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KISUMU COUNTY BILLS, 2023

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**THE KISUMU COUNTY AGRICULTURAL SECTOR
COORDINATION BILL, 2023**

A Bill for

AN ACT of the County Assembly of Kisumu to establish an administrative framework for consultation, collaboration, cooperation and coordination within the Kisumu County Agricultural Sector and to give effect to Article 185, Article 186 and Article 187 of the Constitution of Kenya, 2010 and Section 34 of the County Governments Act, 2012 and for connected purposes

ENACTED by the County Assembly of Kisumu, as follows—

PAR I — PRELIMINARY

Citation

1. This Act may be cited as the Kisumu County Agricultural Sector Co-ordination Act, 2023.

Interpretation

2. In this Act, unless the context otherwise requires —

“capitation” means a complimentary amount given in form of a grant to an individual, group or organization for implementation of an agricultural project;

“chief officer” means chief officer for the Kisumu County Department of Agriculture, Irrigation, Livestock and Fisheries;

“CEC” means County Executive Committee;

“Department” means the Kisumu County Department of Agriculture, Fisheries and Irrigation;

“KCASCOM Committee” means the Kisumu County Agricultural Sector Consultation and Cooperation Mechanism Committee established in Section 5 of this Act.

“Secretariat” means the KCASCOM Secretariat established in Section 9 of this Act;

“Special meeting” means a meeting convened upon the supposition that something of an urgent nature has suddenly arisen which prevents a one-month notice for its consideration being given in the ordinary way;

“the Fund” means the Kisumu County Agricultural Sector Complimentary Fund established in Section 26 of this Act as a complimentary financial and/or technical assistance to an individual,

group or organization already engaged in some small and medium enterprise or business related to the agricultural sector;

“village council administrators” means village administrator established in accordance with Section 52 of the County Governments Act, 2012;

“Ward Committee” means the Ward Agricultural Sector Consultation and Cooperation Committee established in section 13 of this Act.

Objects and Purpose

3. The purpose of this Act is to provide for the procedures for the management and administration of the Kisumu County Agricultural Sector through collaboration, consultation, cooperation and coordination in the County by —

- (a) establishing the Kisumu County Agricultural Sector Co-ordination Mechanism Committee to facilitate and enhance Collaboration, Co-operation, Coordination and Consultation among agricultural sector stakeholders in the County;
- (b) coordinating collection and dissemination of agricultural information to the public to create awareness and best practice;
- (c) seeking and receiving grants from the National government and relevant implementing partners for the Agriculture sector;
- (d) implementing any relevant obligations of the State under international agreements related to agricultural products;
- (e) strengthening the Department of Agriculture and provide it with adequate mandate and authority to enable it to coordinate, supervise, regulate and manage all activities related to the agricultural sector within the County;
- (f) requiring lead agencies including government, departments, partners and the private sector, and individual citizens to undertake their own respective roles in the Agricultural sector; and
- (g) providing for procedural and administrative matters related to Agricultural development in the County.

Guiding Values and Principles

4. In fulfilling its mandate, the County Government, the Department, the KASCOM Committee and the Ward Agricultural Sector Consultation and Coordination Committee shall act in accordance with the values and principles set out in the Constitution and the following principles—

- (a) support and strengthening of agricultural stakeholder interrelationship;
- (b) effective and sustainable agricultural development;
- (c) a market oriented and modern technology-driven agricultural economy;
- (d) promotion of stable Public–Private–Partnerships for development of the crops, livestock and fisheries sub-sectors;
- (e) compliance with international standards in development and growth of the crops, livestock, irrigation and fisheries sub-sectors;
- (f) promotion of Agricultural Ecological Zone-guided production with improved capacity to predict and respond to shocks; and
- (g) utilization of science and Indigenous Knowledge and resources

PART II — INSTITUTIONAL ARRANGEMENT

Establishment of the Kisumu County Agricultural Sector Consultation and Cooperation Mechanism Committee (KCASCOM)

5. There shall be established the Kisumu County Agricultural Sector Consultation and Cooperation Mechanism Committee (KCASCOM) which shall facilitate and enhance Collaboration, Co-operation, Coordination and Consultation among agriculture sector stakeholders in the County.

Constitution and Composition of the Kisumu County Agricultural Sector Consultation and Cooperation Mechanism Committee (KCASCOM)

6. (1) The KCASCOM Committee shall consist of at least seven (7) members and not more than nine (9) persons composed of—

- (a) the CEC Member for Agriculture who shall be the Chairperson for the Committee and Kisumu County Representative at the Joint Agricultural Sector Consultation and Coordination Mechanism;
- (b) the CEC Member for Finance and Economic Planning;
- (c) the Chief officer for Agriculture, Livestock, Fisheries and Irrigation who shall be the Secretary to the Committee and head of KCASCOM Secretariat established in Section of this Act;
- (d) one Representative from the Kenya National Chambers of Commerce;

- (e) one Representative from Persons Living with Disabilities;
- (f) one Representative from Joint Agricultural Sector Consultation and Coordination Mechanism who shall be an *ex-officio* member;
- (g) one Representative from Civil Society Organizations within the Agricultural Sector and;
- (h) one Representative from Agricultural Associations within the County.

(2) In the absence of the Chairperson contemplated in 1 (a) above, the Members shall nominate one of them to chair such meeting.

(3) Appointments for Members of the Committee referred in Section 7 (1) (d), (e), (f) and (g) above shall be made pursuant to the two-thirds gender rule and the provisions of Article 27 of the Constitution.

Tenure of Membership

7. (1) A member of the Committee under Section 7 (1) (d) (e) (f) (g) shall remain a member for three years and is eligible for reappointment for a further term of three years only.

(2) A member of the Committee may, at any time, resign by letter addressed to the Secretary, giving notice of at least 21 days.

(3) The County Executive Committee Member for Agriculture may, at any time, with the approval of the County Executive Committee remove a member of the Committee contemplated under sections 7 (d), (e) and 7 (g) on the following grounds—

- (a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;
- (b) gross misconduct, whether in the performance of the member's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
- (d) incompetence or;
- (e) bankruptcy.

Functions and powers of the KCASCOM Committee

8. (1) The KCASCOM Committee shall establish a framework for consultation, coordination, cooperation and collaboration on matters related to—

- (a) initiatives for establishment of the structures for agricultural consultation and coordination;

- (b) enhancement of capacities of established structures for consultation, cooperation and coordination;
 - (c) dissemination of information to relevant partners within the agricultural sector;
 - (d) enhancement of participation of stakeholders in consultation and coordination structures and;
 - (e) facilitating preparation of the agricultural sector policies, strategies and regulations for launch and roll-out.
- (2) For the purposes of sub-section (1) above, the Committee —
- (a) shall arrange regular operational communication and meetings with Agricultural Stakeholders to discuss developments related to Agricultural production, future directions, community expectations, resolve emerging issues and feedback;
 - (b) shall advise the CEC Member for Agriculture on any instrument of partnership within the Agricultural Sector;
 - (c) may examine and comment on any policies, investigate, evaluate and advise on any practices and decisions of the CEC Member for Agriculture under this Act;
 - (d) is entitled to all relevant information concerning the administration of the Agricultural Sector within the County;
 - (e) may require—
 - (i) the Department of Agriculture to submit a report concerning a matter on which the Committee shall give advice; or
 - (ii) may require an Agricultural stakeholder or partner to appear before it and give explanations concerning a relevant matter;

Kisumu County Agricultural Sector Consultation and Co-operation Mechanism Committee (KCASCOM) Secretariat

9. (1) There is established the Kisumu County Agricultural Sector Consultation and Cooperation Mechanism Secretariat (KCASCOM Secretariat).

Functions of the KCASCOM Secretariat.

10. The Secretariat shall—

- (a) provide advisory services to KCASCOM on matters related to Agriculture in the County;

- (b) coordinate research on Agricultural issues, disseminate findings and advise on best practices;
- (c) identify County-wide Agricultural needs and vulnerabilities;
- (d) coordinate capacity building programmes for the Agricultural Sector Personnel;
- (e) develop a data base for developments within the Agricultural Sector;
- (f) coordinate monitoring and evaluation within the Agricultural Sector;
- (g) ensure implementation of the Agricultural coordination framework and policies;
- (h) mobilize resources for the agricultural sector;
- (i) promote partnerships, networks, linkages within the agricultural programmes for effective co-ordination and information sharing and;
- (j) co-ordinate activities of the KCASCOM.

Composition of KCASCOM Secretariat

11. The KCASCOM Secretariat shall be composed of:-

- (a) The Chief Officer for Agriculture who shall be responsible for the Administration of the Secretariat;
- (b) County director of Crops;
- (c) County director of Livestock Production;
- (d) County director of Veterinary services;
- (e) County director of Cooperatives;
- (f) County director of Fisheries and
- (g) Two other officers with experience in Monitoring and Evaluation assigned to undertake KASCOM duties.

Conduct and disclosure of Interest

12. (1) A member of the KCASCOM Committee or its Secretariat may not—

- (a) attend, participate in, vote or influence the proceedings during a meeting of the Committee if, in relation to the matter before the Committee, that member has an interest, including a financial

interest, that precludes him or her from acting in a fair, unbiased and proper manner; or

- (b) make private use of, or profit from, any confidential information obtained as a result of performing his or her functions as a member of the Committee.

(2) For purposes of sub-section (1)(a), a financial interest means a direct material interest of a monetary nature, or to which a monetary value may be attributed.

Cessation of Membership

13. (1) A member of the KCASCOM Committee or the KCASCOM Secretariat established in terms of this Act ceases to be a member if—

- (a) that person resigns from the committee;
- (b) the County Executive Committee Member for Agriculture terminates that person's membership for adequate reason so long as that person was appointed pursuant to this Act; or
- (c) the term for which the member was appointed has expired and the membership has not been renewed.

Establishment of Ward Agricultural Sector Consultation and Cooperation Committee

14. There shall be established the Ward Agricultural Sector Consultation and Cooperation Committee in each Ward.

Functions of the Ward Agricultural Consultation and Cooperation Committee

15. The Ward Agricultural Sector Consultation and Cooperation Committee shall—

- (a) hold consultative meetings with communities together with relevant government sectors, planners, agencies and local organizations in the Agricultural Sector;
- (b) participate in livelihood and resilience assessments to enable different community groups identify challenges arising from the implementation of agricultural programmes;
- (c) prioritize and design investments that will promote agricultural practice within the Wards;
- (d) prepare project proposals, aggregate and coordinate Ward agricultural programmes;

- (e) prioritize proposals and submit them to the KCASCOM Committee for consideration and approval.

Composition of the Committee

16. The Ward Agricultural Sector Consultation and Cooperation Committee shall be composed of at least seven (7) Members and not more than nine (9) members as follows—

- (a) Ward Administrator who shall be the Chairperson for the committee;
- (b) Ward Agricultural Officer, who shall be the Secretary;
- (c) a Representative of the Member of the County Assembly;
- (d) a Youth representative actively engaged in Agricultural activities within the Ward;
- (e) a Representative of the Marginalized Gender;
- (f) a representative of the Community based Organizations actively operating in the ward on Agricultural programmes;
- (g) a representative of people living with disability (PWDs);
- (h) a member of the Ward with relevant experience and success in agricultural related matters; and
- (i) a representative of Civil Society Organizations.

Qualification for appointment

17. Pursuant to Sub-section 15(1) (e), (f), (h) and (f) above, a person shall qualify for appointment as a member of the Ward Agricultural Sector Consultation and Cooperation Committee if such a person is a resident of the Ward and qualifies the requirements of Chapter Six of the Constitution.

Remuneration

18. The Members of the KCASCOM and the Ward Agricultural Sector Consultation and Cooperation Committee shall be remunerated sitting allowances in accordance with the rates provided for by the Salaries and Remuneration Commission for committees of this nature.

Frequency of meetings

19. The KCASCOM and the Ward Agricultural Sector Consultation and Cooperation Committee shall meet at least four times per year, excluding any special meetings and sub-committee meetings that may be called from time to time as is necessary.

Quorum

20. (1) The quorum for meetings of the KCASCOM and Ward Agricultural Sector Consultation and Cooperation Committees shall be two thirds of the members.

(2) A resolution of the KCASCOM and Ward Agricultural Sector Consultation and Cooperation Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(3) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting.

(4) Regular meetings of the KCASCOM and Ward Agricultural Sector Consultation and Cooperation Committee shall be scheduled in such a manner as to ensure that resolutions thereof are available in time for the next regular meeting of the Planning Committee.

PART III —COUNTY AGRICULTURAL SECTOR COORDINATION PLANNING

Kisumu County Agricultural Sector Strategic Plan

21. (1) The CEC Member for Agriculture shall within six (6) months, from the coming into force of this Act, develop the Kisumu County Agricultural Sector Strategic Plan and submit to the County Assembly for approval.

(2) The Strategic Plan shall serve as the basis for a program for Agricultural Sector consultation, coordination, cooperation, planning, research and development, extension, and monitoring of activities within the Agricultural Sector.

(3) The CEC Member shall in developing the Strategic Plan, consult with KCASCOM Committee, Ward Committee and agricultural stakeholders within the County and shall consider—

- (a) Kisumu County Agricultural Sector vulnerabilities;
- (b) Kisumu County Agricultural Mapping
- (c) County Agricultural Priorities
- (d) compliance with international obligations
- (e) advocacy and information dissemination
- (f) framework for agricultural coordination and consultation which shall include stakeholder mapping;

- (g) monitoring and evaluation; and
- (h) best agricultural practices.

(4) Without prejudice to the provision of Sub-section 3 above, the County Agricultural Strategic Plan shall provide an articulate Agricultural Projects implementation plan informed by Kisumu County Agricultural needs and response assessment, and specifying measures and mechanisms for—

- (a) guiding the county toward the achievement of food security;
- (b) mainstreaming agricultural programmes into county development plans, programmes, strategies and projects;
- (c) adaptation to and mitigation against agriculture related disaster;
- (d) enhancing research, capacity building and knowledge management on agricultural programmes and projects;
- (e) enhancing public awareness for effective participation in the agricultural sector programmes;
- (f) monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the Kisumu County Agriculture Strategic Plan; and
- (g) Planning, coordination and monitoring of food system activities within the County.

County Agricultural Action Plan

22. (1) The KCASCOM Committee shall upon consultations and coordination with various stakeholders formulate the Kisumu County Agricultural Action Plan within sixty (60) days upon the approval of the County Agricultural Strategic Plan.

(2) The Kisumu County Agricultural Action Plan shall be consistent with the County Agricultural Strategic Plan and shall contain guiding framework for implementing the Strategic Plan and Sustainable Intensification of Agriculture within Kisumu County.

(3) The County Agricultural Action Plan shall in addition to the requirement of subsection (2) above include—

- (a) an assessment of the current and predicted impact of climate change on the agricultural activity in the areas under the jurisdiction of the Wards and local communities;
- (b) a vulnerability impact assessment of the agricultural activity on the areas under the jurisdiction of the local communities; and

(c) a statement of the strategies, policies and actions for adapting to climate change.

(4) The KCASCOM Committee shall hand-over the County Agricultural Action Plan detailing all subsequent amendments, modifications and revisions, within one month from its adoption.

(5) The KCASCOM Committee shall regularly update the County Agricultural action plan to reflect changing social, economic and environmental conditions.

(6) The CEC Member for Agriculture shall designate an officer to be responsible for the implementation of the County Agricultural Action Plan.

PART IV—PARTICIPATION AND COLLABORATION IN AGRICULTURAL PROJECTS AND ACCESS TO INFORMATION

Small scale agricultural project proposal

23. (1) A resident of Kisumu County or a juristic person within Kisumu County shall benefit and/ or participate in agricultural activities and projects within the County.

(2) A natural or juristic person may submit for consideration a small scale agricultural project proposal to the Ward Agricultural Sector Consultation and Corporation Committee which shall submit the project proposal and project brief to KCASCOM Committee.

(3) In consultations and collaborations related to proposed Agricultural Projects, the Ward Agricultural Sector Consultation and Corporation Committee shall provide engagement guidelines on Agricultural projects indicating—

- (a) the type and size of the project;
- (b) the location of the project;
- (c) number of beneficiaries;
- (d) the anticipated contribution to sustainable development goals of Kisumu County; and
- (e) the anticipated total amount of agricultural output of the project.

Requirement of Project Applicant

24. (1) The beneficiary shall, in submitting an application for a small scale agricultural project—

- (a) state the location of the land on which the proposed project is to be situated, the approximate area of the land and evidence of ownership;
- (b) attach a summary of the proposed management plan for the project;
- (c) attach a report on environmental impact assessment (EIA) and social impact assessment where applicable;
- (d) provide evidence of consultation with the local leaders and the community; and
- (e) (e) any other supporting document.

(2) The application for a small scale agricultural project shall be in a prescribed form.

(3) Ward Agricultural Sector Consultation and Cooperation Committees shall assess and recommend the proposed small scale projects.

(4) The Ward Committee shall within 21 days of the receipt of an application forward its recommendation to the Chief Officer for submission to the CEC Member for Agriculture.

Approval of projects

25. (1) The CEC Member for Agriculture, in consultation with the KCASCOM Committee shall, if satisfied that the applicant meets the requirements—

- (a) issue a letter of approval;
- (b) issue a notice of grant of a complimentary fund for the Project; and
- (c) issue an implementation and monitoring and evaluation framework for the project.

(2) The County Executive Committee Member, in consultation with the KCASCOM Committee shall, if not satisfied that the applicant meets the prescribed requirements, reject a recommendation to grant a letter of approval.

(3) The criteria for selection of an agricultural project shall be in prescribed form.

Obligation of the Project Applicant

26. (1) A project applicant under this Act shall carry out his or her activities in accordance with the terms and conditions set out in the letter of approval and this Act.

(2) A project proponent shall keep records and prepare reports relating to the project.

(3) The records and reports referred to in subsection (2) shall be submitted to the Department quarterly and annually.

(4) A project proponent shall, at the request of the Department or KCASCOM Committee provide all information relating to the project.

County Strategy for Agricultural Sector education and public awareness

Public Participation

27. (1) The KCASCOM Committee and Ward Committees shall ensure that the development of any Agricultural programme, plan, project or activity in the county is preceded by comprehensive campaign of public sensitization and awareness creation to facilitate informed public participation.

(2) The Department and the Ward Committees shall report to KCASCOM Committee on public sensitization campaigns undertaken with reference to every Agricultural programme, plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.

Access to information

28. (1) The CEC Member for Agriculture shall publish, publicize and ensure access to all important agricultural sector information in their possession;

(2) The Department shall ensure that the information under subsection (1) is available at the County Agricultural Resource Center.

PART V —FINANCIAL PROVISIONS

Establishment of Kisumu County Agriculture Fund

29. There shall be established the Kisumu County Agriculture Fund in accordance with Section 116 of the Public Finance Management Act, 2015.

Purpose of the Fund

30. The purpose of the Fund shall be to—

- (a) distribute complimentary capitation to approved small scale agricultural projects within the County;
- (b) take measures to ensure that the funding of agricultural incentives is appropriate and consistent with relevant agricultural needs of the County;
- (c) collate utilization data and implement information management systems to assist in monitoring the quality and standard of agricultural production, incurred through the Fund;
- (d) develop and maintain a service and performance profile of all approved project proponents;
- (e) facilitate agricultural research, monitoring and evaluation of the impact of the Fund on county agricultural outcomes;
- (f) facilitate the exchange of information with statutory professional bodies, private agencies, other government departments and organs of state as and when appropriate or necessary in order to achieve its purposes.

Sources of the Fund

31. The sources for the Fund shall consist of—

- (a) donations and grants;
 - (b) money to which the Fund is entitled in terms of National Government Agricultural Capitation;
 - (c) any interest or return on investment made by the Fund;
 - (d) any money paid erroneously to the Fund which, in the opinion of the CEC Member for Finance, cannot be refunded and;
 - (e) any other money to which the Fund may become legally entitled.
- (2) (a) The Fund may where necessary be appropriated once by the County Assembly in order to achieve its purposes.
- (b) Without prejudice to the generality of 2 (a) above, the Kisumu County Agriculture Fund shall not be appropriated more than 2% of the County Annual Budget.

Regulations for the Fund

32. (1) The County Executive Committee Member for Finance and Economic Planning shall formulate Regulations for the implementation and establishment of the Fund within ninety (90) days of this Act coming into force.

(2) Without prejudice to the provision of Sub-section (1) above, the CEC Member for Finance and Economic Planning shall forward the Regulations for the Fund to the County Assembly for approval in accordance with the Statutory Instruments Act, 2013.

PART VI — MISCELLANEOUS

Indemnity from Personal Liability

33. (1) The CEC Member for Agriculture, a member of staff or an authorized officer of the Department, shall not be personally liable in respect of any act done in the execution of powers or duties under this Act.

(2) Subsection (1) above shall not relieve the Government of the liability to pay compensation or damages to any person for any injury, loss of property or interests caused by the exercise of any power conferred by this Act or by the failure, wholly or partially of any works.

Offences and Penalties

34. (1) A person who—

- (a) without lawful excuse ignores or fails to obey any instruction issued by the CEC Member for Agriculture, the KCASCOM Committee and the Ward Committee or their agents in exercise of the powers or the performance of the functions of the Committees under this Act; or
- (b) willfully obstructs any member or agent of the Department or the Committees in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to any member of the Department, Committees established under this Act or officer or agent of the Committees in exercise of the powers or the performance of their functions under this Act, commits an offence and is liable, on conviction, to a fine not exceeding Kshs. Five hundred thousand shillings or to imprisonment for a period not exceeding six months, or to both.

(2) Where an offence under subsection (1) is committed by a body corporate, every director or officer of the body corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under subsection (1).

(3) Where an offence under subsection (1) is committed by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under subsection (1).

PART VII — DELEGATED LEGISLATION

Regulations

35. (1) The CEC Member for Agriculture shall make Regulations within ninety (90) days of the coming into force of this Act for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the general effect of subsection (1), the County Executive Committee Member may make regulations for—

- (a) procedure and criteria for selection of participation in Agricultural sector projects;
- (b) procedure for application for selection of an agricultural project;
- (c) particulars of register of agricultural projects approvals;
- (d) procedures for membership and attainment of the two-thirds gender rule in the KCASCOM and Ward Committees;
- (e) terms of agricultural sector engagements;
- (f) participation in benefit sharing or incentive allocation mechanism in the agricultural sector.

MEMORANDUM OF OBJECTS AND REASONS.

The principal object of this Bill is to establish an administrative framework for consultation, collaboration, cooperation and coordination within the Kisumu County Agricultural Sector and to give effect to Article 185, Article 186 and Article 187 of the Constitution of Kenya, 2010 and Section 34 of the County Governments Act, 2012.

Statement of how the Bill concerns the County Government of Kisumu

The Bill concerns the county government of Kisumu in terms of Articles 185, 186 and 187 and the 4th Schedule of the Constitution.

Statement of delegation of legislative powers and limitation of fundamental rights and freedoms.

The Bill does not contain any provision limiting any fundamental rights or freedoms. The Bill however delegates legislative authority to the CECM for the time being responsible for Agriculture to make non-financial regulations for the better implementation of the Act and the CEC Member for Finance to make regulations related to the administration and Management of the Kisumu County Agriculture Fund.

Statement that the Bill is a money Bill, within the meaning of Article 114 of the Constitution.

The Bill is not a money bill within the meaning of Article 114 of the Constitution

Financial Impact Statement

The enactment of this Bill shall occasion additional expenditure of public funds.

Date the 28th August, 2023.

EUNICE ALANDOH,
*Chairperson, Committee on Agriculture,
Fisheries and Irrigation.*