

# Resettlement Plan

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Document Stage: Draft  
Project Number: 7970 – MON

19 August 2013

## MON: Ulaanbaatar Urban Services and Ger Areas Development Investment Program

The resettlement plan is a document of the borrower. The views expressed herein do not necessarily represent those of the ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

## CURRENCY EQUIVALENTS

(as of 9 July 2013)

Currency unit	–	Togrog (MNT)
MNT1.00	=	\$0.000695650
\$1.00	=	MNT1,452.49

## ABBREVIATIONS

ADB	–	Asian Development Bank
BIC	–	Business Incubator Center
CAP	–	Community Action Plan
CDC	–	Community Development Council
DMS	–	Detailed Measurement Survey
EMA	–	External Monitoring Agency
GAF	–	Grievance Action Form
GOM	–	Government of Mongolia
GRM	–	Grievance Redress Mechanism
IPSA	–	Initial Poverty and Social Assessment
IR	–	Involuntary Resettlement
IRP	–	Involuntary Resettlement Policy
RP	–	Resettlement Plan
M&E	–	Monitoring and Evaluation
MFF	–	Multi-tranche Financing Facility
MUB	–	Municipality of Ulaanbaatar
PMO	–	Program Management Office
PRD	–	Property Relations Department
PSC	–	Program Steering Committee
ROW	–	Right of Way
RPIC	–	Resettlement Plan Implementing Committees
SIA	–	Social Impact Assessment
SPS	–	Safeguard Policy Statement
SRA	–	Subcenter Redevelopment Agency
UB	–	Ulaanbaatar
USGDIP	–	Ulaanbaatar Urban Services and Ger Area Development Investment Program
VTC	–	Vocational Training Center

## GLOSSARY

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

**Affected 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.

**Compensation:** Cash or in-kind payment of the replacement cost of an asset lost due to project-related impacts

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

**Income Restoration:** Reestablishment of income sources and livelihoods of affected entities

**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, compelling affected entities to rebuild their lives, incomes and asset bases

**Land Acquisition:** The process whereby a person is compelled by a government agency to relinquish their land or land use rights to the government (i) for a public purpose and (ii) in return for compensation. This land may be either owned or possessed by the affected person.

**Rehabilitation:** Compensatory measures provided under the ADB Policy Framework on Involuntary Resettlement other than payment of the replacement cost of acquired assets

**Relocation:** The physical resettlement of an affected entity from her/his pre-project place of residence

**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

**Servitude (Easement):** A restriction or obligation attached to a property that entitles somebody other than the owner to a specific use of it such as the right to cross it or occupy it temporarily for maintenance of utility services.

**Social Preparation:** Process of consultation with affected entities undertaken before key resettlement decisions are made, to build their capacity to deal with resettlement

**Subcenter:** Subcenters are clusters of public facilities and businesses (often) with an associated transport hub. Generally, they are characterized by urban settlement around public infrastructure built during the Soviet period and new public facilities built more recently by government and donor programs (for example khoroo offices, police stations, schools and kindergartens). Their sphere of influence is from 30,000 to more than 100,000 people. Residential areas surround the core of subcenter and consist mostly of individual residential structures on large plots, although in some areas a densification process of sorts has started by the division of plots and the construction of multifamily houses.

**Temporary Land Use Impacts:** When land outside the proposed 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 of people (poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement effects

#### **NOTE**

In this report, "\$" refers to US dollars.

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**7970-MON: ULAANBAATAR URBAN SERVICES AND GER AREAS  
DEVELOPMENT INVESTMENT PROGRAM**

**Draft Resettlement Plan  
for the Bayankhoshuu Subcenter  
Improvement Subproject**

Prepared by the Municipal Government of Ulaanbaatar for the Asian Development Bank

**19 August 2013**

State Symbol

OFFICE OF THE CAPITAL CITY GOVERNOR

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Sukhbaatar Square 11, Tel/Fax: 327199

2013.08.29      № 3/3108

TO MR.ARNAUD HECKMANN,  
URBAN DEVELOPMENT SPECIALIST

“The Resettlement Plan”

Office of the Capital City Governor has applied the loan of Asian Development Bank (ADB) for financing Ulaanbaatar Urban Services and Ger Areas Development Investment Program.

This resettlement plan and framework has been prepared in accordance with Safeguard Policy statement (2009) of ADB and applicable Mongolian laws and regulations. The resettlement plans are based on feasibility design and will be updated during detailed design based on full census of affected persons and detailed measurement survey.

Office of the Capital City Governor hereby confirms the content of this resettlement plan and makes commitment that the budget for land acquisition and resettlement will be allocated on time. The resettlement has been disclosed to affected persons during the first week of August 2013 by UN-Habitat team.

CHIEF    (seal and signature)    GERELCHULUUN.Y



ХОТ ТӨЛӨВЛӨЛТИЙН  
МЭРГЭЖИЛТЭН АРНАУД ХЭКМАНН  
ТАНАА

НИЙСЛЭЛИЙН  
ЗАСАГ ДАРГЫН ТАМГЫН ГАЗАР

15160 Улаанбаатар хот, Чингэлтэй дүүрэг,  
Сүхбаатарын талбай 11, Утас/Факс: 32-71-99

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Нүүлгэн шилжүүлэлтийн төлөвлөгөө

Нийслэлийн Засаг даргын Тамгын газар нь “Улаанбаатар хотын гэр хорооллыг хөгжүүлэх, хөрөнгө оруулалтыг дэмжих хөтөлбөр төсөл”-ийн хүрээнд Азийн хөгжлийн банкнаас санхүүгийн дэмжлэг авч байгаа билээ.

Энэхүү нүүлгэн шилжүүлэлтийн төлөвлөгөө болон үндэслэлийг Монгол Улсын хууль дүрэм, АХБ-ны аюулгүй байдлын бодлогын баримтлалд нийцүүлэн боловсруулсан. Нүүлгэн шилжүүлэлтийн төлөвлөгөө нь ТЭЗҮ-ийн зураг төсөл дээр үндэслэсэн бөгөөд хэмжилтийн судалгаа болон тухайн нутаг дэвсгэрийн иргэдийн тоо баримт дээр тулгуурлан нарийвчилсан зураг төслийг бэлтгэх үед дахин шинэчлэгдэх болно.

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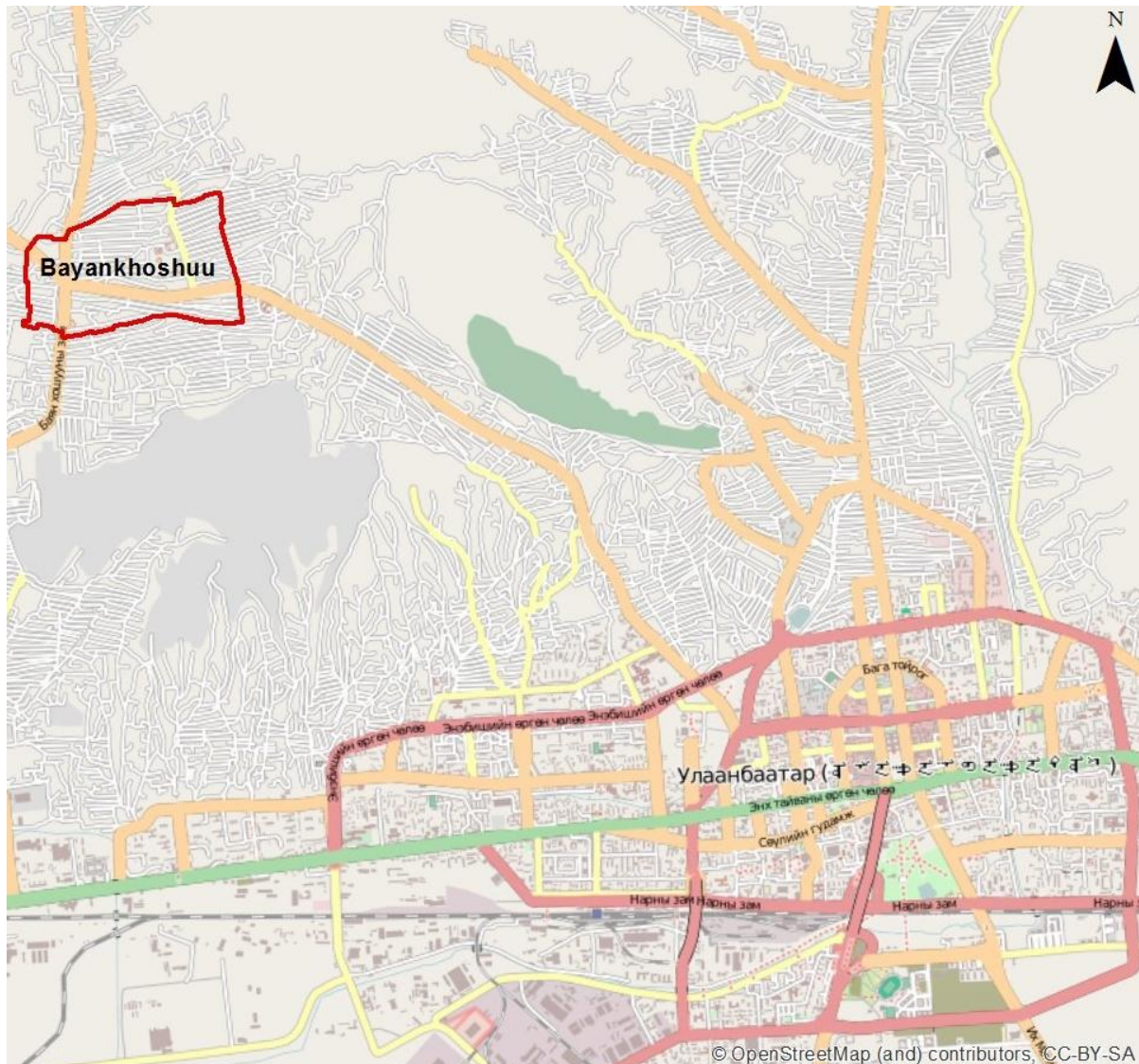
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## LOCATION MAP: BAYANKHOSHUU SUBCENTRE



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## EXECUTIVE SUMMARY

1. This document constitutes the Resettlement Plan (RP) for the Bayankhoshuu Subcenter Improvement Subproject, which is one component of the Ulaanbaatar Urban Services and Ger Areas Development Investment Program (USGDIP). This RP is prepared in accordance with applicable laws of Mongolia, the Asian Development Bank's (ADB's) 2009 Safeguard Policy Statement (SPS), and the July 2013 Draft Resettlement Framework for the USGDIP. The RP is meant to safeguard people's livelihoods and quality of life, ensuring that affected people maintain a level of well-being which is at least equivalent to or better than what it would have been without the subproject.

2. Subproject activities in Bayankhoshuu will include (i) the construction and improvement of roads, and the installation of street lights; ii) urban services extension (construction of water, drainage, sewer and sanitation); iii) heating services; iv) construction of social facilities; and v) other civil works targeting improved protection against flooding. However, subproject design is still in a preliminary stage, and it is appropriate to limit the scope of this RP to those activities that will take place within Bayankhoshuu subcenter under the first two categories above (road improvement and urban services extension).

3. In relation to these activities, this RP provides (i) an initial assessment of the scope of land acquisition and resettlement for the subproject, (ii) an overview of the socio-economic situation of affected entities, (iii) the RP policy framework and entitlements, (iv) the procedures for consultation and public participation, and consultation activities to date, (v) a description of institutional arrangements and the land acquisition and resettlement Grievance Redress Mechanism, (vi) the compensation strategy, (vii) a preliminary resettlement budget, (viii) internal and external monitoring and evaluation procedures and (ix) a preliminary implementation schedule.

4. An initial assessment of land acquisition and resettlement impacts was conducted during a survey of potentially affected households and their assets in May and June of 2013. Expected impacts include both land acquisition and the demolition/removal of physical structures and utilities.

5. Initial surveying identified 22 affected entities whose land will need to be acquired for the subproject; with the required land-take totalling 1,600 m<sup>2</sup>. It is also expected that among these affected entities, totals of 4 houses, 2 latrines, 1 ger, 22 fences and 2 other structures will be impacted. Impacts to structures will largely be temporary (during construction) but some structures will need to be rebuilt. It is not currently estimated that any entities will need to be resettled to new plots. The full range of impacts will be confirmed as project design is finalized.

6. Impacts are not expected to include the loss of productive assets or business income. Neither will the subproject impact the customary land use rights, socio-economic status, cultural and communal integrity, social security, or any indigenous knowledge of affected entities. Lastly, differential gender impacts from the subproject are not expected.

7. When subproject design has been finalized, additional data will be collected to finalize an understanding of impacts resulting from the final design. A 100% census, DMS and asset valuation survey of affected households and other entities will be conducted. A comprehensive baseline survey will also be implemented, sampling a portion of households affected by the subproject. These surveys will form the basis of determining (i) individual households' entitlements and compensation amounts, (ii) whether households have members who are

vulnerable, and (iii) information on migration, employment and livelihood strategies, income and expenditure, education, health, transport, vulnerability, community needs and social cohesion.

8. All affected assets identified during the surveys will be compensated at replacement cost based on market value for comparable assets estimated by the valuation team including resettlement specialist, valuation specialists, and representative of affected entities, and agreed with affected persons.

9. Representatives of the Municipality of Ulaanbaatar (MUB) will ensure that no physical or economic displacement occurs until compensation at full replacement cost and other entitlements have been provided to each affected person and a comprehensive income and livelihood rehabilitation program, supported by an adequate budget, is in place to help affected persons to improve, or at least restore, their incomes and livelihoods. In addition, vulnerable households among the subproject's affected entities will be identified and rehabilitation support provided. Gender specific provisions will also be enacted to safeguard women's livelihoods.

10. Throughout the development of subproject activities, affected entities have been and will continue to be fully informed, closely consulted, and encouraged to participate in any decision making pertinent to land acquisition and resettlement for the subproject, including the final design of infrastructure facilities, preparation of contractual agreements, determination of prices for assets to be transferred, selection of replacement plots and the restoration of livelihoods.

11. Accordingly, rights and entitlements have been fully explained to affected entities, in a timely way and in accessible formats. Further, a Grievance Redress Mechanism has been established and disclosed for the subproject to support affected people on problems arising from the subproject's activities, and provide means by which the various stakeholders involved may be consulted and a negotiated agreement reached.

12. Subproject activities will be overseen by a Project Management Office (PMO), working under a Subcenter Redevelopment Authority. The implementation of RP activities will be overseen by a Resettlement Plan Implementing Committee (RPIC). The RPIC will be comprised of key government officials at the district and khoroo levels, including representatives of Ulaanbaatar Property Relations Department (PRD), the PMO, and representatives of affected entities. Where possible, the RPIC will include representatives of affected women and NGOs.

13. The subproject budget is currently estimated at US\$ 214,541. This remains a preliminary estimation, to be finalized based on detailed design, updated inventory of impacts, final census of affected persons and estimation of replacement values for lost assets based on the latest market values by the valuation team.

14. The total cost of land acquisition and resettlement, including the cost of compensation, rehabilitation, administration, monitoring, and any contingencies, is an integral part of the subproject cost, and the MUB is responsible for timely allocation of funds. The PMO will work with the MUB and other state agencies to manage the process of formal contractual agreements with affected entities and disbursement of compensations. No land will be acquired by the government or handed over to the PMO for commencing construction works prior to implementation of the approved Resettlement Plan, and full payment of due compensation and provision of other resettlement entitlements to the affected entity.

15. Monitoring of compliance with the RP during subproject implementation will also be carried out by the PMO, as well as by an External Monitoring Agency, in order to document that the

commitments and objectives of the RP are being achieved. Monitoring will also ensure (i) key stakeholders are executing their responsibilities (ii) the protection of the rights of affected entities under Mongolian laws, ADB Safeguard Requirements, and this RP; (iii) adequate, prompt payment of compensation; and (iv) timely grievance redress.

16. The next step in the development of USGDIP activities in Bayankhoshuu is to finalize the engineering and other technical designs, so that the planning of subproject activities can move forward. As presented in Table 7, detailed technical design is to commence in the fourth quarter 2014.

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## A. INTRODUCTION

17. This document constitutes the Resettlement Plan (RP) for the Bayankhoshuu Subcenter Improvement Subproject, which is one component of the Ulaanbaatar Urban Services and Ger Areas Development Investment Program (USGDIP, or Program). This RP is prepared in accordance with applicable laws of Mongolia, the Asian Development Bank's (ADB's) 2009 Safeguard Policy Statement (SPS), and the July 2013 Draft Resettlement Framework for the Program.

18. This draft RP builds on the USGDIP Resettlement Framework, which serves as the foundational document for all related land acquisition and resettlement activities undertaken in Bayankhoshuu. Impacts of these activities are expected to include both land acquisition and the demolition/removal of physical structures and utilities. Impacts are not currently expected to include the loss of productive assets.

19. This draft RP is prepared based on preliminary subproject design; and as a result, the information it contains related to scope of land acquisition and resettlement impacts is also preliminary and only an estimation. It will be finalized based on final detailed design, a Detailed Measurement Survey (DMS), and census of all affected persons and entities. These activities will be undertaken by the Program Management Office (PMO) with support from other government officers and resettlement specialists. More information on these survey activities is provided in Section C. The final RP will be submitted to the ADB and MUB for review and approval before award of related civil work and before commencement of any land acquisition or demolition.

20. This draft RP provides (i) an initial assessment of the scope of land acquisition and resettlement, (ii) an overview of the socio-economic situation of affected entities, (iii) the RP policy framework and entitlements, (iv) the procedures for consultation and public participation, and consultation activities to date, (v) a description of institutional arrangements and the land acquisition and resettlement Grievance Redress Mechanism (GRM), (vi) the compensation strategy, (vii) a preliminary resettlement budget, (viii) internal and external monitoring and evaluation procedures and (ix) a preliminary implementation schedule.

### Project Description

21. The Asian Development Bank is expected to finance part of the proposed Program (7970-MON) in the Mongolian capital city of Ulaanbaatar. The Program aims to improve the quality and coverage of urban infrastructure and basic services, and to implement a sustainable and inclusive process of urban development in Ulaanbaatar's Middle Ger Areas.<sup>1</sup> It is expected to directly benefit 400,000 people living in these areas and to indirectly benefit the entire population of Ulaanbaatar. Combining spatial and sector approaches, it will support the socio-economic development of existing urban subcenters and urban corridors. This is meant to progressively

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<sup>1</sup> There are three types of ger areas: (i) Central Ger Areas which are located around the city's built core and where the potential for access to water, roads, and solid waste collection is highest. These Areas are characterized by modern style buildings, which are replacing the traditional gers, and developing microenterprises as household incomes and savings increase; (ii) Middle Ger Areas which are located around the Central Ger Areas and whose inhabitants depend on water from tankers and use pit latrines. These Areas have intricate streets that are difficult to access and are prone to flooding because of the lack of drainage—with conditions worsening during the winter months; and (iii) Peri-Urban Ger Areas, which surround the Middle Ger Areas and are expanding at an accelerating pace. They have the least access to basic infrastructure and services. Inhabitants of these areas mainly rely on tanked water supply, simple pit latrines and their structures are built on or along hazardous sites near high-tension lines, natural drainage channels, or steep slopes.

transform the ger areas into more livable, productive and well-functioning urban areas, with improved residential, commercial and public services. To be developed in close coordination with the Government and international partners, the Program is considered a long-term commitment by the ADB to the MUB to facilitate the implementation of key physical investments, policy reforms, institutional strengthening, and capacity development.

22. The expected impact of the Program will be improved living conditions in Ulaanbaatar. The expected outcome will be a sustainable, inclusive, and well-structured development of ger areas in Ulaanbaatar. The Program will produce an investment plan, which will include asset creation, operation, and maintenance; and frameworks for institutional development and coordination, a legal and regulatory environment conducive to ger development, and capacity development.

23. The USGDIP is proposed to be funded through a Multi-Tranche Financing Facility (MFF). Loans will total up to US\$350 million over a period of 10 years for which the first tranche will be approximately US\$45 million.

24. It is proposed that the first tranche of investment, targeting two subcenters, will finance the following activities: i) construction and improvement of roads, and the installation of street lights; ii) urban services extension (construction of water, drainage, sewer and sanitation); iii) heating services; iv) construction of social facilities; and v) other civil works targeting improved protection against flooding. Tranche 1 investments in physical works are detailed below.

- Construction of (i) 4.96 km road 5.5 m carriage way (CW), 1 m sidewalk and underground power line; (ii) street lighting every 40 m; (iii) 1.19 km road 5.5 m CW and power line; 4,50 ha landscaping; (iv) 868m of drainage culvert - 6m3/ml earth filling + 6m3/ml concrete + asphalt road
- Construction of ( i) 14.4 km of HDPE water supply and sewerage network HDPE pipelines, manholes, valves, water and flow meters, water and sewerage connections and related appurtenances; (ii) 3.45 km of Dia 300 mm HDPE sewerage collector main; and (iii) one 500 m3 ground reservoir
- Construction of a 2,500 m2 kindergarten and business incubator/vocational training center
- Construction of 8.7 km of double DN80 - DN 200 heat distribution network mains including supply and installation of insulated GRE and steel pipelines, manholes, valves, water and flow meters, heating service connections and related appurtenances
- Construction of 2, 8.4 MW (3 x 2.8 MW), coal-fired boiler plants to support a district heating system, including supply of all equipment and materials, automatic controls, emission control equipment and connections to local infrastructure.

25. Of these Tranche 1 activities, only the impacts of the first two components – the improvement of road networks, and of water and sewage infrastructure – are addressed in this RP. The impacts of the other components not covered in the RP will be addressed in accordance with the provisions of ADB Operations Manual FI (paragraph 51) for subprojects prepared after board approval and the Resettlement Framework. The land acquisition and resettlement impacts of these subprojects will be insignificant. Further, only the activities that will be conducted within the subcenter are addressed in this RP, meaning that construction impacts

related to the connection of the subcenter's infrastructure to municipal infrastructure (e.g. external sewage networks) have not been considered.

26. It is only appropriate to address impacts related to road, water, and sewerage infrastructure within the subcenter given that program design is still in a preliminary phase. Any impacts outside the subcenter resulting from connections to municipal infrastructure would in any case be temporary (e.g. disruption of business activity during civil works). These impacts would be identified in the final RP.

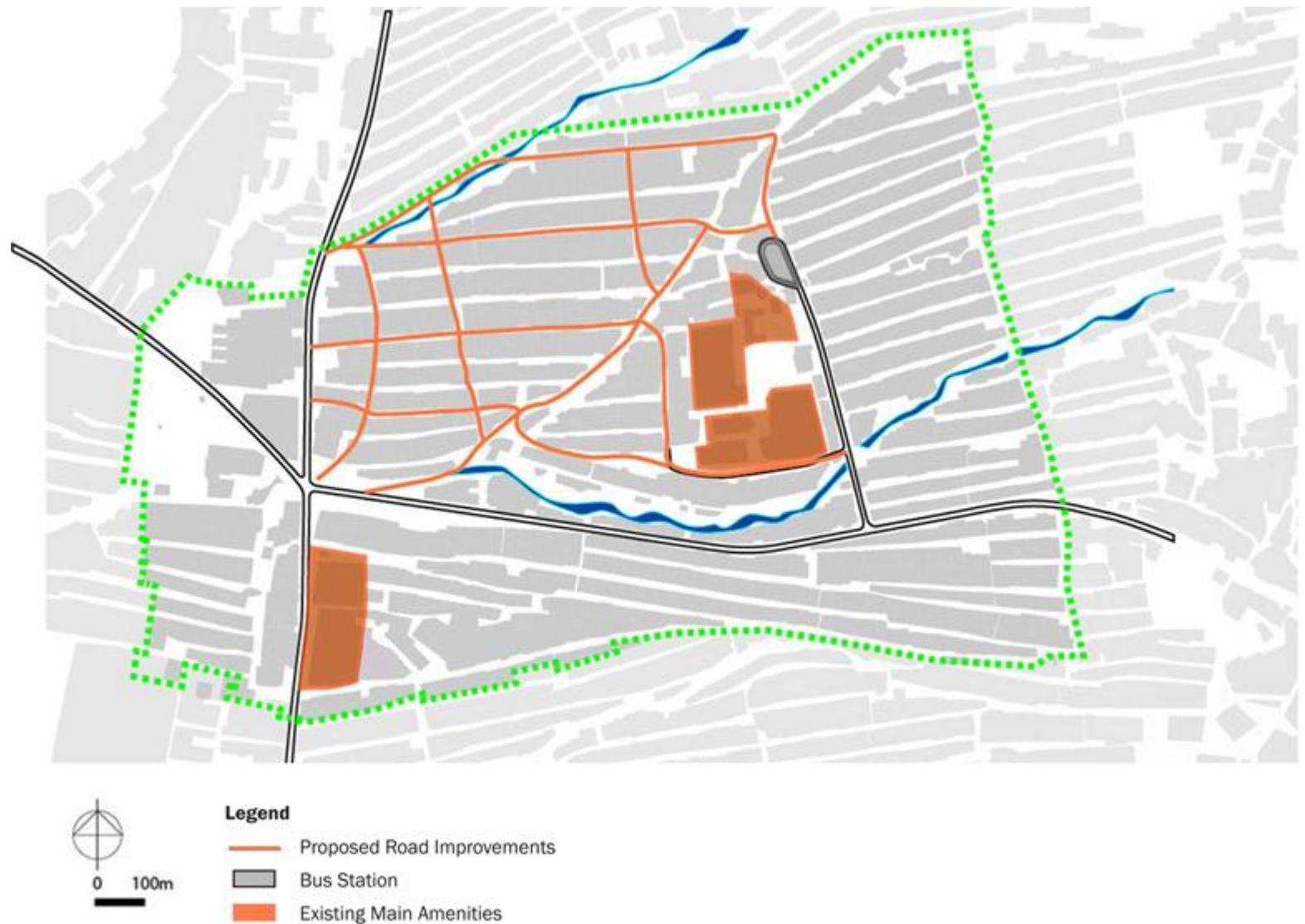
27. Remaining Tranche 1 activities include the construction of heating plants, improved social facilities and flood protection infrastructure. The precise locations and designs of these investments have not yet been determined; they will be selected through a community led planning exercise and with regard to service infrastructure, consideration of engineering design related to distribution efficiency and site conditions, with an emphasis on reducing the scope of land acquisition and resettlement to the greatest extent possible.

28. Once the subprojects funded by the first tranche of investment are successful, the Program's activities will be further expanded within the two subcenters, with this expansion funded by the second tranche of investment. In Bayankhoshuu, the second tranche would provide an additional neighbourhood (Bayankhoshuu 3) with connections to trunk infrastructure and improved roads.

29. The remainder of the second tranche of investment would then be used to study the feasibility of using the third tranche of investment to replicate Program activities in a third major subcenter in eastern Ulaanbaatar, such as Amgalam or Uliastai.

30. **Figures 1, 4, and 5** show planned subproject activities in Bayankhoshuu subcenter under Tranche 1. **Figure 2** presents how roads will be constructed, and **Figure 3** presents how water, sewage and heating infrastructure will be constructed, buried under public land.

Figure 1: Layout of Planned Priority Road Network in Bayankhoshuu Subcenter



**Figure 2: Road and Surface Improvement Construction**

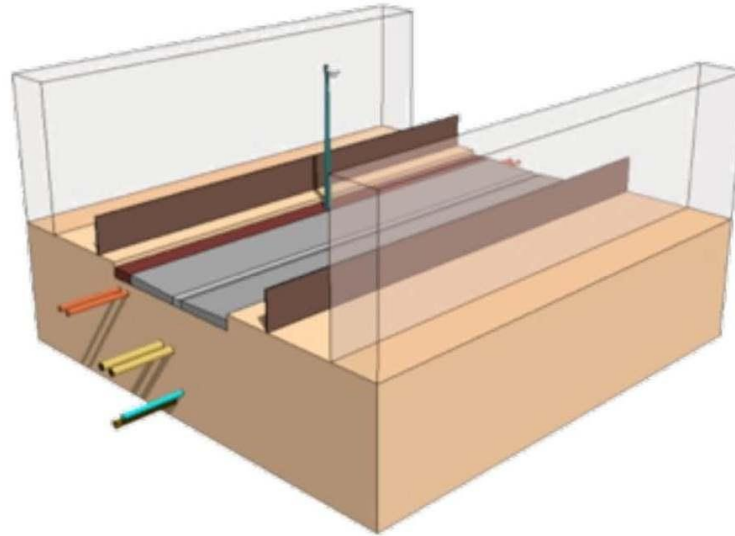
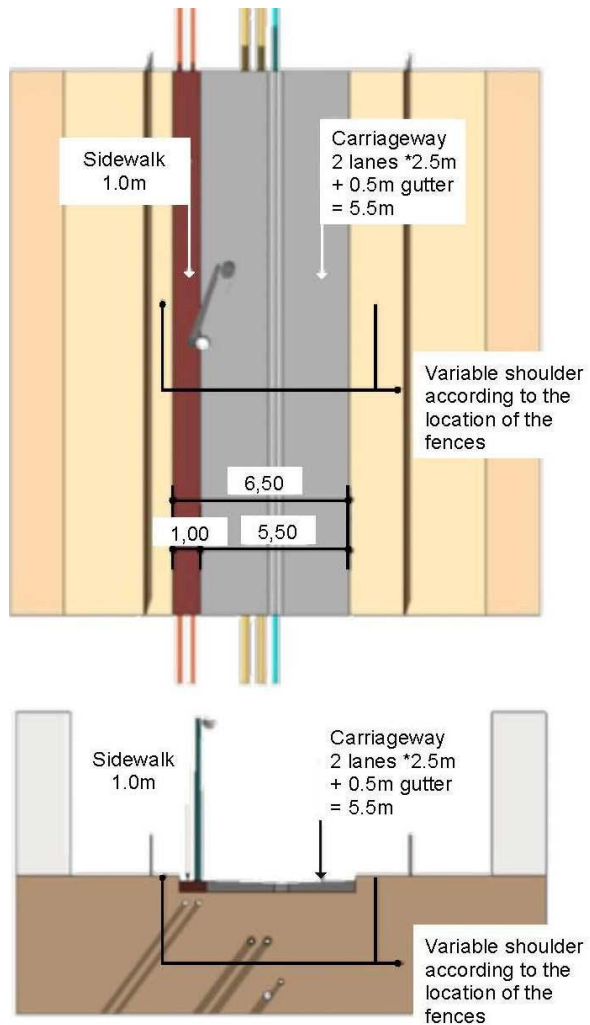
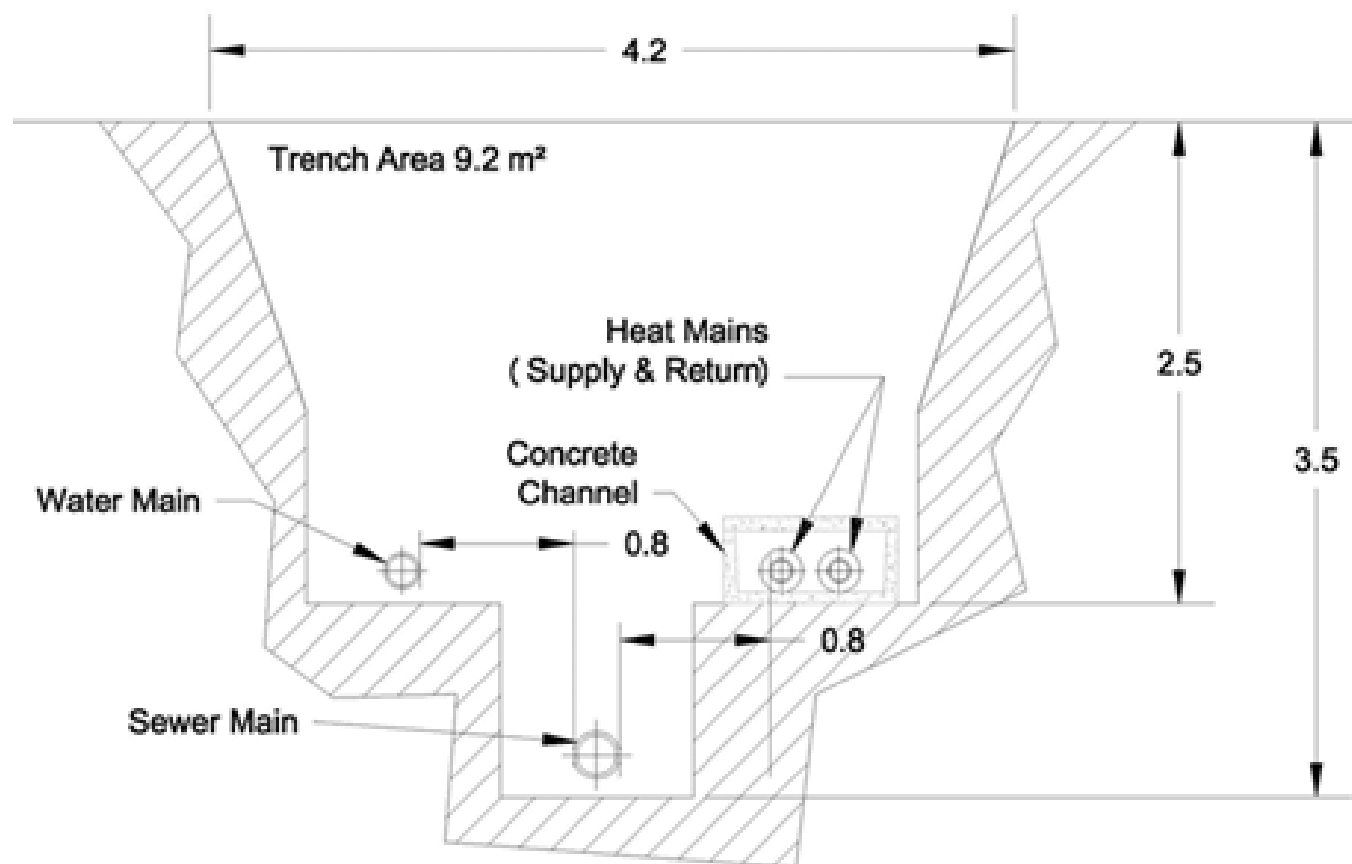
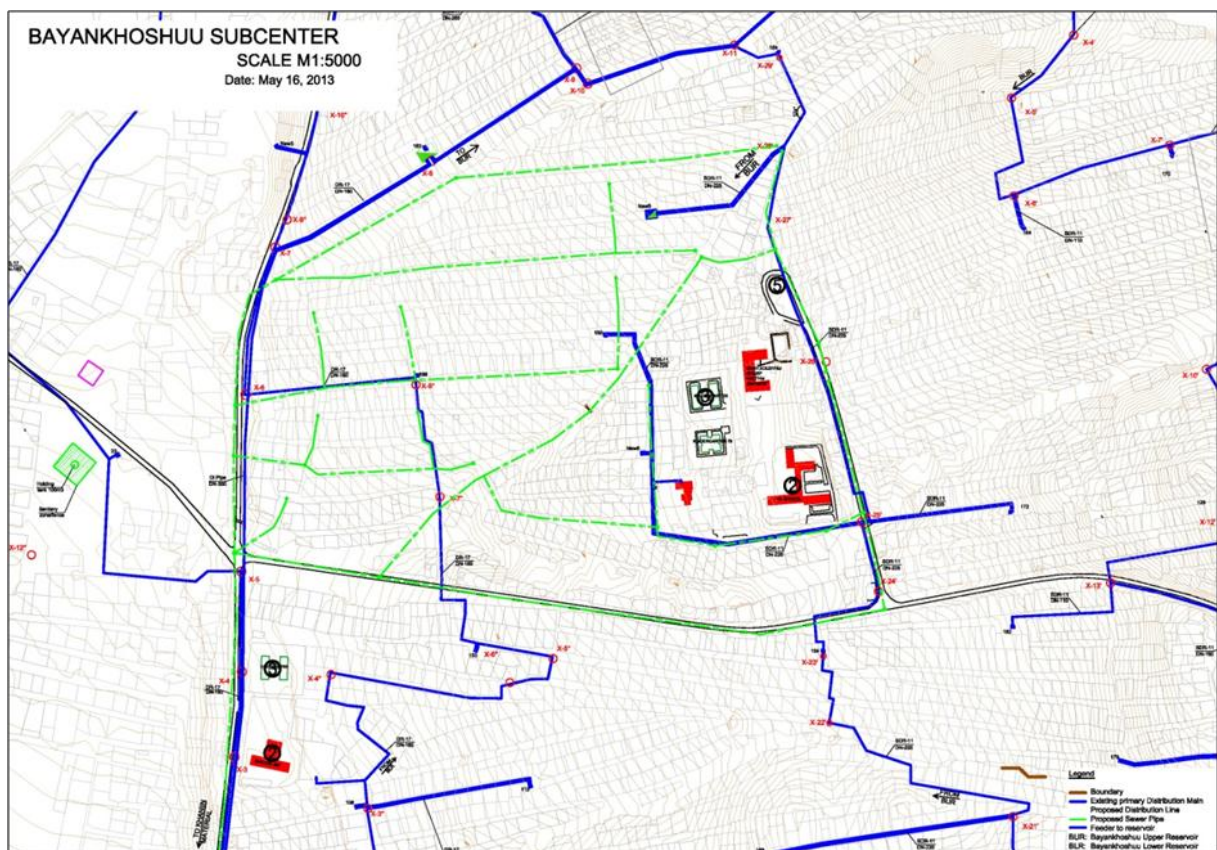


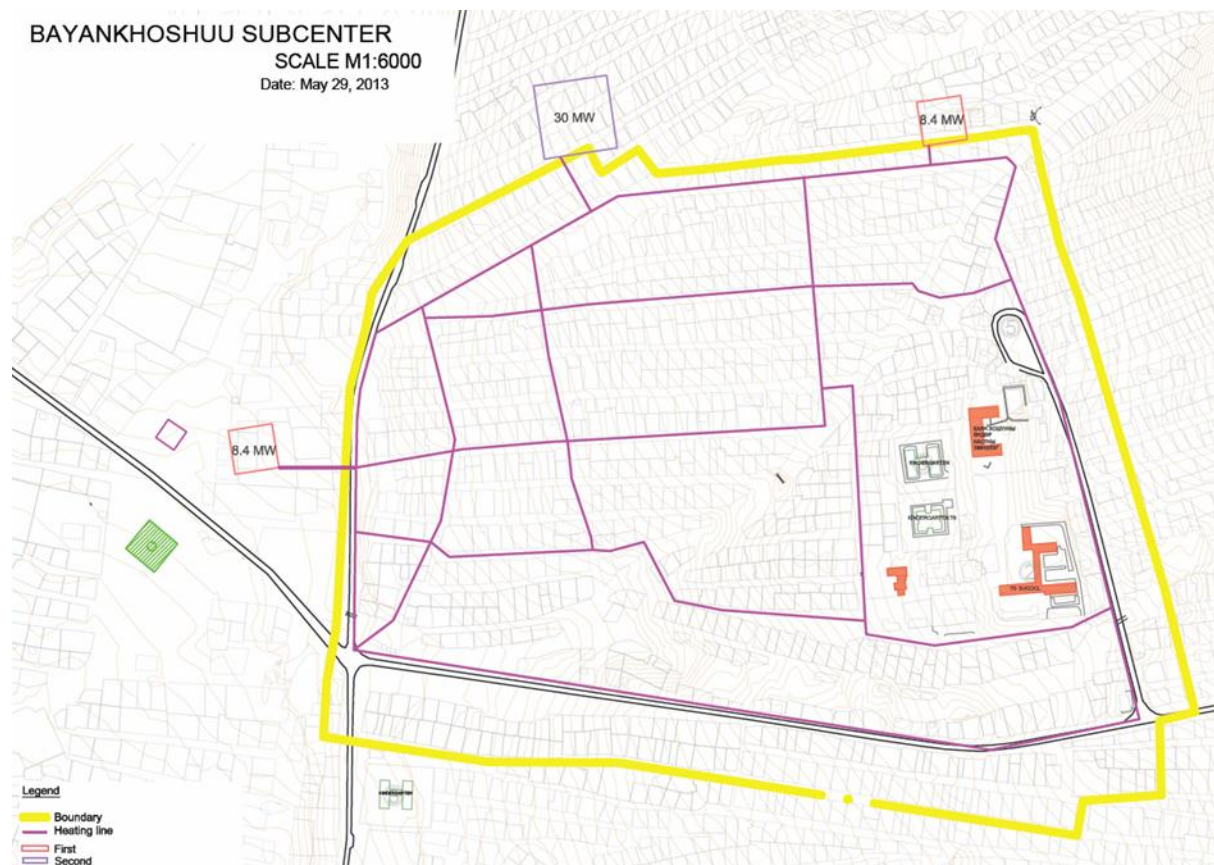
Figure 3: Water, Sewerage and Heating Infrastructure Construction



**Figure 4: Layout of Planned Water Supply and Sewerage Networks**



**Figure 5: Layout of Planned Heat Distribution Network<sup>2</sup>**



<sup>2</sup> The location and size of proposed plants as shown are approximate and relative; plant specifications and exact locations will be confirmed during detailed design.

## **B. SCOPE OF LAND ACQUISITION AND RESETTLEMENT**

31. The preliminary design of Tranche 1 activities has been driven in part by the goal of minimizing new land-take and impacts to residential structures. To this end, design and location alternatives were investigated, and subproject design was iteratively refined as an understanding of local circumstances and potential impacts developed. Measures to minimize impacts included the following.

- The initial routing of the new trunk roads so that as few private entities as possible would be potentially affected, rather the routing of the roads solely on the basis of engineering and costing considerations.
- GIS analysis of proposed infrastructure alignments, and subsequent readjustment of the alignments to minimize impacts to households. This readjustment eliminated expected impacts on an estimated 64 entities, reducing the number of affected entities from 86 to 22 (more information on affected entities is provided below).
- In-field verification of the potential for impacts by a LAR specialist, an urban planner, and other technical specialists. This field work was then used as input into the development of road routing in much finer detail.
- Limitation of rights-of-way for road improvements, previously 10.5 m for larger roads and 8.5 m for smaller roads, to 6.5m and 5.5m respectively, to minimize land-take.
- Co-location of infrastructure (water, sewage and heating infrastructure) under new roads, as opposed to the national norm of requiring additional and separate rights-of-way, so that land-take is minimized.
- Construction of sidewalks and variable shoulders on major roads in order to keep areas by the verge of larger road clear of vehicle traffic.

32. However, notwithstanding the measures detailed above, some impacts are unavoidable and will therefore need to be identified and mitigated in accordance with this RP. These unavoidable impacts, as well as the measures taken to minimize impacts, are described below.

### Potential Resettlement Impacts

33. An initial survey of potentially affected households and their assets was conducted in May and June of 2013. Surveyors identified potentially affected households on the basis of preliminary subproject engineering designs and conducted an initial assessment of land acquisition and resettlement impacts expected to result from Tranche 1 activities. This survey was not a 100% census, and so did not produce a final list of affected households. Rather, the survey provided an overview of the types of impacts most likely to result from the subproject. As engineering designs evolve, and as community consultation progresses, a more precise understanding of program impacts will be developed.

34. For example, the location of social facilities will only be confirmed through a forthcoming community planning exercise (introduced in Section A, above). In this context, the initial survey was restricted to those entities expected to be affected by the road and services upgrading

activities. As a result, the only affected land and structures identified in this version of the RP are those that will be acquired in the context of road and service infrastructure construction.

35. Results of the initial survey show that a total of 22 entities, including 19 households and , two institutions, (one is a kindergarten and a boiler house for heating the Khoro facilities) . a would be expected to experience subproject related impacts, if road and service infrastructure were upgraded in accordance with current subproject designs. Together, the private households have a population of 90 people. For the households and institutions there will be no income loss. **Table 1** presents the amount of land and the number of structures within the area required for road and services upgrading. More information on impacts to individual households is provided in **Table 3**. Again, a fuller understanding of subproject impacts will be finalized in parallel with the finalization of subproject design.

**Table 1: Tranche 1 Land Acquisition and Resettlement Impacts in Bayankhoshuu**

Type of Impacted Asset	Unit	Number
Land: roads and service infrastructure	m <sup>2</sup>	1,600
Houses	#	4
Latrines	#	2
Other Fixed Structures	#	2
Gers	#	1
Fences	#	22
Business Incomes	MNT	0

36. Regarding land, the degree to which surveyed entities are affected will vary considerably depending on what proportion of their land will be acquired by the subproject. As presented in Section E, where entities will lose 50% or more of their land, they will be resettled to a new plot. It is not currently expected that any entities will need to be resettled in this context. Of affected entities, two would lose exactly half their land if the subproject were to be implemented according to current designs, but it is expected that minimizing impacts to these two entities will be a priority of the next design phase, and that this will reduce their affected land to less than present estimates. **Table 2** presents the relative proportion of land affected, for those surveyed.

**Table 2: Proportion of Total Land Affected by the Subproject**

% of Total Land Affected (Estimated)	Affected Entities <sup>‡</sup>	% Affected Entities	% Cumulative
0-10	7	33.3	33.3
11-20	3	14.3	47.6
21-30	7	33.3	80.9
31-40	2	9.5	90.5
41-50	2	9.5	100

<sup>‡</sup>Affected entities in the table total 21 only, as total land ownership was not identified for one of the 22 entities surveyed

37. A positive subproject impact related to land acquisition will be support for the formalization of land titles. While institutions usually have formal title to their land, individual private households in Bayankhoshuu may not. Rather, they may possess their land, or have gained access to it

informally. For those households that do not currently formally (legally) own the land on which they reside, support will be provided so that their ownership title is legally registered.

38. The most common type of impact to structures will be impacts to entities' fences. Many affected entities will have their fences moved back from the edge of their property to accommodate the widening of local roads; others may experience temporary construction impacts to their fences, which will be removed and subsequently replaced following the installation of subterranean infrastructure. A relatively high proportion of entities' latrines will also be affected, as these are usually situated near property boundaries.

39. Results of the initial survey also indicate that four houses, one ger, and a number of non-residential structures such as sheds, containers, and greenhouses will be affected. The degree to which these structures will be affected is still to be determined. Some structures, such as gers, will be moved within their existing plots, while others may need to be rebuilt (along with the household's other assets), on a new plot. Again, as subproject design is finalized, there will be a strong focus on minimizing or avoiding the impacts presented above.

40. The subproject will not impact the customary land use rights, socio-economic status, cultural and communal integrity, social security, or any indigenous knowledge of affected entities. Any ethnic minorities affected will share equally in subproject benefits without discrimination. Also, since any such minorities are already integrated into urban lifestyle, they will not experience adverse impacts or discrimination based on their ethnicity. Therefore, the ADB's SPS policy requirements for Indigenous Peoples will not be triggered by this subproject. Nonetheless, this will be confirmed through the more detailed survey activities that will follow the initial survey.

41. Regarding business income, it is acknowledged that subproject activities, and construction activities in particular, have the potential to disrupt those businesses that households may run from their khashaas. For the households surveyed to date however, no business impacts are anticipated, as no businesses with the potential to be disrupted by the program were identified. Neither is the subproject expected to impact the activities of affected institutions in any significant manner. Should business impacts emerge, lost income will be compensated for until business activities may be restored.

42. Differential gender impacts from the subproject on either men or women are not expected. Women have been and will continue to be included in consultation activities and the participation processes of land acquisition and resettlement as a whole. Consideration will be given to complaints and grievances lodged by affected women and the interests of female headed households affected by the subproject will be protected.

43. **Table 3** presents information on expected subproject impacts, by individual surveyed entity. Section I includes a full discussion of the compensation and rehabilitation strategy and measures for all affected entities.

**Table 3: Affected Land and Structures**

#	Entity Type	Land		Structures	
		Area Affected m2	Est. Scale of Impact %	Area Affected m2	Est. Scale of Impact %
1	Institution	9	1.2		
2	Private	11	n/d		

#	Entity Type	Land		Structures	
		Area Affected m2	Est. Scale of Impact %	Area Affected m2	Est. Scale of Impact %
	Company				
3	Khashaa	131	21.0		
4	Khashaa	136	23.7		
5	Khashaa	165	23.8	80	5
6	Khashaa	77	49.4		
7	Khashaa	114	27.1	64	100
8	Khashaa	12	2.3		
9	Khashaa	5	1.6		
10	Khashaa	82	23.1	55	n/d
11	Khashaa	191	50.3		
12	Khashaa	98	32.5		
13	Khashaa	63	10.9		
14	Khashaa	19	6.7		
15	Khashaa	66	20.9	7	n/d
16	Khashaa	16	2.8		
17	Khashaa	14	2.3		
18	Khashaa	38	25.3		
19	Khashaa	149	38.4		
20	Khashaa	110	15.7		
21	Khashaa	71	13.5		
22	Institution	29	0.9		

### C. SOCIO-ECONOMIC PROFILE OF THE AFFECTED HOUSEHOLDS

44. Early screening of the scope and scale of land acquisition and resettlement impacts helps avoid or minimize displacement, leads to more informed project decision-making (scheduling and budgeting), helps urban development planners achieve the goal of improving living conditions and standards of living of affected populations, and it facilitates monitoring and evaluation activities. To that end, a range of surveys was incorporated into land acquisition and resettlement planning, both for the broader USGDIP and for the Bayankhoshuu subproject, to ensure that baseline socio-economic conditions and assets are properly measured and documented. These will also provide a basis to formulate entitlements and compensation standards.

45. For the USGDIP, a comprehensive socio-economic survey of a sample of households and businesses across the two subcenters where Tranche 1 activities will take place has been completed. In addition to basic household socio-economic data, including indicators of living standards and conditions, the survey collected information on willingness and ability to pay for proposed utility services. The survey also aimed to assess the needs, demands, and aspirations of resident households in terms of urban subcenter development and urban service delivery.

46. A total of 431 households in the Bayankhoshuu subcenter and 396 households in the Selbe subcenter were surveyed; as well as 182 business units across the two subcenters. Questionnaire design was based on ADB guidance and the survey was iteratively developed through discussion with the survey team, key informants and translators.

47. In summary, the subcenters were found to be broadly similar in terms of their social indicators such as household size and make-up, employment rates and educational achievement. Across the subcenters, approximately half the residents arrived after 2000. There is a high demand for improved services such as waste management and access to potable water, and awareness of the pollution and other health risks associated with burning coal and wood. There is also a lack of communal facilities and green spaces. Finally, there is a lack of the infrastructure necessary to protect against flooding.

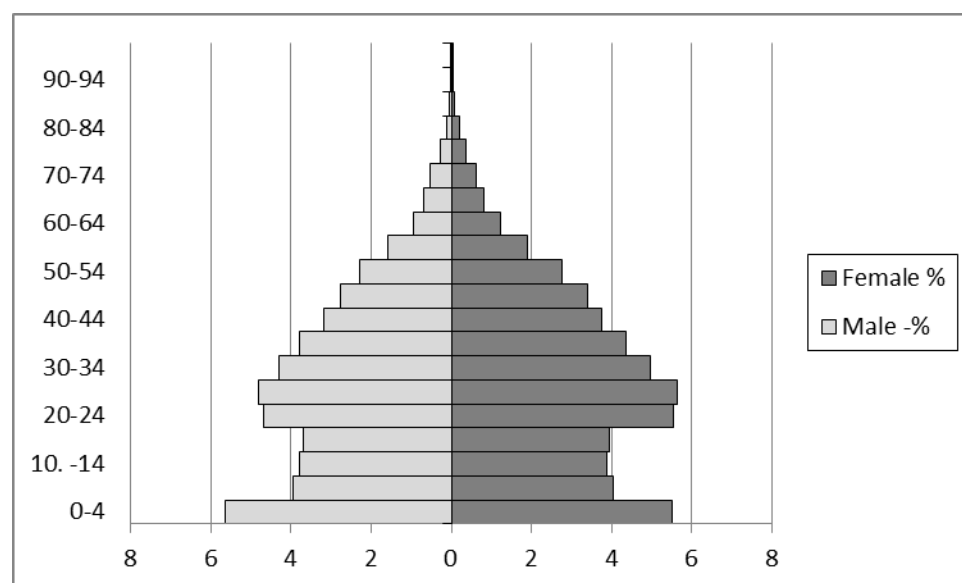
48. For the Bayankhoshuu subproject, field work was conducted on the basis of the preliminary engineering designs in order to assess the potential emergent subproject impacts and the broader social context. In May and June of 2013, entities that would likely be affected if the subproject were to be implemented as currently designed were surveyed. Where possible, potentially affected households were met, and additional socio-economic data on these households collected.

49. Vulnerable households are those with monthly per capita income below the poverty line or those with elderly, female or disabled heads of household. More information on vulnerability is provided at the end of this section.

#### Socio-economic Information and Profile of Bayankhoshuu Subcenter

50. The population in Bayankhoshuu is young and there are more women than men, with an average age of 28 and a male to female ratio of 0.88. This is partly because women tend to live longer than men in Mongolia, but other factors may also be at work, including internal migration in search of employment opportunities. In keeping with national trends, relatively few children were born ten to fifteen years ago, when it is reported that parents were deferring having children as the country went through a transition from a centrally planned to a market economy. As the country has become more stable in the past five years, families have been growing again. **Figure 6** presents the population of Bayankhoshuu, by age and gender.

**Figure 6: Bayankhoshuu Subcenter Population Pyramid**



Source: UB Statistical Department 2013

51. Additional socio-economic data was collected during the initial survey for the Bayankhoshuu subproject, in which 22 entities were surveyed. Of these, two were institutions, , and the remaining

19 entities were private households. It was possible to conduct a preliminary socio-economic survey with 14 of these 19 households.

#### Socio-economic Survey of 14 Potentially Affected Households

52. The socio-economic survey results for these 14 households show that 65% of households are headed by men, and 35% are headed by women. Average household size was 4.6. All households are from the Khalkh ethnic group (whose members are not considered to be indigenous peoples under the ADB definition).

53. In terms of educational achievement, the majority of adults (83%) have completed secondary school (with many continuing to university). Of all adults, 27% have completed a university degree. Just 3% of adults have completed no schooling, none have completed only primary school, and 13% have completed only basic schooling.

54. None of the households report any livestock holdings, or large scale gardening activities. Income is generally earned from salaried employment, pension payments, or private businesses. Although the majority of households have more than one adult member that is currently employed, with an average of 2 members employed across all the households, many (30%) also have adult members who wish to be economically active but are unemployed. This suggests that employment opportunities may be limited, or seasonal.

55. Regarding incomes, the households report an average and median per capita monthly income of MNT 480,000 (USD 330) and MNT 315,000 (USD 215) respectively. This suggests that there is more inequality between khashaas in Bayankhoshuu than is reported in other subcenters. Further, 15% of households surveyed are living below the poverty line, and are therefore vulnerable.

56. In terms of residential infrastructure, 30% of households live in gers, and the remaining 70% live in houses. Houses average 50m<sup>2</sup> and khashaas, ranging from 150m<sup>2</sup> to 1110m<sup>2</sup>, average 510m<sup>2</sup>. All houses use open pit latrines, and all have access to electricity.

57. Households report using a combination of fuel types to cook, likely alternating based on price and availability. Coal, wood, and electricity are all widely used. No households report using gas or dung. Coal and wood are also used for heating.

58. The majority of households (90%) purchase water from local kiosks, although some of these also report purchasing water from delivery trucks (bowsers). The remaining 10% purchase water exclusively from delivery trucks.

59. In terms of health infrastructure, 70% of households surveyed report using public hospitals when members need medical care, and 50% report using a private hospital, with some overlap between these two groups. Additionally 15% of households report visiting a traditional medical practitioner or shaman.

60. Regarding other infrastructure, all households report that further development was needed. Different households prioritized different needs, including for example, street lighting, improved roads, sanitation and water infrastructure, and waste disposal.

### Future Data Collection

61. When subproject design has been finalized, a 100% census, DMS and asset valuation survey of affected households and other entities will be conducted. These surveys will form the basis of determining individual households' entitlements and compensation amounts, whether households have members who are vulnerable, and which households/entities require special assistance.

62. The 100% census will collect information on household demographics, family structure (members' relations, ages, and residence status), and household livelihoods and economic information (income, occupation). The census will also serve to (i) collect information on the household characteristics of the affected population; (ii) register the affected population as per their residency or locality; and (iii) establish legitimate beneficiaries of compensation entitlements.

63. The DMS will record all land and other impacted assets at household, enterprise and community levels. Asset identification will include, but not be limited to: (i) land, including classification, use, holdings, and tenancy; (ii) structures, including organization, size, building materials, and other characteristics of private and public structures in the area of direct influence; and (iii) infrastructure, including water (potable and non-potable), power, sanitation, and communication networks. The DMS will also serve as a guide for the asset valuation survey. The asset valuation surveyors will evaluate the impacted assets identified during the DMS, to ensure that compensation rates are equivalent to replacement value, and that the proper rates are applied to each asset.

64. An inventory of businesses displaced, damaged or temporarily disrupted by Project activities will be undertaken to establish eligibility and confirm entitlements. This survey will collect information on the number and type of businesses impacted, average monthly net incomes of these businesses, and employee numbers and salary information.

65. In addition to the census, DMS and asset valuation survey, a more complete socio-economic baseline survey will be implemented, sampling a portion of households affected by the subproject. This will collect more detailed demographic data than the census, as well as information on migration, employment and livelihood strategies, income and expenditure, education, health, transport, vulnerability, community needs and social cohesion.

66. The data from the above surveys will also be used to determine whether households are vulnerable. Vulnerability indicators will be established to identify vulnerable people and their households among the affected entities. Potentially vulnerable households include those one or a combination of the following conditions (i) monthly per capita income below at or below the poverty line, (ii) female headed households without children / others contributing income, (iii) elderly head of household without children / others contributing income, (iv) untitled landholders, and (v) disabled persons.

67. Any household exhibiting one or more of these conditions will be considered vulnerable, and their special needs will be taken into account in resettlement planning. In consultation with such households, measures for the re-establishment and enhancement of their livelihoods will be taken to safeguard against impoverishment and to reduce their vulnerability. More details on subproject activities planned to support the rehabilitation of vulnerable households is provided in Section I.

68. Finally, the information collected through the surveys will be used as a baseline for subsequent data collection required to (i) calculate replacement values and compensation rates;

(ii) formulate livelihood restoration measures, especially for those seriously affected and for vulnerable groups, and other development interventions, and (iii) design monitoring and evaluation programs.

#### **D. OBJECTIVES AND POLICY FRAMEWORK**

69. The objective of this RP is to stipulate all relevant entitlements, procedures and compensation, relocation and rehabilitation measures due to entities affected by the acquisition of land under the USGDIP (and therefore the subproject activities in Bayankhoshuu). In particular, the RP is meant to safeguard people's livelihoods and quality of life, meaning that the assistance they will receive is designed to ensure they maintain a level of well-being which is at least equivalent to or better than what it would have been without the subproject. To achieve this, affected entities must be fully informed, closely consulted, compensated for their losses, assisted to gain possession or ownership of replacement land and property, in order to re-establish their living conditions and enterprises. All affected entities should be provided opportunities to participate in any decision making pertinent to involuntary resettlement (IR).

70. All provisions of this RP are in accordance with the Resettlement Framework (July 2013) for the USGDIP. The policy framework and entitlements for the Program are based on the applicable Mongolian Laws<sup>3</sup>, and the ADB's 2009 Safeguard Policy Statement (SPS). The relevant stipulations of national law and ADB policy are summarized below and the USGDIP's entitlement framework is presented.

##### Legal Framework of Mongolia for Land Acquisition and Resettlement

71. Mongolia does not have dedicated and comprehensive law on land acquisition. The system regarding taking over land for state purposes remains incomplete, imprecise, and fails to adequately protect the rights of affected persons. Firstly, the scope for taking over land is limited to national State needs, which means that when land must be acquired for such important needs as urban infrastructure it can only be purchased by agreement with the owner. Secondly, the rights of affected persons to compensation and resettlement measures fall short of international social safeguard standards. Thirdly, the procedures that the State must follow in acquiring land are not fully defined.

72. The Government of Mongolia, with the support of the Asian Development Bank and other development partners, is currently in the process of reforming its legal framework for urban development, including those laws related to involuntary land acquisition and resettlement for public need. This will support the implementation of the GOM's urban development strategy.

73. Article 6.17 of the draft Law on Land Acquisition with Compensation Based on Inevitable Public Need currently before parliament extends the power of the State and local government to acquire private property for State special and public needs as defined in Article 13.4 of the proposed amendments to the Land Law, including (but not limited to) development of water and waste water systems, and road construction and improvement.

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<sup>3</sup> Civil Code of Mongolia, 2002; Law of Mongolia on Land, 2002, amendments 2003/04/05/06; Law on Allocation of Land to Mongolian Citizens for Ownership, 2003, amendments 2005/08

74. The basic legislative framework for land acquisition and resettlement under the existing regime consists of the Constitution (1992), the Land Law (2006) and the Law on Allocation of Land to Private Citizens (2003), as well as the Civil Code. The Land Law specifies three kinds of private land tenure: (i) ownership, which may be granted only to citizens of Mongolia; (ii) possession, granted under license, to Mongolian citizens, economic entities and organizations, for terms of 15 to 60 years, extendable up to 40 years at a time; and (iii) use, granted under contract or lease to foreign countries and legal entities.

75. The Constitution of Mongolia states, inter alia, that “The State shall have the right to hold landowners responsible in connection with the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection and national security” and “If the State and its bodies appropriate private property on the grounds of exclusive public need, they shall do so with due compensation and payment” respectively.

76. The Land Law governs expropriation of land allocated for possession or use. The Law on Allocation of Land to Private Citizens contains provisions respecting expropriation of land under private ownership. Non-titled occupants of land are considered illegal land users and can be evicted on the basis of Article 27.4 of the Land Law, which states that “possessing land without a valid license is prohibited”.

77. Article 13.1 of the Land Law lists special needs for which land in private possession can be acquired by the state: (i) land under special government protection; (ii) border strip lands; (iii) land for ensuring national defence and security; (iv) land for foreign diplomatic missions and consulates, as well as resident offices of international organizations; (v) free zone area; (vi) land for scientific and technological tests, experiments and sites for regular environmental and climatic observation; and (vi) aimag level reserve rangelands.

78. Article 32 of the Law on Allocation of Land to Private Citizens includes among the special needs “to build roads, lines and networks and other objects of national scale” (32.1.3). Article 13 of the Land Law defines land under roads and networks as “land outside cities, villages and other urban settlements” (13.1). 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).

79. Consequently, urban roads, water supply and sewerage facilities and district heating facilities, belonging to cities, villages and other urban settlements, are on a local scale. Accordingly, the civil works under the USGDIP are not of a national scale, so exercise of eminent domain under current legislation is not possible.

80. In the absence of legal provisions regulating land acquisition and resettlement in the context of local scale infrastructure facilities, including roads and sewerage networks, the Civil Code provides a legal framework which place land acquisition and resettlement in the context of negotiated settlement. 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).

81. 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 USGDIP. Chapter 15 stipulates the negotiated agreement on transfer of land.

82. The right of a landowner to dispose of owned land through sale 'according to relevant procedures' (notarized contract) is guaranteed in Article 27 of the Law on Allocation of Land to Private Citizens. 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.

83. The local practice of land acquisition and resettlement among district or soum and khoroo or bagh level land administration officers, sanctioned by the Directors of the Capital City or Aimag Property Relations 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, affected persons are sent official notifications or "demand letters" by the Property Relations Department, 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 Cabinet Resolution 103 of 13 April 2003, which determines land valuation tariffs. 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.

#### ADB Involuntary Resettlement Policy Requirements

84. The 2009 ADB Safeguard Policy Statement (SPS) outlines the requirements that ADB borrowers/clients are required to meet in delivering involuntary resettlement (IR) safeguards<sup>4</sup> to ADB supported projects. The overriding objectives of the safeguards are: (i) avoid involuntary resettlement wherever possible; (ii) minimize IR by exploring project and design alternatives; (iii) improve, or at least restore the assets, living conditions and livelihoods of affected persons; and (iv) improve the standards of living of vulnerable displaced groups.

85. The ADB's IR safeguards state that eligibility includes all people with formal legal rights to affected land (in whole or part) and those who have claims to the affected land that is recognized under national laws. People without formal legal rights or recognized claims, but who have occupied the land or structure prior to the agreed upon and publicized cut-off date, are eligible for compensation for non-land assets and resettlement assistance.

86. The ADB's IR principles also describe the compensation and assistance that will be provided, including: adequate and appropriate replacement land and structures, or cash compensation at full replacement cost without depreciation, transaction costs, accrued interest,

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<sup>4</sup> Refer to Appendix 2 of the SPS – "Safeguard Requirements for Involuntary Resettlement".

transitional/restoration costs and any other payments; where feasible preference for land-based (not cash) resettlement strategies; assistance with relocation and improved housing with comparable access to employment/productive opportunities, civic infrastructure and community services; transitional support and development assistance; and opportunities to share in project benefits. For those who are economically displaced, they will be compensated for loss of income, and be assisted in restoring, and where possible improving, their earning capacity, production levels and standard of living.

87. Project proponents are expected to carry out meaningful consultations with affected persons and other stakeholders, including disclosure of information on entitlements and resettlement options, participation in the resettlement planning process, and establishment of a transparent and effective Grievance Redress Mechanism (GRM), and, wherever possible, negotiate fair settlements to avoid forcible evictions.

88. Project proponents are also expected to undertake a comprehensive Social Impact Assessment (SIA) in order to understand fully who will be displaced and how it will impact them currently and into the future. The SIA is to include an inventory of affected people, their assets, their income and livelihoods, and should be disaggregated based on gender. The SIA should also describe the people who might be more vulnerable to negative impacts, and suggest targeted measures the proponent will put in place to ensure vulnerable people do not suffer disproportionately and can share equally in the project opportunities and benefits.

89. The ADB's SPS requires preparation and disclosure of a Resettlement Plan (RP). The RP should describe in detail affected people's entitlements; income and livelihood restoration strategy (including measures for vulnerable people); institutional arrangements; consultation, participation and disclosure; GRM; monitoring and reporting framework (including external monitoring for projects with significant land related impacts), budget and time-bound implementation schedule. Displacement may not occur prior to implementation of the Resettlement Plan, including payment of compensation and provision of other resettlement entitlements.

#### Assessment of Policy Gaps

90. There are several significant policy gaps between the Mongolian legal framework and the ADB IR safeguard requirements. According to Mongolian law or practice: (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 APs; (iii) a depreciation coefficient is applied in the valuation of affected structures; (iv) income and livelihood rehabilitation is not normally considered in local land acquisition practice; (v) transaction costs are not included in compensation payments; (vi) there are no project internal grievance procedures preceding dispute resolution by governors and the courts; (vii) public consultation and information disclosure is not practiced; (viii) an eligibility cut-off date is not declared; (ix) there is no limitation on commencement of civil works until after completion of all land acquisition procedures; and (x) there is no need to prepare an RP or to undertake monitoring and evaluation activities.

91. **Table 4** outlines the key provisions of existing Mongolian laws and practices relevant to land acquisition and resettlement and indicates their compatibility or inconsistency with the ADB IR safeguard requirements.

**Table 4: Comparison of IR related provisions in Mongolian Law and the ADB SPS**

IR issues	Provisions of Mongolian law	ADB policy requirements
Involuntary Resettlement	<p>Invoking eminent domain is only legally recognized when taking back land for special needs of the State including, lines and networks and other objects of national scale (Law on Allocation of Land to Private Citizens, Articles 32 and 37; Land Law, Articles 42 and 43). This law does not apply to the USGDIP and consequently, the Civil Code will apply.</p> <p>Current practice by government in local scale projects entails a demand letter with threat of sanctions and offer of payment of compensation.</p>	Eminent domain is generally recognized and subject to policy provisions aiming at avoiding and minimizing land acquisition and replacement of lost assets and rehabilitation of livelihoods. Affected entities to be at least as well-off as without project.
Negotiated Settlement	The Civil Code of Mongolia is the legal basis for contractual agreements on the transfer of land in the ROW from affected entities to the government (Chapter 15, Articles 1, 6, 7, 8, 109 and 112, among others).	Recognition of negotiated settlement, where there is a willing buyer and a willing seller. If the seller has no option, then the IR policy requirements apply.
Eligible Affected Entities	<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 Law on Allocation of Land to Private Citizens (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>	Titled and non-titled affected entities are eligible to receive different entitlements. Titled affected entities are entitled to compensation and rehabilitation for affected land and non-land assets at replacement cost. Non-titled affected entities are eligible for entitlements for non-land assets at replacement cost and to rehabilitation assistance, possibly including replacement land, such that they are no worse off than before the project.
Compensation for land	<p>Contractually agreed payment for land transferred to the government.</p> <p>Local practice applies the government land valuation tariff (Cabinet Resolution 103, 2003), but negotiates with affected entities as well. Replacement land can be provided if an affected entity's entire land or large part thereof is acquired.</p>	Land compensation at replacement cost based on land valuation at average market value within 1 year before the delivery of compensation or replacement land of similar size and quality.
Compensation for structures	<p>Contractually agreed payment for transfer of structures located on land acquired.</p> <p>The value of structures is determined at market rates, with depreciation deducted from gross value of the structure.</p>	Valuation of structures is based on current market value, i.e. replacement cost of new construction of the structure without deduction of depreciation. Affected entities can be permitted to salvage materials.
Joint property ownership	<p>The Civil Code recognizes common property ownership and family property rights (Articles 108, and 125-128).</p> <p>Common property ownership requires permission of other owners to dispose of part of the property (108.4).</p> <p>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</p>	No conflict with ADB SPS. Joint signatures are encouraged.

IR issues	Provisions of Mongolian law	ADB policy requirements
	requires mutual agreement (128.1) and certified written permission from an adult family member (128.2).	
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 Law on Allocation of Land to Private Citizens, Article 33).	No conflict with ADB SPS.
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 a 3 month notice (Article 294.3)	Lessee is considered an affected entity 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 land acquisition are eligible for compensation.
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.
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 included in compensation.
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 Law on Allocation of Land to Private Citizens refer various types of disputes to the courts.	An adequate GRM for affected people is required.
RP information disclosure and public consultation	No provision for public consultation and information disclosure. In practice, all cases involve a period of negotiation.	Affected entities are to be fully informed and closely consulted on compensation and resettlement options. Draft, final and revised RPs is to be disclosed and discussed, as well as published on ADB's website.
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 affected population is taken, to prevent influx of non-eligible persons and land

IR issues	Provisions of Mongolian law	ADB policy requirements
		speculation.
Right of way	Water pipes up to 1000mm diameter require a safety zone of 10m (5m from center of pipe) in dry soil. It may be narrowed in built-up areas. (Mongolian Law on Water Supply and Sewerage System Utility of Cities and Settlements, Article 12.6; Construction Standard and Procedure of Mongolia BNBD 40-02-06, paragraph 10.20).	No conflict with SPS.
Notification period for vacating property and commencement of civil works	Time period for vacating a property may be defined in contract. Civil works commence in parallel with acquisition of property, but without defined waiting period.	Notification periods are not specified by ADB. Cash compensation and/or replacement of assets must be completed before displacement; land acquisition procedures, except for rehabilitation measures, must be completed before commencement of civil works.

## E. ELIGIBILITY AND ENTITLEMENTS

92. To bridge the gap between Mongolian Law and the ADB SPS, this RP presents the subproject's entitlement provisions, which integrate both. In addition, the following principles guided the development of entitlements.

- Design and implementation of the subproject will make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction.
- The subproject will adopt a negotiated land acquisition practice involving contractual agreements on the basis of the Civil Code of Mongolia.
- All compensation and allowances will be determined and paid or provided as specified in the contractual agreements, and all agreements will be certified by a notary and registered with the State Administrative Authority in charge of state registration of property rights.
- An adequate GRM will be established.
- All affected entities will be eligible for compensation and 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<sup>5</sup>).
- 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 Ulaanbaatar Property Relations Department (PRD) will assist the affected persons to identify and

<sup>5</sup> Not applicable if the replacement of public structures (electricity, water supply lines, etc) is covered under civil works contracts.

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.

- Affected users of land with use licenses will be provided where possible with replacement plots in similar locations suitable to business operations and new use licenses or, if possible and desired, with a license of ownership, within 3 months of conclusion of a contractual agreement between the government and the affected entity.
- Unlicensed occupants in case of full loss of land (i.e. greater than 50 percent) will be provided relocation assistance sufficient for them to restore their standard of living at an adequate alternative site with security of tenure (through grant of possession license), as well as compensation at full replacement cost for loss of non-land assets, such as dwellings and other improvements to the land.
- Unlicensed occupants in case of partial loss of less than 50 percent of their land will be awarded a possessor license for remaining contiguous unlicensed land. All taxes and fees associated with grant of possession rights will be covered by the subproject.
- All affected entities agreeing to receive replacement land or affected entities with pending license approval for ownership or possession or affected entities with possession licenses seeking ownership status, will be provided with ownership licenses prior to displacement and the affected entity will be registered with the State Administrative Authority in charge of state registration of property rights.
- Affected structures<sup>6</sup> will be compensated at replacement cost based on prevailing market rates for comparable types of structures determined through professional valuations by a certified valuer without deduction of depreciation. Materials may also be salvaged by the affected entities.
- 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.
- Temporary disturbances, including removal of fences and civil works on land outside the ROW, will be compensated in cash based on negotiated agreements with affected entities. Affected entities will enjoy continued access to land and residences. Civil works contractors will move fences and will restore land and fences upon completion of works.
- 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.
- Temporary loss of business income to the owner will be compensated through cash compensation equivalent to net profit after tax , i.e. for the period of interruption of business

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<sup>6</sup> Including houses, fences, sheds, latrines, garages and other immovable structures built on affected land.

based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in subproject areas.

- 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.
- Land lessees, including those living in gers, will be provided with a cash refund at rental fee rate and proportionate to duration of remaining lease period.
- Vulnerable and poor households will be provided preferential employment in subproject-related workforce, if available and desired by APs. Depending on nature of impact, other support may include: cash assistance up to a maximum of six months, guaranteed at the rate of minimum wage and assistance in reconstituting affected business or employment; assistance with selecting a replacement plot and with preparation of contracts and administrative process of provisions of replacement plot; and, assistance with house relocation and other construction activities (new construction should meet minimum standards), registration of property titles, relocation expenses, or a minimum housing guarantee.
- All relocation, transfer and transaction expenses (fees and duties) will either be waived by government or included in the contract price of the affected properties.
- An eligibility cut-off date will be set for the subproject with land-take at the time of the census and detailed measurement of affected land and property.
- Civil works shall not commence unless all compensation and relocation activities have been completed, and short-term financial assistance for loss of income has been paid.
- Cash compensation will not be taxable, and all fees and transaction costs to register property will be paid by the project owner.

93. The entitlements described above are summarized in the Entitlement Matrix presented in **Table 5** below. Importantly, not all the types of loss described in this section have currently been identified to date as expected subproject impacts. No impacts to business or employment for example, are anticipated to result from subproject activities. Nevertheless these impact categories are in this section and included in the entitlement matrix so that should they emerge in the future, they may be addressed in accordance with this RP.

**Table 5: Entitlement Matrix**

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
LAND (residential/ commercial/public/ community)	Full loss of plot (=>50%)	Owner, possessor	The AP may choose between the following alternatives: Land for land compensation through provision of replacement plot of comparable value and location as lost plot; Ownership license and State registration;

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
			OR 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 price
		Unlicensed occupant of land	Relocation assistance sufficient to restore standard of living at an adequate alternative site with security of tenure (i.e. possession license). All taxes, registration and transfer costs are waived or included in compensation price
		User	Replacement plot with use license OR, if feasible and desired Ownership license and State registration; All taxes, registration and transfer costs are waived or included in compensation price
		Lessee	The AP may choose between the following alternatives: Allocation of plot with ownership license and State registration All taxes, registration and transfer costs are waived or included in compensation price OR Cash refund at rental fee rate and proportionate to duration of remaining lease period
	Partial loss of plot (<50%)	Owner, possessor <sup>7</sup>	Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes are waived or included in compensation price
		Unlicensed occupant of land	Possession license and State registration for adjacent unlicensed land will be provided by government; All taxes, registration and transfer costs are waived
		User	Continuation of use license on remaining land
		Lessee	Cash refund at rental fee rate and proportionate to duration of remaining lease period
STRUCTURES ( residential/ commercial/public/ community)	Full loss of structure and relocation	Owner, possessor, unlicensed occupant of land	Cash compensation for replacement of lost structure at market rate determined through professional valuations by a certified valuer without deduction of depreciation, based on contractual agreement, and no deduction for salvaged materials
	Alteration to structure <sup>8</sup>	Owner, possessor, unlicensed 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, and no deduction for salvaged materials

<sup>7</sup> If the remaining land is no longer fit for original purpose (e.g. habitation or commerce) the AP may opt to receive a new plot instead of cash compensation and will give up the entire plot.

<sup>8</sup> Any required alteration to an occupied residential structure will be compensated as full loss.

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
	Moving back of fences	Owner, possessor, unlicensed occupant of land	The AP may choose between the following alternatives: Cash compensation for relocation of fence at market rate without deduction of depreciation, based on contractual agreement OR Replacement/reconstruction of the fence by the subproject owner/contractor There is no deduction for salvaged materials
	Moving or relocation of ger	Owner, possessor, unlicensed 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
Temporary disturbance	Removal of fence, civil works on land outside ROW, restoration of land and fences	Owner, possessor, unlicensed occupant of land	Cash compensation fee negotiated with AP. Access to land and residences Fences will be moved by civil works contractor There is no deduction for salvaged materials
Businesses	Any business loss due to land acquisition or construction activities by Project	All APs so temporarily affected	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 subproject areas.
		All APs so permanently affected	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 subproject areas. AND 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.
Employment	Any employment loss due to land acquisition or construction activities	All temporarily laid-off employees of affected businesses	Compensation for loss of employment income for the period of interruption of employment.

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
		All permanently laid-off employees of affected businesses	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. AND Other labor benefits and retrenchment allowances according to the national labor law, Skills development trainings for new employment opportunities Assistance to find new employment.
Vulnerable and/or severely affected APs <sup>9</sup>	Permanent loss of livelihood	All vulnerable and/or severely affected APs	Preferential employment in subproject-related workforce, if available and desired by APs;  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 affected APs	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 affected APs	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 household member of a vulnerable AP	Preferential treatment for temporary employment during construction; Employment training (3–6 months).
	Temporary disturbance	All vulnerable	Preferential treatment to avoid, minimize or mitigate disturbance as quickly as possible.

94. Compensation eligibility will be limited by a cut-off date to be set at the time of the census and DMS following preparation of detailed designs. All affected entities settling in affected areas after that date or existing affected entities who alter their assets and who cannot prove that they are the rightful owners/users of affected plots will not be eligible for compensation.

## F. CONSULTATION AND PUBLIC PARTICIPATION

95. Affected entities must be fully informed, closely consulted, and encouraged to participate in any decision making pertinent to land acquisition and resettlement for the subproject, including the final design of infrastructure facilities, preparation of contractual agreements, determination of prices for assets to be transferred, selection of replacement plots and the restoration of livelihoods.

<sup>9</sup> Vulnerable groups are distinct groups of people (poor, elderly, disabled, and female headed households) who may suffer disproportionately from resettlement. Severely affected APs include those whose remaining landholdings are no longer fit for original purpose.

This means that relevant subproject information must be disclosed in a timely way, and in accessible formats that allow effective and informed participation. Additionally, affected entities must have sufficient time between the provision of information and the consultative decision making process to reflect upon the input they want to provide.

96. Such disclosure of information to and consultation with affected entities 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 subproject design, insofar as they are compatible with applicable local law and the ADB SPS.

#### USGDIP Consultation Activities

97. Consultation activities are on-going throughout all land acquisition and resettlement processes under the USGDIP. This means that most entities potentially affected by the Bayankhoshuu subproject were initially engaged regarding the broader USGDIP, prior to the development of subproject activities. The two primary means through which households were engaged with regarding the USGDIP were (i) the USGDIP socio-economic survey activities described in Section C, (ii) the mobilization of households into Community Development Councils (CDCs) in support of subcenter development, and (iii) a series of eight briefing meetings held in April and May of 2013 with potentially affected subcenter residents, in order to introduce the USGDIP planning process and garner community feedback on program development options under consideration. Feedback was positive, with participants expressing support for the USGDIP and, importantly, the community led planning process applied in identifying priority investments to be financed under the program. Residents sought and were provided clarification on the general terms, policies, and procedures of compensation for the losses both of land, livelihoods and other productive resources, the land valuation policy and practice of government, the protection of rights to land and assets, the basis for the road rights-of way widths, the program timeline, and how impacts on the very poor members of the community would be mitigated. Some residents asked for clarification on how the priority development areas within the subcenter had been identified.

98. Going forward, affected entities will continue engagement with the broader Program through the CDCs, which will guide definition of the subcenter land use plan, steer land transformation discussions, and develop local development and investment plans and programs based on the needs identified and prioritized by them as reflected in Community Action Plans (CAPs).

99. Support for USGDIP consultation activities is being provided by UN-Habita. The goals of the consultation program are to i) garner stakeholder input, ii) drive inclusive subproject development, iii) increase the sense of ownership among affected community members and iv) enhance affected households' willingness to pay for the services introduced under the USGDIP.

100. UN-Habitat's community mobilization has led to the formation of 90 Primary Groups, each composed of 10-20 families. Each Group has an elected leader and secretary, who represent their Group at the CDC. Two workshops have held in Bayankhoshuu, attended by community members, the CDC, khoroo officials, and NGO representatives.

101. With regards to USGDIP activities, questions and comments at the workshops often related to whether the compensation related to the Program would be fair, allowing households to maintain their quality of life. There were concerns around whether the land acquisition and compensation process, once begun, was guaranteed to be completed. Households expressed hesitation to proceed in the absence of strong commitment to Program completion.

102. All the feedback from these workshops served as input into the Draft CAP for the Bayankhoshuu subcenter. The CAP will be updated on an annual basis and used as reference for future consultation activities, and as the basis for resettlement planning decisions made between the CDC, the ADB and UN-Habitat team.

#### Subproject Consultation Activities

103. Complementary to the broader USGDIP activities, engagement with households specifically affected by the subproject has commenced, in support of subproject impact assessment and RP preparation. Initial surveys of affected entities were conducted in May and June, 2013, and included engagement with households in Bayankhoshuu. As discussed in Section C, entities' assets were surveyed and where possible, a socio-economic survey conducted with individual households. Entitlements were not discussed with households, but the broad parameters of the subproject were described.

104. Following the above surveys, more open public meetings were scheduled to disclose subproject information more widely. These meeting took place in the Songinokhairkhan District Hall on August 10<sup>th</sup> and 15<sup>th</sup>, 2013, and all affected entities were invited.

105. Together, the meetings were attended by more than half of the affected entities identified (see attendance list appended in Annex 2), and the same information was presented at both meetings. An overview of the subproject's purpose and the land acquisition and resettlement planning process was presented, including the differences between ADB and Mongolian resettlement practice, and the meaning of the cut-off date (which has not yet been established).

106. The entitlement matrix was explained in detail, with compensation measures for affected land, structures, businesses, and employment income each presented separately. Measures to protect vulnerable people were described, and the subproject's Grievance Redress Mechanism was explained. Lastly, participants were informed that they could visit the UN-Habitat office if they had questions and invited to disseminate the information presented to their friends and family.

107. Feedback received was mixed, with some participants asking whether the priority infrastructure development contemplated under this component could be realigned so that impacts to their plots could be minimized or avoided entirely. Participants were advised of efforts to minimize displacement impacts during preliminary design and were assured that such efforts would continue through the final design phase.

108. Generally satisfied explanation of compensation measures for affected asset, some households asked whether they should continue on-going construction activities within their plots, and how the structures currently being built would be compensated for. Participants were advised that required construction activities within their plots could continue pending declaration of the entitlement cut-off date.

109. Participants expressed considerable interest in final project designs, asking for more precise detail on road routing. In response, it was reiterated that subproject design continues to evolve, and as this progresses, additional information will be disclosed and discussed with affected entities in a timely manner.

110. As subproject design is finalized, and the identity of affected entities confirmed, additional, more structured consultation activities will be developed. The final RP will include a full list of all consultation activities conducted and planned activities during implementation (including those

discussed above), and a detailed description of the consultation process, which will at minimum involve the following.

- Individual consultations with affected entities during and after the full census, DMS, and socio-economic survey, to ensure that they have understood the subproject's parameters and their own rights, and have had the opportunity to provide input.
- Public consultation meeting open and accessible to all affected entities to inform these entities and other stakeholders about the land acquisition and resettlement planning process, its guiding legal and policy framework and its anticipated scope of impact.
- Public consultation meeting open to all affected entities to announce declaration of the entitlement cut-off date and identify its geographical scope.
- Public consultation meeting with all affected entities to disclose the draft RP, and to discuss changes and the concerns of the affected entities and other stakeholders.
- Continued individual consultations to prepare contract negotiations and address individual concerns.
- Individual negotiations of contract terms with affected entities.
- Public consultation meeting with all affected entities to disclose and discuss revised draft RP.
- Public consultation meeting with all affected entities to disclose approved RP and to announce the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements.
- Additional individual and public consultation meetings will be held throughout the planning and implementation of the RP as required in response to emergent issues.
- Maintenance of up to date attendance lists and minutes of all public consultations (to be appended to the subproject's RP and subsequent monitoring reports).
- Use of an accessible, identifiable subproject information board or subproject / USGDIP Information Office.
- Documentation of the consultation and participation process.

111. During disclosure of the draft and final RPs, rights and entitlements will be fully explained to affected entities. English versions of the RP will be submitted to the ADB for review and approval. Final RPs for each subproject will be endorsed by the City Government of Ulaanbaatar (MUB). Each RP will be published on the ADB website (Mongolian and English versions).

## **G. GRIEVANCE REDRESS MECHANISM**

112. The MUB will set up a Grievance Redress Mechanism (GRM) to support affected people on problems arising from the subproject's land acquisition and resettlement activities, and provide

means by which the various stakeholders involved may be consulted and a negotiated agreement reached. Affected entities and vulnerable people in particular, will be informed and consulted about the detailed process of the GRM during the public and individual consultations, interviews and through the dissemination of pamphlets on the RP and on land acquisition and resettlement tasks. Importantly, affected persons will enjoy the right to access the judicial system at any time if they feel their grievance or concern is not being adequately addressed through the GRM.

113. A Grievance Action Form (GAF) will be designed to cover the various aspects of the land acquisition process, for use in the grievance redress process. GAFs serve to log and follow up grievances in a consistent and transparent manner (a sample GAF is appended in Annex 1). All grievances submitted will be recorded on a GAF, and a copy of the GAF provided to the person submitting the grievance. The GAF will at minimum contain the following:

- Basic information about affected entity / entities submitting the GAF, including names and contact information.
- Category of grievance filed (legal, technical/engineering, social, or financial).
- Detailed description of grievance.
- Type of action taken (resolved at the RPIC level or referred to higher authorities)

114. As a grievance is addressed, the type of action taken will also be recorded on the GAF, in order to document how the grievance was resolved.

115. The Program Management Office (described in more detail in Section H) 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 of local Khoroo. The PMO shall address the grievance within one week, inform the affected person and initiate actions.

116. Unresolved/or major issues will be presented to Resettlement Plan Implementing Committee (RPIC, described in more detail in Section H) for deliberation and appropriate action. Through the assistance of District Governor, RPIC proposes its resolution to the Citizens Representative Khural for approval and action. If the affected persons are still dissatisfied by the decision of the RPIC they can file their case with the court of law.

117. With specific regard to land disputes, in accordance with the Land Law (Article 60, "Settlement of Land Related Disputes"), these will be settled by the relevant Khoroo Governor. Where this is unsuccessful, the dispute shall be settled by a higher level authority, or in court. Alternatively, residents may also go directly to the District Land Officer.

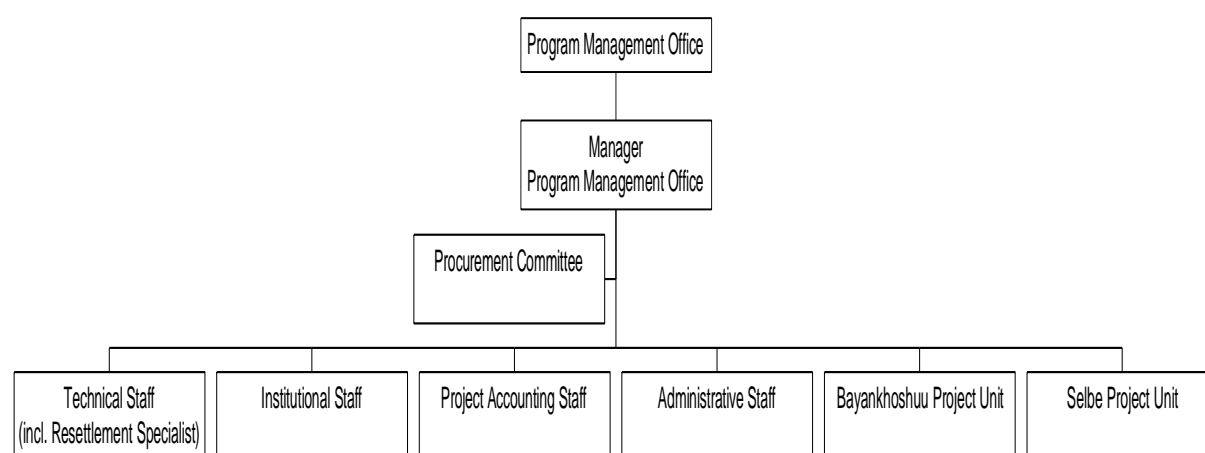
118. In cases where an affected entity is not satisfied with the attempted resolution of their grievance, they believe they have been harmed due to the subproject's non-compliance with ADB policy, and where they have made good faith efforts to solve their problems by working with ADB Project Team, they may submit a complaint to the ADB's Office of Special Project Facility or Office of Compliance Review in accordance with ADB's Accountability Mechanism.

## H. INSTITUTIONAL ARRANGEMENTS

119. The Executing Agency (EA) and Implementing Agency (IA) for the USGDIP will be the Municipality of Ulaanbaatar. Facilitation, coordination and management of subcenter redevelopment will be undertaken by the Subcenter Redevelopment Authority (SRA). SRA will be set up as a city-owned enterprise under the Vice Mayor in charge of Urban Development and Investment.

120. The Vice Mayor in charge of Urban Development and Investment of the MUB will be responsible for coordinating the program implementation. A Program Management Office (PMO) has been established under the Chief of the Mayor Office and will be transferred to the Vice Mayor in charge of Urban Development and Investment. The PMO director will be the Vice Mayor in charge of the Urban Development and Investment. The PMO will be operational and fully staffed by September 2013. External staff will be recruited as needed, including specialists in land acquisition and resettlement. The PMO will also be assisted by a Technical Assistance Consultant Team who will be engaged—as part of the Capacity Building/Institutional Support TA—to provide advisory and capacity building services to the EA and PMO. **Figure 7** presents the structure of the PMO.

**Figure 7: Structure of the PMO**

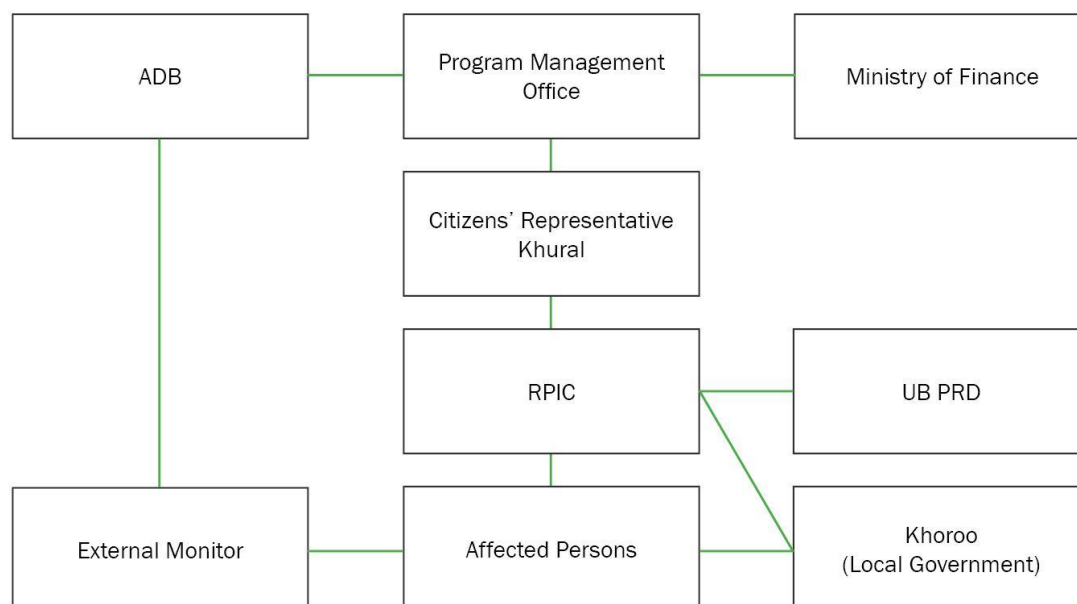


121. RP implementation activities will also be overseen by a Resettlement Plan Implementing Committee (RPIC). The RPIC will be comprised of key government officials at the district and khoroo levels, other relevant<sup>10</sup> government departments and agencies from MUB including representatives of Ulaanbaatar Property Relations Department (PRD) and agencies responsible for urban roads, water, sewerage, the PMO, and representatives of affected entities. Where possible, the RPIC will include representatives of affected women and NGOs. The RPIC will be formed at the start of subproject design so that affected entities' input may be incorporated into the design.

122. The PMO will ensure compliance with assurances, including safeguards and preparation, finalization and implementation of this RP. Training workshops will be to the staff of PMO, Khoroo and other government officials involved in LAR activities, including the members of RPIC, representatives of the affected persons and other stakeholders about the RP provisions and implementation arrangements, as well as the principles and safeguards requirements of ADB

resettlement policy, the agreed RF and legislation of Mongolia. The training will also highlight the differences between the provisions of the ADB's Safeguard Policy Statement and the Mongolian laws and explain how to ensure that the ADB's Safeguard Policy Statement requirements are met. **Figure 8** presents the institutional arrangements for land acquisition and resettlement for this subproject.

**Figure 8: Institutional Arrangements for LAR**



## I. COMPENSATION AND REHABILITATION STRATEGY

123. This section presents the compensation standards for each type of loss as well as transaction and relocation costs. It also presents the rehabilitation strategy regarding households that may be vulnerable.

124. 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 PMO will be responsible for follow-up and facilitation of the processes for estimation of the replacement values for land and non-land assets and losses.<sup>11</sup>

125. Estimated basis of compensation negotiation for key items are presented below. Rates are based on updated values for land, and reflective of market rates established for similar projects and a review of proven transaction data. Again, values will be reviewed and finalized during RP finalization based on replacement costs estimated through assessment and market value surveys of comparable assets conducted by the valuation team

<sup>11</sup> In case of disagreements over the compensation rates during the negotiation process with APs, the PMO will be able to engage an independent private valuation specialist and re-assess the compensation rates offered to the APs and disclose the results to the APs.

- Land: it is currently estimated that land will be compensated for at an average rate of USD 25 (MNT 36,312) per m2.
- Residential structures: it is currently estimated that residential structure will be compensated for at a rate of USD 450 (MNT 653,621) per m2.
- Latrines: it is currently estimated that latrines will be compensated for at a rate of USD 300 (MNT 435,747) each.
- Sheds: it is currently estimated that sheds will be compensated for at a rate of USD 250 (MNT 363,123) per m2.
- Garages: it is currently estimated that garages will be compensated for at a rate of USD 5,000 (MNT 7,262,450) each.
- Fences: it is currently estimated that fences will be compensated for at a rate of USD 12 (MNT 17,430) per m. However, where impacts to a fence are temporary (e.g. limited to construction phase impacts), the fence will not be compensated for in cash, but rather, replaced once the impacts have ended.
- Containers will be relocated within the khashaa they are currently on, or if a household is being resettled, relocated to the replacement plot. Irrespective of the required process, compensation for this is currently estimated at a rate of USD 150 (MNT 217,874).
- Gers will be relocated within the khashaa they are currently on, or if a household is being resettled, relocated to the replacement plot. Where they are relocated within an existing khashaa, it is currently estimated that this will be compensated for at a rate of USD 50 (MNT 72,625). Where they are relocated to a new plot, it is estimated that compensation will at a rate of USD 300 (MNT 435,747).
- Businesses loss will be compensated for through short term financial compensation equivalent to the net profit after tax for the period of interruption of business.
- Transaction costs will be covered by the subproject. This means that where households are being supported in the formalization of their land title, or where they are relocating to a new plot, all the fees associated with these processes will be provided. This includes any fees for notary services, the preparation of cadastral maps, property rights registration or other required service fees. As rates for these fees are highly dependent on the characteristics of individual transactions, a lump sum of USD 7850 (MNT 11,402,047) has been allocated for the subproject as a whole. This will be reevaluated following the DMS.

126. MUB will ensure that no physical or economic displacement will occur until compensation at full replacement cost and other entitlements have been provided to each affected person and a comprehensive income and livelihood rehabilitation program, supported by an adequate budget, is in place to help affected persons to improve, or at least restore, their incomes and livelihoods.

127. In addition, vulnerable households among the subproject's affected entities will be identified and rehabilitation support provided. Again, vulnerable households include those with income below the poverty line, or with elderly, female or disabled heads of household that do not have other family members contributing to household income.

128. Affected persons whose livelihood is impacted by the project will get preference in jobs associated with the project's construction and implementation. Those who are unskilled will be employed in civil works as desired and as feasible (e.g. construction, restoring fences, and other project derived work, as applicable).

129. Based on information collected in the 100% census to be administered following detailed design, additional restoration strategies will be framed and activities planned in final RP, including producing a list of possible income restoration options and required skills-sets. Based on these findings, the PMO will arrange skills development training for affected persons and/or their household members. The costs of needs assessment and training of those affected shall be carried by project and are included in the RP budget.

130. Another element of reducing and eliminating subproject-induced vulnerability will be the careful consideration of the specific needs of female affected entities. To safeguard their livelihoods, the following gender sensitive provisions will be adopted for the subproject:

- Women will receive compensation pertaining to their economic activities in their name.
- Female heads of households will be registered as the recipients of compensation and rehabilitation measures due to their households.
- Where land lost to the subproject was legally owned by women, and titles for replacement land will be registered in the name of women.
- Women will be included in the participation process in all consultation meetings alongside male affected entities.
- Due consideration will be given to complaints and grievances lodged by women.
- Access for women to subproject related employment opportunities and targeted needs based special assistance will be guaranteed in cases of livelihood impacts.

## **J. LAND ACQUISITION AND RESETTLEMENT BUDGET, FINANCES AND DISBURSEMENT**

131. The total cost of land acquisition and resettlement, including the cost of compensation, rehabilitation, administration, monitoring, and any contingencies, is an integral part of the subproject cost. **Table 6** presents the estimated budget for the subproject in Bayankhoshuu based on preliminary designs for roads and service infrastructure, which will be financed by the MUB from government funds. The MUB is responsible for timely allocation of funds, and allocation will be reviewed semi-annually. The budget provides the estimated unit rates applied in MNT and USD.

132. This remains a preliminary estimation, to be finalized based on detailed design, updated inventory of impacts, final census of affected persons and estimation of replacement values for lost assets based on the latest market values by the valuation team. The cost of administration has been determined at ten percent of the cost of entitlements, and the cost of contingency has been determined at 12% of the cost of entitlements and administration.

133. The budget for contingencies is meant to cover unanticipated impacts or costs that emerge during RP implementation. Lastly, the cost of monitoring and evaluation has been determined to be 7.5 percent of total subproject costs.

**Table 6: Bayankhoshuu Subproject Budget, July 2013**

Bayankhoshuu		Unit Rate		Units Identified	Cost Estimate	
Asset Type	Unit	MNT	USD		MNT	USD
1. Land						
Land	m <sup>2</sup>	36,312	25	1605	58,281,161	40,125
2. Structures						
Residential	m <sup>2</sup>	653,621	450	206	134,645,823	92,700
Latrine	#	435,747	300	2	871,494	600
Shed	m <sup>2</sup>	363,123	250	1.5	544,684	375
Garage	#	7,262,450	5,000	1	7,262,450	5,000
3. Relocation Costs						
Fence	m	17,430	12	567	9,882,742	6,804
Container	#	217,874	150	0	0	0
Ger (w/in plot)	#	72,625	50	1	72,625	50
Ger (w/out plot)	#	435,747	300	0	0	0
4. Rehabilitation Costs						
Vulnerables assistance <sup>1</sup>	HH	1,152,000	793	3	3,456,000	2,379
Capacity building/training	Lump sum				12,000,000	8,264
5. Transaction Costs (General)						
Notary fees		0			2,904,980	2,000
Cadastral Maps		0			726,245	500
Service Fee		0			145,249	100
Property Rights Registration					363,123	250
Sub-total Compensation						164,148
Administration (10% of total compensation)						16,415
Contingencies (12% of total compensation and administration)						21,668
M&E (7.5% of Comp. Total)						12,311
Bayankhoshuu Sub Total						214,541

134. The PMO will work with the MUB, PRD, and other state agencies to manage the process of formal contractual agreements with affected entities and disbursement of compensations. After having concluded contractual agreements related to the transfer of the affected assets from the affected entities to the government, the PRD will consolidate all financial commitments of the contracts and refer these to the MUB. The MUB will then initiate the transfer of funds to the PMO. The PMO, with the assistance from a resettlement specialist will be responsible for delivery of entitlements to affected entities.

135. Payment of at least 50% of compensation will be made no later than one month after a contract transferring assets from an affected entity to the government has been signed. Any remaining payment must be made prior to the affected entity vacating or relinquishing the relevant

asset. Disbursement of compensations and entitlements will be carried out in the Khoroo Governors' offices. Again, no land will be acquired by the government or handed over to the PMO for commencing construction works prior to implementation of the approved Resettlement Plan, and full payment of due compensation and provision of other resettlement entitlements to the affected entity.

## **K. MONITORING AND EVALUATION**

136. Monitoring of compliance with the RP during implementation will be carried out by the PMO, as well as by an External Monitoring Agency (EMA) which may be a local consulting firm or NGO, or a qualified individual. Monitoring will be conducted with both internal and external indicators.

### Internal Monitoring

137. The PMO will conduct internal monitoring and supervision of RP implementation and submit monthly reports to the MUB and RPIC. The PMO will also include the results of internal monitoring in its quarterly reports to the ADB.<sup>12</sup> These reports will also serve as input into the subproject's mid-term review, which will have a focus on the progress of RP implementation. Internal monitoring reports will also inform the completion audit that will be conducted upon completion of the subproject's land acquisition and resettlement activities. The PMO will prepare this resettlement completion report for submission to the ADB.

138. The objectives of internal monitoring will be to ensure: (i) proper execution of the responsibilities of key stakeholders; (ii) protection of the rights of affected entities under Mongolian laws, the ADB Safeguard Requirements, and this RP; (iii) adequate and prompt payment of compensation; and (iv) timely grievance redress.

139. In addition, the Audit Department of the concerned District Government will independently audit and monitor the agencies involved in the land acquisition and resettlement process, based on relevant laws and regulations. The PMO will periodically review audits, and report any irregularities to the ADB, to allow for the early identification and resolution of problems encountered.

140. Among the key indicators will be the following.

- Number of displaced entities
- Number of information sessions and other consultation activities conducted with affected entities.
- Status of land acquisition, compensation payment and entitlement delivery
- Status of livelihood restoration activities and impact of these activities on displaced entities
- Number of grievances and length of time taken to redress grievances

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<sup>12</sup> To report subproject progress, implementation issues, and the status of previously identified problems.

## External Monitoring

141. External monitoring and evaluation will be conducted to provide independent concurrent and ex-post evaluation of the subproject's land acquisition and resettlement activities. External monitoring will (i) assess the effectiveness, impact and sustainability of resettlement measures, (ii) determine whether safeguard compliance has been met, and (iii) learn strategic lessons for future policy formulation and planning. For this subproject the PMO will be responsible for engaging an EMA (with ADB financing), which will investigate and assess RP implementation and report findings semi-annually to the Bayankhoshuu RPIC, the PMO and the ADB.

142. External monitoring will be carried out semi-annually during RP implementation and results reported to the PMO and ADB in semi-annual reports. The resettlement specialists of the subproject implementation consultant's team will review and discuss the external monitoring design with the EMA. The external monitoring process will include the following: (i) review and verification of the internal monitoring reports and resettlement completion report of the PMO; (ii) identification and selection of impact indicators; (iii) impact assessment (e.g. restoration of incomes and living conditions) through quantitative and qualitative surveys; (iv) consultation with APs; (v) assessment of compliance with local laws, the ADB's IR policy requirements and the RP; (vi) recommendation of land acquisition process modification and adaptation measures; (vii) lessons learned for future resettlement policy formulation and planning; (viii) effectiveness of the GRM; and (ix) all data collection and analysis will be disaggregated by gender.

143. Among the key indicators will be the following.

- Economic status of affected households, including employment, income and household assets.
- Status of vulnerable persons, in terms of food security, household demographics, livelihoods and health.
- Impact of land acquisition on women, children, elderly, the poor and other vulnerable groups.
- Degree of support for and post land acquisition status of affected vulnerable and severely affected households.
- Perceptions of affected entities regarding the implementation of the land acquisition process.
- Participation and involvement of affected entities in RP implementation.
- Effectiveness and fairness of valuation, compensation, assessment and disbursement measures.
- Implementation and effectiveness of income restoration measures.
- Effectiveness and fairness of GRMs.
- Level of satisfaction among affected entities in the post-resettlement period.
- Adequacy of resettlement funds and results of financial audits.

[illegible]

LARP ACTIVITIES	2013										2014							
	04	05	06	07	08	09	10	11	12	01	02	03	04	05	06	07		
RP Implementation																		
Funding for LAR compensation																		
Conclusion of contractual agreements																		
Disbursement of compensation																		
Acquisition of land and other assets																		
Commencement of civil works																>		
Internal Monitoring																>		
External monitoring and evaluation																>		

## Annex 1. 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 requesting CONFIDENTIALITY 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

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:

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## Ulaanbaatar Urban Services and Ger Area Development Investment Program

“Улаанбаатар хотын Гэр Хорооллыг Хөгжүүлэх, хөрөнгө оруулалтыг дэмжих” төсөл

Meeting/Хурал: ..... Meeting with affected families 1

Date/Огноо: 2013-08-10. Bayankhoshuu

List of Attendees/ Ирцийн бүртгэл

[illegible]

