

# Land Acquisition and Resettlement Principles

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## Kazakhstan Big Almaty Ring Road (BAKAD) Project

Prepared by the Ministry of Industry and Infrastructural Development

## ACCRONYMS AND ABBREVIATIONS

ADB	- Asian Development Bank
BAKAD	- Big Almaty Ring Road Project
EBRD	- European Bank for Reconstruction and Development
CoI	- Corridor of Impact
Consortium	- BAKAD Investment and Operation LLP
CoR	- Committee on Roads
DMS	- Detailed Measurement Survey
ERM	- External Resettlement Monitor
FS	- Feasibility Study
GoK	- Government of Kazakhstan
GRM	- Grievance Redress Mechanism
GRM Guideline	- Guideline on Grievance Redress Mechanism on Environment and Social Safeguards for Road Sector Projects
GRC	- Grievance Redress Committee
IFC	- International Finance Corporation
IsDB	- Islamic Development Bank
LAR	- Land Acquisition and Resettlement
LARP	- Land Acquisition and Resettlement Principles
RP	- Resettlement Plan
LLP	- Limited Liability Partnership
MID	- Ministry of Industry and Infrastructural Development
NGO	- Non-government Organization
NPTsZem	- State Scientific and Production Center for Land Management
PAP	- Project Affected Person
PR	- Performance Requirements
PPP	- Public-Private Partnership
Project	- Big Almaty Ring Road Project
PS	- Performance Standard
RoK	- Republic of Kazakhstan
SPS	- Safeguard Policy Statement

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## **DEFINITION OF TERMS**

Compensation –	refers to any payment in cash or in kind of the replacement cost of the acquired assets.
Corridor of Impact –	<p>it is the area that is impacted by the road civil works or by the need to retain sites for use in road maintenance. In the context of involuntary land acquisition and resettlement, it is the area where the project affected persons will be identified who are eligible to receive compensation based on the cut-off date established under the project.</p> <p>Resettlement impacts generally are confined within a fairly narrow corridor of impact (CoI), which is the area where it is unsafe or not permitted for people to occupy structures, carry out business activities, or to cultivate land. The width of this corridor varies depending upon the type of road and usually is less than the legal Right of Way, which includes the road with all associated infrastructure, planting, safety and maintenance areas. For purposes of resettlement planning, whatever has to be removed or demolished, whether permanently or temporarily, is by definition inside a corridor of impact. and those suffering losses caused by the project should be assisted.</p>
Cut-off-date –	means the date prior to which the occupation or use of the Project area makes residents/users of the Project area eligible to be categorized as Displaced Persons (PAPs). For this project, the date of the Akimat(s) decree(s) on land acquisition for state needs is(are) considered as the cut-off date.
Project Affected Persons –	People, households, or legal entities, who experience full or partial, permanent or temporary 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) resulting from involuntary acquisition or land or involuntary restrictions on land use.
Entitlement –	is a range of measures comprising compensation in cash or in kind, income restoration, transfer assistance, income substitution, and relocation which are due to PAPs, depending on the nature of their losses, to restore their economic and social base.
Grievance Procedure –	is the process established under law, local regulations, or administrative decisions to enable property owners and other PAPs to redress issues related to acquisition, compensation, or other aspects of resettlement.
Household –	means all persons living together as a single social unit. They are identified in a census being an instrument of their recognition and legitimacy to receive compensation, rehabilitation and assistance under the Project.
Income Restoration –	is the reestablishment of income sources and livelihoods of PAPs to their pre-project levels.

Indigenous Peoples –	a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of Kazakhstan.
Land Acquisition and Resettlement Management Plan –	is the planning document that describes the activities to be done in addressing the direct social and economic impacts associated with involuntary taking of land, which includes both outright purchases of property and acquisition of access rights, such as easements or rights of way.
Relocation –	is the physical shifting of PAP from his/her pre-Project place of residence and/or business.
Replacement Cost –	the value determined to be fair compensation for land based on its productive potential, the replacement cost of houses and structures (current fair market price of building materials and labor without depreciation or deductions for salvaged building material), and the market value of residential land, crops, trees, and other commodities.
Safeguard Zones –	are the designated areas regulated under the Law on Oil, Safeguard Regulations for Trunk Lines and Safeguard Regulations for Telecommunications Networks, which provides for the protection of the facilities of strategic industries in the Republic of Kazakhstan.
Severely Affected Persons –	are persons who will: lose 10% or more of their productive / income generating assets, and/or (ii) physically displaced from housing, and/or business owners losing their business.
Vulnerable household –	a household, which might suffer disproportionately or face the risk of being further marginalized by the effects of resettlement such as a household living below the poverty line; female headed household; large household with 4 or more children below 18 years; household with disabled members; elderly with no family support.

## **1. INTRODUCTION**

### **1.1 General information**

1. As a part of the Western China – Western Europe International Transit Corridor, which is among the largest global infrastructure projects, Kazakhstan plays an integral role as it is been regarded as a crossroad of the great silk way that connects South East Asia with Europe and the Middle East. Kazakhstan is a vital part of the overall corridor and it is expected that the initiative will also boost global trade and employment in the region. The main purpose of the construction of Big Almaty Ring Road is to create a ring road at the intersection of the international road corridors Khorgos–Almaty–Bishkek–Taraz–Shymkent–Tashkent (known as Silk Road) and Almaty–Karaganda–Astana–Petropavlovsk. The construction of the ring road will allow to redirect to it a significant part of the transit traffic flows and redistribute them on public roads suitable to the Almaty city.

2. The Big Almaty Ring Road Project, is the first public-private partnership (“PPP”) structured under the new regulatory framework for such ventures in Kazakhstan. While Big Almaty Ring Road is the first PPP structure of its type in whole of Central Asia, it is also the first significant privately financed project outside of the oil and gas sector in Kazakhstan.

3. The project is a pivotal part of the Western China – Western Europe Transit Corridor, a global infrastructure initiative backed by reputable global institutions. Acting as a crossroad that connects South East Asia and Europe and the Middle East, the project will allow ease of trade and land transportation on various economic activities. Big Almaty Ring Road Project (hereinafter referred to as “BAKAD” or “Project”) was tendered on January 2015 by the Ministry of Industry and Infrastructural Development (earlier: Ministry for Investment and Development) of the Republic of Kazakhstan under the new PPP legislation. The Project was won and is being undertaken by BAKAD Investment and Operation Limited Liability Partnership (LLP) formed by Turkish – Korean Partnership of highly reputable firms, which have extensive experience not only in infrastructure projects in the region but also in PPP projects around the world. Upon completion of BAKAD, the project will serve as a blueprint for new PPPs in Kazakhstan in the transportation sector, as well as in other sectors that needs to attract private funding.

4. BAKAD Investment and Operation LLP (hereinafter referred to as "Consortium") was established in the Republic of Kazakhstan by Alsim Alarko Sanayi Tesisleri ve Ticaret A.S., Makyol Insaat Sanayi Turizm ve Ticaret A.S., SK Engineering & Construction Co., Ltd. and Korea Expressway Corporation to carry out any kinds of activities related to (i) development, financing, engineering, construction, commissioning, operation and maintenance of BAKAD, and (ii) exercising of the rights vested to and fulfilment of the obligations assumed under the concession agreement executed with the Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan (“Concession Agreement”). The concession agreement was signed in 2018 and is valid for a duration of minimum 20 years, of which about 50 months up front are envisaged to be the construction period and the rest is the operation period.

5. BAKAD Investment and Operation LLP is planning to raise debt financing for the Project from a group of international financing institutions (hereinafter “Lenders”). Lenders are represented by international financial institutions that are considering financing the Project, namely the European Bank for Reconstruction and Development (EBRD), the Asian Development Bank (ADB), the international Finance Corporation (IFC) and the Islamic Development Bank (IsDB).

## 1.2 Project Description

6. The length of the Big Almaty Ring road is about 66 km. The route runs through the territory of Almaty Oblast in three districts: Karasay district in the west (27.5 km), Iliy district in the north (19.26 km) and Talgar district in the east (19.24 km).

7. The number of road lanes varies from 4-6 to 6-8, and the width of each strip is 3.75 m. The designed speed of the traffic is estimated from 120 to 150 km/h in different sections. It is planned to build eight junctions, 39 bridges, including 18 aboveground crossings. Average traffic in 2018 is 32,838 vehicles per day (peak hour traffic is 1,543) and in 2033 will be 56,970 vehicles per day with a peak hour traffic of 2,858. The planned duration of construction works is 50 months.

8. The scheme of the BAKAD route is demonstrated on the Figure 1 below.

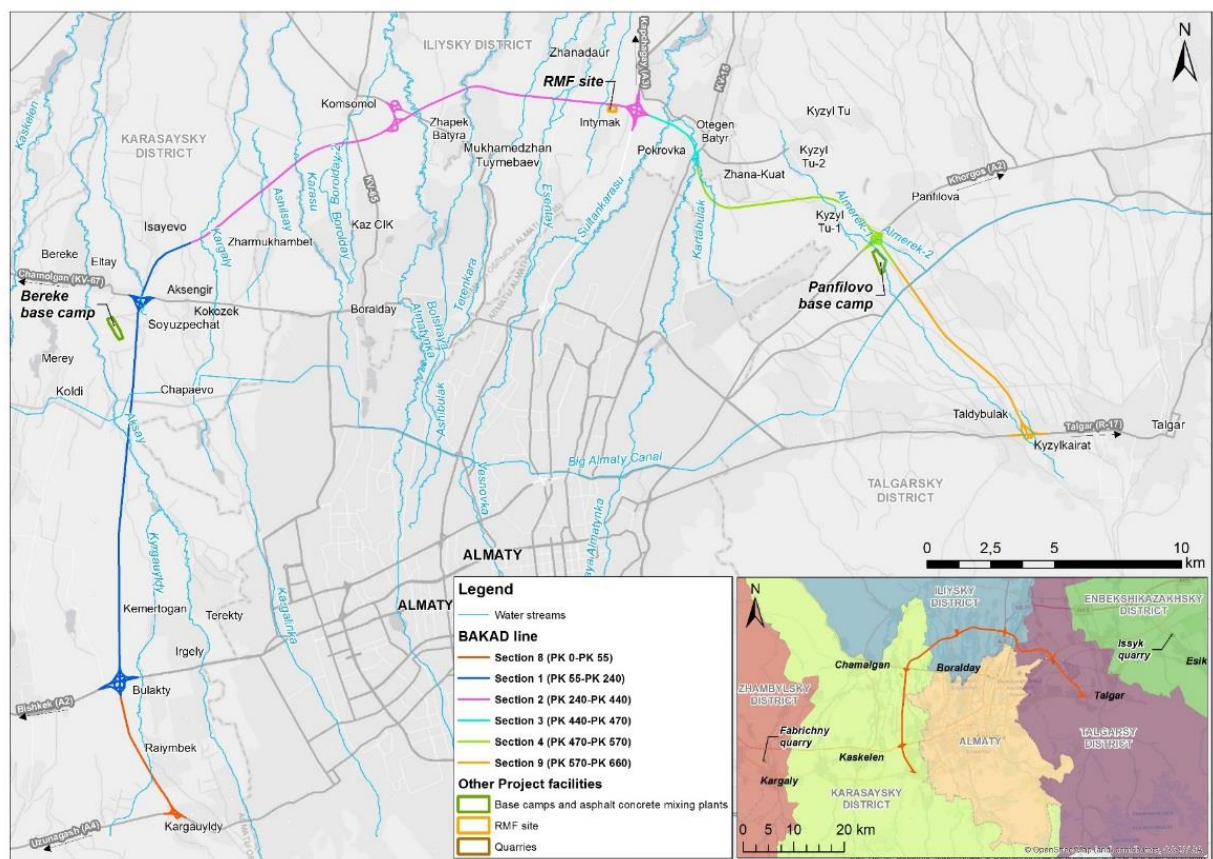


Figure 1. Scheme of BAKAD route

## 1.3 The LARP Document

9. This Land Acquisition and Resettlement Principles (LARP) is formulated based on relevant laws on land acquisition and resettlement (LAR) in the Republic of Kazakhstan (RoK) and the provisions of the Lenders relevant policies, including 2009 Safeguard Policy Statement (SPS) of ADB, Environmental and Social Policy 2014 Performance Requirement (PR) 5 of EBRD, and 2012 Performance Standard (PS) 5 of IFC. The LARP identifies likely impacts of the investment, describes anticipated groups of PAPs, clarifies land and resettlement principles, assesses the legal framework for land acquisition and resettlement in RoK and respective policies of Lenders, describes standard procedures and methods of

grievance redress, and outlines steps that will be taken to plan, obtain concurrence from Lenders, and to implement and monitor the impact of land acquisition and resettlement along the Project corridor.

10. This LARP applies to the private landowners, whose lands will be permanently or temporarily affected by compulsory actions by the GoK due to any future additional/new land acquisition required for Project. It also applies to people who lease private or state-owned lands or those who have no registered or legal rights over the land they use, and who will be adversely affected as a result of the Project. However, the LARP does not apply to state land that is transferred from one GoK authority to another, or used temporarily by the Consortium during construction works, unless third parties are adversely affected by the transfer or use.

11. This LARP applies only to future additional/new involuntary land acquisition requirements and expresses the commitment of Government of Kazakhstan (GoK) to avoid adverse involuntary LAR impacts, where possible, and to mitigate and manage them to ensure that PAPs are able to maintain, restore or improve their livelihoods at the end of the Project. Once this document is approved by Lenders and GoK, it will become an element of the respective financing agreements between the GoK/Consortium and Lenders with respect to the Project.

#### **1.4 Anticipated Impacts**

12. Construction of some sections of BAKAD will require inputs from soil testing, new surveying to preparing detailed designs and determining needs for land acquisition and relocation, repositioning/protection of utility/gas lines, consulting with local officials and stakeholders to gain support, as well as in terms of planning and managing the logistics of getting labor, machinery and materials to many remote locations. Most of these complex issues have been anticipated and will be resolved during final design. For any additional/new involuntary resettlement impacts are during project implementation, the GoK will conduct a social impact assessment and update any resettlement plans or formulate a new resettlement plan covering all applicable requirements specified in this document.

13. During implementation of BAKAD works, the need for additional land acquisition and resettlement may occur. Additional area may be required for construction of new elements such as viaducts, flyovers, installation of toll gates, relocation of utilities, weighting stations and turnoffs. Technical design changes are in approval process, however it is expected that the changes will be made to Section 8 in Karasay district and Section 3 in Iliy district (other sections of the road can also be involved), as well as 8 interchanges. Land will also be required for location of Road Maintenance Facility site (the land plot in Iliy district is proposed for this purpose). Following the approval of proposed design changes, the Consortium will formally request the MIID to acquire this additional land required for BAKAD construction.

14. Temporary use of lands is required for borrow pits/quarries; temporary construction stockyards located along the RoW for short-term storage of construction materials, parking of construction equipment, as well as for construction camps (including dormitories for engineers and workers, sites for location of asphalt and concrete plants, sites for maintenance of construction equipment, parking areas).

15. Based on approved design the land plan will be developed and finalized by Almaty State Scientific and Production Center for Land Management (Almaty NPTsZem) to define the impacts and the need for land acquisition and resettlement. Based on the impacts identified after finalization of the land plan, an appropriate Resettlement Plan will be prepared based on policy principles specified in this LARP. Prior to commencement of construction works within the BAKAD RoW (or at each specific start-up complex) the complete implementation of the Resettlement Plan will be verified and confirmed by the External



Resettlement Monitor. The function of the External Resettlement Monitor will be carried out by the independent consultant who will be responsible for external monitoring and preparation/submission of Resettlement Plan Completion Report.

16. It is expected that BAKAD will not have any impact on distinct and vulnerable ethnic minority groups or indigenous people. The population in the districts where the road passes is relatively homogenous in terms of ethnic composition. Based on the results of the last census (2009), the population of Almaty Oblast is represented by approximately 20 nationalities, with the majority (67.7%) being ethnic Kazakhs, followed by Russians (17%) and Uygurs (8%). Others are Turks (2%), Koreans (0.9%), Azeris (0.8%), Kurds (0.75%), Tatars (0.75%), Germans (0.5%), Ukrainians (0.3%), Chechens (0.3%). The share of other nationalities comprises 1% in total. Uyghurs, who are sometimes referred to as ethnic minorities are not found in the Project area (despite they live in Almaty oblast according to the census of 2009). None of the smaller ethnic groups have collective attachment to geographically distinct habitats or ancestral territories. They all share the general Kazakh cultural, economic, social and political institutions. In the rural areas, residents of varied ethnic origins use Kazakh as their language. None of these ethnic groups maintain cultural and social identifies separate from the mainstream Kazakhstan's society fitting the definition of indigenous peoples.

### **1.5 Lenders Processing Requirements**

17. Based on Lenders policy and practice, Project implementation will entail the following LAR-related conditions:

- (i) In case during implementation of Project any additional/new land acquisition and resettlement is required GoK has to inform Lenders on such impacts, prepare and implement a LARP per lenders' standards as set out in this LARP;
- (ii) Commencement of civil works in sections with pending LAR issues is subject to provision of Lenders' approval to start civil works: full implementation of LAR MP as vouched by the Resettlement Plan Completion Report prepared by the External Resettlement Monitor.

## **2. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS**

18. This LARP defines the eligibility for compensation and rehabilitation assistance, and details the entitlements for each impact type, as well as procedures for valuation, compensation, complaints consideration, consultations and disclosure, and monitoring/evaluation. It combines existing legal framework and procedures for land acquisition in Kazakhstan and involuntary resettlement safeguards requirements as stipulated in respective policies of Lenders (2009 Safeguard Policy Statement of ADB, 2014 Environmental and Social Policy and Performance Requirement 5 of EBRD, and 2012 Performance Standard 5 of IFC).

### **2.1 Kazakhstan Legal Framework and Practices**

19. In Kazakhstan, land is owned by the State but can be transferred, sold or leased to individuals or legal entities. Most leases are on a long-term basis (generally for 49 years). However, a few others prefer to lease only for the short-term (between 1 to 5 years). The State can reclaim private lands only for specific uses, including road construction, and only after compensating the owner for the asset and other losses.

#### **2.1.1 Hierarchy of Legal Acts in Kazakhstan**

20. Hierarchy of legal acts in the Republic of Kazakhstan corresponds to the following levels:

- The Constitution of the Republic of Kazakhstan;
- International treaties ratified by the Parliament;
- Laws that incorporate changes and additions into the Constitution;
- Constitutional laws of the Republic of Kazakhstan;
- Codes of the Republic of Kazakhstan;
- Consolidated laws, laws of the Republic of Kazakhstan; and
- Other regulations, normative decrees, and so forth.

#### **2.1.2 Kazakhstan Constitution**

21. Kazakhstan laws and regulations regarding land and land ownership are derived from the Constitution, which states that land (surface and underground) is owned by the State, but can also be privately-owned (Article 6.3). Article 26.3 also states that no one may be deprived of property unless stipulated by a court decision. Forcible alienation of property for state needs stipulated by law may be exercised on condition of its equivalent compensation.

#### **2.1.3 The Land Code**

22. The Land Code of the Republic of Kazakhstan (RK Code No. 464-IV adopted on 20 June 2003, last amendment dated 21 January 2019) establishes the foundations, conditions and limits for modifying or terminating ownership of land and land-use rights, describes the rights and responsibilities of landowners and land users, and regulates land relations. The Article 17 of the Land Code provides details on authorities and competencies of regional bodies regarding provision of land ownership and use rights, as well as acquisition of land plots, including for state needs. Land Code also establishes conditions for granting to citizens and legal entities permanent or temporary use rights to State-owned land (Articles 34 and 35).

23. Article 43 presents procedure for granting the rights to a state-owned land plot or plots put for auction, which in particular covers:

- Acceptance for consideration of an application for granting the relevant right to a land plot;
- Determination of the possibility of using the requested land plot for the declared designated purpose in accordance with the territorial zoning;
- Preliminary selection of the land plot;
- Preparation of the conclusion by the commission, created by the relevant local executive bodies, on the provision of a land plot;
- Development and approval of the Land Use Plan;
- Decision by the local executive body of the region on granting the right to the land plot;
- Conclusion of a contract of purchase or sale or temporary (short-term, long-term) paid (unpaid) land use;
- Establishment of the boundaries of the land plot on the terrain;
- Production and issuance of an identification document for a land plot.

24. Article also defines that identification documents for the land plot issued by the state corporation, managing state land cadaster, are:

- Private ownership of a land plot - an act on the right of private ownership of a land plot;
- Permanent land use - the act on the right of permanent land use;
- Temporary paid land use (lease) - an act for the right of temporary paid (long-term, short-term) land use (lease);
- Temporary unpaid land use - an act on the right of temporary, unpaid land use.

25. In addition local executive bodies are required to place the information with lists of persons who received a land plot on the special information stands in places accessible to the population at least once a quarter.

26. The Article 44 of the Land Code presents details on provision of land plots for implementation of construction works. In particular, it mentions that when requesting a land plot for the construction of an object, a land plot is pre-selected. The results of the land plot selection for the construction of the facility and, if necessary, for establishing its protective or sanitary protection zone, shall be formalized in an act by the respective authorized body at the location of the land plot. Based on the commission's conclusion, a Land Use Plan is being prepared in order to grant the right to the land. Land Use Plan includes the area of the provided land plot, its borders and location, owners and users of the adjacent land plots, as well as limitations and easements of the provided land plot. In the event of compulsory acquisition of a land plot for state needs, it also includes calculations of losses incurred by the owners and users (leaseholders) of land plots, losses of agricultural and forestry production depending on the type of land acquired.

27. Based on the Land Use Plan, the draft decision of the local executive body on granting the respective right to land is prepared by the authorized body at the location of the land plot. In the case when residential buildings, other buildings and structures are located in the territory chosen for the construction site, as well as utilities and green spaces subject to demolition or transfer (including those that fall during the transfer of land to the sanitary protection zone of industrial enterprises), the applicant or his authorized representative ensures receipt of all agreements required for the allotment of the land plot. In addition, the applicant presents a contract concluded with each of the property owners, including the conditions for compensation of losses to the owner. The contract specifies the conditions and terms for relocation, transfer of existing buildings, engineering communications, green spaces, the developer's obligation to recover all losses associated with the demolition of property.

28. The draft decision of the local executive body on granting the right to the land plot should contain:

- The name of the legal or natural person to whom the right to land is granted;

- Purpose of the land plot use;
  - The area of the land plot;
  - Type of right to land, limitations, easements;
  - Acquisition price of a land plot or land use right in the event of the provision of a plot for a fee, the terms and conditions for the conclusion of contracts for the sale of a land plot;
  - Surname and name of an individual or the name of the legal entity from which the acquisition of land parcel for state needs is made, indicating size of the plot(s);
  - Information on the whether the land plot can be divided or not;
  - Other conditions.
29. Chapter 9 of the Land Code addresses the issues related to termination of ownership, use and other rights for the land plot. In particular, the Article 81 of the Land Code provides grounds for terminating the right of private ownership of a land plot or land use rights and includes the following conditions for termination:
- Alienation of the land plot by the owner or the land use right by the land user to other persons;
  - Owner's refusal of the right of ownership or land user from the right of land use;
  - Loss of ownership of land or land use rights in other cases envisaged by the legal acts of RoK.
30. Acquisition of the land plot from the owner and land use right from the land user without their consent is not allowed, except in the following cases:
- Foreclosure on a land plot or land use right for the obligations of the owner or land user;
  - Compulsory acquisition of a land plot for state needs;
  - Compulsory withdrawal from the owner or land user of a land plot not used for its intended use or used in violation of RoK legislation;
  - Compulsory acquisition from the owner or land user of a land plot subjected to radioactive contamination, with the provision of an equivalent land plot;
  - Confiscation.
31. In addition, the right to land use may be terminated on the following grounds:
- Expiration of the period for which the plot was provided;
  - Early termination of the lease contract for a land plot or a contract for temporary unpaid land use, except for cases when the land plot is pledged;
  - Termination of labor relations, in connection with which the service land plot was provided to the land user.
32. The Code establishes that a land plot may be compulsory alienated for state needs in exceptional cases, subject to equivalent compensation of property with the consent of the owner or non-state land user or by a court decision. Exceptional cases are understood to mean the absence of a different way of satisfying state needs (Article 81.1). Construction (reconstruction) of the road and railroad transport infrastructure, as well as implementation of concession projects are among several grounds for compulsory acquisition of a land plot for state needs (Article 84.2.4). The compulsory alienation of a land plot provided for land use for state needs, if the land use right is purchased by the land user from the state, is reimbursed to the land user for the cost of payment for the purchase of the land use right, another land plot may also be provided according to this Code and the RoK legislation. If the land use right is not purchased by the land user from the state, another land plot may be given in exchange in accordance with this Code and the RoK legislation (Article 84.3). Compulsory alienation of a land plot is allowed only to the extent necessary to satisfy the state needs (Article 84.4). The compulsory alienation of a land plot for state needs is carried out while observing the publicity of the alienation procedure. A decree of the GoK or a local executive body on the commencement of the compulsory alienation of a land plot is subject to publication in the national or local mass media, including Internet resources of the

executive bodies, respectively, within three working days from the date of its adoption. (Article 84.6).

33. The owner of the land or land user must be notified in writing by the body that made the decision to purchase date for starting LAR shall be indicated in the LAR Decree but not earlier than 3 months from the date of official publication of the Decree unless the owner or land user agrees to release the land before which is regulated by the Law "On State Property" (Article 63). If the remaining portion of the land can no longer be used for the intended purpose, then the entire plot must be purchased (Article 86.1).

34. If the owner or land user disagrees with the decision to purchase his land for state needs, or disagrees on the price of the acquired land or other terms of acquisition, the local executive authority which decided on acquisition may file expropriation case (Article 88.1) after three months from the date of receipt of notification by the owner or the land user, but not later than the deadline stated in the decision on acquisition of the land plot for state needs (Article 88.2, as well as Article 65.7 of RoK Law on State Property). Civil cases for claims on acquisition of land for state needs shall be considered and resolved within one month from the date of finalization of the case preparation for trial (Article 88.3).

35. The Article 92 of the Land Code addresses compulsory acquisition of the land plot from the owner or land user in case it is not used for the purpose it was provided for or is not used at all. In particular, the third paragraph mentions that in case the land plot is provided for agricultural production, including peasant farms or farming, and is not used for a total of two years in a five-year period (unless otherwise stipulated by the legislative acts of RoK), then such a land plot is subject to compulsory seizure in the manner specified in Article 94 of the Land Code. Paragraph 4 details the cases of non-use of a land plot provided for agricultural production for the intended purpose. Articles 93 and 94 specify the process of compulsory seizure of land plot from owner or user in case the land plot is used with violation of the requirements of RoK legislation.

36. Upon termination of land ownership or land use right the cost of land or land-use right is defined by the amount paid to the state (Article 96). Upon termination of land ownership or land use right the value of the land granted for individual housing construction, for individual part-time farm (except field plots) on which an individual house is located, is defined by the cost of the land, not exceeding market cost (Article 96 as well as Article 67.2 of the RoK Law on State Property). Upon termination of land ownership right the cost of the land, passed to the owner or user by a contract or court decision is defined by the value specified in a contract or a court decision, but not exceeding the market cost. In case the land cost is not specified in the contract or the court decision, the value of the land is assessed by its cadastre (estimated) cost (Article 96).

37. The Land Code provides for base rates of payment for the land plots and the cadastral value of land in order to determine the cost of the land. Basic rates of payment for the land plots when they are transferred to private property in the capital are established by joint decisions of the representative and executive bodies of the capital, depending on local conditions and peculiarities. The rates of payment for land use shall not be established at a level below the land tax rates. Payment for selling the right to lease is differentiated from the cadastral (estimated) cost of a particular plot of land. Base rate of payment for land plots is calculated in accordance with the Decree of the Government of the Republic of Kazakhstan from September 2, 2003 № 890 "On Establishment of Base Rates for the Land Plots". However, according to the latest amendments of the abovementioned decree (The Decree of the Government of the Republic of Kazakhstan from October 10, 2011 № 1154<sup>1</sup>), local

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<sup>1</sup> Press-release from December 3, 2011 to the Decree of the Government of the Republic of Kazakhstan from October 10, 2011 № 1154 On introduction of changes and additions to the Decree of the Government of the Republic of Kazakhstan from September 2, 2003 № 890 "On establishment of base rates for the land plots, when

government bodies of the capital, depending on local conditions and peculiarities must develop and approve the base rates for the land plots, except for lands used for agricultural purposes.

38. Cadastral (estimated) cost of a land plot is determined by specialized state-owned enterprises responsible for operation of the state land cadastre, in accordance with the base rates of payment for land plots transferred to private property, with application of corrective (increasing or decreasing) coefficients to account for inflation, land conditions and location.

39. In determining the amount of compensation, following shall be included: (a) the cost of land or land-use rights; (b) the market cost of the assets located on the plot, including fruit trees and perennial plantings; (c) cost of the expenditures associated with development of the land, its operation, implementation of protective measures, improvement of soil fertility taking into consideration their inflation; (d) all losses inflicted on the owner or land user as a result of land acquisition at the time of termination of ownership or land-use right, including losses they incur due to early termination of their obligations to third parties; and (e) loss of revenue (Article 166.2).

40. The amount of compensation is established based on the agreement among the parties (Article 166.3). In case of disagreement, the land cannot be taken until the court adjudicates a settlement (Article 166.7).

41. The Land Code does not entitle encroachers to compensation for the right to use the lands they use informally (squatters) or those who have not registered their claims to lands.

#### **2.1.4 Law on State Property**

42. Law on State Property (№ 413-IV LRK adopted on 1 March 2011, last amendment dated 21 January 2019) defines the legal regime of state property, the legal framework for managing state property, the legal basis for acquiring and terminating rights to state property.

43. Compulsory alienation of land or other immovable property in connection with the acquisition of land for public use is allowed only to the extent necessary to satisfy public needs (Article 62.4). Article 62-2 defines the conditions for granting an equivalent land plot or immovable property in connection with the acquisition of a land plot for state needs. The provision of an equivalent land plot to the owner or non-state land user is carried out taking into account the location of the alienated land plot, its intended purpose, and the area with consideration of incurred losses (if any). At the same time, an equivalent land plot must be provided within the settlement in which the land plot is alienated (Article 62-2.1). The cost of a state-owned land plot to be provided in exchange is determined by the valuator at its market value after the valuation of the alienated land plot or other immovable property in connection with the acquisition of the land plot for state needs (Article 62-2.4). If the cost of the alienated land plot is higher than the value of the land plot provided in exchange, the difference in their values is reimbursed to the owner (Article 62-2.5).

44. Article 63.1 states that in case of compulsory acquisition of land or other real property for state needs, the government agency or local executive body should issue a decree that indicates:

- (i) purpose and grounds for compulsory acquisition for state needs;
- (ii) location, size, cadastre number of land plot;
- (iii) property owner or private land user;

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they are transferred to private property, leased by the state or state land-user, as well as payment for selling the right to lease the land plots"; <http://www.auzr.kz/en/news-list/784--03-2011>

- (iv) date of compulsory acquisition, but not earlier than three months from the date of official publication of the decree;
- (v) place of application for land owner or land user for conciliation procedures (Article 63.2).

45. The Decree shall be published in national or local mass media, within three working days from the date of adoption (Article 63.5).

46. In case the right of private ownership of land plot is not registered in accordance with the legislation of the Republic of Kazakhstan, the owner, after the adoption of the decree, may make the necessary arrangements to register his/her right on the affected land plot. The period of compulsory acquisition for state needs set by the decree cannot be extended by more than one year (Article 63.7).

47. The acquiring authority is required to send to the owner or land user a written notification on the compulsory acquisition for state needs not later than 3 calendar days after the publication of the decree. The notification shall also include the draft purchase agreement for the land plot or other real property in connection with the seizure of land plot for the state needs. The notification shall be sent by mail with the mandatory notice of receipt. In the absence of notice of receipt, the documents referred to in this paragraph shall be sent again (Article 64.1).

48. The notice on compulsory alienation of a land plot for state needs shall include:

- (i) information on the adopted resolution specified in paragraph 2 of Article 63 of this Law (with a copy of the decision attached);
- (ii) information about the owner or non-state land user;
- (iii) location, area, cadastral number of the land or other immovable property to be alienated;
- (iv) information on how to determine the reimbursement at market value;
- (v) information on the possibility of choosing one of the methods of equivalent compensation;
- (vi) information on the procedure for signing an agreement on the alienation of a land plot for state needs, as well as an explanation of the judicial procedure for resolving the issue of expropriation upon refusal to conclude an agreement;
- (vii) deadlines for submitting copies of title and identification documents for the land plot or other immovable property to be alienated in order to organize their valuation (Article 64.2).

49. The owner or a non-state land user is given at least fifteen calendar days from the date of receipt of the notice to get acquainted with it, as well as to provide copies of title documents and identification documents for a land plot or other immovable property (Article 64.4). The notice on compulsory alienation of a land plot for state needs as a legal claim is subject to state registration in accordance with the RoK Law "On state registration of rights to real estate" (Article 64.5).

50. The compulsory alienation of the land plot or other immovable property in connection with the acquisition of land plot for state needs is carried out after the expiry of the deadline set in the Decree, either with the consent of the land owner or non-state land user, or by court decision (Article 65.1). The compulsory alienation of a land plot or other immovable property in connection with the acquisition of a land plot for state needs in order to implement concession projects may be carried out by local executive bodies at the expense of the concessionaire's funds subject to transfer to the concessor of the land plots bought by them, but no later than the transfer of the object of the concession or the incomplete construction of the object of the concession to state ownership (Article 65.2).

51. Termination of the rights to private property and land use rights, as well as the State's right to land and other real property is subject to state registration by the authority responsible for state registration of rights to real property, the purchase agreement on acquisition of the land plot or other immovable property, or a court decision and the statement of the authority that adopted the Decree (Article 65.4).

52. Within one month from the date of receipt of copies of title and identification documents for an alienated land plot or other immovable property, the local executive body shall ensure that they are evaluated. If the owner or the non-state land user does not provide copies of title and identification documents for the land plot or other immovable property to be alienated, the local executive body has the right to request them from the authorized state bodies and (or) organizations (Article 65.5). The local executive body, based on the results of assessing the value of the property being alienated for state needs, prepares a draft contract on the acquisition of a land plot for state needs within ten working days and sends it to the owner or to a non-state land user by mail with the obligatory receipt of the delivery receipt notice. In the absence of notice of receipt, the documents referred to in this paragraph shall be sent again (Article 65.6). The owner or non-state land user from the date of receipt of the draft agreement on the acquisition of land for public use within twenty calendar days expresses written consent (disagreement) with the draft agreement by filing a relevant application to the local executive body (Article 65.10).

53. The local executive body shall submit to the relevant local representative body a draft agreement on the acquisition of a land plot for state needs within one month from the date of receipt of a written statement of acceptance of the draft agreement from the owner or non-state land user. The draft agreement on the acquisition of a land plot for state needs is considered by the standing commission of the local representative body no later than a two-week period from the date of its submission with the obligatory invitation of the owner and persons whose rights to the alienated property will be terminated or limited. When an agreement is reached with the owner or non-state land user, the agreement on the acquisition of a land plot for state needs is approved by the executive body in coordination with the local representative body and signed by the owner or non-state land user (Article 65.11).

54. In case of disagreement of the owner or non-state land user with the resolution and (or) in case of refusal to conclude an agreement on the acquisition of a land plot for public use after three months from the date of receipt of a written notice, but no later than the date (date) of the implementation of the expropriation, the local executive body shall have the right to file a lawsuit with a claim for the compulsory acquisition of a land plot or other immovable property in connection with the seizure of a land plot for state needs. Civil cases for claims of forcible expropriation of land or other immovable property in connection with the acquisition of land for public use are considered and resolved within one month from the date of completion of the preparation of the case for trial (Article 65.12).

55. The actual transfer of a land plot to be alienated for state needs or other immovable property in connection with the acquisition of a land plot for state needs can be carried out only after receiving an equivalent compensation by the owner or non-state land user, made in the manner prescribed by this Law. The state registration of the termination of the rights of the owner or non-state land user and the emergence of the rights of the state to this property is subject to a document confirming the payment of compensation to the state registration authority (Article 65.14).

56. The agreement for purchase of land plot or other real property in connection with the seizure of land plot for state needs shall include:

- (i) price for the alienated land plot and characteristics of the real property or land given to the owner or land user as a replacement for the alienated one;



- (ii) difference in cost, if the price of the alienated land plot is higher than the price (value) of the land provided as a replacement for the alienated one;
- (iii) amount of damages to be reimbursed, including the value of real property taken in connection with the alienation of land plot for state needs, in case when such damages are caused as a result of compulsory acquisition;
- (iv) term of payment of the cost for the alienated land plot or other real property in connection with the alienation of land plot for state needs or transfer of land plot (or other real property) given to the owner as a replacement for the one alienated for state needs;
- (v) composition of the property alienated for state needs;
- (vi) list of people whose rights in respect to the alienated property will be terminated or limited;
- (vii) procedure for financing the government expenditures for the acquisition of property for state needs (Article 65.6).

57. The actual transfer of land or other real property alienated for state needs can only take place after the land owner or land user gets fair compensation. State registration of the termination of the rights of the owner or user and the beginning of the rights of the state on the property is subject to submission to the body conducting the state registration of rights to immovable property, of a document confirming the payment of compensation (Article 65.9).

58. The owner or non-state land user from the moment of receiving the notice of the compulsory acquisition of a land plot for state needs until the conclusion of an agreement on the acquisition of a land plot or the court's decision on the compulsory acquisition of a land plot or other immovable property in connection with the acquisition of a land plot for state needs he is entitled to land and other immovable estate and to incur necessary expenses ensuring the use of property in accordance with its intended purpose. At the same time, the owner or non-state land user bears the risk of assigning to it the costs and losses associated with new construction, expansion or reconstruction of buildings (buildings, structures) and other real estate in the specified period. If the owner or non-state land user, after the acquisition of a part of the land plot for state needs, cannot use the remaining purpose, as before, the entire land plot is alienated (Article 66.1).

59. When real estate rights are transferred during the time specified in Article 66.1 to another person by acquisition or on other grounds, as well as upon the change of the right holder due to universal succession, the procedure of compulsory alienation of a land plot or other immovable property in connection with the withdrawal of a land plot for state needs it is applied (continues) in relation to the new right-holder (Article 66.2).

60. The cost of land acquired for state needs (excluding losses) purchased by the owner from the state is determined in the amount of market value. In case of incomplete payment of the amount for a land plot (without taking into account losses) sold by the state in installments, and its acquisition upon expropriation for state needs, the value of the acquired land plot is determined in the amount of the market value minus the amount unpaid to the state (Article 67.1). The cost of a land plot, as well as of immovable property located on a land plot that is acquired for state needs, is determined in the amount of their market value regardless of the grounds for the emergence of rights to a land plot (Article 67.2). The market value of the acquired land or other immovable property in connection with the acquisition of land for public use is determined by the valuator on the date of the valuation (Article 67.3). The amount of compensation is determined in accordance with paragraphs 4 and 5 of Article 9 of the RoK Civil Code based on the property value and damages in full, caused to the owner or non-state land user as a result of compulsory alienation of a land plot for state needs and (or) caused by early termination by the owner or non-state land user obligations to third parties. The amount of compensation to other persons whose rights in respect of compulsory acquisition of land for state needs will be terminated or limited, is determined on

the basis of losses that they will have as a result of such compulsory acquisition (Article 67.4).

61. Reimbursement of the cost for land plot or other real property in connection with the alienation of land plot for state needs and losses is subject to compensation in full, before the transition to the Republic of Kazakhstan or the administrative unit of the right of ownership to such property is carried out (Article 68.1). Reimbursement is made from the budget (Article 68.2). Non-cash compensation is allowed by agreement between the RoK represented by GoK or the administrative unit represented by the local executive authority and owner of the property. The mentioned agreement shall be made in writing in the form of the purchase agreement for the land plot or other real property alienated for state needs (Article 68.3). Reimbursement is made at a time no later than one month after the date of signing the purchase agreement for land plot or other real property in connection with the alienation of land plot for state needs or from the date of entering into force of the decision of the court (Article 68.4). It is not allowed to carry out compulsory alienation of a land plot or other immovable property in connection with the acquisition of a land plot for state needs, which provides for payment of compensation in installments (Article 68.5).

### **2.1.5 Law on Housing Relations**

62. The Law on Housing Relations (№ 94-I, adopted on 16 April 1997, last amendment dated 12 July 2018) regulates the issues on provision of housing to the property during the demolition of a residential building as a result of involuntary acquisition of land plots for state needs. During the demolition of a residential building as a result of the involuntary acquisition of land plots for state needs, the owner before the demolition of the house, in accordance with his/her preference, is offered a well-maintained place of residence as a property or compensation in an amount of the market cost of the house taken. If the cost of the offered house is higher than the cost of the one to be demolished, the difference in cost is not charged from the owner. If the cost of the house to be demolished is higher than the cost of a place of residence offered as a replacement, then the owner is reimbursed in the amount of the cost difference (Article 15).

### **2.1.6 Labor Code**

63. According to the Labor Code (№ 414-V, adopted on 23 November 2015, last amendment dated 21 July 2018), registered employees of enterprises / institutions who are losing their jobs as a result of termination of employment agreement by the employer in the event of termination of the employer's activities are entitled to compensation in the amount of average salary for one month (Article 131).

### **2.1.7 Law on State Automobile Roads**

64. The Law of the Republic of Kazakhstan on Automobile Roads (№ 245 adopted on 17 July 2001, last amendment dated 5 October 2018) mentions that the land for public roads is provided by a decision of the relevant local executive body. Article 1 of the Law defines the right of way as the land of transport occupied by the roads, to accommodate the relevant structural elements and engineering structures of the road, as well as buildings, structures, protective and decorative plantings, and road-related communication devices and equipment necessary for their operation.

### **2.1.8 Law on State Administration and Local Self-Government**

65. The Law of the Republic of Kazakhstan on State Administration and Local Self-Government (№ 148 adopted on 23 January 2001, last amendment dated 5 November 2018) in it Article 31 specifying the competences of the regional Akimat stated that rayon Akimat shall among other functions:

- Facilitates the implementation by citizens and organizations of the norms of the RoK Constitution, laws, acts of the President and the Government of the Republic of Kazakhstan, normative legal acts of central and local state bodies;
- Regulates land relations in accordance with the land legislation of RoK;
- Organizes the construction, operation and maintenance of roads of the regional importance.

### **2.1.9 Standard Land Acquisition Practices and Process**

66. Land acquisition for public needs in Kazakhstan is generally implemented in accordance with the following procedures:

- Proposed alignment and estimates of the amount of land to be acquired permanently or temporarily; as well as estimated cost of acquisition, rental and restoration of affected lands are included in the feasibility study (FS);
- The FS is sent to the oblast and regional levels for review and comments. In the case of Republican Roads, the FS is sent to the Committee of Roads in Astana for review;
- Based on the tentative alignment, registered owners/leaseholders are notified initially that their land will be acquired;
- The detailed design is prepared which firms up the alignment and assessment of land acquisition requirements, including detailed maps and individual landholdings to be affected, ownership data from the cadastre and estimated compensation for acquisition and losses;
- Once the final alignment is agreed with local officials, the agency that requires the land requests the appropriate Akimat(s) to issue a resolution on the land acquisition;
- The Akimat(s) issue(s) a resolution on the land acquisition and register(s) the resolution with the oblast Department of Justice (“Government for Citizens” State Corporation registers such resolutions). Owners are officially notified of the extent of land acquisition of their properties;
- The Akimat(s) establish(es) an evaluation commission that includes officials and land owners. Inputs are sought from licensed assessors in establishing official compensation amounts;
- Once the official compensation amounts have been established, negotiation between government and the displaced persons starts. Signed agreements are again registered with the oblast Department of Justice (“Government for Citizens” State Corporation). Based on the agreements, compensation amounts are processed and delivered to the displaced person.
- If agreement cannot be reached, the government agency requiring the land has right to initiate a court appeal for expropriation after three months from the date of receipt of the notification by the owner;
- Once the court renders a decision, the compensation amount will be transferred to the account of the displaced land user. Land cannot be accessed until compensation is completed and the title is transferred;
- Financing for compensation costs is made available, and payments should be conducted within one month after the court decision comes into force or the signing of the land acquisition agreement.

### **2.1.10 Temporary Land Use by the Consortium**

67. If additional locations for temporary storage facilities and/or other sites for temporary use by the Consortium during construction are required, the Consortium will be responsible for the temporary acquisition and reinstatement of all land required outside of the right of way for temporary use. The Consortium will select the land parcels they require and will be responsible for negotiating agreements with land owners to temporarily use the land. Consortium is assumed to prefer to rent State land, rather than private property, but the

choice is theirs. In either case, the arrangements must be subject to a written agreement between the Consortium and the owner, and lands are required to be returned to their original state after work is concluded.

## **2.2 Requirements of Lenders Policies on Involuntary Resettlement**

### **2.2.1. ADB SPS 2009 Safeguard Requirements 2: Involuntary Resettlement**

68. ADB SPS 2009 Safeguard Requirements 2: Involuntary Resettlement aims to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.

69. ADB Policy has the following requirements:

a. Compensation, Assistance and Benefits for PAPs

- Compensate at full replacement cost/assist those with formal legal rights to the land lost and those who have claims to lands that are recognized or recognizable under national laws. PAPs who have neither formal legal rights nor recognized or recognizable claims to such land are entitled only to compensation for non-land assets.
- Compensate for affected lands, structures and other assets and put in place a comprehensive income and livelihood rehabilitation program prior to displacement
- Give preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based. Provide physically displaced persons with relocation assistance, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, and civic infrastructure and community services.
- Promptly compensate economically displaced persons for the loss of income or livelihood sources at full replacement cost, and provided other assistance (i.e. access to credit, training, and employment opportunities) to help them improve, or at least restore, their income-earning capacity, production levels, and standards of living to pre-displacement levels.
- Provide displaced persons with opportunities to share project benefits in addition to compensation and resettlement assistance.

b. Social Impact Assessment

- Conduct socio-economic survey(s) and a census, with appropriate socio-economic baseline data to identify all persons who will be displaced by the project and to assess the project's socio-economic impacts on them.
- As part of the social impact assessment, identify individuals and groups who may be differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status.

c. Resettlement Planning

- Prepare a resettlement plan based on the social impact assessment and through meaningful consultation with the affected persons if the proposed project will have involuntary resettlement impacts.
- Include in the resettlement plan measures to ensure that the displaced persons are (i) informed about their options and entitlements pertaining to compensation, relocation, and rehabilitation; (ii) consulted on resettlement options and choices; and (iii) provided with resettlement alternatives.
- Pay adequate attention to gender concerns to ensure that both men and women receive adequate and appropriate compensation for their lost property and

resettlement assistance, if required, as well as assistance to restore and improve their incomes and living standards.

- Analyze and summarize national laws and regulations pertaining to land acquisition, compensation payment, and relocation of affected persons in the resettlement plan; and compare such laws and regulations with ADB's involuntary resettlement policy principles and requirements. If a gap between the two exists, propose a suitable gap-filling strategy in the resettlement plan in consultation with ADB.
- Consider all costs of compensation, relocation, and livelihood rehabilitation as project costs.
- Include detailed measures for income restoration and livelihood improvement of displaced persons in the resettlement plan. For vulnerable persons and households, include measures to provide extra assistance so that they can improve their incomes in comparison with pre-project levels.
- Finalize the resettlement plan soon after the completion of engineering design. Ensure that the final resettlement plan (i) adequately addresses all involuntary resettlement issues pertaining to the project, (ii) describes specific mitigation measures that will be taken to address the issues, and (iii) ensures the availability of sufficient resources to address the issues satisfactorily.
- Consult with displaced persons identified after the formulation of the final resettlement plan and inform them of their entitlements and relocation options. Supplementary resettlement plan or a revised resettlement plan should be submitted to ADB for review a supplementary resettlement plan or a revised resettlement plan before any contracts are awarded.
- Use qualified and experienced experts to prepare the social impact assessment and the resettlement plan.

d. Information Disclosure

- Submit the following documents to ADB for disclosure on ADB's website: (i) a draft resettlement plan and/or resettlement framework endorsed by the borrower/client before project appraisal; (ii) the final resettlement plan endorsed by the borrower/client; (iii) a new resettlement plan or an updated resettlement plan, and a corrective action plan prepared during project implementation, if any; and (iv) the resettlement monitoring reports.
- Provide relevant resettlement information in a timely manner, in an accessible place and in a form and language(s) understandable to affected persons and other stakeholders. For illiterate people, use other suitable communication methods.
- Translate relevant materials to the Kazakh language

e. Consultation and Participation

- Conduct meaningful consultation with affected persons, their host communities, and civil society for every project and subproject identified as having involuntary resettlement impacts.
- Pay particular attention to the need of disadvantaged or vulnerable groups, especially those below the poverty line, the landless, the elderly, female headed households, women and children, Indigenous Peoples, and those without legal rights to land.
- Translate relevant materials to the Kazakh language

f. Grievance Redress Mechanism

- Establish a responsive, readily accessible and culturally appropriate mechanism to receive and facilitate the resolution of affected persons' concerns and grievances about physical and economic displacement and other project impacts, paying particular attention to the impacts on vulnerable groups.

g. Monitoring and Reporting

- Monitor and measure the progress of implementation of the resettlement plan. For projects/subprojects with significant LAR impacts, qualified and experienced external experts or qualified Non-government Organizations (NGOs) are retained to verify internal resettlement monitoring information. If any significant involuntary resettlement issues are identified, prepare a corrective action plan to address such issues. Do not proceed with implementing the Project until such planning documents are formulated, disclosed and approved.

h. Unanticipated Impacts

- If unanticipated involuntary resettlement impacts are found during project implementation, conduct a social impact assessment, update the resettlement plan or formulate a new resettlement plan

i. Special Considerations for Indigenous Peoples

- Avoid physical relocation of Indigenous Peoples that will result in adverse impacts on their identity, culture, and customary livelihoods. If adverse impacts cannot be avoided, formulate a combined Indigenous Peoples plan and resettlement to meet all relevant requirements specified under ADB Safeguard Requirements 3: Indigenous People.

j. Negotiated Settlement

- Acquisition of land and other assets through a negotiated settlement whenever possible is encouraged. Negotiations are subject to third-party validation to ensure that the compensation is based on fair price (replacement cost) of land and/or other assets, and is based on meaningful consultation with PAPs
- Negotiated settlements in case of failure of negotiation would result in expropriation.

### **2.2.2. EBRD PR5: Land Acquisition, Involuntary Displacement and Economic Displacement**

70. The Project needs to meet the requirements for land acquisition, involuntary resettlement and economic displacement as specified in the EBRD Environmental and Social Policy (2014) and Performance Requirements (PRs), particularly EBRD's PR5 (Land Acquisition, Involuntary Displacement and Economic Displacement) of the policy.

71. EBRD requirements pertaining to land acquisition and displacement, relevant for this Project can be summarized as follows:

- Avoid or minimize displacement
  - To avoid or, when unavoidable, minimize, involuntary resettlement by exploring alternative project designs; measures to mitigate adverse impacts on displaced persons and host communities should be carefully planned and implemented.
- Consultation
  - To involve the affected men and women, including host communities from the earliest stages and through all resettlement activities.
  - To provide affected persons with the opportunity to participate in the eligibility requirements, negotiation of the compensation packages, resettlement assistance, suitability of proposed resettlement sites and proposed timing consultation will continue during the implementation, monitoring and evaluation of compensation payment and resettlement.
  - To take necessary actions to ensure that vulnerable groups are not disadvantaged in the resettlement process, are fully informed and aware of

their rights, and are able to benefit equally from the resettlement opportunities and benefits.

- Socio economic assessment and census
  - To carry out a socio-economic baseline assessment on people affected by the project, including impacts related to land acquisition and restrictions on land use. The assessment shall identify impacts within a project's social context and the needs and rights of the affected people and develop appropriate actions to minimize and mitigate resettlement impacts.
  - To carry out a detailed census to: (i) identify persons who will be displaced by the project; (ii) determine who will be eligible for compensation and assistance; and (iii) take inventory of affected land and property. The census should take into account the needs of seasonal resource users who may not be present in the project area during the time of the census.
  
- Compensations for displaced persons
  - To mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of and access to land by: (i) Providing compensation for loss of assets at replacement cost, prior to taking possession of acquired assets; and (ii) Ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
  - To restore or, where possible, improve the livelihoods and standards of living of displaced persons, including those who have no legally recognizable rights or claims to the land (present in the project affected area at the time of the cut-off date), to pre-project levels and support them during the transitions period.
  - To make special provisions for assisting disadvantaged or vulnerable individuals or groups (present in the project affected area at the time of the cut-off date) that may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of livelihood assistance and related development benefits.
  
- Grievance mechanism
  - To establish a grievance mechanism to receive and address in a timely fashion specific concerns about compensation and relocation that are raised by displaced persons, including a resource mechanism designed to resolve disputes in an impartial manner.
  
- Resettlement and/or Livelihood Restoration Framework
  - To develop a Resettlement and/or Livelihood Restoration Framework to outline the general principles, procedures and entitlement framework.
  
- Monitoring
  - To carry out a monitoring of the resettlement and livelihood restoration process with the participation of key stakeholders such as affected communities.
  - The completion report should be undertaken after all inputs in the process, including any developmental initiatives, have been completed. The report may identify further actions to be completed to close obligations for resettlement, compensation, livelihood restoration and development benefits.
  
- Private sector responsibilities under government-managed resettlement
  - There may be cases where land acquisition and resettlement are the responsibility of the host government. In such cases, the collaboration with the responsible government agency, to the extent permitted by the agency, is

required. Where government capacity is limited, the client will play an active role during resettlement planning, implementation and monitoring. The client will prepare a plan (or a framework) that together with the documents prepared by the responsible government agency, will meet the EBRD requirements. The client may need to include in its plan: (i) a description of the entitlements of displaced persons provided under applicable laws and regulations; (ii) the measures proposed to bridge any gaps between such entitlements and the requirements of this PR; and (iii) the financial and implementation responsibilities of the government agency and/ or the client.

### **2.2.3. IFC PS 5: Land Acquisition and Involuntary Resettlement**

72. IFC Performance Standard (PS) 5 (2012) is the core standard related to land acquisition and resettlement. It refers to the management of physical displacement (i.e. relocation or loss of shelter) and economic displacement (i.e. loss of assets or access to assets that leads to loss of income sources or means of livelihood) as the result of project-related land acquisition.

73. The objectives of IFC PS 5 include:

- To avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs;
- To avoid forced eviction;
- To anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost, and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;
- To improve, or restore, the livelihoods and standards of living of displaced persons; and
- To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.

74. Performance Standard 5 requires:

- That the project proponent identifies those persons who will be displaced and establish a cutoff date to establish eligibility for compensation;
- The project proponent to offer land-based compensation, where feasible, where livelihoods of displaced persons are land-based, or where land is collectively owned;
- Negotiated settlements to be encouraging to avoid forcible removal of people;
- Private sector companies to “bridge the gap” between domestic legal requirements and the requirements of the Performance Standard where necessary; and
- Preparation of a RAP, which demonstrates how displacement will be managed in accordance with the Performance Standard.

75. Performance Standard 5 further requires that standards for compensation be transparent and consistent within a project, and established with the participation of those impacted. Project proponents must, according to the Performance Standard, offer displaced persons’ compensation for loss of assets at full replacement cost, and other assistance to help them improve or at least restore their standards of living or livelihoods.

76. In the case of physically displaced persons, the Performance Standard requires that project proponents offer the choice of replacement property of equal or higher value, equivalent or better characteristics, and advantages of location and security of tenure, or cash compensation at full replacement value where appropriate.



77. If land acquisition for the project causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, project proponents are required to:

- Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost;
- In cases where land acquisition affects commercial structures, compensate the affected business owner for the cost of re-establishing commercial activities elsewhere; for lost net income during the period of transition; and for the cost of the transfer and reinstallation of the plant, machinery or other equipment;
- Provide replacement property (e.g. agricultural or commercial sites) of equal or greater value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable under the national laws;
- Compensate economically displaced persons who are without legally recognizable claims to land for lost assets (such as crops, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost;
- Provide additional targeted assistance (e.g. credit facilities, training, or job opportunities), and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected; and
- Provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.

78. PS5 requires project proponents to identify, review, and abide by all laws of the host country that are applicable to land acquisition and involuntary resettlement.

### **2.3 Comparison of Lenders’ requirements on Involuntary Resettlement and Kazakhstan’s Legislation and Actions to Address the Difference**

79. There are a number of differences between the requirements of Kazakhstan legislation and the Lenders’ requirements related to involuntary resettlement. In particular, Lenders’ Resettlement Policy does not consider the absence of land rights of PAPs as a bar to receive compensation for non-land assets, and entitles vulnerable groups to additional support. In addition, while Lenders’ policy requirements specifically focus on improving the livelihood of vulnerable PAPs, such objective is not sought under national legislation. Under the local legislation, compensation is based on the market price and Lenders’ policy requires compensation at full replacement costs.

80. Key differences between Lenders’ policy requirements related to involuntary resettlement and RoK legislation are outlined in Table 1 below.

*Table 1. Comparison of RoK land acquisition / resettlement practice / policy and Lenders’ policy requirements related to involuntary resettlement policy*

<b>Kazakhstan’s Land Acquisition Practice</b>	<b>Lenders’ Involuntary Resettlement Policy</b>
Compensation of privately-owned land (without taking into account the losses) is based on the market cost.	Compensation of privately-owned land is based on full replacement cost <sup>2</sup> .

<sup>2</sup> (i) According to ADB SPS, the replacement cost is calculated 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. (ADB SPS 2009, Appendix 2, paragraph 10, page 45).

(ii) According to EBRD PR5, the replacement cost is usually calculated as the market value of the assets plus the transaction costs related to restoring such assets. The calculation of replacement costs is complex due to the potential variety of land, land use claimants, and the differing levels of land market development across member

<b>Kazakhstan's Land Acquisition Practice</b>	<b>Lenders' Involuntary Resettlement Policy</b>
Compensation for land and non-land assets is only explicitly provided for titled landowners or leaseholders, who purchased the right to land and leasing from the State. Unregistered land user may have one additional year for land registration.	PAPs without formal legal rights and claims are entitled to compensation for non-land assets (e.g. crop, tree and structure losses).
Objective does not explicitly include restoration of livelihood and standards of living. No requirement for provision of relocation assistance and for exploring opportunities for the PAPs to benefit from the project.	Objective focuses on restoring livelihood and standards of living for PAPs, regardless of tenure or legal status. Physically displaced persons (regardless of their legal status on the land) are provided with: <ul style="list-style-type: none"> <li>• relocation assistance, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, and civic infrastructure and community services as required;</li> <li>• transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and</li> <li>• opportunities to derive appropriate development benefits from the project.</li> </ul>
No provision required for assisting economically displaced persons other than compensation for affected assets and lost income from affected business (including future losses)	Economically displaced persons are provided with: <ul style="list-style-type: none"> <li>• assistance (i.e. credit facilities, training, and employment opportunities).</li> <li>• opportunities to derive appropriate development benefits from the project.</li> <li>• compensation for (i) the costs of reestablishing commercial activities elsewhere; (ii) the net income lost during the transition period; and (iii) the costs of transferring and reinstalling plant, machinery, or other equipment.</li> </ul>
No requirement for conducting a census and socio-economic survey	Socio-economic survey(s) and a census, with appropriate socio-economic baseline data is required to identify all PAPs and to assess the project's socio-economic impacts on them.
Limited requirements to identify and assist vulnerable groups. Social allowances are envisaged for the households below the poverty line, large families having 4 or more children below 18 years, HH with disabled members.	Requires the identification of vulnerable groups and development of targeted measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing the benefits and opportunities resulting from development.

countries. For this reason clients should identify and consult with all persons and communities that shall be displaced by land acquisition as well as host communities who shall receive those who are to be resettled, so as to obtain adequate information about land titles, claims and use. The valuation method for determining replacement cost should be documented in respective Resettlement and/or Livelihood Restoration plans. Where land markets are still in a formative stage, clients should seek valuation by external independent professional valuation experts (or if there are no professional valuation experts, other professionals with relevant expertise acceptable to the EBRD and the client). (EBRD PR5, paragraph 5, footnote 7, page 29).

(iii) According to IFC Guidance Note 5, the replacement cost is defined as the market value of the assets plus transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. Market value is defined as the value required to allow Affected Communities and persons to replace lost assets with assets of similar value. The valuation method for determining replacement cost should be documented and included in applicable Resettlement and/or Livelihood Restoration plans. (IFC Guidance Note 5: Land Acquisition and Involuntary Resettlement, footnote 4, page 3).

<b>Kazakhstan's Land Acquisition Practice</b>	<b>Lenders' Involuntary Resettlement Policy</b>
No requirement for Resettlement Plan preparation and approval. No requirement for PAP consultation.	Requires the preparation, approval, disclosure and monitoring of Resettlement Plan based on PAP consultation and social impact assessment.
Uses negotiated settlement as an initial approach to acquiring land without the requirement for third party validation. If agreement cannot be reached, initiates expropriation procedures,	Encourages acquisition through a negotiated settlement subject to third party validation to ensure compensation at replacement costs and conduct of meaningful consultations with PAPs.

## 2.4 Policy Framework and Entitlements for Displaced Persons under BAKAD

### 2.4.1 Displaced Persons

81. The following groups of PAPs are eligible for entitlements under this LARP and will be addressed in the Resettlement Plan to be prepared for BAKAD (separate sections of it, as relevant):

- i. All PAPs losing land either covered by legal title, legalizable, or without registered ownership status;
- ii. Tenants, whether registered or not;
- iii. Owners of buildings, crops, plants, or other objects attached to the land; and
- iv. PAPs losing business, income, and salaries

82. In case unregistered land users are affected, the GoK/CoR, through the relevant NPTsZem, will assist the affected land users to register or update the registration of their lands in order to enable the GoK to compensate them under existing RoK legislation. The non-land assets/structures on the affected plots of land users without titles will be evaluated and compensated by exactly the same criteria as those with titles.

83. This LARP is applicable only for future additional/new land acquisition requirements that occur on sections of BAKAD where no previous land acquisition was carried out.

### 2.4.2 Entitlements to Compensation and Assistance

84. Compensation and entitlements must ensure that the PAPs maintain or improve their livelihood and standard of living after the project. For purposes of eligibility, the cut-off date for the Project will be determined by the GoK and usually is the date(s) of Akimat(s) decree(s) on land acquisition for state needs. Table 2 below provides the entitlements for various categories of PAPs and degrees of impacts related to the Project.

*Table 2. Entitlement and Compensation Matrix*

<b>Asset</b>	<b>Specifications</b>	<b>Affected Persons</b>	<b>Compensation Entitlements</b>
<b>Permanent Loss</b>			
Agricultural land	Cropped / cultivated land or pastureland	Owners	<ul style="list-style-type: none"> <li>• Land for land compensation with plots of equal value to the plots lost; or</li> <li>• Cash compensation for affected land plot at full replacement value without deduction for taxes, transaction, registration or transfer costs and other applicable payments.</li> </ul>

<b>Asset</b>	<b>Specifications</b>	<b>Affected Persons</b>	<b>Compensation Entitlements</b>
		Renters long-term/ short term	<ul style="list-style-type: none"> <li>Land for land compensation with plots of equal productivity to the plots lost.</li> <li>If the land is not available, consider providing compensation reflecting terms of lease and impact;</li> </ul>
		Squatters (if any)	<ul style="list-style-type: none"> <li>Leased plot on State land; or</li> <li>If leased plot cannot be provided, consider one-off self-relocation allowance equal to 12 months of minimum wage.</li> </ul>
Residential and commercial land		Owners	<ul style="list-style-type: none"> <li>Land for land compensation with plots of equal value to the plots lost; or</li> <li>Cash compensation for affected land plot at full replacement value without deduction for taxes, transaction, registration or transfer costs and other applicable payments.</li> </ul>
		Renters long-term/ short-term	<ul style="list-style-type: none"> <li>Land for land compensation with a plot comparable in value to the lost plot.</li> <li>If the land is not available, consider providing compensation reflecting terms of lease and impact;</li> </ul>
		Squatters	<ul style="list-style-type: none"> <li>A land plot to be provided from the State Land Fund for lease (with no charge for taxes, transaction, registration and land legalization)</li> </ul>
Structures	Residential houses and commercial buildings	Owners of permanent structures, including squatters	<ul style="list-style-type: none"> <li>House for house swap (at the owner option): if replacement is of lower value, cash compensation for the difference; or</li> <li>Cash compensation at the full replacement value for affected structures and other real assets at existing prices at the moment of acquisition with no deduction for depreciation or transaction costs. Compensation will include the value of affected connections to water supply or other public utilities.</li> <li>If immediate accommodation/storage is unavailable, housing/storage rental allowance covering rent for at least 3 months or more if rental requirement period is longer.</li> </ul>
	Temporary structures (kiosks, stalls)	Owners of temporary/ movable structures	<ul style="list-style-type: none"> <li>Approved site to relocate structure with the relevant permissions and access to the road, if required.</li> </ul>
Crops	Crops affected	All PAPs including squatters	<ul style="list-style-type: none"> <li>Crop compensation in cash at full market rate for 1 year gross harvest.</li> </ul>
Trees	Trees affected	All PAPs including squatters	<ul style="list-style-type: none"> <li>Cash compensation reflecting income replacement. Fruit trees value is based on age category and calculated as gross market value of one-year income times the number of years to grow a tree to similar productivity, plus purchase cost of seedlings and starting materials. For wood/timber trees, compensation will be based on the cost of dry wood volume.</li> </ul>
Business and employment	Temporary or permanent business/ employment loss	Business owners (including those with no formal rights on the land) and their affected workers	<ul style="list-style-type: none"> <li>If permanent business loss, cash compensation equal to one-year net income (lost profit).</li> <li>If temporary business loss, cash compensation for the period of income loss (not exceeding one year).</li> <li>If permanent employment loss, 3 months average registered wages (if not registered, based on the official minimum wage in RoK).</li> <li>If temporary employment loss, average registered wage during disruption (if not registered, based on the official minimum wage in RoK).</li> <li>Note: Affected workers will be paid through their</li> </ul>

<b>Asset</b>	<b>Specifications</b>	<b>Affected Persons</b>	<b>Compensation Entitlements</b>
			employers (as per the Labor Code)
Relocation	Transport and transitional livelihood costs	All persons affected by relocation	<ul style="list-style-type: none"> <li>• Transportation allowance sufficient to cover transport expenses; and</li> <li>• Relocation allowance equivalent to monthly rental cost for similar land plots/structure multiplied by the number of months needed to rebuild and relocate to a new site.</li> <li>• Transition allowance to cover their households needs during transition period</li> </ul>
Structure renters		Renters with valid rental contract	<ul style="list-style-type: none"> <li>• Rental allowance in accordance with the conditions of the rent agreement but not less than cost of rent for 3 months. Refund of the unused portion of the rent or lease fees paid in advance.</li> </ul>
Community assets			<ul style="list-style-type: none"> <li>• Rehabilitation or replacement of affected structures to pre-project function.</li> </ul>
Imposition of servitudes		Owners of land plots	<ul style="list-style-type: none"> <li>• Cash compensation for affected land plot and property without deduction for taxes, transaction, registration or transfer costs and other applicable payments.</li> </ul>
Vulnerable population groups		Households below the poverty line; female headed household; large families having 4 or more children below 18 years; HH with disabled members; and elderly with no family support	<ul style="list-style-type: none"> <li>• Assistance equivalent to minimum living wage for 3 months;</li> <li>• Enrollment in government social assistance program if not yet enrolled;</li> <li>• Priority in local employment for able members of vulnerable household.</li> </ul>
Severe impact	Severely impacted households lose 10% or more of their productive/income generating assets, such as agriculture/aqua culture landholding, and/or physically displaced from housing, and/or business owners losing their business	All severely affected households	<ul style="list-style-type: none"> <li>• Assistance equivalent to net income for one year generated on impacted land plot/property (if no data on income is available, then calculation will be based on minimum wage for 12 months) or land swap (if available).</li> <li>• Enrollment in government social assistance program if not yet enrolled and applicable.</li> <li>• Priority in local employment for severely impacted PAPs.</li> </ul>
<b>Temporary Loss</b>			
Land for civil works or borrow pits	Negotiated between owner and Consortium	Owners	<ul style="list-style-type: none"> <li>• Consortium pays cash compensation at existing local rental rates for duration of temporary use plus income/crop/structure loss due to temporary land use, if any as provided for in the entitlements for crops, business and structure losses.</li> <li>• Land restored to original status at the end of rental.</li> <li>• Consortium pays for making land management and legal documents.</li> </ul>
		Leaseholders (long-term and short-term land	<ul style="list-style-type: none"> <li>• Consortium pays cash compensation at local state rental rates for duration of temporary use plus income/crop/structure loss due to temporary</li> </ul>

Asset	Specifications	Affected Persons	Compensation Entitlements
		lease)	land use, if any as provided for in the entitlements for crops, business and structure losses. <ul style="list-style-type: none"> <li>• Land restored to original status at the end of rental.</li> <li>• Consortium pays for making land management and legal documents.</li> </ul>
		State lands (permanent land users)	<ul style="list-style-type: none"> <li>• Land restored to original status at the end of rental.</li> <li>• Environmental safeguard measures.</li> <li>• Consortium pays for making land management and legal documents.</li> </ul>
Imposition of servitudes or other restrictions (might be required for underground pipelines, communication and power lines, other utilities, etc.)		Owners and users of land plots	<ul style="list-style-type: none"> <li>• Signing of servitude agreement, specifying conditions of access to part of the land plot.</li> <li>• Provision of compensation as per servitude agreement.</li> <li>• If imposition of servitude significantly restricts the designated use of land plot or makes the land plot unviable, then at the request of the owner/user the affected land plot will be acquired in full or replaced with another plot comparable in value to the initial plot.</li> </ul>

85. The entitlements provided in the matrix are further elaborated below:

**a. Agricultural land impacts.** The household with legal title to agricultural lands will be compensated at full replacement value either through (i) cash compensation at current market rates of the land (inclusive of fair market value, transaction costs, interest accrued, transitional and restoration costs and other applicable payments), or (ii) granting of replacement land equal in value/productivity to the plot lost as preferred by the owner. Actual transaction taxes/fees will be paid by the GoK or waived by the concerned agency. Compensation will also include costs incurred by the owner related to land plot development, maintenance, protective measures and soil fertility improvement, taking into account the inflation, as well as losses that the owner incurred related to early termination of obligations to third parties.

Leaseholders (whether long-term or short-term) that lease plots from the State will be provided with an alternative land plots, as they may require for maintaining their activity. Resettlement Plan must cover details of modifications, including review of baseline legal documents.

**b. Residual agricultural land impacts.** Residual portions of the acquired lands which are rendered unusable will be included in the affected land and compensated as indicated above subject to the preference of the PAP.

The main criterion to determine whether the residual part (plough land or pasture) is or is not suitable for its earlier purpose is its economic impracticability based on the following: a) small area of the remaining (cut) part; b) difficult access to it (driving of agricultural machinery or cattle/animals via highway); c) high cost for plot development and insignificant profits that can be obtained from its further use. This will be determined by the independent valuator in consultation with the owner or long-term leaseholder.

Alternatively, the PAP has the option of seeking an alternative plot or of changing the intended use of the remaining plot i.e. from agricultural to commercial. Moreover, PAPs may explore the reorganization and swapping of plots with

adjacent owners to improve the economic viability of the remaining agricultural lands. Consortium with support from CoR will coordinate with the relevant NPTsZem in assisting PAPs who opt to change the use of portions of their remaining plot or in swapping with adjacent plot owners/leaseholders.

Transaction taxes/fees and/or registration costs will be paid by the GoK or waived by the concerned agency.

- c. Residential/commercial land.** Households and legal entities which own residential/commercial lands that will be affected by the Project will be compensated at full replacement rate either: (i) in form of land for land with equal characteristics and agreed with the owner; or (ii) cash at current market rates free of transaction costs and depreciation (inclusive of fair market value, transaction costs, interest accrued, transitional and restoration costs and other applicable payments).
- d. Buildings, and structures** will be compensated in cash at full replacement cost free of deductions for depreciation, salvaged materials, and transaction costs irrespective of the registration status of the affected item. The cost of lost connections to water supply and other public utilities will be included in the compensation.

Partial or complete damage to irrigation, drainage and erosion-preventive structures (systems) will be determined based on the cost of constructing new facilities or rehabilitating existing structures (systems), including the cost of design and survey works.

- e. Crops.** Standing crops on the acquired lands will be compensated at market rates for their gross value of 1 year's harvest losses. Crop compensation will be paid both to landowners and tenants based on their agreed sharing scheme.
- f. Trees.** Trees planted by private land users will be paid cash compensation reflecting replacement of income derived from the trees. The economic value of fruit trees will be based on the age category and valued equivalent to one-year income times the number of years to grow a tree to similar productivity. The cash compensation will also include the price of seedlings and starting materials. For wood/timber trees, cash compensation will be based on the price of dry wood volume.
- g. Businesses.** If business is lost permanently, it will be compensated in amount equal to one-year net income (loss of profit). If disruption is temporary, the PAP will be paid cash compensation for the period of business interruption period (not exceeding one year) based on tax declaration or, if unavailable, official monthly minimum salary, taking into account compensation for employed workers based on the Labor Code and the specific labor agreement/contract between the employer and employee. Losses that the owner incurred related to early termination of obligations to third parties, and expenses related to business development will also be considered.
- h. Employees.** Workers whose employment will be disrupted, will be provided with indemnity for lost wages for the period of business interruption up to a maximum of 3 months, based on their registered monthly wages/salaries, or, if unavailable, official monthly minimum salary.
- i. Relocation assistance and transitional allowance.** PAP households/owners of structures who need to relocate will be provided with (i) transportation allowance or transport to help them transport their structures, goods and personal items to a new site; (ii) relocation allowance equivalent to monthly rental cost for similar land

plots/structure multiplied by the number of months needed to rebuild and relocate to a new site; (iii) transition allowance to cover their household expenses during the transition period. The transition allowance will be computed based on the official minimum wage multiplied by the number of months needed for them to rebuild and relocate to a new site.

- j. Community structures and public utilities** will be fully replaced or rehabilitated to maintain their pre-project functions.
- k. Vulnerable people.** Displaced households below the poverty line, female headed households, large families having 4 or more children below 18 years, households with disabled members, and elderly with no family support will be provided cash assistance equivalent to 3 months minimum wage, and will be enlisted in existing special programs and other initiatives for socially vulnerable people (i.e. Targeted Social Assistance and State social benefits) if not yet enrolled. Able-bodied (and qualified, after training if necessary) members of vulnerable households will be given priority in project-related jobs.
- l. Severe impact losses.** Households losing 10% or more of their productive, income generating assets, such as agriculture/aquaculture landholding, and/or physically displaced from housing and/or business owners losing their business will receive an additional allowance for severe impacts equal to net income for one year generated on impacted land plot/property (if no data on income is available, then calculation will be based on minimum wage for 12 months) or land swap (if available). Assistance will also be provided for enrollment in government social assistance program (if not yet enrolled) and enrollment in vocational training programs, in discussion with NGOs and development partners. Priority in local employment will be provided to members of severely impacted households.
- m. Temporary impacts.** In case of temporary land acquisition, compensation will be based at local commercial rental rates for the duration of use, plus income/crop/structure loss due to temporary land use, if any as provided for in the entitlements for crops, business and structure losses. The Project will ensure that the land is restored to its original status at the end of the rental period.

86. For unexpected adverse effects during the project implementation, the relevant community / district / oblast Akimats/CoR will undertake measures in accordance with the objectives of the LARP of restoring the socio-economic and living conditions of the affected persons. The CoR will conduct census / socio-economic survey of PAPs and prepare the Resettlement Plan covering all applicable requirements consistent with the approved LARP.

87. In the case of cash compensation, payments will be delivered by CoR through the banks based on the preference of the PAPs free from fees or processing charges. Expenses related to transfer of funds, and documentation requirements will be covered by the GoK.



### **3. SOCIO-ECONOMIC INFORMATION**

#### **3.1 Procedures for Impact Assessment**

88. Assessment of impacts for Project (its separate sections, as relevant) will be done based on the design documentation. Information on the affected plots will be derived by superimposing the proposed road alignment on the land cadastral map to be provided by the Almaty NPTsZem. The land cadastre will be used to identify the names of the registered landowners / leaseholders with permanent land use rights, land use, size of the affected plots and the proportion of affected land against the total area of the plot. Impacts of land acquisition will be fully assessed once the land plan is available and Corridor of Impact (CoI) boundaries have been marked on the ground. Affected roadside users (i.e. roadside businesses, and services) will be identified through field visits by CoR (or other entity as delegated by CoR) jointly with representative of Consortium. Background information on the PAPs will be obtained using a structured census / socio-economic questionnaire. Secondary information on the social, demographic and livelihood conditions in the Project area will be collected from state agencies and community / district / oblast Akimats. On the basis of the impact assessment and consultation with PAPs, a Resettlement Plan will be prepared. The sample outline of Resettlement Plan is presented in Annex 1.

89. The impact assessment during detailed design will involve the following procedures:
- i. Marking of road CoI boundaries by the Consortium in collaboration with Akimat(s) and CoR;
  - ii. Inventory and valuation of affected assets (land, structures, crops, trees, other improvements) by valuers commissioned by the CoR. A map that will indicate the location of affected structures will be prepared for each road section, as means of controlling which owners should be eligible for assistance during Resettlement Plan implementation;
  - iii. Census of all PAPs by the CoR taking into account their socio-economic characteristics, gender, ethnicity and demography;
  - iv. In parallel with the inventory of assets, a replacement cost survey will be undertaken by independent valuers to serve as a basis for establishing compensation rates at pre-project level replacement cost.

90. The inventory of affected assets will summarize the: (i) number of structures that will be demolished and information on their ownership disaggregated by gender; (ii) the types of construction materials used in the affected structures; and (iii) other immovable assets like electricity connections and source of drinking water, etc.

91. The census / socio-economic surveys of PAPs by the CoR will cover, but not limited to: (a) profiles of household heads by age, gender and education; (b) household members, labor force and employment, disaggregated by gender; (c) family incomes and its sources as compared with poverty thresholds in the oblast; (d) asset ownership such as land, crops and trees; (e) access to social services like schools, clinics, public markets and places of worship; (f) access to electricity connections and roads; and (g) access to common resources in the area. The census will identify the: (a) loss of potential incomes from small business operating alongside of the road; and (b) potential displacement of workers employed by affected business shops. Likewise, the census will identify the impacts and associated risks arising from losses to PAPs particularly on reduced household incomes, and displacement from employment in affected small business shops. It will also identify vulnerable and non-vulnerable households. These impacts will be the basis for compensation

and income restoration of the PAPs. The result of the survey will be complemented with available district-level secondary socio-economic information for the Project area.

### **3.2 Inventory and Valuation of Losses**

92. The licensed independent licensed valuator engaged to assess the current market value of lands and structures to be affected by the Project will conduct a detailed measurement survey of the affected assets. To establish a basis for compensation rates for affected lands and structures to ensure that PAPs are compensated at replacement cost, a replacement cost survey will be conducted. On the basis of this and further information on required rehabilitation measures the compensation, relocation and rehabilitation budget for the Project(s) will be prepared. The final amount of compensation will be agreed between the PAPs and the respective community / district / oblast Akimat. All compensation payments, land transfers will be free of taxes and administrative costs. Costs related to Resettlement Plan preparation and implementation will be the responsibility of GoK through CoR and/or Akimat. CoR is responsible for ensuring the payments are made on time.

93. The cost, timeline and other conditions of acquisition of land plot for state needs will be agreed with land plot owner or the non-governmental land user. In determining the cost of land plot, the full replacement value or the cost of rights to use the land will be considered including the assets found thereon at the time when the right to ownership or land use is terminated. It will also reflect the losses borne by land owner or non-governmental land user at the time of termination of the contract, and losses due to early termination of their obligations to third parties.

94. The full replacement value of the land plot will be determined according to Lenders' policies on involuntary resettlement, which requires replacement cost assessed at current market price and is therefore a higher principle than envisaged under RoK laws. Data sources on farm productivity and agricultural crops will be the (a) the Almaty Department of Agriculture, (b) Almaty Statistics Department and (c) PAPs' statements and other documents/data (pledge agreements, statistics data and tax information regarding farms, etc.). Compensation for crop losses is calculated by taking the average of the gross harvest for the previous three years prior to the acquisition. The unit rate for each crop will be derived by adding the average gross harvest per hectare for the previous three years divided by three. Representatives from construction companies can be consulted on the average cost estimate for constructing a square meter of different structure categories in recent months. Respective community / district / oblast Akimats will also be consulted on the current building standards and prices.

## **4. CONSULTATION, PARTICIPATION AND DISCLOSURE**

### **4.1 Consultations**

95. The Project will promote the active public and stakeholders' participation that involve information exchange and decision-making during the Resettlement Plan preparation and implementation process. The objectives of consultations are to: (a) identify and help address PAPs' concerns related to the preparation and implementation of the Resettlement Plan; (b) determine PAPs' preferences on the type and delivery of compensation; (c) minimize PAPs' concerns and ensure transparency of Resettlement Plan activities; and, (d) help avoiding unnecessary and costly project development delay.

96. According to Lenders' policies, the PAPs must be fully consulted and provided with opportunities to participate in the planning and implementation of LAR processes. They also must be informed in an appropriate and timely manner on their rights and entitlements, the outcomes of the planning process, as well as the schedules and procedures for implementation of the Resettlement Plan. Public information and consultation campaign must be carried out by the CoR (or other entity as delegated by CoR) with participation of the Consortium during all stages of the LAR process. In addition, the CoR (or other entity as delegated by CoR) with participation of the Consortium must also organize public information meetings to ensure disclosure of Resettlement Plan and inform PAPs about the procedures for payments for compensation and relocation.

97. For BAKAD at least one consultation with PAPs will be conducted once the Col is determined. The consultation will present the scope of the Project (or its relevant section), description of temporary and permanent impacts, entitlements of PAPs to compensation and assistance, grievance procedures, schedule of land acquisition activities, role of various agencies and other related information. To ensure that PAPs and other key stakeholders are informed of these consultations, schedule and venues of consultations will be announced in local newspapers at least two weeks before the activity. Individual notifications of potential PAPs will also be made as required under the Land Code. Representatives from NGOs will also be invited as observers to ensure that discussions are free of intimidation and PAPs are allowed to speak. Staff from the CoR (or other entity as delegated by CoR) will record the discussion and prepare minutes of the meeting.

98. Community / district / oblast Akimats shall be informed about BAKAD, as their assistance will be solicited for conducting the inventory of affected assets, the census / socio-economic survey of PAPs and the detailed measurement surveys. Also, prior to the finalization of the Resettlement Plan and its submission to Lenders for endorsement, the CoR shall thoroughly inform PAPs on the results of the census and detailed measurement survey, and their preferences on compensation or other resettlement assistance shall be given due consideration. The processes and mechanisms ensuring the active involvement of PAPs and other stakeholders will be detailed in the final Resettlement Plan including the date, list of participants, and minutes of consultation meetings.

### **4.2 Disclosure of information**

99. Public information brochure that summarizes PAPs' entitlements, procedures, grievance redress and related information will be distributed during consultations. The brochure will also include guidance on temporary use of land for borrow pits, staging areas, labor camps, etc. The brochure will be prepared in two languages – Kazakh and Russian and distributed in community / district / oblast Akimats.

100. The LARP (in Russian and Kazakh languages) shall be made available at the Project area. The LARP (in Russian, Kazakh and English languages) will be uploaded on the websites of Lenders. Similarly, the LARP will be posted on the MIID / CoR and Consortium websites. During the different stages of the Project (planning, implementation, and monitoring), once any LAR impacts occur, the following actions shall be carried out: (i) distribution of public information brochure, (ii) availability of copies of the Resettlement Plan in the office/sites of Consortium and offices of respective community / district / oblast Akimat(s), and (iii) uploading of the Resettlement Plan to the Lenders, Consortium, MIID / CoR and Akimat(s) websites.

101. A summary of the Resettlement Plan (translated in Kazakh and Russian) shall be distributed among the PAPs to provide additional information on the implementation arrangement, payment schedule, assistance to specific groups and complaints resolution options.

#### **4.3 Participation / Involvement of Women and Vulnerable Groups**

102. Measures will be undertaken to ensure that vulnerable people are able to participate in public consultations and other LAR-related activities.

103. During the Resettlement Plan preparation / finalization vulnerable groups will be identified during census / socio-economic survey and CoR will ensure that they are informed of the consultation dates and venues. Meeting with vulnerable people will be conducted to ensure that they are aware and properly informed of their rights, compensation, entitlements and types of assistance, as well as, seek inputs on their concerns, preferences, and recommendations.

104. During Resettlement Plan implementation, the CoR will assign staff to: (i) inform in advance the PAPs (including women-headed households and vulnerable groups) at least 3 months prior to demolition of their structures; (ii) follow up with transfer of funds to the appropriate bank accounts; (iii) encourage any women members of the households to participate in the monitoring and evaluation of LAR; (iv) involve women of affected households and vulnerable groups from the project area in addressing the unexpected social and environmental impacts that arise during Project implementation. Moreover, with the consent of the PAPs, the names of both spouses will be reflected in the registration of new plots and re-registration of the remaining land.

## **5. GRIEVANCE REDRESS MECHANISM**

105. Complaints consideration procedures for the project aim to provide an effective and systematic mechanism for the Project in responding to queries, feedbacks and complaints from affected persons, other key stakeholders and the general public. The stakeholder engagement plan (SEP) includes the overall description of the GRM established as part of BAKAD Project. In the section below the grievance handling process in relation to land acquisition and resettlement is described in detail.

### **5.1 Levels and Procedure for Grievance Redress**

106. The Grievance Redress Mechanism (GRM) is available to people living or working in the areas impacted by the project activities. Any person impacted by or concerned about the project activities has the right to participate in the GRM, should have the easy access to it, and be encouraged to use it. The proposed GRM does not replace the public mechanisms of complaint and conflict resolution envisaged by the legal system of the RoK, but attempts to minimize use of it to the extent possible.

107. Overall responsibility for timely implementation of GRM lies with the Consortium and CoR involved in managing and supervising the civil works and other activities under the BAKAD. Relevant oblast, district and community Akimats, who are mandated by law to perform grievance redress related tasks, and mediators / non-governmental organizations (NGO), who are involved in facilitating amicable resolution of grievances are also included in GRM.

108. This GRM envisages two levels of grievance resolution for the road sector projects implemented under the supervision of the CoR: Grievance Redress Committees (GRC) at regional (oblast) and central (Astana) levels in accordance with the Guideline on Grievance Redress Mechanism on Environment and Social Safeguards for Road Sector Projects approved by the CoR in August 2014 (GRM Guideline). The GRM specified in this section is prepared in accordance with the abovementioned Guideline approaches, however is amended to comply with Project specifics. GRCs are composed of members nominated from Consortium, Akimats and CoR. GRCs at regional and central levels are chaired by the Heads responsible for the overall operation of GRM and its efficient and timely implementation, while the Coordinators are responsible for involving the relevant parties and coordinating the works of GRCs at regional/central levels.

#### **5.1.1 GRM: Regional (Almaty Oblast) Level**

109. At the first stage, the resolution of grievance will be attempted through GRC at regional level through the following steps.

110. Grievance registration: complainants or concerned individuals can visit, call or send a letter or e-mail or fax to community Akimat and/or GRC Coordinator in Consortium. Receipt of grievances lodged in person, via phone, through a letter or e-mail or fax will be acknowledged. GRC at the regional level also considers the anonymous complaints, in case the complainant refuses to provide contact details or no contact information is available in the grievance received by e-mail / mail / fax. Grievances will be recorded in a standard format envisaged by the Guideline.

111. Grievance processing: Queries and complaints that are clarified and resolved at the intake point are closed immediately. Cases requiring further assessment and action are considered by the GRC at regional level. The GRC at regional level: (i) holds meetings on bi-

monthly basis, however special ad hoc meetings can be arranged, as needed; and (ii) discusses the grievance case within ten working days and recommend its settlement to parties. GRC Coordinator at regional level circulates relevant information among the members of GRC, prepares Minutes of GRC meeting and progress reports, and ensures that actions and decisions are properly documented.

112. *Feedback provision:* Receipt of grievances lodged in person or via phone will be acknowledged immediately. Receipt of grievances received through a letter or e-mail or acknowledged through a letter / e-mail / fax within 3 working days upon receipt by GRC coordinator at regional level. In case the grievance is not related to project activities or impacts generated due to the project implementation and cannot be considered under this GRM Guideline, the feedback will be provided to the complaining party specifying to which entity (community / district / oblast level Akimat, as relevant) it has been forwarded.

113. If grievance was resolved at regional level, the complaining party will be informed of the outcome. If grievance was not resolved at the regional level and was passed to the GRC at the central level for consideration and resolution, appropriate information will be provided to the complaining party, including the date when the case was passed to GRC at the central level and the date by which the outcome at the central level is expected.

114. In case of anonymous complaints, the printed response will be posted at the information board of the Consortium office, as well as at the information board of the relevant Akimat, so as the complaining party can approach and review the feedback. In addition the grievance and response can be posted on GRM section of Consortium's website.

### **5.1.2 GRM: Central Level**

115. Following unsuccessful consideration of grievance by GRC at the regional level, complaint resolution will be attempted at a central level through following steps.

116. *Grievance processing:* If grievance cannot be resolved by the GRC at the regional level, it will be forwarded for consideration by the GRC at the central level, including all relevant documents. The GRC at central level: (i) holds meetings on monthly basis, however special ad hoc meetings can be arranged, as needed; and (ii) discusses the grievance case within twenty working days and recommend its settlement to parties. GRC Coordinator at central level circulates relevant information among the members of GRC, prepares Minutes of GRC meeting and progress reports, and ensures that actions and decisions are properly documented.

117. *Feedback provision:* If the grievance was resolved, the complaining party will be informed on the outcome of grievance resolution. If grievance was not resolved by the GRC at central level, appropriate information will be provided to the complaining party, including details why the case was not resolved, as well as recommendation to seek for resolution through the RoK legal system.

118. For anonymous grievances or in cases when the complainant refused to provide contact details, the information on status of grievance redress and outcomes of resolution process will be posted on the information boards of Consortium office and relevant community / district / oblast Akimats.

### **5.1.3 GRM: Legal System**

119. If after the intervention and assistance from the GRCs at both regional and central levels, no solution has been reached, and if the grievance redress system fails to satisfy the

complaining parties, the case will be referred to the court for resolution in accordance with the RoK legislation.

120. In the meantime, it should also be emphasized that the GRM Guideline does not limit the right of the complaining party to submit the case to the court of law in the first stage of grievance process.

## **5.2 Grievance Focal Points**

121. PAPs or other concerned individuals may visit, call or send a letter or fax to GRC at the regional level for Almaty Oblast.

### **GRC Contact Details (Regional Level):**

Contact person: Ayman Zhanuzakova  
Address: Kaskelen city, Zhangozin street, 55/1, office 403  
Tel: +7 727 335 83 42;  
Email: ayman.zhanuzakova@bakad.com.kz

122. The regional GRC for Almaty Oblast includes the following members:

- Head of GRC: *(to be appointed from CoR/oblast Akimat)*
- Coordinator of GRC: *(to be appointed from CoR/Consortium)*
- Members:
  - Representative of Department of Passenger Transport and Automobile Roads of Almaty oblast; *(to be appointed)*
  - Representative of Almaty Oblast Akimat; *(to be appointed)*
  - Representative of Karasay district Akimat; *(to be appointed)*
  - Representative of Talgar district Akimat; *(to be appointed)*
  - Representative of Iliy district Akimat; *(to be appointed)*
  - Representative(s) of NGO. *(to be appointed)*

123. At the Central GRC the key persons are:

- Head of GRC: *(to be appointed)*
- Coordinator of GRC: *(to be appointed)*

### **GRC Contact Details (Central Level):**

Contact person: Asel Karymbayeva  
Address: 32/1 Kabanbay Batyr ave., Astana, 010000, Kazakhstan  
Committee of Roads,  
Ministry of Industry and Infrastructural Development of the Republic of Kazakhstan  
Tel: +8 (7172) 75-46-41  
E-mail: a.karymbaeva@mid.gov.kz

## **5.3 Disclosure of the Grievance Process**

124. The complaints resolution process for this LARP will be disseminated through information brochures and posted to the community / district / oblast Akimat(s) information board, as well as on web-site and information board of the Consortium. Grievance redress mechanism will also be presented during the public consultations and informal meetings at Project area by Consortium representatives. The information of grievance resolution will be summarized in Consortium progress reports to be submitted to Lenders.

## **6. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION**

125. The preparation, implementation, monitoring and evaluation of Resettlement Plan require adequate organizational and institutional support. This section describes the tasks of various units in LAR-related activities.

### **6.1 Committee of Roads**

126. On behalf of MIID, CoR has the overall responsibility for Resettlement Plan preparation, implementation, financing, reporting and evaluation. The CoR will: (a) prepare LARP and Resettlement Plan (including all necessary activities, such as data collection, census, socio-economic survey of the PAPs and valuation of the land / property to be taken, public consultations, disclose the Resettlement Plan and the information brochures, etc.) and submit them to Lenders for approval; (b) implement Resettlement Plan, including making decisions related to the land acquisition and compensation of affected people; (c) direct government units and Akimats involved in land acquisition, plot allocation and complaint handling/grievance resolution; (d) provide sufficient budget for compensation, support and resettlement activities; (e) ensure compliance of land acquisition and resettlement activities with the LARP and approved Resettlement Plan, as well as Lenders' policies, (f) ensure paying appropriate compensation, as well as complete relocation or reconstruction of affected structures/ businesses before civil works start, and (g) carry out monitoring and reporting over Resettlement Plan implementation (including internal monitoring and provision of data to External Resettlement Monitor to prepare compliance report).

127. The CoR is also responsible for ensuring cross-agency coordination and liaison with relevant state agencies involved in implementation of all LAR tasks, making high-level decisions, including participation in resolving PAPs grievances and facilitating court processes. With regard to grievance redress, the CoR will be responsible for establishing the grievance redress committee at central level and provision of support for establishment on the grievance redress committee at regional level. The CoR will assign a dedicated staff member (social specialist) for LAR-related tasks to ensure preparation and implementation of Resettlement Plan, implementation of monitoring and GRM activities, as well as quick preparation of the compliance report/ Resettlement Plan completion report and its submission to the Lenders to allow for timely commencement of civil works.

### **6.2 Akimats**

128. Day-to-day implementation of LAR activities will be the responsibility of the Akimats. A focal points on LAR issues within the district Akimats will be responsible to coordinate the implementation of the Resettlement Plan. District Akimats will be responsible to:

- Provide the list of PAPs to CoR and support with development and update of database of PAPs based on the results of the census and new information;
- Maintain regular coordination with CoR and with relevant state agencies at the Almaty Oblast (e.g. Almaty NPTsZem, Justice Department, etc.);
- Prepare and issue the decree(s) on land/property acquisition for state needs;
- Ensure notification of PAPs on upcoming land/property acquisition;
- Support CoR during census, socio-economic survey of the PAPs and valuation of the land / property to be taken;
- Participate in public consultations, disclosure the Resettlement Plan and the information brochures;
- Prepare documents for negotiation of compensation with the PAPs;



- Prepare documents for formalizing agreements with PAPs and processing of compensation payments;
- Collaborate with CoR to plan and manage Resettlement Plan implementation and the distribution of compensation;
- Follow up with expropriation cases;
- Facilitate conduct of field surveys, and re-registration of the remaining portions of the PAPs land plots;
- Participate in grievance redress process at local level;
- Assist in facilitating discussions and agreements among PAPs and other adjacent land users for land swapping and land reconsolidation;
- Assist PAPs who may wish to reclassify the remaining portions of their plots that are no longer viable for continued agricultural activities;
- Provide necessary data to the CoR for internal monitoring purposes;
- Provide necessary data to the External Resettlement Monitor.

### **6.3 Consortium**

129. The Consortium will carry out the duties related to monitoring of LAR activities and grievance redress. The Consortium staff will include a full time specialist (engaged for at least the first year of Project implementation) to be responsible for LAR and GRM tasks. In particular, the Consortium will:

- Identify the requirements of (i) additional land to be acquired for permanent use; (ii) additional land that may be temporarily required for implementation of construction works;
- Maintain regular coordination and communication with relevant state agencies at the Almaty Oblast (e.g. Almaty NPTsZem, Justice Department), and respective Akimats;
- Participate in public consultation and disclosure activities;
- Collaborate with CoR to coordinate grievance redress on regional level;
- Provide information to CoR on temporary land use for monitoring purposes;
- Engage an External Resettlement Monitor which will be responsible for external monitoring and preparation/submission of Resettlement Plan completion report to document the Resettlement Plan implementation processes.

### **6.4 Other Agencies and Institutions**

130. Several other institutions will take part in the preparation and implementation of LAR activities. These are:

- GoK will participate in financing the compensation for land / property acquisition and resettlement;
- Local Courts. The court system will be involved in LAR process in case the agreement is not reached between respective Akimat / CoR and the owner/user of the affected land plot / property. The RoK court system has a pyramidal hierarchy and includes (i) district (rayon) courts; (ii) regional courts; and (iii) Supreme court of the RK. Meantime the trial process has the following steps: (i) Court of First Instance; (ii) Appeal Court; (iii) Cassation Court; and (iv) Supreme Court. In case of expropriation issues Akimat / CoR shall rely on the court system, which based on due legal process will review the expropriation cases, carry out a hearing and decide whether the land / property can be expropriated and at what price;
- Independent Valuers. These will be accredited / licensed private firms hired by CoR to evaluate the affected assets subject to acquisition / expropriation.

### **6.5 Lenders**

131. Lenders will review LAR documents prepared for BAKAD to ensure compliance with their policy requirements.

## **6.6 RESETTLEMENT PLAN Preparation and Implementation Process**

132. Resettlement Plan preparation will start at the design phase, when the CoI is defined the LAR impacts are confirmed. Resettlement Plan will specify the timeline for preparation, finalization, approval and implementation of the Resettlement Plan activities. Following completion of LAR activities (confirmed by ERM), the civil works can be started in Project area (in sections that involve LAR). Restoration of temporarily acquired lands will be done at the end of the rental period. Table 3 below summarizes the roles of various entities in the preparation, review, implementation, evaluation and reporting of Resettlement Plan.

*Table 3. Resettlement Plan preparation, finalization and implementation process*

<b>No.</b>	<b>Work Description</b>	<b>Responsible Agency/Unit</b>
<b>A. Resettlement Plan Preparation</b>		
A1	Finalization of design	Consortium
A2	Definition of CoI and list of PAPs	NPTsZem, Akimats
A3	Collection/verification of documents on affected assets and businesses	CoR, community / district / oblast Akimats, supported by independent valuers
A4	Finalization of compensation rates	
A5	Finalization of sites to be made available as replacements plots for lease and agreements with leaseholders	
A6	Preparation of draft Resettlement Plan	
A7	Review/approval of final Resettlement Plan	Lenders, CoR
A8	Disclosure of Resettlement Plan	Lenders, CoR / MIID, Consortium
<b>B. Resettlement Plan Implementation</b>		
B1	Issuing decree on land/property acquisition for project purposes	GoK, CoR, Akimats
B2	Processing of LAR funds, including those needed for supplemental assistance and provision of renewed leases	GoK, CoR, Akimats
B3	ERM mobilization	Consortium
B4	Identification of different types of PAPs	CoR supported by independent licensed valuers and Consortium
B5	Official notification on land acquisition	Akimat, CoR
B6	Issuance of new leases in alternative plots for leaseholders.	Akimat, CoR
B7	Registration of new plots, including new leases	Almaty Oblast Department of Justice / Almaty NPTsZem, CoR
B8	Expropriation cases	Akimat, CoR, GoK
B9	Monitoring reports on LAR	CoR
B10	Preparation of the completion report / compliance report	External Resettlement Monitor with support from Consortium, CoR, Akimat
B11	Review of compliance report	Lenders
B12	Post Resettlement Plan evaluation	External Resettlement Monitor

## **7. MONITORING AND REPORTING ARRANGEMENTS**

133. The primary objective of monitoring is to identify as early as possible progress on Resettlement Plan implementation achieved and the cause(s) of constraints so that arrangements in Resettlement Plan implementation can be adjusted. Monitoring is important because Resettlement Plan implementation is often the critical path for any project where civil works are involved, due to issues on land acquisition, compensation and resettlement that may cause delay in civil works. The early identification of the causes of delay will enable the CoR to prepare the mitigating measures during Resettlement Plan implementation. The following two mechanisms will be used: (i) internal monitoring in collaboration with CoR; and (ii) external monitoring..

### **7.1 Internal Monitoring**

134. All activities in LAR are time bounded. CoR will routinely perform internal monitoring of LAR activities with results to be reported to Lenders on quarterly basis. Related information will be collected from the Akimat(s) and field to assess the progress and results of Resettlement Plan implementation, and to adjust the work program, when necessary. Indicators subject for integrated internal monitoring will be those related to process and immediate outputs and results, such as the following: (i) disclosure, information campaign and consultations with PAPs and stakeholders; (ii) payments of compensation on lands and affected structures; (iii) status of relocation of affected structures and other assets of PAPs; (iv) payments of loss incomes to affected small businesses; (v) provision of alternative land leases; and (v) re-registration of plots and (vi) restoration of living standards.

135. The preceding indicators will be monitored monthly by applying the following approaches: (a) review of detailed measurement survey of all PAPs; (b) consultations and informal interviews with PAPs; (c) in-depth case studies; (d) sample survey of PAPs; (e) key informant interviews; and (f) public meetings with people in the villages traversed by the Project road.

### **7.2. External Monitoring**

136. The function of the External Resettlement Monitor (ERM) will be carried out by the independent resettlement consultant, which will be responsible for external monitoring and preparation/submission of Resettlement Plan completion report to document the Resettlement Plan implementation processes. External monitoring will be carried out during Resettlement Plan implementation and will be concluded after the Resettlement Plan is fully implemented by the preparation of a Completion Report/Compliance Report. If the Resettlement Plan implementation includes Livelihood Restoration Measures which will require longer timescale for full implementation, then the Compliance Report will need to confirm that the implementation of livelihoods restoration measures is on track (in case these are not fully implemented yet).

137. The ERM will perform the following activities:

- Review the records at Akimats, CoR and Consortium, analyze the payment of compensations, procedures for approving payment of compensations and recommend on their compliance with the LARP and Lenders policy requirements;
- Interview a random representative sample of PAPs to assess their knowledge and concerns about the LAR process, their entitlements, and assistance measures;

- Observe the functioning of the LAR operation at all levels to assess the effectiveness of and compliance with Resettlement Plan;
- Verify the nature of grievance issues and the functioning of grievance redress mechanism by reviewing the processing of appeals at all levels by interviewing the aggrieved PAPs;
- Where feasible, survey the standards of living of PAPs and the people in unaffected portion nearest the civil works sites before and after displacement, to assess the effects of LAR to PAPs who own small businesses;
- Advise CoR and Akimats regarding the possible improvements in Resettlement Plan implementation and corrective action plans if required; and
- Prepare Compliance Report.

138. Assessment by ERM on compliance with Resettlement Plan implementation will be provided to CoR and Lenders for review and appropriate actions, if needed.

## **8. BUDGET AND FINANCING**

139. The GoK/CoR is responsible for Resettlement Plan preparation and implementation, all land acquisition costs, the compensation of losses, resettlement-related operations, transaction/registration costs, costs for allocation of new leases, and land plot re-registration associated with the implementation of Resettlement Plan for BAKAD.

140. Resettlement Plan will include a budget section indicating (i) unit compensation rates for all affected items and allowances, (ii) methodology followed for the computation of unit compensation rates, and (iii) a cost table for all LAR-related expenses including administrative costs and contingencies. GoK/CoR will ensure the timely allocation/transfer of funds needed to implement the Resettlement Plan. Allocations will be periodically reviewed based on the budget requirements indicated in the Resettlement Plan.

## **ANNEX 1. SAMPLE RESETTLEMENT PLAN OUTLINE**

### **A. Executive Summary**

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

### **B. Project Description**

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

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

This section:

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

### **D. Socio-economic Information and Profile**

This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:

- define, identify, and enumerate the people and communities to be affected;
- describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
- identify gender and resettlement impacts, and the socio-economic situation, impacts, needs, and priorities of women.

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

This section:

- G1. identifies project stakeholders, especially primary stakeholders;
- G2. describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- G3. describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- G4. summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- G5. confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- G6.** describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

### **F. Grievance Redress Mechanisms**

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

## **G. Legal Framework**

This section:

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

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

This section:

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

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

This section:

- (i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- (ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) describes plans to provide civic infrastructure; and
- (vii) explains how integration with host population will be carried out.

## **J. Livelihoods Restoration and Rehabilitation**

This section:

1. identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
2. describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include induced benefit sharing, revenues sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
3. outline measures to provide social safety net through social insurance and/or project special funds;
4. describes special measures to support vulnerable groups;
5. explains gender considerations; and
6. describes training programs.

## ▪ **Resettlement Budget and Financing Plan**

This section:

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

▪ **Institutional Arrangements**

This section:

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

▪ **Implementation Schedule**

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

▪ **Monitoring and Reporting**

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