Resettlement Framework

August 2018

NEP: Kathmandu Valley Wastewater Management Project

Prepared by the Kathmandu Upatyaka Khanepani Limited, Ministry of Urban Development, Government of Nepal for the Asian Development Bank.

**CURRENCY EQUIVALENTS**

(as of 10 December 2012)

|  |  |  |
| --- | --- | --- |
| Currency unit | – | Nepalese rupee (NRs/NRe) |
| NRs1.00 | = | $0.01145 |
| $1.00 | = | NRs 87.32 |

Abbreviations

ADB − Asian Development Bank

BS - Bikram Sambat (Nepali date)

CAPC - Community Awareness and Participation Consultant

CBS - Central Bureau of Statistics

CDC - Compensation Determination Committee

CDO - Chief District Officer

DAO - District Administration Office

DDC - District Development Council

DP - Displaced Person

DSC - Design and Supervision Consultant

EA - Executing Agency

EMP - Environmental Management Plan

Fig. - Figure

GoN - Government of Nepal

GRC - Grievance Redress Committee

GRM - Grievance Redress Mechanism

HCCIDBC - High Powered Committee for Integrated Development of the Bagmati Civilization

IA - Implementing Agency

KUKL - Kathmandu Upatyaka Khanepani Limited

KVWSMB - Kathmandu Valley Water Supply Management Board

MoUD - Ministry of Urban Development

PD - Project Director, PID

PID - Project Implementation Directorate

PPTA - Project Preparatory Technical Assistance

SPS - Safeguard Policy Statement 2009

SU - Safeguard Unit

WSI - Wastewater System Improvement

WWTP - Wastewater Treatment Plant

**WEIGHTS AND MEASURES**

|  |  |  |
| --- | --- | --- |
| cm | – | centimeter |
| dbA | – | decibels |
| ha | – | hectare |
| kg | – | kilogram |
| km | – | kilometer |
| l | – | liter |
| m | – | meter |
| m2 | – | square meter |
| m3 | – | cubic meter |
| mg/l | – | milligrams per liter |
| ml | – | milliliter |
| mld | – | million liters per day |
| mm | – | millimeter |
| km2 | – | square kilometers |
| μg/m3 | – | micrograms per cubic meter |

**NOTE**

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

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# OVERVIEW

## Introduction

1. The proposed Kathmandu Valley Wastewater Management Project will support the ongoing efforts of the Government of Nepal towards improving the wastewater system in Kathmandu Valley. The project will invest in the rehabilitation and expansion of the sewerage network, modernization and new construction of wastewater treatment plants, and improvement of wastewater management in Kathmandu Valley, which will complement past and ongoing Asian Development Bank (ADB) projects.[[1]](#footnote-1) The project is expected to increase operational efficiency, improve service delivery, and improve health and quality of life for inhabitants of Kathmandu Valley. The expected outcome of the project will be improved access to efficient and reliable delivery of wastewater services to the residents of Kathmandu Valley, including the poor.
2. This updated resettlement framework (RF) is intended to guide the safeguards documents preparation of subprojects with unanticipated involuntary resettlement impacts that may occur during civil works or with new involuntary resettlement impacts identified after final detail engineering design. The RF was prepared in accordance with the ADB’s Safeguard Policy Statement(2009)*.* The RF identifies the broad scope of the project and outlines the policy, procedures and institutional requirements for preparing resettlement plans for investment wastewater improvement based on detailed design. It sets out the policies and procedures to be adopted by executing agencies (EAs) in preparation of the investment resettlement plan based on detailed design for submission to ADB for review and approval prior to award of civil works contract.

## Scope of Land Acquisition and Resettlement

1. The project is category B for involuntary resettlement. There is no land acquisition envisaged under the proposed project activities. The envisaged impacts were mostly in forms of temporary loss of access to government’s lands and temporary loss of incomes, mostly due to loss of standing crops. All lands for the construction of WWTPs and sewerage networks are located in the existing WWTP sites or within the government lands along the roads or river banks. Most of the land acquisition for the WWTPs was carried out during the late 1970s and early 1980s. The construction of pilot DEWATs will also be located on the government owned lands with free of involuntary resettlement impacts. Any land acquisition and resettlement activities under this project which will cause significant impacts[[2]](#footnote-2) will not be eligible for financing under this project.
2. The environment management plans (EMPs) will specify the measures to mitigate impacts during construction, particularly those that inhibit access to business. The prepared entitlement matrix provides provision for the envisaged involuntary resettlement impacts to be experienced by the affected people. It includes additional assistance for the vulnerable persons to be identified during final design.[[3]](#footnote-3)

# OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

## Project Principles and Objectives

1. The key objectives of ADB’s SPS on involuntary resettlement safeguards are (i) to avoid involuntary resettlement wherever possible; (ii) to minimize involuntary resettlement by exploring project and design alternatives; (iii) to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; (iv) and to improve the standards living of the displaced poor and other vulnerable groups. In addition, the absence of legal title to land should not be a bar to compensation.

## Government of Nepal Laws

### Resettlement Policies and Acts

1. There is no national resettlement policy in Nepal to deal with resettlement issues. Resettlement policies have thus been prepared for specific projects funded by donors and guided by the donor’s involuntary resettlement guidelines and policies, such as ADB’s Safeguard Policy Statement 2009. These practices have led to variations in the compensation entitlements and other assistance to displaced persons (DPs) for the loss of their assets. For consistency in all development projects, the Government of Nepal has drafted a National Policy on Land Acquisition, Compensation, and Resettlement in 2006 with the technical assistance of ADB. However, the policy has not yet been approved by the government.
2. The Constitution of Nepal (2015), under Article 25 provides ‘fundamental right to property’ to its citizens. Article 25 (1) guarantees the fundamental right of a citizen, i.e. right to acquire, own, sell, and dispose of the property. Article 25 (2) describes that the state cannot acquire the property of any person except in case of public interest. Article 25 (3) also states that compensation shall be provided for any loss of individual property for public interest which shall be as prescribed by Act. The legal provision and practice ensure that people have the right to compensation for any type of losses due to development activities, to protect all displaced persons (DPs). Article 25(4), also clarifies that right to property guaranteed by the constitution shall however not obstruct state in carrying out land reforms, management and regulation by law in order and for purposes that include managed housing and urban development.

**The Land Acquisition Act, 2034 (1977)**

1. The Land Acquisition Act (1977) specifies the procedures for land acquisition and compensation. The act empowers the government to acquire any land for public interest or for the execution of any development works. There is a provision for a compensation determination committee (CDC) under the chairmanship of the Chief District officer, which will fix the rate of compensation for the affected property. The other members in the committee are the Chief of Land Revenue Officer, a representative from the district development council (DDC), and the concerned project director/manager. The committee can also invite the representatives from among the affected persons, and a representative from the affected village development council (VDC)/municipality. After fixing the compensation rates for the lost assets (land, structures, etc.), a list of entitled persons is prepared and submitted to the local officers for publication. Anyone who disagrees with the list can register a complaint with the Ministry of Home Affairs within 15 days of the issuance of notice. The ministry is required to solve any complaints within approximately 15 days, except for those that have to be resolved in a court of law. Section 37 of the act mentions the compensation to be received within the prescribed time limit. Section 37 states, “In case the concerned person fails to receive compensation within the time limit prescribed for the purpose under the different provisions of this act, or refuses to accept, the local officer shall issue a notice prescribing a final time limit of 3 months for receiving such compensation. In case the concerned person fails to receive such compensation even within such time limit, he/she shall not be entitled to any compensation.”
2. The basic function of the CDC is to review the verification of lands to be acquired, review and determine the compensation rate, identify the proper owners, distribute compensation, and address the issues related to land acquisition and compensation distribution. The District Administrative Office (DAO) is also responsible for notifying the public regarding the details of the land area, structure affected, and other assets affected in the concerned VDC/municipality for the project purposes. The Land Reform Act (1964) is relevant to compensation distribution, as it specifies the compensation entitlements for the registered tenant. Where the tenancy right is legally established, the owner and tenant each will be entitled to 50% of the total compensation amount. Section 42 of the Land Reform Act states that *guthi* (religious/trust) land required for the development work must be replaced with another piece of land.
3. CDC functions under the chairmanship of chief district officer (CDO) of the respective districts. The other members to be included in the committee comprise of the Chief of Land Revenue Office (LRO), an officer assigned by CDO, representative from district development committee (DDC), and concerned project manager. The project chief functions as the member secretary of the committee. The CDC determines the amount of compensation considering the following factors: (i) current price of land value; (ii) value of standing crops, houses, walls, sheds or other structures; (iii) loss incurred as a result of shifting residence or place of business; and (iv) relevant acts and periodic guidelines of government.
4. Clause 27 of the act provides an option for land acquisition through mutual agreement with the plot owners. Following this clause, the government may acquire any land for any purpose through negotiations with the concerned landowner. It shall not be necessary to comply with the procedure laid down in the Land Acquisition Act while acquiring lands through negotiations Where Clause 27 is enacted, and the plot owner not satisfied with the compensation agreement offered, Clause 18 (Sub clause 2) states that the owner can file a complaint with the Ministry of Home Affairs.
5. Other key provisions under the Act include (i) clause 14 to compensate land-for-land provided that government land is available in the area, (ii) clause 13, 3 (1) envisages the possibility of two separate rates of compensation, distinguishing between families who lose entire land and those who lose only some part of their landholdings, (iii) clause 10 has provision for the affected households to take the crops, trees and plants from land and salvageable from the structures, (iv) clause 39 indicates options that allow affected households to take all salvageable assets without deduction of any costs from the affected households (v) clause 20 provides entitlement to the legal tenant for 100% compensation for the structure built on the land with the permission of the land owners.

**Local Self-Governance Act, 1999**

1. The clause 258 in the Part–5, General Provisions relating to Local Body Chapter–3, Miscellaneous of the Local Self-Governance Act, 1999 has provision related to land acquisition. The Clause states that in case the local body has to acquire land to carry out any development and construction works within its area, it may acquire the land required for that work by following the requirements of the prevailing law and providing compensation to the concerned land-owner for the land.
2. The clause 149 of the LSGA has provision of prohibition on construction of building without obtaining approval. The clause states that no person shall, without obtaining construction approval from the mayor, do 'construction of a building' [[4]](#footnote-4) in the municipal area. According to the clause 161, (1) the mayor may depute any engineer, overseer or employee to inquire into the following matters in respect to any building constructed or being constructed by anyone in the municipal area:
3. Whether or not approval has been obtained pursuant to this act to construct such a building,
4. Whether or not such a building has been constructed or is being constructed in accordance with the design approved pursuant to this act, and
5. Whether or not any public land, road, temple, courtyard, sewerage, canal, pond etc. is encroached upon from such a building.
6. (2) The person deputed to inquire into the matters pursuant to subsection (1) shall have to inquire into the matter according to the prevailing law and submit a report, along with his/her suggestions, to the mayor within 15 days of his/ her deputation.
7. (4) In case it is held, as per the report submitted pursuant to subsection (2), that anyone has constructed or is constructing a building without obtaining approval pursuant to this Act or by encroaching upon any public land, road, temple, courtyard sewerage, canal, pond, etc., the Mayor shall have to order to demolish the building or any portion thereof.
8. (5) In case it is held, as per the report submitted pursuant to subsection (2), that any person has constructed or is constructing a building by altering the design approved pursuant to this act without obtaining approval of the mayor, the mayor may order to punish such a person with a fine of up to one hundred thousand rupees or to demolish the building or any portion thereof.
9. The clause 163 (1) mentioned that in cases where an order has been issued pursuant to subsection (4) or (5) of clause 161 to demolish any building or any portion thereof, the concerned person shall have to demolish such a building or any portion thereof according to the order of the mayor or the decision of the Appellate Court within 35 days of the decision made by the Appellate Court requiring the demolition of such a building or any portion thereof. (2) If the concerned person does not demolish such a building or any portion thereof within the time-limit referred to in subsection (1), the municipality itself may demolish such a building or any portion thereof, and the expenditures incurred so for demolishing shall be realized from the concerned person. These legal provisions reveal some gaps while compared to ADB SPS 2009. Accordingly, measures have been proposed in Table 3 to bridge the gaps between the government legal provisions ADB SPS 2009.

**Land Acquisition, Resettlement and Rehabilitation Policy for the Infrastructure Development Projects (LARRP), 2015 (2071)**

1. Land Acquisition, Resettlement and Rehabilitation Policy for the Infrastructure Development Projects (LARRP), 2015 (2071 BS) has the following key provisions regarding land acquisition and indigenous peoples:
2. Recognizes the need of resettlement and rehabilitation plan to ensure the livelihood of the project affected persons or households at least above the pre-project conditions;
3. Emphasize that the project development agency conduct meaningful consultation with the project affected persons including all vulnerable groups such as women, children, indigenous/ *Janajati* groups, the disabled, the helpless, and persons having no legal rights on the operated land;
4. Requires compensation payment, resettlement and rehabilitation efforts to the project affected person/households including non-title holders;
5. Emphasizes land acquisition through negotiation with the project affected person/ households through transparent, free, fair and justifiable process;
6. Requires land-based compensation and resettlement to persons/households who lose all of the property or whose livelihood is agriculture based;
7. Requires relocation and resettlement of the affected persons/households close to the current place of residence until and otherwise he/she willingly prefer to relocate him/ herself;
8. Requires inclusive programs for the enhancement of their socioeconomic development of disadvantageous groups such as facility less groups (Dalit, indigenous or *Janajati* groups and single women etc.);
9. Requires compensation of the built properties including resettlement and rehabilitation benefits for persons/ households who do not have land or legal right for the currently operated land;
10. Requires determination of compensation rates for affected land and property based on scientific methods such that the compensation rates are not less than the minimum market price;
11. Requires access on project benefit (share allocations) to the affected persons/ households for projects where return on investment is potential;
12. Requires provisioning of subsidized rates to the project affected persons/ households for projects providing services; and
13. Requires following additional project assistance on the top of the compensation and resettlement to the physically displaced groups;
14. Residential facilities;
15. Goods transportation assistance;
16. Relocation assistance;
17. Relocation for business assistance;
18. House rental assistance;
19. Additional assistance as recommended by plan to seriously project affected households and vulnerable groups (Dalit, Janajati or marginalized indigenous single women, helpless, disabled, senior citizen etc.); and
20. Employment opportunity and livelihood restoration to the seriously project affected households and vulnerable groups (Dalit, Janajati or marginalized indigenous, single women, helpless, disabled, senior citizen etc.) based on their skills and capabilities.
21. Requires an adequate mechanism to listen. register and resolve the grievances of the project affected persons and communities;
22. Requires project development agency to ensure the allocation of resources required for resettlement/ rehabilitation and livelihood restoration of the project affected persons/households; and
23. Requires acquisition of economically unviable fragmented land parcels on request of the affected owners.

**Town Development Act, 2045 BS (1998 AD)**

1. Enacted in 1998, the legislation is aimed at making provisions for town development activities, specifically in view of growing population and urbanization in Nepal that requires better services and facilities to the residents by reconstructing developing, and expanding existing and new towns. The Act covers roles, functions and procedures integral to town development processes such as town planning, town development committee, local plan.
2. Some of the key provisions of the Act[[5]](#footnote-5), relevant to this project are:
3. Government of Nepal may constitute a Town Development Committee in any area, city, rural or town area or any regional development centre as per necessity. The committee is headed by Chief District Officer (or officer designated by him/her) and has representation from chief of maximum of five district level offices/government corporate bodies, national political party representatives, maximum of five local social workers, chief of local body, an employee designated by government of Nepal. (# 4 of the Act)
4. The committee has power, through issuance of public notice (from time to time as required), to regulate, prohibit or control a set of activities as per necessity in town planning area. These activities include use/enjoyment of agriculture land, natural heritage, flora, fauna, forest, archaeological, heritage sites, as well as cultivated, barren land and immovable properties, to construct new buildings, office and other structures or expand existing structures, to do any activity that causes adverse effect on natural beauty, tourism site and public health or which causes environmental pollution. (# 9 of the Act)
5. The committee has the functions, duties and powers to classify town planning area in to various area for land case, to specify necessary conditions or standard in land case for physical development, (including guidelines for local bodies/institutions), to prescribe condition on construction and other activities, done in forest, stream, riverside, and water area for protection of nature and environment of town planning region, (# 11 of the Act)
6. Conferred with the functions and powers, as described above, Kathmandu valley Town Development Committee has framed ‘Kathmandu Valley Building Construction Bye laws, 2064 BS (2007)’. Refer Appendix 4 for the public notice brought out by the committee that prohibits new construction with in specified distance from banks of rivers flowing in the valley. The notice is applicable for river banks along which sewer lines/networks are proposed to be laid under this project. As per the notice issued, new building constructions can be done only beyond specified width on either side of these river banks.
7. It may, subject to policy and directives of Government of Nepal, operate land development programs to manage residential land for fulfilling basic needs of residents. As part of this function, the committee may operate land pooling program by integrating various units of land situated in any part of town planning area on the consent of at least fifty one percent of land owner and tenants of the area. A user committee will be formed from among the users of the respective area for participation of local land owners and tenants. (# 12 of the Act)
8. The committee shall consult user committee on fixing area of land (of land owners) to be provided for land pooling, Pooled land (and immovable property) will be frozen for transaction/transmission for a maximum of one year, within which pooled land is required to be developed and returned to former land owners/tenants along with provisional certificate. (# 12 of the Act)

## ADB Safeguards Policy Statement (2009)

1. The objectives of ADB's SPS with regard to involuntary resettlement are: (i) to avoid involuntary resettlement wherever possible; (ii) to minimize involuntary resettlement by exploring project and design alternatives; (iii) to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and (iv) to improve the standards of living of the displaced poor and other vulnerable groups.
2. ADB's SPS covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. The SPS covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.
3. For any ADB operation requiring involuntary resettlement, resettlement planning is an integral part of project design, to be dealt with from the earliest stages of the project cycle, taking into account the following basic principles:
4. Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
5. Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations (NGOs). Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and indigenous people, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons’ concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by social preparation.
6. Improve, or at least restore, the livelihoods of all displaced persons through (a) land-based resettlement strategies when affected livelihoods are land-based, or cash compensation at replacement value for land when the loss of land does not undermine livelihoods; (b) prompt replacement of assets with access to assets of equal or higher value; (c) prompt compensation at full replacement cost for assets that cannot be restored; and (d) additional revenues and services through benefit sharing schemes where possible.
7. Provide physically and economically displaced persons with needed assistance, including the following: (a) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, economic and social integration of resettled persons into their host communities, and extension of project benefits to host communities; (b) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (c) civic infrastructure and community services, as required.
8. Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas, provide them with legal and affordable access to land and resources, and in urban areas, provide them with appropriate income sources and legal and affordable access to adequate housing.
9. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement, to ensure that people who enter into negotiated settlements will maintain the same or better income and livelihood status.
10. Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
11. Prepare a resettlement plan elaborating on displaced persons’ entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and timebound implementation schedule.
12. Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and in a form and language understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
13. Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the project’s costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
14. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
15. Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

## The ADB Public Communications Policy (ADB, 2011)

1. The Public Communication Policy seeks to encourage the participation and understanding of people affected by and other stakeholders to ADB-assisted activities. Information on ADB-funded projects should start early in the preparation phase and continue throughout all stages of project development, in order to facilitate dialogue with affected people and other stakeholders. The executing agency should, as necessary, develop a project communications plan and designate a focal point to maintain contact with affected people. With respect to land acquisition, compensation and resettlement, information should be distributed to affected persons publicly and in the following manner: (i) prior to loan appraisal, the draft resettlement plan; (ii) following completion of the final resettlement plan, the final resettlement plan; and (iii) following any revisions, the revised resettlement plan. This information can be in the form of brochures, leaflets or booklets, in the local language(s) as well as English, the working language of the ADB. For affected persons including non-literate people, other appropriate methods of communications will be used.

## Gap Filling Between ADB and Government of Nepal Policies

1. The following goals are common between the Government of Nepal’s legal frameworks and ADB’s guidelines on resettlement:
2. Involuntary resettlement shall be avoided to the extent possible or minimized where feasible, exploring all viable alternative project designs.
3. Where displacement is unavoidable, people losing assets, livelihood, or other resources shall be assisted in improving status at no cost to them.
4. However, there are certain key differences and gaps between ADB’s guidelines and the Government of Nepal’s legal frameworks. Table 1 summarizes the differences and gaps, and the remedial measures required to bridge those gaps between ADB’s guidelines and the national policy.

**Table 1: Some Difference between ADB Policy and Government of Nepal Legal Framework**

|  |  |  |  |
| --- | --- | --- | --- |
| **S.N.** | **ADB Safeguard Policy Statement (2009)** | **Govt. of Nepal Legal Framework (specifically, Land Acquisition Act, 1977)** | **Gaps Between Govt. of Nepal Legal Framework and ADB’s Policies and Gap Filling Measures** |
| 1 | Involuntary resettlement should be avoided wherever possible | Not defined in the Land Acquisition Act (LAA) and other laws | The approach of avoiding involuntary resettlement has already been taken care of while preparing this project. This will be further practiced during design and implementation. |
| 2 | Minimize involuntary resettlement by exploring project and design alternatives | Not defined in the LAA and LAR | The resettlement framework/ resettlement plan clearly define the procedures on how to minimize the involuntary resettlement through proper alternate engineering design and adequate consultation with stakeholders. |
| 3 | Conducting census of displaced persons and resettlement planning | The LAA spells out that physical inventory of assets and properties found on the land belonging to legal titleholders is prepared. No cut-off date is specifically mentioned in the LAA; the affected persons need to apply for compensation for buildings, trees, crops etc. within 15 days of being served notice for acquisition, if not satisfied with compensation offered or if he/she wants compensation for assets in addition to land. | The LAA does not define the census survey. It only reflects the inventory of losses (IOL) for titleholders, which is more in physical terms. The ADB policy spells out a detailed census through household surveys of displaced persons in order to assess the vulnerability and other entitlements. Resettlement planning documents for the will be prepared based on the data collected through conducting a census, a socio-economic survey for the displaced persons, and an inventory of losses. |
| 4 | Carry out meaningful consultation with displaced persons and ensure their participation in planning, implementation, and monitoring of resettlement program | Section 1 (6) of the LAA provides that whenever any property is needed or is likely to be needed for any public purpose or in the public interest, a notice is to be given at specified offices and house door/compound wall in the prescribed form and manner, stating that the property is proposed for acquisition. | The LAA does not directly meet ADB’s requirements.  This section of the ordinance establishes an indirect form of public consultation. However, Local government Operation Act, 2017 Clause 11 (g) and Clause 11 (n-4) articulates the roles of local government in facilitation of land acquisition, compensation determination and distribution for public purpose. Similarly, the sub clause (n-5 and 6) articulates the roles of local government in facilitation and coordination for determination of land ownership and cadastral mapping. Other role in land ownership certificate distribution is also defined in these sub clauses.  But, it does not provide for public meetings and project disclosure, so stakeholders may not informed about the purpose of land acquisition, its proposed use, or compensation, entitlements, or special assistance measures. The resettlement planning documents for this project will be prepared following a consultation process which involves all stakeholders (affected persons, government department/line agencies, local community including indigenous peoples and women etc.), and the consultation will be a continuous process at all stages of the project development such as project formulation, feasibility study, design, implementation, and post-implementation, including the monitoring phase. |
| 5 | Establish grievance redress mechanism | Section 11 of LAA allows the landowner to file complaints / raise objections in writing within a time frame of 7 days plus time taken for travel from the date of publication of notice. Complaints are to be filed with the Ministry of Home Affairs, Government of Nepal through the local officer in charge of land acquisition. | The resettlement planning documents include an appropriate grievance redress mechanism to resolve complaints at project level. This includes formation of a grievance redress committee at municipality level, and publication of the notice of hearings and the scope of proceedings. |
| 6 | Improve or at least restore the livelihoods of all displaced persons | The LAA does not address the issues related to income loss, livelihood, or loss of non- titleholders. It only deals with the compensation for loss of land, structures, buildings, crops and trees, etc. for the legal titleholders and for tenants with registered deeds. | The resettlement plans for this project keep the provision for a census survey that will have the data on the loss of income and livelihood, and the same will be compensated as per the entitlement matrix for both physically and economically affected persons. |
| 7 | Land-based resettlement strategy | The LAA Section 14 provides for land for land compensation (if available), if the landowner loses his total land.  In case of religious trust/*Guthi* lands acquired, Section 42 of the Land Reform Act states that Guthi land required for development work must be replaced with another land (rather than compensated in cash). | Though this option may be a difficult proposition, given the lack of government land and the difficulties associated with the acquisition of private lands, the resettlement plans propose land-for-land compensation as its priority, if feasible. Attempt will be made to find alternate land for the loss of land, in case it is available and if it is feasible, looking at the concurrence of host community and land value. |
| 8 | All compensation should be based on the principle of replacement cost. | The LAA does not specify how compensation is to be determined. Section 13 states that the amount of compensation may be determined separately for persons whose land is wholly acquired and persons whose land is partially acquired.  Section 20 of the LAA states that in case the land to be acquired under this Act is a tenancy holding: fifty percent of the amount of compensation payable for such land shall be obtained by the tenant with legal rights. In case a house constructed by the tenant with the consent of the landowner is also acquired, the tenant is eligible for the entire amount of compensation paid for such house. | The LAA differs from ADB policy in the valuation of land and prices of affected assets, where ADB prescribes the use of current market rates/replacement cost in the project area. The ordinance does not ensure replacement value or restoration of pre-project incomes of the affected persons. The resettlement planning documents shall address all these issues, and spell out a mechanism to fix the replacement cost by having a valuation committee which will be responsible for deciding the replacement costs. |
| 9 | Provide relocation assistance to displaced persons. | No mention of relocation assistance to affected persons in LAA, although Section 16 (b) states the losses suffered by the concerned person as a result of his having been required to shift the residence or the place of his/her business by reason of acquisition of the land should be taken into account for computation of compensation. | The resettlement plan(s) provide for the eligibility and entitlement for relocation of the affected persons, in the form of relocation assistance which includes shifting allowances, right to salvage materials, and additional transitional assistance for the loss of business and employment. |
| 10 | Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of no land assets. | The LAA does not have this provision. | The LAA only takes into consideration the legal titleholders and ignores the non-titleholders. The resettlement planning documents will ensure ensure compensation and assistance to all affected persons, whether physically displaced or economically displaced, irrespective of their legal status. The end of the census survey will be considered the cut-off date, and affected persons listed before the cut-off date will be eligible for assistance. |
| 11 | Disclose the resettlement plan, including documentation of the consultation in an accessible place and a form and language understandable to affected persons and other stakeholders. | The ordinance only ensures the initial notification or the acquisition of a particular property. | The LAA does not comply with ADB’s SPS-2009 as there is no mention of disclosure of resettlement plan. The SPS ensures that the resettlement plan, along with the necessary eligibility and entitlement, will be disclosed to the affected persons in the local language (Nepali) in the relevant project locations and concerned government offices, and the same resettlement plan will also be disclosed on the executing agency’s website and on the website of ADB. |
| 12 | Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project’s costs and benefits. | The LAA has a provision to include all the costs related to land acquisition and compensation of legal property and assets for legal titleholders. However, it does not take into account the cost related to other assistance and involuntary resettlement. | The LAA partially meets the requirement of ADB, as it only deals with the cost pertaining to land acquisition. The resettlement plan provides eligibility to both titleholders and non-titleholders with compensation and various kinds of assistances as part of the resettlement packages, and the entire cost will be part of the project cost. |
| 13 | Pay compensation and provide other resettlement entitlements before physical or economic displacement. | The LAA has the provision that at least 50% or a reasonable amount of compensation will be paid prior to possession of the acquired land. | It shall be specified in the resettlement planning documents that all compensation and other entitlements are to be paid prior to physical and economic displacement and prior to contract award |
| 14 | Monitor and assess resettlement outcomes, and  their impacts on the standards of living of displaced persons. | This is not defined in the LAA | The LAA does not comply with ADB safeguards policies. The resettlement planning documents will have a detailed provision for a monitoring system within the executing agency. The executing agency will be responsible for proper monitoring of resettlement plan implementation, and the monitoring will be verified by an external expert. |

## Objectives and Principles of Resettlement Framework

1. This resettlement framework is prepared to provide guidance to the Ministry of Urban Development (MoUD), the executing agency and specifically the Project Implementation Directorate (PID), KUKL, the Implementing Agency and participating project consultants who will be carrying out the proposed project in adhering to ADB’s safeguard policy when preparing, assessing and planning land acquisition and resettlement related aspects of subprojects during project implementation period or other project activities identified after project approval and in the event of unanticipated involuntary resettlement impact during project implementation. Where involuntary land acquisition and resettlement is not involved and land donation or negotiated land purchase will be adopted, this resettlement framework provides steps to be taken in order to comply with ADB’s Safeguard Policy Statement (SPS) 2009 requirement.
2. ADB SPS (2009) does not apply to negotiated settlements where both the acquiring agency and the affected people agree to a fair price for land and other assets, unless expropriation would result upon failure of negotiations. This resettlement framework provides steps that need to be followed when negotiated land acquisition is used by the PID (or its counterparts) to acquire land for project activities.
3. This resettlement framework for the project, has been endorsed by the government and will be disclosed by the executing agency in the project website. It reflects the borrower’s policies as well as ADB’s Safeguard Policy Statement (SPS), 2009 and other social safeguard guidelines. A detailed description of compensation measures and assistance is provided in the entitlement matrix. An entitlement matrix, consistent with the existing norms and guidelines of the country and the ADB SPS, has been prepared to cover potential losses identified in this project. The matrix recognizes that the lack of title/customary rights recognized under law will not be a bar to entitlement and has special provisions for non-titled persons. The eligibility for compensation will be determined through a cut-off date. People moving into the sub-project area after the cut-off date will not be entitled to compensation or other assistance.
4. This resettlement framework also applies to all affected persons with land status affected permanently or temporarily due to any project activities, including purchase and temporary use during construction. It also applies to people who use state land, whether sanctioned or not, and land use changes because of this investment. The resettlement framework does not apply to government land transferred from one authority to another or used for reconstruction, unless third parties are adversely affected by the transfer or use.
5. This framework is prepared based on applicable legal frameworks of the government and ADB's Safeguards Policy Statement (SPS), 2009. In case of any discrepancy between the policies of ADB and the government, ADB policy will prevail.
6. The three important elements of ADB’s SPS are (i) compensation to replace lost assets, livelihood, and income (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. In addition, the absence of legal title to land should not be a bar to compensation.

## Obtaining Land for Project Purposes

1. Land acquisition, if required, will follow the principles and processes as suggested in this reference framework, including the provisions made in the entitlement matrix. Land may also be obtained using methods such as negotiated purchase, land pooling and voluntary land donation. The process to be followed in each case is discussed in detail in subsequent paragraphs in this section of the resettlement framework.

### (i) Negotiated Settlement

1. Negotiated settlement will be the preferred approach should there be need of private land acquisition by the project. This approach to acquire land through negotiated settlement is also supported by the ADB SPS provided there is no coercion or perception (of the affected person/ land seller) of eminent domain being applied, should the negotiated purchase fail and where direct negotiations with land owners are conducted in a fair and transparent manner and land is purchased upon agreement of a negotiated price. In the Project, the process of negotiation will ensure the following steps:
2. negotiation will take place when there is a willing seller;
3. consultation with the affected person must be carried out and documented;
4. the minimum negotiated price to start negotiations will be not below the valuation of land based on the market value of land;
5. all negotiations must be carried out in a transparent manner and validated by a Third Party (eminent citizen / any party without any interest in the process, appointed by the PID);
6. in case of failure of negotiations, compensation will be paid as outlined in the Entitlement Matrix of the resettlement framework and the entire process has to be documented. The third party will have to submit reports during and on conclusion of negotiations; costs related to third party certification will be borne by the project proponent.
7. The land transfer and updated records of the purchased lands will have to be completed prior to the start of civil works.
8. No negotiated purchase from vulnerable households shall be undertaken for the project.

### (ii) Voluntary Land Donation[[6]](#footnote-6)

1. The project may accept voluntary donation of land. Such offer would be considered only if donated land does not (i) bring any significant impact/impoverishment to the donor(s) and/or displace tenants/laborers/informal users; (ii) the donation does not come from the land owner categorized as poor or vulnerable family; (iii) the donation will not cause any economic or physical displacement (to legal titleholders and/or formal or informal land users); (iv) the land donor(s) will get direct benefits from the proposed project activities; (v) meaningful consultations are conducted with the land owner(s); and (vi) the land donation(s) does not come from coercion or asymmetrical power relation between the land owner(s) and the government. The process and steps to be followed for assessing eligibility of voluntary donation and documentations are given below (detailed land donation procedures are in the Appendix 1):
2. **Step 1:** The project will be open to the possibility of voluntary land donation from any interested person/community. The land requirement will be explained to the interested donor(s). ADB’s SPS social safeguard requirements will also be explained to the people willing to donate land. An independent third party will be engaged (refer appendix 2 for ToR for its engagement) in case of land donation who shall assess if land parcel under consideration for donation meets the stipulated criteria (as described in para 35 above).
3. **Step 2:** After donation of land is decided by the donor(s), the PID will initiate formalization of land donation by issuing a letter to the willing donor(s) with details of public purpose for which land is required and the donor(s) will reciprocate by responding to the intent of donation for the said specific purpose (Sample voluntary contribution consent form is attached in Appendix 3). Then PID, representing Ministry of Urban Development, Government of Nepal, will take necessary legal steps to formalize the donation of land.
4. **Step 3:** The Deed of Gift will be registered in the name of the land (gift) receiving department/agency (as designated by government) and all necessary fees, stamp duties will be borne by this department/agency. Henceforth the land ownership and related land record will be revised / amended with Record of Rights showing the changed ownership.
5. A mechanism will be established ensuring transparent process is followed and coercion was not used for donation of land. The whole process will be verified and validated by an independent third party for all voluntary offer of land for the project. The above information has to be included in a report to be prepared by the external third party[[7]](#footnote-7), preferably from reputed and qualified agencies/ NGO/ firms/ individuals. The concerned PIU shall submit due diligence report to ADB for review and approval including information on impact assessment, voluntary donation process and report of independent third party.

### (iii) Land Pooling

1. The project may entail use of land made available to it from ongoing/completed independent land pooling programs of the government. Land pooling is an instrument available[[8]](#footnote-8) to local town development authorities to take guided local land development and/or town planning activities. In all such cases that involve land pooling, the project will ensure the following:
2. Establish and provide timeline history of land pooling (start and completion of process), to be supported with evidences such as official communication/ notices etc.
3. Resettlement plan document, for land parcels made available through land pooling, will categorically establish that the concerned land pooling was carried out as an activity independent of this project and hence not attributable to it. Land pooling programs that were initiated much prior to this project, may be deemed to be an independent activity and not carried out in anticipation of this project, however the same would need to be established in the RP document
4. For all such completed land pooling programs, evidence of completion will be included as part of project RP document. This will include information on current ownership status of the developed land sites, handing over of land parcels to original owners, ownership status of land proposed to be used for this project status etc.
5. In project areas where, land pooling program is currently ongoing, project will ensure that this exercise is completed and demarcated land parcel (from the pooled land bank) is handed over to the project before start of any civil work. RP document will provide information (with supporting evidences) on completion of the exercise, land ownership status - whether developed land plots have been handed over to the original owners, details of community stakeholder (land owners, occupiers, representatives) participation (through entire process, as per the Act). Non-titleholders (if any, existing on land parcel made available through land pooling for the project), will be identified during census survey and will be eligible for compensation and resettlement support as per the entitlement matrix. The documents will also establish that this land pooling exercise was not carried out in anticipation of or attributable to this project.
6. Extensive and multiple rounds of consultations will be held with persons/households participating in ongoing land pooling programs, to ensure that they are informed about the proposed project, its purpose, likely impacts and also seek their input on design options and minimizing adverse impacts. Minutes of these consultations will be included with resettlement plan document.

### (iv). Land Parcels along River Banks

1. The project will entail use of land along river banks for laying down of sewer network. The Government of Nepal, through its notification (refer Appendix 4), that predates this project, has imposed restriction on construction activities within specified distance (varying specifications for different rivers flowing in the valley) from river banks. Local Town Development Authorities have been conferred with powers (by Town Development Act, 1998) to use this land corridor for creating infrastructure for public amenities and similar purposes. In view of the said legal instrument, the project will consider the following:
2. All privately owned physical structures and assets affected under this project as a result of exercise of Government of Nepal’s notification related to the use of river bank corridors, will be eligible for compensation as per the entitlement matrix.
3. Impacts such as loss of crops and trees or any other impacts due to use of the land corridor along river banks will also be compensated as per the entitlement matrix.
4. Project will secure prior permission from Town Development Authorities or such appropriate authorities for use of land corridor along the river banks. Evidence of the same will be provided in the resettlement planning documents.
5. In cases where privately owned (for which legal ownership records/certificates are held by affected households) land parcels along the river banks are required by the project for laying of sewer pipes and other project purposes, no objection of owners and users of the land parcel will be obtained without use of coercion and will be certified by third party. In all such cases, affected persons will be entitled for compensation and other benefits against project induced losses as per the entitlement matrix. In the event of affected person’s refusal to provide no objection, he/she will be entitled for compensation against loss of land as well.

## Screening and Categorization

1. Resettlement screening for subprojects will be carried out during the project identification and prioritization process. The screening criteria based on the degree of resettlement impacts are: (i) significant (category A)—as a result of the subproject, 200 or more people will experience major impacts, that is, being physically displaced from housing, or losing 10% or more of their productive (income-generating) assets; (ii) not significant (category B)—as a result of the subproject, less than 200 people will be physically displaced from housing or lose less than 10% of their productive (income-generating) assets, with resettlement plans prepared commensurate to their impacts; or (iii) no resettlement effect (category C)—the subproject does not require temporary or permanent land acquisition, and there are no impacts involving the loss of land, structures, crops and trees, businesses, or income.
2. Given the small size of the proposed facilities, the impacts will not be significant and consistent with category B impacts. Any subprojects determined to cause significant resettlement impacts (category A) will not be selected.

## Principles and Policies of Entitlements

### Entitlement Principles

1. In order to assist the projected affected households losing properties to the projects to restore and improve their livelihoods, following entitlement principles will be followed:
2. Minimize adverse impacts as much as possible, such as land taking and human displacement;
3. Plan and implement necessary mitigation measures to address livelihood impacts as a result of land-taking;
4. Compensation will be paid at replacement cost and lack of title does not bar affected households from resettlement benefits;
5. Consultations with and participation of the affected people should be mainstreamed in the planning and implementation process;
6. Give special attention and adequate measures to assist the indigenous peoples and vulnerable households identified during resettlement plan preparation stage;
7. Follow the prescribed planning procedures and criteria and documentation and monitoring measures to make sure that land donation is truly voluntary without any use of pressure or influence;
8. Displaced persons are to be assisted to integrate economically and socially into host communities where physical displacement takes place, so that adverse impacts on the host communities are minimized and social harmony are promoted.
9. Grievance and monitoring procedures shall be in place; and
10. All payments including compensation and other assistance (as prescribed in the Entitlement Matrix) for loss of land, assets, structures, trees, income common properties will be made prior to physical or economic displacement and commencement of civil construction work.

### Eligibility and Cut off Date.

1. Date of notification for land acquisition (as per the #9 of the Land Acquisition Act, 1977) will be the cut-off date for titleholders. Similarly, for the non-titleholders, census survey date will be considered as the cut-off date.
2. All affected persons who are identified in the project-impacted areas by the cut-off date[[9]](#footnote-9) will be entitled to compensation for their affected assets, and sufficient rehabilitation measures to help them to improve or at least maintain their pre-project living standards, income-earning capacity, and production levels will be carried out. The absence of legal/formal titles to the affected assets will not prevent the affected people from receiving full compensation and assistance as required by ADB SPS (2009) on involuntary resettlement.

### Entitlement Policy

1. This entitlement policy, in line with the applicable laws and policies of the Government of Nepal particularly the provisions made under the Land Acquisition Act 1977 (2034 B.S.), and Policy on Land Acquisition, Resettlement and Rehabilitation for the Infrastructure Development Projects, 2015 (2071 B.S.), and ADB SPS 2009. The entitlement policy covers direct livelihood impacts as a result of land acquisition for constructions of SWM/Landfill Site, Seepage/Waste Water Treatment Plants or Ponds, municipal buildings and widening and upgrading of municipal roads. All households thus identified as affected and recorded in the impact inventory will be eligible for and entitled to compensation and/or livelihood assistance. This is regardless of their legal status, titled or non-titled to the lands they are cultivating or occupying. Therefore, the affected households could include, but not limited to, property owners, people occupying land without land ownership certificate, and tenants with tenancy agreements that are written or unwritten.
2. **Entitlements:** The identified affected peoples will be entitled to a combination of compensation packages and resettlement assistance depending on the nature of ownership rights on lost assets, and scope of the impacts including socio-economic vulnerability of the affected persons and measures to support livelihood restoration, if livelihood impacts are envisaged as per resettlement principles and policy discussed above. The affected persons will be entitled to the following six types of compensation and assistance packages:
3. Compensation for the loss of land, crops/ trees at their replacement value;[[10]](#footnote-10)
4. Compensation for structures (residential/ commercial) and other immovable assets at their replacement cost;
5. Transfer/shifting allowance, rental assistance or temporary accommodation assistance and relocation assistance for permanent loss of residential/ business or commercial structures inducing physical displacement;
6. Rehabilitation assistance in lieu of the loss of business/ wage income/sources of income;
7. Rebuilding and/ or restoration of community resources/ facilities; and
8. In case of affected persons from indigenous people groups, following additional entitlements will be provided:
   1. In case of loss of land and a total dependency on agriculture: land-for-land compensation if preference expressed by the indigenous people households.
   2. Additional one-time assistance allowance of 3-month minimum wage per adult for the household to cover for additional human resources needed to help them, rebuild their houses, and re-establish their livelihood. This will be over and above the other assistance given in this framework.
   3. At least one person from each affected household will be considered for income generating vocational training and skill improvement options as per their choice.
   4. Vulnerable affected persons will be given priority in employment in the project construction and project operation activities.

### Entitlement Matrix.

1. The entitlement matrix in Table 2 summarizes the main types of losses envisioned by the project and the corresponding nature and scope of entitlements in accordance with Government of Nepal and ADB policies. Standards described in the matrix will not be lowered, it can though be enhanced in the subproject resettlement plans as required.

**Table 2: Entitlement Matrix**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type of Loss** | **Entitled Person** | **Description of Entitlement and Implementation Procedures** | **Remarks** | **Responsible Institution** |
| **1. Loss of Land (Agricultural, Residential & Commercial)** | | | | |
| 1.1 Loss of land | Person(s) with land ownership certificate | * Land for land options will be offered if government or ailani land is available under the jurisdiction of municipalities for APs losing entire land of his/ her ownership. * Cash compensation based on replacement cost. * All fees, taxes and other charges as applicable under relevant laws and regulations * In case of commercial lands additional assistance to restore business loss as per item 5.1, 5.2 and 5.4 of this entitlement matrix and exemption of municipal business tax for a year. | * Payment will be made in full to the affected person prior to taking possession. * With the consent of title holder compensation will be paid preferably in joint account of husband and wife. | PID, assisted by DSC and CDC |
|  | Person(s) using the land for more than 5 years without land ownership certificate but with records/ certificate of use | * Land for land options will be offered if government or ailani land is available under the jurisdiction of municipalities. * Cash compensation based on replacement cost after submission of ownership certificate. * All fees, taxes and other charges as applicable under relevant laws and regulations. * In case of commercial lands additional assistance to restore business loss as per item 5.1, 5.2 and 5.4 of this EM and exemption of municipal business tax for a year. | * Payment will be made in full to the affected person prior to taking possession. * With the consent of title holder compensation will be paid preferably in joint account of husband and wife. * Option will be given to land user to choose either full compensation of land after submission of ownership certificate before clearance of site for construction or receive entitlement calculated for income loss and effect on means of livelihood. The entitlement will be calculated with application of income capitalization method. The project ensures that the calculated value for income loss and effect on means of livelihood will not be less than replacement value of the affected land. * The user occupying land prior to cut off date will be eligible for entitlements. The date of completion of census survey will be the cut-off date for entitlement. The PIU will publish cut-off date in a communication media easily approachable to affected persons. | PID, assisted by DSC and CDC |
|  | Person(s) using the land for more than 3 years without land ownership certificate and without legalizable claim | * Cash compensation at replacement cost to non-land based assets. * Livelihood or income restoration assistance calculated for income loss and effect on means of livelihood. The entitlement will be calculated based on actual income loss for 3 years. * In case of commercial lands additional assistance to restore business loss as per item 5.1, 5.2 and 5.4 of this EM or exemption of municipal business tax for a year. | * Payment will be made in full to the AP prior to taking possession. * With the consent of user of the land, compensation will be paid preferably in joint account of husband and wife. * The user occupying land prior to cut off date will be eligible for entitlements. Since non-titleholders AHs are not identified during the census survey. If such AHs identified during the updating of the RP after DMS, the cut-off date will be the date of completion of DMS. * The PIU will publish cut-off date in a communication media easily approachable to affected persons. * Concerned local body shall validate the person is continuous user of the land and the person has not violated any by-laws (encroachment of officially declared RoW, construction of buildings and structure without permission of municipality etc.) once they declared effective. As per the Local Self-Governance Act, 1999, municipality has right to get back the encroached land and demolish the building and structures constructed without permission | PID, assisted by DSC and CDC |
| 1.2 Loss of tenanted agricultural, residential and commercial by permanent tenants/ sharecropper | a. Land owner(renter) and registered tenants  b. Non-registered sharecropper | * 50% cash compensation to the share cropper (registered tenants) of the affected plots as per the prevailing laws (LA Act Clause 20). Other 50% to the landowner * Cash compensation at replacement cost to the standing crops in line with informal agreement between the owner and sharecropper. * Income disruption allowance up to 3 months of wage labor for the affected registered tenants/ sharecroppers and land owners | * Payment will be made in full to the affected person before taking possession of the land. * Concerned local body shall validate the person has reached an agreement of sharecropping and cultivating the land and the person has not violated any by-laws once they declared effective. | PID, assisted by DSC and CDC |
| 1.3 Leased or rented land | a. Person leasing or renting out the affected land  b. Persons using land with formal leasing or renting agreement | * Lease holder or renter will get notice of termination as specified in agreement. * Loss of income and investment will be compensated based on loss incurred. | * The lease holder shall provide original copy of agreement paper with renters (landowners) to be eligible for the entitlements. * The user occupying land prior to cut off date will be eligible for entitlements. The date of completion of census survey/or DMS will be the cut-off date for entitlement. The PIU will publish cut-off date in a communication media easily approachable to affected persons. | PID, assisted by DSC and CDC |
| 1.4 Loss of income due to land leasing | a. Land owner with land ownership certificate  b. Government of Nepal  c. Government entities or public institutions who own the land | * Cash or kind compensation as specified in lease agreement. * Lease agreement will be reached prior to payment of compensation. * First installment will be paid prior to taking possession of the land. | The contractor will fully restore the leased land to its original condition and return it to the leaseholder at the end of the leasing period.  The municipalities will ensure that persons (other than the landowners) affected as a result of leasing of land for the Project are also compensated for loss of income incurred due to the leasing of land. | PID, assisted by DSC and CDC |
| 1.5 Donation of land and clearance of municipal Right of Way (ROW) | Land and structure owner. | * No compensation for the donated land * Exemption of any transfer costs, registration fees or other municipal charges. * Repair allowances to structure owner based on per unit rate (sft) as decided by municipal board. * Exemption of 3 years’ housing tax (only for demolished building). * Waiver of building permission fees and taxes to rebuild affected house. | a. Voluntary land donor households.  Donation is accepted only if the donor:   * Is project beneficiary and fully consulted and informed about their rights and design options; * Doesn’t fall below poverty line after land donation; * Donating up to 10% land holding without or no impact on structural element of the building; * Is unforced or freely willing to donate   b. Donation should be verified by a third party to ensure integrity and impartiality.  d. The project will provide all entitlement for any affected building/structure constructed prior to declaration (or the cut off date) of ROW for this project (sewer network lines). | PID, assisted by DSC and CDC |
| **2. Crops and trees** | | | | |
| 2.1 Loss of crops and trees (fruit bearing and timber) | * Owner of crops and trees- Titleholder * Tenant/Sharecropper * Crops owned by encroachers/ squatters/ non-titleholders | * Advance notice of 3 months to harvest their crops. * Compensation at net value of the next harvest where harvesting is not possible * Compensation for loss of future harvest at net value of 3 times the harvest for seasonal crops * Compensation for loss of fruit trees for average fruit production for next 15 years to be computed at current market value * Compensation for loss of wood-trees at current market value of wood (timber or firewood, as the case may be) | Compensation for loss of agricultural crops at current market value of mature crops, based on average production | PID, assisted by contractor and DSC |
| **3. Loss of houses and other structures** | | | | |
| 3.1 Permanent loss of house and other structures | * Titleholder, Tenant * Landless squatters/ encroachers/non-titleholders | * Compensation for full or partial loss of house at replacement cost * Owners of affected structures will be allowed to take/reuse salvageable materials for rebuilding/rehabilitation of structures without deducting any cost * In case of relocation, transfer allowance to cover shifting (transport plus loading/ unloading) of household goods and materials will be paid, based on actual cost or current market price. * additional relocation assistance will be paid to household and business/commercial establishment that are physically displaced @ 30 days minimum wage if displaced to another plot and @ 15 days wages if displaced within same plot. Latest government approved wage rate (Kathmandu Valley) shall be applicable. * Every displaced household will receive 3 months’ rental equivalent cash assistance or alternatively provided with temporary accommodation facilities. Similar rental assistance (3 months) or facilities (covered space to operate) will be provided for permanent loss caused to business/commercial structures. * Rights to salvage materials from structures * Additional assistance for vulnerable households as described in section 5.3. | * Replacement cost of affected structures at market value of will be determined by CDC. * Compensation and other benefits to be paid to all affected households irrespective of their ownership status of affected land. | PID, assisted by contractor and DSC |
| **4. Community facilities and resources** | | | | |
| 4.1 Government and community structures, infrastructures | * Local community * Local government * Informal settlers/ squatters on government land | * Restoration of affected community buildings and structures to at least their original condition, or replacement in areas identified in consultation with affected communities and relevant authorities * Where damages do occur to government property as a result of construction works, the cost of restoring to at least their original condition will be the responsibility of the project. | * Extreme care should be taken by the contractors to avoid damaging any properties during constructions. * Compensation for the losses will be borne by the project. * Community structures include roads, inner roads, temples, foot paths/trails, culverts, and water points. | PID, assisted contractor and DSC |
| 4.2 Loss of access to water supply, public wells, sewerage network/sanitation and sanitation facilities (public/ private toilets, solid waste collection points, etc.) | Private persons and community that own the water points and sanitation | * Advance announcement to the households prior to construction/flow disturbance and appointing alternative source * Immediate replacement and restoration of the affected facilities | * The time gap between the construction of new system and transfer from the old system should be minimized. * Alternative sources of water and sanitation facilities should be made available during the construction period (such as supply through water tanker, mobile toilets, increased frequency of solid waste collection) | Contractor |
| **5. Loss of income and livelihood** | | | | |
| 5.1 Temporary loss of income from business | Titleholder  Licensed and non-licensed vendors, and titled and nontitled households/tenant | Businesses are entitled to compensation for each day of disturbance on fully closed roads. An income survey will serve as the cut-off date. All businesses identified in the project-impacted areas (sections ready for construction) on the cut-off date will be entitled to compensation for their lost income based on the tax records. For shops not qualifying under these categories (hawkers, vendors etc.), there is the option of using the actual income based on survey followed by a verification of the income data based on comparable incomes in the project area. | * An income survey prior to construction will serve as the cut-off date * Ensure that the project will avail of the temporary relocation areas for the mobile vendors during civil works * At least 1 month’s advance notice will be given prior to commencement of construction works | PID, assisted by contractor and DSC |
| 5.2 Temporary loss of access to the commercial location | Titleholders and non-titleholders of business operations; licensed or non-licensed vendors, and titled and nontitled households/tenant | Mobile hawkers and vendors will be assisted by contractors in moving to alternative locations during the period of construction, or will be given cash provision of maximum 2 days income as shifting allowance. | * An income survey prior to construction will serve as the cut-off date * Ensure that the project will avail of the temporary relocation areas for the mobile vendors during civil works * At least 1 month’s advance notice will be given prior to commencement of construction works | PID, assisted by contractor and DSC |
| 5.3 Vulnerable persons | Female-headed, elderly, disabled, and below poverty line HHs (as per latest established poverty line data[[11]](#footnote-11))  Displaced household that lose more than 10% of total income  Landless people and people without legal title to land  Vulnerable IP | * Cash assistance for 90 days at the Kathmandu wage rate of NRs. 250 per day. In case of revision of Kathmandu wage rate at the time of cut off date, cash assistance will be as per the revised rate. * One time economic rehabilitation grant of NRs. 10,000 for restoring livelihoods * Vulnerable persons entitled to preferential/ prioritization for employment under the project | Vulnerable persons to be identified during income survey | PID, assisted by contractor and DSC |
| 5.4 Livelihood rehabilitation assistance | Permanently economically displaced persons/families who lose more than 10% of total income regardless of their status on the affected land  Below poverty line HHs and Physically Displaced households | * Cash assistance for 90 days livelihood support at NRs 250 per day. In case, wage rate is revised, assistance will be provided as per changed rates. * Special assistance of NRs. 10,000 to displaced vulnerable persons for restoring their livelihoods * Employment during the construction activities if they desire | Economically displaced families in Gokarna WTP  Permanently displaced vendors/hawkers, to be determined after detailed design is prepared and census survey of affected households conducted to identify and establish income/livelihood impacts.  Informal land users in the interceptor corridors | PID, assisted by contractor and DSC |

DSC = design and supervision consultants, PID = Project Implementation Directorate.

# SOCIAL IMPACT ASSESSMENT

1. **Surveys.** For subprojects involving land acquisition and resettlement impacts, the Project Implementation Directorate (PID), with assistance from the social development specialist of the design supervision consultant (DSC), will undertake social impact assessment (SIA) for each identified subproject, on the basis of preliminary technical design. These surveys will help determine the magnitude of displacement, prospective losses, better targeting of vulnerable groups, actual costs of resettlement, and preparation and implementation of a resettlement plan.
2. **Census.**The purpose of the census is to register and document the status of potentially affected persons within the subproject's areas. The census will cover 100% of affected persons. It will provide a demographic overview of the population, and will cover people's assets and main sources of livelihood. The survey of the project affected area will cover the following: (i) boundaries of the site identified for the proposed subproject elements in case of subprojects involving new interventions; (ii) proposed right-of-way (RoW) boundaries, which will include titleholders and non-titleholders occupying the proposed RoW; (iii) current occupants of the subproject site, including businesses, vendors, and crop holders, whether titleholders or otherwise, experiencing temporary or permanent disruptions during construction; and (iv) list of potential loss of assets and income opportunities of affected persons due to the project activity.

# RESETTLEMENT PLAN PREPARATION

1. A resettlement plan will be prepared for different components, if required, based on the results of the survey. There are different activities involved in preparing an RP. They are:
2. a survey on the involuntary resettlement (IR) impacts after the final detail design of the project sites are finished;
3. consultation with affected communities;
4. census and DMs (detail measurement activities) activities; and
5. preparation of RP following the ADB SPS requirements.
6. The RP is prepared based on the possible land acquisition impacts following the land requirement and IR impacts survey. The RP will be reviewed and approved by ADB prior to contract award.
7. The RP will be updated and prepared by the DSC. Work will be guided by the social officer of the PID, who will work with the social development specialist of the DSC. The RP will be brought to the notice of affected persons. It will be prepared in English, with main content translated in local language, and made known to the public (this can include posters and/or resettlement booklets). The RP will be structured in the following manner:
8. Executive Summary;
9. Project Description;
10. Scope of Land Acquisition and Resettlement;
11. Socioeconomic Information and Profile;
12. Information Disclosure, Consultation, and Participation;
13. Grievance Redress Mechanisms;
14. Legal Framework;
15. Entitlements, Assistance, and Benefits;
16. Relocation of Housing and Settlements;
17. Income Restoration and Rehabilitation;
18. Resettlement Budget and Financing Plan;
19. Institutional Arrangements;
20. Implementation Schedule; and
21. Monitoring and Reporting.

## Vulnerability, Gender, and Indigenous People/ Ethnic Minority

1. The project will identify any specific needs to address the issues of vulnerable groups such as poor, disabled, elderly, or children without means of support, female-headed households, landless people and those without legal title to land and vulnerable ethnic minorities and indigenous people. The RP will formulate measures to ensure that socioeconomic conditions, needs, and priorities of these groups are considered. The RP will also ensure that gender impacts are adequately addressed and mitigated. Women's focus group discussions (FGDs) will be conducted to address specific women's issues. In addition to the measures provided for gender concerns of the affected households, the RP will be implemented in accordance with the gender equality and social inclusion (GESI) plan prepared for this project. Similarly, issues of ethnic minority and indigenous people will be addressed, and if required, mitigation measures will be provided during the preparation of RPs. In the event of significant IP issues are identified in a subproject, the project authorities will have to inform ADB and prepare an Indigenous People Plan (IPP) following the SPS (2009) SR 3 procedures and requirements.

# CONSULTATION, INFORMATION DISCLOSURE, AND GRIEVANCES

## Public Consultation

1. A range of formal and informal consultative methods will be carried out for all subprojects including, but not limited to, FGDs, public meetings, community discussions, and in-depth and key informant interviews, in addition to the census and socioeconomic surveys. Consultations will be held with special emphasis on vulnerable groups. Encouraging public participation in consultations informs the public and serves as a venue for the public to express their opinion on priorities which the project should address.
2. The key stakeholders to be consulted during subproject preparation, RP implementation, and program implementation include:
3. all affected persons, including vulnerable households;
4. project beneficiaries;
5. host populations in resettlement sites (if any);
6. elected representatives, community leaders, and representatives of community-based organizations; and
7. local nongovernment organizations (NGOs).
8. Consultations with affected persons during RP preparation will ensure that views of affected persons on compensation and resettlement assistance measures are fully incorporated, while consultations conducted during RP implementation will identify necessary assistance required by affected persons during rehabilitation. The PID will ensure that views of affected persons related to the resettlement process, particularly those who are vulnerable, are looked into and addressed.

## Information Disclosure and Dissemination

1. Summaries of resettlement plans will be made available in the Nepali language in an accessible location. In the initial stage, the PID will be responsible for informing potential affected persons and the general public of the project and any resettlement-related requirements through leaflets or other reliable means. PID will conduct consultations and disseminate information to all affected persons during these initial stages to create awareness of the project. Basic information, such as location, impact estimates, entitlements, and implementation schedule, will be presented to affected persons. This will enable stakeholders to provide inputs on the resettlement process, prior to award of civil work contracts. All the comments made by the affected persons will be documented in the subproject records and summarized in subproject monitoring reports. The draft project information document (PID) is in Appendix 5 of this document.

## Grievance Redress Mechanism

1. A grievance redress mechanism (GRM) will be established to receive, evaluate and facilitate the resolution of affected people’s concerns, complaints, and grievances on the social and environmental performance of the project. The GRM aims to provide a trusted way to voice and resolve concerns linked to the project, and to be an effective way to address affected people’s concerns. The GRM for the project is outlined below, and consists of three levels with time bound schedules and specific persons to address grievances.
2. **First level of GRM.** The first level and most accessible and immediate contact for the fastest resolution of grievances are the contractors and supervision consultants onsite. Prior to construction of any works, the community awareness and participation consultants, DSC, and contractors are to hold local community meetings to notify the local residents and businesses of the temporary disturbance, and to inform them of the project. If a local area committee (tole committee) exists in the area, they should also be informed and made aware of the project. If any complaints arise, the contractors, DSC, and PID can immediately resolve the complaint on site, and if necessary, with the assistance of the local *Tole* committee. The PID branch offices can also be involved in grievance redress at this stage. The Kathmandu Upatyaka Khanepani Ltd. (KUKL) hotline and PID office phone number will be posted in public areas within the project area and construction sites. Any person with a grievance related to the project works can contact the project to file a complaint. The PID branch offices are staffed with a consumer relations officer to field and resolve complaints. The consumer relations officer or branch manager will document the complaint, and immediately address and resolve the issue with the contractor within 1-2 days, if the complaint remains unresolved at the field level. The branch manager may seek the assistance of the DSC safeguards specialists (the environmental specialist or social safeguards specialist) to help resolve the issue. The consumer relations officer or branch manager will notify the PID safeguards unit that a complaint was received, and whether it was resolved. The branch manager will fully document the following information: (i) name of the person, (ii) date complaint was received, (iii) nature of complaint, (iv) location, and (v) how the complaint was resolved.
3. **Second level of GRM.** Should the grievance remain unresolved, the branch manager will forward the complaint to the PID safeguards unit. The person filing the grievance will be notified by the consumer relations officer or branch manager that the grievance was forwarded to the PID safeguards unit. For resettlement issues, the resettlement officer will address the grievance; for environmental issues, it will be the environmental officer. Grievances will be resolved through continuous interactions with affected persons, and the PID will answer queries and resolve grievances regarding various issues including environmental, social, or livelihood impacts. Corrective measures will be undertaken at the field level by the PID safeguards staff within 7 days. The relevant safeguards unit staff will fully document the following information: (i) name of the person, (ii) date complaint was received, (iii) nature of complaint, (iv) location, and (v) how the complaint was resolved.
4. **Third level of GRM.** Should the grievance remain unresolved, the PID’s project director will activate the third level of the GRM by referring the issue (with written documentation) to the local GRC of the KUKL, who will, based on review of the grievances, address them in consultation with the PID safeguards unit, project director, and affected persons. The local GRC will consist of members of the PID, affected persons, and local area committee, among others determined to provide impartial, balanced views on any issues. The GRC should consist of around five persons, including representatives from CBO/NGO, from among DPs/tole committee, from the concerned municipality, from PID, KUKL, and from KVWSMB. A hearing will be called with the GRC, if necessary, where the affected person can present his or her concern/issues. The process will promote conflict resolution through mediation. The local GRC will meet as necessary when there are grievances to be addressed. The local GRC will suggest corrective measures at the field level and assign clear responsibilities for implementing its decision within 15 days. The functions of the local GRC are as follows: (i) to provide support to affected persons on problems arising from environmental or social disruption, asset acquisition (if necessary), and eligibility for entitlements, compensation, and assistance; (ii) to record grievances of affected persons, categorize and prioritize them, and provide solutions within 15 days; and (iii) to report to the aggrieved parties about developments regarding their grievances and decisions of the GRC. The PID safeguards officers will be responsible for processing and placing all papers before the GRC, recording decisions, issuing minutes of the meetings, and taking follow-up action to see that formal orders are issued and the decisions carried out.

1. In the event that a grievance is not addressed by the contractor, DSC, branch office, PID or GRC, the affected person can seek legal redress of the grievance in the appropriate courts, which is the formal legal court system. However, the established GRM does not mean to impede the displaced person access to the country's judicial or administrative remedies. The aggrieved person can have access to the country's legal system at any stage of the GRM if needed. The grievance redress mechanism and procedure is depicted in Figure 1.

## ADB Accountability Mechanism

1. In the event the established GRM is not in a position to resolve the issue or still dissatisfied with the GRM’s decision, the affected person also can use the ADB Accountability Mechanism (AM) by directly contacting (in writing) the Complaint Receiving Officer (CRO) at ADB Headquarters or the ADB Nepal Resident Mission (NRM). The complaint can be submitted in any of the official languages of ADB’s DMCs. The ADB Accountability Mechanism information will be included in the PID to be distributed to the affected communities, as part of the project GRM.

**Figure 1: Grievance Redress Mechanism (GRM)**

**Displaced Person**

**Field Level:**

**Contractor,**

**DSC, Branch Office**

**Not Redressed**

**Not Redressed**

**Not Redressed**

**Higher Authority/**

**Court of Law \***

15 Days

**Grievance**

**Redressed**

**3rd Level Grievances**

**7 Days**

**Grievance**

**Redressed**

**2nd Level Grievances**

**1st Level Grievances**

1-2 Days

**Grievance**

**Redressed**

**PID**

**Safeguards**

**Unit**

**Grievance**

**Redress**

**Committee**

DSC= design and supervision consultant, PID= Project Implementation Directorate.

\* Aggrieved person may also access the country's legal system at any stage (of the three stages) of the grievance redress mechanism.

# COMPENSATION, INCOME RESTORATION, AND RELOCATION

## Compensation

1. The project will ensure that the properties (land, structure and non-structure assets) to be displaced or affected by the project will be compensated at their full replacement cost. The principle for determining valuation and compensation for assets, incomes, and livelihoods is replacing the loss of affected assets and restoring the loss of income and workdays experienced by the displaced households. Livelihood rehabilitation assistance will target poor and vulnerable households. Temporary loss of incomes of affected persons will be compensated based on replacement value of income losses. Other benefits such as relocation and/or rehabilitation assistance will be paid as per the entitlement matrix.
2. The resettlement plan preparation/implementation costs, including compensation and all other entitlements, and administration costs, will be considered an integral part of Project budgets. The resettlement plans will include sections detailing (i) all affected items/allowances/assistance and compensation rates, (ii) valuation methodology so that compensation for all assets will be at current market value in the year of compensation and will be sufficient to replace the lost asset, and (iii) a budget for all expenses including compensation, administration costs and contingencies. All costs of land acquisition, compensation, resettlement, rehabilitation and monitoring will be borne by the Government.

**Compensation procedures:**

1. Measures to be adopted for valuation of assets will be as follows:
2. Land: The replacement cost of land is to be determined through structured consultations with local landowners and through formal government records (land registration records). Valuation of land will be finalized by valuation committee based on current market rates/ replacement cost in the project area in consultation with Land Revenue Department at Municipality level.
3. Houses and Buildings: The value of the houses, buildings and other immovable properties of the displaced persons will be at the market price and will include the cost of labor and transfer of the construction materials. Depreciation value of the affected assets will not be taken into account.
4. Other Assets**.** Compensation for the assets attached with land such as wells, tubewells, pumps, tanks, etc.) will be based on replacement value. This will be estimated through detailed market surveys.
5. Businesses are entitled to income compensation for each day of disturbance on fully closed roads.[[12]](#footnote-12) Once a contractor confirms that a road is likely to be fully closed (no access to traffic), the DSC social safeguards specialist will conduct an income survey of businesses along the relevant sections. An income survey will serve as the cut-off date and will be disclosed to the affected communities through local media and project pamphlets. All businesses identified in the project-impacted areas (sections ready for construction) on the cut-off date will be entitled to compensation for lost income based on the tax record or, in its absence, comparable rates from registered businesses of the same type with tax records. For shops not qualifying under these categories (hawkers, vendors, etc.), there will be the option of using the actual income, followed by a verification of the income data based on comparable incomes in the project area.
6. To determine the loss of income likely from the loss of agricultural crops/trees during construction of the WWTP at Gokarna and the laying of interceptors, a field survey will be conducted in the area where agricultural crops/trees are affected. The survey will identify the area of crop plantation and estimate the crop production/tree and its net value (as per approved government rates/ agriculture produce market/ forest/agriculture/horticulture department) of the loss of crops/trees to estimate the loss of income from agricultural production/affected trees of the households.
7. Paying compensation to the temporarily affected persons (disruption of livelihood) will involve the following steps:
8. **Step 1.** Conduct public awareness and information dissemination prior to construction. This is to be done by the community awareness and participation consultants.
9. **Step 2.** In collaboration with the contractor, the design and supervision consultant (DSC) will identify the roads which will be fully closed and the estimated period of closure. Two types of disturbances are anticipated from full closure of roads: (a) partial disturbance, where there is no vehicular access but pedestrian access is maintained; or (b) full disturbance, where there is no vehicular and no pedestrian access. Similarly, the DSC resettlement specialist will identify the agricultural farming area where the interceptor passes, with the help of the contractor.
10. **Step 3.** The DSC social specialist will then (a) conduct an income survey[[13]](#footnote-13) of shops along sections of road identified for full closure and interceptor alignment. Similarly, a field survey on the WWTP site at Gokarna will be conducted to identify the number of households involved in agricultural farming and the net value of agricultural production; (b) update the resettlement plan (identifying income and potential loss based on actual income losses); and (c) send the updated resettlement plan to ADB for review and approval after detailed designs are complete.
11. **Step 4.** After ADB approval of the revised resettlement plan, the DSC safeguard specialist will distribute identity cards (refer Appendix 6) with compensation amount to the affected persons.
12. **Step 5.** Affected persons can then collect payment at PID office or onsite, based on PID discretion.
13. **Step 6.** PID will issue checks to affected persons based on survey record and identity cards prior to construction works (if feasible). All payments will be recorded for accounting purposes with the signature of the affected person to verify payment made. The project director will closely monitor payments with PID accounting office.

## Income Restoration

1. Project shall ensure that no affected person is rendered worse off compared to pre-project status due to project. Provisions in the Entitlement Matrix related to rehabilitation and such assistance will be provided to affected persons to achieve this objective.

## Vendor Assistance

1. Vendors requiring temporary shifting during the construction period will be notified in advance and allowed to salvage all materials for temporary shifting to an alternative location. They will be allowed to return to the original location after construction is declared complete. Vendor assistance will involve the following steps:
2. **Step 1** - identification of impacted vendors based on detailed design by DSC social specialist and PID safeguards unit, in coordination with the contractor;
3. **Step 2** - notification of vendors at least 2-3 weeks in advance; consultation with local vendor associations, if any;
4. **Step 3 -** identification of alternative location nearby for affected vendors to continue their business;
5. **Step 4** - assistance by contractor to shift to new location; and
6. **Step 5** - assistance by contractor to return to original location after construction works are completed.

## Relocation

1. No relocation impact is anticipated in this project. However, if such impacts are identified later in this project, the project will ensure the affected persons facing relocation are fully consulted for their relocation options and will receive all the assistance as detailed in the entitlement matrix of this RF.

## Project Benefits

1. The project will support the delivery of much-needed wastewater management services to Kathmandu citizens. The project will support KUKL in expansion through the construction of new, environment-friendly, and modern WWTPs, laying of interceptors, cleaning the existing sewers, rehabilitation of existing combined sewers, separation by laying a new sanitary sewer, separation by laying a new storm water drain, and expanding sewer connection services in its service area, where affected businesses and the citizens are among the beneficiaries. Moreover, the project will employ local people during implementation.

# Institutional Responsibilities and Arrangement

1. The Ministry of Urban Development (MoUD) will be the executing agency responsible for overall strategic planning, guidance, and management of the project, and for ensuring compliance with loan covenants. As part of institutional reforms under the ongoing loans, three water and wastewater organizations were created: (i) the Kathmandu Valley Water Supply Management Board (KVWSMB), the asset owner; (ii) Kathmandu Upatyaka Khanepani Ltd. (KUKL), the asset operator and service provider; and (iii) the Water Supply Tariff Fixation Commission (WSTFC), the regulator. KVWSMB will continue to discharge its responsibilities as asset owner of water supply and wastewater systems, and will monitor the performance of KUKL as provided in the lease and license agreement between KVWSMB and KUKL. KUKL will be the implementing agency, and the existing PID in KUKL will be responsible for (i) project planning, implementation, monitoring, and supervision; (ii) reporting to the KUKL board of directors, MPPW, and ADB; and (iii) coordinating all activities in the project. The experience of PID, KUKL in implementing Kathmandu Valley Water Supply Improvement Project (ADB 2776-NEP) will be useful in taking advance action for the project. For safeguards, the PID has already established a safeguards unit staffed with environmental, social, and legal specialists. The institutional roles and responsibilities are detailed in Table 3.

**Table 3: Institutional Roles and Responsibilities**

|  |  |  |
| --- | --- | --- |
| **S. No.** | **Activity** | **Responsibility** |
| **Project initiation stage** | | |
| 1 | ADB website disclosure | ADB |
| 2 | Disclosure of summary resettlement plan in local language | PID/DSC |
| 3 | Finalization of WWTP, DEWATS, interceptors, and sewer network alignments | PID/DSC |
| 4 | Update resettlement plan based on detailed design and send to ADB for review and approval prior to contract award | PID/DSC/ADB |
| 5 | Consultation meetings at community/household level with displaced persons | Contractor/DSC/community  awareness participation consultant |
| 6 | Establish GRC | PID/ DSC |
| **Resettlement plan implementation** | | |
| 7 | Contractor to identify roads for full closure | Contractor |
| 8 | Detailed survey of likely land, structures, crop/vegetation losses due to construction of WWTP at Gokarna, laying of interceptors and income survey on streets identified for full closure | DSC |
| 9 | Calculation of compensation and entitlements | PID |
| 10 | Updated RP consultations and disclosure to the affected peoples & vendors | PID/ DSC/NGO/CAPC |
| 11 | Awarding of checks for compensation | PID |
| 12 | Contractor to begin work | PID/Contractor |
| 13 | Grievances redress | PID/DSC |
| 14 | Internal monitoring | PID |
| ADB = Asian Development Bank, WWTP= wastewater treatment plant, DSC = design and supervision consultants, PID = Project Implementation Directorate. | | |

# BUDGETING AND FUND FLOW MECHANISM

1. The resettlement cost will include eligible compensation for temporary and permanent impacts to income. Government financing will provide funds to support all compensation for lost income. The total estimated resettlement cost for the project is NRs. 38,856,510 (US$ 457,162)) as described in the resettlement plan. The government will make available or authorize MoUD and KUKL to make available necessary financial and human resources to fully implement the resettlement plan.
2. The cost items are as follows:
3. For linear works, there is temporary loss of income for shops and businesses due to disturbance caused by construction on fully-closed roads. Businesses are entitled to income compensation for each day of disturbance on fully-closed roads.
4. Vulnerable persons are provided assistance for all days of lost income, including time of full closure.

# Implementation schedule

1. Detailed design of WWTP packages will begin in mid-2013, while design of the interceptors package and sewer network will begin in the third quarter (Q3) of 2013. Construction is scheduled to commence in mid-2014, to be completed by mid-2018. The implementation schedule is shown in Figure 2. All resettlement plans are to be submitted to ADB for review and approval prior to contract award.

**Table 4: Implementation Schedule of the Resettlement Plan**

|  |  |  |  |
| --- | --- | --- | --- |
| **S.N** | **Activities** | **Time Period** | **Responsibility** |
| 1 | Recruitment of supervision consultant (SC) | 2nd quarter (Q2) 2013 | PID, KUKL |
| 2 | Detailed design and survey | Q3 2013–Q3 2014 | Consultant/ CAPC |
| 3 | Finalization of project influence area and identification of affected people | Q3 2013-Q3 2014 | Consultant/ CAPC |
| 4 | Conduct census survey | 2014 | Consultant/ CAPC |
| 5 | Dissemination of information, public consultation, distribution of summary of RP in Nepali language | Q3 2013 to continue | PID/DSC/CAPC |
| 6 | Formation of grievance redress committee | 2014 | PID/DSC/CAPC |
| 7 | Finalize the list of affected people and the total compensation and rehabilitation cost | 2014 | PID/DSC |
| 8 | Final RP consultations and disclosure | 2014 | PID/DSC/CAPC |
| 9 | Notice to collect compensation | 2014 | PID/DSC |
| 10 | Distribution of compensation | 2014 | PID/DSC |

# MONITORING AND REPORTING

1. The DSC will submit quarterly reports to PID, while the PID will submit semiannual monitoring reports to ADB. The internal monitoring by PID will include administrative monitoring to ensure that (i) all compensation as per the resettlement plan is paid; (ii) implementation is on schedule; and (iii) problems are dealt with on a timely basis. Sample monitoring indicators are given in Appendix 7.
2. Monitoring will also include the following:
3. consultations with affected persons;
4. Issues raised through the grievance redress mechanism;
5. status of compensation amounts and all assistance; and
6. progress of the resettlement plan implementation with highlight on income restoration efforts

**APPENDIX 1: STEPS TO BE FOLLOWED FOR VOLUNTARY DONATION PUBLIC NOTICE ABOUT ROW OF RIVER**

* 1. Consultation with displaced persons and communities on selection of sites and appropriate design to avoid/minimize additional land take and resettlement impacts;
  2. As a first principle, displaced persons will be informed of their right to compensation for any loss that might be caused by the project construction;
  3. Full recognition of, and respect of, the expressed preference between compensation and donation through consultation meetings reported in the walkthrough Survey Reports;
  4. No one will be forced to donate their land; the donation will be voluntary;
  5. In case displaced persons are directly linked to project benefits and thus are willing to voluntarily donate their land after they are fully informed about their entitlements, the project will assess their socio-economic status and potential impact of land donation and accept land donation only from those displaced persons who do not fall below the poverty line after the land donation (Note: the land donation will be limited to 10% or less of the total land holding of the affected person);
  6. Any voluntary land donation (after the process as mentioned above) will be confirmed through a written record, including a "no coercion" clause verified by an independent external party;
  7. The donation will be limited to only land (houses and major assets will be excluded from donation);
  8. No DPs categorized as poor and vulnerable households are eligible to donate their assets;

The donation activities will not cause any physical and/or economic displacement of the (formal/informal) land users as a result of the donation.

**APPENDIX 2: Terms of reference for external third party for voluntary land donation/NEGOTIATED SETTLEMENT**

For any voluntary donation of land, an external independent entity will supervise and document the consultation process and validate the negotiated purchase/ land donation process as per legal requirement.

**TOR for Independent Third Party Witness**

An independent third party is sought to be appointed to oversee and certify the process of negotiated purchase/ land donation.  The third party shall be briefed about his/her expected role and deliverables by the PID.

**Eligibility:**The third party shall be a representative of the community (for example, a leader of the community with formal/legal standing, a representative of a local NGO/ CBO with formal and legal standing) or an institution, without any direct interest in the negotiation process or subproject activity, who is acceptable to each of the concerned parties (PID and concerned land owner/ donor).

**Scope of work:**The role of the third party shall be to ensure a fair and transparent process of negotiation/donation. The envisaged scope: of work shall entail the following:

(i) witness and keep a record of meetings held with the concerned parties,

(ii) ensure there is no coercion involved in the process of negotiated purchase/ land donation,

(iii) ensure that the donor(s) are not coming from vulnerable groups/ poor families

(iv) ensure that the preferences and concerns of the land owner/ donor related to access, selection of site within lands held, etc. are recorded and any stipulated conditions met,

(v) ensure that the negotiated purchase /land donation agreement is drafted in a fair and transparent manner,

(vi) confirm that the offered/agreed price is fair and meet the market price of the land with similar value and condition in the area,

(vii) ensure the negotiated purchase/ donation does not result any negative impacts to the third party associated with the purchase /donation activity,

(viii) identify and recommend mitigation measures to land owner/ donor/ affected third party, if required,

(ix) ensure that taxes, stamp duties and registration fees for purchased/ donated land are borne by government, and

1. submit a report and signed certificate as witness to the purchase/ donation and transfer process.

**Deliverables:** The details of the meetings, socio economic background of the land/ assets owner(s)and a certificate/ reports as witness to the purchase/ donation process and mitigation measures to owner/ donor, if any, shall be submitted by the third party to PID and owner/ donor in the local language and share with ADB for review

**APPENDIX 3:** **Sample voluntary contribution consent form**

Government of Nepal

Land Revenue Office

[INSERT NAME] District

CERTIFICATE OF LAND TRANSFER

I/we, [INSERT NAME, AGE), with residence located in [INSERT NAME] village/municipality, [INSERT NAME] district Certify that I/we have been previously informed by project, municipality and local authority of my/our right to entitle compensation for any loss of property (house, land and trees) that might be caused by the construction of subproject ([INSERT NAME]) financed under the Regional Urban Development Project (RUDP) in [INSERT NAME] Municipality. I/we confirm that I/we voluntarily donate\* the land of [INSERT AMOUNT LOSS] square meters located in [INSERT NAME] municipality/ village ([INSERT NAME] district) to the Project construction. My/our land holding certificate no(s) … contains ………sq.m land of which I/we agreed to donate …sq.m only. I/we also, hereby, declare that the donated land amounts to ……. % of the total my/our land holding. I/we also confirm that I/we do not demand any compensation of loss of [INSERT OTHER LOSSES SUCH AS TREES] attached with the land and would request the local authority to consider this as my/our contribution to the project. I/we testify that the donated lands/ structures are free of squatters and encroachers and are not subject to any other claims.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ﻿Type of Loss | Area (sq.m)  Volume (C. ft.) | Number of parcels /Trees | Unit Rate  NRs | Total  NRs | Comment |
| Land ( sq. m) |  |  |  |  |  |
| Trees ( C. ft) |  |  |  |  |  |

Therefore, I/ we prepared and signed this certificate for the proof of my/our decision in presence of the witnesses signed below. I/we signed this certificate after reaching common consensus among my/our family members for the donation based on the informed choice provided by the project, municipality and local authority. Further, I /we certify that I /we have given my/our consent without any force/coercion from anybody, including project authorities.

Signature(s) of the owner(s) of the land

[INSERT NAME(S)]

[INSERT DATE

Witnesses:

1. [INSERT NAME & ADRESS]

2. [INSERT NAME& ADRESS]

3. [INSERT NAME & ADRESS]

Certified by the [INSERT NAME OF INDEPENDENT THIRD PARTY], [NAME AND SIGN]

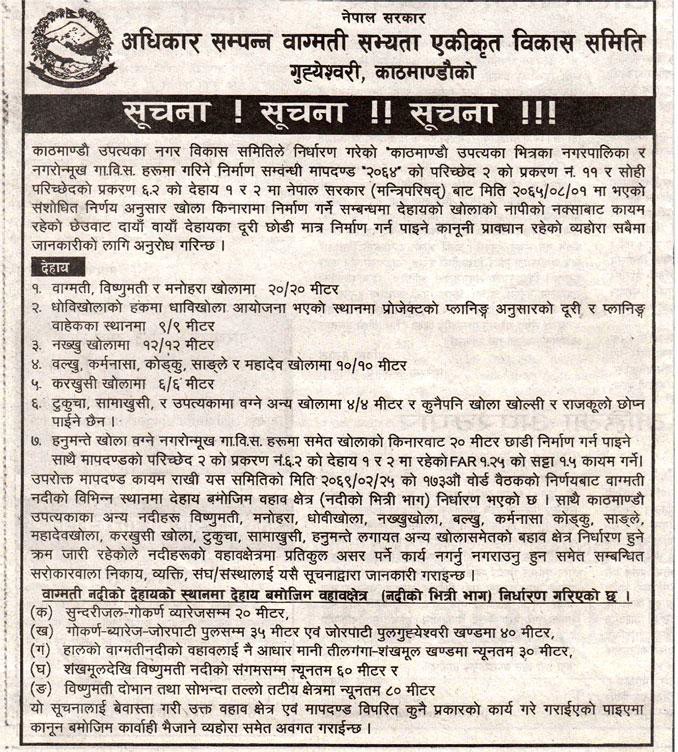
This form will be translated in Nepalese Language for implementation purpose.

\* **Criteria for Voluntary Land Donations**

Voluntary donation of land will be acceptable where:

1. The impacts are marginal (based on percentage of loss and remaining land);
2. Impacts do not result in displacement of households or cause loss of household’s income and livelihood to the donor family or to other third party who may use/ reside on the donated land/ assets with formal or informal arrangement.[[14]](#footnote-14)
3. The households making voluntary donations are direct beneficiaries of the project;
4. Land thus donated is free from any dispute on ownership or any other encumbrances;
5. Consultations with the affected households is conducted in a free and transparent manner;
6. Land transactions are supported by transfer of titles; and
7. Proper documentation of consultation meetings, grievances and actions taken to address such grievances is maintained.

**APPENDIX 4: PUBLIC NOTICE ABOUT ROW OF RIVER**



**summary Translation OF GOVERNMENT NOTICATION ON ROW OF RIVER**

PROHIBITION NOTICE AGAINST CONSTRUCTION OF ANY STRUCTURES ON THE RIGHT OF WAYS (ROW) OF THE RIVERS OF KATHMANDU VALLEY BY THE HIGH POWERED COMMITTEE FOR INTEGRATED DEVELOPMENT OF THE BAGMATI CIVILIZATION (HPCIDBC)

(Notice published on 19 Asadh 2069 (3 July 2012) in the government daily newspaper Gorkhapatra)

This prohibition notice covers construction of any structures within the Right of Way (RoW) on the following banks of rivers in Kathmandu Valley:

* Bagmati, Bishnumati, and Manohara rivers—20 m from either side of the banks of the rivers
* Dhobikhola River—areas as fixed by the Dhobikhola project and 9 m from either side of the banks of the river in non-project areas
* Nakkhu River-12 m from either side of the bank of the river
* Balkhu, Karmanasa, Kodku, Sangle, and Mahadev Rivers—12 m from either side of the banks of the rivers
* Samakhusi, and other rivers flowing in the valley—4 m from either side of the banks of the rivers

**APPENDIX 5: DRAFT PROJECT INFORMATION PAMPHLET**

**PROJECT INFORMATION BOOKLET**

Kathmandu Valley Wastewater Management Project (KVWMP)

Government of Nepal (GoN)

Ministry of Urban Development (MoUD)

Kathmandu Upatyaka Khanepani Limited (KUKL)

Project Implementation Directorate (PID)

Funded by

Asian Development Bank

**INFORMATION**

For affected persons and users on their entitlements and compensation for loss of income or impact for public needs

**PROJECT COMPONENTS:**

Rehabilitation/upgrading of wastewater treatment plant

Laying and cleaning of interceptors on different bank of rivers

Rehabilitation, replacement, and expansion of sewerage networks

**November 25, 2012**

**A. General Project Information**

1. The proposed Kathmandu Valley Wastewater Management Project[[15]](#footnote-15) will support the ongoing efforts of the Government of Nepal towards improving the wastewater services in Kathmandu Valley. The project will invest to maximize the efficiency and effectiveness of existing wastewater sector infrastructure and service provision provided or planned, to restore, establish, and extend wastewater services in Kathmandu Upatyaka Khanepani Limited (KUKL) service areas in order to improve the water quality in urban rivers, tributaries, and ecosystems. The project will complement the past and ongoing Asian Development Bank (ADB) projects.[[16]](#footnote-16) The resultant synergy is expected to lead to increased efficiencies, greater improvement in wastewater service delivery, and improved health and quality of life for inhabitants of Kathmandu Valley.

2. **Project components**. The project includes three major components: (i) rehabilitation/upgrading or construction of new wastewater treatment plants (WWTP) in existing WWTP sites in different locations in the Kathmandu Valley and construction of DEWATS in few isolated locations; (ii) construction of interceptor sewers; and (iii) improvement in the wastewater network system (rehabilitation, replacement, laying of new sewers, etc.).The description of different components under this project is given below.

1. **Wastewater treatment plant** (WWTP). The works will include the rehabilitation/upgrading or construction of a new WWTP at Kodku (Patan), Sallaghari (Bhaktapur), Dhobighat (Kathmandu), Guheshowri (Kathmandu), and Gokarna (Kathmandu). The WWTP will be constructed or rehabilitated in existing WWTP sites owned by the government. The construction of the DEWATS will be located in the government owned lands.
2. **Interceptors**.The total length of the interceptor/collector will be approximately 101 km, excluding new interceptors to be lain along Bagmati River. The work includes the cleaning of existing interceptors and laying of new ones in RoW, as fixed by the High Powered Committee for Integrated Development of the Bagmati Civilization (HPCIDBC) on the banks of the following rivers of Kathmandu Valley:
3. Cleaning of existing interceptors (Kathmandu)

* Left bank of Bishnumati from Dhalko to Teku

1. Laying of new interceptors

**Kathmandu**

* Right bank of Bagmati from Dhobighat WWTP to Manohara
* Both banks of Bishnumati from Bagmati confluence to Mahadev Khola
* Both banks of Dhobikhola from Bagmati confluence to Mahankal
* Right bank of Manohara from Bagmati confluence

**Lalitpur**

* Left bank of Bagmati from Khokana to Dhobighat WWTP
* Left bank of Bagmati from Dhobighat WWTP to Manohara confluence

**Bhaktapur**

* Left bank of Khasyangkhusung Khola until Sallaghari WWTP
* Right bank of Hanumante from Sallaghari to Hanumanghat WWTP
* Left bank of Hanumante from Sallaghari WWTP

**Madhyapur Thimi**

* Left bank of Manohara from Bode Dhunchapakha to Hanumante confluence
* Right bank of Hanumante from Manohara confluence

1. Rehabilitation and expansion of sewerage network

3. The total length of the sewer network, including different activities in Kathmandu Metropolitan, Lalitpur Submetropolitan, and Bhaktapur and Lalitpur municipality, is about 500 km. The works include neighborhood sewer improvement and combined system separation, which includes: (i) rehabilitation of 126 km of sewer and replacement of about 40 km of old brick sewers and 13.5 km lateral sewers; (ii) expansion of service coverage by laying about 151 km of new sewer; (iii) connecting to new customers; (iv) separation of the combined sewer system into sanitary and storm water, wherever possible (initial assessment of about 109.5 km); and (v) cleaning of about 55.5 km of sewer blockage.

4. Construction work for the project different components in the area is expected to begin in mid-2014. It is envisaged that there will be short-term disruption, causing loss of income from businesses and agricultural crops, while laying and upgrading sewerage pipelines in the city core areas and interceptors on the bank of rivers. To compensate for these losses, the provisions of relevant Government of Nepal laws and of ADB Policy on Social Safeguard will be adopted. This includes the preparation of a resettlement plan (RP) providing data on impacts and affected families, and indicating in detail how the impacts will be compensated or rehabilitated. The summary of the RP in Nepali language will be available in KUKL, Project Implementation Directorate (PID) office for perusal.

5. Every effort will be made to minimize the likely temporary disturbance to the business, informal land users, the pedestrians, and local community through good traffic management, planning, and implementation. The project will ensure that no person will be disadvantaged as a result of WWTP upgrading, laying of interceptors, and sewerage network upgrading and extension. Arrangements have been made to ensure that economically displaced people will be entitled to compensation for any loss of income and livelihood.

6. This booklet summarizing the provisions of the RP is given to all the families whose crops and income are affected by the project. The objective of this booklet is to inform them of the essential compensation and rehabilitation policy included in the RP and of a number of basic issues relative to how the compensation and rehabilitation program of the project will operate.

**B. Preparatory Actions for Identifying Loss of Income for Public Needs**

7. The first step in this procedure is a field survey of the affected businesses and their loss of income from full closure of the road during construction. Similarly, a field survey will be conducted in the interceptor laying areas and for the WWTP and DEWATS, where persons are affected and will lose income from their agriculture crops.

8. It is mandatory that the resettlement team interview every affected household in order to clarify the data on the present owner or land user. This is to ensure that all impacts are compensated, irrespective of title. The resettlement team will be handing you this brochure as they begin their work. It is important that you fully and honestly explain your income from business and the net value of crop production from the affected land, its uses, and information about your family. This is so that they can accurately assess the entitlements and compensation due you.

9. The project has declared a cut-off date of XXX 2013. If anybody encroaches into the project area, begins new activities, or builds structures, they will not be entitled to compensation or any other form of resettlement assistance.

**C. Project Timetable**

10. Project construction is likely to commence in XXX 2013. You might see people in the area beginning XXX, however, because detailed technical surveys will need to be conducted for sewerage network design, rehabilitation, upgrading, cleaning, and replacement, interceptors construction, and the upgrading of existing wastewater treatment plants or construction of new ones. Once the construction contractor knows exactly where the route/alignment will go, the resettlement team of PID/design supervision consultant (DSC) will talk to each person who will be affected and lose their income from business or from crops, and explain what will happen in more details. A brief timetable at present is as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Sewerage network extension** | **Laying of interceptors** | **New construction/ upgrading of WWTP** |
| Resettlement team develops resettlement plan |  |  |  |
| Resettlement team comes to review resettlement plan |  |  |  |
| Resettlement team comes to pay compensation due |  |  |  |
| Construction commence |  |  |  |
| Construction finishes |  |  |  |

**D. Principles for Compensation and Rehabilitation**

11. Principles for the compensation/rehabilitation of families affected by the project:

1. The cut-off date for identifying affected lands, families and people is XXX 2013, when the resettlement survey will begin and any affected people along the proposed project routes will be informed.
2. The loss of income from the business and loss of agricultural crops will be minimized as far as possible during construction.
3. There will be temporary loss of income from business and crops. Compensation and assistance will be provided prior to any construction commencing.
4. All affected persons (identified before the cut-off date) will receive compensation, even if they are without title or formal recognition. This includes temporary business/residential structures, informal agricultural activities, or temporary business use.
5. All construction over public RoW—footpaths, driveways, and roads—will be undertaken rapidly and without undue delay to avoid inconvenience to business and residences.
6. A defined grievance procedure has been established. When a business owner or land user does not agree with a decision regarding compensation, it may not be exercised before the dispute is resolved judicially. In addition, any person who feels that they are in any way worse off can take their grievance to the highest level, at the cost of the project.
7. Vulnerable groups, including female-headed households, the poor, disabled, or families with significant numbers of elderly members will receive additional support, assistance, and compensation to ensure that they are not severely affected.

**E. Compensation Entitlements**

12. All families residing in affected areas and holding affected assets or incomes before the eligibility cut-off date for the project, XXXX 2013 (the date of the impact survey), will be entitled to compensation and/or rehabilitation for their losses. This provision includes all owners of affected trees/crops, structures, farmers, and informal land users as detailed in Table 1 below.

13. Valuation of loss of income will be undertaken by PID/KUKL with the assistance of DSC and concerned ministries such as the Ministry of Agriculture and Ministry of Urban Development.

**Table A4: Entitlement Matrix**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type of Loss** | **Entitled Person** | **Description of Entitlement and Implementation Procedures** | **Remarks** | **Responsible Institution** |
| **1. Loss of Land (Agricultural, Residential & Commercial)** | | | | |
| 1.1 Loss of land | Person(s) with land ownership certificate | * Land for land options will be offered if government or ailani land is available under the jurisdiction of municipalities for APs losing entire land of his/ her ownership. * Cash compensation based on replacement cost. * All fees, taxes and other charges as applicable under relevant laws and regulations * In case of commercial lands additional assistance to restore business loss as per item 5.1, 5.2 and 5.4 of this entitlement matrix and exemption of municipal business tax for a year. | * Payment will be made in full to the affected person prior to taking possession. * With the consent of title holder compensation will be paid preferably in joint account of husband and wife. | PID, assisted by DSC and CDC |
|  | Person(s) using the land for more than 5 years without land ownership certificate but with records/ certificate of use | * Land for land options will be offered if government or ailani land is available under the jurisdiction of municipalities. * Cash compensation based on replacement cost after submission of ownership certificate. * All fees, taxes and other charges as applicable under relevant laws and regulations. * In case of commercial lands additional assistance to restore business loss as per item 5.1, 5.2 and 5.4 of this EM and exemption of municipal business tax for a year. | * Payment will be made in full to the affected person prior to taking possession. * With the consent of title holder compensation will be paid preferably in joint account of husband and wife. * Option will be given to land user to choose either full compensation of land after submission of ownership certificate before clearance of site for construction or receive entitlement calculated for income loss and effect on means of livelihood. The entitlement will be calculated with application of income capitalization method. The project ensures that the calculated value for income loss and effect on means of livelihood will not be less than replacement value of the affected land. * The user occupying land prior to cut off date will be eligible for entitlements. The date of completion of census survey will be the cut-off date for entitlement. The PIU will publish cut-off date in a communication media easily approachable to affected persons. | PID, assisted by DSC and CDC |
|  | Person(s) using the land for more than 3 years without land ownership certificate and without legalizable claim | * Cash compensation at replacement cost to non-land based assets. * Livelihood or income restoration assistance calculated for income loss and effect on means of livelihood. The entitlement will be calculated based on actual income loss for 3 years. * In case of commercial lands additional assistance to restore business loss as per item 5.1, 5.2 and 5.4 of this EM or exemption of municipal business tax for a year. | * Payment will be made in full to the AP prior to taking possession. * With the consent of user of the land, compensation will be paid preferably in joint account of husband and wife. * The user occupying land prior to cut off date will be eligible for entitlements. Since non-titleholders AHs are not identified during the census survey. If such AHs identified during the updating of the RP after DMS, the cut-off date will be the date of completion of DMS. * The PIU will publish cut-off date in a communication media easily approachable to affected persons. * Concerned local body shall validate the person is continuous user of the land and the person has not violated any by-laws (encroachment of officially declared RoW, construction of buildings and structure without permission of municipality etc.) once they declared effective. As per the Local Self-Governance Act, 1999, municipality has right to get back the encroached land and demolish the building and structures constructed without permission | PID, assisted by DSC and CDC |
| 1.2 Loss of tenanted agricultural, residential and commercial by permanent tenants/ sharecropper | a. Land owner(renter) and registered tenants  b. Non-registered sharecropper | * 50% cash compensation to the share cropper (registered tenants) of the affected plots as per the prevailing laws (LA Act Clause 20). Other 50% to the landowner * Cash compensation at replacement cost to the standing crops in line with informal agreement between the owner and sharecropper. * Income disruption allowance up to 3 months of wage labor for the affected registered tenants/ sharecroppers and land owners | * Payment will be made in full to the affected person before taking possession of the land. * Concerned local body shall validate the person has reached an agreement of sharecropping and cultivating the land and the person has not violated any by-laws once they declared effective. | PID, assisted by DSC and CDC |
| 1.3 Leased or rented land | a. Person leasing or renting out the affected land  b. Persons using land with formal leasing or renting agreement | * Lease holder or renter will get notice of termination as specified in agreement. * Loss of income and investment will be compensated based on loss incurred. | * The lease holder shall provide original copy of agreement paper with renters (landowners) to be eligible for the entitlements. * The user occupying land prior to cut off date will be eligible for entitlements. The date of completion of census survey/or DMS will be the cut-off date for entitlement. The PIU will publish cut-off date in a communication media easily approachable to affected persons. | PID, assisted by DSC and CDC |
| 1.4 Loss of income due to land leasing | a. Land owner with land ownership certificate  b. Government of Nepal  c. Government entities or public institutions who own the land | * Cash or kind compensation as specified in lease agreement. * Lease agreement will be reached prior to payment of compensation. * First installment will be paid prior to taking possession of the land. | The contractor will fully restore the leased land to its original condition and return it to the leaseholder at the end of the leasing period.  The municipalities will ensure that persons (other than the landowners) affected as a result of leasing of land for the Project are also compensated for loss of income incurred due to the leasing of land. | PID, assisted by DSC and CDC |
| 1.5 Self-declaration of Voluntary demolition of building and clearance of municipal Right of Way (ROW) | Land and structure owner. | * No compensation for the donated land and self-demolition of affected structures * Exemption of any transfer costs, registration fees or other municipal charges. * Repair allowances to structure owner based on per unit rate (sft) as decided by municipal board. * Exemption of 3 years’ housing tax (only for demolished building). * Waiver of building permission fees and taxes to rebuild affected house. | a. Voluntary land donor households.  Donation is accepted only if the donor:   * Is project beneficiary and fully consulted and informed about their rights and design options; * Doesn’t fall below poverty line after land donation; * Donating up to 10% land holding without or no impact on structural element of the building; * Is unforced or freely willing to donate   b. Donation should be verified by a third party to ensure integrity and impartiality.  c. The entitlement may not be applicable if the building owner has built the structure violating approved design of the building and building construction certificate issued by the municipality.  d. The project will provide all entitlement for any building constructed prior to declaration of ROW of particular project component (sewer network lines). | PID, assisted by DSC and CDC |
| **2. Crops and trees** | | | | |
| 2.1 Loss of crops and trees (fruit bearing and timber) | * Owner of crops and trees- Titleholder * Tenant/Sharecropper * Crops owned by encroachers/ squatters/ non-titleholders | * Advance notice of 3 months to harvest their crops. * Compensation at net value of the next harvest where harvesting is not possible * Compensation for loss of future harvest at net value of 3 times the harvest for seasonal crops * Compensation for loss of fruit trees for average fruit production for next 15 years to be computed at current market value * Compensation for loss of wood-trees at current market value of wood (timber or firewood, as the case may be) | Compensation for loss of agricultural crops at current market value of mature crops, based on average production | PID, assisted by contractor and DSC |
| **3. Loss of houses and other structures** | | | | |
| 3.1 Permanent loss of house and other structures | * Titleholder, Tenant * Landless squatters/ encroachers/non-titleholders | * Compensation for full or partial loss of house at replacement cost * Owners of affected structures will be allowed to take/reuse salvageable materials for rebuilding/rehabilitation of structures without deducting any cost * In case of relocation, transfer allowance to cover shifting (transport plus loading/ unloading) of household goods and materials will be paid, based on actual cost or current market price. * additional relocation assistance will be paid to household and business/commercial establishment that are physically displaced @ 30 days minimum wages if displaced to another plot and @ 15 days wages if displaced within same plot. Latest government approved wage rate (Kathmandu Valley) shall be applicable. * Every displaced household will receive 3 months’ rental equivalent cash assistance or alternatively provided with temporary accommodation facilities. Similar rental assistance (3 months) or facilities (covered space to operate) will be provided for permanent loss caused to business/commercial structures. * Rights to salvage materials from structures * Additional assistance for vulnerable households as described in section 5.3. | * Replacement cost of affected structures at market value of will be determined by CDC. * Compensation and other benefits to be paid to all affected households irrespective of their ownership status of affected land. * Households affected on account of land pooling will also be eligible for compensation which will be irrespective of their land ownership status | PID, assisted by contractor and DSC |
| **4. Community facilities and resources** | | | | |
| 4.1 Government and community structures, infrastructures | * Local community * Local government * Informal settlers/ squatters on government land | * Restoration of affected community buildings and structures to at least their original condition, or replacement in areas identified in consultation with affected communities and relevant authorities * Where damages do occur to government property as a result of construction works, the cost of restoring to at least their original condition will be the responsibility of the project. | * Extreme care should be taken by the contractors to avoid damaging any properties during constructions. * Compensation for the losses will be borne by the project. * Community structures include roads, inner roads, temples, foot paths/trails, culverts, and water points. | PID, assisted contractor and DSC |
| 4.2 Loss of access to water supply, public wells, sewerage network/sanitation and sanitation facilities (public/ private toilets, solid waste collection points, etc.) | Private persons and community that own the water points and sanitation | * Advance announcement to the households prior to construction/flow disturbance and appointing alternative source * Immediate replacement and restoration of the affected facilities | * The time gap between the construction of new system and transfer from the old system should be minimized. * Alternative sources of water and sanitation facilities should be made available during the construction period (such as supply through water tanker, mobile toilets, increased frequency of solid waste collection) | Contractor |
| **5. Loss of income and livelihood** | | | | |
| 5.1 Temporary loss of income from business | Titleholder  Licensed and non-licensed vendors, and titled and nontitled households/tenant | Businesses are entitled to compensation for each day of disturbance on fully closed roads. An income survey will serve as the cut-off date. All businesses identified in the project-impacted areas (sections ready for construction) on the cut-off date will be entitled to compensation for their lost income based on the tax records. For shops not qualifying under these categories (hawkers, vendors etc.), there is the option of using the actual income based on survey followed by a verification of the income data based on comparable incomes in the project area. | * An income survey prior to construction will serve as the cut-off date * Ensure that the project will avail of the temporary relocation areas for the mobile vendors during civil works * At least 1 month’s advance notice will be given prior to commencement of construction works | PID, assisted by contractor and DSC |
| 5.2 Temporary loss of access to the commercial location | Titleholders and non-titleholders of business operations; licensed or non-licensed vendors, and titled and nontitled households/tenant | Mobile hawkers and vendors will be assisted by contractors in moving to alternative locations during the period of construction, or will be given cash provision of maximum 2 days income as shifting allowance. | * An income survey prior to construction will serve as the cut-off date * Ensure that the project will avail of the temporary relocation areas for the mobile vendors during civil works * At least 1 month’s advance notice will be given prior to commencement of construction works | PID, assisted by contractor and DSC |
| 5.3 Vulnerable persons | Female-headed, elderly, disabled, and below poverty line HHs (as per latest established poverty line data[[17]](#footnote-17))  Displaced household that lose more than 10% of total income  Landless people and people without legal title to land  Vulnerable IP | * Cash assistance for 90 days at the Kathmandu wage rate of NRs. 250 per day. In case of revision of Kathmandu wage rate at the time of cut off date, cash assistance will be as per the revised rate. * One time economic rehabilitation grant of NRs. 10,000 for restoring livelihoods * Vulnerable persons entitled to preferential/ prioritization for employment under the project | Vulnerable persons to be identified during income survey | PID, assisted by contractor and DSC |
| 5.4 Livelihood rehabilitation assistance | Permanently economically displaced persons/families who lose more than 10% of total income regardless of their status on the affected land  Below poverty line HHs and Physically Displaced households | * Cash assistance for 90 days livelihood support at NRs 250 per day. In case, wage rate is revised, assistance will be provided as per changed rates. * Special assistance of NRs. 10,000 to displaced vulnerable persons for restoring their livelihoods * Employment during the construction activities if they desire | Economically displaced families in Gokarna WTP  Permanently displaced vendors/hawkers, to be determined after detailed design is prepared and census survey of affected households conducted to identify and establish income/livelihood impacts.  Informal land users in the interceptor corridors | PID, assisted by contractor and DSC |

DSC = design and supervision consultants, PID = Project Implementation Directorate.

**F. Grievance and Redress Mechanism**

14. If you have any questions about the project, you can ask the DSC, resettlement specialist (RS), community awareness and participation consultant (CAPC), PID, Safeguard Unit and any member of the project, since various team members will be visiting this area off and on throughout the project duration of approximately 5 years.

15. The project wants to ensure that you receive full compensation if you are affected by its different components. If you feel that you have not received full and fair compensation, you may complain to your local grievance redress committee. If your grievance is not addressed within 30 days, you may approach the Complaint Receiving Officer (CRO) at ADB Headquarters, the ADB Nepal Resident Mission (NRM), or the appropriate court of law for a resolution to your dispute.

**Contact details:**

Project Implementation Directorate, KUKL

1235/59, Tanka Prasad Ghumti Sadak,

Anamnagar, Kathmandu

Phone no. 977-1-4224986

Fax no. 977-1-4224057

**APPENDIX 6: Sample Identify (ID) Card for Entitled Persons**

|  |
| --- |
| Sample of Identity Card to be Issued to Entitled Persons/Households |
|  |

**appendix 7: Sample Monitoring Indicators**

| **S. N.** | **Resettlement Plan Activities** | **Progress** | **Remarks** |
| --- | --- | --- | --- |
| **A. Preconstruction activities and resettlement plan activities** | | | |
| 1 | Assessment of new resettlement impacts due to changes in project design (if required) |  |  |
| 2 | Preparation/ updating of resettlement plan(s) based on final detailed design |  |  |
|  | Disclosure of updated resettlement plan to affected people and communities |  |  |
| 3 | Submission for review and approval of the final/updated resettlement plan to ADB |  |  |
| 4 | Approval to start the civil works from ADB |  |  |
| 5 | Disclosure of approved final RP(s) in ADB and EA websites |  |  |
| 6 | Establishment of grievance redress committee |  |  |
| 7 | Verification of displaced persons census list; assessment on compensation and assistance, and readjustment |  |  |
|  | Preparation/selection of the temporary relocation sites for the hawkers |  |  |
| 1. **Resettlement plan implementation** | | | |
| 1 | Payment of compensation to displaced persons |  |  |
| 2 | Special measures for vulnerable groups |  |  |
| 3 | Reinstallation of public utilities |  |  |
| 4 | Records of grievance redressal |  |  |
| 5 | Temporary relocation of hawkers and vendors |  |  |
| **C. Social measures during construction as per contract provisions** | | | |
| 1 | Prohibition of employment or use of children as labor |  |  |
| 2 | Prohibition of forced or compulsory labor |  |  |
| 3 | Ensure equal pay for equal work to both men and women |  |  |
| 4 | Implementation of all statutory provisions on labor like health, safety, welfare, sanitation, and working conditions |  |  |
| 5 | Maintenance of employment records of workers |  |  |

ADB = Asian Development Bank, PID = Project Implementation Directorate.

**APPENDIX 8: PROJECT IMPLEMENTATION ARRANGEMENTS**

Government of Nepal

ADB

Project Steering Committee

MoUD

Executing Agency

KVWSMB

(Asset Owner)

Tariff Fixation Commission

KUKL (Asset Operator)

Board of Directors

Operations

Project Implementation Directorate

Project Director

Vice General Manager

DPD

Engineering

DPD Management

QA/QC

Procurement

Finance

GAn

UCS

Construction

Design

Finance Manager

Technical Manager

Others

Branch (Supervision)

Branch

(Supervision)

Branch

(Supervision)

Branch

(Supervision)

Branch

Branch

Branch

Branch

Branch

Safeguard

PM

ADB = Asian Development Bank, DPD = Deputy Project Director, DSC = design and supervision consultants, GA = general administration, GM/MD/ED = General Manager/Managing Director/Executive Director, KVWSMB = Kathmandu Valley Water Supply Management Board, KUKL = Kathmandu Upatyaka Khanepani Limited, MoUD = Ministry of Urban Development, PM = Planning and Monitoring Section, QA/QC = quality assurance and quality control, UCS = Utility Coordination Section

1. Melamchi Water Supply Project (ADB 1820-NEP); Kathmandu Valley Water Supply Improvement Project (ADB 2776-NEP); Bagmati River Basin Improvement Project (ADB PPTA -43448). [↑](#footnote-ref-1)
2. Definition of significant impacts under ADB SPS is when 200 or more persons will experience (i) being physically displaced from housing, or (ii) losing 10% or more their productive/income-generating assets (land, income, wages, etc.). [↑](#footnote-ref-2)
3. Vulnerable groups included female-headed households, disabled, elderly, landless people and DPs households living below the poverty line (the annual poverty line data is NRs.40, 933 in urban Kathmandu (NLSS, 2011). [↑](#footnote-ref-3)
4. The act of "construction of building" means the act to construct a new building, to reconstruct by demolishing the old building, to add a storey or to alter the facade, or to construct a window, door, veranda, attic, porch, shed, stable or garage or erecting a compound wall in alternation of the existing design. [↑](#footnote-ref-4)
5. Reference weblink: <http://moud.gov.np/wp-content/uploads/2016/08/town-development-act-2045-1998.pdf> [↑](#footnote-ref-5)
6. This also includes donation of other type of assets attached to the land. [↑](#footnote-ref-6)
7. The TOR of external third party is in the Appendix 3 of this document. [↑](#footnote-ref-7)
8. Under Town Development Act, 1998, discussed earlier in this document [↑](#footnote-ref-8)
9. Those who encroach into the subproject area after the cut-off date will not be entitled to compensation or any other assistance. [↑](#footnote-ref-9)
10. The rate of compensation for acquired housing, land and other assets will be calculated at full replacement costs. The calculation of full replacement cost will be based on the following elements: (i) fair market value; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. [↑](#footnote-ref-10)
11. As per Census Bureau of Statistics, Nepal, 2011, the BPL is defined at NR 19,261 per capita per year. Latest published BPL figures by Government of Nepal for Kathmandu (with indexation for annual inflation) will be applicable for this EM [↑](#footnote-ref-11)
12. Compensation is only applicable to fully closed roads. To the extent possible, contractors will identify these types of roads prior to construction. However, if during construction a road not previously identified for full closure is unexpectedly required to be fully closed, the contractor is to immediately notify the DSC social safeguard specialist and PID so that a rapid income survey can be conducted and compensation paid for disruption. [↑](#footnote-ref-12)
13. Compensation is based on lost income based on the tax record or, in its absence, comparable rates from registered businesses of the same type with tax records. For shops not qualifying under these categories (hawkers, vendors, etc.), there will be the option of using the actual income based on survey, followed by a verification of the income data based on comparable incomes in the project area. [↑](#footnote-ref-13)
14. If an affected formal/informal user of the donated land is identified, assistance will have to be provided as per the entitlement matrix in this RF. [↑](#footnote-ref-14)
15. The project is being prepared through PPTA 7936-NEP: Preparing the Kathmandu Valley Urban Environment Improvement Project, approved in December 2011. The work of PPTA started in March 2012 and draft final report was submitted in September 2012. [↑](#footnote-ref-15)
16. Loan 1820-NEP (SF): Melamchi Water Supply Project was approved on 21 December 2000 and became effective 28 November 2001. Loans 2058/2059-NEP (SF): Kathmandu Valley Water Services Sector Development Program were approved on 18 December 2003 and became effective 7 December 2004. [↑](#footnote-ref-16)
17. As per Census Bureau of Statistics, Nepal, 2011, the BPL is defined at NR 19,261 per capita per year. Latest published figures by government of Nepal for Kathmandu(with indexation for annual inflation) will be applicable for this EM [↑](#footnote-ref-17)