

THE REPUBLIC OF KENYA IN COLLABORATION WITH DANIDA BUSINESS FINANCE



ATHI WATER SERVICES BOARD

**CONSULTANCY SERVICES FOR FEASIBILITY STUDIES, CONCEPTUAL
DESIGN AND PREPARATION OF DESIGN-BUILD TENDER
DOCUMENTATION**

CONTRACT NO. AWSB/DBF/CS-01/16

RESETTEMENT ACTION PLAN

FOR

**GITHUNGURI GITHUNGURI WATER AND SANITATION IMPROVEMENT
PROJECT**

DRAFT REPORT

SEPTEMBER 2018

Fact Sheet

Project Name	Thika Githunguri water and Sanitation Improvement Project
Assignment Name	Githunguri Resettlement Action Plan
Lead Implementing Agency	Athi Water Service Board
Funding Agencies	Government of Kenya and Danida Business Finance
Consultants	Niras in association with Losai management
Start Date	6 th June 2018
Completion Date	1 st August 2018
Team Leader	Eng. Lawrence Mwangi
Target settlements	Githunguri urban center and the surrounding environments

Submission Details

Certificate of Declaration and Document Authentication

This Resettlement Action Plan (RAP) for Githunguri water and sanitation improvement project has been prepared under Consultancy Services for Environmental and Social Impact Assessments and Resettlement Action Plans for Thika Githunguri water and Sanitation Improvement project by Niras in association with Losai on behalf of AWSB

Report Prepared by:

Signed Date.....

Checked by:

Full Name of Authorized Representative:

SignedDate.....

ENG LAWRENCE MWANGI

LOSAI MANAGEMENT

Client

SignedDate.....

List of Acronyms

ADR	Alternative Dispute Resolution
AWSB	Athi Water Services Board
CG	County Government
CGRC	Community Grievance Redress Committee
DCC	Deputy County Commissioner
DBF	Danida Business Finance
ESIA	Environmental Social and Impact Assessment
EMSF	Environmental and Social Management Framework
EMCA	Environmental Management and Coordination Act
GIWASCO	Githunguri water and Sanitation company
GOK	Government of Kenya
GO	Grievance Officer
GRC	Grievance Redress Committee
IFC	International Finance corporation
LA	Land Act
MOWS	Ministry of Water and sanitation
NEMA	National Environment Management Authority
NLC	National Land
NPL	National Land Policy
NGO's	Non-Governmental Organizations
PAP	Project Affected Person
PAD	Project Appraisal Document
PCT	Project Coordination Team
PS	Performance Standard
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
ROW	Right of Way
THIWASCO	Thika water and Sanitation company
SEBR	Socio-Economic Baseline Report
SMP	Social Management Plan
STP	Sewer Treatment Plant
WTP	Water Treatment Plant
WSS	Water Supply and Sanitation

Table of Contents

Fact Sheet	ii
Submission Details.....	iii
List of Acronyms	iv
Table of Contents	v
List of Tables	viii
List of figures	ix
Executive summary.....	x
E-1 Project Information	x
E-2 Project Description	x
E-3 Consultation	xi
E-4 Resettlement Impacts and Budget	xii
Chapter 1: Introduction	1
1.1 General background	1
1.1.1 Water and sanitation Service provider	2
1.2 Project Description.....	3
1.3 Statement of the problem and need for RAP	5
1.4 RAP Approach and Methodology	5
1.4.1 Review of Documentation	6
1.4.2 Community and Institutional Consultations	6
1.4.3 Census Survey Methodology	6
1.5 Scope and objective of the Resettlement Action Plan	8
1.5.1 Scope of the resettlement Action Plan	8
1.5.2 Objectives of the RAP	9
1.6 Project Social Documentation.....	10
1.7 Principles of the RAP	10
1.7.1 Key component of RAP	11
1.7.2 Legal framework of RAP.....	11
Chapter 2: The Rap Process	13
2.1 Introduction	13
2.2 Stakeholder Consultations	13
2.3 Valuation of Assets and Livelihoods.....	14
2.4 Basis for Valuation for Land	15
Chapter 3: Policy, Legal and Institutional Framework	16
3.1 Over view	16
3.2 The National Land Policy.....	16
3.3 Land Tenure System in Kenya	17
3.3.1 Customary Land Tenure	17
3.3.2 Freehold Tenure	17
3.3.3 Leasehold Tenure.....	18
3.3.4 Public Tenure	18
3.3.5 Public Resources on Public Land.....	19
3.4 Land Act, 2012.....	19
3.4.1 Land Acquisition Process	19
3.4.2 Children and Orphans Provision of Land Possession	25
3.5 Environment and Land Court Act (2011)	25
3.6 The Valuers Act	25
3.7 Kenya Roads Act, 2007 (NO. 201 OF 2007)	26
3.8 Physical Planning Act (CAP. 286).....	26
3.9 Constitution of Kenya (2010)	27
3.10 International Finance Corporation performance standards	28

3.10.1	Performance Standard 1	29
3.10.2	Performance Standard 5	29
3.11	Analysis Of Gaps Between Kenyan Legal And Policy Framework And IFCs Performance standards	32
Chapter 4:	Socio Economic Baseline.....	36
4.1	Summary methodology.....	36
4.1.1	Summary of the Socio Economic Methodology.....	37
4.1.2	Literature Review.....	37
4.1.3	Socio-Economic Survey.....	37
4.1.4	Census and Inventory	37
4.1.5	Public Participation and Consultation.....	38
4.1.6	Assessment Team	39
4.2	Outcome of the baseline survey	39
4.2.1	Demography	39
4.2.2	Livelihood and income sources.....	40
4.2.3	Average monthly income.....	41
4.2.4	Vulnerability.....	42
4.2.5	Access to public services.....	42
4.2.6	Awareness of the Project and Project Impacts.....	43
4.2.7	Compensation.....	43
Chapter 5:	Project Impacts	44
5.1	Minimizing Displacement and Social Impacts	44
5.2	Anticipated impacts	44
5.2.1	Impact on Land: The Project-Affected Area.....	44
5.2.2	Impact on Crops and Trees	45
Chapter 6:	Public Consultations and Disclosure	46
6.1	Legal and Policy Provisions for Stakeholder Consultations.....	46
6.1.1	EMCA 2015 through the Legal Notice No. 101: the Environmental (Impact, Audit and Strategic Assessment) Regulations, 2003	46
6.1.2	Performance standard 1 Assessment and Management on Environmental and social risks and impacts 46	
6.1.3	Performance Standard 5 Land Acquisition and Involuntary Resettlement	47
6.2	Schedule of Stakeholder Consultations	47
6.3	Consultation outcomes	48
6.4	Inclusion of Outcomes of Stakeholder Engagement in the Feasibility study of the Project	49
6.4.1	Project Impacts on Peoples Assets of and Sources of Livelihood	49
6.5	Public Disclosure of RAP, and Annual Monitoring Reports	49
CHAPTER 7:	Resettlement Compensation Strategies	50
7.1	Key Principles in Resettlement Compensation Strategies	50
7.2	Conditions of eligibility for compensation	50
7.2.1	Cut-Off Date.....	50
7.2.2	Eligibility.....	51
7.2.3	Entitlements.....	51
7.3	Compensation Entitlement Matrix.....	52
CHAPTER 8	GRIEVANCE REDRESS MECHANISM	55
8.1	Grievance Procedure and Rationale.....	55
8.2	Possible Sources of Grievances	55
8.2.1	Formations of the grievance redress committee (GRC)	56
8.2.2	Proposed Grievance Redress Procedures	57
8.2.3	The Functions of Grievance Redress Committee.....	58
8.2.4	Role of Local Civil Administration and Other Mediation Channels.....	59
8.2.5	Grievance Redress Procedures	59
8.2.6	PAPs Participation & Agreement on Grievance Process.....	59

CHAPTER 9: VALUATION AND COMPENSATION	61
9.1 Valuation and Related Legal Issues	61
9.2 RAP Valuation Process	61
9.3 Land Acquisition	61
9.4 Valuation Methodology	62
9.5 Basis for Valuation for Land	63
9.6 Valuation of Crops and Trees	64
9.7 RAP budget.....	64
Chapter 10: Monitoring and Completion Audit.....	66
10.1 General objective of monitoring	66
10.2 Internal Monitoring.....	66
10.2.1 Objectives.....	66
10.2.2 Indicators and Frequency of Monitoring.....	66
10.3 External Monitoring	67
CHAPTER 11: Implementation of the Rap.....	69
Annexes	70

List of Tables

Table 1: Comparison of Kenyan and IFC performance standard on land acquisition and involuntary resettlement	33
Table 2: Githunguri Growth projections	40
Table 3 Schedule of KII Consultation	47
Table 4: Summary of outcome of public consultation and participation	48
Table 5: Entitlement Matrix.....	51
Table 6 : PAPs and their details	53
Table 7: Budget.....	64
Table 8: Implementation Schedule.....	69

List of figures

Figure 1: GIWASCO Service Provision Area	3
Figure 2: Water network.....	4
Figure 3: proposed disposal network	5
Figure 4: Asset and livelihood valuation	8
Figure 5: Local leaders, Giwasco MD and A PAP consulting the RAP officer	38
Figure 6: RAP team with the local leaders at the proposed sewer treatment site.....	39
Figure 7 : Distribution of PAPs Based on the Gender of the Respondent	40
Figure 8: Households main source of income	41
Figure 9: Average monthly income	42
Figure 10: water source	43
Figure 11: Crops within the proposed sites	45
Figure 12: Dispute Management Procedure	60

Executive summary

E-1 Project Information

The Government of Kenya through Athi Water Services Board (AWSB) plans to implement a new Water and Sanitation Improvement Project in Githunguri urban center, in Githunguri constituency Kiambu County with funding support from Danida Business Finance (DBF). The proposed project will serve population in Githunguri constituency and its surrounding environs.

This report presents Resettlement Action Plan (RAP) prepared for potential Projects impacts on people's assets and sources of income. The report also provides applicable entitlement, proposed compensation and livelihood restoration measures to the Project Affected Person (PAPs) as required by Kenyan Laws and IFCs Performance Standards on Involuntary Resettlement.

The preparation of this RAP involved review of key documents including the international finance corporation Performance Standards (PS 5) and Kenyan laws touching on land and other best practices. The methodology also involved field work; consultations with the community, project affected persons, and other stakeholders; socio-economic survey of the settlements and census of affected assets and livelihoods. The report also provides applicable entitlement, proposed compensation and livelihood restoration measures to the Project Affected Person (PAPs) as required by Kenyan Laws and IFCs PS5 and persons; valuation; and preparation of PAP registers.

E-2 Project Description

The Projects as provided by the Feasibility Study Reports and ESIA report for Githunguri Water and Sanitation Improvement Project under this consultancy shall focus on the following priorities:

(i) Water.

- ❖ Replacement of existing (4 No) boreholes replaced by 4 No new boreholes with increased capacity, as a complementary source, making use of solar energy to operate borehole pumps (locality of new boreholes to be determined after geophysical investigation),
- ❖ Surface water from the Mukuyu River at the new weir as a primary source with boreholes as a complementary source,
- ❖ Geophysical investigation to determine the locality of 4 No new boreholes to replace existing boreholes, and the viability of providing 3 new boreholes to supply water to consumers in the

Kimotu area which is out of reach of the gravity supply from the Mukuyu weir, i.e. 7 new boreholes in total.

- ❖ Installation of an intake at Mukuyu Weir, now under construction, feeding into a 0.8km long gravity main from the weir to a proposed new WTP.
- ❖ Construction of a water treatment plant, capacity 5000m³/d, will be provided 0.8km downstream of the Mukuyu Weir.
- ❖ Installation of a 4km gravity main from a new WTP downstream from Mukuyu Weir to the new 3000m³ Thakwa Storage reservoir.
- ❖ A new 3000m³ storage reservoir at the Thakwa borehole site, together with a new water testing laboratory and a materials store.
- ❖ Extension of the existing network plus replacement of sections of the existing network.

(ii) Sanitation

- Installation of two outfall sewers that will drain approximately 90% of the Githunguri urban area.
- Construction of a new STP, with a treatment capacity of 2900 m³/day utilizing trickling filter technology.
- Treated sludge will be deposited in sludge drying beds.
- A totally new network will be designed and constructed for the two catchments.
- Provision for disposal of septage via exhausters

E-3 Consultation

Consultations with the PAPs have been undertaken to discuss and agree on the mitigation options. The PAPs are willing to pave way for the project if they are compensated. The population affected by this project includes people practicing agriculture on the riparian zone in violation of Kenyan laws. Those occupying private land are entitled to compensation while those occupying the riparian reserves are often referred to as encroachers, and are not entitled to compensation for loss of land under the government of Kenya laws. However, they are entitled to compensation for any improvement made to the land as well as to resettlement assistance to an area where they can live legally if they occupied the project area before an established cutoff date.

A prior socio-economic survey of the settlements was undertaken as part of the Consultancy (questionnaire annexed). Moreover, a census of the Project-Affected People (PAPs) was undertaken and a

PAP Register prepared. A total of 36 Persons will be affected by the project. The kinds of losses identified are private land trees and crops.

E-4 Resettlement Impacts and Budget

Valuation of the affected assets and livelihoods has been undertaken and an entitlement matrix and compensation package proposed in this RAP. 31 persons will be affected by the project, these include 3 (three) land owners on the proposed water treatment plant and 2 (two) land owners on the proposed sewer treatment plant while the rest 25 PAPs will lose their crops. The 26 PAPs are farming arrowroots along the riparian reserve on the proposed sewer pipeline. The RAP proposes the settlement of compensation and resettlement assistance before the commencement of the project. Approximately Kshs. **Ksh 18,442,219.95** has been provided as a budget to implement the RAP.

The project will not result in large scale disruptions of livelihoods and people as the project mainly utilize the riparian zones, road reserve and public land. However the construction of the waste water treatment plant and water treatment plant will affect a private land owners while installation of sewer lines and extension of water pipeline to unserved areas will affect the livelihood of the encroachers.

With the implementation of mitigation measures proposed in this RAP, the overall negative social impacts of the project will be minimal. The project will also offer significant socioeconomic opportunities for communities and the population of the area.

Chapter 1: Introduction

1.1 General background

The Government of the Republic of Kenya (GoK) has mainstreamed its National Water Policy to envisage 100% access to safe water and sanitation facilities for the Country's population by year 2030. To achieve this target, the GoK has been implementing a far-reaching sector reform program since 2002 aimed at harmonizing the Management of Water Resources and Water Supply and Sanitation (WSS) throughout the Country. This reform has been propelled by the Water Act (2016), which aims at harmonizing the Management of Water Resources and Water Supply and Sanitation Services.

In August 2010, Kenya enacted a new Constitution. A key benchmark of the new Constitution is stipulated under Chapter IV-Bill of Rights, paragraph 43(1) (b) and (d) which stipulates: "Every person has the right to (b). Reasonable standards of sanitation and (d) clean and safe water in adequate quantities."

Access to improved sanitation is a major challenge both in urban and rural areas. In the rural areas, people continue to defecate in the open (15% against 3% in urban areas), primarily due to availability of open land, but also because it is considered culturally appropriate in some regions. In urban areas, the challenge is even more daunting as urban growth outstrips the provision of basic services, sanitation included. Secondly, urban planning hardly precedes settlement, making it much harder for utilities to provide water and sanitation services. Thirdly, having a toilet, either connected or not connected to a piped wastewater system is only one part of fecal waste management

Achieving the Sustainable development goal of universal sanitation coverage by 2030, and ending open defecation by 2020 requires a paradigm shift of policies, technologies and mindsets. It is estimated that if the current trend of sanitation coverage is maintained, it would take Kenya another 200 years to achieve universal sanitation coverage.

Danida Business Finance (DBF) has been supporting the GoK in its Water Sector Reforms through financing of Programs towards improvement of Water and Sanitation Services in the Country. The Government of Kenya has received funding from DBF through Athi water service Board for financing Thika and Githunguri Water and Sanitation Improvement Project.

This RAP presents findings for Githunguri Water and Sanitation Improvement Project.

Athi Water and Service Board (AWSB) is one of the eight Water Boards under the Ministry of Water and Sanitation created to bring about efficiency, economy and sustainability in the provision of water and sewerage services in Kenya.

Athi Water covers an area of 3,810 square kilometres with a population of 5.5 million people and a population density of 8,472.48 persons per square kilometer. AWSB ensures the provision of quality and affordable water and sewerage services in its area of jurisdiction – Kiambu, Nairobi and some part of Murang'a counties - through its twelve (12) appointed Water Services Providers (WSPs).

As duty bearers, Athi Water:

- Plans and develops National Public Water Works for bulk water supply.
- Formulates Development and Investment Plans in liaison with county governments.
- Provides input to the national development and financing plan.
- Provides technical assistance to Water Service Providers for county asset development.

AWSB is the promoter on behalf of Kiambu County and is managing the implementation of Thika Githunguri Water and Sanitation Improvement Project. There after AWSB will hand over the project to 2 of its WSPs (THIWASCO and GIWASCO) where the project falls for management and operation.

1.1.1 Water and sanitation Service provider

Githunguri Water and Sanitation Company (GIWASCO) is a Water Service Provider under County Government of Kiambu responsible for Water and Sanitation Services in Githunguri Sub County & Lower Parts of Lari Sub-County. GIWASCO area of service jurisdiction is as shown in figure 1 below. Currently, GIWASCO is only serving 45 % of Githunguri urban center population with water. The rest of the people rely on water from community boreholes, individual boreholes, streams/ rivers and rain water.



Figure 1: GIWASCO Service Provision Area

1.2 Project Description

The project as provided by Feasibility Study report for Githunguri Water and Sanitation Improvement Project under this consultancy shall focus on the following priorities in Githunguri urban center and the surrounding environs.

1. Water.

- ❖ Replacement of existing (4 No) boreholes replaced by 4 No new boreholes with increased capacity, as a complementary source, making use of solar energy to operate borehole pumps (locality of new boreholes to be determined after geophysical investigation),
- ❖ Surface water from the Mukuyu River at the new weir as a primary source with boreholes as a complementary source,
- ❖ Geophysical investigation to determine the locality of 4 No new boreholes to replace existing boreholes, and the viability of providing 3 new boreholes to supply water to consumers in the Kimotu area which is out of reach of the gravity supply from the Mukuyu weir, i.e. 7 new boreholes in total.
- ❖ Installation of an intake at Mukuyu Weir, now under construction, feeding into a 0.8km long gravity main from the weir to a proposed new WTP.

- ❖ Construction of a water treatment plant, capacity 5000m³/d, will be provided 0.8km downstream of the Mukuyu Weir.
- ❖ Installation of a 4km gravity main from a new WTP downstream from Mukuyu Weir to the new 3000m³ Thakwa Storage reservoir.
- ❖ A new 3000m³ storage reservoir at the Thakwa borehole site, together with a new water testing laboratory and a materials store.
- ❖ Extension of the existing network plus replacement of sections of the existing network.

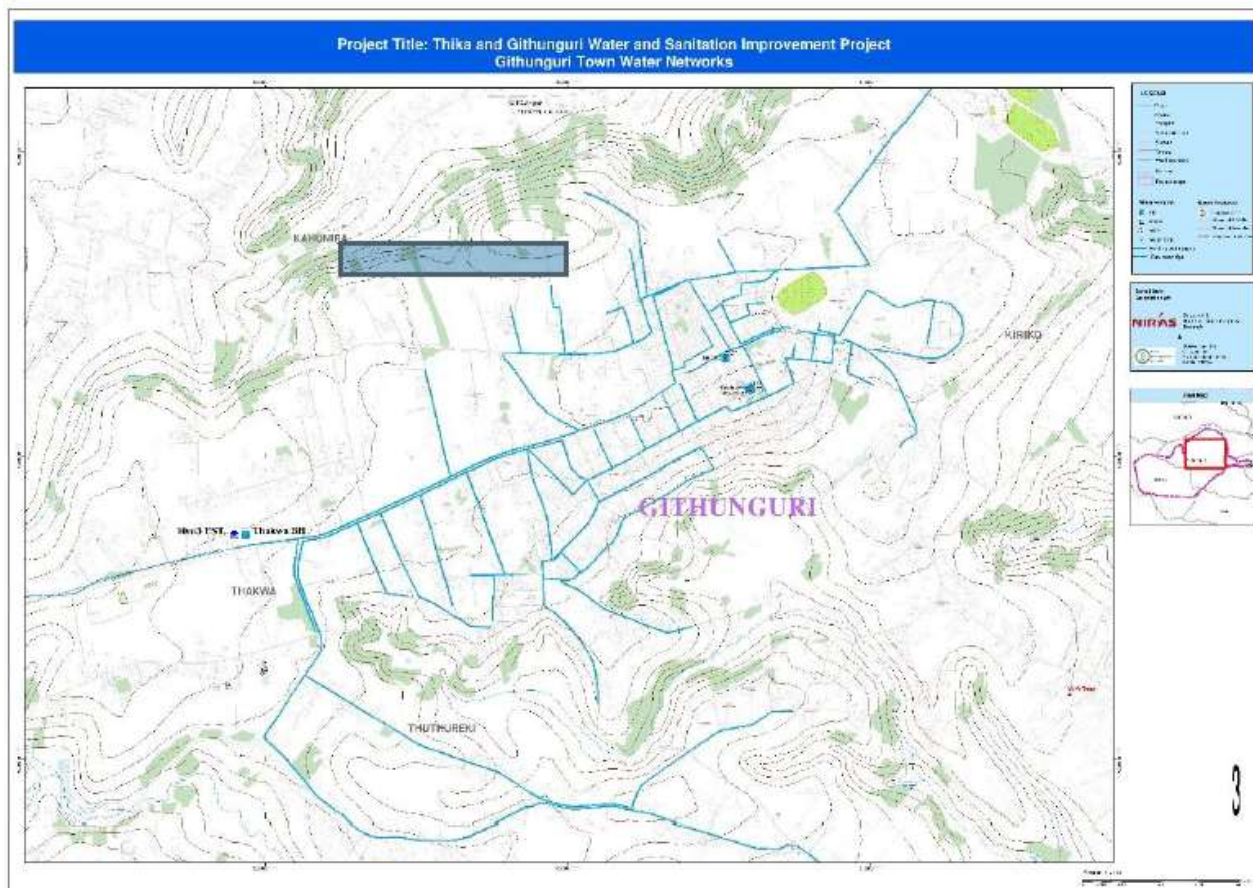


Figure 2: Water network

2. Sanitation

- Installation of two outfall sewers will to drain approximately 90% of the Githunguri urban area.
- Construction of a new STP, with a treatment capacity of 2900 m³/day utilizing trickling filter technology.
- Treated sludge will be deposited in sludge drying beds.
- A totally new network will be designed and constructed for the two catchments.
- Provision for disposal of septage via exhausters

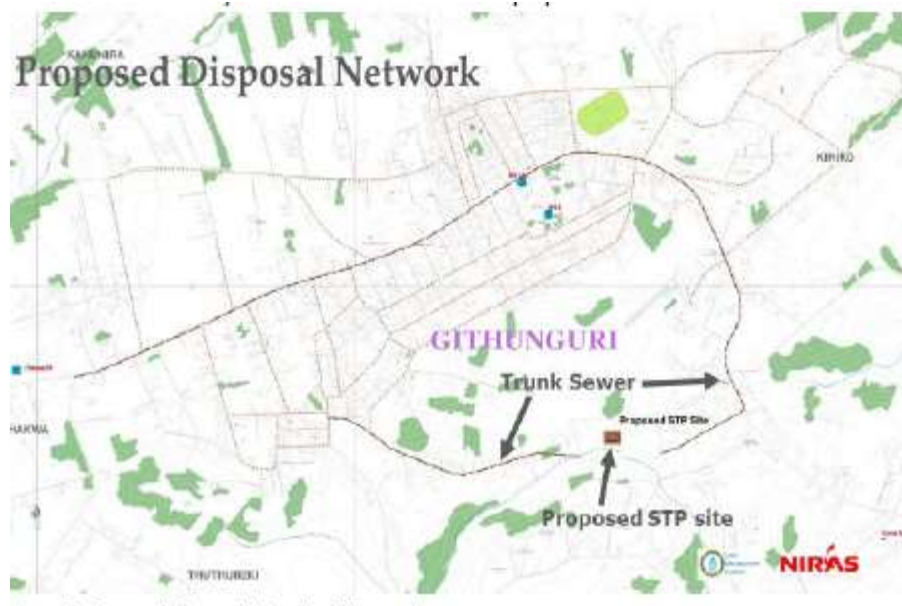


Figure 3: proposed disposal network

The project details including specific dimensions and layout have been prepared as a separate document i.e Feasibility Study Report under this consultancy.

1.3 Statement of the problem and need for RAP

Displacement impacts are anticipated to be quite small in scale occasioned by:

- (i) Reclamation of encroached way-leaves
- (ii) Acquirement of private land.

The IFC PS 5 requires the development and implementation of a Resettlement Action Plan (RAP) to address any anticipated displacement impacts of any proposed project. Moreover, the Environmental Management and Coordination Act, 1999 with 2015 amendments, provides for a RAP whenever displacement is identified as an impact during Environmental and Social Impact Assessment (ESIA).

1.4 RAP Approach and Methodology

The methodology adopted in the preparation of this RAP involved various steps:

- (i) Review of relevant documents
- (ii) Field work
- (iii) Community and stakeholder consultation
- (iv) Socio-economic survey and census of the PAPs and assets
- (v) Valuation of assets and livelihood losses
- (vi) Preparation of PAPs registers

1.4.1 Review of Documentation

The RAP was prepared based on the survey plans undertaken for the Project. The documents that were reviewed included;

- (i) Survey Plan and Layout Plans
- (ii) Project Scoping Report
- (iii) Project Draft Socio Economic Survey Report
- (iv) Project Draft Community Consultation Report
- (v) IFCs performance standards

1.4.2 Community and Institutional Consultations

The overall aim of stakeholder consultations was to sensitize the community about the Project, specifically the potential of the project impacts on peoples' assets, to understand the potential impacts likely to be caused by the proposed developments to people's property and incorporate them into the RAP study, to seek the community and all relevant stakeholders support in undertaking the RAP study.

The process involved holding public meetings with people within the project areas organized by area chiefs and ward representatives, Project Committee Meeting with the Client, Stakeholder meetings with Institutions, Household Survey (Socio Economic Survey), Asset and Livelihood Census Survey of the affected properties. For this RAP, these meetings were held within the month of June to August 2018.

1.4.3 Census Survey Methodology

The RAP Team conducted a complete census and inventory of losses of all PAPs in affected settlement by administering a standard questionnaire during household-level interviews. The information was provided by the PAP as required and validated by the team on the ground.

A standard questionnaire was used to collect basic PAP census information including household members (resident and non-resident) by age, sex, ethnic group, and relationship to head of household, education and occupation and housing conditions. The census also documented health conditions economic activities, sources of income and household expenditures. This information was used

- (i) to establish a list of PAPs;
- (ii) to establish a socio-economic profile of PAPs based on existing conditions; and,
- (iii) To provide a baseline for resettlement monitoring and evaluation.

The standard questionnaire (annexed) was also used collect inventory of losses information from PAPs about assets that are affected i.e Structures by construction type, use, area, ownership/use rights and location, as well as the extent of loss; Business losses, by types, amounts and duration of losses. The information was provided by the PAP as required and validated by the team on the ground. The questionnaire was accompanied with photographs of the PAP, key affected assets; and, full GPS data to locate the PAP and all key assets. The questionnaire was signed by the PAP or representative.

In conducting the census the team followed the required procedures for notifying people and collecting, validating, approval and disclosing information on eligible PAPs and affected assets, stemming from national laws and regulations. The team also ensured that the question of the establishment of a “cut-off date” as per the IFCs Performance standard was discussed and agreed in the initial consultations.

The household survey and enumeration of PAPs assets was conducted as indicated in figure1 in all project areas. The main objective of the survey was to get the results of a census survey covering, current occupants of the affected area, standard characteristics of affected households including (production systems, labor, household organization, livelihoods, Education, Health household expenses), the magnitude of the expected loss total or partial of assets and livelihoods, information on vulnerable groups or persons. Inventories of the Assets (Structures), Livelihoods and Crops/Trees identified as likely to be affected by the Project are given in a separate valuation report of this assessment.

A sample Questionnaire used in the household survey is presented in Annex 2 of this Report. The collected household information was subjected to descriptive analysis methods using the SPSS (17 & 21) in order to generate the required information. Activities adopted during Asset and livelihood valuation can be categorized as presented in Figure 4 below.

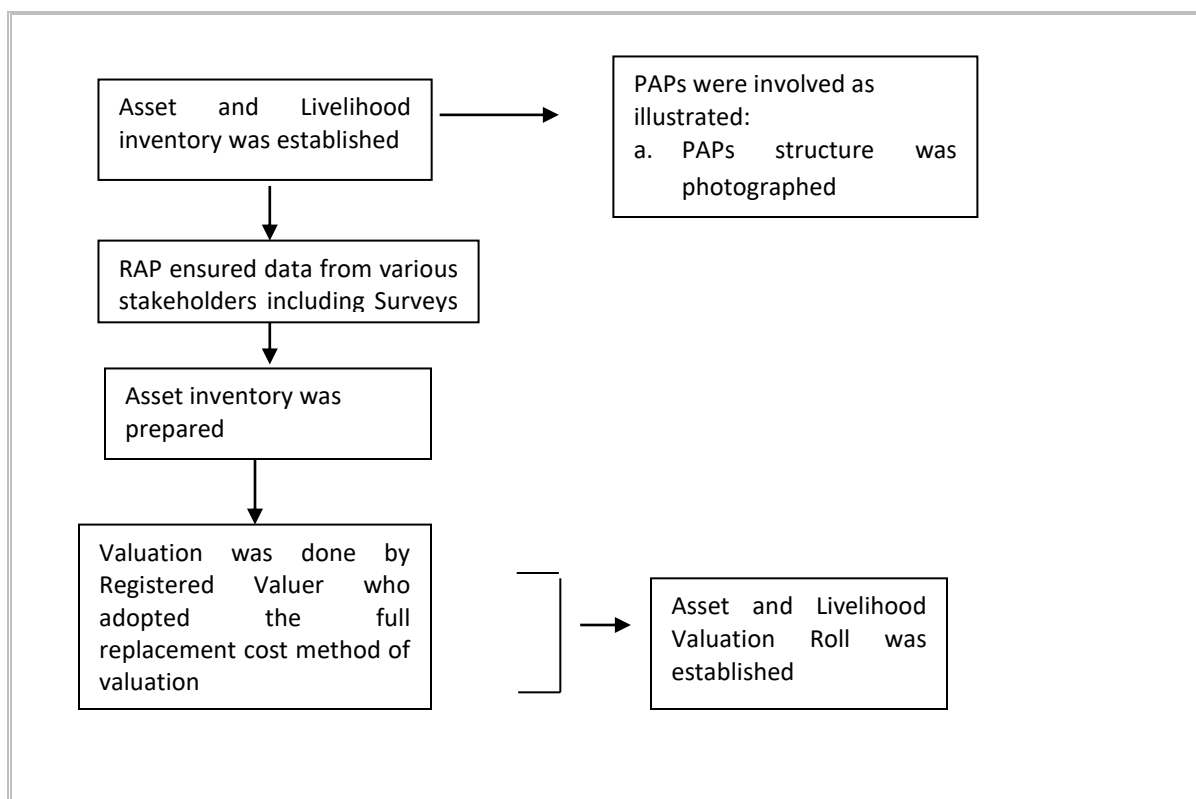


Figure 4: Asset and livelihood valuation

1.5 Scope and objective of the Resettlement Action Plan

1.5.1 Scope of the resettlement Action Plan

The scope of the RAP has ensured that the integrated performance standard guidelines of the International Finance Corporation (IFC) on land acquisition and Involuntary Resettlement, i.e. Involuntary Resettlement Policy (2012); have been adhered to. The Table below present areas where the RAP was undertaken ;

Area where RAP was undertaken	Area where RAP was not undertaken
Sanitation component	
STP at maishomo village	Access road to the STP from the public road (was not defined during scoping)
Trunk sewer lines along the riparian	
Water component	
WTP at mukuyu	The existing pipelines is not encroached and will be followed

To ensure that the PS 5 has been complied with, the preparation process has;

- i. Identified the project affected persons along the water and sewerage system routes and assets inventory has been carried out for all the identified project affected persons. The inventory has included affected land, and crops, livelihoods and cultural assets
- ii. Public consultations have been held with the PAPs and the community in general, stakeholders and members of the civil society have been consulted through assistance of the local administration especially the chiefs
- iii. Kenyan legal provisions has been compared with the IFC Performance Standards to identify any gaps and necessary recommendations to harmonize the two and has been incorporated in the resettlement plan
- iv. The compensation schedule and the resettlement plan have been prepared with the necessary budget to facilitate the implementation.

This RAP contains:

- A summary description of the Project, including measures to avoid and/or minimize resettlement
- A summary description of the baseline socio-economic conditions in the Project area,
- An assessment of the Kenyan legal instruments applicable to displacement and resettlement in the Project,
- An assessment of likely displacement impacts,
- A description of the proposed strategy to deal with displacement impacts,
- Description of Entitlement Eligibility of PAPs and their assets
- Estimated Budget for compensation of Affected Assets
- Implementation details, which presents the organizational and other arrangements to implement the mitigations related with physical and economic displacement
- Grievance management mechanism.
- Monitoring and Evaluation of RAP during Implementation

1.5.2 Objectives of the RAP

The Overall objective of the RAP is to minimize the adverse impacts to project affected persons (PAPs) and enhance or at least restore their livelihood to that of the pre-project level.

Improvement of Githunguri water and sanitation will lead to land acquisition and loss of crops hence triggering IFC performance standard on land acquisition and Involuntary Resettlement. IFCs PS requires preparation of a Resettlement Action Plan when triggered. This Resettlement Action Plan will help to

define the resettlement and compensation necessary as a result of implementing the infrastructure, in accordance with the IFC performance standards and the Laws of Kenya.

1.6 Project Social Documentation

This Resettlement Action Plan (RAP) identified some social documentation as itemised below:

- This RAP, which describes the measures that will be taken to address displacement impacts during the construction and operational phases of the Project.
- A Socio-Economic Baseline Report (SEBR), which provides a detailed description of the socio-economic situation prevailing in the Project areas at the time of undertaking the ESIA, and which will be appended to the ESIA,
- A Social Management Plan (SMP), which provides an assessment of social and economic impacts, a description of proposed mitigation measures and an action plan, which presents the organizational and other arrangements proposed by Sewerage Project to implement the social and economic mitigation measures.

This document will be submitted to the, Athi Water Services Board, and the Danida business finance entities having jurisdiction over the management of social issues related to resettlement. The Environmental and Social Impact Assessment (ESIA) report for this project will also be submitted to the Danida business finance and the National Environment Management Authority (NEMA) for approval.

1.7 Principles of the RAP

The principles outlined in the IFC performance standard on land acquisition and involuntary resettlement have been adopted in preparing the RAP Report. In this regard, the following principles and objectives will be applied.

- i. All types of losses are identified, clearly defined and properly categorized to reflect the nature and scope of the loss.
- ii. A standard or measure for defining eligibility and entitlement in order to have a fair basis for assessing compensation for the loss or impact suffered.
- iii. Compliance with provisions of Kenyan Laws that resettlement activity shall be conceived and executed as development programs, providing sufficient investment resources to enable the PAPs to share in project benefits.
- iv. Displaced persons will be compensated for their losses at full replacement cost and provided assistance for disturbance prior to the beginning of civil works.

- v. A comprehensive database, based on which values will be assessed, validated in the event of disputes and, more importantly, serve as the database for monitoring and evaluation of the resettlement instrument.
- vi. The PAPs will be consulted and given the opportunity of participating in the design, implementation and monitoring of the resettlement.
- vii. A Grievance & Redress mechanism will be established, to acknowledge and resolve conflicts arising from Resettlement and Compensation.

1.7.1 Key component of RAP

Some key components of the RAP included;

- (i) Public consultations; targeted project affected persons and communities, challenges and cross-cutting issues that may arise during project implementation and operation phases
- (ii) Population; will give a number of persons or animals that may be affected by the project
- (iii) Project impacts on environment, social settings and economic status, cultural settings during project cycle. These impacts will be addressed by appropriate mitigation measures as outlined in the ESIA.
- (iv) Community expectations; all community expectations, views captured during consultative meetings were recorded, documented and addressed.
- (v) Monitoring and evaluation; RAP process requires monitoring and evaluation to ensure that issues that may arise before and after project implementation are adequately addressed.

1.7.2 Legal framework of RAP

The RAP and its entitlement matrix have been prepared in compliance with the applicable policy provisions of Kenyan Government and requirements of the IFC performance standard on land acquisition and involuntary resettlement that a RAP be prepared for all projects that anticipate land acquisition and displacement affecting shelter, livelihood and associated impacts. The RAP report presents an inventory of PAPs, a register of the assets that are likely to be affected by the project and the proposed compensation package.

The relevant Kenya laws considered include:-

- ❖ Land Act, 2012
- ❖ Valuers' Act
- ❖ The New Constitution of Kenya
- ❖ The Land Acquisition Act Chapter 295

- ❖ Kenya Roads Act, 2007 (NO. 201 OF 2007)
- ❖ The Physical Planning Act, among others.

The Asset Register: An Asset register detailing the farms likely to be affected and the likely damage has been prepared as part of this RAP in further chapters. The project entitlements have been designed to cover compensation, and rehabilitation for lost assets and restoration or enhancement of the livelihoods of all categories of affected people.

Chapter 2: The Rap Process

2.1 Introduction

The preparation of this Resettlement Action Plan was guided by the IFC PS5 and Kenyan laws related to land and other best practices within the industry.. These guidelines and laws sets out the process to be undertaken in the preparation of RAPs, and key components to be included in the RAPs e.g. provision of socio-economic baseline information, policy, legal and institutional framework, grievance redress mechanism, public consultation, census of Project Affected Persons (PAPs) and assets, entitlement matrix, implementation schedule, budget, and monitoring and evaluation.

At the conceptual stage during the project development, social and environmental screening was undertaken to determine the nature and magnitude of the potential impacts on the environment, people and livelihoods; and determine the level of environmental and social assessment required. The social screening revealed that the project will be constructed within the government gazetted road reserves river riparian and private land that will have to be acquired and land owner compensated before implementing the project. In accordance with Kenya laws and regulation, all assets affected during implementation of a project should be evaluated and compensated. This requires the preparation of RAP to ensure that all the Project Affected Persons (PAPs) are adequately compensated for the loss they are likely to incur.

2.2 Stakeholder Consultations

The community and other stakeholders have been involved in all project processes. Community consultations were held during socio-economic surveys to identify and prioritize project interventions based on the needs identified the resources available and the likely impacts of the propose interventions. Screening of the proposed interventions for environmental and social impacts was done with community involvement. The potential to minimize large-scale relocation of people and livelihoods was one of the considerations in prioritizing the selected project interventions.

The RAP team involved the community and the Project Affected Persons in developing this RAP. Before commencement of the census and enumeration of PAPs' and affected assets and livelihoods, a number of

meetings were with the general public, Stakeholders and Project Affected Persons (PAPs). The objectives of the stakeholder consultations were:

- a. To sensitize the community about the project and potential impacts on people and livelihoods;
- b. Provide a platform for the community to air views and concerns which are relevant to the RAP and which must be resolved.
- c. Involve them in key processes of census and the undertaking of the affected asset inventory,
- d. Provide an opportunity for the community to themselves propose the most appropriate mitigation measures for asset and livelihood losses,
- e. To seek support from the community and other relevant stakeholders in the preparation and implementation of the RAP.

2.3 Valuation of Assets and Livelihoods

Compensation of crops is decided according to the gross market value of the lost crops. Gross market value makes full provision for owners' crops or users input already expended (labor, seeds, fertilizer, etc) in the event that there is a crop in ground at the time of implementation. There are two determinant of gross or full market value which are market value for crops and the average annual yield of the crop. The price used to calculate compensation is the highest market price of the crop during the year. The average annual yield of the crop involves some degree of data collection and analysis.

Harvesting of crops and trees will be given first priority but where harvesting will not be possible, counting of the affected crops will be carried out and values applied according to the market rates. Compensation for crops is done on the basis of the requirements of Kenyan laws under the Ministry of Agriculture.

Landowners and leaseholders are entitled to be compensated at market value for land; tenants for crops and property on the land that they rented; property owners for the value of any property on expropriated land. Compensation of crops and tress was done according to the market value of the crop at in Kiambu County. Valuation of crops was done for the areas where the proposed sewer lines will be laid.

The RAP proposes that for any additional land that may be required and not captured under this RAP valuation to be done during implementation of the project on case by case basis. This include provision of access Road to the proposed STP and WTP that should be identified during preparation of the final designs

2.4 Basis for Valuation for Land

The working area that will be required for the construction of the sewer lines is on the riparian reserve which is encroached. The encroachers will be compensated as per the provisions of PS 5 by compensating the improvements to land including structures, crops and trees. There will be compulsory acquisition under the Land Act. The sewer and water treatment plant proposed sites are on private lands and will be acquired and the land owner compensated at full cost before implementation of the project.

The amount of award for compensation depends on:

- i. Area affected by the proposed project
- ii. The value of interests in land can be affected by the sewer line
- iii. The valuation is based on the principle of prevailing replacement cost which is normally determined by the various valuation methods used locally and internationally.

The RAP has proposed that the valuation of any additional land that may be required and not captured under this RAP be dealt with on a case by case basis during implementation / construction as during survey most of the trunk lines were envisaged to pass through the riparian reserves while the proposed STP and WTP sites were assessed and valued.

Chapter 3: Policy, Legal and Institutional Framework

3.1 Over view

Resettlement of Project-Affected Persons (PAPs) in the project will be carried out in accordance with laws, regulations and guidelines for Resettlement/Land Acquisition Policy Framework of the Government of Kenya and IFC performance standards, which has resulted in the preparation of this RAP.

This chapter analyses the applicable legislations and also compares the Kenyan legislation with the IFC performance Standard on Land acquisition and Involuntary Resettlement, highlighting gaps and making recommendations to fill up gaps.

3.2 The National Land Policy

The National Land Policy (“NLP” or “Policy”) as adopted in August 2009 with the aim of providing an overall framework for new legislation and defining key measures required to address critical issues such as land administration, access to land, land use, and restitution related to historical injustices and an outdated legal framework. The NLP addresses constitutional issues such as compulsory acquisition and development control. Section 45 of the NLP defines compulsory acquisition as “the power of the State to extinguish or acquire any title or other interest in land for a public purpose, subject to prompt payment of compensation. “Under the current Constitution, the Land Act 2012 empowers the National Land Commission (under the guidance of Cabinet Secretary for Lands) to exercise the power of compulsory acquisition on behalf of the State. Similarly, the NLP empowers the National Land Commission to compulsorily acquire land.

According to the NLP, the exercise of compulsory acquisition in the past has been conducted with abuses and irregularities. The NLP therefore calls for a revision of such power and requires the GoK;

- To review the law on compulsory acquisition to align it with the new categories of land ownership (public, private and community land);
- To harmonize the framework for compulsory acquisition to avoid overlapping mandates;
- To establish compulsory acquisition criteria, processes and procedures that are efficient, transparent and accountable;

3.3 Land Tenure System in Kenya

Land tenure in Kenya is classified as public, community or private. Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines”), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas. The National Land Commission will manage public land. Community land includes land that is “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines,” and “ancestral lands and lands traditionally occupied by hunter-gatherer communities.” Rights are also held through traditional African systems, and rights that derive from the English system introduced and maintained through laws enacted by colonial and then the national parliament. The former is loosely known as customary tenure bound through traditional rules (customary law). The latter body of law is referred to as statutory tenure, secured and expressed through national law, in various Act of parliament e.g. Land Act 2012, Land Registration Act, 2012, Trust Land Act (cap 288) of the Laws of Kenya).

3.3.1 Customary Land Tenure

This refers to unwritten land ownership practices by certain communities under customary law. Kenya being a diverse country in terms of its ethnic composition has multiple customary tenure systems, which vary mainly due to different agricultural practices, climatic conditions and cultural practices. However most customary tenure systems exhibit number of similar characteristics as follows: First, individuals or groups by virtue of their membership in some social unit of production or political community have guaranteed rights of access to land and other natural resources. Individuals or families thus claim property rights by virtue of their affiliation to the group.

3.3.2 Freehold Tenure

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. The Land Registration Act, 2012, governs freehold land. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only. Land individualization was demanded by the colonial settlers who required legal guarantee for the private ownership of land without which they were reluctant to invest.

3.3.3 Leasehold Tenure

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed e.g. relating to developments and usage. Leases are also granted by the government for government land, the local authorities for trust land and by individuals or organizations owning freehold land. The maximum term of government leases granted in Kenya is 99 years for agricultural land and urban plots. There are few cases of 33 years leases granted by government in respect of urban trust lands. The local authorities have granted leases for 50 and 30 years as appropriate.

3.3.4 Public Tenure

This is where land owned by the Government for her own purpose and which includes unutilized or un-alienated government land reserved for future use by the Government itself or may be available to the general public for various uses. The land is administered under the Land Act 2012 (LA). These lands were vested in the president and who has, normally exercised this power through the Commissioner of Lands, to allocate or make grants of any estates, interests or rights in or over un-alienated government land. However the new constitution grants those rights to the National Land Commission (NLC) which is governed by the National Land Commission Act, 2012 that specifies the role of NLC as:-

- ✓ *To identify public land, prepare and keep a database of all public land, which shall be geo-referenced and authenticated by the statutory body responsible for survey;*
- ✓ *Evaluate all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning; and*
- ✓ *Acquire land for public purposes*
- ✓ *Solve land disputes and deal with historical land injustices*
- ✓ *Share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or*
- ✓ *May require the land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument.*

Categories of government land include forest reserves, other government reserves, alienated and un-alienated government land, national parks, townships and other urban centers and open water bodies.' The Lands Act does not contain any notion of trusteeship by government of the land to her people.

3.3.5 Public Resources on Public Land

Notwithstanding the fore going, it is a common law doctrine to the effect that common property resources such as rivers, forests and parks are held by the state in trust for the general public. Consequently, the state cannot alienate these resources or use them in a way detrimental to public interest. This is the doctrine that would ensure that public land cannot be alienated or committed to waste to the detriment of public interest. It is the case that the statutory frameworks for land ownership in Kenya is heavily influenced by common law jurisprudence on land ownership-the owner's rights includes the rights of use and abuse. In Kenya however, the development of physical planning legislation has vested in the state the cumulative rights of other landowners. The regulatory power is referred to as police power.

3.4 Land Act, 2012

The Land Act ("LA") is the Kenya's framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements etc.). The LA was adopted on 2nd May 2012 and provides for sustainable administration and management of land and land based resources including compulsory acquisition.

3.4.1 Land Acquisition Process

Proof that compulsory possession is for public good

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of the Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defense, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit. The proposed sewerage system have explicitly identified as qualifying for land acquisition as public utility and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.

Respective Government agency or cabinet must seek approval of NLC

The respective Cabinet Secretary or Government agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The Commission will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. It is important to note that if the NLC is constituted prior to conclusion of land

acquisition, it could prescribe criteria and guidelines necessitating variations or revisions to the current RAP. Similar, the Commission has powers to reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

Inspection of Land to be acquired

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose, which the applying authority intends to use as specified. If it certifies that indeed the land is required for public purpose, it shall express the satisfaction in writing and serve necessary notices to land owners and or approve the request made by acquiring authority intending to acquire land.

Publication of notice of intention to acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette*. It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar. The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body. NLC shall ensure that the provisions are included in her notice.

The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

Serve the notice of inquiry

Thirty days after the publication of the Notice of Intention to Acquire, NLC will schedule a hearing for public inquiry. NLC must publish notice of this meeting in the *Kenya Gazette and County gazette 15 days before the inquiry meeting* and serve the notice on every person interested in the land to be acquired. Such notice must instruct owner of land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.

Holding of a public hearing

NLC then convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value and the amount of compensation

payable to each legitimate claimant. Besides, at the hearing, the Commission shall— make full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the Commission (NLC) of documents of title to the land.

The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence and to call and to question witnesses at an inquiry. It will also provide opportunity to land owners to hear the justification of the public authority in laying claims to acquire the land.

Valuation of the land

Part III of the Land Act 2012, section 113 (2a) states that “the Commission shall determine the value of land with conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the owners of land have or have not appeared at the inquiry.” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae that it will develop. Nonetheless, just compensation could also be interpreted as market rate. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

Matters to be considered in determining compensation

The market value of the property, which is determined at the date of the publication of the acquisition notice, must be considered. Determination of the value has to take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial or industrial.

Increased market value is disregarded when: It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition. It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.

- ✓ *Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.*
- ✓ *Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.*
- ✓ *Reasonable expenses, if as a consequence of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant's life).*
- ✓ *Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the NLC takes possession of the land.*

Matters not to be considered in determining compensation:

- ✓ *The degree of urgency, which has led to the acquisition.*
- ✓ *Any disinclination of the person's interest to part with the land.*
- ✓ *Damages sustained by the claimant, which will not represent a good cause of action.*
- ✓ *Damages, which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future, land use.*
- ✓ *Increased land value accrued by its future use.*

Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.

Award of compensation

The Land Act does not stipulate that compensation must be in the form of money only. Under the Land Act 2012 section 117, the State can award a grant of land in lieu of money compensation ("land for land"), provided the value of the land awarded does not exceed the value of the money compensation that would have been allowable. The law could be interpreted that any dispossessed person shall be awarded the market value of the land. The Act is silent on relocation support or disturbance allowance support.

Upon the conclusion of the inquiry, and once the NLC has determined the amount of compensation, NLC will prepare and serves a written award of compensation to each legitimate claimant. NLC will publish these awards, which will be considered "final and conclusive evidence" of the area of the land to be acquired, the value of the land and the amount payable as compensation. Land Act, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area

specified in the award and the actual area of the land. Compensation cannot include attorney's fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

Payment of Compensation

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that "first offer compensation shall be paid promptly" to all persons interested in land. Section 119 provides a different condition and states that the NLC "as soon as practicable" will pay such compensation. Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying owner of land accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

Transfer of Possession and Ownership to the State

Once first offer payment has been awarded, the NLC will serve notice to landowners in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.

On the other side also, the Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

In cases of where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire.

On the expiration of that time NLC shall, notwithstanding that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar.

On receipt of the documents of title, the Registrar shall cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

Opportunity for Appeal

The Kenya Constitution establishes Environment and Land Court. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavor to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the Environment and Land Court Act, 2011 empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of alternative dispute resolution (ADR), including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- ✓ *The determination of such person's right over the land;*
- ✓ *The amount offered in compensation; and*
- ✓ *The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.*

Parties will pay fees as determined by Environment and Land Court or the court may choose to waive them completely or in part on grounds of financial hardship.

3.4.2 Children and Orphans Provision of Land Possession

The Land Act 2012, Part III, section 2750 recognizes the capacity of a child as being capable of holding title to land. However this can only happen through a trustee and such a child shall be in the same position as an adult with regard to child's liability and obligation to the land.

3.5 Environment and Land Court Act (2011)

The Act gives effect to Article 162(2) (b) of the Constitution by establishing the Environment and Land Court that has original and appellate jurisdiction. According to Section 4 (2) and (3), it is a court with the status of the High Court. It exercises jurisdiction throughout Kenya and pursuant to section 26, is expected to ensure reasonable and equitable access to its services in every county.

The principal objective of this Act is to enable the Court to facilitate a just, expeditious, proportionate and accessible resolution of disputes governed by the Act. The Court exercises its jurisdiction under **Section 162 (2) (b)** of the Constitution and has power to hear and determine disputes relating to —

- (a) Environmental planning and protection, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;
- (b) Compulsory acquisition of land;
- (c) Land administration and management;
- (d) Public, private and community land and contracts, choses in action or other instruments granting any enforceable interests in land; and
- (e) Any other dispute relating to environment and land.

Nothing in the Act precludes the Court from hearing and determining applications for redress of a denial, violation or infringement of, or threat to, rights or fundamental freedom relating to land and to a clean and healthy environment under **Sections 42, 69 and 70** of the Constitution.

3.6 The Valuers Act

Valuation of land is a critical aspect of compulsory acquisition practice and compensation. The National Land Commission based on land valuation determined by registered valuers will make compensation awards. Besides, the Valuers Act establishes the Valuers Registration Board, which regulates the activities and practice of registered valuers. All valuers must be registered with the Board to practice in Kenya. The Board shall keep and maintain the names of registered valuers, which shall include the date

of entry in the register; the address of the person registered the qualification of the person and any other relevant particular that the Board may find necessary.

As of March 2011, there were 285 registered valuers in Kenya. The Valuers Act does not provide for a description of the valuation procedures and methods. The RAP study has made use of the services of registered valuers who are approved by Valuers Registration Board.

Under the Valuers Act, professional misconduct of registered valuer will include:-

- ✓ *False or incorrect entry in the register;*
- ✓ *False or misleading statement caused by omission or suppression of a material fact; and*
- ✓ *The acceptance of “any professional valuation work which involves the giving or receiving of discounts or commissions.”*

In case of professional misconduct, the registered valuer is guilty of an offense punishable with a fine (not exceeding Ksh.10, 000) and/or imprisonment for three years. Fees for land valuation in case of compulsory acquisition are established based on the value of the property as “the first Kshs. 400,000 at 1 per cent. Residue at 0.5 per cent”⁵⁵ and are paid by those who requested the valuation.

3.7 Kenya Roads Act, 2007 (NO. 201 OF 2007)

Section 49 of the Kenya Roads Act, 2007 (No. 201 of 2007) prohibits erection of structures on a road reserve without permission from the Roads’ Authority. Where a person, without the required permission, erects constructs or establishes a structure or other thing, or makes a structural alteration or addition to a structure, the Authority may by notice in writing direct that person to remove the unauthorized structure. If the person to whom a notice has been issued fails to remove the structure, alteration or addition mentioned in the notice, within the period stated, such item may be removed by the Authority itself and the Authority can recover the cost of the removal from that person.

3.8 Physical Planning Act (CAP. 286)

The Act provides for preparation of land use plans with a view to improving the affected land, securing suitable provision for transport, public purposes, utilities and services, commercial, industrial, residential uses among others .This is defined in the Section 16 of the Act. The process for plan preparation are included in the main Act whereby all plans have to be presented to the public and published in the local newspaper prior to approval by the Cabinet Secretary. Stakeholders have to be involved in the planning process and their views have to be incorporated in the land use plan.

Once the land use category has been incorporated in a land use plan and it has gone through the approval stage, the dedicated land use vests in the authority responsible for the activity or service for benefit of the public as a whole. A restriction is implied of any re-allocation of the user to any other purpose thereafter.

Section 29 of the Act allows County Governments to prohibit or control use and development of land and buildings and give to approve all developments within their areas of jurisdiction. Where no such permission has been granted, the local authority is allowed to demolish any such structures.

The Act, however, does not provide any procedures to be followed where demolition is to be carried out and can raise ugly confrontations between compliance enforcers and owners and occupiers of illegal developments.

3.9 Constitution of Kenya (2010)

The Constitution of Kenya, 2010, protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law. Article 40(3) states:

“The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation—results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that;

- (i) Requires prompt payment in full, of just compensation to the person; and*
- (ii) Allows any person who has an interest in or right over, that property a right of access to a court of law.*

The Constitution empowers the state to exercise the authority of compulsory acquisition. Land Act 2012 (LA) designates the National Land Commission (NLC) as the agency empowered to compulsorily acquire land. Article 40 of the Constitution provides that the state may deprive owners of property only if the deprivation is "for a public purpose or in the public interest," which includes public buildings, roads, and way leaves, drainage, irrigation canals among others. The state's exercise of this power is left at the discretion of NLC, and requires the state to make full and prompt payment of "just compensation" and an opportunity for appeal to court.

Article 40(3) (a) refers to acquisition and conversion of all kinds of land in Kenya (private, public, community land and foreign interests in land). The Constitution further provides that payment of compensation shall be made to “occupants in good faith” of land acquired by the state who do not hold title for such land. An occupant in good faith is a “bona fide” occupant. On the other hand, under the Constitution, those who have acquired land illegally are not regarded as deserving any compensation.

In addition to Article 40, Chapter Five of the Constitution is relevant to compulsory acquisition. This chapter, entitled "Land and Environment," is divided into two parts. Part 1 deals with land, and Part 2 deals with environment and natural resources. Part 1 of Chapter 5, articles 60-68, describes the principles of land policy. Land should be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with security of land rights, sound conservation and protection of ecologically sensitive areas. These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.

3.10 International Finance Corporation performance standards

The International Finance Corporation adopted new Performance Standards on Social and Environmental Sustainability in April 2006. The outcome-based Performance Standards (PS) updated existing IFC safeguard policies, strengthening social and environmental policy, and prescribing more comprehensive and integrated impact assessments. The IFC has also published Guidance Notes to help explain the requirements of the Performance Standards. The IFC approved updated Performance Standards on Social and Environmental Sustainability in May 2011, effective January 2012.

The standards are divided into the following issue-specific sections:

- ❖ Performance Standard 1: Social and Environmental Assessment and Management System
- ❖ Performance Standard 2: Labour and Working Conditions
- ❖ Performance Standard 3: Pollution Prevention and Abatement
- ❖ Performance Standard 4: Community Health, Safety and Security
- ❖ Performance Standard 5: Land Acquisition and Involuntary Resettlement
- ❖ Performance Standard 6: Biodiversity Conservation and Sustainable Natural Resource Management
- ❖ Performance Standard 7: Indigenous Peoples
- ❖ Performance Standard 8: Cultural Heritage.

Performance Standard 1, Social and Environmental Assessment and Management System, and Performance Standard 5, Land Acquisition and Involuntary Resettlement, are most directly relevant to this Resettlement Action Plan.

3.10.1 Performance Standard 1

Performance Standard 1 structures the way in which environmental and social issues are to be handled and serves as the core around which the other Standards are framed. Performance Standard 1 requires that affected communities be appropriately engaged on issues that could potentially affect them. Key requirements include:

- Ensuring free, prior and informed consultation and facilitating informed participation
- Obtaining broad community support
- Focusing on risks and adverse impacts, and proposed measures and actions to address these
- Undertaking consultation in an inclusive and culturally appropriate manner
- Tailoring the process to address the needs of disadvantaged or vulnerable groups.

3.10.2 Performance Standard 5

Performance Standard 5 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. Involuntary resettlement relates to transactions where the buyer can resort to government authority to gain access to land or impose limits on land use. The Performance Standard defines displaced persons broadly as:

- ♣ Those who have formal legal rights to the land they occupy
- ♣ Those who do not have formal legal rights to land, but have claim to land that is recognized or recognizable under the national laws
- ♣ Those who have a recognizable legal right or claim to the land they occupy, such as opportunistic squatters and recently-arrived economic migrants who occupy land prior to the cut-off date.

The objectives of Performance Standard 5 include:

- ❖ To avoid or at least minimize involuntary resettlement by exploring alternative project designs #
- ❖ To mitigate impacts from land acquisition by providing compensation for loss of assets at full replacement cost and ensuring that resettlement activities are implemented with appropriate stakeholder engagement

- ❖ To improve or at least restore the livelihoods and standards of living of displaced persons
- ❖ To improve living conditions among displaced persons through provision of adequate housing with security of tenure.

Performance Standard 5:

- Requires that the project proponent identify, via a census, those persons who be displaced and establish a cut-off date to establish eligibility for compensation
- Requires project proponent to offer land-based compensation, where feasible, where livelihoods of displaced persons are land-based, or where land is collectively owned
- Suggests application of the Performance Standard in situations where displacement unrelated to land acquisition has occurred because of the adverse economic, social or environmental impacts of project activities
- Introduces the concept of negotiated settlements to avoid forcible removal of people
- Requires private sector companies to “bridge the gap” between domestic legal requirements and the requirements of the Performance Standard
- Encourages collaboration to minimize risks and requires project proponents to close compensation gaps where government takes the lead
- Requires preparation of a Resettlement Action Plan, which demonstrates how displacement will be managed in accordance with the Performance Standard.

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 and communities’ 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. Replacement value is defined as follows:

- ♣ **Agricultural Land:** The market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, plus the cost of any registration and transfer taxes;
- ♣ **Land in Urban Areas:** The market value of land of equal size and use, with similar or improved public infrastructure facilities and services preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;

- ❖ **Household and Public Structures:** The cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor and contractors' fees and any registration and transfer taxes.

In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

Where national law or policy does not provide for compensation at full replacement cost, or where other gaps exist between national law or policy and the requirements with respect to displaced people, the Performance Standard advises that project proponents consider alternative measures to achieve outcomes consistent with the objectives of Performance Standard (e.g. supplementary allowances in cash or in kind).

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.

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 costs 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
- ❖ 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.

3.11 Analysis Of Gaps Between Kenyan Legal And Policy Framework And IFCs Performance standards

There are a number of differences between the Kenyan laws and IFCs performance standards, such as: The IFCs PS on land acquisition and involuntary resettlement that favors avoidance or minimization of involuntary resettlement while the Kenyan laws say that, as long as a project is for public interest, involuntary resettlement is considered to be inevitable. – IFCs PS5 stipulates that Displaced persons should be assisted in improving livelihoods or at least restoring them to previous levels. Kenyan legislation (Land Act) provides for ‘just and fair compensation’. However, ‘just and fair compensation’ is not clear and can only be determined by NLC which can be subjective. It does not talk about improving livelihood or restoring them to pre-project status. A comparison of the Kenyan laws and IFCs Performance standards requirements regarding compensation is given in Table below

Table 1: Comparison of Kenyan and IFC performance standard on land acquisition and involuntary resettlement

Category of PAPs/Type of lost assets	Kenyan law	IFC performance standard 5	Comment
Land Owners (loss of land)	The Land Act 2012 provides that written and unwritten official or customary land right are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights. Land Act 2012 provides for census through NLC inspection and valuation process. Fair and just compensation which could be in form of cash compensation or Land for Land.	Identification of PAPs is done through census and socioeconomic surveys of the affected population, PAPs with title as well as PAPs who do not have a formal title but have customary and traditional right recognized under Kenyan law or who have a recognized claim to the land at the time the census begins are entitled to compensation for land that they lose (besides other assistance see below). Land-for-land exchange is the preferred option; compensation is to be based on replacement cost.	Although the Kenyan law provides for land for land compensation, it does not state explicitly whether preference should be granted to land for land compensation. Preference should thus be given to land for land option.
Land Squatters (i.e. those who have no recognizable legal right or claim to the land that they are occupying)	The constitution recognizes 'occupants of land even if they do not have titles' and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land.	Must be compensated for houses and other structures whatever the legal recognition of their occupancy (see below). Entitled to compensation for loss of crops and assistance for relocation as the case may be, and assistance for restoration of livelihood (see below).	IFC PS5 prevails
Land Users/ Land Sharecroppers	The Land Act is not clear on Land Users although in some cases they can receive some form of compensation depending on the determination by NLC.	No specific provisions to land compensation. Entitled to compensation for crops, entitled to relocation assistance as the case may be, and income must be restored to at least pre-project levels (see below).	IFC PS5 prevails
Owners of nonpermanent buildings	The constitution of Kenya respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the loss temporary.	Recommends in-kind compensation or cash compensation at full replacement cost including labor. Recommends resettlement assistance.	IFC PS5 prevails

Category of PAPs/Type of lost assets	Kenyan law	IFC performance standard 5	Comment
	buildings		
Owners of permanent buildings	The constitution of Kenya respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the permanent building	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement	IFC PS5 prevails
Perennial and annual Crops	Cash compensation for the loss of crops	Market value for lost crops. Income restoration assistance (such as land preparation, credit facilities, training etc.). Land for land compensation allows people to re-establish annual crops immediately.	
Seasonal crops	Cash compensation for the loss of crops	Market value for lost crops wherever arrangements cannot be made to harvest	IFC PS5 prevails
Livelihood restoration and development assistance	Not specific on livelihood. The constitution says some pay maybe made in good faith	Livelihoods and living standards are to be restored in real terms to pre-displacement levels or better. Offer support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore livelihoods and standards of living (for ex. land preparation, jobs, credit facilities)	IFC PS5 prevails
Timing of compensation payments	The Land Act provides for prompt, just compensation before the acquisition of land.	Implement all relevant resettlement plans before project completion and provide resettlement entitlements before displacement or restriction of access. For projects involving restrictions of access, impose the restrictions in accordance with the timetable in the plan of actions.	Follow IFC PS5

Category of PAPs/Type of lost assets	Kenyan law	IFC performance standard 5	Comment
Consultation and disclosure	The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.	Consult project-affected persons, host communities and local NGOs, as appropriate. Provide them opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and for establishing appropriate and accessible grievance mechanisms.	Implement consultation procedures as outlined in both Kenyan legislation and IFCs PS 5
Relocation assistance and resettlement assistance	The Land Act does not out rightly stipulate assistance for relocation	Avoid or minimize involuntary resettlement and, where this is not feasible, assist displaced persons in improving or at least restoring their livelihoods and standards of living in real terms relative to pre displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher Moving allowances	IFC PS 5 takes precedence
Grievance mechanism and dispute resolution	Land Act 2012 clearly outlines the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through the Environmental and Land Court	Establish appropriate and accessible grievance mechanisms	No gap

Chapter 4: Socio Economic Baseline

The following section provides a summary of methodology and results used to characterize socio-economic baseline conditions in the project area including the persons likely to be affected by the project prior to the project investment. Proper compensation at full replacement cost has been proposed in this report for those who will be affected. Eventually the persons will directly benefit from the project due to improved sanitation standards.

4.1 Summary methodology

Data used to establish socio-economic baseline conditions were derived from field surveys conducted in the project area during the preparation of RAP. There were two broad data objectives for the socio-economic baseline assessment against which future changes can be measured, (socio economic characteristics, education, water and sanitation, health, sources of livelihood and housing). The survey team employed the following methods:

- Public and stakeholder consultations
- Census survey
- Socio-economic survey
- Land and Asset Valuation
- Key Informant Interviews

Applying this suite of methods assures that several distinct perspectives are offered on the socio economic conditions in the proposed project areas and that a mix of both qualitative and quantitative results is produced.

Statistical Package for the Social Sciences (SPSS) was used for data entry and analysis. Data collected from the household survey was combined and validated with information from site surveys, observations by the sociologist and technical teams and key informant interviews.

The data required for this purpose was generated through analysis of official records in various government offices, consultative meetings with the government and county officers in Kiambu County, meetings with stakeholders and the public meetings along the proposed trunk sewer lines and reticulations.

4.1.1 Summary of the Socio Economic Methodology

The census and socio-economic survey for project affected persons is an important component in the planning for resettlement of the affected persons. The objective of collecting the socio and economic data of the affected persons assists to know the social structure and distribution for purposes of planning the intended resettlement. The objectives for the data collection include;

- i. Collection of population data detailing the individual and household characteristics from which the project affected persons will be assessed.
- ii. Identification of vulnerable and severely affected project affected persons
- iii. Identification of impacts of the proposed sewerage improvement project on the livelihoods of the PAPs
- iv. Identify concerns of the PAPs
- v. Identify the resettlement preferences of the PAPs.

4.1.2 Literature Review

This involved collating and compiling all the relevant documents, reports and secondary information relating to Githunguri water and sanitation Improvement project. Relevant documents and published regulations, guidelines and national policies have been reviewed. The objective of the desk review was to identify the literature and issues related to study objectives.

4.1.3 Socio-Economic Survey

Socio-economic survey was conducted to gather socio economic and environmental information of the key project areas. This was conducted for the purpose of identifying:

- Standard characteristics of project affected persons (baseline information on livelihood, economic and social information)
- The magnitude of the expected loss (total or partial)
- Information on vulnerable groups or persons (for whom special provision may have to be made)

4.1.4 Census and Inventory

Census and inventory was conducted to get information required to identify the PAPs and the impacts on affected assets in the project areas. The process of census entailed enumeration of all households which will be or might be affected by the project. The process was facilitated by the chiefs, local village elders and Consultant's team in respective areas. The data collected was collated during the process of inventory. Inventory entailed documenting all the various impacts of the Water and Sanitation Improvement Project and costing through valuation.



Figure 5: Local leaders, Giwasco MD and A PAP consulting the RAP officer

4.1.5 Public Participation and Consultation

Public Participation and consultation was important for soliciting the opinions of the project affected peoples about the project impacts and compensation payments. Meaningful consultation was carried out with relevant stakeholders. Consultations with stakeholders were initiated with preliminary meetings with County Government leadership and other stakeholders within the project area. The Consultant conducted series of meaningful consultations with a broad range of stakeholders, including national and county authorities, local administration, non-Governmental organizations, Community Based Organizations, youth organizations and market associations in the project areas. The consultations were aimed at identifying the best ways to mitigate the impacts the project is likely to have on the affected people.

Transect walks, where possible were conducted and observations were made on physical and environmental conditions of the proposed project areas. The Consultant was very consistent with this approach to ensure that all stakeholders are adequately briefed about the project and their suggestions and inputs are included in the RAP. This approach will further strengthen the sustainability of the project.

During consultation meetings, the PAPs recognized that they have encroached on the riparian and are willing to remove their crops to pave way for the project. They recognize the benefits that the Project will have on their communities. However they felt that they will be losing part of their crops that they spent money on and loss of business premises hence loss of livelihood.

During the discussions, the PAPs raised questions and provided comments concerning compensation option and types of compensation they expected.

4.1.6 Assessment Team

The Resettlement Action Plan study team included socio-economist, government officers, environmentalists, surveyor and engineers.

Applying this suite of methods assures that several distinct perspectives are offered on the socio-economic conditions in the infrastructure project areas and that a mix of both qualitative and quantitative results is produced.



Figure 6: RAP team with the local leaders at the proposed sewer treatment site

4.2 Outcome of the baseline survey

4.2.1 Demography

According to the 2009 Population and Housing Census, the total population of Githunguri urban center stood at 10,007. With a population growth rate of 3.2%, the total population was projected at 12,529 in 2017. The population growth rate is higher than the national growth rate at 2.9%. In addition, the Ngewa village is assumed at 2,000 inhabitants in 2017.

The projected urban growth also means increasing demand for infrastructure and urban services like water, electricity, health care etc.

The following table shows growth projections of Githunguri urban center and Ngewa village till year 2042 applying a baseline growth rate of 2.0%, also looking at a high growth scenario with 2.5% p.a. and a low growth scenario with 1.5%.

Table 2: Githunguri Growth projections

Population projections Scenarios for Githunguri and Ngewa	Growth Rate, 2018- 2042	2017	2022	2032	2042
baseline scenario	2.86%**	14,530*	16,730	22,180	29,405
high growth scenario	3.36%	14,530	17,140	23,853	33,195
low growth scenario	2.36%	14,530	16,327	20,616	26,033

*("County Government of Kiambu: Integrated Development Plan," 2018, p. 22)

**("County Government of Kiambu: Integrated Development Plan," 2018, p. 22) calculated for 2017 & agreed in Progress Meeting No. 3 held on 03.05.2018.

A total of 26 people participated in the census survey out of the 31 PAPs. The others were not available for enumeration. Out of the 26 interviewed, 22% of the PAPS are male while 78% are females. It was also evident that most of the PAPs have lived in the county for more than 10 years.

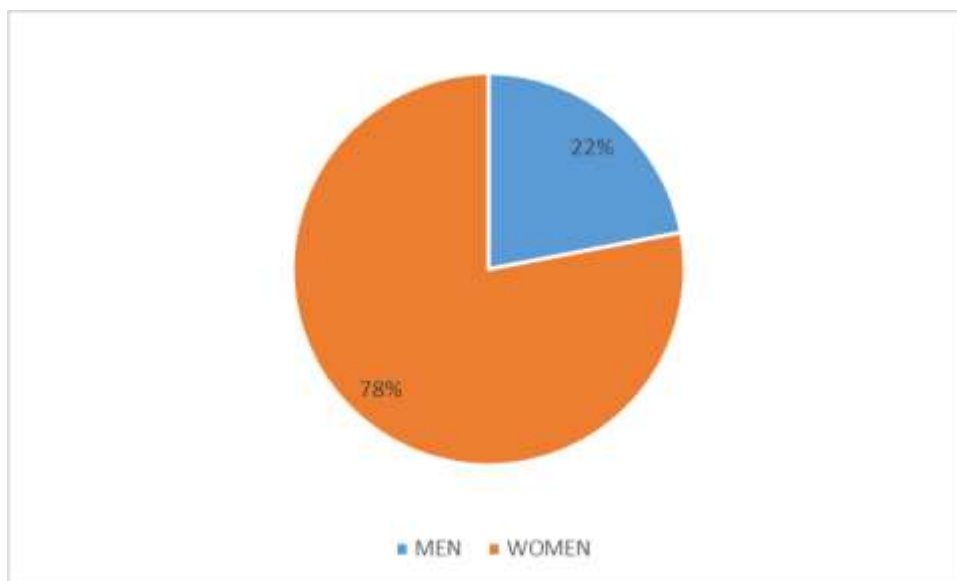


Figure 7 : Distribution of PAPs Based on the Gender of the Respondent

4.2.2 Livelihood and income sources

A person's livelihood refers to their "means of securing the basic necessities such as food, water, shelter and clothing of life". Livelihood is defined as a set of activities, involving securing water, food, fodder, medicine, shelter, clothing and the capacity to acquire above necessities working either individually or as a group by using endowments (both human and material) for meeting the requirements of the self and his/her household on a sustainable basis with dignity. The activities are usually carried out

repeatedly. Livelihoods in the proposed project area were characterized through data obtained in questionnaires, the transect walks, interviewing of the community members and field visits.

According to the Kiambu county annual development plan 2016/17, "52% of the residents of Kiambu inclusive of Githunguri derive their income from wages, 31% are self-employed while 17% are unemployed"

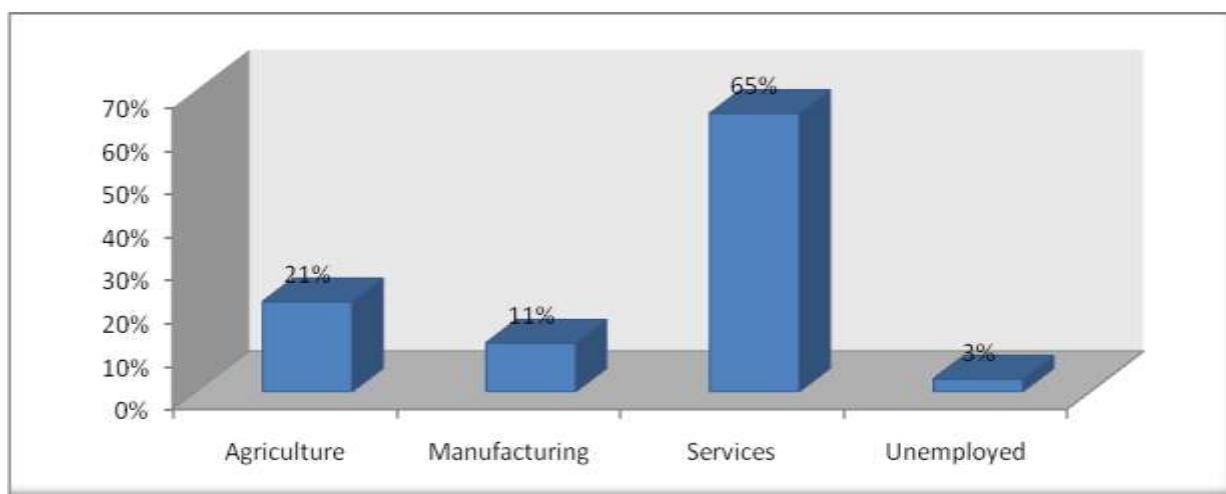


Figure 8: Households main source of income

According to the census survey done for Githunguri Urban centre (65%) derive their main source of income from the services sector of the economy. At least 21% derive their main source of income from agriculture production and 11 % from manufacturing. The remaining 3% said they did not have any source of income. This is shown in figure8 above.

4.2.3 Average monthly income

The respondents in the study were asked to state their average monthly income whereby it was found that the largest group of the households (39%) earned between Ksh 10,000 – 24,000 per month followed by those who earn less than Kshs 10,000 at 33%. The findings are shown in figure 9 below.

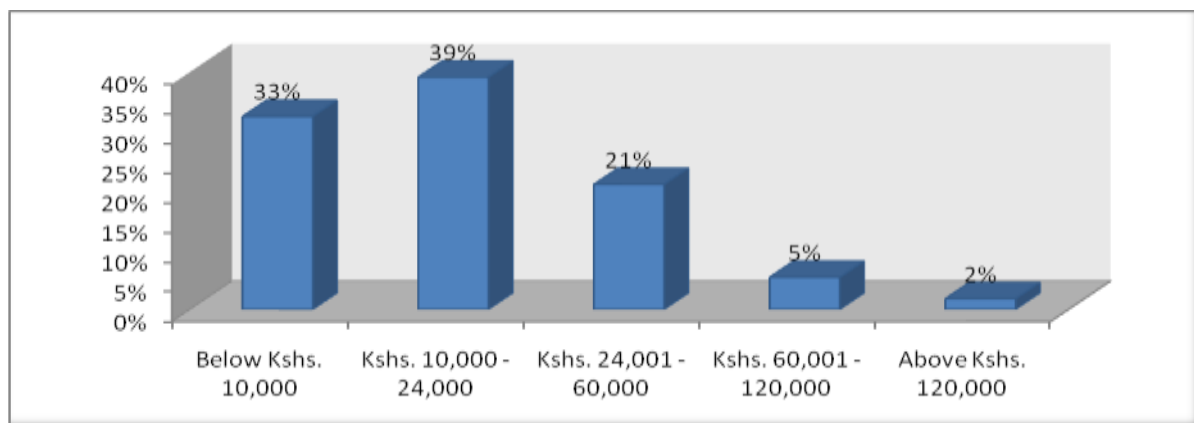


Figure 9: Average monthly income

4.2.4 Vulnerability

This category specifically refers to families supported by women and not having able bodied male members who can earn; families of physically or mentally challenged, very old and infirm persons, who are not able to earn sufficiently to support the family; and families that are very poor and recognized by the government as living below the poverty line. The studies revealed that 50% of the household heads were of ages 30 – 59 years while the rest were over 60 years with an average number of 4 household members. There were no vulnerable families among the PAPs that were engaged in the census survey.

4.2.5 Access to public services

a. Water

The main primary source of water in Githunguri Urban Centre is GIWASCO at 34% followed by Own borehole and Private borehole at 24 % and 18% respectively. This is shown in figure 9 below.

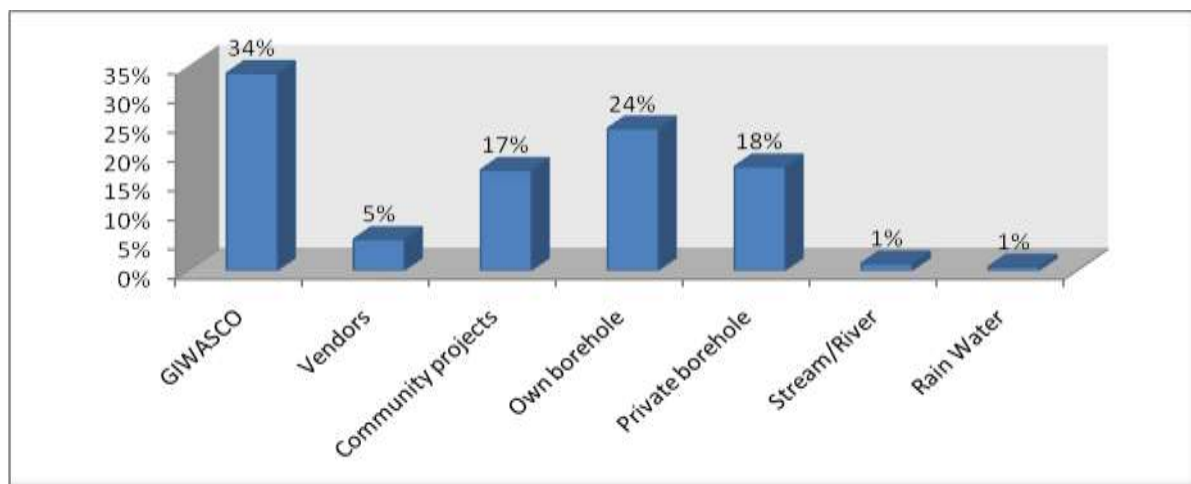


Figure 10: water source

b. Sanitation

There are no sewer services in Githunguri Township. The only means of sanitary disposal is on-site sanitation.

4.2.6 Awareness of the Project and Project Impacts

Most of the PAPs within the County were not aware of the proposed project; but were informed during the public consultation and sensitization meetings and majority were optimistic about the proposed project.

A few PAPs especially at the proposed land for the sewer treatment plant said that they would prefer to visit an effective trickling filter sewer treatment before approving implementing one at Githunguri.

4.2.7 Compensation

One of the major concerns of the PAPs was whether there would be compensation for the loss of crops by the project. Majority of the PAPs suggested cash compensation as the preferred mode of compensation.

Chapter 5: Project Impacts

5.1 Minimizing Displacement and Social Impacts

The Resettlement Action Plan shall **institute efforts to be made to align the sewer and water pipelines within the riparian land and road reserve as much as possible so as to avoid or minimize relocation and therefore resettlement and disturbances arising from land acquisition** in line with the IFC performance standard on land acquisition and resettlement. Additional measures taken or steps to be taken to reduce impact include:

- Sewer pipeline will be as much as possible designed to follow river riparian and road reserves as well as consented areas.
- All those that shall be affected by the project will be fully compensated before project commencement.

5.2 Anticipated impacts

5.2.1 Impact on Land: The Project-Affected Area

The proposed project will have minimal impact on land as land will be acquired only from 5 land owners: 2 on the sewer treatment site and 3 on the water treatment plant the rest will lose their crops along the riparian reserve. The 25 PAPs are farming arrowroots along the riparian reserve on the proposed sewer pipeline. There will be limited acquisition of land from PAPs due to the fact that most of the sewer and water pipelines will pass through river riparian and road reserves, however land will be acquired for the construction of the Sewer treatment plant and Water treatment plant.

The site for the proposed sewer treatment works falls on land parcels numbers 713 and 2543 while land for water treatment plants falls under parcels numbers 2267, 2397 and 808 . Proposed dimensions for the Sewer treatment plant is 120 by 80 m and 160 by 70m for the water treatment plants.

The land owners have been informed of the proposed plans and are willing pave way for the proposed project if they will be compensated.

Recommendation

Adequate compensation for land to be affected by the project where legal ownership entails.

5.2.2 Impact on Crops and Trees

Various crops and trees are grown within the riparian reserve where laying of the trunk lines is envisaged. The crops include arrow roots, kales and Napier grass.

The valuation of trees and crops is a specialist area with guidelines being given by the agriculture expert and the forester on trees. The factors considered in the valuation of the trees is its commercial value and whether is mature (fruit bearing or not). Valuation for crops considers the acreage of the crop and the yield per acre in the general area.



Figure 11: Crops within the proposed sites

Recommendation

- Compensation at the current market value for the affected trees and crops before commencement of works

Chapter 6: Public Consultations and Disclosure

6.1 Legal and Policy Provisions for Stakeholder Consultations

6.1.1 EMCA 2015 through the Legal Notice No. 101: the Environmental (Impact, Audit and Strategic Assessment) Regulations, 2003

The principle Act of Parliament is the Environmental Management and Coordination Act (EMCA) 1999 amended in 2015 and the subsequent Regulation, the Environmental Impact Assessment and Audit Regulations 2003

The regulation requires that during the process of conducting Scoping, Environmental Impact Assessment the Proponent shall in consultation with the Authority here in referred to National Environment Management Authority (NEMA); seek the views of persons who may be affected by the Project. In seeking the views of the public, after the approval of the scoping report, of the proposed project by the Authority, the proponent shall publicize the project and its anticipated effects and benefits by;

- Posting posters in strategic public places in the vicinity of the site of the proposed project informing the affected parties and communities of the proposed project;
- Publishing a notice on the proposed project for two successive weeks in a newspaper that has a nationwide circulation;
- Making an announcement of the notice in both official and local languages in a radio with a nation-wide coverage for at least once a week for two consecutive weeks.
- Hold at least three public meetings with the affected parties and communities to explain the project and its effects, and to receive their oral or written comments; ensure that appropriate notices are sent out at least one week prior to the meetings and that the venue and times of the meetings are convenient for the affected communities and the other concerned parties; and
- Ensure, in consultation with the Authority that a suitably qualified co-coordinator is appointed to receive and record both oral and written comments and any translations thereof received during all public meetings for onward transmission to NEMA.

6.1.2 Performance standard 1 Assessment and Management on Environmental and social risks and impacts

Performance Standard 1 provides for meaningful consultation with affected communities, with engagement based on the timely and effective dissemination of relevant project information and

considering the range of stakeholders that may be interested in the project activities. PS1 requires that affected communities be appropriately engaged on issues that could potentially affect them including ensuring free, prior and informed consultation.

6.1.3 Performance Standard 5 Land Acquisition and Involuntary Resettlement

The PS aims at ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected. The PS states that following disclosure of all relevant information, the client will consult with and facilitate the informed participation of affected persons and communities, including host communities, in decision making processes related to resettlement. Consultation will continue during the implementation, monitoring, and evaluation of compensation payment and resettlement to achieve outcomes that are consistent with the objectives of this Performance Standard.

6.2 Schedule of Stakeholder Consultations

During the RAP and ESIA stage consultations with relevant stakeholders in target settlements within Kiambu County was done. The aim of stakeholder consultations was to give a platform for information sharing and opinion gathering in relation to the proposed Project. Consultations were done in form of public meetings and key informant interviews. 2 No public meeting were held one on 6th July 2018 at Githunguri Stadium and the other on 1st August at the Sewer treatment site (Minutes are annexed). The issues were then analyzed and presented to feasibility study team for finalization of Project feasibility designs plans on how best to implement the Project. The main meetings were held within the month of June to August 2018, attendance of the meetings was from diverse sectors of the society as summarized in table 3 below

Table 3 Schedule of KII Consultation

Date	Stakeholder Consulted	Designation
6/6/2018	David Njoroge	County Livestock officer
6/6/2018	James Nyangweso	WRA Manager Kiambu County
5/6/2018	Laban Mbugua	Board member Giwasco
5/6/2018	Paul Kihara	Mukuyu WRUA
6/6/2018	Ezekiel Kiplagat	Assistant County Commission
6/6/2018	Celina Muriithi	Sub County Administrator
5/6/2018	Duncan Nderi	TM GIWASCO
5/6/2018	Moses Kuria	Ministry of Agriculture
6/6/2018	Joseph Mwangi	MD.GIWASCO
6/6/2018	Mr. WARUI	Githunguri chief

Date	Stakeholder Consulted	Designation
12/6/2018	Mr. Mwaniki	Githiga chief
12/6/2018	Mwai ndirangu	Mukuyu Wrua
12/6/2018	Alexander Ngungu	EHS and Kaizen coordinator
9/6/2018	Boniface Njenga	Kiambu County Irrigation engineer
13/6/2018	Dickson G.Njuge	Kiambu County water and sanitation deputy director

Detailed Review of Issues discussed during public Participation forums is presented in table 4 below.

6.3 Consultation outcomes

The community, PAPs and key stakeholders raised similar issues during the census survey and during the various consultation meetings. They wanted clarifications and assurances regarding the process of property evaluation, compensation payment, offering of resettlement assistance and job opportunities to the locals and mitigation measures during project implementation to reduce anticipated impacts. The issues raised are as shown on table 34 below.

Table 4: Summary of outcome of public consultation and participation

No	Issues	Response and Discussions
1.	Most of the PAPs wanted to know the expected date the project will commence	RAP team responded that the project will commence immediately after all the preliminary surveys and consultations have been finalized.
2.	Compensation as most of the affected PAPs have crops within the proposed route.	The team informed the PAPs that the trunk lines will use riparian reserve and road reserve. it was noted that the riparian reserve was encroached by farmers who have planted arrowwoods along the riparian zone . Hence valuation of the assets along the riparian would be done and notifications will be given for all encroachers to wave way for the trunk sewer lines
3.	Employment	Most PAPs were of the opinion the contractor to employ the youth and women in the area as casuals instead of sourcing them elsewhere.
4.	(Way leave) Residents wanted to know the exact places the trunk sewer will be constructed and also areas that will be given lateral lines for connection to the main trunk sewer	A meeting was done on the riparian area and PAPs were shown the proposed routes for the sewer lines. Hence if the reserved area is not adequate to lay the lines the project will acquire land through easement. The land owners for the proposed sewer and water treatment plants have also been engaged and are willing to sell their land for implementation of the project.

No	Issues	Response and Discussions
5.	Notification and communication	Notification to be done through the Chief's Offices three months prior to the start of Construction

6.4 Inclusion of Outcomes of Stakeholder Engagement in the Feasibility study of the Project

6.4.1 Project Impacts on Peoples Assets of and Sources of Livelihood

The Stakeholder Engagement identified the need to provide adequate compensation for possible Project Impacts identified in *chapter 5* of this assessment, therefore this report presents on a preliminary basis likely Project impacts to people's assets and sources of livelihoods, applicable entitlement, compensation and livelihood restoration measures as required by Kenyan Laws and IFC performance standard on land acquisition and Involuntary Resettlement.

6.5 Public Disclosure of RAP, and Annual Monitoring Reports

This RAP provides for the below listed provisions with regards to Public disclosure

- (i) In accordance with EMCA 2015 and IFC performance standard, the Project Proponent in this case AWSB will ensure that the Results of Public Consultations including RAP area disclosed on AWSB website and DBF website.
- (ii) The Reports will also be made available at Chiefs' Offices in the affected areas including area chiefs in Githunguri for ease of access by the project interested parties at location level and Project site office,
- (iii) The Reports and information will also be disclosed at the ESIA and RAP Stage by NEMA and during the ESIA review by NEMA.

CHAPTER 7: Resettlement Compensation Strategies

7.1 Key Principles in Resettlement Compensation Strategies

This RAP report sets the key principles committed upon by AWSB in this RAP shall be guided by:

- Resettlement and compensation of Project-Affected People will be carried out in compliance with Kenya's legislation and IFC performance standard on land acquisition and resettlement
- Both Physically-Displaced People and Economically-Displaced People will be compensated for their losses of livelihood,
- AWSB will assist PAPs' in restoring their affected livelihoods, and will provide transitional assistance as necessary as long as livelihoods are not restored to their previous level,
- The RAP implementation and outcomes will be monitored and evaluated as part of a transparent process,
- PAPs and project area communities will be informed and consulted during the whole course of RAP development, implementation and evaluation.

7.2 Conditions of eligibility for compensation

7.2.1 Cut-Off Date

The Cut -Off date for eligibility for compensation was deemed to be the date at which all the census of all affected people and assets was completed that is 1st August 2018. It was clearly stated to the PAPs during the public consultation meetings that no structure or field established after the cutoff date will be eligible for compensation. It is worth noting that thereafter the social economic conditions keep changing with time even during implementation.

The following categories are eligible for compensation:

- (i) People whose /houses/structures (commercial or residential) will be affected by Project activity implementation.
- (ii) People whom their business or sources of livelihood will be disrupted due to Project activities.
- (iii) People who rent structures (residential) or (tenants) on the Right of Way (ROW) for operating kiosks, and whose kiosks are to be temporarily removed or relocated.
- (iv) Mobile traders along the project routing on the ROW such as informal roadside enterprise vendors, along road reserves that are going to be affected by the project activity implementation.

- (v) People whose crops and trees will be affected by acquisition of land or the physical project activity implementation; (Encroachers)
- (vi) Employees and other people employed in businesses or enterprises that are likely to be affected by the Project

7.2.2 Eligibility

Both in principle and in the context of the Project, eligibility for compensation for displacement defines:

- (i) Which losses of assets and income are compensated under the Project, and which are not;
- (ii) Who is entitled to receive that compensation, and who is not; and
- (iii) What evidence is expected in order to support a claim for compensation

Eligible losses and entitlements are elaborated in a detailed Entitlement Matrix below.

7.2.3 Entitlements

The Entitlement Matrix describes compensation and related assistance for each category of affected PAP. It is presented in table 5 hereunder

Table 5: Entitlement Matrix

TYPE OF LOSSES	CATEGORIES OF PAPS	ENTITLEMENT
Loss of Agricultural land beyond riparian	All types of affected persons	<ul style="list-style-type: none"> • Replacement of lost land by agricultural land of similar potential under similar tenure arrangements with formal registration in replacement land with the relevant land authorities. • Cash compensation for land or non- cash compensation of land (land for land). • Cash compensation of all immovable developments on the affected land, such as structures, wells,
Loss of Residential land	All types of affected persons	<ul style="list-style-type: none"> • Replacement of lost residential land by resettlement residential land of similar size with formal recognition of ownership of the resettlement plot by the relevant administrative authorities. • Cash compensation for land or non - cash compensation of land (land for land). • Cash compensation of all immovable developments on the affected land, such as structures, wells,
Loss of Structures on public land (Road reserve, river riparian)	All types of affected persons	<ul style="list-style-type: none"> • No cash compensation or land replacement for loss of land. This is because public right of way is public property and the PAPS are considered as encroachers or squatters. But affected persons will be compensated for the loss of structures and livelihood. • Movement allowance to cover the cost of moving structures (transport plus loading/unloading) shall be compensated. • Cost of labour for dismantling and reconstruction will also be

		<p>provided.</p> <ul style="list-style-type: none"> • Owners of affected structures will be allowed to take/reuse all the salvageable materials for rebuilding/rehabilitation of the structure.
Loss of Crops and structures within the riparian area	All types of affected persons	<ul style="list-style-type: none"> • Cash compensation of all immoveable developments on the affected land, such as structures • Cash compensation of standing crops and trees

7.3 Compensation Entitlement Matrix

Overview of Compensation Packages for the Main Categories of Project-Affected People

The following presents an overview of eligibility criteria and compensation.

Cash Compensation

The term cash is used in this RAP to denote payments in currency. Experience in sub-Saharan Africa indicates a high risk potential with large, lump-sum cash payments to parties who have little experience with money management. While the project shall provide compensation in cash consistent with the local law requirements, the project will also include a number of additional benefits that are not represented in the cash compensation package. These additional, non-monetary benefits are intended to mitigate resettlement risks recognized under the involuntary resettlement procedures under PS5, but not Kenyan law. Though not legally required, the incremental costs of these benefits will be borne by the project so as to assure compliance with the project's stated commitment to follow the guidelines and recommendations of the IFCs performance standards, while complying with the local law requirement to provide cash compensation valued at real replacement value.

Crops

Compensation for crops will be done on the basis of the requirements of Kenyan laws. Under this law, landowners and leaseholders are entitled to be compensated at market value for land; tenants for crops and property on the land that they rented; property owners for the value of any property on expropriated land.

Non-Perennial Crops In situations where the farmer cannot be given sufficient notice to harvest his/her crop, compensation will be paid based on the market value of the non-perennial crop. These rates are based on the following data collected during the 2018 socioeconomic baseline study when preparing this RAP

Average yields and prices for typical crops grown in the project area:

- The individual crop yields used in this calculation represent good harvests as reported to the socioeconomic team in meetings

- Crop prices used in calculations were taken from results of the visits to the central market in Githunguri markets and local agricultural commodity exchange offices.
- **Perennial Crops** The calculation of the value of perennial crops for compensation is also based on the market rates determined by (local agricultural commodity exchange offices), and includes the type of crops, the age and size or area under which the crops are grown. These factors have been used as the basis for the calculation of perennial crop loss. Compensation rates are factored for the following stages of tree development:
 - Seedling,
 - Young, not productive,
 - Young productive,
 - Mature.

The calculation of the full replacement value considers not only of the product of the crop over one year, but also the cost of re-establishing the crop (seedlings, soil preparation, fertilizers, others), as well as the lost income during the period needed to re-establish the crop. **Specificities of Tenants and Sharecroppers** Tenants will be paid the whole compensation value for the crop they have grown.

Table 6 : PAPs and their details

#	Name	I.D	Tel
1.	Zacharia Ngichi Kuria		0728877862
2.	Joseph Ndirangu	920077	0733984827
3.	Kenneth Macharia		0720820831
4.	Joseph Njoroge Kuria		072360644
5.	Gatau Ngiragu		0720143942
6.	Njambi Mbugua		0721592429
7.	Purity Njeri Nganga	27957944	0728315654
8.	Jackson Njuguna		
9.	Blaise Muchina Kago	20774072	0724026703
10.	Abraham Njoroge Wainaina		0721518606
11.	Macy Nduta Cago	3097912	0724838186
12.	Peter Wamuri		0718550606
13.	Esther Wambui Wainaina	4242416	0725456220
14.	Rachel Nduta Wainaina	1900795	0724566740
15.	Mercy Karwitha	12891427	0727966566
16.	Paul Kuria		0720820831
17.	Moses Macharia	31737379	0701484588
18.	Francis Macharia Chege		
19.	James Gakiri Kuria		
20.	Moses Macharia Kuria	974689	0798453234
21.	John Nyori Ndirangu		0716801918

#	Name	I.D	Tel
22.	John Nyori Ndirangu		0707001745
23.	Jackson Kamau Kuria		0723606440
24.	Bernard Chege		0723606440
25.	David Chege Kuria		0723606440
26.	Hellen Gakii Gakira	1858676	0729219353

CHAPTER 8 GRIEVANCE REDRESS MECHANISM

8.1 Grievance Procedure and Rationale

This section describes the procedure and mechanism through which community members and PAPs will be able to report, make, place/lodge or express a grievance against the project and its staff or contractors as part of the RAP implementation. It also describes the roles and responsibilities of different structures in resolving grievances. A grievance is any dissatisfaction or sense of injustice or unfairness felt by a person in this respect a PAP or his/her representative in connection with his/her compensation entitlements, the RAP implementation process, the project developer, the contractor and other scenarios related to project implementation. The grievance is usually brought to the attention of the person(s) in charge, referred to in this RAP as the Grievance Officer (GO). This grievance procedure is intended to put in place and facilitate accessible, prompt and cost-effective handling of grievances at the nearest points of service to community members and the PAPs.

The aim and purpose of this system are to make the grievance handling procedures accessible, prompt and affordable to the PAPs given the generally low values of some of the properties to be affected, and also provide an alternative to the costly and time-consuming formal court procedures for handling grievances and disputes. The objective of the grievance handling systems and procedure is to establish for the PAPs mechanism for raising complaints related to compensation for loss of structures and other livelihood properties and assets and having such complaints resolved as amicably as possible through acceptable and binding corrective actions. This grievance management system will be in place throughout the Project construction period, including the exit period.

8.2 Possible Sources of Grievances

During the public consultations, the communities were informed of the implications of the project and the anticipated impact. They were informed that the project was dependent on their acceptance and their being able to effectively participate at every stage of the project development.

However, there are occurring issues that can cause delays and calls for dispute resolution mechanism. They include;

- Inheritance issues / conflicts among families,
- Clerical errors in data entry that leads to delays in processing of compensation for the PAPs,
- Emerging issues such as change in estate administration of affected properties causing delays to payment of compensation,

- Disputed ownership of an affected asset particularly where documentation is not reliable,
- Rejection of a compensation award considered not adequate and representative of market value,
- Change in mind of compensation mode by a PAP demanding for example land-for-land where only cash payment is preferred,
- Handling of cultural issues where there are no clearly agreed precedents such as relocation of graves or payment for compensation in a polygamous marriage.

8.2.1 Formations of the grievance redress committee (GRC)

In view of this, if there is any unwarranted change in the implementation process of the proposed project, it will trigger complaints from the PAPs. This will require to be addressed lest the project fails its acceptance criteria by the general public. To deal with such emerging issues, a Grievance Redress Committee will be constituted with a membership inclusive of

- Representative of the PAPs (at least 30% women representation)
- Community liaison officer in the Project office
- Local leaders (village elders)
- Local Administration (Chief or Assistant Chief)

Grievance Redress Committee shall address the issues in the following manner;

- Register the grievances raised by the PAPs; and
- Address the grievances forwarded by the PAPs representatives.

Grievance Redress Committee shall try as much as possible to arrive at a compromise on complaints raised. This may be obtained through a series of mediation and negotiation /arbitration exercises conducted with the individual PAP. These kinds of disputes are best resolved at the local level to avoid time delays that may arise if people move to court. It would also help to manage the risk of loss of social capital due to bad relationships among family members and neighbors.

Grievances between PAPs and RAP implementers may arise if PAPs feel they are not adequately involved in the implementation process. Lack of perceived transparency may lead to feelings of mistrust and misinformed judgments on both sides. Some PAPs may also feel that the proposed compensation is not equal to their initial investment or just based on their current situation.

Such grievances may require calls for witnesses, unbiased parties or technical evaluations prior to proposing a solution. Local mechanisms may not have the capacity to meet all these requirements and would therefore require some form of support.

Some grievances may also occur that are outside of the direct control of the Grievance Redress Committee (GRC) and would require intervention at county or national government level. These include disputes that require policy interpretation or investigations prior to a conclusive resolution. In such cases, the GRC may require legal interpretation on certain aspects.

8.2.2 Proposed Grievance Redress Procedures

The following grievance mechanism is proposed for the implementation of this RAP:

a) Level One: Local Committee

A Local Grievance Committee constituted of the following members will be formed at the local level / community level:

- Chairman: Area Chief / Assistant Chief
- Secretary: Village Elder
- Members: three PAP representatives consisting of a man, a woman and a youth (18 to 30 years).

This committee will sit at the Chiefs office. The following procedure has been proposed:

- A PAP registers a grievance and within one working day, the committee members are alerted of the case,
- The affected person is immediately informed of the next date of the scheduled hearing. Depending on the case load, a maximum of 7 working days should be given between the date that a case is recorded and the date when the hearing is held,
- The committee meets once every seven calendar days to deal with emerging cases. At these meetings, hearings with the affected persons and related witnesses will be held,
- The committee will communicate its judgment to the affected persons within 3 working days,
- If no resolution is met or the PAP is not satisfied with the judgment, the case is moved to the next level by the committee. This will be done within 5 working days of the hearing.

b) Level Two: Project Committee

A Project Level Committee constituting the following members will be formed at the county level:

- Chairman: Chief Executive Lands Housing and Urban Development
- Secretary: Deputy County Commissioner (DCC);

- Representative from Project Consultant, and other Project Supervising agency and client
- Representative from GIWASCO
- Members: three PAP representatives consisting of a man, a woman and a youth.

This committee will sit once a month at the County Government Office. The following procedure is proposed;

- A grievance is logged at the County Government Office and within five working days, a notice is sent out to all the interested parties informing them of the date of the hearing,
- A hearing will then be held within thirty days of the grievance being raised,
- In the event that investigations and technical witnesses are required, a maximum of thirty (30) calendar days will be taken prior to a hearing being held,
- The committees decision will be communicated in writing within 5 working days of the date of the hearing,
- If the committee does not resolve an issue, the affected persons are free to go to the Land and Environment Court.

A Grievance / Dispute Management Procedure is described in Error! Reference source not found.

below

8.2.3 The Functions of Grievance Redress Committee

The function of the Grievance Redress Committee is a forum for the PAPs to air their dissatisfaction arising from the compensation or implementation process of the project. The Committee will receive complaints from the PAPs through the project office either verbally or in writing and thereafter endeavor to address the issues to the satisfaction of the complainant. If the matter cannot be addressed to the satisfaction of the complainant within the prescribed period, the complainant then may have recourse to the GRC. Failure to be satisfied, the complainant have the right to seek redress from the court.

(i) Role of PAP's Representatives in Grievance Redress Committee

- Collect views of the PAPs and present them to the Implementing agency or Grievance Redress Committee
- Help in confirmation of the asset inventory
- Debrief the PAPs on deliberations of the implementing agencies
- Coordinate the payment of the compensation on related assets inventoried

(ii) The GRC headed by an elected chairperson will carry out the following responsibilities as regards redressing grievances;

- Hear the grievances of the PAPs and provide an early solution to those they are able to,
- Immediately bring any serious matters to the attention of the committee and
- Inform the aggrieved parties about the progress of their grievances and the decisions made by the GRC.

8.2.4 Role of Local Civil Administration and Other Mediation Channels

As it will be agreed upon by all parties such as traditional and customary channels that deal with issues concerning property ownership or inheritance. The legal system in this case the land and environment court recourse can be used but will be the last resort considering the arbitration time involved.

8.2.5 Grievance Redress Procedures

The grievance redress procedures will be put in place; this will help in monitoring and ensuring that grievances are properly handled. The grievance framework to be used includes the following:

- Established redress institutional arrangements specifically for RAP
- Procedure for recording and processing grievances clearly spelt out
- Mechanisms for adjudicating grievances and appealing judgments
- A schedule with deadlines for steps in the grievance redress process so that matters are sorted out quickly as they arise

8.2.6 PAPs Participation & Agreement on Grievance Process

All household adults will have an opportunity to review the grievance processes for efficacy in addressing potential issues of contention. They will have an opportunity to amend this before the actual disclosure of packages offered possibly in public barazas.

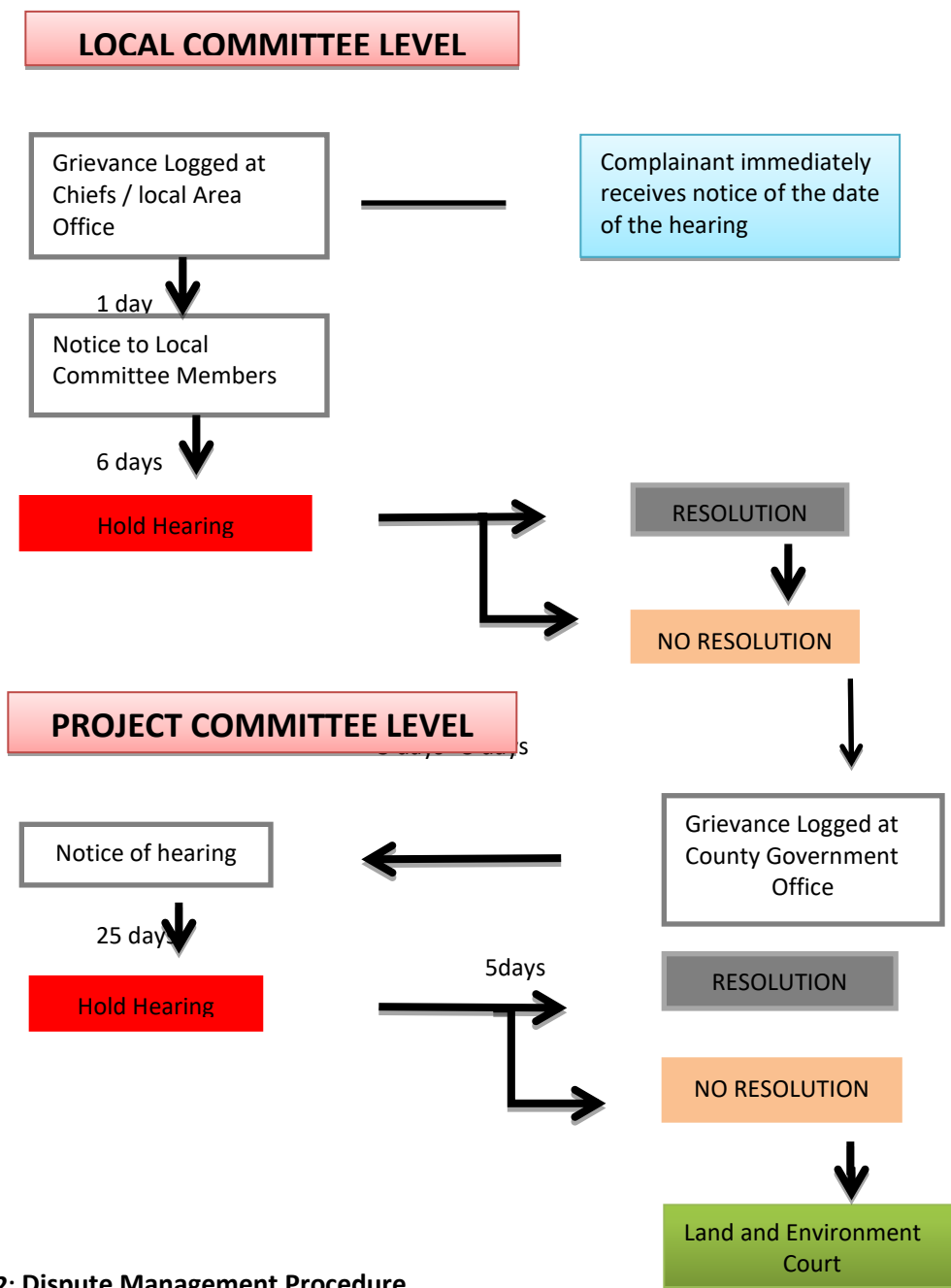


Figure 12: Dispute Management Procedure

CHAPTER 9: VALUATION AND COMPENSATION

9.1 Valuation and Related Legal Issues

As it is crucial in the social safe-guards to protect the project affected persons from being adversely impacted by the project, a sound basis of valuation is necessary to ensure fair compensation. The process for land valuation for compulsory acquisition is governed by provisions of the Land Act.

9.2 RAP Valuation Process

Detailed valuation of assets along the proposed project way leave has been undertaken for estimate purpose . For a final valuation to be undertaken, it will be necessary for the assets acquisition formalities to be completed in accordance with the provisions of the law governing compulsory acquisitions. Compensation will be undertaken by AWSB will the help of the National Land Commission (NLC). This will entail the Gazetting of the affected properties, holding public inquiries to receive claims from the owners and any other interest holder. The owners of the proposed sewer and water treatment plants have however been approached and are willing to pave way for the proposed project if compensated. These parcels of land have also been valuated but will need to be reviewed during the implementation period. Any other land that will need to be acquired as per the designs must be identified

Secondly, the detailed design has to be completed to ensure that the design specifications is identified for acquisition purposes. During the intervening period, an inspection will be carried out to ascertain the condition of the premises affected for assessment purposes. Official searches would also be conducted to verify ownership and any encumbrances attached to the title.

After the inquiries are held, an award is made to the registered owner after comparison of his claim and the official assessment by the government valuer. Option is provided to accept or reject the offer and recourse is provided to appeal on the quantum of the award for enhancement by the tribunal or the Environment and Land Court established by provisions of the Constitution of Kenya (2010).

9.3 Land Acquisition

The function of acquiring land compulsorily for public purposes is vested in the National Land Commission by the Constitution of Kenya (2010) and the Land Act. The Commission is responsible for arranging the Gazetting of land to give notice to the affected persons. It arranges for valuation inspections of the affected properties and issues the award after determining the claims submitted at

the public inquiries. The National Land Commission acts on behalf of the project proponent in arranging for land acquisition and taking possession of the affected land after making the compensation payment to the land-owners.

The valuation process will provide compensation for loss of land and developments, loss of incomes to both lease-holder and the landlords. A flat rate disturbance allowance (15%) will be payable to the property owners over and above the award for any inconvenience suffered as a result of the acquisition of land and developments.

9.4 Valuation Methodology

Valuation can be defined as the art or science of establishing the value (worth) of a particular interest in property for a specific purpose and at a particular moment in time; taking into considerations all the features of the property and also considering all the underlying factors of the market.

All valuation techniques rely on the collection and analysis of data such as social, economic, government and environmental attributes. Specific data include local market conditions and details of property transactions such as location, physical and functional form and legal characteristics. The value of the property is affected by the rights of enjoyment or compensation when such benefit may be alienated.

In Kenya, compensation for land requires that the value paid to include all the other miscellaneous expenses as well as the injurious affection due to the disturbance to them. Thus in such circumstances, the value paid is higher than normal market. Thus the factors that affect the value are those that affect the rights on land. These include location, legal rights and permitted land user.

The exercise was carried out together with the household survey to ensure that the project affected persons would physically identify all the assets to be affected within the delimitations of the project.

Basically there are five methods of valuation namely:

- A. Comparison Method:** while it is true that no two properties can be the same, this method compares like properties. It is the most reliable and requires an active market while adjustments are made to fit specific properties. The limitation faced by this method is lack of data and sometimes misleading data.

Comparable may be biased where the seller may sell more or less depending on the needs at the time. Elsewhere the data given may not be correct because of personal secrecy. Thus in long run, valuers have been able to come up with values per square foot/meter that can be used in various regions and give a reasonable value. Adjustments are made depending on various factors.

- B. Investment Method:** This method of valuation is based on the expected future returns and its applicable where active investment market is available. Just like comparison method, investment method is limited due to lack of varied data.
- C. Full Replacement Cost approach method:** this is where the property value is assessed based on the cost of buying the site and constructing the building. It is based on the reproduction/replacement value.
- D. Profit method:** this method is used in absence of sufficient rental or sales evidence and where the hypothetical purchaser would base his/her offer of profit from the business conducted from the property.
- E. Residual method:** this is applied to property with development potential either undeveloped or partially developed.

The above methods together with the above factors lead to the value of the property. It is important to note that the above methods can apply to the same property if the data was available. They however give varied values; experience and the knowledge of the existing property market are necessities for any property valuer to come up with appropriate value and not just the quantification and method of calculation.

The method that is found to be appropriate for this exercise is the **Full Replacement Cost Approach**. The aim of carrying out the estimates of values is to ensure that the affected persons PAPs would not be worse off in their economic and social status when the project is implemented.

9.5 Basis for Valuation for Land

The working area that will be required for the construction of the sewer lines where the reserved areas will not be wide enough there will be compulsory acquisition under the Land Act. The amount of award for compensation depends on:

- (i) Area affected by the proposed project
- (ii) The value of interests in land can be affected by the sewer line
- (iii) The valuation is based on the principal of prevailing replacement cost which is normally determined by the various valuation methods used locally and internationally.

The RAP has proposed that the valuation of land be dealt with on a case by case basis during implementation / construction as during survey most of the trunk lines were envisaged to pass through the riparian reserves.

9.6 Valuation of Crops and Trees

Compensation of crops is decided according to the gross market value of the lost crops. Gross market value makes full provision for owners' crops or users input already expended (labor, seeds, fertilizer, etc.) in the event that there is a crop in ground at the time of implementation. There are two determinant of gross or full market value which are market value for crops and the average annual yield of the crop. The price used to calculate compensation is the highest market price of the crop during the year. The average annual yield of the crop involves some degree of data collection and analysis.

Harvesting of crops and trees will be given first priority but where harvesting will not be possible, counting of the affected crops will be carried out and values applied according to the market rates. Compensation for crops is done on the basis of the requirements of Kenyan laws under the Ministry of Agriculture. Under this law, landowners and leaseholders are entitled to be compensated at market value for land; tenants for crops and property on the land that they rented; property owners for the value of any property on expropriated land. Compensation of crops and trees was done according to the market value of the crop at Kiambu County.

The RAP proposes that the parcel of lands which crop and tree valuation was not done to be valued during implementation of the project on case by case basis.

9.7 RAP budget

The RAP budget is estimated as indicated in table 7 below

Table 7: Budget

Item under Compensation	Amount Estimates
Loss of Assets and Livelihoods	
STP Site	4,847,500
WTP Site	5,925,000
Crops	671,295
Tree	11,000
Sub Total	11,454,795
Implementation costs (Administrative costs 20%)	2,290,959
Monitoring and Evaluation (20%)	2,290,959
Sub total cost	16,036,713
Add 15% contingency	2,405,506.95
Total Compensation	Ksh 18,442,219.95

NB:

The costs represented are all estimated costs derived from actual valuation of crops, trees and structures as of the cutoff date. It is also worth noting that the costs will also change during implementation and construction due to changes in socio –economic conditions of the proposed project area and changes in the design review.

Chapter 10: Monitoring and Completion Audit

10.1 General objective of monitoring

Monitoring is a key component of the Resettlement Action Plan and is an integral part of PIU responsibility and obligations. It has the following general objectives:

- Monitoring of resettlement and compensation progress, of specific situations of economic or social difficulties arising from the implementation of the compensation and resettlement process, and of the compliance of the actual implementation with objectives and methods as defined by IFCs Performance standards and this RAP;
- Audit of the completion of the resettlement program, through an assessment of the short- mid- and long-term impacts of the compensation and resettlement program on affected households, their incomes and standards of living, the environment, local capacities, housing, etc.

Monitoring allows to correct implementation methods —in real time during Project implementation, and also to check whether general objectives have been met and whether the resettlement and compensation program can be deemed complete. Monitoring and auditing include an internal tier and an external tier.

10.2 Internal Monitoring

10.2.1 Objectives

Monitoring will address the following aspects:

- (i) Social and economic monitoring: follow-up of the status of PAPs, cost of housing in the displacement area, potential land speculation, environmental and health situation, livelihood restoration including agriculture, small businesses, employment and other activities;
- (ii) Monitoring of vulnerable people;
- (iii) Technical monitoring: supervision of infrastructure and housing construction where relevant, commissioning and testing of the technical components of the resettlement housing; and
- (iv) Grievances and grievance management system if they were effective.

10.2.2 Indicators and Frequency of Monitoring

During the active phase of resettlement and compensation, the following key progress indicators will be measured internally by PIU on a quarterly basis:

- The process of compensation for the treatment plants and the wayleaves/access roads;

- No of complaints received and status
- Composition of the GRC
- PAPs perception on handing of grievances;
- Community engagement process and outcomes

10.3 External Monitoring

PIU will hire a suitably qualified external social auditor with significant experience in resettlement to carry out two reviews annually with reviews focusing on the assessment of compliance with social commitments contained in the Kenyan legislation, IFCs Performance standards, Resettlement Action Plan(s), ESIA and its attached action plans, and in the Social Management Plan (SMP).

The objectives of biannual reviews are:

- To assess overall compliance with the RAP and other social commitments made in the Environmental and Social documentation,
- To verify that measures to restore or enhance Project-Affected Peoples' quality of life and livelihood are being implemented and to assess their effectiveness,
- To assess the extent to which the quality of life and livelihoods of affected communities are being restored in an appropriate manner.

Beyond commitments identified in this Resettlement Action Plan, this review will also assess overall compliance with other mitigation measures to address non resettlement-related social impacts described in the ESIA, the SMP and the Contractor Plans. The types of commitments that will be verified by the external monitoring expert include the following:

- Pollution prevention dust and noise management in communities,
- Community safety awareness raising programs in communities on communicable diseases; community awareness of project traffic routes and traffic safety briefing,
- Infrastructure and services reinstatement of damaged infrastructure and compensation process; and roads shared with the public are maintained in reasonable condition.
- Community liaison community awareness of project activities; complaints procedures; camp rules; recruitment process; project traffic speed limits; pre-warning of blasting, noisy activities

and other planned disruptions; procurement process and regular community meetings and access to community liaison officers,

- Grievance management follow up of grievances reported; accessibility of Community Liaison Officers; community awareness of complaints procedures and complaints close out.
- Conflict from the supplied resource (water)

External monitoring reports will be prepared independently by the reviewer and released to the lenders and to the public after review by PIU for factual accuracy.

CHAPTER 11: Implementation of the Rap

The implementation schedule for this RAP covers the periods from the preparation of the RAP to the conclusion of the Githunguri water and sanitation project up-to the completion and the time that the infrastructure will be fully available to full use.

The procedure in the schedule starting from notification of the PAPs before their displacement through compensation and resettlement will be done in phases to synchronize with the various phases of the project. The RAP Implementation schedule defines the duration and timing of the key milestones and tasks. The major component tasks for the schedule include:

- Preparation of RAP
- Consultation and Disclosure of RAP
- Audit of the PAP register and compensation package due to each PAP
- Signing of agreements on compensation packages by PAPs
- Resolving emerging grievances
- Compensation and/or Supplementary assistance
- Notification of PAPs to relocate
- Commencement of project operations
- Monitoring and evaluation, including baseline update

Table 8: Implementation Schedule

Activity	Months														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Preparation of RAP	■	■	■												
Disclosure of the RAP Report			■	■											
Audit of the RAP report to verify PAPs and compensation details			■	■	■										
Signing of compensation and relocation assistance agreements			■	■	■										
Resolution of conflicts and Grievances			■	■	■	■	■	■	■	■	■	■	■	■	■
Payment of compensation to PAPs and facilitation of relocation			■	■	■	■									
Issuance of notices for relocation			■	■	■										
Commencement of works								■	■	■	■	■	■	■	■
Monitoring of the resettlement activities				■	■	■	■	■	■	■	■	■	■	■	■

Annexes

Annex 1 : Public Participation Minutes and attendance sheet

ATHI WATER SERVICES BOARD

THIKA AND GITHUNGURI WATER AND SANITATION IMPROVEMENT PROJECT

CONSULTANCY SERVICES FOR FEASIBILITY STUDIES, CONCEPTUAL DESIGN AND PREPARATION OF DESIGN-BUILD TENDER DOCUMENTATION FOR THIKA AND GITHUNGURI WATER AND SANITATION IMPROVEMENT PROJECT

CONTRACT NO.: AWSB/DBF/CS-01/16

FUNDING: DANIDA BUSINESS FINANCE (DBF)

ESIA/RAP ACTIVITIES

MINUTES OF THE ESIA/RAP PUBLIC BARAZA MEETING HELD ON 6th JUNE, 2018 AT GITHUNGURI STADIUM

MEETING SESSION	PARTICIPANTS
Public participation meeting for ESIA/RAP for the Thika Githunguri Water and Sanitation Improvement Project	<ol style="list-style-type: none"> 1. MD 2. County administrator 3. Assistance County commissioner 4. Lydia Mbogo Losai, 5. Collins Juma – Environmentalist, Losai, 6. Community members

Absent with Apology

- | | | |
|---------------------|------|------------------|
| 1. Kezia I Odhiambo | AWSB | Environmentalist |
| 2. Adelguin Wanjala | AWSB | Environmentalist |

Agenda

1. Opening Remarks and introduction
2. Reason for stakeholder consultations
3. Current water sources, sewer systems and challenges
4. GIWASCO interventions to address the challenges
5. Potential project impacts(both negative and positive)
6. A.O.B

MINUTE NO	DESCRIPTION	ACTION BY
Min 1.1	<p>Opening Remarks and Introduction</p> <p>The MD called the meeting to order at 12:00 pm and welcomed both the members of the public, and the consultant to the meeting. HE registered apologies from the area Chief who had other engagements. He the requested Bishop Solomon waweru to lead the Baraza with a word of prayer.</p>	ALL
MIN 1.2	<p>Project Scope and Objective</p> <p>The MD took the attendants through the project objective and scope and welcomed Mr. Laban to take the baraza through the history of water in Githunguri</p>	
Min1 3	<p>Current water sources, sewer systems and challenges</p> <p>Mr Laban informed the baraza that there is in adequate water in Githunguri with majority of people relying on their own sources of water such as boreholes and springs. He urged the community members to support the project</p>	
Min 1.4	<p>Project support</p> <p>The county Admin seconded Mr Laban on water issues and also welcomed the project in the area saying the project will contribute positively to the people of Githunguri who have inadequate water. He also requested for the apology of the MCA Githunguri who did not manage to attend the meeting</p> <p>Felista Kamau said that the project would add value to resources in Githunguri and urged the community members to inform those who did not manage to attend the meeting about the project and request them to support the project.</p>	

MINUTE NO	DESCRIPTION	ACTION BY
	<p>The assistance county commission informed the baraza that project was a good development for the area and requested the community to support the project and also encouraged them to consider rain water harvesting.</p>	
Min 1.5	<p>Reasons for stakeholder consultations</p> <p>As a legal requirement for the preparation of any ESIA/RAP report before a project commences, all the stakeholders be it Key Informants or the members of the public have to be consulted and their concerns and inputs be attached to the final report.</p> <p>This was elaborated by the consultant to the gathering in clear detail and in addition that they were guided by EMCA 1999 which was amended in 2015 to align with the Kenyan Constitution 2010 and also IFC Performance Standards in preparations of EIAs and RAP</p>	Consultant
Min 1.6	<p>Potential project impacts(both positive and negative)</p> <p>The consultant took the members of the public through the potential project impacts and how it would be of benefit to them and improve their lives.</p> <p>Employment of the locals was a major talking point as they requested to be considered first when any working opportunities arose. This was also viewed that it would help cement the project in the area if they participated in it.</p> <p>They clearly agreed that the sewer system would be of great importance in the area as it was quickly growing in infrastructure, buildings and population.</p> <p>Health and safety issues were discussed to a great deal with fear of accidents being a major concern among the public. The consultant assured them that once the contractor is on site, he will be given clear instructions on camp and site safety.</p> <p>A proposal of planting trees along the river also came from one of the residents; this was in line with conservation issues especially after digging the sewer lines. GIWASCO was requested to take up the challenge and provide trees.</p> <p>On the issue of displacement or relocation by the project, compensation was the major suggestion made by majority even though some preferred to be given agricultural land somewhere else</p>	Consultant

MINUTE NO	DESCRIPTION	ACTION BY
	in case their crops would be affected. They were assured that a resettlement action plan would be carried out to determine exactly who was being affected and then they would be compensated.	
min 1.7	<p>A.O.B</p> <ul style="list-style-type: none"> • GIWASCO director observed the challenges faced by the locals and assured them that their concerns would be addressed by the project so they should welcome it. • There were also concerns that the project should not be a white elephant as seen in some areas around where projects are abandoned before completion. 	

There being no any other issues, a resident gave a vote of thanks and a closing prayer.

The assistant chief closed the meeting at 2.30pm

MINUTES OF THE ESIA/RAP PUBLIC BARAZA MEETING HELD ON 1st August, 2018 at the proposed Sewer treatment site

MEETING SESSION	PARTICIPANTS
Public participation meeting for ESIA/RAP for the Thika_Githunguri Water and Sanitation Improvement Project	<ol style="list-style-type: none"> 1. MD GiWASCO 2. Assistance TM Giwasco 3. County administrator 4. Chief Githunguri 5. Village elders 6. Vincent Kiaria 7. Joseph Mbutia , 8. Amos 9. Community members

Absent with Apology

- | | | |
|---------------------|------|------------------|
| 1. Kezia I Odhiambo | AWSB | Environmentalist |
| 2. Adelguin Wanjala | AWSB | Environmentalist |

Agenda

1. Opening Remarks and introduction
2. Reason for stakeholder consultations
3. Potential project impacts(both negative and positive)
4. A.O.B

MINUTE NO	DESCRIPTION	ACTION BY
Min 1.1	<p>Opening Remarks and Introduction</p> <p>The MD called the meeting to order at 8:00 am and welcomed both the members of the public, and the consultant to the meeting.</p>	ALL
MIN 1.2	<p>Project Scope and Objective</p> <p>The MD took the attendants through the project objective and scope and welcomed the area chief who welcomed people to the meeting and explained the reason for the meeting.</p>	
Min 1.3	<p>Project support</p> <p>The county Admin seconded Felista Kamau said that the project would add value to resources in Githunguri and urged the community members to inform those who did not manage to attend the meeting about the project and request them to support the project.</p> <p>The assistance county commission informed the baraza that project was a good development for the area and requested the community to support the project and also encouraged them to consider rain water harvesting.</p>	
Min 1.4	<p>Reasons for stakeholder consultations</p> <p>As a legal requirement for the preparation of any ESIA/RAP report before a project commences, all the stakeholders be it Key Informants or the members of the public have to be consulted and their concerns and inputs be attached to the final report.</p> <p>This was elaborated by the consultant to the gathering in clear detail and in addition that they were guided by EMCA 1999 which was amended in 2015 to align with the Kenyan Constitution 2010 and also IFC Performance Standards in preparations of EIAs and RAP</p>	CONSULTANT
Min 1.6	<p>Potential project impacts(both positive and negative)</p> <p>The consultant took the members of the public through the potential project impacts and how it would be of benefit to them and improve their lives.</p> <p>Employment of the locals was a major talking point as they requested to be considered first when any working opportunities arose. This was also viewed that it would help cement the project in the area if they participated in it.</p>	Consultant

MINUTE NO	DESCRIPTION	ACTION BY
	<p>They clearly agreed that the sewer system would be of great importance in the area as it was quickly growing in infrastructure, buildings and population.</p> <p>Health and safety issues were discussed to a great deal with fear of accidents being a major concern among the public. The consultant assured them that once the contractor is on site, he will be given clear instructions on camp and site safety.</p> <p>The participants were also eager to know the commencement dates for the project. The rap team informed them that once all relevant document were acquired the project would kick off.</p> <p>On the issue of displacement or relocation by the project, compensation was the major suggestion made by majority even though some preferred to be given agricultural land somewhere else incase their crops would be affected. They were assured that a resettlement action plan would be carried out to determine exactly who was being affected and then they would be compensated.</p>	
min 1.7	<p>A.O.B There being no any other issues, a resident gave a vote of thanks and a closing prayer.</p> <p>The assistant chief closed the meeting at 11.30pm and the RAP team did the census survey.</p>	

Annex 2: Sample Asset Inspection Sheet and questionnaire**1. Sample Sheet Inspection Sheet****RESETTLEMENT ACTION PLAN (RAP) FOR PROPOSED THIKA GITHUNGURI WATER AND SANITATION IMPROVEMENT PROJECT PROJECTS****ASSET INSPECTION SHEET**

Household No

A) Location

Village	Location/ward	Sub County /division	County/district

B) Demographic Data

Name of the owner (HH	ID	Telephone	Gender	Age
Spouse Details/Next of Kin	ID	Telephone	Gender	Age
Family size				
Water line				
Sewer line				

C) Education level

No		Answer
A	None	
B	Primary	
C	Secondary	
D	Tertiary /university	
E	Others	

D) Vulnerability

No	Vulnerable Parameter	Answer	
A	Is the HH headed by child under 18yrs		
B	Is the HH headed by a disabled Person		
C	Is the HH headed a chronic ill person		
D	Is the HH headed by elderly over 65yrs		
E	Is the HH enrolled to government social program that supports the aged?		
F	Did the HH business / loss of income collapse in the recent month?		

Yes (1) or No (2)

E) Structure

TYPE OF STRUCTURE affected	NATURE OF MATERIAL			Size in sq ft	GPS coordinates	PHOTO NUMBER.
	Wall	Roof	Floor			
A1.Main house						
A2.Kitchen						
A3.Store						
A4.Fixed Business shed						
A5.Mobile business shed						
A6.Goat shed						
A7. Poultry house						
A8. Latrine						
A9. Bathroom						
A10. House 1						
A11.Others indicate						

Codification Asset structure below

A2	A3	A4	A5	A6
Relationship Household head	Type of wall	Type of roof	Floor	Size in meters
1.Head	1. Stone not plastered.	1.Iron Sheets	1.Plain concrete	Length
2. Spouse	2.stone and plastered	2. Grass thatched.	2.Tiled	Width
3.Son/Daughter	3.Bricks and plastered	3.Plastic paper	3.Mud	Radius
4.Brother/Sister	4.Bricks not plastered	4.Other	4.Red oxide	
5. Parent.	5. Iron sheets.		5.Other	
6. other indicate	6.Wooden			
	7. Mud			
	8.Mud +plastered			
	9. Other			

F) LOSS OF LIVELIHOOD

S/ NO	Type of Business	Average Daily Income	Affected		Owner of the business
		Ksh.	Total/Partial	Type	Name (ID and Tel no If not member of the household)

Codification Business type

- 1- Grocery / shop 2- Beauty shop/ salon / barber 3- retail shop kiosk 4- cereals kiosk
 5- cloth stall 6- food kiosk / hotel 7- mpesa shed 8 shoe vendors stand 9- local chemist
 10- hardware shop 11- domestic bakery12- Movie shop 13- Other (s) (please specify).....

Type of ownership:

- 1- Head of household 2- Spouse 3- Other member of the household 4- Tenant 5- Other
 (please specify)

G) CROPS GROWN

TYPE OF CROP	AREA IN SQUARE FEET	Name (ID and address if not member of the household)

See codes below

- 1-Tea 2-Coffee 3-Maize 4 Sweet potato 5- Sugarcane 6- Beans 7- Nippier grass 8- Peas 9- Cassava 10- arrowroots 11- kales 12- Bananas 13- Irish potatoes 14-Pumkins 15-Passion fruits 16-Other (s) (please specify)

H) TREES GROWN

TYPE OF TREE	AGE OF TREES			Name (ID and contact if not member of the household)
	YOUNG	MEDIUM	MATURE	

See codes below

1. Mango 2 Guava 3 Avocado 4 Eucalyptus 5 Cypruss 6 Bamboo 7 Pawpaw 8Pine 9 Gravellier 10 Croton Tree 11. Ficus tree 12 Fig tree 13.Other(s) (please specify)

I) Tenants

List the Names and Telephone Numbers of Residents Tenants in the Structure

TENANT'S INFORMATION ON THE STRUCTURE

Name of Tenant	Gender	Rent Amount/Month	Telephone	ID Number

2. Sample questionnaire

HH questionnaire

The Government of Kenya through Athi Water Services Board (AWSB) plans to implement a new water and sanitation improvement project in Thika constituency, Kiambu County with funding support from Danida Business Finance (DBF). As provided in the second schedule of EMCA and its subsequent supplement of 2003, such projects need to be subjected to an Environmental Impact and assessment (EIA) to ensure sustainability. This includes conducting consultation and public participation in the project areas. As part of the process, AWSB has appointed Losai Management to conduct ESI/A for the proposed project. This questionnaire is part of public consultation that will be included in the ESI/A report.

You have been selected to participate in this exercise and we would highly appreciate your assistance for responding to all questions in this questionnaire adequately and appropriately as possible. Please fill in the following questionnaire giving in your comments where necessary.

Your response will be treated with confidentiality and will only be used for the purpose of this project.

Name of interviewer.....

Name of the respondent

Section A: General information

1. What your views on water and sanitation services in Githunguri?

a) Water services

b) Sanitation services

2. Are you aware of the proposed Githunguri Water and Sanitation Improvement Project?

Yes No

a) Do you support the project?

Yes No

3. State any concerns regarding implementation of the proposed project?

Section B: Anticipated Impacts

4. What are the expected **POSITIVE** impacts of the project from construction phase through to commissioning and operations phases?
-

5. What are the expected **NEGATIVE** impacts of the project from construction phase through to commissioning and operations phases? Tick appropriately. Will the project

5a. Environmental Impacts

Impact	Yes	No
Increases/ cause Soil erosion		
Affect soil salinity and alkalinity?		
Create a risk of increasing any other soil degradation		
Create a risk of increased deforestation?		
Generate Solid waste		
Destabilize Geology and soils		
Change Land use		
Impact on surface and or ground water (interference with river flow pattern and or pollution of surface or ground water)		
Divert the water resource from its natural course/location?		
Cause pollution of aquatic ecosystems by sedimentation and agro-chemicals, oil spillage, effluents, etc.?		
Introduce exotic plants or animals?		
Involve drainage of wetlands or other permanently flooded areas?		
Cause poor water drainage and increase the risk of water-related diseases such as malaria?		
Reduce the quantity of water for the downstream users?		

Result in the lowering of groundwater level or depletion of groundwater?		
Create waste that could adversely affect local soils, vegetation, rivers and streams or groundwater?		
Create waste that could adversely affect local soils, vegetation, rivers and streams or groundwater?		
Others		

5b Social economic impacts

Impact	Yes	No
Cause Land use conflict		
Cause Water use conflict		
Displace people from their current settlement?		
Interfere with the normal health and safety of the worker/employee?		
Reduce the employment opportunities for the surrounding communities?		
Lead to Loss of business (water vendors)		
Lead to Loss of employment		
Reduce settlement (no further area allocated to settlements)?		
Reduce income for the local communities?		
Increase insecurity due to introduction of the project?		
Increase exposure of the community to communicable diseases such as HIV/AIDS?		
Have machinery and/or equipment installed for value addition?		
Introduce new practices and habits?		
Lead to child delinquency (school drop-outs, child abuse, child labor, etc.?)		

Lead to gender disparity?		
Lead to poor diets?		
Lead to social evils (drug abuse, excessive alcohol consumption, crime, etc.)?		
Interference with cultural sites		
Cause Sociability disintegration		
Increase human population to project area		
Lead to disruption of project area infrastructures		
Others		

5c. Occupational health and safety

Impact	Yes	No
Noise pollution and vibration		
Air pollution		
Risk of accident and injuries		
Others		

5d. Natural Habitat

Impact	Yes	No
Adversely affect environmentally sensitive areas or critical habitats – wetlands, woodlots, natural forests, rivers, protected areas including national parks, reserves or local sanctuaries, etc.)?		
NB: If the answer is yes, the sub-project should not proceed.		

<p>Affect the indigenous biodiversity (flora and fauna)?</p> <p>NB: If the answer is yes, the sub-project should not proceed.</p>		
<p>Cause any loss or degradation of any natural habitats, either directly (through project works) or indirectly?</p> <p>NB: If the answer is yes, the sub-project should not proceed.</p>		
<p>Affect the aesthetic quality of the landscape?</p>		
<p>Reduce people's access to the pasture, water, public services or other resources that they depend on?</p>		
<p>Increase human-wildlife conflicts?</p>		
<p>Use irrigation system in its implementation?</p> <p>NB: If the answers to any of the above is 'yes', please include an ESMP with sub-project application.</p>		

6. What suggestions would you make to mitigate any adverse environmental impacts during the project construction, commissioning and operations?

SECTION C: RESETTLEMENT PREFERENCES

7. If you will be displaced by the project where would you prefer to settle?
- a) In the same community area
 - b) In the same constituency
 - c) The resettlement location does not matter

d) Others (specify)

8. In case you are to be displaced by the project, what would be your choice? (choose applicable, but not inconsistent)

- (i) Provision of new agricultural plot
- (ii) Provision of new plots/assets for economic activities (e.g. shop, workshop, office, etc)
- (iii) Training for self-employment
- (iv) Cash grant equivalent to loss
- (v) Others (specify)

9. What kind of assistance regarding resettlement and rehabilitation do you request/suggest for the Project Implementation Authority?

10. Any relevant observations, recommendations or comments on this project.

SignatureTel No.....