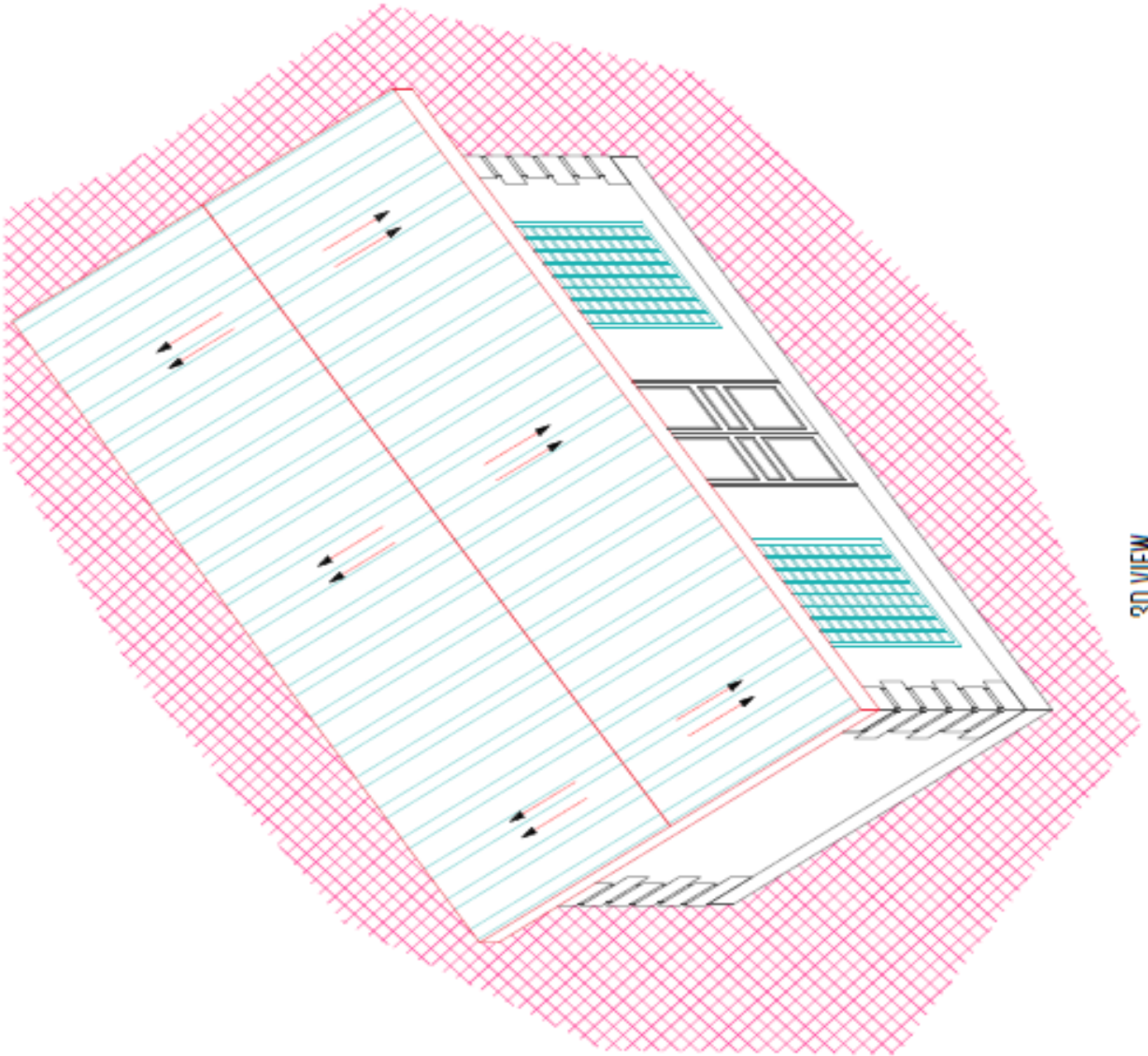
ITEM NO.	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT KSHS
	<u>CONSTRUCTION OF PLANT HOUSE.</u>				
1.0	Clear site of all bushes, scrubs, undergrowth and trees and remove all stumps and roots and dispose.	Lump Sum	1		
1.1	Excavate site commencing from 200mm below ground level but not exceeding 1.0m deep.	M ³	15		
1.2	Provide, place 50mm thick blinding 1:3:6 concrete mix to the strip foundation.	M ²	2		
1.3	Provide, place and joint 200mm thick dressed coral stone house wall in 1:3 cement sand mortar as directed by the engineer.	M ²	108		
1.4	Provide, place and compact 200mm thick hardcore for backfilling as shown on the drawings.	M ²	50		
1.5	Provide, place 50mm thick blinding 1:3:6 concrete mix on top of hardcore and compact.	M ²	50		
1.6	Provide, mix and place 100mm thick vibrated reinforced concrete 1:2:4 mix to floor slab. Allow for curing.	M ³	6		
1.7	Provide, mix and place 1:3 cement sand screed 20mm thick on top of floor slab. Allow for curing.	M ²	50		
	TOTAL				

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT KSHS
	<i>Balance Brought Forward</i>				
1.8	Provide, prepare and apply 1:3 cement sand plaster of 20mm thick to internal sides of wall. Allow for water proof cement and curing.	M ²	90		
1.9	Provide, prepare and apply 1:3 cement sand plaster of 20mm thick to external sides of wall. Allow for curing.	M ²	95		
	<u>Reinforcement</u>				
2.0	Provide and fix Y10 reinforcement bars in concrete beam of plant house as shown on drawings directed by engineer.	M	255		
2.1	Provide and fix Y8 reinforcement bars for links in concrete beams of the house as shown on the drawing.	M	274		
	<u>Sundries</u>				
2.2	Provide, mix and place reinforced concrete 1:2:4 to beam as shown on the drawings. Allow for plastering. The column size to be 200 x 200mm.	No.	8		
2.3	Allow for roof placement	Item	1		
	TOTAL				

SUMMARY OF BILL OF QUANTITIES FOR NDAU PROJECT.		
BOQ ITEM.	DESCRIPTION	AMOUNT (Kshs)
A	Supply and Installation of Desalination plant and generator Set	
B	Construction of Plant House	
	<i>SUB-TOTAL</i>	
	Contingencies (5%)	
	Branding	50,000
	GRAND TOTAL (Inclusive of VAT)	

**PLANT HOUSE DRAWINGS
 FOR
 MKOKONI WATER SUPPLY
 PROJECT**

CGL/KIUNGA/ONT/049/2019-2020



3D VIEW

- NOTES**
1. All measurements in (MM) unless otherwise stated.
 2. Only typical dimensions to be used unless otherwise stated or indicated in particular to avoid any ambiguity in production or installation.
 3. No fixtures or equipment shall be made from this drawing (P.L.C) without client prior consent.
 4. Contractor shall read and verify dimensions before starting any work.
 5. This drawing should be read in conjunction with structural drawing.
 6. Provision shall be for structural steel.
 7. All drainage/ventilation works to the MCHT include and embrace:
 8. Spill treatment for gas to be provided under all structural steel.
 9. Any necessary to be included in the project description to be included in the contract documents or drawings.
 10. All drawings to be dimensioned in metric.

CLIENT:
LAWSON WATER & STEWARDS LTD

PROJECT:
PROPOSED INDUSTRIAL PLANT HOUSE

Checked by:
Mr. Yusuf M. Chappala

Approved by:
Mr. Paul E. Phisoane

DATE: Working Drawing
APPROVED BY: MEH

DATE: / AUGUST 2024
SCALE: AS SHOWN
DESIGN BY: G.M. Mphahlele

When required by the tender document, this form must be completed and submitted with the tender document. This form will be completed by the manufacturer of the goods where the tender is an agent.

7.1 FORM OF TENDER

Date _____
Tender No. _____

To: _____

[name and address of COUNTY]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. *[insert numbers]*.the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission (..... *(insert equipment description)* 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 install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to _____ percent of the Contract Price for the due performance of the Contract , in the form prescribed by(*COUNTY*).

4. We agree to abide by this Tender for a period of *[number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us. Subject to signing of the Contract by the parties.

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

Dated this _____ day of _____ 20 _____

[signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of _____



7.2 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 E mail

 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		
		<ul style="list-style-type: none"> • Citizenship details • 		
Part 2 (b) Partnership				
Given details of partners as follows:				
Name	Nationality	Citizenship Details	Shares	
1. ....	.....	.....	.....
2. ....	.....	.....	.....
3. ....	.....	.....	.....
4. ....	.....	.....	.....
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
1
2
3
4
5
Date		Seal/Signature of Candidate		

7.3 TENDER SECURITY FORM

Whereas [name of the tenderer] (hereinafter called "the tenderer") has submitted its tender dated [date of submission of tender] for the supply, installation and commissioning of[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 County] (hereinafter called "the County") in the sum of for which payment well and truly to be made to the said COUNTY, 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 County 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 County up to the above amount upon receipt of its first written demand, without the County having to substantiate its demand, provided that in its demand the County 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]

7.4 CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20 _____ between [*name of Procurement entity*] of [*country of Procurement entity*] (hereinafter called “the **County**) of the one part and [*name of tenderer*] of [*city and country of tenderer*] (hereinafter called “the tenderer”) of the other part;

WHEREAS The County invited tenders for [certain goods] and has accepted a tender by the tenderer for the supply of those goods in the sum of [*contract price in words and figures*] (hereinafter called “the Contract Price).

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 County’s Notification of Award
3. In consideration of the payments to be made by the County to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the County to provide the goods and to remedy the defects therein in conformity in all respects with the provisions of this Contract
4. The County hereby covenants to pay the tenderer in consideration of the provisions of the goods and the remedying of defects therein, 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 County)

Signed, sealed, delivered by _____ the _____ (for the tenderer in the presence of _____)

7.5 PERFORMANCE SECURITY FORM

To
[name of County]

WHEREAS [name of tenderer] (hereinafter called "the tenderer") has undertaken , in pursuance of Contract No. _____ [reference number of the contract] dated _____ 20 _____ to supply [description of 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 figure] 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 you 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 _____

Signed and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

(Amend accordingly if provided by Insurance Company)

7.6 **BANK GUARANTEE FOR ADVANCE PAYMENT**

To
[name of County]

[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 County 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 County 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 County 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]

7.7 MANUFACTURER’S AUTHORIZATION FORM

To *[name of the County]*

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.

7.8. LETTER OF NOTIFICATION OF AWARD

Address of **the County**

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

7.9

FORM RB 1
REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*county*)

Request for review of the decision of the..... (*Name of the County*) of
.....dated the...day of20.....in the matter of Tender
No.....of20...

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)

CGL/KIUNGA/ONT/049/2019-2020

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

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on
..... day of20.....

SIGNED
Board Secretary

7.10 DECLARATION FORM

Date _____

To _____

The tenderer i.e. (name and address) _____
_____ declare the following:

- a) Has not been debarred from participating in public procurement.
- b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

Title

Signature

Date

(To be signed by authorized representative and officially stamped)