

COUNTY GOVERNMENT OF BUNGOMA



DEPARTMENT OF ENVIRONMENT, NATURAL RESOURCES, WATER, CLIMATE CHANGE AND TOURISM

**OFFICE OF THE COUNTY CHIEF OFFICER SUB-DEPARTMENT OF ENVIRONMENT,
CLIMATE CHANGE AND TOURISM**

TENDER DOCUMENT FOR PROVISION OF GARBAGE COLLECTION, TRANSPORTATION, DISPOSAL AND DUMPSITE MANAGEMENT SERVICES WITHIN BUNGOMA COUNTY

TENDER NO. BGM/CNTY/TEC/OT/O1/2023/2024/NEG NO: 1352769-2023/2024

**(OPEN TENDER RESERVED FOR RESIDENT TENDRERS/SERVICE PROVIDERS
WITHIN BUNGOMA COUNTY)**

SUBMISSION/CLOSSING DATE: 31ST AUGUST, 2023 AT 11:30AM

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COUNTY GOVERNMENT OF BUNGOMA



DEPARTMENT OF ENVIRONMENT, NATURAL RESOURCES, WATER, CLIMATE CHANGE AND TOURISM

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BUNGOMA
23RD, AUGUST, 2023

INVITATION TO TENDER

TENDER NO. BGM/CNTY/TEC/OT/01/2023-2024/NEG NO:1352769-2023/2024 PROVISION OF GARBAGE COLLECTION, TRANSPORTATION, DISPOSAL AND DUMPSITE MANAGEMENT SERVICES IN BUNGOMA COUNTY.

1. Bungoma County Government hereafter referred as [the County] invites sealed tenders for the provision of garbage collection, transportation, disposal and dumpsite management services in Bungoma County for a period of 2 years with a possible renewable for a further one year subject to performance and agreement of parties.
2. Tendering will be conducted under Open tender competitive method using a standard tender document. Tendering is open to all qualified and interested Service Providers within Bungoma County Government only.
3. A complete set of tender documents may be obtained electronically from downloading from the county website www.bungoma.go.ke or Public Procurement Information Portal <https://tenders.go.ke>
4. All tenders must be accompanied by a BID SECURITY IN THE FORM OF UNCONDITIONAL BANK GUARANTEE ISSUED BY BANKS REGULATED BY THE CENTRAL BANK OF KENYA OR AN INSURANCE FIRM REGULATED BY THE INSURANCE REGULATORY AUTHORITY OR A GUARANTEE ISSUED BY A FINANCIAL INSTITUTION APPROVED AND LICENSED BY THE CENTRAL BANK OF KENYA of KSHS 4,800,000.00 (Shillings Only) valid for 120 days from the date of tender opening.
5. The Service Provider shall be paid based on the services provided as per the Appendix A: Description of Services. The bidder is urged to calculate his/her own cost of providing the services which shall inform the evaluation of the bid.
6. Prices quoted should be net, inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for a period of (120) days from the closing date of the tender.
7. Complete Tender Documents shall be submitted online on the IFMIS portal platform on or before **Thursday 31st August, 2023 at 11.30am** Local time. Tenders/Bids shall close and be opened immediately thereafter at the Department of Water Board Room after the deadline date and time specified above.
8. Late tenders will be rejected

STEPHEN MAKHANU
COUNTY CHIEF OFFICER
SUB-DEPARTMENT OF ENVIRONMENT, CLIMATE CHANGE AND TOURISM

SECTION I -INSTRUCTIONS TO TENDERERS

1.1. GENERAL

1.1. Eligible Tenderers

- 1.1.1. This Invitation to tender is open to all tenderers eligible from Bungoma County as described in the invitation to tenderers. Successful tenderers shall provide the services for the stipulated duration from the **date** of commencement (hereinafter referred to as the term) specified in the tender documents.
- 1.1.2. Public Officers, of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse in which they have a substantial or controlling interest shall not be eligible to tender or be awarded contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 1.1.3. A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
 - (a) Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
 - (b) Receives or has received any direct or indirect subsidy from another Tenderer; or has the same legal representative as another Tenderer; or has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
 - (c) any of its affiliates participated as a consultant in the preparation of the Procuring Entity's Requirements (including Activities Schedules, Performance Specifications and Drawings) for the Non-Consulting Services that are the subject of the Tender; or
 - (d) or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity or Procuring Entity for the Contract implementation; or
 - (e) has a close business or family relationship with a professional staff of the Procuring Entity or of the project implementing agency, who: are directly or indirectly involved in the preparation of the tendering document or specifications of the contract, and/or the Tender evaluation process of such contract; or Would be involved in the implementation or supervision of such contract unless the conflicts stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the procurement process and execution of the Contract.
- 1.1.4. A Tenderer that has been sanctioned by PPRA or are under a temporary suspension or a debarment imposed by any other entity of the Government of Kenya shall be ineligible for procurement during such period of sanctioning. The list of debarred firms and individuals is available at the PPRA Website www.ppra.go.ke.
- 1.1.5. A Tenderer may be considered ineligible if he/she offers goods, works and production processes with characteristics that have been declared by the National Environment Management Authority (NEMA) or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.
- 1.1.6. A tenderer shall be eligible to tender if it provides evidence of having fulfilled his/her tax obligations by producing a valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

1.2. Site Visit

- 1.2.1. The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the Sites of the Required Services and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for the Services. The costs of visiting the Site shall be at the Tenderer's own expense.
- 1.2.2. The Tenderer shall visit the sites accompanied by an officer from the Sub – Department of Environment, Climate Change and Tourism and upon completion of the exercise be given a Site Visit Certificate.

1.3. Cost of Tendering

- 1.3.1. The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

1.4. Contents of Tendering Document

- 1.4.1. The tender document comprises of the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders

- i. Instructions to Tenderers
- ii. General Conditions of Contract
- iii. Special Conditions of Contract
- iv. Description of Service
- v. Notice to Bidders
- vi. Bill of Quantities
- vii. Form of tender
- viii. Confidential business questionnaire form
- ix. Self-Declaration Forms
- x. Certificate of independent Tender Determination
- xi. Beneficial Ownership form

- 1.4.2. 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.

1.5. Clarification of Tender Documents

- 1.5.1. A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity's Supply Chain Management Office located behind H.E the Governor's office County Government of Bungoma for assistance during official working hours.(Monday-Friday 8:00am- 5:00Pm)

1.6. Amendment of Tender Documents

- 1.6.1. At any time prior to the deadline for submission of the bids, the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective bidder, modify the bidding document by amendments.
- 1.6.2. The amendment will be notified in writing or email to all prospective bidders who will have received the bidding document and will be bidding upon them
- 1.6.3. In order to afford prospective bidders reasonable time in which to take the amendment into account in preparing their bids, the Employer may, at his discretion, extend the deadline for the submission of bids

PREPARATION OF TENDERS

1.7. Language of Tender

- 1.7.1. The Tender as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and the Procuring Entity shall be written in the English language. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

1.8. Documents Comprising the Bid

- 1.8.1. The Tender shall comprise the following:
- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 1.9, 1.10 and 1.11

below.

- (b) Completed Bill of Quantities
- (c) Documentary evidence established in accordance with Clause 12 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (d) Tender security furnished is in accordance with Clause 13
- (e) Confidential Bidder Questionnaire
- (f) The Tenderer shall chronologically serialize pages of all tender documents submitted.

1.9. Form of Tender

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

1.10. Tender Prices

- 1.10.1. The tenderer shall indicate on the Work Plan and Bill of Quantities the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.
- 1.10.2. Prices indicated on the Bill of Quantities shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:
- 1.10.3. 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
- 1.10.4. Contract price variations shall not be allowed for contracts not exceeding one year (12 months) where contract price variation is allowed, the variation shall not exceed 10% of the original contract price. Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

1.11. Tender Currencies

- 1.11.1. The currency of the Tender and the currency of payments shall be Kenya Shillings.

1.12. Tender's Eligibility and Qualifications

Pursuant to Clause 1.1 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.

- 1.12.1. The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the Procuring entity's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

1.13. Tender Security

- 1.13.1. The bidder shall furnish, as part of his bid, a bid security as indicated in the Invitation to Tender
- 1.13.2. The bid security shall be in the form of unconditional guarantee from a reputable bank or insurance registered or licensed by IRA or a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya firm selected by the bidder and located in Kenya.
- 1.13.3. The bid security shall remain valid for a period of one hundred and twenty (120) days beyond the original validity period for the bid, and beyond any period of extension subsequently requested under Sub-Clause 14
- 1.13.4. The bid securities of unsuccessful bidders will be discharged/returned as promptly as possible as but not later than 30 days after the expiration of the period of bid security validity.
- 1.13.5. The bid security of the successful bidder will be discharged upon the bidder signing the Contract Agreement and furnishing the required performance security.
- 1.13.6. The bid security may be forfeited:
 - a) If a bidder withdraws his bid, except as provided in Sub-Clause 18.
 - b) If the bidder does not accept the correction of errors, pursuant to Sub-Clause 24 or
 - c) in the case of a successful bidder, if he fails within the specified time limit to:
 - i. sign the Contract Agreement or
 - ii. furnish the necessary performance security

1.14. Validity of Tenders

- 1.14.1. The bid shall remain open for acceptance for a period of One hundred and Twenty Days (120) days from the specified date of the bid closing.
- 1.14.2. In exceptional circumstances prior to expiry of the original bid validity period, the Employer may request the bidder for a specified extension in the period of validity. The request and the response thereto shall be made in writing or mail. A bidder agreeing to the request will not be required nor permitted to modify his bid, but will be required to extend the validity of his bid security correspondingly.

1.15. Format and Signing of Tender

- 1.15.1. The Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to bind the bidder to the contract. Proof of authorization shall be furnished in the form of a written Power of Attorney which shall accompany the bid. All pages of the bid, except for unamended printed materials, shall be initialed by the person or persons signing in bid.
- 1.15.2. The completed bid document shall be without alterations, interlineation or erasures, except as necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the persons signing the bid.

1.16. Sealing and Signing of Bids

- 1.16.1. The bidder shall submit the bid online on the IFMIS portal platform on or before **Thursday 31st August, 2023 at 11.30am** Local time

1.17. Deadline for Submission of Bids

- 1.17.1. Bids must be received by the Employer on the IFMIS Portal not later than the date indicated in the tender advert.
- 1.17.2. The employer may at his discretion extend the deadline for the submission of bids through the issue of an Amendment/Addendum, in which case all rights and obligations of the Employer and the bidders previously subject to the deadline shall thereafter be subject to the new deadline extended or The Employer may, at his discretion, extend the deadline for the submission of the tender bids through the IFMIS Platform.
- 1.17.3. No LATE BID will be received.

1.18. Modification or Withdrawal of a Bid

- 1.18.1. The bidder may modify and withdraw his bid submission provided that written notice of modification or withdrawal is received by the Employer prior to prescribe deadline for submission of bids.
- 1.18.2. The bidder's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions for the submission of bids. A withdrawal notice may also be sent by telex or email but followed by a signed confirmation copy, postmarked not later than the deadline for the submission of the bids.
- 1.18.3. No bid may be modified subsequent to the deadline for submission of bids
- 1.18.4. No bid may be withdrawn in the interval between the deadline for submission of bids and the period of bid validity specified by the bidder on the bid form. Withdrawal of a bid during this interval may result in the forfeiture of the bid security.
- 1.18.5. Subsequent to the expiration of the period of validity of bids prescribed by the Employer, a successful bidder who has not been notified by the employer of the award of the contract may withdraw his bid without penalty

1.19. No Alternative Offers

- 1.19.1. The bidder shall submit an offer which complies fully with the requirements of the bidding document.
- 1.19.2. The bid submitted shall be solely on behalf of the bidder. A bidder who submits or participates in more than one bid will be disqualified basing on directorship as per CR12

EVALUATION OF BIDS

1.20. Tender Opening

- 1.20.1. The Employer will examine the bids to determine whether they are complete; whether the required bid securities have been furnished, whether the documents have been properly signed and whether the bids are generally in order.
- 1.20.2. The bidder's names, total amounts of bids, bid price modifications and bid withdrawals, if any, the presence of the required bid security and such other details as the Employer, at his discretion, may consider appropriate
- 1.20.3. The employer shall prepare minutes of the bid opening for his own records and compliance

1.21. Clarification of Tenders

- 1.21.1. To assist in the examination, evaluation and comparison of bids the employer may ask bidders individually for clarifications of their bids including breakdowns of unit prices. The request for clarification and the response shall be in writing, but no change in the price or substance of the bid shall be sought offered or permitted except as required to confirm the correction of arithmetical errors discovered by the employer during the evaluation of the bids.
- 1.21.2. If a Tenderer does not provide clarifications of its Tender by the date and time set in the Procuring Entity's request for clarification, its Tender may be rejected.

1.22. Confidentiality

- 1.22.1. Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until award of contract.
- 1.22.2. Any effort by a Tenderer to influence the Procuring Entity in the evaluation or contract award decisions may result in the rejection of its Tender.
- 1.22.3. Notwithstanding ITT 1.22.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

1.23. Determination of Responsiveness

- 1.23.1. Prior to the detailed evaluation of bids, the employer will determine whether each bid is substantially responsive to the requirements of the sections of the bidding document
- 1.23.2. For purposes of this Clause, a substantially responsive bid is one which conforms to all the terms, conditions and specifications of the bidding document without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way the price, scope, quality, completion, timing or administration of the works to be undertaken by the bidder under the contract, or which in any substantial way, is inconsistent with the bidding document, the employer rights or the bidder's obligations under the contract, and the rectifications of which would affect unfairly the competitive position of other bidders who have presented substantially responsive bids at reasonable prices.
- 1.23.3. A bid determined to be substantially non-responsive will be rejected by the employer and may not subsequently be made responsive by the bidder by correction of the non-conformity.
- 1.23.4. The employer may accept any non-material deviation or reservation provided that the acceptance thereof does not prejudice or affect the relative ranking order of any bidder in the evaluation of bids.

1.24. Correction of Errors

- 1.24.1. The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.
- 1.24.2. Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:
 - Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.
 - Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive and,

- If there is a discrepancy between words and figures, the amount in words shall prevail

1.24.3. Tenderers shall be notified of any error detected in their bid during the notification of award.

1.25. Evaluation and Comparison of Bids

1.25.1. The employer will evaluate and compare only those bids determined to be substantially responsive to the requirements of the bidding documents

1.25.2. The evaluation of bids by the employer will take into account, in addition to the bid amounts, the following factors:

- a) Arithmetical errors shall not be corrected by the employer in accordance with clause 1.24
- b) Non-material deviations from or reservations to the bidding document that are quantifiable; and
- c) Such other factors of a Technical, Financial, Contractual or Administrative nature that the Employer considers may have a potentially significant impact on contract execution, price and payments, including the effect of items or unit rates that are unbalanced or unrealistically priced.

1.25.3. Offers, deviations and other factors which are in excess of the requirements of the bidding document or otherwise result in accrual of unsolicited benefits to the employer, shall not be taken into account in bid evaluation

1.25.4. Price adjustment provisions applying to the period of execution of the contract shall not be taken into account in bid evaluation.

1.25.5. The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the Procuring Entity shall determine the Best Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be: Substantially responsive to the tendering document; and The lowest evaluated cost.

1.26. Evaluation and Qualification Criteria

The Evaluation committee will evaluate the proposals' responsiveness to the TOR, applying the evaluation criteria set in the tender document

1.26.1. The Procuring Entity considers the following requirements of the services and Bidder to be of primary importance in the evaluation of bids for the provision of garbage collection, transportation, disposal and dumpsite management services. Weighting points will be allocated based on the Procuring Entity's assessment of the submissions where exact numerical assessment cannot be made. Only those requirements applicable to the bid and based on the submission will be considered.

1.26.2. The Procuring Entity will take into consideration when awarding the contract, the sum of the scores for each criterion. Tenders where a bidder does not meet a minimum score of **80 on technical evaluation** will be rejected. Requirements/Criteria shall be evaluated in accordance with the following listing and the weights assigned to each criteria:

a) Personnel and Organization	5 Marks
b) Inclusivity	5 Marks
c) Head office	5Marks
d) Work Plan/Equipment	45 Marks
e) Experience	20 Marks
f) Financial Capability	20Marks

1.26.3. 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 there by incurring any liability to Tenderers. In case of annulment, all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

1.27. Award of Contract

- 1.27.1. Subject to Clause 1.26.3., the employer will award the contract to the bidder whose bid has been determined to be substantially responsive and has offered the lowest evaluated bid, provided further that the bidder has the capability and resources to carry out the works effectively and efficiently.

1.28. Notification of Award

- 1.28.1. Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.
- 1.28.2. The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 1.29. Simultaneously the other tenderers shall be notified that their tenders have not been successful.
- 1.28.3. Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 30, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 1.13

1.29. Signing of Contract

- 1.29.1. At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.
- 1.29.2. Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.
- 1.29.3. The parties to the contract shall have it signed within 21 days from the date of notification of contract award unless there is an administrative review request.

1.30. Performance Security

- 1.30.1. Within thirty (30) days of the receipt of notification of award from the Procuring entity, 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 Procuring entity.
- 1.30.2. Failure of the successful tenderer to comply with the requirement of paragraph 1.29 or paragraph 1.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated or call for new tenders.

1.31. Corruption or Fraudulent Practices

- 1.31.1. The Procuring entity 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.
- 1.31.2. The procuring entity 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;
- 1.31.3. Further, a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

1.32. Procurement Related Complaints and Administrative Review

- 1.32.1. The procedures for making a Procurement-related Complaint are as specified in the TDS. A request for administrative review shall be made in the form provided under contract forms.

SECTION II – APPENDIX TO INSTRUCTION TO TENDERERS

The following specific data for the Non-Consulting Services to be procured shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions here in shall prevail over those in ITT.

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	A. General
ITT 1	The reference number of the Request for Tenders (ITT) is: BGM/CNTY/TEC/OT/01/2023-2024/ NEG NO: 1352769-2023/24 The Procuring Entity is: COUNTY GOVERNMENT OF BUNGOMA The name of the ITT is: Provision of Garbage Collection, Transportation, Disposal and Dumpsite Management Services within Bungoma County. The number and identification of lots (contracts) comprising this ITT is: None
ITT 2.	The expiry Date is 2 years subject to contract renewable for further one year
ITT 1.1	The firms that provided consulting services: none
	B. Contents of Tendering Document
ITT 1.2	Bidders are encouraged to visit the site at their cost and time to familiarize themselves with the towns/market (s) and the extent of the services to be rendered. Such visit shall be communicated to the county in writing for guidance and should be done not later than four (4) days to tender closing date.
ITT 1.5.	The Tenderer will visit the County Procurement Office located at the Governor's Office for any clarification on the tender
	C. Preparation of Tenders
ITT 1.19	Alternative Tenders shall not be considered.
ITT 1.14	The Tender validity period shall be 120 days after the date of tender opening
ITT 1.13	A Tender Security of Kshs 4,800,000.[Kenya shillings] valid for 120 days <i>shall be</i> required.
ITT 1.15	In addition to the original of the Tender, the number of copies is: One
ITT 1.15	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: Power of Attorney
	D. Submission and Opening of Tenders
ITT 1.16	Submission shall be on the IFMIS Portal
ITT 1.17	The deadline for Tender submission is: 31 st August, 2023 at 11:30am Local Time Tenderers shall submit their Tenders electronically.
ITT 1.20	The Tender opening shall take place at the location and time as stated in the invitation to tender
ITT 1.21	The Tenderer may be requested to clarify the Contents of his Bid by the Employer
	E. Evaluation and Comparison of Tenders
ITT 1.11	The currency that shall be used for Tender evaluation and comparison purpose is :Kenya Shillings
	F. Award of Contract
ITT 1.32	The procedures for making a Procurement-related Complaint are available from the PPRA Website www.ppra.go.ke or email bungomasupplychain@gmail.com If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing

SECTION III – EVALUATION AND QUALIFICATION CRITERIA

The county shall use the criteria in this Section to compare and evaluate tenders. The tender that

- (a) meets the qualification criteria [mandatory requirements] ,
- (b) has been determined to be technically and
- (c) financially responsive to the Tender Documents requirements shall be selected for award of contract.

i. MANDATORY REQUIREMENTS

Bidders shall attach all the required information at this stage; (preliminary evaluation stage) to the Original tender document.

No.	Mandatory Requirements	Compliance [Yes/ No]
MR1	Provide documentary evidence (copy) of Company's Certificate of Incorporation or Business Registration Certificate.	
MR2	Provide a Copy of KRA Pin or VAT Certificate issued by KRA	
MR3	Provide a copy of the company's current/valid Certificate of Tax Compliance.	
MR4	Certified Copy of CR12 Certificate for Limited Companies	
MR5	Attach Copies of National ID/Passport for the Directors as per CR12 for Company Incorporation/Business Name/Sole Proprietorship/Partnership	
MR6	Attach Current Valid License to transport garbage for each transportation vehicle owned by the Company from National Environmental Management Authority (NEMA)	
MR7	Provide Tender Security of Kshs.4,800,000(Kenya shillings) valid for 120 days from a reputable Bank or Insurance firm approved by PPRA/ a guarantee issued by a financial institution approved and licensed by the central Bank of Kenya	
MR8	Registration with NHIF and NSSF. Bidders shall attach valid registration certificates to be considered as responsive.	
MR9	Attach Current Valid S i n g l e Business Permit from the County Government of Bungoma. Subject to Validity verification	
MR10	Confidential Business Questionnaire must be dully filled, signed and stamped as per format provided in the tender document	
MR 11	Certificate of Independent Tender Determination dully filled, signed and stamped	
MR12	Form of Tender duly filled, Signed and Stamped as per the format provided in the tender document	
MR 13	FORM SD1 Self-Declaration that the Person/Tenderer is not debarred in the matter of Public Procurement and Asset Disposal Act, 2015	
MR14	FORM SD2 Dully filled, signed and stamped self declaration form that the person/tenderer will not engage in any corruption or fraudulent practice	
MR15	Dully filled, signed and stamped Tender-Securing Declaration Form	
MR 16	Dully filled, signed and stamped declaration of commitment to the code of ethics	

MR 17	Dully filled, signed and stamped beneficial ownership disclosure form	
MR18	Site Visit Certificate issued by the Department of Environment, Climate Change and Tourism	
MR19	The bidders must submit a complete Company profile	
MR20	Bill of quantities must be dully filled,signed and stamped	
MR21	The tender document must be serialized	
	Compliant / Non- compliant	

Note: At this stage bidders shall either be compliant or non- compliant. Non- compliant bidders shall be disqualified from the process and shall NOT proceed to the next stage of technical evaluation.

STAGE 2: TECHNICAL REQUIREMENTS/EVALUATION

Bidders who provided all the required information at the preliminary stage will be evaluated in accordance with the constituents of the criteria set herein;

No	Description of Criteria	Max Score	Requirements	Evaluated as	Score
1.	PERSONNEL & ORGANIZATION	5			
	Qualification of key personnel to be deployed indicating the minimum academic qualification and experience.				
	General Manager/ Field Manager/ Technical Manager/ Logistics Manager for collection Services	2	Ordinary Diploma/Degree in Environmental Studies/Public Health or Approved Equivalent ; years of experience(certified copies of certificate by commissioner of oath)	More than 4 years Less than 4 years	2 0
	Accountant	1	Minimum CPA 2	More than 4 years Less than 4 years	1 0
	Supervisors Experience of supervisors.	1	Years of experience • Same projects (i.e., sweeping, waste collection, transportation & disposal work)	More than 4 years Less than 4 years	1 0
	Drivers Experience of drivers.	1	Valid driving licence and above 3 year experience	Over 3 years Less than 3 years	1 0
.2	HEAD OFFICE	5			
	Evidence of physical address of the Head Office	3	Attach copies of title, lease or rental agreement or monthly rent receipts for the last 6 months (certified copies by commissioner of oath)	Yes No	3 0
	Company Structure	2	Organogram	Yes(provided) No(not provided)	2 0
3	INCLUSIVITY	5			
	Evidence of involvement of the youths/women/persons with disability in the Contracted areas	5	Employment Contracts of at least one in each category	At least one in each category Missing one category Missing two categories	5 3 2
4.	WORK PLAN/ EQUIPMENT	45			
	Comprehensive, Garbage Collection, Transportation & disposal Plan		Attachment		

	Street Sweeping/Bush Clearing	10	Attachment of a detailed schedule of how the street sweeping/Bush clearing will be conducted indicating clear intervals	V good Good Fair Poor	10 7 5 0
	Tools and Equipment	6	Requirements - Comprehensive Tools and equipment inventory sufficient to undertake the service	V good Good Fair Poor	6 4 2 0
	Fleet Capacity	15	Number of Trucks (Minimum 4 Trucks)or Certified lease/hire agreement (Must be self-tipping), Tonnage, Certified Copies of Log Books must be registered in the name of the bidding firm or Directors of the same firm as captured in CR12, Vehicle Identification should be branded with the bidders name, Company logo, customer service telephone number and vehicle fleet number, NEMA Certification, Transportation schedule, frequency, routing and tonnage per day	V good(log books provided..... max 15 marks) Good (Certified hire or lease agreement max 10 marks) Fair Poor	15 10 3 0
	Dumpsite Maintenance including waste segregation, Composting, Recycling and Routine Maintenance of the dumpsite Access Road	10	Requirements, elaborate work plan, Attach Copies of lease or hire or log book of Excavator, Grader	V good Good Fair	10 7 5
	Management and monitoring of waste collection and transportation work(monitors tools, schedules, plans and reporting formats)	2	Appropriateness of management and monitoring plans depending on areas to be covered	V. good Good Satisfactory	2 1 1
	Action Plan from the Signing of the Contract to the Commencement of the Contract.				
	Time frame of the action plans	2	Chart of the time frame	Good Satisfactory	2 1

5.	EXPERIENCE	20			
	Experience that the firm has been providing garbage collection, transportation, disposal and dumpsite management services	20	Years of experience of similar nature of services and magnitude (with proof of copies of contracts, LSOs or Notification of Awards) • Same projects (i.e. garbage collection, transportation, disposal and dumpsite management services)	> 7 yrs 6 – 5 yrs 3 – 4 yrs 2 - 3 yrs 1 - 2 yrs Less than 1 yrs	20 10 4 2 1 0
6.	FINANCIAL CAPACITY	20			
	Bank Statements and Audited Books of Account	15	The contractor should provide certified audited accounts of the previous 4 years including a Bank statement to corroborate the Books of Account with Turn Over Ranges for the Period as specified -	300million and above 300 million to 200 200million to 100 100 million to 50	15 10 5 3
	Credit Line	5	Credit line of a reputable commercial bank regulated by the Central Bank Of Kenya	50M – 100M 30M – 40M 20M – 30M 10M – 20M	5 3 2 1
	TOTAL SCORE (1+2+3+4+5+6)	100			

Note: Bidder(s) shall be required to attain a minimum pass mark of 80 out of the total technical evaluation marks. Bidders who will fail to attain the technical pass marks shall be disqualified from the process therefore shall not proceed to financial evaluation.

STAGE 3: FINANCIAL EVALUATION

A. PREAMBLE TO THE BILLS OF QUANTITIES

1. The Bills of Quantities shall be read in conjunction with the instructions to Bidders, general conditions of contract and conditions of particular application.
2. The quantities given in the Bills of Quantities are estimated and provisional and are given to provide a common basis for bidding. The basis of payment will be the actual quantities of work ordered and carried out, measured by the contractor and verified by the Chief Officer Environment and valued at the rate and priced bided in the Bills of Quantities and schedule of day works where applicable, and otherwise at such rate and prices as the Chief Officer Environment may fix within the terms of the contract.
3. The rate and prices bided in the Bills of quantities shall, except in so far as it is otherwise under the contract, maintenance, insurance, profit, together with all general risks, liabilities and obligation set out or

implied in the contract.

4. A rate or price shall be entered against each item in the priced Bills of Quantities and stated or not. The cost of items against which the contractor has failed to enter a rate or price shall be deemed to be covered by the contract price.
5. The whole cost of complying with the provisions of the contract shall be included in the items provided in the priced Bills of Quantities, and where no items are provided, the cost shall be deemed to be distributed among the rates and prices entered for the related items of works.
6. General directions and description of work and material are not necessarily repeated or summarized in the Bills of Quantity. Reference to the relevant sections of the contract documentation shall be made before entering prices against each item in the priced Bills of Quantities.
7. Provision sums included and so designated in the Bills of Quantities shall be expended in whole or in part at the direction and discretion of the Chief Officer Environment, Climate Change and Tourism.
8. The method of measurement of completed work for payment shall be in accordance with the directions for measurement and pricing included in the standard specification and as directed and agreed upon between the contractor and the County Government of Bungoma.
9. Errors will be corrected in accordance with the instructions to bidders.
10. The following abbreviations may be used in the Bill of Quantities where necessary:

Unit	Abbreviation
Millimetre	mm
Metre	m
Square metre	m ²
Cubic metre	m ³
Lump sum	Dum
Kilometre	km
Kilogram	kg
Litres	Lts
Tonne	Ton

B. WORK ITEMS

The Bills of Quantities contain the following Bills and Schedules:-

Bill Number 1	- Preliminaries
Bill Number 2	- Street and other open spaces sweeping/ cleaning, litter picking and emptying of litter bins and removal of wastes from the drain where possible
Bill Number 3	- Waste collection, transportation and disposal including waste segregation, Composting and Waste recycling

NOTE: - Bidders are instructed to price the Bills of Quantities in Kenya Shillings only.

PROVISION OF GARBAGE COLLECTION, TRANSPORTATION, DISPOSAL AND DUMPSITE MANAGEMENT SERVICES IN BUNGOMA COUNTY

TENDER NO BGM/CNTY/TEC/OT/01/2023-2024/ NEG NO: 1352769-2023-2024

BILL OF QUANTITIES

ITEM NO	DESCRIPTION	QUANTITY	UNIT	RATE/ Month	AMOUNT Kshs
	BILL NO.1-PRELIMINARIES				
1.01	<u>CONTRACTUAL REQUIREMENTS</u> Provide for all Insurances cover to the entire contract.		ITEM		
1.02	<u>SPECIAL REQUIREMENTS</u> Allow a Provisional Sum of Kshs. 300,000 for capacity development of the Employer`s Staff, Community Members and general public awareness		MONTH		
	Add% for profit, administration, attendance upon, overheads, etc. for Item 1.02 above	_____	%		
	TOTAL CARRIED TO SECTION SUMMARY TOTAL				
1.03	Allow a provisional sum of maximum 10% of contract sum for contingencies to be expended in part or whole as directed by the Chief Officer Environment.		ITEM		
	Allow for attendance to item 1.03 above		%		
	BILL 1. SUMMARY TOTAL CARRIED TO SUMMARY SHEET				
	BILL NO.2- STREET AND OTHER OPEN SPACES SWEEPING/ CLEANING, LITTER PICKING AND EMPTYING OF LITTER BINS AND REMOVAL OF WASTES FROM THE DRAIN WHERE POSSIBLE				

2.01	Garbage collection (Street sweeping, bush clearing, clearing waste from drains, containment of waste at collection points) under supervision of the Authorizing Officer		Persons/ Day		
TOTAL CARRIED TO SUMMARY SHEET					
BILL NO.3- GARBAGE TRANSPORTATION AND DISPOSAL, WASTE SEGREGATION, COMPOSTING, WASTE RECYCLING AND MAINTANANCE OF THE DUMPSITE ACCESS ROAD					
3.01	Garbage Transportation and Disposal		Cost/Ton		
3.02	Dumpsite maintenance including Waste Segregation, Composting, Recycling and Maintenance of the Dumpsite Access Road		Cost/Fre quency		
TOTAL CARRIED TO SUMMARY SHEET					

SUMMARY SHEET

BILL NO.	DESCRIPTION	AMOUNT (Kshs.)
1.	PRELIMINARIES	
2.	STREET AND OTHER OPEN SPACES SWEEPING/ CLEANING, LITTER PICKING AND EMPTYING OF LITTER BINS AND REMOVAL OF WASTES FROM THE DRAIN WHERE POSSIBLE	
3.	TRANSPORTATION AND DISPOSAL WASTE SEGREGATION, COMPOSTING. WASTE RECYCLING ROUTINE MAINTANANCE OF THE DUMPSITE ACCESS ROAD AND GENERAL DUMPSITE MANAGEMENT	
	SUB TOTAL	
	ADD 16% V.A.T	
	TOTAL CARRIED TO FORM OF TENDER	

APPENDIX A

DESCRIPTION OF SERVICES

INTRODUCTION

The COUNTY GOVERNMENT OF BUNGOMA intends to procure garbage collection, transportation, disposal and dumpsite management services within Bungoma County from competent and qualified firms for a period of 2 years renewable for one further year subject to agreement of parties.

TERMS OF REFERENCE

The works shall include the execution of the following activities in Bungoma County;

- a) Sweeping of roads, feeder streets, back streets, public areas, car parks (off street and on street), walkways and footpaths in the towns and markets
- b) Litter collection on roads, road reserves, open spaces, markets, public gardens and parks
- c) Clearing and carting away litter from open drains and ditches
- d) Grass cutting, bush clearing, hedge trimming and weeding the roads reserves and other green spaces
- e) Containment of waste in the Collection Points (ensuring waste from sweeping and the other activities only contained in the collection point)
- f) Collection, Transportation and Disposal of garbage to the designated sites
- g) Promote Waste segregation, Composting and waste recycling at the County Dumpsite
- h) Maintenance of the designated garbage disposal sites/dumpsites
- i) Routine Maintenance of the Dumpsite Access Road
- j) Removal of carcasses from public places
- k) Any other related works as shall be directed from time to time by the Department of Environment and Tourism

LOCATION AND EXTENT OF SERVICE

The Works are located in Bungoma County as illustrated below:-

TOWNS/MARKETS	BUNGOMA, WEBUYE, KIMILILI, CHWELE, KAMUKUYWA, MISIKHU, LUGULU, KAPSOKWONY, MAYANJA-VITUGUU, KANDUYI, LWAKHAKHA, MYANGA, BUKEMBE, MALAKISI, MBAKALO, BRIGADIER, SIRISIA, DOROFU, BOKOLI, KAPKATENY, KIMAETI, KABULA, NAMWELA, NDALU, CHEPTAIS, MAYANJA-KIBUKE, KAPTAMA, MATISI, NANDOLIA/NZOIA, KIBABII, SIKATA, LWANDANYI, MECHIMERU, NAITIRI, SANG'ALO, BUMULA, MATEKA, NALONDO, KUYWA, NDIVISI, MAKUNGA, TONGAREN, SOYSAMBU, CHESAMISI, BARIKIWA, KHACHONGE, NAMORIO, KIPSIGON, LUKUSI, NASUSI, EKITALE, NDENGELWA, KUYWA(SITIKHO), NETIMA, BUKANANACHI, MABANGA, SICHEI, KIMABOLE, NASYANDA, CHEBUKWABI, KIMWANGA, MUANDA, MULATIWA, SIKUSI
COUNTY DUMPSITE	DUMPSITE MANAGEMENT

The works specified under this contract shall include all general and ancillary works and work of any nature that is deemed necessary for the due and satisfactory execution, maintenance and sustainability. **Emphasis is stressed on keeping the environment in the given areas clean to the highest standards possible always.**

SPECIAL SPECIFICATIONS

These special specifications are supplementary to the standard Specifications and the two must read in conjunction. In any case where there appears to be conflict between the two, then special Specifications will take precedence.

FIRST AID AND WELFARE

The contractor shall provide, equip and maintain adequate first aid stations throughout the works all in accordance with the laws of Kenya. The Contractor shall allow in his Rates and be responsible for the cost of all site welfare arrangements.

ORDER OF EXECUTION OF WORK

The contractor shall carry out the works such that a continuous and consecutive output is achieved throughout the contract period.

WORK PLAN FOR EXECUTION OF THE WORKS

The contractor shall provide to the Chief Officer in Charge of Environment his final work plan and schedule of activities before commenced of work. The work plan and schedule shall be coordinated with climatic and other conditions to provide for the execution of works in the order and by the time specified. The contractor shall carry out the contract in accordance with the work plan and schedules agreed with the Chief Officer in Charge of Environment, but shall no manner be relieved of his obligations to execute the works in the prescribed order and progress and make such amendments to his rate of execution of the works as may be necessary to fulfill his obligations.

COMPLIANCE WITH SPECIFICATION

All tools, plant, equipment, vehicles, personnel and workmanship in and connected with the execution of the works shall be to the best of their respective kinds without regard to any trade terms and the contractor shall comply in these and all other respects with the execution of the contract in proper and workmanship like manner and in strict accordance with the social, professional and health standards under the guidance and instructions of the Chief Officer Environment, Climate Change and Tourism.

TIME FOR COMPLETION OF WORKS

The time of execution of the contract shall be twenty four (24) calendar months from issuance of commencement contract. However, there will be provision of extension depending on the prevailing circumstances and renewal for one further year twelve (12) calendar months based on the Agreement of Parties.

PERIOD OF MAINTENANCE

The contractor shall maintain the environment in the area of operation to the highest social, professional and health standards possible throughout the contract period.

STORAGE OF MATERIALS

All materials, goods, tools, equipment and vehicles shall be stored in a manner approved by the Department of Environment, Climate Change and Tourism and the contractor shall carefully protect from the weather all work and materials which may be affected thereby.

NOTICE OF OPERATIONS

All operations shall be carried out with the consent of the Department of Environment, Climate Change and Tourism.

COMPLIANCE WITH LAWS AND BY- LAWS

The contractor shall comply with all the laws of Kenya and those of the County in respect of sanitation, labor, etc.

WORKING HOURS

The Contractor will work for 8-12 hours a day from Monday to Saturday for all the towns and markets whereas the major towns of Bungoma, Kanduyi, Webuye, Chwele and Kimilili the service shall be extended to Sunday

and any other emergency that may occur subject to adequate Notice.

TRANSPORT OF WORK MEN

The contractor shall include in his rates all Rates, all transport of staff and workmen to and from the various parts of and upon or in connection with the works, costs incurred in securing, recruiting and transporting labor to site.

WASTE COLLECTION POINTS

The Contractor shall be expected to work in Close Collaboration with the Department in Charge of Solid Waste Management and other stakeholders to locate waste collection points for temporary storage of garbage within the markets/towns. The maintenance of waste collection to ensure overall standards of cleanliness are achieved shall be solely the duty of the Contractor supervised by the Department.

MONITORING AND SUPERVISION

The Department of Environment, Climate Change and Tourism shall ensure the service performance is monitored and supervised on a daily basis across all markets and the County dumpsite to ensure the set standards of cleanliness are achieved. The Contractor shall be provided a schedule for the Officers doing the Supervision and shall be mandated to facilitate their field activities based on the rates that shall be agreed upon with the Chief Officer In Charge of Environment, Climate Change and Tourism.

MAINTANANCE OF DUMPSITE ACCESS ROAD

The Contractor shall be expected to undertake Opening and routine maintenance of the dumpsite access Road (1.5. Km in length from Siritanyi Junction Market to the Dumpsite) as part of Dumpsite Management Services. The cost of the maintenance shall be included as per the Bill of Quantities.

THE AUTHORISED SUPERVISING OFFICER

The functions, rights and powers conferred by this contract upon the county shall be exercised by the Authorized Supervising Officer. The contractor shall in no circumstances question the existence or extent of the authority of any person authorized by the Authorized Supervising Officer to act on his behalf.

CONTRACT PERIOD

The Contract shall run for twenty four (24) months from the date of signing of Contract Agreement and the contract shall be renewable for a further Twelve (12) calendar months based upon the Contractor's Performance, Agreement of Parties and statutory compliance. However, there will be a provision of extension depending on the prevailing circumstances.

CONTRACTORS OBLIGATIONS

During the contract period the contractor shall execute the works (any modifications thereof authorized under the conditions) in a manner consistent with the contract and to the satisfaction of the authorized supervising officer. The contractor shall at all times execute the works in accordance with programme (and any modification thereof) agreed with the COUNTY GOVERNMENT OF BUNGOMA as required in the contract.

AMENDMENT OF CONTRACT

Should the COUNTY GOVERNMENT OF BUNGOMA at any time after the commencement date wish to alter, vary or change the method of work specified in the Specification it may issue a written notice to the contractor to negotiate such alteration. Variation, change or terms to be agreed with the contractor and any such alteration, variation or change agreed to in writing by the Contractor shall be drawn up by the County as an amendment to the contract and signed by both parties to the contract.

OFFICE FACILITIES

The Bidder is required to takeover garbage collection, transportation and disposal services functions from the Procuring Entity. The bidder must maintain a local telephone number herein referred to as a customer care number physical address, e-mail address and qualified attendants as may be necessary to ensure communication between the Procuring Entity and Bidder and to receive and process complaints and/or to receive instructions and directions from the Procuring Entity. The County may lease to the contractor any equipment at a rent upon conditions to be agreed upon.

VEHICLES ANDEQUIPMENT

The Contractor's vehicles and equipment used for performing services shall be adequate and mechanically sound to perform the services required by the Contract as may be reasonably determined by the Procuring Entity from time to time. The vehicles must fully contain the waste, eliminating potential nuisance such as odours, windblown litter and uncontrolled leachate discharge.

For special collections of solid waste, including bulky waste, garden wastes and large animal carcasses the Contractor shall provide suitable vehicles such as flatbeds or tippers with appropriate lifting hoists as necessary.

As vehicles and equipment become fully depreciated or reach the end of their useful life, the Contractor shall immediately purchase, rent or lease vehicles and equipment to satisfy such requirements or replace such retired vehicles and equipment. The Contractor shall ensure that all vehicles and equipment are registered and operate in compliance with all applicable laws and regulations.

The Contractor shall keep all vehicles and equipment used for performing services in good repair, appearance and sanitary condition.

Each vehicle shall have at least 2 *makuti* brooms, 2 fork jembes, 2 hoes and 2 shovel at all times to clean up solid waste that may have spilled or otherwise scattered during the process of collection and transportation.

All lights, horns, warning devices, mufflers, fuel tanks and emission controls on said vehicles shall be kept operable at all times, with an average fleet downtime of no more than twenty five percent. A sufficient supply of spare parts shall be kept on hand to ensure the timely and continuous fulfilment of this Contract.

When vehicles are down for maintenance or repair it shall be the Contractor's obligation to provide a replacement vehicle from the spares in its fleet or a comparable replacement through rental or leasing arrangements, the contractor shall inform the employer accordingly.

All vehicles and equipment shall be operated by qualified and licensed operators.

All vehicles shall be sufficiently secure and provided with tarpaulin cover so as to prevent any spilling or littering of solid waste. No vehicle shall be wilfully overloaded.

All collection vehicles shall have some form of communication device on board (cell phone) to enable close supervision of the service between the Procuring Entity and the Contractor.

VEHICLE OPERATION

The contractor shall ensure that: -

- Drivers and operators of the plant are licensed and responsible for the operation and use of the plant. Furthermore, they should be in uniforms as advised by the Head of the Department of Environment, Climate Change and Tourism Drivers drive safely and correctly at all times in accordance with statutory regulations and instructions of the contractor. Speed limits are to be observed and reversing should only take place under guidance.
- Drivers are trained and thoroughly competent in the safe use of the plant, paying particular attention to the tipping at waste disposal sites which shall be as directed by the waste disposal contractor
- The routes to be taken by the plant for all purposes required in connection with the execution of the works are clearly defined and approved by Authorized Supervising Officer. Plant operations are carried out in a reasonable and workman like manner without causingobstruction or annoyance to the public.
- The plant is cleaned internally and externally and maintained in such condition and mannerso as to present a professional and pleasant image to the public.

STAFF

The contractor shall at all times during the contract period employ sufficient persons with appropriate qualifications, abilities, and skills for the satisfactory execution of the works. The contractor shall at all time during the contract period employ sufficient persons with appropriate qualifications, abilities and skills to supervise the execution of works in a properand continuous manner. The contractor is expected also to provide an organization structure for the execution of the works. Besides, the contractor shall supply the Authorized Supervising Officer with a list of the staff he proposes to employ and include on it the qualifications of each person.

The contractor shall notify the Authorized Supervising Officer of the name, address and telephone number of the person who will be in charge of the contract at the local level. The contractor shall at all times take all such precautions as are necessary to protect the health and safety of all persons employed by him. The contractor's minimum qualification of the person in charge of the daily operations and execution of the works shall be a

Diploma in Environmental Management/Environmental Health or Public Health.

UNIFORMS

The Contractor shall provide readily recognizable, brightly coloured dust coats and overalls of a single design and colour to all its workers, to be worn at all times when performing services under this agreement, so that they can be readily observed and their performance can be readily monitored. Uniforms shall be replenished as they become worn or damaged.

AGENCY

The contractor is not and shall in circumstance hold himself out as being an employee or agent of COUNTY GOVERNMENT OF BUNGOMA save as expressly authorized in the contract. The contractor is not and shall in no circumstances hold himself out as being authorized to enter into any contract on behalf of COUNTY GOVERNMENT OF BUNGOMA or in any other way to bind Bungoma County to the performance, variation, release or discharge of any obligation save as expressly authorized in the contract.

The employees of the contractor shall not hold themselves out to be and shall not be held out by the contractor as being employees or agents of COUNTY GOVERNMENT OF BUNGOMA save expressly authorized in the contract.

LIABILITY OF CONTRACTOR AND INDEMNITY

The Contractor shall hold harmless, defend and indemnify the procuring entity from any claim or damage arising from the actual or alleged negligence of the Contractor in the performance of services and from willful or criminal acts allegedly occurring during services, including the times when the Contractor's vehicles are in transit.

INSURANCE

The Contractor's vehicles shall bear vehicle insurance and general liability insurance coverage with insurance companies reasonably acceptable to the procuring entity through-out the term of this agreement and through-out any extension or renewal thereof, providing for replacement value in the case of the theft or damage and liability in the case of accident.

DEFAULT IN PERFORMANCE

At any times after the commencement date of the Contract the Procuring Entity may investigate each case where the Contractor has failed to properly perform the services in accordance with the provisions of the Contract. Where the Procuring Entity is satisfied that in any particular case the Contractor has failed to perform the services completely in accordance with the provisions of the Contract, the Procuring Entity shall be entitled to terminate the Contract.

In addition, where the service which has not been performed in accordance with the provisions of the Contract is in the opinion of the Procuring Entity, of such a type or provided in such a frequency that the termination would be inappropriate and Procuring Entity shall be entitled to issue a default notice for rectification.

If the Contractor fails to remedy the services deficiency which is the subject of a rectification notice, the Procuring Entity shall be entitled to issue a termination notice.

Without prejudice to the generality of the foregoing, the following matters shall be included in the types of service deficiencies for which notices may be issued:

- i. Failure to properly collect, in compliance with the schedule, any solid waste within the towns/markets;
- ii. Failure to clear spillages;
- iii. Failure to clear backlogs of waste;
- iv. Failure to perform for a period of 1 Week (7 days) continuously;
- v. Spillage of garbage on the roads during transportation

The time periods during which the Contractor is to remedy deficiencies shall be reasonable having regard to, inter alia, the nature of and the frequency of the services. Each time period shall commence when the Contractor is initially notified and shall require the Contractor to effect the following in respect of any deficiency involving or associated with collection of solid waste.

In respect of each notification made to the Contractor by 1.00 p.m. on any working day the Contractor shall remedy each deficiency by 6.00 p.m. on the same day Clause 12 above notwithstanding.

In respect of each notification made to the Contractor after 1.00 p.m. on any working day the Contractor shall remedy each deficiency by 1.00 p.m. on the following working day.

Each notice may refer to one or more than one elemental service deficiency.

All notices shall be recorded and used by the Procuring Entity in determining the Contractor's overall services performance and shall also be used in determining financial penalties and whether the Procuring Entity may terminate the Contract.

WORKS IN DEFAULT

If by reason of any accident or failure or other event occurring to or in connection with any part thereof either during the execution of the works or taking any measures or other work or repair shall in the opinion of the Authorized Supervising Officer be urgently necessary and the contractor is unable or unwilling at once to do such work or repair as the Authorized Supervising Officer may consider necessary, COUNTY GOVERNMENT OF BUNGOMA may do the work itself or arrange for it to be done and if the work or repair so done is work which in the opinion of the Authorized Supervising Officer the contractor was liable to do at his own expense under the contract all costs and charges be paid by the contractor to COUNTY GOVERNMENT OF BUNGOMA or be deducted from the contract when the payment becomes due to the contractor provided always that the Authorized Supervising Officer shall as soon as after the occurrence of any such emergency notify the contractor thereof in writing.

TERMINATION

COUNTY GOVERNMENT OF BUNGOMA shall be entitled forthwith upon the happening of any of the following events terminate this Contract: -

- a) The events referred to in Clause concerning defaults in performance
- b) Substantial breach by the contractor of any fundamental provision of the contract.
- c) The contractor having failed to perform a substantial part of the works for a period of one week.
- d) The contractor having a receiver or a receiver manager appointed or being subject of a resolution or order for winding up provided that an amalgamation or reorganization of a limited company shall be deemed not to be breach of this condition if agreed by the Authorized Supervising Officer.

Upon such termination in addition to such consequences as are set out in the other provisions of the Contract: -

- The contractor shall forthwith cease to execute any works
- The contractor shall fully and promptly indemnify the County in respect of the cost of such works as would have been executed by the contractor during the remainder of the contract period to the extent that such cost exceeds such sums as would have been lawfully payable to the contractor for performing such works by any other persons (whether the said persons are county employees or not) as the county shall in its discretion think fit.

The County shall be under no obligation to make any further payment to the contractor and shall be entitled to retain any payment which shall have fallen due to the contractor before termination until the contractor has paid in full the County any sums due under this contract or to deduct from the contractor to the county under the contract.

COMPLAINTS

The Contractor shall receive and respond to all complaints regarding services provided under this Contract within 48 hours as contained in the Procuring Entity service charter. Any complaints received by the Procuring Entity will be directed to the Contractor's office. Should a complaint go unresolved for longer than two (2) days, the Procuring Entity will have the right to demand an explanation or resolution to its satisfaction.

ARBITRATION

- (a) All disputes between the parties arising out of or connected with the contract or the execution of the works by the contractor shall be referred to an Arbitrator to be agreed upon by the interested parties or in default of such agreement to be nominated by the High Court of Kenya such reference to be one month after service of notice by either party requiring such a reference.
- (b) The Arbitrator shall be entitled to make such decisions or award as he thinks justifiable and equitable having regard to circumstances existing. The cost of such arbitration to the follow event or in the event of neither party succeeding to be apportioned between the parties by the arbitrator in such proportions as he in his absolute discretion think fit.
- (c) Any award or decision of such Arbitrator shall be final and binding to the parties hereto.

OBSERVANCE OF STATUTORY REQUIREMENTS

The contractor shall comply with statutory and other provisions to be observed and executed in connection with the works provided under the contract and shall indemnify the county accordingly.

RIGHTS AND DUTIES RESERVED

For the avoidance of doubt nothing herein contained or implied shall prejudice or affect the County's rights, powers, duties and obligations in the exercise of its functions for the enforcement or pursuant to any enactment by-law regulation or order for the time being in force.

LEGAL FEES

Each shall bear their own legal and other fees in relation to the preparation and submission of the tender documents and any other formal contract document arising there from.

PROVISION OF STATISTICAL INFORMATION

The contractor in conjunction with the authorized Supervising Officer shall provide in writing any statistical information which the County may require from time to time.

WASTE DISPOSAL

The County has a designated dumpsite at Muanda in Bumula Sub County. Garbage Disposal will only be done by the Contractor's vehicles (approved by the Department of Environment) ONLY between 6.00 am and 6.00 p.m.

The Contractor will be fully responsible for the management of the dumpsite in terms of;

- Ensure waste segregation
- Ensuring waste is spread, covered and compacted at regular intervals
- Ensuring treatment of wastes when the need arises
- Development and maintenance of motorable roads within the dumpsite to ensure ease of access during disposal
- Ensuring security and control of the disposal site so that illegal activities are contained
- Putting in place appropriate measures for the management of dumpsite fires
- Routine Maintenance of the 1.5 Km dumpsite access road

STANDARD SPECIFICATIONS

The contract will be administered in accordance with "The Standard Specification and under the Directions of the County Chief Officer in charge of Environment Bungoma County" as stipulated in this document and /or as directed from time to time.

NOTICE TO BIDDERS

PERFORMANCE AND QUALITY STANDARDS

The contractor is expected to adhere to the following quality policy always:-

- Prompt attention to inquiries.
- Provision of services which meet the expectations of the customers.
- Deployment of appropriately skilled and experienced staff to provide management and technical expertise needed to satisfy the customers' needs.
- Adherence to procedures and monitoring mechanisms which ensure efficient and timely execution of services.
- Adherence and compliances with professional procedures, techniques and standards.
- Regular audits, monitoring and reviews of the quality standards, monitoring and reviews of the quality standards

PROVISION OF GARBAGE COLLECTION, TRANSPORTATION, DISPOSAL AND DUMPSITE MANAGEMENT SERVICES IN BUNGOMA COUNTY

This is the contract that the contractor is responsible for the complete cleanliness and upkeep of the health standards of the listed towns and markets. Street Sweeping, garbage collection and bush clearing will be carried out throughout all the towns and markets. It should be emphasized that all waste bins within the towns and markets **MUST** be emptied and at no time should there be an overflowing waste bin. Furthermore, no heap of garbage should be seen for more than 24 hours within the town and market.

1. SERVICE STANDARDS

Standards will be set for the quality of works and services provided by the contractor. Cleanliness to the highest standards possible should be achieved under the contract especially and in particular in street sweeping, garbage collection, transportation and disposal; bush clearing and removal of carcasses

2. MONITORING SYSTEMS

The County Government of Bungoma through the County Chief Officer Environment, Climate Change and Tourism will retain the responsibility for monitoring and controlling the quality of the work which is carried out under this contract.

3. DATA COLLECTION AND PROCESSING

Data collection service will be set up which will accurately record all the data required for future costing and control of the works. The data collection and processing will be under the control of the County Government of Bungoma and available to the contractor if he so requires. However, in cases where the contractor collects waste from commercial/retail or institutions within the County, such information will be collected by the contractor, compiled and delivered to the Director Environment on the last day of every month.

The contractor in conjunction with the authorized supervising officer shall provide the following collection data;-

- a) Working hours for workers.
- b) The number of trips and tonnage collected each day by each vehicle.
- c) The total tonnage of waste collected each day.
- d) Details of each load arriving at the disposal site including truck number, weight in tonnage and vehicle capacity
- e) The area from which collection was done.
- f) Wages and salaries paid.
- g) Overhead costs.
- h) Capital investments.
- i) Break downs and accidents.

The supervision records and reports will be used as the standard for works. This will have to be computed by the Authorized Supervising Officer.

3. LOCATION OF DUMPSITE

The County designated Dumpsite is at Muanda in Bumula Sub County.

SECTION VI - GENERAL CONDITIONS OF CONTRACT

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

The Adjudicator is the person appointed jointly by the Procuring Entity and the Service Provider to resolve disputes in the first instance, as provided for hereunder.

“Bill of Quantities” is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Tender;

“Completion Date” means the date of completion of the Services by the Service Provider as certified by the Procuring Entity

“Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;

“Contract Price” means the price to be paid for the performance of the Services as per the form of Bid;

“Day works” means varied work inputs subject to payment on a time basis for the Service Provider's employees and equipment, in addition to payments for associated materials and administration.

“Procuring Entity” means the Procuring Entity or party who employs the Service Provider

“GCC” means these General Conditions of Contract;

“Government” means the Government of Kenya;

“Local Currency” means Kenya shilling;

“Member,” in case the Service Provider consist of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Service Provider' rights and obligations towards the Procuring Entity under this Contract;

“Party” means the Procuring Entity or the Service Provider, as the case maybe, and “Parties” means both of them;

“Personnel” means persons hired by the Service Provider or by any Sub-contractor as employees and assigned to the performance of the Services or any part there of;

“Service Provider” is a person or corporate body whose Tender to provide the Services has been accepted by the Procuring Entity;

“Service Provider's Tender” means the completed Tendering Document submitted by the Service Provider to the Procuring Entity

“SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented;

“Specifications” means the specifications of the service included in the Tendering Document submitted by the Service Provider to the Procuring Entity

“Services” means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Bill of Quantities included in the Service Provider's Tender.

“Sub-contractor” means any entity to which the Service Provider sub-contracts any part of the Services;

“Public Procurement Regulatory Authority (PPRA)” shall mean the Government Agency responsible for oversight of public procurement.

“Project Manager” shall the person appointed by the Procuring Entity to act as the Project Manager for the purposes of the Contract and named in the Particular Conditions of Contract, or other person appointed from time to time by the Procuring Entity and notified to the Contractor.

“Notice of Dissatisfaction” means the notice given by either Party to the other indicating its dissatisfaction and intention to commence arbitration.

4.1. Applicable Law

The Contract shall be interpreted in accordance with the laws of Kenya.

4.2. Language

This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

4.3. Notices

Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, hand delivery, or email to such Party at the address specified in the SCC.

4.4. Location

The Services shall be performed at such locations as specified in Appendix A, in the specifications and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as the Procuring Entity may approve.

4.5. Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Procuring Entity or the Service Provider may be taken or executed by the officials specified in the SCC.

4.6. Taxes and Duties

The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

4.7. Commencement, Completion, Modification, and Termination of Contract

4.7.1. Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as maybe stated in the SCC.

4.7.2. Commencement of Services

Before commencement of the Services, the Service Provider shall submit to the Procuring Entity for approval a Work Plan and Schedules showing the general methods, arrangements order and timing for all activities. The Services shall be carried out in accordance with the approved Work plan and Schedules as updated.

4.7.3. Starting Date

The Service Provider shall start carrying out the Services as specified in the Contract

4.7.4. Intended Completion Date

Unless terminated earlier pursuant to Sub-Clause 4.9, the Service Provider shall complete the activities by the Intended Completion Date, as is specified in the SCC. If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 10.9. In this case, the Completion Date will be the date of completion of all activities.

4.7.5. Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties.

4.8. Force Majeure

4.8.1. Definition

For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a

Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

4.8.2. No Breach of Contract

The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event

- a. has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and
- b. has informed the other Party as soon as possible about the occurrence of such an event.

4.8.3. Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

4.8.4. Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and reasonably incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

4.9. Termination

4.9.1. By the Procuring Entity

The Procuring Entity may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Sub-Clause 4.9.1:

- a) If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Procuring Entity may have subsequently approved in writing;
- b) if the Service Provider becomes insolvent or bankrupt;
- c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- d) if the Service Provider, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, to the GCC, in competing for or in executing the Contract

4.9.2. By the Service Provider

The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to the Procuring Entity, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Sub-Clause 4.9.2:

- a) If the Procuring Entity fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within One hundred and twenty (120) days after receiving written notice from the Service Provider that such payment is overdue; or
- b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

4.9.3. Payment up on Termination

Upon termination of this Contract pursuant to Sub-Clauses 4.9.1 or 4.9.2, the Procuring Entity shall make the following payments to the Service Provider:

- remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
- except in the case of termination pursuant to paragraphs (a), (b), (d) of Sub-Clause 4.9.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel.

4.10. Obligations of the Service Provider

4.10.1. General

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contractor to the Services, as faithful adviser to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with Subcontractors or third parties.

4.10.2. Conflict of Interests

Service Provider Not to Benefit from Commissions and Discounts.

The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider's sole remuneration in connection with this Contractor the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contractor to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.

4.10.3. Service Provider and Affiliates Not to be Otherwise Interested in Project

The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

4.10.4. Prohibition of Conflicting Activities

Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

- During the term of this Contract, any business or professional activities in Kenya which would conflict with the activities assigned to them under this Contract;
- during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees' inactive duty or on any type of leave, to perform any activity under this Contract;

After the termination of this Contract, such other activities as may be specified in the SCC.

4.10.5. Confidentiality

The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Procuring Entity's business or operations without the prior written consent of the Procuring Entity.

The Service Provider

- a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and approved by the Procuring Entity, insurance against the risks, and for the coverage, as shall be specified in the SCC; and
- b) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.

4.10.6. Service Provider's Actions Requiring Procuring Entity's Prior Approval

The Service Provider shall obtain the Procuring Entity's prior approval in writing before taking any of the following actions:

- a) Entering into a sub-contract for the performance of any part of the Services,
- b) changing the Program of activities; and
- c) Any other action that may be specified in the SCC.

4.10.7. Reporting Obligations

The Service Provider shall submit to the Procuring Entity the reports and documents specified in the form, in the

numbers, and within the periods set forth in the said Appendix A and standard specifications.

4.10.8. Documents Prepared by the Service Provider to Be the Property of the Procuring Entity

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in accordance with Sub-Clause 3.6 shall become and remain the property of the Procuring Entity, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Procuring Entity, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SCC.

4.10.9. Liquidated Damages

Payments of Liquidated Damages

The Service Provider shall pay liquidated damages to the Procuring Entity at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Procuring Entity may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

4.10.10. Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and specified in the SCC.

4.10.11. Performance Security

The Service Provider shall provide the Performance Security to the Procuring Entity no later than the date specified in the Form of acceptance. The Performance Security shall be issued in an amount and form and by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date 28 day from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.

4.10.12. Fraud and Corruption

The Procuring Entity requires compliance with the Government's Anti-Corruption laws and its prevailing sanctions. The Procuring Entity requires the Service Provider to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

4.10.13. Service Provider's Personnel

Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's shall be clearly elaborated in documentation.

Removal and/or Replacement of Personnel

Except as the Procuring Entity may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualification. If the Procuring Entity finds that any of the Personnel have

- i. committed serious misconduct or have been charged with having committed a criminal action, or
- ii. have reasonable cause to be dissatisfied with the performance of any of the Personnel,

then the Service Provider shall, at the Procuring Entity's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity. The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

4.11. Obligations of the Procuring Entity

4.11.1. Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Sub-Clauses 6.2(a) or (b), as the case may be.

4.11.2. Terms and Conditions of Payment

Payments will be made to the Service Provider based on monthly invoice raised by the Contractor, Inspection Report and availability of exchequer releases.

4.11.3. Identifying Defects

The principle and modalities of Inspection of the Services by the Procuring Entity shall be furnished to the Contractor upon submission of the Final Work Plan. The Procuring Entity shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Procuring Entity may instruct the Service Provider to search for a Defect and to uncover and test any service that the Procuring Entity considers may have a Defect. Defect Liability Period is as defined in the SCC.

4.11.4. Correction of Defects, and Lack of Performance Penalty

The Procuring Entity shall give notice to the Service Provider of any Defects arising from the daily supervision of the service. The Defects liability period shall be extended for as long as Defects remain to be corrected.

Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Procuring Entity's notice.

If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, the Procuring Entity will assess the cost of having the Defect corrected, the Service Provider will pay this amount and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

4.12. Settlement of Disputes

4.12.1. Contractor's Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring

Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clauses shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and /or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and /or additional payment

claimed. If the event or circumstance giving rise to the claim has a continuing effect:

This fully detailed claim shall be considered as interim;

The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and /or amount claimed, and such further particulars as the Project Manager may reasonably require; and

The Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.

Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub- Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

If the Project Manager does not respond within the time framed in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 8.2 [Matters that may be referred to arbitration].

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

Matters that may be referred to arbitration

Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Services or abandonment of the Services or termination of the Contract by either party:

The appointment of a replacement Project Manager upon the said person ceasing to act.

Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions

Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.

Any dispute arising in respect of war risks or war damage.

All other matters shall only be referred to arbitration after the completion or alleged completion of the Services or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

4.13. Amicable Settlement

Where a Notice of dissatisfaction has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a Notice of Dissatisfaction in accordance with Sub-Clause 8.1 above should move to commence arbitration after the fifty-sixth day from the day on which a Notice of Dissatisfaction was given, even if no attempt at an amicable settlement has been made.

4.14. Arbitration

4.14.1. Any claim or dispute between the Parties arising out of or in connection with the Contract not settled

amicably in accordance with Sub-Clause 8.3 shall be finally settled by arbitration. Arbitration shall be conducted in accordance with the Arbitration Laws of Kenya.

- 4.14.2. The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.
- 4.14.3. Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.
- 4.14.4. Arbitration may be commenced prior to or after completion of the services. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the services.
- 4.14.5. The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

4.15. Arbitration with proceedings

In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions; Law Society of Kenya or Chartered Institute of Arbitrators (Kenya Branch)

The institution written to first by the aggrieved party shall take precedence over all other institutions.

The arbitration may be on the construction of this Contractor on any matter or thing of what so ever nature arising there under or in connection there with, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to be entitled to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.

Provided that no arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.

The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.

The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.

The award of such Arbitrator shall be final and binding upon the parties.

4.16. Failure to Comply with Arbitrator's Decision

In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

4.17. The Adjudicator

Should the Adjudicator resign or die, or should the Procuring Entity and the Service Provider agree that the

Adjudicator is not functioning in accordance with the provisions of the Contract; a new Adjudicator will be jointly appointed by the Procuring Entity and the Service Provider. In case of disagreement between the Procuring Entity and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request.

The Adjudicator shall be paid by the hour at the rate specified in the TDS and SCC, together with reimbursable expenses of the type's specified in the SCC, and the cost shall be divided equally between the Procuring Entity and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

SECTION VII - SPECIAL CONDITIONS OF CONTRACT

These special specifications are supplementary to the standard Specifications and the two must read in conjunction. In any case where there appears to be conflict between the two, then special Specifications will take precedence.

I. Office Facilities

The Bidder is required to takeover garbage collection, transportation and disposal services functions from the Procuring Entity. The bidder must maintain a local telephone number herein referred to as a customer care number physical address, e-mail address and qualified attendants as may be necessary to ensure communication between the Procuring Entity and Bidder and to receive and process complaints and/or to receive instructions and directions from the Procuring Entity.

II. Liquidated Damages

If the Bidder fails to deliver any or all the services within the period(s) specified in the Contract, the Procuring Entity shall, without prejudice to its other remedies under the Contract, demand from the Contract price liquidated damages sum equivalent to 0.5% of the delivered price of the delivered services per month up to a maximum deduction of 10% of the delivered services. After this the Procuring Entity may consider termination of the Contract.

III. Project Manager

The Bidder shall assign a Project Manager who is responsible for implementation of the project entirely. The Project Manager shall carry out the project as a representative of the Bidder on a professional manner including managing and supervising all personnel related to the contract, preparing and submitting the required reports to the Procuring Entity, compiling and responding all the claims, and developing measures to improve their daily operation, but not limited to these actions herein.

IV. Supervisors/Drivers

All drivers must have a current driver's licence with minimum driving of 3 years. The Procuring Entity reserves the right to discontinue the use of any driver for failure to perform in a satisfactory manner. The Procuring Entity reserves the right to reject the contractor's personnel who, in the Procuring Entity's judgment, are not adequately qualified to perform the work or for just cause (lack of courtesy, profanity, repeated lack of compliance with operating procedures, unsafe operation). The Contractor shall make arrangements for a replacement. The Contractor's employees shall consistently show the highest levels of customer services and courtesy. The Contractor's employees shall display professional attitudes and behaviour, and be dressed in clean uniforms at and other relevant protective clothing all times.

V. Dumpsite Access Road

The Contractor shall be mandated to undertake routine maintenance of the dumpsite access Road.

VI. Vehicles and Equipment

The Contractor's vehicles and equipment used for performing services shall be adequate and mechanically sound to perform the services required by the Contract as may be reasonably determined by the Procuring Entity from time to time. The vehicles must fully contain the waste, eliminating potential nuisance such as odours, windblown litter and uncontrolled leachate discharge.

For special collections of solid waste, including bulky waste, garden wastes and large animal carcasses the Contractor shall provide suitable vehicles such as flatbeds or tippers with appropriate lifting hoists as necessary. As vehicles and equipment become fully depreciated or reach the end of their useful life, the Contractor shall immediately purchase, rent or lease vehicles and equipment to satisfy such requirements or replace such retired vehicles and equipment.

The Contractor shall ensure that all vehicles and equipment are registered and operate in compliance with all applicable laws and regulations. All vehicles must have a 15cm band on the cabin depicting the color assigned to the respective Contract one. The Contractor shall keep all vehicles and equipment used for performing services in good repair, appearance and sanitary condition.

Each vehicle shall have at least 2 *makuti* brooms, 2 fork jembes, 2 hoes and 2 shovel at all times to clean up solid waste that may have spilled or otherwise scattered during the process of collection and transportation.

All lights, horns, warning devices, mufflers, fuel tanks and emission controls on said vehicles shall be kept operable at all times, with an average fleet downtime of no more than twenty five percent. A sufficient supply of spare parts shall be kept on hand to ensure the timely and continuous fulfilment of this Contract.

When vehicles are down for maintenance or repair it shall be the Contractor's obligation to provide a replacement vehicle from the spares in its fleet or a comparable replacement through rental or leasing

arrangements, the contractor shall inform the employer accordingly.

All vehicles and equipment shall be operated by qualified and licensed operators.

All vehicles shall be sufficiently secure and provided with tarpaulin cover so as to prevent any spilling or littering of solid waste. No vehicle shall be willfully overloaded.

All collection vehicles shall have some form of communication device on board (cell phone) to enable close supervision of the service between the Procuring Entity and the Contractor.

VII. Contract Performance Monitoring

The Contractor shall allow the Procuring Entity to have access at all times to inspect the work being conducted under this agreement, to inspect all records and documents maintained by Contractor regarding work performed under this agreement. The Contractor shall at all times work under the supervision of the Procuring Entity staff.

VIII. Monitoring

The Procuring Entity has responsibility for monitoring and controlling the services conducted under this agreement.

IX. Cooperation

All works conducted under this agreement shall be subject to performance monitoring by the Procuring Entity. The Contractor shall cooperate fully with the efforts of the Procuring Entity to monitor and control the services.

X. Complaints

The Contractor shall receive and respond to all complaints regarding services provided under this Contract within 48 hours as contained in the Procuring Entity service charter. Any complaints received by the Procuring Entity will be directed to the Contractor's office. Should a complaint go unresolved for longer than two (2) days, the Procuring Entity will have the right to demand an explanation or resolution to its satisfaction.

XI. Service Area Coverage

The works are located in;

TOWNS/MARKETS	BUNGOMA, WEBUYE, KIMILILI, CHWELE, KAMUKUYWA, MISIKHU, LUGULU, KAPSOKWONY, MAYANJA-VITUGUU, KANDUYI, LWAKHAKHA, MYANGA, BUKEMBE, MALAKISI, MBAKALO, BRIGADIER, SIRISIA,DOROFU, BOKOLI, KAPKATENY, KIMAETI, KABULA, NAMWELA, NDALU, CHEPTAIS, MAYANJA-KIBUKE, KAPTAMA, MATISI, NANDOLIA/NZOIA, KIBABII, SIKATA, LWANDANYI, MECHIMERU, NAITIRI, SANG'ALO, BUMULA, MATEKA, NALONDO, KUYWA, NDIVISI, MAKUNGA, TONGAREN, SOYSAMBU, CHESAMISI,BARIKIWA, KHACHONGE, NAMORIO, KIPSIGON, LUKUSI, NASUSI, EKITALE, NDENGELWA, KUYWA(SITIKHO), NETIMA, BUKANANACHI, MABANGA, SICHEI, KIMABOLE, NASYANDA, CHEBUKWABI, KIMWANGA, MUANDA, MULATIWA AND SIKUSI.
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The above towns/markets only indicate the TOR associated with this Contract and the Department of Environment may where necessary substitute the towns/markets with others within the jurisdiction of the County without substantially altering the overall scope of the works. The contract price shall be deemed to include for such changes and payment for measured works carried out on such alternative towns/markets shall be made using the relevant rates and prices entered in the Bills of Quantities. **The Contractor shall be fully responsible for the cleanliness of the towns/markets.**

XII. Number of Trips

The Contractor shall provide a minimum number of 2 trips per day depending on the volumes of garbage/wastes generated per town/market.

XIII. Hours of Services

The Contractor will work for 8-12 hours a day from Monday to Saturday for all the towns and markets whereas the major towns of Bungoma, Kanduyi, Webuye, Chwele, Kimilili, the service shall be extended to Sunday and any other emergency that may occur subject to adequate Notice.

XIV. Holidays

Collection service shall be provided on all holidays including Christmas Day.

XV. Routes and Schedule of Collections

The Contractor shall provide the Procuring Entity with maps and schedules of collection routes as presented in the Work Plan and keep such information updated at all times. In the event of changes in routes or schedules that will alter the day of garbage collection, the Contractor will notify the Procuring Entity accordingly. Not less than fourteen (14) days prior to commencing service, the Contractor agrees to furnish for the Procuring Entity's approval the initial schedules and maps of all routes to be used in serving the markets/town as specified in this Contract. Any changes in routes / or schedules will also be subject to the Procuring Entity's approval which will not be unreasonably withheld.

XVI. Containment

The Contractor shall cover and properly contain all solid waste loads with tarpaulins, nets or other means as appropriate to the type of vehicle or equipment being used during haul of solid waste from the collection service area to the disposal site.

XVII. Unforeseen Occurrences

The Director of Environment or duly authorized representative shall be at liberty to call upon the Contractor to urgently attend to any emergency or unforeseen occurrence.

XVIII. Personal Protective Equipment (PPEs) and Working Tools

The Contractor shall provide readily recognizable, brightly colored dust coats and overalls of a single design and colour to all its workers, to be worn at all times when performing services under this agreement, so that they can be readily observed and their performance can be readily monitored. Uniforms shall be replenished as they become worn or damaged. The Contractor shall provide the necessary Working tools and Personal Protective Equipment as per tasks assigned to all workers, for use at all times during the performance of services under this agreement.

XIX. Liability and Indemnity

The Contractor shall hold harmless, defend and indemnify the procuring entity from any claim or damage arising from the actual or alleged negligence of the Contractor in the performance of services and from willful or criminal acts allegedly occurring during services, including the times when the Contractor's vehicles are in transit.

XX. Insurance

The Contractor's vehicles shall bear vehicle insurance and general liability insurance coverage with insurance companies reasonably acceptable to the procuring entity through-out the term of this agreement and through-out any extension or renewal thereof, providing for replacement value in the case of the theft or damage and liability in the case of accident.

XXI. Damage to Public or Private Property

Extreme care shall be taken to safeguard all existing facilities, site amenities, sewerage systems, vehicles, etc. on or around the job site. Damage to public and/or private property shall be the responsibility of the Contractor and shall be repaired and/or replaced at no additional cost to the Procuring Entity.

XXII. Personnel

The Contractor warrants that it has and will throughout the Contract have the experience and capability including sufficient and competent project manager, supervisors and other personnel to efficiently and expeditiously perform the services. If in the opinion of the Procuring Entity there is any inadequacy in the number or competence of persons engaged in performing the services, then the Contractor shall on request at no extra cost to the Procuring Entity provide additional or alternative competent persons.

The Contractor shall ensure that all Contractor staff employed under the Contract are at all times properly and sufficiently qualified, trained, competent, careful, skilled, honest, experienced, instructed and supervised as the case may be with regard to the services and in particular:

- i. The task or tasks such persons has to perform;
- ii. All relevant provisions of the Contract;
- iii. All relevant policies, rules, procedures and standards of the Procuring Entity;
- iv. All relevant rules, procedures and regulatory requirements concerning health and safety at work;
- v. Fire risks and fire precautions;

- vi. The need to maintain the highest standards of hygiene, courtesy, integrity and consideration; and
- vii. The need to recognize situations which may involve actual or potential danger to personal injury to any person at any location and where possible, without personal risk, to make safe such situations.

The Procuring Entity shall have the right to make a complaint regarding any employee of the Contractor who violates any provision hereof or who is wanton, negligent, or discourteous in the performance of his/her duties. The contractor shall engage the labour force from groups of youths, women within respective towns of the assignment.

XXIII. Supervisor

The Contractor shall provide fifteen (15) permanent supervisors of work dedicated just to the Contract.

XXIV. Defaults in Performance of Service

At any times after the commencement date of the Contract the Procuring Entity may investigate each case where the Contractor has failed to properly perform the services in accordance with the provisions of the Contract. Where the Procuring Entity is satisfied that in any particular case the Contractor has failed to perform the services completely in accordance with the provisions of the Contract, the Procuring Entity shall be entitled to terminate the Contract.

In addition, where the service which has not been performed in accordance with the provisions of the Contract is in the opinion of the Procuring Entity, of such a type or provided in such a frequency that the termination would be inappropriate and Procuring Entity shall be entitled to issue a default notice for rectification.

If the Contractor fails to remedy the services deficiency which is the subject of a rectification notice, the Procuring Entity shall be entitled to issue a termination notice.

Without prejudice to the generality of the foregoing, the following matters shall be included in the types of service deficiencies for which notices may be issued:

- i. Failure to properly collect, in compliance with the schedule, any solid waste within the towns/markets;
- ii. Failure to clear spillages;
- iii. Failure to clear backlogs of waste;
- iv. Failure to perform for a period of 1 Week (7 days) continuously;
- v. Spillage of garbage on the roads during transportation

The time periods during which the Contractor is to remedy deficiencies shall be reasonable having regard to, inter alia, the nature of and the frequency of the services. Each time period shall commence when the Contractor is initially notified and shall require the Contractor to effect the following in respect of any deficiency involving or associated with collection of solid waste.

In respect of each notification made to the Contractor by 1.00 p.m. on any working day the Contractor shall remedy each deficiency by 6.00 p.m. on the same day Clause 12 above notwithstanding.

In respect of each notification made to the Contractor after 1.00 p.m. on any working day the Contractor shall remedy each deficiency by 1.00 p.m. on the following working day.

Each notice may refer to one or more than one elemental service deficiency.

All notices shall be recorded and used by the Procuring Entity in determining the Contractor's overall services performance and shall also be used in determining financial penalties and whether the Procuring Entity may terminate the Contract.

XXV. Vehicles Identification

The Contractor shall submit list of all vehicles to be used to the office of the Director of Environment. In the event that the Contractor introduces new vehicles, express authority must be given by the Director of Environment in writing. The Contractor shall indicate vehicle characteristics, i.e. copy of the log book and NEMA certificate. The vehicles must be branded.

XXVI. Dumping Site

The County has a designated dumpsite at Muanda in Bumula Sub County. Garbage Disposal will only be done by the Contractor's vehicles (approved by the Department of Environment) ONLY between 6.00a.m and 6.00 p.m.

The Contractor will be fully responsible for the management of the dumpsite in terms of;

- Ensure waste segregation, recycling and composting
- Ensuring waste is spread, covered and compacted at regular intervals
- Ensuring treatment of wastes when the need arises
- Development and maintenance of motorable roads within the dumpsite to ensure ease of access during disposal
- Ensuring security and control of the disposal site so that illegal activities are contained
- Putting in place appropriate measures for the management of dumpsite fires

XXVII. Complaints

All complaints by the Contractors shall be directed in writing to the Chief Officer Environment, Climate Change and Tourism

XXVIII. Issuance of Policy Documents and Fees

All documents, which have been issued for the purpose of Bidding, will remain the property of Bungoma County Government. Documents will be obtained by downloading from the county website

www.bungoma.go.ke/www.supplier.treasury.go.ke

XXIX. Development of Final Work Plan

The Contractor is required to submit a Final Work Plan within thirty (30) days of the Contract Signing Date. The Final Work Plan should address each of the activities as prescribed for the Work Plan in the technical proposal.

XXX. Contract Period

The Contract shall run for twenty four (24) months from the date of signing of Contract Agreement and the contract shall be renewable for a further Twelve (12) calendar months based upon the Contractor's Performance, Agreement of Parties and statutory compliance. However, there will be a provision of extension depending on the prevailing circumstances.

XXXI. Period of Maintenance

The contractor shall maintain the environment in the area of operation to the highest social, professional and health standards possible throughout the contract period as signed in the contract.

SECTION VIII. TENDERING FORMS

FORM OF TENDER

Firm Name.....

Address.....

Tender Name

Tender No.....

Date of this Tender submission:.....

(The Tenderer must prepare this Form of Tender with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.)

To:

[Insert complete name of Procuring Entity]

- a) **No reservations:** We have examined and have no reservations to the Tendering document,;
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3;
- c) **Tender/Proposal-Securing Declaration:** We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing Declaration or Proposal-Securing Declaration in Kenya in accordance with ITT 3.6;
- d) **Conformity:** We offer to perform the services in conformity with the Tendering document and in accordance with the Description of Services as specified in the Bill of Quantities the following Services: *[insert a brief description of the Services]*;
- e) **Tender Price:** The total price of our Tender, inclusive of discounts, VAT and any other cost is Kenya Shillings.....
- f) **Tender Validity Period:** Our Tender shall be valid for the period specified in the ITT (as amended, if applicable) from the date fixed for the Tender submission deadline specified in the Appendix to ITT (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- g) **Performance Security:** If our Tender is accepted, we commit to obtain a performance security in accordance with the Tendering document;
- h) **One Tender per tenderer:** We are not submitting any other Tender(s) as an individual tenderer, and we are not participating in any other Tender(s) as a Joint Venture member, or as a subcontractor, and meet the requirements of ITT, other than alternative Tenders submitted in accordance with ITT;
- i) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Procuring Entity. Further, we are not ineligible under the Kenya laws or official regulations or pursuant to a decision of the United Nations Security Council;

State-owned enterprise or institution: *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITT 3.7];*

Commissions, gratuities, fees: We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Receptient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate “none.”)

Binding Contract: We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;

Procuring Entity Not Bound to Accept: We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive; and

Fraud and Corruption: We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

Code of Ethical Conduct: We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from *(PPRA Website)* during the procurement process and the execution of any resulting contract.

Collusive practices: We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent tender Determination” attached below.

Beneficial Ownership Information: We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.

We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:

Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.

Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.

Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.

Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal.

Tender-Securing Declaration Form

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in the Tender Document.

Name of the tenderer.....:

**[insert complete name of the tenderer]*

Name of the person duly authorized to sign the Tender on behalf of the tenderer: .

.....***[insert complete name of person duly authorized to sign the Tender]*

Title of the person signing the Tender [insert complete title of the person signing the Tender]

Signature of the person named above *[insert signature of person whose name and capacity are shown above]*

Date signed *[insert date of signing]* day of *[insert month]*, *[insert year]*

*: NB/In the case of the Tender submitted by a Joint Venture specify the name of the Joint Venture as tenderer.

** : Person signing the Tender shall have the power of attorney given by the tenderer.

CONFIDENTIAL BUSINESS QUESTIONNAIRE

Instruction to Tenderer

Tender is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV*. Tenderer is further reminded that it is an offence to give false information on this Form.

ITEM	DESCRIPTION
Name of the Procuring Entity	
Reference Number of the Tender	
Date and Time of Tender Opening	
Name of the Tenderer	
Full Address and Contact Details of the Tenderer.	<ol style="list-style-type: none"> 1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
Current Trade License Registration Number and Expiring date	
Name, country and full address (<i>postal and physical addresses, email, and telephone number</i>) of Registering Body/Agency	
Description of Nature of Business	
Maximum value of business which the Tenderer handles.	
State if Tenders Company is listed in stock exchange, give name and full address (<i>postal and physical addresses, email, and telephone number</i>) of state which stock exchange	

Tenderer's details

General and Specific Details

- Sole Proprietor, provide the following details.

Name in full __ Age __ Nationality __ Country of Origin __ Citizenship __

- Partnership, provide the following details.

Names of Partners	Nationality	Citizenship	% Shares owned

- Registered Company, provide the following details. Private or public Company

State the nominal and issued capital of the Company-

Nominal Kenya Shillings-(Equivalent)

Issued Kenya Shillings (Equivalent)

Give details of Directors as follows.

Names of Director	Nationality	Citizenship	% Shares owned

DISCLOSURE OF INTEREST-Interest of the Firm in the Procuring Entity.

Are there any person/persons in.....(Name of Procuring Entity) who has/have an interest or relationship in this firm? Yes/No.....

If yes, provide details as follows:

	Names of Person	Designation in the Procuring Entity	Interest or Relationship with Tenderer

Conflict of Interest Disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	Tenderer is directly or indirectly controlled by or is under common control with another tenderer.		
	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
	Tenderer has the same legal representative as another Tenderer		
	Tender has a relationship with another tenderer, directly or through common third parties that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
	Any of the Tenderer’s affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the Contract.		
	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract?		

Certification

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name.....

Title or Designation.....

(Signature)

(Date)

**CERTIFICATE OF INDEPENDENT TENDER
DETERMINATION**

I, the undersigned, in submitting the accompanying Letter of Tender to the..... [Name of Procuring Entity] for:.....[Name and number of tender] in response to the request for tenders made by:.....[Name of Tenderer] do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of:[Name of Tenderer] that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
 - a) Has been requested to submit a Tender in response to this request for tenders;
 - b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that [check one of the following, as applicable]:
 - a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 - b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs(5)(a) or (5)(b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a) prices;
 - b) methods, factors or formulas used to calculate prices;
 - c) the intention or decision to submit, or not to submit, a tender; or
 - d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5) (b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5)(b) above;
8. The terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, which ever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5) (b) above.

Name____Title Date [Name, title and signature of authorized agent of Tenderer and Date]

FORM SD 2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE

I,of P. O Box.....being a resident of in the Republic of Kenya do hereby make a statement as follows:-

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of (*insert name of the Company*) who is a Bidder in respect of Tender No..... for.....(*insert tender title/description*) for (*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of... (*insert name of the Procuring entity*) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of..... (*name of the procuring entity*)
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender
5. THAT what is deponed to here in above is true to the best of my knowledge information and belief.

.....
(Title) (Signature) (Date)

Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I, (person) on behalf of
.....(*Name of the Business/ Company/Firm*)
declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act, 2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal and my responsibilities under the Code.
I do hereby commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized signatory.....

Sign.....

Position.....

Office address.....

Telephone.....Email.....

Name of the Firm/Company

Date.....

(Company Seal/ Rubber Stamp where applicable)

Witness Name.....

Sign.....

Date.....

TENDER-SECURING DECLARATION FORM

[The Bidder shall complete this Form in accordance with the instructions indicated] Date:.....[insert date(as day, month and year) of Tender Submission]

Tender No:.....[insert number of tendering process]

To:.....[insert complete name of Purchaser] I/We, the undersigned, declare that:

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

2. I/We accept that I / we will automatically be suspended from being eligible for tendering 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 tender during the period of tender validity specified by us in the Tendering 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 he Performance Security, in accordance with the instructions to tenders.

3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of:

- a) Our receipt of a copy of your notification of the name of the successful Tenderer; or
- b) thirty days after the expiration of our Tender.

4. I / We understand that if I am / we are / in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid , and 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:.....

Capacity / title (director or partner or sole proprietor, etc.)

.....

Name:.....

..... Duly authorized to sign the bid for and on behalf of:[insert complete

name of Tenderer] Dated on day of.....

[Insert date of signing]

Seal or stamp

Tender Reference No.: _____ [insert identification no] Name of the Tender Title/Description: _____ [insert name of the assignment] to: _____ [insert complete name of Procuring Entity]

INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer pursuant to Regulation (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise legal person (Tenderer) or arrangement.

In response to the requirement in your notification of award dated [insert date of notification of award] to furnish additional information on beneficial ownership: [select one option as applicable and delete the options that are not applicable]

We hereby provide the following beneficial ownership information.

Details of beneficial ownership

Details of all Beneficial Owners		% of shares a Person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person Directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)
1.	Full Name	Directly--- ----- % of shares	Directly.....% of voting rights	1. Having the right to appoint majority of the board of the Tenderer: Yes - _____ No - ____ Is this right held directly _____ or indirectly?: _____
	National identity card number or Passport number	Indirectly- -----% of shares	Indirectly----- - % of voting rights	
	Personal Identification Number (where applicable)			
	Nationality			
	Date of birth [dd/mm/yyyy]			
	Postal address			
Residential address			Direct.....	
Telephone number			Indirect.....	
Email address				
Occupation or profession				

2.			
Full Name		Directly-----% of shares	Directly.....% of voting rights
National identity card number or Passport number		Indirectly-----% of shares	Indirectly-----% of voting rights
Personal Identification Number (where applicable)			
Nationality(ies)			
Date of birth [dd/mm/yyyy]			
Postal address			
Residential address			
Telephone number			
Email address			
Occupation or profession			
Having the right to appoint of an equivalent governing body of a majority of the board Tenderer: Yes - No-----			
Is this right held directly or indirectly?:			
Direct.....			
Indirect.....			
3.			

Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable*

Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.

- I) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:
- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
 - (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;
 - (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
 - (d) exercises significant influence or control, directly or indirectly, over the company.
- II) What is stated to herein above is true to the best of my knowledge, information and belief.

Name of the Tenderer: *[insert complete name of the Tenderer]_____Name of the person duly authorized to sign the Tender on behalf of the Tenderer: ** [insert complete name of person duly authorized to sign the Tender]

Designation of the person signing the Tender: [insert complete title of the person signing the Tender]

Signature of the person named above [insert signature of person whose name and capacity are shown above]

Date this [insert date of signing] day of [Insert month], [insert year]

Bidder Official Stamp

FORM OF WRITTEN POWER OF ATTORNEY

The bidder shall state here below the name(s) and address of his representatives who is/are Authorized to receive correspondences in connection with the bid.

.....
(Name of bidder's representatives in block letters)

.....
(Qualifications of the bidder's representative in capital letters, attach copies of certificates)

.....
(Address of bidders representative)

.....
(Representatives signature)

Sealed by the said company:-

.....
(Name of the company)

.....
(Stamped by the said company)

NOTE:-

The bidder shall attach a certified copy of registration of the company.

FORM OF CONTRACT AGREEMENT

NOTE: - This form is included in the bidding document only for the information of bidders. Only the successful bidder will be in the due course required to complete the form

FORM OF CONTRACT AGREEMENT

THIS AGREEMENT made on theday of.....20..... BETWEEN

The County Government of Bungoma Box 437, 50200 Bungoma, Kenya (hereinafter called “the Employer”) of the one part and..... (Herein called “the contractor”) on the other hand.

WHEREAS the County Government of Bungoma is desirous that certain works shall be executed, viz

PROVISION OF GARBAGE COLLECTION, TRANSPORTATION, DISPOSAL AND DUMPSITE MANAGEMENT SERVICES IN BUNGOMA COUNTY

As per the bid document and has accepted a bid by the contractor for the execution and maintenance of such works.

NOW THIS AGREEMENT WITNESSED AS FOLLOWS:

1. In this agreement, words and expressions shall have the same meaning as are respectively assigned to them in the conditions of contract herein after referred to.
2. The following documents shall be deemed to form and be read and construed as part of this agreement, viz.;
- a) The bid document
- b) Such schedules and information as are required to be submitted as set out in the conditions of bid and instructions to bidders.
- c) The conditions of contract
- d) The Standard and Special Specifications
- e) The priced Bill of Quantities
- f) The letter of Acceptance
- g) Bid Notices during period of Bid
- h) Other documents and /or drawings as may be agreed upon from time to time between the two parties for purposes of execution of the said works.

All the aforesaid documents are hereinafter referred to as “The Contract”

3. In consideration of the payment to be made by the Employer to the contractor hereby covenants with the Employer to execute and maintain the works in conformity in all respects with the provisions of the contract.
4. The Employer hereby Covenants to pay the Contractor, in consideration of the execution and maintenance of the works and contract price at the times and in the manner prescribed in the contract.

IN THE WITNESS WHEREOF, the parties have hereto have caused their respective common

seals to be hereunto affixed (or have here unto set their respective hands and seals) the day and year above written.

SIGNED, SEALED AND DELIVERED

BY THE SAID EMPLOYER:.....

(County Chief Officer- Environment and Tourism, County Government of Bungoma)

For and on behalf of the said Employer

Countersigned by.....

(Head of Supply Chain Management-County Government of Bungoma)

BY THE SAID CONTRACTOR:.....

(For and on behalf of the said Contractor)

In the presence of:.....

(Signature of witness)

.....

(Name of witness)

.....

(Address of witness)