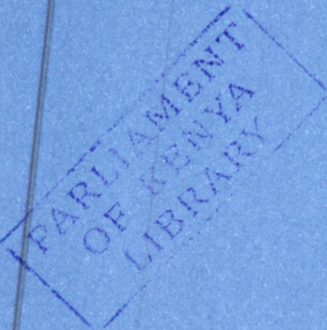


REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability



THE NATIONAL ASSEMBLY
DATE: 07 DEC 2023
TUES
Hon Owen Baya, CBS, MP
Deputy Minority Leader
Munira

REPORT

OF

THE AUDITOR-GENERAL

ON

NAIROBI WESTERN BYPASS PROJECT

FOR THE YEAR ENDED

30 JUNE, 2023

**KENYA NATIONAL HIGHWAYS
AUTHORITY**

OFFICE OF THE AUDITOR GENERAL
P. O. Box 30084 - 00100, NAIROBI
REGISTRY

NOV 2023

RECEIVED



MINISTRY OF ROADS & TRANSPORT



Kenya National Highways Authority

Quality Highways, Better Connections

PROJECT NAME: NAIROBI WESTERN BYPASS

IMPLEMENTING ENTITY: KENYA NATIONAL HIGHWAYS AUTHORITY

**PROJECT CREDIT NUMBER: CHINA EXIM BANK GCL NO. (2017) 28 TOTAL
NO. (633)**

ANNUAL REPORT AND FINANCIAL STATEMENTS

**FOR THE FINANCIAL YEAR ENDED
JUNE 30, 2023**

**Prepared in accordance with the Cash Basis of Accounting Method under the International Public Sector
Accounting Standards (IPSAS)**

NAIROBI WESTERN BYPASS PROJECT

Annual Report and Financial Statements for the financial year ended June 30, 2023

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1 Acronyms and Glossary of Terms

CBK	Central Bank of Kenya
CPA	Certified Public Accountant
EIA	Environmental Impact Assessment
ESIA	Environmental Social Impact Assessment
ESMP	Environment and Social Management Plan
EXIM	Export – Import
FY	Financial Year
ICPAK	Institute of Certified Public Accountants of Kenya
IPSAS	International Public Sector Accounting Standards
KeNHA	Kenya National Highways Authority
KFS	Kenya Forest Services
Kshs.	Kenya Shillings
MoRT	Ministry of Roads and Transport
NEMA	National Environment Management Authority
TNT	National Treasury
PAPs	Project Affected Persons
PFM	Public Finance Management.
PSASB	Public Sector Accounting Standards Board
SDG	Sustainable Development Goals
UA	Unit of Account

2 Project Information and Overall Performance

2.1 Name and registered office

Nairobi Western Bypass Project

Objective:

The project starts from Gitaru main town and mainly follows the existing road connecting into Southern Bypass towards the northeast and then turns to the southeast near Ndenderu town. The Road ends at Ruaka town connecting the starting point of the Northern Bypass. The road passes through several centres such as Gitaru, Wangige, Kihara, Ndenderu, Rumingi and Ruaka (Banana).

The specific objective of the Project is to increase efficiency of road transport in Nairobi County and neighbouring counties and countries to facilitate trade and regional intergration.

Address: Barabara Plaza
Jomo Kenyatta International Airport (JKIA) off Mazao Road
Nairobi Kenya

Contacts:
Director General
Kenya National Highways Authority
Po Box 49712-00100
Nairobi
Telephone: (254) 020 495000
E-mail: dg@Kenha.co.ke
Website: www.kenha.co.ke

2.2 Project Information

Project Start Date:	April, 2019
Project End Date:	June, 2022 revised to September, 2023
Project Engineer	Eng. George Amingh
Project Sponsor:	EXIM Bank of China Government of Kenya

Project Information and Overall Performance (Continued)**2.3 Project Overview**

Line Ministry/State Department of the project	The project is under the supervision of the State Department of Roads on behalf of Ministry of Roads & Transport.
Project number	
Strategic goals of the project	The strategic goals of the project are as follows: (i) Improve trade and regional integration and contribute to the Government of Kenya's social and economic development. (ii) Enhance social economic development of the people along the project road.
Achievement of strategic goals	Implementation of the project in timely, efficient and effective manner.
Other important background information of the project	The length of the main alignment of the project is 14.770 km with approximately 18.173 km of service roads. It starts from Gitaru town and ends at Ruaka. The Bypass mainly follows along the existing road (Gitaru Road) towards the Northeast and then turns to the Southeast near Ndenderu town (Limuru Road). The Western Bypass passes several towns such as Gitaru, Wangige, Ndenderu and Ruaka. The end of the road is at the Two Rivers Mall round about on the Northern Bypass at Ruaka.
Project duration	The project is for duration of 39 months.

2.4 Bankers

Co-operative Bank of Kenya
Upper Hill Branch
Po Box
Nairobi.

2.5 Independent Auditor

Auditor General
Office of the Auditor General
Po Box 30084-0100,
Nairobi.

Project Information and Overall Performance (Continued)

2.6 Roles and Responsibilities

List of the people who are working on the project.

Names	Title designation	Key qualification	Responsibilities
Eng. Henry Gakuru	Ag. Director-Development	Registered Civil Engineer	Project Implementing Team Leader
Eng. George Amingh	Deputy Director-Special Projects	Registered Civil Engineer	Project Engineer
Mr. Walter B. Nyatwang'a	Deputy Director Environment & Social Interests	Environmental & Social Specialist	Project Safeguards Specialist
Ms. Levina K. Wanyonyi	Deputy Director-Supply Chain Management	Registered KISM	Project Procurement Specialist
Mr. Chanje Kera	Deputy Director-Finance & Accounts	CPA (K)	Project Financial Specialist

2.7 Funding summary

The Project is for a duration of 39 months from April 2019 to September 2023. The Project's approved budget is Yuan 1,190,253,600 equivalent to Kshs. 20,947,868,233 at an exchange rate of 17.5995 and amount of Kshs. 624,878,230 by GoK as highlighted in the table below:

A. Sources of Funds

Source of funds	Donor Commitments		Amount received to date (30th June 2023)		Undrawn balance to date (30th June 2023)	
	Yuan (A)	Kshs (A')	Yuan (B)	Kshs (B')	Yuan (A)-(B)	Kshs (A')-(B')
(i) Loan						
China Exim Bank	1,190,253,600	20,947,868,233	973,381,362	17,131,025,288	216,872,238	3,816,842,945
(ii) Counterpart Funds						
	-	624,878,230	-	624,878,230	-	-
Total	1,190,253,600	21,572,746,463	973,381,362	17,755,903,518	216,872,238	3,816,842,945

NAIROBI WESTERN BYPASS PROJECT

Annual Report and Financial Statements for the financial year ended June 30, 2023

Project Information and Overall Performance (Continued)

B. Applications of Funds

Application of funds	Amount received to date- (30th June 2023)		Cumulative Amount paid to date-(30th June 2023)		Unutilised balance to date	
	Yuan	Kshs	Yuan	Kshs	Yuan	Kshs
	(A)	(A')	(B)	(B')	(A)-(B)	(A')-(B')
i) Loan						
China Exim Bank	973,381,362	17,131,025,288	973,381,362	17,131,025,288	-	-
(ii) Counterpart Funds						
Government of Kenya	-	624,878,230	-	624,878,230	-	-
Total	973,381,362	17,755,903,518	973,381,362	17,755,903,518	-	-

2.8 Summary of Overall Project Performance:

i. Budget performance against actual amounts for current year and for cumulative to-date: -

	2022/2023			Cumulative		
	Budget	Actual	%	Budget	Actual	%
Counterpart Funds - Gok	22,500,000	22,500,000	100%	837,853,300	624,878,230	75%
Loan from External Development Partners	4,730,000,000	4,282,756,321	91%	17,655,000,000	17,131,025,288	97%
Total	4,752,500,000	4,305,256,321	91%	18,492,853,300	17,755,903,518	96%

ii. Physical progress based on outputs, outcome and impacts since project commencement: -

The projects main works were completed and taken over by the employer as at 30th June,2022 however, the pending works under addendum No. 3 is at 97.1% as at June, 2023.

iii. Absorption rate for each year since commencement of the project

FY	Budget	Actual	%
2022/23	4,752,500,000	4,305,256,321	91%
2021/22	5,262,500,000	5,214,281,167	99%
2020/21	5,725,000,000	5,664,307,587	99%
2019/20	2,725,053,300	2,570,819,843	94%
2018/19	27,800,000	1,238,600	4%
TOTAL	18,492,853,300	17,755,903,518	96%

Project Information and Overall Performance (Continued)

Comment on value for money achievements.

- The project procurement process was conducted through International Competitive Bidding (ICB) which results in excellent value for money.
- The authority (KeNHA) had put in place adequate checks & balances on appointment of the works consultant supervision who oversees the project implementation on daily basis on consultation and subsequent approvals from the employer and the bank.
- In addition to works supervision, the consultant undertook design review prior to commencement of road construction works to reduce conflict during the project implementation.
- Regular auditing of the project by Internal Auditors, External Auditors and Quality Assurance Departments.
- Monthly site meetings that involve the employer, the consultant and the contractor.

2.9 Summary of Project Compliance:

There are no significant cases of non-compliance with applicable laws and regulations, and essential external financing agreements/covenants, which has been reported.

3 Statement of Performance against Project's Predetermined Objectives

Introduction

Section 81 (2) (f) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, the Accounting Officer when preparing financial statements of each National Government entity in accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board includes a statement of the national government entity's performance against predetermined objectives.

The key development objective of the project's implementation plan is to improve mobility of traffic within the wider Nairobi metropolitan area. The Western Bypass is one of the major trunk road links in the Nairobi Road Network Master Plan. Its construction will complete the circuit of bypasses around Nairobi which will improve accessibility and improve the running speed of vehicles.

Progress on attainment of Strategic development objectives

For purposes of implementing and cascading the above development objectives to specific sectors, all the development objectives were made specific, measurable, achievable, realistic and time-bound (SMART) and converted into development outcomes. Attendant indicators were identified for reasons of tracking progress and performance measurement: Below we provide the progress on attaining the stated objectives:

Objective	Outcome	Indicator	Performance
To improve mobility of traffic within the wider Nairobi metropolitan area	Reduction of traffic congestion within Nairobi metropolitan.	Better traffic movements and less carbon emissions.	The projects main works were completed and taken over by the employer as at 30 th June,2022 however, the pending works under addendum No. 3 is at 97.1% as at June, 2023.

4 Environmental and Sustainability Reporting

Nairobi Western Bypass Project exists to transform lives. This is our purpose; the driving force behind everything we do. It's what guides us to deliver our strategy. Below is a brief highlight of our activities that drive towards sustainability.

4.1 Sustainability strategy and profile

Sustainable Development Goals (SDGs) 2015-2030 provides a plan of action for the people and their prosperity. Five out of the seventeen goals are pertinent to management of projects being undertaken by the Authority. These are being addressed through the following initiatives;

- a) *Good health and well-being (SDG 3)*: The Authority strives to undertake Road Safety Audits to identify accident black spots, implement intervention measures and provide road safety education to reduce accidents.
- b) *Gender Equality (SDG 5)*: The Authority encourages mainstreaming of gender equality in project and programmes by incorporating compliance to one third gender rule in procurement and recruitment.
- c) *Industry, innovation and infrastructure (SDG 9)*: The Authority develops quality, reliable, sustainable and resilient infrastructure including regional and trans-border infrastructure to support economic development and human wellbeing with a focus on affordable and equitable access for all;
- d) *Sustainable cities and communities (SDG 11)*: The Authority endeavours to extend the paved road network to hitherto underserved areas in the region to improve nationwide access to high speed and all – weather connectivity; and
- e) *Climate action (SDG 13)*: The Authority endeavours to combat negative impacts of road development through environmental mitigation, climate change measures and compliance with National Environment Management Authority (NEMA) requirements in all development projects

4.2 Environmental performance

The Authority is working towards ensuring environmental sustainability in projects by undertaking tree planting exercises, implementation of road beautification programs, enforce reinstatement of quarries and borrow pits after construction works, undertakes regular Environmental Impact Assessment (EIA) Audits, carries out M&E on Environment and Social Management Plan (ESMPs) as well as Environmental Social Impact Assessment (ESIA) on projects.

Environmental and Sustainability Reporting (Continued)

4.3 Employee welfare

In all its staff appointments, the Authority takes deliberate actions to embrace Equal Employment Opportunity policies, gender mainstreaming, addresses concerns around Persons Living with Disabilities (PWDs) and takes affirmative action in line with prevailing Government Policy guidelines. The Authority prioritizes training to develop technical capacity of staff in the fields of Value Engineering, Project Financing, Project, Contract Management, Performance Based Maintenance and Safety.

4.4 Market place practices

The Authority strives to ensure responsible competition practices through undertaking annual governance audits in projects, monitoring the implementation of policies and further promotes ethical conduct in projects. The Authority equally sensitizes staff on corruption and integrity.

The Authority undertakes to be actively involved in the negotiations during budget sector hearings in order to increase budgetary allocations for projects thus honouring contracts by paying its liabilities on time.

4.5 Community Engagements

During the implementation of the Project, the Authority is committed to remaining a responsible corporate citizen by being accountable for its actions through engaging in Public Participation. The Project's goal in terms of community engagement is to ensure that the projects foster long-term relationships with stakeholders and communities around the project. The aim is not just to build roads that foster development but to ensure collaboration with the local communities to achieve sustainable development. The project staff is also encouraged to give back to society by participating in the Authority's corporate social responsibility projects.

To enhance social safeguards in projects, the Authority undertakes Resettlement Action Plan (RAP) studies and implements its recommendations, carries out Social Impact Assessments (SIA), undertakes gender mainstreaming and conduct stakeholders' forum to sensitize the public in several cross-cutting issues.

Environmental and Sustainability Reporting (Continued)

Some of the CSR activities carried out by the project are highlighted in the table below;

NO.	Stakeholder	Date	Cost	Activity
1.	Wangige Market	November 29 th 2019	50,000	CRBC donated Refreshments, T-shirts and Caps with key messaging on HIV/AIDS Awareness was also given to participants as part of our CSR.
2.	Lusingiti/Karai community.	December,2019	5,281,461	Rehabilitation of Karai – Lusigiti road, Rurii, and installation of drainage culverts channels.
3.	Kabete Community	December,2019	150,000	Donation of branded uniforms to footballs teams for winners, 1st runners up and 2 nd runners up. And hosting a match on Jamhuri Day
4.	Rungiri Community	January, 2020	34,000	Donation of Gardening equipment (pangas, slashers, Jembes, wheelbarrows and CRBC branded Overalls.
5.	Karai Residents	February,2020	153,720	Maintenance works to Karai Quarry
6.	Gitaru and Wangige Residents	March, 2020	70,000	Provision of sanitary installations with running water
7.	Member Karai community	April, 2020	34,000	Medical assistance to Samuel Gichuru
8.	Karai Residents	April/May/2020	2,071,021	Maintenance of Karai Road
9.	Link Road Residents	05/May/2020	94,400	Donated Gardening/ Environmental Cleanup Equipment.
10.	Kenya Forest Service	June/2020	6,000,000	Donated 4 houses built by CRBC for KFS Rangers at Ngong Forest
11.	Kenya Railways	June/2020	272,400	Assisted Kenya Railways rescue a derailed cargo train that lasted 23hours.
Total			14,211,002	

5 Statement of Project Management responsibilities

The Director General, KeNHA and the Project Implementation Team Leader for Nairobi Western Bypass Project are responsible for the preparation and presentation of the Project's financial statements, which give a true and fair view of the state of affairs of the Project for and as at the end of the financial year ended on June 30, 2023. This responsibility includes: (i) maintaining adequate financial management arrangement and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Project; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statement, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Project; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

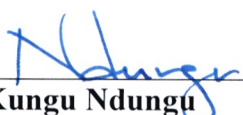
The Director General, KeNHA and the Project Implementation Team Leader for Nairobi Western Bypass Project accept responsibility for the Project's financial statements, which have been prepared on the Cash Basis Method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards.

The Director General, KeNHA and the Project Implementation Team Leader for Nairobi Western Bypass Project are of the opinion that the Project's financial statements give a true and fair view of the state of Project's transactions during the financial year ended June 30, 2023, and of the Project's financial position as at that date. The Director General, KeNHA and the Project Implementation Team Leader for Nairobi Western Bypass Project further confirm the completeness of the accounting records maintained for the Project, which have been relied upon in the preparation of the Project financial statements as well as the adequacy of the systems of internal financial control.

The Director General, KeNHA and the Project Implementation Team Leader for Nairobi Western Bypass Project confirm that the Project has complied fully with applicable Government Regulations and the terms of external financing covenants, and that Project funds received during the financial year under audit were used for the eligible purposes for which they were intended and were properly accounted for.

Approval of the Project financial statements

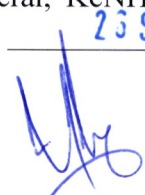
The Project financial statements were approved by the Director General, KeNHA and the Project Implementation Team Leader for Nairobi Western Bypass Project on 23 SEP 2023 and signed by them.



Eng. Kungu Ndungu
Director General



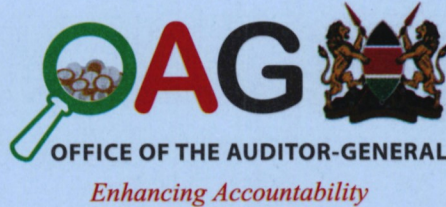
Eng. Henry Gakuru
Ag. Director-Development



CPA Chanje Kera
Deputy Director-(F&A)
ICPAK Member No. 8279

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Anniversary Towers
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NAIROBI

REPORT OF THE AUDITOR-GENERAL ON NAIROBI WESTERN BYPASS PROJECT FOR THE YEAR ENDED 30 JUNE, 2023 - KENYA NATIONAL HIGHWAYS AUTHORITY

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Nairobi Western Bypass Project set out on pages 1 to 21, which comprise of the statement of financial assets as at 30 June, 2023 and the statement of receipts and payments, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and

a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Nairobi Western Bypass Project as at 30 June, 2023, and its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and Loan Agreement No. China Exim Bank GCL No.(2017) 28 Total No.633.

Basis for Qualified Opinion

Unsupported Acquisition of Non-Financial Assets Expenditure

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.4,305,256,321 which as disclosed in Note 4 to the financial statements includes an expenditure of Kshs.11,250,000 in respect of acquisition of land.

However, documents provided for audit verification in relation to the acquisition of land revealed that there was delay in land compensation of project affected persons (PAPs) whereby as at 30 June, 2023, the total valuation of land was Kshs.1,986,684,647 of which Kshs.615,149,740 or 31% has been paid resulting to an outstanding balance of Kshs.1,371,534,907 or 69% despite the project having being completed and handed over to the Authority. Further, the valuation report of the parcels of land being acquired in respect of the outstanding balance of Kshs.1,371,534,907 and the title deeds for the land that has been fully acquired were not provided for audit review.

In the circumstances, the accuracy and propriety of the payments made for land compensation of Kshs.11,250,000 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Nairobi Western Bypass Project Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audit of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

Pending Bills

The financial statements reflects pending accounts payables balance of Kshs.1,691,209,482 as disclosed in Note 1 of the other important disclosures and Annex 4 which includes amounts of Kshs.1,371,534,907 and Kshs.319,674,575 for acquisition of land and construction of roads, respectively. The delays in the payment of the pending

bills may result in significant penalties and interest costs. In addition, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified on the effect of the matter.

Key Audit Matters

Key audit matters are those matters that, in my professional judgement, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not provided an explanation on how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the effect of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Project Implementation Status

1.1 Unexplained Change of Project Scope

The financial statements reflects an amount of Kshs.4,294,006,321 as disclosed in Note 4 being payments to the contractor in respect of construction of roads. However, review of records revealed that an amount of Kshs.2,569,653,793 was 15% of the fifth (5th) instalment of the interim payment certificate (IPC) No.6 while Kshs.1,713,102,528 was 10% final payment of the of the seventh (7th) instalment of IPC No.7.

Further, the Project made a payment of Kshs.10,912,500 which was a partial payment of an invoice amount of Kshs.163,148,147 in respect of works under addendum No. 3 with a contract sum of Kshs.815,740,740 while Kshs.337,500 was in respect of withholding tax all totalling to Kshs.11,250,000. Although the contractor had invoiced for Kshs.163,148,147 as per the contract agreement, the Project paid only Kshs.11,250,000, leaving a balance of Kshs.151,898,147 unpaid.

The contractor was awarded the initial contract in October, 2017 to carry out design and construction of the Nairobi Western Bypass at a contract sum of USD 170,998,693. The Western Bypass was proposed as a Class A National Trunk Highway with four (4) lanes and a median strip. The works were to be carried out through EPC Contract (FIDIC 1999). The overall length of the main alignment is 16.358 km, with 17.351 km service roads (excluding ramps). The starting point of the main line was to be connected to the end of the Southern Bypass of Nairobi City, intersected with A104, with a full cloverleaf interchange located at the intersection. The end of the road was to be located at Ruaka town, connecting the starting point of the Northern Bypass, and a single-trumpet interchange was set at Km14+ 813, connected with Limuru Road and with six (6) other interchanges set as indicated in the table below: -

No.	Name	Central Chainage	Interchange Type	Crossed Road & Class
1	Dirt	0+855	Diamond	E42J2 Class E
2	Wangige	4+851	Diamond	D378 Class D
3	Kihara	7+865	Diamond	Kihara, Gachie, Karura Class E
4	Ndenderu	10+000	Clover-Leaf	Limuru Rd Class C
5	Rumenye	12+600	Simple	Class E
6	Ruaka	14+813	Single Trumpet	D408 Class D

The following had been considered in designing the interchanges;

- (i). In line with the road network condition and long-term plan, making a scientific overall plan of the interchanges and choosing the final interchange plan after considering the terrain condition;
- (ii). Safety principle: interchange is accident-prone area; safety is the main concern in the design;
- (iii). The layout of interchanges is designed try to take up less land and remove fewer people;
- (iv). The layout of interchanges is designed to stay in harmony with the environment, possess the proper functions and simple form as well.

An Environment and Social Impact Assessment (ESIA) on the project had been conducted and the resultant report issued in February, 2017. According to the report, in the various platforms, stakeholders raised concerns about the impact of the proposed project including matters of compensation as a result of loss of land and other assets, loss of business due to relocation, traffic congestion during construction, vegetation clearance, disruption of social life setting as well as reduction in aesthetics since construction projects tend to leave open quarries, borrow pits and other open trenches after project completion, and mostly without rehabilitating the areas. However, they also noted that the project had positive impacts particularly noting improved transport convenience, safety and traffic decongestion in the long run, increased employment and trading opportunities, land value appreciation and improved infrastructural developments

such as good sewer networks, water connections, internet accessibility, and communication networks, among others, triggered by improved accessibility.

Review of information provided revealed that during a meeting held on 27 September, 2021, in consideration of Project Costs Appraisal, and with the aim of containing the project costs within the contract sum, the Ministry of Transport & Infrastructure gave a directive to the contractor to the effect that the scope of work was appraised so that the length was appraised to 14.77 km in length, the number of interchanges appraised to 5 (Gitaru, Lower Kabete, Wangige, Kihara and Rumenye) with at-grade intersection provided at Ndenderu. The length of service roads was appraised to 18.1 km.

The revision contained in Addendum No.2 factored the following;

- a. Omission of Ruaka Interchange
- b. Widening of Medium from 2 to 4m
- c. Increase length of service roads from 17.3 km to 18.17 km
- d. Limit lower Kabete interchange to available land
- e. Omission of Tunnel at Wangige
- f. Scope of work in Ndenderu to be scaled down to the interim-Due to lack of land, do away with the interchange and replace with an at-grade roundabout
- g. Rumenye interchange to be completed as a diamond type interchange.
- h. Relocation of service roads
- i. Due to modification of interchange at Ndenderu, only one-foot bridge be provided for, at Km 1+747
- j. The resultant additional costs of USD 898,769.91 to be borne by the contractor.

The effect of shortening the main alignment of the project length by 2.023 km from 16.793 km to 14.77km means that the road would terminate at Ruaka town and not at the Two Rivers Mall to connect with the Northern Bypass.

However, the financial implication of the revision has not been clearly explained and broken down per item and therefore could not be confirmed.

A Concessional Loan Agreement amounting to CYN 1,190,253,600 equivalent to Kshs.20,947,868,233 for implementation of the Kenya Nairobi Western Bypass was signed on 4 September, 2018 between the Kenya Government and Exim Bank of China and had considered the following factors;

- (i). The Commercial Contract between the Authority and the contractor.
- (ii). Drawdown Schedule submitted by the Borrower and recognized and accepted by the Lender.
- (iii). Sub-contract for design acceptable to the lender duly signed by all parties, if any
- (iv). Plan for land acquisition and house demolition acceptable to the Lender.

However, there was no evidence provided that these factors, and the attention of the lender was considered in revision of the scope, and that a no objection of the changes was obtained from the lender.

In the circumstances, there is a risk of legal challenges by the public and other stakeholders who may not be satisfied with the project implementation.

1.2 Conflicting Information on Project Implementation for the Gitaru Interchange

Construction of the Gitaru interchange works was to be executed under the scope of the Nairobi Western Bypass Road Project which was communicated on 5 February, 2019 by the Project Management. However, the Project or employer wrote to the contractor on 27 April, 2020 and communicated that the Gitaru interchange works would be executed under the James Gichuru -Rironi A104 Project. This led to a complaint by the contractor who issued an invoice amounting to USD 152,678.78 for work already done on the section namely; concept design and traffic management plans it had developed while anticipating the execution of the works. This has led to contradicting information on the status of the Gitaru interchange which remains unexecuted to-date. At the time of audit, in the Month of October, 2023, there was no sign of works on construction of the interchange and it is not clear whether this will happen in the foreseeable future.

In the circumstances there is a possibility of conflict between the employer and contractor, possible additional (escalation of) costs in compensation to the contractor and the works at the Gitaru interchange remain undone thereby endangering the lives of road users at the busy intersection of the highway.

1.3 Delay in Land Acquisition and Compensation of Project Affected Persons

The road project commenced on 24 April, 2019 and the works were expected to be completed by 30 September, 2023 with actual completion in the month of June, 2023. However, out of the balance of Kshs.1,986,684,647 intended for compensation of land owners (persons affected by the project - PAPs) only an amount of Kshs.615,149,740 or 31% had been paid by the time of the audit, leaving a pending amount of Kshs.1,371,534,907.

Delay in land acquisition and compensation may result in project taking a longer time to deliver since the right of way was not availed in time for construction activities to commence. This may lead to escalation of costs as the contractor may seek compensation for delayed time and idle equipment time and may also lead to dispute where aggrieved parties (uncompensated PAPs) may seek legal redress which may attract legal penalties.

1.4 Project Progress

An audit inspection visit carried out in the month of October, 2023 revealed the following observations in addition to the revised works;

(i). Unjustified Suspension of Works under Addendum 3

Review of records revealed that in January, 2022, the contractor was informed and granted additional work included in Addendum No. 3 to the contract of an amount of Kshs.815,740,720.00, which included the following work items:

a) Construction of a storm water outfall at Kanjeru from WK 0+147 LHS to the Gathara

- River, a 500m distance, to divert water off the A104 and prevent floods at Kanjeru;
- b) Bituminous upgrade of the 1 km Gatumumu Road from the underpass at WK 2+900 to Ramp A of the Lower Kabete Interchange;
 - c) Connection of Service Road No. 1 to Gitaru 1 Interchange Ramp A; and
 - d) Improvements to Service Road 18 from the Kirangari overpass to Njathaini (approximately 5.1 Km).

According to the letter Ref No. KeNHA/CRBC/W-BYPASS/510/2022 dated 19 September, 2022 by the employer, the contractor was forced to suspend pending works under addendum No. 3 due to non-payment for the work done as required by the contract. As at the time of audit and in light of the suspension, the contractor had demobilized the machines and associated equipment from the site.

(ii). Encroachment of Roads

During the audit inspection visit, cases of encroachment of road reserves were noted as follows;

- a. Lower Kabete Interchange: Traders were observed to have established temporary structures for business purposes.
- b. Wangige Interchange: Hawkers were found displaying their wares along the road reserve and on the two box culverts.
- c. Karura Interchange: Traders were observed to have established temporary structures for business purposes.
- d. Ndenderu Roundabout: Traders were observed to have established temporary Business structures.
- e. Ruaka: A perimeter wall has been erected on the road reserve

(iii). Non-provision of Footbridges and Bus-stops

During the audit inspection it was observed that in the entire length of the Western Bypass there was only one footbridge near Gitaru which was hardly used by the pedestrians. Consequently, the pedestrians along the road were endangering their lives by crossing at undesignated crossings.

This may be an indicator of poor feasibility studies done on the road by the Project Management and poor service delivery since the needs of pedestrians may not have been taken into considerations.

Further, it was observed that the designated bus-stops along the road were not well marked or were not provided at all since public service vehicles and school buses usually stop on the road thus endangering the lives of other road users.

(iv). Poor Road Maintenance

Works on the Nairobi Western Bypass have been completed and road handed over to the employer. However, during the audit inspection exercise it was observed that all along the road, there were overgrown bushes, clogged drainages and worn out rip rap and soil protection works. Further, the barriers erected along the middle of the dual carriage way had been vandalized in some areas and pedestrians were crossing at undesignated crossings thus endangering their lives.

In addition, the street lights erected along the road were not working in some sections and therefore there was poor visibility at night thus endangering the lives of road users.

The benefits to the residents of the area envisaged from the project may not be realised. Further, value for money so far injected into the project may not be realized and the contractor may seek legal redress for failure to honour contractual obligations by the employer.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

The Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Project's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Project or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Project's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in

which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.


Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of noncompliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of applicable basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Project's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Project to cease to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Project to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.


CPA Nancy Gathungu, SBS
AUDITOR-GENERAL

Nairobi

17 November, 2023

NAIROBI WESTERN BYPASS PROJECT
Annual Report and Financial Statements for the financial year ended June 30, 2023

7 Statement of Receipts and Payments for the year ended 30th June 2023

Note	2022/23			2021/22			Cumulative to date
	Receipts and payments controlled by the entity	Payments made by third parties	Total	Receipts and payments controlled by the entity	Payments made by third parties	Total	
	Kshs.	Kshs.		Kshs.	Kshs.	Kshs.	
RECEIPTS							
1	22,500,000	-	22,500,000	74,973,580	-	74,973,580	624,878,230
2	-	4,282,756,321	4,282,756,321	-	5,139,307,587	5,139,307,587	17,131,025,288
TOTAL RECEIPTS	22,500,000	4,282,756,321	4,305,256,321	74,973,580	5,139,307,587	5,214,281,167	17,755,903,518
PAYMENTS							
3	-	-	-	990,140	-	990,140	7,978,490
4	22,500,000	4,282,756,321	4,305,256,321	73,983,440	5,139,307,587	5,213,291,027	17,747,925,028
TOTAL PAYMENTS	22,500,000	4,282,756,321	4,305,256,321	74,973,580	5,139,307,587	5,214,281,167	17,755,903,518
SURPLUS/DEFICIT	-	-	-	-	-	-	-

The accounting policies and explanatory notes to these financial statements are an integral part of the financial statements.


Eng. Kungu Ndungu
 Director General


23 SEP 2023

Date


Eng. Henry Gakuru
 Ag. Director-Development

23 SEP 2023

Date


CPA Chanje Kera
 Deputy Director-(F&A)
 ICPAK Member No. 8279
23 SEP 2023

Date


NAIROBI WESTERN BYPASS PROJECT

Annual Report and Financial Statements for the financial year ended June 30, 2023

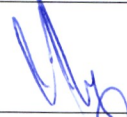
8 Statement of Financial Assets as at 30th June 2023

	Note	2022/23	2021/22
		Kshs	Kshs
FINANCIAL ASSETS			
Cash and Cash Equivalents			
Bank Balances		-	-
TOTAL FINANCIAL ASSETS		-	-
FINANCIAL LIABILITIES			
Payables- Retentions		-	-
NET ASSETS		-	-
REPRESENTED BY:			
Cash and cash equivalents b/fwd		-	-
Surplus/Deficit for the year		-	-
NET FINANCIAL POSITION		-	-

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The financial statements were approved on 23 SEP 2023 and signed by:


Eng. Kungu Ndungu
Director General

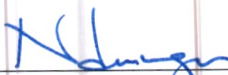

Eng. Henry Gakuru
Ag. Director-Development


CPA Chanje Kera
Deputy Director-(F&A)
ICPAK Member No. 8279


NAIROBI WESTERN BYPASS PROJECT**Annual Report and Financial Statements for the financial year ended June 30, 2023****9 Statement of Cashflow for the year ended 30th June 2023**

	Notes	2022/23 Kshs.	2021/22 Kshs.
RECEIPTS			
Transfers from Government entities	1	22,500,000	74,973,580
Net Receipts for operating income		22,500,000	74,973,580
Purchase of Goods and Services	3	-	(990,140)
Net Payments for operating expenses		-	(990,140)
Net cash flow from operating activities		22,500,000	73,983,440
CASHFLOW FROM INVESTING ACTIVITIES			
Acquisition of road assets	4	(4,305,256,321)	(5,213,291,027)
Net cash flows from Investing Activities		(4,305,256,321)	(5,213,291,027)
CASHFLOW FROM BORROWING ACTIVITIES			
Proceeds from Foreign Borrowings	2	4,282,756,321	5,139,307,587
Net cash flow from financing activities		4,282,756,321	5,139,307,587
NET INCREASE IN CASH AND CASH EQUIVALENT			
		-	-
Cash and cash equivalent at Beginning of the year		-	-
Cash and cash equivalent at End of the year		-	-

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on 23 SEP 2023 and signed by:


 Eng. Kungu Ndungu
 Director General


 Eng. Henry Gakuru
 Ag. Director-Development


 CPA Chanje Kera
 Director-Corporate Services
 ICPAK Member No. 8279

NAIROBI WESTERN BYPASS PROJECT**Annual Report and Financial Statements for the financial year ended June 30, 2023****10 Statement of Comparison of Budget and Actual amounts for year ended 30th June 2023**

Receipts/Payments Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilization Difference	% of Utilization
	a	b	c=a+b	d	e=c-d	f=d/c %
Receipts						
Transfers from Government entities	170,000,000	(147,500,000)	22,500,000	22,500,000	-	100%
Proceeds from foreign borrowings	5,230,000,000	(500,000,000)	4,730,000,000	4,282,756,321	447,243,679	91%
Total Receipts	5,400,000,000	(647,500,000)	4,752,500,000	4,305,256,321	447,243,679	91%
Payments						
Purchase of goods and services				-		
Acquisition of non-financial assets	5,400,000,000	(647,500,000)	4,752,500,000	4,305,256,321	447,243,679	91%
Total Payments	5,400,000,000	(647,500,000)	4,752,500,000	4,305,256,321	447,243,679	91%
Surplus or Deficit	-	-	-	-	-	

Note: The significant budget utilisation/performance differences in the last column are explained in **Annex 2** to these financial statements.

Eng. Kungu Ndungu
Director General

23 SEP 2023

Date

Eng. Henry Gakuru
Ag. Director-Development

23 SEP 2023

Date

CPA Chanje Kera
Deputy Director-(F&A)
ICPAK Member No. 8279

23 SEP 2023

Date

11 Significant Accounting Policies

The principal accounting policies adopted in the preparation of these financial statements are set out below:

a) Statement of compliance and basis of preparation

The financial statements have been prepared in accordance with Cash-basis IPSAS financial reporting under the cash basis of accounting, as prescribed by the Public Sector Accounting Standards Board (PSASB)

The financial statements comply with and conform to the form of presentation prescribed by the PSASB.

The accounting policies adopted have been consistently applied to all the years presented.

b) Reporting entity

The financial statements are for the Nairobi Western Bypass Project under the Kenya National Highways Authority. The financial statements encompass the reporting for Nairobi Western Bypass Project as specified in the relevant legislation PFM Act 2012.

c) Reporting currency

The financial statements are presented in Kenya Shillings (KShs), which is the functional and reporting currency of the Project and all values are rounded to the nearest Kenya Shilling.

d) Recognition of receipts

The Project recognises all receipts from the various sources when the event occurs and the related cash has actually been received by the Government.

i. Transfers from the Exchequer

Transfer from Exchequer is to be recognized in the books of accounts when cash is received. Cash is considered as received when payment instruction is issued to the bank and notified to the receiving entity.

ii. External Assistance

External assistance is received through grants and loans from multilateral and bilateral development partners.

Significant Accounting Policies (Continued)

iii. Other receipts

These include Appropriation-in-Aid and relates to receipts such as proceeds from disposal of assets and sale of tender documents. These are recognised in the financial statements the time associated cash is received.

iv. Donations and grants

Grants and donations shall be recognized in the books of accounts when cash is received. Cash is considered as received when a payment advice is received by the recipient entity or by the beneficiary. In case of grant/donation in kind, such grants are recorded upon receipt of the grant item and upon determination of the value. The date of the transaction is the value date indicated on the payment advice.

v. Proceeds from borrowing

Borrowing includes external loans acquired by the Project or any other debt the Project may take and will be treated on cash basis and recognized as a receipt during the year they were received.

vi. Undrawn external assistance

These are loans and grants at reporting date as specified in a binding agreement and relate to funding for the Project currently under development where conditions have been satisfied or their on-going satisfaction is highly likely and the project is anticipated to continue to completion. An analysis of the Project's undrawn external assistance is shown in the funding summary

e) Recognition of payments

The Project recognises all payments when the event occurs and the related cash has actually been paid out by the Project.

i. Compensation of employees

Salaries and Wages, Allowances, Statutory Contribution for employees are recognized in the period when the compensation is paid.

ii. Use of goods and services

Goods and services are recognized as payments in the period when the goods/services are consumed and paid for. If not paid for during the period where goods/services are consumed, they shall be disclosed as pending bills.

iii. Interest on borrowing

Borrowing costs that include interest are recognized as payment in the period in which they were incurred and paid for.

Significant Accounting Policies (Continued)

iv. Repayment of borrowing (principal amount)

The repayment of principal amount of borrowing is recognized as payment in the period in which the repayment is made. The stock of debt is disclosed as an annexure to the consolidated financial statements.

v. Acquisition of fixed assets

The payment on acquisition of property plant and equipment items is not capitalized. The cost of acquisition and proceeds from disposal of these items are treated as payments and receipts items respectively. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration and the fair value of the asset can be reliably established, a contra transaction is recorded as receipt and as a payment.

A fixed asset register is maintained by each public entity and a summary provided for purposes of consolidation. This summary is disclosed as an annexure to the consolidated financial statements.

f) In-kind donations

In-kind contributions are donations that are made to the Project in the form of actual goods and/or services rather than in money or cash terms. These donations may include vehicles, equipment or personnel services. Where the financial value received for in-kind contributions can be reliably determined, the Project includes such value in the statement of receipts and payments both as receipts and as payments in equal and opposite amounts; otherwise, the contribution is not recorded.

g) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

h) Restriction on cash

Restricted cash represents amounts that are limited/restricted from being used to settle a liability for at least twelve months after the reporting period. This cash is limited for direct use as required by stipulation. Amounts maintained in deposit bank accounts are restricted for use in refunding third part deposits

Significant Accounting Policies (Continued)

i) Imprests and Advances

For the purposes of these financial statements, imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year are treated as receivables. This is in recognition of the government practice where the imprest payments are recognized as payments when fully accounted for by the imprest or AIE holders. This is an enhancement to the cash accounting policy. Other accounts receivables are disclosed in the financial statements.

j) Contingent Liabilities

A contingent liability is:

a) A possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or

b) A present obligation that arises from past events but is not recognised because:

i) It is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or

ii) The amount of the obligation cannot be measured with sufficient reliability.

Some of contingent liabilities may arise from: litigation in progress, guarantees, indemnities, Letters of comfort/ support, insurance, Public Private Partnerships,

The Entity does not recognize a contingent liability but discloses details of any contingencies in the notes to the financial statements unless the possibility of an outflow of resources embodying economic benefits or service potential is remote

k) Contingent Assets

The Nairobi Western Bypass project does not recognize a contingent asset but discloses details of a possible asset whose existence is contingent on the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Entity in the notes to the financial statements. Contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits or service potential will arise and the asset's value can be measured reliably, the asset and the related revenue are recognized in the financial statements of the period in which the change occurs.

Significant Accounting Policies (Continued)

l) Pending bills

Pending bills consist of unpaid liabilities at the end of the financial year arising from contracted goods or services during the year or in past years. As pending bills do not involve the payment of cash in the reporting period, they recorded as 'memorandum' or 'off-balance' items to provide a sense of the overall net cash position of the Project at the end of the year. When the pending bills are finally settled, such payments are included in the statement of receipts and payments in the year in which the payments are made.

m) Budget

The budget is developed on a comparable accounting basis (cash basis), the same accounts classification basis (except for accounts receivable - outstanding imprest and clearance accounts and accounts payable - deposits, which are accounted for on an accrual basis), and for the same period as the financial statements. The Project's budget was approved as required by Law and National Treasury Regulations, as well as by the participating development partners, as detailed in the Government of Kenya Budget Printed Estimates for the year. The Development Projects are budgeted for under the MDAs but receive budgeted funds as transfers and account for them separately. These transfers are recognised as inter-entity transfers and are eliminated upon consolidation.

A high-level assessment of the Project's actual performance against the comparable budget for the financial year/period under review has been included in an annex to these financial statements.

n) Third party payments

Included in the receipts and payments, are payments made on its behalf by to third parties in form of loans and grants. These payments do not constitute cash receipts and payments and are disclosed in the payment to third parties column in the statement of receipts and payments.

o) Exchange rate differences

The accounting records are maintained in the functional currency of the primary economic environment in which the Project operates, Kenya Shillings. Transactions in foreign currencies during the year/period are converted into the functional currency using the exchange rates prevailing at the dates of the transactions. Any foreign exchange gains and losses resulting from the settlement of such transactions and from the translation at year-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the statements of receipts and payments.

Significant Accounting Policies (Continued)

p) Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in financial statement presentation.

q) Subsequent events

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended June 30, 2023.

r) Prior period adjustments

Prior period adjustments relate to errors and other adjustments noted arising from previous year(s). There were no prior year adjustments as at June, 30,2023.

12 Notes to the Financial Statements

1. Transfers from Government Entities

These represent counterpart funding and other receipts from government as follows:

	2022/23	2021/22	Cumulative
	Kshs	Kshs	to-date
Counterpart funds Quarter 1	22,500,000	67,896,731	90,407,231
Counterpart funds Quarter 2	-	-	3,135,500
Counterpart funds Quarter 3	-	-	358,541,169
Counterpart funds Quarter 4	-	7,076,849	172,794,330
Total (See Annex 3)	22,500,000	74,973,580	624,878,230

2. Loan from External Development Partners

During the 12 months to 30th June 2023, we received loans from Donor(s) as detailed in the table below;

Name of Donor	Date Received	Loans Received as Direct payments	Total amounts in Kshs.		Cumulative to date
			FY 2022/23	FY 2021/22	
			Kshs	Kshs	
Exim Bank of China	2022/23	4,282,756,321	4,282,756,321	5,139,307,587	17,131,025,288
Total		4,282,756,321	4,282,756,321	5,139,307,587	17,131,025,288

3. Purchase of Goods and Services

	FY 2022/23			FY 2021/22	Cumulative
	Receipts and payments controlled by the entity	Payments made by third parties	Total Payments	Total Payments	
	Kshs	Kshs	Kshs	Kshs	
Domestic travel and subsistence	-	-	-	983,300	7,971,650
Advertising and services	-	-	-	6,840	6,840
Total	-	-	-	990,140	7,978,490

Notes to the Financial Statements (Continued)

4. Acquisition of Non-Financial Assets

	FY 2022/23			FY 2021/22	Cumulative
	Receipts and payments controlled by the entity	Payments made by third parties	Total Payments	Total Payments	
	Kshs	Kshs	Kshs	Kshs	
Construction of roads	11,250,000	4,282,756,321	4,294,006,321	5,139,307,587	17,142,275,288
Acquisition of land	11,250,000	-	11,250,000	73,983,440	605,649,740
Total	22,500,000	4,282,756,321	4,305,256,321	5,213,291,027	17,747,925,028

5. Accounts Payables – Retentions

There were no accounts payable-Retention as at 30th June,2023. (30th June 2022-NIL)

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Other Important Disclosures

1. Pending Accounts Payable (See Annex 4)

	Balance b/f FY 2022/2023	Additions for the period	Paid during the year	Balance c/f FY 2022/2023
Description	Kshs	Kshs	Kshs	Kshs
Construction of Roads	2,737,430,224	1,876,250,672	4,294,006,321	319,674,575
Acquisition of Land	1,278,627,431	104,157,476	11,250,000	1,371,534,907
Supply of Services	-	-	-	-
Total	4,016,057,655	1,980,408,148	4,305,256,321	1,691,209,482

2. External Assistance

a) External assistance relating to loans and grants

	FY 2022/2023	FY 2021/2022
Description	Kshs	Kshs
External assistance received as loans	4,282,756,321	5,139,307,587
Total	4,282,756,321	5,139,307,587

b) Undrawn external assistance

	Purpose for which the undrawn external assistance may be used	FY 2022/2023	FY 2021/2022
Description		Kshs	Kshs
Undrawn external assistance - loans	Road works & consultancy services	3,816,842,945	8,099,599,266
Total		3,816,842,945	8,099,599,266

c) Classes of providers of external assistance

	FY 2022/2023	FY 2021/2022
Description	Kshs	Kshs
Bilateral donors	4,282,756,321	5,139,307,587
Total	4,282,756,321	5,139,307,587

External assistance for road rehabilitation works, studies, design & supervision consultancy services.

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Other Important Disclosures (Continued)

d) Non-monetary external assistance

	FY 2022/2023	FY 2021/2022
Description	Kshs	Kshs
Goods	-	-
Services	-	-
Total	-	-

e) Purpose and use of external assistance

	FY 2022/2023	FY 2021/2022
Description	Kshs	Kshs
Acquisition of Assets	4,282,756,321	5,139,307,587
Total	4,282,756,321	5,139,307,587

f) External Assistance paid by Third Parties on behalf of the Entity by Source

This relates to external assistance paid directly by third parties to settle obligations on behalf of the entity

	FY 2022/2023	FY 2021/2022
Description	Kshs	Kshs
Bilateral donors	4,282,756,321	5,139,307,587
Total	4,282,756,321	5,139,307,587

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13 Annexes

Annex 1 - Prior Year Auditor-General's Recommendations

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status:(Resolved/Not Resolved)	Timeframe:(Date when the issue is expected to be resolved)
1	<p><u>Basis for Qualified Opinion</u></p> <p>Unverified Land Compensation</p> <p>The Statement of receipts and payments and Note 4 of the financial statements indicate that Kshs. 73,983,440 was paid to the Commissioner of land to cater for land compensation.</p> <p>The payments were made on the strength of schedules attached to payment vouchers. However, no evidence of determination of acreage, boundaries, ownership and value was provided for audit verification. This is contrary to Section 119 of the Land Act, 2012 which provides that compensation shall be made only upon the exercise of due diligence which shall include verification of final survey and the determination of acreage, boundaries, ownership and value.</p>	<p>We agree with the observation.</p> <p>The acreage and boundaries were indicated in the land acquisition drawings and schedule that was forwarded with approval letter Ref.: MoTIHUD/I/35.08/Vol. dated 4th November, 2019 from the Cabinet Secretary (Ministry of Transport, Infrastructure, Housing, Urban Development & Public Works) to the Ag. CEO (NLC). The ownership and valuation of the acquired parcels is determined by NLC as provided in section 107(1) of the Land Act.</p>	Resolved	Continuous
2	<p>Unsupported receipts and payments</p> <p>The statement of receipts and Payments reflects transfers from government entities amounting to Kshs. 74,973,580 as disclosed in Note 1 to the financial statements, all of which were received</p>	<p>We disagree with the observation. Regulation 76 of the Public Financial</p>	Resolved	

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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved/Not Resolved)	Timeframe: (Date when the issue is expected to be resolved)
	<p>during quarter four (4). However, the project Managements did not provide supporting documents indicating the specific dates on which these receipts were received, but instead provided an exchequer confirmation of the entire amount issued to Kenya National Highways Authority (KeNHA), amounting to Kshs. 58,719,787,682.</p> <p>This is contrary to Regulation 76 of the Public Financial Management (National Government) Regulations, 2015 which provides for the purpose of disbursement of project fund, there shall be opened and maintained a project account for every project at Central Bank of Kenya, unless it is exempted by the Cabinet Secretary, in writing, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain on one bank account.</p> <p>Further, the statement of receipts and payments reflects total receipts and payments of Kshs. 5214,281,167 which includes an amount of Kshs. 5,139,307,587 received from external development partners paid directly to the contractors in respect of construction of roads however, no documentation was provided for audit review.</p>	<p>Management (National Government) Regulations, 2015 is on Grants and Loans received from the Development Partners.</p> <p>The Nairobi Western bypass uses the Direct Payment Method where the Partner do not disburse any cash hence no account is required.</p> <p>This is also not specified in the financing agreement.</p> <p>Disagreed. Direct payment vouchers totalling to Ksh. 5,139,307,587 was availed during the audit exercise.</p>		

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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved/Not Resolved)	Timeframe: (Date when the issue is expected to be resolved)
1	<p><u>Other Matters</u></p> <p>Unimplemented Road interchanges and Service lanes</p> <p>Audit review of records provided for audit revealed that the road project commenced in April, 2019 and covers a distance of approximately 16.7 Km. The project entailed construction of a dual carriage way, two (2) lanes each direction seven (7) metres wide. The information further indicated that there were six interchanges to be implemented at six shopping centers along the road, all of which the evidently not done. According to Variation of Contract Ref: KeNHA/RD/EPC/2074/2017, Addendum No. 2, dated 14 January, 2022, the management provided justification for lack of implementation for the interchanges referred above, as detailed below;</p> <ol style="list-style-type: none"> Omission of the first interchange was formed by the necessity to contain the cost of the project within the contract sum, and the savings made would be channeled to cover the cost of additional 1.384m of reinforced earth retaining walls and part of the 	<p>Not all interchanges were done in order to accommodate costs arising from additional work that the contractor undertook and the lack of land space. The decision to remove the two interchanges from the specs was reached by mutual agreement after a meeting with the Employer in September 2021. Project being an EPC the contract sum is fixed and the contractor is responsible for design and construction works</p>	Resolved	Continuous

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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved/Not Resolved)	Timeframe: (Date when the issue is expected to be resolved)
	<p>725m additional gravity retaining walls along alignment.</p> <p>2. Construction of the second interchange ramps and slip roads were to be limited to available space due to difficulty in acquisition of land and need to reduce the cost of interchange.</p> <p>3. The tunnel initially proposed to connect two overpasses at the third interchange was omitted in order to avoid the cost of project going over the budget instead an additional crossing at the site was constructed, instead on one (1No.) of crossing proposed at the preliminary design.</p> <p>4. In order to contain the cost of the project within the contract sum, the scope in fourth interchange was scaled down in the interim, so as to free financial resources to cater for additional works including box underpasses and other necessary enhancements. Considering that the land for the interchange was still not available, the construction works were to be done in stages, the first being an</p>			

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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status:(Resolved/Not Resolved)	Timeframe:(Date when the issue is expected to be resolved)
	<p>at grade round about to cater for the current traffic.</p> <p>5. The fifth junction, which was initially meant to be a simple underpass, was now to be completed as a diamond type interchange, due to the high cost of acquiring the land.</p>			
2	<p>Pending Bills</p> <p>Note 12 to the financial statements, the project had pending bills of Kshs. 3,926,892,951. The project end date was 30th June, 2022 however, it was not clear how and when these pending bills would be paid since the delayed payment of the pending bills may result in significant penalties and interests.</p>	<p>The project is being executed over a period of 39 months (3 ¼ years). The government allocates the total cost of the project over the number of years the project is implemented. During FY 2021/2022, the amount allocated was fully utilized as planned.</p> <p>The pending bill amounting to Kshs. 4,016,057,655 (Kshs. 3,926,892,951 FY 2020/2021) was as a result of budget constraints and reduction of GoK budget allocation by Kshs. 137,500,000 in the reporting financial year (2021/2022). An amount of Kshs. 2,569,653,793.29 in the first quarter of the current FY 2022/2023.</p> <p>An allocation of Kshs. 5,400,000,000 (AIA Kshs. 5,230,000,000 and GoK</p>	Resolved	Continuous

NAIROBI WESTERN BYPASS PROJECT
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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status:(Resolved/Not Resolved)	Timeframe:(Date when the issue is expected to be resolved)
	<p>Basis for conclusion</p> <p>Corporate Social Responsibility Activities outside the Affected Road Locality.</p> <p>The project environmental and sustainability report section indicate that the Chinese Suppliers (China Road & Bridge Corporation) has been involved in various Community Social Responsibility (CSR) activities geared towards providing residents through water kiosks, improvement of access roads and enhancing learning and playing environment in schools along the project. There was a total of nine CSR activities carried out by the project which were undertaken outside the locality of the road.</p> <p>However, correspondences and documents in support of initiation and public participation on the said CSR activities including quantity and amount spent on the activity have not been provided for audit verification. The activities were undertaken far from the locality in which the</p>	<p>Kshs. 170,000,000) is provided in the current FY 2022/2023 budget.</p>		
		<p>The contractor obtains most of his subgrade material and hard fill from Karai. That area is thus considered a project area and deserving of CSR activities as without the subgrade material road pavement would not be placed. The same to KFS because the asphalt mixing plant is located on forest land. Ndurarua is located within the project road, off the Lower Kabete interchange, between Ramps A and B. At Rungiiri, the Contractor sources his water for construction from Rungiiri Dam. That area is off Gitaru 1 interchange at WK 0+825 and therefore benefits the locals.</p> <p>In addition, a wall was erected at Kihara school thus benefiting the local residents since it reduces their burden in developing the school and keeps the school community safe.</p>	Resolved	Continuous

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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved/Not Resolved)	Timeframe: (Date when the issue is expected to be resolved)
	project was being implemented contrary to the environmental and sustainability reporting sub paragraph 3.5 which indicate that the activities are geared towards benefiting the local residents.			


Eng. Kungu Ndungu
 Director General

23 SEP 2023

Date


Eng. Henry Gakuru
 Ag. Director-Development

23 SEP 2023

Date

NAIROBI WESTERN BYPASS PROJECT

Annual Report and Financial Statements for the financial year ended June 30, 2023

Annex 2 - Variance explanations - Comparative Budget and Actual Amounts for FY 2022-2023


	Final Budget	Actual on Comparable Basis	Budget Utilisation Variance	% of Utilisation Variance to Final Budget	Comments on Variance
	a	b	c=a-b	d=b/a %	
RECEIPTS DURING THE YEAR/PERIOD					
Government of Kenya	22,500,000	22,500,000	-	100%	
External financing	4,730,000,000	4,282,756,321	447,243,679	91%	
Total receipts	4,752,500,000	4,305,256,321	447,243,679	91%	
PAYMENTS DURING THE YEAR/PERIOD					
Purchase of goods and services		-			
Acquisition of non-financial assets	4,752,500,000	4,305,256,321	447,243,679	91%	
Total Payments	4,752,500,000	4,305,256,321	447,243,679	91%	

NAIROBI WESTERN BYPASS PROJECT

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Annex 3 - Reconciliation of inter -entity transfers.

PROJECT NAME:		NAIROBI WESTERN BYPASS		
Breakdown of Transfers from the State Department of Roads				
a. Government Counterpart Funding				
		<u>Bank Statement Date</u>	<u>Amount (KShs)</u>	<u>FY to which the amounts relate</u>
	Quarter 1	30-Sep-22	22,500,000	FY 2022/23
	Total		22,500,000	



Eng. Kungu Ndungu
Director General



CPA Chanje Kera
Deputy Director (F&A)
ICPAK No.8279

NAIROBI WESTERN BYPASS PROJECT
Annual Report and Financial Statements for the financial year ended June 30, 2023
Annex 4 - Analysis of Pending Bills

Supplier of Goods or Services	Date Contracted	Original Amount	Amount Paid To-Date	Outstanding Balance 2022/2023	Outstanding Balance 2021/2022	Comments
		a	b	c=a-b		
Land Compensation						
Land Compensation		1,986,684,647	615,149,740	1,371,534,907	1,278,627,431	
Sub Total		1,986,684,647	615,149,740	1,371,534,907	1,278,627,431	
Construction of roads						
China Road & Bridge Corp	30/06/2020	4,628,287	-	4,628,287	4,628,287	1A
China Road & Bridge Corp	08/06/2022	2,569,653,793	2,569,653,793	-	2,569,653,793	6
China Road & Bridge Corp	27/05/2022	163,148,144	11,250,000	151,898,144	163,148,144	1-Adendum 3
China Road & Bridge Corp	15/11/2022	163,148,144	-	163,148,144	-	2-Adendum 3
Sub Total		2,900,578,368	2,580,903,793	319,674,575	2,737,430,224	
Grand Total		4,887,263,015	3,196,053,533	1,691,209,482	4,016,057,655	

NAIROBI WESTERN BYPASS PROJECT
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Annex 5 – Summary of Fixed Assets Register

Asset class	Opening Cost (KShs) 2022/23	Purchases/Additions in the Year (KShs) 2022/23	Disposals in the Year (KShs) 2022/23	Closing Cost (KShs) 2022/23
	(a)	(b)	(c)	(d)= (a)+ (b)-(c)
Construction of Roads	12,848,268,967	4,294,006,321	-	17,142,275,288
Land	594,399,740	11,250,000	-	605,649,740
Total	13,442,668,707	4,305,256,321		17,747,925,028

