

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(SECOND SESSION)

NCCA/TJ/PL/2023(18)

11TH APRIL, 2023

PAPER LAID

SUBJECT: COMMITTEE REPORT

Pursuant to Standing Order 196, I beg to lay the following Paper on the Table of the Assembly, today Tuesday, 11th April, 2023

— THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE INQUIRY REGARDING THE ABSORPTION OF INSPECTORATE OFFICERS EMPLOYED BY THE NAIROBI METROPOLITAN SERVICES (NMS).

(The Chairperson, Sectoral Committee on Labour & Social Welfare)

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

Approved
DS.

NAIROBI CITY COUNTY GOVERNMENT



NAIROBI CITY COUNTY ASSEMBLY
(THIRD ASSEMBLY- SECOND SESSION)

REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE
ON THE INQUIRY REGARDING THE ABSORPTION OF INSPECTORATE
OFFICERS EMPLOYED BY NAIROBI METROPOLITAN SERVICES (NMS)

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI

APRIL, 2023

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ACRONYMS

PSC Public Service Commission

NMS Nairobi Metropolitan Services

ANNEXURE

Submissions by Public County Service Board

Minutes

Frame work for the handover of the transferred functions from the National Government to the Nairobi City County Govenrnemt

1.0 PREFACE

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare is one of the Sectoral Committees established under Standing Order 209. The Committee is mandated under the 3rd Schedule of the Standing Orders to “*Investigate, inquire into and report on all matters related to ‘labour, trade union relations, manpower or human resource planning; County Public Service; youth, gender and social welfare.*”

MEMBERSHIP OF COMMITTEE

The Committee on Labour and Social Welfare comprises the following Members:

- | | |
|----------------------------------|------------------|
| 1. Hon. Allan Maina Githuku, MCA | Chairperson |
| 2. Hon. Wanjiru Kariuki, MCA | Vice Chairperson |
| 3. Hon. Joyce Muthoni, MCA | |
| 4. Hon. Anthony Kimemia, MCA | |
| 5. Hon. Catherine Okoth, MCA | |
| 6. Hon. Thuo Fiufiu, MCA | |
| 7. Hon. Nancy Mwaura, MCA | |
| 8. Hon. Oscar Lore, MCA | |
| 9. Hon. Kennedy Oyugi, MCA | |
| 10. Hon. Abbas Khalif, MCA | |
| 11. Hon. Absalom Onyango, MCA | |
| 12. Hon. Peter Mwangi, MCA | |
| 13. Hon. Benter Juma, MCA | |
| 14. Hon. Simon Maina, MCA | |
| 15. Hon. Paul Wachira, MCA | |
| 16. Hon. Paul Mathu, MCA | |
| 17. Hon. Joyce Lugonzo, MCA | |
| 18. Hon. Cicilia Wairimu, MCA | |
| 19. Hon. Jane Musangi, MCA | |
| 20. Hon. Jane Muasya, MCA | |

21. Hon. Farhiya Daudi, MCA
22. Hon. Evans Nyangicha, MCA
23. Hon. Agnes Njeri, MCA

Hon. Speaker,

On behalf of the Members of Sectoral Committee on Labour and Social Welfare, it is my pleasant duty and privilege to present the Committee's Report on its inquiry regarding the proposed absorption of inspectorate officers employed by the defunct Nairobi Metropolitan Services (NMS). The core objective of the said inquiry is to establish the status of redeployment of the inspectorate officers whose contract expired following the expiry of the NMS in November 2022.

In its inquiry Members looked into structure and the terms used to redeploy the inspectorate /cadet staff, budgetary allocation for the salary for the FY 2022/23.

APPRECIATION

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare wishes to thank the offices of the Speaker and the Clerk of the Nairobi City County Assembly for the support extended to it in the conduct of this inquiry.

Further, the Committee extends its gratitude to the Secretariat for their contributions during and after the investigation and compilation of this report.

Finally, I sincerely thank the Members of the Sectoral Committee for their commitment during the inquiry which contributed immensely to the compilation of this report.

SIGN.....

DATE.....11/03/2023.....

HON. ALLAN MAINA, CHAIRPERSON
SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

2.0 INTRODUCTION

Hon. Speaker,

The Committee Members noted with concern that the County Executive was in the process of recruiting the Inspectorate/cadet staff despite the expiry of Nairobi Metropolitan Services contract in November 2022.

The Committee deliberated on the said issue and resolved to conduct an inquiry on the structure, criteria and the terms used to redeploy the Inspectorate/cadet staff and the budget allocated for their salary. The County Public Service Board and the Ag. County Secretary were therefore invited to a Committee meeting to report on the same.

The County Public Service Board attended the meeting on Thursday, 9th March 2023. However, the Ag. County Secretary did not honour the two invitations forwarded to him and there was no written submission to explain his failure to attend.

Hon. Speaker,

The Committee wrote to the County Public Service Board inviting them for meeting to furnish the Committee with responses to the issues inquired about.

The County Public Service Board appeared before the Committee to submit their oral and written responses on Thursday 9th March 2023 and the Committee was dissatisfied with the recruitment given as it appeared that the criteria and the terms used to redeploy the Inspectorate/cadet staff were not legal. It is on this background that the Committee resolved to conduct an inquiry in order to investigate the procedure used to recruit the inspectorate staff.

3 0 THE INVESTIGATION

3.1 Public County Service Board Submissions

Hon. Speaker,

The County Public Service Board informed the Committee that they were not involved in the recruitment of the inspectorate staff and had intervened through various correspondences to the County Secretary and the Public Service Commission (PSC) advising on the same. The County Public Service Board on **27th January 2022** raised a concern to the Public Service Commission in regards to their continuous recruitment without approved County structure and establishment. In the letter County Public Service Board advised that due to huge wage bill the Nairobi City County would not be able to absorb staff recruited by defunct Nairobi Metropolitan Services (NMS) at the end of their contract.

On **13th October 2022**, The County Public Service Board wrote another letter to the County Secretary, requesting for explanation for transition of human resources to the Nairobi City County Government and be provided with :-

1. Recommendation/report from the Intergovernmental Relations Technical Committee (IGTRC) on transfer of functions and human resource from defunct Nairobi Metropolitan Services (NMS) to the County Public Service Board;
2. Referred Public Service Commission letter with terms to deed back to the human resource functions;
3. Request justification, structure and establishment that initiated the recruitment of the proposed officers by defunct Nairobi Metropolitan Services through Public Service Commission;
4. Recruitment process by Nairobi Metropolitan Services that was employed by Public Service Commission during recruitment;
5. List of all officers proposed by Nairobi Metropolitan Services proposed for absorption and their critical and essential services that they are offering and which otherwise cannot be offered by the existing NCCG officers;
6. The justification of recruitment of officers by Nairobi Metropolitan Services through Public Service Commission on contract beyond the term of deed of transfer; and

7. Substantive approved budget for the financial year 2022-2023 and any other document which shall be of essence to the request

The County Secretary responded to the County Public Service Board on 5th October 2022 by stating that following the lapse of the Deed of Transfer of Functions and on assumptions of the Office of the new administration, the Public Service Commission wishes to return Human Resource Functions by the attached terms.

a) **STAFF RECRUITED BY NMS THROUGH PSC (ENFORCEMENT)**

At the time of the transfer of functions, a thousand, hundred and seventy-two (1172) officers were identified for secondment to NMS.

However, this was later reviewed downwards to one thousand and ninety-nine (1099) to take into consideration the enforcement and security functions that were retained at the county. To address these gaps, NMS through PSC recruited two hundred and eighty-five (285) enforcement officers and six hundred and seventy-six (676) constables on a contractual basis to enable deployment to the then-newly created Directorate of Compliance & Service Delivery

No	Designation	Directorate	JG	Ae	In post	Variance	Duration of contract (yrs.)
1.	Enforcement officer II/ Compliance & Delivery officer II	Enforcement/ Compliance & delivery officer II	J	300	285	15	38 No Enforcement officers' Contracts end on 30/11/2022 while 246 contract ends on October 2024
2.	Security Warden 1	Enforcement	G	700	676	25	30/11/2022
		Totals		1000	961	40	

Recommendations from the County Secretary as contained in the submission from the Board

- The functions the officers undertake are crucial and essential and they should be absorbed by the county government and their terms of service be translated to permanent and pensionable; and
- Where the establishment has not been taken into account, the County should formalize it due to the expansion of its mandate.

4.0 COMMITTEE FINDINGS

The Committee made the following observations during the said meeting:

1. The Public Service Commission recruited the enforcement officers/cadets under Nairobi Metropolitan Services, yet Security and Compliance Sector was not a transferred function;
2. The County Public Service Board was never involved in the recruitment as the body mandated to recruit officers of the County Executive;
3. The contracts for the said officers expired in the month of November, 2022 following the expiry of the Deed of Transfer of Functions;
4. The County Public Service Board was not aware of the budgetary allocation in the County to cater for salaries of the said officers in the Financial Year 2022-2023;
5. The County is under no obligation to absorb the enforcement officers or any other officers recruited under the defunct Nairobi Metropolitan Services(NMS) unless the user departments have made a request to the County Public Service Board;
6. The County Service Board was not in receipt of the list of all officers proposed by NMS proposed for absorption;
7. The Cadets were recruited by the Public Service Commission whereas in the County Establishment do not have such cadres; and
8. The Ag. County Secretary did not honour the two invitations forwarded to him and there was no written submission to explain his failure to attend.

5.0 RECOMMENDATIONS

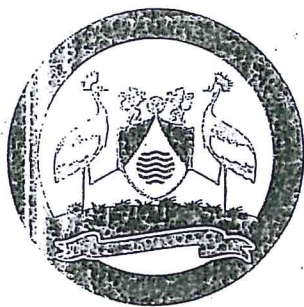
In view of the above investigation, the Committee recommends the following:-

1. That, the Public Service Commission did the recruitment for the Inspectorate/ Cadets on contract and that, the County Public Service Board was never involved

in the recruitment as the body mandated to recruit officers of the County Executive. Therefore, the Cadets should be redesignated by the National Government;

2. That, the County is under no obligation to absorb the enforcement officers or any other officers recruited under the defunct Nairobi Metropolitan Services (NMS) whose contract and term expired in November 2022 and without justification of recruitment beyond the term of deed of transfer;
3. That, the Security and Compliance Department as a user department should make their request to the County Public Service Board, on the need to have a recruitment for more inspectorate staff. In this regard, advertisement be placed and interviews done to employ; and
4. That the recommendations of this Committee be implemented with immediate effect.

NAIROBI CITY COUNTY



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Email: info@nairobi.go.ke
Website: www.nairobi.go.ke

City Hall,
P. O. Box 30075-0010,
Nairobi, Kenya.

COUNTY PUBLIC SERVICE BOARD

Ref: NCPSB/HRM/24/(66)

16th June, 2021

County Secretary
Nairobi City County
NAIROBI

RE: REQUEST FOR THE LIST OF NAIROBI CITY COUNTY STAFF SECONDED TO NMS/DISCLAIMER

Following the Consultative meeting held yesterday the 15th June, 2021, the Board noted that it was not provided with the comprehensive list of staff who were seconded to NMS and that NMS is purportedly conducting parallel recruitment in contravention of the law and provisions of the Deed of Transfer.

In the upshot, the Board requests your good office to provide us with a Comprehensive list of members of staff who were seconded to NMS per sector.

Further, the Board wished to register a **disclaimer** that due to the wage bill the County will not be able to accommodate/absorb staff being recruited by NMS when its term comes to an end. Kindly communicate the same.


Nyamwaya Nyagara
Ag. Board Secretary/CEO - CPSB

NAIROBI CITY COUNTY

Telephone: 020 2177325

Web: www.nairobi.go.ke



City Hall

P.O. Box 30075 – 00100,
NAIROBI

COUNTY PUBLIC SERVICE BOARD

Ref: NCPSB/HRM/17/(52)

13th October, 2022

County Secretary
Nairobi City County
Nairobi

RE: TRANSITION OF HUMAN RESOURCES TO THE NAIROBI CITY COUNTY GOVERNMENT

Reference is made to your letter Ref. NCC/HRM/1/3/2022 dated 5th October, 2022.

The Board has taken cognizance of your request, kindly but urgently provide us with the following:

1. Recommendation/report from the IGRTC Committee on transfer back of functions and human resource.
2. Referred PSC letter with terms to deed back the human resource functions.
3. Request justification, structure and establishment that initiated the recruitment of the proposed officers by NMS through PSC.
4. Recruitment process by NMS that was employed by Public Service Commission during recruitment.
5. List of all officers proposed for absorption and their critical and essential services that they are offering and which otherwise cannot be offered by the existing NCCG officers.
6. The justification of recruitment of officers by NMS through PSC on contract beyond the term of deed of transfer.
7. Substantive approved budget for the financial year 2022 – 2023 and any other document which shall be of essence to the request.

While reviewing the PSC terms as per your letter, kindly note that the Board shall also be guided by the approved budgetary allocation and the PFM Act on wage bill.

Find attached disclaimer letter from the Board to PSC dated 27th January, 2022 for your reference.



Nyamwaya Nyagara
Ag. Board Secretary – County Public Service Board

CC: H.E. The Governor
Nairobi City County

H.E The Deputy Governor
Nairobi City County

Chief Officer – PSM
Nairobi City County

NAIROBI CITY COUNTY

Telephone: 020 344194
Web: www.nairobi.go.ke



City Hall
P.O. box 30075-00100
Nairobi
Kenya

OFFICE OF THE GOVERNOR COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE

NCC/HRM/1/3/2022



5th October 2022

Secretary/CEO
County Public Service Board
NAIROBI

**RE: TRANSITION OF HUMAN RESOURCES TO THE NAIROBI CITY COUNTY
GOVERNMENT**

The above subject refers.

Following the lapse of the Deed of Transfer of Functions and on assumption of Office of the new administration, the Public Service Commission wishes to deed back Human Resource Functions in accordance with the attached terms.

A handwritten signature in black ink, appearing to read "Jairus Musumba".

DR. JAIRUS MUSUMBA, PhD
Ag. COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE

Copy to:-

H.E. The Governor
Nairobi City County

H.E. The Deputy Governor
Nairobi City County

Chief Officer – PSM
Nairobi City County

11/10/2022
Hq - Phase 2
Jairus

(c) STAFF RECRUITED BY NMS THROUGH PSC (ENFORCEMENT)

At the time of transfer of functions, one thousand, one hundred and seventy-two (1172) officers were identified for secondment to NMS. However, this was later reviewed downwards to one thousand and ninety-nine (1099) to take into consideration the enforcement and security functions that were retained at the County. In order to address these gaps, NMS through PSC recruited two hundred and eighty five (285) enforcement officers and six hundred and seventy six (676) constables on contractual basis to enable deployment to the then newly created Directorate of Compliance & Service Delivery.

Table 3: Enforcement Officers

No	Designation	Directorate	JG	AE	In post	Variance	Duration of Contract (yrs.)
1.	Enforcement Officer II/ Compliance & Delivery Officer II	Enforcement / Compliance & delivery Officer II	J	300	285	15	38 No Enforcement Officers' contracts end on 30/11/2022 while 246 contract end date is October 2024
2.	Security Warden 1	Enforcement	G	700	676	25	30/11/2022
Totals				1,000	961	40	

RECOMMENDATIONS:

- The functions the officers are undertaking are critical and essential and they should be absorbed by the county government and their terms of service be translated to permanent and pensionable terms for parity of treatment.

- Where the establishment has not been taken into account, the County should formalize due to the expansion of its mandate.

(d) STAFF RECRUITED BY NMS THROUGH PSC (ADMINISTRATION)

Due to the increased scope of services and projects and the need to modernize its equipment, NMS acquired thirty-one (31) vehicles under the National Treasury lease programme, purchased one hundred and eighty-seven (187) vehicles and equipment, installed and commissioned one (1) asphalt plant at Kangundo road and rehabilitated, stocked and refurbished the County garage and through the Public Service Commission recruited on contractual basis the underlisted cadres of staff to operate the equipment:

Table 4: Fleet Management

No	Designation	Directorate	JG	AE	In post	Variance	Duration of Contract (yrs.)
1	Chargehand I Mechanical -former Ex-KDF mechanics	Roads, Transport & Public Works	J	20	20	0	20 No. officers Contracts ends on 31/11/2022
2	Senior Plant Operator	Roads, Transport & Public Works	G	43	42	0	42No. officers Contracts ends on 31/11/2022
3	Chief Plant Operator	Roads, Transport & Public Works	H	30	28	2	2 years with effect 2021 ending March 2023
4	Chief Plant Operator-Asphalt Plant	Roads, Transport & Public Works	H	1	1	0	Two years up to 17/12/2022
5	Chief Driver	Support Services	H	115	113	2	2 years with effect 2021 ending March 2023
Totals				208	204	4	

RECOMMENDATIONS:

- It is noted that the assets and equipment have been reverted to the NCCG and the officers may be retained on need basis.
- The County to formally establish the offices and rationalize the deployment of the officers in accordance with their skills.

(e) STAFF SECONDED FROM OTHER COUNTIES

As part of promoting family values and diversity, NMS processed requests from five (5) officers in the Directorate of Health who made requests to transfer services and re-unite with their families who were residing in Nairobi. The requests were considered to fill the vacancies from staff exits of same cadres and job group. One (1) officer from Kisumu seconded upon request official driver of one of the NMS senior officer while the officer from Homabay County was on swop transfer approved by respective County Public Service Boards.

Table 5: Staff Seconded from Other Counties

S/No	County	No of Staff	Remarks
1.	Laikipia County	1	Transfer of Service approved by PSC vide letter PSC/1/17/ (21) dated 25th June 2020
2.	Garissa County	1	Transfer of Service approved by Nairobi County Public Service Board vide letter NCPSB/HRM/14/(106) dated 1st October 2020
3.	Uasin Gishu County	1	Secondment for three years(3) approved by PSC vide letter PSC/EMCS/29/VOL.VIII (64) dated 15th December 2021
4.	Vihiga County	1	Transfer approved by PSC vide letter PSC/1/7/1/(70) dated 3 rd March 2021
5.	Homa Bay County	1	Swop transfer approved by NCPSB vide letter NCPSB/HRM/14/ (125) dated 19th April 2022
6.	Kisumu County	1	To be considered for transfer of service to National Government
Total		6	

(f) OTHER CATEGORIES

- (i) **Uniformed officers seconded/deployed from Ministry of Defence, National Police Service and National Youth service**









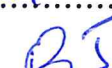







Seventy Nine (79) officers were seconded/deployed/attached to offer advisory, technical, security and support services in the performance of the transferred functions.

The officers are hereby released to their respective services for deployment or exit the service on expiry of their contracts. The county may however retain the officers on need basis.

SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE COMMITTEE
ADOPTION LIST

NAME

SIGNATURE

1. Hon. Allan Maina Githuku, MCA 
2. Hon. Wanjiru Kariuki, MCA 
3. Hon. Joyce Muthoni, MCA 
4. Hon. Anthony Kimemia, MCA
5. Hon. Catherine Okoth, MCA
6. Hon. Thuo Fiufiu, MCA
7. Hon. Nancy Mwaura, MCA 
8. Hon. Oscar Lore, MCA 
9. Hon. Kennedy Oyugi, MCA
10. Hon. Abbas Khalif, MCA 
11. Hon. Absolom Onyango, MCA 
12. Hon. Peter Mwangi, MCA 
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14. Hon. Simon Maina, MCA
15. Hon. Paul Wachira, MCA 
16. Hon. Paul Mathu, MCA 
17. Hon. Joyce Lugonzo, MCA 
18. Hon. Cicilia Wairimu, MCA 
19. Hon. Jane Musangi, MCA
20. Hon. Jane Muasya, MCA 
21. Hon. Farhiya Daudi, MCA
22. Hon. Evans Nyangicha, MCA 
23. Hon. Agnes Njeri, MCA 

MINUTES OF THE 1ST SITTING OF NAIROBI CITY COUNTY ASSEMBLY REGIONAL
COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON TUESDAY 4TH APRIL 2023
AT 11.00 AM. AT ASSEMBLY CHAMBERS.

PRESENT:

- | | |
|--------------------------------|------------------|
| 1. Hon. Allan Maina, MCA | Chairperson |
| 2. Hon. Wanjiru Kariuki, MCA | Vice Chairperson |
| 3. Hon. Kennedy Oyugi, MCA | |
| 4. Hon. Oscar Lore, MCA | |
| 5. Hon. Evans Nyangicha, MCA | |
| 6. Hon. Paul Mathu, MCA | |
| 7. Hon. Peter Maina, MCA | |
| 8. Hon. Cicilia Wairimu, MCA | |
| 9. Hon. Agnes Njeri, MCA | |
| 10. Hon. Benter Obiero, MCA | |
| 11. Hon. Catherine Okoth, MCA | |
| 12. Hon. Joyce Lugonzo, MCA | |
| 13. Hon. Absalom Odhiambo, MCA | |
| 14. Hon. Abass Khalif, MCA | |
| 15. Hon. Paul Wachira, MCA | |
| 16. Hon. Joyce Kamau, MCA | |
| 17. Hon. Nancy Mwaura, MCA | |

ABSENT

1. Hon. Anthony Kimemia, MCA
2. Hon. Thuo Fiunifu, MCA
3. Hon. Jane Musangi, MCA
4. Hon. Farhiya Daud, MCA
5. Hon. Simon Maina, MCA
6. Hon. Jane Muasya, MCA

SECRETARIAT – COUNTY ASSEMBLY

1. Ms. Mercy Riunga – Senior Clerk Assistant

MIN. 042/L&SW/MAR/2023: PRELIMINARIES

The Chairperson, called the meeting to order at 11.30 a.m and begun with a word of prayer. He took Members through the agenda which was adopted as proposed by Hon. Asolom Onyango and seconded by Hon. Agnes Njeri as follows:-

1. Preliminaries (Prayers & adoption of the agenda)
2. Consideration of report on the inquiry of the absorption of inspectorate officers employed by Nairobi Metropolitan Services (NMS)
3. Any other business
4. Adjournment

MIN. 043/L&SW/MAR/2023: CONSIDERATION OF REPORT ON THE INQUIRY OF THE ABSORPTION OF INSPECTORATE OFFICERS EMPLOYED BY NAIROBI METROPOLITAN SERVICES (NMS)

The Committee was taken through the inquiry report and they were in agreement with the findings and the recommendations. It was adopted unanimously.

MIN. 043/L&SW/MAR/2023: ANY OTHER BUSINESS & ADJOURNMENT

There being no any other business to consider, Chairman adjourned the meeting at 12:00pm. The next meeting was scheduled to be held on Wednesday 5th March 2023 at Committee room 12 at 11:00am.

CONFIRMED AS TRUE RECORDS OF PROCEEDING

CHAIRPERSON.....


DATE.....




THE NATIONAL GOVERNMENT
(THROUGH)
THE MINISTRY OF DEVOLUTION

&

THE NAIROBI CITY COUNTY GOVERNMENT

**FRAMEWORK FOR THE HANDOVER OF THE TRANSFERRED FUNCTIONS
FROM THE NATIONAL GOVERNMENT TO THE NAIROBI CITY COUNTY
GOVERNMENT**

THIS FRAMEWORK FOR THE HANDOVER OF THE TRANSFERRED FUNCTIONS FROM THE NATIONAL GOVERNMENT TO THE NAIROBI CITY COUNTY GOVERNMENT is made on this ~~30th~~ day of ~~SEPTEMBER~~ TWO THOUSAND AND TWENTY-TWO.

- I. The National Government of the Republic of Kenya, through the Ministry of Devolution and the ASALs ("the National Government ") on the first part and,
- II. The Nairobi City County ("the County Government") whose registered office is at City Hall, off City Hall Way. Nairobi on the other part.

(Each a "**Party**" and together the "**Parties**")

RECITALS AND DECLARATION OF COMMON INTENT

WHEREAS, the Parties executed the Deed of Transfer of Functions from the Nairobi City County Government to the National Government (the Deed) on 25th February, 2020;

WHEREAS, Article 3 of the Deed provides that the Nairobi City County Government unequivocally transfers the following functions to the National Government:

- (a) County Health Services;
- (b) County Transport Services;
- (c) County Planning and Development Services; and
- (d) County Public Works, Utilities and Ancillary Services.

WHEREAS, Article 9.1 of the Deed provides, in part, that the Deed shall remain in force for an initial renewable period of 24 months from the date of execution;

WHEREAS, Article 10.3 of the Deed provides, *inter alia*, that no variation or addition thereto and no waiver of any provision thereof shall be valid unless in writing signed by a duly authorized officer of both of the parties;

WHEREAS, the Parties executed the Further Addendum to the Deed on 8th March, 2022;

WHEREAS, Article 3.1 of the Further Addendum to the Deed extended the duration of the transferred functions by a further period of six months from 25th February, 2022 to 24th August, 2022;

WHEREAS, Article 3.2 of the Further Addendum provides that upon expiry of the Deed, there shall be a handover period of three months to ensure continuous service delivery;

WHEREAS the Parties seek to establish a framework for the handover of the transferred functions from the National Government to the Nairobi City County Government;

NOW THEREFORE, having regard to the foregoing, the Parties enter into this Framework for the Handover of the Transferred Functions from the National Government to the Nairobi City County Government and solemnly agree as follows:

ARTICLE 1: DEFINITIONS

- 1.1 The words and expressions used herein bear the same import and meaning as defined in the Deed.
- 1.2 The Deed means the Deed of Transfer of Functions from the Nairobi City County Government to the National Government entered into on 25th February, 2022.

ARTICLE 2: PRINCIPAL OBJECT

- 2.1 The principal object of this Framework is to make provision for the handing over of the transferred functions from the National Government to the Nairobi City County Government.

ARTICLE 3: SCOPE OF THE FUNCTIONS TO BE HANDED OVER

- 3.1 The following devolved functions that had been transferred from the Nairobi City County Government to the National Government vide Article 3 of the Deed hereby revert to and shall be undertaken by the Nairobi City County Government in accordance with the Constitution and all other applicable laws:

- (a) County Health Services;
- (b) County Transport Services;
- (c) County Planning and Development Services; and
- (d) County Public Works, Utilities and Ancillary Services.

3.2 The responsibility of collecting and remitting all revenue accruing from the above-listed functions hereby reverts to the Nairobi City County Government.

3.3 Staff and personnel who have been performing the transferred functions under the Nairobi Metropolitan Services shall be deployed as follows:

- (a) Staff and personnel who had been seconded to the Nairobi Metropolitan Services from either level of government shall be redeployed to their respective levels of government;
- (b) Staff and personnel who were employed by the Nairobi Metropolitan Services during the subsistence of the Deed shall be absorbed into the Nairobi City County Government's staff establishment subject to existing vacancies and based on Nairobi City County needs.
- (c) For those who will not be absorbed in line with (b) above, the Public Service Commission shall handle their deployment to government ministries and/or agencies based on their terms of employment.

3.4 The Public Service Commission and the County Public Service Board shall within 14 days from the date hereof prepare the necessary instruments and take the appropriate steps to effect the deployments and absorption in Article 3.3 above.

3.5 Any other matters that require resolution concerning the staff and personnel referred to in Article 3.3 above shall be resolved by the Public Service Commission and the County Public Service Board.

3.6 For the avoidance of doubt, staff and personnel who were employed by the Nairobi Metropolitan Services to discharge supportive roles in relation to the transferred functions shall be retained and remunerated by the Nairobi Metropolitan Services in accordance with their contracts of service.

ARTICLE 4: OUTSTANDING ISSUES

4.1 The Parties recognize that the following issues attendant to the transferred functions remain outstanding and shall be comprehensively and conclusively addressed in the course of the handover period:

- (a) Assets and liabilities, including pending bills;
- (b) Ongoing litigation;
- (c) Contracts and on-going projects; and
- (d) Any other matters.

4.2 The foregoing outstanding issues shall be considered and concluded by a Joint Committee appointed pursuant to Article 3.3 of the Further Addendum to the Deed, comprising representation from the National Government and the Nairobi City County Government, as further stipulated herein below:

(a) The National Government:

- (i) The Executive Office of the President;
- (ii) The Nairobi Metropolitan Services;
- (iii) The National Treasury and Planning;
- (iv) The Office of the Attorney General and Department of Justice;
- (v) The National Government entity responsible for devolution;
- (vi) The Kenya Revenue Authority; and
- (vii) The Public Service Commission.

(b) The Nairobi City County Government:

- (i) The Executive Office of the Governor;
- (ii) The Office of the County Attorney; and
- (iii) The County Public Service Board.

4.3 The Joint Committee, which shall be convened by the Attorney General, shall have the following sub-committees for the effective discharge of its mandate:

(a) The Sub-Committee on Assets and Liabilities, which shall address

issues concerning the transfer, ownership and responsibility for assets and liabilities (including pending bills), that have been acquired and or incurred in the context of the transferred functions under the Deed.

(b) The Legal Sub-Committee shall address issues concerning the conduct of ongoing litigation, to which the Nairobi Metropolitan Services is a party, that arose in the context of the transferred functions under the Deed, and any other arising legal matters;

(c) The Sub-Committee on Contracts and Ongoing projects, which shall address all matters around the management and administration of ongoing contracts and projects in the context of the transferred functions under the Deed, as well as any procurement processes that had been commenced but are yet to be concluded;

(d) Any other sub-committee to address other arising matters.

4.4 The Joint Committee shall conclude its mandate and submit a handover report to the National Government, through the National Government entity responsible for devolution, and to the Governor, Nairobi City County Government, not later than 30th October, 2022.

4.5 After receipt of the handover report, the Parties shall prepare a final instrument to signify the conclusion of the transfer of functions and all the attendant matters, to be executed not later than 23rd November, 2022.

ARTICLE 5: GENERAL

5.1 Parliament and the Nairobi City County Assembly shall be notified of this Framework for the Handover of the Transferred Functions from the National Government to the Nairobi City County Government.

5.2 No variation or addition to this Framework and no waiver of any provision shall be valid unless in writing signed by a duly authorized officer of both of the parties.

5.3 No forbearance or indulgence by either Party in enforcing any term or condition hereof shall prejudice or restrict that Party's rights or powers hereof and no waiver of any breach shall operate as a waiver of any subsequent or continuing breach.

ARTICLE 6: GOVERNING LAW AND DISPUTE RESOLUTION

6.1 This Framework shall be governed by and construed in accordance with the Laws of Kenya.

6.2 In the event of a dispute between the Parties herein arising from a matter provided for, governed by or arising out of this Framework the Parties shall first instance endeavor to resolve the dispute amicably through negotiations, but if the dispute is not resolved amicably within seven days from the date one Party notifies the other of the dispute in writing the parties shall refer the dispute to the Intergovernmental Relations Technical Committee.

IN WITNESS whereof of this Framework has been executed by duly authorized representatives of the parties the day and year first written above.

SIGNED BY:

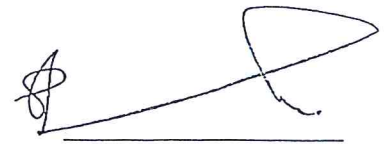
EUGENE WAMALWA

Duly authorized:

CABINET SECRETARY,
MINISTRY OF DEVOLUTION

In the presence of:

PAUL KIHARA KARIUKI
ATTORNEY GENERAL



SIGNED BY:

JOHNSON ARTHUR SAKAJA

GOVERNOR,
NAIROBI CITY COUNTY GOVERNMENT

In the presence of:

LYDIA KWAMBOKA
COUNTY ATTORNEY

