



**REF: Petition to Senate to Investigate Non-Payment by the County
Government of Kitui Debt/Bills for 2015/2016 Financial**

We the undersigned,

Being Citizens of Kenya and residents of Kitui County in the Republic of Kenya;

DRAW the Attention of the Senate under the provisions of *Article 96(1) of the Constitution of Kenya, 2010* and *Senate Standing Order 226(1)(b) and 230(2)(a)* to the following matters that may affect the interests of County Government of Kitui if the Petitioners were to take drastic action under *Section 193(2) of the County Governments Act No. 17 of 2012*.

THAT, we, the petitioners herein are contractors and business people popularly known as Contra-tender preneurs, operating within Kitui County among other regions and as such, we have a right to self-determination to pursue economic and social development to grow and prosper, to get work and get paid for work done and to live a life with dignity and freedom.

THAT, as such, our mainstay socio-economic livelihood engagements, trade and businesses are through County Government tenders and services and under *Ministry of Lands, Infrastructure and Urban Development, Fiscal year 2015/2016*, we did drifts and roadwork projects for County Government of Kitui, but we have not been paid any single coin, and our bills accumulated over time to the tune of approximately in excess of **Kshs.622 million** excluding accumulated interests.

THAT, the Senate has the constitutional and legal obligation and/or duty under *Article 96(1) of the Constitution of Kenya, 2010*, to oversight and represent the Counties and protect the interest of the Counties and their governments and as part of that and/or coupled with that mandate is the duty to hear, listen, investigate and determine any grievances that may affect interests and operations of the County Government and especially, the reliability of sources of Revenue by the Counties to enable them to govern and deliver services effectively as per *Article 175(b) of the Constitution of Kenya, 2010* governing the principles of devolved government and the Petitioners contend that, inability to pay debts and/or bills is evidence of inefficiency of a county government and it affects the ability of the county government to deliver services efficiently.

THAT, as at present, the County Government of Kitui has accumulated unpaid bills since 2015/2016 upwards to the volume of **Kshs.622 million** and as such, the devolved system, of the Kitui County is under threats, because the County Government seems to lack reliable sources of revenue to be able to govern and deliver services effectively, given its inability to pay contract/tender bills accumulated over time to a tune of approximately **Kshs.622 million** excluding accumulated interests. Hence, the County Government of Kitui is violating one of the Constitutional principles of a devolved government.

Mr. Mogere
PS process accordingly.
27/11/18

② Mr. Chaner
Please process within
timelines
201
27.11.18

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THAT, as Contra-tender preneurs (Contractors) doing LSO/LPO business with the County Government of Kitui, the Petitioners herein have socio-economic rights to work for the County for tenders won and be paid for the work done promptly so that they may enjoy the fruits of the right to work as per *Article 6 of International Convention on Economic and Social Cultural Rights*, which is ratified under *Article 6 of the Constitution of Kenya, 2010*. Further, under *Article 23 of the United Nations on Universal Declaration of Human Rights*, everyone who works has the right to just and favourable remuneration (and pay), ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection – the county government is in violation of this right by its inability to pay the Petitioners.

THAT, as contra-preneurs, the Petitioners herein aspire to do just business for just and prompt pay from the County Government of Kitui founded on essential values of human rights, freedom and dignity as per the preamble to Constitution of Kenya and *Article 1 of International Convention on Economic, Social and Cultural Rights*.

THAT, as per *Vienna World Conference on Human Rights (1993)*, all Human Rights are universal, indivisible, interdependent and interrelated as such, the failure by the County Government of Kitui to pay the Petitioners herein promptly or delay payment for a prolonged period of time, renders their properties under threats of auction by the banks that financed them to execute the projects given by the County Government and their livelihood to hang precariously.

THAT, it is the duty of the Senate to ensure and/or encourage or promote the County Governments to uphold and implements their international obligations under International Human Rights Treaty – in its capacity as an independent institution of the state party – and this assurance is essential for every one doing business with the counties to be assured of payment within reasonable time so that they may enjoy and/or live a life both with dignity and freedom without fear being declared bankrupt and/or being subjected to poverty and distress which indirectly affect the right to good health and social security as guaranteed under *Article 9 and 12 of International Convention on Economic, Social and Cultural Rights (ICESCR)*.

THAT, the County Government has been hiding under a thin line excuse that Ethics and Anti-Corruption Commission (EACC) had stopped all payments, seized various documents relating to the tenders for investigations including LSOs/LPOs, engineer payment certificates, e.t.c in *April 2017*, but investigations were done, conducted, project sites visited and concluded and EACC wrote to the County Government advising them that they were free to pay the bills after exercising due diligence, hence EACC is no longer the stumbling block anymore, but the County Government is just not willing and/or is unable to pay the bills/debts.

THAT, the delayed inability to pay has affected the Petitioners credit worthiness with various financial institutions and individuals who assisted in financing the projects to the extent that the Petitioners may be backlisted by the Credit Reference Bureau and other government agencies may treat the Petitioners unfairly and it is the duty of the Senate to ensure that the

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County Government promote the realization of the self-determination and respect that right by ensuring the business community is paid promptly for just work and services rendered as per *Article 1(3) of ICESCR*.

THAT, the Petitioners, as a people, further contend that in a way, the failure by the County Government of Kitui to pay their debts/bills amounts to indirectly muzzling own means of subsistence and hence violating *Article 1(2) of International Convention on Economic, Social and Cultural Rights* and further thereto, it has again indirectly affected their families right to an adequate standard of living including basic income, food, housing, water, e.t.c and the continuous improvement of living conditions as guaranteed by *Article 11* of the same *International Convention*, rights to health (*Article 12*) and education *Article 13 to 14* of the same *International Convention*. These rights are enshrined in *Article 43* of the *Constitution of Kenya, 2010*. The aforesaid rights are further enforced under *Article 23* and *25* of the *United Nations Universal Declaration of human Rights*.

THAT, the Petitioners are aware that the monies supposed to pay the contractors for the projects in question (drifts and road works) were made available for that purpose as per Supplementary Budget of 22nd June 2016, but the same was either vired to other purposes and/or the County Government is just but in deep financial mess.

THAT, efforts have been made to have this matter resolved and/or addressed with the County Government of Kitui to no avail, hence this petition.

THAT, the matters in respect of which this petition is made are not pending before any court of law, or constitutional or legal body.

HEREFORE, your humble petitioners pray that the Senate, through the relevant Committee to;



- (i) Enquire into the matter with a view to addressing the plight of the Petitioners and ensure that all the pending bill/debts for just work done is promptly paid together with accrued costs and interest as the Committee may recommend or direct.
- (ii) Enquire into the matter and determine that the Governor of the County of Kitui failed to provide the necessary leadership under *Section 30(3)(g)* of the *County Governments Act* to solve the issue of the pending bills to the Petitioners.
- (iii) Enquire into the matter and direct that pending bills of 2015/2016 as here in petitioned are given priority in payment over and above newer project
- (iv) Make any other directions that it deems fit in the circumstances of the matter.

AND your Petitioners will ever pray.

Petition to senate to investigate and make a determinative report on the in ability to pay contractors bills/debts for 2015-2016 financial year by the county government of Kitui

NO.	NAME OF PETITIONER	FULL ADDRESS	NATIONAL ID/PASSPORT NO.	SIGNATURE/ THUMP IMPRESSION
1	DELTA AGRI-TECH & ENG.	P.O. BOX 363, MWINGI	12625773	
2	CHAMBALILI TRADING CO. LTD	P.O. BOX 194, KITUI	10434537	
3	RENAH & RENARD LTD	P.O. BOX 32, KITUI	22031397	
4	JUNE ENGINEERING SERVICES LTD	P.O. BOX 50518 NRB	30354287	
5	MWATSHI CONSTRUCTION CO. LTD	P.O. BOX 261, KITUI	14483494	
6	SHERINE CONSTRUCTION CO. LTD	P.O. BOX 261, KITUI	22031397	
7	RENE INDUSTRIES LTD.	P.O. BOX 25835 ,NRB	22031397	
8	JOMEG CONSTRUCTION	P.O. BOX 398, NRB	22031397	
9	ELISHEK ENGINEERING LTD.	P.O. BOX 11258, NRB	22031397	
10	CHERRY CONSTRUCTION LTD	P.O. BOX 32, KITUI	32723953	
11	MARKWELL SERVICES LTD	P.O. BOX 7109 , NRB	11276828	
12	THREE RANKS (R) LTD	P.O. BOX 63, KITUI	11424831	
13	JACKMER CONTRACTORS LTD	P.O. BOX 49, KITUI	25230287	
14	JACKLO COMPANY LTD.	P.O. BOX 441, KITUI	24136120	
15	MUTINDI COMPANY LTD	P.O. BOX 221, KITUI	4417456	
16	COUNTY CONTRACTORS AND SUPPLIERS LTD.	P.O. BOX 8798, NRB	21788495	
17	JUBEKA ENTERPRISES LTD	P.O. BOX 890, KITUI	32486265	
18	GOLDEX ENTERPRISES LTD	P.O. BOX 61174, NRB	68788850	
19	MALULANI INVESTMENTS LTD	P.O. BOX 1391, KITUI	8171857	
20	SEMEHA ENG. LTD.	P.O. BOX 25, MBITINI	11276256	
21	SHATIT ENTERPRISES LTD	P.O. BOX 29, ZOMBE	3025349	
22	MIAMBANI VALLEY GEN	P.O. BOX 314, KITUI	6818301	
23	JOWMIME ENTERPRISES LTD.	P.O. BOX 1132,KITUI	0577709	
24	MWINGI BUSARA ENT. LTD	P.O. BOX 48, MWINGI	24492213	
25	KYANGONZA CONSTRUCTION	P.O. BOX 146, KITUI	057219	
26	MWALEWA STORES	P.O. BOX 8783, NRB	11355237	
27	DIASCO LTD	P.O. BOX 222, MWINGI	25520385	
28	WESTERN HOLDINGS LTD.	P.O. BOX 780, KITUI	9146623	
29	AFRISERVE INTERNATIONAL LTD	P.O. BOX 6391, NRB	13444413	
30	QUALITY CARE	P.O. BOX 63, KITUI	11424831	
31	NESTAC AGENCIES	P.O BOX 1620 KITUI	13424806	
32	NASCOM LOGISTICS	P. O BOX 1209 KITUI	117207761	

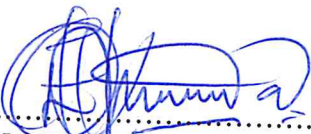
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NO.	NAME OF PETITIONER	FULL ADDRESS	NATIONAL ID/PASSPORT NO.	SIGNATURE/THUMP IMPRESSION
33.	LANDI INVESTMENTS LTD.	P.O. BOX 90200 KITUI	020279254	
34	MUKESH TECHNICALS SERVICES LTD	P.O. BOX 75212-00200 NAIROBI	11276067	

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Petition presented pursuant to *Standing Orders 226(1)(b) and 230(2)(a)* of the *Senate Standing Orders* on behalf of the effected residents of Kitui County.

DATED the 20th day of Nov 2018


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HON. ENOCH W. KIIO
SENATOR, KITUI COUNTY
FOR AND ON BEHALF OF THE UNDERSIGNED PETITIONERS

SIGNED BY: