

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO. 2 OF 2025 DATED 3RD JANUARY, 2025

BETWEEN

MAIMEN ENTERPRISE LIMITED..... APPLICANT

AND

THE ACCOUNTING OFFICER

KENYA URBAN ROADS AUTHORITY 1ST RESPONDENT

KENYA URBAN ROADS AUTHORITY 2ND RESPONDENT

NUTRISCOPE LIMITED INTERESTED PARTY

Review against the decision of the Accounting Officer, Kenya Urban Roads Authority in relation to Tender No: KURA/RMLF/LE/159/2024-2025 for Drainage Improvement Works for Katumani Vota-Konza Road & Performance Based Routine Maintenance for Shalom High Sch.-Kitangi, Ikulu-Kwa Mutisya, Kitangi-Kathome, Katumani-Vota-Konza, & Kitangi-Kaloleni Roads.

BOARD MEMBERS PRESENT

1. Mr. George Murugu, FCI Arb, I.P - Chairperson
2. QS Hussein Were - Member
3. Mr. Jackson Awele - Member
4. Robert Chelagat - Member



IN ATTENDANCE

1. Mr. Philemon Kiprop - Holding brief for Acting Board Secretary
2. Ms. Evelyn Weru - Secretariat

DECISION OF THE BOARD

1. On 3rd January 2025, Maimen Enterprise Limited, the Applicant herein, filed a Request for Review dated 3rd January 2025 together with a Supporting Affidavit sworn by Aurelly Kipkogei, its Managing Director on 3rd January 2025 (hereinafter referred to as the "instant Request for Review") through Danson Pembere Advocate seeking the following orders from the Board:

a) An order declaring that the Accounting Officer of the Procuring Entity's decision to award the Interested Party for the Tender Number: KURA/RMLF/159/2024-2025 for Drainage Improvement Works for Katumani – Vota-Konza and PBC for Shalom High Sch.-Kitangi, Katumani - Vota-Konza, Ikulu-Kwa Mutisya, Kitangi-Kathome & Kitangi-Kaloleni Road, is null and void.

b) An order canceling and setting aside the letter referenced KURA/EO/SCM/27/Vol.51(181) dated 5th December 2024, notifying the Applicant that its bid was unsuccessful for the Tender Number: KURA/RMLF/159/2024-2025 for Drainage Improvement Works for Katumani – Vota-Konza and PBC for Shalom High Sch.-Kitangi, Katumani -Vota-Konza,



Ikulu-Kwa Mutisya, Kitangi-Kathome & Kitangi-Kaloleni Road.

- c) An order declaring that the Applicant's bid was responsive in accordance with Section 79 of the Public Procurement and Asset Disposal Act, 2015 and therefore the lowest evaluated bidder qualified for the award of Tender Number: KURA/RMLF/159/2024-2025 for Drainage Improvement Works for Katumani – Vota-Konza and PBC for Shalom High Sch.-Kitangi, Katumani - Vota-Konza, Ikulu-Kwa Mutisya, Kitangi-Kathome & Kitangi-Kaloleni Road.***
- d) In the alternative, and without prejudice to prayer (c), An order compelling the Accounting Officer to direct the evaluation committee for this particular tender to carry out a fresh evaluation exercise in order to arrive at a decision that complies with the law.***
- e) An order for award of cost to the Applicant.***
2. In a Notification of Appeal and a letter dated 3rd January 2025, Mr. James Kilaka, the Acting Secretary of the Board notified the Respondent of the filing of the Request for Review and the suspension of the procurement proceedings of the subject tender, while forwarding to the said Procuring Entity a copy of the Request for Review together with the Board's Circular No. 02/2020 dated 24th March 2020, detailing administrative and contingency measures to mitigate the spread of COVID-19. Further, the Procuring Entity was requested to submit a response to the Request for Review together



with confidential documents concerning the subject tender within five (5) days from 3rd January 2025.

3. Vide a Hearing Notice dated 10th January 2025, the Acting Board Secretary, notified parties and all tenderers of an online hearing of the instant Request for Review slated for 16th January 2025 at 2:00 p.m. through the link availed in the said Hearing Notice.
4. On 14th January 2025, the Applicant through its advocates filed a Notice of Withdrawal of the Request for Review pursuant to Regulation 216 of the Public Procurement Asset and Disposal Regulations, 2020 (hereinafter referred to as "Regulations 2020) together with a duly signed Consent dated 14th January 2025 indicating that parties had mutually agreed to have the matter marked as withdrawn with no orders as to costs.
5. In the circumstances, the Request for Review dated 3rd January 2025 and filed on even date is hereby marked as withdrawn on 14th January 2025 by consent of parties with no orders as to costs.

FINAL ORDERS


6. In exercise of the powers conferred upon it by Section 173 of the Public Procurement and Asset Disposal Act, No. 33 of 2015, the Board makes the following orders by consent of all parties to the instant Request for Review:




A. The Applicant's Request for Review dated 3rd January 2025 and filed on even date be and is hereby marked as withdrawn by consent of parties.

B. There shall be no orders as to costs.

Dated at NAIROBI, this 22nd Day of January, 2025.


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CHAIRPERSON
PPARB


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SECRETARY
PPARB

