HOMA BAY COUNTY CLIMATE CHANGE FUND REGULATIONS 2022

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HOMA BAY COUNTY CLIMATE CHANGE FUND REGULATIONS, 2022

IN EXERCISE of powers conferred by Section 44 (1) of the Homabay County Climate Change Act 2022 and the Section 116 of the Public Finance Management Act 2012, the Homa Bay County Executive Committee Member for the time being in charge of finance makes the following Regulations:

PART I – PRELIMINARY	
Citation	1. These regulations may be cited as the Homa Bay County Climate Change Fund Regulations, 2022
Interpretation	2. In these Regulations, unless the context otherwise requires: "**Act**" means the Homa Bay County Climate Change Act 2022. "**Fund**" means the Homa Bay County Climate Change Fund established under Section 44(1) of the Act. "**Fund Administrator**" means a person administering the County Climate Change Fund appointed under Regulation 15 "**Steering committee**" means the County Climate Change Steering Committee established under Section 5 of the Act **"Technical committee"** means the County Climate Change Technical committee established under Section 15 of the Act **"Ward Committee"** means the Ward Climate Change Planning Committee established under Section 23 of the Act.
Objects	3. The object of these Regulations is to define the procedures for operation of the Homa Bay County climate change fund.
Principles	4. (1) The implementation of these Regulations and the management of the Fund shall be guided by the values and principles set out in section 4 of the Homa Bay County Climate Change Act 2022. (2) Without prejudice to the provisions of sub regulation (1), the Fund shall be managed and disbursements made for: (a) implementation of priorities set by communities following a community-driven participatory planning process;

	(b) investing in public goods, structures and actions to strengthen adaptation and mitigation to climate change in Homa Bay County.
Amendments	5. (1) The Steering Committee may on its own motion or at the instance of any other interested party recommend to the Executive Committee Member any amendments to these regulations for consideration. (2) The Executive Committee Member shall subject any recommendation from the Steering Committee for amendments to these Regulations to public participation before giving effect thereto
PART II – ESTABLISHMENT AND MANAGEMENT OF THE HOMA BAY COUNTY CLIMATE CHANGE FUND	
Establishment of the Homa Bay County Climate Change Fund	6. There is hereby established a Fund Known as the 'Homa Bay County Climate Change Fund'
Object and purpose of the Fund	7. (1) The object and purpose of the Fund is to provide funding for climate change actions as outlined in the County Integrated Plan, the Annual Development Plans, the County Climate Change Action Plan and the County Annual Budgets and for connected purposes. (2) Specifically, the Fund shall be used to finance: (a) climate impact, risk, vulnerability and resilience assessments; (b) implementation of climate change response actions proposed by Ward Committees and community groups; (c) priority county-level climate change response actions approved by the Steering Committee; (d) priority county-level climate change response actions appropriated in the county annual budgets. (e) climate change research and knowledge management in the county; (f) public education, sensitization and awareness creation on climate change and its impacts; (g) capacity building for staff of the county and other stakeholders to effectively respond to climate change;

	(h) monitoring, evaluation, reporting and learning on climate change response in the county; and, (i) any other projects, activities and interventions recommended by the Steering Committee
Sources of the Fund	8. The Fund shall consist of: (a) Monies appropriated by the County Assembly annually, not being less than two per cent of the county's annual development budget; (b) Monies received by the county from the national government pursuant to the Public Finance Management Act 2012; (c) Climate finance received by the county from the national Climate Change Fund; (d) International climate finance received by the county directly, or from the National Designated Authority, the National Implementing Authority or any other agency; (e) Donations, endowments, bequests, grants and gifts from local or foreign individuals, public and private entities; (f) Charges, fees, levies or fines accruing to the county government in connection with activities that adversely impact on climate change in the county; and/or, (g) Interest and any other monies that may lawfully accrue to the Fund in any form in the course of its operations.
Mobilization of resources for the Fund	9. (1) Without prejudice to the provisions of regulation 7, the Steering Committee shall mobilize resources for the Fund from: (a) communities, development partners, and the private sector; (b) international climate finance frameworks, including but not limited to the Green Climate Fund, Adaptation Fund and the Global Environment Facility; (2) The Technical Committee shall coordinate capacity development for key actors in the county in the development of bankable proposals on climate change adaptation and mitigation for accessing resources from local and international climate finance frameworks.

	(3) Without prejudice to sub-regulation (2), the Technical Committee shall coordinate the development of financial management systems for the Fund that conform to the standards and requirements of the Public Finance Management Act, 2012; any other relevant national laws; and international climate finance frameworks.
County Commitment to the Fund	10. (1) Homa Bay County shall commit not less than two per cent of the annual development budget of the county appropriated by the County Assembly. (2) The commitment above shall apply in the financial year commencing immediately after the date of commencement of these Regulations.
Expenditure of the Fund	11. There shall be paid out of the Fund expenses incurred in pursuance of the objects and purposes of the Fund.
Management of the Fund	12. The steering Committee shall provide oversight over the Fund and specifically; (a) Mobilize funds and resources for climate change response projects approved by the planning Committees. (b) Approve annual revenue and Expenditure budget/estimates. (c) Approve work plan, procurement plans; cash plans for the fund. (d) Allocate funding for cross-ward and cross county climate change response project. (e) Approve the financial statements of the fund prepared by the fund Administrator before they are presented for audit. (f) Approve the County climate Finance framework and the strategic plan of the fund. (g) Set out procedures for application, disbursement, recovery and repayments of loans. (h) Approve, disbursement of loans and grants; (i) Deliberate, approve and provide directions to the secretariat as appropriate on periodic financial and operational reports; (j) Approve performance reports of the Fund and submit to the Executive Committee Member. (k) Design procedures and mechanisms for effective and transparent administration of the fund, including tracking and accounting of climate change finance and monitoring, evaluation, reporting and learning

Fund Administrator	13. (1) The Fund Administrator shall be the County Chief Officer for the time being in charge of climate change and shall be appointed as such by the Executive Committee Member in charge of finance.
Procedure for application of funding	14. (1) The Steering Committee shall determine and publicize widely the priority areas for climate action for each funding cycle. (2) The Steering Committee shall prepare and publicize the procedure for application of funds for approval by the Steering Committee. The procedure shall at a minimum contain: (a) Mode of issuance of call for proposals; (b) Eligible entities and actions for funding under each call for proposals; (c) Format of the applications and details required from the applying entity; (d) Timelines for submission, evaluation and notification of awards for each funding cycle; (e) Procedures for disbursement of funds, and; (f) Complaints redress mechanism for the Call for proposals.
Reallocation of funds	15. (1) The Fund Administror, on approval by the Steering Committee, may in the prescribed format reallocate funds from one project to another, which for reasons communicated to the Steering Committee , cannot be absorbed or utilized, provided that such funds will not be needed for that project. (2) However, such reallocations shall only be done for projects within one ward, except where it is done to address a situation declared a disaster by the Executive Committee Member in charge of Finance.
Bank account of the Fund	16. (1) The Executive Committee Member shall issue guidelines on banking arrangements of the Fund under the provisions of the Public Finance Management Act, 2012. (2) The bank account for the Fund shall be:

	(a) Managed by the Fund Administrator in consultation with the Steering Committee. (b) Signatories to the account shall be: i. Director Finance ii. Fund Administrator; and, iii. Director Climate Change (3) The bank account for the Fund shall be subject to auditing under the provisions of the Public Finance Management Act, 2012.
PART III – DISBURSEMENT OF MONIES FROM THE FUND	
Disbursement of funds by the County Climate Change Fund Management Steering Committee	17. (1) Successful project proponents shall be required to open a dedicated bank account for project funds upon approval by the Steering Committee. (2) The project funds Shall only be used for expenditures on the proposed climate actions. (3) Authorized signatories to such accounts shall be approved in accordance with the County Climate Change Fund Regulations, and any other conditions which may be issued by the Steering Committee. (4) Project funds shall be disbursed quarterly on a reimbursement basis, following requisition by the project implementor, and upon satisfactory surrender of the accounts of the preceding quarter. (5) The Steering Committee may at its discretion, adjust the quantum of disbursements to projects, taking into account the flow of funds to its accounts, and project requirements as detailed in the approved proposal and contract.
Allocation of funds to wards	18. In determining the awards, the Steering Committee shall ensure equitable allocation to wards, as guided by the following factors: (a) equitable distribution of the Fund across the county having regard to eligibility criteria; (b) giving priority to wards that are more prone to climate change-related disasters; and,

	(c) population distribution across the wards. (d) Principle of Equity.
Reporting Procedures	19. (1) In collaboration with County Treasury, the Steering Committee shall put in place financial controls to ensure fiduciary standards are maintained in all Fund operations and achieve the desired transparency and accountability in order to- (a) promote regular accurate reporting of all financial transactions on climate change adaptation and mitigation; (b) ensure funds are disbursed efficiently to facilitate efficient and effective implementation of County Climate Change Fund projects to maximize on outputs and outcomes; (c) ensure County Climate Change Fund project implementers and oversight providers have the necessary capacity; (d) ensure procurement in all County Climate Change Fund projects is competitive, transparent and delivers value for money; (e) put in place effective monitoring and evaluation system for both inputs and outputs or results; and. (f) ensure county climate change fund financial management is subject to timely accounting, reporting and auditing by a qualified and independent auditor.
Financial Governance	20. (1) The Fund Administrator shall submit regular reports on any projects implemented under the fund to the Steering Committee in accordance with the project reporting timelines. Such reports shall detail monthly physical progress and financial expenditure on programs and projects under their supervision. (2) The reports shall provide comparison between the project implementation schedules, current implementation status i.e. the physical progress and financial expenditure vis-a-vis the projected position as per plan, reasons for variances, etc shown in Form A in Annex 1.
Maintenance of records	21. (1) The Steering Committee, Ward Planning Committees and entities implementing projects under the fund shall maintain full and accurate records of expenditures of the Fund, including:

	(a) all receipts in respect of every project and the sum total thereof; (b) all approved documents relating to every expenditure; and, (c) Relevant bank statements of project accounts. (2) The Steering Committee, the Technical Committee and the Ward Planning Committee shall ensure that all Fund documents are secured and preserved for audit and reference purposes.
Complaints mechanism	22. (1) Any community member who is aggrieved by the decision of the Ward Planning Committee on projects forwarded to the Planning Committee for funding shall submit the complaint to the Fund Administrator. (2) The Fund Administrator shall forward the complaint to the Planning Committee for determination. (3) The Planning Committee shall make a determination on the complaint within a period of six weeks and submit a report to the Steering Committee with a copy to the Fund Administrator, who shall communicate the determination to the complainant in writing. (4) The determination of the Planning Committee shall be final. (5) The Planning Committee may develop guidelines for processing of complaints.
Procurement	23. (1) The Fund Administrator shall in consultation with the County Director in charge of Procurement, facilitate the establishment of appropriate procurement systems for each Ward Planning Committee consistent with the requirements of the Public Procurement and Asset Disposal Act, 2015. (2) The Fund Administrator shall liaise with the County Director of Procurement to facilitate capacity development on procurement procedures and systems for all Ward Planning Committees. (3) Hiring of professionals and other service providers for approved and funded projects shall be done in accordance with the Public Procurement and Assets Disposal Act, 2015 and the Public Finance Management Act, 2012.

Payment of suppliers and service providers	24. (1) Each Ward Planning Committee shall monitor implementation of projects under its supervision and ensure that service providers meet the terms of the contract in accordance with the approved implementation monitoring plan and disbursement program for each project. (2) Payments to suppliers and service providers shall conform to the PFM Act, 2012 and any other relevant financial management laws and Regulations in force at the time, and administrative procedures that may be issued by the Steering Committee from time to time. (3) Payment shall be in accordance with the Implementation and Monitoring Plan as detailed in the contract. (4) The Fund Administrator shall submit quarterly reports to the Planning Committee and the Steering Committee reflecting payments made.
Financial reporting	25. (1) The Fund Administrator shall prepare and submit quarterly reports to the Steering Committee. (2) The reports submitted under sub regulation (1) shall provide details of: (a) programmes and projects funded by or in partnership with the Fund; (b) financing support received from various partners and other sources for the quarter; (c) disbursements made to each of the projects by ward and sub county; and, status summary of ongoing climate change activities in the county supported by the fund.
Annual report	26. (1) Not later than three months after the end of each financial year, the Fund Administrator shall prepare annual performance, which on approval by the Steering Committee will be submitted to County Treasury. (2) The annual report shall include *inter alia*: (a) the audited financial statement of the Fund; (b) description of the activities of the Fund;

	(c) such other statistical information as the Fund may consider appropriate for the steering committee to note relating to the Fund's functions; (d) the impact of the exercise of any of its mandate or function; (e) any impediments to the achievement of the objects and functions of the Fund; (f) any other information relating to its functions that the Steering Committee considers necessary. (3) The annual report shall be approved by the Steering Committee and published and publicized in a manner that the Governor may determine.
Audit	27. (1) The Fund Administrator shall cause to be kept proper books and records of accounts of its income, expenditure, assets and liabilities. (2) Within three months after the end of each financial year, the Fund Administrator shall submit to the Auditor-General the accounts of the Fund in respect of that year together with: (a) a statement of the income and expenditure of the Fund during that year; and, (b) a statement of the assets and liabilities of the Fund on the last day of that financial year. (3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the Public Finance Management Act, 2012.
PART IV – MISCELLANEOUS PROVISIONS	
Declaration of interest	28. (1) A member of the Steering Committee, the Technical Committee, or the Ward Planning Committee who has an interest in any business before the Committee (s) and is present at the meeting shall declare his/her interest before the matter is presented for consideration, and shall thereupon be excused from the meeting and not take part in the discussion of, or vote on the matter. (2) A disclosure of interest made under sub regulation (1) shall be recorded in the minutes of the meeting at which it is made.

	(3) A member of the Steering Committee, the Technical Committee or the Ward Planning Committee who contravenes sub regulation (1) shall have his/her membership of the Committee terminated forthwith upon the direction of the Steering Committee. (4) Nothing under this Regulation shall be construed to preclude a member of the Committee from seeking a review of the decision to remove them from the committee. (5) Where a member is removed from a Committee under sub regulation (3), the Executive Member shall make arrangements for replacement as soon as practicable.
Guidelines	29. (1) The Executive Committee Member shall in consultation with the Executive Committee Member for the time being in charge of environment and the Steering Committee develop guidelines for the proper implementation of these Regulations and management of the Fund.

SCHEDULE

HOMA BAY COUNTY

Form A **R. 15(2)**

COMMUNITY PRIORITY PROJECTS APPLICATION FORM

Financial Year……..

Ward Name……...

	Project title and location	
1	**Project priority rank**	
1.1	Short description and target beneficiaries	
1.2	Justification	
1.3	Description of proposed measures	
2	**Project costs**	
2.1	Pre-construction costs	
2.2	Construction costs	
2.3	Additional infrastructure	
2.4	Design and supervision	
2.5	Contingencies	
2.6	Total project cost	
2.7	Estimated annual operating costs	

2.8	Annual maintenance costs	
3	**Total estimated costs for the year**	
4	**Sources of finance**	
4.1	Development costs	
4.2	Operations and maintenance costs	
5	**Staffing and maintenance arrangements**	
6	**Relationship with other projects**	
7	**Project timeframe (period of implementation**	

HOMA BAY COUNTY

Form B **R. 10(3)**

PROJECT FUNDS REALLOCATION FORM

Ward Name……

Financial Year……

Project No.	Project Location	Amount Allocated (Kshs.)	Amount Spent (Kshs.)	Balance (Kshs.)	Unspent to be Reallocated

Reasons for reallocation

Signature **Date**

Name **Position**

HOMA BAY COUNTY

FORM C **R. 24(3)**

PROJECT IMPLEMENTATION STATUS REPORT

Summary Sheet for COUNTY CLIMATE CHANGE FUND Project Implementation (Ongoing projects)

Financial Year……

Ward Name……

	Type of Project	Location	Estimated total cost	Amount allocated	Expenditure to date	Variance				
						Q1	Q2	Q3	Q4	Total
1										
2										
3										

Reasons for variances

Date **Signature and designations of signatories**