

To:

Mr. Jacob Ngwele  
The Clerk  
Nairobi City County Assembly  
P.O Box 45844 – 00100  
City Hall Building



Monday 23rd May 2017,

**RE: MEMORANDUM ON THE MANAGEMENT OF UNIFIED TRADE LICENSE FOR NAIROBI CITY COUNTY**

**Background on County Budget and Economic Forum (CBEF)**

The County Budget and Economic Forum is a multi-stakeholder body established under the Public Finance Management Act, 2012 section 137(1) with the mandate to provide a means for consultation by the County Government on matters relating to budgeting, economic planning and financial management at the County.

The Nairobi City County Budget and Economic Forum was established in 2013 bringing together both the state and non-state actors nominated by organizations representing faith based groups, civil society organizations, women, youth informal settlements and professionals that have since engaged in consultations in county planning and budget related matters.

**Purpose of the memorandum**

The constitution of Kenya under Article 209(4) provides that the national and county governments may impose taxes and charges for the services they provide. Specifically the county governments are given powers to impose property rates, entertainment taxes; and any other tax that is authorized by an Act of Parliament. While levying the taxes and charges the county shall ensure that the taxes and charges shall not be exercised in such a way to prejudices economic activity, mobility of goods, services, capital or labor.

In light of this, the county government of Nairobi has put in various measures to enhance own source revenue collection. Some of the measures include enacting the finance bills, policy reforms, revenue automation e.g *eJijiPay*, and other revenue laws. One of the key reform is the implementation of the Unified Trade License, daily or weekly collection of CESS from small traders.

The purpose of this memorandum is to highlight on issues arising from two stakeholder's forum dubbed "*Nairobi County Budget and Economic Forum Non-State Consultative Forum on County Fiscal Compliance on Wage Bill, Inherited Debts/Liabilities & Revenues*" and "*stakeholder dialogue on Nairobi City County Unified trade license meeting*". One of the key advantage of the Unified Trade License is that it eases the licensing process of traders. However, it is also an impediment to the growth of small traders and revenue performance, with specific regard to CESS collection process and administration of devolved license department structures.

In undertaking its mandate, CBEF in collaboration with the County Executive Committee Members organized the two days meeting with an objective of charting a path towards the resolution of long standing budgetary challenges including revenue shortfalls. The CBEF non-state actors have in the past continuously raised concerns with respect to failure by the county in meeting its revenue targets.

Further to this meeting, and in a bid to resolve challenges that emerged during the formation of interim public participation sector committees, in Kibra, Embakasi East, westlands and Dagoretti North sub-counties, trade committees with respect to *unified trade license* for Nairobi city county, a stakeholders' dialogue forum was held on 28th April 2017 which brought together stakeholders from Nairobi city county license department, ward administrators and sub-county administrators, Commission on Revenue Allocation and interim trade committee representatives from selected sub-counties.

The following concerns were raised:

1. County revenue performance: Over the last three financial years, the county own sources revenue have consistently performed below set targets resulting in annual budget deficits averaging 20%. The Controller of Budget reports for the past three financial years of 2013/14-2015/16 also cite the persistent utilization of internal revenue at source contrary to Article 207 of the Constitution. The Commission on Revenue Allocation further notes that present revenue projections do not correspond to the County's actual revenue potential<sup>1</sup>.
2. It was noteworthy, that the county was not in a position to determine the business turnover within the county that has in turn led to lose of revenue for the county.
3. CESS collection/charges especially to informal/small scale traders was a move embraced by the defunct city council and designed for small-scale traders who were unable to pay for the business license. However, as is, the small scale traders through CESS collection are overcharged compared to their counter parts in the up markets. An in depth analysis of how much small-scale traders remitted inform of CESS annually revealed between Kshs. 7,300-Kshs 18,250. Additionally, there was reported linkages between the actual collected CESS and the declared amount which meant that revenue was lost through the middlemen who were county officials from the license department popularly known as Kanjo).

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<sup>1</sup> Revenue potentials ( estimates by KIPRA,2015) Kshs 15,291



4. Maladministration of the devolved license structures: Despite the devolution of license department to sub-county and ward levels, collection of rates is still centralized and undertaken by officers based at city hall as opposed to the existing devolved structures. This has in turn led to lose of revenue due transparency issues.
5. There has also been noted operations by imposters from the defunct City Council who have continuously swindled traders into paying non-existent fees /charges

**The following recommendations were made for consideration by the county Executive and Assembly of Nairobi**

1. Development of various policies and enactment of the various enabling legislations for the county to manage all issues surrounding the own sources revenue:
  - a. Property rates Act
  - b. Trade licenses Act
  - c. Revenue administration Act
  - d. Finance law – Annually and any other laws that may be required. The county currently uses the by-laws that were used by the defunct Local Authorities Act.
2. The County needs to strengthen its revenue collection model and capacity for efficiency in revenue collection. Enter into a capacity building partnership with Kenya Revenue Authority (KRA).
3. On the Unified Trade License, this is a good policy but need to develop guidelines on how the various business are charged depending on their nature of business. Small and informal traders should be exempted from fire inspection, signage etc.
4. Lack of laws to govern some charges and fees. Therefore, there is need by the county assembly to amend the law to address the menace around CESS collection. It was further recommended that: there is need to establish a card based system at the sub-county level that shall be renewable every quarter to avoid leakages.
5. Register all traders and attach the rates they should be charged to eliminate cartels in taxes, charges and rates collection
6. There is need to introduce identification cards by the Nairobi City County license department to its officers, cards of which should be produced prior to undertaking any exercise
7. It is therefore, imperative for the county to establish how much revenue is collected manually Vs Ejjipay, this is in a bid to make an informed decision on whether facilitating the officers to perform rather than collecting revenue.

Yours Sincerely,



Rahab Ndambuki

CBEF Secretary

**Cc:**

**County Select Budget and appropriations committee  
Nairobi City County Assembly  
P.O Box 45844 – 00100  
City Hall Building**