UN-HABITAT AND CITIES ALLIANCE JOINT WORK PROGRAMME

Equitable Economic Growth in Cities

Venture Strategy and Structure
Magumu Wholesale Market and Logistics Centre
Nyandarua County, Kenya

UN-HABITAT
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REPUBLIC OF KENYA

COUNTY GOVERNMENT OF NYANDARUA

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About the Report

This report was produced by UN-Habitat as part of the Cities Campaign of the Cities Alliance Joint Work Programme (JWP) for Fostering Equitable Economic Growth in Cities.

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Magumu Market and Logistics Centre Venture Strategy and Structure

The Magumu Market and Logistics Centre is a key initiative of Nyandarua County for upgrading the county's agro-economy. This venture has a combination of components that will create synergies of greatly expanded economic activity. The development strategy will need to integrate both public investment and private investment.

The foundation of this initiative has two primary pillars. First and foremost is the county's authority and responsibility to enhance the conditions necessary for economic development, especially ensuring quality-marketing facilities. The second pillar is establishing clear and full ownership of the land planned for the site of the Market and Logistics Centre. This is a precondition for transforming the planning stage into a sustainable economic venture.

There are a number of specific variations for structuring this venture as a combined public and private undertaking. Certain functions in the market can be constructed and operated as private businesses, other functions are more public. The financing and investment structure will therefore need to integrate these different interests into a coherent economic development strategy and ongoing operation.

The Assessing the Context

Nyandarua

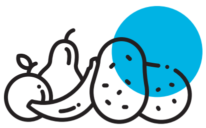
Agriculture is the backbone of Nyandarua County's economy, with approximately 50% of the population engaged in the sector thanks to the county's fertile soils and favourable climate conditions.

In the year 2013-2017 Nyandarua County was among the top ten leading economies in the Country, with a contribution of 2.6% to the GDP, followed closely by Kakamega County at 2.4% (source KNBS 2017).

The county is considered the breadbasket of Kenya because of its high production of potatoes, cabbages, maize and beans that are sold in Nairobi and most other towns in the country. Livestock rearing is also a major economic activity in Nyandarua. Farmers in the county engage in dairy farming, sheep rearing, beef production as well as poultry. These products are sold to traders from Nairobi and other neighbouring towns. Other crops that flourish in Nyandarua include carrots, kales, tomatoes and peas.

According to the 2018 CIDP, the county has 96,062 hectares under crop production out of the total arable land area of 184,900 ha. This shows that slightly more than half of the arable land is cultivated. The region enjoys adequate rainfall between approximately 700mm and 1500mm per annum, it has two rainy seasons between March to May (long rains) and October to November (short rains), making it suitable for farming, apart from some dry spells.

Over 70% of the residents in Nyandarua County depend on agriculture as their source of livelihood and wellbeing, most of them are small scale farmers with farm sizes ranging from 0.75 acres to 5 acres, who do not have the capacity to access major markets on their own and instead opt to sell their farm produce to brokers and middle men from Nairobi, Nyeri, Embu and Thika. Most of the residents in Nyandarua County are vegetable farmers who



Agriculture is the backbone of Nyandarua County's economy, with approximately 50% of the population engaged in the sector thanks to the county's fertile soils and favourable climate conditions.

mainly produce potatoes, cabbages, carrots, kales, snow peas and garden peas.

Despite the fact that Nyandarua County is a leading producer of potatoes in Kenya with an average production of 556,950 metric tons per year, corresponding to about 29% of the total production in the country, 46.3% of Nyandarua residents live below the poverty line, according to a County fact sheet (2011) published by the Commission for Revenue Allocation. The high agricultural production, however positive, has failed to translate to a reduction in poverty levels in Nyandarua County, partially attributed to post harvest losses, among other factors discussed in the subsequent chapters.

The main crop being traded in Nyandarua is potatoes, followed by cabbages with an annual volume of 447,825 and 113,618 metric tons, respectively. Milk production on the other hand stands at 295,740,200 kilograms per annum, produced in all the five sub-counties with Kinangop County leading at an average production of 89,413,800 kilograms per annum. Milk enterprise is more organized compared to the former (potatoes and cabbages). This can be illustrated by the fact that milk is collected from farmers and graded at milk collection centres, it is then transported in bulk to cooling facilities where it is later transported to milk processing plants. The markets in the neighbouring counties link with Nyandarua County through milk processors, e.g. Kenya Cooperative Creameries and Brookside, who buy milk from Nyandarua farmers.

Potatoes and cabbages are the major food crops being produced in Nyandarua County; they are mainly grown by small scale farmers with average farm sizes of 3 to 5 acres. Similar to milk production above, the main producing area for these vegetables is Kinangop Sub County followed by Oljoro-Orok.

Nyandarua has two harvesting seasons: August and November to February. However, during the interviews, some farmers, most of whom hailed from Kinangop, Olkalou, and Oljoro-Orok sub Counties, stated that they sometimes have 3 harvesting seasons for potatoes. This was attributed to good weather, good soils and quick maturity seeds (mainly Shangi).

Potatoes have grown in importance both, as a staple food and as a source of farmers' incomes, over the past 30 years. Measured by quantity harvested, it now ranks as the country's second food crop, after maize. Demand for potatoes has seen an increase with urbanization and growth of urban fast foods. It is estimated that 60% of fresh produce is consumed by fast food outlets like restaurants.

Most of the farmers interviewed indicated that demand for potatoes is constant throughout the year, however, supply is not stable and it depends on the harvesting season, in August and February when supply is quite high.

Most of the farmers interviewed preferred potato farming to other vegetables due to high demand and profit margins throughout the year, except for a few months when abundance from the harvest results in a significant fall in price.

We established that agricultural products in Nyandarua are marketed differently. Milk, for instance, has a stronger organization as far as market linkages is concern. Cooperatives, dairy societies and milk processors buy the milk from farmers or farmers' organizations and transport it to cooling centres before it is transported to the factories. At the time of this study, milk was sold in a price range of Kenya shillings 27-40 per litre to cooperatives and hotels, respectively. Those selling to cooperatives or the milk processors incurred an average of 3 shillings per litre of milk for transportation from the farm.

Snow and garden peas are mainly produced for export, and exporting firms engage farmers on a contract basis to produce these vegetables.

The cabbage and potato e farmers, however, do not have an organized way of marketing or selling their produce. The informality and the number of intermediaries for potatoes and cabbages make the value chain for these products very complex. The assessment focused on the potato value chain, as most of the farmers interviewed cultivated potatoes.

Most of the farmers interviewed work independently and depend on brokers to pack and take potatoes to the market, however, this has exposed small scale traders to exploitation by middlemen, who have devised their own bags to circumvent the 50 kilogram packaging regulation as per Irish potato regulation part III section 19(2). The bags used by brokers are labelled 50 kilograms, but the real capacity is 80 kilograms.

Kenya

Given the role of Magumu Wholesale Market as a logistics centre, it is important to examine the demand for warehousing facilities in Kenya and specifically for the horticulture sector. Knight Frank's ***Africa Horizons 2019*** report assesses the scope of the need for logistics centres and provides important information that supports the business feasibility of the market.

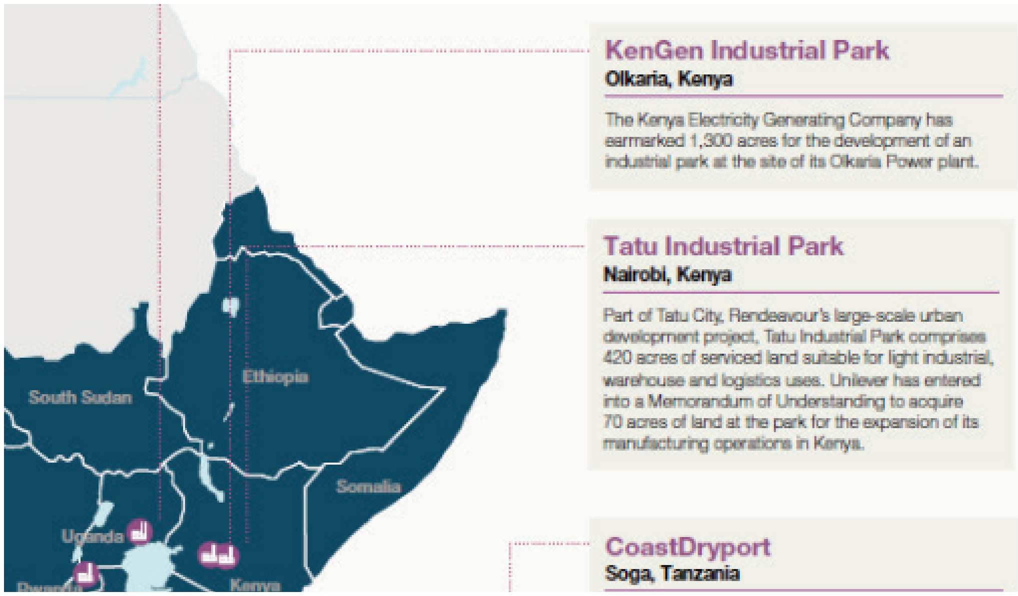
First and foremost, this assessment highlights the central role of Kenya as a major logistics centre for Eastern Africa. The improved roadways and rail line between Nairobi and Mombasa are critical infrastructure factors and give an indication of future transportation infrastructure that will influence Nyandarua County. Warehouse demand is also growing as a result of the greatly increased importation of retail goods, which requires large centralized facilities. A second important factor increasing warehouse demand comes from the growing number of industrial parks, especially around Nairobi. This is becoming all the more important as Special Economic Zones are being developed with government incentives. One such "SEZ" is within close proximity, located in Naivasha. Finally, although generally in the horticulture sector there is no shortage of square meters of storage space, the poor quality and maintenance of these facilities is a major cause of lost agricultural value.

Kenya is suffering from an acute shortage of warehousing. According to Broll, (Knight Frank August 2018) the current availability of warehousing in Kenya stands at 6.9m sq. ft. JLL calculates, however, that demand is running at 23.7m sq. ft. By sector, the highest level of dissatisfaction with existing warehousing is in the pharmaceuticals industry, at 43% dissatisfaction, followed by FMCG/ manufacturing at 38%, and horticulture at 33%

An example of the growing demand for quality logistics services can be seen in the 475-acre Tatu Industrial Park. Last year 2018 Africa Logistics Properties (ALP) built a 49,000 sqm Grade A warehouse park in which 75% was already leased prior to construction. ALP is building a second 100,000 sqm along A109. *(Africa Horizons Knight Frank – Edition 1)*

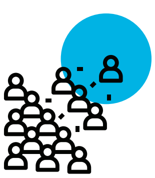
The attraction of foreign investment has a clear business incentive. A – Grade warehousing rates average 6 USD/month. These modern facilities include cross-docking and intermodal facilities, as well as cold storage for produce and flowers. This combination of quality facilities and improved transportation links is opening opportunities for the entire Lake region, especially for land locked countries bordering on Kenya. According to the World Bank, Kenya is rated second in logistics performance in Africa, second only to South Africa and rated 42 on a global scale.

(Africa Horizons Knight Frank – Edition 1)



It is also important to understand this demand for logistics facilities in the context of urbanization in Africa. As more people move into the cities, together with population growth, the retail value of food and beverages in sub-Saharan Africa is expected to more than triple from 300 billion USD in 2010 to 1 trillion by 2030. This includes an increased value across the entire value chain particularly for processed and quality goods. This increased demand for food products in urban centres will provide an economic opportunity for farmers only if it is accompanied by upgrading and expanding agro-logistics. Indeed, according to a Knight Frank report, the high costs of poor warehousing in developing countries are the greatest contributor to high consumer goods prices, accounting for up to 50 - 75% of the retail cost of foods.

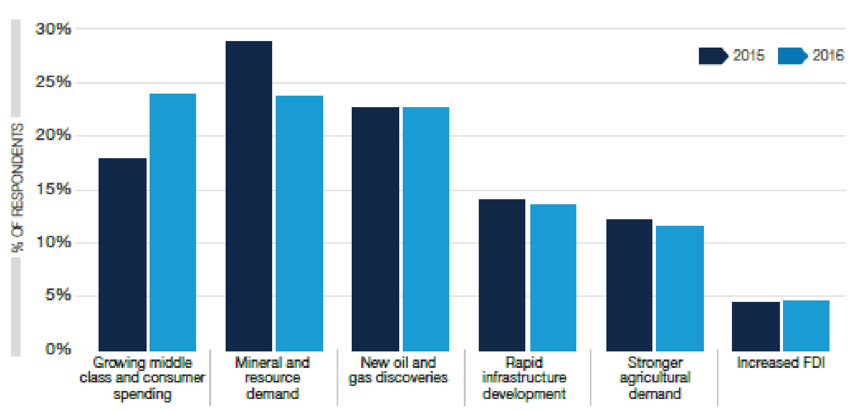
"31% of the businesses surveyed have suffered commercial setbacks caused by the warehousing shortage in Kenya in the last five years" (Research Tree Africa: Intelligence Reporting Company – Tilisi Logistics Park).



Urbanisation and evolution of human settlements in Nyandarua County are influenced by the initial government policy of settling people from the year 1963.

Figure 2: Logistics market drivers in Sub-Saharan Africa

Responses from logistics industry professionals to the question: "What do you perceive to be the most significant driver of growth in the emergence of Africa's logistics market?"



Source: Transport Intelligence

According to Knight, the demand for logistics and quality warehousing is not only growing, but one in which the investment as a real estate venture is increasingly attractive, within Kenya and to external investors as well. The cost of land ranges from 180,000 USD to more than triple that amount, the cost of Construction is 450 USD/sqm and monthly rents are from 2.00 USD/sqm to 6.00 USD/sqm (for Grade A warehousing).

Table 2: Rental spread across all respondents

Under Sh25 sq ft	15%
Sh25 - Sh35 per sq ft	35%
Sh25 - Sh35 per sq ft	28%
Sh45+ per sq ft	22%

Source: Research Tree Africa: Intelligence Reporting Company – Tilisi Logistics Park

For FMCG/ manufacturing, short planning timelines for warehousing (86% on an ad hoc or less than two-year basis), and the high cost to these businesses of shortages (60% lose sales), appear to have forced companies into higher priced space. 50% of the FMCG/ manufacturing respondents are paying over Sh35 per sq. ft, whereas all of the horticulture and retail respondents are paying below Sh35 per sq. ft. A-grade warehousing commands monthly rentals above $6/sq. m, which is almost double that of the predominant current stock of older units that lack modern design features, such as cross-docking and intermodal facilities.

It is in this broader economic scenario that the venture strategy of the Magumu Market and Logistics Centre needs to be formulated.

Magumu Market Description

The market will serve as a hub of new commercial, agricultural, cultural, and recreational mixed-use for all residents of Nyandarua and Kiambu farmers, traders, commuters and residents.

The Magumu market aims to directly benefit the farmer. The goal being to provide the region with an assembly point / wholesale centre for produce within Nyandarua, which is mainly potatoes, cabbages and other produce. Spanning 70 acres of currently bare landscape, a decommissioned sawmill and mushrooming kiosks along the streets, this massive development is strategic to expand Nyandarua's economic base.

The wholesale market is a transit-oriented development that extends along the Nairobi-Nakuru highway between two markets. It is highly accessible from the highway. The development features both vehicular and pedestrian friendly streets with access to the market by means of the existing road network.

Located at the convergence of two densely populated counties and a transit road, the market will host a variety of agricultural produce for locals, and beyond— targeting metropolitan Nakuru, Naivasha and Nairobi. The 70 acres of development are designed to blend seamlessly with the neighbourhoods they border.

Magumu Market Components

The wholesale market comprises both open and covered market where traders can sell to large customers. Together with the logistics centre it is the heart of the market.

The livestock market will benefit farmers by providing a platform for the sale of livestock, access to agrovets and consultants in veterinary medicine. Furthermore, a modern slaughter facility and butchery will be provided for small and bulk consumers.

The warehousing and logistics centre will provide general warehousing areas and areas with refrigeration. In addition, there will be services to farmers to sort and package to enable them to sell farm produce to small and bulk consumers. These facilities will likewise enable farmers to control the flow of goods to markets in a more consistent manner and avoid the fluctuations of harvest time market flooding and seasonal scarcity.

The Sports and show grounds centred on the landscape adjacent to the shopping centre will host agricultural trade fairs, annual county agricultural shows and exhibitions.

Infrastructural aspects will include water and sewage treatment plants, wetland landscape, as well as internal and external transportation links.

Administration services/centre will include an information centre, bus access, and other public services.

The shopping mall will provide travellers with a reason to stop-over for refreshments, affordable meals from locally grown produce and a variety of animal and plant products.

Projection of demand and size

As mentioned above, the site has an area of about 70 acres of land. The size of each function is based upon the projection of space needed. There is no other facility for wholesaling in the region. As such, it would be a primary facility for the entire county and perhaps adjacent counties.

The market will serve as a hub of new commercial, agricultural, cultural, and recreational mixed-use for all residents of Nyandarua and Kiambu farmers, traders, commuters and residents

Current and projected Annual spatial requirements

Farm produce	Annual produce in tonnes	Space needed (m^2)	Future space needs (m^2)	Notes
Potatoes	451, 290.00	45, 129.00	63, 180.60	1.4 40% increase in yeild in 10 years
Maize	27, 594.00	2, 759.40	3, 863.16	10 tons per m^2
Peas	43, 415.00	4, 341.50	6, 078.10	
Cabbages	280, 600.00	28, 060.00	39, 284.00	
Livestock	70, 000.00	70, 000.00	24, 500.00	4 tons per m^2
Totals	**872, 899.00**	**87, 289.90**	**136, 905.86**	

Estimated trading spaces for a basic rural market

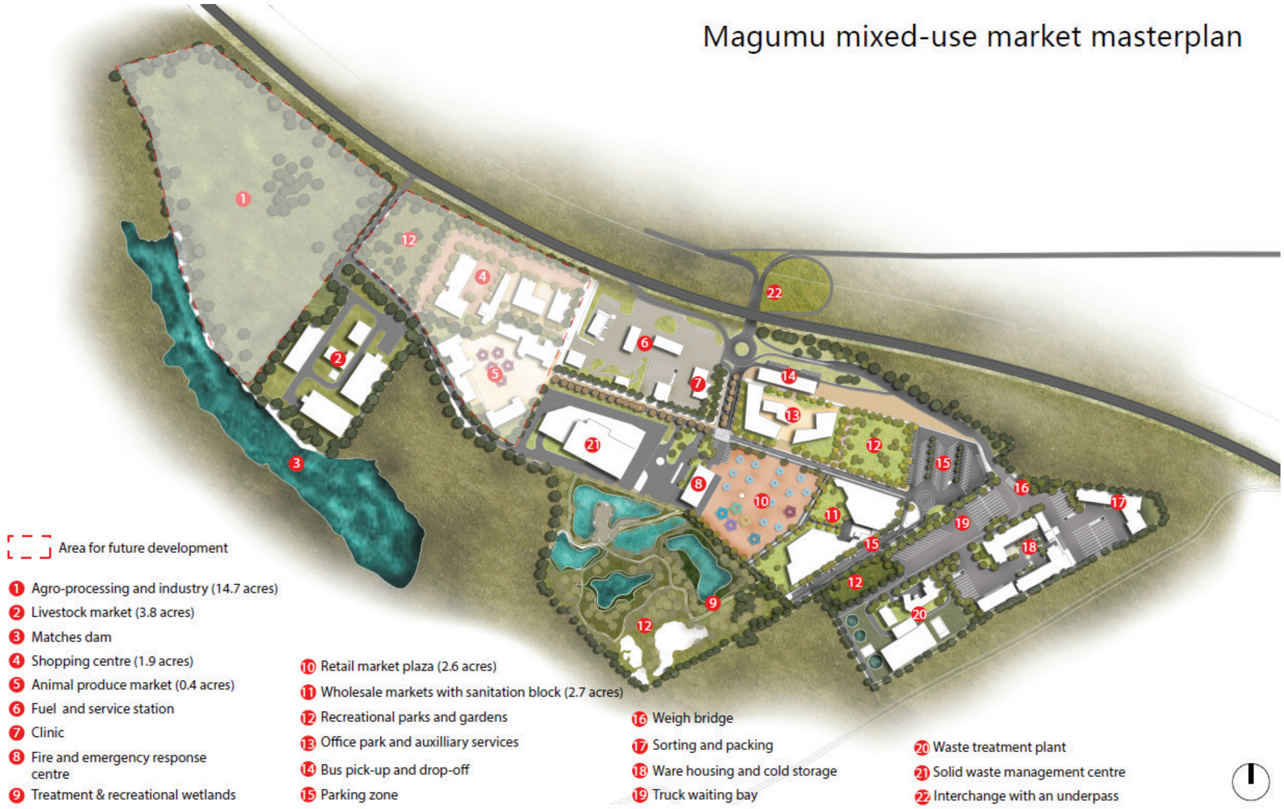
Farm produce	Space needed (m^2)	Space per user (m^2)	Number of users
At present;			
Primary market			
1. Traders (60% of the usable market space)	9, 088.80	10	909.00 consistent traders
2. Farmers (40% of the usable market space)	6, 059.20	15	404.00 visiting framers
			1, 313.00
3. Livestock market section	75, 799.20	6	12, 634.00 users/liverstock
	90, 947.20		

Spatial consideration for produce in market, warehousing and ancilliary

300,000.00 available land in m^2 and 74.13 in acres

Layout number	Facility/activities	Space allocation (m^2)		Percentage area allocation	Space allocation (Acres)
	Total	**240,840.53**	**301,455.00**	**100%**	**70.38**
	Buildings		**83,297.00**	**28%**	**16.47**
	Warehouse;	8,306.00	16,612.00	5.5%	2.05
17	1. Sorting and packing (2floor storey building)	1,406.00	2,812.00	0.9%	0.35
18	2. Warehousing and cold storage	6,900.00	13,800.00	4.6%	1.70
10	Retail market	10,840.00	10,840.00	3.6%	2.68
11	Shopping zone - fruits and farm produce wholesale market	11,008.48	11,009.00	3.7%	2.72
5	Meat and animal produce wholesale market	1,789.88	1,790.00	0.6%	0.44
2	Livestock market	15,415.16	15,416.00	5.1%	3.81
13	Offices, Clinic, information centre and government one stop shop	3,000.00	3,000.00	1.0%	0.74
4	Shops, Commercial services	8,000.00	8,000.00	2.7%	1.98
	Ancilliary spaces		**158,622.00**	**53%**	**39.19**
	Driveways, roads and streets	30,000.00	30,000.00	10%	7.41
6, 8	Fuel and fire station	15,000.00	15,000.00	5%	3.71
12	Gardens and landscaping	45,000.00	45,000.00	15%	11.12
19	Loading and offloading bays, parking (customers and delivery trucks)	30,000.00	30,000.00	10%	7.41
20, 21	Waste treament	12,000.00	12,000.00	4%	2.97
9	Wetlands and waste treament	26,621.77	26,622.00	9%	6.58
1	**Unalloted (for future development)**	**59,553.24**	**59,554.00**	**19.9%**	**14.72**

Layout Design



To include Environmental Technologies

- solar energy: for market power and street lighting, biogas production
- local sewage: treatment units and wetlands bio–digester, bio-toilets
- car washes and treated wastewater will be re-circulated for public gardens
- amenities: clean drinking water
- introducing small environmentally friendly technologies that have educational and demonstration value as well as economic and environment value

The total cost for the market is approximately 50 million USD (94,800 sqm). This is based upon average construction costs of $450 per sqm + infrastructure and purchase of the land by the County Government.

For the basis of comparison, Improvon Group, working in partnership with private equity fund Actis has announced the launch of a 204,386 sq. m warehousing development worth an estimated KSh11 billion (110 million USD). Nairobi Gate Industrial Park will occupy 103 acres and is located off the eastern bypass.

Venture Structure

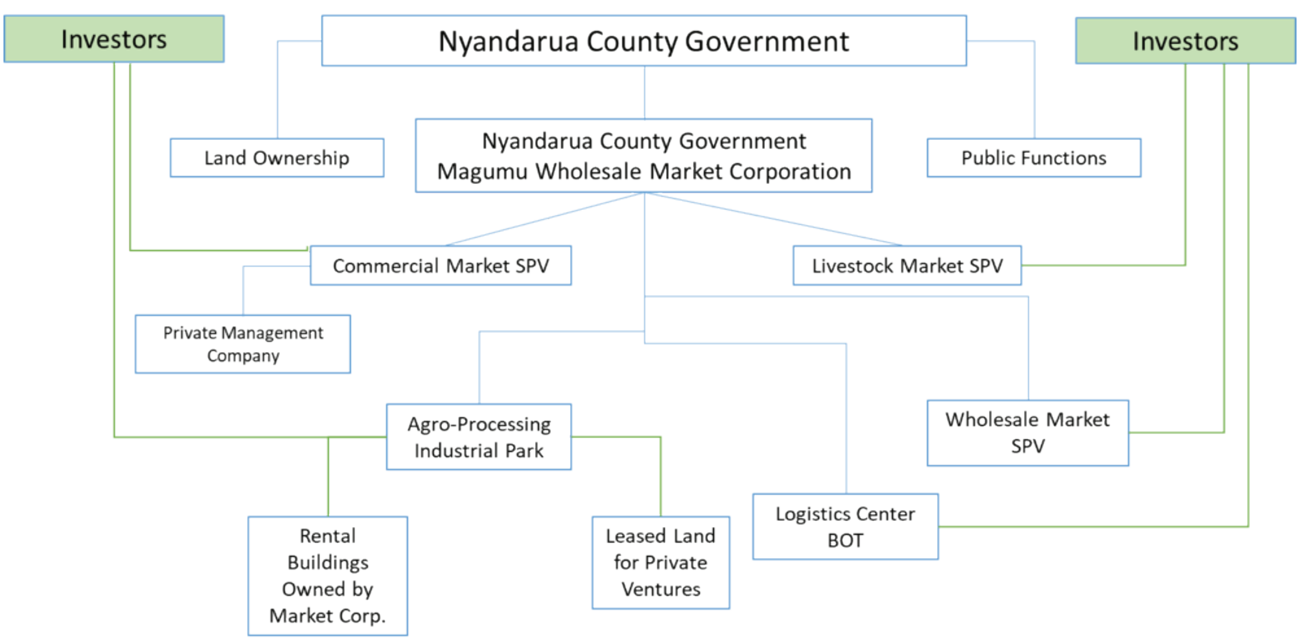
The cost of the Market and logistics centre is approximately 50 Million dollars as a capital investment. The market value of the unprocessed produce in Nyandarua County is 117 million dollars annually. At first glance, relative to the agro-economy, this seems to be a disproportionate investment, but when one considers the spread over even just 10 years (6.3 million USD per year pay back for financing at 5% interest rate) it is only about 5.3% of the yearly value of the unprocessed agricultural production. The expectation is that agro-processing, better marketing, storage savings, and the ability to regulate the supply train will increase the annual value significantly more than 5%. This "thumbnail" assessment is not in place of a feasibility analysis, which will be explored together with alternative venture structures. It is, however, a critical insight that justifies the County Government's active role in promoting this endeavour and investing public funds.

The Magumu Market has a number of components, some of which have primarily public functions, while others have primarily private functions. This requires a development strategy that tailors the financing and venture structure to the unique aspects of each component, and at the same time ensures overall integration and synergy of the whole. There are thus two alternative venture structures. However, in both alternatives, Nyandarua County will retain ownership of the land, even in those components based upon long-term leases which will have clearly delineated conditions

The development strategy being proposed here will delineate the different components and present an overall management framework for the Market. Although the overall rationale for this initiative by Nyandarua County is to create more optimal conditions for developing the agro-based economy (and over time cover the public and private costs on investment), in the long term some of the components of the Magumu Market will become a significant source of revenues.

In the first alternative, each of the components is structured separately with a different venture structure. In the second venture structure the entire Magumu Market has only a single venture structure with a private partner. In both alternatives there is clear economic viability.

Business Structure Alternative 1



Magumu Market Components and Venture Structure – Alternative 1

Each of the components is financed separately with a different venture structure.

1. Wholesale Market Facility

The wholesale market facility will include 13,400 sqm of floor space with 9,600 sqm for agricultural produce and 3,800 sqm for meat and animal produce. It will thus serve as the marketing hub for the bulk selling of produce covering the range of services needed to promote effective and efficient marketing on a regional level.

Given the critical role of this facility, it is recommended that the financing and operation be a combined venture of public investment, private investment, and investment by the cooperatives.

2. Closed Built Commercial Market

The commercial market/shopping mall will cover 8,000 sqm. It will be designed for quality commercial services - retail marketing shops/ stalls. The facilities and shops will be rented out to local private business Likewise, it will aim to attract national and international chains for retail shopping.

Development of the closed market will be structured as a partnership between private investors and the Nyandarua County Government. It will take the form of an SPV lead by the County Magumu Wholesale Market Corporation.

3. Warehousing and Logistics Centre

A critical component of the wholesale market is the logistics centre. This will include a two-story structure, one floor for general agricultural storage facility totalling 13,800 sqm on two floors. In addition, there will be a sorting and packaging facility of 2,800 sqm. Both facilities will have loading ramps and trucking access close to the main highway to Nairobi. The intention is to have a one-stop centre to enable the farmers to enjoy the advantage of collective packing, transportation, and marketing.

It is recommended that the sorting and packaging facility be a joint venture between the County Magumu Wholesale Market Corporation and the farmers' cooperatives. In this case, it could qualify as a Privately Initiated Investment Proposal (by the cooperatives – that are unique to Nyandarua)

The overall management of the centre will be subject to oversight by a joint county and agricultural cooperatives mechanism.

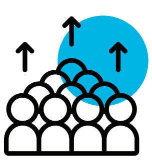
4. Agro-industrial Park

One of the major opportunities in Nyandarua County is the high volume of agricultural produce. However, much of the potential value is not captured locally. Most of the produce is "exported" in its raw state and is not processed in the county. There is already some exception to this in the dairy market which does have some local processing. Therefore, another key component of the Magumu Market will be an agro-processing industrial park.

This will have two types of buildings.

One will be making land available for agro-processing or supplementary businesses that want to construct and operate within the industry park of the Market. In these instances, the land will be leased out for a number of years commensurate with the scope of the form of business.

The second will be construction of buildings for rent by the county owned Magumu Market Corporation. These buildings will then be rented out for suitable periods of time.



According to the World Bank, there will be an increase of approximately 50,000 people over the next 10 years in the major urban centres in Nyandarua. This is based upon an urbanisation rate of 4.31%.

5. The Livestock Market

The Livestock Market will cover 15,400 sqm. This component will include areas for corralling, and trading as well as areas for slaughtering and packaging.

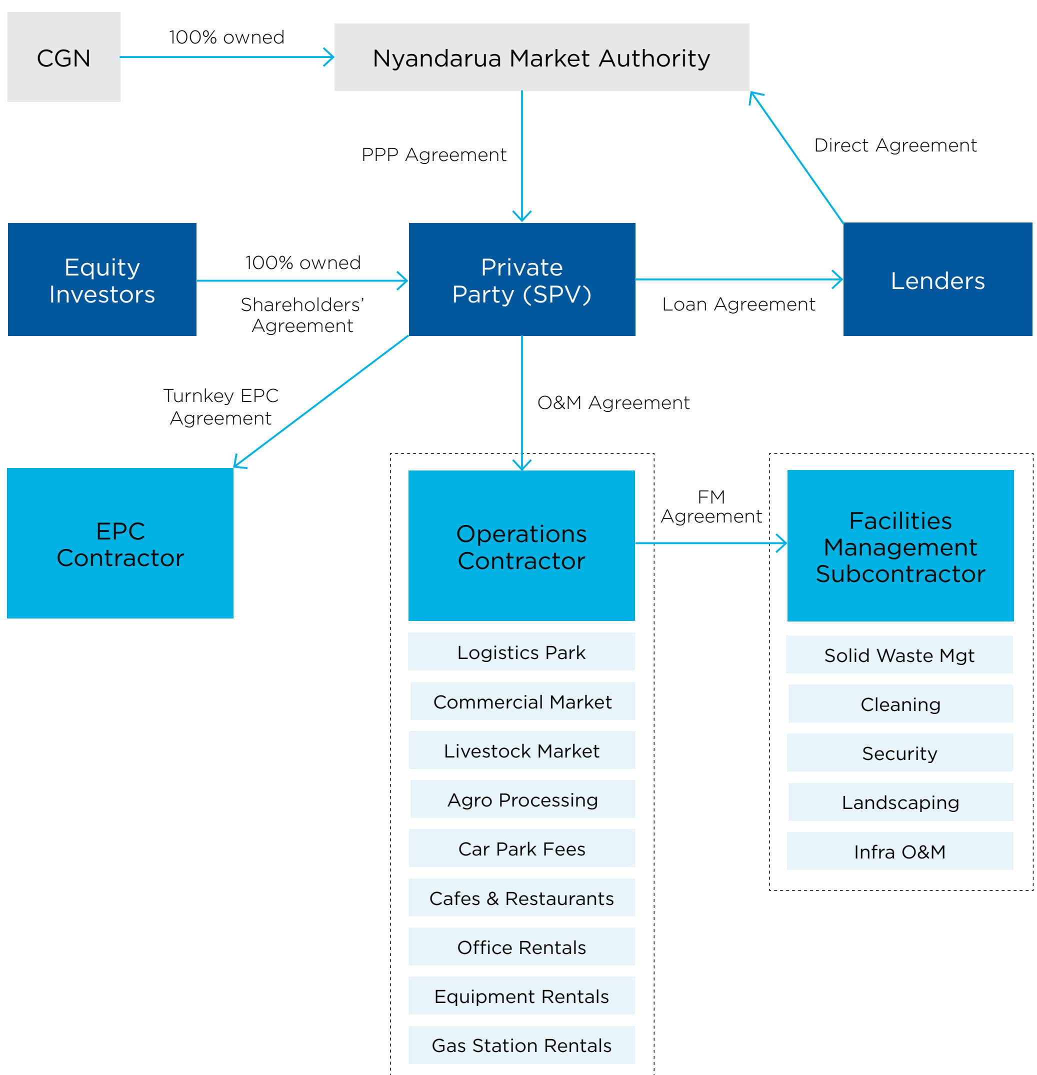
Development of the closed market will be structured as a partnership between private investors, the Nyandarua County Government, and the agricultural cooperatives. It will take the form of an SPV led by the County Magumu Wholesale Market Corporation

6. Public Facilities and Infrastructure

These will be public investments without a direct return on investment. User fees are to be collected, but income will be directed primarily to market maintenance.

- A new sport and show ground
- A wetland landscape
- Administration, information centre and government services
- The Market Plaza
- The water and sewer treatment plants

BUSINESS STRUCTURE ALTERNATIVE 2



General:

In this alternative structure, the County Government would establish a single county corporation – Magumu Wholesale Market Authority - that would serve as the public corporation limited by shares and owned 100% by the County Government of Nyandarua with the main objective of holding the public sector interest in the project. This would include the land on which the market is to be developed, as well as any shareholding in the project company, should this be applicable. The Market Authority would also be responsible for managing the procurement process to appoint the project company and be the project company's counterparty in the PPP Agreement.

Project Implementation

It is proposed that the project be implemented under the Public Private Partnerships Act, No. 15 of 2013 (the "PPP Act") and the Public Private Partnerships Regulations, 2014 (the "PPP Regulations"), promulgated thereunder, which provide a framework for participation of the private sector in the financing, construction, development, operation or maintenance of infrastructure or development projects of the Government through concessions or other contractual arrangements. In addition, the Act provides for the establishment of institutions to regulate, monitor and supervise the implementation of project agreements on infrastructure or development projects and for connected purposes.

The County Government is therefore obliged to ensure that it develops the requisite internal capacity to ensure that the PPP agreement with the SPV is properly implemented by:

a. monitoring the implementation of the PPP agreement;

b. measuring the output of the project;

c. liaising with the SPV, users of the facility or service and other relevant stakeholders;

d. overseeing the management of the PPP agreement;

e. preparing periodic reports on the project agreement implementation; and

f. submitting reports on the project agreement implementation to the PPP Unit in June and December in each year of the project


ANIMAL PRODUCE WHOLE SALE MARKET
LIVESTOCK MARKET
LIVESTOCK MARKET
AREA FOR FUTURE DEV
SPORTS AND SHOW GROUNDS
ADMIN/ OFFICES
PARKING
OPEN COVERED RETAIL MARKET
PLAZA and PARK
BUS STOP
PARKING
OPEN COVERED RETAIL MARKET
AREA FOR FUTURE DEV
AGRICULTURAL PRODUCE WAREHOUSES
WETLANDS AND RECREATIONAL PARK
AGRICULTURAL PRODUCE WAREHOUSES
WATER AND SEWER TREATMENT PLANT
300M

Magumu Market Outline of Implementation Steps

Next immediate steps

a. TOR for feasibility study and business plan – immediately

- Definition of Business Plan Goals
- Parameters for assessment and analysis
- Outcomes/deliverables of Business Plan
- Methodology components and time frame requirements
- Criteria for choosing consulting firm
- Integration of business plan with development strategy

b. Feasibility study and business land value assessment, full development cost assessment, analysis of demand for different land uses (immediate and long range), capital costs and potential return on investments, interim financing of infrastructure development

c. Prepare architectural guidelines (plot level design models)

d. Prepare phasing of development with a full business development strategy

e. Final land purchase

f. Approval of statutory land use plan as basis for land arrangements, legal anchoring of development mechanisms and ongoing management, guidelines for construction, and basis for granting building permits

g. Assessment of property management and maintenance costs for Magumu Market: management fees, tax mechanisms, development fee structure and financing infrastructure.

h. Integrating legal, organizational and financial tools.

i. Structuring of Interim financing for management of development "mechanism" for first year (plus) of operations (requires funding for TA and operational staff).

Project Implementation

I. Bidding Process:

The Market Authority would advertise for implementation of the market on a Design-Build-Finance-Operate-Maintain (DBFOM) basis, also referred to as the Build-Operate-and-Transfer (BOT) Model. In this model, the ownership of the land on which the market is developed, as well as the market itself, will remain the property of the Market Authority. The 2nd Schedule of the Public Private Partnerships Act, 2013 (PPP Act) defines a BOT scheme as one in which *"… the private party finances, constructs, operates and maintains an infrastructure facility and transfers the facility to the contracting authority at the end of a specified term which shall not exceed thirty years...".*

Once the market is set up under the DBFOM model, it is proposed that the private sector should be vested with the powers to operate the market, but with the County Government owning the land on which the market will be built through a county corporation.

II. Project Company

A private sector company composed of various sponsors would contract with the Market Authority and raise funds from investors and lenders to deliver the Project.

Section 2 of the PPP Act defines a Project Company as "a special purpose vehicle incorporated by a successful bidder under section 59 for the purpose of undertaking a project in accordance with a project agreement executed by the parties under this Act." The SPV's sole business would therefore be to contract with the Market Authority to design, build, finance, operate and maintain the market.

Section 59 of the PPP Act requires a successful bidder to establish a project company in accordance with the Companies Act, No. 17 of 2015 for the purpose of undertaking a project in accordance with a project agreement executed by the parties.

The Project Company established under section 59 may include a public body as a minority shareholder in the company and it is therefore an option for the County Government of Nyandarua, through the Market Authority, to hold a minority stake in the SPV.

The activities of the SPV would be managed by one or more of the private sector investors – the Sponsors – and would likely include the equity investment divisions of large construction and facilities management companies who want their construction and facilities management divisions to deliver the project. These would participate in the SPV through a Shareholders' Agreement.

The directors of a project company are required not to wind up the company alter the legal structure or reduce the share capital of the company, unless the directors have applied for, and obtained the written approval of the County, which shall not be unreasonably withheld and the majority shareholder of a project company shall not transfer any shares held in a project company, before the issuance by the County of an acceptance certificate confirming its acceptance of the quality of the project undertaken in accordance with the project agreement executed by the parties.

III. Documentation

The SPV would execute a PPP Agreement with the Market Authority which will detail the terms and conditions of the implementation of the Project. The Market Authority would be required to prepare the minimum contractual obligations required to be specified in a project agreement as set out under the 3rd Schedule of the PPP Act. These include:

a. The nature and scope of works and services that the parties shall carry out and the conditions for their implementation.

b. The rights of the County, the project company and, where applicable, the lender, in relation to the project including step-in rights of lenders.

c. A description of any property to be contributed by a party to the project agreement.

d. A description of any utilities to be provided in relation to the project and the responsibility thereof.

The Joint Work Programme aims at delivering evidence-based analysis and policy review options that can help economic growth trajectories in Nyandarua County towards more inclusive and sustainable patterns.

e. The ownership of the project assets, the obligations of parties related to the handover and receipt of the project site.

f. The responsibility for obtaining authorizations, permits, and approvals.

g. A description of any sharing of revenue between the contracting authority and the private party.

h. Mutual financial obligations and their relation to the funding mechanism including the requirements relating to performance bonds and guarantees.

i. The preparation and submission of financial and other reports and the carrying out of financial audits in relation to the project.

j. The product sale price or the service availability payment on which the project is based and the rules for its determination and amendment, either by an increase or decrease, as well as the indexation mechanisms to reflect inflation or changes in the interest rate, if required.

k. The means of quality assurance and quality control, and supervision, as well as administrative, financial and technical monitoring of the project operation, utilization, and maintenance.

l. The extent of the right of the County to vary the conditions of the project and other obligations imposed on private party, and the basis and mechanisms of compensation for any loss resulting from such variation order.

m. The types of insurance to be taken out on the project, and the risks of its operation or utilization, executive warranties issued in favour of the contracting authority, and provisions and procedures for their release.

n. The basis of risk allocation in respect of a change in the law, unforeseeable accidents, force majeure, or discovery of antiquities, as the case may be, and the resultant compensation.

o. The duration of the contract.
Early termination events under which a party may terminate the contract prior to the expiry of the project agreement and the rights of the parties in relation to the termination.

p. The process of handing over the project on expiry, or on termination of the project agreement by a party to the agreement.

q. Mechanism for dispute resolution including resolution of disputes by way of arbitration, or any other amicable dispute resolution mechanism.

r. The events giving rise to compensation and the mechanisms for payment of such compensation or penalties.

s. Performance securities required when undertaking a project, the value and renewal mechanisms.

t. Appointment of independent experts.

u. Direct agreements and lenders' rights, where applicable.

v. Termination and expiry of the project agreement.

w. Obligations of, undertakings and warranties by contracting parties.

x. Cases of emergency step in by either contracting authority or lenders in case of private party default

IV. Contractors and Sub-Contractors

The SPV would perform its obligations through various contractors, including the Engineering Procurement and Construction (EPC) contractor and the Operations and Maintenance Contractor.

The EPC contractor would construct the market to the approved specifications on a turnkey basis to ensure that the works are completed within a specified timeline and budget. With the EPC Contract, the County Government effectively passes on the key risks of construction delays and cost overruns which would be retained by the EPC Contractor and SPV.

The O&M Contractor would be responsible for leasing out the various facilities within the Market and collecting the revenue from these lessors and users, including rental space in the logistics park, the commercial market, the livestock market, the Agro-Processing facilities, parking facilities, cafes and restaurants, offices, the gas station as well as leasing out any equipment to the users within the market.

The O&M Operator would also be responsible for maintenance of the market and would subcontract a Facilities Management Company that would be responsible for cleaning, security, landscaping and general maintenance of the infrastructure and buildings within the market.

It would be imperative to clearly articulate the output specifications against which the SPV and consequently, the contractors and sub-contractors would be measured e.g. cleanliness of the market, state of the infrastructure, percentage of market stalls and facilities leased out, etc.

V. Funding

The SPV would be funded through a combination of equity investments from the Sponsors as well as debt from financial institutions. These would include both commercial institutions and international financial institutions (IFIs) and export credit agencies (ECAs), where possible.

The Market Authority would need to ensure that the SPV's leverage is within acceptable norms – e.g. 50-70% debt and 30-50 equity, which would depend on the risk profile associated with the market, as perceived by the investors and lenders.

The project finance would therefore be available to the SPV on the strength of the projected cash flows and future revenues of the Market.

VI. Revenue

The projected revenues of the market would therefore probably include

a. Revenue from renting market trading stalls, logistics centre and agro-processing and warehousing units;

b. Farmers' market fees charged on a daily basis;

c. Commercial rentals of offices and banking halls;

d. Retail rental from restaurants and cafes;

e. Rental from a gas station located strategically at or near the entrance to the market;

f. Car park fees;

UN-Habitat intends to support the County Government of Nyandarua to develop sustainable interventions that will promote equitable economic growth for all actors...

g. Rental of equipment (e.g. for unloading goods from delivery trucks, etc.); and

h. Event management fees for leasing out the sports and show grounds for purposes of trade fairs, annual county agricultural shows, etc.).

While the PPP Agreement involves the performance of a function of the County Government by a private party, it does not divest the County Government, as the contracting authority, of the responsibility for ensuring that its function is effectively and efficiently performed in the public interest or on behalf of public service. It therefore remains the obligation of the County Government to ensure that the property is appropriately protected against factors which may negatively affect the property, including forfeiture, theft, loss and wastage.

The SPV would therefore require to keep proper books of accounts and records in relation to the project and these shall be open for scrutiny by the County. The SPV is also required, under the PPP Act, to submit the duly audited financial accounts and any other information as may reasonably be required by the County or the PPP Unit within six months after the end of each financial year.

The County Government is therefore obliged to ensure that it develops the requisite internal capacity to ensure that the PPP agreement with the SPV is properly implemented by:

a. monitoring the implementation of the PPP agreement;

b. measuring the output of the project;

c. liaising with the SPV, users of the facility or service and other relevant stakeholders;

d. overseeing the management of the PPP agreement;

e. preparing periodic reports on the project agreement implementation; and

f. submitting reports on the project agreement implementation to the PPP Unit in June and December in each year of the project

Setting up the County Magumu Wholesale Market Company

Background

Development programs and projects are complex multi-level endeavours, including economic, social, environmental, physical, political, and management factors. For this reason, the organizational framework needed to move such ventures forward and make them a tangible reality must be capable of working on all of these fronts simultaneously. Furthermore, development programs need to evolve from being individual projects to becoming a lever for ongoing economic wellbeing through a dedicated organizational platform that operates on an economic basis aimed at public wellbeing. Establishing the Magumu Wholesale Market and Logistics Centre requires this type of entity that is designed to integrate social and economic goals and is capable of structuring ventures with public and private bodies.

The role of a county government in general, and specifically Nyandarua County, is critical for leading development. Yet the primary energies and structures of county governments are directed towards service delivery, legislation, and enforcement. There is a critical need for establishing a focused platform under the auspices of Nyandarua County to promote the development and management of the Magumu Wholesale Market and Logistics Centre.

The Advantages of a County Magumu Wholesale Market Company (CMWMC)

County Magumu Wholesale Market Company provides a framework which, by its structure, combines public/social goals with economic viability and sustainability. Because this framework is an economic entity, the income and expenditure are to be focused on specific components of the market, as well as the overall management and integrated development of these components. Income generated is to be used for the achievement of development goals. Here the profits are to be channelled and reinvested into the Market's development. This framework can also contribute to the ability to monitor the funding and progress of the development.

Similarly, this framework enables contractual relations to be entered into on a partnership basis and/or as a developer with other public and private bodies in a flexible manner.

Such a County owned Development Company, though not immune to business difficulties, fundamentally needs to fulfil its public mandate. It is to undertake low economic risk ventures, many of which will be based on maintaining public ownership of the lands in the site and leveraging public development funds. The primary function of the **CMWMC** is transforming these public resources of land, funds, and mandate into economic assets through various types of partnerships, financing, and legal mechanisms.

A final advantage of establishing the **CMWMC** would be the initiation and management of the Magumu Wholesale Market and Logistics Centre in a manner that is structured from the outset as economically sustainable. In this manner it can integrate specific components into an overall development process in an economic fashion. It will bridge the gap between the interests of investors, the farming community, and the county government.

Goals Statement

The overall goal of the **CMWMC** will be to promote economic development and ongoing management of the Magumu Wholesale Market and Logistics Centre. It is to focus on creating partnerships with public and private partners, increasing the value of local produce through joint marketing, storage, agro-processing, and ensuring the necessary infrastructure. Furthermore, it is to be the integrating mechanism for coordinating the initiatives of the different bodies engaged in the Market's functioning.

Specifically, the **CMWMC** would serve:

1. As the platform for developing and managing the Magumu Wholesale Market and Logistics Centre on an economic basis, while ensuring the goal of expanding the agro-economy of the county and its residents
2. To develop the physical infrastructures needed for private and public ventures in the Market
3. To create the cooperative frameworks for all relevant stakeholders involved in each of the Market's components and ensure the overall integration of functions
4. To coordinate and integrate the components of the Market in stages that foster synergies and promote proper functioning during the different phases of the Market's development
5. To raise funds, grants and investments, necessary for development of the Market in cooperation with other agencies and private investors
6. To establish the ongoing management framework of the Market

The **CMWMC** would have the mandate to:

a) Undertake development of the Market on behalf of the Nyandarua County Government and the farmers' cooperatives

b) Enter into contractual relations and partnerships with private bodies for the achievement of its development goals

c) Raise investment funds based upon well founded, limited risk feasibility assessments

d) Purchase and sell goods and services related to the development and management of the Market

e) Manage the Nyandarua County Government owned lands in the Market site

Business Concept

The **CMWMC** will function with a minimal permanent staff. The staff will be a function of the economic and management nature of each specific venture and the ongoing management framework of the Market.

The **CMWMC's** asset base is its direct access to public resources and its mandate on a venture by venture basis to promote the Market's different components. Investments for these ventures can come from development agencies, income from current or future levies

Kenya National Bureau of Statistics, 2019, indicates a strong correlation between higher urbanisation levels and a county's contribution to the national Gross Domestic Product (GDP).

grounded in by-laws, development fees, rents from facility/property management, and fees for development services.

The **CMWMC** would serve as the vehicle for entering into public – private – partnerships in which it brings public assets to the partnership, and in which private partners bring the primary financial investment and professional expertise.

The intention is to operate the company on a business basis. The profits from which will be reinvested and used for further development of the agro-economy in the County.

Legal Status

The **CMWMC** is to be a private corporation (not traded on the stock market), majority owned or fully owned by the Nyandarua County Government. It will have its own board of directors.

Section 182 (1) of the PFM (The Public Finance Management Act (County Government) Regulations Act) provides that:

"A County corporation may be established or dissolved only with the prior approval of the County Executive Committee member responsible for the financial affairs of the County (the "CEC") and for the County Treasury, which may be given only after taking into account any recommendations of the County Treasury regarding the financial implications of establishing or dissolving the county corporation."

2.2.5. Regulation 202 of the PFM Regulations establishes the guiding principles for the establishment of county corporations. The following principles are required to be taken into consideration when determining the need for the establishment of a county corporation:

a. there shall be a role for a county government entity to fill a gap left by the market forces through—
    i. social inclusion, where the county government entity addresses social inequity by redistributing resources in ways that improve opportunity and support for individuals, families and communities, allowing them to participate in the economy and society consistently with the county government's social inclusion agenda; or
    ii. correction of market failure, where the county government entity's activity shall address market failures by improving social and economic welfare through improved resource allocation, where the benefits of county government intervention outweigh its cost;
b. activities promoted by the county corporation shall have clear and consistent objectives and be effective in achieving their county objectives, and represent value for money for theexpenditure of taxpayer funds;
c. a county government owned enterprise shall operate on commercial principles and with a defined commercial income stream that substantially supports the associated commercial activities;
d. where activities involving tax expenditure demonstrate that public expenditure is less effective in achieving the county government objective, but can effectively be undertaken on a commercial basis; and
e. There is no overlap or duplication of functions when establishing a county corporation within the county government.

Outline of formal steps for creating the CMWMC

Establishing the County Magumu Wholesale Market Company requires actions on three different levels. Foremost, the entire procedure needs to be directed by the political leadership of the county. There is a need for professional inputs, especially legal counselling. Finally, it is a public process that requires not only the formal approval of the County Council, but also a mandate from the public and the key stakeholders. This last point will be a critical factor, not only for establishing the CMWMC, but all the more so for its functioning as a leader for agro-economic development in the County.

- Decision by the executive committee to establish the **CMWMC** to serve as the primary development mechanism
- Preparation of a Bill for establishing the **CMWMC**
- Completing the County legislative process for establishing the **CMWMC** and the supplementary legislation enabling the **CMWMC** to undertake investment/deficit financing and undertake Public - private ventures
- County Assembly approval and ordinances for establishing the legal entity
- Establish a professional start-up team to ensure a well formulated board and professional staff
- Appoint Board of Directors
- Hire CEO for **CMWMC**
- Transition from project management by start-up team to management by **CMWMC**
- It is highly recommended that the initial operation be monitored and mentored by experienced professionals in the field of local/county government development corporations

The Public Finance Management Act (County Government) Regulations (PFM) stipulates the following procedure: In order to establish a county corporation or a subsidiary of a county corporation

a. the responsible County Executive Committee Member shall submit a written business case to the County Executive Committee Member, with detailed justification for establishing the county corporation or the subsidiary; and

b. the business case shall be supported by a feasibility assessment of the proposed county corporation or the subsidiary for the purpose of ascertaining:

   i. the economic and financial viability of establishing a county corporation;

   ii. whether the proposed activity cannot be conducted through an existing corporation or the parent department;

   iii. whether or not there is a need to establish a new corporation;

   iv. the functions and objective that it is intended to perform and attain;

   v. how the activities of the proposed corporation will fit into the county department's legislative mandate and medium-term strategy, and aid the realization of the objectives of the programmes associated with that department;

The labour force in Nyandarua, i.e. those between the ages of 15 and 64, accounts for 52.5% of the total population.

vi. how the activities of the proposed county corporation will fit into the overall medium-term plan of County Government;

vii. how they impact the fiscal position of the County Government; and

viii. the amount of the County Government's share

The feasibility and viability assessment conducted under paragraph 2.1.8 (b) (I) of this regulation shall be submitted to the County Executive Committee for approval and upon approval of the business case by the County Executive Committee, the necessary establishment processes shall be undertaken by the relevant department, as required by legislation on formation, management and dissolution of County corporations, to allow it to perform the functions stipulated in the instruments for incorporation.

Structure of the CMWMC

Choosing the Board of Directors

The recommendation is that Board members will be nominated by an independent nomination committee. They will make recommendations to the Executive Committee for approval by the Council.

Potential composition of the Board of Directors:

The composition of the Board should reflect three groups of stakeholders:

1. The County Government

2. Specific stakeholders: the farmers/ cooperatives

3. The general public

It is important for the Board to recognize the need to balance the interests of the people they represent (though not per se elected) with the goals of the County Magumu Wholesale Market Company and its economic sustainability.

Responsibility of Board of Directors

a. Responsible for the overall functioning and economic sustainability of the CMWMC

b. Responsible for mobilizing funds and public support of the company

c. Set policy

d. Approve budget and annual work plan

e. Approve all major development or business ventures

f. Approve appointment of CEO

g. Approve all new partnerships

h. Approve any change in the business or organizational agreements and structures

Responsibility of CEO

a. Ensure the ongoing management and financial viability of the company

b. Implement the policies set by the Board

c. Staff the Board meetings

d. Ensure the professional and business management of the company

e. Prepare and recommend to the Board the annual work plan and budget

f. Staff hiring and changes

g. Recommend to the Board specific business and development ventures

h. Manage the partnership arrangements to promote joint ventures

Committees

a. Executive Committee

b. Finance and Manpower

c. Auditing Committee

d. Development/Venture Committee

Manpower

a. Managing Director - CEO

b. Business manager

c. Development/planning staff/business (internally or outsourced)

d. Support staff including secretary, accounting, and legal

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11 SUSTAINABLE CITIES AND COMMUNITIES

IMPLEMENTING THE NEW URBAN AGENDA