

COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – SIXTH SESSION

**39TH REPORT OF THE SELECT COMMITTEE ON COUNTY FINANCE,
BUDGET AND APPROPRIATIONS**

ON

THE CONSIDERATION OF THE REVENUE AND EXPENDITURE ESTIMATES FOR
THE NAIROBI CITY COUNTY GOVERNMENT, NAIROBI METROPOLITAN SERVICES
AND THE COUNTY ASSEMBLY FOR THE FY 2022-23

JUNE 2022

I.PREAMBLE

1.1. Background

Mr. Speaker Sir, the litmus test on whether a government has really shifted the parameters that matter to the populace between entry and exit from public office revolves around the improvement in quality and standards of living. It is not in doubt that the recent conclusion of the party primaries and the subsequent hand over of nomination documents to the electoral umpire is the penultimate proof that the lifespan of this second county assembly has come full cycle. To safeguard the financial sanctity of the County Government and ensure that the third County Government sets off on the right financial footing, the County Assembly is called upon to consider and give nod to these estimates of revenue and expenditures for the two arms of the County Government and the Nairobi Metropolitan Services (NMS). This consideration would mark the tenth time that the County Assembly has made a determination on revenues and expenditures, a period within which the Assembly has voted to the tune of Kshs. 300billion for improvement of County physical and health infrastructure, payment of contractors, improvement of work environment among other core fundamental commitments.

Mr. Speaker Sir, the provisions of Article 221 of the Constitution require that at least two months before the end of the financial year, the County Executive Committee Member for Finance should submit to the County Assembly, the estimates of the revenue and expenditure of the county government for the next financial year. On the same vein, the Clerk to the County Assembly is also required to table the estimates for the County Assembly Service Board with a copy remitted to the County Executive Committee Member for Finance for his comments. In line with the Deed of Transfer of Functions, this marks the last time that the County Assembly shall appropriate considerable amounts out of her kitty to fund the functions transferred to the national government. On a positive note, the estimates for the FY 2022-23 have been considered at a time when the hot lava associated with the corona virus pandemic has considerably cooled down thereby leading to return of normalcy in various aspects of human life.

Mr. Speaker Sir, due to constrained duration occasioned by the election timelines, the consideration of these estimates should have been concluded earlier than expected. However, to cover up for the delays in submission of the estimates occasioned by late approval of the County Fiscal Strategy Paper (CFSP), they have only been committed to the Finance, Budget and Appropriations Committee for consideration and reporting. It is noteworthy that whereas the expediency not to commit the estimates to Sectoral Committees poses the risk of removing that additional oversight handle, it does not in any way lower the bar as far as effective scrutiny and oversight is concerned.

1.2. Committee Membership

Mr. Speaker, the consideration of these estimates was steered by the County Assembly Finance, Budget & Appropriations Committee which consist of the following Members:

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|------------------------------------|-------------------------|
| 1. Hon. Robert Mbatia, MCA | Chairperson |
| 2. Hon. Patrick Karani, MCA | Vice Chairperson |
| 3. Hon. Emily Oduor, MCA | |
| 4. Hon. James Kariuki, MCA | |
| 5. Hon. David Okello, MCA | |
| 6. Hon. Emapet Kemunto, MCA | |
| 7. Hon. Herman Azangu, MCA | |
| 8. Hon. Cecilia Ayot, MCA | |
| 9. Hon. Jacinta Wanjiru, MCA | |
| 10. Hon. Michael Ogada, MCA | |
| 11. Hon. Elizabeth Nyambura, MCA | |
| 12. Hon. Daniel Ngengi, MCA | |
| 13. Hon. Nancy Muthami, MCA | |
| 14. Hon. Anthony Ngaruiya, MCA | |
| 15. Hon. J.M Komu, MCA | |
| 16. Hon. Fredrick Okeyo, MCA | |
| 17. Hon. Osman Adow, MCA | |
| 18. Hon. Susan Makungu, MCA | |

19. Hon. Nimo Haji, MCA
20. Hon. David Mberia, MCA
21. Hon. Kennedy Oyugi, MCA
22. Hon. Paul Ndungu, MCA
23. Hon. Wanjiru Kariuki, MCA
24. Hon. Catherine Okoth, MCA

1.3. Committee Mandate

Mr. Speaker Sir, the Nairobi City County Assembly Finance, Budget and Appropriations Committee is constituted under the provisions of Standing Order 199 and mandated to: -

- a) investigate, inquire into and report on all matters related to coordination, control and monitoring of the of the county budget;
- b) discuss and review the estimates and make recommendations to the County Assembly;
- c) examine the County Fiscal Strategy Paper presented to the County Assembly;
- d) examine Bills related to the county budget, including Appropriations Bills; and
- e) Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlay.

1.4. Examination of the Budget Estimates for the FY 2022-23

Mr. Speaker Sir, in reviewing the Budget Estimates for FY 2022-23, the Committee held virtual and physical meetings in which the Committee received submissions from the County Executive Committee Member responsible for Finance, the various Sectors, the Secretary to the County Assembly Service Board and the Nairobi Metropolitan Services. As required by various legislations, the Committee has taken into account all the submissions from the key stakeholders before finalizing this report.

1.5. Acknowledgments

Mr. Speaker Sir, the Committee wishes to express deep gratitude to the following: -

- a), Offices of the Clerk and the Speaker for immense support accorded throughout this process;
- b) Officers from the County Executive and the NMS, led by the County Treasury, who appeared before the Finance Committee for the purposes of making submissions on the estimates;
- c) Members of the Finance, Budget and Appropriations Committee who devoted their time in ascertaining that the task of reviewing the estimates is done conscientiously and within the limited statutory timelines; and
- d) The County Assembly Budget Office who unceasingly provided guidance and offered technical support to the Committees on the estimates.

Mr. Speaker Sir, on behalf of the Members of the Finance, Budget & Appropriations Committee, it is therefore my pleasure to present to this honorable House the Committee's report on the Estimates of Revenue and Expenditure for Financial Year 2022-23 and the medium term and recommend it to the Assembly for adoption.

Signed.......... Date.....22-06-22.....

Hon. Robert Mbatia, MCA

Chairperson: Finance, Budget and Appropriations Committee

II. SCRUTINY OF THE BUDGET ESTIMATES FOR THE FY 2022-23

A. Review of the overall Budget for the FY 2022-23

1. **Mr. Speaker Sir**, the submitted budget estimates indicate that in the coming financial year, which includes the end term period of the Second County Government and the third County Government, the County Government shall utilize not less than Kshs. 38.33billion. In line with the County Assembly approved ceilings in the CFSP the total resources to be channeled to recurrent programmes shall equal Kshs. 26.98billion while the capital projects are anticipated to consume Kshs. 11. 35billion. In comparison, these figures place the resources set aside for development at 29.6% of the overall budget therefore being a few points shy of the legally required threshold.

2. **Mr. Speaker Sir**, the tabled budget estimates for the FY 2022-23 has placed the allocations for transferred functions at Kshs. 20billion, being in consonance with the approved CFSP for 2022. With these allocations the amounts for transferred functions has been rationalized downwards by Kshs. 138million compared to the figures approved in Supplementary I FY 2021-22. Regarding the transferred functions, it needs no reminder that the Deed of Transfer of transfer of functions is expected to lapse in the FY2021/22 with handing over of the functions back to the County Government expected to occur in the first quarter of the FY2022/23. The impending general election scheduled for 9th August 2022 shall result into a new government which is poised to come up with development priorities and policies so divergent from the current government. In so doing the County Government shall gain comfort in the provisions of Section 108(2) of the Public Finance Management Act, 2012 provides that, *“if there is a change of county government, the new county government may deviate from the financial objectives in a County Fiscal Strategy Paper but may not deviate from the fiscal responsibility objectives.”* The Committee has therefore reviewed these estimates in the full glare of information on the likely scenarios post the general elections. It is for this reason that the Committee emphasized to the Nairobi Metropolitan Services (NMS) to provide a breakdown on the expected resource framework for

the individual transferred functions, information that was compiled and provided by NMS. Further, the Committee has reiterated to the various stakeholders on the need to make available all the fiscal documents resolved by the County Assembly during the consideration of the CFSP 2022.

3. Mr. Speaker Sir, to reward and retain a performing workforce as well as establish a skilled and adequate pool of employees in the County Public Service, the PSM in the FY 2022-23 has been allocated Kshs.1.993 billion that comprises of Kshs.1.918 billion for recurrent expenditure and Kshs.75 million for development expenditure whereas the County Public Service Board (CPSB) has an allocation of Kshs.191 million being Kshs.146 million for recurrent expenditure and Kshs.45 million earmarked for development initiatives. The Committee heard during the consideration of these estimates that the amounts allocated for the joint functions related to employee well-being and satisfaction are not adequate for the impending work. The Board submitted that they have planned out activities aimed at ensuring that promotions are done for those in acting positions, historical injustices are corrected, staff are trained in a timely manner and continuous stakeholder engagements are not interrupted. The Committee has considered the requests alongside the County's wide range of pleas for resources enhancements.

4. Mr. Speaker Sir, in the FY 2021-22, the County Assembly had a total budget of Kshs. 3 billion out of which Kshs. 1.545billion was for recurrent expenditure and Kshs. 1.506billion for development expenditures. The total budget for the County Assembly was rationalized in Supplementary I to Kshs. 1.63billion consisting of Kshs. 1.545billion for recurrent and Kshs. 93million for development. For the financial year 2022-23 the County Assembly budget estimates for recurrent expenditures is proposed at Kshs. 1.8billion and development expenditures at Kshs. 1.8billion bringing a total budget of Kshs. 3.7billion according to the tabled estimates for the County Government. The provisions of Section 129 (3) of the PFM Act, 2012 dictate that the Clerk to the County Assembly shall prepare budget estimates for the County Assembly and submit the same to the County

Assembly with a copy to the CECM for Finance for comments. The Committee observed that the consolidated budget for the County Government did not contain the breakdown of the budget for the County Assembly as required with the individual budget for the County Assembly also not tabled at the appointed time. Further, CECM for Finance, has also not been faithful in submitting his comments on the budget estimates for the County Assembly as required by the provisions of Section 129 (4) of the Act.

5. Mr. Speaker Sir, the draft County Allocation of Revenue Bill 2022 set the recurrent ceilings for the County Assembly at Kshs. 1.44billion, a figure that is almost Kshs. 400million less than the amounts contained in the tabled recurrent budget estimates for the County Assembly. Upon passage of the CARB the same may need to be reviewed and harmonized. **Mr. Speaker Sir**, of immediate concern to the Committee is the failure to put in place a Strategic Plan as required by the provisions of Section 149(2)(g) of the PFM Act, 2012. The guiding laws on budget making are unambiguous that for all intents and purposes, planning shall inform resource allocation thereby making the issue of lack of a plan an urgent misnomer that should be addressed.

6. Mr. Speaker Sir, in the aspiration of achieving a learned society devoid of illiteracy, the Education, Youth Affairs, Sports, Culture and Social Sector in the FY 2021-22 had a total annual budget of Kshs. 2.388billion with Kshs. 1.84billion allocated towards recurrent expenses and Kshs. 545.85million allocated towards development activities. The figures were reduced to Kshs.360.9million for development and to Kshs.1.819billion for recurrent activities in the approved Supplementary I. In the proposed budget estimates for FY 2022-23, the sector has a proposed allocation of Kshs.2.358billion with Kshs.1.933billion being towards recurrent activities and Kshs.425.3million for development. In review of the Sector estimates, the Committee noted that there is a weak link between the itemized and the program-based budget. In this regard, despite the increase in allocation for secondary school bursaries from the approved Kshs.207million in the FY2021-22 to Kshs. 257.5million the

beneficiaries remain static at 65,000. Further, the Committee noted that the Sector budget is filled with projects that have been residents in the budget books for several consecutive financial years, something that needs to be corrected.

7. Mr. Speaker Sir, in the FY 2021-22, the Finance and Economic Planning Sector had a total annual budget of Kshs. 2.2 billion with Kshs.2.15billion being for recurrent activities and Ksh.53million for development. During Supplementary I, the recurrent expenditure was revised upwards by Ksh.1.58billion to a new figure of Ksh.3.7billion. The development expenditure likewise was revised to Ksh.459million which was a 406million increase. The total new budget therefore stood at Ksh.4.1billion. For the financial year 2022-23 the Sector budget estimates indicate a sharp downward review to Kshs. 1.47billion out of which Kshs. 154million has been allocated to development programmes of purchasing motor vehicles, erection of perimeter wall at Nanyuki stores and purchase of breakdowns.

8. Mr. Speaker Sir, in a bid to boost food production and farming in the County, the Agriculture, Livestock, Fisheries, Forestry and Natural resources has in the FY 2022-23 been allocated Kshs.382.7 million which comprises of Kshs.285.7 million for recurrent expenditure and Kshs.97 million for development projects. During the review of the Sector estimates, the Sector submitted that it has faced a myriad of challenges in rolling out some of the donor funded projects due to the unwillingness of the County to remit their own share of the counterpart funding. The Committee further found out that most of the Sector's projects are repetitive in the budget documents in the last couple of years i.e. completion of animal clinics, installation of greenhouses & water harvesting tanks, construction of fish ponds among others.

B. Financing the 2022-23 Budget

9. Mr. Speaker Sir, the total County in flows for the FY 2022-23 are expected to be in tandem with the expenditure side of the budget at Kshs. 38.33billion consisting of Kshs. 19.25billion as equitable share, Kshs. 18.28billion as locally

mobilized revenues and Kshs. 800million as projected cash balances carried forward from the FY 2021-22. Review of the available data indicates that the projected OSR is proposed to decrease by Kshs. 1.4billion compared to the amounts approved in the annual and revised estimates for the FY 2021-22. Further, the tabled third quarter budget implementation report indicates that the actual revenue performance for the FY 2021-22 at the end of the third quarter the County Government had realized about Kshs. 7.7billion compared to about Ksh.8 billion realized the same period in the last FY 2021-22. This collection implies that the County is still over Kshs. 11billion shy of its annual target casting doubt on whether the same shall be realized by the end of the financial year.

10. **Mr. Speaker Sir**, once again the Committee notes that as it was in the previous financial year, there is still nonlinear disbursements of amounts due to the County Governments as equitable share of revenues. The third quarter revenue and expenditure report from the County Treasury indicates that the County had received Kshs. 9.5billion by the end of the March 2022 implying that there is still outstanding amount of Kshs. 10billion with the likely effect of overthrowing the ability of the County to spend those funds before the end of the financial year. Late disbursement of funds from the national kitty, as the Council of Governors has continuously pointed out, has the net effect of making Counties lame duck thereby limping in realization of objects and aspirations of devolution intended by Article 174 of the Constitution. Untimely drawdowns of revenues from equitable share coupled with subsidized internal revenue collections, the Committee laments, plant enough landmines for unreliable service delivery and constipation of counties' development agenda.

C. Review of Compliance of the Budget Estimates for The FY 2022-23 to the Prevailing Legislation

- 11. Mr. Speaker Sir,** tiptoeing through the contemporary legal infrastructure inhabited in the Constitution, existing statutes and our very own Standing Orders lead to the inescapable conclusion that the County Assembly has adequate ammunition necessary to discipline our budget processes. The position of the County Assembly and the budgeting process is clearly spelt out in the Chapter 12 of the Constitution, the PFM Act 2012, the PFM (County Government) Regulations 2015 and the County Assembly Standing Orders. The onus falls on the shoulders of the Finance, Budget and Appropriations Committee to incessantly confirm to the County Assembly that budget documents submitted to it pass muster in terms of conformity to the set legal and statutory requirements. This Section of the report therefore aims to draw the attention of this County Assembly to the level of compliance with the set legal parameters.
- 12. Mr. Speaker Sir,** in terms of adherence to the set timelines, the provisions of Article 221 and Section 129 (2) (a) of the PFM Act, 2012 require that the budget estimates be submitted to the Assembly at least two months before the end of the financial year together with any supporting documents and all bills that are necessary to implement the budget. In conformity with these provisions, the County Treasury submitted the itemized and the program-based budgets on 30th April 2022. The program-based budgets submitted are meant to provide information on the linkage of the resources requested for various activities to the outputs that the public would derive from such expenditures. It is noteworthy that the estimates were submitted at a time when the County Assembly was yet to pronounce itself on the budget ceilings as well as the strategic priorities for the coming financial year due to late approval of the CFSP 2022.
- 13. In addition, Mr. Speaker Sir,** as has been alluded to in the earlier part of this report the provisions of Section 129 (3) of the Act requires that the Clerk to the County Assembly also submits the estimates for the County Assembly Service

Board and a copy shall be submitted to the County Executive Committee member for finance. Further Section 129(4) requires that the County Executive Committee member for finance shall prepare and present his or her comments on the budget estimates presented by the county assembly clerk. The Committee once again could not ascertain how the CEC Finance complied with this provision as no evidence was presented during the budget consideration period. The Committee has insisted on the County Executive Committee Member for Finance to always ensure that this provision of law is complied with.

- 14. Mr. Speaker Sir,** it is further required by provisions of Section 129 (2) (b) of the Act that County Executive Committee Member for finance shall ensure that the estimates submitted in subsection (a) are in accordance with the resolutions adopted by County Assembly on the County Fiscal Strategy Paper. In this regard, the Committee appreciates the County Executive Committee Member for Finance for having engaged the accelerator pedal and ensured that the budget was aligned to the resolutions of this house as contained in the CFSP report. Except for the Education Sector which orally submitted contrary overall budget figures as contrasted with those contained in the ceilings, all the sectors have aligned their budgets to the ceilings as approved in the CFSP
- 15. Mr. Speaker Sir,** the provisions of Section 130 (1) of the PFM Act, 2012 additionally states that the budget summary submitted on the budget estimates shall include the following: -
- a) A summary of budget policies including revenue, expenditure, debt and deficit financing;*
 - b) A statement of how the budget relates to the fiscal responsibility principles and the financial objectives; and*
 - c) A memorandum by the County Executive Committee member for Finance explaining how the resolutions adopted by the county Assembly on the budget estimates have been taken into account.*

16. Mr. Speaker Sir, the importance of a budget summary is to provide the stakeholders in the budget hierarchy with a snapshot to the issues that are contained in the specific budget under consideration. Review of the submitted budget estimates for the FY 2022-23 review that it did not contain the budget summary as required by the provisions of the law. Therefore, it was a herculean task to prima facie comprehend the overall theme of the presented budget as well as attendant guiding philosophy on revenues, expenditures, debts, and debt financing. Lackluster revenue performance coupled with ballooning pending bills have been hypothesized as the parents to incomplete projects and improper budget implementation hence providing solutions to them in this budget would have been critical for this and next County Government. Drawing a clear road map on debt and deficit financing as well as on debt repayments that has outstretched the asset base of the county would set it off the blocks in gauging how the budget relates to the fiscal responsibility principles and the financial objectives of the County. Further, the Committee noted that the estimates failed in providing information on how the resolutions adopted by the county Assembly on the budget estimates have been taken into account by the County Executive Committee Member for Finance. Regarding adherence to the fiscal responsibility principles, the Committee notes that the County has been off track in ensuring that the wage bill is restricted within the 30% mark with actual expenditure on development being nothing to write home about. The Committee therefore recommends that measures be initiated to ensure that these deficiencies are corrected with finality.

17. Mr. Speaker, the provisions of Section 130 (1) (b) of the PFM Act, 2012 stipulates that the budget estimates shall include: -

- a) List of all county government entities that are to receive funds appropriated from the budget of the county government;*
- b) Estimates of revenue projected from the Equalization fund over the medium term;*
- c) All revenue allocations from the national government over the medium term including conditional and unconditional grants;*

- d) All other estimated revenue by broad classification;*
- e) All estimated expenditure, by Vote, and by programme, identifying both recurrent and development expenditure;*
- f) Information regarding loans made to the county government, including an estimate of the principal, interest and other charges to be paid by that county government in the financial year in respect of those loans;*
- g) Information relating to any payments and liabilities to be made or incurred by the county government for which appropriation is not included in an Appropriation Act, together with the constitutional or national legislative authority for any such payments or liabilities; and*
- h) A statement by the County Executive Committee Member for Finance specifying the measures taken by the county government to implement any of the County Assembly recommendations.*

18. Mr. Speaker Sir, once again the Committee commends the County Treasury for having adhered to the above statutory requirements save for the fact that the submitted estimates had no narration on how the County Treasury had implemented the resolutions of the County Assembly on the budget estimates for the FY 2021-22 as already pointed out earlier in this report.

19. Mr. Speaker Sir, the provisions of the PFM Regulations have provided additional handles that the County Government should consider while preparing and approving budget estimates. These include:

- a) All budget proposals shall be supported by the county government entity strategic plan;*
- b) All revenue and expenditure shall be entered into county government budget estimates;*
- c) Expenditure entered into the budget estimates shall be authorized for one financial year only;*
- d) Budget revenue and expenditure shall be balanced;*

- e) *Total budget shall cover total expenditure and therefore except as provided by legislation, there shall be no use of specific revenue to finance specific expenditure;*
- f) *The CECM- Finance shall cause to be conducted public hearings on the estimates and views received from the public included by the Accounting Officers.*

20. Mr. Speaker Sir, drawing parallels between the above provisions with the budget estimates under consideration point to the fact that the tabled budget estimates have details of revenues and expenditures included, expenditures are authorized for FY 2022-23 only, the revenue and expenditures are balanced and there are no earmarked expenditures not backed by legislation. However, as was the case during the consideration of the current year estimates, the Committee could not ascertain whether the County government entities have strategic plans to support the expenditures being requisitioned for the FY 2022-23. Specifically, as has been pointed out the budget estimates for the County Assembly Service Board were prepared and submitted without an enabling Strategic Plan that would provide overall direction against which the resources should be applied.

D. Summary of Key Issues Arising from Public Submissions

21. Mr. Speaker, the definitive role of the public on any affair that impacts on their lives cannot be underestimated and it is for this purpose that the provisions of Article 221 (5) of the Constitution and Section 131 (2) of the PFM Act, 2012 require that before the Assembly considers the estimates, the relevant Committee in finalizing its recommendations on the budget estimates to the Assembly shall take into account the views of the public in the proposed recommendations. In compliance to these legal provisions and to ensure that members of the public are integrated as major stakeholders in the budget process, the County Assembly placed an advert on the dailies seeking the written comments on the estimates. The Committee requested for submission of written memoranda due to the continued need to minimize one on one public gatherings as a way of controlling

the spread of the corona virus in line with the Ministry of Health guidelines. However, regrettably by the end of the submission grace period the Committee had not received any written memoranda on the estimates.

E. Looking Ahead- Action Points for the Third County Government

22. Mr. Speaker Sir, the hammer has fallen for this Second County Government at a time when there are many unresolved fiscal issues whose solutions must be found. An economy built to last must be devoid of medieval challenges that plagued world economies during their transition from colonization to self-rule. It is not in doubt that the retiring Finance Committee has done well in ensuring that the County Government remains within the fiscal corners required of it by Chapter 12 of the Constitution, but that should not blind us to the challenges whose solutions remain in the wilderness. The Committee therefore transmit the following as key issues that the next County Government should and must legally nip in the bud to remain on the path to development and prosperity.

23. Pending Bills, Debts and Account Receivables: It is an annual ritual that once in each financial year this County Assembly is called upon to consider and make determination on matters related to accrual of debt and settlement of such pending financial obligations. Despite this very well-intentioned provision of law, the County Government is still splitting hairs in an attempt to locate the silver bullet that would put to rest the issues associated with accrued outstanding commitments. The amounts owed as debts stood at over Kshs. 79billion as at September last year with corresponding amounts payable to the County Government also closing ranks with the Kshs. 1trillion mark. The attempts to fully clear the pending bills part of these amounts have not been fruitful with majority of the Kshs. 11billion verified pending bills likely to remain unsettled as at the end of this Second County Government. The National Treasury in solidarity with the many suppliers and contractors who are living at the mercy of banks and auctioneers undertook to support Counties in settlement of the bills but even that support has not gone a long way in achieving the intended

objectives. Therefore, the Finance Committee reports that this Second County Government has not fully harvested the low hanging fruits available to it and which would have been helpful to effectively roll out the debt management strategies contained in previously approved papers. The Third County Government therefore has its work cut out in ensuring that the intentions of this term are turned to tangible realities.

24. Conditional Grants Utilization: The import of conditional grants is to fill the gap on critical areas where ordinary budgetary allocation may not be sufficient. As at the time of drafting this report, the County Government was yet to receive conditional grants for two consecutive financial years related to the Road Maintenance Levy Fund with the amounts due as ASDP, DANIDA, KDSP among others facing numerous operational but avoidable challenges largely associated with failure to meet the attendant conditions. The issues related to proper response to audit queries, timely submission of reports, setting aside the required counterpart funding, proper accounting for funds utilization and identification of projects being some of the reasons for failing to access the conditional grants are matters that are not beyond reach for the County Government. Therefore, that remains an issue for pick up and solution to ensure that billions of shillings meant to revitalization of the County are accessed and used for that purpose.

25. Absorption of Development Budget and Roll over of projects: Going by past trends where on average about 10% of the allocations have been utilized in development the County closes its doors at the end of this regime with risks still looming large that allocations for development expenditures have been nothing short of dummy figures. The Committee has been concerned that over the years those responsible for implementation of development projects have been shifting goal posts on the main reasons for slow uptake of development funds. Among the reasons that have prominently featured include hindrances related to procurement processes, improper projects conceptualization, personnel issues, and late enactment of appropriation acts. The County Treasury and indeed all

stakeholders in the budget implementation chain are continuously called upon to come up with robust strategies that would hasten the tiresome approval process of development related activities and solve the procurement bureaucracies in the County. This would ensure that some of projects that have found their holding ground in the annual budget documents by being rolled over every year are implemented and new ones initiated. The next office holders must pick up the button and ensure that nothing slams the breaks on development budget utilization.

26. Wage Bill: Realizing the inherent risks associated with uncontrolled wage bill component, the drafters of PFM regulations set the bar for expenditure on wages and salaries at not more than 35% of total revenues. Upon domestication of these regulations in 2015, the County Government initiated measures to contain any extra growth of wage related expenditures with measures rolled out including non-replacement of staff leaving the service due to natural attrition, employment only for productive sectors, taking advantage of secondment and implementation of an effective voluntary early retirement programme. Despite this positive outlook, there has been somewhat lethargy in seeing some of these proposals to the end. For example, during previous deliberations the County Treasury admitted that the Voluntary Early Retirement Policy had been developed by Public Service Management and the County Public Service Board but not submitted to the County Assembly for approval therefore casting doubt on the commitment by the County to reduce the ever-ballooning wage bill that could soon cripple the critical county services because of failure in funding. The Committee submits that the County cannot continue skirting her way around issues related to the cost of the wage bill and solutions must now be found on how to return the county to the wage cap required by regulations.

27. Implementation of Ward Development Fund projects: Though strides have been made in ensuring that challenges related to the fund do not amputate the primary objective of equitable development of all the wards across the county, a lot remains to be done. The WDF Act 2014 was enacted as the real antibody that

would cure the perennial injustices that have so far been associated with malapportionment of County resources based on subjective parameters like party affiliation, loyalty among others. The Office of the Controller of Budget has continued to raise issues with the substratum of the Act and its relationship with the PFM Act 2012 with the latest assault being on how it lives to the expectations of Regulation 197 of PFM Regulations 2015. The next implementers of the WDF Act must go back to the drawing board with only one objective; that of striking a balance and coming up with a beneficial trade off that would ensure that the ward-based projects are implemented unperturbed.

28. Assignment of Accounting functions: The Committee is on record as having demanded of the County Executive Committee Member for Finance to give life to the provisions of Section 148 of the PFM Act 2012 by assigning them their full accounting functions. There has been attempt to this, but measures taken have barely scratched the surface if the County were to fully realize the spirit of the underpinning law. The import of ensuring that individual sectors are responsible for making, spending, accounting, and reporting on their budgets in a decentralized system is to knock off the negative externalities associated with the big brother syndrome mostly domiciled at departments of finance. Full compliance with Section 148 of the PFM Act, 2012 in letter and spirit should be a top priority for the next County Executive Committee Member for Finance and the Finance Committee.

29. Revenue collection and management: During the consideration of the budget estimates for the FY 2021-22, the Kenya Revenue Authority as the principal agent for revenue collection served the Committee with tantalizing menu of ideas on enhancement of revenue collection which were akin to the strategies contained in the CFSP 2021 key among them being consultative target setting, boost of available data on the respective revenue streams, policy formulation, robust enforcement, joint implementation of the Nairobi City County Revenue System and HR Management. The County Treasury submitted that the resources contained in the Sector as adequate for effective roll out of the

revenue enhancement measures. As a strong ally on enhancement of revenue collection, the County Assembly enacted the Finance Act 2022 which introduced a new rate struck, clarified on various fees and charges as well harvesting more rate payers to revenue basket. The Act also amended the existing laws on revenue administration, trade licensing, outdoor advertising, transport, solid waste management, liquor licensing and betting to make the administrative responsibilities for revenue collection clear, reduce discretion on enforcement and make penalties for tax evasion punitive. Despite these very far-reaching reforms, revenue outturn remains poor and changing this ignominy is proposed be top on the in-tray for the next administration as revenue collection is the real panacea for growth and sorting out most of the challenges pointed above.

F. Committee's Recommendations

a) Policy Measures

- 30. Mr. Speaker Sir**, the following resolutions of the County Assembly during the consideration of the County Fiscal Strategy Paper 2022 be implemented as resolved: -
- a) That during the fiscal transition from Second to the Third County Governments, the Nairobi City County Government and the Nairobi Metropolitan Services shall prepare and make available a compendium of all projects both complete and ongoing;
 - b) That during the fiscal transition from Second to the Third County Governments, the Nairobi City County Government and the Nairobi Metropolitan Services shall prepare and make available a compendium of all pending bills;
 - c) That the Nairobi City County Government and the Nairobi Metropolitan Services implements and finalizes the previously budgeted for projects before initiating any new ones;
 - d) That any undone projects contained in the County Integrated Development Plan 2017-2022 be the first priority projects for inclusion in the County Integrated Development Plan 2023-2027;

- e) That projects implementation be done in line with approved County plans as aligned to the Kenyan Vision 2030, Medium Term Plans, Budget Policy Statement and the Big Four Agenda;
- f) That the revenue raising measures to be implemented in the FY 2022-23 be discussed and modalities of operation be agreed upon between the Nairobi City County Government and Kenya Revenue Authority in line with the Deeds of Transfer of Functions;
- g) That during the fiscal transition from Second to the Third County Governments, the Kenya Revenue Authority shall prepare and make available a compendium of all revenue streams and their respective collection methods, revenue collection platforms, revenue bank accounts and collections figures during the transfer period;
- h) That during the fiscal transition from Second to the Third County Governments, the Kenya Revenue Authority shall prepare and make available a report on the weaknesses, strengths challenges, opportunities and risks to the County's revenue collection methods and accountability mechanisms; and
- i) That in addition to the requirements of the Public Finance Management Act 2012, the revenue raising measures be undertaken within the framework of approved County legislations. i.e. Nairobi City County Revenue Act 2015 as amended through the Nairobi City County Finance Act 2022, Nairobi City County Revenue Administration Act 2021 and Nairobi City County Trade Licensing Act 2019.

31. Mr. Speaker Sir, further, the Committee noted various critical issues during the consideration of the estimates which it would like addressed. In addition to the proposals contained in other parts of this report, the Committee proposes that the Assembly resolves as follows: -

- a) That the Nairobi Metropolitan Services and the County Treasury pursues measures to ensure full realization of the full amounts due to the Nairobi City County Government as equitable share in the FY 2021-22;
- b) That the Nairobi Metropolitan Services and the County Treasury pursues measures to ensure full disbursements of amounts due to the Nairobi City

- County Government as conditional grants in the FY 2021-22 and arrears from previous financial years;
- c) That the Nairobi City County Assembly fast tracks the preparation and rolling out of its Strategic Plan;
 - d) That the Nairobi City County Government fast tracks the preparation and rolling of spatial and sectoral plans;
 - e) That the Public Service Management and the County Public Service Board initiates measures to roll out the Voluntary Early Retirement programme including submission of attendant regulations to the County Assembly for approval before the amounts allocated are utilized;
 - f) That the Public Service Management and the County Public Service Board develops relevant regulations on the Car Loan and Mortgage Scheme and ensure that the same are approved before the amounts allocated are utilized;
 - g) That any amounts set aside for rolling out of Small and Medium Enterprises Revolving Fund be utilized subject to enactment of an appropriate policy framework;
 - h) That the Nairobi Metropolitan Services and the County Treasury in collaboration with the Kenya Revenue Authority ensures timely roll out of the new Valuation Roll; and
 - i) That the County Government ensures full implementation of the provisions of the Nairobi City County Finance Act, 2022 with information on such implementation submitted to the County Assembly in a quarterly basis.

b) Expenditure Adjustments

— Nairobi City County Assembly Service Board

- 1) That in line with approval in the County Allocation of Revenue Bill, 2022 the budget for the Nairobi City County Assembly be approved as follows:
 - Recurrent – Kshs. 1.447billion
 - Development – Kshs. 1.861billion
- 2) That in line with (1) above the itemized and program based budgets for the County Assembly Service Board be amended accordingly to reflect that change.

— **Nairobi Metropolitan Services**

- 3) That in line with the submission by NMS the individual budgets for the transferred functions be approved

— **Nairobi City County Government**

- 4) That budget for the Agriculture Sector be increased by Kshs. 105million for ADSP;
- 5) That the budget the budget for Disaster Sub- Sector be increased by Kshs. 100million to take care or disaster related issues;
- 6) That the budget for the PSM Sector be increased by Kshs. 90million for WIBA and GPA; and
- 7) That the budget for the Finance Sector be increased by Kshs. 100million for payment of pending bills

Mr. Speaker Sir, as we say proudly in the enduring words of 2 Timothy 4:7 that
“we have fought the good fight, we have finished the race and we have kept the faith”.
Therefore, in conclusion and pursuant to the provisions of Section 131 (1) of the Public Finance Management Act 2012 and Standing Order 222 (6) the Select Committee on County Finance, Budget and Appropriations recommends that:

This County Assembly adopts the Report of the Finance, Budget and Appropriations Committee on Consideration of the Budget Estimates for the Nairobi City County Government, the Nairobi Metropolitan Services and County Assembly for the FY 2022-23.

