



East African Portland  
Cement Co. Ltd

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*Holding Life Together*

CONTRACT No.  
EAPCC/OT/109/2016

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**OUTSOURCING OF BISSEL  
QUARRY MINING  
OPERATIONS**

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October 2016

CLOSING DATE .....November 3, 2016

CLOSING TIME .....12.00 noon

## SECTION I – INVITATION TO BID

### Contract No. EAPCC-OT-109-2016– Outsourcing of Bissel Quarry Mining Operations

- 1.1 The East African Portland Cement Company Ltd invites sealed bids from eligible candidates for Outsourcing of Bissel Quarry Mining Operations. The detailed breakdown of the requirements can be obtained in the schedule of requirements/price schedule inside the bid document.
1. Interested eligible candidates shall inspect and obtain the complete set of bidding document in English from the official Company website or IFMIS Portal
- 1.3 The downloaded bid document shall be free of charge. Bidders who wish to have a hard copy from EAPCC will pay a non-refundable fee of Kenya Shillings 1,000 (one Thousand Kenya Shillings only) or an equivalent amount in any other eligible currency at the company's cash office in Athiriver factory. The method of payment shall be either in banker's cheque payable to East African Portland Cement Company Ltd, or cash.
- 1.4 Completed Bid documents are to be enclosed in plain sealed envelopes marked with Bid reference number and be deposited in the Bid Box located at the Customer Care office next the main entrance, East African Portland Cement Company Ltd, Off Namanga Road, Athi River, P O Box 20-00204, Athi River, Kenya; Tel. 254 709 855 000 as to be received on or before **12.00 noon Thursday November 3, 2016.**
- 1.5 Prices quoted shall be net and inclusive of all taxes; and be in Kenya Shillings. They shall remain valid for a period of ninety (90) days from the closing date of the Bid.
- 1.6 Bids will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at East African Portland Cement Company Ltd' Boardroom.
- 1.7 All bids shall be accompanied by a bid security from the bank of not less than Kes 2,000,000/= (Kenya Shillings Two Million) only.
- 1.8 The East African Portland Cement Company Ltd reserves the right to accept /reject all or part of the Bids and is not bound to give reasons for doing so.

For Managing Director  
The East African Portland Cement Company Ltd  
Off Namanga  
Road, P O Box 20-  
00204  
Athi River, Kenya.  
Tel. 254 709 855  
000

E-mail: [info@eapcc.co.ke](mailto:info@eapcc.co.ke)

## FORM OF BID

TO: The Managing Director

East African Portland Cement Company Ltd  
P. O. Box 20- 00204  
ATHI RIVER, KENYA

Gentlemen:

Having examined the bidding documents including Addenda Nos..... [insert numbers], the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide our outsourced services for Bissel quarry operations, and in conformity with the said bidding document for the indicated price in our financial proposal (enclosed in a separate envelop) or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake our Bid if accepted to commence the services in accordance with the delivery schedule specified in the Schedule of Requirements.

After our Bid is accepted we shall furnish a security in the form of Bank Guarantee (to be approved by you) to be jointly and severally bound with us in an amount of 10% of the above named sum, or Kenya shillings Ten million (10,000,000/=) whichever is lower; which shall be subject to release to the Supplier in accordance with the General Conditions of the Contract.

We agree to abide by this Bid for a period of ninety (90) days from the date of Bid submission prescribed in the Invitation to Bid and it shall remain binding upon us and may be accepted any time before the expiration of that period.

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

A Bid security in the sum of Kes 2,000,000/= (Kenya Shillings two Million), is enclosed with this Bid. The bid security is valid for at least 120 days from the date of bid submission).

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

We hereby agree that any errors in our Bid shall be adjusted as defined in the

Bid Document under instructions to Bidders.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2016

(Name) \_\_\_\_\_

(Signature) \_\_\_\_\_

In the capacity of \_\_\_\_\_

duly authorized to sign Bids, for and on behalf of

\_\_\_\_\_

P. O. Box \_\_\_\_\_ Code \_\_\_\_\_

Name of Witness \_\_\_\_\_ Address \_\_\_\_\_

Signature of Witness

\_\_\_\_\_

- Delete as appropriate

## SECTION II INSTRUCTIONS TO BIDDERS

### 2.1 Eligible bidders

- 2.1.1. This Invitation to bid is open to all bidders eligible as described in the instructions to bidders. Successful bidders shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the bid documents.
- 2.1.2. The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the bid.
- 2.1.3. Bidders shall provide the qualification information statement that the bidder (including all members, of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for bids.
- 2.1.4. Bidders involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

### 2.2 Cost of bidding

- 2.2.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 2.2.2 The price to be charged for the bid document shall be Kes.1,000/= (one Thousand) only. (Not applicable if one has downloaded the document)

### 2.3 Contents of bid documents

- 2.3.1. The bid document comprises of the documents listed below and addenda issued in accordance with clause 6 of these instructions to bids
  - i) Instructions to bidders
  - ii) General Conditions of Contract
  - iii) Special Conditions of Contract
  - iv) Schedule of Requirements
  - v) Details of service
  - vi) Form of bid

- vii) Price schedules
- viii) Contract form
- ix) Confidential business questionnaire form
- x) Bid security form
- xi) Performance security form
- xii) Principal's or manufacturers authorization form
- xiii) Declaration form

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

#### 2.4 Clarification of Documents

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

2.4.2. The procuring entity shall reply to any clarifications sought by the bidder within 3 days of receiving the request to enable the bidder to make timely submission of its bid

#### 2.5 Amendment of documents

2.5.1. At any time prior to the deadline for submission of bids, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, may modify the bid documents by issuing an addendum.

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

2.5.3. In order to allow prospective bidders reasonable time in which to take the amendment into account in preparing their bids, the Procuring entity, at its discretion, may extend the deadline for the submission of bids.

## 2.6 Language of bid

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

## 2.7 Documents Comprising the Bid

The bid prepared by the bidder shall comprise the following components:

- (a) A Bid Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 below.
- (b) Documentary evidence established in accordance with Clause 2.11 that the bidder is eligible to bid and is qualified to perform the contract if its bid is accepted;
- (c) Bid security furnished is in accordance with Clause 2.12
- (d) Confidential business questionnaire

## 2.8 Form of Bid

2.8.1 The bidders shall complete the Form of Bid and the appropriate Price Schedule furnished in the bid documents, indicating the services to be performed.

## 2.9 Bid Prices

2.9.1 The bidder shall indicate on the Price schedule the unit prices where applicable and total bid prices of the services it proposes to provide under the contract.

2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:

2.9.3 Prices quoted by the bidder shall remain fixed during the term of the contract unless otherwise agreed by the parties. A bid submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.

2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months) unless specified in the SCC.

- 2.9.5 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 2.9.6 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.
- 2.10 Bid Currencies
- 2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to in Instructions to Bidders
- 2.11 Bidders Eligibility and Qualifications.
- 2.11.1 Pursuant to Clause 2.1 the bidder shall furnish, as part of its bid, documents establishing the bidder's eligibility to bid and its qualifications to perform the contract if its bid is accepted.
- 2.11.2 The documentary evidence of the bidder's qualifications to perform the contract if its bid is accepted shall establish to the Procuring entity's satisfaction that the bidder has the financial and technical capability necessary to perform the contract.
- 2.12 Bid Security
- 2.12.1 The bidder shall furnish, as part of its bid, a bid security for the amount and form specified in the Invitation to bid.
- 2.12.2 The bid security shall be accompanied by a bid security of not less than Kes. 2,000,000/= (Kenya Shillings Two Million only).
- 2.12.2 The bid security is required to protect the Procuring entity against the risk of Bidder's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7
- 2.12.3 The bid security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:
- a) A bank guarantee.
  - b) Cash.
- NO INSURANCE BID SECURITY SHALL BE ACCEPTED FOR THIS PROCUREMENT.**
- 2.12.4 Any bid not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.20



2.12.5 Unsuccessful bidder's security will be discharged or returned as promptly as possible, but not later than thirty (30) days after the expiration of the period of bid validity prescribed by the procuring entity.

2.12.6 The successful bidder's bid security will be discharged upon the bidder signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30.

## 2.13 Validity of Bids

2.13.1 Bids shall remain valid for 90 days or as specified in the invitation to bid after date of bid opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A bid valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

2.13.2 In exceptional circumstances, the Procuring entity may solicit the Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The bid security provided under paragraph 2.12 shall also be suitably extended. A bidder may refuse the request without forfeiting its bid security. A bidder granting the request will not be required nor permitted to modify its bid.

## 2.14 Format and Signing of Bid

2.14.1 The Bidder shall prepare two copies of the Bid, clearly marking each "ORIGINAL BID" and "COPY OF BID," as appropriate. In the event of any discrepancy between them, the original shall govern. Any bid that does not comply with this requirement shall be treated as none responsive.

2.14.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the Bid. All pages of the Bid, except for un-amended printed literature, shall be initialed by the person or persons signing the Bid.

2.14.3 The Bid shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

2.14.4 All pages of the bid shall be signed or stamped or both

## 2.15 Sealing and Marking of Bids

2.15.1 Bidders shall submit a Technical Proposal that shall not include any financial information. A Technical Proposal containing financial information shall be declared non responsive.

2.15.2 All activities and items described in the Technical Proposal shall be priced separately; activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. However the pricing shall only be done on the financial proposal.

2.15.3 The bid shall contain no interlineations or overwriting, except as necessary to correct errors made by the bidder themselves. The person who signed the proposal shall initial such corrections.

2.15.4 An authorized representative of the bidder shall initial all pages of the original Technical and Financial Bids. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been dully authorized to sign. The signed Technical and Financial Bids shall be marked “ORIGINAL” while copies of the same shall be marked “COPY”.

2.15.5 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked “TECHNICAL PROPOSAL” Similarly, the original Financial Proposal shall be placed in a sealed envelope clearly marked “FINANCIAL PROPOSAL” followed by the name of the assignment, and with a warning “DO NOT OPEN WITH THE TECHNICAL PROPOSAL.” The envelopes containing the Technical and Financial Bids shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address, reference number and title of the contract, and be clearly marked “DO NOT OPEN, EXCEPT IN PRESENCE OF THE OFFICIAL APPOINTED, BEFORE ...The Company shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be case for Proposal rejection. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this shall constitute grounds for declaring the Proposal non-responsive.

2.15.6 The inner and outer envelopes shall:

(a) be addressed to East African Portland Cement Company Limited at the following address:-

Managing Director  
The East African Portland Cement Company Ltd  
Off Namanga Road,  
P O Box 20-00204  
Athi River, Kenya.  
Tel. 254-0709 855 000

## 2.16 Deadline for Submission of Bids

2.16.1 Bids must be received by the Procuring entity at the address specified under paragraph 2.15.2 no later than 12.00 noon Thursday November 3, 2016

2.16.2 The procuring entity may, at its discretion, extend this deadline for the submission of bids by amending the bid documents in accordance with paragraph 6, in which case all rights and obligations of the procuring entity and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.16.3 Bulky bids which will not fit in the Tender box shall be received by the procuring entity as provided for in the appendix.

## 2.17 Modification and withdrawal of bids

2.17.1 The bidder may modify or withdraw its bid after the bid's submission, provided that written notice of the modification, including substitution or withdrawal of the bids is received by the procuring entity prior to the deadline prescribed for the submission of bids.

2.17.2 The Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked no later than the deadline for submission of bids.

2.17.3 No bid may be modified after the deadline for submission of bids.

2.17.4 No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the bidder on the Bid Form. Withdrawal of a bid during this interval may result in the Bidder's forfeiture of its bid security, pursuant to paragraph 2.12.7.

2.17.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

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

## 2.18 Opening of Bids

2.18.1 The Procuring entity will open all bids in the presence of bidders' representatives who choose to attend, at 12.00 noon, Thursday November 3, 2016 and in the locate on specified in the invitation to bid. The bidders'

representatives who are present shall sign a register evidencing their attendance.

2.18.3 The bidders' names, bid modifications or withdrawals, bid prices, discounts, and the presence or absence of requisite bid security and such other details as the Procuring Entity, at its discretion, may consider appropriate, will be announced at the opening.

2.18.4 The procuring entity will prepare minutes of the bid opening which will be submitted to the bidders that signed the bid opening register and will have made the request.

## 2.19 Clarification of bids

2.19.1 To assist in the examination, evaluation and comparison of bids the procuring entity may at its discretion, ask the bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the prices or substance shall be sought, offered, or permitted.

2.19.2 Any effort by the bidder to influence the procuring entity in the procuring entity's bid evaluation, bid comparison or contract award decisions may result in the rejection of the bidders bid. Comparison or contract award decisions may result in the rejection of the bidders' bid.

## 2.20 Preliminary Examination and Responsiveness

2.20.1 The evaluation committee shall evaluate the Technical Bids on the basis of their responsiveness to the bid document, applying the evaluation criteria indicated.

2.20.2 After the technical evaluation is completed the Company shall inform the Bidders who have submitted bids the technical scores obtained by their Technical Bids, and shall notify those Bidders whose Bids did not meet the minimum qualifying mark or were considered non responsive, that their Financial Bids shall be returned unopened after completing the selection process. The Company shall simultaneously notify in writing Bidders that have secured the minimum qualifying mark, the date, time and location for opening the Financial Bids.

## 2.21 Conversion to a single currency

2.21.1 Where other currencies are used, the procuring entity will convert those currencies to Kenya shillings using the selling exchange rate on the date of bid closing provided by the central bank of Kenya.

## 2.22 Evaluation and comparison of bids.

2.22.1 The procuring entity will evaluate and compare the bids which have been determined to be substantially responsive, pursuant to paragraph 2.20. The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.

2.22.2 The Procuring entity's evaluation of a bid will take into account, in addition to the bid price, the following factors, in the manner and to the extent indicated in paragraph 2.22.4 and in the technical specifications:

- (a) Operational plan proposed in the bid;
- (b) Deviations in payment schedule from that specified in the Special Conditions of Contract;

2.22.3 Pursuant to paragraph 2.22.3 the following evaluation methods will be applied:

### (a) Operational Plan.

The Procuring entity requires that the services under the Invitation for Bids shall be performed at the time specified in the Schedule of Requirements. A bidder offering to perform longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.

### (b) Deviation in payment schedule.

Bidders shall state their bid price for the payment on a schedule outlined in the special conditions of contract. Bids will be evaluated on the basis of this base price. Bidders are, however, permitted to state an alternative payment schedule and indicate the reduction in bid price they wish to offer for such alternative payment schedule. The Procuring entity may consider the alternative payment schedule offered by the selected bidder.

2.22.3 The bid evaluation committee shall evaluate the bid within 30 days from the date of opening the bid.

2.22.4 To qualify for contract awards and further to paragraph 2.22.2, the bidder shall have the following:-

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

2.23. Contacting the procuring entity

2.23.1 Subject to paragraph 2.19, no bidder shall contact the procuring entity on any matter relating to its bid, from the time of the bid opening to the time the contract is awarded.

2.23.2 Any effort by a bidder to influence the procuring entity in its decisions on bid evaluation bid comparison or contract award may result in the rejection of the bidder's bid.

2.24 Award of Contract

a) Post qualification

2.24.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the bidder that is selected as having submitted the lowest evaluated responsive bid is qualified to perform the contract satisfactorily.

2.24.2 The determination will take into account the bidder's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the bidder's qualifications submitted by the bidder, pursuant to paragraph 2.1.2, as well as such other information as the Procuring entity deems necessary and appropriate.

2.24.3 An affirmative determination will be a prerequisite for award of the contract to the bidder. A negative determination will result in rejection of the Bidder's bid, in which event the Procuring entity will proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

b) Award Criteria

2.24.3 Subject to paragraph 2.29 the Procuring entity will award the contract to the successful bidder whose bid has been determined to be substantially responsive and has been determined to be the lowest evaluated bid, provided further that the bidder is determined to be qualified to perform the contract satisfactorily.

2.24.4 The procuring entity reserves the right to accept or reject any bid and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the procuring entity's action. If the procuring entity determines that none of the bidders is responsive; the procuring entity shall notify each bidder who submitted a bid.

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

2.25 Notification of award

2.25.1 Prior to the expiration of the period of bid validity, the Procuring entity will notify the successful bidder in writing that its bid has been accepted.

2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the bidder and the procuring entity pursuant to clause 2.29. Simultaneously the other bidders shall be notified that their bids have not been successful.

2.25.3 Upon the successful Bidder's furnishing of the performance security pursuant to paragraph 31, the Procuring entity will promptly notify each unsuccessful Bidder and will discharge its bid security, pursuant to paragraph 2.12.

2.26 Signing of Contract

2.26.1 At the same time as the Procuring entity notifies the successful bidder that its bid has been accepted, the Procuring entity will simultaneously inform the other bidders that their bids have not been successful.

2.26.2 Within fourteen (14) days of receipt of the Contract Form, the successful bidder shall sign and date the contract and return it to the Procuring entity.

2.26.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

## 2.27 Performance Security

2.27.1 Within thirty (30) days of the receipt of notification of award from the Procuring entity, the successful bidder shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the bid documents, or in another form acceptable to the Procuring entity.

2.27.2 Failure of the successful bidder to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, in which event the Procuring entity may make the award to the next lowest evaluated or call for new bids.

## 2.28 Corrupt or Fraudulent Practices

2.28.1 The Procuring entity requires that Bidders observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations; the following terms are defined as follows;

- (i) “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among Bidder (prior to or after Bid submission) designed to establish
- (iii) Bid prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;
- (iv) ‘Collusive Practice’ means a scheme or arrangement between two or more bidders, with or without the knowledge of the Company, designed to establish bid prices at artificial, noncompetitive levels, and
- (iv) ‘Coercive Practice’ means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or effect the execution of a contract.

2.28.2 The procuring entity will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.



2.28.3 Further a Bidder who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

## 2.29 Other sanctions

2.29.1 The Company shall provide sanctions against firms that have not performed according to professionally regulated procedures, contractual agreements or legislation. The latter includes those in serious violations of fair employment laws & practices and known violation of the Public Procurement and Disposal Act, 2015.

## APPENDIX TO INSTRUCTIONS TO THE BIDDERS

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

INSTRUCTIONS TO BIDDERS	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO BIDDERS
2.1	<p>Eligible Bidders shall have/show:</p> <ul style="list-style-type: none"> <li>• Valid Bid Security issued by a bank and NOT from an Insurance Company</li> <li>• Copy of Certificate of Incorporation/Certificate of registration</li> <li>• Tax compliance certificate</li> <li>• Form of bid duly completed, signed, stamped and witnessed</li> <li>• BOQ duly completed</li> <li>• All alterations countersigned</li> <li>• Authority to seek reference</li> <li>• Certificate to handle explosives</li> <li>• NEMA Certificate for Mining</li> </ul> <p>The above requirements are mandatory and any bidder not meeting any of the above shall be treated as non-responsive.</p>
2.1.3	The qualification statement shall be drawn on bidder's letterhead, signed and stamped.
2.9.2	Prices quoted shall be inclusive of all the cost of the services quoted, including taxes payable and all incidental costs.

2.9.3	Price variations shall only be allowed after six months into the contract and as per SCC 3.11.
2.10	The bid price shall be in Kenya shillings only
2.11	Pay special attention to the clause. The requirements of this clause shall form part of the evaluation criteria.
2.12.2	The Bid security shall be not less than Kes 2,000,000/= (Two Million) only and valid for 120 days from the date of bid submission.
2.12.3 (a) & (b)	Pay special attention to the clause. The requirements of this clause shall form part of the evaluation criteria
2.12.4	Pay special attention to the clause. The requirements of this clause shall form part of the evaluation criteria. Bid securities from an Insurance company shall not be accepted for this procurement.
2.13.1	All bids shall be valid for ninety (90) days. Any bid whose validity is less than that period shall be considered as non-responsive.
2.14.1	Bidders shall prepare two copies and mark them clearly as “ORIGINAL BID” and “COPY BID”.
2.14.2	All pages of the bid dossier shall be initiated by the bidder
2.14.3	Any alterations shall be initialed by the person or persons signing the bid. Any alterations not initialed shall lead to disqualification of the bid.
2.15.1	Bids must be received by 12 noon Thursday November 3, 2016
2.16.1	Bids must be received by 12 noon Thursday November 3, 2016
2.16.3	Tenders sent by post or courier shall be addressed to the Managing Director so as to reach his office on or before 12 noon, Thursday November 3, 2016. These and any bulk documents shall be deposited in the Tender Box in the presence of the Procurement Manager or his appointee.
2.18.1	Bids shall be opened immediately thereafter receipt on Thursday November 3, 2016
2.20.2	The bid shall be awarded based on the corrected figure

2.20.5	For a bid to be determined as responsive and award recommended, it shall:- a) Met the requirements of 2.20.4 above b) Meet the requirements of 2.22.5 below c) Award shall be to the lowest evaluated bidder.
2.21.1	The Company shall allow bids only quoted in Kenya Shillings
2.22.3/4	Bidders to specify time that they will take to accomplish these services and indicate any alternative payment schedule that does not contravene the payment terms indicated under SCC 3.10
2.22.5	Under technical evaluation, the following shall be considered:- a) Methodology statement of performance to demonstrate understanding of the task and staff requirements to deliver 28,000 tons of screened Limestone per month b) Logistical arrangements – availability of proposed plants (i.e. loaders, Mobile screens, crusher, Dozers, excavators, Tippers/dumper etc) c) Provide a list and reference letters of clients (at least two) bidders has provided services of similar nature and size in the last two (2) years. This requirement does not exempt any bidder even those whose reference may be EAPCC d) Due diligence to confirm capacity to perform(A MUST) e) Bidders safety policy  Under financial evaluation, the following shall be considered:- a) Financial ability (derived from certified financial statements for the last two years i.e. 2014/2015) b) Working Capital – Provide details of the tenderer’s bankers and letter from the bank to confirm suppliers’ ability to offer services efficiently. c) Provision of tenderer’s bankers and insurance providers. d) Price per ton of Limestone delivered to Athi River Plant e) Payment terms indicated (in compliance with employer requirements of 45 days from statement date) f) Validity of Price (statement clearly indicating price to be held constant for the three year contract period
2.22.6	Over and above the requirements of this clause that shall form part of the evaluation criteria, bidders shall demonstrate they have the logistical capability to mine, scree and transport the Limestone from Bissel quarry to the Factory situated at Athi River Works.
2.27	Performance security shall be 10% of the awarded contract sum or Kenya shillings Ten million (10,000,000/=) whichever is lower; in form of a bank guarantee. No insurance performance securities shall be accepted.
2.28	This shall lead to rejection of the bid in total and may be subject to debarment in future. Any member of public with any information may refer the same to the relevant state bodies or the Managing Director.
2.28.3	This will be taken very seriously and may result to a bid being declared non-responsive.

## SECTION III GENERAL CONDITIONS OF CONTRACT

### 3.1 Definitions

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

- i. “The contract” means the agreement entered into between the Procuring entity and the bidder as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- ii. “The Contract Price” means the price payable to the bidder under the Contract for the full and proper performance of its contractual obligations.
- iii. “The services” means services to be provided by the contractor including materials and incidentals which the bidder is required to provide to the Procuring entity under the Contract.
- iv. “The Procuring entity” means the organization sourcing for the services under this Contract.
- v. “The contractor means the individual or firm providing the services under this Contract.
- vi. “GCC” means general conditions of contract contained in this section
- vii. “SCC” means the special conditions of contract
- viii. “Day” means calendar day

### 3.2 Application

- 3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

### 3.3 Standards

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

### 3.4 Use of Contract Documents and Information

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

3.4.2 The Bidder shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

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

### 3.5 Patent Rights

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

### 3.6 Performance Security

3.6.1 Within thirty (30) days of receipt of the notification of Contract award, the successful Bidder shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.

3.6.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Bidder's failure to complete its obligations under the Contract.

3.6.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Procuring entity, in the form provided in the Bid documents.

3.6.4 The performance security will be discharged by the Procuring entity and returned to the Candidate not later than thirty (30) days following the date of completion of the Bidder's performance obligations under the Contract, including any warranty obligations, under the Contract

### 3.7 Inspection and Tests

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

- 3.7.2 The inspections and tests may be conducted in the premises of the Bidder or its subcontractor(s), at point of delivery, and/or at the Goods' final destination if conducted on the premises of the Bidder or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.
- 3.7.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the Bidder shall either replace the rejected equipment or make alternations necessary to make specification requirements free of costs to the Procuring entity.
- 3.7.4 The Procuring entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.
- 3.7.5 Nothing in paragraph 3.8 shall in any way release the Bidder from any warranty or other obligations under this Contract.

### 3.8 Delivery and Documents

- 3.8.1 Delivery of the Goods shall be made by the Bidder in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract

### 3.9 Insurance

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

### 3.10 Payment

- 3.10.1 The method and conditions of payment to be made to the Bidder under this Contract shall be specified in Special Conditions of Contract

- 3.10.2 Payments shall be made promptly by the Procuring entity as specified in the contract

### 3.11 Prices

3.11.1 Prices charged by the Bidder for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the Bidder in its Bid.

3.11.2 Contract price variations shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, be allowed for contracts not exceeding one year (12 months).

3.11.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.

3.11.4 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.

### 3.12 Assignment

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

### 3.13 Subcontracts

3.13.1 The Bidder shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the Bid. Such notification, in the original Bid or later, shall not relieve the Bidder from any liability or obligation under the Contract

### 3.14 Termination for Default

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

- a) if the bidder fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.
- b) if the bidder fails to perform any other obligation(s) under the Contract.
- c) if the bidder, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.



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

### 3.15 Termination of insolvency

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

### 3.16 Termination for convenience

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

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

3.16.3 Either Party may terminate the contract for any reason provided that such termination is communicated to the other Party by way of a notice and provided that such a notice is given three calendar months from the date of receipt of the notice to the date of the termination.

### 3.17 Liquidated Damages

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

### 3.18 Resolution of Disputes

3.18.2 The procuring entity and the Bidder shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract

3.18.3 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

### 3.19 Language and Law

3.19.2 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

### 3.20 Force Majeure

3.20.1 The Bidder shall not be liable for forfeiture of its performance security or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

### 3.21 Applicable Law.

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

### 3.22 Notices

Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC. A notice shall be effective when delivered or on the notices effective date, whichever is later.

## SECTION IV SPECIAL CONDITIONS OF CONTRACT

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

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.5.1	An indemnity on the bidder's letter head, signed and stamped shall form part of the bid document. None compliance may render the bid non-responsive.
3.6.1	Performance security shall be 10% of the awarded contract sum or Kenya shillings Ten million (10,000,000/=) whichever is lower; in form of a bank guarantee. No insurance performance securities shall be accepted.
3.7	Pay special attention to the clause. The evaluation committee shall visit the bidder's place of operation to ascertain bidder has the proposed plants (i.e. loaders, Mobile screens, crusher, Dozers, excavators, Tippers/dumper etc)and the capability to effectively perform as per the proposed methodology statement.
3.8	The awarded firm shall commence the assignment immediately and not later than twenty one (21) days from the date of contract execution. The bidder shall be deemed to have performed their obligation after delivery notes against weigh bridge (EAPCC's) tickets for each consignment are signed by the receiving officer to signify acceptance.
3.9	Awarded bidder shall insure his equipment and trucks as per the laws of Kenya, and all his employees as per the requirements of WIBA. He shall further abide with the safety requirements of the Company.
3.10	Mode of payments will be through EFT 45days after statement date. The invoice amount is against weighbridge tickets at the point of receipt in Athi River Works. No single invoice shall be less than Kenya shillings two hundred (200,000.00) except for the final invoice.
3.11	<p>Allowed price variation shall be ten (10) per cent of the awarded contract price in the entire contract period. Where any price adjustments are allowed, they shall only be applicable after one year from date of contract execution under the following circumstances:-</p> <p>a) If there is change in legislation and statutory regulations.</p> <p>b) If there is material price increase in any of the inputs so necessary in the performance of this contract.</p> <p>c) If there is changes in the mean exchange rate between the Kenya shilling and the United States of America Dollar (US\$) of more than 10% from the date of bid submission or from the date of earlier price variation award. In this respect all bidders who anticipate to incur a portion of their expenditure on this contract in a foreign currency (United States of America Dollar or otherwise) shall indicate the same in their bid the mean rates of exchange ruling fifteen (15) days before the date of bid submission; and the percentage of the bid sum to be incurred in foreign currency. This is a MUST.</p>

	<p>d) The award if approved by the tender committee shall be the portion of the awarded contract not delivered at the time of the award, and the contract shall be current.</p> <p>Under all circumstances indicated in (a) (b) &amp; (c) above, documentary proof shall be provided by the bidder, to the satisfaction of the employer. Further, price adjustment <u>shall only</u> be allowed any time after six months of signing the contract agreement. All in all the Cost Price Index (CPI) or the inflation rate shall be the comparable index to justify any price adjustments. The award shall be as per the CPI or inflation rate or 10% allowable by the Act; whichever is lower.</p>
3.12	Bidder shall not assign in part or in whole this contract without written approval from the employer.
3.13	Bidder shall not subcontract in part or in whole this contract without written approval from the employer.
3.14	<p>a) Within fourteen (14) days</p> <p>b) Within fourteen (14) days</p> <p>c) There shall be no compromise on this clause</p>
3.15	Thirty (30) days' notice
3.16	<p>a) Thirty (30) days' notice</p> <p>b) This shall be negotiated</p> <p>c) Thirty (30) days' notice- This is applicable for any general termination not clearly defined in this document</p>
3.14, 3.15 & 3.16	Should the bidder not provide the services and the employer procures the same either in part or whole; the bidder shall bear the difference between the market price of the service so procured and the contract price for the cancelled portion. For the purposes of pricing such procurements, bidders shall complete the schedule 6 under day works.
3.17	Liquidated damages shall be 0.5% (point five percent) of the contract amount per day, up to a maximum of 10% of the contract amount or Kenya shillings ten million (10,000,000/=) whichever is lower.
3.18	If any dispute or difference of any kind whatsoever shall arise between the bidder and the employer in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation. Should there be no solution to the dispute within thirty (30) days of engagement, then the parties shall seek help from the Institute of Arbitrators of Kenya and the cost of the arbitration shall be borne on a 50/50 basis by both parties.
3.19	The Contract shall be written in English language that shall also govern its interpretation. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in English language.
3.20	<ul style="list-style-type: none"> <li>• Bidder shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.</li> </ul>

	<ul style="list-style-type: none"> <li>• “Force Majeure” means an event beyond the control of the bidder and not involving the bidders fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the employer in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, riots, strikes and freight embargoes.</li> <li>• If a Force Majeure situation arises, the bidder shall promptly notify the employer in writing of such condition and the cause thereof. Unless otherwise directed by the employer in writing, the bidder shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.</li> </ul>
3.21	The Applicable Law shall be the Laws of Kenya.
3.22	<p>The employers address for notice purposes shall be :-</p> <p>The Managing Director  East African Portland Cement Company Ltd  Off Namanga Road,  P O Box 20-00204  Athi River, Kenya.</p> <p>WHILE the Supplier’s Address for notice purpose shall be:-</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p><u>Bidder to complete this section</u></p>

## SECTION V – SCHEDULE OF REQUIREMENTS & SPECIFICATIONS

### GENERAL

1. These specifications describe the basic requirements for Outsourcing of Bissel Quarry mining operations. Tenderers must submit with their tender the detailed specifications of their proposed equipment. The Employer reserves the right to reject the Outsourcing services if deviations critical to the implementation arise.
2. At the expiry of the three (3) years period, the contract shall be open for negotiation for a further Extension based on performance.
3. Attached is the quarry layout. Bissel Quarry is 95kms from Athi River Works along the Athi River - Namanga highway.

#### Mining process

Crystalline Limestone usually occurs in a continuous body. Mining involves removal of the overburden by a bulldozer to access the Limestone before drilling, blasting and haulage. In-situ waste intercalations are separated from the limestone during mining to avoid contamination and lowering of quality. The quarry has been developed in benches of ten meters each, and currently mining in the main quarry is on the 5<sup>th</sup> bench. Size reduction is required to bring the final product to specifications.

The amount of useful material (final limestone product) from the unscreened limestone is measured by recovery rate where the fines become the waste. Approximately 21,000 tons of Limestone from Bissel is consumed at the factory per month.

Limestone is available in varying quality grades. Different stocks piles shall be made (high grade and low grade) and a final blended stockpile made with the target quality. Though the target quality for Calcium Carbonate (designated TCO3) shall be 85%, this varies occasionally depending on requirements between 83% and 88%. This shall be advised from time to time.

For optimal productivity, mining is encouraged to be done during the dry weather.

#### Mining Plan

To optimally mine the quarry, mining is done concurrently at Low and High grade areas and a blended mix in a pre-agreed ratio arrived at before delivery for use. EAPCC shall advice on how to make this blended stockpile. A mining plan is thus prepared by EAPCC geologist in every Quarter of a year based on mining progression to guide the mining team. This plan shall be strictly adhered to and its ignorance shall lead to the contract termination.

The Company geologist shall guide on areas to win the required materials in order to achieve the target quality.

## Waste dumping

Limestone fines and all waste material shall be dumped in designated areas as advised by the geologist.

## Materials haulage

All screened Limestone shall be transported to the factory after blending / in pre-determined ratios to be received within target quality.

4. Mining using Mobile screens and a crusher is the most economical approach to win Limestone material. The prospective bidder is thus expected to deploy on the ground equipment sufficient to undertake full mining as indicated under clause 5 below.
5. To optimally run Mobile screening operation, prospective bidders are thus required to have the following equipment as a minimum;-

S/No	Equipment	Capacity	Qty	Remarks
1	Jaw Crusher	Min 200tph	1	Oversize material crushing and screening
2	Screen (Mobile)	Min 200tph	1	
3	Crawler excavators all with bucket, and one hydraulic breaker	Min 30tons (bucket 2.5m <sup>3</sup> )	3	Opening pits, feeding mobile screens and breaking boulders
4	Dozer	50tons	2	Overburden removal & ripping
5	Front end loader	3.5 -4m <sup>3</sup>	2	Loading Limestone onto trucks.
6	Rigid Tipper / Dump Truck (owned or leased)	35 to 45T	3	Stock piling
7	Drilling Rig for blasting		1	Blasting holes
8	Compressor	12bar	2	Blasting holes

NB: Bidders are NOT allowed to hire above equipment. Proof of ownership is a must and shall be attached as part of this bid.

6. The above equipment required for mining purposes, MUST be either NEW or at the minimum NOT MORE than three (3) years old from the date of manufacture. For the old plants, maintenance records shall be required to gauge capacity to meet our requirements.
7. The distance from the Bissel quarry to the factory is approximately 95kms along Namanga road. To effectively haul finished product; Limestone to the factory, the following minimum equipment are necessary;

S/No	Equipment	Capacity	material	Qty/month	Qty	Remarks
1.	Tipping trailers	20 – 30MT	Limestone	28,000MT	20	Limestone transport

NB: Bidders are allowed to hire trucks for transportation of limestone from Bissel quarry to the plant in Athi River. However proof of lease arrangements shall be attached as part of this bid.

8. The prospective bidder is thus expected to give a methodology statement on his approach to undertake the mining and transport operations in line with clause 5 and 6 above.
9. A pre-tender visit shall be mandatory for all prospective bidders to enable them fully appreciate the mining process. It is very important for bidders to note the following:-
  - a) The Bidder **MUST** visit and examine the site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the Bid and entering into contract. The costs of visiting the site shall be the Bidder's own responsibility. A site visit confirmation form shall form part of this bid document.
  - b) The Bidder and any of his personnel or agents shall be granted permission by the employer to enter upon premises and lands for the purpose of such inspection, but only upon the express condition that the Bidder, his personnel or agents, shall release and indemnify the Employer from and against all liability in respect of, and shall be responsible for personal injury (where fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which but for the exercise of such permission, would not have arisen.
  - c) The Employer shall organize a **site visit on Wednesday 19.10.16** and another one on **Wednesday 26.10.16**. Bidders are required to assemble at plant in Athi River **by 10am** on either day. They shall contact the Company geologist (Mr. Peter Kimuyu) who shall accompany them to the site.

Bidders must provide their own transport. The representative shall not be available at any other time for the site inspection visits.

10. Payments for transported products shall be based on receipts at the factory through the Company's weighbridge.



11. The Estimated screened Limestone production target 28,000 tons respectively per month. The successful tenderer is expected to meet at the minimum 90% of this target.
12. The successful tenderer shall provide the required equipment, fuel, and operators and provide all the maintenance needs to effectively support the production at his own cost including watching.
13. The successful tenderer shall be expected to be ready for production with his equipment delivered to Bissel quarry site not more than twenty one (21) days from the date of signing of the Contract. The tenderer shall be expected to state how soon his equipment shall be available.
14. The tenderer is expected to put as part of the tender a methodology statement that best describes his understanding of the process and how he intends to manage his teams on site.
15. The successful tenderer shall be expected to fully comply with EAPCC's Safety, Health & Environment requirements and **MUST** fulfill all NEMA requirements. The tenderer is encouraged to seek this information from SHE section and familiarize himself with it during tendering process.
16. The successful tenderer shall provide the services on the days and at the times specified below:  
  
Mining working hours  
Monday – Saturdays: 6.00 am – 5.30 pm  
Sundays and Public Holidays: As notified by the Company in writing from time to time.  
  
Raw materials receipts at the factory.  
Monday – Saturdays: 6.00 am – 6.00 pm  
Sundays and Public Holidays: As notified by the Company in writing from time to time.
17. The successful bidder shall be required to show proof of qualified personnel who must include a licensed blaster as required by Explosives Act

## **LIMESTONE SPECIFICATIONS**

Limestone shall be a source of Lime in the production of Raw Meal.

The contractor Shall Mine Limestone that shall conform to the following minimum quality parameters:

### **Physical Properties**

- a) Size: - The primary crushing of limestone shall be done so as to provide a material of not more than 200mm in size.
- b) Moisture: - The water content shall not exceed 1%.

### **Chemical Properties**

Limestone shall be controlled with the following parameter domains:

TCO<sub>3</sub>: 85%

SiO<sub>2</sub>: Max 12%

MgO: Max 3.0%

A. Technical evaluation

Basis	Criteria	Score
A. Capability	<p><u>Technical evaluation</u></p> <p>1.Capacity</p> <p>a) Methodology statement of performance to demonstrate understanding of the task and staff requirements to deliver 28,000 tons of screened Limestone per month</p> <p>b) Logistical arrangements – availability of proposed plants (i.e. loaders, Mobile screens, crusher, Dozers, excavators, Tippers/dumper etc)</p> <p>c) Due diligence to confirm capacity to perform</p> <p>d) Safety policy in place</p> <p>e) Provide a list and reference letters of all clients, (minimum 2) you have provided services of similar nature in the last two (2) years. This requirement does not exempt any bidder even those whose reference may be EAPCC.</p> <p>2.Financial Capability</p> <p>a) Annual Turnover (as supported by latest 2 years audited accounts)</p> <p>b) Working Capital – Provide details of the tenderer’s bankers and letter of comfort from the bank to confirm suppliers’ ability to offer services.</p> <p>c) Provision of tenderer’s bankers and insurance providers.</p> <p>NB: Submit audited accounts for the last 2 financial years and names of the tenderers’ bankers, auditors and insurance service providers</p>	<p>10</p> <p>18</p> <p>10</p> <p>6</p> <p>8</p> <p>5</p> <p>5</p> <p>3</p>
<b>TOTAL</b>		<b>65</b>

## B. Commercial Evaluation Criteria

Basis	Criteria	Score
A. Price schedule	<u>Commercial evaluation</u>	
	i) Price – per ton screened Limestone delivered ex-works.	15
	ii) Price – per ton Limestone delivered ex-works	10
	iii) Filled in the stipulated format (form of tender)	2
	iv) Payment terms indicated (in compliance with employer requirements of 45days from statement date)	2
	v) Validity of Price (statement clearly indicating price to be held constant for the 3 year contract period)	3
B. Delivery period	i) Delivery of equipment to site in line with Tender	3
<b>TOTAL</b>		<b>35</b>

### NOTE

#### Evaluation and Comparison of Bids

- The East African Portland Cement Company Ltd shall evaluate and compare Bids which have been determined to be substantially responsive.  
The minimum technical score required to pass is 75 %.
- The lowest priced bidder who scores the highest mark and more than 75 % shall be considered for award.
- Should none of the bidders score 75 % and above, then the evaluation committee shall recommend re-tendering of this bid.

#### Bills of Quantities

Item	Description	Quantity in Metric Tons per month	Unit Price	Total price Kes
1	Outsourcing of Bissel Quarry Mining Operations	28,000		
Total (Kes) to the Form of Bid (summary form under financial proposal)				

**GRAND SUMMARY**

ITEM	AMOUNT – Kes
Total per month from the BOQ	
Add 16% VAT (If applicable)	
<b>TOTAL BID SUM TO THE FORM OF BID UNDER FINANCIAL PROPOSAL</b>	
<b>AMOUNT IN WORDS AND INCLUSIVE OF ALL TAXES</b>	
<p>Name of Bidder.....</p> <p>Physical Address.....</p> <p>Building.....</p> <p>Town.....</p> <p>Name of Authorised Representative of Bidder.....</p> <p>Signature.....</p> <p>Date.....</p> <p style="text-align: center; margin-top: 20px;">Official Stamp/Company Seal</p>	

## SCHEDULE OF PARTICULARS

These Particulars are to be entered in the appropriate place on the following pages. Failure to complete all of these schedules fully or the giving of false information may invalidate the Bid and cause for forfeiture of the Bid Bond.

### SCHEDULE 1 – FINANCIAL STATUS

- a) Name and Address of bankers (State Branch) Postal Address and Account No.....
- b) Name of Account Held at that Branch.....
- c) Bidder to sign here authority by the Bank Manager to release details of the Account to Managing Director, The East African Portland Cement Company Ltd P.O. Box 20-00204 Athi River or his authorized representation upon production of this signed authority.
- d) Annual turnover of the last Audited Account.....
- e) Financial year for which the most recent audited account may be inspected at registrar of Companies.....
- f) Maximum value of all Contracts worked concurrently within the last two years.....  
.....  
.....
- g) Indicate the earliest time you will be able to mobilize the equipment to the quarry  
.....  
.....

**SCHEDULE 2 – SCHEDULE OF INSURANCE**

The bidder is supposed to fill the following table

No.	Type of Insurance	Name of Company	Registered Address
1	WIBA		
2	Third party insurance cover For the mining equipment		
3	Compressive cover for motor vehicles		
4	Any other Insurance cover held by the bidder for this assignment		

NB: Attach copies of policy documents or letters from the underwriters indicating their willingness to cover you should you be awarded.

We hereby certify that we have been advised by the Insurance Companies their willingness to provide us with the required insurance cover notes. We further certify that we will obtain the covers from a Company acceptable by the employer for this contract.

Signature.....

Name.....

DATE.....

**SCHEDULE 3 –MINING EQUIPMENT IN THE OWNERSHIP OF THE  
 BIDDER TO BE USED ON THIS CONTRACT (COMPULSORY)**

S/No.	MAKE & MODEL	Reg No.	YEAR OF MANF	CONDITION
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

I certify that the items listed above will be available for use if my bid is successful.

Sign.....

Date.....



**SCHEDULE 4–TRUCKS FOR TRANSPORT TO BE HIRED BY THE  
 BIDDER FOR THIS CONTRACT (Hire of mining equipment is NOT  
 allowed for this contract)**

S/No.	MAKE & MODEL	YEAR OF MANF	NAME OF SUPPLIER	DATE EQUIPMENT WILL BE AVAILABLE	CONDITION
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

We hereby confirm that the item of plant listed here above represent those resources that will be used by ourselves for the act and prompt performance of this contract. The resources will be maintained in good working order at all times and that in event of the breakdowns, suitable stand by trucks will be promptly brought on to the work to continue with the smooth progress of the Contract.

Sign.....

Date.....

**SCHEDULE 5 – PARTICULARS OF PREVIOUS EXPERIENCE**

Bidders must insert in the space below and submit with the Bid the following statements, showing a list of works they have successfully carried out within the last three years

NAME OF CLIENT	NATURE OF WORK	VALUE OF WORK	YEAR COMPLETED	REMARKS

I hereby certify that the above works have been successfully carried out by me/us and that I am fully experienced and competent in the type of work included in this bid and have adequate financial resources to carry out the work in this contract within the period for completion.

Sign.....

Date.....

## SCHEDULE 6 – DAY WORKS (RATES)

The rates entered in this section will be used in assessing the cost of any extra work ordered by the Company on execution on day works basis. If any rate is found to be in excess of the prevailing market rates, the Company shall use the market rates for this purpose. The rates indicated are to include for contractor's profit, administration tools, supervision, overhead costs and all other costs in relation to the provision of labour, materials or equipment indicated.

S/No	Item description	UoM	Qty	Unit Rate (Kes)
1	Tipping Trailer	Ton	1	
2	Tippers/dumper	Ton	1	
3	3C tractor excavator/shovel	Hr	1	
4	Mobile crusher with screen (Min 200tph)	Hr	1	
5	Jaw Crusher (Min 200tph)	Hr	1	
6	Crawler excavators all with bucket and one hydraulic breaker (Min 20tons -bucket 2.5m <sup>3</sup> )	Hr	2	
7	Dozer (50tons)	Hr	1	
8	Front end loader (3.5 -4m <sup>3</sup> )	Hr	1	
9	Labourer	Hr	1	
10	Watchman for day, night, Sunday and public holiday. Include for fire and hand lamps	Hr	1	
11	Rigid Tipper / Dump truck (20t)	Ton	3	
13	Rigs for blasting	Hr	1	
14	Compressor	Hr	1	

SCHEDULE 7 – PARTICULARS OF SUPERVISORY STAFF

Bidder to state particulars of supervisory staff to be employed on the works giving details or name, qualification experience (Listing previous job worked on the dates and what capacity and position to be held on site)

1. Site Agent

Name.....

Qualification.....

Experience.....

2. Works Supervision

Name.....

Qualifications.....

Experience.....

3. Blaster

Name.....

License No.....

Experience.....

The Bidder can add the list of experience staff in separate sheet of paper.

I hereby certify that the above supervision staff are under my employment or are to be employed and are fully experienced to complete the type of work included the Bid if my/our bid is accepted.

Signature.....

Date.....

Director.....

CV's and copies of the above employees shall form part of the bid document.

This information must be completed on the bidder's letter head and signed

### CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

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

**Part 1 – General:**

Business Name .....

Location of business premises. ....

Plot No..... Street/Road .....

Postal Address ..... Tel No. .... Fax ..... E mail .....

Nature of Business,.....

Registration Certificate No. ....

Maximum value of business which you can handle at any one time – Kes. ....

Name of your bankers ..... Branch .....

Part 2 (a) – Sole Proprietor	Your name in full ..... Age ..... Nationality ..... Country of origin ..... <ul style="list-style-type: none"> <li>• Citizenship details .....</li> <li>• .....</li> </ul>																				
Part 2 (b) Partnership	Given details of partners as follows: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%; text-align: left;">Name</th> <th style="width: 25%; text-align: left;">Nationality</th> <th style="width: 40%; text-align: left;">Citizenship Details</th> <th style="width: 20%; text-align: left;">Shares</th> </tr> </thead> <tbody> <tr> <td>1. ....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2. ....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3. ....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4. ....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>	Name	Nationality	Citizenship Details	Shares	1. ....	.....	.....	.....	2. ....	.....	.....	.....	3. ....	.....	.....	.....	4. ....	.....	.....	.....
Name	Nationality	Citizenship Details	Shares																		
1. ....	.....	.....	.....																		
2. ....	.....	.....	.....																		
3. ....	.....	.....	.....																		
4. ....	.....	.....	.....																		
Part 2 (c) – Registered Company	Private or Public ..... State the nominal and issued capital of company-  Nominal Kes. ....  Issued Kes. ....																				

Given details of all directors as follows			
Name	Nationality	Citizenship Details	Shares
1.....			
2.....			
3.....			
4.....			
5.....			
Date ..... Signature of Candidate .....			

- If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or Registration.

**NB:**

- a) Sample documents shall only be for use by the relevant parties (e.g. Banks) as guidelines to fulfill the requirements of the bid.
- b) Bidders are therefore encouraged to pass the sample documents to the relevant parties and avoid filling them on their own.

BID SECURITY FORM

Whereas ..... [name of the Bidder]  
(hereinafter called "the Bidder") has submitted its Bid dated ..... [date of  
submission of Bid] for the supply, installation and commissioning of  
.....[name and/or description of the equipment]  
(hereinafter called "the Bid") ..... KNOW  
ALL PEOPLE by these presents that WE ..... of  
..... having our registered office at  
..... (hereinafter called "the Bank"), are bound unto .....  
[name of Procuring entity} (hereinafter called "the Procuring entity") in the sum of  
..... for which payment well and truly to be made to  
the said Procuring entity, the Bank binds itself, its successors, and assigns by these  
presents. Sealed with the Common Seal of the said Bank this \_\_\_\_\_ day  
of \_\_\_\_\_2016.

THE CONDITIONS of this obligation are:-

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

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

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

\_\_\_\_\_  
[signature and seal of the bank]



## CONTRACT FORM

THIS AGREEMENT is made the      day of                      Two Thousand and Eleven BETWEEN THE EAST AFRICAN PORTLAND CEMENT COMPANY LTDLIMITED a limited liability company incorporated in the Republic of Kenya and of Post Office Box Number 20-00204, Athi River in the aforesaid republic (hereinafter called the “Employer” which expression shall where the context admits include its successors and assigns) of the one part and ..... of Post Office Box Number ....., ..... in the said republic (hereinafter called the “Supplier” which expression shall where the context admits include its successors and assigns) of the other part.

### WHEREAS:

- A) The Employer has invited bids for Goods and anxillary Services viz Contract No.EAPCC-OT-109-2016 - Outsourcing of Bissel Quarry Mining Operations .
- B) The Employer has by a Letter of Acceptance dated the ..... accepted a bid by the Supplier for the outsourcing of Bissel quarry services .

### NOW THIS AGREEMENT WITNESSESTH as follows:

1. In this Agreement words and expression shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to;
2. The following documents shall be deemed to form and be read and construed as part of this Agreement; viz.:
  - (a) The Form of Agreement;
  - (b) The Letter of Acceptance;
  - (c) The said Bidder and Appendix;
  - (d) Special Conditions of Contract;
  - (e) The Conditions of Contract;
  - (f) General Conditions of Contract;
  - (g) The Technical Specifications;
  - (h) The Priced Bill of Quantities (Schedule of Prices);
  - (i) Purchaser’s notification of award;
  - (j) The Schedules of Supplementary Information and
  - (k) Any other documents forming part of the Contract
3. This contract shall prevail over all other contract documents. In the event of any discrepancy or inconsistency within the contract documents, then the

documents shall prevail in the order listed above.

4. In consideration of the payment to be made by the Employer to the Supplier as hereinafter mentioned the Supplier hereby covenants with the Employer to provide the goods and services and to remedy defects thereto in conformity in all respects with the provisions of the Contract.
5. The Employer hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein the contract price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS WHEREOF the parties hereto have caused their respective Common Seals to be hereunto affixed (or have hereunto set their respective hands and seals) the day and year first above written.

Sealed with the common seal of )  
THE EAST AFRICAN PORTLAND )  
CEMENT COMPANY LIMITED )  
in the presence of: - )  
)  
)  
)  
)  
MANAGING DIRECTOR )  
)  
)  
)  
COMPANY SECRETARY )  
)

Sealed with the common seal of )  
..... )  
in the presence of: - )  
)  
)  
)  
)  
DIRECTOR )  
)  
)  
)  
DIRECTOR )

PERFORMANCE SECURITY FORM

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

WHEREAS ..... [name of Bidder] (hereinafter called "the Bidder") has undertaken , in pursuance of Contract No. \_\_\_\_\_  
\_\_\_\_\_ [reference number of the contract] dated \_\_\_\_\_ 20 \_\_\_\_\_  
\_\_\_\_\_ to supply ..... [description of goods] (hereinafter called "the Contract").

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

AND WHEREAS we have agreed to give the Bidder a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Bidder, up to a total of ..... [amount of the guarantee in words and figure] and we undertake to pay you, upon your first written demand declaring the Bidder to be in default under the Contract and without cavil or argument, any sum or sums within the limits of ..... [amount of guarantee] as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signed and seal of the Guarantors

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

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

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

FORM OF WRITTEN POWER OF ATTORNEY

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

.....  
(Name of the Bidder's Representative in block letters)

.....  
(Address of Bidder's Representative)

.....  
(Representative's Signature)

## CERTIFICATE OF BIDDER'S VISIT TO SITE

---

This is to certify that .....

.....

being the authorized representative/Agent of M/s.....

.....

.....

Participated in the organized inspection visit of the site of the works for Contract No.EAPCC-OT-109-2016- Outsourcing of Bissel Quarry Mining Operations .

Signed.....  
(Employer's Representative)

Date.....

Rubber Stamp .....

**NOTE:** As a condition of bidding, all bidders shall visit the site of operations. This form is to be completed whether the site visit is made at the time of the organized site or privately organized.