

**MOHAMED PA-MOMO FOFANAH ESQ.**

LL.M (Harvard)

**BARRISTER AND SOLICITOR**

of the High Court of Sierra Leone

NOTARY PUBLIC & COMMISSIONER FOR OATHS

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4<sup>th</sup> March, 2022

Email: [pamomofofanah@gmail.com](mailto:pamomofofanah@gmail.com)

The Commissioner,  
Anti-Corruption Commission,  
Gloucester Street,  
Freetown.

Dear Sir,

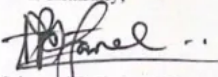
RE: RESPONSE TO THE "CONCLUSION OF INVESTIGATION ON THE ISSUES RAISED IN THE 2019 AUDITOR GENERAL'S REPORT ON THE FREETOWN CITY COUNCIL" CONDUCTED BY THE ANTI-CORRUPTION COMMISSION'S INTELLIGENCE AND DEPARTMENT DATED 8<sup>TH</sup> FEBRUARY, 2022.

With reference to the above subject, I write as the Solicitor for Mrs. Yvonne Aki-Sawyerr, her Worship, the Mayor of Freetown and Chairperson of the Freetown City Council.

Firstly, kindly accept the gratitude of my Client and I in extending the time for her (my Client) to respond to the findings, conclusion and recommendation contained in your Report dated 8<sup>th</sup> February, 2022 in respect of investigations conducted by your Commission on the Auditor General's 2019 Report relative to the Freetown City Council.

Secondly, in response to your said Report, please attached hereto the Legal Opinion prepared and submitted to your Commission on my said Client's behalf dated 4<sup>th</sup> March, 2022. My Client and I count on your independent and dispassionate mandate to hopefully now bring closure to the matter.

Yours faithfully,



Mohamed P. Fofanah Esq.

CC: - Mrs. Yvonne Aki-Sawyerr;

- The Chief Administrator, Freetown City Council; and
- Ms. Manja Isata Kargo.

DATED THIS 4<sup>TH</sup> DAY OF MARCH, 2022

LEGAL OPINION:

RESPONSE TO THE "CONCLUSION OF INVESTIGATION ON THE ISSUES RAISED IN THE 2019 AUDITOR GENERAL'S REPORT ON THE FREETOWN CITY COUNCIL" CONDUCTED BY THE ANTI-CORRUPTION COMMISSION'S INTELLIGENCE AND DEPARTMENT DATED 8<sup>TH</sup> FEBRUARY, 2022:

A. BACKGROUND AND SUMMARY OF THE ISSUES:

1. The Anti-Corruption Commission of Sierra Leone (hereinafter called "the ACC"), sometime in 2021, commenced investigations into certain issues raised in the National Audit Report against the Freetown City Council (hereinafter called "the FCC"), of which the Mayor of Freetown is the "Chairperson", and the Chief Administrator its "Secretary" and principal administrative officer. The investigation, according to the above Report of the ACC, zeroed in on the Auditor General's Report in 2019 that the "*FCC made payments totalling Le. 200,842,333.00 (...) on travelling expenses (Air tickets and per diems) to an individual who is not a staff of the Council*" and that "*the said amounts were paid without appropriate approvals and it was also not budgeted for in their yearly work plan*". The ACC then commenced investigations into the above allegations
2. According to the findings of the ACC, and in agreeing with the Auditor General's Report of 2019, a certain Manja (Isata, *sic*, Isatu) Kargbo who was not a staff of the FCC, "had received payments from FCC Funds". The ACC also found in their above Report at page 2 thereof that "*the Mayor's Delivery Unit* [MDU, being a Unit set up by the Mayor of FCC and supervised directly by her to achieve the key delivery objectives of the FCC within her five-year mandate] *is a private unit established by the Mayor to help deliver on the Transform Freetown Agenda which comprises mostly people described as "volunteers", local and international*". However, according to the said ACC Report, "*some of the personnel at the MDU are paid by Non-Governmental Organisations through a private Accounting firm in Sierra Leone, BDO*" and that "*all the staff working for the MDU report directly to the Mayor.*" [Emphasis added].
3. The ACC's Report also claimed at page 2 thereof that "*the supervising Ministry* [i.e. the Ministry of Local Government and Rural Development, hereinafter called "the Line Ministry"]

*[was] not officially aware of the existence of the Mayor's Delivery Unit (MDU) at the Freetown City Council, its objectives and its activities"* and that *"for such a unit to be formed, it should be discussed and agreed upon at the Council's Ordinary meetings (...). In the case of the Mayor's Delivery Unit at the FCC this was not done"*. The Report stated as well that *"if Council has to pay for travelling expenses of a non-staff, this should be discussed and agreed upon at Council's Ordinary Meetings"* but that *"this was not done;"* considering that, according to the ACC's said Report, *"overseas trips are funded from Council's own source revenue based on the availability of funds"*. [All emphasis herein are added].

4. The ACC's Report therefore concluded and recommended that both the Mayor of the FCC and Manja Isata Kargbo should jointly pay back to the FCC, through the ACC's civil recovery process, the sum of Le. 187,904,830.00, **which is less \$1,250 (refunded)** of the sum of Le. 204,842,222.00, being the total sum alleged by the ACC to have been paid to Manja Isata Kargbo by the FCC under the MDU activities. The ACC alternatively recommended criminal prosecution for various offences outlined in the Report if the above monies are not paid back to the FCC by the Mayor and Manja Isata Kargbo jointly. [Emphasis added as well].

**B. THE MAYOR'S RESPONSES TO THE ABOVE ISSUES AND RECOMMENDATION:**

5. The Mayor firstly, acknowledges the crucial and fundamental role of the ACC in investigating and prosecuting graft and other corruption offences outlined in the Anti-Corruption Act, 2008 as amended; and notes as well the provisions in Part XV of the Local Government Act, 2004 (Act No. 1) on "Transparency, Accountability and Participation" of Local Councils and their elected officials and staff in ensuring the application of, and full compliance with, the ACC legislation above, referencing in particular section 103 thereof.
6. The Mayor also welcomes every attempt and effort by the ACC to achieve its said mandate for the national good, and has, on a number of occasions, fully cooperated with the ACC in enhancing that mandate. It is thus similarly anticipated that the ACC would, in executing and achieving its set mandate, do so independently and dispassionately, premised on fairness and

the objective of securing equitable and just results for the broader and utilitarian good of the citizens of Sierra Leone, especially the electorates of the Freetown municipality.

a) **Allegation by the ACC that the Mayor's Delivery Unit is a Private Unit of the Mayor:**

7. The Mayor states that the above allegation/claim that the Mayor's Delivery Unit (MDU) is a "private unit" established by her in the FCC is incorrect. It is similarly submitted that the MDU is not also a parallel structure created to run alongside the FCC. The MDU was indeed created by the Mayor upon her election and inauguration as Mayor of Freetown to augment the various Departments of the FCC, which were already over-stretched and under-funded by the FCC.
8. The Mayor notes that she discussed widely, both internally within the Council and externally as well with various top-level officials of government, including H. E. The President on 14<sup>th</sup> August, 2018 and with an "extended Cabinet" at State House on 17<sup>th</sup> August, 2018, the roles and urgent need for the establishment of the MDU within the Council, especially as a necessary technical support to the FCC with expert input from mostly local and international volunteers, explaining that the MDU's operations were to have a minimum budgetary impact on the FCC and government. This is because volunteers of the MDU are self-funded consultants from partnering or supportive entities or organisations working with the Mayor and the FCC.
9. Contrary to the ACC Report, the Mayor recalls that both before and shortly after taking office, she engaged the Chief Administrator and the FCC Core Staff through the attached slide to this Opinion, on the role of the MDU. The said slide was also part of a presentation made by the Mayor to the FCC Management and Councillors at an Orientation Day event held on the 21<sup>st</sup> May, 2018. This was to the greater satisfaction of the FCC Council and staff who saw the urgent need for training, capacity building, technical support and financial resource mobilisation within the FCC in order to achieve its Transform Freetown Initiative, which the MDU was meant to fast track. In fact, during the process, the FCC Development Planning Officer explained that the 2015-2018 Development Plan for the FCC was **only 5%** implemented because of lack of resources.



10. The slide was also presented to development partners and NGOs in meetings held at the FCC in July 2018 and, as noted above, subsequently at State House to HE The President and Senior Officials of Government comprising an extended Cabinet aforesaid. The Chief Administrator was present at all such meetings and indeed co-chaired elements of the sessions presented as well. The slide was incidentally well received by all and sundry at that time.
11. The Mayor also avers that, satisfied with the MDU initiative and objectives, both Council and the Chief Administrator of the FCC not only endorsed the operations and expert input of the MDU in its much-needed resource mobilisation drives and staff capacity improvement, but upon the FCC moving to the New City Hall building in January 2020, they created separate offices with attendant tags for the MDU within the FCC's new Headquarters in Freetown. The said tags were procured by the Chief Administrator and the City Engineer. Thus, the MDU has, since its establishment, provided maximum and necessary support to Council and its staff, and by broader stretch, the Freetown municipality. This Opinion would summarise some of the MDU's key achievements, which the attached slide had initially anticipated, for the ACC's independent and dispassionate assessment.
12. Even more significant too is the fact that the Council of Freetown, as an elected autonomous entity, has never really questioned nor queried the establishment and operations of the MDU. Besides, it is contended by the Mayor herein that the submission by the ACC in its Report that the establishment of the MDU and the payment of travel allowances or stipend to non-staff members volunteering for the FCC should have first been approved by the FCC Council in an ordinary Meeting of Council is, with respect, unsupported by the laws and regulations of Council. The Mayor therefore invites the ACC to quote such a law or regulation, if it exists.
13. In similar vein, the Mayor additionally seeks to clarify herein that the reference in the ACC Report to payment of "*some of the personnel at the MDU [being done] by Non-Governmental Organisations through a private Accounting firm in Sierra Leone, BDO*" [emphasis added] is premised on the deliberate choice of the said INGO Donors, who introduced BDO, a local accounting firm, as their fiduciary agent for purposes of their funding to the FCC and MDU.

14. The Mayor furthermore refers the ACC to the Local Government Act 2004 (as amended) on her functions as “Chairperson” of the FCC, the primary functions of Local Councils, and inter alia their Development Planning. Section 11(3) of the Act specifically outlines the Mayor’s functions as follows:

*11(3): The Chairperson shall, without prejudice to the other provisions of this Act,*

*(a) supervise the Local Council Chief Administrator;*

*(b) cause to be prepared and submitted to the local council for its approval, the annual development plan and budget;*

*(c) report to the local council every month on activities of the council over the past month including the implementation of the council’s decisions and policies;*

*(d) ensure that decisions and resolutions of the local council are implemented;*

*(e) ensure that the financial affairs of the local council are properly managed and controlled; and*

*(f) perform such other functions as the local council may determine. [Emphasis added].*

15. Similarly, section 20(1) of the above Act outlines the functions of Local Councils as follows:

*“20. (1): A local council shall be the highest political authority in the locality and shall have legislative and executive powers to be exercised in accordance with this Act or any other enactment, and shall be responsible, generally for promoting the development of the locality and the welfare of the people in the locality with the resources at its disposal and with such resources and capacity as it can mobilise from the central government and its agencies, national and international organisations, and the private sector”. [Emphasis added].*

16. Also, matters pertaining to “Development Planning” are outlined in Part XI of the Act. The Mayor therefore avers that the setting up of the MDU by her forms part of her broader mandate and functions in order to achieve the outlined legislative objectives of the FCC, including the development planning and welfare of the electorates of the City of Freetown City, her direct beneficiaries and constituents. The MDU is not, with respect, the Mayor’s personal property.

17. The Mayor nonetheless states herein that her earlier reference to the MDU as being a “private unit” of her office during a meeting with the ACC before the Report was concluded was, with

respect, taken out of context by the ACC. The Mayor, however, acknowledges herein that the said phrase was admittedly an incorrect term used by her at a time when she did not have appropriate legal advice during one of the interviews conducted with her by the ACC.

**b) The Allegation that the Local Government Ministry was not officially aware of the existence of the Mayor's Delivery Unit (MDU) at the Freetown City Council (FCC):**

18. The Mayor further avers that for the reasons outlined above, and the fact that the Line Ministry has itself participated in activities and programs conducted by, or with the known technical input of the MDU at the FCC, it is moreover incorrect for the ACC to state in its Report that the Line Ministry was *not officially* aware of the existence of the MDU in the FCC. Part XIV of the Act outlines the responsibilities of the Line Ministry and in particular provides that the Line Ministry shall "*inspect and monitor the activities of every local council to ensure that it acts within the scope of [the] Act or any other relevant enactment [of Parliament]*".
19. Apart from one-on-one presentations done with past and present Local Government Ministers and their Deputies about the Vision of the Mayor and the FCC, inclusive of the work of the MDU, the Mayor avers that when the current Minister of Local Government (Line Ministry) assumed office, she (the Mayor) invited him and his Deputy to the FCC on Wednesday, 18<sup>th</sup> September, 2019 and presented to them the Transform Freetown Initiative and the MDU.
20. It is thus submitted that it will be incorrect to state that the Line Ministry has been inspecting and monitoring the activities and programs of the FCC since 2018 without discovering from onset the establishment and positive operations of the MDU and its far reaching impact on the FCC and the City of Freetown. The Mayor states that the internal human resource and external funding achievements of the FCC on a broad scale primarily rest on the work of the MDU.
21. It is also unclear to the Mayor for the ACC to conclude that the Line Ministry knew about the activities and programs of the MDU within the FCC but did so "unofficially". The myriad achievements of the MDU within the FCC are too grand and far reaching, both locally and internationally, to be considered "unofficial".

c) The Allegation that the FCC made unauthorised Payments to non-Staff of the FCC and without the Approval of the FCC:

22. As noted above, the ACC has stated in its Report that the “*FCC made payments totalling Le. 200,842,333.00 (...) on travelling expenses (Air tickets and per diems) to an individual who is not a staff of the Council*” and that “*the said amounts were paid without appropriate approvals and it was also not budgeted for in their yearly work plan*”. The ACC also indicated in the said Report that, through its civil recovery process, the sum of \$1,250 was refunded out of the sum of Le. 204,842,222.00 claimed as owing by Manja Isata Kargbo and the Mayor to the Freetown City Council (FCC).
23. Firstly, in the above regard, the Mayor hereby states that the above sum of \$1,250 said to have been “refunded” to the ACC for the benefit of the FCC by Manja Isata Kargbo was only part of a liquidation process by Ms. Kargbo, to further show how moneys are accountably and transparently handled by the MDU, of which Ms. Kargbo is a key functionary. Thus, the said sum was “retired” by her as money that was not used by her during one of her travels abroad; it was not “refunded” to the ACC as part of an amount due and owing by Ms. Kargbo to FCC.
24. Secondly, the Mayor avers herein that in all matters pertaining to the travels of Ms. Kargbo as a key member of the MDU, the FCC authorisation and liquidation process was followed. In the instant case referred by the ACC, the travel request was first raised by the Foreign and Protocol Department and addressed to the Chief Administrator. The Chief Administrator then minuted the request to the Mayor for her approval. Upon receipt of the Mayor’s approval, the Chief Administrator re-minuted the request to the Finance Officer for action, and payment was thereupon made directly to the ticketing agent in the case of the airline tickets; and to Ms. Kargbo in respect of her hotel bills and DSA abroad. The relevant payment vouchers were duly signed by the Finance Officer and the Chief Administrator respectively. Attached to this Response for the ACC’s attention are a sample Request Document and a Payment Voucher.
25. Besides, the Chief Administrator historically and presently signs off on Consultant payments for several MDU team members to enable payments by NGO Donors. For example, the Chief Administrator is the designated contract manager for the senior project manager role held by



the MDU team member, Ms. Miriama Whitmore, for the World Bank-funded SLIRUMP Project and that he, the Chief Administrator, signs monthly performance reports for Ms Whitmore in order to enable monthly salary payments to be made to her by the PFMU. The Chief Administrator also signs the consultancy fee cheques for other MDU consultants as well, a case in point being that of Mr. Augustine Kamara in respect of the MMC Global Cities Challenge Project.

26. Respectfully therefore, the Mayor contends that it would be unfair for the ACC, in light of the above, to conclude that she, the Mayor of the FCC, made unauthorised payments to non-staff members of the FCC and that she did so without the approval of the FCC Council, of which the Chief Administrator is the principal administrator and vote controller.

**d) The Impact of the MDU's Programs and Activities on the Freetown City Council (FCC), the Freetown City, Sierra Leone and the Global Community:**

27. The Mayor also submits herein that the “#Transform Freetown Project” always required close cooperation and coordination with the Central Government, 16 MDAs and in excess of 80 Donors to achieve its objectives, including benefiting 1.2 million residents of Freetown. Efforts were thus made to ensure that all stakeholders are aligned on the MDU's role and input. The “#Transform Freetown Project” has more than proved its worth, with the MDU mobilizing not just funds, but ensured that hundreds of locally-employed FCC staff working across the City of Freetown could be more effectively and efficiently engaged in areas such as sanitation, flood mitigation, urban mobility, slum re-generation, enforcement, COVID 19 response and much more. (See the attached List of Selected Interventions driven by the MDU).
28. Furthermore, the Mayor states herein that some of FCC's successes are attributable to strong international relations forged by the MDU with sister Cities in the US and UK, and INGOs such as Bloomberg, C40 Cities and the Global Parliament of Mayors, to name but a few. In particular, considering as well the human and funding resources deficiency known to the City Councils within Sierra Leone, the international, cross government, multi-sector nature of the “#Transform Freetown Project” was evidently beyond the scope of the FCC to deliver. The

MDU's technical presence has mitigated the several gaps in FCC's project management, basic office, financial, IT and other technical skills, all of which positively impacts FCC's growth. MDU's supporting role to the FCC has correspondingly forged strong working relationships within the Council.

29. Finally, in the field of "Program/Project Design, Management and Delivery", the Mayor avers herein that the MDU's greatest contribution has been to support the FCC in project design (including resource mobilization), management and delivery. A comparison between FCC's Development Plan for 2015 to 2018 and the Mayor's post-2018 '#Transform Freetown Project' is instructive. As noted earlier, according to the City's Development Planning Officer, between the period 2015 to 2018, only 5% of the projects contained in the City's Development Plan for that period was successfully delivered. During the current Mayor's tenure, over 75 Projects have been delivered with positive impacts across 11 sectors. (See the three editions of the already published annual #Transform Freetown Reports, with primary support from the MDU).
30. The "#Transform Freetown" and the "Freetown, the Tree Town" Projects have both become internationally recognized and are being emulated by other Cities across the world. Freetown is regularly featured now in the international press, and frequently invited as well to present at the headquarters of the UN, the World Bank, the World Economic Forum and so forth. It is also common knowledge that the foregoing Projects have attracted huge funding for Sierra Leone and the Freetown City's development. The Mayor concludes that even though FCC's Departments and Council have been central to achieving the foregoing results, it is inarguably the case that none of them could have been achieved without the role and input of the MDU.

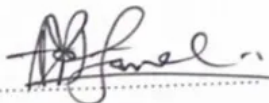
### C. CONCLUSION

31. In conclusion, the Mayor believes that she has not, and will not, transgress any law, including laws designed to deal with and respond to graft and corruption offences. The Mayor therefore inclines the ACC to act within its independent legal mandate of delivering justice and fairness to all and sundry dispassionately and withdraw the threats of prosecution against her and Ms.

Manja Isata Kargbo, as she believes that there is no evidence to support such threats and/or allegations outlined in the ACC's Report.

32. It is also in the public domain that travel expenses had been incurred by government for private individuals in other sectors but that the same is yet to receive the full attention of the ACC as the present case against the Mayor. Time and resources already spent on this matter by the ACC and the Mayor's office are distracting the Mayor and the FCC from delivering on their mandate to the people of Freetown, especially on the Mayor's Transform Freetown Initiative.

Dated this 4<sup>th</sup> day of March, 2022



.....  
Mohamed P. Fofanah Esq.,  
(Solicitor for the Mayor of Freetown.)

Enclosures/Attachments:

1. The Slide on the Mayor's Vision and Agenda for Freetown (Mayor's Delivery Agenda).
2. Sample Request Document and Payment Voucher.
3. Samples of annual "#Transform Freetown" Reports.
4. List of Selected Interventions driven by the MDU.