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19/09/2023



REPUBLIC OF KENYA

13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SENATE | 2<sup>ND</sup> SESSION

STANDING COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS

REPORT ON A PETITION ON THE REFURBISHMENT AND EXPANSION  
OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY GOVERNMENT  
OF KAJIADO

Clerk's Chambers,  
The senate,  
Parliament Buildings,  
NAIROBI.

**Rt. Hon. Speaker**  
You may approve for tabling  
J. M. Nyegenye, C.B.S.,  
Clerk of the senate/secretary, PSC  
Date: 19/09/23

September, 2023

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19/09/2023

APPROVED  
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25/09/23

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## **LIST OF ABBREVIATIONS/ACRONYMS**

|       |                                                    |
|-------|----------------------------------------------------|
| BQ    | Bill of Quantities                                 |
| IFMIS | Integrated Financial Management Information System |
| KUSP  | Kenya Urban Support Program                        |
| PFMA  | Public Finance Management Act                      |
| PS    | Principal Secretary                                |
| RAP   | Resettlement Action Plan                           |
| SDHUD | State Department for Housing and Urban Development |

## PRELIMINARIES

### 1. Mandate of the Committee

The Senate Standing Committee on Devolution and Intergovernmental Relations is established under the Standing Order 228 (3) and the Fourth Schedule of the Senate Standing Orders. The Committee is mandated to “*consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of county governments, cities, towns and urban areas.*”

### 2. Membership of the Committee

|                                          |   |                         |
|------------------------------------------|---|-------------------------|
| 1. Sen. Sheikh Mohamed Abbas, MP         | - | <b>Chairperson</b>      |
| 2. Sen. Catherine Muyeka Mumma, MP       | - | <b>Vice Chairperson</b> |
| 3. Sen. (Dr) Oburu Oginga, MGH, MP.      | - | Member                  |
| 4. Sen. Richard Momoima Onyonka, EBS, MP | - | Member                  |
| 5. Sen. Peris Pesi Tobiko, CBS, MP       | - | Member                  |
| 6. Sen. Mohamed Said Chute, MP           | - | Member                  |
| 7. Sen. George Mungai Mbugua, MP         | - | Member                  |
| 8. Sen. Hezena M. Lemaletian, MP         | - | Member                  |
| 9. Sen. David Wafula Wakoli, MP          | - | Member                  |

The Minutes of the Committee in considering the petition on the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado are attached to this Report as **Annex 1**.



## **CHAIRPERSON'S FOREWORD**

**Hon. Speaker,**

On 27th April 2023, the Senate received a petition from Kajiado municipality clothes market traders on the refurbishment and expansion of Kajiado municipality market by the County Government of Kajiado.

The petition was presented in the Senate by the Senator for Kajiado County, Senator Seki Lenku Ole Kanar, MP on behalf of the petitioners as provided for under Standing Order 232(1)(b) of the Senate Standing Orders. Consequently, the petition was tabled on the floor of the House on Thursday, 4<sup>th</sup> May 2023 and stood committed to the Committee pursuant to Standing Order 238(1) of the Senate Standing Orders.

**Mr. Speaker,**

The salient issues raised in petition were that, during the Financial Year 2020/2021 the County Government of Kajiado received an allocation of Kshs63,061,154.20 on 22<sup>nd</sup> July, 2021 from the World Bank via the State Department of Housing and Urban Development. The funds were meant to refurbish and expand the Kajiado Municipality Market to accommodate the clothes market vendors who had been displaced by the previous Kenya Urban Support Program (KUSP) project.

Additionally, that the tender process was undertaken by the County Government of Kajiado, and a contract awarded to Bellin Mark Contractors at a contract sum of Kshs 56,214,411.97. However, that the project was scaled down to less than 50% where critical infrastructure among them solar lights, control gates, water tanks, solid wastes sorting chambers, street-mounted solid waste bins, reconstruction of the market stormwater drainage channels, fittings and fixtures for the cultural high streets were all together left out with no corresponding review on the contract sum.

**Hon Speaker,**

The petitioners' prayers were that the Senate looks into the matter with a view of ensuring an

amicable solution into the issues raised in the petition as well as make any other relevant recommendations in its consideration of the petition. The Committee thereafter proceeded to consider the petition extensively and the submissions received thereon.

The Governor of Kajiado County, H.E Joseph Ole Lenku being a key respondent to the issues raised in the petition was invited to appear before the Committee. Having failed to honour three(3) invitations to appear before the Committee that is on 25<sup>th</sup> May 2023, 8<sup>th</sup> June 2023 and 19<sup>th</sup> June 2023 respectively, the Governor was consequently summoned to appear before the Committee on Monday, 3<sup>rd</sup> July 2023. The Governor appeared before the Committee on Monday, 3<sup>rd</sup> July 2023 together with other officials from the County Government where he made submissions on the issues raised in the petition. The petitioners were also present at the meeting. Further, the State Department for Housing and Urban Development presented their written report on the petition to the committee.

The committee also undertook a county visit to Kajiado County to inspect the market. The county visit was held on Monday, 24<sup>th</sup> July, 2023 where the committee inspected the Kajiado municipal market and held deliberations with the Deputy Governor, County Executive officials and the Director and National Coordinator for the Kenya Urban Support Program (KUSP) project at the State Department for Housing and Urban Development to determine the status of its construction. Based on its deliberations, the Committee has made various observations and recommendations which are set out at Chapter Four and Chapter Five of this report respectively.

**Hon. Speaker,**

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Petition successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment. Lastly, I wish to thank the stakeholders who appeared before the Committee to present their submissions on the petition. In particular I wish to thank the Governor of Kajiado County, H.E Joseph Ole Lenku who appeared before the Committee on this matter.

**Hon Speaker,**

It is now my pleasant duty, pursuant to Standing Order 228 (4) (a), to present the report of the

Standing Committee on Devolution and Intergovernmental Relations on its consideration of a petition on the refurbishment and expansion of Kajiado municipality market by the County Government of Kajiado.

Signed .....  .....

Date..... 18/9/2023 .....

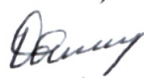
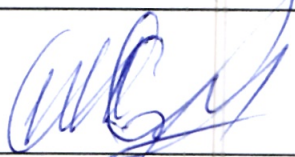
**SEN. SHEIKH MOHAMED ABASS, MP**

**CHAIRPERSON,**

**STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL  
RELATIONS**

**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION  
AND INTERGOVERNMENTAL RELATIONS ON THE PETITION ON THE  
REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET BY  
THE COUNTY GOVERNMENT OF KAJIADO**

**We, the undersigned Members of the Standing Committee on Devolution and Intergovernmental Relations, do hereby append our signatures to adopt this Report-**

|                                       |                  |                                                                                       |
|---------------------------------------|------------------|---------------------------------------------------------------------------------------|
| Sen. Sheikh Mohamed Abass             | Chairperson      |                                                                                       |
| Sen. Catherine Muyeka Mumma           | Vice-Chairperson |   |
| Sen. (Dr.) Oburu Oginga, MGH, MP      | Member           |  |
| Sen. Richard Momoima Onyonka, EBS, MP | Member           |  |
| Sen. Peris Pesi Tobiko, CBS, MP       | Member           |                                                                                       |
| Sen. Mohamed Said Chute, MP           | Member           |  |
| Sen. George Mungai Mbugua, MP         | Member           |  |
| Sen. Hezena M. Lemaletian, MP         | Member           |                                                                                       |

|                              |        |  |
|------------------------------|--------|--|
| Sen. David Wafula Wakoli, MP | Member |  |
|------------------------------|--------|--|



## **CHAPTER ONE: INTRODUCTION**

### **1.1. The Right to Petition**

1. The right of every person to present petitions to public authorities is provided for under Article 37 of the Constitution. Further, Article 119(1) provides that 'Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.'
2. Parliament enacted the Petition to Parliament (Procedure) Act (No. 12 of 2012) to make provision for the procedure for the exercise of this right. Further, Part XXVII of the Senate Standing Orders also makes provision of how this right may be exercised.

### **1.2. Background of the Petition**

3. On 27th April 2023, the Senate received a petition from Kajiado Municipality clothes market traders on the refurbishment and expansion of Kajiado Municipality market by the County Government of Kajiado.
4. The Petition was presented in the Senate by the Senator for Kajiado County, Senator Seki Lenku Ole Kanar, MP on behalf of the Petitioners as provided for under Standing Order 232(1)(b) of the Senate Standing Orders. Consequently, the Petition was tabled on the floor of the House on Thursday, 4<sup>th</sup> May 2023 and stood committed to the Committee pursuant to Standing Order 238(1) of the Senate Standing Orders.
5. The Petitioners drew the attention of the Senate to the following:
  - (1) That, during the Financial Year 2020/2021, the County Government of Kajiado received an allocation of Kshs63,061,154.20 on 22<sup>nd</sup> July, 2021 from the World Bank via the State Department of Housing and Urban Development. The funds were meant to refurbish and expand the Kajiado Municipality Market to accommodate the clothes market vendors who had been displaced by the previous Kenya Urban Support Program (KUSP) project of public square.
  - (2) That, it had been mutually agreed between the county government through the municipality and the traders under the Resettlement Action Plan (RAP) for the World Bank; that the traders will permanently be settled in the upgraded market within a

designated open, but roofed area for their business. In the meantime, the municipality was to provide a street where the traders would temporarily operate from during the transition period.

- (3) That, as a bare minimum, the refurbished market was to meet the following objectives-
  - a) Provide adequate and viable space for all the clothes traders.
  - b) Provide a business space to shed traders from environmental factors.
  - c) Provide traders a trading space that meets the health and sanitation standards.
  - d) Provide a one stop market for all merchandise where all town streets would be freed from street vendors thus guaranteeing all traders equal access to customers.
- (4) That, the mentioned conditions were adopted by the County Government, the World Bank and the State Department for Housing and Urban Development, as a condition for approving the 2019/2020 KUSP Project Expenditure.
- (5) That, in January 2021, the County Government of Kajiado put on its website a tender notice for the proposed Construction of Kajiado Market and other Works at Kajiado Town, as Tender No.2 of 2021/2022 and under IFMIS negotiation No.932676. The tender process was undertaken by the County Government, and the contract awarded to the Bellin Mark Contractors at a contract sum of Kshs56,214,411.97.
- (6) That, the project entailed the following: extension of roof cover and rainwater goods to ensure coverage of all the newly created trading space as outlined in the working drawings; coverage of the entire market space( inclusive of all walkways) with specified paving slabs to ensure cleanliness, sanitation and hygienic working environment, leaving no room for vegetation growth; doubling up the stalls capacity by ensuring all market-perimeter stalls are double-level to accommodate the ones to be demolished (to expand the open space trading capacity for the clothes vendors operating in the temporary location) and the establishment of over 150 new stalls were to be created to accommodate those whose stalls were to give way to open space for clothes vendors among other key elements.
- (7) That, despite this all the above elements were either scaled down to less than 50% while others, such as solar lights, control gates, rainwater goods, water tanks, upstairs



stalls, solid wastes sorting chambers, street-mounted solid waste bins, reconstruction of the market stormwater drainage channels, fittings and fixtures for the cultural high streets were all together left out. It is important to note that no corresponding review was made on the contract sum to give value for money.

- (8) That, the county government now claims that the market is complete and it is now whipping the traders to occupy the market despite the output of the market being a shadow of what was intended and budgeted for.
- (9) That, aware that Article 37 and 119 (1) of the Constitution provides for Petitions to Public Authorities and Government on any matter that the people of Kenya feel aggrieved by and aware that the Senate has the role of oversight.
- (10) That, the issue presented to this Petition had been raised with the relevant bodies, including the County Government of Kajiado. However, the issue has not been addressed.
- (11) That, to the best of the petitioners' knowledge the issues in respect of which the Petition was made are not pending before any court of law.

6. Therefore, the petitioners prayers were that the Senate looks into the matter with a view of ensuring the following:

- i) That any attempts by the County Government to force traders into the market shall be halted until an investigation is carried out on the money used versus the final outcome of the market.
- ii) That the State Department for Housing and Urban Development and the World Bank submit their status report to the Senate so as to ensure that taxpayers funds were well utilized through the oversight mandate of the Senate.
- iii) Should the complaints be found to be factual, the Senate to recommend a full-proof management system of Municipal/Urban area projects which are funded through third party collaborations or National Government guaranteed loans or grants. This may include but not limited to total financial accountabilities of Municipalities to County Assemblies as required by the PFMA.

7. Standing order 239 of the Senate Standing Orders requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 238 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

## **CHAPTER TWO : CONSIDERATION OF THE PETITION**

### **2.1 Conduct of inquiry into the petition**

8. Pursuant to the Senate Standing Orders and the Petition to Parliament (Procedure) Act, the Committee proceeded to consider the petition and to seek Stakeholder submissions.
9. The Committee resolved to write to the County Government of Kajiado to obtain an official response on the matters raised in the Petition. Consequently, a letter was sent out on 29<sup>th</sup> May 2023. The Manager of the Municipality of Kajiado provided a written response dated 5<sup>th</sup> June 2023. The State Department for Housing and Urban Development was also requested to submit their status report to the Committee.
10. Further, invitations were sent to the Governor of Kajiado County, the Manager of Kajiado Municipality and the Principal Secretary for the State Department of Housing and Urban Development to attend a Committee sitting and give their submissions on the issues raised in the petition.
11. The Governor of Kajiado County, H.E Joseph Ole Lenku having failed to honour three(3) invitations to appear before the Committee that is on 25<sup>th</sup> May 2023, 8<sup>th</sup> June 2023 and 19<sup>th</sup> June 2023 respectively, was consequently summoned to appear before the Committee on Monday, 3<sup>rd</sup> July 2023. The Governor appeared before the Committee on Monday, 3<sup>rd</sup> July 2023 together with other officials from the County Government where he made submissions on the issues raised in the petition. The petitioners were also present at the meeting. Further, during the meeting the State Department for Housing and Urban Development presented their written report on the petition to the Committee.
12. The Committee also resolved to undertake a County visit to Kajiado County to inspect the market. The County visit was held on Monday, 24<sup>th</sup> July, 2023 where the Committee first held meetings with the Deputy Governor, County Executive officials and the Director and National Coordinator for the KUSP project at the State Department for Housing and Urban Development. The Committee then went ahead to inspect the Kajiado Municipal Market to determine the status of its construction. After making its observations on the size, design, facilities, and the stalls allocated for the traders, the Committee held a brief meeting with the Petitioners, the Stakeholders and the traders to deliberate on the issues. The Committee also briefly toured the Public Square to check its status.



13. The submissions by the various stakeholders are analyzed and presented in the next chapter, that is Chapter Three of this report.

## CHAPTER THREE: ANALYSIS OF THE SUBMISSIONS

### 3.0 The Kenya Urban Support Program (KUSP Project)

14. The Principal Secretary(P.S) for Housing and Urban Development in his submissions before the committee gave a brief about the KUSP project. He stated that the Kenya Urban Support Program is funded through the World Bank and the Government of Kenya to operationalize the Kenya Urban Program. The program aims at strengthening urban management and improvement of urban infrastructure in selected urban areas in forty-five (45) counties, excluding Nairobi and Mombasa.
15. The P.S noted that the Financial Agreement which was signed between the Government of Kenya and the World Bank's International Development Association (IDA), the Ministry, acting through the State Department for Housing and Urban Development (SDHUD) has the overall leadership of the implementation of the KUSP.
16. The State Department's role in the program's implementation is limited to overseeing grant disbursements and provision of guidance on various areas namely: Urban Planning and Management; Infrastructure Management; Grants management; Institutional Development and Program Management Support.
17. Further, noted that the Municipal Board is expected to identify, prioritize, design, procure and execute its infrastructure investment activities, in line with the existing national laws and regulations, for activities funded under Window 3 of the program (Urban Development Grants). He added that the Counties in executing the projects are expected to exercise independence but in a responsible and accountable manner and in line with existing/National laws and regulations pertaining to the same.
18. In conclusion the P.S informed the committee that according to conditions of the grants given by the World Bank, if monies allocated for the project are found to have been misused or embezzled, the benefiting entity will not only be ineligible from benefiting from the next phase of the program but shall also be forced to refund the whole amount allocated for that project back to the World Bank.
19. During the County visit, the Director and National Coordinator for the Kenya Urban Support Program(KUSP) at the State Department for Housing and Urban Development stated that the State Department is in support of the Kajiado County Government for the steps it had taken

in ensuring the market traders are settled in the market before the second phase of the Kenya Urban Support Program begins.

20. He brought to the attention of the Committee and other stakeholders that the current phase of the program will end on 31st July, 2023 and the next phase of the program will start from 1st August, 2023 where Kajiado County is set to receive Kshs. 400,000,000/-.
21. He cautioned that if the issues between the petitioners and the County Government are not solved before the start of the next phase, then that will penalize Kajiado County from benefiting from the fund; he therefore urged the stakeholders that for the interest of the county, it was important that the matter is resolved expeditiously and concluded so that the Country is not held back from receiving the funds for the next phase of the program.

### **3.1 Amount allocated to the project**

22. The petitioners had stated in the Petition that during the Financial Year 2020/2021, the County Government of Kajiado received an allocation of Kshs63,061,154.20 on 22<sup>nd</sup> July, 2021 from the World Bank via the State Department of Housing and Urban Development. The funds were meant to refurbish and expand the Kajiado Municipality Market to accommodate the clothes market vendors who had been displaced by the previous Kenya Urban Support Programme (KUSP) project of public square.
23. The County Government of Kajiado in their written response highlighted that the correct amount received was Kshs 60,105,054.80 and NOT Kshs 63,061,154.20 as stated in the Petition. The Governor in his oral response before the Committee stated that the amount of money that was allocated and received by the Kajiado Municipal Municipality for the refurbishment and construction of the market is Kshs 62,796,083.78.
24. At the brief meeting held during the County visit, the Deputy Governor further reiterated that the amount received for the project was Kshs 62,796,083.78 as was stated by the Governor in his submission.

### **3.2 Implementation of the Resettlement Action Plan (RAP)**

25. The petitioners stated that it had been mutually agreed between the County government through the municipality and the traders under the Resettlement Action Plan (RAP) for the World Bank; that the traders will permanently be settled in the upgraded market within a

designated open, but roofed area for their business. In the meantime, the municipality was to provide a street where the traders would temporarily operate from during the transition period.

26. The County Government in their written response confirmed that indeed, a copy of the RAP was given to the traders' committee as their guiding and reference document. The RAP extensively explains how the laid-out conditions derived from the all-inclusive consultative process with the traders were implemented to their satisfaction. Further, the traders were allocated the street within Kajiado Municipality called Redemption Church Street. When the Governor appeared before the Committee, he confirmed this response and added that during this process none of the traders were harassed by the County Government but were given ample time to go about their businesses uninterrupted.

### **3.3 Standards for the refurbished market**

27. In the petition, the traders stated that the standards for the refurbished market did not meet their expectations which were to have; adequate and viable space for all the clothes traders which would shield the traders from environmental factors and a space that meets sanitation standards; also provide a one stop market for all merchandise where all town streets would be freed from street vendors thus guaranteeing all traders equal access to customers.
28. The County Government responded that the implementation of the project was anchored on the RAP and that there was no condition for adequate and viable space for ALL clothes traders as specified in the petition. What was agreed upon, as contained in the RAP, was resettlement of the 110 traders who were displaced during the implementation of the Public Square project. This is the official list that the World Bank, State Department, and Municipality have in their custody. This was confirmed by the Governor and the Manager for Kajiado Municipality in their oral submissions.
29. The County Government added that the market as constructed currently comprises Galvanized Iron (GI) roofing which provides shade, shields traders from rain and sunshine. They ensured the market meets the health and sanitation standards by; having a floor made of concrete paving slabs eliminating exposure to dust; reconstructing the existing drainages to improve safety and facilitate ease cleaning of the open trading sheds; installing appropriate



rainwater gutters and 4 water tanks each with a capacity of 10,000 liters to improve water capacity and overall sanitation standards.

### **3.4 Tender**

30. The County Government acknowledged that the contract sum for the project for the proposed Construction of Kajiado Market and other Works was Kshs. 56,214,411.97 as stated in the Petition, however that the IFMIS No. 932676 quoted by the petitioners is wrong and does not correspond to their tender documents. The correct and official IFMIS negotiation No. is 932655. Additionally, that the advertisement date for the tender was wrongly captured as January 2021. The correct date was 21<sup>st</sup> January 2021. This was also confirmed by the County Government in their oral submissions.

### **3.5 Project works**

31. The Petitioners highlighted some of the project works that failed to be implemented which were: extension of roof cover and rainwater goods to ensure coverage of all the newly created trading space; coverage of the entire market space( inclusive of all walkways) with specified paving slabs to ensure cleanliness, sanitation and hygienic working environment, leaving no room for vegetation growth; doubling up the stalls capacity by ensuring all market-perimeter stalls are double-level to accommodate the ones to be demolished (to expand the open space trading capacity for the clothes vendors operating in the temporary location) and the establishment of over 150 new stalls to accommodate those whose stalls were to give way to open space clothes vendors among other key elements.
32. In response, the County Government provided the summary of Bill of Quantities(BQs) and stated that the project was not solely focused on the extension of the market but entailed a number of key elements among them Road works, Mechanical works, Electrical Works, Landscaping and rehabilitation work, Water storage works and Waste management works. Drawing from the Bill of Quantities and Drawings, the market expansion was to create a floor area of 1200 square meters and projected to provide trading spaces for 150 traders. The spaces created were to cater for the 110 traders who were displaced during the implementation of the KUSP project (Public Square) and the remaining 40 spaces to cater for other traders. They managed to construct 24 market stalls and expand the main market creating a floor area of 800 square meters translating to 100 trading spaces totaling up to 124

new trading spaces. The 40 additional traders, who largely comprise cultural ware traders, would be accommodated within the remaining 14 spaces of the expanded market and the 54 spaces at the completed Cultural Trading Street.

33. The size of the space allocated was a major concern to the petitioners and the market traders who stated that it was not enough for them to do their business. The County Government acknowledged that the trading space given to the traders is not adequate. Further, the Deputy Governor in his response stated that the County government increased the size of the stall for the clothes traders from the initial 4 by 4 square feet, to 5 by 6 square feet after listening to the traders' plea for a bigger space. He also noted that they had jointly resolved with the petitioners that the traders move into the market and after settling, the County will plan to find ways of expanding the spaces.
34. Further, the County Government noted that the project variations realized and implemented during the execution of the permanent works, led to changes to the quantities, quality, positions and/or dimensions and additional work, plant, materials and services necessary for the permanent works. Consequently, in order to avoid cost overruns and to remain within the provisions of the BQ, various changes were made thereby scaling down the remaining scope of works, without compromising the main project objectives and the functionality of the infrastructural components. The variations the County responded to were done in line with the Public Procurement and Asset Disposal Act (2020).

### **3.6 Scaling down of the project**

35. The petitioners asserted that the project had been scaled to less than 50%, while others, such as solar lights, control gates, rainwater goods, water tanks, upstairs stalls, solid wastes sorting chambers, street-mounted solid waste bins, reconstruction of the market stormwater drainage channels, fittings and fixtures for the cultural high streets were all together left out with no corresponding reviews made on the contract sum.
36. The Governor in his submission noted that no element of the Bill of Quantities was scaled down to 50% and none was left out contrary to the petitioners' assertions. In the written response the County Government provided a list of works done which were as follows:
- i. Three (3) control gates
  - ii. Twelve(12) solar street lights were installed



- iii. Rainwater goods were done for all newly constructed market sheds and integrated with the existing market rainwater collection system
- iv. Four(4) water tanks were installed with a capacity of 10,000 Liters each.
- v. Twenty Four (24) storied stalls were done
- vi. Solid waste sorting chambers
- vii. Street mounted solid waste bin which were installed in the public square
- viii. Reconstruction of the market storm water drainage. This was done for all newly constructed sheds
- ix. Fittings and fixtures for cultural streets-trading units were done but NOT the display platforms

37. Additionally, the County Government highlighted that appropriate and requisite reviews were made on the individual Bills of Works affected by the variations and project payments were made in conformity with the actual scope and quantities of work done as portrayed in the Bill of Quantities.

### **3.7 Completion of the project**

38. The petitioners stated that the County government now claims that the market is complete and it is now whipping the traders to occupy the market despite the output of the market being a shadow of what was intended and budgeted for.
39. In their written response the County Government asserted that the project was complete as per the RAP, and indicated the amounts expended on the project based on the quantities of work done. The County Government averred that no fraud had taken place contrary to the petition filed against the County and the Municipality of Kajiado.
40. After deliberations from the Committee sitting, the Governor was asked to have a stakeholders meeting involving the petitioners with the aim of ensuring their concerns are amicably addressed. During the County visit, the Deputy Governor highlighted that they held three meetings with the petitioners which were successful and all the issues raised had been addressed and the market traders had agreed to move to the market to occupy the allocated stalls.

## **CHAPTER FOUR : COMMITTEE OBSERVATIONS**

41. Following stakeholder engagements and an analysis of the submission from the various stakeholders the Committee made the following observations:

### **4.1 Amount allocated to the project**

42. Regarding the amount allocated to the Kenya Urban Support Program (KUSP) project, the Committee observed that the amount of money that was allocated and received by the Kajiado Municipality for the refurbishment and construction of the market was Kshs 62,796,083.78 as was submitted by the Governor of Kajiado.

### **4.2 Implementation of the Resettlement Action Plan (RAP)**

43. The RAP extensively explains how the laid-out conditions derived from the all-inclusive consultative process with the traders were implemented to their satisfaction. Upon considering the Stakeholder submissions and inspecting the market, the Committee observed that the traders were allocated the street within Kajiado Municipality called Redemption Church Street where they would operate from temporarily as they waited to be permanently settled in the upgraded market.

### **4.3 Standards for the refurbished market**

44. The County Government's response stated that during the implementation of the project, there was no condition for adequate and viable space for **all** clothes traders as specified in the petition. What was agreed upon, as contained in the RAP, was resettlement of the 110 traders who were displaced during the implementation of the Public Square project.

45. The Committee found that the market has space allocated for the 110 traders who were displaced during the KUSP project and 14 extra spaces for other traders. The market has a roof made of Galvanized Iron (GI) sheets which provides shade, shields traders from rain and sunshine and was constructed to meet the health and sanitation standards.

### **4.4 Project works**

46. The County Government provided the summary of the Bill of Quantities. The Committee



observed that the project was not solely focused on the extension of the market but entailed a number of key elements among them road works, mechanical works, electrical works, landscaping and rehabilitation work, water storage works and waste management works. These were all part of the allocation by the Kenya Urban Support Program for the construction of the Public Square which was the main project. The amount allocated for construction of the market was ksh.14,000,000/= hence the larger amount was allocated for the road construction and other works.

47. Regarding the market expansion, the County Government managed to construct 24 market stalls in the multi-storey building. Further, they expanded the main market creating 124 new trading spaces to accommodate the 110 traders who were displaced during the KUSP project. The 40 additional traders, who largely comprise cultural ware traders, were accommodated within the remaining 14 spaces of the expanded market and the 54 spaces at the completed cultural trading street.
48. Additionally, the Committee observed that the size of the space allocated for the market traders was not enough for them to do their business. The County Government acknowledged that the trading space was still not adequate despite having increased the size of each space from the initial 4 by 4 square feet, to the current 5 by 6 square feet. The County Government submitted that they would allocate more trading space in the second phase(the second phase was meant to begin on 1<sup>st</sup> August, 2023) of the project where the market will be expanded.<sup>1</sup>

#### **4.5 Scaling down of the project**

49. The petitioners had submitted that some projects were scaled down to less than 50% and other works were all together left out. The County Government in their response noted that none of the projects was scaled down nor left out and went on to provide a list of works done which included;
- 1) Three(3) control gates
  - 2) Twelve (12) solar street lights were installed
  - 3) Rainwater goods were done for all newly constructed market sheds and integrated with the existing market rainwater collection system
  - 4) Four (4) water tanks were installed with a capacity of 10,000 Liters each

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<sup>1</sup> A photo of the allocated space is provided in pictorial one and two.

- 5) 24 storied stalls were done
- 6) Solid waste sorting chambers
- 7) Street mounted solid waste bin. This was put in the Public Square and not the market
- 8) Reconstruction of the market storm water drainage. This is done for all newly constructed sheds
- 9) Fittings and fixtures for cultural streets. Trading units were done but the display platforms were pending

50. Following the inspection of the market, the Committee observed that the projects highlighted were done as per the list provided by the County Government in their response.

#### **4.6 Completion of the KUSP project (Market and the Public Square)**

51. As for the expansion and refurbishment of the market, the Committee observed that the Kajiado municipality market is complete but needs a few improvements, mainly the size of the trading space allocated for each trader, that is, both the clothes traders and the cultural ware traders. This the County submitted as highlighted previously, would be dealt with in the second phase of the project where it is expected the market will be expanded hence more space will be availed to the traders.

52. The Committee toured the Kajiado public square which was the original project by the Kenya Urban Support Program that resulted in the relocation of the clothes traders pending construction of the market. At the public square, the Committee made the following observations;

- a) That the public square is yet to be completed with proper landscaping, installation and maintenance of security features like functioning street lights that are not limited to using solar energy.
- b) That the public square was spacious, well equipped with toilets, and has water tanks installed for water supply.

53. The Deputy Governor informed the Committee that the County Government is faced with a major challenge of water shortage within the area but efforts are being made to have a reliable source for water supply, which will aid in maintaining a green environment at the public square.

## **CHAPTER FIVE: COMMITTEE RECOMMENDATIONS**

54. Based on the observations above, the Standing Committee on Devolution and Intergovernmental Relations recommends that –

### **5.1. Expansion of the market under Phase 11 of the KUSP Project**

55. There was indication that Phase 2 of the project was scheduled to start on 1<sup>st</sup> August, 2023, the Committee therefore recommends that the County Government should engage with the traders when planning and implementing the project as is required in the Resettlement Action Plan(RAP). In the meantime, the traders should consider occupying the available spaces until more funding is availed for the project and the spaces are adequately increased for all the traders.
56. Having established that the space provided in the completed market for each trader that is the 5 by 6 square feet is inadequate, the County Government should as a matter of priority during the planning, design and implementation of phase two of the project increase the space to be occupied by each trader to a size agreeable between all concerned parties. Upon completion of the expansion under phase two, the County Government should reallocate some of the traders in the first phase to create more room for the traders.
57. The County Government should during their expansion of the market consider and create ease of access to the market for Persons with Disabilities(PWDs).
58. The County Government of Kajiado and the Ministry of Water, Sanitation and Irrigation should look into lasting solutions into the water supply problems in Kajiado Municipality and Kajiado County at large. The two entities should work to resolve the perennial water shortage faced by the traders and the residents of the County.

### **5.2 Status report**

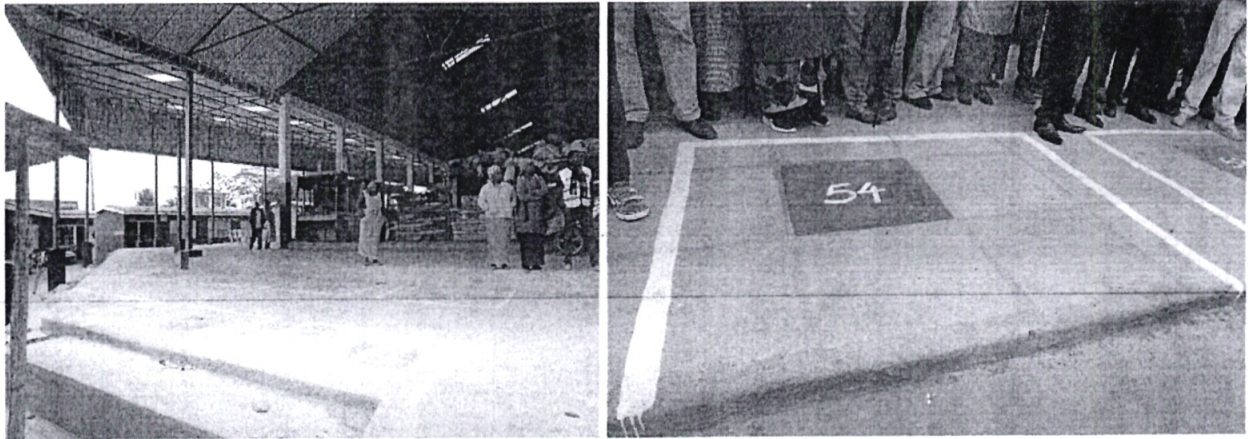
59. The County Government of Kajiado, the State Department for Housing and Urban Development and the World Bank shall submit their status report to the Senate during the undertaking and upon completion of phase 11 of the project. The report should highlight how issues raised by the petitioners have been dealt with.

### **5.3 Oversight of projects**

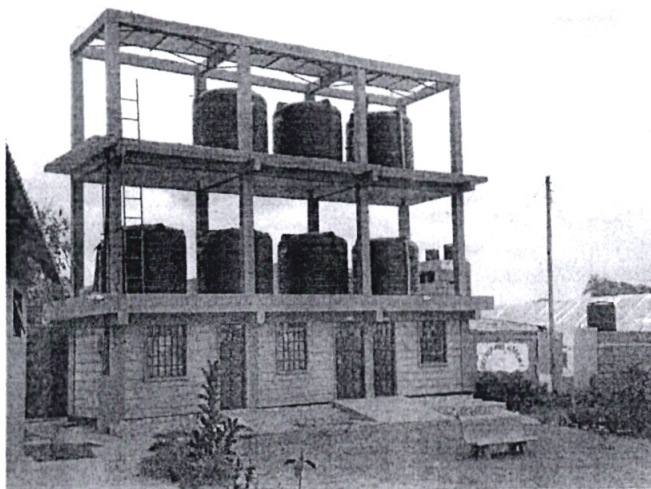
60. The committee shall re-evaluate the existing oversight framework for municipal/urban area projects which are funded through third party collaborations or national government guaranteed loans or grants. There is need to enhance financial accountabilities of municipalities to County Assemblies as required by the Public Finance Management Act, 2012.



**PICTORIALS: INSPECTION VISIT TO KAJIADO MARKET ON MONDAY,  
24<sup>TH</sup> JULY 2023**



Picture 1 and 2: Some of the spaces provided for the traders





Picture 3: Available water storage tanks



Picture 4: Access roads to the market



Picture 5: Sheds in the market



Picture 6: Stalls in the market



Picture 7 and 8: Committee members at the meeting with the stakeholders in the market



Picture 9: Committee members together with the stakeholders inspecting the market





## **ANNEXURES**

1. Minutes
2. Petition
3. Submissions

## LIST OF ANNEXTURES

|                |                                                                                                                    |
|----------------|--------------------------------------------------------------------------------------------------------------------|
| <i>Annex 1</i> | Minutes of the Standing Committee on Devolution and Intergovernmental Relations                                    |
| <i>Annex 2</i> | Petition on the Refurbishment and Expansion of the Kajiado Municipality Market by the County Government of Kajiado |
| <i>Annex 3</i> | Submissions made by the County Government of Kajiado                                                               |
| <i>Annex 4</i> | Submissions made by the State Department of Housing and Urban Development                                          |

***Annex 1:***

***Minutes of the Standing  
Committee on Devolution and  
Intergovernmental Relations***



**MINUTES OF THE SEVENTY FIFTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY 7<sup>TH</sup> SEPTEMBER, 2023 ON ZOOM VIRTUAL PLATFORM, AT 10.00 AM.**

**PRESENT**

- |                                          |                    |
|------------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP         | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP       | - Vice-Chairperson |
| 3. Sen. (Dr) Oburu Oginga, MGH, MP       | - Member           |
| 4. Sen. Richard Momoima Onyonka, EBS, MP | - Member           |
| 5. Sen. George Mungai Mbugua, MP         | - Member           |

**ABSENT WITH APOLOGY**

- |                                    |          |
|------------------------------------|----------|
| 1. Sen. Peris Pesi Tobiko, CBS, MP | - Member |
| 2. Sen. Mohamed Chute, MP          | - Member |
| 3. Sen. Hezena Lemaletian, MP      | - Member |
| 4. Sen. David Wafula Wakoli, MP    | - Member |

**SECRETARIAT**

- |                            |                                      |
|----------------------------|--------------------------------------|
| 1. Ms. Sylvia Nasambu      | - Clerk Assistant II(taking minutes) |
| 2. Mr. Walters Omondi      | - Legal Counsel II                   |
| 3. Ms. Mwanaamisi mwachasi | - Research Officer III               |
| 4. Mj. Reuben Kimosop      | - Serjeant-at-Arms                   |
| 5. Mr. Johnstone Simiyu    | - Audio Officer III                  |

**MIN/SEN/DEVIR/367/2023**

**PRAYER**

The meeting was called to order by the Chairperson at 10:15 am followed by a word of prayer by Ms. Sylvia Nasambu.

**MIN/SEN/DEVIR/368/2023:**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after being amended, and was proposed by the Sen. (Dr) Oburu Oginga, MGH, MP and seconded by the Vice Chairperson, Sen. Catherine Mumma, MP as follows:



1. Prayer
2. Adoption of the Agenda
3. Consideration of :
  - a) The Report on the conferment of City Status to Eldoret Municipality;
  - b) The Statement sought by Sen. (Dr) Boni Khalwale, CBS, MP on the efforts by Kakamega County Government to anchor in law the office of the Governor's Spouse; and
  - c) The Report on a Petition concerning the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado.
4. Any Other Business
5. Date of the Next Meeting and Adjournment

**MIN/SEN/DEVIR/369/2023:      CONSIDERATION OF THE REPORT ON THE  
CONFERMENT OF CITY STATUS UPON  
ELDORET MUNICIPALITY**

The Committee was taken through the Report by the Research Officer. Upon consideration of the proposed recommendations, the Members of the Committee made the following observations:

1. That the report should indicate that the municipality had earmarked space for new business hubs, and continual expansion and growth. The space was said to be 146,000 square acres;
2. That the Report should also provide that the City river needs to be safeguarded and protected from pollution; and
3. That the Report shall clearly indicate that the County, NOT the municipality, should prepare a proper spatial plan for the city.

Upon consideration of the draft report and recommendations, the Committee recommended that Eldoret Municipality be conferred upon City status, and consequently, the Report was adopted with the above amendments, as proposed by Sen. Richard Momoima Onyonka, EBS, MP, and seconded by the Vice Chairperson, Sen. Catherine Mumma, MP.

**MIN/SEN/DEVIR/370/2023:      CONSIDERATION OF REPORT ON A  
PETITION CONCERNING THE  
REFURBISHMENT AND EXPANSION OF  
KAJIADO MUNICIPALITY MARKET BY  
THE COUNTY GOVERNMENT OF  
KAJIADO**

This Report had been previously considered at the sixtieth(68<sup>th</sup>) sitting and Members had made several amendments to the Report.

At the sitting today, Members were taken through the amended Report. Pleased with the amendments, the Report was therefore adopted, as proposed by Sen. Richard Momoima Onyonka, EBS, MP, and seconded by the Vice Chairperson, Sen. Catherine Mumma, MP.

**MIN/SEN/DEVIR/371/2023**

**CONSIDERATION OF THE STATEMENT  
SOUGHT BY SEN. (DR) BONI KHALWALE,  
CBS, MP ON THE EFFORTS BY KAKAMEGA  
COUNTY GOVERNMENT TO ANCHOR IN  
LAW THE OFFICE OF THE GOVERNOR'S  
SPOUSE**

The Committee was informed that requested of the Statement, the Majority Whip was not in the Country and was therefore unable to join the Committee in its deliberations. The Members considered this and noted that the matter was of great public interest, but was not so urgent as to have them consider the matter in the absence of the requester.

In light of this, the Committee resolved to defer consideration of this matter to the next sitting.

**MIN/SEN/DEVIR/372/2023**

**ANY OTHER BUSINESS**

The Committee resolved not to have any other meetings during the week of 11<sup>th</sup> – 16<sup>th</sup> September, 2023, and to mobilize once the House resumes so as to successfully table the reports.

**MIN/SEN/DEVIR/373/2023**

**ADJOURNMENT AND DATE OF NEXT  
MEETING.**

The Chairperson adjourned the meeting at 10:50 am. The next meeting to be held on notice.

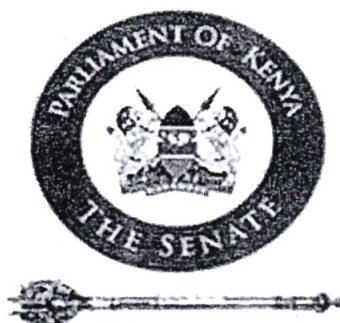
SIGNED.....

DATE.....18/09/2023

**SEN. SHEIKH MOHAMED ABASS, M.P  
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS.**







**MINUTES OF THE SIXTY EIGHTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY, 3<sup>RD</sup> AUGUST, 2023 AT, ROOM 24, FIFTH FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS AT 10.00 AM.**

**PRESENT**

- |                                    |                    |
|------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP   | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. (Dr) Oburu Oginga, MGH, MP | - Member           |
| 4. Sen. Mohamed Chute, MP          | - Member           |

**ABSENT WITH APOLOGY**

- |                                          |          |
|------------------------------------------|----------|
| 1. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 2. Sen. Peris Pesi Tobiko, CBS, MP       | - Member |
| 3. Sen. George Mungai Mbugua, MP         | - Member |
| 4. Sen. Hezena Lemaletian, MP            | - Member |
| 5. Sen. David Wafula Wakoli, MP          | - Member |

**SECRETARIAT**

- |                            |                                        |
|----------------------------|----------------------------------------|
| 1. Ms. Sylvia Nasambu      | - Clerk Assistant II                   |
| 2. Ms. Ann Kigoro          | - Research Officer II                  |
| 3. Mr. Walters Omondi      | - Legal Counsel II                     |
| 4. Mr. Desmond Rasugu      | - Clerk Assistant III (taking minutes) |
| 5. Ms. Mwanaamisi mwachasi | - Research Officer III                 |
| 6. Mr. Stanley Gekore      | - Media Relations Officer              |
| 7. Mr. Peter Kaparo        | - Serjeant-at-Arms                     |
| 8. Mr. Johnstone Simiyu    | - Audio Officer III                    |



**MIN/SEN/DEVIR/339/2023:**

**PRAYER**

The meeting was called to order by the Chairperson at 10:20 am followed by a word of prayer by Ms. Sylvia Nasambu.

**MIN/SEN/DEVIR/340/2023:**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted with amendments after being proposed by the Vice-Chairperson and seconded by Sen. Mohamed Chute, MP as follows;

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of the Previous Meetings (8 sets);
4. Matters Arising from the Minutes of the Previous Meetings;
5. Meeting with Sen. Alexander Mundigi, MP for consideration of the Statement on Disparities in development in Embu County;
6. Consideration of the draft report on the Petition concerning the Refurbishment and Expansion of Kajiado Municipality market by the County Government of Kajiado;
7. Any Other Business; and
8. Date of the Next Meeting and Adjournment

The amendments made were deferment of Agenda No.3; *Consideration of the Minutes of the Previous meetings*, since there was no quorum to confirm the Minutes that were presented; and Agenda No.5; *Meeting with Sen. Alexander Mundigi, MP for consideration of the statement on disparities in development in Embu County* since the Senator was not present at the meeting.

**MIN/SEN/DEVIR341/2023:**

**CONSIDERATION OF THE DRAFT REPORT ON THE PETITION CONCERNING THE REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY GOVERNMENT OF KAJIADO**

The Research officer took the Committee through the draft report of the petition regarding the refurbishment and expansion of the Kajiado Municipality market by the County Government of Kajiado. The report comprehensively covered all the key components of a report; i.e Preliminaries; Introduction, Analysis, Observations and Recommendations.

Upon consideration, the Committee made the following amendments to the draft report;

1. That in the Observations of the report, the number of traders that were displaced from the Public Square be indicated precisely as one hundred and ten (110) traders; and
2. Clearly state that the spaces of the market stalls measuring 4 by 4 feet was the initial space the County Government had proposed to allocate the market traders but upon the traders expressing dissatisfaction of the sizes, the County government expanded it to 5 by 6 feet.

The members were informed that once the amendments are effected, the report shall be presented to the Committee at its next meeting for adoption.

**MIN/SEN/DEVIR/342/2023**

**ANY OTHER BUSSINESS**

**Breakfast Meeting with IGRTC**

The members were informed that the Intergovernmental Relations Technical Committee (IGRTC) had invited the Committee to a breakfast meeting to be held on Monday, 7<sup>th</sup> August, 2023 at the Hilton Garden Inn Hotel, Machakos County.

Upon deliberation, the Committee resolved to honour the invitation and attend the meeting.

**MIN/SEN/DEVIR/343/2023**

**ADJOURNMENT AND DATE OF NEXT MEETING.**

The Chairperson adjourned the meeting at 11:20 am. The next meeting to be held on Monday, 7<sup>th</sup> August, 2023 at 9.00 am.

SIGNED.....

DATE.....18/09/2023

**SEN. SHEIKH MOHAMED ABASS, M.P**  
**CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND**  
**INTERGOVERNMENTAL RELATIONS.**







**MINUTES OF THE SIXTY SIXTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 24<sup>TH</sup> JULY, 2023 AT THE KAJIADO MUNICIPALITY MARKET AT 12:30 PM.**

**PRESENT**

- |                                    |                              |
|------------------------------------|------------------------------|
| 1. Sen. (Dr) Oburu Oginga, MGH, MP | - Member                     |
| 2. Sen. Peris Pesi Tobiko, CBS, MP | - Member ( <b>Chairing</b> ) |
| 3. Sen. George Mungai Mbugua, MP   | - Member                     |

**ABSENT WITH APOLOGY**

- |                                          |                    |
|------------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP         | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP       | - Vice-Chairperson |
| 3. Sen. Richard Momoima Onyonka, EBS, MP | - Member           |
| 4. Sen. Mohamed Chute, MP                | - Member           |
| 5. Sen. Hezena Lemaletian, MP            | - Member           |
| 6. Sen. David Wafula Wakoli, MP          | - Member           |

**IN ATTENDANCE**

- |                                  |                                              |
|----------------------------------|----------------------------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | - Senator, Kajiado County                    |
| 2. Hon. Martin Moshisho          | - Deputy Governor Kajiado County             |
| 3. Mr. Hamilton Parismei         | - CEC, Lands, Housing & Urban Development    |
| 4. Mr. Eddy Kimani               | - Chief officer, Housing & Urban Development |
| 5. Mr. James Saruni              | - Manager, Kajiado Municipality              |
| 6. Dr. Charles Konyango          | - Director and National Coordinator, KUSP    |
| 7. The petitioners               | - Kajiado market traders                     |



## **SECRETARIAT**

- |                            |                                        |
|----------------------------|----------------------------------------|
| 1. Ms. Sylvia Nasambu      | - Clerk Assistant II                   |
| 2. Mr. Walters Omondi      | - Legal Counsel II                     |
| 3. Mr. Desmond Rasugu      | - Clerk Assistant III (taking minutes) |
| 4. Ms. Mwanaamisi mwachasi | - Research Officer III                 |
| 5. Mr. Jack Lemetek        | - Media Relations Officer              |
| 6. Mr. John Kampule        | - Serjeant-at-Arms                     |
| 7. Mr. Johnstone Simiyu    | - Audio Officer III                    |

## **MIN/SEN/DEVIR/332/2023:**

### **INSPECTION OF THE KAJIADO MUNICIPAL MARKET TO ASCERTAIN THE STATUS OF ITS CONSTRUCTION AND A TOUR TO THE KAJIADO PUBLIC SQUARE AND THE CULTURAL STREET.**

#### **Inspection of the Kajiado Municipal market**

The Committee, accompanied by the Deputy governor, the County Executive Members present and the petitioners, did an inspection of the Kajiado Municipal Market where it took a scrutiny of the state of the market; its size, design, facilities, and the stalls allocated to the various traders in the market.

After making its observations, the Committee held a joint meeting with all the stakeholders present and the following issues were deliberated;

1. The acting chairperson informed the traders that the Committee had looked into their petition and the Committee's visit to the County was a fact-finding mission by the Committee on the issues raised in the petition. She stated of the commitment of the Senate in protecting their interests and assured them that the findings and observations made by the Committee during the visit were going to be taken into account before determination and conclusion of the matter.
2. The petitioners submitted as follows;
  - a) Stated that they had held three meetings with the County Government in which they agreed to move to the market;
  - b) Further stated that traders agreed with the county government to expand the stalls at the earliest opportunity after they settle in; and
  - c) Urged the Committee to ensure that the County Government fulfils the agreement to have their spaces expanded after they settle.
3. The Deputy Governor submitted as follows;
  - a) Stated that the 24 stalls in the multi storey building in the market are spaces to be given to the traders who were relocated from the Public

Square. He further stated that more stalls of that nature will be built in future since they occupy less space in terms of land;

- b) informed the Committee that the original design will not change in the construction of the new stalls;
- c) stated that the county government increased the size of the stall for the clothes traders from the initial 4 by 4 square feet, to 5 by 6 square feet after listening to the traders' plea for a bigger space;
- d) Stated that the county government and the petitioners had jointly resolved that the petitioners move into the market; and
- e) Stated that the county government has long term plans of putting in place the necessary amenities in the market including a proper sewerage system.

4. The National Coordinator for the Kenya Urban Support Program submitted as follows;

- a) Stated that the current phase of the program will end on 31<sup>st</sup> July and Kajiado County is set to receive 400,000,000/- in the next phase of the Program commencing 1<sup>st</sup> August, 2023.
- b) Urged the stakeholders to conclude on the matter so that the County is not held back from receiving the funds set for in the next program.

#### **Tour to the Public Square**

The Committee proceeded to tour the Cultural Street and the Kajiado Public Square which was the original project by the Kenya Urban Support Program that resulted to the relocation of the clothes traders pending construction of the market.

At the Public Square;

- a) The Committee observed that the public square is yet to be completed with proper planting and maintenance of grass and trees and installation of security features like functioning street lights.
- b) The Committee further observed that the public square was spacious, well equipped with toilets, and has installed water tanks for water supply.
- c) The Deputy Governor informed the Committee that the County Government is faced with challenges inadequate water supply within the area, but there is every effort to have a reliable source of supply, for greening the public square.
- d) The Deputy Governor further clarified that the amount which was allocated for construction of the market was about ksh.14,000,000/- which was part of the 62,000,000/- allocated by the Kenya Urban Support Program for the construction of the Public Square which was the main project.



MIN/SEN/DEVIR/333/2023

ANY OTHER BUSSINESS

There was no any other business.

MIN/SEN/DEVIR/334/2023

ADJOURNMENT AND DATE OF NEXT  
MEETING.

The acting Chairperson adjourned the meeting at 2:15 pm. The next meeting to be held on Monday, 31<sup>st</sup> July, 2023.

SIGNED.....

DATE.....18/09/2023

**SEN. SHEIKH MOHAMED ABASS, M.P**  
**CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND**  
**INTERGOVERNMENTAL RELATIONS.**



**MINUTES OF THE SIXTY FIFTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 24<sup>TH</sup> JULY, 2023 AT THE BOARDROOM OF THE OFFICE THE GOVERNOR OF KAJIADO COUNTY, AT 11.00 AM.**

**PRESENT**

- |                                    |          |
|------------------------------------|----------|
| 1. Sen. (Dr) Oburu Oginga, MGH, MP | - Member |
| 2. Sen. Peris Pesi Tobiko, CBS, MP | - Member |
| 3. Sen. George Mungai Mbugua, MP   | - Member |

**ABSENT WITH APOLOGY**

- |                                          |                    |
|------------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP         | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP       | - Vice-Chairperson |
| 3. Sen. Richard Momoima Onyonka, EBS, MP | - Member           |
| 4. Sen. Mohamed Chute, MP                | - Member           |
| 5. Sen. Hezena Lemaletian, MP            | - Member           |
| 6. Sen. David Wafula Wakoli, MP          | - Member           |

**IN ATTENDANCE**

- |                                  |                                              |
|----------------------------------|----------------------------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | - Senator, Kajiado County                    |
| 2. Hon. Martin Moshisho          | - Deputy Governor Kajiado County             |
| 3. Hamilton Parismei             | - CEC, Lands, Housing & Urban Development    |
| 4. Mr Eddy Kimani                | - Chief officer, Housing & Urban Development |
| 5. Mr, James Saruni              | - Manager, Kajiado Municipality              |
| 6. Dr. Charles Konyango          | - Director and National Coordinator, KUSP    |

**SECRETARIAT**

- |                       |                                        |
|-----------------------|----------------------------------------|
| 1. Ms. Sylvia Nasambu | - Clerk Assistant II                   |
| 2. Mr. Walters Omondi | - Legal Counsel II                     |
| 3. Mr. Desmond Rasugu | - Clerk Assistant III (taking minutes) |



- |                            |                           |
|----------------------------|---------------------------|
| 4. Ms. Mwanaamisi mwachasi | - Research Officer III    |
| 5. Mr. Jack Lemetek        | - Media Relations Officer |
| 6. Mr. John Kampule        | - Serjeant-at-Arms        |
| 7. Mr. Johnstone Simiyu    | - Audio Officer III       |

**MIN/SEN/DEVIR/328/2023: PRAYER**

The meeting was called to order at 11:13 am by the Deputy Governor of Kajiado County followed by a word of prayer Mr. Eddy Kimani.

**MIN/SEN/DEVIR/329/2023:**

**MEETING WITH THE DEPUTY GOVERNOR OF KAJIADO FOR BRIEFING ON THE SETTLEMENT OF THE KAJIADO MUNICIPALITY MARKET TRADERS BY THE COUNTY GOVERNMENT OF KAJIADO.**

The meeting began by a round of introductions by all those who were present. The Deputy Governor Hon. Martin Moshoshi welcomed the Committee to Kajiado County stating that it was a pleasure to host the Committee since the County government acknowledges with gratitude, the role that the Senate plays in protecting and advancing the interests of the Counties and their governments. He offered the apologies of the Governor for his absence at the meeting and stated that he was out of the Country on official duties.

The Deputy Governor and the County Executive officials present, briefed the committee on the steps the County Government had taken since its last meeting with the Committee in addressing the issues raised by the petitioners (market traders) as follows;

1. That the County Government had held three meetings with the petitioners since July, 4<sup>th</sup> 2023 aimed at reaching a consensus in addressing the concerns raised by the petitioners;
2. That the meetings were successful and the major issues raised by the petitioners had been addressed as the market traders had wilfully agreed to move to the market to occupy the allocated stalls;
3. That from the meetings, the County Government was looking forward to settle all the 110 clothe traders to the market in one week's time;
4. That the County Government acknowledges that the trading space given to the traders is not adequate, however, after the traders settle, the County will plan to find ways of expanding the spaces; and
5. That installation of a sewerage system was not part of the KUSP project, but the County Government has got a long-term plan to ensure a god drainage system is in place in the market.

Dr. Charles Konyango, Director and National Coordinator for the Kenya Urban Support Program at the State Department for Housing and Urban Development, conveyed the apologies of the Principal Secretary Mr. Charles Hinga, CBS, for his absence and stated that he was out of the Country for official duties. He submitted as follows;

1. That the State Department for Housing and Urban Development is in support of the Kajiado County Government for the steps it had taken in ensuring the market traders are settled in the market before the second phase of the Kenya Urban Support Program begins;
2. That the next phase of the program will start from 1<sup>st</sup> August, 2023 where Kajiado County is set to receive **KSh. 400,000,000/-**;
3. Cautioned that if the issues between the petitioners and the County Government are not solved before the start of the next phase, then that will penalize Kajiado County from benefiting from the fund; and
4. He urged the stakeholders that for the interest of the county, it was important that the matter is resolved expeditiously.

MIN/SEN/DEVIR/330/2023

ANY OTHER BUSSINESS

There was no any other business.

MIN/SEN/DEVIR/331/2023

ADJOURNMENT AND DATE OF NEXT MEETING.

The acting Chairperson adjourned the meeting at 11:55 am. The next meeting to be held same day at 12:30 pm at the Kajiado Municipal Market.

SIGNED.....

DATE.....18/09/2023

**SEN. SHEIKH MOHAMED ABASS, M.P**  
**CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND**  
**INTERGOVERNMENTAL RELATIONS.**





**MINUTES OF THE SIXTY SECOND SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON TUESDAY, 4<sup>TH</sup> JULY, 2023 AT THE SENATE CHAMBER AT 10.00 AM**

**PRESENT**

- |                                    |                    |
|------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP   | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. (Dr) Oburu Oginga, MGH, MP | - Member           |
| 4. Sen. Peris Pesi Tobiko, CBS, MP | - Member           |
| 5. Sen. Mohamed Chute, MP          | - Member           |
| 6. Sen. George Mungai Mbugua, MP   | - Member           |

**ABSENT WITH APOLOGY**

- |                                          |          |
|------------------------------------------|----------|
| 1. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 2. Sen. Hezena Lemaletian, MP            | - Member |
| 3. Sen. David Wafula Wakoli, MP          | - Member |

**IN ATTENDANCE**

- |                                  |                                                                                 |
|----------------------------------|---------------------------------------------------------------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | -Senator, Kajiado County                                                        |
| 2. Hon. Joseph Ole Lenku, EGH    | -Governor, Kajiado County                                                       |
| 3. Mr. Charles Hinga, CBS        | -Principal Secretary, State<br>-Department for Housing and<br>Urban Development |
| 4. Eng. B.K. Njenga              | -Secretary, Urban Planning                                                      |
| 5. Mr. John Muya                 | -Director, Administration                                                       |
| 6. Dr. Charles Konyango          | -Director, Urban Development                                                    |
| 7. Mr. Alois Kisota              | -CEC Finance, Kajiado County                                                    |
| 8. Mr. Hamilton Parsime          | -CEC Lands, Kajiado County                                                      |
| 9. Mr. Eddy Kimani               | -Chief Officer Urban<br>Development                                             |

- |                       |                               |
|-----------------------|-------------------------------|
| 10. Mr. James Saruni  | -Manager Kajiado Municipality |
| 11. Mr. David Kuntai  | -Manager Ngong Municipality   |
| 12. Ms. Ann Gitau     | -Petitioner                   |
| 13. Ms. Irene Musembi | -Petitioner                   |
| 14. Mr. Samuel Nzomo  | -Petitioner                   |
| 15. Mr. George Nzomo  | -Petitioner                   |

### **SECRETARIAT**

- |                            |                                                 |
|----------------------------|-------------------------------------------------|
| 1. Ms. Sylvia Nasambu      | - Clerk Assistant II                            |
| 2. Mr. Walters Omondi      | - Legal Counsel II                              |
| 3. Mr. Desmond Rasugu      | - Clerk Assistant III ( <b>taking minutes</b> ) |
| 4. Ms. Celestine Jepkosgey | - Public Communications Officer III             |
| 5. Ms. Lucy Mwaniki        | - Serjeant-at-Arms                              |
| 6. Mr. Johnstone Simuyu    | - Audio Officer III                             |

### **MIN/SEN/DEVIR/310/2023:**

### **PRAYER**

The meeting was called to order at 10:20am by the Chairperson followed by a word of prayer by the Vice - Chairperson.

### **MIN/SEN/DEVIR/311/2023**

### **ADOPTION OF THE AGENDA**

The Agenda of the meeting was adopted as presented after being proposed by Sen. (Dr.) Oburu Oginga, MGH, MP and seconded by Sen. George Mbugua, MP as follows:

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Petitioners, the Governor of Kajiado County, the Manager of Kajiado Municipality and the Principal Secretary for the State Department of Housing and Urban Development to consider the petition on the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado.
4. Any Other Business.
5. Date of the Next Meeting and Adjournment.

### **MIN/SEN/DEVIR/312/2023**

**MEETING WITH THE PETITIONERS, THE GOVERNOR OF KAJIADO COUNTY, THE MANAGER OF KAJIADO MUNICIPALITY AND THE PRINCIPAL SECRETARY FOR THE STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO DELIBERATE ON THE PETITION ON THE**



**REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET  
BY THE COUNTY GOVERNMENT OF KAJIADO**

The meeting began with a round of introductions by all those who were present. The Chairperson in his opening remarks stated that the Committee was looking forward to hearing from all the stakeholders in the petition and called them to make honest submissions on all the issues raised in the petition.

The Governor for Kajiado County began his remarks by expressing his apologies to the Committee for failing to honor the invitations to appear before the committee, explaining that he was unable to do so due to other official exigencies. He thereafter proceeded to submit his responses on the substantive issues raised in the statement as follows:

1. That the total amount of money that was allocated and received by the Kajiado Municipal Municipality for the refurbishment and construction of the market is Kshs. **62,796,083.78** and not Kshs. **63, 061,154.20** as alleged by the petitioners.
2. That the County Government of Kajiado acknowledges as pointed out by the traders that the project implementation was anchored on the Resettlement Action Plan (**RAP**) as the baseline reference and guiding document for the full implementation of the project. Through the RAP, the traders were allocated a street as a temporary remedy pending provision of a permanent market for the traders to sell their products during which the traders were never harassed at all.
3. That there was no condition for adequate and viable space for all the clothes traders as specified in the petition. Instead, what was agreed upon was resettlement of the displaced traders during the implementation of the Public Square Project who were numbering about 110.
4. That the tender details for the construction of the market as quoted by the petitioners is wrong. The correct and official IFIMIS negotiation No. is 932655 and not 932676, and the advertisement date for the tender is 21<sup>st</sup> January, 2022 and not January, 2021.
5. That project variations were realized and implemented during the execution of permanent works which were instigated by immitigable conditions at the onset of the project implementation which mainly constituted changes to drawings and designs that led to changes to quantities, quality, levels and additional work. He also provided the Bill of Quantities (BoQ) indicating the scope of works of the project. From the Bill of Quantities and drawings, the market expansion was to create a floor area enough to accommodate 150 traders.
6. That no element of the Bill of Quantities was scaled down to 50% and none was left out altogether contrary to the petitioners' assertions.
7. That no fraud had taken place in the implementation of the project contrary to the petition filed against the county government and the municipality.



8. That it would have been appropriate for the petition to be first taken to the County Assembly of Kajiado and get a verdict before escalating to the Senate.
9. That the County Government of Kajiado had received the petitioners' grievances and invited the representatives of the petitioners to a meeting who showed up but refused to sit in the meeting to address the issues. And further that the County government had initiated discussions with the MCAs at the centre of the municipality, in an effort to eliminate a standoff between traders and the County government and the municipality.

He concluded that the position of the county government is that they get an amicable solution of the matter once and for all through an open-door policy. And further stated that he was going to convene a meeting with the traders to ensure that they all move into the market before its late.

The Principal Secretary for Housing and Urban Development in his submissions reported as follows:

1. That the Kenya Urban Support Program is funded through the World Bank and the Government of Kenya to operationalize the Kenya Urban Program. The program aims at strengthening urban management and improvement of urban infrastructure in selected urban areas in forty-five (45) counties, excluding Nairobi and Mombasa.
2. That the Financial Agreement which signed between the Government of Kenya and the World Bank's International Development Association (IDA), the Ministry acting through the State Department for Housing and Urban Development (SDHUD) has the overall leadership of the implementation of the KUSP.
3. That under the program's implementation arrangements, the State Department's role is limited to overseeing grant disbursements and provision of guidance under the above-mentioned areas.
4. The Municipal Board is expected to identify, prioritize, design, procure and execute its infrastructure investment activities, in line with the existing national laws and regulations, for activities funded under Window 3 of the program (Urban Development Grants).
5. That the Counties in executing the projects are expected to exercise independence but in a responsible and accountable manner and in line with existing/National laws and regulations pertaining to the same.

He concluded by informing the committee that according to conditions of the grants given by the World Bank, if monies allocated for the project are found to have been misused or embezzled, the benefiting entity will not only be ineligible from benefiting

from the next phase of the program, but shall also be forced to refund the whole amount allocated for that project back to the World Bank.

He finally submitted a copy of the project financing agreement between the World Bank and the State Department of Housing and Urban Development and the Intergovernmental Participation agreement between the State Department and the County Government of Kajiado.

Upon all the deliberations, the Committee:

1. Asked the Governor to have a stakeholders meeting involving the petitioners with the aim of ensuring their concerns are amicably addressed.
2. Informed the Governor that before concluding the matter, the Committee shall carry out a County Visit to Kajiado County to inspect the market in a date and time that shall be communicated in due course.

**MIN/SEN/DEVIR/313/2023**

There was no any other business

**ANY OTHER BUSSINESS**

**MIN/SEN/DEVIR/314/2023**

**ADJOURNMENT AND DATE OF NEXT MEETING.**

The Chairperson adjourned the meeting at 12:35 pm. The next meeting to be held on Thursday, 6<sup>th</sup> July, 2023 at 9.00 am.

SIGNED.....

DATE.....14/07/23

**SEN. SHEIKH MOHAMED ABASS, M.P**  
**CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND**  
**INTERGOVERNMENTAL RELATIONS.**





**MINUTES OF THE SIXTY FIRST SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 3RD JULY, 2023 AT COMMITTEE ROOM 5, AT 10.00 AM.**

**PRESENT**

- |                                    |                    |
|------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP   | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. George Mungai Mbugua, MP   | - Member           |

**ABSENT WITH APOLOGY**

- |                                          |          |
|------------------------------------------|----------|
| 1. Sen. (Dr) Oburu Oginga, MGH, MP       | - Member |
| 2. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 3. Sen. Peris Pesi Tobiko, CBS, MP       | - Member |
| 4. Sen. Mohamed Chute, MP                | - Member |
| 5. Sen. Hezena Lemaletian, MP            | - Member |
| 6. Sen. David Wafula Wakoli, MP          | - Member |

**SECRETARIAT**

- |                            |                                                 |
|----------------------------|-------------------------------------------------|
| 1. Ms. Sylvia Nasambu      | - Clerk Assistant II                            |
| 2. Mr. Walters Omondi      | - Legal Counsel II                              |
| 3. Mr. Desmond Rasugu      | - Clerk Assistant III ( <b>taking minutes</b> ) |
| 4. Ms. Celestine Jepkosgey | - Public Communications Officer III             |
| 5. Ms. Ann Onsare          | - Audio Officer                                 |

**MIN/SEN/DEVIR/305/2023:****PRAYER**

The meeting was called to order at 10:17am by the Chairperson followed by a word of prayer by the Vice – Chairperson.

**MIN/SEN/DEVIR/306/2023****ADOPTION OF THE AGENDA**

The Agenda of the meeting was adopted as presented after being proposed by Sen. George Mbugua, MP and seconded by the Vice Chairperson as follows:

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Petitioners, the Governor of Kajiado County, the Manager of Kajiado Municipality and the Principal Secretary for the State Department of Housing and Urban Development to deliberate on the petition on the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado.
4. Any Other Business.
5. Date of the Next Meeting and Adjournment.

**MIN/SEN/DEVIR/307/2023****MEETING WITH THE PETITIONERS, THE GOVERNOR OF KAJIADO COUNTY, THE MANAGER OF KAJIADO MUNICIPALITY AND THE PRINCIPAL SECRETARY FOR THE STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO DELIBERATE ON THE PETITION ON THE REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY GOVERNMENT OF KAJIADO**

The Committee was informed that the office of the Clerk had received a letter from the Governor for Kajiado County who requested for rescheduling of the meeting with the Committee to Tuesday, 4<sup>th</sup> July, 2023 to allow him to attend to an indisposed family member.

The Committee deliberated on the governor's request and unanimously resolved to acquiesce to his request. Consequently, the meeting was rescheduled to Tuesday, 4<sup>th</sup> July, 2023.

**MIN/SEN/DEVIR/308/2023****ANY OTHER BUSSINESS**

There was no any other business

**MIN/SEN/DEVIR/309/2023****ADJOURNMENT AND DATE OF NEXT MEETING.**

The Chairperson adjourned the meeting at 10:23 am. The next meeting to be held on Tuesday, 4<sup>th</sup> July, 2023.

SIGNED.....



DATE.....

18/09/2023

SEN. SHEIKH MOHAMED ABASS, M.P  
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS.





**MINUTES OF THE FIFTY FIFTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON MONDAY, 19<sup>TH</sup> JUNE, 2023 AT GROUND FLOOR BOARDROOM, COUNTY HALL BUILDING, AT 10.00 AM.**

**PRESENT**

- |                                    |                    |
|------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP   | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP | - Vice-Chairperson |
| 3. Sen. Mohamed Chute, MP          | - Member           |
| 4. Sen. Hezena Lemaletian, MP      | - Member           |

**ABSENT WITH APOLOGY**

- |                                          |          |
|------------------------------------------|----------|
| 1. Sen. (Dr) Oburu Oginga, MGH, MP       | - Member |
| 2. Sen. Richard Momoima Onyonka, EBS, MP | - Member |
| 3. Sen. Peris Pesi Tobiko, CBS, MP       | - Member |
| 4. Sen. George Mungai Mbugua, MP         | - Member |
| 5. Sen. David Wafula Wakoli, MP          | - Member |

**IN ATTENDANCE**

- |                        |                                                                               |
|------------------------|-------------------------------------------------------------------------------|
| 1. Mr. John Muya       | - Director Administration, State Department for Housing and Urban Development |
| 2. Mr. Solomon Ambwere | - Deputy Director                                                             |
| 3. Eng. B.K Njenga     | - Secretary Urban Metropolitan Development                                    |
| 4. Ms. Ann Gitau       | - Petitioner                                                                  |
| 5. Ms. Irene Musembi   | - Petitioner                                                                  |
| 6. Mr. Samuel Nzomo    | - Petitioner                                                                  |
| 7. Mr. George Wainaina | - Petitioner                                                                  |
| 8. Mr. Florence Kimatu | - Petitioner                                                                  |
| 9. Mr. David Kinyua    | - Petitioner                                                                  |

## SECRETARIAT

- |                       |                                                 |
|-----------------------|-------------------------------------------------|
| 1. Ms. Amran Yunis    | - Fiscal Analyst I                              |
| 2. Ms. Sylvia Nasambu | - Clerk Assistant II                            |
| 3. Mr. Walters Omondi | - Legal Counsel II                              |
| 4. Mr. Desmond Rasugu | - Clerk Assistant III ( <b>taking minutes</b> ) |
| 5. Mr. John Kampule   | - Serjeant-at- Arms                             |
| 6. Ms. Ann Onsare     | - Audio Officer                                 |

### MIN/SEN/DEVIR/273/2023:

### PRAYER

The Chairperson called the meeting to order at 10:15 am followed by a word of prayer by Mr. Walters Omondi.

### MIN/SEN/DEVIR/274/2023:

### ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted as presented after being proposed by Sen. Mohamed Chute, MP and Seconded by the Vice- Chairperson as follows:

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Petitioners, the Governor of Kajiado County, the manager of Kajiado Municipality and the Principal Secretary for the State Department of Housing and Urban Development, to deliberate on the petition on the refurbishment and expansion of Kajiado Municipality market by the County Government of Kajiado.
4. Any Other Business.
5. Date of the Next Meeting and Adjournment

### MIN/SEN/DEVIR/275/2023:

### MEETING WITH THE PETITIONERS, THE GOVERNOR OF KAJIADO COUNTY, THE MANAGER OF KAJIADO MUNICIPALITY AND THE PRINCIPAL SECRETARY FOR THE STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, TO DELIBERATE ON THE PETITION ON THE REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY GOVERNMENT OF KAJIADO.

The meeting began with a round of introduction by all those who were present. The Committee noted with concern that the Governor of Kajiado County and the Principal



Secretary for the State Department for Housing and Urban development had not attended the meeting in person as required for the third and second time respectively. Whereas the Principal Secretary sent three of his officers to represent him, the Governor did not make any communication on his failure to appear before the Committee for the third time.

In their brief presentations, the officers representing the Principal Secretary reported to the Committee that:

1. the amount that had been disbursed for construction of the market is Ksh. 60,105,054 not Ksh. 63,061,154.20 as alleged by the petitioners.
2. that the project implementation was anchored on the Resettlement Action Plan as the baseline reference for the full implementation of the project and that the traders were allocated temporary space pending provision of a permanent market for selling their products.
3. that the state department cannot confirm whether the traders were harassed by the county government of Kajiado or not.
4. that the state department shall provide the financial and projects appraisal agreements made between itself and the World Bank on the project as well as the agreements made between the state department and the Council of Governors on the implementation of the Kenya Urban Support program.

The petitioners reported to the Committee the history of the refurbishment and expansion of the market and explained the agreements they had with the municipality on accommodating the clothe traders which they alleged that the municipality had failed to honour.

In view of the foregoing, the Committee resolved as follows:

1. to write to the Governor of Kajiado County summoning him to appear before the Committee on Monday, 3<sup>rd</sup> July, 2023.
2. to write to the Principal Secretary State Department for Housing and Urban Development to appear before the Committee in person and further request him to submit copies of the financial and project appraisal agreements between the State Department and the World Bank on the construction of the Kajiado Municipality market.
3. to cancel the planned county visit to Kajiado to inspect the market that was scheduled for Tuesday, 20<sup>th</sup> June 2023 following the failure of the Governor to give any response or appear before the Committee to deliberate on the petition.



**MIN/SEN/DEVIR/276/2023**

**ANY OTHER BUSSINESS**

There was no any other business.

**MIN/SEN/DEVIR/277/2023**

**ADJOURNMENT AND DATE OF NEXT  
MEETING.**

The Chairperson adjourned the meeting at 11:25 am. The next meeting to be held on Thursday, 22<sup>nd</sup> June, 2023 at 10.00 am.

SIGNED.....



DATE.....

18/09/2023

**SEN. SHEIKH MOHAMED ABASS, MP  
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS.**



MINUTES OF THE FORTY NINTH SITTING OF THE SENATE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS HELD ON THURSDAY, 8<sup>TH</sup> JUNE, 2023 AT 9:00AM AT THE SENATE CHAMBER, MAIN PARLIAMENT BUILDINGS.

PRESENT

- |                                          |                    |
|------------------------------------------|--------------------|
| 1. Sen. Sheikh Mohamed Abass, MP         | - Chairperson      |
| 2. Sen. Catherine Muyeka Mumma, MP       | - Vice-Chairperson |
| 3. Sen. (Dr) Oburu Oginga, MGH, MP.      | - Member           |
| 4. Sen. Richard Momoima Onyonka, EBS, MP | - Member           |
| 5. Sen. George Mungai Mbugua, MP         | - Member           |

ABSENT WITH APOLOGY

- |                                    |          |
|------------------------------------|----------|
| 1. Sen. Peris Pesi Tobiko, CBS, MP | - Member |
| 2. Sen. Mohamed Chute, MP          | - Member |
| 3. Sen. Hezena Lemaletian, MP      | - Member |
| 4. Sen. David Wafula Wakoli, MP    | - Member |

IN ATTENDANCE

- |                                   |                                                                                                            |
|-----------------------------------|------------------------------------------------------------------------------------------------------------|
| 1. Sen. Lenku Ole Kanar, Seki, MP | - Senator for Kajiado County                                                                               |
| 2. Ms. Ann Gitau                  | - Petitioner.                                                                                              |
| 3. Mr. James Saruni               | - Manager, for the Municipality of Kajiado                                                                 |
| 4. Dr. Charles Konyango           | - The National Director of Urban Planning<br>in the State Department for Housing<br>and Urban Development. |
| 5. Mr. Eddy Kimani                | - Chief Officer, Urban Development, Kajiado<br>County.                                                     |

## SECRETARIAT

- |                         |                                                 |
|-------------------------|-------------------------------------------------|
| 1. Ms. Amran Yunis      | - Fiscal Analyst I                              |
| 2. Ms. Sylvia Nasambu   | - Clerk Assistant II                            |
| 3. Mr. Walters Omondi   | - Legal Counsel II                              |
| 4. Mr. Desmond Rasugu   | - Clerk Assistant III ( <b>taking minutes</b> ) |
| 5. Mr. Johnstone Simuyu | - Audio Officer III                             |

### MIN/SEN/DEVIR/253/2023:

### PRAYER

The Meeting was called to order at 9:25 am by the Chairperson followed with a word of prayer by Ms. Sylvia Nasambu.

### MIN/SEN/DEVIR/254/2023:

### ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as presented after being proposed by Sen. Richard Onyonka, EBS, MP and seconded by Sen. (Dr.) Oburu Oginga, MGH, MP as follows;

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Petitioners, the Governor of Kajiado County, the Manager of Kajiado Municipality and the Principal Secretary for the State Department of Housing and Urban Development to deliberate on the petition on the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado.
4. Any Other Business.
5. Date of the Next Meeting and Adjournment

### MIN/SEN/DEVIR/255/2023:

### MEETING WITH THE PETITIONERS, THE GOVERNOR OF KAJIADO COUNTY, THE MANAGER OF KAJIADO MUNICIPALITY AND THE PRINCIPAL SECRETARY FOR THE STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO DELIBERATE ON THE PETITION ON THE REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY GOVERNMENT OF KAJIADO.

The meeting began with a round of introductions by all those who were present. The Committee noted the absence of the Governor for Kajiado County and the Principal Secretary of the State Department for Housing and Urban Development who instead



sent their officers to represent them. Upon deliberations, the Committee resolved not to continue with hearing of the petition in the absence of the two who are accountable and answerable to the issues raised in the petition.

Consequently, the Committee resolved to reschedule the meeting to a later date in which strongly worded invitations to the two stakeholders shall be issued.

The Chief Officer was also instructed to warn the Governor of Kajiado that his evading of investigations into the refurbishment and expansion of Kajiado Municipality could prove harmful and inevitably result in Kajiado County not being included in the second phase of the implementation of the Kenya Urban Support Programme. This would greatly disadvantage the County.

In addition, the Committee further resolved to hold a retreat with the State Department for Housing and Urban Development as soon as possible where the State Department can take members through the programs and activities they are carrying out in the counties on decentralization of services and the areas the Senate should oversight the State Department on.

MIN/SEN/DEVIR/256/2023:

ANY OTHER BUSINESS.

The Chairperson informed members that he will not be able to attend the retreat of the County Assemblies Forum with the Committee slated for 8<sup>th</sup> – 11<sup>th</sup> June, 2023 in Nakuru County and urged the rest of the members to attend.

MIN/SEN/DEVIR/257/2023:

ADJOURNMENT AND DATE OF NEXT MEETING.

The Chairperson adjourned the meeting at 10:15 am. The next meeting to be held on Friday, 9<sup>th</sup> June, 2023 at 9:00 am.

SIGNED.....

DATE. 13/06/23.....

SEN. SHEIKH MOHAMED ABASS, M.P  
CHAIRPERSON, STANDING COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS.

**Annex 2 :**

**Petition on the Refurbishment  
and Expansion of the Kajiado  
Municipality Market by the  
County Government of Kajiado**

THE SENATE  
RECEIVED

27 APR 2023

DIRECTOR LEGISLATIVE AND  
PROCEDURAL SERVICES

PETITION TO THE SENATE ON THE REFURBISHMENT AND EXPANSION OF KAJIADO  
MUNICIPALITY MARKET BY THE COUNTY GOVERNMENT OF KAJIADO

② Mr. Danson

please process

201  
27-04-23

Approved  
27/4/23

We, the undersigned, CITIZENS of KENYA and RESIDENTS of KAJIADO COUNTY, wish in the interest of the public, to lodge this petition to the Senate concerning the refurbishment and expansion of Kajiado Municipality Market by the County Government of Kajiado.

③ Ms. Natasha  
please process as  
agreed / discussed  
D. Danson  
2/05/2023

We humbly draw the attention of the Senate to the following:

1. THAT, during the financial year 2020/2021, the County Government of Kajiado through Kajiado Municipal account at KCB Kajiado branch, received an allocation of Kshs 63,061,154.20 on 22<sup>nd</sup> July 2021 from World Bank via the State Department of Housing and Urban Development. The funds were meant to refurbish and expand the Kajiado Municipal Market to accommodate the clothes market vendors who had been displaced by the previous KUSP project of public square.
2. THAT, it had been mutually agreed between the County Government (through the Municipality) and the traders under a resettlement action plan (RAP) for the World Bank, that the traders would permanently be settled in the upgraded market within a designated open but roofed area for their business and in the meantime, the Municipality was to provide a street where the traders would temporarily operate from during the transition period.
3. THAT, as a bare minimum, the refurbished market was to meet the following objectives:
  - Provide adequate and viable space for all the clothes traders.
  - Provide a business space that shields the traders from rain, dust and sunshine.
  - Provide a trading space that meets the health and sanitation standards.
  - Provide a one stop market for all merchandize where all the town streets would be freed from street vendors thus guaranteeing all traders equal access to customers.

The conditions were adopted by the County Government, the World Bank and the State Department for Urban Development as a condition for approving the 2019/2020 KUSP project expenditure.

Mr. Speaker  
submitted for approval  
21/5/23

① DLPS  
Please facilitate  
DC(MA)  
Date: 27/4/23





ON REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY  
GOVERNMENT OF KAJIADO

4. **THAT**, in January 2021, the Kajiado County Government put on its website, a tender notice for Proposed Construction of Kajiado Market and other Works at Kajiado town as Tender No CGK/KUSP/ONT/02//2021-2022 under IFMIS negotiation no. 932676. The tender process was undertaken by the County Government and the Contract Awarded to Belimark Contractors at a contract sum of Kshs 56,214,411.97.
5. **THAT**, the project entailed the following elements: extension of roof cover and rain water goods to ensure coverage of all the newly created trading space as outlined in the working drawings; coverage of the entire market space (inclusive of all walkways) with specified paving slabs to ensure cleanliness, sanitation and hygiene working environment, leaving no room for vegetation growth; doubling up the stalls capacity by ensuring all market-perimeter stalls are double-level to accommodate the ones to be demolished (to expand the open space trading capacity for cloths' vendors operating in the temporary location) and the establishment of over 150 new stalls were to be created to accommodate those whose stalls were to give way to open space for clothes vendors among other key elements.
6. **THAT**, despite this all the above elements were either scaled down to less than 50% (while others (solar lights, control gates, rain water goods, water tanks, upstairs' stalls, solid waste sorting chamber, street-mounted solid waste bins, reconstruction of the market storm water drainage channels, fittings and fixtures for the cultural high street etc.) were all together left out. It is important to note that no corresponding review was made on the Contract Sum to give value for money.
7. **THAT**, the County government now claims that the market is complete and are now whippingus to occupy the shadow of what was meant to have been our permanent business premise to cover their fraud.
8. **THAT**, aware that Article 37 and 119 (1) of the Constitution provides for petitions to Public Authorities and the Government on any matter that the people of Kenya feel aggrieved by and aware that the Senate has the role of oversight.
9. **THAT**, we have raised the issues presented in this Petition with the relevant bodies including the County Government of Kajiado but our issues have not been addressed.
10. **THAT**, to the best of our knowledge the issues in respect of which this petition is made are not pending before any court of law.

**THEREFORE**, your humble petitioner(s) Pray that the Senate looks into the matter with a view of ensuring the following:

- I. That any attempts by the County Government to force ~~any~~ traders into the market shall be halted until an investigation is carried out on the money used versus the final ~~outcome of the market.~~
- II. That the State Department for Housing and Urban Development and the World Bank, submit their status report on this project to the Senate, so as to ensure that tax payers funds were well utilized through the oversight mandate of the Senate.
- III. Should the complaints be found to be factual, Senate to recommend a full-proof management system of Municipal/urban areas projects which are funded through third party, collaborations or National Government guaranteed loans or grants. This may include but not limited to total financial accountabilities of Municipalities to County Assemblies as required by the PFMA.

Signed by Officials:

(i) For and on behalf of: Kajiado Municipality Cloths' Market Traders

NAME Ann Gitau  
ID 4243444  
OFFICE Chair-lady  
SIGNATURE [Signature]

NAME Marianne Gitau  
ID 30813549  
OFFICE member  
SIGNATURE [Signature]

NAME Irene Murembi  
ID 27705044  
OFFICE Secretary  
SIGNATURE [Signature]

NAME Samuel Njoroge  
ID 14429463  
OFFICE Member  
SIGNATURE [Signature]

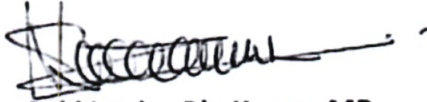
NAME George Hainaina  
ID 13642581  
OFFICE Treasurer  
SIGNATURE [Signature]

NAME David Muchira  
ID 26159078  
OFFICE Member  
SIGNATURE [Signature]



ON REFURBISHMENT AND EXPANSION OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY  
GOVERNMENT OF KAJIADO

Counter signed by Senator Seki Lenku Ole Kanar,  
Senator for Kajiado County.



Sen. Seki Lenku Ole Kanar, MP,  
Senator for Kajiado County

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**Annex 3:**

**Submissions made by the  
County Government of Kajiado**

D DGC  
Kindly deal, 4 JUL 2023

**RESPONSE TO PETITION AGAINST KAJIADO MUNICIPALITY FILED AT SENATE:**

**Introduction**

The County Government of Kajiado acknowledges receipt of a petition from residents of Kajiado through the Senate Director of Legislative and Procedural Service. In the Petition, the residents have sought several issues relating to the *Refurbishment and Expansion of Kajiado Municipality Market by the County Government of Kajiado*. From the onset, we wish to observe that the project in question should be correctly cited as *the Proposed Construction of Kajiado Market and Other Works in Kajiado Town* as contained in the project contractual documents. This is imperative to dispel the erroneous impression already created by the petitioners that the project was just concerned with the refurbishment and expansion of the market. Fundamentally, the overall conception of the projects under the Kenya Urban Support Program (KUSP) in Kajiado Municipality sought to stimulate the socio-economic vibrancy of the town through enhanced connectivity and improvement of public places as contained in the introduction of the projects Resettlement Action Plan (RAP).

On the Substantive issues of the petition, the County Government of Kajiado interprets/understands and respond as follows.

**Petition No. 1.**

THAT, In FY 2020/21, CGK through KJD Municipality account at KCB Kajiado branch received an allocation of Kes 63,061,154.20 on 22<sup>nd</sup> July 2021 from WB Via State Dept of Housing & Urban Development to refurbish and expand the Kajiado Municipal Market to accommodate the clothes market vendors who had been displaced by the previous KUSP project of public square.

**Table of amount allocated and received from WB.**

Amount of Kes 63,061,154.20 quoted by the petitioners as having been allocated and received into Kajiado Municipal Account is not correct. The correct amount is as outlined in the below table:

| Description                                         | Disbursed Amount (Kshs.) | Amount of Contract Paid (Ksh.) | Savings (Kshs.) |
|-----------------------------------------------------|--------------------------|--------------------------------|-----------------|
| APA 1                                               | 50,000,000.00            | 49,324,707.10                  | 675,292.90      |
| APA 2                                               | 50,000,000.00            | 46,512,362.24                  | 3,487,637.76    |
|                                                     |                          |                                | 2,691,028.98    |
| SAVINGS FROM APA 1 & 2                              |                          |                                | 6,853,959.64    |
| APA 3                                               | 55,942,124.14            |                                |                 |
| AVAILABLE FUNDS FOR UDC 3 (Market plus other works) |                          |                                | 62,796,083.78   |

**RECEIVED**

05 JUL 2023

DIRECTOR COMMITTEE SERVICES  
(DSEC)

**THE SENATE  
RECEIVED**

04 JUL 2023

DEPUTY CLERK

D DGC

Kindly we have been advised this matter is before Devolution. 8/6.10.07/23.

Mr. Ngatia  
Kindly deal  
Kobori  
astor/23

SSGC  
This is a matter active under Devolution Committee.  
Chasau.  
10/07/23

5 Clerk Assist-  
Devolution  
Kindly Deal  
10/07/23



- In view of the above summary, total amount disbursed for current project as per our official records is **Kes 62,796,083.78** and **NOT Kes 63,061,154.20** as alleged by the petitioners.
- The figure of Kes 60,105,054 consist of disbursed funds for the FY 2020/21 UDG project and accumulated savings from previous UDG projects for FY 2018/2019& 2019/2020.

#### **Petition No. 2.**

THAT it was mutually agreed between the CGK through the Municipality and the traders under a Resettlement Action Plan (RAP) for the WB, that traders would permanently be settled in the upgraded market within a designated open but roofed area for business and in the meantime, the Municipality was to provide a street where the traders would temporarily operate from during the transition period.

#### **Our Response.**

We acknowledge as pointed out by the traders that the project implementation was anchored on the **RAP**, as the baseline reference and guiding document for the full implementation of the project. Indeed, a copy of the RAP was given to the traders' committee as their guiding and reference document. The RAP extensively explains how the laid-out conditions derived from the all-inclusive consultative process with the traders were implemented to their satisfaction. Further, the traders were allocated the street within Kajiado Municipality called Redemption Church Street. (See attached RAP).

- The traders were never harassed by the County Government but given ample time to go about their businesses uninterrupted. (Details in the RAP),
- The understanding as contained in the RAP is that the Street, they were allocated was a temporary remedy pending provision of a permanent market for the traders to sell their products.
- The choice of the street was yielded to by the County Government through the Municipality as a show of goodwill during the engagement of the traders as persons affected by the previous project (Public Square).
- However, most viable options such as relocating the traders to the Marikiti market, presented a temporary but major challenge in the form of Market leadership wrangles and competition-which in our considered opinion and understanding is still what is playing out and consequently, the core of this dispute before the Senate in the form of a petition (See minutes of the committee meetings in the RAP).

#### **Petition No. 3.**

THAT, as a bare minimum, the refurbished market was to meet the following objectives:

- Provide adequate and viable space for all clothes traders.
- Provide business space that shields the traders from rain, dust, and sunshine.
- Provide a one-stop market for all merchandise where all the towns' streets would be freed from street vendors thus guaranteeing all traders equal access to customers.

The conditions were adopted by the CGK, WB and the State Department for Urban Development as a condition for approving the 2019/2020 KUSP project expenditure.

### **Our Response.**

Refer to Resettlement Action Plan herein (RAP).

- There was no condition for adequate and viable space for **ALL** clothes traders as specified in the **petition**. What was agreed upon, **as contained in the RAP**, was resettlement of the displaced traders during the implementation of the Public Square project who were numbering about **110** (This is the official list that WB, State Department, and Municipality have in their custody (See attached **list of traders in the RAP**).
- The list of traders was generated through extensive public participation process by affected traders and their committees as detailed in the RAP.
- The market as constructed currently comprises Galvanized Iron (GI) roofing which provides shade, shields traders from rain and sunshine.
- The market meets the health and sanitation standards - (Concrete paving slabs used on floor, easy to clean, there is a privately managed and clean washroom within the market, clean water is available, and covered storm water drainage system).
- The floor is constructed with concrete paving slabs therefore eliminating exposure to dust.
- Provision of drainage hence facilitating ease cleaning of the open trading sheds.
- The market has installed appropriate rainwater gutters and 4 water tanks each with a capacity of 10,000 liters improving water capacity and overall sanitation standards.
- We reconstructed the existing drainages which were initially very deep and not covered, reducing the risk of injury; thereby improving safety. (See attached photos after the construction)
- **Waste management**-The initial plan was to construct a chambered waste dumping system per BoQ. However, following consultations with the Department of Trade and Environment, it would have been cumbersome when it comes to removal of the accumulated waste to the dumpsite. Therefore, we had to demolish the previous old dumping chamber and reconstruct another one without a segregated chambered system and supplied and installed a waste/garbage skip bin. The only variation here was separation walls with an open lay out. (See attached photos of skip bin)

### **Petition No. 4.**

THAT, in **January 2021**, CGK put on its website tender notice for proposed construction of Kajiado Market and other works at Kajiado town as tender **No. CKG/KUSP/ONT/02//2021-2022** under IFMIS negotiation **No. 932676**. The tender process was undertaken by the CGK, and the contract awarded to Belimak Contractors at a sum of **Kes 56,214,411.97**

### **Our Response:**

- We acknowledge that the contract sum for the project - Proposed Construction of Kajiado Market and Other Works is Ksh. 56,214,411.97
- The IFMIS **No. 982676** quoted by the petitioners is wrong and does not correspond to our tender documents. The correct and official IFMIS negotiation **No. is 932655**. This is the IFMIS number in our official documents.



- The advertisement date for the tender is also **wrongly captured as January 2021**. Correct date as per our document is **21<sup>st</sup> January, 2022**.

#### **Petition No. 5.**

THAT, the project entails the following elements: extension of roof cover and rain water goods to ensure coverage of all the newly created trading space as outlined in the working drawings; coverage of the entire market space (inclusive of all walkways) with specified paving slabs to ensure cleanliness, sanitation and hygiene working environment, leaving no room for vegetation growth, doubling up the stall capacity by ensuring all market-perimeter stalls are double-level to accommodate the ones to be demolished (To expand the open space trading capacity for clothes' vendors operating in the temporary location), and the establishment of over 150 new stalls were to be created to accommodate those whose stalls were to give way to open space for clothes vendors among other key elements.

#### **Our Response:**

- On issues of existing perimeter stalls –There weren't to be doubled up (Please refer to Drawings and BoQ).

It is important to appreciate the fact that project was not solely focused on the extension of market but entailed a num

ber of key elements mainly:

- Road works – construction of 0.5km of paved roads
- Mechanical works – installation and fabrication of vehicular control gates and trading units along the Cultural Street
- Electrical works – solar street lighting (8 along the cultural street and 4 within the market stalls)
- Landscaping and rehabilitation work
- Water storage works – 4 No. 10,000 liters ground water tanks
- Waste management works – waste chamber and skip bin

We refer you to the Summary of BoQ attached indicating the scope of works.

|             |                    | <b>PROVISIONS</b>               | <b>EXPENDITURE</b>                    |
|-------------|--------------------|---------------------------------|---------------------------------------|
| <b>BILL</b> | <b>DESCRIPTION</b> | <b>TENDER AMOUNT<br/>(KES.)</b> | <b>AMOUNT PAID TO<br/>DATE (KES.)</b> |
| 1.          | PRELIMINARIES      | 3,600,000.00                    | 3,600,000.00                          |



|      |                                          | PROVISIONS              | EXPENDITURE                   |
|------|------------------------------------------|-------------------------|-------------------------------|
| BILL | DESCRIPTION                              | TENDER AMOUNT<br>(KES.) | AMOUNT PAID TO<br>DATE (KES.) |
| 2.   | ENVIRONMENTAL<br>MITIGATION MEASURES     | 400,000.00              | 400,000.00                    |
| 3.   | 9M WIDE ROAD                             | 10,974,570.00           | 12,913,900.00                 |
| 4.   | 12M WIDE ROAD                            | 3,644,850.00            | 5,763,420.00                  |
| 5.   | 3M WIDE ROAD                             | 1,035,500.00            | 2,846,897.00                  |
| 6.   | MARKET SHED                              | 4,545,320.00            | 5,553,740.00                  |
| 7.   | OPEN MARKET SHED                         | 10,101,200.00           | 6,862,350.00                  |
| 8.   | WATER STORAGE                            | 1,610,000.00            | 530,000.00                    |
| 9.   | CHILDREN PLAYPARK                        | 530,000.00              | 505,000.00                    |
| 10.  | MECHANICAL WORKS                         | 4,203,000.00            | 2,997,500.00                  |
| 11.  | LANDSCAPING                              | 2,178,400.00            | 2,297,500.00                  |
| 12.  | ELECTRICAL WORKS                         | 2,295,000.00            | 2,125,000.00                  |
| 13.  | WASTE MANAGEMENT                         | 692,650.00              | 665,392.80                    |
| 14.  | PRIME COSTS                              | 1,700,000.00            | 1,400,000.00                  |
|      |                                          |                         |                               |
|      | <b>SUB- TOTAL 1</b>                      | <b>47,510,490.00</b>    | <b>48,460,699.80</b>          |
|      | <i>2% Contingency</i>                    | 950,209.80              | -                             |
|      | <b>SUB-TOTAL 2</b>                       | <b>48,460,700.00</b>    | <b>48,460,699.80</b>          |
|      | <i>Add 16% of Sub-Total 2 as<br/>VAT</i> | 7,753,711.97            | 7,753,711.97                  |
|      | <b>GRAND TOTAL</b>                       | <b>56,214,411.97</b>    | <b>56,214,411.77</b>          |

Drawing from the Bill of Quantities and Drawings, the market expansion was to create a floor area of 1200 square meters and projected to provide trading spaces for 150 traders. The spaces created were to cater for

the 110 traders who were displaced during the implementation of the previous project (Public Square) and the remaining 40 spaces to cater for other traders. The CGK managed to construct 24 market stalls and expand the main market creating a floor area of 800 square meters translating to 100 trading spaces totaling up to 124 new trading spaces. The 40 additional traders, who largely comprise of cultural ware traders, will be accommodated within the remaining 14 spaces and within the 54 spaces of the completed Cultural Trading Street.

**Summary of the BoQ Indicating the Project Variations within the 5 Main Bill Items**

| S/NO. | DESCRIPTION<br>(SUMMARY)                 | TENDER<br>AMOUNT<br>(KES) | ACTUAL<br>EXPENDITURE<br>(KES) | DIFFERENCE<br>(KES)          |
|-------|------------------------------------------|---------------------------|--------------------------------|------------------------------|
| 1.    | PRELIMINARIES                            | 4,000,000.00              | 4,000,000.00                   | 0                            |
| 2.    | ROAD WORKS                               | 15,654,920.00             | 21,524,217.00                  | 5,869,297.00<br>(Increase)   |
| 3.    | MARKET WORKS                             | 14,646,520.00             | 12,416,090.00                  | (2,230,430.00)<br>(Decrease) |
| 4.    | ANCILLARY<br>WORKS                       | 11,509,050.00             | 9,120,392.80                   | (2,388,657.20)<br>(Decrease) |
| 5.    | PRIMECOSTS                               | 1,700,000.00              | 1,400,000.00                   | (300,000.00)<br>(Decrease)   |
|       |                                          |                           |                                |                              |
|       | <b>SUB- TOTAL 1</b>                      | <b>47,510,490.00</b>      | <b>48,460,699.80</b>           |                              |
|       | <i>2% Contingency</i>                    | 950,209.80                | -                              |                              |
|       | <b>SUB-TOTAL 2</b>                       | <b>48,460,700.00</b>      | <b>48,460,699.80</b>           |                              |
|       | <i>Add 16% of Sub-Total<br/>2 as VAT</i> | 7,753,711.97              | 7,753,711.97                   |                              |
|       | <b>GRAND TOTAL</b>                       | <b>56,214,411.97</b>      | <b>56,214,411.77</b>           |                              |

**Explanation on the above Variations:**

Project variations were realized and implemented during the execution of the permanent works. The project variations were instigated by immitigable conditions at the onset of the project implementation during road construction works which mainly constituted:

- Differing site conditions where subsurface and hidden conditions, majorly, unforeseeable extents of black cotton soils and waste structures (soak pits and septic tanks) were encountered which were not anticipated, thereby increasing excavation and earthwork operations.



- Changes to the drawings and designs to achieve proper accessibility, road functionality and inclusivity (motorized and non-motorized mobility).

These led to changes to the quantities, quality, levels, positions and/or dimensions, and additional work, plant, materials, and services necessary for the permanent works. Consequently, in order to avoid cost overruns and to remain within the provisions of the Bill of Materials, various changes were made thereby scaling down the remaining scope of works, as outlined in the table below, without compromising the main project objectives and the functionality of the infrastructural components.

The Public Procurement and Asset Disposal Act (2020) allows for project variations as laid out in clause 13 (1) that, Contract variations or amendments envisaged under section 139(1)(b) of the Act for goods, works and services may either emanate from procuring entity on its own volition or from the contractor because of circumstances that were not foreseen during project design.

#### **6. Petition No. 6.**

That despite this all the above elements were either scaled down to less than 50% (While others solar lights, control gates, rainwater goods, water tanks, upstairs stalls, solid waste sorting chambers, street-mounted solid waste bins, reconstruction of the market storm water drainage channels, fittings, and fixtures for the cultural high street etc.), were all together left out. It is important to note that no corresponding reviews were made on the contract sum to give value for money.

**Our response:** - In view of the above, the following works have been done contrary to the petitioners' assertions that there was no value for money.

- The control gates were done 3 in Number.
- The solar streetlights were installed (12 in number).
- Rainwater goods are done for all newly constructed market sheds and integrated with the existing market rainwater collection system
- Water tanks are installed (4 in Number of 10,000 Liters each).
- The storied stalls are done, and they are 24 in number.
- Solid waste sorting chambers (Refer to response for petition no. 3 bullet 9)
- Street mounted solid waste Bin-This was to be put in the Public Square and NOT the market. It should not be a reason for traders not to occupy the market.
- Reconstruction of the market storm water drainage –This is done for all newly constructed sheds (Re-done and covered). See attached photos herein.
- Fittings & Fixtures for cultural streets-trading units are done but **NOT** the display platforms.



Additionally, appropriate and requisite reviews were made on the individual Bills of Works affected by the variations and project payments were made in conformity with the actual scope and quantities of work done as portrayed in the previous Bill of Quantities summary table.

**Petition No. 7.**

THAT, the CGK now claims that the market is complete and are now whipping us to occupy the shadow of what was meant to have been our permanent business premise to cover their fraud.

**Our response:**

We have attached the RAP, and indicated the amounts expended on the project based on the quantities of work done.

No fraud has taken place contrary to the petition filed against the CGK and the Municipality of Kajiado. This is well demonstrated by responses to the petitions issued.

**Petition No.8**

That, aware that Article 37 and 119 (1) of the constitution provides for petitions to the public Authorities and the Government on any matter that the people of Kenya feel aggrieved by and aware that the Senate has the role of oversight.

**Our Response.**

In conclusion, the CGK in conjunction with Kajiado Municipality fulfilled its agreement with the traders, as contained in the RAP, and the project objectives. The only pending issue is the final resettlement of the traders which in our view is complicated by the refusal of the traders to cooperate with the implementation committee in the verification of the list of Project Affected Persons (PAPs).

While we are making effort to ensure that they are resettled, we appreciate the central role of the Senate on oversight of the County Government. However, it would be appropriate for the petition like this one to first be taken to the County Assembly and get a verdict before escalating it to the Senate.

**Petition No. 9.**

THAT, we have raised the issue presented in this petition with the relevant bodies including the County Government of Kajiado but our issues have not been addressed.

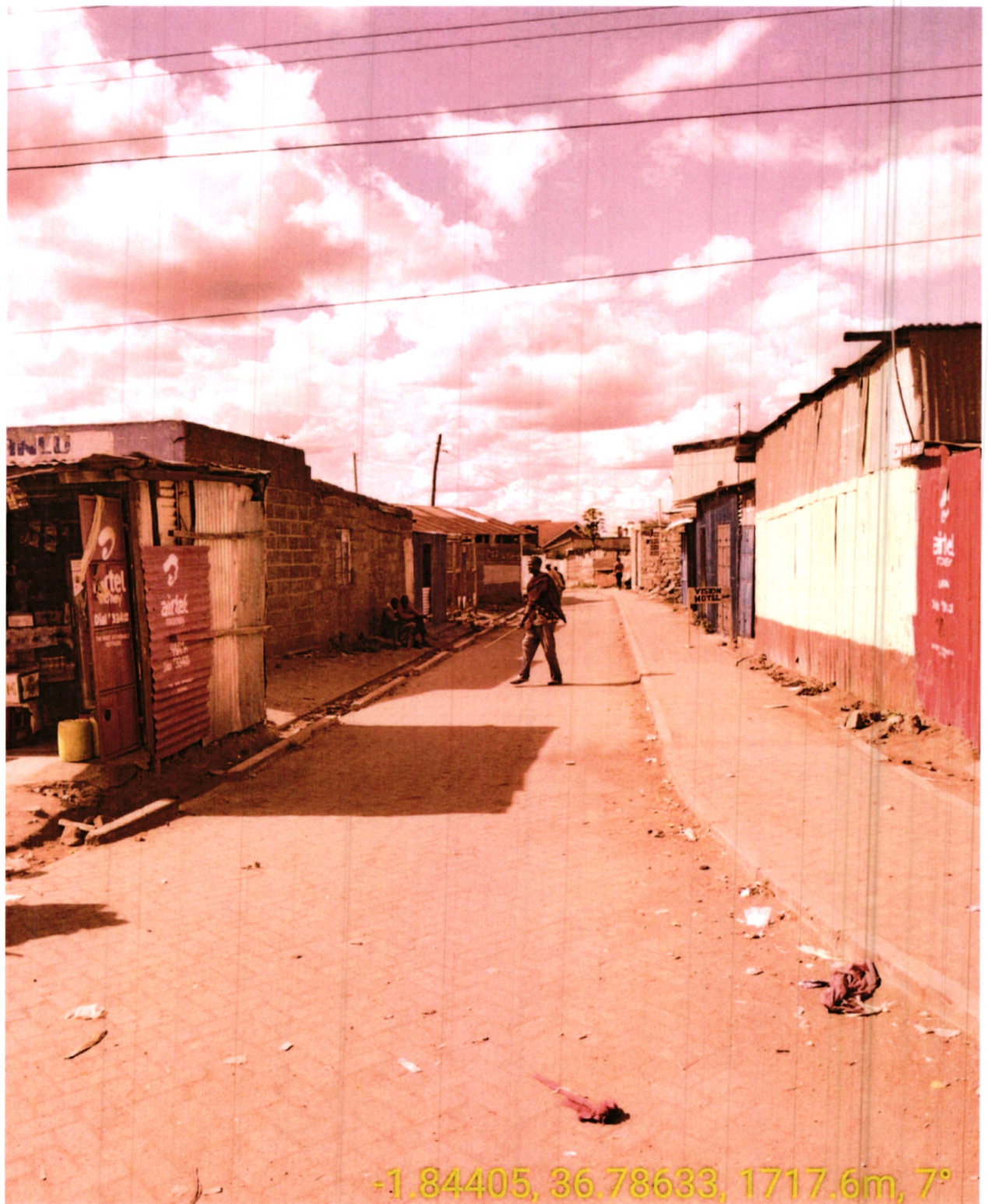
We acknowledged receipt of the petitioners' grievances which was captured in our Grievance redress mechanism as per World Bank operations manual and invited the representatives of the petitioners to a meeting in our Municipality offices (See attached Invitation letters and Minutes).

The traders committee showed up but refused to sit in the meeting to address the issues. Instead the traders chose to approach the leadership of the senate through the Honourable Senator Seki who visited the traders in Kajiado Market and addressed the media.

We have further gone ahead to initiate a discussion with the local leadership led by the two MCAs, Kajiado Municipality and CGK in an effort to eliminate the standoff between the Traders and the CGK/Kajiado Municipality. A meeting with the above said leadership was to meet and agree on way forward.

Our position is that we get an amicable resolution of the matter once and for all through an open door policy.

**Photo Gallery of the Completed Road Sections and Trading Platforms**







-1.84361, 36.78657, 1721.5m, 336°





-1.84187, 36.78537, 1716.0m, 297°





-1.84184, 36.78532, 1714.0m, 334°



-1.84184, 36.78531, 1714.5m, 259°



**Photo Gallery of Fabricated Trading Platforms**









Photo Gallery of the Market Stalls Completed







-1°50'30", 36°47'19", 1743.9m, 345°  
05/10/2022 11:36:47



-1°50'29", 36°47'19", 1739.2m, 193°  
05/10/2022 11:35:21

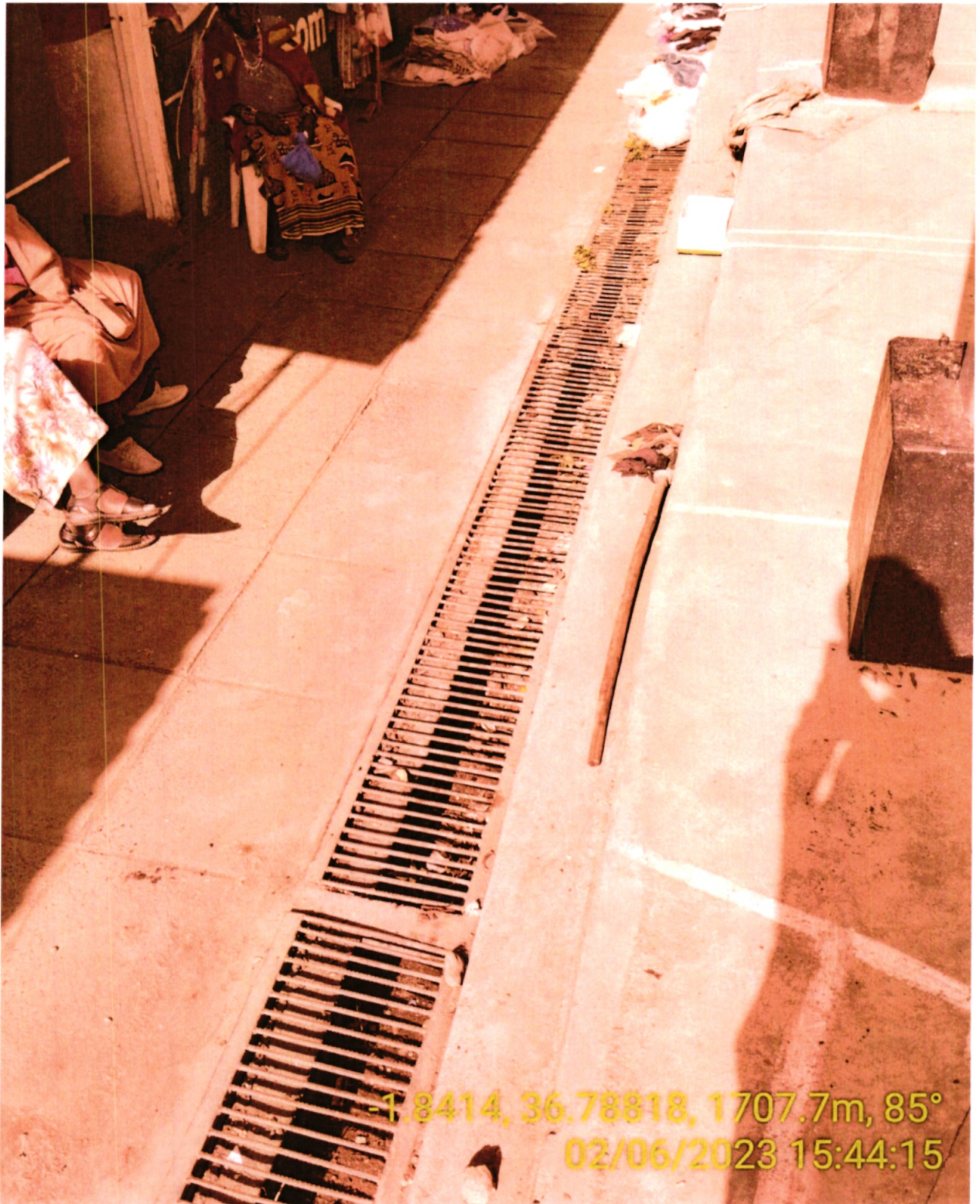


# Photo Gallery of the Open Market Shed





Photo Gallery of Ancillary/ Complimentary Works







-1.84158, 36.78851, 1712.6m, 173°  
02/06/2023 15:46:13







Photo Gallery of the Installed Benches









***Annex 4:***

***Submissions made by the State***  
***Department of Housing and***  
***Urban Development***





**MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN  
DEVELOPMENT**

**State Department for Housing and Urban Development**

**SUBMITTED TO SENATE**

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**KUSP GOVERNANCE STRUCTURE AND ROLE ON IMPLEMENTATION OF  
INFRASTRUCTURE PROJECTS IN THE (COUNTIES) MUNICIPALITIES**

1. **Kenya Urban Support Program (KUSP) is funded through the World Bank and the Government of Kenya to operationalize the Kenya Urban Program (KenUP).** The program aims at strengthening urban management and improvement of urban infrastructure in selected urban areas in forty-five (45) counties, excluding Nairobi and Mombasa.

The Program Development Objective (PDO) is to establish and strengthen urban institutions to deliver improved infrastructure and services in the participating counties in Kenya. The program, which became effective on 11 January 2018, is a hybrid operation combining,

- i. **Investment Project Financing (IPF) lending for Window 1:** At National level to Support policy, institutional development, technical backstopping (upon request) and capacity building through the State Department for Housing and Urban Development and includes Council of Governors (CoG) operational support, and
  - ii. **Performance for Results (PforR) for Window 2:** At County level as Urban Institutional Grant (UIG) for institutional development support & **Window 3:** At the Municipality level as Urban Development Grant (UDG) for urban infrastructure and services development.
2. **As indicated in the Financial Agreement signed between the Government of Kenya and the World Bank's International Development Association (IDA),** the Ministry acting through the State Department for Housing and Urban Development

(SDHUD) has the overall leadership of the implementation of the KUSP. This is done through two committees that provide leadership for the program,

- i. **Program Steering Committee** – policy guidance, strategic leadership and oversight
  - ii. **Program Technical Committee** – review annual performance assessments and program progress reports, addressing crosscutting issues as well as challenges in implementation, providing technical guidance on implementation and escalating to the steering committee policy issues.
3. The Financial Agreement also provides for a National Program Coordination Team (NPCT) for the backstopping of the program implementation. The NPCT comprises of a Program Coordinator and four (4) component heads to handle various areas under the program as follows,
- i. Urban Planning and Management
  - ii. Infrastructure Management
  - iii. Grants management
  - iv. Institutional Development and Program Management Support

**Under the program's implementation arrangements, the State Department's role is limited to overseeing grant disbursements and provision of guidance under the above-mentioned areas.**

4. Under infrastructure management, the following are the specific tasks:
- i. Provide guidance on the technical standards for urban infrastructure designs (roads, pavements, drainage, green spaces, etc.),
  - ii. Provide guidance on contract management tailored to urban infrastructure,
  - iii. Conduct annual technical audits on urban infrastructure projects (from 3rd year of KUSP),
  - iv. Provide guidance on urban infrastructure operations and maintenance issues (including cost recovery and user charges),
  - v. Provide guidance on environmental and social management tailored to urban infrastructure and
  - vi. Provide guidelines on solid waste management (SWM).

5. The Program Operation Manual (POM) Volume 1, section 4.7 provides a menu of eligible infrastructure activities that the municipalities can undertake under the program. The infrastructure investments are mainly in the following five (5) main areas;
  - a) Waste Management (Liquid and Solid),
  - b) Connectivity (Roads, Walkways)
  - c) Street Lighting Etc,
  - d) Storm Water Drainage,
  - e) Urban Socio-Economic Infrastructure And
  - f) Fire & Disaster Management.
6. The Department (SDHUD) has no direct control over the specific activities prioritized and implemented by the participating counties and Municipalities.
7. The Municipal board is expected to identify, prioritize, design, procure and execute its infrastructure investment activities, in line with the existing national laws and regulations, for activities funded under Window 3 (Urban Development Grants) of the program.

It is also expected that where necessary, projects to be implemented in line with the eligible menu should be identified through public participation and should be impact-oriented.

As such, the Department is not usually privy to the scope and details of contracts procured by counties/municipalities under the program nor is privy to the processes of project procurement and execution framework. The program does not provide for the approval of county/municipal level activities by either the SDHUD or the World Bank.

8. All the 45 Counties (excluding Nairobi and Mombasa) that benefitted under the KUSP funding signed the “***Intergovernmental Participation Agreement***” signed between the Cabinet Secretary and respective Governors. These agreements outlined obligations of both the National Government and County Governments. (*A copy for the County Government of Kajiado is attached herewith*).
9. The Counties in executing the projects are expected to exercise independence but in a responsible and accountable manner and in line with existing/National laws and regulations pertaining to the same.





## MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

### State Department for Housing and Urban Development

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#### RESPONSE ON THE PETITION TO THE SENATE BY KAJIADO RESIDENTS ON REFURBISHMENT & EXPANSION OF KAJIADO MUNICIPALITY MARKET BY THE COUNTY GOVERNMENT OF KAJIADO

1. **Kenya Urban Support Program (KUSP) is a World Bank and Government of Kenya funded program to operationalize the Kenya Urban Program (KenUP).** The program aims at strengthening urban management and improvement of urban infrastructure in selected urban areas in forty-five (45) counties, excluding Nairobi and Mombasa. The Program Development Objective (PDO) is to establish and strengthen urban institutions to deliver improved infrastructure and services in the participating counties in Kenya. The program which became effective on 11<sup>th</sup> January, 2018 is a hybrid operation combining Investment Project Financing (IPF) lending for Window 1, and Performance for Results (PforR) for Windows 2 & 3 as follows:

Window 1 (National level – \$30.3 million): Support for policy, conditional grant coordination, institutional development and capacity building through the State Department for Housing and Urban Development. Includes Council of Governors (CoG) operational support.

Window 2 (County level - \$22.2 million): Disbursed to participating counties as Urban Institutional Grants (UIG) to support urban management, institutional development and capacity building.

Window 3 (Municipal levels - \$247.5 million): Disbursed to participating municipalities as Urban Development Grants (UDG) to support for urban infrastructure and service delivery in the 59no. eligible urban areas.

The program is currently in its final implementation phase and is scheduled to close on 31<sup>st</sup> July, 2023.

2. **Under the program's implementation arrangements, the State Department's role is limited to the tasks indicated in paragraph 1 above.** The Department (SDHUD) has no direct control over the specific activities prioritized and implemented by the participating counties and Municipalities. Instead, for activities funded under Window 3 (Urban Development Grants) of the program, each eligible urban area through its respective Municipal board is expected to identify, prioritize, design, procure and execute its infrastructure investment activities in line with the existing national laws and regulations. As such, the Department is not usually privy to the scope and details of contracts procured by counties/municipalities under the

program. The program does not provide for approval of county/municipal level activities by either the SDHUD or the WB.

3. **Kajiado municipality qualified for participation in the program by virtue of being the county headquarters.** The Municipal Board of Kajiado has consequently received a total of **Kshs. 155,942,124.14** over the three disbursements covering FY2018/19, FY2019/20 and FY2020/21. The latest information at the Department indicates that the Municipality has an uncommitted balance of **Kshs. 3,890,643.03** on its UDG Special Purpose Account (SPA).
4. **In the FY2019/20, the Municipality prioritized and invested its share of funds received under the program in development of the Public square and Cultural High street within Kajiado town.** The project whose cost was **Kshs. 46,512,363.00** commenced on 2<sup>nd</sup> August, 2021 and was completed by 8<sup>th</sup> March, 2022. However, in the course of its execution, approximately 110no. (informal) traders who had been operating on the site ear-marked for the development were displaced resulting to a complaint being registered at the State Department (with a copy to the WB) by the then area Member for County Assembly (MCA) on behalf of the traders on 12<sup>th</sup> July, 2021 alleging their illegal eviction. A copy of the complaint is annexed for reference (Annex 1).

Upon receipt of the complaint, the State Department took up the matter with the county government of Kajiado and the concerned municipality with the objective of intervening for a fair and amicable resolution of the dispute. The municipality was therefore advised to engage the affected traders in further consultations on their alternative resettlement. This culminated in a mutual agreement to have the traders temporarily occupy an adjacent street while the municipality extended the structures at the municipal market to eventually accommodate them as a permanent solution.

5. **With the funds disbursed under the FY2020/21, the municipality prioritized and procured a works contract for Construction of Kajiado market and Other works at Kajiado town.** The contract awarded at a cost of **Kshs. 56,214,411.97** was to, amongst others, create additional spaces within the municipal market for permanent resettlement of the displaced traders as per their earlier agreement. The project commenced on 17<sup>th</sup> March, 2022 with an initial planned completion date of 16<sup>th</sup> September, 2022. However, this timeline was not met and a 6-months extension of time was granted pushing the completion date to 16<sup>th</sup> March, 2023. The SDHUD having maintained interest in the matter noted that the proposed additional structures at the municipal market were completed and ready for occupation by February, 2023, albeit pending power connection to the 24no. market stalls due to delays by KPLC. Taking note that the displaced traders have not been resettled into the new market structures to date despite the many engagements with the county/municipality on the same, the State



Department recently escalated the matter to the county governor seeking his intervention to have the traders resettled and the matter brought to closure.

- 6. Information previously shared with the State Department concerning the project indicates that the scope was not entirely limited to works within the market but covered other works within the town as well.** The detailed scope of works under the contract is listed as, amongst others:

- i) Construction of 0.5km of road carriageway, 0.5km of Pedestrian walkway, and 0.5km of Storm water drainage
- ii) Construction of 2-storey market stalls (24no.) in steel and Galvanized Iron (GI) sheets
- iii) Construction of Open market shed (approx.. 600sqm)
- iv) Fabrication and Installation of Cultural High-street sheds and vehicular control gates/barriers

A site visit by the SDHUD team in the month of March, 2023 established that the above listed works had been undertaken.

- 7. In execution of its advisory and overall coordination role under the program, the SDHUD has observed that Kajiado municipality (as well as many others country-wide) lacks adequate technical personnel to effectively manage infrastructure investment projects.** The two participating municipalities in the county relied heavily on the other county departments (Roads, Public works, Procurement, Environment) in planning, design, procurement and execution of their prioritized activities. This has largely contributed to the challenges the two municipalities face in documentation, records management and reporting. To incentivize improvement in these areas, the State Department has proposed to make availability of qualified technical staff at the municipalities a condition for qualification for funding in similar future programs.



