

# Land Acquisition and Resettlement Framework

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May 2012

## MON: Urban Transport Development Investment Program

## CURRENCY EQUIVALENTS

(as of 14 May 2012)

Currency unit	–	togrog (MNT)
MNT1.00	=	\$0.00076
\$1.00	=	MNT1,317.00

## ABBREVIATIONS

ADB	–	Asian Development Bank
AH	–	affected household
ALACGC	–	Administration of Land Affairs, Construction,
AP	–	Geodesy and Cartography
	–	affected person
CBO	–	community-based organization
DMS	–	detailed measurement survey
DOR	–	Department of Roads
EMA	–	external monitoring agency
GAF	–	grievance action form
GOM	–	Government of Mongolia
HH	–	household
IP	–	Urban Transport Development Investment
	–	Program
IPSA	–	initial poverty and social analysis
LAR	–	land acquisition and resettlement
LARF	–	land acquisition and resettlement framework
LARP	–	land acquisition and resettlement plan
LRCUDD	–	Land Relations, Construction and Urban
	–	Development Department of Municipality of
	–	Ulaanbaatar
M&E	–	monitoring and evaluation
MRTCUD	–	Ministry of Road, Transportation, Construction
	–	and Urban Development
MUB	–	Municipality of Ulaanbaatar
NGO	–	nongovernment organization
PIU	–	project implementation unit
RPIC	–	Resettlement Plan Implementation Committee
SAACSRPR	–	State Administrative Authority in Charge of State
	–	Registration of Property Rights
SIA	–	social impact assessment
UB LAD	–	Ulaanbaatar Land Administration Department
UB PRA	–	Ulaanbaatar Property Relation Agency

## WEIGHTS AND MEASURES

km	–	kilometer
m	–	meter
m <sup>2</sup>	–	square meter

## **GLOSSARY**

Compensation	–	Cash or in-kind payment for the replacement of an asset, resource or income lost due to Project-related impacts
Cut-off-date	–	Date after which people will NOT be considered eligible for compensation i.e. they are not included in the list of affected persons as defined by the census. Normally, the cut-off date is the date of the detailed measurement survey
Detailed measurement survey	–	Detailed inventory of losses that is completed after detailed design and marking of project boundaries on the ground
Displaced persons	–	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. They are referred to as Affected Persons (APs) in this LARF
Entitlements	–	Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation, which are due to affected persons, depending on the nature of their losses, to restore their economic and social base
Host population	–	Community residing in or near the areas where the displaced persons are to be relocated
Household	–	All persons residing under one roof and eating from the same kitchen, who are adversely affected by the Project, or any of its components; may consist of a single nuclear family or an extended family group
Involuntary resettlement	–	Full or partial, permanent or temporary physical displacement (relocation, loss of residential land or shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a consequence of development projects through a government's use of eminent domain
Land acquisition	–	The process whereby a government agency uses eminent domain to acquire all or part of the land a person owns or possesses for public purpose in return for fair compensation and rehabilitation support
Livelihood restoration	–	Reestablishment of income sources and occupations/employment of displaced persons
Rehabilitation	–	Compensatory measures other than payment of the replacement cost of acquired assets, provided to displaced persons for re-establishing incomes, livelihoods, and living conditions
Relocation	–	The physical resettlement of displaced person from her/his pre-Project place of residence to a new place of residence; this may involve two steps if transitional housing is required

Replacement cost	–	The value determined to be fair compensation for various types of agricultural and residential land, crops, trees, and other commodities based on current market rates; the cost of rebuilding houses and structures at current market prices of building materials and labor, without depreciation or deductions for salvaged building material
Temporary land use impacts	–	When land outside the proposed right of way (ROW) is required temporarily to carry out construction, persons may be affected in terms of temporary land loss, damage to attachments or disruption of living or business conditions, for which compensation or mitigation is required to offset such impacts
Vulnerable Groups	–	Distinct group(s) of people poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement impacts Distinct group(s) of people poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement impacts Distinct group(s) of people poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement impacts.

#### **NOTE**

- (i) In this report, "\$" refers to US dollars.

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MON (39256): Urban Transport Development Investment  
Program

**Draft Land Acquisition and Resettlement Framework**

**Prepared by the Municipal Government of Ulaanbaatar**

**14 May 2012**



**PUBLIC TRANSPORT DEPARTMENT  
OF THE CAPITAL CITY**

15160 Baga toiruu 15,  
Chingeltei district, Ulaanbaatar, MONGOLIA  
Tel/Fax: (976-11) 32-79-68, E-mail: ubtrans@mongolnet.mn

Date 18 May 2012  
Ref. 01

To Mr. Raushan Mamatkulov  
Senior Urban Development Specialist  
Urban and Social Sectors Division  
East Asia Department  
Asian Development Bank

The contents of the Land Acquisition and Resettlement Plan (LARP) and the Land Acquisition and Resettlement Framework (LARF) is prepared in compliance with relevant Mongolian Laws and ADB's Safeguard Policy Statement (2009).

The land acquisition and resettlement activities for tranche 1 will be implemented in accordance with the LARP. The LARP is prepared based on feasibility study designs and will be updated based on detailed design, final census of affected persons and detailed measurement survey; will be submitted to ADB for review and approval prior to start of land acquisition and resettlement activities. The LARP will be disclosed to affected persons by 20 May 2012.

LARP preparation and implementation for Tranche 2 and 3 will strictly follow the provisions of the LARF.

With Regards,

**NARANTSETSEG Purevjav**

Director General of Public Transportation Department of Capital City

/Implementation Agency of Municipal Government of Ulaanbaatar City/

## ABBREVIATIONS

ADB	Asian Development Bank
AH	Affected Household
AP	Affected Person
CBO	Community-Based Organization
DOR	Department of Road
EMA	External Monitoring Agency
DMS	Detailed measurement survey
GAF	Grievance Action Form
GOM	Government of Mongolia
HH	Household
IPSA	Initial Poverty and Social Assessment
ALACGC	Administration of Land Affairs, Construction, Geodesy and Cartography
LRCUDD	Land Relations, Construction and Urban Development Department
LAR	Land Acquisition and Resettlement
LARF	Land Acquisition and Resettlement Framework
LARP	Land Acquisition and Resettlement Plan
M&E	Monitoring and Evaluation
MRTCUD	Ministry of Road, Transportation, Construction and Urban Development
MUB	Municipality of Ulaanbaatar
NGO	Nongovernment Organization
PIU	Project Implementation Unit
ROW	Right of Way
RRP	Report and Recommendations of the President (ADB)
RPIC	Resettlement Plan Implementation Committee
SIA	Social Impact Assessment
SPS	Safeguard Policy Statement of ADB, 2009
SAACSRPR	State Administrative Authority in Charge of State Registration of Property Rights
UTDP	Urban Transport Development Project
UB LAD	Ulaanbaatar Land Administration Department
UB PRA	Ulaanbaatar Property Relation Agency

## Notes

Currency Unit Tugrugs (MNT)

\$US 1.00 = MNT1, 264

Exchange rate: Average rate September 2011

## DEFINITION OF TERMS

**Compensation:** Cash or in-kind payment for the replacement of an asset, resource or income lost due to Project-related impacts.

**Cut-off-date:** means the date after which people will NOT be considered eligible for compensation i.e. they are not included in the list of affected persons as defined by the census. Normally, the cut-off date is the date of the detailed measurement survey.

**Detailed measurement survey:** means the detailed inventory of losses that is completed after detailed design and marking of project boundaries on the ground.

**Displaced Persons:** In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. They are referred to as Affected Persons (APs) in this LARF.

**Entitlement:** Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation, which are due to affected persons, depending on the nature of their losses, to restore their economic and social base.

**Household:** All persons residing under one roof and eating from the same kitchen, who are adversely affected by the Project, or any of its components; may consist of a single nuclear family or an extended family group.

**Host Population:** Community residing in or near the areas where the displaced persons are to be relocated.

**Involuntary Resettlement:** Full or partial, permanent or temporary physical displacement (relocation, loss of residential land or shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a consequence of development projects through a government's use of eminent domain.

**Land Acquisition:** The process whereby a government agency uses eminent domain to acquire all or part of the land a person owns or possesses for public purpose in return for fair compensation and rehabilitation support.

**Livelihood Restoration:** Reestablishment of income sources and occupations/employment of displaced persons.

**Rehabilitation:** Compensatory measures other than payment of the replacement cost of acquired assets, provided to displaced persons for re-establishing incomes, livelihoods and living conditions.

**Relocation:** The physical resettlement of displaced person from her/his pre-Project place of residence to a new place of residence; this may involve two steps if transitional housing is required.

**Replacement Cost:** The value determined to be fair compensation for various types of agricultural and residential land, crops, trees, and other commodities based on current market rates; the cost of rebuilding houses and structures at current market prices of building materials and labor, without depreciation or deductions for salvaged building material.

**Temporary Land Use Impacts:** When land outside the proposed right of way (ROW) is required temporarily to carry out construction, persons may be affected in terms of temporary land loss, damage to attachments or disruption of living or business conditions, for which compensation or mitigation is required to offset such impacts.

**Vulnerable Groups:** Distinct group(s) of people poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement impacts.



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## **I. INTRODUCTION**

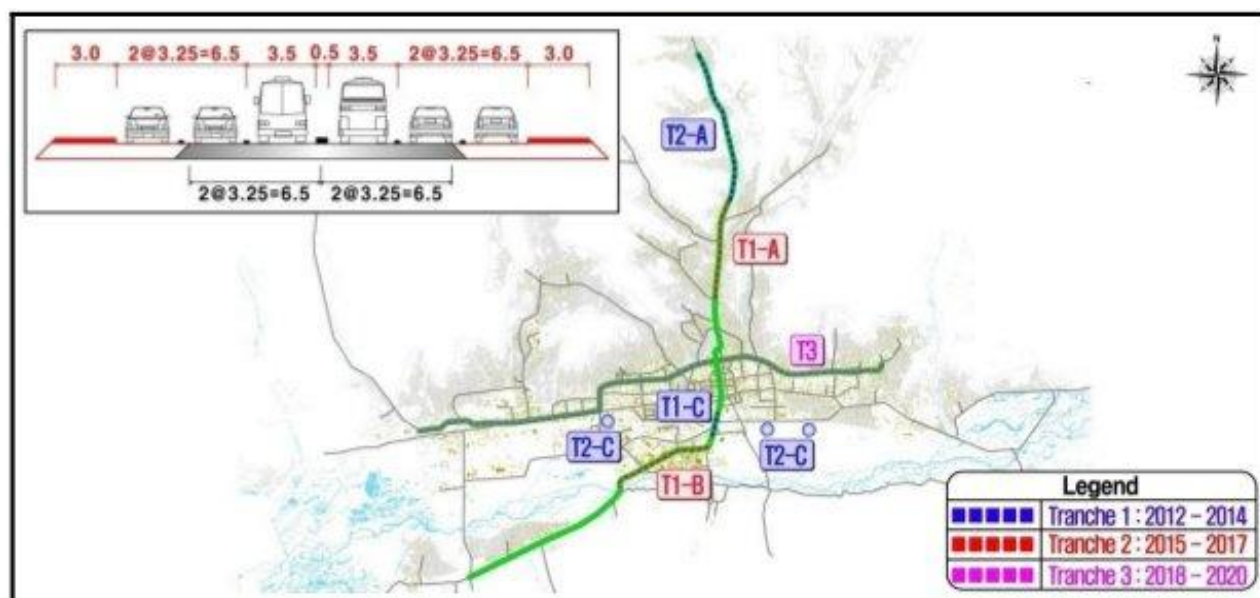
1. This Land Acquisition and Resettlement Framework (LARF) is prepared for the Urban Transport Development Investment Program (Investment Program) in accordance with the Asian Development Bank's (ADB) Safeguard Policy Statement (2009) and legislation of Mongolia. The investment program aims to (i) improve road infrastructure bottlenecks in Ulaanbaatar to maximize the road network capacity; (ii) apply traffic management measures to increase traffic flow efficiency and safety; (iii) develop and implement parking, traffic, and travel demand management policies; (iv) develop a bus rapid transit (BRT)-based public transport system; and (v) improve the public transport management and quality of services. Funding will be provided through a multi-tranche financing facility (MFF) comprising of three tranches and will involve improvement and widening of the existing roads; north-south and west-east roads of Ulaanbaatar and improvement of 21 intersections in the center of Ulaanbaatar. Though improvements will be implemented along the existing roads, some land acquisition and resettlement (LAR) impacts are anticipated. Efforts will be made to minimize the impact during final/detailed design.

2. This land and acquisition resettlement framework (LARF) is prepared to provide a policy and operational guidelines, details the mechanisms, procedures and compensation entitlements for planning Tranches 2 and 3, preparing land and acquisition resettlement plans (LARPs), and implementing LAR tasks for under the investment Program. The LARF will be posted on the ADB website and its Mongolian version will be disclosed on the website of the Municipality of Ulaanbaatar (MUB) and made available to the affected persons.

### **1.1. Summary of Investment Program Tranches**

3. The road network in Ulaanbaatar is in the form of grid connecting minor roads to the transportation corridors in the east-west and south-north directions. The north-south road corridor (26.0 kilometers (km)) connects the traffic demands between the city and the unplanned part of developing area on the north, and then connects to the airport on the southwest to efficiently handle the potential increase in traffic demand in the future. The east-west road corridor (19.0 km) connects between the dense unplanned eastern area and the dense unplanned western area, which stretches out side by side with the main road Peace Ave. The east-west and south-north road corridors of Ulaanbaatar and priority construction plan are illustrated in Figure 1. The design concepts indicate to widen the road to 26.5 meters (m) width in south-north road corridor, while the width of the existing road surface ranges between 9.1 m to 17 m in different segments. The road improvements in east-west corridor are planned in Tranche 3 for which the design is not prepared yet. Based on visual assessment, the width of existing road surface in east-west corridor is approximately 9 m to 42 m in different road sections.

**Figure 1: East-west and south-north road corridors and priority construction plan**



**Table 1: Subprojects under the relevant tranches**

Plan			Length
Tranche 1 (2012~2014)	T1-A	(North South (Chingeltai Ave.))	L=2.0 km
	T1-B	(North South (Chingis Ave.))	L=3.6 km
	T1-C	Peace Bridge	L=1.0 km
Tranche 2 (2015~2017)	T2-A	Dolon Budal Road	L=7.0 km
	T2-B	Underpass of Railway 1	L=240.0 m
		Underpass of Railway 2	L=108.0 m
		Underpass of Railway 3	L=139.0 m
Tranche 3 (2018~2020)	T3	East-West Parallel to Peace Ave.	L=19.0 km

- **Tranche 1 (2012~2014):** This tranche covers widening and renovation of the road (i) from MT gas station to Dolon buudal bus terminal ( L=2.0 km, Cost=\$2.58 million); (ii) from Peace to Yarmyic Bridge North South L=3.6 km, Cost=\$4.65 million in north-south road corridor; (iii) improvements of seven intersections in the center of Ulaanbaatar; and (iv) expansion of Peace Bridge (construction of connection ramps to Peace Bridge in left and right sides (Main =0.4@2=0.8 km, Ramp L=0.1@2=0.2 km, Cost=\$19.02 million);<sup>1</sup>
- **Tranche 2 (2015~2017):** This tranche covers widening and renovation of the road from Ger Area to Sharga Mort (L=7.0 km, Cost= \$9.05 million);
- **Tranche 3 (2018~2020):** This three-phase plan is to establish the east-west BRT route to accommodate possible increasing traffic on the east-west arterial axis parallel to Peace Ave.

<sup>1</sup> Expansion of Peace Bridge initially was planned in Tranche 2 but in January 2012 was shifted into Tranche 1.

It includes widening and renovation of the existing roads from Nomin Storage House to Uliastai Road (L=19.0 km, Cost=\$24.56 million).

## **1.2. Draft LARP for Tranche 1**

4. Draft LARP for Tranche 1 was prepared during the feasibility study. Based on preliminary design, Tranche 1 improvements will affect a total of 34 households that own small shops and kiosks along the road within the right-of-way; it is estimated there will be a total of 190 affected persons.<sup>2</sup> Measures are stipulated in LARP for Tranche 1 for mitigation of impacts.

## **1.3. Potential Resettlement Impacts of Tranche 2 and Tranche 3**

5. The design for Tranche 2 and Tranche 3 is not prepared yet. Based on the design concepts, the physical improvements will generally follow the existing roads' right-of-way. The impact is anticipated generally in businesses along the road corridors within the right-of-way, and public land, and possibly for location of underpasses combining roadway with sidewalk. Significant permanent impact to the residential, agricultural and other land is not expected. The first priority in the design of subprojects is to minimize impacts and avoid businesses and households through good design. The number of affected persons for Tranches 2 and 3 is not known at present as the feasibility design is not prepared yet.

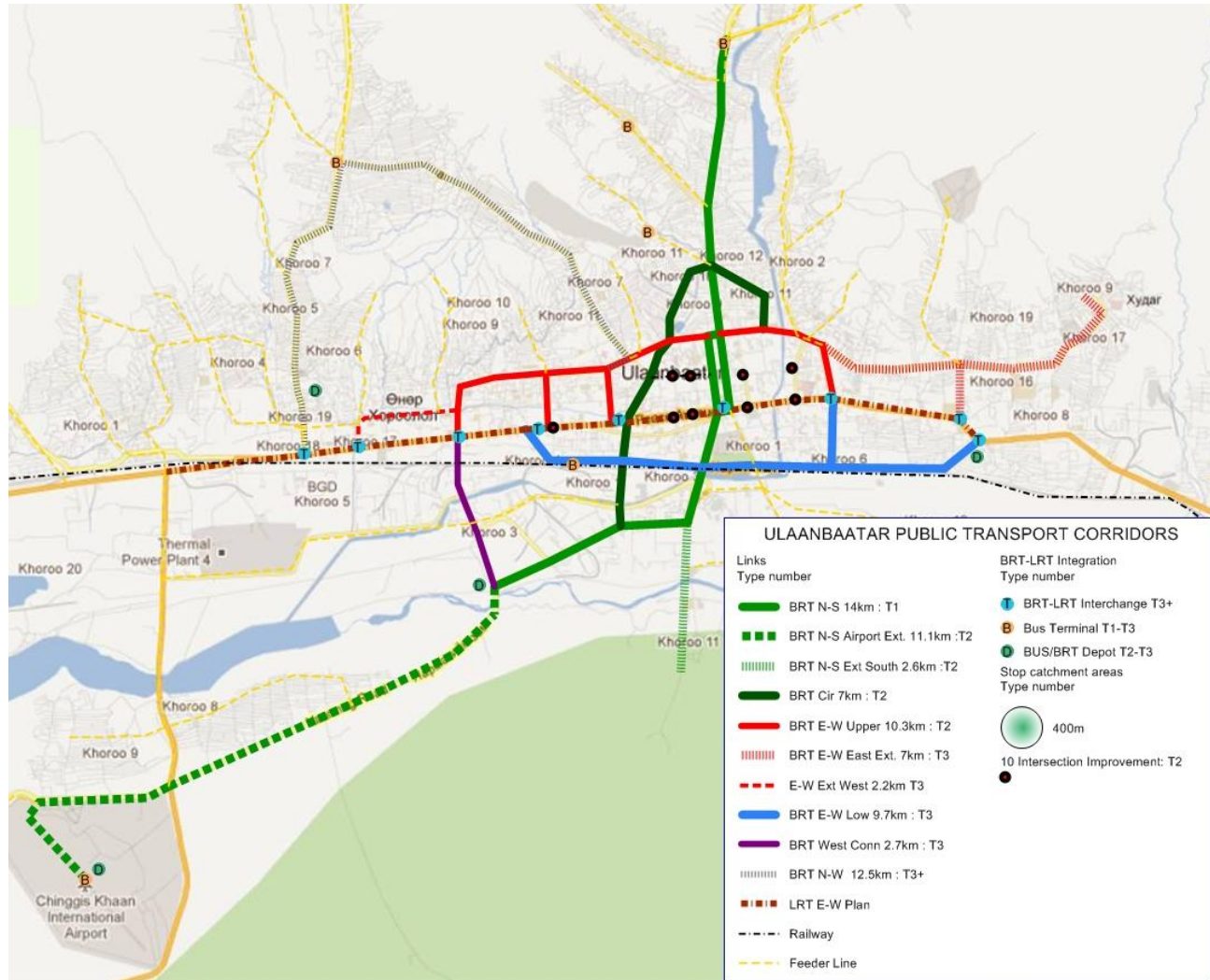
6. There will also be temporary disruption of utility services such as water lines, electricity, sewers and drainage, also temporary impact within or outside the right-of-way due to construction disturbances. These kinds of impacts will be verified based on final design and addressed in the final LARP and during implementation. More detail assessment of LAR impacts of Tranche 2 and Tranche 3 will be identified upon preparation of technical design.

7. In February 2012 resettlement assessment was undertaken regarding the planned improvements of 10.3 km roads for Ikh-Toiru BRT road in east-west main road corridor of Ulaanbaatar under Tranche 2 (BRT E-W Upper 10.3 km: T2) based on conceptual design (e.g. a drawing with no details on technical dimensions yet). The Ikh Toiru road corridor (BRT E-W Upper 10.3 km: T2) is quite wide and has Green Space in the center of two-way roadway. Based on conceptual design, the width of the BRT road will be the same as along the north-south road corridor (26.5 m). The improvements will take place within the existing road corridor and right-of-way. There are shops and services located along the road, which depending on the design and arrangement of the constructions works by the contractor may experience the temporary disturbance. More detail about the LAR impacts will be assessed upon the detailed design. The Figure 2 below illustrates the conceptual design of Ikh-Toiru BRT road corridor (solid red color). The photos from the area are given in Annex 1,

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<sup>2</sup> Estimations of APs are based on available data for 13 AHs indicating the median size of AHs family as 5.6 members. Data about some AHs is unavailable, who were not available or not interested in taking part in the initial census.

**Figure 2. Ikh-Toiru BRT Road Corridor**



#### 1.4. LAR Related Program Processing Requirements of ADB

8. Based on ADB's Safeguard Policy Statement, the appraisal of the MFF and each specific tranche and the approval of implementation of tranche projects will require preparation of the following:

- (i) An Initial Poverty and Social Assessment (IPSA) for each tranche indicating LAR impacts, magnitude, and type; and likelihood of impacts on Indigenous Peoples (IP).
- (ii) If there are LAR impacts, prepare the LARP/s following the requirements as stated in the approved LARF for each subproject under a tranche. The LARP/s should be based on detail design, census of affected persons and should be commensurate to the severity of impacts. The LARPs shall include detailed compensation budgets and implementation schedules linking LAR tasks to the initiation/award of civil works.

- (iii) MUB will prepare and submit a LARP for each tranche for ADB review and approval along with the periodic financing request (PFR) for each tranche.
  - (iv) MUB will disclose the LARPs in Mongolian to the affected persons and publish on its website. The LARPs will also be uploaded on ADB website.
9. The appraisal of the MFF and each tranche, and subsequent approval for subproject implementation will be based on the following LAR-related conditions:
- (i) **Approval of PFR for following tranches.** Conditional to: a) LARF review, update, re-disclosure, and b) preparation and disclosure of LARP/s consistent with the revised LARF and acceptable to ADB and Government for each tranche subproject with LAR.
  - (ii) **Implementation-Award of Contract (construction) for subprojects with LAR impacts.** Conditional to the finalization and disclosure of “implementation-ready” LARP/s acceptable to ADB and reflecting final impacts, affected persons lists and compensation rates.
  - (iii) **Initiation of physical civil works in subproject sections with LAR Impacts.** Conditional to full payment of compensations prior to dispossession. Such a condition will be clearly spelled out in the text of the civil works contract.

## 1.5. Vulnerable Groups

10. Special attention will be given for identifying and addressing the needs of disadvantaged groups such as the vulnerable, landless, the impoverished, and female-headed households through measures included in the LARP/s to try and improve (over and above cash compensations and restoration of) their livelihoods.

## 1.6. LARP Preparation and Implementation

11. LARP preparation starts with impact screening tasks and ends with a readily implementable LARP based on detailed design. LARP preparation will entail the execution of Detail Measurement Survey (DMS)<sup>3</sup> of all land and non-land impacts, census of the affected persons and assessment of all other substantive aspects in involuntary resettlement in accordance with Safeguard Requirement 2 of ADB’s Safeguard Policy Statement (see Outline of Resettlement Plan in Annex 2). LARP for the Tranche 1 was prepared by MUB with assistance from the project preparation consultant. LARP for each of the following tranches will be prepared based on the detailed design. LARP implementation will be overseen by Ulaanbaatar Land Administration Department (LAD) and Administration of Land Affairs, Construction, Geodesy and Cartography (ALACGAC). LARP preparation and implementation will follow the process detailed below:

(a) **LARP preparation.** This phase will be carried out in parallel with the preparation of the subproject feasibility studies.

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<sup>3</sup> Detailed measurement survey (DMS) include: (i) a full inventory/measurement of all land/other items losses including buildings, crops, trees, and income; (ii) an assessment of unit replacement values for each affected item/loss; and (iii) census of each AH/AP by gender, age and socio-economic status and vulnerability.

(b) **LARP review and finalization.** This phase will be carried out during detailed design preparation and will include eventual updates of impacts (APs data) and compensation rates. Construction contracts will be awarded after review and approval of final LARP.

(c) **LARP implementation.** This phase will start after the final LARP is approved and will be concluded with the provision of due compensation to all AHs and adequate rehabilitation/restoration of livelihood and living conditions.

## II. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS

### 2.1. Objectives

12. This LARF combines existing legal framework and procedures in Mongolia for land acquisition and demolition of structures for the project and the involuntary resettlement safeguards stipulated in ADB's Safeguard Policy Statement. Its main objective is to ensure that all affected persons under the Investment Program receive appropriate compensation and assistance in a timely manner to enable them to maintain a level of well-being, which is at least equivalent to or better than what it would have been without the project. To achieve this, the affected persons must be fully informed, closely consulted, compensated for their losses, assisted to gain possession or ownership of replacement land and to reestablish their housing, living conditions, livelihoods and/or enterprises, and participate in any decision-making pertinent to resettlement.

### 2.2. Mongolia Legal Framework on Land Acquisition

13. The key Mongolian laws regulating access to ownership or possession of land and thereby land acquisition and attachments are: (i) The Land Law of Mongolia (2002), amendments 2003/04/05/06; (ii) The Law on Allocation of Land to Mongolian Citizens for Ownership (Land Allocation Law 2003), amendments 2005/08; and (iii) The Civil Code of Mongolia (2002).

14. According to Article 3 of the Land Law, there are 3 main ways to gain access to land, including ownership, possession, and usage:

- Section 3.1.2: “to own land” means to be in legitimate control of land with the right to dispose of this land. This establishes private property land rights for Mongolian citizens without time limits. Land allocation and the size of plots are tied to specific uses, including family needs and commercial use, and land allocation must be included in land management plans of the respective administrative units. Family land is allocated once and for free; the size varies with the type administrative unit as well, being 0.07 hectare in Capital City and aimag urban areas and 0.35 hectares in aimag rural areas. Land for other uses may be allocated by government by auction and exchanged through commercial land sales to legal entities with ownership rights. Ownership rights must be registered in accordance with the Law on Registration of Property Ownership Rights and other related Rights.
- Section 3.1.3: “to possess land” means to be in legitimate control of the land in accordance with purpose of its use and terms and conditions specified in respective contracts (Mongolian citizens with a possession right can now apply for the right of ownership). In this case the State retains ownership of the land. Possession may be limited in time (15-60 years), and may be renewable for another 40 years. Households, government organizations and companies and organizations may possess land and size limits apply for specific contractually determined uses. Contracts for possession must be registered in the national registry.
- Section 3.1.4: “to use land” means to undertake a legitimate and concrete activity to make use of some of the land's characteristics in accordance with contracts made with owners and possessors of land. Land use rights are given to Mongolian citizens or to foreign countries, foreign legal entities, foreign citizens and stateless persons, diplomatic missions and consulates, as well as resident offices of international organizations for 5 years and are renewable for 5 years at a time. According to the Land Law, the certain form of entities, such as



companies can only have possession rights whereas, Mongolian citizens can have ownership rights to the land, excluding pastureland, land for common tenure and land for the special State needs.

15. The Land Law indicates the authority of the various state institutions<sup>4</sup> and officials<sup>5</sup>, fees, land management regulations, procedures for application for licenses, rights and privileges, duties, and sanctions, with respect to ownership, possession and use of land. The Land Allocation Law stipulates the specific regulations with respect to ownership of land.

16. Considering the comparatively recent institutionalization of the rights of possession and ownership in Mongolia in 2002 and 2003, respectively, some occupants of land are not yet legally recognized as possessors or owners, as they are not yet aware of the process of application, or are still financially unable of applying to become legal possessors or owners or have not completed the procedures for other reasons. It is also common that the land they are now occupying or possessing is not yet included the aimag's Land Management Plans as eligible for ownership. Some occupants of land who have made applications are waiting to be granted ownership or possession rights. In principle, the Land Law permits all of these occupants of land to apply for and be granted possession or ownership of the land, provided the land is designated as land for allocation by the government.

17. Mongolia does not have a dedicated and comprehensive land acquisition law as do some countries. Legal provisions regulating LAR must be derived mainly from the above mentioned laws, as well as from provisions in other specialized laws, such as the Law on Auto Roads or the Mongolian Law on Water Supply and Sewerage System Utilities of Cities and Settlements. The acquisition of land for use by the Project is constrained by the fact that in Mongolia the ability of the State to 'take back land' through invoking eminent domain is restricted to 'land for special needs of the state'. Article 16 of the Land Law does not include municipal/urban roads, water supply and sewage networks or solid waste landfill sites among the special needs. Article 32 of the Land Allocation Law includes among the special needs 'to build roads, lines and networks and other objects of national scale' (32.1.3).<sup>6</sup> Article 13 of the Land Law defines land under roads and networks as 'land outside cities, villages and other urban settlements' (13.1). On the other hand, land of cities, villages and other urban settlements are defined in Article 12 of the Land Law to 'include land under urban constructions and buildings ... and urban common tenure land'. Common tenure land includes 'urban streets, squares, roads... waste disposal and cleaning sites and other similar areas' (12.1). Moreover, Article 3 of the Law on Auto Roads defines as national scale roads those which connect the capital city to aimag cities, aimag cities to aimag cities and aimag cities to border points and defines local scale roads as those which connect soums, districts, cities and urban settlements in the territory of the capital city and aimags (3.1.8). Consequently, urban roads, water supply and sewage facilities, district heating facilities and landfill sites, will come under land of cities, villages and other urban settlements. Accordingly, the improvements of the roads and other facilities under the Investment program are not of a national scale, so eminent domain cannot be used.

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<sup>4</sup> State Ikh Khural (state legislative body of Mongolia), Cabinet, State Central Administrative Authority in Charge of Land Issues (presently the Ministry of Roads, Transport, Construction and Urban Development), Citizen's Representative Khurals (city/aimag and district legislative bodies), and Public Khurals (sub-district or Khoroo/Baghs legislative bodies).

<sup>5</sup> Governors of Aimags (provinces), Governors of Soums (provincial districts), and Governors of Baghs (sub-districts of soums).

<sup>6</sup> All numbering of the articles of laws refers to the amended Land Law of 22 December 2006 and the amended Land Allocation Law of 22 May 2008.

18. The matter of the applicability of the provisions for taking back land for special needs of the State in Articles 42 and 43 of the Land Law and Articles 32 and 37 of the Land Allocation Law has been subject to detailed discussions with the Director of the Construction, Housing and Public Utilities Policy Department of the Ministry of Road, Transport, Construction and Urban Development (MRTCUD), the Deputy Director of the Administration of Land Affairs, Construction, Geodesy and Cartography (ALACGC), the highest government organization in charge of land management), the Director of the Land Department of the Capital City of Ulaanbaatar and the Directors and staff of the District Land Administration Departments in the Chingeltei and Songino Khaikhan Districts of Ulaanbaatar. The consensus among these government officers is that the provisions of the above mentioned articles sanctioning the power of eminent domain for national scale projects (and thus including a one year waiting period between an initial agreement with affected landowners and the taking back of land) do not apply to the Project's local scale urban roads and other facilities. Instead, the acquisition of land needs to be achieved through agreements with affected landowners or possessors in accordance with the Civil Code of Mongolia.<sup>7</sup>

19. The provisions of the Civil Code provide a legal framework for land acquisition which place LAR for local scale infrastructure facilities, including roads, unequivocally in the context of negotiated land acquisition and resettlement, as this implies that the State or its legally appointed agents and affected persons engage with each other contractually as equal and autonomous legal persons and participants in a civil legal relationship (Article 1). Citizens and organizations, as well as aimags, the capital city, soums and districts are able to enter into civil legal relations with regard to objects of material and non-material wealth and their acquisition and possession (Articles 6, 7 and 8). Chapter 10 of the Civil Code defines property and assets, including land and other immovable property. Chapter 11 details provisions for their possession by legal acquisition and Chapter 12 for property ownership by individuals and other legal persons. The Civil Code in Article 101 provides general terms for the possession, use and disposal of property (further elaborated in Articles 109 to 112), but refers to the subsequently enacted Land Law and Land Allocation Law with regard to land ownership and possession. A number of special provisions pertaining to common property ownership (Article 108), common property of family members (Articles 126 and 128) and easements (servitude) (Article 151) may be relevant to specific cases in the Investment Program. Chapter 15 stipulates the negotiated agreement on transfer of land.

20. In the Land Allocation Law the right of a landowner to dispose of owned land through sale 'according to relevant procedures' (notarized contract) is guaranteed in Article 27. Possessors, according to Articles 35 and 38 of the Land Law, are also entitled to transfer their possession licenses via a notarized contract, but need to seek the approval of the governor of the soum or district.

21. The local practice of LAR among District or Soum and Khoroo or Bagh level land administration officers, sanctioned by the Directors of the Capital City or Aimag Land Administration Departments, does to some extent reflect the legal framework of the Civil Law based on contracts between autonomous legal persons, but also contains certain elements of involuntary land acquisition and resettlement. After identification of the required properties,

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<sup>7</sup> *Land Acquisition and Resettlement Framework*: ADB Loan MON 2301: Urban Development Sector Project. After consultation with their law departments, the ALACGAC and the Land Department of the Capital City of Ulaanbaatar provided letters confirming this interpretation of the legal context of LAR for the projects not of a national scale.

affected persons are sent official notifications or ‘demand letters’ by the District Land Administration Departments, often repeatedly, if no positive response to the government’s claim to land is forthcoming. Thereafter, negotiations about the terms of compensation take place with titled affected persons (owners and possessors) and eventually a written agreement is reached. The land administration officers generally follow the Cabinet Resolution 103 of 13 April 2003, which determines land valuation tariffs (e.g., MNT13,200 per square meter in the case of Ulaanbaatar ger areas) but apparently they need to use some flexibility in arriving at a final agreed rate with the affected persons. Once at least 50 percent of the agreed compensation is paid, the land is acquired; when structures have been moved or land is vacated so construction works can commence, the remaining compensation is paid. Non-titled occupants of land are considered illegal land users and are evicted on the basis of Article 27.4 of the Land Law, which states that ‘possessing land without a valid license is prohibited’. In practice, there is flexibility in dealing with non-titled land possession to ensure the affected persons are not seriously impacted.

### **2.3. The ADB’s Safeguard Policy Statement (2009)**

22. The ADB’s Safeguard Policy Statement<sup>8</sup> sets out the following objectives for involuntary resettlement: (i) avoid involuntary resettlement whenever feasible, (ii) minimize involuntary resettlement by exploring project and design alternatives, (iii) enhance, or at least restore the livelihoods of all affected persons in real terms relative to pre-project levels, and (iv) improve the standards of living of the affected poor and other vulnerable groups. ADB defines the scope of involuntary resettlement as (i) physical displacement (relocation, loss of residential land, or loss of shelter) and (ii) economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of involuntary acquisition of land, or involuntary restrictions on land use or on access to legally designated parks and protected areas. The policy applies whether such losses and involuntary restrictions are full or partial, permanent or temporary. The Safeguard Policy Statement sets out the following policy requirements for involuntary resettlement:

- (i) Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks; Determine the scope of resettlement planning through a survey and/or census of affected persons, including a gender analysis, specifically related to resettlement impacts and risks.
- (ii) Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all affected persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons’ concerns. Support the social and cultural institutions of affected persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- (iii) Improve, or at least restore, the livelihoods of all affected persons through (a) land-based resettlement strategies when affected livelihoods are land based where possible or cash

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<sup>8</sup> The specific policy requirements for involuntary resettlement are set out in Annex 2 of the Safeguard Policy Statement, referred to as SR 2.

compensation at replacement value for land when the loss of land does not undermine livelihoods, (b) prompt replacement of assets with access to assets of equal or higher value, (c) prompt compensation at full replacement cost for assets that cannot be restored, and (d) additional revenues and services through benefit sharing schemes where possible.

- (iv) Provide physically and economically affected persons with needed assistance, including the following: (a) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (b) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (c) civic infrastructure and community services, as required.
- (v) Improve the standards of living of the affected poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (vii) Ensure that affected persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- (viii) Prepare a resettlement plan elaborating on affected persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (ix) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement; Implement the resettlement plan under close supervision throughout project implementation.
- (xii) Monitor and assess resettlement outcomes, their impacts on the standards of living of affected persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

23. Table 2 outlines the key provisions of Mongolian laws and practices relevant to LAR and indicates their compatibility or inconsistency with ADB's Safeguard Policy Statement requirements.

**Table 2: Comparison of LAR related provisions in Mongolian Law and the ADB's  
Safeguard Policy Statement**

<b>LAR issues</b>	<b>Provisions of Mongolian law</b>	<b>ADB policy requirements</b>
Involuntary LAR	Invoking eminent domain is only legally recognized when taking back land for special needs of the State including roads, lines and networks and other objects of national scale (Land Allocation Law, Articles 32 and 37; Land Law, Articles 42 and 43). This law does not apply to the Project.	<p>Eminent domain is generally recognized and subject to policy provisions aiming at avoiding and minimizing LAR and replacement of lost assets and rehabilitation of livelihoods. APs to be at least as well off as without project (Safeguard Policy Statement, SR 2, para. 5).</p> <p>ADB recognizes the importance of negotiated settlement to 'avoid expropriation and eliminate the need to use government authority to remove people forcibly' (Safeguard Policy Statement, IR safeguards policy principle 6; SR 2, para. 25). Such negotiated settlement minimizes the involuntary nature of resettlement and ensures meaningful consultation with the AP. The negotiated settlement is therefore limited to a mutually agreed price and compensation negotiation and the State still may invoke eminent domain and expropriate land. In that case ADB requires a full implementation of the Safeguard Policy Statement.</p>
Negotiated LAR	The Civil Code of Mongolia is the legal basis for contractual agreements on the transfer of land in the ROW from APs to the government (Chapter 15, Articles 1, 6, 7, 8, 109 and 112, among others).	<p>Recognition of negotiated contract based land acquisition (negotiated settlement), where there is a willing buyer and a willing seller, which is verified and documented by an independent third party (Safeguard Policy Statement, SR 2, para. 25). However, ADB seeks to ensure that a negotiated settlement will offer adequate and fair price for land and/or other assets. The borrower/client will ensure that any negotiations with affected persons openly address the risks of asymmetry of information and bargaining power of the parties involved in such transactions. For this purpose, the borrower/client will engage an independent external party to document the negotiation and settlement processes.</p> <p>In the absence of an eminent domain law in Mongolia, the Civil Code forms the legal</p>

		<p>basis for the land transfer and acquisition of non-land assets for this project. Although the Civil Code is based on a negotiated contract between the APs and the government, the very fact that the government has to compulsorily acquire the piece of land and non-land assets that falls within the scope of the project triggers the ADB Safeguard Policy Statement requirements.</p>
Eligible APs	<p>Licensed owners, possessors and users of land can transfer their titles to other legal persons recognized under the Land Law (Articles 35 and 38) and the Land Allocation Law (Article 27).</p> <p>Non-titled occupants of land as illegal possessors are not eligible to transfer the land occupied or receive compensation (Land Law, Article 27.4).</p> <p>The Civil Code recognizes the right of a long term non-owner occupant of ownerless immovable property (incl. land) to own it after 15 years, if registered in the State register (104.2).</p>	<p>Lack of formal legal title to land by any APs shall not be impediment for provision of entitlements to such APs. Titled, legalizable, i.e. persons who have claims to land that are recognizable under national laws, and non-titled APs are eligible to receive different entitlements. Titled and legalizable APs are entitled to compensation and rehabilitation. Non-titled APs are entitled to livelihood restoration, but may also receive replacement land. Non-titled APs are eligible for entitlements such that they are no worse off than before the project. All APs are entitled to compensation at replacement cost of non-land assets (Safeguard Policy Statement, SR2, para. 7–8).</p> <p>APs without possession or ownership license but occupying land in areas designated for land allocation or possession can be recognized as legalizable and thus are eligible for fair compensation and rehabilitation entitlements under the Safeguard Policy Statement.</p> <p>People who illegally occupy the designated project LAR sites after the cut-off are not eligible for compensation, and may be evicted at their own cost.</p>
Compensation for land	<p>Contractually agreed payment for land transferred to the government. Local practice applies the government land valuation tariff (Cabinet Resolution 103, 2003), but negotiates with APs as well. Replacement land can be provided if AP's entire land or large part thereof is acquired.</p>	<p>Land compensation at replacement cost based on land valuation at fair market value, plus transaction costs, interest</p> <p>accrued, transition and restoration costs and other applicable payments (Safeguard Policy Statement, SR2, para. 10).</p>

Compensation for structures	Contractually agreed payment for transfer of structures located on land acquired. The value of structures is determined at market rates, with depreciation deducted from gross value of the structure.	Valuation of structures is based on current market value, plus transaction costs, interest accrued, transition and restoration costs and other applicable payments, i.e. replacement cost of new construction of the structure without deduction of depreciation. APs can be permitted to salvage materials (Safeguard Policy Statement, SR2, para. 10).
Joint property ownership	The Civil Code recognizes common property ownership and family property rights (Articles 108, and 125-128). Common property ownership requires permission of other owners to dispose of part of the property (108.4). Family property includes 'other properties accrued since the marriage, notwithstanding in which name of spouses or family members the property is registered' (126.2.4). Disposal of immovable (incl. land) family property requires mutual agreement (128.1) and certified written permission from an adult family member (128.2).	No conflict with the Safeguard Policy Statement. Joint signatures are encouraged.
Easement (property servitude)	Legal provision for easements or property servitude, allowing the use of another person's property for specific public or private purposes is permitted under local law; mutual agreement and payment of a fee are required (Civil Code, Article 151, Land Law, Article 48 and Land Allocation Law, Article 33).	No conflict with the Safeguard Policy Statement .
Rental of land or house	The Civil Code, Chapter 25 regulates the lease of property, including land and houses. If ownership is transferred the new owner incurs all rights and obligations of a lessor (Article 297). No provisions for lessee rights in case of land acquisition for a project, except that termination of a lease requires 3 months notice (Article 294.3).	Lessee is considered a non-titled AP and eligible to receive entitlements based on the type and degree of impacts.
Community and public resource losses	Affected community and public assets can be transferred through contractual agreement under the Civil Code. The cost of moving affected infrastructure is included in cost of civil works under the Project.	Common property resources or public structures and infrastructure affected by LAR are covered by the Safeguard Policy Statement provisions.

Income and livelihood rehabilitation	No provisions in contractual agreements for transfer of property.	Assistance for economic and social rehabilitation due to loss of jobs, incomes and livelihoods, including (i) income compensation or support for the period of interruption of business or employment, and (ii) priority employment in project civil works, especially to poor and vulnerable households (Safeguard Policy Statement, SR 2, para. 12).
Relocation and transaction costs	The Mongolian Law on State Registration of Property Allocation Rights and Other Related Rights requires payment of registration duties and service fees for the registration of immovable property with the State Administrative Authority in Charge of State Registration of Property Rights (Article 9). All registration and other fees, as well as cost of relocation, are responsibility of parties to a contract and can be included in a contract.	Relocation and transfer expenses, including fees for the registration of properties and other administrative charges, are part of the replacement cost of lost assets and must be included in compensation (Safeguard Policy Statement, SR2, para 10).
Grievance procedure	The Land Law refers disputes over land to the governors of administrative units and eventually the courts (Article 60). The Civil Code and Land Allocation Law refer various types of disputes to the courts.	An adequate grievance redress mechanism for affected persons is required (Safeguard Policy Statement, SR2, para 29).
LARP information disclosure and public consultation	No provision for public consultation and information disclosure. In practice, all cases involve a period of negotiation.	APs are to be fully informed and closely consulted on compensation and resettlement options. Draft, final and revised LARPs are to be disclosed and discussed, as well as published on ADB's website (Safeguard Policy Statement, SR2, paras 26–27).
Cut-off date	Not applicable	An eligibility cut-off date is to be set when the project is officially notified, the project area is delineated or the census of the AP population is taken, to prevent influx of non-eligible persons and land speculation (Safeguard Policy Statement, SR2, para 8).
Right of way	The Project road which is classified as State road has a ROW, owned and maintained by concerned government agencies. Temporary use of the ROW area is subject to approval of the concerned authorities.	No conflict with the Safeguard Policy Statement.
Notification period for	Time period for vacating a property may be defined in contract. Civil	Cash compensation and/or replacement of assets must be completed before



vacating property to commence civil works	works commence in parallel with acquisition of property, but without defined waiting period.	displacement; LAR procedures must be completed and rehabilitation measures in place before commencement of civil works on the affected project (Safeguard Policy Statement, SR2, para 14).
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#### **2.4. Gaps between ADB's Safeguard Policy Statement and the legislation of Mongolia**

24. The legislation of Mongolia and ADB's Safeguard Policy Statement diverges on some key points on LAR policies and procedures. According to Mongolian legislation

- (i) Non-titled occupants of land (without ownership or possession license), including lessees of land and structures, are not eligible for compensation and rehabilitation entitlements.
- (ii) Compensation for affected land is based on a government compensation tariff, not market rates, although there is room for negotiation with individual affected persons.
- (iii) A depreciation coefficient is applied in the valuation of affected structures.
- (iv) Income and livelihood rehabilitation is not normally considered in local LAR practice.
- (v) Transaction and relocation costs are not included in compensation payments, though there is room for negotiation in contracts with affected persons.
- (vi) There is no requirement to prepare a resettlement plan.
- (vii) There are no project internal grievance procedures preceding dispute resolution by governors and the courts.
- (viii) Public consultation and information disclosure is not ensured or mandated.
- (ix) An eligibility cut-off date is not declared.
- (x) There is no limitation on commencement of civil works until after completion of all LAR procedures.

25. In order to bridge the gap between Mongolian Law and ADB's Safeguard Policy Statement, the following section provides a policy framework and entitlement provisions, which integrate both.

#### **2.5. Eligibility and Entitlements**

26. This policy and entitlement framework will be applied in the case where any tranches of the Investment Program causes involuntary resettlement. This would then require the preparation of a LARP for each tranche and the following safeguards shall be observed:

- (i) The projects will adopt a LAR practice involving contractual agreements negotiated between the affected persons and the Ulaanbaatar LAD on the basis of the Civil Code of Mongolia. The following safeguards will be observed:
  - (a) All compensation and allowances will be determined and paid as specified in the contractual agreements<sup>9</sup> prior to dispossession of land or assets.
  - (b) The affected persons, regardless of whether they are titled or non-titled, will not be served notices or demand letters regarding claims by the government to their properties. Instead, LAR related notification of affected persons and negotiation of agreements will be carried

<sup>9</sup> If feasible, the provision of employment in Project civil works to poor and vulnerable APs, if they desire so, will be included in the contracts.

out by the PIU staff and their government partners<sup>10</sup> in individual as well as in public consultations with the affected persons.

- (c) All agreements will be certified by a notary and registered with the State Administrative Authority in Charge of State Registration of Property Rights (SAACSRPR). The parties to the contracts will retain their own legal copies.
- (d) Adequate grievance redress mechanisms will be established prior to the detailed design stage.
- (e) Khoroo governors and land administrators shall assist in identifying, consulting, and formulating with the affected persons and PIU staff special measures such as allocation of new plots, new housing and/or income restoration schemes for affected vulnerable persons.

(ii) All affected persons will be eligible for compensation and/or rehabilitation entitlements irrespective of their property status, including unlicensed occupants of land, and of the type of use of their property (residential, commercial, public, or community); Non-titled persons with recognizable claims will be fully compensated for all losses including land, while non-titled persons without such claims will be compensated at least for all non-land assets and eligible for assistance.

(iii) Unlicensed occupants of land in areas designated by GOM for past, present or future land allocation will be treated as legalizable affected person and given ownership licenses for the remainder of partially affected land or, in the case of full loss of a plot of land, provided with replacement land and a license of ownership within 3 months of conclusion of a contractual agreement between the government and the affected persons. They will be registered with the SAACSRPR.

(iv) Affected land will be compensated either at replacement cost based on market rates for comparable land or the applicable government compensation tariff, whichever is higher, or, in the case of full loss of a plot of land, with replacement land, including land preparation and restoration of utility services (electricity, water etc), as applicable. The LAD will assist the affected persons to identify and approve the relocation plot. The loss of 50% or more of a plot is considered a full loss eligible for compensation for the entire plot, if the affected person so desires.

(v) Affected owners and/or possessors, in case of partial loss of less than 50% of their land, will transfer their license for the affected plot to the GOM and retain the owner or possessor license accordingly for the remaining plot. Their ownership or possession licenses will not be cancelled or subject to automatic expiration. In case of a full loss of land they will be provided with a replacement plot and ownership or possession licenses respectively with state registration.

(vi) Affected users of land with use licenses will be provided with replacement plots in similar locations suitable to business operations and new use licenses (or with a license of ownership, as feasible and desired), within 3 months of conclusion of a contractual agreement between the government and the affected person.

(vii) All affected persons agreeing to receive replacement land or affected person with pending license approval for ownership or possession or affected persons with possession licenses seeking ownership status, will be provided with ownership licenses within 3 months of

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<sup>10</sup> The key government partners are the officers of the Ulaanbaatar Land Administration Department and Property Relations Agency and/or other offices in charge of valuation of non-land immovable property.

conclusion of a contractual agreement between the government and the affected persons and will be registered with the SAACSRPR.

(viii) Affected structures<sup>11</sup> will be compensated at replacement cost based on prevailing market rates for comparable types of structures without deduction of depreciation. Materials may also be salvaged by the affected persons for free.

(ix) In cases of joint property ownership, the written notarized consent of the partners in a common property relationship or of an adult family member will be required.

(x) Temporary impact outside the right-of-way due to construction disturbances will be handled through voluntary negotiated arrangements and compensated commensurate to the losses for the period of impact.

(xi) All affected persons, including land lessees, shall be (a) compensated for their relocation costs, including assistance in transporting the ger (a lump sum shifting allowance will be paid to the affected person to cover transport costs on actual cost basis at current market rates; and (b) allocated a plot for possession or ownership, based on applicable laws or provided cash refund at rental fee rate and proportionate to duration of remaining lease period, if a plot is not required. If an affected person is not eligible for ownership or possession, a license for land use will be given, as feasible. The compensation agreement with the affected person will stipulate the specific relocation plot (size and location).

(xii) Temporary loss of business income to the owner will be compensated through cash compensation equivalent to the loss, i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in project areas.

(xiii) For permanent business loss, compensation shall include also any costs required for physical and financial reestablishment of business. If the business needs to be relocated, the following options will be provided to the APs: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the affected persons; the replacement land/shop space will be provided within 1 year of displacement.

(xiv) Temporary loss of employment income will be compensated for the period of interruption of employment. Permanent loss of employment will be compensated with cash indemnity for 3 months wages for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1-month wage. The affected persons with permanent loss of employment shall be provided also (a) other labor benefits and retrenchment allowances according to the national labor law, (b) skills development trainings for new employment opportunities, and (c) assistance to find new employment;

(xv) Vulnerable and poor households will be provided with employment opportunities at commensurate skill levels by the subprojects as available.<sup>12</sup>

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<sup>11</sup> Including houses, fences, sheds, latrines, garages and other immovable structures built on affected land.

<sup>12</sup> If they lack of required skills, the contractor will provide basic training to the employed APs.

(xvi) All relocation, transfer and transaction expenses (fees and duties) will either be waived by government or included in the compensation paid to the affected persons.

(xvii) The time periods between conclusions of a contractual agreement with at least 50% payment of compensation and the permanent acquisition of an affected asset will be determined as follows:

- (a) affected plot involving only the moving back of structures (e.g. kiosks) and acquisition of a portion of land, without housing structures<sup>13</sup> (residential or business): within 2 months;
- (b) replacement plot with ownership license for full acquisition of entire plot, without housing structures: within 3 months;
- (c) acquisition of a partial plot with a housing structure, where the structure is to be rebuilt on the remaining plot: within 5 months, and in any event before the affected persons are required to move;
- (d) full acquisition of entire plot with housing structure, where the structure is to be rebuilt on a replacement plot: within 6 months, and in any event before the affected persons are required to move;
- (e) lessees must be given 3 months notice of termination of their lease in accordance with the Civil Code; and
- (f) temporarily affected plots or utilities will have impacts minimized and services restored in a timely manner, or provided temporary services; at least 2-weeks notice will be given.

(xviii) Civil works on the affected sections of the subprojects where LAR is required shall not commence unless all compensation, relocation and income restoration activities have been completed and cash assistance for loss of income has been paid.

(xix) In accordance with the ADB's Safeguard Policy Statement, the design and implementation of the projects in the following tranches of this Investment Program will make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction.<sup>14</sup>

27. All compensation and entitlements to all categories of eligible affected persons will be guided by the entitlement matrix shown in Table 3. Eligibility of an affected person to a combination of compensation measures and resettlement assistance will depend on the category to which he/she belongs including his/her social and economic vulnerability.

**Table 3: Entitlement Matrix**

Type of Loss	Specification	Eligibility	Compensation Entitlements
Land (residential/ commercial/ public/ communal)	Partial loss of plot (<50%)	Owner, possessor <sup>15</sup>	Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement; All taxes, registration and transfer costs are waived or included in compensation.

<sup>13</sup> Small structures (other than houses) can be rebuilt within the time periods stipulated for partial acquisition of otherwise empty land.

<sup>14</sup> In case of temporary disruption to services (local roads, water, electricity, telephone) these services will be restored within 48 hours or temporary alternative solutions will be provided for these services during the time of construction impact.

<sup>15</sup> If the remaining land is small and not feasible for operation according to its purpose, the AP may opt to receive a new replacement plot instead of cash compensation and will give up the entire old plot.

		Legalizable occupant of land	<p>The AP may choose between the following alternatives:</p> <p>1) Ownership license and state registration for remaining land will be provided by government<sup>16</sup>;</p> <p>OR</p> <p>2) Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement;</p> <p>All taxes, registration and transfer costs are waived or included in compensation.</p>
		User	Continuation of use license on the remaining land
	Full loss of plot (=>50%)	Owner, possessor	<p>The AP may choose between the following alternatives:</p> <p>1) Land for land compensation through provision of replacement plot of comparable size, value, location, and utility as lost plot; Ownership license and State registration;</p> <p>OR</p> <p>2) Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement;</p> <p>All taxes, registration and transfer costs are waived or included in compensation.</p>
		Legalizable occupant of land losing all land occupied	<p>The AP may choose between the following alternatives:</p> <p>1) Land for land compensation through provision of replacement plot of comparable value and location as lost plot;</p> <p>Ownership license and state registration;</p> <p>OR</p> <p>2) Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement;</p> <p>All taxes, registration and transfer costs are waived</p>

<sup>16</sup> If unlicensed AP has occupied land more than legal allocation limit per person in urban areas, the surplus land, if any may be either owned and registered in the name of the family member or bought from the government at the government land tariff. A landowner already owning a legal allocation limit per person in urban areas may acquire the surplus as possessed land.

		User	Replacement plot with use license; All taxes, registration and transfer costs are waived or included in compensation price.
Permanent removal of structures (residential/ commercial/ public/ communal) <sup>17</sup>	Moving back of fences	Owner, possessor, Legalizable occupant of land	The AP may choose between the following alternatives: 1) Cash compensation for relocation of fence at market rate without deduction of depreciation, based on contractual agreement;  OR  2) Replacement/reconstruction of the fence by the Project owner/contractor;  Salvaged materials will not be included in the replacement value and can be used by APs for free.
	Alteration to structure	Owner, possessor, Legalizable occupant of land	Cash compensation for lost part of structure and reconstruction of remaining structure at market rate without deduction of depreciation, based on contractual agreement; Salvaged materials will not be included in the replacement value and can be used by APs for free.
	Full loss of structure and/ or relocation	Owner, possessor, Legalizable occupant of land	Cash compensation for relocation/replacement of lost structure at market rate without deduction of depreciation, based on contractual agreement; Salvaged materials will not be included in the replacement value and can be used by APs for free.
	Moving or relocation of ger	Owner, possessor, Legalizable occupant of land, lessee	Cash compensation for cost of taking down and raising of ger and for transport, as applicable; to be included in contractual agreement; Salvaged materials will not be included in the replacement value and can be used by APs for free.
	Moving or relocation of containers (metal kiosks)	Owner, possessor, Legalizable occupant of land, lessee	Cash compensation for cost of relocating container outside the ROW, including costs of emptying and restocking container; to be included in contractual agreement; Salvaged materials will not be included in the replacement value and can be used by APs for free.
Temporary disturbance	Removal of fence, civil works on land outside ROW	Owner, possessor, legalizable occupant of	Cash compensation fee stipulated in agreement on temporary loss; Public services will be maintained or temporary provisions made until they are restored.

<sup>17</sup> Residential' refers to any structure used as a private dwelling, including houses and gers. Commercial' refers to any structure used for business and manufacturing activities, including small shops, factories, offices, workshops/garages.

		land	<p>Safe access to land and residences;</p> <p>Restoration of land and fences by civil works contractor.</p>
Business loss	Temporary business loss due to LAR or construction activities by Project	All entities so affected	<p>Cash compensation equal to net income losses during interruption period to be included in contractual agreement;</p> <p>Wages of employees to be compensated directly during interruption period.</p>
	Permanent business loss	All entities so affected	<p>Compensation shall include also any costs required for physical and financial re-establishment of business. If the business needs to be relocated, the following options will be provided to the APs: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the APs, the replacement land/shop space will be provided within 1 year of displacement.</p>
Employment loss	Temporary employment loss due to LAR or construction activities	All employees so affected	<p>Cash compensation for lost wages for the period of interruption of employment; to be included in contractual agreements between employer and the project<sup>18</sup>;</p>
	Permanent loss of employment	All employees so affected	<p>Cash indemnity for 3 months for permanent impact for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1 month wage;</p> <p>Other labor benefits and retrenchment allowances according to the national labor law;</p> <p>Skills development trainings and assistance to arrange new employment.</p>
Relocation	Transport/transition costs	All APs or entities to be relocated	<p>Provision of allowances to cover transport costs of moveable assets on actual cost basis at current market rates; to be included in contractual agreement;</p> <p>Assistance with permanent and/or transitional relocation (if required), including in finding an alternative plot, or a comparable house to rent, as applicable.</p>
Vulnerable and/or	Permanent loss of	All vulnerable and/or	<p>Preferential employment in project-related workforce, if available and desired by APs;</p>

<sup>18</sup> The contract will stipulate the continuation of wage or salary payments by the employer to the employees. This will be monitored by the PIU and external project monitors.

severely affected APs <sup>19</sup>	livelihood	severely APs so affected	Employment training (3–6 months);  Cash assistance up to a maximum of six months at guaranteed lowest living level and assistance in reconstitution of business or employment;
	Loss of land	All vulnerable and/or severely APs so affected	Assistance with selecting a replacement plot and with preparation of contracts and administrative process of provisions of replacement plot;
	Loss of structure	All vulnerable and/or severely APs so affected	Assistance with house relocation and other construction activities (new housing should meet minimum standard), registration of property titles, relocation expenses, minimum housing guarantee.
	Livelihood support	Any HH member of a vulnerable AP	Preferential treatment for temporary employment during construction; Employment training (3–6 months).
	Temporary disturbance	All vulnerable APs so affected	Preferential treatment to avoid, minimize or mitigate disturbance as quickly as possible.
Loss of crop		All APs/entities so affected	Compensation at market rate of the harvested crop.
Loss of trees		All APs/entities so affected	Cash compensation for trees based on volume of wood; for fruit trees based on the net annual income from the tree(s) for the number of years taken for replacement tree(s) to reach comparable production; and (b) the cost for growing the replacement trees (e.g., seedling and growth management);
Public Utilities		All APs/entities so affected	Compensated based on replacement cost of restoring the same level of services
Unidentified losses	Unanticipated impacts	All affected entities	To be identified during project implementation; measures will be formulated as appropriate according to ADB policy and reported to ADB prior to implementation; contingency will be included in LARP budget to cover unanticipated expenses.

28. Consistent with ADB's Safeguard Policy Statement, the following group of affected persons are entitled to compensation or rehabilitation under this LARF:

- (i) all affected persons losing land either with ownership/possession/use rights, legal lease, formal or customary deed, or traditional land right or without legal status;
- (ii) tenants and sharecroppers/shareholders, wage laborers, whether formally registered/contracted or not;

<sup>19</sup> Vulnerable groups are distinct groups of people (poor, elderly, disabled, and female headed households) who may suffer disproportionately from resettlement.



- (iii) owners of buildings, crops, plants, or other objects attached to the land (including those with no legal rights to the land); and
- (iv) affected persons losing business, income, and/or salaries.

29. Compensation eligibility will be limited by a cut-off date to be set as on the completion day of the impacts assessment, detail measurement survey of affected assets and census of the affected persons. All affected persons settling in affected areas after that date or existing affected persons who alter their assets and who cannot prove that they are rightful owners/users of the affected plots will not be eligible for compensation.

30. LARP is required for each tranche with LAR impacts. The scope of LAR and estimated number of the affected persons in the following tranches shall be assessed based on detail technical designs, approval of the subprojects' right-of-way and followed by verified census of the affected persons and detail measurement survey for each tranche. Every effort shall be made during the detailed design to minimize acquisition of land and other assets and reduce any involuntary resettlement impacts.

### III. SOCIAL IMPACT ASSESSMENT (SIA) AND FORMULATION OF COMPENSATION AND SUPPORT MEASURES

#### 3.1. Methodology

31. **The inventory of losses and assessment of land losses.** Based on final engineering design, the impact of “Red Line” zone will be determined and the inventory of losses including land for each affected person, the type and extent of impact on each affected household/entity will be prepared. It will include all types of losses incurred by affected persons such as area of land to be acquired, type and area of affected structures (houses, fences, sheds, toilets, wells, etc) damaged infrastructure (water lines, electricity, sewer lines, cable, etc) heating, number of affected trees by type, area of crop production, loss of income and/or livelihood, loss of employment, permanent or temporary impacts, etc.

32. **DMS and Census.** PIU and resettlement specialists will undertake surveys for each identified subproject, based on detailed/final technical design. Detailed measurement survey (DMS) including: (i) a full inventory/measurement of all land/other assets losses including buildings, crops, trees, and income; (ii) an assessment of unit replacement values for each affected item/loss will be conducted to ascertain the value of losses and identify rehabilitation measures to mitigate impacts. The census of affected persons will be conducted to document the status of potentially affected persons<sup>20</sup> within the subproject impact area and identify vulnerable affected persons. It shall cover 100% of affected households/entities, and should identify and record all affected persons. The census will include a socio-economic profile of affected households and entities, especially people’s assets and main sources of livelihood. These resettlement investigations will be the basis to prepare a detailed inventory of losses for each affected person in terms of type and extent of impact with respect to land, structure, livelihoods and access to common property resources, if any.

33. **Socio-economic sample survey.** The socio-economic sample survey conducted for the final LARP prior to contract award will supplement additional information for the SIA and its results will be also used as a benchmark for monitoring the socio-economic status of the affected persons. The survey will cover a representative number of the affected households, with the focus on severely affected households and affected entities. The survey will also collect gender-disaggregated data to address gender issues in resettlement and analysis of social structures and income resources of the population.

34. **Database.** All information concerning resettlement issues related to land acquisition, socioeconomic information of the affected land, structures, inventory of losses by individual affected persons, compensation and entitlements, payments and relocation will be entered onto a computer database by the PIU. This database will form the basis of information for preparation and implementation of LARP, monitoring and reporting purposes and facilitate efficient management and monitoring of compensation distribution. The collected data and their analysis shall quantify degree of losses and implications for the affected households in terms of living conditions, livelihoods, income loss, intangible loss and other impoverishment risks.

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<sup>20</sup> The affected persons will include both titleholders and the non-titleholders within the subproject construction zone. Identity of non-titleholders will be based on legal documents, such as ration card, voter’s ID, etc., if available. In the absence of supporting legal documents, information from the community will be considered.

### 3.2. Analysis of social impacts

35. The above mentioned data shall be analyzed to review the social impact of each subproject on the affected persons and communities, particular on poor, women and other vulnerable and disadvantaged groups. The analysis shall provide the socio-economic profile of the affected community, disaggregated by gender, income, education and other socio-economic parameters. The affects, including the direct resettlement impacts to the land, businesses and other assets of people/community shall be assessed. The concerns and needs of women and other disadvantaged groups, and their priorities shall be identified and relevant mitigation and rehabilitation measures developed.

### 3.3. Methods for defining the replacement value

36. All affected assets will be compensated at replacement cost based on market value for comparable assets estimated by the valuation team including resettlement specialist, valuation specialists of PRA and LAD of Ulaanbaatar, and representative of affected entities, and agreed with affected persons. The PIU is responsible for follow-up and facilitation of the processes for estimation of the replacement values for land and non-land assets and losses<sup>21</sup>.

37. The specific methods for various types of impacts are as follows:

- **Land.** Affected land will be compensated at replacement value. The value will be determined by undertaking a land market survey with the objective of ascertaining prevailing market values (influenced by various factors such as location of land, advantages for business, connectivity, and classification/land use, type of soil, crops grown, available irrigation and other facilities, and other plus and minus points such as frontage to road, proximity to developed areas, regularity of shape, unevenness of land), or the applicable government compensation tariff, whichever is higher. An alternative option is the valuation of comparable replacement land.
- **Houses, structures, and buildings.** They will be compensated at replacement value based on prevailing market rates for comparable types of structures free of depreciation, transaction costs and value of salvage materials, which can be used by the affected households for free.
- **Temporary business loss.** Cash compensation equal to net income losses during interruption period to be included in contractual agreement, estimated based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in project areas.
- **Permanent business loss.** For permanent business loss, compensation shall include also any costs required for physical and financial re-establishment of business. If the business needs to be relocated, the following options will be provided to the APs: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the APs, the replacement land/shop space will be provided within 1 year of displacement.

<sup>21</sup> In case of disagreements' over the compensation rates during the negotiation process with APs, the PIU can engage an independent private valuation specialist and re-assess the compensation rates offered to the APs and disclose the results to the APs.

- **Income losses for workers/employees.** Indemnity for lost wages for the period of business interruption. Cash indemnity for 3 months wages for permanent impact for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1 month wage. All employees/workers so affected entitled also (a) for other labor benefits and retrenchment allowances according to the national labor law, and (b) skills development trainings and assistance to arrange new employment.
- **Loss of trees.** Cash compensation for trees based on volume of wood; for fruit trees based on the net annual income from the tree(s) for the number of years taken for replacement tree(s) to reach comparable production; and the cost for growing the replacement trees (e.g., seedling and growth management).
- **Public utilities and infrastructure.** Compensated based on replacement cost of restoring the same level of services.
- **Loss of crops.** Crops will be compensated at market rate of the harvested crop.

38. The details of replacement value and calculation of compensation rates/amounts will be specified in the final LARP for each tranche. The compensations rates shall be based on replacement costs estimated through assessment and market value surveys of comparable assets conducted by the valuation team including resettlement specialist, valuation specialists of PRA and LAD of Ulaanbaatar, and representative of affected entities, and agreed with affected persons. In addition, the costs related to physical relocation of a displaced business and/or reestablishment of business after disruption, and other non movable assets, plus all related transaction costs or fees will be included in compensation agreements.

#### IV. CONSULTATIONS, PARTICIPATION AND DISCLOSURE

39. Disclosure of LAR information to and consultation with the affected persons at an early stage ensures that they can express their opinions, apprehensions and objections. Project proponents, including government stakeholders, can address the issues raised and, upon careful consideration, incorporate them in the final design and LARP, in so far as they are compatible with applicable local law and ADB's Safeguard Policy Statement. Thereby, delays in implementation due to unforeseen conflict can be avoided or minimized.

40. LARP preparation and implementation will be accompanied by an intensive public information and consultation program involving the affected persons, local institutions, local officials and neighborhood representatives. The objective of these tasks will be to ensure that the affected persons can play a role in the definition of LAR compensation and rehabilitation options and that their needs are reflected in each LARP. The consultation and public disclosure process for each subproject with LAR impact will at minimum involve the following steps:

- (i) individual consultations with the affected persons before, during and after the census and socio-economic survey, and public and individual notification of affected persons about cut-off date;
- (ii) public consultation meetings with all affected person to disclose the draft LARP, explain eligibility and entitlements, compensation valuations, rehabilitation measures, grievance procedures and monitoring, and to discuss changes and other concerns of the affected persons and other stakeholders;
- (iii) continued individual consultations during negotiation and conclusion of agreements with the affected persons and follow-up consultations to address individual concerns;
- (iv) public consultation meeting with all affected persons to disclose approved LARP and to announce the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements; and
- (v) additional individual and public consultation meetings will be held throughout the detailed planning/design and implementation of the LARP as required by any issues arising; Attendance lists of all public consultations will be kept, summarized and provided upon request.

41. The LARP for Tranche 1 and this LARF for the following tranches shall be available to the public in Mongolian language, including in the offices of MUB, PIU, and local Khoroos in Ulaanbaatar. The LAR information pamphlets in Mongolian language will be distributed to all affected persons before the approval of the Investment Program and before approval of each subsequent tranches. Information and consultation will be carried out through individual meetings, community meetings and focus group discussions about resettlement safeguards and allowances, measurement of losses, detailed asset valuations, entitlements and special provisions, grievance procedures, timing of payments and displacement schedule and etc. During disclosure of the draft and final LARP, their rights and entitlements, shall be fully explained to the affected persons. The date, location, number of participants and matter discussed will be documented in each LARP. Final LARP for each tranche will be presented to the affected persons, endorsed by MUB and submitted to ADB for review and approval, and published on the websites of ADB, MRTUD, and MUB.

## V. COMPENSATION, RELOCATION AND INCOME RESTORATION

42. The affected persons will be provided with adequate and appropriate replacement land and structures where feasible or cash compensation at full replacement value for lost land and assets, adequate compensation for partially damaged structures, and relocation assistance according to the entitlement matrix. Preference will be given to land-based resettlement strategies, as feasible, for affected persons whose livelihoods are land-based. The strategies may include resettlement on public land, or on private land purchased for resettlement. Whenever replacement land is offered, affected persons are provided with land for which a combination of productive potential, location advantages, and other factors at least are equivalent to the advantages of the land taken.

43. MUB will provide the affected persons with relocation assistance, registration and secured tenure to new land plots (for eligible affected persons<sup>22</sup>), equal or better housing at resettlement sites, and civic infrastructure and community services as required. As feasible, affected persons will remain in near locality to their current land, so that they retain their social network. The affected persons will be actively involved in the planning and consideration of potential alternatives for relocation. This can be facilitated through public consultation process and focus group discussions with the affected communities.

44. In case of impact, the community structures and public utilities will be fully replaced or rehabilitated within 3–6 months so as to satisfy their pre-project functions. Additional safety measures will be put in place for community infrastructures for elderly, disabled and children. If the facilities such as water channels, telephone cables and so on will be impacted, the project will ensure that these facilities rehabilitated to previous standards as soon as possible. Prior to disruption, temporary lines will be provided to ensure no loss of services.

45. Improvements of the intersections in the center of Ulaanbaatar and the existing roads under the Investment Program will have more linear impact along the roads and likely impact more the affected persons/entities using the land along the road for commercial activities. The businesses and affected persons will experience loss of income and livelihood due to LAR impacts. MUB will compensate for the loss of income or livelihoods at full replacement cost. The affected persons are eligible for assistance in reestablishing commercial activities in new sites and be compensated for net income lost during the transition period, and the cost of transferring and reinstalling business equipment. Additional measures shall be taken for restoration of income and livelihood of those affected, so that they can improve, or at least restore their income-earning capacity, production level and standards of living to pre-displacement level.

46. Affected persons, whose livelihood is impacted by the projects of Investment Program, will get preference in jobs associated with the subprojects' construction and implementation. The proposed BRT system can provide employment opportunities to some of the affected persons or their household members based on their professional and educational background. Those who are unskilled, if desired will be employed in civil works as feasible. Employment of the affected persons and/or their household members in some other establishments will also be pursued by PIU.

47. PIU will provide the affected persons with capacity building and skill development trainings. Based on the information collected from the detailed census and the socio-economic

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<sup>22</sup> Non-titled persons with recognizable claims will be fully compensated for all losses including land, while non-titled persons without such claims will be compensated at least for all non-land assets and eligible assistance.

surveys, the assessment of demanded skills in the local labor market and the training needs of the affected persons conducted by PIU directly or through the service of consultant, the restoration strategies will be framed and activities planned, including producing a list of possible income restoration options and required skills-sets. Based on these findings, PIU will arrange skills development training (e.g., house painting, carpentry, plumbing, food catering, hair-dressing, electricians, and etc.) for the affected persons and/or their household members and pursue employment opportunities for the affected persons. The costs of needs assessment and training of those affected shall be carried by project and included in the resettlement plan costs.

48. Additional assistance will be provided to vulnerable groups. In case of full loss of livelihood source, vulnerable households will be provided additional cash assistance up to a maximum of 6 months at guaranteed lowest living level and assistance in reconstitution of business and/or will be given priority in project-related jobs (e.g., construction, replanting the lost trees/planting new trees along the roads, restoring fences, water lines and drainages, or employment of their household members in BRT system according to their professional and educational background, and other project derived work, as applicable). Vulnerable households and their needs will be identified during the detail census and specified in LARP. The resettlement specialist with support of PIU will prepare the list of vulnerable persons. Subsequent consultations and measures for reestablishment and enhancement of their livelihoods shall be taken to safeguard against impoverishment and to reduce their vulnerability.

49. MUB will ensure that no physical displacement or economic displacement will occur until compensation at full replacement cost and other entitlements have been paid to each affected person (for project components or sections that are ready to be constructed) and a comprehensive income and livelihood rehabilitation program, supported by an adequate budget, is in place to help the affected persons to improve, or at least restore, their incomes and livelihoods.

## VI. GRIEVANCE REDRESS MECHANISM (GRM)

50. MUB will set up a GRM to support the affected persons on problems arising from land acquisition and associated impacts, provide means by which the various conflicting stakeholders may be consulted and negotiated agreement reached, paying particular attention to the impacts on vulnerable groups. Affected persons will be informed and consulted about the detail process of the GRM during the public and individual consultations, interviews and through the disseminations of pamphlets on LARP and LAR tasks.

51. According to the current local procedures, the Land Law (Article 60, 'Settlement of Land Related Disputes') refers to the disputes over land issues. The article states that these issues shall be settled by the Khoroo Governor of the administrative units, and if not solved, the dispute shall be settled by an authority of higher level, or in the court. In addition, residents may also go directly to the District Land Officer. However, to facilitate the direct and immediate handling of grievance issues, PIU as implementer will be the initial recipient of the grievances for this IP.

52. MUB will form a Resettlement Plan Implementation Committee (RPIC), comprised of the key government offices in the grievance redress process, including the Deputy Governor of MUB, the Governors of respective Districts and Khoros and the representatives of affected persons and other stakeholders. More details about the RPIC are given in Section VII on Institutional Arrangements, in this LARF. The grievance redress process and steps are given below and displayed in Chart 1. Alternatively, the affected person can file a case in court of law of Mongolia at any stage during the grievance review process.

### 6.1. Grievance Redress Steps

**Step 1:** To facilitate the direct and immediate handling of grievance issues, PIU as implementer will be the initial recipient of the grievance, establish complaint registry system and maintain records of all grievances and status of resolution. It will resolve minor issues directly or with assistance local Khoroo. The PIU shall address the grievance within one week, inform the affected person and initiate actions. In case of unresolved/or major issues, they will be presented to RPIC for deliberation and appropriate action.

**Step 2:** RPIC, composed of MUB and other concerned offices, shall resolve the grievance within one month. The elected representatives of the affected person elected by majority of affected persons will be involved and given opportunity to mediate in his/her favour. The RPIC address the grievance and informs the affected person. Through the assistance of District Governor, RPIC proposes its resolution to the Citizens Representative Hural for approval and actions. If the affected persons are still dissatisfied by the decision of the RPIC they can file their case with the court of law.

53. APs can also submit complaints to ADB which will be handled by the Project Team. If an AP is still not satisfied and believes they have been harmed due to non-compliance with ADB policy, they may submit a complaint to ADB's Office of Special Project Facility or Office of Compliance Review in accordance with ADB's Accountability Mechanism.<sup>23</sup>

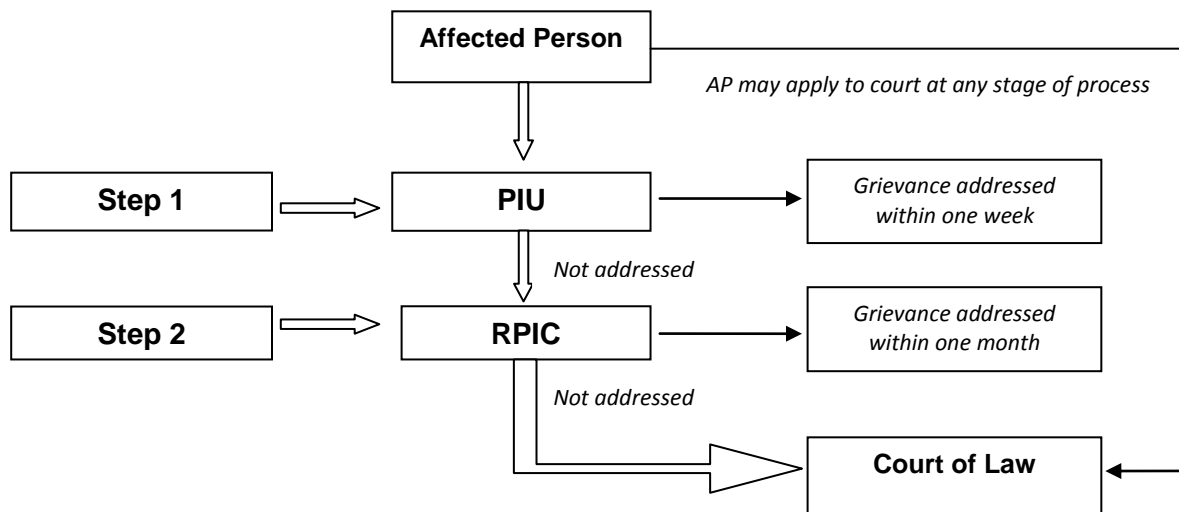
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<sup>23</sup> Before submitting a complaint to the Accountability Mechanism, affected people should make a good faith effort to solve their problems by working with the concerned ADB operations department. Only after doing that, and if they are still dissatisfied, should they approach the Accountability Mechanism. For further information see: <http://www.adb.org/Accountability-Mechanism/default.asp>.



54. A Grievance Action Form (GAF) will be used to cover the various aspects of LAR in the grievance redress process. The GAF shall at minimum contain basic information about the affected person (name, address, contact number), unless the case is confidential, the category of grievance filed (legal, technical/engineering, social, financial, etc.) detailed description of the grievance and type of decision and action in the given level or reference to a review of higher authority (sample in Annex 3).

**Chart 1. Chart of Grievance Redress Steps**



## **VII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION**

52. MUB is the executing agency of the Investment Program and the Department of Road (DOR) is the implementing agency. MUB establishes the PIU which will be responsible for the overall management, supervision and progress monitoring of the investment program including the LARP preparation, finalization and implementation. PIU will be staffed by full time specialist to handle all issues related to LAR. Besides, the concerned governmental departments will play an instrumental role in implementation of the projects of Investment Program and LARPs. The Ulaanbaatar LAD is responsible for allocation and registration of new land plots, any changes in the existing land parcels and estimation of replacement market value for taken land. The Ulaanbaatar PRA is responsible for registration of property rights and independent evaluation of all affected assets based on the current market value.

### **7.1. Formation of Resettlement Plan Implementation Committee**

53. The RPIC formed by MUB will consists of the key government offices in the grievance redress process, including the Deputy Governor of MUB, the Governors of respective Districts and Khoros and other government departments, such as LAD and PRA, PIU staff and resettlement specialists, the representatives of the affected persons/households, women affected persons and local NGOs, if available. RPIC shall be formed prior to commencement of detail design and shall be operational during conducting the final detail measurement survey and census of affected persons, so it shall be accessible for any disputes and concerns of affected persons raised during the inventory of losses and detail measurement survey. The RPIC will be assisted by resettlement specialist of PIU for coordination of complaints, keeping track and reporting of their status to PIU/MUB until the resettlement of affected persons is completed.

54. The PRIC will ensure that key government institutions including local governments are involved and their coordination is ensured in carrying out the LAR tasks (Chart 2). Close coordination and commitment between all stakeholders will be facilitated by the participation of the following members in the RPIC:

- (i) Municipal Government of Ulaanbaatar, Deputy (Chairman)
- (ii) Governors of Khoroo (Vice Chairman for respective Khoroo)
- (iii) Resettlement Specialist of PIU (Member, Secretary)
- (iv) Representative from the DOR (Member)
- (v) Representative from the Property Relations Agency of Ulaanbaatar (Member)
- (vi) Representative from the Land Administration Department of Ulaanbaatar (Member)
- (vii) Elected representatives of the affected persons (Member)
- (viii) Representative from a CBO or NGO (Member), if available.



## VIII. BUDGET AND FINANCING

56. LARP for each tranche under the Investment Program will contain a detailed budget section with a table of costs for all compensation and other entitlement expenses as well as administration costs and other related expenses, plus 10% for contingencies. Unit rates for each cost item and the methodology for their calculation must be indicated. The budget may be revised if needed based on LAR process and changes in market prices for replacement value of occurred losses.

57. Finances for implementation of LARPs will be provided by MUB through the DOR from the government funds. MUB and DOR are responsible for timely allocation of funds needed to implement LARP for each tranche. Allocation will be reviewed semi-annually based on the budget requirements indicated in the LARPs.

58. The PIU will work with the MUB, Ulaanbaatar LAD and Ulaanbaatar PRA, and other state agencies to manage the process of formal contractual agreements with the affected persons and disbursement of compensations. After having concluded contractual agreements about the transfer of the affected assets from the affected persons to the government, the Ulaanbaatar LAD will consolidate all financial commitments of the contracts and refer these to the MUB. The MUB will initiate the transfer of funds to the PIU. The PIU with the assistance from resettlement specialist (or NGO if applicable) will be responsible for delivery of entitlements to the affected persons. Payment of at least 50%<sup>24</sup> of compensation will be made at the time of signing agreement or within 1 month of the time of conclusion of contractual agreements about the transfer of affected assets from the affected persons to the government. The remaining payment will be paid at the time of vacating the affected land and/or assets. In case of a dispute, the agreed amount of compensation will be pledged in the name of the concerned AP, pending a resolution through the grievance mechanism or decision by the court. Disbursement of compensations and entitlements will be carried out in the Khoroo Governors' offices. No land will be acquired by the government or handed over to the PIU for commencing construction works without full payment of due compensation to the affected person.

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<sup>24</sup> In exceptional cases can be up to 75 % or more based on approval of RPIC in the case of alteration or construction of houses and other structures, when the first payment of compensation proves insufficient, to ensure timely completion of alterations or construction.

## **IX. IMPLEMENTATION PROCESS AND SCHEDULE**

59. The time for implementation of LARP will be scheduled as per LAR procedures and integrated with the subproject civil works implementation schedules (i.e., LAR needs to be factored into project schedule and formulation). Key milestones should be established to ensure LAR is completed on time and does not delay civil works. All activities related to the land acquisition and resettlement must be planned to ensure that compensation is paid prior to displacement and commencement of civil works. Public consultation, internal monitoring and grievance redress will be undertaken throughout the project duration. After negotiations are finalized, the affected persons will have to be given three-month notice to vacate their property. In winter period affected persons cannot be relocated and civil works cannot commence. Sample LARP implementation schedule is given in Annex 4.

## **X. MONITORING AND REPORTING**

60. LAR tasks under the investment program will have both internal and external monitoring and evaluation (M&E). The purpose of M&E is to provide feedback to all stakeholders on progress made in view of timely and comprehensive implementation of the LARP and to identify problems as early as possible to facilitate well-timed adjustment of implementation arrangements. The objectives are (i) to ensure that the standard of living of affected persons are restored or improved, (ii) to ascertain whether activities are progressing as per schedule and that timelines are being met, (iii) to assess if compensation and rehabilitation measures are sufficient, and (iv) to identify problems or potential problems and respond immediately to mitigate problems. Each LARP will include detailed procedures and indicators for internal and external monitoring and evaluation.

### **10.1. Internal Monitoring**

61. Internal monitoring will be carried out routinely by PIU either directly or through the services of resettlement consultant. The results will be communicated to ADB through the quarterly project implementation reports<sup>25</sup>. The objectives of internal monitoring and supervision will be to ensure: (i) proper execution of responsibilities of key stakeholders<sup>26</sup>; (ii) protection of the rights of affected persons under Mongolian laws, ADB Safeguard Policy Statement, LARF and LARP; (iii) adequate and prompt payment of compensation; and (iv) effective grievance redress. Specific monitoring indicators will include

- (i) information campaign and consultation with affected persons;
- (ii) status of land acquisition and payments of compensations for land, affected structures and assets and other entitlements as per entitlement matrix;
- (iii) selection and distribution of replacement land plots or shop space (if any);
- (iv) timely and effective grievance redress;
- (v) implementation of livelihood restoration activities and monitoring its impact on the economic status of the affected persons; and
- (vi) monitoring of relocation and resettlement activities.

62. The above information will be collected by PIU, which is responsible for monitoring the day-to-day resettlement activities of the project including through the following instruments: (i) verification of census information for all affected persons; (ii) consultation and informal interviews with affected persons; (iii) investigate impacts to vulnerable groups, particular issues or lengthy grievances; (iv) key informant interviews; and (v) community public meetings. The PIU is responsible for managing LAR implementation and taking actions to handle the day-to-day issues. At the end of each tranche, the PIU will prepare a LARP completion report and submit to ADB.

### **10.2. External Monitoring**

63. The main objective of external monitoring and evaluation is independent concurrent and ex-post evaluation of LAR in the Project as a whole to (i) assess the effectiveness, impact, and sustainability of LAR measures; (ii) determine whether safeguard compliance is being met; (iii) assess the status of project affected vulnerable groups such as female-headed households,

<sup>25</sup> As and when necessary to report significant progress, implementation issues, or status of earlier identified problems.

<sup>26</sup> MUB, Aimag Governments, DOR, LAD, PRa, Citizens Representative Khural of Ulaanbaatar or Aimags as well as of Districts and Soums, District/Soum Governor, Khoroo/Bagh Governor, RPIC, PIU, CBO and NGO, AP representatives.

disabled/elderly, and families below the poverty line; (iv) recommend actions to improve or rectify LAR implementation; and (v) learn strategic lessons for future policy formulation and planning. The PIU is responsible for engaging an independent and qualified external monitor to investigate and assess LARP implementation in each subproject of each tranche. External monitoring will be carried out semi-annually during the implementation of LARP and its results will be reported to the MUB and ADB in semi-annual reports at the end of each input. The external monitoring process will include the following:

- (i) review and verification of the internal monitoring reports of PIU;
- (ii) conduct of the socio-economic baseline and tracer surveys<sup>27</sup>;
- (iii) identification and selection of impact indicators;
- (iv) impact assessment through quantitative and qualitative surveys, assessment of relocation and rehabilitation measures, income and livelihood restoration and improved living conditions ;
- (v) consultation with local stakeholders, officials, community leaders;
- (vi) assessment of compliance with local laws, ADB's Safeguard Policy Statement, agreed LARF and the LARP;
- (vii) conduct vulnerable groups assessment;
- (viii) recommendation of LAR process modification and adaptation measures;
- (ix) all data collection and analysis will be gender disaggregated; and
- (x) assessment of the resettlement efficiency, effectiveness, impact and sustainability, and drawing lessons for future resettlement policy formulation and planning;

69. Among the key indicators will be the following:

- (i) socioeconomic conditions of the affected persons in the post-resettlement period; assessments of vulnerable groups;
- (ii) communications and reactions from the affected persons on entitlements, compensation, options, alternative developments, and relocation timetables etc.;
- (iii) changes in housing conditions and income levels;
- (iv) assistance to vulnerable groups;
- (v) rehabilitation of informal settlers;
- (vi) valuation of property;
- (vii) grievance procedures effectiveness;
- (viii) disbursement of compensation; and
- (ix) level of satisfaction of the affected persons in the post resettlement period.

70. The External Monitor (Monitor) will carry out a post-implementation evaluation(s) of the LARP about a year after completion of its implementation. The compelling reason for this study is to ascertain if the objectives of the LARP have been attained or not. In case of a short-fall, the external monitor will recommend remedial measures. The baseline of socioeconomic survey of severely affected persons conducted by the Monitor will be used to compare the pre- and post-project conditions. The Monitor will recommend appropriate supplemental assistance for the affected persons should the outcome of the study show that the objectives of the LARP have not been attained. In such cases, a further round of monitoring and evaluation will be required to assure the actions were effective and to verify that LAR implementation has been completed successfully with no remaining problems.

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<sup>27</sup> The monitor should conduct further baseline investigations prior to commencement of resettlement; they may also utilize socio-economic survey data collected during LARP preparation.

### Annex 1. Photos from Ikh-Toiru Road Corridor



BRT Road in Ikh Toiru, starts in the western section with two-lane roads each side and wide Greenbelt in between. The Green Line narrows down and road width increases to four lanes each side in the eastern section.



## **Annex 2. Outline of Land Acquisition and Resettlement Plan**

1. A LARP is required for all subprojects involving land acquisition and resettlement impacts. Its level of detail and comprehensiveness will be commensurate with the significance of potential resettlement impacts and risks.

### **A. Executive Summary**

2. This section provides a concise statement of project scope, key survey findings, entitlements, and recommended actions.

- (i) Project Scope
- (ii) Key Survey Findings
- (iii) Entitlements
- (iv) Recommended Actions

### **B. Project Description**

3. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

- (i) General Description
- (ii) Project Components
- (iii) Project Area
- (iv) Alternatives Considered

### **C. Scope of Land Acquisition and Resettlement**

4. Discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities; describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project; summarizes the key effects in terms of assets acquired and affected persons; and provides details of any common property resources that will be acquired.

### **D. Socioeconomic Information and Profile**

5. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including: define, identify, and enumerate the people and communities to be affected; describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account; discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

### **E. Information Disclosure, Consultation, and Participation**

6. This section: identifies project stakeholders, especially primary stakeholders; describes the consultation and participation mechanisms to be used during the different stages of the

project cycle; describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders; summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan; confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

## **F. Grievance Redress Mechanisms**

7. This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

## **G. Legal Framework**

8. This section:

- (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed;
- (ii) describes the legal and policy commitments from the executing agency for all types of affected persons;
- (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods;
- (iv) set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided; and
- (v) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

## **H. Entitlements, Assistance and Benefits**

9. This section:

- (i) defines affected persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
- (ii) specifies all assistance to vulnerable groups, including women, and other special groups; and
- (iii) outlines opportunities for affected persons to derive appropriate development benefits from the project.

## **I. Relocation of Housing and Settlements**

10. This section:

- (i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);

- (ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure and transfer leases to resettled persons;
- (v) outlines measures to assist affected persons with their transfer and establishment at new sites; and
- (vi) describes plans to provide civic infrastructure; and (vii) explains how integration with host populations will be carried out.

## **J. Income Restoration and Rehabilitation**

11. This section:

- (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (iii) outlines measures to provide social safety net through social insurance and/or project special funds;
- (iv) describes special measures to support vulnerable groups;
- (v) explains gender considerations; and describes training programs.

## **K. Resettlement Budget and Financing Plan**

12. This section:

- (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation;
- (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items);
- (iii) includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs; and
- (iv) includes information about the source of funding for the resettlement plan budget.

## **L. Institutional Arrangements**

13. This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
- (iv) describes how women's groups will be involved in resettlement planning and management,

**M. Implementation Schedule**

14. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

**N. Monitoring and Reporting**

15. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

### Annex 3. Sample Grievance Action Form (GAF)

The Project welcomes complaints, suggestions, queries and comments regarding project implementation. We encourage persons with grievance to provide their name and contact information to enable us to get in touch with you for clarification and feedback.

Should you choose to include your personal details but want that information to remain confidential, please inform us by checking box on CONFIDENTIALITY given below. Thank you.

☐ Request for Confidentiality

#### CATEGORY OF GRIEVANCE

☐ Legal    ☐ Administrative    ☐ Social    ☐ Financial    ☐ Technical    ☐ Environment    ☐ Other

Date	Place of registration	Project site:
Name (if not confidential)		
Home address		
District/Khoroo		
Phone number/email:		
Description of grievance/comment or suggestion:		
If includes attachment/note/letter, please tick here: <input type="checkbox"/>		

#### FOR OFFICIAL USE ONLY<sup>28</sup>

Registered by: (Name and signature of officer registering grievance)
Mode of communication: Note/Letter E-mail Verbal/Telephonic
Reviewed by: (Names/Positions of Official(s) reviewing grievance)
Action Taken:
Whether Action Taken Disclosed: <input type="checkbox"/> Yes <input type="checkbox"/> No
Means of Disclosure:

<sup>28</sup> This form will be given in local language.



Resettlement and relocation/disposition of assets												X									
Commencement of civil works												X	X	X	X	X	X	X	X	X	X
Ongoing consultations				X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Income restoration												X	X	X	X	X	X	X	X	X	X
Internal monitoring											X	X	X	X	X	X	X	X	X	X	X
External monitoring/evaluation											X			X			X			X	