






**RESETTLEMENT ACTION PLAN  
FOR THE IMPROVEMENT OF  
RUIRU MARKET, LOCATED IN RUIRU, KIAMBU COUNTY**



**PROPONENT**

REPUBLIC OF KENYA  
MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT IN  
COLLABORATION WITH THE COUNTY OF KIAMBU

**CONSULTANTS**

		
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## ACKNOWLEDGEMENT

We, Impulso-Eco Plan-AWEMAC through this Resettlement Action Plan (RAP) report for Ruiru Market, Nairobi Metropolitan Services Improvement Project (NaMSIP) sub-project, would like to acknowledge with great appreciation all the consultants that took their time and showed relentless effort towards achieving the desired deliverable of this assignment.

Our gratefulness is also unto Kiambu County Government, the Ruiru Market traders, all stakeholders and respondents who participated in the whole process for their cooperation throughout the exercise.

Finally, we thank the Ministry of Transport, Infrastructure, Housing and Urban Development for believing in us and entrusting us with the work and for the support they provided every step of the way in ensuring that this RAP is successfully achieved; and World Bank for crediting the ministry with funding for this project.

## EXECUTIVE SUMMARY

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The Ministry of Transport, Infrastructure, Housing and Urban Development through the Nairobi Metropolitan Services Improvement Project (NAMSIP) intends to upgrade 15 markets in the Nairobi Metropolitan Region (NMR). This initiative is financed by the World Bank with the objectives of providing an enabling physical space for organized markets, creating market linkages for products, fostering access to services so as to promote efficiency and quality of products and promoting linkages with financial institutions. The goal is to enhance livelihoods especially for the urban poor who are operating as vendors.

The Ministry through NaMSIP has identified Ruiru Market as one of the markets to be improved and this action **will require the temporary displacement of 644 traders so as to** pave way for the putting up of new structures. The census was undertaken in 2016 and the cut-off date was set as **25<sup>th</sup> November, 2016**. The breakdown of all categories of Project Affected Persons (PAPs) is clearly shown in the PAPs summary table below. According to World Bank's Operational Policy 4.12 and the NaMSIP Resettlement Policy Framework (RPF), it is required that a Resettlement Action Plan be prepared for such a project in accordance with the local legislation and the World Bank guidelines on Involuntary Resettlement.

### Summary of PAPs to be affected

S/N	Type of PAP	Number in Ruiru Market	Proportion of total
1.	Owners of stalls only	1	0.07%
2.	Owners of businesses only	75	20.00%
3.	Owners of both stalls and businesses	1568	79.93.%
<b>Total</b>		<b>644</b>	<b>100%</b>

*Note: Cut-of-date signed sheets attached in Annex XIII*  
*Source: Impulso-AWEMAC- Ecoplan, 2017*

Based on this requirement, Impulso-EcoPlan-AWEMAC Consortium was contracted as a consultant to assist the Ministry of Transport, Infrastructure, Housing and Urban Development to develop a Resettlement Action Plan (RAP) report to ensure that PAPs are adequately consulted and a comprehensive RAP report drawn to safeguard them from the relocation impacts. This RAP report builds upon public consultations, negotiations and agreements with the Government of Kiambu County, Area Administrators, Traders and Ruiru Market Committee.

The objectives of the study were met using systematic, integrated, participatory and collaborative approaches. Information was collected through field investigations, structured questionnaires, census, assets inventory, document reviews and photography. Some of the people consulted included traders and stall owners. The summary of findings was as shown:

## Summary of Findings in Ruiru market

Type of Asset	Number/Quantity	Estimated cost (KSHS)
Replacement costs	644	<b>8,535,000</b>
Loss of income	568	<b>9,660,000</b>
<b>Sub Total</b>		<b>18,195,000</b>

Source: Impulso-AWEMAC- Ecoplan, 2017

The RAP presents the results of a socio-economic study that formed the social baseline, a description of compensation and income restoration options, a description of procedures for redress, institutional responsibilities for implementation, an entitlement matrix and budget outlining the source of funds.

Following extensive consultative activities, the following types of compensation for affected persons will be provided;

1. **Space for space compensation:** Traders will get alternative space to continue their business operations during market construction so that their sources of income are not negatively impacted. Since there is adequate space in the market, construction will be phased where the cloths section of the market can be used as the initial relocation area.
2. **Cash compensation:** Traders will be compensated for temporary loss of business income during the period of relocation. Cash compensation will also be paid to the owners of businesses for loss of income. They will receive 15% relocation allowance and assisted to move and set up anew that serves as livelihood restoration.
- 3.
4. **Stall allocation:** Each trader will be allocated a stall in the new market once it is complete.
5. **Right to salvage:** Each trader will have a right to retain his/her construction materials.

There are many pieces of policies and legislation that relate to displacement of people and this report has reviewed the most relevant Policies reviewed are: The National Land Policy, the National Poverty Eradication Plan, the NaMSIP RPF and the Nairobi Metro Plan. The pieces of legislation reviewed include: The Constitution of Kenya (2010), the National Land Commission Act (2012), the Land Act (2012), the Land Adjudication Act Chapter 95 of the Laws of Kenya, the Land Registration Act (2012), The Urban Areas and Cities Act (2011), the National Gender and Equality Commission Act (2011), the Roads Act (2007), the Valuers Act, Cap 532, the Physical Planning Act, Cap 295, the Prevention, Protection and Assistance to Integrally Displaced Persons and Affected Communities Act of 2012, the Matrimonial Property Act (2013), the Public Health Act, Cap 242 and the Environmental Management and Coordination Act, Cap 387 as well as other respective policies.

The Resettlement Cost for the Improvement of Ruiru Market is estimated at **KES. 39,334,100** inclusive of preparation of the resettlement site and recommended resettlement support for traders, livelihood restoration as well as planning and administrative costs.

<b>MARKET SHEDS REPLACEMENT &amp; LOSS OF BUSINESS</b>	Details			
<b>LOSS OF INCOME</b>	<b>Nature of Business (Described in terms of ownership)</b>	<b>No of Units</b>	<b>Estimated loss of Income for seven days ( 7 Days) (Kshs)</b>	<b>Total (Kshs)</b>
<b>1</b>	<b>Landlords -PAPs who get income from Rent</b>			
	Semi-permanent structures	1	15,000	15,000
<b>2</b>	<b>Traders who own stalls - PAPs who trade in their stalls</b>			
	Permanent and semi-permanent structures	568	15,000	8,520,000
<b>3</b>	<b>Tenants-PAPs who pay rent for their premises (Tenant)</b>			
	Those who are renting	75	15,000	1,125,000
<b>4</b>	<b>Casual Employees of the Market</b>			
	No numbers	0	0	0
	Sub-total (Kshs)			
	<b>Sub-total (Kshs)</b>			<b>9,660,000</b>
<b>DEVELOPMENTS - REPLACEMENT COST</b>	<b>Nature of Development</b>	<b>No of Stalls</b>	<b>Estimated replacement cost</b>	
	Both Permanent and Semi permanent Structures	569	15,000	8,535,000
	<b>Sub-total (Kshs)</b>			<b>8,535,000</b>
	<b>Total RAP Budget</b>			<b>30,257,000</b>

This report also provides for a Grievance Redress System which PAPs will use as a guide to resolve resettlement issues. The report recommends the creation of a committee to oversee this process and discourages litigation except as a last resort. Emphasis is laid on full Resettlement of PAPs and addressing their grievances before actual project commencement. The report provides for a schedule for implementation of activities and estimates a time period of 1 year for completion of the entire process. Prompt and fair compensation/ resettlement assistance and clear sources of funding are recommended as ways to ensure timely implementation of the proposed project.

## ACRONYMS

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AWEMAC:	Africa Waste and Environment Management Centre
CBOs:	Community-Based Organizations
CCTV:	Close-Circuit Television
CDF	Constituency Development Fund
DPs:	Displaced Persons
DVR:	Digital Video Recorder
EMCA:	Environmental Management and Coordination Act
GDP:	Gross Domestic Product
GIS:	Geographical Information System
GM:	Grievance Mechanism
GRC:	Grievance Redress Committee
GRM:	Grievance Redress Mechanism
HIV/AIDS:	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
ICT:	Information Communication Technology
IMU:	Independent Monitoring and Evaluation Unit
IRP:	Involuntary Resettlement Policy
JKUAT:	Jomo Kenyatta University of Agriculture and Technology
MoTIH& UD:	The Ministry of Transport, Infrastructure, Housing and Urban Development
NaMSIP:	Nairobi Metropolitan Services Improvement Project
NEAP:	National Environmental Action Plan
NEC:	National Environmental Council
NEMA:	National Environment Management Authority
NGOs:	Non-Governmental Organizations
NLC:	National Land Commission

NLP:	National Land Policy
NMR:	Nairobi Metropolitan Region
NPEP:	National Poverty Eradication Action Plan
NPGD:	National Policy on Gender and Development
OP:	Operational Policy
PAPs:	Project-Affected Persons
PDO:	Project Development Objective
PDP	Part Development Plan
PEC:	Poverty Eradication Commission
PRSP:	Poverty Reduction Strategy Paper
RAP:	Resettlement Action Plan
RU:	Resettlement Unit
RUJWASCO:	Ruiru-Juja Water and Sewerage Company
SDO:	Social Development Officer
SMEs:	Small and Medium Enterprises
SMS:	Short Message Service
SOP:	Standard Operating Procedures
WB:	World Bank
WSSD:	World Summit for Sustainable Development

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## GLOSSARY OF TERMS

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**Compensation:** Payment in cash or in kind for an asset or a resource that is acquired or affected by a project at the time the asset needs to be replaced.

**Compulsory acquisition:** means the power of the State to deprive or acquire any title or other interest in land for a public purpose subject to prompt payment of compensation;

**Census:** is a data collection technique of completing enumeration of all PAPs and their assets through household questionnaire. Census's objectives are;

- (i) To prepare a complete inventory of PAPs and their assets as a basis for compensation,
- (ii) To identify non-entitled persons, and
- (ii) To minimize impact of later influx of "outsiders" to project area.

**Cut – off date:** The date the enumeration begins. Persons occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops and trees) established after the date of completion of the assets inventory or an alternative mutually agreed date will not be compensated.

**Displaced persons:** Persons who are affected by the involuntary taking or clearing of land or resulting in:

- i. Relocation or loss of shelter
- ii. Loss of assets or access to assets; or
- iii. Loss of income sources or means of livelihood whether or not the affected persons must move to another location.

**Entitlement:** defines a right to receive mitigation measures such as compensation, income restoration, relocation assistance, and other support.

**Freehold:** means the unlimited right to use and dispose of land in perpetuity subject to the rights of others and the regulatory powers of the national government, county government and other relevant state organs;

**Grievance Redress procedures:** set out the time frame and mechanisms for resolutions of complaints about resettlement from PAPs. Grievance redress can be provided through informally-constituted local committees with representation from key stakeholder groups. Grievances can also be addressed through formal channels, with unresolved grievances being dealt with at progressively higher levels.

**Income restoration/Livelihood restoration/Rehabilitation:** means the process to restore income earning capacity, production levels and living standards in a longer term.



**Involuntary resettlement:** Resettlement is involuntary when it occurs without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement.

**Land expropriation:** Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses.

**Project-affected person:** Any person who, as a result of the implementation of a project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily, business, occupation, work, place of residence or habitat adversely affected; or standard of living adversely affected.

**Resettlement Action Plan (RAP):** The document in which a project sponsor or other responsible entity specifies the procedures that it will follow and the actions that it will take to mitigate adverse effects, compensate losses, and provide development benefits to persons and communities affected by an investment project.

**Relocation Site (Temporary Site):** This is the relocation site which the PAPs will be moved temporarily during the construction phase.

**Transition Period:** This is the period during which the PAPs will be moved from the market site to the relocation site (temporary site) to pave way for the construction of the market and the period during which PAPs will be moved back into the constructed market.

**Replacement cost:** is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs.

- (i) For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.
- (ii) For land in urban areas, it is the pre-displacement market value of land of equal Size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.
- (iii) For houses and other structures, it is the market cost of the materials to build a Replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of 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.

**Resettlement assistance:** Support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale, such as moving expenses and lost work days.

**Socio-economic survey:** is carried out in order to prepare profile of PAPs and to prepare for Basic Resettlement Plan. About 20 percent sample of PAPs population is surveyed through household questionnaires.

The survey results are used:-

- i. To assess incomes, identify productive activities, and plan for income restoration,
- ii. To develop relocation options, and
- iii. To develop social preparation phase for vulnerable groups.

**Stakeholders:** Any and all individuals groups organizations and institutions interested in and potentially affected by a project or having the ability to influence a project.

**Structure owner PAPs:** Project Affected Persons who own structures within the project area.

**Squatter :** means a person who occupies land that legally belongs to another person without that person's consent

**Tenant PAPs:** Project Affected persons who lease either residential or business premises within the project area.

**Valuer:** means a valuer registered and licensed to practice as a valuer in accordance with the Valuers Act (Cap. 532);

**Vulnerable groups:** People who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.

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## CHAPTER 1: INTRODUCTION

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### 1.1. Background to Nairobi Metropolitan Services Improvement Project

The Government of Kenya is purposing to improve its economy and decentralize development to County Governments by receiving funds from international organizations like World Bank and other foreign institutions to undertake major development projects at the County Levels through development of Small-holder Enterprises and investment in County Infrastructure. Nairobi Metro 2030 is part of the overall national development agenda for Kenya which is encapsulated in Kenya Vision 2030. Following this effort, the Nairobi Metropolitan Region (NMR), shown in figure 1, through the National Government and respective County Governments intends to upgrade its dilapidated infrastructure, inclusive of markets, in order to achieve an economically, socially and environmentally sustainable modern capital. The Ministry of Transport, Infrastructure, Housing and Urban Development has identified initiatives to address and realize the vision of a World Class City by initiating the Nairobi Metropolitan Services Improvement Project (NaMSIP) whose aim is to strengthen transport, water supply and solid waste management services in the Nairobi Metropolitan Area and to support the institutional development associated with these services.

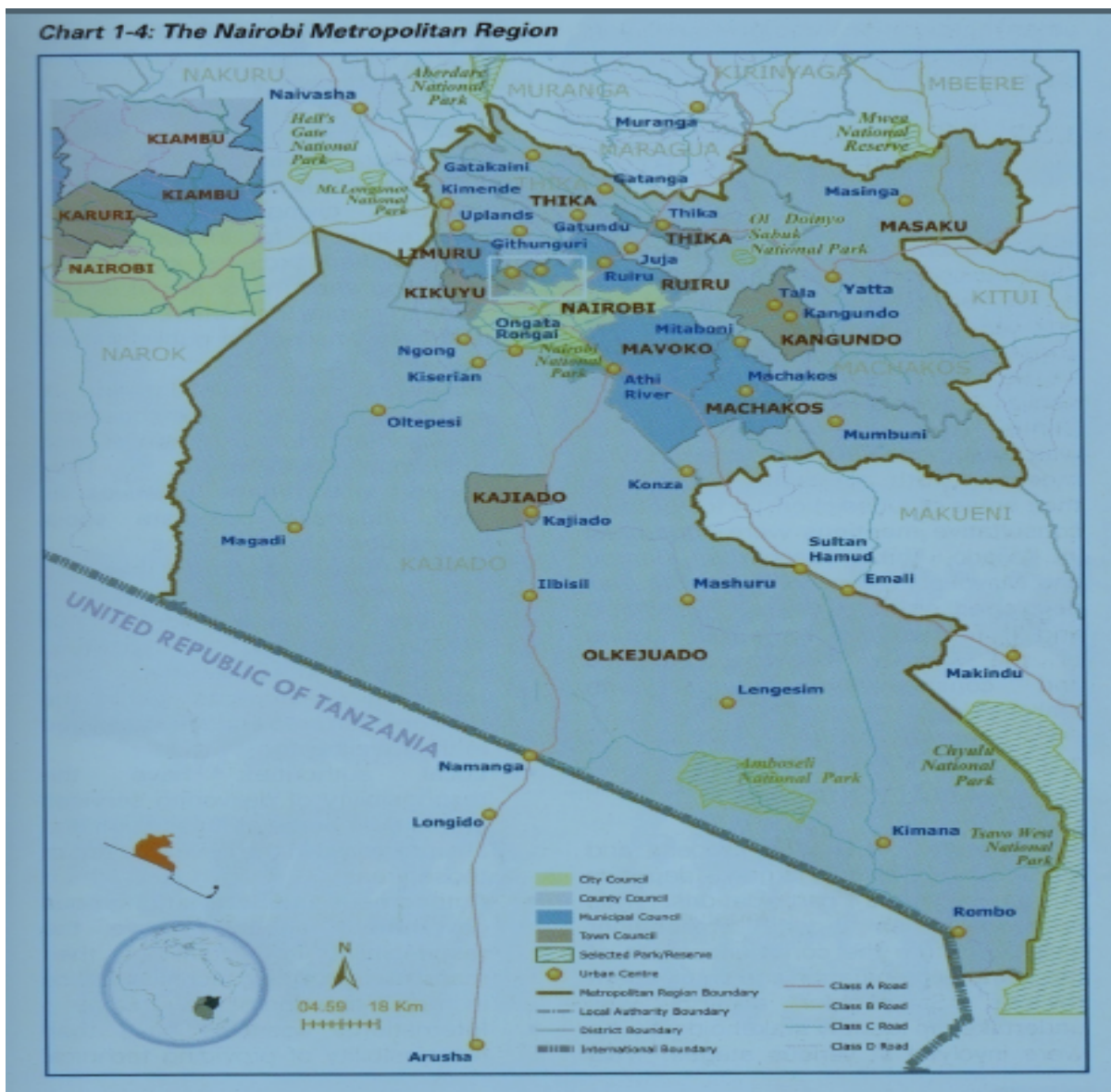
Nairobi Metropolitan Services Improvement Project (NaMSIP) is a World Bank Funded Project under the Department of Nairobi Metropolitan Region in the Ministry of Transport, Infrastructure, Housing and Urban Development. NaMSIP's mandate is to strengthen service delivery in the Nairobi Metropolitan Region (NMR) on various selected projects by investing in local infrastructure (markets, roads, street lighting, bicycle and pedestrian pathways, drainage, among others) and in providing large-scale metropolitan infrastructure in the areas of trade, solid waste management, transport, sewerage services, among others.

The Project has the following four major components;

- Institutional Reform and Planning
- Local Government Infrastructure and Services
- Metropolitan Infrastructure and Services
- Project Management, Monitoring and Evaluation

Among the select components earmarked for improvement, are fifteen (15) existing and new markets within NMR. Although population density in the markets has created opportunities due to concentrated demand for goods and services, employment and land and other natural resources, it has also created concentrated problems such pollution, congestion, encroachment to road reserves and general unsanitary problems within the NMR markets. Ruiru market is among the 15 markets and one of the 4 markets located in Nairobi County.

A consortium of three local firms (Impulso Kenya Limited, Ecoplan Management Limited and Africa Waste and Environment Management Centre- AWEMAC) was contracted through competitive bidding to undertake Resettlement Action Plans for each of the market. This independent RAP report will focus on Ruiru Market, located within Kiambu County.



**Figure 1: The Nairobi Metropolitan Region**

Source: Namsip RPF

## 1.2. Rationale for Improvement Ruiru Market

The Markets Kenya’s 2015 Economic Survey shows the informal sector employed 82.7% of the total employed person in Kenya by the year 2014(KNBS, 2015 pg. 2). This thus underpins the significance of this sector in the local economy as a developing country. The report further indicates that the private sector is left to take up the biggest share of this role. The organized private sector has been unable to absorb the growing numbers of jobseekers, and the informal has sector stepped in to fill in the gap. Mostly the informal sector works in small and often unregulated businesses.

Traders operating in the markets herein proposed for redevelopment comprise a visible party of this informal sector. The planned infrastructure improvement in their areas of operations will go a long way in encouraging entrepreneurship within a hospitable and dignified environment.

Therefore, rationale for improvement of the Ruiru markets is due to:

- Pressures for change, both within and outside the marketing system;
- Changing operational practices within markets – e.g. Changes in user space requirements
- Demographic factors – e.g. Overall increase in population of the city and population shifts within cities
- Changes precipitated by new legislation and greater public awareness – e.g. New town planning controls and zoning regulations; new environmental impact and energy conservation controls; increasing Consumer-protection laws, including new public health, food quality and safety regulations
- To obtain an increased value for an asset, allowing higher rents and charges to be introduced;
- To achieve reductions in overall costs (of maintenance, wages, services and other costs);
- To allow the adoption of new operating procedures and equipment; and
- To comply with statutory requirements (such as public health, safety and environmental standards)

### **1.3. Terms of Reference for the RAPs and Key Milestones**

The main objective of the Ruiru Market Resettlement Action Plan (RAP) is to provide a framework for resettlement and rehabilitation of Project Affected Persons so that their losses owing principally to the markets' improvement are compensated or mitigated and their standard of living improved or at least restored to the pre-project levels. In this regard, the income earnings potential of affected individuals is restored and their livelihoods sustained. The consultant undertook the assignment by preparing an independent RAP report for the market as provided in the Terms of Reference as provided in the contract. (*See copy of ToR in Annex I*):

- *Identification of Project Impacts and Affected Population*- This covered: mapping of project area; census of affected populations to identify eligible persons; inventory of affected assets; socioeconomic studies; analysis of surveys and studies and consultation with affected persons concerning assistance benefits and development opportunities
- *Legal and Regulatory Framework*–The consultant reviewed, Pertinent international, national and local laws, regulations, relevant World Bank safeguard policies governing resettlement and rehabilitation of project affected persons will be identified and described and how they relate to the market subprojects.
- *Compensation Framework*: The framework provides valuations, compensation details, eligibility for assistance, entitlement matrix and responsibility and schedule for compensation payments
- *Resettlement Assistance and Livelihood* - The consultant covered the following aspects: selection and preparation of the resettlement site; influx management; relocation schedule and assistance; replacement of services and enterprises; livelihood restoration; treatment of cultural property and special assistance for women and vulnerable groups.
- *Organizational Responsibilities*: The RAP report comprehensively indicates the roles of the Ministry of Transport, Infrastructure, Housing and Urban Development; World Bank, County Governments and the Project Affected Persons (PAPs) (mainly Traders).
- *Consultation and Participation*: In the development of Resettlement Action Plan the Consultant fostered information exchange and highly promoted PAPs and stakeholders' participation as shown in the report.

- *Grievance Redress Mechanism:* The Consultant has provided the procedures of receipt and processing of complaints from PAPs and actions to be taken on any issue raised by them to avail services more effectively.
- *Monitoring and Evaluation:* The report has provided a framework on, performance monitoring, impact monitoring and completion audit.

## 1.4. Project Description

### 1.4.1. History of Ruiru Market

Ruiru is the oldest market in Kiambu County. The market is fenced, and largely an open air market that operates from 5.00 a.m. to 7.00 p.m. daily. It operates throughout the week but the major market days are Saturday and Wednesday. The market has about 1379 traders but on market days it usually receives other unregistered traders from other markets who come to sell their goods doubling the number of traders in the market. The land and major market structures on site belong to the county but traders have done temporary market stands for their wares.

### 1.4.2. Location of the Market

The market is located within Ruiru town in Ruiru sub-county at GPS location (-1.148107, 36.953592). The market is in the neighbourhood of Ruiru Police Camp and Devki Steel Millers. It is accessed through Mathigu Road to the West and Dhodia Road to the South as shown in the figure below. The market sits on a 3.8 acre piece of land that is owned by the county government.



**Figure 2: Ruiru Market Location**

Source: Google Earth, 2016

The market has mixed traders organized into:

- Clothes- the clothes section has temporal structures
- Murang'a zone- The zone accommodates traders with small stalls
- Gatundu zone- The zone accommodates traders with larger stalls

The sample business demographics are as shown below:



Commodities	Percentage
Vegetables	27%
Fashion, clothing & shoes	19%
Grains/Cereals	15%
Food vending	12%
Electronic	12%
Fruits	0%
Hair care & body care	8%
Carpentry	8%
Entertainment facility	0%
Meats	0%
Fish	0%
Other commodities	0%
Sample size	28

**Figure 3: Sample Business Demographics in Ruiru Market**

The plates below show some of the commodities of trade.



**Plate 1: Fish Vending in Ruiru Market**



**Plate 2: Sample Fresh Produce in Ruiru Market**

### ***1.4.3. Current Market Profile***

**Topography:** The site of the existing market is generally on a flat terrain. The soil type on site is murram.

**Site access:** The market is accessed from feeder tarmacked road off the main Ruiru road. The market is not visible from the main road and there is no signage on the road to give directions to the market

**Land tenure:** The market is situated on public land and is approximately 3.8 acres. The land document is attached to this report as Annex II.

**Market structures:** A mix of permanent buildings and temporary structures used by the traders to sell their produce as shown in the plates below. The permanent buildings which form an enclosure to the open trading area on one section of the market are stalls which accommodate shops, hotels, tailoring and butcheries. In the middle of the looped asphalt road there is a concrete paved platform used by traders selling agricultural produce. Temporary stalls made of timber and iron sheet roof covering that are used by traders dealing with clothes and household goods.





**Plate 3: Temporary structures in Ruiru Market**



**Plate 4: Permanent Stalls in Ruiru Market**

**Sanitation:** There are 2 toilet blocks within the market. One toilet block was erected during the development of the market while the second toilet block was recently developed by the area Member of Parliament using Community Development Fund. The existing toilet block which consist of 3 toilets for ladies and 2 toilets for gents are inadequate. Cleaning of the toilets is done once per day by the county government. The management committee attempted to introduce a levy for the use of the toilets but

the traders resisted. The current toilets are drained towards an open field but with the new sewer system in place, sewer connection will be connected to the market.



**Plate 5: Toilet Facilities at Ruiru Market**

**Parking:** The market does not have onsite parking within its boundaries. Buyers usually park on the tarmac road leading to the entrance of the market. Traffic congestion is experienced during market days due to the high number of customer vehicles and wholesale trucks delivering goods to the retailers.

**Security:** The market has neither a gate nor a perimeter wall; the permanent buildings in the periphery form the boundary on entrance side while the other 3 sides have a dilapidated chain link barbed wire fence. The market management committee has employed 2 security guards who are assisted by loaders to provide security on a 24-hour basis. In addition to this; traders who sell clothes and household goods store their wares in the permanent stalls when they close shop.

**Road network:** The main area of trading has an existing asphalt road forming a loop within the market. The market section with temporary stalls and the wholesale area has earth roads. Movement becomes difficult during rainy seasons as it gets muddy due to lack of storm water drainage systems.

**Water supply:** The market does not have a reliable supply of water. Water supply to the market is piped from Ruiru – Juja Water and Sewerage Company (RUJWASCO) and stored in 2000 litre water tank. The water is not adequate for all market operations and traders often use dirty water from other sources to clean their farm produce

**Solid waste disposal:** The county government has provided facilities for disposal of waste from the market, located outside the market which they collect and dispose on a daily basis. The plate below shows status of garbage collection in the market.





**Plate 6: Garbage Collection Point at Ruiru Market**

**Firefighting:** There is no firefighting equipment.

**Wash up area:** There is no wash up area for agricultural produce.

**Electrical services:** There exists a 3 phase, 415V power supply to the site. There is also a HV line running parallel to the market. The Kenya Power meter board is at the main entrance to the market at the far right. The traders do not have any socket outlets for power connection. The hotels, butcheries and stalls have socket outlets available as well as lighting. They are metered directly by Kenya Power. There is a high mast light fixture at a central location of the market. The traders' committee members however stated that the lighting is unreliable. The bill for the high mast light fixture is paid for by the County Government of Kiambu.

The figure below outlines the concerns that were identified by traders whereby data was captured by stakeholder engagement of traders:

**Figure 4: Existing Challenges in Ruiru Market**

Challenges	Ruiru Market
Storage facilities for all goods	0%
Parking area for Off loading goods	0%
State of the passage ways	0%
Good access roads to and from the market	0%
Parking area for customers	4%
Storage of goods overnight	4%
Garbage / Waste management & Collection / Dumping site	8%
Size of space allocated to traders too small (roughly 3" by 3" feet is seen to be small)	8%
Dirty Environment to operate in	12%
Lighting / Electricity	15%
Enough trading space / Area	15%
Bad relationship with the county Council	23%
No social amenities	23%
Sanitation - Toilets	27%
Fence / perimeter wall	31%
Good Drainage system	35%
Security	46%
Water	46%
Shades for all	69%
Sample size	27

The traders listed concerns related to inadequate space, some traders display their goods along the road, on the periphery of the market and other challenges which include are lack of sanitation facilities, lack of a perimeter fence, inadequate security facilities and no social amenities.



**Plate 7: Traders on the periphery of Ruiru Market**

#### 1.4.4. Proposed Profile for the New Ruiru Market

The design recommends a multi-level building to house the directly affected traders and temporary structures will be provided outside the market site. A critical analysis was conducted to take care of all concerns raised such as design of the stalls, the layout of the building as well as the consideration for horizontal and vertical accommodation of the vendors. The Ruiru market design is in 2 sections. The first section which is paved and has traders dealing in agricultural produce will consist of the following:

- Providing a roof cover for traders
- Provision of cabro paved parking and storm water drainage
- Provision of solid waste collection points

The section that has traders dealing with clothes, shoes and household goods is where the new market structure will be done to accommodate 644 traders. The market has three levels namely ground floor, 1<sup>st</sup> floor and 2<sup>nd</sup> floor as shown below in table 1. In consideration of the market population, a typical arrangement accommodating all of vendors is as follows as proposed by the market Design Team:-

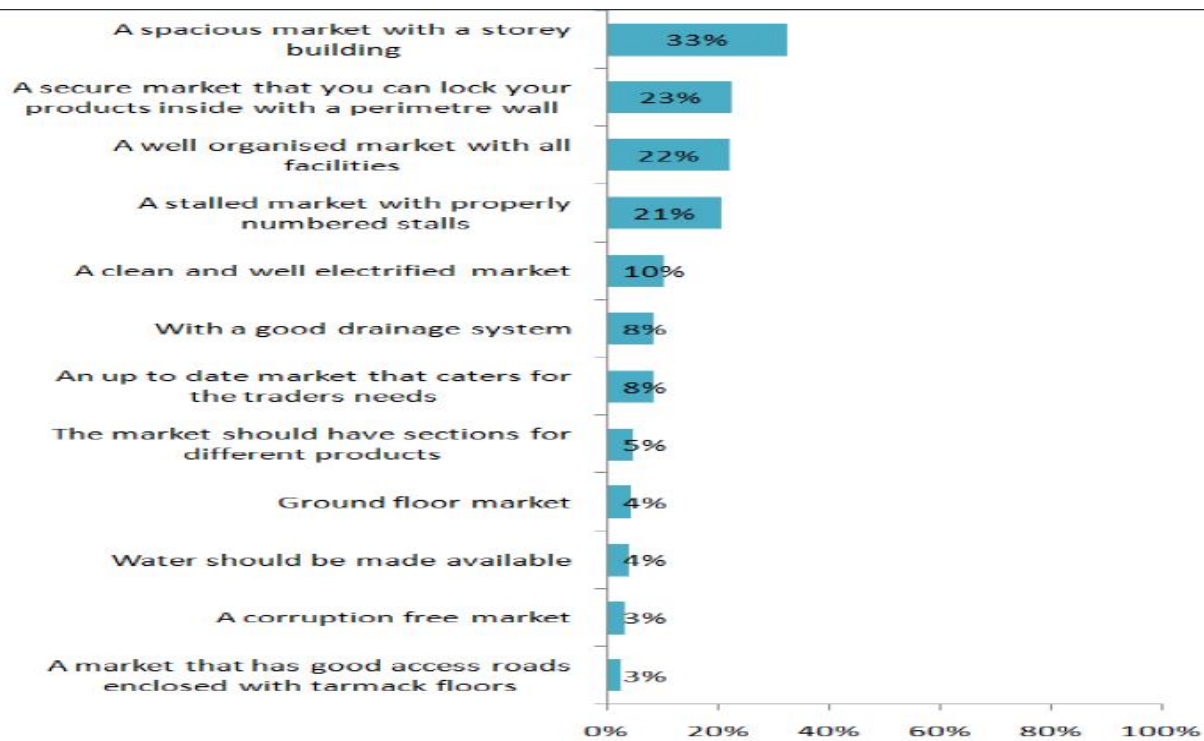
**Table 1: Proposed Arrangement of Stalls in Ruiru Market**

<b>Level</b>	<b>Capacity and Activity</b>
1 Ground Level	436 stalls Stalls to be used for agricultural produce, household goods and clothes and shoses
2 First Level	371stalls Stalls to be used for household goods, agricultural produce and clothes and shoses
3 Second Level	336 stalls to house household goods, agricultural produce and clothes and shose
<b>4 Total Stalls</b>	<b>1143</b>

Source: Scope Design Systems, 2016

The ideal market should contain the facilities shown in the figure below:





**Figure 5: Components of an Ideal Market for Ruiru**

#### **1.4.4.1. Modern Stalls and Facilities**

A modern multi-storey building with 4 floors will be put up. Stalls will be spacious and varied in size according to their use. There will be support facilities such as meeting rooms, banking areas and a food court. For more details on the stall sizes, the designs are attached to this report as Annex III. In preparing the building designs, the following factors were considered:

- Space standards and design modules for stalls
- External climatic controls and internal servicing requirements, including
- ventilation and natural/artificial lighting
- Overall building form and siting
- Expansion needs
- Choice of materials for foundations/sub-structure; super-structure;
- Enclosure and cladding methods; and appropriate internal finishes
- Choice of structural techniques, including economy and ease of construction

#### **1.4.4.2. Design Proposals for Electrical Services**

The market will be supplied with a 415V ac overhead/underground line which will terminate at the metering panel. This will cater for individual, bulk and common metering arrangements.

- a) **Back-up Power Supply:** Based on the preliminary design, standby power generators of various capacities will be proposed for the markets. These generators will be sized to take the whole load automatically in the event of power failure. Spare fuel for 24 hour running of the generator will be provided. These ratings will however be reviewed after completing final design. A mains failure panel and change-over panel will be incorporated to effect automatic starting/stopping of the generator, whenever mains power fails/resumes. The generator will

have a sound-attenuating canopy to minimize the noise levels and will be housed in a generator room which will be conveniently located near the metering panel. The physical sizes of the required generator rooms will be communicated to the Architect to be incorporated in the architectural designs.

- b) **Mains Power Distribution:** This will comprise cable runs originating from the main metering panel and terminating into local power distribution boards/Consumer Units supplying each shop and common areas. Each enclosed shop that requires power will have its own consumer unit, while common services will have a single consumer unit. Adequate provisions for ducts/conduits will be made. All cables run externally will be drawn inside high impact grade PVC ducts with intermediate power manholes to allow ease of drawing of the cables and future extension /modification of services. Cables for the sub-mains, final sub-circuits and terminal load equipment will be sized in accordance with IEE Wiring Regulation, current edition, and the relevant Kenyan standards.
- c) **Lighting:** The aim will be to design an artificial lighting system adequate to light enclosed shops and also to light the common areas in an open plan setting. For Ruiru, the pole mounted floodlights setting will still be maintained as it is and used for general lighting purposes with additional common area lighting provided where necessary, dependent on new market layout. Where false ceiling is not provided inside enclosed shops/stalls, similar fittings will be proposed but for surface mounting. All the light-fittings will be high power factor (HPF) type, with internal capacitor units fitted to ensure the power factor is kept at a value of 0.9 or more. All exit and fire escape routes if any will have “EXIT” emergency lights with permanently illuminated signs. Weather proof, solar powered fixtures will be proposed for external lighting. Since most of the external lights will be lit throughout the night, a careful choice of lamps will be undertaken to achieve reliability, good appearance, good light out-put, low power consumption and long life. In choosing the light fittings, B.S.3820 will act as the reference standard.
- d) **Small Power Outlets:** This will depend on designed structural layout of the markets. For markets with shops and enclosed spaces, small power outlets will be provided. Wall recessed system power outlets will be used. The socket outlets will comply with the provisions of BS 1363.

#### ***1.4.4.3. Fire Detection and Alarm System***

Fire detection will be proposed if the new layouts of the markets consist of enclosed spaces that are at risk of fire. These may include hotels. It will not be installed in open plan spaces. The fire detection and alarm system will be designed to BS: 5839 Part 1: 1988 standards and will comprise automatic smoke/heat detectors, manual call points, audible/visual hearing devices and a fire alarm panel with remote indication capabilities. The system will be divided in zones to enable rapid identification of a fire.

#### ***1.4.4.4. Lightning Protection System***

The need for lightning protection will depend on the structure of the new layout of each market. If required, lightning protection system for the structural fabric of the building will be proposed as per the provisions of B.S. 6651 and B.S.7430.

This system will comprise air-terminals (lightning spikes) horizontal roof conductors, down conductors along the walls and comprehensive earthing system.

For an effective system, all the conductors to be used will be pure electrolytic copper, and the down conductors will run inside concealed conduits to ensure safety.

#### **1.4.4.5. Electrical Services for Mechanical Engineering Services**

The power requirements of all mechanical equipment such as water pumps, fire hose reel pumps (if available) will be assessed and all the necessary provisions such as protection gear, cables, local isolators etc made at the preliminary design stage.

#### **1.4.4.6. Design Proposals for Mechanical Services**

- i. **Sanitary Fittings:** Sanitary facilities are an important part of any facility's identity and are a key criterion on which an establishment is judged. Design and specification of the sanitary facilities such as WCs, Wash Hand basins, Urinals and other standard washroom facilities will be done with the understanding that these fittings will be subjected to heavy usage. It is confirmed that the fittings will be user friendly, cost effective and durable. The colour of the fittings will be chosen in such a way as to complement the interior décor. Different market brands will be considered to achieve the above goals. The design will also include wash up areas for agricultural products such as vegetables, carrots, potatoes and other farm produce. The selection of fittings for wash up area will take into consideration the fact that they will be subjected to heavy usage.
- ii. **Water Supply:** Water supply to the development in various sites will be tapped from the County Pipeline mains. The Project Civil Engineer will be responsible for connecting Council mains up to the plot boundary from and further connect the plot and distribution networks. The Project Structural Engineer will design underground tanks and measured by the Project Quantity Surveyor in the main works. The contractor will allow for submersible water pump-sets pumping water from the underground tank to an elevated tank whose size will be determined by the number of people being served. The designs will allow for the pumps to be operated on duty and standby modes and complete with a pressure vessel, control panel, float and pressure switches. From elevated tank conforming to BS 4211, water will flow by gravity to roof tanks. The water reticulation pipe-work (both borehole and council mains) will be Galvanized Mild Steel pipes class 'C' to BS 1387 socketed joints to BS 21. The water reticulation pipes will be laid in an excavated trench approximate dimension 300mm by 750mm. The pipe-work will be buried with a 4mm thick coat of bituminous paint as per specification of buried pipes. Where the pipes cross roads and walkways, they will be covered in a concrete surround and housed in PVC sleeves at least one size bigger than the pipe. All valves along the pipeline will be housed in concrete valve chambers complete with cover to the satisfaction of the Civil Engineer. The designs will allow for roof tanks on the installation to act as break tanks. This will ensure that the high pressure from the elevated tank does not damage fittings installed in the wet areas. The support structure for the roof tanks will be designed by the structural Engineer in liaison with us and will be measured by the quantity surveyor.
- iii. **External Foul Water Drainage:** The Structural Engineer will be responsible for external foul water drainage system.
- iv. **Internal Plumbing and Drainage:** Water will flow by gravity from the roof tanks to the sanitary fittings. The water **pipes from the roof tanks to the wet areas** will be in Polypropylene Random Copolymer (PPR) pipes to DIN 8076, 8077, 8078 class B. Each wet area will have a gate valve to make it possible to isolate this area in case of breakdown in future. Internal Drainage pipe-work will be in PVC and the designs will be from the fittings through stack pipe(s) and traps up to the first manhole. Drainage pipework will be designed in such a manner that these pipes are accessible for maintenance and access to plugs at appropriate points for rodding in case of blockages. There will be an inclusion of soil interceptor/settling tank in the drainage system after the wash up. This

- will ensure that large quantities of soil and solid particles don't make their way to the main sewer line. External drainage pipe-work from the first manhole onwards will be designed by the Civil Engineer in liaison with the design team and will be measured in main works bills of quantities.
- v. **Fire Fighting Installations:** To ensure that the market, end users and their properties are covered adequately in the event of a fire outbreak, the designs will propose that all local authority and British Standards' requirements are adhered to. Fire out-breaks in our markets are common occurrence. This report therefore recommends an appropriate firefighting system consisting fire blankets and portable fire extinguishers and will be incorporated in the designs. Fire blankets will be made of fireproof material and will be installed in the kitchens of small diners in the market. Portable fire extinguishers will be installed at strategic points within the market. Our choice of portable fire extinguishers will be capable of extinguishing all classes of fire. Fire hose reel systems will be installed and water reserves will be made in the roof tanks for these systems. Fire rated booster pump-set (one duty and one standby) will be used to boost the pressure of this water to hose reels located on each floor. All floors in the market will have hose reels and will be located in cupboards around fire escape areas. The hose reels will be 30-metre-long, swinging type.
  - vi. **Rain Water Harvesting System:** The proposed developments present a huge potential for rain-water harvesting due to the large roof areas. The designs recommend for rain-water harvesting. The Structural Engineer will design the gutters and down pipes as part of the roof design and the Quantity Surveyor will measure the same and detailed in the Bills of Quantity
  - vii. **Solid Waste Management:** The main products sold in the market are agricultural produce that result in the generation of large quantities of solid waste. If such waste is not managed properly it will facilitate the breeding of rodents, cockroaches and house flies that are health hazards. This report recommends the provision of lockable bins with wheels that will be placed at various locations in the market depending on the anticipated amount of waste at such points. These bins will be emptied regularly into the skip refuse truck bins that are located at point accessible to the truck. The proposed skip refuse truck bin will be hydraulically loaded onto the waste-trucks. The Designs will provide space for loading and off-loading the container.

Below are artistic impressions of the proposed improvement for the market. Detailed designs are attached to this report as Annex III.

### Figure 6: Front Perspective of the proposed new Ruiru Market

Source: Scope Design Systems, 2016





## CHAPTER 2:

### IDENTIFICATION OF PROJECT IMPACTS AND AFFECTED POPULATION

#### 2.1 Introduction

Identification of impacts of traders' displacement was the first step in undertaking of the Resettlement Action Plan. This was done in rigorous consultation between, the Ruiru Market Committee, the market vendors and Kiambu County Government Officials guided by the available survey documents and proposed market designs given to the consultant by the Client (see Annex III).

#### 2.2 Mapping

The PDP was used in determining the project boundary and the area size of the market. The area within the boundaries that would be utilized for construction thus made the physical scope of the consultant as shown in the table and figure below.

Mapping out of individual traders and their structures was done and a layout map produced. The layout is attached to this report as Annex IV. The summary of traders is attached as Annex V

**Table 2: Ruiru Market Plot Coordinates**

5	LATITUDE	LONGITUDE
Ruiru Market Centre	1° 8'52.88"S	36°57'12.57"E
Corner 1	1° 8'55.26"S	36°57'14.96"E
Corner 2	1° 8'50.77"S	36°57'14.10"E
Corner 3	1° 8'51.27"S	36°57'10.71"E
Corner 4	1° 8'55.91"S	36°57'11.45"E

Source: Impulso-AWEMAC- Ecoplan, 2016



**Figure 7: Ruiru Market Boundaries**

## Figure 7.1: Ruiru Market site and relocation layout

### Census and Assets Inventory

The consultant undertook a comprehensive census in collaboration with the market committee officials and relevant County officials. The objectives of the traders' census were as outlined: -

- To enumerate and collect basic information on the affected population; and develop a clear definition of the “Project Affected Persons”. This provided an estimate of displacement and asset losses. Such documentation is important to ensure all potentially affected persons are included.

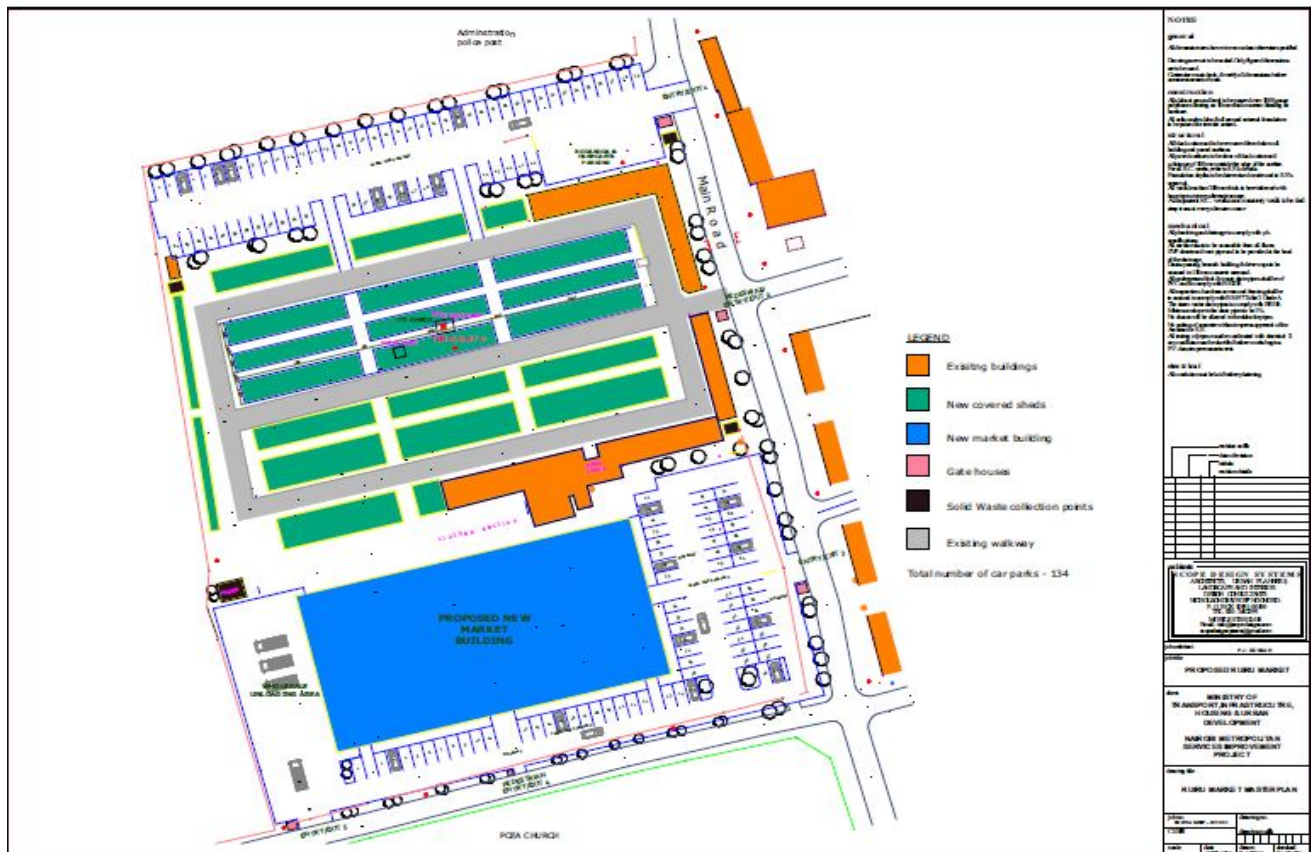


Figure 8.1 Relocation and market site

- To conduct an assessment of the impacts of the displacement to the identified PAPs and host community.
- To register the affected population by business or locality or zone/ section;
- To establish a list of legitimate beneficiaries before the project's onset that counters spurious claims from those moving into the project area solely in anticipation of benefits;
- To lay a framework for subsequent socioeconomic research needed to establish and to design, monitor, and evaluate sustainable income restoration or development.
- To provide suggestions for alternative land for resettlements for the Displaced Persons to avoid or minimize displacement interventions; and
- To providing a baseline for monitoring and evaluation.

A census and asset inventory tool is attached to this report as Annex VI. The census was structured thus:

- Twenty (20) Field assistants were recruited in June, 2016 and training undertaken on 21st June, 2016 at Capital Club, Westlands. The training was undertaken jointly by the RAP Team Leader, the Assistant RAP team leader, the project valuer assisted with all other project consultants. The content of the training included an introduction to the NaMSIP project, guidelines on how to interview potential PAPs and how to capture asset information.
- The census and asset inventory tool was then subjected to field testing with a few of the field assistants in pairs with the guidance of the project valuer and project technical assistants. Assistants were then paired to ensure efficiency of the exercise and for security purposes.
- Key stakeholder meetings for the market were held with the market officials, city county officials and local representatives to gain awareness and public acceptance and ownership of the intended project (see minutes in Annex VII and attendance sheets in Annex VIII).
- During the census, field supervisors with the help of market committee members identified Project Affected Persons (PAPs) and registered them with forms that bore traders' personal details, stall and business ownership details and unique serial numbers. The forms were left with traders as proof that they had been enumerated and not a guarantee of stalls in the new market. Traders were also required to provide copies of their IDs for record purposes.
- The GIS expert then used the given stall numbers to map out stalls in the market. Shared stalls were clearly indicated on the map and where no stalls existed the ground numbers were used. In the absence of stalls and ground numbers the map was not populated with data since it was impossible to determine which space belonged to which trader. A major challenge on establishing the GIS information of each PAP was that the stalls were so close to each other and GPS gadgets have error margins of about 4 to 6M, thus it was impossible to capture GIS information of each PAP.
- Census Survey: PAP registration and mapping was followed by a socio-economic survey and inventory of assets done by well-trained field assistants who were graduates. Survey questions were both qualitative and quantitative and included details of type of business, business and household income, business ownership and views on the proposed project.
- After registration and interviews traders then took passport size photos within the market. Photography experts were enlisted to take photos and reconcile them with the given serial numbers. Photographs of traders were taken at their respective stalls.
- The filled questionnaires were then processed by a statistician.

**Table 3: Elements of the Census Conducted**

Census and asset inventory	Information sources
Determining eligibility for entitlements	Registration records with onsite verification  Account of fellow traders and market leaders
Determining categories of entitlements	Information from survey regarding type and extent of impact
Providing basis for valuation and compensation	Onsite assessment of quality and quantity of assets

Source: *Impulso-AWEMAC-EcoPlan, 2016*



A total of 1,378 PAPs were enumerated, 644 will have a market constructed for them, whilst the remainder 734 will have a shade provided. The criteria for indentifying the traders were those who had stalls, business and employees in the market. The remaining traders would continue trading in the same area but have construction of new roofing shades and improved drainage. A summary of PAPs information is attached to this report as Annex V. PAPs were categorized into 3 main types as shown in the table below:

Table 4: Categories of PAPs in Ruiru Market-Source: *Impulso-AWEMAC-EcoPlan, 2016*

S/N	Type of PAP	Number in Ruiru Market	Proportion of total
1	Owners of stalls only	1	0.07%
2	Owners of businesses only	75	20%
3	Owners of both stalls and businesses	568	79.93%
<b>Total</b>		<b>644</b>	<b>100%</b>

**Inventory of Affected Assets-** The consultant undertook a detailed survey of all losses that would be incurred by the traders. The survey accounted for loss of temporary physical assets as well as temporary loss of income. Assets were delineated accordingly whether privately owned or public (i.e. Kiambu County). This was done in close consultation with affected traders and a reasonable consensus on the methods and formulas for assigning value to lost assets and income forgone during resettlement was reached.

The structures on site are a mix of permanent and temporary structures easy to decommission. The permanent ones are made of concrete blocks, timber, sheets and concrete floorings while the temporary structures are exclusively made of timber and iron sheets.

The tables below show an inventory of all assets on site and their estimated value.

**Table 5: Assets Inventory at Ruiru Market**

Type of Asset	Number/Quantity	Estimated cost (KSHS)
PAPs	644	9,660,000
Structures	568	8,585,000
Infrastructure replacement & civil works	Floodlights, toilets, water, garbage and perimeter fence	8,869,000

Source: *Impulso-AWEMAC-EcoPlan, 2016*

## **2.3 Socio-economic Studies**

An initial key stakeholder consultative meeting was held where the traders' representatives were given an overview description of the project and the process and they also participated in providing feedback and ask questions regarding the project. A socio-economic survey was undertaken from 21<sup>st</sup> to 25<sup>th</sup> November, 2016 whereby 644PAPs were interviewed to establish the baseline parameters for the traders within the project boundaries and who are likely to be affected by the proposed market improvement. The survey results in this chapter give a fair picture of the socio-economic aspects of the people likely to be affected in terms of demographic, social and economic profiles. These results are important for planning, resettlement and compensation alternatives. They will also facilitate the development of appropriate options for the affected people because the exercise involves resettlement hence caution should be taken to formulate plans to restore and improve the quality of life of the affected persons.

A substantial amount of household-level socioeconomic data was collected during the census and inventories of assets in close collaboration with identified market key stakeholders, who were the market committee officials. In the market the livelihood strategy of the affected persons is fairly uniform. It was however, seen prudent to survey all other possible income sources in order to calculate income loss resulting from market improvement as a proportion of total income.

Therefore, the consultant endeavored to undertake the socioeconomic studies and to collect additional quantitative (supported by qualitative) information in two important areas:

- 1) Household-level income streams and livelihood strategies that could not be identified in the census and inventories of assets; and
- 2) The structure, organization, and economic inter-dependencies within the market communities affected by the project.

Analysis of these data helped identify those traders most at risk from the temporary physical or economic displacement.

### **2.4.1 Analysis of Surveys and Studies**

Analysis of the data collected in the census, assets inventory and socioeconomic studies were analyzed by the use qualitative and qualitative statistical methods and the results thereof served to: Provide information needed to establish an entitlement matrix; Yield basic economic and social information needed to design appropriate livelihood restoration and development interventions; and provide quantifiable demographic, economic, educational, occupational, and health indicators for future monitoring and evaluation of RAP implementation.

This section has statistical tables and charts showing the analyses done and the findings thereof.

Majority (1,057) traders in Ruiru market are female while the male comprise of 134 traders in this market. This translates to 79% females and 21% male traders in this market proving that more women contribute to economic activities.

**Table 7: Gender Data of Ruiru Market Traders**

	Frequency	Percent
Valid Female	510	79
Valid Male	134	21
Valid Total	644	100.0

In the context of the marital status of the traders in this market, majority (48%) of the traders are married, those who are widowed are 33% while those who are single form 10% of the traders in this market. Further, those who are separated comprises of 6% while those who are divorced are 18% of the traders in Ruiru market.

**Table 7.1 Marital Status**

	Frequency	Percent
Valid Divorced	18	3
Valid Married	312	48
Valid Separated	36	6
Valid Single	67	10
Valid Widowed	211	33
Valid Total	644	100.0

Majority (60%) of traders in this market are in the age group of 36-60 years old followed by those who are in the age group 18-35 years old at 32% while those who are above 60 years old are only 7%.

**Table 7.2 Soci-economic Demography (Age) Distribution of PAPs**

	Frequency	Percent
Valid >60 Years old	3	1
Valid 18-35 Years old	206	32
Valid 36-60 Years old	389	60
Valid Total	644	100.0

The socio demographic data portrays a youthful population having the potential of growth and expansion in terms of population. It further portrays a population that is literate and is able to read and write as majority has basic education.

The education level of traders in this market varies with majority (313) of the traders having secondary education forming 49% while those with primary education are 25% of the traders. Further, those with tertiary education in table 6.4 below indicate 5% of the traders with those with no education at all being 6%. The literacy level varies with majority (79.8%) of the traders being able to speak both English and Swahili, while those who speak Kiswahili alone constitute 20% of the traders and those who are able to speak English alone are 5% of the traders. Further, those who speak local dialect only are a paltry 6% of the population.

**Table 7.3. Education Levels of PAPs**

	Frequency	Percent
Valid	4	1
None	8	1
Primary	163	25
Secondary	313	49
Tertiary	156	24
Total	644	100.0

**Table 7.4 Literacy Levels of PAPs**

	Frequency	Percent
Both	514	79.8
English	3	.5
Kiswahili	123	20
local dialect	4	.6
Total	644	100.0

The sizes of households in this market vary with majority (75%) households having between 1-5 people. Those having between 6-10 people comprises of 24% of the population with those having more than 10 people in the households being 1% of the population. The estimated average household size in this market is 5 people per household. The number of males in the households that have between 1-5 people is 582, while the number of males in the households that have got between 6-10 people is 11. The number of households that do not have males at all is 51 of the traders in this market.

**Table 7.5 Household Sizes**

	Frequency	Percent
Valid >10people	8	1



1-5 people	482	75
6-10people	153	24
Total	644	100.0

**Table 7.6 No of Males**

	Frequency	Percent
1-5people	582	90
6-10people	11	1.7
None	51	7.9
Total	644	100.0

**Table 7.7 No of Females**

	Frequency	Percent
1-5people	616	96
6-10people	15	2.3
None	13	2.0
Total	644	100.0

In the context of females, households having between 1-5people have got 616 females, while households having 6-10 people have got 15 females. Households that do not have females at all are 13 in number. Majority 85% of the households have got adults with households not having adults forming 4% of the population in Ruiru market. Households with more than 10 people are 1% (6 in total).

**Table 7.8 No of Adults (18yrs and above)**

	Frequency	Percent
>10people	6	1
1-5people	546	85
Valid 6-10people	6	10
None	26	4
Total	644	100.0

Majority (60%) of the households have between 1-2 children, while 13% of the households have between 3-4 children. Households having 5-6 children are 1%. Those that do not have children constitute 26.% of the traders in this market. Cumulatively, majority (60%) of the traders' households in Ruiru market has got children and any disturbance into their daily way of life will definitely have an impact on the households, including affecting the children.

**Table 7.9 No of Children**

	Frequency	Percent
1-2children	387	60
3-4children	83	13
5-6children	6	1
None	165	26
Total	644	100.0

In the context of those who are above 65 years old, majority 97% of the households do not have those who are above 65 years old. Households having those who are above 65 years old are 3.% of the households represented within the market.

**Table 7.10 No of those above 60yrs**

	Frequency	Percent
1-2pple	17	3
None	624	97
Total	644	100.0

**Table 7.11 No of those disabled (physically challenged in Household)**

	Frequency	Percent
Valid 1-2pple	11	2
Valid None	631	98
Total	644	100.0

Further to this, 98% of the households do not have people who are physically challenged and a paltry 2% of the traders being physically challenged. This implies that in the planning process, the plight of these vulnerable groups must be taken into consideration to guarantee their transition to new processes.

**Table 7. 12 Business owners**

	Frequency	Percent
Valid Owner of both stall and business (landlord and trader)	568	88
Owner of business only (trader only)	75	11
Owner of stall only(landlord only)	1	1
Total	644	100.0

Majority of the business are owned by landlords that operate as traders forming 88%. While traders only (owner of a business only) stands at 11%. There is only 1% who own the stall alone meaning only one landlord who does not trade in the market.

**Table 7.13 Whether trader is physically challenged**

	Frequency	Percent
No	628	99
Yes	8	1
Total	644	100.0

Majority of traders are not physically challenged standing at 99%, whilst a paltry of 1% which total 8 traders are physical challenged. These will need assistance during relocation to market site area and moving back to the constructed market.

**Table 7.14 Ownership of Business**

	Frequency	Percent
Employee	4	.6
Owner	640	98.4
Total	644	100.0

Of the 644 traders at Ruiru market only 4 are employed while 98.4% are owners of the business meaning most traders conduct business in the market and only employ staff when necessary.

**Table 6.15 Size of business (No of employees)**

	Frequency	Percent
1-2pple	77	12
3-4pple	4	1
None	563	87
Total	644	100.0

Table 6.15 below indicates, in the context of business owned, 99% of 637 in number of traders do not other business/stall sublet in the market, while 1% have sublet other stalls to trader business. Further to this Table 6.16 shows that only 8% have sublet 1 stall and 2% have sublet 2 stalls.

**Table 7.16 Other business stall owned/sublet**

	Frequency	Percent
No	637	99
Yes	7	1
Total	644	100.0

**Table 7.17 If yes how many**

	Frequency	Percent
1	5	.8
2	1	.2
None	638	99
Total	644	100.0

**Table 6.18 Type of PAP**

	Frequency	Percent
Both	269	41.8
Retail	374	58

Wholesale	1	.2
Total	644	100.0

The type of trader in this market varies. Those who are in wholesale business are 1 translating to 28%. Further to this, majority 374 translating to 58% are in retail business with those being on both retail and wholesale business being 41.8% translating to 269 of the traders.

The trading commodity that is popular in this market vends between Kes: 11,000-20,000 and has ranked at 31.6%. The commodities that vends at Kes 91,-100,000 only attracts 3%. The lowest vending price between 1000-10,000 only attracts 12%.

**Table 7.19 Type of commodity**

	Frequency	Percent
>100,000	32	5.0
Kshs 1,000-10,000	77	12.0
Kshs 11,000-20,000	204	31.6
Kshs 21,000-30,000	139	21.6
Kshs 31,000-40,000	81	12.6
Kshs 41,000-50,000	43	6.7
Kshs 51,000-60,000	45	7.0
Kshs 61,000-70,000	9	1.4
Kshs 71,000-80,000	8	1.2
Kshs 81,000-90,000	4	.6
Kshs 91,000-100,000	2	.3
Total	644	100.0

**Table 7.20 Estimated monthly household income**

	Frequency	Percent
>100,000	19	3.0
Kshs 1,000-10,000	176	27.3
Kshs 11,000-20,000	270	41.9
Kshs 21,000-30,000	78	12.1
Kshs 31,000-40,000	54	8.4
Kshs 41,000-50,000	23	3.6
Kshs 51,000-60,000	8	1.2
Kshs 61,000-70,000	5	.8
Kshs 71,000-80,000	6	.9



Kshs 81,000-90,000	2	.3
Kshs 91,000-100,000	3	.5
Total	644	100.0

The estimated total household monthly income for traders in Ruiru market ranges between Kshs 1000- above 100,000. This is further disaggregated with majority 41.9% of the traders having a monthly household income of between Kshs 11,000-20,000. Those who have a household income of Kshs 91,000-100,000 constitute 5% of the traders while those having an income of Kshs 21,000-30,000 being 13.2% of the traders. Further, traders having an income of Kshs 1,000-10,000 constitute 27.3% of the traders population while those having an income of Kshs over 100,000 being 3% of the traders population in Ruiru market. Summarily, traders earning between Kshs 51,000-60,000 constitute a paltry 1.2% of the traders.

**Table 7.21 estimated gross business expenditure per month**

	Frequency	Percent
<Kshs 999	41	6.4
>100,000	12	1.9
Kshs 1,000-10,000	180	28.0
Kshs 11,000-20,000	220	34.2
Kshs 21,000-30,000	100	15.5
Kshs 31,000-40,000	52	8.1
Kshs 41,000-50,000	26	4.0
Kshs 51,000-60,000	5	.8
Kshs 61,000-70,000	2	.3
Kshs 71,000-80,000	1	.2
Kshs 81,000-90,000	2	.3
Kshs 91,000-100,000	3	.5
Total	644	100.0

Majority 34.2% of the traders in Ruiru market spend between Kshs 11,000-20,000, with those who spend between Kshs 1,000-10,000 being 28.0%. Those who expend between Kshs 21,000-30,000 are 15.5% of the traders in this market while those who expend between Kshs 31,000-40,000 are 8.1% of the traders in this market. Further to this, those who spend between Kshs 41,000-50,000 constitute 4.0% while those who spend between Kshs 51,000-60,000 are 8% of the traders in this market. Those who spend spend between Kshs 61,000-70,000, Kshs 71,000-80,000, Kshs 81,000-90,000 and Kshs 91,000-100,000 constitute 3%, 2%, 0.9% and 3% respectively. Those who spend more than Kshs 100,000 in their businesses in Ruiru market constitute 1.9% of the traders. Majority of the traders do not spend much in their business, this might be influenced by the gross income that they get from the businesses.

**Table 7.22 Distance to market**

	Frequency	Percent
<1km	37	5.7
>10 km	130	20.2
1-5 km	264	41
6-10 km	213	33.1
Total	644	100.0

Majority (41%) of traders cover 1-5km, while those who cover 6-10km constitute 33.3% of the traders. Those who cover more than 10km are 20.2% of the traders while those who cover <1km are 5.7% of the traders. Those who cover less than 1km constitute 5.7% if the traders. This implies that majority of the traders d live at the vicinity of the market hence security of their ware being a concern to them.

**Table 7.23 Duration of Tenancy**

	Frequency	Percent
<1 year	9	1.4
>10 years	350	54.3
1-5 years	117	18.2
6-10years	168	26.1
Total	644	100.0

In the context of the duration of tenancy, majority 54.3% of the traders have been business people in the market for >10 years. This is followed by those who have been in the market for 6-10years being 26.1% while those who have been in the market for 1-5 years constitute 18.2% of the trades. Those who have been in the market for less than a year are 1.4% of the traders. This implies that majority of the traders here have developed forms of social capital that can be harnessed in developing the business environment of the traders in this market.

**Table 7.24 Registered by County**

	Frequency	Percent
County	60	9.3

Unregisterd	584	90.7
Total	644	100.0

**Table 7.25 If unregistered Premises/business**

	Frequency	Percent
Both	3	.5
Fixed premises	267	41.5
Mobile vendors (hawkers)	374	58
Total	644	100.0

**Table 7.26 Ownership of business premises**

	Frequency	Percent
County	43	6.7
Private	596	92.5
Rented	5	.8
Total	644	100.0

Majority (90.7%) of the businesses in this market are unregistered, with those that are registered by the county government constituting 9.3%. Of these, majority 41.5% are fixed premises. Further majority (92.5%) of the businesses in this market are private owned with the county government owning 6.1% of the business premises. This signifies that county loses revenue collections from unregistered businesses. Only 8% have rented stalls to trader in them.

**Table 7.27 Amount of rent per month**

	Frequency	Percent
<5,000	3	.5
5001-10000	15	2.3
Nil	626	97.2
Total	644	100.0

Majority (97.2%) of the traders do not pay rent with those who pay rent are less than 5000 being 5% and those who pay rent of between Kshs 5001-10,000 being 2.3%. Further to this, in the amount of Cess paid per month, majority 68.8% of the traders pay between Kshs 501-1000, while those who pay <500

being 27.8% of the traders. Those who pay cess of Kshs 1001-1500 are 2% of the traders while those who pay over 2000 are 2% of the traders. Those who do not pay cess at all are 3.1% of the traders.

**Table 7. 28 Cess paid per month**

	Frequency	Percent
<500	179	27.8
1001-1500	1	.2
501-1000	443	68.8
Nil	20	3.1
over 2000	1	.2
Total	644	100.0

## 2.5 Categories of Impacts relating to resettlement

This section provides a detail of categories of impacts and census of PAPs and assets that will lead to economic loss and/or physical displacement and resettlement. The section also provides a conclusion with a summary of the total magnitude of loss identified through the PAP census and the valuation exercise.

This section identifies the impacts of the project on the traders on their livelihoods. It is anticipated that 100% of the traders at the Ruiru market site will be temporarily displaced to pave way for construction of the market.

Projected impacts include:

- Loss of business shades/structures
- Loss of business income during transition
- Reduced income resulting from these losses
- access to sanitation facilities and water

### 2.5.1 Loss of business shades

The temporary shades/structures will have to be demolished to pave way for construction of the market. There will be significant impact on loss of shades/structures that will be caused by the proposed project mainly in the construction of the market, which will not have any significant impact to the livelihood of the PAPs, as PAPs will receive a structure in the constructed market and will be provided with a structure at the relocation site layout as well. indicated in Figure 8.1.

### **2.5.2 Loss of business income during the transition**

There is a possible loss of income during the transition period to the new relocation site. The designs will prepare a relocation site (temporary site) at the market site whereby the traders will relocate during the construction site. The transition period will start from providing adequate notice to the PAPs from the market site to the relocation site. The relocation site layout is shown in Figure 8.1. The loss will occur while traders set up their businesses in the relocation site and in addition to informing and attracting clients to the relocation site. There may also be traders who may be completely displaced and may choose to opt out of business due to the conditions of the relocation site.

### **2.5.4 Access to Sanitation and Water Facilities**

During the construction period, there is a probability that access to sanitation and water facilities will be minimal at the relocation site (temporary site). The sanitation facilities are currently inadequate to serve all the traders. However, the designs have made provisions for ample water and sanitation facilities at both the market and relocation site (temporary site). Water is easily accessible in the market currently. This access may be limited during the project construction period (1 year), however the designs has made provisions for water and access during the transition period.

### **2.5.4 Impact on the Environmental Health**

Currently, waste is collected by the county government and taken to the dump site on a regular basis. However, the collection of waste by the county government is seldom done, resulting to heaps of waste piling up in the market. This is likely to be the same condition which may experienced during the construction period. In the event that waste is not collected by the county government, it will lead to proliferation of pests and diseases at the site. The plans for relocation have provisions which have carefully considered different waste management options. The contractor will be responsible to ensure waste is collected during the construction period. The county government will ensure that waste is collected at least 2-3 times in a week.

During the construction period the traders will be exposed to noise and dust pollution which may result to increased respiratory diseases. The contractor will put in place mitigation measures to minimize the impacts of noise and dust by restricting the construction activities during the day time and have dust sheens.

It will therefore be imperative that the relocation plans consider how to mitigate these unwanted impacts on human health that may result from construction pollution as spelt out in the environmental social and management plan of the Environmental Impact assessment report that was submitted to the regulatory body (NEMA).

### **2.5.5 Social & Economic Impacts**

The project plan for Ruiru market is to have traders moved temporarily to a relocation site within the market. The design team will prepare the relocation layout plan to assist the resettlement Unit in moving the PAPs from the market to the relocation site during the construction phase. The construction will be phased out and noting that a portion of the market will be reserved for the PAPs, while the rest will be constructed. Once the construction of the market is completed, the PAPs will be moved back to the market, as the contractor completes the area where the PAPs were using as a relocation site. This may pose a challenge if the resettlement Unit do not plan adequately the movement of the PAPs from the market to relocation site and back to the completed market. The Resettlement Unit (RU) will



provide adequate notice before moving the PAPs so as to avoid or minimize tension amongst the PAPs and confusion. The RU will provide assistance to the vulnerable groups as detailed in chapter 5. There is a possibility loss of income by PAPs though not very significant on the day the PAPs move from market to relocation site and back to market. Security will present a challenge for all traders in the market. Currently, there are stalls that are used for storage that will be brought down during the project implementation period. It is therefore imperative to plan for storage space for traders and provide security for those goods. The market is illuminated by one floodlight mast. During the project construction period, the contractor will provide a flood light at the relocation site and another at the constructed market. Traders will be sensitized on the need to take care of their security during the RAP sensitization forum Traders will be sensitized on security

### **2.5.6 Anticipated challenges**

The movement of PAP traders from the current market site to the temporary relocation site and back to the new market may pose a challenge in managing a large number of traders during the transition period.

- There may be misunderstanding among the traders, market committee and the RU in the allocation of stalls at the temporary relocation market and at the new market
- Vulnerable groups (women, youth, aged, disabled) may have challenges transporting their wares and goods from the current market to relocation site and back to the new market.
- Stall allocation in the top storeys of the new market building will be resisted by some of the traders in the pretext that customers will not reach them and will prefer shopping on the ground floor of the market.

### **2.5.7 Measures to minimize resettlement impact**

The Kiambu County Government under supervision of NaMSIP and the World Bank has the mandate to oversee and ensure that all the PAPs will each be allocated a stall at the temporary relocation market and at the new market when completed

- The GRM desk will be established at the onset of the RAP implementation process, in order to resolve any resettlement related issues that can quickly be addressed.
- Vulnerable groups (People with special needs, Elderly, People living with HIV/AIDs (PLWHIV), Women and Youth) will be assisted in transporting their wares and goods from the current market to the relocation site and back to the new market
- The County Government of Kiambu will devise ways to make the upper floors of the market equally attractive to traders by offer stalls there a lower rent than those on the ground floor to offset any possible loss of business on upper floors.

## **CHAPTER 3: POLICY AND LEGAL FRAMEWORKS**

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### **3.1 Introduction**

This chapter describes the relevant local and international policy and legislation that will apply to the resettlement of Project Affected Persons in the Ruiru Market improvement project.

### **3.2 National Policy Framework**

The Republic of Kenya has a policy, legal and administrative framework relevant to the project in matters resettlement of Project Affected Persons.

Below are details on the relevant laws and policies applicable in the country.

#### **3.2.1 Kenya Vision 2030**

Kenya Vision 2030 is a comprehensive national development plan for the period 2008 to 2030. The plan was developed following successful implementation of the Economic Recovery Strategy for Wealth and Employment Creation which ensured the country's economy was back on the path for realization of rapid economic growth since 2002. The county's GDP growth rose from 0.6% to 7% in 2007, but declined to 1.7% and 1.8% in 2008 and 2009, respectively. The objective of the Vision 2030 is to transform Kenya into a middle income country with a consistent annual economic growth of 10 % by the year 2030. The 2030 goal for urban areas is to achieve "a well-housed population living in an environmentally-secure urban environment." The document has a well laid plan for the retail and wholesale market industry by:

- Having wholesale and retail markets of high efficiency by lowering transaction costs through institutional reforms through investment in infrastructure, training and linking the markets to wider local and global markets
- Enumerate the informal sector operators, provide the, with permanent and serviced facilities, training and access to credit facilities.
- 'Tier 1' retail facilities will provide primary producers with better value than at present where they are heavily fragmented.

#### **3.2.2 National Environmental Action Plan (NEAP) of 1994**

The National Environment Action Plan (NEAP) for Kenya was formulated in 1994 through a consultative process involving various stakeholders. The action plan was aimed at integrating environmental considerations into the country's socio-economic development. The integration process was to be realized through development of a comprehensive framework that ensures linkage of environmental management of natural resources to decision-making processes. The NEAP also established the process of identifying environmental problems and issues, awareness raising, building national consensus, defining policies, legislation and institutional needs, and planning environmental projects.

The Ruiru Market redevelopment project should be in line with this plan by ensuring that environmental services are enhanced.

### **3.2.3 The National Poverty Eradication Plan (NPEP) of 1999**

The National Poverty Eradication Plan (NPEP) was formulated with an objective of reducing the high levels of poverty in Kenya by 50 percent by the year 2015, as well as to strengthen the capabilities of the poor and vulnerable groups to earn income. The plan also aimed at reducing gender and geographical disparities in order to create a healthy, better-educated and more productive population. The formulation of the plan was guided by the goals and commitments agreed during the World Summit for Sustainable Development (WSSD) of 1995. The plan therefore focuses on the delivery of four WSSD themes of poverty eradication; reduction of unemployment; social integration of the disadvantaged people and creation of an enabling economic, political, and cultural environment through development of transport and communication sector. The plan is implemented by the Poverty Eradication Commission (PEC) that was established in collaboration with various Government Ministries, bilateral and multilateral donors, the private sector, Community Based Organizations (CBOs) and Non-Governmental Organizations (NGOs). The NPEP is relevant since the proposed market redevelopment since it will create an enabling environment that will contribute immensely in the enhancement of economic growth to the traders

### **3.2.4 The Poverty Reduction Strategy Paper (PRSP) of 2000**

The Poverty Reduction Strategy Paper (PRSP) for Kenya has the broad objective of reducing poverty and promoting economic growth. This Strategy Paper articulates Kenya's commitment and approach to tackling endemic poverty through involvement of the poor communities in both rural and urban areas in various socio-economic development activities. The proposed redevelopment, during and after implementation will offer various employment opportunities to Kenyans and will therefore contribute directly towards the realization of the broad national goal of reducing poverty in the country. In addition, the project would stimulate economic development by creating an enabling environment for other key sectors of the economy to thrive by acting a central activating nod.

### **3.2.5 Environment and Development (Sessional Paper No. 6 of 1999)**

Kenya's policy paper on Environment and Development was formulated in 1999. The policy paper defined approaches that will be pursued by the Government in mainstreaming environmental issues into development. The policy harmonized environmental and developmental objectives with the broad goal of achieving sustainable development. The policy paper also provided guidelines and strategies for government action regarding environment and development. This policy is relevant to the proposed development project in view of the potential impacts on the environment and involvement of the public in project planning.

### **3.2.6 Nairobi Metro 2030**

The Government of Kenya formulated the Nairobi Metro 2030 in 2008 to guide the development of the Nairobi Metropolitan Region (NMR). The goal is to ensure that NMR plays its role in the realization of strategies defined under the Kenya's Vision 2030. Nairobi Metro 2030 brings into focus challenges faced by rapid urban growth and development. The Metro 2030 is integrated into Kenya's Vision 2030 and other development plans and it also aims at strengthening the county governments as part of the process for the devolution of power to the grassroots. Nairobi Metro 2030 aims at making Nairobi Metropolitan Region a World Class African Metropolis that supports the overall national agenda as defined under Kenya Vision 2030. The aim of the strategy is to enhance economic growth, employment creation, improvement of lifestyles and infrastructure services. The proposed project will thus contribute in the

realization of the goals of Nairobi Metro 2030 in so far as development of world class infrastructure and utilities is concerned.

Therefore, the redevelopment of Ruiru Market is in line with this plan with an objective of giving the market a crucial facelift while and major economic growth for its traders.

### **3.2.7 The National Land Policy (2007)**

Land Policy in Kenya is guided by the environmental management principles which are aimed at restoring environmental integrity through introduction of incentives and encouragement of use of technology and scientific methods for soil conservation, among others.

The policy also recognizes that sustainable management of land based natural resources depends largely on the governance system that defines the relationships between people, and between people and resources. To achieve an integrated approach to the management of land-based natural resources, all policies, regulations and laws dealing with these resources need to be harmonized with the framework established by the Environmental Management and Coordination Act (EMCA) 1999.

The National Land Policy (NLP) presents policy recommendations on issues of land rights and provides for strategies on dealing with land rights of vulnerable groups, minority groups, refugees and internally displaced persons, informal settlements, children and people living with HIV/ AIDS. The same section provides guidelines on gender and equity principles relating to land rights on matters to do with land and resettlement. The NLP is relevant to the proposed project in that it will give guidance, together with other land laws, on dealing with land issues during development of the project, any land acquisition if necessary and resettlement.

### **3.2.8 Public Health Policy of 2014**

The public health policy calls upon the project proponents to ensure that buildings are adequately provided with utilities so that they are fit for human habitation and use. The market ought therefore to be provided with all amenities/utilities that are essential for safeguarding public health for all people using the facilities and those that may be living in the neighborhood such as sufficient ablution blocks, solid waste management and a connection to the existing sewerage system.

### **3.2.9 HIV/AIDS Policy of 2009**

The policy identifies HIV/AIDS as a global crisis that constitutes one of the most formidable challenges to economic development and social progress. The pandemic heavily affects the Kenyan economy through loss of human resource due to deaths, loss of man hours due to prolonged illnesses, absenteeism, reduced performance, increased stress, stigma, discrimination and loss of institutional memories, among others. Due to the large of number of traders, business activities and the social stature of Ruiru market HIV/AIDS has to be considered as one of the possible impacts and adequate mitigation measures are proposed to that effect.

### **3.2.10 The National Gender Policy of 2001**

The purpose of the Gender Policy is to institutionalize the Kenya National Policy on Gender and Development (NPGD), within Gender, Children and Social Development. It articulates the policy approach of gender mainstreaming and empowerment of women at the grassroots level. The policy seeks to have a society where women, men, children and persons with disabilities enjoy equal rights, opportunities and a high quality of life. This plan has in depth addressed matters gender and

development touching on women, children and the disabled for consideration in rolling out its recommendations.

### **3.2.11 Resettlement Policy Framework (RPF) for NaMSIP, 2011**

The RPF will guide implementation of NaMSIP civil works packages to provide safeguards against adverse impacts of displacement and consequent disruption of livelihoods of the affected persons. The RPF has been prepared in conformity with the World Bank Safeguard Operational Policy, OP 4.12 – Involuntary Resettlement - and anchored in the legal provisions of the Kenya Government. Where the two are diverge, OP 4.12 prevails

The RPF examines the process of displacement and resettlement and gives a framework on the following measures of avoiding, and where unavoidable, minimizing the impact:

- Involving the communities and Project Affected Persons (PAPs) as early as possible in the project and engaging the community in the design and implementation of the projects;
- Keep the PAPs fully informed of any eventualities including possibility of being compensated and/or resettled.
- Preparing, updating and adhering to Regional and Development plans to ensure that developments are located appropriately. The Ministry will establish a Forward Planning Unit which will consider long-term projections and requisite provision of land and space;
- In the event that displacement cannot be avoided, the process of assessing who is affected, determining the appropriate mitigation measures – compensation and/or resettlement - will be carried out with involvement and consultations of the persons affected, in a transparent manner and with a grievance redress mechanism in place

## **3.3 Relevant Local Laws and Customs for Resettlement**

### **3.3.1 The Constitution of Kenya of 2010**

Section 60 of Chapter 5 lays down the principles of land ownership and use as follows:

- (a) Equitable access to land;
- (b) Security of land rights;
- (c) Sustainable and productive management of land resources;
- (d) Transparent and cost effective administration of land;
- (e) Sound conservation and protection of ecologically sensitive areas;
- (f) Elimination of gender discrimination in law, customs and practices related to land and property in Kenya; and
- (g) Encouragement of communities to settle land disputes through recognized local community initiative.

The Constitution entrenches the protection of legally acquired land and property rights, and any acquisition of rights in land and property, be it voluntary or involuntary, must comply with the law. The recognition of alternative dispute resolution mechanisms is aimed at expediting issues of land rights, transfer and supporting economic development.

The Constitution grants powers to the State to regulate the use of land. Section 66 (1) provides circumstances in which the State can exercise its powers of eminent domain (the legal right of a government to take private property for public use without the owner's prior consent upon payment of just compensation) to include: in the interest of defense, public safety, public order, public morality, public health, or land use planning.

The provisions of the Constitution place a higher threshold in the process to be adopted for involuntary acquisition of land. It is invariable that a RAP will have to be prepared for projects and compensation packages in line with prevailing legislative framework will have to be negotiated with the PAPs.

### **3.3.2 The Environment and Land Court Act, 2012**

The Act enacts Article 162(2) (b) of the Constitution; to establish a superior court to hear and determine disputes relating to the environment and the use and occupation of, and title to land, and to make provisions for its jurisdiction, functions and powers, and for connected purposes.

The Court 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, choices in action or other instruments granting any enforceable interests in land; and (c) land administration and management; (d) and any other dispute relating to environment and land.

This will be an important institution in case of grievances with regard to resettlement that cannot be solved through the proposed RAP grievance redress system

### **3.3.3 The Land Act 2012**

The Act specifies the manner for determination and the award for compulsory acquisition to be served on the persons determined to have interest in the affected land.

According to Section 128 of the Act, any dispute arising out of any matter under the Act, which involves compulsory acquisition process, should be referred to the Land and Environmental Court for determination. Sections 107-133 of the Land Act specify the procedure to be followed in the process of compulsory land acquisition. Section 134 of the Act creates a Settlement Fund for land acquisition to provide shelter and livelihoods to people who are involuntarily displaced.

Part II section 8 provides guidelines on management of public land by the National Land Commission on behalf of both national and county government. This law, in section 8(b) stipulates that the Commission will evaluate all parcels of public land based on land capability, classification, land resources mapping consideration, overall potential for the land use, and resource evaluation for land use planning. Section 8(d) stipulates that the Commission may require the land to be used for a specified purpose subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order.

In managing public land the Commission is further required in section 10(1) to prescribe guidelines for the management of public land by all public agencies, statutory bodies and state corporations in actual occupation or use. In these guidelines management priorities and operational principles for management of public land resources for identified uses will be stated.

This in essence means that the Commission will take appropriate action to maintain public land that has endangered or endemic species of flora and fauna, critical habitats or protected areas. As well the commission will identify ecologically sensitive areas that are within public land and demarcate or take



any other justified action on those areas and act to prevent environmental degradation and climate change.

The market land under which Ruiru falls is classified as Public land hence invoking some sections of this Act.

### **3.3.4 The Land Registration Act of 2012**

The Act provides for the registration of absolute proprietorship interests over land (exclusive rights) that has been adjudicated or any other leasehold ownership interest on the land. Such land can be acquired by the state under the Land Act 2012 in the project area.

### **3.3.5 National Gender and Equality Commission Act, 2011**

The Commission was established through an Act of parliament and is mandated but not limited to perform the following functions:

(a) promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution; (b) monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions; (c) co-ordinate and facilitate mainstreaming of issues of gender, persons with disability into the overall national development framework.

Some sections of this Act will be invoked in the implementation of the Resettlement Action Plan.

### **3.3.6 The Matrimonial Property Act, 2013**

The Act identifies the joint ownership of Matrimonial property. Section 4 gives instances when a woman has the same right as a man with regard to property. Despite any other law, a married woman has the same rights as a married man— No. 49 Equal status of spouses. (a) to acquire, administer, hold, control, use and dispose of property whether movable or immovable; (b) to enter into a contract; and (c) to sue and be sued in her own name.

Part III gives meaning of matrimonial property. This Act is applicable in the development of this RAP report because of the nature of businesses at Ruiru Market.

### **3.3.7 HIV/AIDS Prevention and control Act (Act No. 14 of 2006)**

Part 11, Section 7 of the Act requires that HIV and AIDs education be carried out at the work-place. The government is expected to ensure the provision of basic information and instruction on HIV and Aids prevention and control to:-

- (i) Employees of all government ministries, departments, Authorities, and other agencies and employees of private and informal sectors.
- (ii) The information on HIV/AIDS is expected to be treated with confidentiality at the work place and positive attitude towards infected employees.

In allocating contractors to the Ruiru Market, the Ministry should ensure that the contractor offers such training to the workers as provided by law and detailed in the ESMP of the EIA report.

### **3.3.8 Kenya Road Act, 2007**

On enactment, the Act vested the powers and functions of all urban roads under the Public Roads and Roads of Access Act, Cap 399 on the Kenyan Urban Roads Authority. It empowered the Authority to develop and manage roads on all designated urban road reserves for the benefit of the residents. It has

powers to liaise and co-ordinate with other agencies involved with provision of space for road construction.

In the interest of the roads around Ruiru Market, the Act will be invoked.

### **3.3.9 The Valuers Act Cap 532**

The Valuers Act is an Act of Parliament to provide for the registration of Valuers and the regulation of the valuation profession and practice in Kenya. Clause 21 of Cap 532 prohibits any person who is not a Registered Valuer and whose name does not appear in the register to prepare and submit a valuation report. The importance of these provisions is that a valuation report prepared by a person or firm not registered under the provisions of Clause 21 is invalid and cannot be used for the basis of compensation.

The provisions of this Act are relevant to the proposed project as a Registered Valuer is required for the purposes of determining types and amount of compensation, whether the acquisition is going to be under Cap 295 or Cap 288 or World Bank OP 4.12.

### **3.3.10 The Physical Planning Act, Cap 286**

Section 29 of the said Act empowers the County Governments to reserve and maintain all land planned for open spaces, parks, markets, urban forests and green belts. The same section allows for prohibition or control of the use and development of an area without proper cause.

Section 30 states that any person who carries out development without development permission will be required to restore the land to its original condition. It also states that no other licensing authority will grant license for commercial or industrial use or occupation of any building without a development permission granted by the respective County Authority.

There is a proposed bill to make amendments to this Act but it is yet to be accented by the president. The Act's provisions will therefore be invoked by the proposed project.

### **3.3.11 The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012**

The provisions of this Act apply to all internally displaced persons that arise either through calamities, social conflict or development projects and is guided by the Bills of Right under the Constitution of Kenya. Section 5 of the Act lists development projects among the displacement factors and outlines involvement of the affected persons through awareness, sensitization, training and education on causes, impacts, consequences and prevention measures. Section 6 of the Act provides that displacements and relocation as a result of development project sites will only be justified by compelling and overriding public interest. The procedures to follow are listed under section 22 and include:-

- (i) Justification as to why the displacement is unavoidable and that there is no other feasible alternative.
- (ii) Seeking free and informed consent from the affected person
- (iii) Holding public hearing on project planning
- (iv) Provision of reasonable notice time to allow the affected persons review and react to the displacement conditions; and
- (v) Displacement process should reflect respect to human rights.

Relocation of the affected persons will be guided by the following factors:-

- (i) Full information on the affected persons and ensuring their participation;
- (ii) Identification of safe, adequate and habitable alternatives;
- (iii) Availability of safety, nutrition, health, and hygiene as well as protection at the new location; and

(iv) Acceptability by the host communities in the new location (if re-location is implemented). The Act therefore provided enacted guidelines in the event of relocation of the Ruiru traders.

### **3.3.12 The Sexual Offences Act (NO 3 of 2006)**

Relevant Sections in this Act include:-

24- Sexual offences relating to position of authority and persons in position of trust.

25- Sexual relationship which pre-date position of authority or trust.

26- Deliberate transmission of HIV or any other life threatening sexually transmitted disease.

In the life cycle of the Ruiru Project and the associated resettlement, the Act will be applied in ensuring that no sexually offences are committed.

### **3.3.13 Urban Areas and Cities Act, 2011**

This Act was assented into law on 27<sup>th</sup> August, 2011. Section 5 of the report gives a definition and qualification of a City and Urban Area. As per the criteria outlined, Nairobi falls under a city classification due to its population, development plan, revenue collection among others.

Part V as from Section 36 to 40 the Act provides the essence of cities and urban areas' to have integrated development plans to indicate the vision, assessment of existing development, community inclusion in development, alignment of city/ urban area plans to the national and county integrated plan, disaster management plan and assessment of key performance indicators of an individual town or urban area.

### **3.3.14 The Public Health Act (Cap. 242)**

Part IX Section 8 & 9 of the Act states that no person/institution will cause nuisance or condition liable to be injurious or dangerous to human health. Any noxious matter or waste water flowing or discharged into a water course is deemed as a nuisance.

Part XII Section 136 states that all collections of water, sewage, rubbish, refuse and other fluids which permits or facilitates the breeding or multiplication of pests will be deemed nuisances. The Act addresses matters of sanitation, hygiene and general environmental health and safety.

Hygiene and sanitation are key for Ruiru markets' operation and will need to be well factored well in its planning whether on site or on the relocation site.

### **3.3.15 Environment Management and Coordination Act, Cap 387**

The EMCA was developed as a framework law. It is the only legislation that contains the most comprehensive system of environmental management in Kenya. The Act is based on the recognition that improved legal and administrative co-ordination of the diverse sectoral initiatives is necessary in order to improve national capacity for environmental management. It has the main purpose of coordination and supervision of a wide range of environmental issues, which are contained in the regulations and guidelines. Section 3 of the Act highlights the General Principles 23 that guide its implementation. Every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance it. The Act is implemented through an institutional set up that includes the National Environment Council (NEC), National Environmental Management Authority (NEMA), Public Complaints Committee, National Environment Tribunal and the Board of Trustees for the Environment Trust Fund among others.

This is a key legislation in the undertaking of the RAP.

### **3.4 Kiambu County Trade and Markets Bill, 2015**

The Bill Establishes a Directorate of Trade and Markets whose functions will be solely on all trading and markets within the County.

The Bill, in section 9, indicates that: the Directorate will establish, maintain, manage and regulate public markets for the sale of marketable commodities while establishing conditions to be attained for any trader wishing to sell within the county's markets.

### **3.5 International Framework**

#### **3.5.1 The World Bank's Involuntary Resettlement Policy (OP 4.12)**

The World Bank's IRP outlines the conditions under which the World Bank will fund a project if it displaces persons or affects their social and economic wellbeing.

#### **Policy Objectives**

The objective of the Bank's Resettlement Policy is to ensure that population displaced by a project receives benefits from it. The policy has the following key objectives:

- To avoid involuntary resettlement where feasible, or minimize resettlement impacts where population displacement is unavoidable, exploring all viable project designs. Particular attention must be given to socio-cultural
- Considerations, such as cultural or religious significance of land, the vulnerability of the affected population, or the availability of in-kind replacement for assets, especially when they have important intangible implications. When a large number of people or a significant portion of the affected population would be subject to relocation or would suffer from impacts that are difficult to quantify and to compensate, the alternative of not going ahead with the project should be given a serious consideration;
- To ensure that displaced people receive resettlement assistance, preferably under the project, so that their standards of living, income earning capacity, and production levels are improved;
- To provide explicit guidance to Bank staff and to the borrowers on the conditions that need to be met regarding involuntary resettlement issues in Bank operations in order to mitigate the negative impacts of displacement and resettlement and establish sustainable economy and society; and
- To set up a mechanism for monitoring the performance of involuntary resettlement programs in Bank operations and remedying problems as they arise so as to safeguard against ill-prepared and poorly implemented resettlement plans.

According to World Bank's Involuntary Resettlement Policy (IRP), the resettlement plan should include measures to ensure that displaced persons are:

- Informed about their options and rights pertaining to resettlement;
- Consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives
- Provided prompt and effective compensation at full replacement cost for losses
- Provided assistance (such as moving allowances) during relocation
- Provided with residential housing, or housing sites, (in the context of this case, market sites) for which a combination of productive potential, location advantages and other factors is at least equivalent to the advantages of old sites.

Where it is necessary to achieve the objectives of the resettlement plan, it should also ensure that displaced persons are:

- Offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standard of living; and
- Provided with development assistance in addition to compensation measures, such as relocation market site preparation, training, or job opportunities.

### **3.5.2 Similarities Between the Government of Kenya (GoK), and World Bank Guidelines**

From analysis undertaken above, the GoK, and World Bank requirements are found to converge on the following points:-

- Avoidance of involuntary resettlement wherever feasible, and minimization of resettlement where population displacement is unavoidable by exploring all viable project options
- Compensation at replacement cost (replacement cost of an affected asset is equivalent to the amount required to replace the asset in its existing condition). However, the GoK does not consider replacement costs
- Assistance to the affected people for relocation
- Assistance to the affected people to improve their living standards, capacity for income generation, and production levels, or at least to restore to their former levels; although not expressly given in the Land Act, NLC can give determination
- Participation of all stakeholders
- Consultations with project affected persons at every stage
- Grievance redress mechanisms for project affected persons

The table below provides a summative comparative analysis of the World Bank guidelines and the Kenyan Law context.

**Table 8: Comparative Analysis between World Bank O.P 4.12 and Kenyan Legal Context with Regard to Resettlement Process**

World Bank OP4.12	Kenyan Context	Comparison	Recommendations
<b>General RAP Requirements</b>			
Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives.	Involuntary resettlement possible in contexts of projects of national importance	The Land Act does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be unavoidable.	<b>Adopt O P 4.12.</b> Ensure that resettlement issues are considered at the design stage of the project in order to avoid/minimize resettlement and associated issues.
Resettlement programs to be sustainable, with meaningful consultation with affected parties.	The Land Act, 2012 Act provides steps for sensitizing the affected population. Gives provisions and guidance on consultation on implications and grievance procedures.	Same as the World Bank	<b>Adopt both O P 4.12 and the Kenya laws.</b>
Displaced persons should be assisted in improving livelihoods etc. or at least restoring them to previous levels.	The Land Act 2012 guarantees the right to fair and just compensation in case of relocation	Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC. It is give provisions about improving livelihood or restoring them to pre-project status.	Implement World Bank OP 4.12 policy
<b>RAP Process Requirements</b>			
<b>PAP Consultation:</b> Displaced persons should be meaningfully consulted and should be given equal opportunities to participate in planning and implementing resettlement programs	The Land Act outlines procedures for consultation with affected population by the NLC.	Same as World Bank	Adopt both Kenyan legislation and World Bank.
<b>Grievance Redress Mechanism:</b> For physical resettlement, appropriate and accessible grievance	Land Act 2012 clearly outlines the steps and process for grievance redress that includes alternative dispute	Kenyan legislation meets OP4.12 requirements.	Adopt both Kenyan legislation and World Bank.



World Bank OP4.12	Kenyan Context	Comparison	Recommendations
<p>mechanism will be established.</p>	<p>resolution, renegotiation with NLC and is backed by the judicial system through Environmental and Land Court Act</p>		
<p><b>Eligibility Criteria</b>  <i>Determined by:</i>                      (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);                       (b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan</p>	<p>The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid land right.</p> <p>The Law provides that people eligible for compensation are those holding land tenure rights</p> <p>Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood.</p> <p>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</p>	<p>The O.P 4.12’s recognizes Eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated.</p> <p>The constitution of Kenya on the other hand recognizes ‘occupants of land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p>	<p>Adopt O P 4.12.</p> <p>Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey and compensation of structures at replacement cost and the provision of special assistance</p>
<p>(c) those who have no recognizable legal right or claim to the land they are occupying</p> <p><i>To determine eligibility:</i>                      Carry out resettlement census. Cutoff date for eligibility is</p>	<p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>Same as World Bank</p>	<p>Adopt both O P 4.12 and the Kenyan Constitution. Implement cut-off procedures as outlined in the World Bank guidelines and Kenyan Law</p>
<p><b>Measures:</b>                      Cash based compensation should only be made where (a) land taken for the project</p>	<p>Land Act 2012 appears to prefer mode of cash compensation by the</p>	<p>Cash based compensation seems to be the preferred mode of awarding compensation</p>	<p>Ensure that all alternative options are considered before providing cash compensation.</p>

World Bank OP4.12	Kenyan Context	Comparison	Recommendations
<p>is a small fraction of the affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based.</p> <p>World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required</p>	<p>Government to the affected population.</p> <p>Land Act talks of prompt, just compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific schedule defining just compensation have not been put in place.</p> <p>Attorney’s fees, cost of obtaining advice or cost incurred in preparing and making written claim not in the Land Act other than ‘just compensation’ The Act does not outrightly stipulate assistance for relocation but we can interpret that relocation cost</p>	<p>to the affected population by Government of Kenya ‘Just compensation’ as stipulated in the Land Act not yet specifically defined. OP 4.12 provides related land transaction fees. Land Act not clear on this.</p> <p>OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>Use World Bank OP4.12 procedures in determining form of compensation Implement prompt and effective compensation at full replacement cost for the losses of the assets. Implement World Bank policy.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place prior to displacement of affected PAPs</p>
<p><b>Valuation:</b> With regard to land and structures, “replacement cost” is defined as follows:</p>			

World Bank OP4.12	Kenyan Context	Comparison	Recommendations
<p>For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes.</p>	<p>Land Act 2012 talks of just compensation for the lost assets but it is not specific of the exact amount or procedures on the same.</p> <p>The Land Act 2012 stipulates just compensation.</p>	<p>Though one could argue that there is some form of consistency between the Kenyan Law and World Bank OP.4.12, interpretation of 'just compensation' has not been defined.</p> <p>Interpretation of just compensation not clear</p>	<p>Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in a consistent manner.</p>
<p><b>Monitor</b> Adequate monitoring and evaluation of activities to be undertaken.</p>	<p>According to Land Act can be undertaken County Land Boards.</p>	<p>Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation</p>	<p>Implement as prescribed in the World Bank OP4.12 and Kenyan Law.</p>

Source: Impulso- AWEMAC-EcoPlan, 2016

## **CHAPTER 4:COMPENSATION FRAMEWORK**

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### **4.1Introduction**

World Bank Policy 4.12 requires that a project sponsor should initiate and execute resettlement related to a project before that project is implemented. All forms of compensation are related to physical, social or economic displacement caused by a project. The compensation framework specifies all forms of asset ownership or use rights among the population affected by the project.

The categories of impacts include loss of physical assets, revenue and income resulting from economic displacement or physical relocation.

Urban resettlement often affects the urban poor disproportionately. Poverty alleviation being a fundamental goal of the World Bank, the Bank places resettlement in a development framework. The World Bank Involuntary Resettlement Handbook states that displacement of low-income urban squatters or slum communities often provides opportunities for moving beyond narrow mitigation of adverse impacts to promoting community development, security of tenure, and rational land use. These are also the objectives of many urban improvement programs where NaMSIP also falls.

### **4.2 Eligibility Assistance for Ruiru Market Traders**

For purposes of formulating a compensation policy for Resettlement of Ruiru Traders, the census identified the commercial tenure arrangements for traders within the market. The Resettlement Plan was drawn in accordance to World Bank's Policy provisions to include measures to assist the PAPs improve their incomes and market standards. Market committee officials were engaged to determine duration of residency as the key eligibility criteria.

Market registration and testimony of fellow market traders formed key alternative forms of methods used to determine duration of residency. Payment of taxes (cess) to Kiambu County and testimony of fellow traders were instrumental in establishing eligibility. Resettlement assistance is available to all project affected persons who occupy the area before the cut-off date of **25<sup>th</sup> November, 2016**.

In principle, market users who pay cess are recognized as legitimate traders and will receive assistance to move to relocation site and back to constructed market. A good practice is to seek the market community's endorsements of census results. To offset some of the costs of displacement, the consultant encouraged traders' support in discouraging future unplanned encroachment. The market planners will use the Resettlement Plan as a vehicle for improving traders' security of tenure. It is also expected to provide secure tenure at any resettlement sites it establishes, for a short period as well provide improved management and protection of the market sites from encroachment and grabbing.

### **4.3 Physical Assets**

Physical assets in the context of Ruiru Market are the structures owned by the traders.

As provided by the World Bank OP 4.12, those entitled to assistance or compensation for loss of assets include those who have formal legal rights to land or other affected assets and those who do not have such formal legal rights but who have claim to such legal rights by virtue of occupation or use of those assets. The WB Policy requires the sponsor to also consideration of women whose incomes tend to be lower and less stable than those of men who are less disadvantaged in the process of compensation. Ruiru market was found to have more female (1057) than male (321) traders hence caution should be taken during relocation.

The Policy further provides that whether physical relocation is required or not, affected people should be given prompt and effective assistance or compensation at full replacement value for loss of assets due to project activities.

#### **4.4 Revenue and Income**

The Law of Kenya does not specifically provide for loss of income. World Bank however provides for the participation of affected persons in planning and implementing resettlement activities as well as to restore and improve their livelihoods. The Policy further requires that affected persons be provided with transitional financial support, site preparation, and training and employment opportunities.

Where income generating capacity is affected, World Bank encourages resettlement to be undertaken as a sustainable development initiative that leads to improved standards of living for the project affected people.

#### **4.5 Entitlement Matrix**

The project proponent under the law (table 14 below) is required to prepare an **Entitlement Matrix** (See Table 16 below), with respect to the temporary displacement that is expected to occur. Based on the set principles, an Entitlement Matrix was developed for the potentially affected traders and other PAPs of Ruiru Market showing:

- All categories of affected people (table 15)
- All types of loss associated with each category, including loss of physical assets; loss of access to physical assets; loss of wages, rent, or sales earnings;
- All types of compensation and assistance to which each category is entitled.

Table 15 shows all potential categories of PAPs and assets in the market while table 16 shows the entitlement matrix for the market.

The following selection criteria will be adopted to ensure traders get fair and equitable allocation of stalls;

- Vulnerable groups will be prioritized and duly considered and appropriately allocated stalls that are easily accessible on ground floor.
- The current structure owners, business owners and owners of both will be allocated new stalls.
- Tenants will receive cash compensation for three months of rent
- Hawkers and other informal traders will not be considered for allocation of stalls since they do not qualify.
- Other traders on the outskirts of the market will be considered for minimal improvement of market shades.
- The County Government of Kiambu is currently preparing a market management policy which will be used hand in hand with the market management model which has been proposed by a team of consultants at NaMSIP offices and to guide the management of markets in Kenya and not only NaMSIP (markets) projects. This market management model will guide on collection of cess, waste management, water and sanitation facilities management, allocation of stalls, parking of cars, off loading bays among others.

Detailed entitlements for each of the enumerated PAPs is given below and attached to as Annex V.

**Table 6: Type of Losses & Entitlement Matrix**

<b>SN</b>	<b>Type of loss</b>	<b>Entitled person</b>	<b>entitlement</b>
1.	Loss of any shades/structure;	Any person who owns any structure whether he/she have or does not have legal proof of land ownership	Free transportation to relocation site for moveable structures affected
2.	Loss of livelihood	All persons affected by project- in this case traders. Employee, loss of rental income.	Livelihood restoration strategies to be implemented
3.	Public infrastructure affected by the project e.g. Telephone lines, water supply line, etc.	Members of the public whose connections have been interfered with	Proponent to restore the public infrastructure to the satisfaction of the general public
4.	Vulnerable groups	People with special needs Elderly People living with HIV/AIDS (PLWHIV)	Special considerations as the situation dictates: Elderly/disabled and aged women to be assisted in transporting their wares to relocation site and back to constructed market



**Table 7: Entitlement Matrix for Ruiru Market’s PAPs**

Category of PAP	Type of loss	Entitlements			
		Compensation for loss of structures	Compensation for loss of assets	Compensation for loss of income	Moving allowance
Stall owners	Loss of structure	<ul style="list-style-type: none"> <li>• Right to salvage</li> <li>• Replacement of all structures owned in the new building</li> <li>• Trading area during the construction phase.</li> <li>• One month notice before temporary relocation.</li> <li>• Allocation of stalls in the new market building</li> </ul>	Replacement of lost assets e.g toilets, water points	<ul style="list-style-type: none"> <li>• No compensate</li> <li>• Compensation for loss of rental income during transition period.</li> </ul>	Free transportation to relocation site for moveable structures affected.
Tenants (owners of business only)	<p>Loss of rental accommodation</p> <p>Loss of business income</p>	<ul style="list-style-type: none"> <li>• No loss of structure</li> <li>• Stall allocation in the new building</li> <li>• One month notice before temporary relocation.</li> <li>• Allocation of stalls in the new market building</li> </ul>	No loss of assets	<p>No cash compensation for loss of business income during transition period to relocation site and back to new market site.</p> <p>It is proposed that PAPs will not pay cess to the county government during the transition period</p>	<p>Free transportation to relocation site for moveable structures affected.</p> <p>PAPs should be moved to locations where they will not lose their clients, possibly near the project site.</p> <p>Training of the traders on entrepreneurship</p> <p>Supporting traders to organize in merry go round and</p>

					provide the seed capital.  Waiver of charges on cess during the construction/transition period.
Owners of both stall and business	Loss of shades/structure  Loss of business income	Replacement of structure Allocation of stalls in the new market building	Replacement of lost assets e.g toilets, water points	No compensation for loss of rental income during the transition period	
Vulnerable groups- People with special needs Elderly PLWHIV-people living with HIV/AIDS	All types of losses	Relocation assistance Allocation of stall on ground floor.	Transition assistance – removing and dismantling of assets.	Cash payment	Free transportation to relocation site for moveable structures affected  Assistance during the transition period.

Source: Impulso-AWEMAC- Ecoplan, 2017

## **CHAPTER 5: RESETTLEMENT ASSISTANCE AND LIVELIHOOD RESTORATION**

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### **5.1 Introduction**

Resettlement assistance is vital in cases where displacement of persons is inevitable. The proponent plans and executes resettlement as a development initiative that provides PAPs with opportunities to participate in planning and implementing resettlement activities as well as to restore and improve their livelihoods. This chapter therefore discusses the following: resettlement alternatives and proposes mechanisms for influx management and income restoration in the context Ruiru market's Improvement Project.

### **5.2 Selection and Preparation of the Resettlement Site**

Most of the surrounding land has been taken up by developments. Ruiru Catholic Church borders the market to the north. Some of the developments near the market include Devki steel Mills, sub county offices, Ruiru PCEA church. To ensure that PAPs are properly compensated, their views were sought on the most suitable relocation site during construction phase through stakeholder engagement forums with county government, MITH&UD and RAP team to get their consensus. Consultations with local authorities and Kiambu County government were done, since the market is within their jurisdiction. The market site can adequately accommodate the PAPs whilst construction is on going on, this report proposes phasing of the construction period of the market, by moving PAPs to the relocation area at the market site see plate 9 showing the relocation layout plan in blue.

The cloths section of the current market site measures about 1.7 acres (see plate 9 below-relocation layout plan is marked in blue at the top and bottom of the plate) and has been proposed to be utilized as the relocation site for the PAPs to move there temporarily and continue with their trading activities, as the construction goes on. The construction period is deemed to take less than or at least 1 year. The resettlement Unit will assist in moving PAPs from the market to relocation site and back to the constructed market. Ample notice will be given to the PAPs and assistance will be provided to the vulnerable groups by the resettlement unit. The design team has prepared a relocation layout map which will guide the resettlement unit in moving the PAPs. The resettlement unit will manage tension amongst the PAPs and confusion by providing timely and relevant information to the PAPs. The design team has made provisions of temporary structures to be built at the relocation site.

The construction of Ruiru market will displace a number of traders from their current trading activities during construction phase. These affected traders will need to be relocated to a suitable site as close as possible to the project area, with at least similar amenities. Reducing the distance from project area to the relocation site will help ensure that the PAPs will have lesser difficulty to meet their livelihood and other support systems. The identification of several possible relocation sites and the demarcation of selected sites is a critical step for resettlement.

The criteria used to select a resettlement site included;

- The relocation site will be a site close to the affected area
- A site that upholds the livelihood of trades i.e. economically viable
- A site that is easily accessible via existing roads and foot paths.
- A site on a flat terrain with smooth and even topography

#### **Infrastructure and Services will be provided at relocation site will include:**

- Ablution block- Gents with three WC's urinal and 3 WC's ladies
- Floodlights- 2 floodlights
- Water point -

- Security- two guards during the day and 2 during night
- Perimeter wall
- Solid waste collection point and rehabilitation –Lavelling and compacting

**Criteria used to move the PAPs to the relocation area within the market:**

The traders who are targeted for relocation are those that are at the clothes and household goods section where the proposed market building is to be constructed. The clothes section of the market measures approximately 1.7 acres.

- a. The RAP recommends that the market will be divided into two sections. All PAPs will be moved to one section (relocation site) as construction begins at one section.
- b. The current market location and layout plans for the relocation area of the market site are below plate 9.
- c. The relocation site (fronts the market at the top and bottom) will be backfilled and upgraded with murram and sanitation facilities will be provided as well garbage collection point.
- d. The resettlement implementation Unit will be guided by the layout plan to demarcate the area to move the PAPs during the construction period.
- e. Once upgrade of relocation area is completed the PAPs will be moved to the partly constructed market to allow the contractor commence construction of the 2<sup>nd</sup> section of the market.
- f. The RAP consultant will conduct a detailed measurement survey (DMS) to plan for movement of the PAPs to relocation site. Ample notices will be given that are flexible.
- g. Once the construction of the market is complete the RAP implementation team will give a notice to the PAPs to move back to the constructed market, in a planned and organized manner.
- h. The PAPs are moved back into the constructed market in a systematic and organized manner. The vulnerable groups will be moved back first. Ample notices will be given that are flexible.
- i. The consultant will conduct a detailed measurement survey of the PAPs to ensure all PAPs are back in the market
- j. The RAP consultant will submit the final report as completion of the RAP implementation process.

**5.2.2 Relocation site layout for Ruiru market**

The layout plan is show in blue at the top and bottom of the plate below and clearly marked to adequately serve the 644 PAPs.

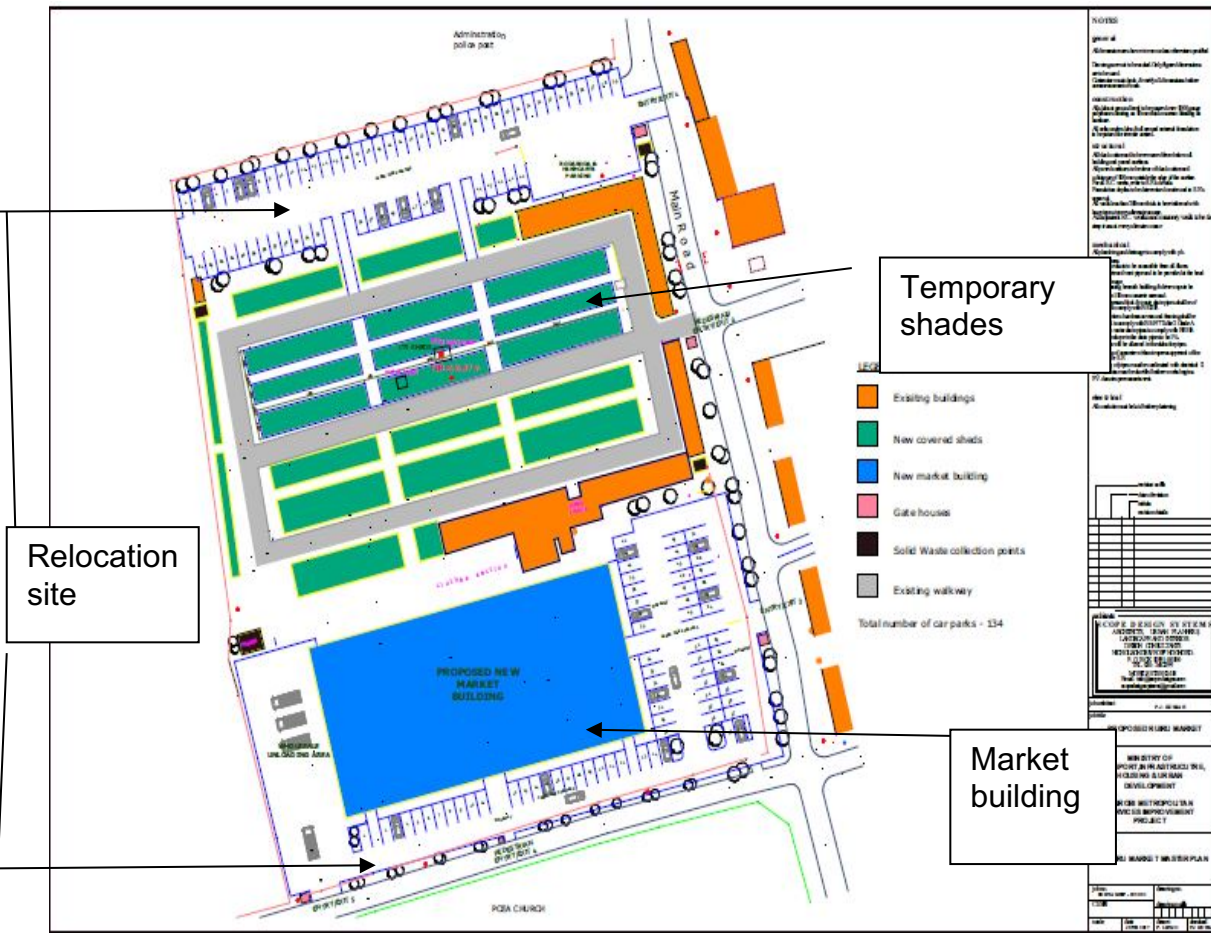


Plate 9 market site and relocation new plan at the top and bottom shown in blue

Once the PAPs are all moved to the relocation site at the market site, the contractor will move in to start construction in the shortest time possible. The vulnerable group will be moved first before the rest of the PAPs are moved. Once the construction of the market is complete, the resettlement Implementation Unit will organize the PAPs in a systematic manner to move the PAPs back into the constructed market. Again, the vulnerable groups will be the first to move back. All PAPs will be allotted a stall to begin trading. The movement out of the market and back to the constructed market will take the shortest time possible.



## Plate 9 Sanitation facilities

Existing water and sanitation facilities in the market



Plate 9

will be sited



### 5.3 Influx Management

It is anticipated that there may be traders who will move into the proposed project area in the hope of getting some compensation benefits. Ways of dealing with this situation will be by:

- a. Use of the official cut-off date whereby only those found within the area on or before the date will be eligible for resettlement. The number of traders as at the establishment of the cut-off date will also be considered first in reallocation of market slots. The cut-off date in this context was set as **25<sup>th</sup> November, 2016**.
- b. Interviews with the traders also revealed the traders with the longest stay at the market were captured.
- c. Validation process to prove the eligible PAPs
- d. Approval of claimants by Kiambu County official in charge of the market



#### **5.4 Relocation Schedule and Assistance**

The dates and time that the affected traders who will be expected to move will be communicated by the communication expert, through the Resettlement Unit. Adequate time allowance will be given between notification and actual movement to enable traders coordinate their movement plans and enlist the help of handymen if required. The timelines will be made specific during the RAP validation and rap disclosure forums. The stakeholder engagement forums stated that the PAPs will be consulted on the notices to be given to move from market site to relocation site.

A layout plan has been prepared for relocation site to enable smooth movement of the traders by the RAP consultant. Traders requiring special assistance such as the physically challenged and women will be given priority in moving to the relocation site and back to the constructed market. From the census conducted, Ruiru has 0.7% physically challenged traders.

Once the RAP is disclosed to the PAPs and a contractor has been sourced, a notice will be given to the PAPs to move to the relocation area of the market. Before the PAPs are moved to the relocation site, the contractor will improve the relocation site and provide the necessary facilities (sanitation, water points, flood lights, security wall and garbage collection points). Priority will be given to the vulnerable groups and assistance provided to them by the RAP implementation team and RAP consultant. The contractor will move in to upgrade the relocation area of the market at the shortest time possible and as per the approved designs. Once the relocation area is upgraded PAPs will be assisted to move to the relocation area until the construction of the area is done. Once the constructed area of the market is completed the RAP implementation team will move the PAPs to the constructed part of the market. The PAPs in the next area are moved to allow the upgrade of the relocation area. Once the market is constructed and handed back to the county government through MOTIH&UD, the RAP implementation team with the RAP consultant will give notice for the remaining PAPs to move back into the constructed market in an organised manner that has been planned and ensure that all PAPs get a stall allocated to them. The RAP consultant will submit the Final report on completion of the RAP implementation process once all PAPs have been moved back to the constructed market.

#### **5.5 Replacement of Services and Enterprises**

The county government does not have any land to relocate the PAPs. This RAP recommends that the construction period be phased. The PAPs will be moved to the relocation site see relocation layout plan. The area where the PAPs will be moved too will be upgraded and sanitation facilities will be provided for the PAPs before they move. Once the market is constructed, the PAPs will be moved back to the completed market.

The high mast flood lights will be installed to serve the market. Adequate sanitation facilities for both women and men will be provided in the constructed market as per the approved designs. Provisions for sanitation and water facilities have been made for the relocation site.

#### **5.6 Livelihood Restoration**

In the case of Ruiru market, compensation will ensure that the traders' standard of living is improved or in the least maintained by ensuring that their income streams continue to flow. For each category of impact, there is a proposed measure in place to cushion PAPs against impoverishment. According to World Bank Guidelines O.P 4.12, sufficient investment resources will be provided to enable displaced persons improve their standards of living or are restored to previous standards. Below are recommendations to ensure livelihood restoration of PAPs on site: -

**a. Loss of Trading Area**

The PAPs will be moved to one area of the project site while construction commences. Sanitation and water facilities will be provided at the relocation site and the constructed market. The resettlement Unit will ensure that minimal time is used to move PAPs to relocation site and back to the market so that minimal disruptions is experienced and to enable traders continue with their normal operations. The relocation site will be upgraded before the PAPs are moved and decommissioned after construction of the market..

**b. Loss/Damage to Business and Wages**

- Training of the traders on entrepreneurship
- Encourage traders to start up welfare groups that can raise funds to support each other..
- Waiver of charges on cess during the construction/transition period.
- PAPs will be moved to a portion of the market site since the construction period will be phased.
- Traders who will not wish to continue their enterprise-based livelihoods, we recommend a cash resettlement subsidy.

**c. Loss/Damage to Assets**

Traders will be given time to time to salvage their assets. The PAPs will ensure that they take care of their possessions to avoid any damage to fragile assets and merchandise. PAPs will be compensated for loss of immovable assets.

**d. Capacity Building**

- e. Training of the market committees on management of the traders. The proposed market designs are such that traders will be classified into different categories according to their tools of trade and will no longer trade openly and anyhow as is the current case. The market will also have different floors trading in different commodities. In addition, regular and intermittent traders as well as retail and wholesalers will be accommodated differently. Training of the market committees on management of the traders is necessary to reduce conflicts and restore normalcy in operations.

**5.7 Proposed market designs**

The proposed market designs will cater for all the traders. The designs will provide different space categories according to their market activities. The market will comprise of several floors. Provision of sanitation and water points will be provide, as well as garbage collections points.

**5.8 Treatment of Cultural Property.**

There are no cultural property presently in the market hence this does not apply.

**5.8 Special Assistance for Women and Vulnerable Groups**

There are 1057 female and 321 male traders, translating to 76.7 % and 23.3% in Ruiru Market respectively. In principle, women suffer more physical mobility as compared to men; therefore poor resettlement execution will result in women traders becoming impoverished. Greater assistance will be required for women especially during movement in activities like dismantling their structures and transporting them. PAPs entitlements have been clearly stated to avoid conflicts. Separate days will be set for movement of women with children to ease their movement..

## **CHAPTER 6: BUDGET AND IMPLEMENTATION SCHEDULE**

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### **6.1 Budget**

Resettlement costs will cover compensation and movement assistance, restoration of livelihood sources, grievance redress, monitoring and any other additional costs that will be encountered in the relocation process. This report proposes a detailed budget to cater for all relocation-related activities in Ruiru market including monitoring. The table below presents the proposed RAP budget.

Proper implementation hinges on a detailed RAP budget that carefully estimates all costs associated with the RAP exercise, including social costs, as resettlement cannot be exclusively measured in economic terms. This report proposes a RAP budget that also accounts for the potentially affected assets currently onsite. The estimated budget includes costs associated with setting up and maintaining a grievance redress mechanism and carrying out monitoring and evaluation. The total RAP budget is estimated at KES **39,334,100**.

**Table 8: Proposed RAP Budget for Ruiru Market**

**RUIRU MARKET  
RAP BUDGET**

<b>LAND</b>				
land	County Government land available - Development to be phased, the clothes section measuring about 4,200 square meters (1 Acre) to be used for phasing			0
<b>CIVIL WORKS AT THE INITIAL RELOCATION SITE</b>				
Clearing -, Removal of sub-soil and Excavation up to 1/2 meters.	Removal of sub-soil - Total Ground Area=4,200 sq.mt, Volume down to 1/2m (4,200 sq.mt*0.5M) =2,100 m3 @ Kshs. 900 per cubic meter,	2,100	900	1,890,000
Laying of Hardcore , leveling and compacting	Total volume is 2,100 M3 @ Kshs. 1,800 per cubic meter	2,100	1,800	3,780,000
Laying of quarry dust, leveling and compacting	Total Area is 210M3 @ Kshs. 1,800 per cubic meter	210	1,800	378,000
Other site works	Demolitions, Excavations, putting culverts (Gate), hardcore and quarry dust surfaces, entrance areas			2,000,000
	<b>Sub-Total</b>			<b>8,048,000</b>
<b>REHABILITATION (NOT REQUIRED)</b>		<b>Units (M2/M3)</b>	<b>Unit Cost (Kshs)</b>	<b>Total (Kshs)</b>
Filling with red soil	0	0	0	0
Filling with manure	0	0	0	0
Planting of grass	0	0	0	0
	<b>Sub-Total</b>			<b>0</b>
<b>BUILDINGS</b>				
Construction of ablution block	Gents with three WC's urinal and 3 WC's ladies			1,200,000

Sub-Total				<b>1,200,000</b>
<b>SERVICES</b>				
Flood lights - Construction 2 Flood light stands	20 Meters High	400,000	2	800,000
Paving of Garbage Collection Point				80,000
Water point				30,000
Perimeter fence: Concrete posts and chainlink or Gci sheets on cedar posts and timber runners	220 meters perimeter wall Cost Kshs. 3,200per Meter run & 2 gates	220	3,200	704,000
Security	12 months, 2 guards day and 2 guards night	4	25,000	1,200,000
	Sub-Total (Kshs)			<b>2,814,000</b>
<b>MARKET SHEDS REPLACEMENT &amp; LOSS OF BUSINESS</b>				
	Details			
<b>LOSS OF INCOME</b>	<b>Nature of Business (Described in terms of ownership)</b>	<b>No of Units</b>	<b>Estimated loss of Income for seven days ( 7 Days) (Kshs)</b>	<b>Total (Kshs)</b>
<b>1</b>	<b>Landlords -PAPs who get income from Rent</b>			
	Semi-permanent structures	1	15,000	15,000
<b>2</b>	<b>Traders who own stalls - PAPs who trade in their stalls</b>			
	Permanent and semi- permanent structures	568	15,000	8,520,000
<b>3</b>	<b>Tenants-PAPs who pay rent for their premises (Tenant)</b>			
	Those who are renting	75	15,000	1,125,000
<b>4</b>	<b>Casual Employees of the Market</b>			
	No numbers	0	0	0

	Sub-total (Kshs)			
	<b>Sub-total (Kshs)</b>			<b>9,660,000</b>
<b>DEVELOPMENTS - REPLACEMENT COST</b>	<b>Nature of Development</b>	<b>No of Stalls</b>	<b>Estimated replacement cost</b>	
	Both Permanent and Semi permanent Structures	569	15,000	8,535,000
	<b>Sub-total (Kshs)</b>			<b>8,535,000</b>
	<b>Total RAP Budget</b>			<b>30,257,000</b>
<b>ADMINISTRATIVE AND PLANNING COSTS</b>		<b>9,077,100</b>		
Administrative and planning costs	Design, planning and miscellaneous- This includes marking, allocation process, supervision, labour, security, professional fees etc			5,446,260
Contingency Costs	Contingency Costs			<b>3,630,840</b>
		<b>Total Budget</b>		<b>39,334,100</b>

		<b>ADMIN, PLANNING COSTS &amp; CONTIGENCY (30%)</b>	<b>Total Budget</b>
<b>BUDGET</b>	<b>AMOUNT (KSHS)</b>		
RAP BUDGET	30,257,000	9,077,100	39,334,100
		<b>Total</b>	<b>39,334,100</b>

## 6.2 Implementation Schedule

Ruiru Market RAP implementation calls for coordination from all concerned parties so as to make it a success. The RAP proposes the establishment of committees namely: RAP Resettlement Unit or committee and GRM Committee which will conduct a number of tasks such as RAP Validation, RAP disclosure, stakeholder engagement of the PAPs, training and capacity building, receiving and solving grievances in the shortest time possible and ensuring all PAPs receive their compensation. The client (MITH&UD) will lead the RAP implementation process in consultation with the RAP Implementation consultant and collaborate with the relevant stakeholders (county government’s official, market committee memberships, PAPs representatives among others).

Market committee executives will also be included in the committee. Within the committee, sub-committees will be formed to focus on various aspects of resettlement such as resettlement sites and space allocation, capacity building, income restoration, grievance redress and monitoring. Emphasis will be made to ensure full compensation of PAPs before onset of project construction and shortened construction period to reduce impacts on PAPs.

## 6.3 Implementation Timelines

The construction period and resettlement will run over a period of 1 year. Implementation timelines will follow major milestones as outlined. The table below presents the schedule of implementation.

- A Resettlement Coordinating Committee and sub-committees and a Grievance Redress Commission are constituted
- Approval and announcement of compensation (notification of entitlements)
- Preparation of resettlement site (replacement of services and enterprises) including putting up sanitation facilities (toilets, waste management and water)
- Timing of payment execution
- Grievance mechanism
- Vulnerable assistance measures
- Training program
- Monitoring and evaluation (to occur throughout the process)
- Stakeholder engagement

**Table 9: Schedule for RAP Implementation**

Task Name	Duration	Start	Finish	Responsibility	Supporting Institutions
<b>Project Duration</b>	<b>555 days</b>	<b>Oct 2 '17</b>	<b>Nov 15 '19</b>		
Resource Mobilisation and Planning	5 days	Oct 2 '17	Oct 6 '17	RU MoTIH&UD	& CG & MC
Establishment of Resettlement Unit	5 days	Oct 9 '17	Oct 13 '17	RU MoTIH&UD	& CG & MC
RAP Disclosure	10 days	Oct 16 '17	Oct 27 '17	RU MoTIH&UD	& CG & MC
Validation of RAP	50 days	Oct 30 '17	Jan 5 '18	RU MoTIH&UD	& CG & MC
Notification of entitlements	20 days	Jan 8 '18	Feb 2 '18	RU MoTIH&UD	& CG & MC



Grievance Resolution	400 days	Jan 8 '18	Jul 19 '19	RU MoTIH&UD	& CG & MC
Payment to PAPs and Confirmation of Payments	10 days	Feb 5 '18	Feb 16 '18	RU MoTIH&UD	& CG & MC
Notice to PAPs to Move to relocation site	30 days	Feb '18	Mar 30 '18	RU MoTIH&UD	& CG & MC
Preparation of relocation site and provision of sanitation and water facilities	30 days	Apr 2 '18	May 11 '18	RU MoTIH&UD	& CG & MC
Movement of PAPs to relocation site	60 days	May '18	Aug 3 '18	RU MoTIH&UD	& CG & MC
Construction Period	260 days	Aug 6 '18	Aug 2 '19	RU MoTIH&UD	& CG & MC
<b>Capacity Building</b>	<b>130 days</b>	<b>Aug '18</b>	<b>Feb 1 '19</b>	<b>RU MoTIH&amp;UD</b>	<b>&amp; CG &amp; MC</b>
Capacity building and Empowerment of PAPS	130 days	Aug 6 '18	Feb 1 '19	RU MoTIH&UD	& CG & MC
Training of Project Staff	20 days	Aug 6 '18	Aug 31 '18	RU MoTIH&UD	& CG & MC
Allocation of Stalls to PAPs	20 days	Jul 8 '19	Aug 2 '19	RU MoTIH&UD	& CG & MC
Notice to PAPs to Move to Constructed Market	5 days	Aug '19	Aug 23 '19	RU MoTIH&UD	& CG & MC
PAPs move into allocated stalls	20 days	Aug '19	Sep 20 '19	RU MoTIH&UD	& CG & MC
Survey on Livelihood Restoration	20 days	Sep '19	Oct 18 '19	RU MoTIH&UD	& CG & MC
Monitoring and Evaluation	525 days	Oct 16 '17	Oct 18 '19	RU MoTIH&UD	& CG & MC
Finalising the Report	20 days	Oct 21 '19	Nov 15 '19	RU	
<b>Deliverables</b>	<b>550 days</b>	<b>Oct 6 '17</b>	<b>Nov 15 '19</b>	<b>RU</b>	
Inception Report	0 days	Oct 6 '17	Oct 6 '17	RU	
Public Consultation and Disclosure Report	0 days	Oct 27 '17	Oct 27 '17	RU	
1st Progress Report	0 days	Dec '17	Dec 22 '17	RU	
2nd Progress Report	0 days	Mar '18	Mar 30 '18	RU	
3rd Progress Report	0 days	Jun '18	Jun 28 '18	RU	
4th Progress Report	0 days	Sep '18	Sep 27 '18	RU	

5th Progress Report	0 days	Dec '18	27	Dec 27 '18	RU	
6th Progress Report	0 days	Mar '19	28	Mar 28 '19	RU	
7th Progress Report	0 days	Jun '19	27	Jun 27 '19	RU	
Grievance Resolution Report	0 days	Jul 19 '19		Jul 19 '19	RU	
8th Progress Report	0 days	Sep '19	26	Sep 26 '19	RU	
Report on Livelihood Restoration	0 days	Oct 18 '19		Oct 18 '19	RU	
Completion Report	0 days	Nov '19	15	Nov 15 '19	RU	

Source: Impulso- AWEMAC-EcoPlan, 2016

Note: the construction period will take less to 1 year. All these takes will run concurrently during the construction period.

#### **6.4 Risks to Implementation and Mitigation Measures**

Certain factors will potentially hinder the smooth implementation of resettlement actions if not countered early in the planning process. Some of these factors are discussed below.

##### **6.4.1 Inadequate Provision for Entitlements**

All categories of traders were identified and matched with their particular entitlements. Failure of the implementing team to recognize every PAP's rights and to deliver these entitlements will give rise to complaints thus delay implementation of the project or affect its acceptability. Consultation and public participation aided in categorizing traders and ensured that the traders were informed of their rights and presented options of compensation preference and valuation of assets. Review of the legal and regulatory frameworks and World Bank standards will ensure that those entitlements are awarded correctly and satisfactorily.

##### **6.4.2 Lack of Prior Compensation of PAPs before Moving of the Traders**

World Bank guidelines are clear that PAPs should be fully compensated before being moved out or in the least immediately after moving to enable them regain their pre-project status and maintain their livelihood. If traders are not adequately compensated there is a risk that they will re-occupy the project area or there will be numerous grievances that might stall the project.

##### **6.4.3 Inadequate Budgeting for Currency Fluctuations**

If the project implementation will be undertaken at a much later date from the planning phase, budgeting should account for any disparities between current and future currency values so as to cushion the displaced persons from impoverishment. Otherwise budgets will need to be revised during implementation, delaying the process all together. Assumptions made in cost estimation must also be justified so as to come up with realistic estimates that will ensure smooth implementation of the project.

##### **6.4.4 Unclear Sources of Funding**

All key activities and milestones will be clearly linked to the budget and the responsible sponsor. The RAP implementation process will only commence if the sponsor has confirmed that budgetary provisions have been made accordingly to avoid project delays..

## **CHAPTER 7: INSTITUTIONAL ARRANGEMENTS**

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### **7.1 Introduction**

The implementation of RAP should be undertaken by people with experience in resettlement and social development. The roles and tasks of individuals are enshrined in the different institutions and organizations responsible for coordinating the exercise. A clear delineation of responsibilities will have to be sought to reduce incidents of conflicting roles and to identify areas that need strengthening. This is to ensure that there are no delays in the implementation of the RAP. An assessment of individual capacities of the agencies must also be carried out to ensure that any gaps are filled. If there's need for capacity building, then it has to be undertaken early so that implementation will be smooth. Budgeting should include any training costs for agencies.

### **7.2 The Ministry of Transport, Infrastructure, Housing and Urban Development (MoTIH& UD)**

To address the needs of the large metropolitan area, the government of Kenya in 2008 created the Ministry of Nairobi Metropolitan Development; currently a department under the directorate of Urban Development within the Ministry of Transport, Infrastructure, Housing and Urban Development (MoTIH&UD). The Project Development Objective (PDO) is to strengthen urban services and infrastructure in the Nairobi metropolitan area.

In 2008 the then Ministry of Nairobi Metropolitan Development published the Nairobi Metro 2030, which presented the medium and long term vision and development program. NaMSIP supports the implementation of selected activities included in Nairobi Metro 2030, aimed at promoting orderly urbanization. This is achieved by investing in key government institutions, in land use planning, and in infrastructure, such as solid and liquid waste collection and safe disposal, strategic roads, green spaces, markets, and other urban infrastructure. This ministry will be responsible for supervision of all resettlement related activity as well as coordinating implementation of the RAP until a successful RAP process is executed as well as supervision of any resources from the donar partners.

### **7.3 Kiambu Government of County**

This project is under the jurisdiction of Kiambu County and as the host. The county will provide guidelines on management of the market. The county will facilitate and offer administrative services needed by the project. The county will also supply required documents, reports and support the consultancy and supervision teams. The County Government will also be involved in consultations with the lead ministry of Transport regarding infrastructural requirements and provide information of the market and relocation sites. The PAP compensation budget will be raised by the county government.

### **7.4 County Commissioner's Office and County Administration**

The role of the commissioner's office will be important whilst holding public stakeholder engagements, RAP Validation and disclosure and Grievance Redress forums to provide security.. This office will also mobilize relevant stakeholders to attend PAPs meetings.. The county administration will provide security during meetings held for the PAPs and ensure they are not disorganized and meeting conducted properly.

### **7.5 National Environment Management Authority (NEMA)**

NEMA is a corporate body charged with; exercising supervision and coordinating overall matters relating to environment as well as being the principal instrument of the Government in the implementation of all policies relating to the environment. NEMA will play a role in supervisory and

monitoring of environmental conditions at both the project and market and relocation sites during the construction period by the relevant EIA consultant.

### **7.6 Market Committees**

The market committees are elected by the traders in order to link them with the county and national market representatives. A typical committee is made up of a chairperson, a treasurer, a secretary and other members. Market committees will ensure effective communication and concerns raised by PAPs are updated on a regular basis, regarding the construction of the market, movement to the transition area, regulations, risks and opportunities. The Resettlement unit in collaboration with the market committee at Ruiru will be useful in communicating progress and decisions to the affected traders as well as taking part in grievance redress, RAP Validation and Disclosure. The market committee will collaborate with the resettlement unit and county and national market authorities to ensure that the livelihoods of the PAPs are fully restored by ensuring that they are allocated stall allocations at the constructed market.

### **7.7 The Resettlement Unit/ Committee**

The proposed Resettlement Unit/ Committee will be comprised of 2 representatives from the Ministry of Transport, Infrastructure, Housing and Urban Development, 2 representatives from the market committee, two representative from Kiambu County, the market master and RAP consultant, a representative of the county commissioner and county government to ensure mobilization of stakeholder and security respectively. The role of this committee will be to ensure smooth implementation of resettlement at the transition area, construction of market, payment of compensation. The committee will also oversee the Grievance Redress Mechanism and the RAP Implementation process.

## **CHAPTER 8: CONSULTATION AND PARTICIPATION**

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### **8.1. Introduction**

World Bank performance standards stipulate that any displaced persons and their communities and any host communities receiving them should be provided with timely and relevant information, consulted on resettlement options and offered opportunities to participate in planning, implementing and monitoring the resettlement process.

Stakeholder engagement meetings were conducted within the footprint of the project with the PAPs and with local administration and county administration.

### **8.2. Stakeholders Consulted**

During the public consultations multiple groups of stakeholders were consulted. The stakeholders were those affected or with an interest in the project development, and who will be involved in the further consultative process. The main groups of stakeholders are:

#### **8.2.1 *Directly Affected People***

The directly affected people are those who derive their living from the Ruiru Market and those who reside within the market. These people will be destabilized in their business while some losing their assets being both temporary and permanent structures. In this project there are 1378 traders to be affected by the project.

All the directly affected people were informed and consulted on major issues concerning relocation, livelihood rehabilitation and income restoration. They all adequately participated in the socio economic survey.

#### **Impacts on the rest of traders**

The rest of the traders who trade outside the market boundary will experience the following impacts: noise and dust impacts during the construction of the market and shades. They will experience minimal disruptions during the transportation of construction materials to the market construction site and installing of shades for the traders. There will be positive impacts because they will have shades and an improved pavement and drainage at the trading area that will enable them to now trade in a better and cleaner environment, attracting more customers to them.

#### **8.2.2 *Indirectly Affected Persons***

This group of stakeholders includes all those who reside in areas neighboring the project area or are reliant on operations in the project area who will be have to adjust their livelihoods e.g. customers or resident residing in around the market, people working in and around the market who derive their daily nutritional function from the market.

### **8.2.3 Government Agencies and Other Organizations**

To ensure the interests of the affected persons are fully entrenched in the RAP process and income restoration, the consultant adopted a thorough consultation with the affected persons, representatives of any affected group, any interested group and the various administrative and government departments all through the project area. The consultation was all encompassing. Such consulted parties included: Kiambu County and The Ministry of Transport, Infrastructures, Housing and Urban Development.

### **8.3. Resettlement Preparation and Planning**

The consultation team consisted of Valuers, Surveyors, and Communication expert, Environment and Social Impact Assessment Specialist and a Socio-Economist. In all cases, the team was accompanied by the market committee and Kiambu County Government representative. The market committee was instrumental in informing the PAPs about the proposed project and the work of the consultant.

Compensation and rightful assistance to PAPs will be made before the project commences. After compensation/ assistance, a minimum of one-month notice will be given to the Project Affected Persons before the project commences, so as to allow salvaging of necessary assets by PAPs.

The objectives of these consultations are aimed at securing the participation of all PAPs during the resettlement planning and implementation, particularly in the following areas:

- Alternative project design;
- Assessment of project impacts;
- Resettlement strategy;
- Compensation rates and eligibility for entitlements;
- Choice of resettlement site and timing of relocation;
- Assessment of development opportunities and initiatives; procedures for redressing grievances and resolving disputes; and
- Mechanisms for monitoring and evaluation and for implementing corrective actions.

## **8.4 Consultations**

### **8.4.1 Consultative Meetings**

The Consultations team consisted of the RAP team leader, a valuer, a communication expert, an environment and social expert and technical assistants. RAP consultants were accompanied by representatives from MoTIH&UD and representatives from Kiambu County Government's markets department. Market committee officials were instrumental in informing traders of the proposed project and work of the consultant as well as mobilizing for the consultative meetings. A key Stakeholder Engagement Forum was held that involved the following parties: -

- Kiambu County officials
- Representatives from the Ministry of Transport, Infrastructure, Housing and Urban Development
- The project Design Consultants
- RAP consultants
- Market committee officials



The plate below shows the meeting that was held at Ruiru Sub-County office on Friday, 4<sup>th</sup> November, 2016. A record of attendance to this meeting is attached to this report as Annex VIII.



**Plate 11: Stakeholder Consultation held at Ruiru Sub-County Office**

*Source: Impulso-AWEMAC- Ecoplan, 2016*

#### **8.4.2 Socio-economic Survey**

During the consultation process, a socio-economic survey was conducted by the team of consultants and with the help of well-trained field assistants throughout the project area. Interviews were held with individual PAPs from 21<sup>st</sup> to 25<sup>th</sup> November, 2016 in order to establish a socio economic status baseline for the PAPs that could facilitate future monitoring after resettlement. The survey also included questions about opinions/suggestions on livelihood restoration and type of compensation/ assistance. Information was gathered by use of semi-structured questionnaires which were administered by the team of field assistants. The assistants had undergone training at Capital Club in Westlands on 21<sup>st</sup> June, 2016 as shown in the plate below.





**Plate 12: Training of field assistants at Capital Club, Westlands**

Source: Impulso-AWEMAC- Ecoplan, 2016

### **8.4.3 Individual Traders Consultations**

Individual trader’s consultations were held at the market to give information about the project and gather people’s perceptions, opinions, suggestions and fears about the project. The trader consultations created platform for discussion between the RAP team and the traders. The information gathered was used as input into the Resettlement Action Plan. Interviews with the stakeholders were carried out from 21<sup>st</sup> through 25<sup>th</sup> November, 2016 through administering well-structured questionnaires (see sample questionnaire in Annex VI).

#### **Issues Raised through Consultations**

The following is a summary of the views of the stakeholders’ consultations: -

**Table 13 Issues and responses**

<b>Issues Raised</b>	<b>Responses</b>
Traders sought to know which side of the market would be affected by the construction and if phasing would be possible	The PAPs were informed that the project site would entirely be affected and phasing of construction was considered an option which was forwarded to the design team

<p>Traders also sought clarification on whether they would be given compensation before being relocated</p>	<p>The RAP team informed the PAPs that would be assisted and compensated before relocation and notice will be provided in ample time</p>
<p>Traders were worried that the number of stalls provided in the new market was less than the actual capacity of traders which would bring problems during stall allocation</p>	<p>The PAPs were informed that they would be considered and allocated a stall and the design team was advised on the total numbers of PAPs at the market. The design team acknowledged those who would not get stalls in the new market would have the trading area improved with roofing shades and drainage</p>
<p>One trader queried about the capacity of the new market which was 950 stalls compared to a market population of almost 2500</p>	<p>The Director of social infrastructure informed the traders, that the most pressing needs would be addressed such as roofing, drainage, security and sanitation for those who would not fit into the new market.</p>
<p>One trader sought clarification about what was to be immediately implemented and if there would be compensation for the affected traders</p>	<p>There would be no compensation for those not going to new building, but they would be provided alternative space to continue their business. The priority would be shades, drainage and a boundary wall for the entire market.</p>
<p>Traders wished for the market to be retained as open air as opposed to being closed. They preferred to have general infrastructural developments as opposed to putting up a new structure</p> <p>A trader inquired if cess would be increased?</p>	<p>The PAPs were informed that due to the huge numbers of PAPs it was advisable to have a storied market. The design team was advised on their concerns, and it was noted some traders preferred to stay in the open air with shades and the others would move to new multi storied building,</p> <p>Planner Mwaura responded that it was already agreed that infrastructural developments were more important than the building.</p> <p>He also emphasized that the Government was looking to improve working conditions and not to extort people therefore reasonable rates would be set for trading according to existing policies.</p>
<p>Traders were also curious of the plans for occasional traders, e.g. those who only</p>	<p>The PAPs were informed that the eligible PAPs were the ones trading at the site daily.</p>

<p>come on market days. Would they also be given stalls?</p>	<p>The architect responded that they would prioritize improving the trading area for those PAPs not accommodated in the new building. They challenged the traders to bear in mind that population is ever growing and land is not expanding. Eventually they would have to change their way of thinking to accommodate everyone.</p>
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#### **8.4. Consultation during RAP Implementation and Monitoring**

MoTIH&UD personnel will continue to conduct a series of meetings and hearings with the project affected people (PAPs), informing them of the results of any survey conducted and the plans for the area. In these meetings there will also be negotiations to determine when the actual resettlement will take place. The RAP will be implemented by MoTIH&UD. A Resettlement Unit (RU) for the project will be constituted and charged with the responsibility of monitoring and supervision of the RAP implementation.

#### **8.5. Dissemination of RAP Information**

The resettlement process will require communication with the stakeholders, to disclose the RAP report 1-2 months before construction of the market commences. Extensive consultations with the potentially affected persons will continue through ongoing meetings with project affected people. The issues that would be discussed include:

- Environmental and Social Impacts of the project
- Mechanisms through which asset valuation will take place.
- Mode of compensation/ assistance
- Extent of compensation, that is, who are entitled for compensation and why.
- Where the PAPs will collect their compensation from
- The proposed date when the project will begin
- Cut – off date

In addition to these issues for dissemination to the affected individuals, the project proponent will also emphasize on:-

- PAPs making their issues, claims and concerns known.
- PAPs having right of access to the formally established grievance process and will be entitled to make their complaints known.
- The Monitoring team having the right to visit and interview PAPs.
- PAPs through the grievance procedure process will be able to contact the monitoring and evaluation team to ensure that their concerns are heard.

## **CHAPTER 9: GRIEVANCE REDRESS**

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### **9.1 Introduction**

**Grievance Management Mechanism (GMM)**– a management system through which grievances will be resolved following a standard operating procedure (SOP) aligned to other management systems (communication, resourcing, reporting).

A grievance mechanism provides a way to reduce risk for NaMSIP projects, offers communities an effective avenue for expressing concerns and achieving remedies, and promotes a mutually constructive relationship. A well-functioning grievance mechanism:

- Provides a predictable, transparent, and credible process to all parties, resulting in outcomes that are seen as fair, effective, and lasting;
- Builds trust as an integral component of broader community relations activities; and
- Enables more systematic identification of emerging issues and trends, facilitating corrective action and preemptive engagement.

Within the NaMSIP project the following principles need to be established to ensure the effectiveness of the GM:

- Commitment to fairness in both process and outcomes.
- Dedication to building broad internal support across project lines.
- Mainstreaming responsibility for addressing grievances throughout the project, rather than isolating it within a single department.
- Willingness by NaMSIP Leadership to visibly and sincerely champion the grievance system.

The design of this Grievance Mechanism is aligned to international best practice and guidelines and has taken the following factors into consideration:

- **Proportionality:** Scaled to risk and adverse impacts on affected communities
- **Cultural appropriateness:** Taking into account culturally appropriate ways of handling community concerns.
- **Accessibility:** Clear and understandable mechanism that is accessible to all segments of the affected communities at no cost.
- **Transparency and accountability:** To project affected stakeholders at field level.
- **Appropriate protection:** Prevents retribution and does not impede access to other remedies.

According to the NaMSIP Ruiru Market project, a grievance or complaint includes any communication that expresses dissatisfaction, in respect of the conduct or any act of omission or commission or deficiency of service and in the nature of seeking a remedial action but do not include the following:

- Complaints that are incomplete or not specific in nature;
- Communications in the nature of offering suggestions;
- Communications seeking guidance or explanation.

Anticipated grievances in Ruiru Market are especially in relation to:

- Disagreements on the relocation assistance values.

Timely redress of grievances is important in ensuring satisfactory implementation of resettlement and completion of the project on schedule. The means of grievance redress have to be accessible and credible to reduce project resistance. This chapter proposes a Grievance Management Mechanism (GMM) to ensure that all complaints are addressed fairly and respectfully. A checklist of issues considered in the design of grievance procedures for Ruiru Market included the following:

- An inventory of any reliable conflict mediation organizations or procedures in the project area and an assessment to determine if any can be used instead of having to create new ones.
- Inclusion in the list of affected person. Dispute of the disclosed list of affected persons.
- A review of the grievance redress mechanism for simplicity, accessibility, affordability, and accountability. Mechanisms such as use of oral means and in the local and national languages were prioritized and proposals on ways to impose explicit time limits for addressing grievances. Appeal procedures were specified, and suggestions made on how information needs were to be made available to the Project Affected Persons (PAPs).
- Any new committee to be created to address grievances would need to be given the authority to resolve complaints. It was proposed that such a committee include representatives of PAPs, as well as project officials and staff from other agencies with a substantial role in the market resettlement activities.
- A Complaints Form (Annex IX), a Grievance Acknowledgement Form (Annex X) and Grievance Resolution Form (Annex XI) should be introduced and dully filled by the involved parties.

### **9.1.1 Receiving Grievances**

The channels of receiving grievances will include:

- At NaMSIP Level
  - Project Coordinating Team Level
  - Project Implementation Team Level
- County Government
- Through social media – emails, facebook, twitter

### **9.2 Steps in Dealing with Grievances**

- a) Formal complaint received in writing (letter/email) or at the grievance desk within the market.
- b) Recording of complaint in standard form and grievance register and log.
- c) Project supervisor receives the complaint and assigns to respective grievance committee at community level (e.g. markets committee).
- d) Grievance committee reviews the complaint, verifies, investigates and takes action (if complaint is valid, resolves or passes it on to the Project Implementation Committee).
- e) Project Implementation Committee resolves and closes the complaint.
- f) Feedback to complainant within the stipulated timeframe.

### **9.3 Mediation Organizations**

An inventory of existing conflict mediation organizations or procedures in the project area was done. An assessment to determine if any can be used instead of having to create new ones showed that the existing mechanisms have never handled resettlement issues before and hence, there is need to create

a new structure and procedure of handling grievances. The RAP study found out that relevant stakeholders in this project that should be involved in the mediation process include the following:

- Ministry of Transport, Infrastructure, Housing and Urban Development (MoTIH&UD)
- Kiambu County Government
- National Government County Commissioner Office
- National Government County Social Development Department (Social Development Officer in charge of Registration and Regulation of a self-help groups)

#### **9.4 PAPs Grievance Redress Committee and its Procedures**

A Grievance Redress Committee (GRC) will be established with representatives from each of the stakeholders from the above list consisting of a full-time Project Social Expert, the Local Social Development Officer (SDO), Ministry representative such as the Project Manager or Supervisor, Kiambu County officials from the Department in-charge of Markets, Local National Government Administrator and representative persons for traders such as Executive former Market Committee officials and PAPs Representatives if not represented by among the executive market committee officials. The proposed leadership of the Grievance Redress Committee of eighteen (18) members (with an official quorum of 80% to transact business) will be as follows;

- Representative from the Ministry of Transport, Infrastructure, Housing and Urban Development – **Chairman**
- Social expert- **Secretary** (provide secretarial and advisory services to the GRC)
- Kiambu County Representatives (Market In-Charge Administrator) - **Members**
- Representative of the Sub-County Commissioner’s Office – **Member**
- The Sub-County Social Development Officer (in charge of Registration and Regulation of a self-help groups) – **Member**
- Three (3) existing Committee members of former traders– **Members**
- PAPs - **3 (three) Members**

After approval of this GRM, the above GRC members will receive letters of appointment from the Project Manager (Ministry of Transport, Infrastructure, Housing and Urban Development) to serve in the committee for a given period of time and their terms of references.

The main role of the committee will be arbitration through mediation and negotiation when complaints arise to ensure that cases are resolved quickly and fairly. The above committee will normally meet once per month and will form special sub-committees or *ad-hoc* committees that will meet on a weekly basis or more frequently as the nature of some grievances will demand. Such sub-committees or special ad-hoc committees will report their findings and recommendations to the main committee for ratification or approval.

The social expert will be a member of all such sub-committees to provide technical advisory and secretarial services.

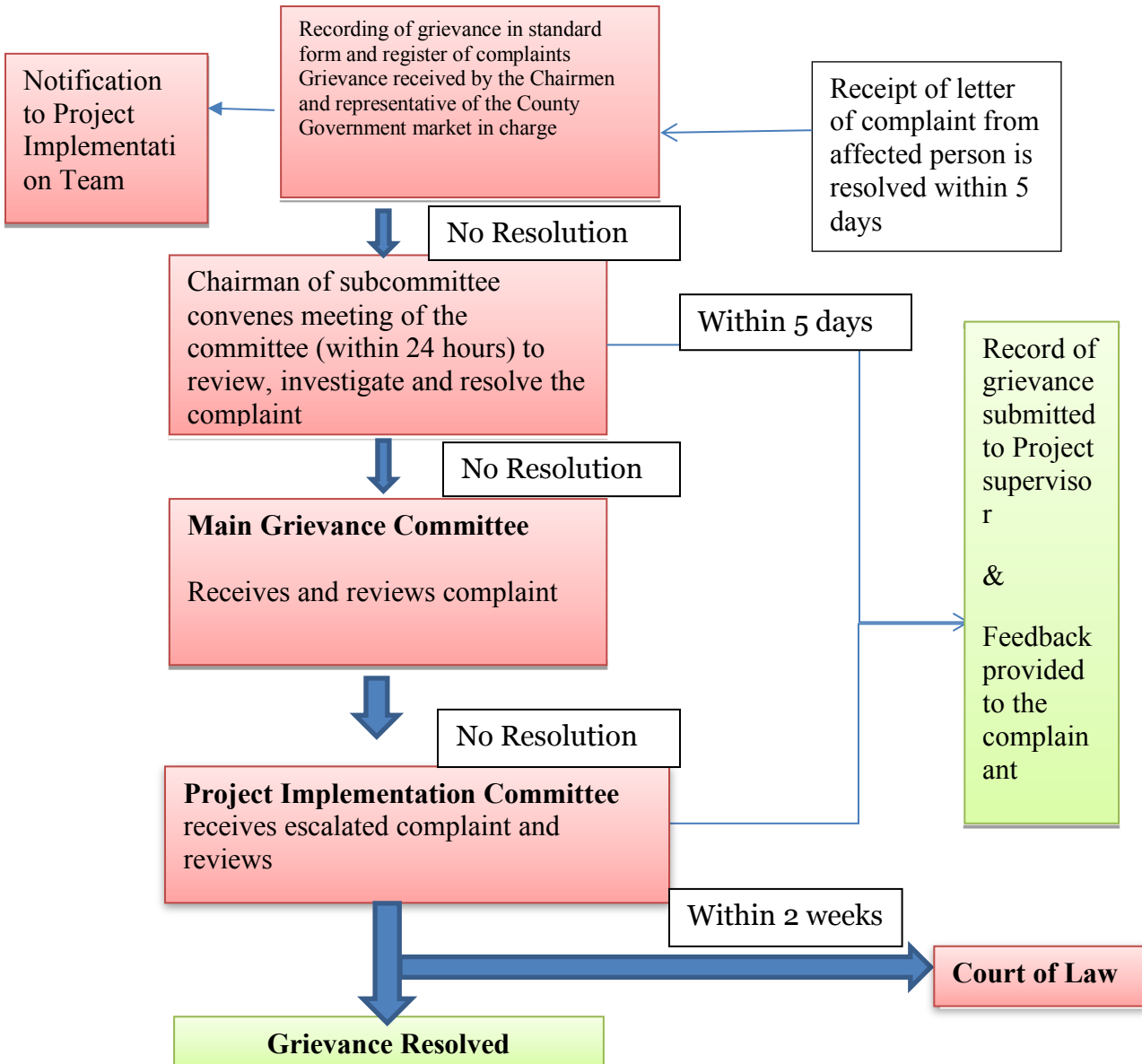
Through consultations between the Chair and Secretary, complaints received will be transferred to the concerned sub-committee within three (3) working days. In case the complaint pertains to an activity of more than one sub-committee or it is a complex issue, then the complaint will be communicated to



the main committee members in advance and resolution time will not exceed thirty (30) days from the date of the receipt of the complaint from the complainant.

- Both the Ministry of Transport, Infrastructure, Housing and Urban Development (project office) and the Kiambu County Government will facilitate the operations of the above committee by providing venue for meetings, secretarial services and any expenses or allowances directly related to the proposed project.

The Grievance Escalation Matrix is shown in the figure below.



**Figure 8: Grievance Escalation Matrix, Source: Impulso-AWEMAC- Ecoplan, 2016**

- The Grievances will be presented in person orally, over the phone, online via email, Short Message Service (SMS) using mobile communication systems or in writing, or other means of communications which provide a record of the complaint whichever the aggrieved party finds appropriate. All complaints must be recorded in a Complaints Form (see Annex IX).
- 
- The PAP will be allowed to use local or national languages throughout the redress process and mechanisms for interpretation provided where necessary.
- An Acknowledgement Form (see Annex X) will be sent to the complainant within two (2) working days of the receipt of the grievance. The form will contain date of receipt of grievance, details given by the complainant unique grievance number, expected date for resolution of grievance, name, designation and contact details of Officer, grievance escalation matrix with contact details and address (includes organizational levels) and manner and mode of tracking resolution of grievance with the unique grievance number. A simple digital database will also be created to store the cases so as to make work easier and reduce paper work.
- All grievances will be addressed to the Chair of the Committee and handed over to the proposed full-time social expert to be stationed at the NCC sub-county market premises or any other nearby premises. All grievances will be entered into a log book/ register and assigned file numbers for easier handling and tracking of the progress of each case.
- A deadline should be set after notification of entitlements beyond which no more complaints will be accepted so as to expedite the process of relocation assistance. During and after receipt of complaints, the committee will have regular meetings to deliberate upon the complaints lodged in consultation with the complainants, and to offer alternatives where feasible to the issues raised.
- If after negotiations with the committee the PAP is not satisfied with the settlement, the PAPs Committee will also be asked to provide recommendations as to how it is to be addressed. The Committee will decide that the case be re-investigated and, depending on the nature of the grievance in will be referred to the Ministry of Transport, Infrastructure, Housing and Urban Development (MoTIH&UD) for technical and legal advisory purposes to the GRC.
- Complainants will be issued with a Grievance Resolution form where they are in agreement with the resolutions. The redress process should take at most 4 weeks per case and cases can be resolved concurrently.

## **9.5 Mechanism for Appeal**

Disputes not resolved by the GRC will be referred by Ministry of Transport, Infrastructure, Housing and Urban Development (MoTIH&UD) to a registered and licenced Arbitrator practising in Kenya and the arbitration will be governed by the Kenya Constitution 2010, the Arbitration Act (Chapter 49 of the Laws of Kenya). Arbitration agreements will be enforced by the courts, which have the power to refer a dispute to arbitration.

If the PAP is still not satisfied with the settlement after formal arbitration, other legal redress mechanisms will be sort such as appealing in court through litigation. This should however be a last resort mechanism to avoid dragging the project, since project implementation will not commence until all major public grievances are addressed satisfactorily.

## 9.6 Redress Monitoring Mechanism

This is meant to check on responsiveness to complaints lodged. Performance indicators will be formulated based on the process, outputs and impacts. Details such as response times, communication methods employed, costs involved, treatment of women and other vulnerable groups and PAPs satisfaction will be used as indicators. Ideally, grievance redress should be undertaken at zero cost to the complainant and as speedily as possible so as not to hurt the complainant and not to delay the onset of project implementation.

The complainant will be intimated on resolution of grievance through a resolution form. The resolution form will contain the date of receipt of grievance, unique grievance number, name, designation and contact details of officer signing the communication, procedure of representing the matter and further right to approach other legal levels in case of non-satisfactory resolution of grievance, within the time specified in the regulation.

**Record keeping:** To enable efficient monitoring, all records of reported complaints, their nature and number of complainants, number of follow-ups by complainants either in person or via phone and other approved means and concluded resolutions or actions taken if unresolved and the average time taken to resolve grievances should be kept and made available to the project monitoring team.

## 9.7 Closure of Grievance

Every grievance will be disposed off within a period of thirty (30) days of its receipt and a final reply will be sent to the complainant, containing details of resolution or rejection of the complaint, with reasons thereof recorded in writing.

A grievance will be considered as disposed off and closed in any of the following instances, namely:

- When the intermediary or entity regulated by MoTIH&UD or Kiambu County Council has acceded to the request of the complainant fully.
- Where the complainant has indicated in writing, its acceptance of the response of the intermediary or entity regulated by the MoTIH&UD or Kiambu County Council.
- Where the complainant has not responded within forty-five (45) days of the receipt of the written response of the intermediary or entity regulated by the MoTIH&UD or Kiambu County Council.
- Where the grievance redress committee has certified under indication to the subscriber that the intermediary or entity regulated by the MoTIH&UD or Kiambu County Council has discharged its contractual, statutory and regulatory obligations and therefore closes the complaint.
- Where the complainant has not preferred any appeal within fourteen (14) days from the date of receipt of resolution or rejection of the grievance communicated by the intermediary or entity regulated by the MoTIH&UD or Kiambu County Council.
- Where the decision of the MoTIH&UD or Kiambu County Council in appeal has been communicated to such complainant.

## **CHAPTER 10: MONITORING AND EVALUATION**

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### **10.1 Introduction**

In order to guarantee that the resettlement plan is smoothly performed and the benefit of the affected persons be well treated, the implementation of the resettlement plan will be under monitoring throughout the whole process. Monitoring will be divided into two parts, i.e. internal and external monitoring.

### **10.2 Monitoring and Evaluation**

#### ***10.2.1 Internal Monitoring***

It is the responsibility of the proponent to conduct regular internal monitoring of the resettlement performance of the operation through the Resettlement Unit, which will be responsible for implementing resettlement and compensation activities. The monitoring should be a systematic evaluation of the activities of the operation in relation to the specified criteria of the condition of approval.

The objective of internal monitoring and supervision will be:

- a) To verify that the valuation of assets lost or damaged, and the provision of compensation, resettlement and other rehabilitation entitlements, has been carried out in accordance with the resettlement policies provided by the Government of Kenya (GoK) and World Bank
- b) To oversee that the RAP is implemented as designed and approved;
- c) To verify that funds for implementation of the RAP are provided by the Project authorities in a timely manner and in amounts sufficient for their purposes, and that such funds are used in accordance with the provisions of the RAP.

The main internal indicators that will be monitored regularly:

- i) That the entitlements are in accordance with the approved policy and that the assessment of compensation is carried out in accordance with agreed procedures.
- ii) Payment of compensation to the PAPs (where possible) in the various categories is made in accordance with the level of compensation described in the RAP.
- iii) Public information and public consultation and grievance procedures are followed as described in the RAP.
- iv) Relocation is done in a timely manner.
- v) Restoration of affected public facilities and infrastructure are completed prior to construction.

#### ***10.2.2 External Monitoring and Evaluation***

The Consultant recommends that an Independent Monitoring and Evaluation Unit (IMU) be established to evaluate implementation of compensation and resettlement.

The IMU will be appointed to monitor the resettlement and compensation process and implementation of requirements to verify that compensation, resettlement and rehabilitation have been implemented in accordance with the agreed RAP provisions. The IMU will also be involved in the complaints and grievance procedures to ensure concerns raised by PAPs are addressed. The IMU should be formed immediately upon announcement of entitlements to PAPs since this is the most likely time that PAPs will begin to forward their grievances. External monitoring will be conducted by a team from the World bank in consultations with MOTIH&UD and RAP Consultant on a quarterly basis.

More specifically, the IMU will carry out the following:

- i) Review the results of the internal monitoring and review overall compliance with the RAP
- ii) Assess whether relocation objectives are being met
- iii) Assess general efficiency of relocation and formulate lessons for future guidance
- iv) Determine overall adequacy of entitlements to meet the set objectives.

The Consultant recommends that MoTIH&UD establishes an IMU that draws on personnel with resettlement and social development experience. The Consultant further recommends that relevant representatives from the Resettlement Unit, the project affected persons should be represented through County Administration.

The objective of this unit will also be to provide a forum for skills sharing and to develop institutional capacity. It is important that the Unit is able to maintain a strong independent position and provide constructive feedback to the project to ensure that the objectives are met.

The RAP will be implemented by MoTIH&UD and RAP Consultant. The Resettlement Unit and PAP Committee will carry out the M&E. The Resettlement Unit will be responsible for the overall M&E while the PAP Committee will monitor and evaluate respective relocation sites where they will have been formed.

Progress and performance of the RAP would be before, during, and after implementation. Using the baseline information that is being compiled by the consultant through this RAP report, the M&E advisors would be in a position to note changes that will have occurred before and after resettlement. Some of the baseline indicators that are relevant to this study are: -

1. **Income statistics:** Average biannual family income within the market should not fall below an agreed upon factor in the first 6 months after the move. Data should indicate that the socio-economic situation of the affected people is stable after one year. If, after a year, the situation of PAPs is found to be deteriorating further interventions will be considered.
2. **Entitlement Listing.** In the event of relocation to alternative sites for the PAPs, such site should have comparable services and amenities to the previous site. The basis of comparison will be qualitative, although a quantitative measure will also be developed based on per capita maintenance costs. The consultant has however recommended financial compensations rather than relocation. Thus, the choice of the relocation site would depend on the PAPs.

### **10.3 Methodology for Monitoring**

The approaches and methods used would require regular dialogue and surveys of the affected persons. The dialogue will provide a forum for affected parties to air any grievances or complaints that will arise. The survey will provide a more objective form of progress measurement to complement the more subjective consultations/dialogue.

### **10.4 Data Collection**

Qualified census personnel will collect data from a respectable research firm or government agency. The surveys should be conducted with the full consent and permission of affected parties.

### **10.5 Data Analysis and Interpretation**

The data will be able to measure changes in net welfare based on pre-resettlement profile and post resettlement conditions. Where negative welfare is noted, MoTIH&UD will immediately address the same.

### **10.6 Reporting**

Post-resettlement monitoring results will be subject to review by representatives of the affected people through the PAP Committee and representatives of MoTIH&UD. The monitoring team must write its reports before the end of each visit and submit them to the MoTIH&UD Project Manager and the PAP Committee. The Monitoring team should structure its reporting in conjunction with accepted variables, a format to this effect is attached to this report as Annex XII.

## **CHAPTER 11. ANTICIPATED CHALLENGES IN RAP IMPLEMENTATION**

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### **11.1 Likely challenges in Ruiru Market**

The proposed market has fewer stalls than the actual number of traders raising the question of who are the potential beneficiaries.

### **11.2 Proposed mitigation measures**

This report recommends clear communication to PAPs on which development they expect, and who will be considered first in the new development to avoid conflicts.

## **CHAPTER 12. CRITERIA FOR DISCLOSURE**

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Upon approval of the RAP by world Bank and MITH& UD the RAP implementation process will commence as detailed below.

Project mobilization and planning stage will assist the RAP consultant prepare for the RAP implementation process, and choose staff capable to work during the process. The establishment of the Resettlement unit (RU) will be the first task to be addressed. The RU will comprise members from county government, market committee, MITH &UD, county commissioner and a representative of the PAPs.

The RU will disclose the RAP implementation process from the beginning to the end, PAPs move dates, PAPs entitlements, Notifications, public consultations dates, capacity building of PAPs , grievance redress and project staff as well construction timelines.

RAP validation will involve the process of confirming the eligible PAPs by confirming their serial numbers, Identify cards, questionnaires, attendance sheets and PAP stall allocation firm among others.

The Notification of entitlements will involve sharing with PAPs their entitlements and making it a the public disclosure meeting.

Grievance redress will involve PAPs registering a complaint and the RU acknowledging the same and timelines in resolving the grievances.

The compensation is made directly to PAPs bank accounts. The PAP bank details will have been collected during the RAP validation process. MITH& UD will provide confirmation of payments for all PAPs.

Improvement of relocation site will involve the contractor to improve the relocation site with the provision of sanitation and water facilities as well as garbage points and water points.



Notification to move PAPs to relocation site after it has been improved.

Notification will be given to the PAPs to move to the relocation site and continue their trading business; vulnerable groups will be given assistance and allowed to move first.

Construction period is estimated to take 1 year to six months

Capacity building will involve training and building capacity and empowerment to the PAPs as well as training for the project staff to enhance capacity to assist in smooth implementation of the RAP. This will be done during construction period.

The RU will also allocate the PAPs stalls in the constructed market during the construction phase.

Once the market has been constructed, a return allowance will be paid to the PAPs. Once MITH & UD confirms payments to PAPs, a notice will be given to PAPs to move back to the allocated stall. Assistance will be given to the vulnerable groups.

PAPS move back to constructed market after receiving return allowance.

The RU will conduct a census survey to establish restoration livelihood of the PAPs has been successful.

The RU will conduct monitoring and evaluation, status reports quarterly and final report for completion of the resettlement plan.

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**ANNEXES**

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Annex ii: Survey Plan

Annex iii: Proposed Detailed Designs

Annex iv: Ruiru Layout Map

Annex v: Census and Asset Inventory Tool

Annex vi: Minutes of Meetings Held

Annex vii: Attendance Sheets of Meetings Held

Annex viii: Ruiru PAPs Summary Information

Annex ix. Grievance Complaints Form

Annex x: Grievance Acknowledgement Form

Annex xi: Grievance Resolution Form

Annex xii: Monitoring and Evaluation Format