Final Report of the Special Project Facilitator

PUBLIC

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Loan Numbers: 3098 and 3099
Grant Number: 0380
March 2022

Mongolia: Ulaanbaatar Urban Services and Ger Areas Development Investment Program (Tranche 1)
(Complaint Received: 28 December 2020)

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Asian Development Bank
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### ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<tr>
<td>LMA</td>
<td>Land Management Agency</td>
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<tr>
<td>MUB</td>
<td>Municipality of Ulaanbaatar City</td>
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<tr>
<td>NGO</td>
<td>nongovernment organization</td>
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<td>OSPF</td>
<td>Office of the Special Project Facilitator</td>
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<td>PMO</td>
<td>Program Management Office</td>
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<tr>
<td>SPF</td>
<td>Special Project Facilitator</td>
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</tbody>
</table>

### NOTE

In this report, “MNT” refers to Mongolian togrog.
EXECUTIVE SUMMARY

The Ulaanbaatar Urban Services and Ger Areas Development Investment Program supports the Ulaanbaatar City master plan in upgrading priority services and economic hubs in ger (traditional Mongolian tent) areas. The project includes investments to improve access to urban services, support economic development, utilize urban economies, and provide improved housing. The project will be financed by a multitranche financing facility to be implemented in three tranches over 10 years, with Tranche 1 focusing on two subcenters—Selbe and Bayankhoshuu. The project will include road improvements, flood protection channels, bridges, a heating plant, water supply systems, a heating distribution network, a water reservoir, a sewage collector, electric lines and telecommunications, a kindergarten, a business incubator, and a vocational training center. The project affects 825 landowners (belonging to about 1,400 households) and is categorized A for involuntary resettlement.

On 28 December 2020, the Office of the Special Project Facilitator (OSPF) received a complaint from 11 project-affected people alleging damages and negative impacts due to the construction works carried out under Tranche 1 in Selbe subcenter. The complainants were supported by two Mongolia-based nongovernment organizations (NGOs)—Oyu Tolgoi Watch and Zurgaan Buudal Citizens’ Rights Protection Association. At the direction of the Special Project Facilitator (SPF), the OSPF reviewed project-related documents and conducted a series of virtual meetings with the key stakeholders: the Program Management Office (PMO), the Asian Development Bank (ADB) project team from the Mongolia Resident Mission and the Urban and Social Sectors Division of the East Asia Department, the NGOs, and the complainants. On 18 January 2021, the SPF determined that the complaint was eligible.

The OSPF conducted a review and assessment of the complaint, and in May 2021, the SPF’s review and assessment report for the complaint was posted on the ADB website. The report analyzed the issues raised by the complainants and described actions agreed by all parties to address road safety issues. All stakeholders acknowledged that the complaint was legitimate and should be addressed.

The OSPF concluded that the complaint could be resolved through ADB’s structured problem-solving, involving further consultations, joint meetings, and continued dialogue among stakeholders. For their part, the stakeholders indicated their willingness to participate in further meetings to address the issues and solve the complainants’ problems. The OSPF strongly recommended that the process should be participatory, fair, and consultative.

Due to the coronavirus disease (COVID-19), the problem-solving was conducted combining virtual facilitation, which relied on communications, negotiations, and technical support to achieve consensus on the resolution of the complaint; and face-to-face interactions among OSPF’s local facilitator and the parties whenever this could be achieved safely during the pandemic. The OSPF employed emerging technology, especially in remote facilitation of meetings, to assist in handling the complaints.

On 26 January 2021, a project working group, headed by the deputy coordinator of the PMO, was established to support problem-solving. In addition, the PMO commissioned an independent road safety audit to identify any deficiencies and impacts on the safety of adjoining communities, and formulate recommendations that aim to remove or reduce those deficiencies. Based on the road safety audit recommendations, all parties agreed to sign a problem-solving agreement. The parties also agreed that each complainant’s household-specific issues may be negotiated separately, on a case-by-case basis, during problem-solving.
At the start of the review and assessment, the OSPF local facilitator delivered two capacity-building training sessions for the complainants: (i) practical training on using online communications and virtual meetings; and (ii) a customized capacity-building training program on understanding conflicts, communication skills, preparing for negotiations, and the importance of ground rules.

Under the guidance of the SPF, from March to September 2021, the OSPF local facilitator led the problem-solving and facilitated the case-specific negotiations among stakeholders. Some negotiations were convened virtually, while others were convened face-to-face depending on the pandemic restrictions, all consisting of a series of joint, bilateral, and individual case-by-case negotiations. Case-specific complaint matters required separate meetings, up to 10 separate sessions each.

The Problem-Solving Agreement, signed by the parties in October through November 2021, contains provisions that address (i) the complaints related to road safety and construction impacts associated with the 5.6 kilometers of road development carried out under the Selbe subcenter roads and infrastructure works, particularly regarding the independent road safety audit recommendations; (ii) the joint actions agreed by the parties to address each complainant’s issues; and (iii) the implementation of the road safety audit recommendations on road development subprojects in Tranches 2 and 3 of the project. The integration of these recommendations in the project-related safeguard documents ensures that these measures will be implemented beyond the expiry of the problem-solving agreement. This also ensures that all similar road safety and construction-related grievances that may arise in the Selbe subcenter and in future subprojects under Tranches 2 and 3 can be resolved the same way as specified in the Problem-Solving Agreement. This aims to ensure fair treatment to all affected persons who are similarly situated.

Starting from the problem-solving stage, some of the earlier negotiated arrangements were implemented, such as improving the access road, replacing the old electricity poles that had been damaged during the construction work, and indemnifying the costs incurred by complainants for health-care services and power use due to impacts caused by road construction. The OSPF local facilitator observed the implementation of the agreed actions, wherein the complainants confirmed their satisfaction of the problem-solving.

All stakeholders have engaged in a constructive way and developed a mutually satisfactory problem-solving agreement. The scheduled actions were delayed due to several intermittent COVID-19 lockdowns. Such delays were unavoidable and affected the problem-solving timelines to some extent, but the parties were able to implement all agreed actions in due course.

The OSPF local facilitator has monitored the implementation of agreed actions specified in the Problem-Solving Agreement and case-specific negotiation meeting notes starting April 2021 until February 2022. Agreed actions with some complainants have been concluded as early as April 2021, with the last agreed action concluded on November 2021. While the OSPF local facilitator had starting monitoring the agreed actions on April 2021, the OSPF monitoring phase officially started in November 2021, after the parties had all signed the Problem-Solving Agreement. Based on completed payment transfers and assurances provided by the complainants (Table 2), verified by the OSPF local facilitator, the OSPF is closing the case.
This map was produced by the cartography unit of the Asian Development Bank. The boundaries, colors, denominations, and any other information shown on this map do not imply, on the part of the Asian Development Bank, any judgment on the legal status of any territory, or any endorsement or acceptance of such boundaries, colors, denominations, or information.
I. BACKGROUND

A. The Project

1. The Ulaanbaatar Urban Services and Ger Areas Development Investment Program supports the Ulaanbaatar City master plan in upgrading priority services and economic hubs in ger areas. The project includes investments in targeted subcenters that aim to (i) improve residents’ access to basic urban services, public space, and socioeconomic facilities; (ii) support local economic development; (iii) allow residents and businesses to take advantage of urban economies; and (iv) provide better housing options. The financing for the project involves a multitranche financing facility to be implemented in three tranches over 10 years. Tranche 1 focuses on two subcenters—Selbe and Bayankhoshuu.

2. The project outputs include road improvements, flood protection channels, bridges, a heating plant, water supply systems, a heating distribution network, a water reservoir, a sewage collector, electric lines and telecommunications, a kindergarten, a business incubator, and a vocational training center. The project’s expected outcomes include a network of livable, competitive, and inclusive subcenters in Ulaanbaatar’s ger areas; and the expected impact of the investment program will be improved living conditions in Ulaanbaatar.

3. The project was approved on 17 December 2013. The safeguard categories are A for Involuntary Resettlement, B for Environment, and C for Indigenous Peoples. According to the land acquisition and resettlement plans prepared for Tranche 1 subprojects, around 1,400 households will be affected, including 825 landowners.

B. The Complaint

4. The complaint raised issues in the Selbe subcenter (see Project Map) related to (i) adherence to Mongolian road standards, safety for people, property, health, noise, and harassment by workers employed by the project; (ii) instability of buildings and fences; (iii) physical injuries to residents due to the lack of safe temporary pedestrian passages; (iv) loss of safe entry/exits routes to property; and (v) nondisclosure of information and lack of meaningful consultation. The complainants requested the OSPF to assist in resolving the following allegations in their original complaint form:

(i) “damage caused by road construction, including structural damage to housing and other structures (e.g. walls, windows, flooring, fences and so on);
(ii) loss of physical stability of buildings and furniture;
(iii) reduction in property values, which would jeopardize the negotiation of compensation;
(iv) reduction in land plot values as a result of partial land acquisitions that left plots too small or too close to a road;
(v) loss of interest or justification to maintain a livelihood and/or property in the area;
(vi) complete loss of access to property, home and garage;
(vii) loss of safe entry/exits routes to property;
(viii) elevated road construction above family plots, particularly located near bridge connections, that do not include protection barriers nor fortification of road slopes,

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which leads to the risk of vehicles or debris falling into family plots from the road or slopes;

(ix) emotional pain and insecurity due to constant fear of car accidents and the heightened risk to children necessitating the burden of added childcare;

(x) physical injuries to residents due to a lack of safe temporary pedestrian passages;

(xi) continuing road construction expanding into housing areas, which forces residents to leave the area without a compensation or which may result in complaints or even legal action; and

(xii) attempting to address in a piecemeal manner further hurting affected households with potential to fall into poverty due to loss of land, property/home and livelihood resources etc.\textsuperscript{3}

5. The complainants requested confidentiality and that, initially, OSPF should not disclose their identities to the Program Management Office (PMO). Subsequently, on 15 January 2021, the complainants agreed that their names may be released to the PMO. On 2 January 2021, the Special Project Facilitator (SPF) appointed a local facilitator to assist in assessing and resolving the complaint.

C. Determination of Eligibility

6. To determine the eligibility of the complaint, the OSPF undertook a desk review of the project documents, and the SPF conducted a series of virtual meetings during 6–15 January 2021 with the key stakeholders of the complaint—the PMO, the ADB project team from the Mongolia Resident Mission and the Urban and Social Sectors Division of the East Asia Department, the Oyu Tolgoi Watch and Zurgaan Buudal Citizens’ Rights Protection Association nongovernment organizations (NGOs), and the complainants. On 18 January 2021, the SPF declared the complaint to be eligible for problem-solving.

D. Review and Assessment

7. Although the complainants were the 11 signatories to the complaint form, during the review and assessment stage the number of complainants increased to 13 households. This was due to additional complainants’ claims submitted to the NGOs requesting to be included in the original complaint. At the outset, the key stakeholders agreed on the rules for case-by-case household negotiations, including identifying the issues and ways to convene the negotiation meetings, clarifying the roles of NGO representatives, and preparing official representation letters.

8. A review and assessment was carried out from February to April 2021 in order (i) to explore the history of the complaint and better understand the issues submitted by the complainants; (ii) confirm the key stakeholders, identify additional issues, explore parties’ individual and shared interests; (iii) map out perspectives and explore stakeholders’ readiness in joint problem-solving and facilitate a dialogue between them; and (iv) recommend next steps and course of action.

9. At the start of the review and assessment phase, the OSPF local facilitator provided two capacity-building training for the complainants: (i) hands-on practical training on using online communications, including Zoom for virtual meetings, and Facebook Messenger for everyday communication during COVID-19 lockdowns; and (ii) a customized 1-day capacity-building training program on understanding conflicts, communication skills, preparing for the negotiation, and the importance of adhering to the ground rules.

\textsuperscript{3} Excerpt from an original complaint form filed on 28 December 2020 with the OSPF.
10. Due to intermittent “red” lockdowns because of the COVID-19 pandemic, field visits and meetings were conducted virtually, deploying necessary communications and technical support such as video calls, online meetings, private video recordings, and photos to familiarize with the issues. However, when the quarantine measures were lifted, with the support of the parties, the OSPF local facilitator arranged (i) face-to-face individual and group interviews with the complainants and PMO; and (ii) four joint field visits with technical experts to clarify issues of concern and explore potential agreed actions to move forward in the problem-solving.

11. Many complainants raised the issues of road safety and road construction impacts. Thus, as a part of the review and assessment phase, the SPF recommended that the PMO engage an independent road safety expert to audit the situation and provide professional recommendations. Following this recommendation, in March 2021, the PMO engaged a road safety expert to identify any deficiencies and formulate recommendations that aim to eliminating and reduce the impact of those deficiencies.

12. The review and assessment phase was completed in April 2021. After all stakeholders had reviewed the draft report and provided their inputs, the review and assessment report was finalized in May 2021 and posted on the OSPF website in English and Mongolian.\(^4\)

II. PROBLEM-SOLVING

A. Steps to Resolve Issues

13. Due to COVID-19, problem-solving was conducted combining virtual facilitation, which relied on communications, negotiations, and technical support to achieve consensus on the resolution of the complaint; and face-to-face interactions between the OSPF local facilitator and the parties whenever this could be conducted safely during the pandemic. The OSPF employed emerging technology, especially in remote facilitation of meetings, to assist in handling the complaints.

14. A project working group, headed by the deputy coordinator of the PMO, was established on 26 January 2021. Establishing this working group was crucial in ensuring the engagement of all relevant specialists of the PMO in problem-solving. The Municipality of Ulaanbaatar City (MUB) supported the PMO, jointly engaging an independent road safety audit to inspect the road situation and provide recommendations. Based on these recommendations, all parties agreed to a problem-solving agreement to document the provisions for acquiring the land and property and providing compensation for houses damaged due to construction impacts. Detailed recommendations by the independent road safety audit are set out in the Problem-Solving Agreement signed by the parties in October through November 2021. The parties also agreed that each complainant’s household-specific issues may be negotiated on a case-by-case basis during problem-solving.

(i) Field Visits

15. The OSPF local facilitator arranged for joint site visits, as needed, involving the complainants and other concerned parties during the negotiation phase to verify facts, consider options suggested by various parties, measure cadastral map points, and discuss options for improving the access road. The PMO construction and road engineers, the Resettlement Division of the Land Management Agency (LMA), the Treasury Division of the Mayor’s Office, land acquisition and resettlement experts, financial experts, and ADB’s safeguards specialist were

invited to the negotiation meetings, as needed, when a complainant’s case required technical knowledge and expertise. Project-related documents, facts, data, valuation reports, road safety audit recommendations, reports, presentations, and other relevant materials were reviewed by the parties throughout the negotiation process.

(ii) Case-by-Case Facilitation and Day-to-Day Support

16. Under the guidance of the SPF, the OSPF local facilitator led the problem-solving and facilitated the case-specific negotiations among stakeholders. Some negotiations were convened virtually, while others were convened face-to-face depending on the COVID-19 restrictions. All mutual agreements were documented and signed as needed. A series of joint, bilateral, and individual case-by-case negotiations was conducted from 1 March to 21 September 2021. In some cases, up to 10 separate negotiation meetings were required for each complainant, to allow the parties to negotiate their case-specific complaint matters.

17. Although the complaints mainly centered on road safety and construction impacts, the nature of each complaint was unique. Depending on the nature of the complaint, the OSPF local facilitator convened and facilitated the negotiation meetings in Mongolian among the complainant households living in the same land plot; and representatives of the PMO, MUB, LMA Resettlement Division, ADB project team, valuation companies, and supporting NGOs. Negotiation meeting date, venue, and discussion points were agreed between the parties in advance. The negotiation agreement was recorded in formal meeting minutes, signed by all participants, and will serve as the implementation agreement of each household. The documents will be available in both English and Mongolian.

(iii) Convening Joint Meetings

18. Equal engagement of key stakeholders was assured throughout the problem-solving. During problem-solving, two virtual joint meetings were organized on 12 March and 6 August 2021, respectively, among the independent road safety audit team, NGOs, MUB, LMA, ADB project team, PMO, and complainants. In addition, there were various bilateral working-level meetings to discuss options for addressing main concerns raised by the complainants. Discussion points, including issues to be addressed, were agreed by all stakeholders in advance, and prior to agreeing on final actions that were discussed during such meetings. It became clear that convening extensive working-level meetings among the parties; ensuring the timely exchange of information and documentation in advance among the parties; and ensuring the agreed actions would be implemented with timely follow-up including engagement of interested parties, weekly
at first and then bi-weekly or monthly toward the end, have all contributed to the building of trust among the parties and contributed to the effectiveness of the OSPF’s problem-solving.

**Virtual joint meeting with the road safety audit team on 6 August 2021.**

**(iv) Signing the Problem-Solving Agreement**

19. As a result of these joint meetings, the parties agreed to sign the Problem-Solving Agreement to stipulate the provisions that address the complaints on road safety and construction impacts (based on the independent road safety audit recommendations), the joint actions to address each complainant’s issues, and the road safety audit recommendations that are intended to form part of project-related safeguard documents moving forward. With the signing of the Problem-Solving Agreement by the parties, it is expected that all similar road safety and construction impact-related grievances that may arise along the nine roads of the 5.6-kilometer road network in Selbe subcenter shall be resolved the same way as specified in the Problem-Solving Agreement to ensure fair treatment for all affected persons. Further, the Problem-Solving Agreement will ensure implementation of road safety audit recommendations in subprojects to be implemented in Tranches 2 and 3 of the project, through integration of these recommendations in the project-related safeguard documents to ensure that these measures will be implemented beyond the expiry of the Problem-Solving Agreement (see Appendix for more details).

**Signing on the Problem-Solving Agreement by one of the complainants and NGO representatives, October–November 2021.**
B. Summary of Case-Specific Agreed Actions

20. All grievances were resolved with the 13 complainants through case-by-case negotiations. Table 1 below shows the agreed actions for each complainant.

<table>
<thead>
<tr>
<th>Complainants</th>
<th>Total Number of Negotiation Meetings</th>
<th>Agreement Reached On</th>
<th>Agreed Actions</th>
</tr>
</thead>
</table>
| Complainant 1 | 3                                    | 29 March 2021        | - Pay MNT1,000,000 for the cost of health-care services.  
- Engage the complainant in the Livelihood Restoration Program. |
| Complainant 2 | 3                                    | 14 April 2021        | - Pay MNT200,000 for the cost of health-care services. |
| Complainant 3 | 5                                    | 10 June 2021         | - Replace old electricity pole with a new standard pole.  
- Install floodwater drainage pipes in front of the gate.  
- Lower the ground level in front of the gate.  
- Install and connect the landlines. |
| Complainant 4 | 4                                    | 10 June 2021         | - Provide access road to the land plot through leveling up the earth, densifying the soil, and providing protection cements for the slopes of the access road. |
| Complainant 5 | 4                                    | 10 June 2021         | - Pay MNT50,000 for the cost of electricity use by the company. |
| Complainant 6 | 3                                    | 17 June 2021         | - Engage complainant's daughter in the Livelihood Restoration Program. |
| Complainant 7 | 3                                    | 17 June 2021         | - Provide access road without concrete, add gravel, and densify the soil.  
- Remove big rocks along the bottom slopes of the road embankment near the land parcel. |
| Complainant 8 | 5                                    | 18 June 2021         | - Change the cadastral map for the land parcel using the existing shape at the land cadastral map database. |
| Complainant 9 | 7                                    | 10 August 2021       | - Pay compensation of MNT22,437,608 for damage to the house and fence maintenance.  
- Install eco-toilet facilities (2 July meeting). |
| Complainant 10| 5                                    | 10 August 2021       | - Pay compensation of MNT6,152,723 for garage.  
- Rebuild Γ-shaped block fence by contractor company. |
| Complainant 11| 7                                    | 11 August 2021       | - Pay compensation of MNT46,924,397 to titleholder for house damage and maintenance.  
- Pay compensation of MNT2,050,000 to nontitle holder for house damage maintenance; |
| Complainant 12| 10                                   | 11 August 2021       | - Pay compensation of MNT43,839,177 for house damage and maintenance.  
- Provide access road to access the land parcel without slipping during winter (after repositioning the fence, there will be 5-6 meters of space outside the fence to access the land plot – 6 July 2021 meeting). |
| Complainant 13| 8                                    | 21 September 2021    | - Pay compensation of MNT9,752,732 for house damage and maintenance related to the main wall. |

Source: Office of the Special Project Facilitator.
III. IMPLEMENTATION AND MONITORING

21. Starting from the problem-solving stage, some of the agreed actions through individual negotiations were implemented, such as improving the access road, replacing old electricity poles that had been damaged during the construction work, and indemnifying the costs incurred by a complainant for health-care services and power use due to impacts caused by the road construction work. The OSPF local facilitator observed the implementation of these agreed actions, and the concerned complainants confirmed their satisfaction with the problem-solving process.

Access road at the time of complaint lodging.

Access road to the complainant’s land plot improved during problem-solving.

Electricity pole damaged during construction at the time of complaint lodging.

Replaced with new standard pole with landline during problem-solving.
The OSPF local facilitator has monitored the implementation of agreed actions specified in the Problem-Solving Agreement and case-specific negotiation meeting notes for more than 3 months starting from April 2021 until February 2022. All agreed actions have been implemented as shown in Table 2.

### Table 2: Implementation of Agreed Actions

<table>
<thead>
<tr>
<th>#</th>
<th>Agreed Actions</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>• Pay MNT1,000,000 for the cost of health-care services. • Engage the complainant in the Livelihood Restoration Program.</td>
<td>✓ Payment has been paid on 29 March 2021. ✓ Complainant refused to engage in the Livelihood Restoration Program.</td>
</tr>
<tr>
<td>2</td>
<td>• Pay MNT200,000 for the cost of health-care services.</td>
<td>✓ Payment has been paid on 9 April 2021.</td>
</tr>
<tr>
<td>3</td>
<td>• Replace old electricity pole with a new standard pole. • Install floodwater drainage pipes in front of the gate. • Lower the ground level in front of the gate. • Install and connect the landlines.</td>
<td>✓ All agreed actions have been completed on 7 June 2021.</td>
</tr>
<tr>
<td>4</td>
<td>• Provide access road to the land plot through leveling up the earth, densifying the soil, and providing protection cements for the slopes of access road.</td>
<td>✓ Agreed action has been completed in on 10 June 2021.</td>
</tr>
<tr>
<td>5</td>
<td>• Pay MNT50,000 for the cost of electricity use by the company.</td>
<td>✓ Payment has been paid on 13 May 2021.</td>
</tr>
<tr>
<td>6</td>
<td>• Engage complainant's daughter in the Livelihood Restoration Program.</td>
<td>✓ Complainant refused to be engaged in the Livelihood Restoration Program as she moved to the countryside.</td>
</tr>
<tr>
<td>7</td>
<td>• Provide access road without concrete, add gravel, and densify the soil. • Remove big rocks along the bottom slopes of the road embankment near the land parcel.</td>
<td>✓ Agreed actions have been completed in October 2021 prior to the commissioning of the road.</td>
</tr>
<tr>
<td>8</td>
<td>• Change cadastral map for the land parcel using the existing shape at the land cadastral map database.</td>
<td>✓ All materials submitted, waiting for Land Management Agency meeting to update database.</td>
</tr>
<tr>
<td>9</td>
<td>• Pay compensation of MNT22,437,608 for damage to the house and fence maintenance. • Install eco-toilet facilities</td>
<td>✓ Payment has been paid on 9 September 2021. ✓ Eco toilet facility has been provided on 30 September 2021.</td>
</tr>
<tr>
<td>10</td>
<td>• Pay compensation of MNT6,152,723 for garage. • Rebuild Γ-shaped block fence by contractor company.</td>
<td>✓ Compensation payment has been paid on 9 September 2021. ✓ Compensation for block fence has been paid on 10 November 2021.</td>
</tr>
<tr>
<td>11</td>
<td>• Pay compensation of MNT46,924,397 to titleholder for house damage and maintenance. • Pay compensation of MNT2,050,000 to nontitle holder for house damage maintenance.</td>
<td>✓ Payment has been paid on 9 September 2021.</td>
</tr>
<tr>
<td>12</td>
<td>• Pay compensation of MNT43,839,177 for house damage and maintenance. • Provide access road to access the land parcel without slipping during winter.</td>
<td>✓ Payment has been paid on 9 September 2021. ✓ Access road improvement work has been completed on 22 November 2021.</td>
</tr>
<tr>
<td>13</td>
<td>• Pay compensation of MNT9,752,732 for house damage and maintenance related to the main wall.</td>
<td>✓ Payment has been paid on 10 November 2021.</td>
</tr>
</tbody>
</table>

Source: Office of the Special Project Facilitator.
IV. CONCLUSION

23. All stakeholders have engaged in a constructive way and developed a mutually satisfactory problem-solving approach, based around the Problem-Solving Agreement. Some scheduled actions were delayed due to several intermittent COVID-19 lockdowns. Such delays were beyond control and have affected the problem-solving timelines to some extent; however, the parties worked hard to meet the deadlines and implement all agreed actions in due course.

24. Based on completed payment transfers and assurances provided by the complainants (Table 2), verified by the OSPF local facilitator, the OSPF is closing the case.

<table>
<thead>
<tr>
<th>Key Milestones</th>
<th>Timeline</th>
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<tbody>
<tr>
<td>Eligibility determination date</td>
<td>18 January 2021</td>
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<tr>
<td>Review and assessment</td>
<td>February–April 2021</td>
</tr>
<tr>
<td>Conducting capacity building training for the complainants</td>
<td>February 2021</td>
</tr>
<tr>
<td>Problem-Solving: Facilitation of case-by-case negotiations</td>
<td>24 February–30 September 2021</td>
</tr>
<tr>
<td>Signing of the Complaint Resolution Agreement</td>
<td>1 October–11 November 2021</td>
</tr>
<tr>
<td>Implementation of agreed action, payment transfers</td>
<td>March–November 2021</td>
</tr>
<tr>
<td>Monitoring</td>
<td>November 2021–February 2022</td>
</tr>
<tr>
<td>OSPF case closure</td>
<td>February 2022</td>
</tr>
</tbody>
</table>

OSPF = Office of the Special Project Facilitator.
Source: OSPF.

25. The OSPF will conduct a review mission in 2022 to review the completion of implementation of the actions agreed with the 13 complainants. In addition, ADB has also committed to continue to monitor continued implementation of the actions specified in the problem-solving agreement as part of their ongoing project supervision.
PROBLEM-SOLVING AGREEMENT

This Problem-Solving Agreement (the Agreement) is entered into on the 1st day of October 2021 among the following parties, represented by each of their duly authorized representatives:

1. The Land Management Agency of the Capital City, The Ulaanbaatar City Mayor's implementing agency, (referred to as the Land Agency);
2. Ulaanbaatar Urban Services and Ger Areas Development Investment Program (Tranche 1) Management Office (referred to as the PMO);
3. Complainants from Selbe subcenter (referred to as the Complainants); and
4. Oyu Tolgoi Watch non-governmental organization and Zurgaan Buudal Citizens’ Rights Protection Federation non-governmental organization (referred to as the NGOs) (collectively referred to as the Parties, separately referred to as a Party).

I. Purpose of the Agreement

1.1 The purpose of this Agreement is to jointly implement the actions stipulated in the Annex 1 by the Parties and apply the general principles set forth in this Agreement for the relevant complainant's case in order to resolve the Complainants' complaint filed with the Office of the Special Project Facilitator, Asian Development Bank (ADB) on 28 December 2020; and
1.2 To agree that the recommendations of the audit report set forth in 3.2 of this Agreement to inform the project related safeguard documents, that the ADB to ensure that this provision is implemented beyond expiry of this Problem-Solving Agreement.

II. Complaint Background

2.1 On 28 December 2020, 11 affected people (APs) later increased to 13 APs, supported by two nongovernment organizations (NGOs), lodged a complaint with the Office of the Special Project Facilitator (OSPF). The Special Project Facilitator (SPF) acknowledged and registered the complaint on 4 January 2021.  
2.2 As specified in the complaint, the complainants raised issues regarding the ADB-assisted project Mongolia: Ulaanbaatar Urban Services and Ger Areas Development Investment Program – Tranche 1 in the Selbe subcenter area including (i) the violation of Mongolian standards on roads; (ii) violation of safety and noise standards, (iii) non-compliance with the requirements for technical and management monitoring; and (iv) nondisclosure of information and lack of meaningful consultation on potential risks, negative impacts and their mitigation plans.
2.3 The OSPF determined that the complaint met the eligibility criteria under the Accountability Mechanism Policy 2012. Thus, on 18 January 2021, the SPF declared the complaint to be eligible for problem-solving. During the review and assessment process from January to May 2021, it has been determined that the Parties have a shared interest in resolving the complaint immediately through dialogue and problem-solving. Thus, the OSPF proceeded with the problem-solving process.

III. Problem Solving Process

3.1 The Parties participated in a problem-solving process facilitated by the OSPF team from 18 January 2021 until 21 September 2021.
3.2 As a part of the problem-solving process, PMO, with the concurrence of the other Parties, engaged the Road Safety Audit Team to identify any road safety deficiencies

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1 Oyu Tolgoi Watch and Zurgaan Buudal Citizens’ Rights Protection Association
3 Excerpt from the complaint form
and formulate recommendations in order to eliminate/reduce the impacts of those deficiencies. PMO, through the Road Safety Audit Team presented its road safety and community audit report, conclusions and recommendations to the Parties in August 2021. The Parties accepted the recommendations and have agreed to apply whenever applicable, the following measures in the process of resolving the issues raised in the complaints.

3.2.1 W-beam crash barrier for embankment height of 2m or more;
3.2.2 Pedestrian guard rails at the outer edge of the paved shoulder for embankment height more than 1.5m in all stretches;
3.2.3 Traffic calming measure in a form of 5mm raised bar marking adopted along with each crosswalk;
3.2.4 Where embankment height is more than 0.5m, a clear buffer of 1.5m is recommended from the edge of embankment slope
3.2.5 Where embankment height is up to 0.5m, a clear buffer of 0.5m is recommended from the edge of embankment slope
3.2.6 Land acquisition to consider the total right of way required including recommended buffer and the side slope-based on detailed design;
3.2.7 Houses facing the embankment height more than 1.5m to be provided with climbing steps over the embankment slope (between 5-7 households)
3.2.8 All damages to fences resulting from construction installation activities to be substantially assessed and repaired;
3.2.9 Damages to structures located within 5.5m from the outer edge of embankment slope shall be considered; and repaired and compensated after appropriate assessment based on the conclusion issued by the competent specialized institution defining the reasons of damages.

3.3 Parties agreed that the OSPF will facilitate the relevant case-specific negotiations of the complainants based on the measures put forth in 3.2 of this Agreement.

3.4 PMO shall apply and implement recommendations stipulated under 3.2 of this Agreement, tailoring to the ground situation, conditions and impacts to all affected persons of the Ulaanbaatar Urban Services and Ger Areas Development Investment Program upon consultation and negotiation with the relevant APs. Provided that all APs similarly situated should be treated alike, both as to rights conferred and responsibilities imposed.

IV. Implementation and Monitoring of this Agreement

4.1 This Agreement shall remain in effect until all actions set out in Annex 1 of this Agreement are fully implemented and all 13 complainants’ case specific negotiation results are implemented as stated in the 3.3 of this Agreement.

4.2 The Parties will implement all terms of this Agreement as stated herein. Parties agree to openly and transparently disclose this Agreement publicly.

4.3 The Parties agree and accept that the OSPF will monitor the implementation of this Agreement for at least 3 months from the signing date of this Agreement, in accordance with the OSPF’s operational guidelines. The OSPF may extend the monitoring period to ensure the implementation of this Agreement.

4.4 Upon successful implementation of all actions set out in Annex 1 of this Agreement and effective implementation of case specific negotiations with 13 complainants as set forth in 3.3 of this Agreement, the Complaint will be deemed resolved, and closed.

V. Miscellaneous

5.1 The Parties execute three copies of this Agreement both in Mongolian and English—one for each Party.
5.2 If there is any conflict, inconsistencies between English version and Mongolian version of the Agreement, the Mongolian version of this Agreement shall prevail.

Signed for and on behalf of the Land Agency:
A. Enkhmanlai
Director of the Land Management Agency of the Capital City, the Ulaanbaatar City Mayor’s implementing agency

Signed for and on behalf of the PMO:
D. Avirmed, Coordinator of the Program Management Office

Signed for and on behalf of NGOs:
D. Sukhgerel, Chair, Oyu Tolgoi Watch NGO

Ts. Oyuntugs, Chair, Zurgaan Buudal Citizens’ Rights Protection Federation NGO

Signed for and on behalf of Complainants:
Sengedoo Jigjid
Nurged Myagmarsuren
Tuul Damdindorj
Enkhtuvshin Baatar
Enkhjargal Baatar
Ariunaa Oyunchimeg
Munkhtuya Badarchin
Khandmaa Dashrenchin
Atarbaatar Narantuya
Narmandakh Gombojav
Budkhuu Sharga
Davaasuresen Bayarmunkh
Adiyadorj Sundui

In the presence of Arnaud Heckmann, Principal Urban Development Specialist, ADB, Mongolia Resident Mission; and

Nandinchimeg Batsaikhan, OSPF Facilitator
## ANNEX 1. AGREED ACTIONS

### 1.1 Actions to address road safety issues

<table>
<thead>
<tr>
<th>#</th>
<th>Agreed actions</th>
<th>Timeframe</th>
<th>Responsible body</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Engage independent audit experts to assess road safety</td>
<td>March 2021</td>
<td>PMO, ADB</td>
</tr>
<tr>
<td>2</td>
<td>Place cautionary boards/signs reminding people that the road is not officially commissioned yet and not allowed for driving, thus any issues happened on this road will be solely responsibility of the driver. Order and place 6 cautionary boards</td>
<td>February 2021</td>
<td>PMO</td>
</tr>
<tr>
<td>3</td>
<td>Build speed bumps (build temporary speed bumps until permanent ones are constructed during construction season) at 8 locations</td>
<td>February 2021</td>
<td>PMO upon consultation with MUB WG</td>
</tr>
<tr>
<td>4</td>
<td>Place safety, road signs</td>
<td>February 2021</td>
<td>PMO upon consultation with MUB WG</td>
</tr>
<tr>
<td>5</td>
<td>Build metal guard rails along the selected locations of road, build road protection barriers along the pedestrian road and implement such actions with additional funding. Until then, place temporary cement blocks on the sidewalk.</td>
<td>February 2021</td>
<td>PMO</td>
</tr>
<tr>
<td>6</td>
<td>Provide the net blocks on the specific locations with the higher level of the embankment</td>
<td>When the construction season starts in the spring</td>
<td>PMO</td>
</tr>
<tr>
<td>7</td>
<td>Build access stairs for pedestrians (provide temporary stairs until permanent stairs are built during construction season), install handrails for the existing stairs.</td>
<td>When the construction season starts in the spring</td>
<td>PMO</td>
</tr>
<tr>
<td>8</td>
<td>Improve access road to the complainants' land plots, as agreed pursuant to individual negotiations</td>
<td>When the construction season starts in the spring</td>
<td>PMO</td>
</tr>
<tr>
<td>9</td>
<td>Repair of structures and buildings damaged during construction, based on an assessment by structural engineers.</td>
<td>When the construction season starts in the spring</td>
<td>PMO</td>
</tr>
</tbody>
</table>

### 1.2 Actions to be implemented as set forth in the case-specific negotiations

<table>
<thead>
<tr>
<th>#</th>
<th>Action</th>
<th>Timeframe</th>
<th>Responsible body</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pay the incurred cost for health services and electricity use to three complainants as agreed in the case specific negotiations</td>
<td>March - May, 2021</td>
<td>Contractor company, PMO</td>
</tr>
<tr>
<td>2</td>
<td>Improve the access road to four complainants as agreed in the case specific negotiations</td>
<td>July-September 2021</td>
<td>Contractor company, PMO</td>
</tr>
<tr>
<td>3</td>
<td>Change old power line pole with new standard pole to one complainant as agreed in the case specific negotiation</td>
<td>May 2021</td>
<td>Contractor company, PMO</td>
</tr>
<tr>
<td>4</td>
<td>Provide the flood drainage channel near the gate, and safer landline connection to one complainant as agreed in the case specific negotiation</td>
<td>May 2021</td>
<td>Contractor company, PMO</td>
</tr>
<tr>
<td>5</td>
<td>Engage a member of one complainant household in the Livelihood Support Program</td>
<td>September 2021</td>
<td>PMO with TRTA</td>
</tr>
<tr>
<td>6</td>
<td>Change the cadastral map for one complainant household’s land plot at the land registry</td>
<td>September 2021</td>
<td>MUB, Land Agency</td>
</tr>
<tr>
<td>7</td>
<td>Provide eco toilet facility to one complainant household</td>
<td>September 2021</td>
<td>PMO</td>
</tr>
<tr>
<td>8</td>
<td>Pay the compensation for the house acquisition and damage repair to five complainants as agreed in the case-specific negotiations</td>
<td>October 2021</td>
<td>MUB, Land Agency, PMO</td>
</tr>
</tbody>
</table>