

Social Monitoring Report

Semestral Report #6
September 2021

Mongolia: Ulaanbaatar Urban Services and Ger Areas Development Investment Program (Tranche 3)

Prepared by Urban Future Planning Consultancy LLC (external land acquisition and resettlement monitoring firm) for Mongolia and the Asian Development Bank.

CURRENCY EQUIVALENTS

(as of 15 September 2021)

Currency unit	–	togrog (MNT)
MNT1.00	=	\$0.00035
\$1.00	=	MNT2,853.55

ABBREVIATIONS

ADB	Asian Development Bank
AH	affected household
AP	affected person
BIC	business incubator center
BZD	Bayanzurkh District
CHD	Chingeltei District
DLD	District Land Department
DDR	due diligence report
EMET	external monitoring and evaluation team
GADIP	Ulaanbaatar Urban Services and Ger Areas Development Investment Program
GOM	Government of Mongolia
GRM	grievance redress mechanism
KhUD	Khan-Uul District
LAR	land acquisition and resettlement
LARF	land acquisition and resettlement framework
LARP	land acquisition and resettlement plan
LMA	Land Management Authority
MUB	Municipality of Ulaanbaatar
PMO	project management office
RWG	Resettlement Working Group
OSPF	Office of the Special Project Facilitator
SBD	Sukhbaatar District
SKhD	Songinokhairkhan District
SPS	Safeguard Policy Statement of ADB (2009)

NOTE

In this report, "\$" refers to United States dollars.

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EXECUTIVE SUMMARY

1. Land acquisition and resettlement for infrastructure facilities and urban development works within subcenter under the Tranche 1, Tranche 2 and Tranche 3 of the Ulaanbaatar Urban Services and Ger Areas Development Investment Program (Program), are being implemented in line with the provisions of the “Land Acquisition and Resettlement Plan” (LARP), which was approved basing on the “Land Acquisition and Resettlement Framework” (LARF), that was initially formulated and approved in 2013, and updated in November 2016. At the present, two effective resettlement documents are implemented under Tranche 3.
2. As of 30 June 2021, total of 4,141 m² land from two plots in Tolgoit and Sharkhad subcenters under Tranche 3 have been acquired (refer to Chapter 1, para 3). “Urban Future Planning Consultancy” LLC is carrying out an external monitoring and evaluation to provide an independent verification whether the land acquisition and resettlement carried out under the Program has been implemented in accordance with the approved LARP (2020).
3. This report presents the findings and conclusions of the external monitoring undertaken on the land acquisition implemented by the PMO between 1 January and 30 June 2021. This is the 6th external monitoring carried out in the course of the project implementation for the purposes of (i) assessing the effectiveness, impact and sustainability of land acquisition and resettlement activities; (ii) determining whether ADB Safeguard policy compliance has been met; and (iii) learning strategic lessons for future policy formulation and planning related to land acquisition and resettlement (LAR).
4. This report was developed on the analysis of qualitative information gathered through individual interviews with two affected entities, interviews with the Project Management Office (PMO) Safeguards team, Capacity Building for Sustainable Livelihood Support in Ger Areas Program team, Resettlement Working Group members and Land Management Agency of Ulaanbaatar (LMA) specialists and desk study of other secondary sources of information.
5. This report VI provides assessment of whether the land acquisition and resettlement carried out during the reporting period had been implemented in accordance with the approved LARPs; whether the measures stipulated in the LARP have complied with the ADB’s Safeguard policy statements on the involuntary resettlement; whether the objectives of mitigating potential negative impacts on the affected persons have been met, and whether livelihood and living standards have been restored at least to pre-project level or enhanced, including those of non-titled displaced persons; and recommends the remedial actions when necessary.
6. This external resettlement monitoring report VI includes a main report and annexes including a summary of the LARP status by each LARP and DDRs, quantitative and qualitative data and information gathered, list of APs and the relevant authorities and executive staffes met, and other relevant information and documents as stipulated in the terms of reference for an external monitoring and evaluation.
7. Business activities of two entities affected by the land acquisition and resettlement activities implemented in accordance with the LARP, have not been adversely affected and their activities are being pursued normally.
8. Based on the lessons learned from land acquisition activities stipulated in the previous external monitoring reports, land acquisition measures implemented during this reporting period, and the best practices of other ADB member countries and international projects and programs; some land acquisition measures that can be implemented in the future have been recommended in the Chapter 5 on Conclusion and Recommendations.

CHAPTER 1. EXTERNAL MONITORING OF THE LAR IMPLEMENTATION

1. **Introduction.** The Ulaanbaatar Urban Services and Ger Areas Development Investment Program (hereinafter referred to as the Program) aims at developing the sustainable and inclusive urban development process, enhancing the quality and access of engineering infrastructure and basic services required for *ger* areas located in the middle area of the Ulaanbaatar City. Approximately, 400, 000 citizens, living in these areas will directly benefit and the overall population of Ulaanbaatar city will indirectly benefit from this Program. Combining spatial and sector approaches, the Program will transform the current *ger* areas into livable, competitive, and inclusive subcenters, and support the socio-economic development of the subcenters and corridors. The Program will be implemented in three tranches or projects for a period of 10 years to 31 December 2023.

2. The land acquisition and resettlement for the subcenter development activities under the Tranche 1 of the Program is being implemented in accordance with the “Land Acquisition and Resettlement Plans (LARPs), which have been developed within the “Land Acquisition and Resettlement Framework” (LARF), that was initially formulated and approved in 2013, and updated after completion of the detailed engineering designs between 2016 and 2019.

3. The land acquisition and resettlement for the subcenters development activities under the Tranche 2 and Tranche 3 of the Program is starting to be implemented in accordance with the “Land Acquisition and Resettlement Plan (LARP), which has been developed in compliance with the “Land Acquisition and Resettlement Framework” (LARF), that was approved in March 2020. As of 30 June 2021, LARP for Tranche 3 has not been updated due to the uncertainty of some of the activities to be carried out under the project and the incomplete technical design of some of the components.

4. Urban Future Planning Consultancy” LLC (the Company) has been selected through competitive bidding as a consultant firm to carry out an external monitoring and evaluation for reviewing whether the land acquisition and resettlement carried out under the Program has been implemented in accordance with the approved “Land Acquisition and Resettlement Plan” (LARP); whether the measures stipulated in the plan have been fully implemented; whether the objectives of mitigating potential negative impacts on the affected persons (APs) have been met, and whether livelihood and living standards have been restored at least to pre- project level or enhanced, including those of non-titled displaced persons.

5. **Objectives of external monitoring and evaluation.** Urban Future Planning Consultancy LLC has concluded a contract with the Municipality of Ulaanbaatar (MUB) on 5 May 2021 to conduct the external monitoring and evaluation of LAR activities carried out in three tranches of the Program for the period of May 2021 and June 2024. As set forth in the Terms of Reference for consultancy service (TOR), the monitoring process covers the following tasks: (i) review and verification of the internal monitoring reports of the Project Management Office (PMO); (ii) identification and selection of impact indicators; (iii) impact assessment through quantitative and qualitative surveys; (iv) consultation with local stakeholders; (v) assessment of compliance with local laws, the ADB Safeguard Policy Statement (SPS), Resettlement Framework and the Land Acquisition and Resettlement Plans; (vi) recommendation of land acquisition process modification and adaptation measures; (vi) lessons learned for future land acquisition and resettlement policy formulation and planning. (See Appendix 1)

6. The company has recruited the experienced consultants as required in the TOR and formed a core and support teams to carry out the consultancy service; the core team consists of a team leader-resettlement specialist, two social development specialists, the support team consists of 5 members that includes 4 interviewers and data analyst. This External Monitoring and Evaluation Team (EMET) has been working closely with the Safeguard Team, PMO and the affected persons (APs) by land acquisition and resettlement in three tranches of the Program.

7. Key research methodologies employed for monitoring include, but not limited to, (i) desk review of LARPs, internal monitoring and other reports; (ii) field visits to subproject sites to observe vacated land plots and construction works; (iii) household survey using a structured interview questionnaire; (iv) focus group discussions with the affected persons, who partially or fully affected, moved within or outside the ger areas or those who are in temporary housing; (v) key informant interviews with stakeholders such as officials in relevant agencies at Municipality of Ulaanbaatar (MUB), officials at khoroo and district Governor's Office, and PMO staff. Separate meetings have been held with representatives of women and vulnerable households. Qualitative and quantitative data analysis has been presented, and research findings have been disaggregated by gender and vulnerability, when applicable. The key indicators are used for monitoring and evaluation as follows:

- Economic status of affected households (AH), including employment, income and household assets. This assessment to be done against the pre-project baseline information.
- Status of vulnerable persons, in terms of food security, household demographics, livelihoods and health. This assessment to be done against the pre-project baseline information.
- Impact of land acquisition on women, children, elderly, the poor and other vulnerable groups. This assessment to be done against the pre-project baseline information.
- Degree of support the AHs received during relocation and in restoring income activities and livelihood restoration.
- Degree of support the vulnerable households received during relocation and in restoring income activities and livelihood restoration.
- Perceptions of affected households regarding the implementation of the land acquisition and resettlement process.
- Participation and involvement of affected households in LARP implementation.
- Effectiveness and fairness of valuation, compensation, assessment, and disbursement measures.
- Implementation and effectiveness of income restoration measures.
- Effectiveness and fairness of Grievance Redress Mechanisms (GRM).
- Level of satisfaction among affected entities in the post-resettlement period.
- Adequacy of LAR funds, their timely availability and results of financial audits.
- Level of satisfaction among the AHs in the post-resettlement phase and
- Performance of LARP implementing agencies (PMO, Land Management Agency (LMA), project consultants).

8. As outlined in the TOR, external monitoring required to be carried out for all household and entities affected by public facilities and as well as randomly selected households and entities affected by roads and infrastructures. Random sampling should be done at least on 20 per cent of all affected households and entities.

9. **Monitoring activities carried out during the reporting period.** Since its commencement of the consultancy service EMET has developed and submitted the 5th external monitoring and evaluation report of the Program (first for the EMET of Urban Future Planning Consultancy LLC) covering the period of July to December 2020. This is the 6th external semiannual monitoring undertaken on the land acquisition implemented by PMO between 1 January and 30 June 2021.

10. The following monitoring actions have been performed for the preparation of this report:

- Reviewed RF, LARP, eligibility and entitlements, compensation payments processes, and compliance with ADB Involuntary Resettlement Requirements,
- Reviewed all internal monitoring reports on land acquisition and LARP Progress reports for the period covered,
- Analyzed the lodged complaints and grievances by APs and assessed PMO grievance redress mechanism on registering and handling the complaints,

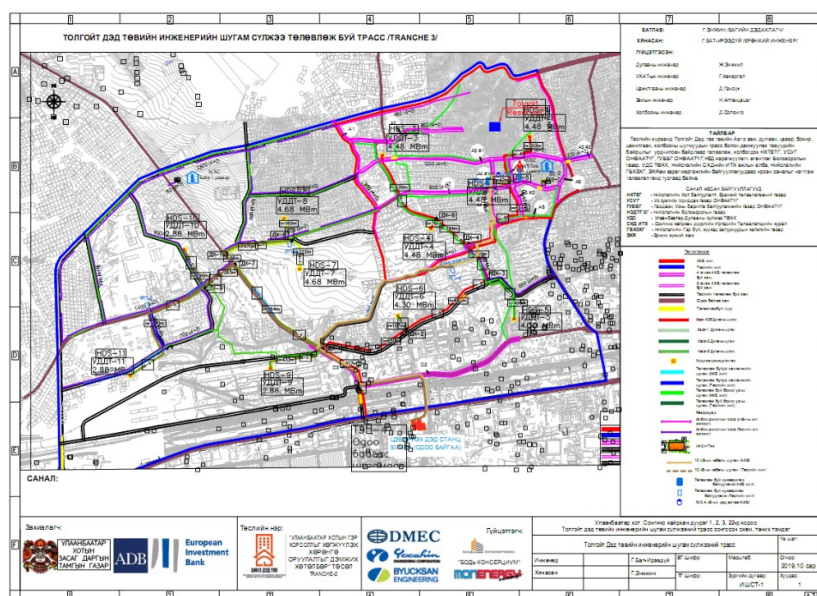
- Conducted interviews with three affected persons of Sharkhad (woman and man works in the affected entity) and Tolgoit subcenters (man works in the affected entity).
- Interviewed 12 key informants (four women), namely, valuation expert, resettlement consultants, PMO staff, officials from LMA at MUB, officials from District Governor's Office and Deputy Mayor of MUB,
- Provided training for all members of the EMET prior to field study; introduction on the Program, guidance on interviewing APs for household survey using the structured questionnaire, understanding of potential challenges face during a field work and ways to solve them,
- Undertaken field visits to the subproject sites in Tolgoit and Skarkhad subcenters.

11. This report presents the findings and conclusions of primary and secondary research as well as qualitative and quantitative data analysis. Primary information collection for external monitoring has been carried out between 10th of August and 1st of September 2021. Quantitative data has been collected from 1 AP affected by heating pipes subproject in Skarkhad subcenter.

CHAPTER 2. APPROVED LARPS FOR TRANCHE 3 AND ITS IMPLEMENTATION STATUS

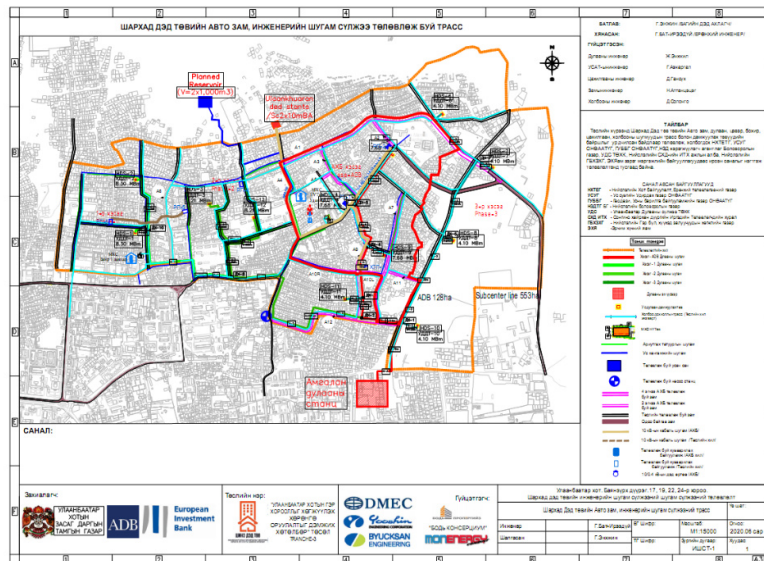
12. Resolution #125 of the Capital City Citizens' Representatives' Leading Members' Meeting issued on 31 July 2020 has redefined the location and size of the Tolgoit subcenter in the western part of Ulaanbaatar and Sharkhad subcenter in the eastern part in accordance with the City Master Plan. This includes: (i) partial plan of Tolgoit subcenter in Khoroo 1, 2, 3, 34, 35 of Songinokhairkhan district, 736.9 hectares of area; (ii) partial plan of Sharkhad subcenter in Khoroo 8, 9, 10, 17, 19 and 24 of Bayanzurkh district, 507 hectares of area¹. (Tranche 3 location map is shown below in Figure 1.)

Figure 1. Tranche 3 Location Map



Tolgoit subcenter

¹ The first half of 2021 report by the PMO .



Sharkhad subcenter

13. The LAR of the project started in August 2020. As of 30 June 2021, out of a total of 4 LARPs to be developed for land acquisition and resettlement for infrastructure and social facilities construction works under Tranche 3, the LARP has been approved, and the rest are in their early stages of development. Additionally, DDR for the construction of training center and electricity substation in Tolgoit has been developed and it is waiting for clearance by ADB. A total number of required LARPs and DDRs is listed below:

- (i) DDR for the construction of training center and electricity substation in Tolgoit subcenter;
- (ii) Tranche 3: Land Acquisition and Resettlement Plan (2020);
- (iii) Sharkhad-Tolgoit subcenter: LARP for sports complex, kindergarten, business incubator center and the community development center (socio-economic survey is being carried out);
- (iv) LARP for road, heating network and sewage system in Sharkhad subcenter (socio-economic survey is being carried out); and
- (v) LARP for road, heating network and sewage system in Tolgoit subcenter (socio-economic survey is being carried out).

14. **Implementation status of Tranche 3 Land Acquisition and Resettlement Plan**
Preliminary LARP for the land acquisition and resettlement for development works to be implemented under Tranche 3 has been approved by ADB in March 2020 and posted on the ADB's website. Pursuant to the LARP, is estimated to have a total of 1,350 affected persons from 846 land parcels, of which 1,324 affected households (5,170 persons) and 26 affected business entities, whose total of 297,740 m² land and 8,893 assets to be affected by land acquisition. The LARP indicates that a total of 168,301 m² land and 6,602 assets in the Sharkhad subcenter and a total of 129,439 m² land and 2,291 assets in the Tolgoit subcenter to be affected by LAR.

15. The following works are planned to be implemented in Tolgoit subcenter under Tranche 3: (i) 7.69 km roads, 17.26 km water supply pipes, 6.8 km sewage pipes, 14 km electricity lines, 1000 m³ water reservoir, 5.78 km heating supply network, 2.74 hectares of park, 2 bridges; (ii) social and economic facilities, including (a) kindergarten with a capacity of 240 children, (b) business incubator center, vocational training center, (c) community development center and (d) health care center.

16. The following works are planned to be carried out in Sharkhad subcenter under this Tranche: (i) 8.65 km road, 11 km water supply pipes, 3 km sewage pipes, 5.5 km communication lines, 23 km

electricity lines, 2.58 km heating supply network, reservoir, 2.65 hectares of park and flood protection dam; (ii) social and economic facilities, including (a) kindergarten with a capacity of 240 children, (b) community development center (c) information and communication center (d) sports complex and (f) training center.

17. **Tolgoit subcenter.** Within the scope of the Tolgoit subcenter project, 3,920 m² empty land out of total 13,202 m² land, which was possessed by one business entity has been acquired in December 2020 for building training center and the electricity substation; and the compensation has been paid. An acquired land for these facilities accounts for 29.7% of an entire land of this affected business entity. When acquiring 3,920m² land, which was possessed by one business entity for building training center and the electricity substation in Tolgoit subcenter; a total of MNT139,600,300 including the land compensation of MNT137,200,000 at the rate of MNT35,000 per 1m² and MNT2,400,000 for moving the fences has been paid. An empty part of the land, possessed by this business entity, has been partially affected by the project and it did not adversely affect the business operation. Thus the LARP has not been developed and Due Diligence Report has been developed in 2020 and it has been sent to the ADB for further clearance.

18. Location of the other construction works within the subcenter is unclear, and the development of design drawings has not been finalized yet, thus the land acquisition has not been carried out. Socio-economic surveys are being carried out and cut-off date has not been set yet.

19. **Sharkhad subcenter.** Trunk infrastructure construction and development works are being carried out in "Tsaiz eco district" located in 19th Khoroo of Bayanzurkh district within the subcenter. The construction of water and heating transmission station has been completed on the land possessed by the Tsaiz LLC, located in the 19th Khoroo territory of Bayanzurkh district within this subcenter, in order to supply water and heating to 20 households' apartment, which was built within the scope of "Tsaiz eco district" project, aimed at restructuring the land in the 17th Khoroo of the eastern zone.

20. During the reporting period, 221m² land of a total 16,492m² land owned by one business entity, one brick house with a guard unit on the roof were affected by the land acquisition and vacated for constructing the heating and water supply network in Sharkhad subcenter.

21. In addition, closed station with the capacity of 630kWt and electricity substation-6608 were constructed on the public vacant land located next to the "Tsaiz" wood market. These closed station with the capacity of 630kWt and electricity substation-6608 have been constructed in order to supply electricity to 20 households' apartment, which was built within the scope of "Tsaiz eco district" project, aimed at restructuring the land in the 17th Khoroo of the eastern zone.

22. Although above-mentioned two construction works are not listed as the construction works to be carried out under Tranche 3, the compensation was provided from the Tranche 3 funding source.

23. The location of the sports complex to be built in Sharkhad subcenter was determined and confirmed. The Mayor of the city issued the Ordinance #A/823 on 15th June 2020 ordering to allocate 5,491 m² land possessed by the Capital City's Education Department, for constructing the school with a capacity of 960 children. This land is empty public land without any settlements or buildings, thus there will be no impact of land acquisition. The design drawing has been completed 100%.The school will be built in the north side of the plot.

24. It is planned to build kindergarten with a capacity of 240 children and a community development center on the land acquired by the Municipality's Housing Corporation. The location has not been confirmed yet and the design drawing has not been done.

25. During the reporting period, locations of the training center and public park within the subcenter were not identified yet.

26. Land acquisition activities have not been carried out due to the design drawing development of other construction works in Sharkhad subcenter.

27. Development of other LAR documents to be prepared under Tranche 3 has not been completed.

Table 1: Summary of LAR impacts and affected land parcels

No	LARP/DDR		APs/AHs,affected entities			Affected land parcels			Assets	Of which buildings
			Total	AHs/APs	Business	Total	Full	Partial		
13	Tranche 3 Tolgoit Sharkhad LARP	LARP	1350	1324/5170	26	846	474	372	8893	664
		Actual				1				

Table 2: Size of the land affected by LAR, planned vs. Actual

No	LARP	Land size specified in LARP m ²	Actual acquired land m ²	Difference m ²
<i>Tranche 3</i>				
1	Tolgoit subcenter	297,740	3,920*	
2	Sharkhad subcenter		221	



*-Tolgoit subcenter 1 AP

CHAPTER 3. LAR ACTIVITIES IMPLEMENTED DURING THE REPORTING PERIOD

28. This chapter describes the monitoring and evaluation of the implementation of measures taken pursuant to the LARP, and LAR activities carried out under Tranche 3 within the reporting period of 1 January 2021 until 30 June 2021.

29. During the reporting period, no land was acquired except for 221m² land affected by construction of the heating and water supply network (see para 20 above) in Sharkhad subcenter. The affected land was possessed by Tsaiz LLC, the privately owned company is entitled to possess 16,492m² land for 15 years from 2020 to 2035. The company was partially affected; vacated the fraction of its possessed land (1.3% of a total land) and 100m² of brick building with a guard unit on the roof built on the affected land through a negotiated settlement. Photos are shown in Figure 2.

Figure 2. Photos of the site before and after LAR

Before land acquisition	After land acquisition
	
Affected building, 2020	Newly built Water and heating distribution station



30. **Affected people.** There are no households and persons, neither titled nor non-titled, were affected by land acquisition as the affected land was possessed by Tsaiz LLC, the business entity. The acquisition of land did not affect adversely; its operations had not been interrupted and no structural changes occurred in its operations as a consequence of land loss, thus no layoffs.

31. **Valuation and compensation of affected land and assets.** The property appraiser “Fine Estimate LLC” has conducted valuation of affected land and assets of the AP Tsaiz LLC and has submitted the Assets Valuation Report to PMO. LMA, GADIP PMO jointly organized a meeting with the AP on 20 September 2020 to discuss the Assets Valuation Report. Parties agreed that Tsaiz LLC to transfer its 221 m2 of the possessed land to the government free of charge, but in exchange of permitting connection of the Wood Market² to the water and heating distribution substation (see Minutes of the joint meeting in Appendix 6) and be paid off the compensation of MNT 114,893,535 for the affected building; and submit the relevant documents for review and issuance of the Mayor’s Ordinance. The land was required to be vacated immediately to begin the construction works. However, due to insufficient compensation budgets, the Ordinance for paying the compensation was not issued till 7th May 2021. Subsequently, on 11th May 2021, tripartite agreement was signed between LMA, GADIP PMO and the AP, and the compensation was transferred to the AP’s bank account on 16th June 2021.

32. It is considered as a negotiated settlement as the AP, private company has requested infrastructure network installation on its premises by waiving its entitlement to receive cash compensation for loss of titled land.

33. **Information dissemination and consultation with APs.** During the reporting period, the PMO did not organize any public consultation activities to provide information related to the project or meet with APs at the relevant locations within this subcenter. Contracting has been finalized in May 2021 based on the minutes of the joint meeting with the business entity, that was affected by the project’s heating network held on 2nd September 2020. Only CS02 consulting team organized 36 project introduction meetings and FGDs were organized for people 812 (454 women or 55.9%).

34. **Public Facebook group.** The project has the public Facebook page named “Гэр хорооллыг хөгжүүлэх хөрөнгө оруулалтыг дэмжих хөтөлбөр” and it has 30,037 followers, open to the public. The latest updates related to the project, events, videos and news are posted regularly.

35. **Income and livelihood restoration activities.** Within the scope of the Tolgoit subcenter project, 3,920m2 empty land out of total 13.202m2 land, which is possessed by one business entity

² Main business activity of Tsaiz LLC is to launch the Wood market for selling timber products.

has been acquired in December 2020 for building training center and the electricity substation; and the compensation has been paid. An empty part of the land, which is 29.7% of his total land has been partially affected by the project and it did not adversely affect the business operation and the AP's livelihood. Thus the implementation of income restoration and business support activities was not necessary. In Sharkhad subcenter, 221m² land of a total 16,492m² land owned by one business entity, one brick house with a guard unit on the roof were affected by the land acquisition and vacated for constructing the heating and water supply network. This house had open doors and no operation has been conducted in this house. Some rooms were locked and used for storing the building materials. Affected land, which is 1.34% of this business entity's total land has been partially affected by the project and it did not adversely affect the business operation and the AP's livelihood. Thus the implementation of income restoration and business support activities was not necessary.

36. **Grievance redress mechanism.** The Program Management Unit applies the "Procedures for resolving citizens' complaints to local administrative organizations and officials of the capital city" approved by the Mayor's Ordinance # A/1086 of 2013 when implementing the project level grievance redress mechanism. This is in full compliance with four-step grievance redress mechanism stipulated in the LARP, and majority of the complaints are resolved at the PMO level.

37. In some cases, comments, requests and complaints from APs and residents are directly submitted in writing to the Capital City Mayor's Office and those grievances are referred to the PMO through this system. Grievances that are submitted to the PMO by telephone are registered by the Social Welfare and Gender Specialist of the PMO Safeguards team and presented to the PMO coordinator for resolution. Grievances that cannot be resolved within the PMO are referred to the Municipality.

38. During the reporting period, PMO has not received any grievances related to the land acquisition and resettlement and other activities carried out under Tranche 3. The following concerns have been raised during the meeting conducted by the external monitoring and evaluation team:

- Government imposed and deducted 10% tax from the compensation, when it has been credited to the company's account, while the company supported the project, vacated its land free of charge agreeing to receive the compensation only for the assets. Compensation is not the business income, thus AP wanted the government to refund this 10% tax, that has been deducted. According to the LARP (2020) of Tranche 3, "All taxes, registration, transaction and transfer costs should be included in the negotiation agreement".
- AP requested the relevant people to provide recommendations and advice on how to record the compensation amount in the company's financial statements.

CHAPTER 4. COMPLIANCE WITH THE REQUIREMENTS OF THE ADB'S SAFEGUARD POLICY STATEMENTS

39. This chapter describes the evaluation on whether the land acquisition and resettlement activities pursuant to the LARP under the Program, have been compliant with the ADB's Safeguard Policy Statements. The Program classified as the category A program for land acquisition and resettlement. If the project requires to resettle 200 or more people, and they are losing 10% or more of their income-generating property, that project's land acquisition and resettlement is classified as category A.

40. **Institutional arrangement for LARP implementation.** A Resettlement Working Group mandated to supervise and organize the land acquisition and resettlement activities required for constructing buildings, road and engineering infrastructure in the subcenters developed under the Tranche 1 since the implementation of the Program has launched; ensure the implementation of the plan; address and resolve the issues of non-title holder households affected by the land acquisition, has been restructured 5 times. During the reporting period, the last RWG with 20 members, that was established by the Mayor's Ordinance #A/192 issued on 14 February 2020, was still operating. This

working group is responsible for managing the LAR of Tranche 1, Tranche 2, Tranche 3 or Selbe, Bayankhoshuu, Dambadarjaa, Denjiin 1000, Tolgoit and Sharkhad subcenters, ensuring the implementation of the plan, and resolving the land-related issues of non-title holder households affected by land acquisition.

41. Chair of the RWG is the First Deputy Governor of the Capital City in charge of Development Policy, and the secretary is the Coordinator of the Ulaanbaatar City's Ger Area Development Investment Program. The RWG consists of the Head of the Development Policy and Planning Division of the Capital City Governor's Office, Head of the Program Monitoring and Coordination Division, Head of the Capital City's Land Management Agency, Executive Director of the "Capital City's Housing Corporation" joint stock company (JSC), Head of the Capital City's Property Use and Management Department, Head of the Capital city's Housing Infrastructure Department, Head of the Capital City's Road Development Department, Head of the "Water Authority" state-owned enterprise, Governors of Songino Khaikhan, Sukhbaatar, Chingeltei and Bayanzurkh districts where the project will be implemented, Heads of the State Registration Departments, and a representative of APs from each district.

42. The RWG did not meet during the reporting period. The Capital City Governor's Advisory Council members also serve for a working group on LAR in accordance with their occupational title and responsibilities. Thus, some challenging issues on LAR are also decided at the Governor's Advisory Council meetings.

43. The PMO Safeguards Team is managing the implementation of the LAR. During the reporting period, the safeguards team consisted of two LAR specialists. One international consultant, one national consultant, four land acquisition and resettlement assistants of the LAR consultancy team provide support to the PMO's safeguards team to provide CS-02 project implementation support. Two assistants from the consultancy team work at the PMO to support the day-to-day operations of the LAR. The PMO's safeguards team and LAR specialists are fully equipped with necessary equipment and work places.

44. Affected persons informed that they have fully received information on LAR and do not have any complaints or concerns related to the valuation and compensation.

45. Public consultation and information dissemination activities, valuation of immovable properties during the implementation of the project were in compliance with the ADB's Safeguard Policy Statements.

46. **Valuation and compensation for loss.** Immovable property valuation has been carried out basing on the full replacement cost principle, without deducting the depreciation, which was in compliance with the ADB's Safeguard Policy Statements. Valuation of one immovable property affected by the project, has been calculated using Estimator Pro software. Valuation of the affected land has been carried out basing on the base price of the land and the market price of the land at that location. And the other immovable property affected by the project, has been valued at the sample rate of MNT255,000 per square meter without considering the depreciation; using pre-developed standard valuation, pursuant to the "Rules for Implementing the Standard Unit Capacity Assessment for the Buildings and Facilities" shown in the Appendix 3 of the Resolution #203 dated 28 December 2016 issued by the Minister of Construction and Urban Development; endorsed by the Minister of Finance. However, the imposition of a tax on the compensation of affected assets contradicts the safeguard policy. Affected persons should be provided with relevant information on how to record compensation in their financial statements, or all taxes and fees should be included into the compensation amount.

47. Affected person voluntarily offered to vacate 221m² land, which was affected by the project without compensation, thus the valuation of land has not been carried out. Joint meeting minutes between LMA, PMO and AP on 2nd September 2020 confirmed such agreement. (Annex 6)

48. Mayor's Ordinance A/352 on issuing the compensation has been issued on 7th May 2021, compensation contract has been signed on 11th May and the compensation was transferred on 16 June 2021. AP received the compensation 100% after vacating the land.

CHAPTER 5. SOCIO-ECONOMIC IMPACT OF LAR

49. ADB's involuntary resettlement safeguards aim to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups. LARP is a document that sets out the structure and approach to identify and implement the measures to achieve this goal. Previous chapters described the implementation of the LARP, and this chapter aims at analyzing whether the measures, implementation structure and mechanism specified in the LARP were able to achieve the goals of enhancing, or at least restoring the livelihoods of all displaced persons, based on the interviews with two business entities affected by the project's LAR. During the reporting period, the EME team contacted the management of one business entity affected by the Sharkhad subcenter project via phone and interviewed the accountant to gather qualitative information.

50. Since 2001, Tsaiz LLC has been operating in the private sector with the name of trade, manufacturing and construction materials market. "Tsaiz" company is located in the 19th Khoroo of Bayanzurkh district and operates as the central market for wood products in the eastern zone of the city. It used to be the central market for recycleable raw materials and livestock products in Mongolia, before 2001 and later became the central market for construction materials and timber products. Tsaiz LLC has 16 full-time employees. We provide jobs/work places to more than 200 people through leasing and creating an environment for them to pursue various trade and services. We collaborate with many organizations. For example, as the company's social responsibility, our company has allocated a specific site for Tavan Tolgoi Fuel Company to pack improved fuel on our land, which enabled them to have an integrated base site for packing improved fuels, which were supplied by the manufacturer and distributing to retail sales points. Market area is rented at the average market rate. Market rental rate for the wood market is MNT 3,000 per square meter, container rent for storing construction materials ranges between MNT 150,000-200,000. In addition, there are a total of 3 companies operating at the Tsaiz market in the areas of construction materials' trade, furniture and food industry. The price of commodities is at the market rate. For example, the price of construction materials is closer to the price of construction materials sold at the "100-Ail" market. The price of timber is similar at the both wood markets located in the west and east of the city. We highly focus on the occupational safety and health issues.

51. During the meeting, management and subject matter specialists of the company stated that the project did not adversely affect on the company's daily activities and its more than 200 tenants.

CHAPTER 6. CONCLUSION AND RECOMMENDATIONS

52. The land acquisition and resettlement for the subcenter development activities under the Tranche 3 of the Program is starting to be implemented in accordance with the "Land Acquisition and Resettlement Plan (LARP)", which has been developed in compliance with the "Land Acquisition and Resettlement Framework" (LARF), that was approved in March 2020.

53. The PMO Safeguards Team is managing the implementation of the LAR. During the reporting period, the safeguards team consisted of two LAR specialists. One international consultant, one national consultant, four land acquisition and resettlement assistants of the LAR consultancy team provide support to the PMO's safeguards team to provide CS-02 project implementation support. Two assistants from the consultancy team work at the PMO to support the day-to-day operations of the LAR. The PMO's safeguards team and LAR specialists are fully equipped with necessary equipment and work places.

54. Land acquisition activities carried out by the PMO during the reporting period, were fully compliant with the ADB's Safeguard Policy Statement requirements.

55. It is recommended for the program to present its information and raise awareness of the relevant taxation authorities on the issue of imposing and deducting income taxes on the compensation paid to the affected persons and business entities, that has been recorded as an income in its bookkeeping.

Recommendation:

According to the LARP (March 2020), all taxes, registration, transaction and transfer costs must be included in the negotiated agreement and settlement. Therefore, it is necessary to raise awareness of all independent appraisal companies about all LAR related documents, SPS of the ADB, in particular this requirement of including all relevant taxes and fees. Otherwise, it will trigger the income tax imposition on the compensation which will reduce an amount of compensation to the APs.

APPENDIX 1: TERMS OF REFERENCE FOR THE EXTERNAL MONITORING AND EVALUATION

External Land Acquisition and Resettlement Monitoring and Evaluation

Background

1. Ulaanbaatar city is home to more than 1.4 million people. The city's core largely comprises of apartment blocks served by comprehensive utility services, including district heating, piped water supply, and waste water collection and treatment. Surrounding the core is a vast and low-density peri-urban area (so-called *ger* areas) with poor infrastructure that accommodates about 60% of the city's population (about 840,000 inhabitants).³ *Ger* areas have spread and expanded through successive waves of migration.⁴ These low-and medium-income house hold settlements are characterized by loosely aligned plots, creating irregular path ways that remain unpaved.⁵ The majority of households have land tenure. A lack of basic urban services affects the *ger* area residents' health and living conditions through (i) severe air pollution generated by unimproved individual coal stoves used by the majority of residents during winter;⁶ (ii) poor sanitation from almost exclusive reliance on open pit latrines; (iii) poor solid waste collection; (iv) limited access to portable water (supplied by water kiosks);⁷ and (v) traffic congestion caused by unmanaged road network. Finally, *ger* areas have a critical lack of public space, public facilities, commercial areas, and economic opportunities.

2. **Investment program.** On 12 December 2013, the Asian Development Bank (ADB) approved the Ulaanbaatar Urban Services and Ger Areas Development Investment Program (GADIP) using the multitranche financing facility (MFF) modality. The program's framework financing agreement (FFA) was signed on 9 December 2013 and ratified by the Mongolian Parliament on 23 May 2014. The program supports the Ulaanbaatar city master plan in upgrading priority services and developing economic hubs (subcenters) in *ger* areas. The implementation period is 9 years (December 2013–December 2022) and comprises of three tranches. The program is geographically targeted with multisector interventions. Responding to the urgent demand for basic urban services and the ongoing densification, it proposes an integrated solution to initiate a redevelopment process in *ger* areas and develop urban subcenters as catalysts for growth. Improving infrastructure within the *ger* area subcenters is critical for the city's inclusive development. Better urban planning combined with infrastructure along priority roads will initiate the structural change of subcenters. This will (i) improve residents' access to basic urban services, public space, and socioeconomic facilities; (ii) support local economic development; (iii) allow residents and businesses to take advantage of urban economies; and (iv) provide better housing options. The changes in land use and urban density will improve efficiency and financial sustainability of water, sanitation, and heating services delivery. The first tranche is financing priority infrastructure, facilities, and capacity building to develop the Selbe and Bayankhoshuu subcenters. The second and third tranche will finance additional investments in subcenters under tranche 1, and extend investments in priority infrastructure, public facilities, and capacity building to develop Denjiin Myanga and Dambadarjaa subcenters (tranche 2), and Tolgoit and Sharkhad subcenters (tranche 3), respectively. For more information about the project, including information on poverty, social and gender dimensions, environment and resettlement, please refer to the ADB website: <https://www.adb.org/projects/45007-005/main#project-documents> and GADIP website: <http://www.ub-subcenter.mn/>.

³ Almost 56% of the *ger* area population lives in solid houses and 44% lives in traditional *gers*.

⁴ Since 2010, the estimated average population growth in *ger* areas was 25,000 inhabitants per year. This represents more than half of the city's 3.8% annual growth rate. If this trend continues, the population of the *ger* areas will grow by 250,000 over the next 10 years, fueled by both in-migration and natural growth.

⁵ The average household monthly income in *ger* areas is \$380.

⁶ In winter, the rate per cubic meter (m^3) of particulate matter smaller than 2.5 micrometers is seven times higher than what is allowed by the WHO. Winter in Mongolia lasts up to 5 months.

⁷ Water consumption in *ger* areas is 8–10 liters per capita per day (more than half the recommended minimum by the WHO in similar contexts). Residents pay 2–10 times more than non-*ger* area residents.

3. **Project Implementation Arrangements.** Municipality of Ulaanbaatar (MUB), the executing agency of GADIP, has Planning and Strategic Department that is responsible for coordinating the program implementation. Program management office (PMO) has been established under the first deputy vice mayor in charge of development policy. A program steering committee, chaired by the mayor of Ulaanbaatar and comprised of government officials, has been established to provide strategic and policy guidance. Under the PMO, two consultancy services were hired to support the implementation of tranche 2, (i) T2-CS01: Consultancy services for detailed engineering design and supervision; and (ii) T2-CS02: Consultancy services for institutional strengthening and capacity building.

4. The construction of roads and infrastructures, and public facilities in the tranche 2 and tranche 3 subcenters of GADIP, Dambadarjaa and DenjiinMyanga (tranche 2), and Tolgoit and Sharkhad (tranche 3) are to start from 2021 and the land acquisition and resettlement (LAR) activities are starting from 2020. It is vital for GADIP to commence the independent external monitoring and evaluation of LAR activities to ensure the compliance of LAR activities with ADB Safeguard Policy Statement, 2009, (SPS), especially its requirements on Involuntary Resettlement, to protect the rights and interests of the people affected by land acquisition and resettlement. This terms of reference (TOR) is prepared for selection and recruitment of consultancy services for LAR external monitoring and evaluation. The details of the consultancy services are provided in the sections below.

Objectives

5. External monitoring and evaluation (EM) will be conducted to (i) assess the effectiveness, impact and sustainability of land acquisition and resettlement activities; (ii) determine whether Safeguard compliance has been met; and (iii) learn strategic lessons for future policy formulation and planning related to land acquisition and resettlement (LAR).

Methodologies

6. Monitoring methodologies will be, but not limited to, as follows: desk review and field visits; use of structured questionnaires; meetings with stakeholders such as departments and organizations of Municipality of Ulaanbaatar (MUB), local officials, and affected households, and other relevant stakeholders; focus group discussions; and key informant interviews. Separate meetings will be held with representatives of women and vulnerable households. Monitoring indicators and findings will be disaggregated by gender, if applicable. Households who moved outside the ger areas or those who are in temporary housing within or outside the ger areas will be covered in the external monitoring.

7. EM need to be carried out for all household (HH) and entities affected by public facilities and as well as randomly selected households and entities affected by roads and infrastructures. Random sampling should be done at least on 20 per cent of all affected households (AH) and entities. Moreover, consultant need to consult with stakeholders involved in LAR implementation such as Land Management Agency of MUB, khoroo and kheseg leaders and Capacity building for Sustainable Livelihood support in ger areas TRTA team.

Scope of work

8. LAR external monitoring need to be carried out for all subprojects being implemented under Tranche 1 and for all packages considered in Tranche 2 and Tranche 3.

Process and Indicators

9. The EM process will include the following: (i) review and verification of the internal monitoring reports of the PMO; (ii) identification and selection of impact indicators; (iii) impact assessment

through quantitative and qualitative surveys; (iv) consultation with local stakeholders; (v) assessment of compliance with local laws, the ADB Safeguard Policy Statement (SPS), Resettlement Framework (RF) and the Land Acquisition and Resettlement Plans (LARPs); (vi) recommendation of land acquisition process modification and adaptation measures; (vi) lessons learned for future land acquisition and resettlement policy formulation and planning. All data collection and analysis will be disaggregated by gender and vulnerability. The following are some of the external monitoring key indicators:

- Economic status of affected households, including employment, income and household assets. This assessment will be done against the pre-project baseline information.
- Status of vulnerable persons, in terms of food security, household demographics, livelihoods and health. This assessment will be done against the pre-project baseline information.
- Impact of land acquisition on women, children, elderly, the poor and other vulnerable groups. This assessment will be done against the pre-project baseline information.
- Degree of support the AHs received during relocation and in restoring income activities and livelihood restoration
- Degree of support the vulnerable households received during relocation and in restoring income activities and livelihood restoration
- Perceptions of affected households regarding the implementation of the land acquisition and resettlement process.
- Participation and involvement of affected households in LARP implementation.
- Effectiveness and fairness of valuation, compensation, assessment and disbursement measures.
- Implementation and effectiveness of income restoration measures.
- Effectiveness and fairness of Grievance Redress Mechanisms (GRM).
- Level of satisfaction among affected entities in the post-resettlement period.
- Adequacy of LAR funds, their timely availability and results of financial audits.
- Level of satisfaction among the AHs in the post-resettlement phase.
- Performance of LARP implementing agencies (PMO, Land Management Office, project consultants).

10. The EM will also report on any outstanding LAR issues or potential issues and propose time-bound action plan in order to resolve them.

Reporting and Deliverables

11. EM will be carried out semi-annually during the implementation of LARPs. The external monitor will also carry out post-implementation evaluation on the basis of the socio-economic baseline surveys within 1 year after the completion of LAR activities in each subcenter, to ascertain whether the subproject was able to implement the objectives and provisions of the LARP. If the objectives have not been achieved, the EM will recommend remedial measures.

12. The consultant is responsible for presenting and delivering good quality outputs including work plan, reports, documents and procedures developed under the consultancy service. The report need to include separate sections for the 3 tranches and the structure should consult with PMO.

13. All monitoring reports will be written in English and Mongolian languages. The content and format of the report will be prepared by the consultant and discussed and agreed with the PMO and ADB. The external monitor will submit monitoring reports to the PMO and ADB within 15 calendar days after completion of each monitoring activity. The external monitor is also required to revise the reports based on comments received from the PMO and ADB and submit the revised reports to the PMO and ADB within 10 working days. Deliverables list and deadline is attached in Annex 1. Work plan, photos, minutes of meetings, attendance sheets, held with various stakeholders will be attached in the reports. Documents obtained during monitoring will also be attached as necessary.

Consulting Services and Requirements of Qualifications

14. A national consulting firm or team of consultants will be recruited by ADB in accordance with the ADB “Guidelines on the Use of Consultants by the Asian Development Bank and its Borrowers” (2013 as amended from time to time) using Consultant’s Qualifications Selection (CQS) method.

15. The consulting firm or team must meet the following minimum requirements:

- Minimum 15 years of experience in social and research field;
- Key staff with minimum of 10 years’ experiences in LAR planning and implementation, and LAR monitoring and evaluation in urban areas, especially ger areas;
- Strong verbal and communications skills in both English and Mongolian;
- Strong management skills, human resources and technical capacity to conduct above mentioned service.

16. In the proposal, the firm or team must also indicate the proposed staff and qualifications for each of positions based on the following minimum requirements:

- Team leader/LAR expert: plans, supervises and manages the team to prepare the deliverables. Minimum of 10 years relevant working experience in social field, with focus in land acquisition and resettlement, quantitative and qualitative surveys, focus group discussions and key informant interviews, monitoring and evaluation of land acquisition and resettlement activities, working with ADB or other international development financing institutions, working in ger areas, bachelors or higher degree in social, land management, urban development, engineering or other relevant fields. The team leader must have strong analytical, facilitation, and communication skills, and knowledge and application of ADB SPS and its Involuntary Resettlement requirements. S/he must be fluent in Mongolian and English both oral and written.

Social development expert (2 positions): develops necessary documents and conducts surveys, discussions and interviews under the instruction of the team leader. Minimum 5 years of prior working experience in social development, research and community relations/engagement field, working in ger areas, bachelors or higher degree in social, land management, urban development, engineering or other relevant fields, prior work experiences with land acquisition and resettlement activities in ger areas will be an advantage. S/he must have strong inter personal and communications skills.

APPENDIX 2: EME REPORT 2 (VI) WRITING WORKPLAN

WORKPLAN															
No	ACTIVITIES	June		July				August				September			
		III	IV	I	II	III	IV	I	II	III	IV	I	II	III	IV
1	Desk study, review and analyse the internal monitoring reports and all other relevant reports of the PMO produced during the reporting period														
2	Analyse the implementation of measures specified in the LARP														
3	Field visits to the project sites /take photos of pre and post LAR/ T1, T2, T3														
3a	Take pre-LAR photos of livelihoods & take survey of households, who are affected by the road in Dambadarjaa, and concluded the LAR contracts /30%/														
4	Enter the information of APs engaged in the survey into the Excel														
5	Modify, copy and prepare the survey instruments														
6	Training for the survey team														
7	Take the household survey from the APs														
7a	Bayankhoshuu/qualitative survey from 30 HHs & non-title holder households 15HHs, total 45 HHs/														
7b	Selbe/qualitative survey from 30 HHs & non-title holder households 15HHs, total 45 HHs/														
7b	Dambadarjaa heating station 45 HHs														
8	Enter the socio-economic survey information into Excel														
9	Monitor and guide during the data collection for the survey														
10	Verify and clean the data														
11	Prepare the structure of the survey information to be processed using SPSS, convert the information entered in Excel														
12	Process, integrate, compare and produce graphs of the survey data														
13	Prepare the integrated survey data tables in English and Mongolian to be used for Appendix														
14	Develop the guidance and discussion questions for focus group discussions														
15	Organize focus group discussions with APs and record the notes														

15a	Bayankhoshuu /fully affected, partially affected, vulnerable households, total 30 HHS/													
15b	Selbe /fully affected, partially affected, vulnerable households, total 30 HHS/													
15b	Dambadarjaa /fully affected, partially affected, vulnerable households, total 20 HHS/													
15r	Non-title holders /110 HHS, who have received the land in Moringiin Davaa, 81 HHS in other locations, 34 HHS, who have chosen to receive rental housing through rent-to-own scheme, total 30 HHS/													
15b	Conduct individual meetings with business pursuing AHs													
16	Interview key informants, select the interviewees, develop the interview questions													
16a	Interview key informants individually													
17	Prepare meeting notes of the stakeholders, prepare registration sheets of the participants of the meetings /attendance sheet signed by the APs/													
18	Process the report													
18a	Tranche 1													
18b	Tranche 2													
18b	Tranche 3													
19	Edit the external monitoring and evaluation report #2 /Mongolian/													
20	Translate the report													
21	Edit the external monitoring and evaluation report #2 /English/													
22	Send the report electronically for comments													As needed
23	Improve and modify the reports based on the comments													As needed
24	Print and prepare the report, send a formal letter and invoice to PMO													
25	Payment settlement													

APPENDIX 3: QUALITATIVE SURVEY INFORMATION

1. Notes of the meetings with affected persons

Chief Executive Officer of Tsaiz LLC /by phone/ :

We highly valued and appreciated the scale of this project and vacated our land affected by the project without compensation, and only received compensation for the affected assets. According to the compensation agreement, it has to be paid within 21 days, but the compensation was paid one year later only after the Capital City Governor's Ordinance #A/352 has been issued on 7th May 2021. The affected brick house used to be rented for 400,000 MNT per month for food and canteen services. There were more than 20 tenants operating in this house. This building was not connected to the central water and heating system. There were no problems when we moved, but obviously the source of income was reduced by a certain percentage. We do not account for the loss of business income, as we support the scope of this work and the benefits of the project. Moreover, the our company's activities are continuing normally. We received the information on land acquisition and resettlement in a timely manner, and have no complaints regarding valuation or compensation. However, the government imposed and deducted 10% tax from the compensation, when it has been credited to the company's account. We supported the project, vacated our land free of charge, and received the compensation payment for demolished property of our company, but the government deemed this payment as a monetary income/profit of the company and imposed income tax. How this is possible? We want the government to refund this 10% tax, that has been deducted.

Accountant of Tsaiz LLC:

Ten (10) percent tax has been deducted from the compensation payment of MNT 114,893,535 credited to our company's account. When the compensation payment has been recorded in the financial report, the Bayanzurkh District's Taxation Department deemed this compensation payment as an **income/revenue** of the company and imposed tax. Let me show you our tax report. But the chief executive officer of our company says that the tax shouldn't be imposed on this particular transaction. I don't know what to do now. As an accountant, I have recorded this compensation payment in our financial report for the second quarter of 2021. If this issue is resolved, we can correct our annual financial statement at the end of this year. Therefore, we will appreciate if the relevant people provide recommendations and advice on how to record the compensation amount in our company's financial statements.

2. Notes of individual meetings and interviews with key informants and working group members

Deputy Mayor of the Capital City:

A very large-scale land acquisitions are being carried out under the ADB-supported GADIP program. We acquire a lot of experience whilst implementing this program. The results were very good. Infrastructure works are being carried out at acquired and vacated lands. There are many good practices that we can learn from the ADB's Safeguard Policy Statements in terms of avoiding and mitigating the potential impacts. Generally, I think the ADB's Safeguard Policy Statements are good policy. But we notice that there were a number of affected persons, who complained about the LAR activities. I am certain that there will be complaints in the future. Some complaints raise legitimate concerns, and some seem to be irrationale complaints. It really differs from person to person.

Land Management Authority of the UB City Municipality, Specialist of the Treasury Department:

Treasury Department of the LMA reviews and verifies the compensation valuation report for the project's land acquisition and resettlement. We used to review and verify the compensation valuation reports after the Mayor's ordinances are issued prior to 30 June 2021. But now, the Mayor does not

issue the ordinance, instead the PMO of GADIP is responsible for the assets valuation and contracting. Our treasury department signs on the compensation package negotiation sheet and the head of the LMA signs on the negotiation contracts. In the case of the ADB-supported projects, there are some discrepancies between the relevant Mongolian legislation and the ADB's Safeguard Policy Statements. For example, 1) compensation for the land with entitlement certificates must be calculated at the base price of land in accordance with the Cabinet Decree # 222 of 2018. But in terms of this project, the land is valued at MNT 80,000 and MNT 120,000; 2) compensation for assets must be calculated after deducting the relevant depreciation of the properties. But in terms of this project, an unoccupied, ownerless, highly depreciated old house is valued at MNT 520,000 per square meter at the price of a new house. Of course, the principle of ensuring the lives of affected persons not to worse-off because of the project, is a good policy. But we should not create privilege to anyone. Generally, I think it will be a good idea if a certified appraiser presents the compensation valuation reports to the LMA prior to presenting them to the affected persons. Current practice is that PMO presents and negotiates the compensation valuation report with affected persons and then it submits the reports to the LMA for review and verification. There are many problems. The most common problem is that there are many houses without real estate registration certificates. Although certified appraiser claimed that property has been measured, but there were some discrepancies between the recorded size of the house and the reality. We inquire a letter of verification and the property valuation checklist to be issued from the State Registration Authority, for real estates without property registration certificates. Moreover, some structures so-called underground facilities are valued without any verification photos or any other evidence to show the existence of those structures buried in confined spaces. How can we prove or verify the existence of these structures such as underground sewage pipes, tanks and any other connections without photos? There has been cases, when the compensation package for two households has been estimated too high, and we requested the Mongolian Institute of Certified Appraisers for review and consequently reduced the compensation by 16%. We need to better monitor the activities of the appraisal companies. The project demands the compensation to be paid 100% prior to vacating the land. But in 2020, the Ulaanbaatar City's Audit Office issued a reminder act to our department for paying the compensation 100% prior to vacating the land as the households who received the compensation 100% did not move and vacate the land. I read the LARF.

Head of the Chingeltei District's Land Department:

I used to work at the LMA before joining this department, so I am knowledgeable about this project. I used to be responsible for the land acquisition and resettlement for the heating plant in Selbe subcenter. Compensation and valuation of the assets are high for this project. Land acquisition must be carried out without harming the people in one hand, and without obstructing the work of the government. In terms of this ADB-supported project, it is less problematic and is being implemented through mutual consultation and negotiation between the government and affected persons. In particular, it addresses the issue of non-title holders. Internal family issues also arise related to the land. The government-funded projects only provide moving expense to non-title holders, who are affected by that projects. But the ADB-supported projects provide transitional assistance and moving expense to non-title holders, who are affected by those projects. Generally, it is commendable that the ADB's Safeguard Policy Statement aims at not harming the citizens, better communicating with all affected persons, and providing information in open and transparent manner. But I understand that some people, who want to make a profit out of this process, lodge the complaints in the name of non-governmental organizations and pressure the government. ADB needs to pay more attention to this and avoid accepting every complaint, which may pander these people with different interests. Our district land department has never received any complaints regarding the land acquisition of this project. Generally, the district land department does not carry out the land acquisition at the district level, all land acquisitions are handled at the Municipality. We are responsible for renewing the land certificates of partially affected persons and terminating the land certificates of fully affected persons. The Land Council was established under the Governor's Office in 2020. The Deputy Governor in charge of infrastructure and planning chairs this Council and it decides all land-related matters.

Appraiser of the Fine Estimate LLC:

Our company appraised the assets of persons and business entities affected by the road, heating station, sports complex in Dambadarjaa subcenter and heating network in Sharkhad subcenter. The assets valuation was conducted in accordance with the ADB's Safeguards Policy Statements. According to the Mayor's ordinance issued on 25th June 2020, 1m² land in the subcenter was valued at MNT 80,000 and 1m² land along the road was valued at MNT 109,000. Valuation of non-title holder households is usually low. It is obvious their compensation to be lower, because non-title holders have no land to be values. Generally, we support the ADB's Safeguard Policy Statements and principles. Valuation that used ADB's safeguard policy provides an opportunity to affected persons to better off. In Sharkhad subcenter, only one brick house with guard room on top owned by Tsaiz LLC has been appraised. The affected entity voluntarily decided not to receive the compensation for land, thus the land was not valued, only buildings and structures were valued. The affected house was built in the 1980s and used as the Russian military unit in old days. This 146m² brick house had open doors and no operation has been conducted in this house. Some rooms were locked and used for storing the building materials. There were no complaints about the assets valuation. Compensation is not taxable income, thus the tax should not be imposed. Clear explanation need to be provided to the tax authorities referring to the Mayor's ordinance. Our country lacks with legal environment on LAR compensation.

APPENDIX 4: LIST OF AFFECTED PERSONS MET



УЛААНБААТАР ХОТЫН ГЭР ХОРООЛЛЫГ ХӨГЖҮҮЛЭХ ХӨРӨНГӨ ОРУУЛАЛТЫГ ДЭМЖИХ ХӨТӨЛБӨР ТӨСӨЛ 1

БҮРТГЭЛИЙН ХУУДАС

Он, сар, өдөр:

А/д	Овог нэр	Хаяг	Утас	Гарын үсэг
1	14/05/18 Чухундаагч	Чайз ХХК дэмжлэг	88114498	Чухундаагч/с Хотгор хайгуур
2	15/12/18 Энхсайхан	Чайз ХХК дээг/сар	86678910	Энхсайхан Хотгор хайгуур
3	16/08/18 Зоригтсүх	Чайз ХХК - санхүү	99658661	З. Зоригтсүх
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APPENDIX 5: ORDINANCE TO ISSUE THE COMPENSATION TO A PERSON AFFECTED BY SHARKHAD SUBCENTER

Unofficial translation

ORDINANCE OF THE MAYOR OF ULAANBAATAR AND GOVERNOR OF THE CAPITAL CITY

7 May 2021

Reference #: A/352

Ulaanbaatar

On disbursing the fund for compensation

It ORDERS based on the Clause 29.2 of the Article 29 of the Mongolian Law on Administrative and Territorial Units and their Governance; Paragraph 14.2.3 of the Article 14 and Paragraph 41.2.2 of the Article 41 of the Law on Budget; Paragraph 104.1, 104.3 of the Article 104 of the Law on General Administration, Paragraph 189.1 of the Article 189 of the Civil Code, Article 42 and 43 of the Law on Land, Paragraph 14.4.2 of the Article 4 of the Law on Redevelopment of Urban Settlements, General Negotiation of Financing Ger Area Development Investment Program” concluded by and between the Government of Mongolia and the Asian Development Bank signed on December 9, 2013; Cabinet decree #222 of 2018, and the Capital City Council Meeting decrees #02/11 and #02/12 of 2020:

1. To approve the compensation budget for the land and assets of 1 (one) business entity, affected by the secondary engineering connections in Sharkhad subcenter constructed with the support of the Asian Development Bank’s soft loan financing, as shown in the Appendix.
2. To permit the Finance and Treasury Department of the Ulaanbaatar City Mayor’s Office (N. Naranbaatar) to disburse MNT114,893,535 (one hundred fourteen million, eight hundred ninety-three thousand five hundred thirty-five) required for paying the compensation from the Municipality funds allocated for projects implemented with foreign aid and loans, that was reflected in the 2021 Municipality Budget.
3. To charge the Land Management Agency of the Capital City (A. Enkhmanlai) to conclude the compensation payment agreement with the affected person as stipulated in the relevant laws and regulations.
4. To charge the Ulaanbaatar city Ger Areas Development Investment Program to transfer and monitor the implementation of the actions specified in the compensation payment agreement.

MAYOR OF ULAANBAATAR AND GOVERNOR OF THE CAPITAL CITY

D. SUMIYABAZAR

(Stamp and signature)

Compensation budget to be paid to the business entity
affected by the urban development work

#	Name of the Land owner (registration number)	Address	Land plot ID	Original land size	Type of ownership/ possession	Valuation of affected land		Compensation for affected assets (MNT)		Total compensation (MNT)
						Size (m²)	Price (MNT)	Immovable property	Other assets	
Sharkhad subcenter										
1	“Tsaiz” LLC (2716178)	19 th Khoroo, Bayanzurkh district	1332202402	16492	possession	221	-	112,240,898	2,652,637	114,893,535
			Total	16492				112,240,898	2,652,637	114,893,535



НИЙСЛЭЛИЙН ЗАСАГ ДАРГЫН
ЗАХИРАМЖ

2021 оны 05 сарын 07 өдөр

Дугаар А/352

Улаанбаатар хот

Нөхөх олговрын хөрөнгө гаргах тухай

Монгол Улсын Засаг захиргаа, нутаг дэвсгэрийн нэгж, түүний удирдлагын тухай хуулийн 29 дүгээр зүйлийн 29.2, Төсвийн тухай хуулийн 14.2.3, 41 дүгээр зүйлийн 41.2.2, Захиргааны ерөнхий хуулийн 104 дүгээр зүйлийн 104.1, 104.3, Иргэний хуулийн 189 дүгээр зүйлийн 189.1, Газрын тухай хуулийн 42, 43 дугаар зүйл, Хот суурин газрыг дахин хөгжүүлэх тухай хуулийн 14 дүгээр зүйлийн 14.4.2 дахь заалт, Монгол Улсын Засгийн газар, Азийн хөгжлийн банк хооронд 2013 оны 12 дугаар сарын 09-ний өдөр байгуулсан "Гэр хорооллыг хөгжүүлэх хөрөнгө оруулалтыг дэмжих хөтөлбөрийн санхүүжилтийн ерөнхий хэлэлцээр", Засгийн газрын 2018 оны 222 дугаар тогтоол, Нийслэлийн иргэдийн Төлөөлөгчдийн Хурлын 2020 оны 02/11, 02/12 дугаар тогтоолыг тус тус үндэслэн ЗАХИРАМЖЛАХ нь:

1. Азийн хөгжлийн банкны хөнгөлттэй зээлийн хөрөнгөөр баригдаж буй Шархад дэд төвийн инженерийн шугам сүлжээний нөлөөлөлд өртсөн 1 /нэг/ аж ахуйн нэгжийн газар, үл хөдлөх болон эд хөрөнгийн нөхөх олговор олгох төсвийг хавсралтаар баталсугай.

2. Нөхөх олговор олгоход шаардагдах 114,893,535 /зуун арван дөрвөн сая найман зуун ерэн гурван мянга таван зуун гучин тав/ төгрөгийг нийслэлийн 2021 оны төсөвт тусгагдсан гадаадын зээл тусламжаар хэрэгжих төслүүдийн нийслэлийн хариуцах хөрөнгөөс санхүүжүүлэхийг Нийслэлийн Засаг даргын Тамгын газрын Санхүү, төрийн сангийн хэлтэс /Н.Наранбаатар/-т зөвшөөрсүгэй.

3. Нөхөх олговрын гэрээг холбогдох хууль тогтоомжийн дагуу байгуулахыг Нийслэлийн Газар зохион байгуулалтын алба /А.Энхманлай/-нд даалгасугай.

4. Нөхөх олговрын гэрээнд заасан гүйцэтгэлд хяналт тавьж, санхүүжүүлэхийг Улаанбаатар хотын гэр хорооллыг хөгжүүлэх, хөрөнгө оруулалтыг дэмжих хөтөлбөр төсөлд даалгасугай.

НИЙСЛЭЛИЙН ЗАСАГ ДАРГА
БӨГӨӨД УЛААНБААТАР
ХОТЫН ЗАХИРАГЧ

Д.СУМЪЯАБАЗАР

111020001525



**БҮТЭЭН БАЙГУУЛАЛТЫН АЖЛЫН НӨЛӨӨЛӨЛД ӨРТСӨН
АЖ АХУЙ НЭГЖИД ОЛГОХ НӨХӨХ ОЛГОВРЫН ТӨСӨВ**

Д/д	Газар зэмшигчийн нэр (регистрийн дугаар)	Хаяг	Нэгж талбарын дугаар	Үндсэн талбайн хэмжээ (м2)	Эдэлбэрийн хэлбэр	Нөлөөлөлд өртсөн газрын үнэлгээ		Хөрөнгийн нөхөх олговрын хэмжээ, үнэ (төгрөг)		Нийт нөхөх олговор (төгрөг)
						Хэмжээ (м2)	Үнэ (төгрөг)	Үл хөдлөх хөрөнгө	Эд хөрөнгө	
0	1	2	3	4	5	6	7	8	9	10
ШАРХАД ДЭД ТӨВ										
1	"Цайз" ХХК (2716178)	Баянзүрх дүүргийн 19-р хороо	1332202402	16492	зээмшиг	221	-	112,240,898	2,652,637	114,893,535
НИЙТ				16,492	-	221	-	112,240,898	2,652,637	114,893,535

APPENDIX 6: JOINT MEETING MINUTES

Unofficial translation

NEGOTIATION MEETING MINUTES

No: 2020/0803

2 September 2020

Ulaanbaatar city

Participants of the meeting:

- D. Enkhtur, Head of the Resettlement Division of the Land Management Agency of the Capital City;
- B. Batbayar, Land organizer of the Resettlement Division of the Land Management Agency of the Capital City;
- G. Bolormaa, Resettlement Specialist of the PMO, Ulaanbaatar city's Ger Area Development Investment Program;
- Ch. Enkhsaikhan, Executive director, "Tsaiz" LLC

Name and registration number of the business entity: Tsaiz LLC /2716178/

Address: Company office, Tsaizyn Zadgai, 19th Khoroo, Bayanzurkh district

Land parcel ID: 1332202402

Discussion: Negotiation meeting to discuss the compensation package for the assets possessed by the Tsaiz LLC, that was affected by the secondary engineering connections constructed in Sharkhad subcenter with the financial support of the Asian Development Bank in the territory of the 19th Khoroo of Bayanzurkh district, has started at 14.15 in the room #307 at Khangarid Palace.

Presentation: B. Batbayar, Land organizer of the Resettlement Division of the Land Management Agency of the Capital City: Assets possessed by the Tsaiz LLC is affected by the secondary engineering connections constructed in Sharkhad subcenter with the financial support of the Asian Development Bank in the territory of the 19th Khoroo of Bayanzurkh district. Advance notification has been communicated to the affected business entity and "Fine Estimate" LLC, certified assets appraisal company has conducted the assets valuation and estimated the compensation package to be MNT114,893,535 (one hundred fourteen million, eight hundred ninety-three thousand five hundred thirty-five) for affected assets.

D. Enkhtur, Head of the Resettlement Division of the Land Management Agency of the Capital City: Please carefully review the assets valuation report for your assets located on the land possessed by Tsaiz LLC.

Ch. Enkhsaikhan, Executive director, "Tsaiz" LLC: Yes, we reviewed the valuation report.

D. Enkhtur, Head of the Resettlement Division of the Land Management Agency of the Capital City: Your support and contribution is valuable for the capital city's urban development efforts to develop subcenters. Do you agree to vacate your assets with proposed compensation of MNT114,893,535 (one hundred fourteen million, eight hundred ninety-three thousand five hundred thirty-five)?

Ch. Enkhsaikhan, Executive director, "Tsaiz" LLC: Our company is supporting the urban development effort; thus, we are vacating the required land free of charge, and it is possible to vacate the assets upon receiving this proposed compensation of

MNT114,893,535 (one hundred fourteen million, eight hundred ninety-three thousand five hundred thirty-five). **In addition, we concluded the four-party agreement on the land acquisition and resettlement with S. Dorjderem**

Acting Chief Executive Officer of the “Capital City’s Housing Corporation” Joint Venture, D. Enkhtur

Deputy PMO Coordinator of the Ulaanbaatar City’s Ger Areas Development Investment Program, Kh. Chinbat, Director General of the “ChMM” LLC and me, and agreed to have our company’s guard house with wash room to be built by the project and permit our “Tsaiz” LLC to keep 11m² land that this guard house object is located.

D. Enkhtur, Head of the Resettlement Division of the Land Management Agency of the Capital City: We have two separate negotiations with you, one is on the land acquisition and the other one is on the compensation package for your affected assets. We appreciate you and your company for supporting the urban development work. Do you have any further comments, questions, grievances regarding the affected land, assets and compensation package?

Ch. Enkhsaikhan, Executive director, “Tsaiz” LLC: Once this compensation is paid to us, we have no other complaints or grievances.

Decision: “Tsaiz” LLC agreed to transfer the required land to the government free of charge and receive the compensation of MNT114,893,535 (one hundred fourteen million, eight hundred ninety-three thousand five hundred thirty-five) for affected assets, which was confirmed by the negotiation slip. Subsequently, it will be processed further for the Mayor’s Ordinance.

Meeting ended at 14.40.

Reviewed and signed by:

D. Enkhtur, Head of the Resettlement Division
Land Management Agency of the Capital City;

B. Batbayar, Land organizer of the Resettlement Division
Land Management Agency of the Capital City;

G. Bolormaa, Resettlement Specialist of the PMO,
Ulaanbaatar city’s Ger Area Development Investment Program;

Ch. Enkhsaikhan, Executive director, “Tsaiz” LLC

ХУРЛЫН ТЭМДЭГЛЭЛ
№2020/0803

2020 оны 09 дугаар сарын 02-ны өдөр

Улаанбаатар хот

Хурлын бүрэлдэхүүн:

- Нийслэлийн Газар зохион байгуулалтын албаны Газар чөлөөлөх хэлтсийн дарга Д.Энхтөр
- Нийслэлийн Газар зохион байгуулалтын албаны Газар чөлөөлөх хэлтсийн газар зохион байгуулагч Б.Батбаяр
- "УБХГХХОДХ" төслийн нүүлгэн шилжүүлэлтийн мэргэжилтэн Г.Болормаа
- Цайз ХХК-ний гүйцэтгэх захирал Ч.Энхсайхан

Аж ахуйн нэгжийн нэр, регистрийн дугаар: **Цайз ХХК /2716178/**

Хаяг: Баянзүрх дүүргийн 19-р хороо, Цайзын задгай өөрийн байр

Нэгж талбарын дугаар: 1332202402

ХЭЛЭЛЦСЭН НЬ: Баянзүрх дүүргийн 19 дүгээр хорооны нутаг дэвсгэрт Азийн хөгжлийн банкны санхүүжилтээр хийгдэх Шар хад дэд төвийн авто зам болон инженерийн шугам сүлжээний нөлөөлөлд өртсөн Цайз ХХК-ний үл хөдлөх эд хөрөнгөнд нөхөх олговор олгох тухай хурал Хангарди ордны 307 тоотод **14 цаг 15 минутанд** эхлэв.

СОНССОН НЬ: Нийслэлийн Газар зохион байгуулалтын албаны Газар чөлөөлөх хэлтсийн газар зохион байгуулагч Б.Батбаяр : Баянзүрх дүүргийн 19-р хорооны нутаг дэвсгэрт Азийн хөгжлийн банкны санхүүжилтээр хийгдэх Шар хад дэд төвийн авто зам болон инженерийн шугам сүлжээний нөлөөлөлд Цайз ХХК-ний үл хөдлөх хөрөнгө өртсөн. Энэ тухай урьдчилан мэдэгдэх хуудас хүргүүлж, хөрөнгийн үнэлгээний тусгай зөвшөөрөл бүхий Файн эстимэйт ХХК **114,893,535 / Нэг зуун арван дөрвөн сая, найман зуур ерэн гурван мянга, таван зуун гучин таван /** төгрөгийн нөхөх олговрын үнэлгээ хийсэн байна.

Нийслэлийн Газар зохион байгуулалтын албаны Газар чөлөөлөх хэлтсийн дарга Д.Энхтөр: танай Цайз ХХК-ний эзэмшил газарт байрлах үл хөдлөх хөрөнгийн үнэлгээтэй сайтар дэлгэрэнгүй танилцана уу.

Цайз ХХК-ний гүйцэтгэх захирал: Ч.Энхсайхан тус үнэлгээтэй танилцлаа.

Нийслэлийн Газар зохион байгуулалтын албаны Газар чөлөөлөх хэлтсийн дарга Д.Энхтөр: Нийслэлийн бүтээн байгуулалтын ажлыг дэмжиж, дэд төвийг хөгжүүлэхэд таны хувь нэмэр чухал байна. Иймд та дээрх **114,893,535 / Нэг зуун арван дөрвөн сая, найман зуур ерэн гурван мянга, таван зуун гучин таван /** төгрөгийн нөхөх олговортойгоор үл хөдлөх эд хөрөнгөө чөлөөлөхийг хүлээн зөвшөөрч байна уу.

Цайз ХХК-ний гүйцэтгэх захирал: Ч.Энхсайхан: Манай талаас улсын ажлыг дэмжиж газраа үнэ төлбөргүй шилжүүлж байгаа бөгөөд үл хөдлөх хөрөнгийн үнэлгээ болох **114,893,535 / Нэг зуун арван дөрвөн сая, найман зуур ерэн гурван мянга, таван зуун гучин таван /** төгрөгийг авч, газраа чөлөөлөх боломжтой болно мөн манай компани нийслэлийн орон сууцны корпорац ХК-ний гүйцэтгэх захирлын үүрэг гүйцэтгэгч С.Дорждэрэм, Улаанбаатар хотын гэр хорооллыг хөгжүүлэх хөрөнгө оруулалтыг хөгжүүлэх хөтөлбөр төслийн нэгж төслийн дэд зохицуулагч Д.Энхтөр, ЧММ ХХК-ний ерөнхий захирал Х.Чинбат нартай зөвшилцөж дөрвөн талт гэрээ байгуулан өөрсдийн

харуулын байр, ариун цэврийн өрөө бариулахаар болсон тухайн гэрээний дагуу харуулийн байр, ариун цэврийн өрөө бүхий 11 м2 объектийн ул газрыг манай компаний нэр дээр хэвээр үлдээж өгнө үү.

Нийслэлийн Газар зохион байгуулалтын албаны Газар чөлөөлөх хэлтсийн дарга Д.Энхтөр: Тухайн байгууллагуудтай хийсэн 4 тал гэрээ зөвшилцөл нь нөхөх олговрын үнийн дүнтэй зөвшилцөх 2 маань тус тусдаа асуудал юм байна харин бүтээн байгуулалтын ажлыг дэмжиж байгаа нь сайн байна танд баярлалаа. Дээрх үл хөдлөх хөрөнгийн үнэлгээний зүйлүүд болон газар талбайн хэмжээ, үнэлгээнд цаашид дахин гомдол, санал байна уу.

Цайз ХХК-ний гүйцэтгэх захирал: Ч.Энхсайхан: Нөхөх олговрын мөнгөө авсан тохиолдолд өөрөөр санал гомдол надад байхгүй.

ШИЙДВЭРЛЭСЭН НЬ: Цайз ХХК-ний эзэмшлийн газрыг үнэ төлбөргүй улсад шилжүүлж, үл хөдлөх хөрөнгө бусад эд хөрөнгийн үнэлгээ болох **114,893,535 / Нэг зуун арван дөрвөн сая, найман зуур ерэн гурван мянга, таван зуун гучин таван /** төгрөгийн нөхөх олговор олгохыг зөвшилцөх хуудсаар баталгаажуулж, нийслэлийн Засаг даргын захирамжийн төсөлд хянуулахаар тохиролцов.

Хурал 14 цаг 40 минутанд дуусав.

ТАНИЛЦАН:

НИЙСЛЭЛИЙН ГАЗАР ЗОХИОН
БАЙГУУЛАЛТЫН АЛБАНЫ ГАЗАР
ЧӨЛӨӨЛӨХ ХЭЛТСИЙН ДАРГА

 Д.ЭНХТӨР

"УБХГХХХОДХ" ТӨСЛИЙН НҮҮЛГЭН
ШИЛЖҮҮЛЭЛТИЙН МЭРГЭЖИЛТЭН

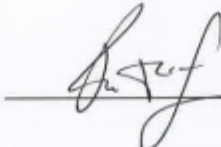
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ЦАЙЗ ХХК-НИЙ ГҮЙЦЭТГЭХ ЗАХИРАЛ

 Ч.ЭНХСАЙХАН

ПРОТОКОЛ ХӨТӨЛСӨН

НИЙСЛЭЛИЙН ГАЗАР ЗОХИОН
БАЙГУУЛАЛТЫН АЛБАНЫ
ГАЗАР ЧӨЛӨӨЛӨХ ХЭЛТСИЙН
ГАЗАР ЗОХИОН БАЙГУУЛАГЧ

 Б.БАТБАЯР