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Mr. Leboo Ole Morintat
AG, County Secretary
Nairobi City County
P. O Box 30075-00100
Nairobi

13th December 2017,



Dear Mr. Morintat,

RE: MEMORANDUM ON THE DRAFT COUNTY INTEGRATED DEVELOPMENT PLAN 2018-2022

About The Institute for Social Accountability (TISA)

The Institute for Social Accountability (TISA) is a civil society initiative committed towards the achievement of sound policy and good governance in local development in Kenya, to uplift livelihoods of, especially, the poor and marginalized.

Objective of the Memorandum

Article 10 of the Constitution states that public participation is a national principle and value of governance binding on all State organs, State officers and Public officer when making public policy decisions. Article 174 of the Constitution 2010 provides for the objectives of devolution, which among others include 'to give powers of self-governance to the people, and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.'

Section 103 of the County Government Act, 2012 provides that there shall be a five-year county integrated development plan (CIDP) that encompasses: clear goals and objectives; an implementation plan with clear outcomes; provisions for monitoring and evaluation; and clear reporting mechanisms. Additionally, the CIDP shall identify the institutional framework, including organization chart, required for (i) the implementation of the integrated development plan; and (ii) addressing the county's internal transformation needs; and in adherence to strategies and programmes set out in the plan, provide for:

- (i) any investment initiatives in the county;
- (ii) any development initiatives in the county, including infrastructure, physical, social, economic and institutional development;
- (iii) all known projects, plans and programs to be implemented within the county by any organ of state; and (iv) the key performance indicators set by the county.

Section 102 (i) of the County Government Act 2012 provides that the principles of planning and development facilitation in a county shall serve as a basis for engagement between county government and the citizenry, other stakeholders and interested groups.

Further, *section 104 (4) of the County Government Act 2012* provides for obligation of the county government to plan and it shall promote public participation and incorporate non state actors in the planning process.

The guidelines for the preparation of the County Integrated Development Plan as prepared by the Ministry of Devolution and Planning in June 2017 provide for the attributes of a good CIDP which include *inclusivity and participatory*:

'A good CIDP must encourage public participation and inclusion of all stakeholders, in addition, a good CIDP should also include "Performance Analysis: A good CIDP should entail a comprehensive review of the past performance of the sectors in the County. This should include an analysis of the situation at the beginning of the plan, any changes realized, constraints encountered and the lessons learnt. This analysis helps the County Planning Unit to guide the County in the formulation of effective strategies that promote sustainable development in the County.'

Coherence in County Planning

Section 102(h) of the County Government Act, states that county planning is expected "to provide a platform for unifying planning, budgeting, financing programmes, implementation, and performance review". A county planning unit shall be responsible for "coordinated integrated development planning". County plans will have the goal of promoting harmony with national and other county plans, land-use plans, urban planning and environmental conservation.

For Nairobi County just like in all the other counties, Kenya Vision 2030 (National) remains the preceding document with an overview of sector plans. Secondly, there is in place the Integrated Urban Development Master Plan for the City of Nairobi. Subsequent to the aforementioned plans are sectoral plans and the manifesto of the government of the day. Consequently, in formulation of the county integrated development plan, the law requires the county planning department to ensure all development priorities are aligned and are in harmony with - existing plans.

We acknowledge efforts by the County Government of Nairobi in the development of the 2nd CIDP and appreciate the opportunity presented for the members of the public to input into the document. We hereby after critical analysis of selected sectors and sub-sectors including solid waste management; trade; gender and youth wish to bring to your attention the following

1. ENVIRONMENT, ENERGY, WATER AND SANITATION

Solid waste management sub-sector

Article 42 of the Constitution of Kenya states that "every person has a right to a clean and healthy environment." The Fourth Schedule in the Constitution of Kenya explicitly provides that the County Governments shall be responsible for refuse removal, refuse dumps, and solid waste removal. Kenya's development blueprint, Vision 2030, recognizes the need to develop solid waste management systems in Nairobi County

At present, solid waste management is characterized by waste scattering at collection points, illegal dumping inadequate collection points, and poor supervision of private waste collectors.¹ Under the current scenario only about 60% of generated waste ends up to the final disposal. Approximately only 10% of generated waste is recycled with the rest ending up in rivers and other undesignated places.² Informal settlements often bear the brunt of the failure of waste management systems in the county, leaving residents and traders to literally live on, trade on and travel on waste. Mounds of accumulated waste particularly in informal settlements and dumping of waste including human waste in rivers poses a major health threat to city residents. Government interventions are often missing or are inadequate to solve the problem of waste in informal settlements.³

The Integrated Solid Waste Management Plan for the City of Nairobi⁴ outlines a vision of the integrated solid waste management plan for a healthy, safe, secure and sustainable solid waste management system the goals of which are;

- a) To reduce waste quantities by introducing policies and instruments that regulate wasteful behaviour;
- b) To significantly extend resource recovery, both in terms of materials and energy, recognizing that it will require source separation as an essential component of sustainable waste management;
- c) To restructure and extend efficient and equitable collection of source separated resources and wastes, with a view to protecting public health and the environment;
- d) To build environmentally sound infrastructure and systems for safe disposal of residual waste, replacing current disposal sites which must be rehabilitated.

The specific actions to be implemented under the integrated solid waste management plan include:

1. Alignment of Nairobi City County mandate to the integrated solid waste management plan and ensure the department of environment is specific to solid waste management;
2. Recognize and formalise the operation of CBOs, and actors involved in waste recovery and trading as legal partners in solid waste management. Also develop and organise waste material supply chains to the recycling industry to minimise exploitation and create dependable supplies in pursuit of participatory solid waste management that taps into the strength of different actors and addresses environment and social needs;
3. Develop waste information system and research capacity to facilitate future planning, inform policy and investment decisions in the private and public sector;
4. Volume based streamlined collection fee: Determine waste disposal costs and reasonable fees due to waste collectors and use them to streamline volume based waste collection charges including source separation cost collected in the city to encourage transparency, accountability and goodwill towards private CBOs and county government waste collection.
5. Source separation of recyclable and pure organic wastes to avoid the expensive and non-flexible mixed waste mechanical separation system that separate pure materials that are

¹<http://www.centreforurbaninnovations.com/sites/default/files/Integrated%20Solid%20Waste%20Management%20Plan%20for%20Nairobi%20City.pdf>

² Draft County Integrated Development Plan 2018-2022

³ <http://spatialcollective.com/2014/09/04/rethinking-waste-management-in-nairobis-informal-settlements/>

⁴<http://www.centreforurbaninnovations.com/sites/default/files/Integrated%20Solid%20Waste%20Management%20Plan%20for%20Nairobi%20City.pdf>

collected and mixed. The economic value of source separation of waste is more resource recovery and trading activity thus strengthening material reuse and recycling. Reducing streamlined charges for separated, recyclable and pure organic waste as incentive for waste generators will reduce waste collection fee

6. Institute landfill levies on problematic waste materials to raise funds for purchase or developing recycling or end of life treatment of problematic materials, for example broken glass, poor grade plastics and plastic bags, waxed paper, polystyrene food packaging.
7. Awareness campaign and educating waste generators, collectors and transporters on source separation and disposal habits, resource recovery and safe disposal
8. Improve and increase waste collection: improve and expand non-motorised CBO collection and movement and current actors to increase collection levels and lead to equitable service delivery. The plan is for the county government to gradually move out of the collection and transport to disposal of solid waste and leave it private collectors and CBOs.
9. Zoning of waste collection operation areas to reduce transport and disposal cost to residents and collectors. Residents should be required to use the same collector. The strategy also aims to reduce competition between private and collectors and CBOs in the same locality and enable equity in service delivery by having service delivery spread away from allocated areas. The plan proposes zoning on ward basis with operation area based on capacity of tendering collectors and size of area. It proposes collection area administration to be done resident associations and renewed annually by residents based on performance.
10. Introduction of formal contracts between private waste collectors, CBOs and resident associations. This is to provide legal protection to both parties to reduce issues regarding fee collection and service provision. This will result to the growth of an economically viable, social and environment responsible waste collection sector
11. Establishment of material recovery and transfer facility to reduce waste volume for landfill disposal by compressing residual waste and use of bulk transportation
12. This Intergrated solid waste management plan can only be successful on effective regulation and enforcement of approved plan, policies and by laws. The plan proposes that resident associations to monitor local collection operation area or zone. The county government is to focus on supervisory, oversight and regulation of CBOs and private waste collection and management. The county government should streamline the roles of the various institutions related to solid waste.
13. Organic waste forms a large percentage of solid waste. The plan proposes for the derivation of value and diversion of organic waste from landfill, for example, convert it to biogas.
14. Strengthen recycling strategies by increasing recycling capacity and uptake of separated quality recyclable material thus diverting disposal in landfill.

Proper implementation of the integrated solid waste management plan will result to

- a) Job creation: creation of additional jobs with the increase of waste collection and recovery, owners and operators of biodigestors and those responsible for enforcement
- b) Improvement of environment hygiene and degradation by avoiding informal disposal of waste

The draft County Integrated Development Plan 2018- Highlights the following strategies to combat malaise in the SWM sector including; procure adequate waste collection equipment and trucks, improve garbage collection system; implement solid waste management plan; recruit more environmental officers; provide alternative dumping sites; promote recycling of solid waste; leveraging on technology solid waste management; enforcement and policing of environmental regulations; increase public education and awareness on environment. The draft subsequently prioritizes the following programs.

- Effective and efficient waste collection: 14 side loader trucks will be purchased for Kshs. 520 M; 3RC trucks Kshs. at 340 M; 14 tippers at Kshs 690 M; 2 excavators Kshs at 158 M; 1 bulldozer Kshs. at100M; 1compactor Kshs. at100M; 1 backhoe.
- Enhance expansion: 1 station wagon will be purchased at Kshs. 19.5 M; 1 pick-up at Kshs. 7.5 M; 17 Vehicles at 84 M.
- Increase waste collection: 68 assorted skips will be purchased at Kshs. 74 M; 10 refuse skip loader; 17 building machine at Kshs. 85 M
- Clean refuse trucks: 2 pressure vehicles washing machine will be purchased at Kshs.15 M
- Purchase of GPS and CCTV system at Kshs. 54M
- Grinding access rehabilitating drains purchased at Kshs. 2750M
- Better final disposal waste at Kshs. 53100 M
- (Education, youth affairs, culture and social services sector will undertake training of youths 5,400 youths in environmental management. At a cost of 45 million).

Gaps

1. The narrative section of the draft fails to emphasize the principle of integrated SWM, the role of stakeholders, value chain management and role of CBO's in employment creations, recycling and public education as provided in the solid waste management plan of the county;
2. The CIDP fails to recognize the lack of dumping sites due to unplanned development and grabbing of public land. It fails to make provisions for these and to identify physical planning as a cross cutting area;
3. That the county is prioritizing only capital expenditure at the expense of social development;
4. The county fails to acknowledge the need to review, complete and enact the SMW act and regulations;

Proposals

1. **Strategic priority:** The county will implement an integrated SWM framework and establish the necessary policy, legal and regulatory framework
2. **Development and funding priorities:**
 - a. Hold consultations on the SWM plan, Act and regulations to align them to the NCC integrated solid waste management policy;
 - b. Enact regulations and execute a program to promote effective value chains management and inclusion of CBOs in solid waste management;
 - c. Designate collection points particularly in informal settlements;
 - d. Provide public environmental education/ awareness creation;
 - e. Provide training of CBOs on integrated solid waste management;
 - f. Integrate resident associations in solid waste management; and

- g. Implementation of recycling program.
 - h. Establish SWM sector working group to enhance collaboration between county and non-state actors.
3. **Cross cutting issues:** Youth training and capacity development; physical planning (identification of dumping points, and SWM zones).

2. TRADE, COMMERCE, TOURISM AND CO-OPERATIVES

Informal Trade

The Sustainable Development Goal on Economic Growth (8) identifies the need to reduce vulnerable employment as an important target for sustainable development. Vulnerable employment is defined as job insecurity, lack of social security, poverty, lack of physical infrastructure, environmentally unsuitable working environments, low skills and technology, all of which categorise the informal sector. According to the Kenya National Population and Housing Census 2009, Nairobi has a labour force of 2,148,605 with 1,548,100 self-employed, majority of whom are in the informal sector. This compares to the 453,000 in the formal sector.

Kenya Vision 2030 sets six priority sectors, including the development of wholesale and retail trade as a means to providing sustainable employment. The NUIPLAN identifies the need to build new markets, relocate existing ones to more conducive trading environments, and use the open space in the industrial area for relocation site of informal manufacturers, who may be able to take advantage of proximity to the large scale formal manufacturers.

The CIDP indicates that the county will provide trading space for informal vendors through the guided occupation of public spaces on streets. The CIDP also identifies priorities such as capacity building, traders' awareness creation, strengthening cooperative development and management as measures to support MSMEs and makes significant allocations in this regard.

However, whereas the present administration has made several promises on the promotion of informal trade including the deficit of 126 markets, the need to stop harassment of small traders and overhaul county bylaws⁵ – the CIDP lacks a specific commitment to actualise these undertakings. Specifically;

- a. The county seeks to provide for the guided use of street spaces by informal traders: **Proposal - the priorities should provide for zoning as a cross cutting issues for trade development;**
- b. The CIDP identifies the need to provide enabling policy for the regulation of informal trade: **Proposal - The CIDP should include the development of trade regulation as a CIDP priority;**
- c. The CIDP recognises the importance of licensing in revenue generation: **Proposal - CIDP priorities should provide for the development of a licensing policy;**
- d. Proposal: **The CIDP priorities should provide for the allocation of trading sites for the establishment of new markets;**
- e. Proposal: **The CIDP priorities should include the use of the open space in industrial area for reallocation of informal traders;**

⁵ Sonko na Igate Manifesto – *Kazi kwa yeyote na wote* employment creation pillar.

- f. Establish informal trade sector working group to enhance collaboration between county and non-state actors.

3. Gender and Youth

Sustainable Development Goal five (5) envisions to achieve gender equality and empower all women and girls. Equally, The Constitution of Kenya guarantees the right to equality for both men and women. Article 27 (3) asserts that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Furthermore, the scope within which women and men are protected from violence has been widened to not only include the public but private spheres as well (Article 29 (c)). The Kenya Vision 2030 envisions reducing gender based violence as part of the strategies for reducing gender disparities.

The Integrated Urban Development Master Plan for the City of Nairobi report envisions development of a clear, comprehensive, well-articulated and coherent urban development policy and indicates that the process will be guided by among others, stakeholder-centeredness, driven and sensitive to gender, youth and people with disabilities and equality of stakeholders. Among the specific objectives is to mainstream good governance, gender, environment, and HIV/AIDS in all aspects of urban development.

Over the next 5 years, the present Nairobi City County administration envisions undertaking a comprehensive review of all county by-laws and regulations to ensure that county programmes are inclusive and non-discriminatory and have in-built youth, gender and PWD targets while making it mandatory for all County Departments to report on youth, gender and PWDs targets so that they consciously ensure that their programmes and projects are inclusive and non-discriminatory. The proposals have been outlined as part of strategies ⁶towards achievement of the strategic objectives pillars in the county integrated development plan 2018-2022 such as Pillar 7 on Youth, Women, People Living with Disabilities and Social Protection.

While attempts to incorporate gender related aspects in the CIDP are well appreciated, however it is important to note that;

1. Most gender related issues in the document are not costed raising concern as to how the county will implement the same;
2. In the broad sectors strategies, issues of gender are highlighted but not categorized/ remain missing under development priorities of the same sectors;
3. Gender concerns are categorized under crosscutting issues therefore making it difficult to monitor/measure the manner in which they priorities will be achieved.

⁶ Nairobi County Integrated Development Plan, 2018 Page 159

Proposals for gender priorities

1. Establish gender sector working group;
2. Designate rescue and rehabilitation centers;
3. Training of medical staff county enforcement officers;
4. Strengthen community processes to enhance reporting;
5. Support SGBV treatment in designated health centers.