

SPECIAL ISSUE

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LEGAL NOTICE NO. 2

THE MERU COUNTY CLIMATE CHANGE ACT

(No. 8 of 2020)

MERU COUNTY CLIMATE CHANGE FINANCE REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

Regulation

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Objects.
- 4—Principles.

PART II—COMPOSITION OF THE FUND

- 5—Capital of the Fund.
- 6—Sources of the Fund.
- 7—Object and purpose of the Fund.
- 8—Mobilization of resources for the Fund.
- 9—Expenditure of the Fund.
- 10—Reallocation of funds.
- 11—Winding up of the Fund.

PART III—MANAGEMENT OF THE FUND

- 12—Oversight.
- 13—Fund Administrator.
- 14—Functions of the Fund Administrator.
- 15—Bank account of the Fund.
- 16—Financial reporting procedures.
- 17—Allowances.

PART IV—DISBURSEMENT OF MONIES FROM THE FUND

- 18—Planning and budgeting.
- 19—Allocation of funds to wards.

- 20—Funds distribution.
- 21—Community consultations to identify priority projects.
- 22—Development of project proposals.
- 23—Criteria for approval of projects.
- 24—Decision of County Climate Change Technical Committee on proposals.
- 25—Disbursement of funds for approved projects.
- 26—Bank accounts for project funds.
- 27—Complaints mechanism.
- 28—Procurement.
- 29—Payment of suppliers and service providers.
- 30—Projects implementation progress report.
- 31—Maintenance of records.
- 32—Financial reporting.
- 33—Annual report of the Fund.
- 34—Audit.

PART V—MISCELLANEOUS PROVISIONS

- 35—Declaration of Interest.
- 36—Guidelines.
- 37—Amendments.

THE MERU COUNTY CLIMATE CHANGE ACT

(No. 8 of 2020)

IN EXERCISE of powers conferred by Section 48(1) of the Meru County Climate Change Act, 2020 and the Public Finance Management Act, 2012 the Meru County Executive Committee Member in charge of the County Treasury makes the following Regulations—

THE MERU COUNTY CLIMATE CHANGE FINANCE REGULATION, 2021

PART I—PRELIMINARY

Citation

1. These regulations may be cited as the Meru County Climate Change Fund Regulations, 2021.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Meru Climate Change Act, 2020;

“county treasury” has the meaning assigned to it by section 2 of the Public Finance Management Act, 2012;

“executive committee member” means the County Executive Committee Member for the time being responsible for climate change matters;

“fund” means the Meru County Climate Change Fund established under section 47(1) of the Act;

“fund participating institutions” means national, regional and international institutions that have contributed to the Fund or are implementing climate change related activities in the county;

“Technical committee” means the County Climate Change Planning Committee established under section 15 of the Act;

“steering committee” means the County Climate Change Steering Committee established under section 5 of the Act; and

“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 management, operations and winding up of the Fund, and for planning of climate change response interventions to be funded by the 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 Act.

(2) Without prejudice to the provisions of sub regulation (1), the Fund shall be managed and disbursements made with due regard to the following principles:

- (a) giving effect to priorities set by communities following a community-driven participatory planning process;
- (b) strengthening the role of communities, community structures and indigenous knowledge systems in the planning of climate change response interventions; and
- (c) investing in public goods and structures to strengthen adaptation to climate change.

PART II—COMPOSITION OF THE FUND

Capital of the Fund

5. The initial capital of the Fund shall be not less than two percent (2%) of the annual development budget of the county as may be appropriated by the County Assembly in the financial year commencing immediately after the date of commencement of these Regulations.

Sources of the Fund

6. The Fund shall consist of—
- (a) monies as may be appropriated by the County Assembly annually, not being less than two percent (2%) of the county development budget;
 - (b) monies received by the county from the national government pursuant to the Public Finance Management Act;
 - (c) climate finance received by the county from the national Climate Change Fund;
 - (d) international climate finance received by the county directly from the National Designated Authority, 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
 - (g) interest and any other monies that may lawfully accrue to the Fund in any form.

Object and purpose of the Fund

7. (1) The object and purpose of the Fund is to provide funding for climate change activities identified in the County Climate Change Action Plan and County Climate Finance Framework and for connected purposes.

- (2) Specifically, the fund shall be used to finance—

- (a) climate resilience assessments;
- (b) implementation of climate change response projects proposed by Ward Climate Change Committees and communities, recommended by the County Climate Change Technical Committee and approved by the Steering Committee;
- (c) priority county level climate change response projects recommended by the County Climate Change Technical Committee and approved by the Steering Committee;
- (d) climate change research and knowledge management in the county;
- (e) public education, sensitization and awareness creation on climate change and its impacts;
- (f) capacity building for staff of the county and other stakeholders to effectively respond to climate change;
- (g) monitoring, evaluation, reporting and learning on climate change response in the county; and
- (h) any other projects, activities and interventions recommended by the County Climate Change Technical Committee and approved by the Steering Committee.

Mobilization of resources for the Fund

8. (1) Without prejudice to the provisions of regulation 6, the Steering Committee shall mobilize resources for the Fund from—

- (a) communities, development partners, and the private sector; and
- (b) international climate finance frameworks, including but not limited to the Green Climate Fund, Adaptation Fund and the Global Environment Facility.

(2) The Steering Committee shall coordinate capacity development for key actors in the county in development of bankable proposals on climate change mitigation and adaptation for accessing resources from international climate finance frameworks.

(3) Without prejudice to sub-regulation (2), the Steering 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 and international climate finance frameworks.

Expenditure of the Fund

9. (1) There shall be paid out of the Fund payments in respect of expenses incurred pursuant to the objects and purposes of the Fund.

(2) Expenditure in respect of administrative costs shall not exceed three percent of the total payments out of the Fund in any financial year.

(3) All monies received, savings and accruals to the Fund and any balances not spent at the end of the financial year shall be retained in the Fund to be used in subsequent years for the purposes for which the Fund is established.

Reallocation of funds

10. (1) The Fund Administrator may, in consultation with the Steering Committee, the County Climate Change Technical Committee and the relevant Ward Climate Change Committee, reallocate funds allocated to a project which for reasons communicated to the Steering Committee cannot be absorbed or utilized and will not subsequently be needed for the particular project.

(2) Such reallocation of funds shall only be done across projects within the same ward and/or within the same community group, save in situations where the reallocation is done to address a disaster declared by the Governor.

(3) A report of all budget reallocations in a ward and/or community group shall be filed in the Project Fund Reallocation Form (Form B in the Schedule hereto) giving details of the project, its location, funds reallocated, amount originally allocated, amount unutilized and proposed reallocations, with reasons.

(4) The Signed minutes of the Steering Committee to be annexed to Form B.

Winding up of the Fund

11. (1) The Fund may be wound up at the recommendation of the Executive Committee Member for the time being in charge of the County Treasury in consultation with the Steering Committee, and subject to the approval of the County Assembly.

(2) Winding up of the Fund shall be done in accordance with the provisions of the Public Finance Management Act, 2012.

PART III—MANAGEMENT OF THE FUND

Oversight

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 County Climate Change Technical Committee;
- (b) approve estimates of revenue and expenditure of the Fund for each financial year;
- (c) approve annual budget, work plan, procurement plans and cash plans for the Fund;
- (d) allocate funding for cross-ward and cross-county climate change response projects;
- (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 and recovery;
- (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 Governor with a copy to the Executive Committee Member; and
- (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. The Fund shall be administered by a fund administrator appointed by the Executive Committee Member in charge of Finance from among senior officers, not below the level of a director, within the department for the time being responsible for climate change in the county.

Functions of the Fund Administrator

14. The Fund Administrator shall supervise administration and day-to-day operations of the Fund, and specifically—

- (a) consult with the Steering Committee and the Executive Committee Member on all matters related to the administration of the Fund;
- (b) ensure that disbursement of monies out of the Fund is done in a timely and efficient manner and in accordance with the provisions of the Act, these Regulations and the Public Finance Management Act, 2012;
- (c) cause to be kept proper books of account and records on the operations of the Fund;
- (d) prepare, sign and submit a statement of account in respect of each financial year and within three months after the end thereof to the Steering Committee for consideration and approval;
- (e) prepare periodic reports on the financial and non-financial performance of the Fund and present the same to the Steering Committee for consideration and approval;
- (f) ensure compliance with decisions and recommendations of the Steering Committee and submit periodic reports on such compliance;
- (g) be the custodian of all assets, equipment and properties of the Fund; and

- (h) perform such other functions as may be assigned by the Executive Committee Member from time to time.

Bank account of the Fund

15. (1) The Executive Committee Member for the time being in charge of the County Treasury 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 Executive Committee Member; and
 - (b) signatories to the account shall be—
 - (i) Chief Officer in charge of Environment and Climate Change;
 - (ii) Chief Officer in charge of County Treasury;
 - (iii) Fund Administrator.

(3) Cheques for administrative expenses shall be signed by any two of the signatories, but cheques to service providers for projects shall be signed by all three signatories; provided that the Chief Officer in charge of Environmental and Climate Change matters shall sign all cheques issued by the Fund.

(4) The bank account for the Fund shall be subject to auditing under the provisions of the Public Finance Management Act, 2012.

Financial reporting procedures

16. The Fund Administrator shall, in consultation with the Chief Officers in charge of County Treasury and Environment and Climate Change matters, put in place financial controls to ensure fiduciary standards are maintained in all Fund operations and to achieve the desired transparency and accountability with a view to—

- (a) promoting regular accurate reporting of all financial transactions on climate change mitigation and adaptation;
- (b) ensuring that funds are disbursed efficiently to facilitate timely and effective implementation of projects funded by the Fund to maximize on outputs and outcomes;
- (c) ensuring that project implementers and oversight providers have the necessary capacity;
- (d) ensuring that procurement in all Fund projects is competitive, transparent and delivers value for money;
- (e) putting in place effective monitoring and evaluation system for both inputs and outputs;

- (f) ensuring that efficient and effective dissemination of lessons learnt from for planning and implementation of Climate Change programmes and projects; and
- (g) ensuring that Fund financial management is subject to timely accounting, reporting and auditing by a qualified and independent auditor.

Allowances

17. (1) Members of the Steering Committee and the County Climate Change Technical Committee shall be paid allowances in accordance with Guidelines from the Salaries and Remuneration Commission.

(2) Members of Ward Climate Change Committees shall serve on a voluntary basis, but may be reimbursed transport costs at rates to be determined by the County Treasury in consultation with the Executive Committee Member for the time being in charge of climate change matters.

PART IV—DISBURSEMENT OF MONIES FROM THE FUND

Planning and budgeting

18. (1) The Fund Administrator shall, prior to the commencement of each financial year—

- (a) prepare and circulate to the Steering Committee, the County Climate Change Technical Committee and the Ward Climate Change Committees a list of funds available for climate change mitigation and adaptation in the county to guide planning of projects;
- (b) provide details of conditional funds, if any, to target recipients; and
- (c) submit a consolidated list of ongoing climate change response projects in the county to the Steering Committee, the County Climate Change Technical Committee and the Executive Committee Member for the time being in charge of the County Treasury.

(2) The information provided under sub regulation (1) shall specify the funds approved by the Steering Committee for each ward.

(3) The Fund Administrator shall ensure the widest possible circulation through the print, electronic media and public *baraza* of the information under sub-regulation (1).

Allocation of funds to ward's projects

19. In determining the allocation of funds to ward's projects, the Steering Committee shall be 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.

Funds distribution

20. Monies available for disbursement from the Fund in any financial year shall be distributed as follows—

- (a) three percent for administrative costs, further allocated in the following manner—
 - (i) forty percent for administrative costs of the Steering Committee and the County Climate Change Technical Committee; and
 - (ii) sixty percent for administrative costs of Ward Climate Change Planning Committees;
- (b) twenty seven percent for county wide projects, further allocated in the following manner—
 - (i) ten percent to Climate Change Awareness Creation activities;
 - (ii) twenty percent to county specific research and development; and
 - (iii) seventy percent to county wide development projects;
- (c) seventy percent for projects proposed by Ward Climate Change Planning Committees and approved by the County Climate Change Technical Committee.

Community consultations to identify priority projects

21. (1) Prior to the commencement of the financial year, the County Climate Change Technical Committee in consultation with Ward Climate Change Planning Committees shall convene at least one community consultation in each ward for the purposes of—

- (a) creating public awareness about climate change;
- (b) providing information about the nature of project eligible for funding through the Fund;
- (c) enabling communities to identify priority climate change response projects; and
- (d) building community capacities to benefit from the Fund.

(2) Every Ward Climate Change Planning Committee shall prepare and submit to the County Climate Change Technical Committee a report on community consultations held under sub regulation (1).

Development of project proposals

22. (1) The Community groups shall, on the basis of priorities identified in the communities consultations under regulation 22 develop proposals on interventions on climate change to the County Climate Change Technical Committee through the Ward Climate Change Committees.

(2) The Ward Climate Change Planning Committee shall rank the projects in terms of priority, and present the list and the proposals to the County Climate Change Technical Committee using Form A in the Schedule.

Criteria for approval of projects

23. (1) In reviewing project proposals for funding, the County Climate Change Technical Committee shall have regard to the following factors, among others—

- (a) proper situation analysis, with clear problem statement and clarity on the level and urgency of vulnerability and risk arising from delayed intervention;
- (b) transformative and relevance;
- (c) magnitude and possibility of risk occurrence;
- (d) promotion of gender and community cohesion, with due regard to vulnerable groups;
- (e) support to strengthening of livelihoods, including wealth creation;
- (f) promotion of resilience in the locality through mitigation and adaptation;
- (g) evidence of properly conducted environmental impact assessment;
- (h) complementarity, value-addition, processing and synergy with existing projects;
- (i) clearly defined monitoring and evaluation plan;
- (j) sustainability;
- (k) Creativity and innovativeness;
- (l) clearly defined stakeholder engagement plan;
- (m) efficiency and effectiveness of implementation arrangements; and
- (n) cost-effectiveness and value for money.

(2) Provided that it shall be the responsibility of the County Climate Change Technical Committee and the Ward Climate Change Planning Committees to support communities to be able to comply with the criteria for assessing project proposals.

(3) Provided further that the criteria shall not be used to prejudice or disadvantage any communities in accessing project funding from the Fund.

Decision of County Climate Change Technical Committee on proposals

24. (1) The County Climate Change Technical Committee shall review proposals from Ward Climate Change Planning Committees, and make a decision thereon within 30 days from the date of receipt.

(2) The County Climate Change Technical Committee may constitute a Project Evaluation Team composed of the following persons for purposes of approving project proposals—

- (a) County technical staff seconded by relevant County Departments;
- (b) consultants and technical staff from fund participating institutions; and
- (c) consultants hired by the County Climate Change Technical Committee.

(3) The County Climate Change Technical Committee may require that Ward Climate Change Committees appear before it to defend their proposals and answer questions from members during the proposal review process

(4) Upon reviewing the project proposals from the Ward Climate Change Committee, the County Climate Change Technical Committee may—

- (a) approve the project proposals;
- (b) reject the project proposals, giving reasons in writing; and
- (c) instruct the respective Ward Climate Change Planning Committee to make specified amendments to the project proposals, and in such case approve the amended proposal within three weeks of its submission.

Disbursement of funds for approved projects

25. (1) Upon the County Climate Change Steering Committee approving projects, the Fund Administrator shall publish a list of approved and ranked projects, together with the procurement plans for each project.

(2) The Fund Administrator shall then proceed to release monies to approved projects on quarterly or need basis according to cashflow projections submitted by implementers and approved by the County Climate Change Steering Committee and payment cheques signed by the three of the approved signatories.

Bank accounts for project funds

26. (1) The Fund Administrator shall only disburse funds to Community approved projects through group's commercial bank accounts.

(2) Disbursed funds shall only be withdrawn by duly authorized signatories for use in meeting expenses of approved projects.

(3) The Fund Administrator may in consultation with the Chief Officer in charge of Treasury freeze expenditure from a community group's account for non-compliance to Fund rules and regulations.

Complaints mechanism

27. (1) Any community member who is aggrieved by the decision of the Ward Climate Change Planning Committee on projects forwarded to the County Climate Change Technical Committee for funding shall submit the complaint to the Fund Administrator.

(2) The Fund Administrator shall forward the complaint to the County Climate Change Technical Committee for determination.

(3) The County Climate Change Technical 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 County Climate Change Technical Committee shall be final.

(5) The County Climate Change Technical Committee may develop further guidelines for processing of complaints.

Procurement

28. (1) The Fund Administrator shall in consultation with the Chief Officer for the time being in charge of the County Treasury facilitate establishment of appropriate procurement systems for each funded Community groups 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 Community groups.

(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

29. (1) Each Sub-County Environment Officer shall monitor implementation of projects under his/her supervision and ensure that service providers meet the necessary 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 be supported by approved documentation from each based on contract terms, project progress report, and approval of payment signed by at least two of the approved signatories.

(3) Payment shall be in accordance with the Implementation Monitoring Plan and the Investment Schedule.

(4) The funded Community group shall submit quarterly reports to the County Climate Change Technical Committee through the Ward Climate Change Committee reflecting payments made.

Projects implementation progress reports

30. (1) The County Climate Change Technical Committee and Ward Climate Change Committees shall submit to the Steering Committee regular reports on projects under their supervision.

(2) The funded Community Group shall prepare and submit to the Fund Administrator monthly financial reports with details of physical progress and financial expenditure on projects under their supervision, providing comparison between the project implementation schedule and the current status through Sub-County Environment Officer.

(3) The reports shall be submitted in Form C.

Maintenance of records

31. (1) The County Climate Change Technical Committee and Ward Climate Change Planning Committees 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 Ward Climate Change Planning Committees, the County Climate Change Technical Committee and the Steering Committee shall ensure that all Fund documents are secured and preserved for audit and reference purposes.

Financial reporting

32. (1) The Fund Administrator shall prepare and submit quarterly reports to the Steering Committee through the County Climate Change Technical Committee for approval and onward submission to the Chief Officer for the time being responsible for the County Treasury.

(2) The reports submitted under subregulation (1) shall provide details of—

- (a) programmes and projects funded by or in partnership with the Fund;
- (b) disbursements by each of the supporting financing and total amounts received;
- (c) funding status showing monies disbursed for each of the projects by ward and sub county; and
- (d) a summary of ongoing climate change activities in the county.

(3) At the end of each financial year, the Fund Administrator shall prepare annual performance report, which on approval by the Steering Committee shall be submitted to Executive Committee Member for the time being responsible for the County Treasury for onward transmission to the County Assembly.

Annual report of the Fund

33. (1) Not later than three months after the end of each financial year, the Fund Administrator shall prepare the annual report on the Fund.

(2) The annual report shall include, *inter alia*—

- (a) the audited financial report of the Fund;
- (b) description of the activities of the Fund;
- (c) such other statistical information as the Fund may consider appropriate 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) such other information as the Executive Committee Member responsible for the Treasury may direct; and
- (g) any other information relating to its functions that the Steering Committee considers necessary.

(4) The annual report shall be approved by the Steering Committee and published and publicized in a manner that the Governor may determine.

Audit

34. (1) The Fund Administrator shall cause to be kept proper books and records of account 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 V—MISCELLANEOUS PROVISIONS*Declaration of interest*

35. (1) A member of the Steering Committee, the County Climate Change Technical Committee or the Ward Climate Change Committee who has an interest in any business before the Committee and is present at the meeting shall as soon as it is reasonably practicable, declare his/her interest and shall thereupon be excused from the meeting and not take part in the consideration or 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 Steering Committee, the County Climate Change Technical Committee or the Ward Climate Change Committee who contravenes sub-regulation (1) shall have his/her membership of the Committee terminated forthwith upon direction of the Executive Member for the time being in charge of the County Treasury.

(4) Where a member is removed from a Committee under sub regulation (3), the Executive Member for the time being in charge of the County Treasury shall make arrangements replacement as soon as practicable.

Guidelines

36. The Executive Committee Member for the time being in charge of the County Treasury shall in consultation with the Executive Committee Member for the time being in charge of environment and the Steering Committee develop further guidelines for the proper implementation of these Regulations and management of the Fund.

Amendments

37. (1) The Steering Committee may on its own motion or at the instance of any other interested party recommend to the Executive Committee Member for the time being in charge of the County Treasury any amendments to these regulations for consideration.

(2) The Executive Committee Member for the time being in charge of the County Treasury shall subject any recommendation from the Steering Committee for amendments to these Regulations to public participation before giving effect thereto.

SCHEDULE



Form A

R. 23(2)

COMMUNITY PRIORITY PROJECTS NOTIFICATION FORM

Financial Year

Ward

	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	Estimated project benefits	
4.1	Environmental benefits	
4.2	Economic benefits	
4.3	Social benefits	

5	Sources of finance	
5.1	Development costs	
5.2	Operations and maintenance costs	
6	Staffing and maintenance arrangements	
7	Relationship with other projects	
8	Project timeframe (period of implementation)	

Signed By: Chairperson of the Ward Climate Change Committee

Signed By: Secretary of the Ward Climate Change Committee

Form B

R. 10(3)



PROJECT FUNDS REALLOCATION FORM

Ward

Financial Year

Project No.	Project Location	Amount Allocated (KSh.)	Amount Used(KSh.)	Balance (KSh.)	Reallocated amount

Reasons for reallocation

Signature.....Date.....

Chairperson (CCCTC).....Position.....



PROJECT IMPLEMENTATION STATUS REPORT

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

Financial Year

Project Title

Ward Community group Name

	Type of Project*	Location	Estimated total cost	Amount allocated	Expenditure to date	Variance				
						Q1	Q2	Q3	Q4	Total
1										
2										
3										
4										
5										
6										
7										
8										

* Mitigation, adaptation or Mixed

Reasons for variances

Date: Signature and designations of signatories:

Made on the 10th June, 2021.

County Executive Committee Member for Finance, Economic Planning and ICT. **TITUS NTUCHIU,**