**GOVERNMENT OF NAIROBI CITY COUNTY** 





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Hm. Milliant & Katch

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THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY (SIXTH SESSION)

NCCA/TJ/PL/2022(10)

Ist March 2022

#### **PAPER LAID**

Pursuant to Section 123 of the Public Finance Management Act, 2012 I beg to lay the following Paper on the Table of the Assembly, today Tuesday I<sup>st</sup> March, 2022:

— THE NAIROBI CITY COUNTY DEBT MANAGEMENT STRATEGY PAPER FOR THE FINANICIAL YEAR 2022/2023

(The Leader of Majority Party)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

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#### NAIROBI CITY COUNTY

Telephone: +254 20 2221349 Website: www.nairobi.go.ke



City Hall, P. O. Box 30075- 00100 Nairobi, Kenya.

#### FINANCE AND ECONOMIC PLANNING

NCC/FIN/ADDM/004/2022

24TH FEBRUARY 2022

The Clerk,
Nairobi City County Assembly
City Hall Building
P.O. Box 45844-00100
NAIROBI



RE: DEBT MANAGEMENT STRATEGY PAPER FOR THE FY 2022/2023

The above refers.

Pursuant to section 123 of the Public Finance Management Act 2012, I am pleased to submit the Debt Management Strategy Paper for financial year 2022/2023.

ALLAN ESABWA IGAMBI COUNTY EXECUTIVE COMMITTEE MEMBER FINANCE AND ECONOMIC PLANNING

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NAIROBI CITY COUNTY M. Milliant Nath: on 1st Now, 2022

# **Medium Term Debt Management Strategy** Paper

February 2022

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Enquiries covering this Debt Strategy Paper may be addressed to;

Nairobi City County,
County Executive Member-Finance & Economic Planning,
P.O. Box 30075,
Nairobi.

Telephone: +254 2022221349 Website: <u>www.nairobi.go.ke</u>

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Table of Contents
Forewordiv
Acknowledgementvi
List of Abbreviationsvii
EXECUTIVE SUMMARYviii
CHAPTER ONE
1.0 MEDIUM TERM DEBT MANAGEMENT STRATEGY 10
Introduction
1.1 LEGAL FRAMEWORK11
1.2 SCOPE AND OBJECTIVES
CHAPTER TWO
2.0 STOCK OF COUNTY DEBTS13
2.1 STOCK OF COUNTY VERIFIED DEBT AS 31ST DECEMBER 202015
2.2 SOURCES OF LOANS MADE TO THE COUNTY GOVERNMENT 20
2.3 PRINCIPAL RISKS ASSOCIATED WITH LOANS/DEBTS21
2.4 THE ASSUMPTIONS UNDERLYING THE DEBT MANAGEMENT STRATEGY
STRATEGY22
22           2.5 EMERGING TRENDS.         23
STRATEGY       22         2.5 EMERGING TRENDS       23         CHAPTER 3       24
STRATEGY       22         2.5 EMERGING TRENDS       23         CHAPTER 3       24         3.0 STRATEGIC MEASURES FOR DEBT MANAGEMENT       24
STRATEGY
STRATEGY
STRATEGY       22         2.5 EMERGING TRENDS       23         CHAPTER 3       24         3.0 STRATEGIC MEASURES FOR DEBT MANAGEMENT       24         3.1 Revenue Enhancement measures       24         3.2 Expenditure Capping       25         3.3 Debt/Asset Swap       25
STRATEGY       22         2.5 EMERGING TRENDS       23         CHAPTER 3       24         3.0 STRATEGIC MEASURES FOR DEBT MANAGEMENT       24         3.1 Revenue Enhancement measures       24         3.2 Expenditure Capping       25         3.3 Debt/Asset Swap       25         3.4 Debt Restructuring/Loan       26
STRATEGY       22         2.5 EMERGING TRENDS       23         CHAPTER 3       24         3.0 STRATEGIC MEASURES FOR DEBT MANAGEMENT       24         3.1 Revenue Enhancement measures       24         3.2 Expenditure Capping       25         3.3 Debt/Asset Swap       25         3.4 Debt Restructuring/Loan       26         3.5 Current Creditors Payment       26
STRATEGY       22         2.5 EMERGING TRENDS       23         CHAPTER 3       24         3.0 STRATEGIC MEASURES FOR DEBT MANAGEMENT       24         3.1 Revenue Enhancement measures       24         3.2 Expenditure Capping       25         3.3 Debt/Asset Swap       25         3.4 Debt Restructuring/Loan       26         3.5 Current Creditors Payment       26         3.6 Exemption for Water Bills from NCWSC       26         3.7Writting off Debts:Contigent Liabilities(old book debts)       26         3.8Outstanding Pension Debt       27
STRATEGY

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# Foreword

The Public Finance Management Act 2012 section 123 (1), Provides that the County Treasury shall submit to the County Assembly a statement setting out the Debt Management Strategy of the County Government over the medium term clearly showing its actual liability in respect of loans and its plan for dealing with those liabilities

The preparation of the County Medium Term Debt Management Strategy (MTDMS), is guided by the Public Finance Management Act of 2012 and the PFM County Regulations of 2015. These provide the requisite framework to ensure the County continues with prudent debt management. The PFMA has laid strict procedures, accountability and reporting requirements for Counties.

The Medium Term Debt Management Strategy (MTDS) is one of the important deliverables of the County Treasury as provided for under the PFMA. It provides the guidance to the County on the amount, type of borrowing to undertake over the medium term. It evaluates the costs and risks of various scenarios and recommends an optimal strategy for implementation.

The main objective of the Medium Term Debt Management Strategy is to ensure sustainability of the County debt, having undertaken an analysis of the existing level of debt, associated risks and strategies to address management of the debt.

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There is need for fiscal prudence in management of County's resources and emphasis of operational efficiency,

to ensure that the County Government financing needs and payment obligations are met at the lowest possible cost in the market that is consistent with a prudent degree of risk, while ensuring that the overall level of public debt is sustainable.

This involves developing a strategic position to ensure that the servicing and management of County's financing requirements and payment obligations are met on a timely basis and at the lowest possible cost over the medium to long run.

Considering the current level of debt both inherited from the defunct Nairobi City Council and pending bills arising from County Government, the MTDMS 2022/2023 will reinforce measures geared towards reduction of County debt. The County will continue to maintain effective linkages with the National Treasury for effective debt management and provision of technical advice.

ALLAN ESABWA IGAMBI

COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE

AND ECONOMIC PLANNING

# Acknowledgement

The Medium-Term Debt Management Strategy (MTDMS) paper has been prepared as per the requirement of Public Finance Management (PFM) Act, 2012. It sets out the debt management strategy of the County Government over the medium term with respect to actual and potential liabilities.

The Debt Management Strategy Paper (DMSP) provides guidance on the amount and type of borrowing to undertake over the medium term. It evaluates the costs and risks of various Debt Management Strategies and provides recommendations on meeting its obligations geared towards clearing of debts.

As required by the PFMA the Medium-Term Debt Management Strategy Paper will be formally tabled to the County Assembly on or before 28<sup>th</sup> February 2022 and will be published and publicized.

To ensure circulation of the Medium-Term Debt Strategy Paper, it will be available in the County website. www.nairobi.go.ke.

I also take this opportunity to acknowledge the staff of the County Treasury who were involved in the preparation of the 2022/2023 Medium Term Debt Management Strategy Paper.

MOHAMED SAHAL

CHIEF OFFICER FINANCE AND ECONOMIC PLANNING

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# List of Abbreviations

B. Billion

CBA Collective Bargaining Agreement

CBK Central Bank of Kenya

CBR Central Bank Rate

DMD Debt Management Department

DMO Debt Management Office

FY Financial Year

GOK Government of Kenya

MTDS Medium Term Debt Strategy

MTEF Medium Term Expenditure Framework

PFMA/PFM Public Finance Management Act, 2012

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### **EXECUTIVE SUMMARY**

The accumulation of Government expenditure arrears is one of the most common problems in public financial management. Government debts are financial obligations incurred by any level of the public sector for which remain unpaid when due.

Payments may be overdue based on a particular legal obligation (such as payment of social security benefits, or salaries), a specific contractual commitment (such as payment for construction of a road), or a continuing service arrangement (such as payment for electricity supply).

Debt remains one of the major economic policy issues facing County Governments. Nairobi County Government (and its predecessor the defunct City Council of Nairobi) has been heavily in debt for decades.

The County Government debt portfolio comprises of both short and long-term debts. These include historical on-lent water loans taken to finance water infrastructure in the 1970's and Government guaranteed loans taken in the 1980's to finance construction of Umoja II housing project, pending bills to various contractors and suppliers of goods and services, utility companies, statutory bodies, loan from commercial bank and unpaid personnel emoluments.

Further, the County's debt portfolio worsened over the years due to failure to achieve revenue projections and high-compounded interest/penalties charged by the statutory creditors. This has made servicing of the debts quite a challenge and the result is an ever-growing debt portfolio.

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The County Government will ensure servicing debt is the primary concern for debt management. Measures will be introduced to strengthen debt management and establish a borrowing framework by ensuring that the County meets fiscal, legal, institutional and operational measures thus increasing transparency and accountability.

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# **CHAPTER ONE**

#### 1.0 MEDIUM TERM DEBT MANAGEMENT STRATEGY

#### Introduction

The PFMA Act, 2012 section 107(2e) requires that Nairobi City County debt be maintained within a sustainable level, as approved by the County Assembly, section 107(3) requires that short term borrowing be restricted to management of cash flows and not exceed 5% of recent audited Government revenue.

The 2022 MTDS will guide the County Government operations in 2022/2023. The strategy seeks to balance cost and risk of public debt while considering the financing needs of the County and to develop initiatives for new funding sources.

The principal objective of the County Government debt management is to meet the County Government financing requirements at the least cost possible with a prudent degree of risk. The secondary objective is to service and retire the existing debt portfolio in order to release resources to service delivery.

The Nairobi County Government Medium-Term Debt Management Strategy (MTDS is developed within the context of the Fiscal Responsibility Framework and guided by the Public Debt Management Act 2012 section 107(2e).

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#### 1.1 LEGAL FRAMEWORK

Section 123 of the PFM Act 2012 requires the County Treasury;

- 1. On or before the 28th February in each year, the County Treasury shall submit to the county assembly a statement setting out the debt management strategy of the county government over the medium term with regard to its actual liability and potential liability in respect of loans and its plans for dealing with those liabilities.
- 2. The County Treasury shall include the following information in the statement—
  - (a) The total stock of debt as at the date of the statement;
  - (b) The sources of loans made to the county government;
  - (c) The principal risks associated with those loans;
  - (d) The assumptions underlying the debt management strategy; and
  - (e) An analysis of the sustainability of the amount of debt, both actual and potential.
  - (3) As soon as practicable after the statement has been submitted to the county assembly under this section, the County Executive Committee member for finance shall publish and publicize the statement and submit a copy to the Commission on Revenue Allocation and the Intergovernmental Budget and Economic Council.

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## 1.2 SCOPE AND OBJECTIVES

The MTDS covers debts and potential liabilities i.e. it covers all loans and other debts that require payments of principal with or without interests by the County Government to the creditor at a date or dates in future.

The principal objective of the County Government debt management is to meet the County Government financing requirements at the least cost possible with a prudent degree of risk. The secondary objective is to service and retire the existing debt portfolio in order to release resources to service delivery.

The 2022 Medium-Term Debt Management Strategy (MTDS) will guide the County Government operations in 2022. The strategy seeks to balance cost and risk of public debt while considering the financing needs of the County and to develop initiatives for new funding sources.

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#### **CHAPTER TWO**

## 2.0 STOCK OF COUNTY DEBTS

The stock of debt is mainly composed of unpaid statutory deductions, unpaid suppliers and contractors and legal bills, utilities owed to Kenya Power and Nairobi water. There are also benefits owed to retired and deceased staff of the County as well a Commercial Bank loan.

It is worth noting that The County inherited a large debt portfolio from the defunct City Council of Nairobi, part of these debts are long-term loans taken from development partners for the expansion of water infrastructure in the 70's by the defunct Council and housing projects guaranteed by the National Treasury.

The debts remained in the books of the former City Council of Nairobi until the year 2013 when the County Government took over. Further, the County also inherited huge debts owed to various statutory creditors and merchants

The County debt as at 30<sup>th</sup> June 2021 was Kshs 76.9 Billion which includes Kshs 55.1B verified and Kshs 21.8B. not verified (book debts).

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Table I: Summary of Outstanding Liabilities as at 31<sup>st</sup> December 2020.

DEBT MANAGEMENT DEPARTMENT

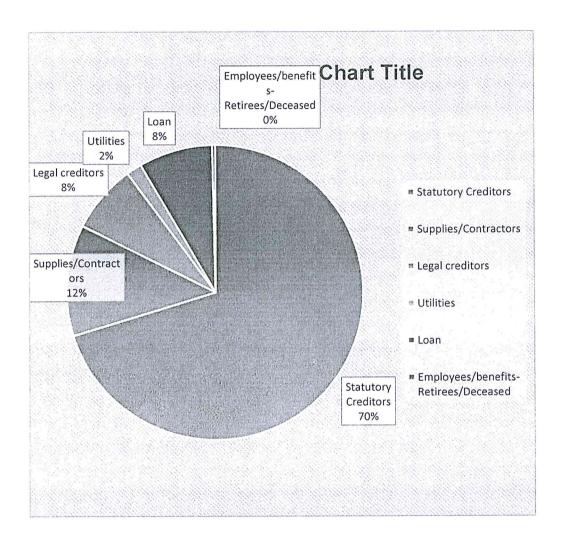
DEBT SUMMARY FOR YEAR ENDING 30<sup>TH</sup> JUNE 20 & 30<sup>TH</sup> JUNE 21

S/NO		30 <sup>TH</sup> JUNE 2020	30 <sup>TH</sup> JUNE	NET CHANGE
		oden 1900 - Oden State och Editionisch förter erdelter yda	2021	
1	STATUTORY			
	KRA(all taxes)	1,151,105,635	751,105,635	-400,000,000
	NSSF	381,157,936	381,157,936	0
	NHIF	0	0	0
	LAPTRUST	14,991,522,504	17,409,978,315	2,418,455,810
	LAPFUND	19,675,599,049	23,099,753,034	3,424,153,985
2	UTILITIES			
	KPLC	649,053,085	477,771,272	171,281,813
	WATER	234,997,059	234,997,059	0
3	OTHERS			
	LITIGATIONS	4,113,165,423	6,766,923,142	2,653,757,719
	LOANS & BANK	4,449,656,189	4,449,656,189	
	OVERDRAFTS			
	SUPPLIERS &	5,353,417,954	2,658,200,676	-2,695,217,278
	CONTRACTORS			
	STAFF RETIREES	173,583,267	138,208,116	-35,375,151
4	CONTIGENT			
	LIABILITIES		_	
	ACTURIAL DEFICIT	2,624,372,573	2,624,372,573	0
	(lAPTRUST)			
	GOK GUARANTEED	19,143,925,000	19,143,925,000	0
	LOANS			
	TOTAL	72,941,555,674	78,136,048,947	5,194,493,274

Source: NCCG Financial Statement

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# 2.1 STOCK OF COUNTY VERIFIED DEBT AS 31ST DECEMBER 2020



With strained County revenues and due to accrued interests and penalties especially on statutory debts, the County debt has continued to grow. The County Government has undertaken specific measures to reverse this trend.

These measures include:

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# • Pending Bills Committee -2013-2016

His Excellency the Governor of Nairobi County Established a pending bill committee by Gazette Notice No. 14-616 of 15<sup>th</sup> November 2013, known as Committee on Finalization of Pending Bills and Audit of Procurement Processes Chaired by Mr. Samuel Musembi . The committee verified the pending bills and gave the final report and recommendations.

# • 2<sup>nd</sup> Pending Bills Committee

By Gazette Notice No. 2101 of 9<sup>th</sup> March 2018, His Excellency the Governor of Nairobi County established another Committee on Finalization of Pending Bills and Audit of Procurement Processes.

The terms of reference and mandate of the Committee was among others, to analyze any unpaid claims or bills on account of provision of goods and services to Nairobi City County. The committee gave a final report of their recommendations on 28<sup>th</sup> February 2019. The pending bills were forwarded to the sectors for processing as per the recommendations.

# • Special Audit of the Pending Bills by OAG

The National Government keen on resolving the issue of pending bills through the Office of the Auditor General (OAG) conducted a special Audit of the Pending Bills and issued an audit report in May 2019. The OAG report verified and recommended the eligible pending bills for immediate payment and ineligible pending bills for further scrutiny.

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## • Remittance of statutory deductions from gross salary

The County Government has committed to remit the statutory deductions from gross salary every month as opposed to the past where the County was paying salaries without remitting the statutory deductions leading to huge accumulation of interest and penalties. This has helped check the previously ever increasing interest which are charged on compounded rate. It is evident that the marginal increment of the outstanding debt has significantly reduced as compared with previous years. We also intend to engage the funds for a reconciliation exercise and also negotiate on the interest.

## Annual Procurement Plan and Budget

Whereas every Sector in the County must come up with an annual procurement plan, the County is focused on adhering to procurement plans which must be tied to a realistic budget. In its daily operations the County is committed to follow the annual procurement plan and engage its professionals to come up with revenue forecasts that will guide in its expenditure plans.

We also intend to tie our expenditure on actual revenues collected by allowing sectors to only spend part of their budget which can be financed by actual cash in County's coffers.

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#### • Accounts Receivables

These are amounts owed to the County Government as at 30<sup>th</sup> June 2021 which have continued to accumulate with time as per the table below.

S/NO.	REVENUE STREAM/FY	30/06/2021	30/06/2020	30/06/2019	30/06/2018	30/06/2017
		KSHS.	KSHS.	KSHS.	KSHS.	KSHS.
1	SUNDRY DEBTORS	592,165,564	644,497,003	415,077,733	382,137,689	400,098,395
2	RENTAL HOUSES-EOTE	91,588,684	198,947,354	132,439,814	94,963,031	80,568,752
3	RENTAL HOUSES- EASTLANDS	254,128,096	205,419,929	140,902,441	92,809,848	71,178,585
4	RENTAL MARKET STALLS/TPS	94,782,336	114,593,792	82,256,347	68,901,023	72,863,953
5	LAND RATES	1,157,787,656,964	825,474,177,521	587,401,038,906	419,961,575,555	905,367,800,145
6	LOADING ZONES- PRIVATE	0	23,760,000	16,460,000	30,620,000	21,840,000
7	LOADING ZONES-GOK	449,960,000	787,124,800	677,600,800	577,100,800	559,080,800
8	OA & BILL BOARDS	333,667,701	268,054,967	281,206,502	209,022,876	173,575,525
9	SINGLE BUSINESS PERMITS	806,519,500	904,617,500	467,013,500	815,870,689	146,398,100
10	OUTSTANDING IMPRESTS	0	0	24,907,000	78,385,142	74,147,605
11	WAYLEAVES	226,893,711	115,048,003	946,143,955	860,130,868	752,140,672
12	KPLC	856,345,290	856,345,290	820,000,000	1,132,465,298	0
	TOTAL	1,161,493,708,846	829,592,586,159	591,405,046,998	424,225,597,677	307,719,692,532
	LAND RATES PENALTIES (INTEREST)	1,134,498,436,102 26,995,272,744				

The County is in the process of collecting the same by the use of the following strategies:

- Swap of Kshs 856m wayleave with electricity bills which currently stands at Kshs 692m.
- Robust debt collection unit to follow up on defaulters.

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- Issue of waiver on land rates to encourage compliance. (out of 825b rates amount 803b amounts to penalties and interest)
- Issuance of demand notices followed with enforcement upon expiry of the notices.
- Implementation of the Nairobi City County Revenue Administration Act 2021.

If the County is able to collect the above account receivables it will be easy to pay all the debts.

It is important to note that a significant percentage of the above receivables may not be collectable for the following reasons:

- Part of the Sundry Debtors are Ground rent and stand premium for plots that have been issued with tittle deeds and hence are now been charged Land Rates
- Rental Houses-Some of this houses have court cases like Joseph Kangethe
  Estate with claims that the county sold the houses making collectability of
  outstanding debts very doubtful.

A number of shops and kiosks in Gikomba (Quarry Market) also burnt down and have never been rebuilt. Our records continue adding annual debits to the accounts which are very unrealistic. Re-allocation of rental houses has also taken place after evictions necessitated by failure by tenants to clear their rental arrears. This reallocation leaves the debt of the old tenants in our records whose collectability is highly in doubt.

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Land Rates Records have duplications and uncollectable amounts especially from Government institutions.

In an effort to give a realistic figure for the collectable amount, we have formed a sub-committee to look into the records and give a list of all the accounts whose collectability is in doubt to submit to the assembly and request for authority to write off.

#### 2.2 SOURCES OF LOANS MADE TO THE COUNTY GOVERNMENT

The defunct Nairobi City Council had a credit facility with Equity Bank of Kshs 5B in the year 2011. Following successful negotiation, the outstanding loan balance of Kshs 3.3B was transferred to KCB bank. However, as at 31<sup>st</sup> December 2020 the loan balance was Kshs 4.4B, due to none payment of the principal, interest and penalties.

The County is at risk of losing its creditworthiness (reduced credit rating) hence affecting any future access to credit.

This paper recommends that we conduct an auction for all obsolete and idle assets and furniture and the proceeds realized be used to reduce the outstanding loan.

This paper also recommends that one source of our revenue, cess collection, to go towards repayment of this loan. The county treasury will come up with modalities of how this can best be implemented.

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## 2.3 PRINCIPAL RISKS ASSOCIATED WITH LOANS/DEBTS

DEBT CATEGORY	NATURE OF RISK	LEVEL OF RISK	MITIGATION
KCB Bank loan Kshs 4.4B	Changes in interest rates  Loss of credit worthiness	High	-Negotiation to restructure repayment by installment of Kshs 55m per month for 8 yearsReactivation of a call accountDisposal idle assets Cess
Statutory deductions of Kshs 38.7B	-Litigation -Freezing of Bank Accounts -Withheld pensions	High	-Negotiate for installment payments and stoppage of accrued interestEnsure current deductions are paid in fullForm a reconciliation team.
Outstanding Legal fees Kshs 4.1B	-Litigation	High	-Formation of a reconciliation teamNegotiate and spread the payments -Explore alternative dispute resolution i.e. mediation, arbitration
Employee terminal Benefits Kshs 173M	-Low staff morale -Depressed retirees	Medium	Payoff
Merchants Debts Kshs 6.7B	-Compromised service delivery -Litigation	High	Have a payment plan. Actualize cash flow management based on AIE.

Utilities Debt of	-Disruption of	Medium	-Negotiate debt swap
Kshs 927M	services		with Kenya Power.
			Set an office to
			handle KPLC issues.
			-Seek exemption for
			water bills for
			County
			facilities
Book debts	-Highly	High	-Write off with the
Kshs 21.8B	leveraged		authority of County
	organization		Assembly.



# 2.4 THE ASSUMPTIONS UNDERLYING THE DEBT MANAGEMENT STRATEGY

In the preparation of this Debt Management Strategy Paper the following assumptions were made;

- There will be constant growth of own source revenues upon full implementation of the revenue raising measures.
- The procurement will be tagged to actual cash flow.
- Base lending Rate will not increase.
- Top management will spearhead the negotiations with our creditors.
- The County will maintain a realistic balanced budget.
- The County to continue strengthening the Internal Control Systems.
- The macro economic factors will remain stable.

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#### 2.5 EMERGING ISSUES

Covid-19 has generally affected our revenue collection with some businesses closing and daily collection charges being affected by reduced working hours as a result of curfew that was imposed to curb the spread of the disease. We hope this trend to change favorably this coming period as we have witnessed the flattening of the curve and the Government relaxing some of the restrictions.

The forthcoming election year may also affect most of the county's revenue activities, and going with previous years' experience, it might pose a challenge to enforce revenue collection in some areas. We hope Revenue department with support of the area political leaders will craft a way of mitigating the extent of the effect.

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#### CHAPTER 3

#### 2.0 STRATEGIC MEASURES FOR DEBT MANAGEMENT

The following Debt Management Strategies have been proposed and will be

## 3.1 Revenue Enhancement measures

- Completion and implementation of the GIS based on new Valuation roll capturing all properties and locations and rates charged based on the current land value. The current land rates are charged based on 1980 Valuation roll. The new valuation roll will also cleanse the rates data base. This will increase rates from the current annual Kshs 2.8B to about 6B.
- Accurate data on single business permit increasing the number of registered businesses from current 188,000 to appx. 500,000 increasing revenue collection from 2b to appx. 5b.
- Operationalization of Finance Bill 2021.
- Mapping of the revenue streams to establish and increase actual potential.
- Implementation of the new integrated revenue management system with ability to integrate with all other collection platforms for efficient and effective revenue collection and monitoring.
- Operationalization of the revenue administration bill for efficient revenue management.
- Adoption of enhanced revenue forecasting methodologies which will result
  in realistic budgeting. This will ensure that the County does not commit
  funds well beyond its ability to honor them.
- Aggressive follow up on account receivables.

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3.2	Ex	pen	di	ture	Ca	p	ping
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The County should institute measures to control expenditure based on the actual revenue collected.

Procurement plan to be tied to cash inflows and not the budget.

Manage the debts by tracing and ensuring payment within the stipulated time.

Top management to constitute a committee with representatives from all sectors to oversee expenditure capping based on actual revenue collected.

### 3.3 Debt/Asset Swap

Swapping of debt between the County and NSSF is being implemented. The rates due from NSSF properties are cancelled against the County debt due to NSSF.

The County is in negotiation with KPLC to swap its debts against wayleaves owed to the County.

## 3.4 Debt Restructuring/Loan

The main objective of debt restructuring is to spread repayment of the loan over a number of years and negotiate on capitalization on interest so that it is not compounded. The County is in process of Negotiating to restructure repayment of KCB loan by installments of Kshs 55m per month for 8 years.

## 3.5 Current Creditors Payment

Prompt payment of current creditors to avoid accruing debts in the future as per the payment plan.

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3.6	Exemption	for	Water	Bills	from	<b>NCWSC</b>
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Nairobi water and sewerage company has in the past billed the County for water usage. Considering that NCWSC is a subsidiary of Nairobi County, plans are underway to negotiate the exemption of these bills.

## 3.7 Writing off debts: Contingent Liabilities (old book debts).

- These are Loans inherited from defunct City Council for infrastructure projects, whose records are unavailable both at the National and County government. They were guaranteed by the national government.
- The county did not maintain any records or documentation on these loans hence there is a possibility the debts have already been serviced by the National Government.
- In this regard the county is in the process of coming up with a debt management policy that will guide on County debts. In the absence of the records from National treasury negotiate with County Assembly for authority to write them off from our books of accounts.

#### 3.8 OUTSTANDING PENSION DEBT

The amount is huge and holds back efforts to roll out Voluntary Early Retirement Program which has the potential of drastically reducing the wage bill. A Committee has been formed to carry out a reconciliation of the outstanding debt with our repayments and also confirm the status of the documentation of the Debt/Asset swaps affecting Mariakani Estate taken over by LAPFUND.

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#### CHAPTER 4.

#### 4.1 SUMMARY/CONCLUSION

The Medium-term Debt Management Strategy for year 2021 outlines the County Government's strategic priorities for the management of the debt over the medium-term.

It provides an assessment of the relative costs and risks for the debt portfolio. MTDM considers alternative financing strategies to meet the broad objectives of rising adequate funding at the lowest possible costs at prudent levels of risk.

The paper focuses on clearing outstanding debt in the shortest possible time to avoid various risks such as litigation, high interest, penalties, loss of credit worthiness, depressed retirees, low staff morale, compromised service delivery and disruption of services among others.

Through the proposed debt management strategies such as, debt restructuring, revenue mobilization, debt swaps and collection of debts owed to the county by other entities, the County is focused on reducing debt to sustainable levels and eventually clearing all outstanding debts.

The County management should fast track formation of a committee that will ensure total expenditure including debt servicing costs do not exceed revenue collected, by tying all procurement to cash in flows. This will help in avoiding creation of more pending bills

There is need for constant monitoring and review of performance on progress made on medium term debt strategy.

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## REFERENCES

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