

## **LAND ACQUISITION AND RESETTLEMENT ACTION PLAN**

**FOR**

### **ODRA-VISTULA FLOOD MANAGEMENT PROJECT**

co-financed by:

World Bank, Loan Agreement no. 8524 PL

Council of Europe Development Bank, Loan Agreement no. LD 1866

European Union's Cohesion Fund (OPIE 2014-2020)

State Budget

**Component 3:** Flood Protection of the Upper Vistula

**Subcomponent 3A:** Protection of Upper Vistula Towns and Cracow

**Contract 3A.2:** Flood Protection in Serafa Valley

**Works Contract 3A.2/1**

Flood protection in Serafa Valley – Malinówka 1 reservoir

**Works Contract 3A.2/2**

Flood protection in Serafa Valley – Malinówka 2 reservoir

### **FINAL VERSION**

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## ODRA-VISTULA FLOOD MANAGEMENT PROJECT

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### **LAND ACQUISITION AND RESETTLEMENT ACTION PLAN**

<b>Component:</b>	<i>3 – Flood Protection of the Upper Vistula</i>
<b>Subcomponent:</b>	<i>3A – Protection of Upper Vistula Towns and Cracow</i>
<b>Contract:</b>	<i>3A.2 – Flood Protection in Serafa Valley</i>
<b>Works Contract:</b>	<i>3A.2/1 – Flood protection in Serafa Valley – Malinówka 1 reservoir</i> <i>3A.2/2 – Flood protection in Serafa Valley – Malinówka 2 reservoir</i>

#### **Project Implementation Unit:**

**State Water Holding Polish Waters represented by the  
Regional Water Management Authority in Cracow**

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OVMF PIO

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Cracow – October 2020

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## 1 Summary

This document presents the Land Acquisition and Resettlement Action Plan (LA&RAP) for two Works Contract – 3A.2/1 and 3A.2/2 – implemented under Contract 3A.2 *Flood Protection in Serafa Valley*. Contract 3A.2 shall include development of 4 small dry flood storage reservoirs (Malinówka 1, Malinówka 2, Malinówka 3, and Serafa 2) implemented under the Odra-Vistula Flood Management Project (OVFMP). Development of the reservoirs shall be co-funded using resources of the International Bank for Reconstruction and Development (World Bank) (lease agreement dated September 10, 2015), the Council of Europe Development Bank (CEB) (frame lease agreement dated May 24, 2016), and the State Budget.

As it has been indicated above, this LA&RAP includes two Works Contracts / Tasks under Contract 3A.2, and those are:

- *Works Contract 3A.2/1 – Flood protection in Serafa Valley – Malinówka 1 reservoir,*
- *Works Contract 3A.2/2 – Flood protection in Serafa Valley – Malinówka 2 reservoir;*

which may be implemented separately – a separate IPIP decision shall be obtained for each of the reservoirs.

On the day of developing this document a construction design was ready and maps containing property splitting designs have been developed. Data on areas of property acquisition comes from maps containing property splitting designs, which are pending approval by the relevant authority. Maps for designing purposes constitute the basis for determining the areas of restrictions in the use – both: permanent, as ones resulting from the obligation to redevelop the colliding utilities.

This LA&RAP was prepared before the Investor obtained the legal title to the properties. The currently planned range of acquiring the properties and of restricting the use of properties – resulting from the planned construction works – is presented in the table below\*\*:

	Total volume of hectares	Total number of plots	Public plots	%	Private plots	%	Others***	%	Physical resettlement	Economic resettlement
Permanent acquisition	11.3810	106*	64	60.4	37	34.9	5	4.7	0	0
Permanent restriction in use	0.2848	14	14	100	0	0.0	0	0.0	0	0
Obligation to redevelop the existing land utilities	0.0988	9	7	77.8	2	22.2	0	0.0	–	–
<b>Summary</b>	<b>11.7646</b>	<b>129</b>	<b>85</b>	<b>65.9</b>	<b>39</b>	<b>30.2</b>	<b>5</b>	<b>3.9</b>	<b>0</b>	<b>0</b>

\* along with plots owned by the State Treasury – 63 properties.

\*\* a summary of properties – areas of permanent acquisition and types of restrictions in the use of properties have been determined based upon documentation available on the stage of developing the construction design. The final scope of permanent acquisition and restrictions in the use of properties shall be determined in the issued IPIP decisions.

\*\*\* category of properties, which contains plots co-owned by natural persons and by public entities (2 plots) and plots without regulated legal status – mortgage units in that case (3 plots).

The performance site covers the area of 11.7646 ha and 129 properties. After obtaining the final IPIP decision:

- permanent acquisition shall be applied for 106 properties including:

- 63 properties, currently owned by the State Treasury which includes holder/administrator/representative of the resources: District Governor, MPWiK, Road Authorities for the City of Cracow, GDDKiA, PGL State Forests, PGW WP,
- 37 properties owned by 75<sup>1</sup> natural persons and 1<sup>1</sup> limited liability company, 2 properties co-owned by the State Treasury and seven natural persons, 3 properties on unregulated legal status and 1 property from the resources of the Municipality of Cracow which shall be legally transferred to the State Treasury, and compensation would be paid by the Investor in accordance with a procedure described under item 8.2.1,

- permanent restriction shall be applied for 14 properties owned by the State Treasury (administrator/representative of the resources: District Governor and PGW WP) (in case of those properties their use shall be restricted due to modification of land management or land utilities); no compensation will be paid to the State Treasury.

- temporary restriction in the use shall be applied for 9 properties owned by 5 natural persons (2 plots) and by the State Treasury (7 plots, including one administered by Road Authorities for the City of Cracow), due to necessary redevelopment of the existing land utilities (colliding with planned flood storage reservoirs); compensation for temporary restriction in the use shall be paid by the Investor based upon rules described under item 9.2.

Among 129 of the aforementioned properties, 39 plots are owned by private persons (76<sup>1</sup> PAPs, including 75<sup>1</sup> natural persons and 1 limited liability company), 2 plots are co-owned by the State Treasury and seven natural persons, and 85 plots are public plots, 84 of which are owned by the State Treasury and 1 by the Local Authorities (Municipality of Cracow). 3 plots have an unregulated legal status.

The planned contract refers to the construction of two dry small storage reservoirs – Malinówka 1 and Malinówka 2 – at the Malinówka Stream. Those reservoirs shall operate within a cascade of five small storage reservoirs within the Serafa River Basin: two on the River Serafa (the existing Bieżańów reservoir and the planned Serafa 2 reservoir), and three on the Malinówka Stream (planned reservoirs: Malinówka 1, Malinówka 2, and Malinówka 3).

For the purpose of implementing Works Contracts 3A.2/1 and 3A.2/2 small areas of private plots shall be acquired – from 5 m<sup>2</sup> to 5625 m<sup>2</sup>. That area does not form a basis for existence of household (with such a small area it is not possible for PAPs to conduct farming). In case of the most of private plots, which would be taken over on behalf of the State Treasury (total of 42 plots), the area of permanent acquisition is from 1 to 1000 m<sup>2</sup> (21 plots). Acquisition in the range of 1000-2000 m<sup>2</sup> refers to 12 plots, and only in case of 9 plots permanent acquisition shall exceed the area of 2000 m<sup>2</sup>. The properties acquired have not been applied for farming, and their acquisition has insignificant or minor impact on

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<sup>1</sup> The number of PAPs – in comparison to the number of PAPs for all of the acquired properties under 2 Works Contracts – is the same, as the obligation to redevelop the utilities has been imposed on the same properties, for which permanent acquisition was indicated.

the income of analyzed households. Permanent occupation will not cover plots built up with residential or farm buildings.

Family garden allotments are not located within the implementation areas for Works Contracts 3A.2/1 and 3A.2/2. During the socio-economic survey household with EU subsidies were not identified.

There are developed land properties in the neighborhood of the contract, but implementation of the contract shall not cause disturbance to daily operations of those households.

In case of Works Contracts 3A.2/1 and 3A.2/2 there are no physical and economic resettlements. The performance shall not in any way affect the limitation of access for the plot owners to service, cultural and historic objects. Among the Project Affected Persons entitled to the payment of compensation the following were identified for the day of developing the LA&RAP: owners, holders, and persons/units with limited property rights.

Due to implementation of the Contract there are no significant impacts on the PAPs. It was stated in all cases that the impacts associated with implementation of the Contract shall be insignificant as confirmed by socio-economic studies or through field visits and analysis of the collected data.

The PAPs referred to the contract implementation positively, as it would increase flood safety in Cracow (especially in case of Stary Bieżanów District and Złocień District, which were flooded six times at the flood of 2010) and in the District of Wieliczka, in the Municipality of Wieliczka.

During the survey all of the respondents declared that they are satisfied with the planned contract and that they support its implementation. However, there were statements that despite the satisfaction with implementation of the Contract, in the personal situation of PAPs their quality of life would be deteriorated, as they would lose:

- recreation sites, which have been used for individual needs of the PAPs (2 cases) – after developing the dry reservoir the bowl shall also be available for recreational purposes for anyone who would like to apply that space as a public place, or
- land (unused, but remaining a physical form of capital investment), which is a financial resource in one case. The PAP is however interested in payment of cash compensation.

In one case the PAP obtained in 2005 a development consent for the property to be expropriated. Simultaneously, the PAP did not determine that he started the construction process, so it should be expected that in accordance with the Construction Law that decision expired 3 years after the day the decision became final.

In connection with the implementation of the works, it may be necessary for the Contractor to temporary acquisition of properties, beyond the acquisition area given in the IPIP, for the purposes of the Investment (e.g. acquisition for the purpose of site facilities, machine base, and storage of soil and other construction materials).

The Contractor shall be responsible for obtainment of consents from owners/holders for mentioned above temporary acquisition of properties. The scope and the target location of temporary acquisition are currently unknown, and they shall be determined by the Contractor selected in a bidding proceeding. Such properties shall be obtained by the Contractor on its own and at its own cost. Temporary acquisition of properties is feasible only based upon a written, voluntary consent of the property owner, and based upon the rules determined in the agreement providing that consent. Temporary acquisition shall – as a rule – be compensated in cash through payment of amounts

corresponding to market prices of lease or tenancy of properties, and the acquisition conditions shall be determined under the agreement concluded in writing (template of the agreement is given under Appendix no. 9 to the LA&RAP).

Any property acquisition – both permanent, as well as temporary – shall be implemented in accordance with procedures determined in the Polish Law, in the Bank’s operational policy OP 4.12 and in the LARPF, what has been described in this LA&RAP.

Final version



## 2 List of abbreviations applied in this paper

ARMA	Agency for Restructuring and Modernization of Agriculture
AP	Affected Population
World Bank or WB	International Bank for Reconstruction and Development (IBRD)
PCU	Project Coordination Unit (PCU acting within the structure of the State Water Management Authority of the State Water Holding Polish Waters)
CEB	Council of Europe Development Bank
ED	Decision on Environmental Conditions
EGiB	Register of Land and Buildings – a register containing data forming e.g. a basis for economic planning, spatial planning, taxes and fees, marking of properties in mortgage registers, register of farms
GIS	Geographic Information System – a terrain information system consisting of a terrain database concerning a given area as well as procedures and techniques of systematic collection, updating and providing access to data.
CSO	Central Statistical Office of Poland
PIO	Project Implementation Office formed within the PIU, a separate organizational unit responsible for implementation of the Contract / Works Contract
Investor/Employer/PIU (to 12/31/2017)	Marshal, in the name of whom the Małopolski Board of Amelioration and Hydraulic Structures in Cracow – Odra-Vistula Flood Management Project (OVFMP) Implementation Unit acted
Investor/Employer/PIU (from 01/01/2018)	State Water Holding Polish Waters – Regional Water Management Authority in Cracow – Odra-Vistula Flood Management Project (OVFMP) Implementation Unit
Engineer	See: <i>Consultant</i>
Consultant	A company or a legal persons providing services for the Investor Technical Assistance Consultant for the OVFM Project – AECOM Polska Sp. z o.o.
Contract/ Contract 3A.2	CONTRACT 3A.2 - Flood Protection in Serafa Valley comprising four Works Contracts 3A.2/1, 3A.2/2, 3A.2/3, and 3A.2/4
Works Contract 3A.2/1 / Task 3A.2/1 / Investment	WORKS CONTRACT <b>3A.2/1 - Flood protection in Serafa Valley – Malinówka 1 reservoir</b>
Works Contract 3A.2/2 / Task 3A.2/2 / Investment	WORKS CONTRACT <b>3A.2/2 - Flood protection in Serafa Valley – Malinówka 2 reservoir</b>
Works Contract 3A.2/3 / Task 3A.2/3	WORKS CONTRACT <b>3A.2/3 - Flood protection in Serafa Valley – Malinówka 3 reservoir</b>
Works Contract 3A.2/4 / Task 3A.2/4	WORKS CONTRACT <b>3A.2/4 - Flood protection in Serafa Valley – Serafa 2 reservoir</b>
CC	The Law of April 23, 1964 – Civil Code (consolidated text: Journal of Laws of 2019, item 1145, as amended)
CAP	The Law of June 14, 1960 – Code of Administrative Procedure (consolidated text: Journal of Laws of 2020, item 256)

LARPF or RPF	Resettlement Policy Framework
LA&RAP	Land Acquisition & Resettlement Action Plan
PGL LP	State Forest Authorities State Forests
GDDKiA	General Directorate of National Roads and Motorways
LSDP	Local Spatial Development Plan
MPWiK	Municipal Water and Sewage Enterprise
MZMiUW	Małopolski Board of Amelioration and Hydraulic Structures in Cracow
NBP	National Bank of Poland
NGO	Nongovernmental Organization
HSL or MaxSL	Highest Storage Level or Maximum Storage Level
SAC	Supreme Administrative Court
OP 4.12	The symbol of a document containing the principles of conducting involuntary resettlement required for Contract co-financing with a World Bank loan: Operational Policy 4.12 – Involuntary Resettlement
EIA	Environmental Impact Assessment
PAP	Project Affected Person(s)
PGiK	Act of May 17, 1989 on geodetic and cartographic law (OJ of 2020, item 276)
PGW WP RZGW in Cracow	State Water Holding Polish Waters – Regional Water Management Authority in Cracow
IPIP	Investment Project Implementation Permit for flood defenses
POM	Project Operation Manual
Project/OVFMP	Odra-Vistula Flood Management Project
RDP	Rural Development Programme
Water Law	Act of July 20, 2017 – Water Law (consolidated text: OJ 2018, item 2268, as amended)
EMP	Environmental Management Plan
Valuer / expert	A natural person possessing state professional qualifications in the scope of real property valuation
RDOŚ	Regional Director for Environmental Protection

Regulation on land registers	Announcement of the Minister of Investment and Development of January 3, 2019 on announcement of consolidated text of the regulation of the Minister of Regional Development and Civil Engineering on the register of land and buildings (OJ of 2019, item 393, as amended)
Regulation on evaluation	Regulation of the Council of Ministers of September 21, 2004 on evaluation of properties and development of estimated (OJ of 2004 no. 207, item 2109, as amended)
LS Regulation	Regulation of the Minister of Internal Affairs and Administration and the Minister of Agriculture and Food Management of April 14, 1999 on land splitting (OJ of 1999 no. 45, item 453)
Special Flood Act	The Law of July 8, 2010 on specific terms of preparing for implementation of projects in the scope of flood protection facilities (consolidated text: Journal of Laws of 2019, item 933, as amended)
PR	Permanent restriction in the use of properties
EU	European Union
LMA	The Law of August 21, 1997 on the land management acquisition (consolidated text: Journal of Laws of 2020, item 65)
FA	Act of September 28, 1991 on forests (consolidated text: OJ of 2020, item 6, as amended)
Act on the public finances	Act of August 27, 2009 on the public finances (consolidated text: OJ of 2019, item 869, as amended)
Civil Engineering Law	Act of July 7, 1994, Civil Engineering Law (consolidated text: OJ of 2019, item 1186, as amended)
Water Law	Act of July 20, 2017 – Water Law (consolidated text: OJ of 2020, item 310, as amended)
RAC	Regional Administrative Court
Contractor	An entrepreneur implementing the Works Contract
ZDMK	Road Authorities for the City of Cracow

### 3 Key definitions

This document uses the following key definitions:

**Real property price** – an amount negotiated with the property owner to its benefit for a respective property or any part thereof, based on the value of the said property estimated by an authorised property valuer. The compensation amount for the property shall not be lower than the replacement cost for lost component of assets without depreciation of assets resulting from the age, condition, or other features associated with the assets.

**Mortgage unit** – a property/register plot comprising one or more ground plots belonging to various owners. Due to the lack of assignment of individual ground parts to a specific owner, we are dealing with an unregulated legal status.

**Cut-off date** – a date when an inventory of assets and a register of project affected persons were completed. Persons living in the area, where the Project shall be implemented, do not have a right to compensation or any other form of support after the cut-off date. Similarly, the compensation shall not be paid for fixed assets (such as buildings, plants, fruit trees, and woodlots) after the completion date for the inventory or – alternatively – after the agreed date.

**Economic resettlement** – loss of >20% of arable land in case the revenue of the Project Affected Person (PAP) bases upon farming mainly.

**Physical resettlement** – loss of a place of living or such commercial objects as shops or workshops, or objects necessary to generate income.

**Groups requiring special assistance** – people whose sex, belonging to an ethnic group, age, being physically or mentally handicapped, difficult financial situation or difficult social position makes them more exposed to negative effects of resettlement than other groups and who may have a limited possibility of submitting claims, receiving resettlement assistance or participating in the benefits related to the investment.

**Resettlement cost** – the extent of compensation for lost goods/properties covering a replacement value of such goods/properties as well as the cost of resettlement and actions related to the resettlement.

**Land property, ground** – a part of land surface, which forms a separate ownership unit. The ground is a type of property and simultaneously a thing, as stated in the Civil Code. A land property shall be understood as ground with integral parts, except for buildings and rooms, if they form a separate element of ownership.

Substitute terms used in the LA&RAP: **land – property – plot – ground**, depending on the context the terms are applied in accordance with the following legal acts:

- CC – land, property;
- PMA Law – property, ground plot;
- Regulation on land register – land, register plot (short version applied in the LA&RAP: plot); and
- Operational Policy 4.12 – land.

**Social impact** — in the light of OP 4.12 any direct loss – economic and social – resulting from expropriation of properties, permanent restriction of the previous use manner, or access to the properties shall be deemed as a social impact associated with expropriation.

**Compensation** – paid in cash or in the form of a property which is a replacement for the properties and assets acquired or affected by the Project. Such compensation is paid out at the time when the respective property must be released by the owner to the investor. Pursuant to Polish law, compensation can be paid out from the time when expropriation decision, as a rule, becomes final and in all the cases – prior to taking over of such property or its acquisition for construction purpose.

**OP 4.12 Involuntary Resettlement** — an operational policy containing the main principles and procedures which constitute the basis for the IBRD approach to involuntary resettlement related to investment projects.

**Project Affected Person (PAP)** – every person who, as a result of Project implementation, loses the right of ownership or other benefits related to the owned inhabited (residential, agricultural or breeding) infrastructure; annual or perennial yield and produce or other related or movable assets – in whole or in part, permanently or temporarily. Members of a local society or other persons affected by investment actions may be deemed as the PAPs.

**Natural person** — legal term for a person in civil law – from the moment of birth until death.

**Legal person** — the legal persons are the State Treasury and organization units granted with legal personality by particular provisions.

**Income** – any money received i.e. pensions, job salaries, etc. as well as property increment obtained as a result of business activities or agricultural activities from the real estate, including the sale of such real estate.

**Involuntary resettlement** – a resettlement is involuntary when it is carried out without the consent of a person being resettled (against his/her/their will) or as a result of expressing such consent involuntarily (without a possibility of expressing its objections towards resettlement), e.g. through expropriation.

**Land Acquisition and Resettlement Policy Framework (LARPF/RPF)** – a document approved by the World Bank, on the basis of which this Land Acquisition and Resettlement Action Plan is being developed. Based on the LARPF, a formal Project framework for land acquisition was defined.

Any acquisition of properties – both: permanent, as well as temporary – shall be implemented in accordance with procedures determined under the Polish Law, the Bank's operational policy OP 4.12, and the LARPF available on the website:

[http://odrapcu2019.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://odrapcu2019.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf).

**Limited Liability Company** – corporation formed by one or more persons for any legally acceptable purpose.

**Corporation** – legal form of organizing business units, mostly applied for running big enterprises, as well as for internal organization of capital groups.

**Value of expenditures** — amount due to the user for expenses born as negotiated with the party bearing expenditures, or an amount basing on the value of expenditures determined by the certified assessor.

**Replacement value** – Compensation for the loss of assets based upon their replacement / market value increased by any transaction costs (for example: taxes and registration fees) and its objective is for the compensation to be enough to effectively replace the Project affected assets (replacement value). Replacement value is an amount needed to replace lost assets without depreciation of asset for reasons of age, condition, or other factor associated with assets.

**Expropriation** – it comprises bereaving a determined person (-s) of the ownership right to the particular property based upon an individual legal act, or restricting that right.

**Purchase/voluntary sale** – acquisition of the rights to the property from its owner / possessor for a mutually agreed price in a situation where such an owner has the right to refuse such a transaction (i.e. willing buyer/willing seller). In the event of an expropriation, such a purchase is not deemed voluntary.

**Real estate assets (according to the PMA)** - public properties sanctioned by the legislator in Article 20 of the PMA. Assets have been divided according to the ownership. State Treasury properties (Art. 21 and 21a of the PMA) and assets of different types of local government units - Commune (Art. 24 of the PMA), District (Art. 25a of PMA) and Province (Art. 25c of the PMA) have been distinguished. The provision of Art. 20 of the PMA does not apply to real estate assets of the owners other than those mentioned herewith.

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## 4 Introduction

The most urgent flood protection tasks within selected areas of the Odra and Vistula River Basins were expected for implementation under the Odra-Vistula Flood Management Project.

5 Components were included under the Project, and they cover actions associated with improvement of flood protection.

Component 1 covers various actions implemented within an extensive section of Odra over a total length of about 440 km (so-called free-flow Odra).

All of the necessary works have been divided within that area into three Subcomponents:

- 1A – Flood protection of areas in Zachodniopomorskie Province,
- 1B – Protection of the Middle and Lower Odra,
- 1C – Flood Protection of Słubice City.

Component 2 of the Project shall be implemented within the Kotlina Kłodzka, which covers mountainous and highland sections of the Nysa Kłodzka River Basin. 2 Subcomponents are implemented under Component 2, i.e.:

- 2A – Active Protection (includes construction of four dry flood storage reservoirs),
- 2B – Passive Protection (includes flood protection for the areas located along four main rivers of Kotlina Kłodzka).

The objective of Component 3 – Flood Protection of the Upper Vistula – is implementation of measures to limit the hazard associated with flood risk within the selected areas under successive improvements to flood safety within the Upper Vistula River Basin.

Component 3 is divided into the following Subcomponents:

- Subcomponent 3A – Protection of Upper Vistula Towns and Cracow,
- Subcomponent 3B – Protection of Sandomierz and Tarnobrzeg,
- Subcomponent 3C – Passive and Active Protection in Raba Sub-basin,
- Subcomponent 3D – Passive and Active Protection in San Basin.

Component 4 Institutional Strengthening and Enhanced Forecasting,

Component 5 Project Management and Studies.

Land Acquisition and Resettlement Action Plan (LA&RAP) for Works Contract 3A.2/1 and 3A.2/2 is presented in this paper for Contract titled 3A.2 – Flood Protection in Serafa Valley under Component 3 - Flood Protection of the Upper Vistula, Subcomponent 3A – Flood Protection of Upper Vistula and Cracow as one of the investment elements under the Odra-Vistula Flood Management Project (OVFMP).

The OVFMP Project is implemented using financial resources provided by international financing institutions, including the International Bank for Reconstruction and Development (World Bank) (Loan Agreement no. 8524 PL dated September 10, 2015), Council of Europe Development Bank (CEB) (Framework Loan Agreement No. LD 1866 dated May 24, 2016), European Union Cohesion Fund (IEOP 2014 – 2020) (does not apply for Contract 3A.2), and the State Budget.

The objective of the OVFMP Project is to protect people living within selected areas of the Odra River Basin and of the Upper Vistula River Basin against floods and to improve institutional ability of public

administration to be more efficient in limiting effects of floods. Flood management infrastructure shall be developed as a result of Project implementation, along with related technical measures within three separate areas of Poland: (i) Middle and Lower Odra River Basin; (ii) Kotlina Kłodzka (Nysa Kłodzka River Basin); and (iii) Upper Vistula River Basin.

In terms of acquiring the properties, formal frames of the Project are determined in the Resettlement Policy Framework available at:

[http://odrapcu2019.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://odrapcu2019.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf)

A hard copy may be obtained upon request for review or may be reviewed in the following locations:

- Local PIO office at: PGW WP RZGW in Cracow, 22. Marsz. Józefa Piłsudskiego Str., 31-109 Cracow;
- Office of PCU at: 9. Jaworowa Str., 53-123 Wrocław, and 5. Morawskiego Str., 30-102 Cracow;
- directly in the main Project Office, which would remain a consultation point: AECOM Polska Sp. z o.o., Odra-Vistula Flood Management Project Office, 1. Pokoju Al., Building K1 – 4<sup>th</sup> floor, Cracow 31-548.

Additionally, due to the fact of co-funding the OVFMP by the World Bank, it is necessary to develop a Land Acquisition and Resettlement Action Plan for that Contract and to obtain the “World Bank’s No Objection” for that document, in accordance with operational policy OP 4.12.

#### **4.1 DESCRIPTION OF THE CONTRACT**

The Works Contracts 3A.2/1 and 3A.2/2 under this LA&RAP shall be implemented under the Odra-Vistula Flood Management Project as a part of Contract 3A.2 – Flood Protection in Serafa Valley.

For all of the works under this LA&RAP – comprising development of two flood storage reservoirs Malinówka 1 and Malinówka 2 – it is planned to obtain two separate IPIP decisions – for the Works Contract 3A.2/1 and for the Works Contract 3A.2/2, respectively.

The planned works comprise construction of two small storage reservoirs Malinówka 1 and Malinówka 2 at the Malinówka Stream, in Małopolskie Province, in the District of the City of Cracow and in the District of Wieliczka, in Municipalities of Cracow and of Wieliczka.

The reservoirs shall operate within a cascade formed by five flood storage reservoirs in the Serafa River Basin: two on the River Serafa (the existing Bieżanów reservoir and the planned Serafa 2 reservoir – not included under this LA&RAP) and three on the Malinówka Stream (planned reservoirs: Malinówka 1, Malinówka 2, and Malinówka 3 – the Malinówka 3 reservoir is not included under this LA&RAP).

The purpose of developing the reservoirs in question is a direct improvement of flood protection for areas downstream of each of them, whereas the purpose of developing the entire cascade of five reservoirs is enhancement of flood protection in the Serafa River Valley, and especially for the Złocień Estate and for the Stary Bieżanów Estate in Cracow, where the citizens suffered the most severe effects of flood – they were flooded six times during the flood of 2010.



## Actions requiring the purchase of land

### Works Contract 3A.2/1 related to the construction of Malinówka 1 reservoir

ACTIVITIES REQUIRING LAND ACQUISITION <b>Works Contract 3A.2/1 related to the construction of Malinówka 1 reservoir</b>	# PLOTS PRIVATE LAND <sup>2</sup>	# PLOTS PUBLIC LAND <sup>2</sup>
Construction of a dry flood storage reservoir Malinówka 1 at chainage km 0+231 of the Malinówka Stream, over an area of about 6.2 ha, at NSL 216.50 m a.s.l., with an earth-fill head dam and side dam, spillway and discharge facilities, and a stilling basin	<b>28</b>	<b>50</b>
Development of descend roads from dam crests to the reservoir's bowl and to the adjacent area	<b>2</b>	<b>5</b>
Development of a band ditch along the side dam on the left bank, over a length of about 487 m	<b>15</b>	<b>2</b>
Development of a band ditch along the side dam on the right bank, over a length of about 255 m	<b>0</b>	<b>4</b>
Development of an inflow channel to the spillway and discharge facilities over a length of about 79.4 m at chainage km 0+243-0+323 of the Malinówka Stream	<b>2</b>	<b>4</b>
Development of a discharge channel to the spillway and discharge facilities over a length of about 34.0 m at chainage km 0+183-0+217 of the Malinówka Stream	<b>0</b>	<b>1</b>
Development of measurement spots on the left bank of the discharge channel at chainage km 0+207 and in vicinity of the dry reservoir's backflow at chainage km 0+709	<b>3</b>	<b>0</b>
Development of retaining sheet-piling sectionally replacing the side dam on the left bank of the dry reservoir's bowl over a length of about 16.5 m and the side dam on the right bank of the Malinówka Stream over a length of about 16.0 m at chainage km 0+411 and of about 30.0 m at chainage km 0+508	<b>3</b>	<b>4</b>
Land grading for the Malinówka 1 reservoir's bowl over an area of 4.9 ha, with inclination of 0.5% towards the Malinówka stream	<b>23</b>	<b>39</b>
Development of four islets protecting environmentally valuable trees in the dry reservoir's bowl, over a total area of 0.8 ha	<b>10</b>	<b>6</b>
Removal of the existing Malinówka channel from km 0+183-0+323 of the stream	<b>0</b>	<b>3</b>
Removal of an oxbow-lake of the Malinówka Stream in the reservoir's bowl over a length of about 240 m	<b>2</b>	<b>1</b>

### Works Contract 3A.2/2 related to the construction of Malinówka 2 reservoir

<sup>2</sup> The number of plots does not add up, because some infrastructure elements are being built on the same plots

ACTIVITIES REQUIRING LAND ACQUISITION	# PLOTS PRIVATE LAND <sup>3</sup>	# PLOTS PUBLIC LAND <sup>3</sup>
<b>Works Contract 3A.2/2 related to the construction of Malinówka 2 reservoir</b>		
Construction of a dry flood storage reservoir Malinówka 2 at chainage km 2+279 of the Malinówka Stream, with a flooding zone of about 2.3 ha, and an earth-fill dam, spillway and discharge facilities, and a stilling basin	14	14
Development of a band ditch no. 1 over a length of about 70 m	2	1
Development of a band ditch no. 2 over a length of about 25 m	1	2
Development of an inflow channel at chainage km 2+287-2+453 over a length of about 165.5 m	1	2
Development of a discharge channel at chainage km 2+230-2+264 over a length of about 33.5 m	0	3
Development of a passage through a ford at chainage km 2+246 of the Malinówka Stream	0	2
Development of R1 ditch over a length of about 60 m along the service road no. 1	3	1
Development of R2 ditch over a length of about 74.5 m in the reservoir's bowl, with an outlet to the relocated Malinówka Stream at chainage km 2+342	1	2
Development of P1 culvert with a diameter of $\varnothing$ 500 mm underneath the service road no. 1	1	0
Development of the service road no. 1 over a length of about 242 m, with a U-turn yard on the left bank of the reservoir	5	6
Development of the service road no. 2 over a length of about 72 m, with a U-turn yard on the right bank of the reservoir	0	3
Development of two descend roads to the reservoir's bowl	1	1
Land grading for the Malinówka 2 reservoir's bowl, with inclination of 0.5% towards the Malinówka stream	8	10
Removal of the existing Malinówka channel in section at chainage about km 2+230-2+443	0	3
Removal of a ditch over a length of about 164 m in the dry reservoir's bowl	3	1
Removal of a ditch over a length of about 110 m in the dry reservoir's bowl	0	3
Demolition of concrete elements in the dry reservoir's bowl	2	1

### Actions not requiring the purchase of land

#### Works Contract 3A.2/1 related to the construction of Malinówka 1 reservoir

- Redevelopment of the existing outlet of storm canalization with a diameter of  $\varnothing$  800 mm comprising extension of the existing outlet by about 3.2 m at chainage km 0+189 of the Malinówka Stream;
- Redevelopment of the existing outlet of the ditch draining A4 Motorway, comprising extension of the existing ditch by about 9.6 m at chainage km 0+202 of the Malinówka Stream;

<sup>3</sup> The number of plots does not add up, because some infrastructure elements are being built on the same plots

- Demolition of sanitary canalization in the dry Malinówka 1 reservoir's bowl over a length of about 520 m, and construction of new sanitary canalization over a length of about 653 m;
- Demolition of a water-supply connection over a length of about 35 m at chainage km 0+505 of the Malinówka Stream, and of an individual surface-water-intake in a form of concrete rings with a diameter of  $\varnothing$  1000 mm;
- Redevelopment of high voltage (HV) overhead power lines, including the following:
  - Removal of a section of HV 110 kV line GPZ Biezanów - GPZ Wieliczka over the total length of about 255 m, spanning over the Malinówka Stream over a length of about 16 m at chainage km 0+499, and removal of a post from the reservoir's bowl;
  - Construction of a section of HV 110 kV line GPZ Biezanów - GPZ Wieliczka over the total length of about 250 m, spanning over the reservoir's bowl over a length of about 148 m, over the Malinówka Stream over a length of about 12 m at chainage km 0+499, over the side dam on the right bank over a length of about 20 m at chainage of the dam km 0+779, comprising development of a new HV line's post beyond the reservoir's bowl;
  - Removal of a section of HV 110 kV line GPZ Piaski Wielkie - GPZ Biezanów over the total length of about 261 m;
  - Construction of a section of HV 110 kV line GPZ Piaski Wielkie - GPZ Biezanów over the total length of about 229 m, spanning over the reservoir's bowl over a length of about 182 m and over the side dam on the left bank over a length of about 36 m at chainage of the dam km 0+135, comprising relocation of the HV line's post from the reservoir's bowl to its backwater zone and development of a new HV line's post at the left side dam.

**Works Contract 3A.2/2 related to the construction of Malinówka 2 reservoir**

- Protection of the existing piping outlet with a non-return valve  $\varnothing$  1200 mm;
- Protection of the existing piping outlet with a non-return valve  $\varnothing$  300 mm;
- Liquidation of a pond;
- Liquidation of an inactive water pipe wD80 over a length of about 151 m with three individual surface water-intakes;
- Removal of a section of sanitary canalization ks400 over a length of about 235 m and construction of new sanitary canalization  $\varnothing$  400 mm on the left bank of the reservoir over a length of about 488 m;
- Removal of a low voltage (LV) overhead power line 0.4 kV over a length of about 210 m in the dry Malinówka 2 reservoir's bowl and development of a new LV line beyond the reservoir's bowl.

The Project Implementation Unit (PIU) for the entire Contract 3A.2 is PGW Polish Waters – Regional Water Management Authority in Cracow.

## 4.2 CONTRACT IMPLEMENTATION AREA

The planned Contract 3A.2 is located in Małopolskie Province, within the City of Cracow (District of the City of Cracow, Municipality of Cracow) and within the town of Wieliczka (District of Wieliczka, Municipality of Wieliczka). Detailed information on the location of Works Contracts 3A.2/1 and 3A.2/2 – remaining the subjects of this LA&RAP – are given below.

### Works Contract 3A.2/1

#### Malinówka 1 Reservoir

The planned small storage Malinówka 1 reservoir is located within the City of Cracow, and its area is limited with the following public roads: A4 Motorway, Mała Góra Street, Szastera Street, and Ned Serafą Street. On the west it reaches the area of Wielicka Street, and on the east – developed areas on the western side of the railway line, underneath which the Serafa River flows, including its tributary Malinówka Stream. The entire area remains a natural depression in relation to the surrounding areas. The Malinówka Stream has a regulated channel over the entire length of the analyzed area.

The area of Works Contract 3A.2/1 is formed by farmland and meadows with buffer strips (shrubs and groups of trees). Currently (in accordance with excerpts from the EGİB) there mainly are the following: permanent meadows (łII, łIII) and arable land (RIIIb, RIVb), but also roads (dr) and grounds underneath flowing surface water, what has been confirmed by a site visit.

Location of the Works Contract 3A.2/1 is presented on a drawing give below.



Figure 1. Location of the Works Contract 3A.2/1 – Malinówka 1 Reservoir

(source: own materials)

## Works Contract 3A.2/2

### Malinówka 2 Reservoir

The planned small storage Malinówka 2 reservoir is located at the boundary of the City of Cracow and the town of Wieliczka. It comprises a part of the Malinówka Stream on the western side of the Krzyszkowicki Forest, just downstream of the A4 Motorway.

The area of Works Contract 3A.2/2 is formed by farmland and meadows with buffer strips (shrubs and groups of trees). Currently (in accordance with excerpts from the EGİB) there are the following: permanent pastures (PsIII, PsIV, PsV), afforested and shrubbed land (LzIV) and arable land (RIVb, RV, RVI), permanent meadows (łIV, łV), roads (dr), ditches (W), wasteland (N) and grounds underneath flowing surface water (Wp), industrial areas (Ba) and residential areas (B), what has been confirmed by a site visit.

Location of the Works Contract 3A.2/2 is presented on a drawing give below.



Figure 2. Location of the Works Contract 3A.2/2 – Malinówka 2 Reservoir

(source: own materials)

### 4.3 LAND USE (ACCORDING TO SITE VISIT AND AVAILABLE DATA)

#### Works Contract 3A.2/1

##### Malinówka 1 Reservoir

The area acquired for the contract is mainly formed by meadows and unused farmland grown with grass, shrubs and self-sown trees. Furthermore, in the contract area there is the Malinówka Stream revetted with gabion mattresses, and a dirt road runs in vicinity. An oxbow lake of the Malinówka Stream – left after relocation of the Malinówka channel due to the development of A4 Motorway – is also located in the bowl of the designed reservoir. Areas with valuable specimens of oaks are placed within the reservoir's bowl. The Contract is located at the passage of three HV 110 kV lines: GPZ Piaski Wielkie - GPZ Bieżanów, GPZ Bieżanów – GPZ Wieliczka, and GPZ Bieżanów – GPZ Skawina Elektrownia [Power Plant]/GPZ Płaszów; thus, it would be necessary to redevelop the facilities in question within the framework of planned works.

The previous use method for land acquired for the purpose of the contract is given in the table below.

Use type - Malinówka 1	Area [%]
ł permanent meadows	65.44%
R arable land	10.67%
W water	4.23%
Wp flowing water	9.50%
Br, B construction grounds	0.46%
dr roads	9.68%
<b>Total</b>	<b>100.00%</b>

#### Works Contract 3A.2/2

##### Malinówka 2 Reservoir

The area acquired for the Contract is mostly formed by unused farmland, meadows and pastures grown with grass, shrubs, and self-sown trees. Krzyszkowicki Forest is located on the right bank of the Malinówka stream. Furthermore, the Malinówka channel – revetted with hollow-core slabs – and amelioration ditches are located within the contract area. The bowl of the designed reservoir is crossed by a dirt road, which provides access to the existing outlets of the piping Ø1200; thus, it would be necessary to redevelop the facilities in question within the framework of planned works.

The previous use method for land acquired for the purpose of the contract is given in the table below.

<b>Use type - Malinówka 2</b>	<b>Area [%]</b>
R arable land	19.53%
S orchards	5.04%
Ł permanent meadows	0.70%
Ps permanent pastures	12.34%
W grounds underneath surface water, Wp flowing water	39.54%
dr roads	6.93%
N waste land	1.71%
Br construction grounds	0.85%
Lz afforested and shrubbed areas	2.05%
E-Ls ecological use	11.31%
<b>Total</b>	<b>100.00%</b>

#### 4.4 ISSUED ADMINISTRATIVE DECISIONS

- Decision on environmental conditions dated October 29, 2012 of the Regional Director for Environmental Protection in Cracow (ref. no.: OO.4233.13.2012.BM.) for the planned construction of five dry small storage reservoirs in the Serafa river basin (reservoirs: Bieżanów, Serafa 2, Malinówka 1, Malinówka 2, and Malinówka 3), including two reservoirs subject to this LA&RAP;
- Resolution dated October 3, 2018 of the Regional Director for Environmental Protection in Cracow (ref. no.: OO.4220.5.10.2018.BM) on the phased implementation of the Investment;
- Resolution dated September 12, 2019 of the Regional Director for Environmental Protection in Cracow (ref. no.: OO.4220.5.28.2019.BM) on changing the mileage marking of the Investment without changing its location;
- Resolution dated September 16, 2019 of the Regional Director for Environmental Protection in Cracow (ref. no.: OO.4220.5.29.2019.BM) clarifying doubts as to the content of the decision on environmental conditions relating to power lines;
- Water law permit dated March 5, 2020 of the Minister of Maritime Economy and Inland Navigation (ref. no.: DOK.DOK3.9700.71.2019.KP, PW: 116930) for investment named „Construction of a small dry flood storage reservoir: Malinówka 1 Reservoir at the Malinówka Stream”;
- Water law permit dated March 5, 2020 of the Minister of Maritime Economy and Inland Navigation (ref. no.: DOK.DOK3.9700.72.2019.KP, PW: 116963) for investment named

„Construction of a small dry flood storage reservoir: Malinówka 2 Reservoir at the Malinówka Stream”.

Decision on Environmental conditions has been issued for the previous Investor – Marshal of Małopolskie Province – in the name and on behalf of which the Małopolski Board of Amelioration and Hydraulic Structures in Cracow acted. From January 1, 2018, based upon the Act of July 20, 2017 Water Law, State Water Holding Polish Waters, Regional Water Management Authority in Cracow operates, overtook rights and liabilities associated with implementation of the Contract 3A.2. The resolutions connected with Decision on environmental conditions and water law permits were obtained for the target Investor implementing the Contract in question.

#### **4.5 LEGAL CHANGES RELATED TO THE INVESTOR STATUS**

The act of July 20, 2017 Water Law came into force on January 1, 2018, and it modified e.g. the previous structure of units, and water management rules. New provisions were enacted mainly to fully implement the Water Framework Directive into the Polish legislation. State Water Holding Polish Waters, which shall completely manage widely understood issues associated with water management in Poland, including investments, was created to replace the previous governmental administration structures, which were formed by the National Water Management Authority and subordinate regional water management authorities remaining territorial units, and by Provincial Boards of Amelioration and Hydraulic Structures placed within the local authorities' structure. The Polish Waters are a state legal person in accordance with Article 9 (14) of the Act of August 27, 2009 on the public finances.

The Polish Waters comprise the following organizational units: National Water Management Authority with its office in Warsaw, regional water management authorities, catchment boards, and water supervision units. A detailed catalogue of liabilities and rights, including division of competences between particular units has been determined under Article 240 of the Water Law Act.

The legislator regulated in Article 536 of the Act of July 20, 2017 Water Law issues related to transferring the rights and liabilities under agreements (including agreements financed or co-funded using resources coming from foreign sources) and decisions associated with contracts to be implemented on public waters owned by the State Treasury and with basic amelioration facilities priorly developed by regional water management authorities, provinces, province marshals or proper provincial organizational units, to the Polish Waters. It shall be indicated that all dues, liabilities, and rights and obligations of the previous State Water Management Authority and of regional water management authorities became dues, liabilities, rights and obligations of the Polish Waters. There was therefore a legal general succession from regional authorities to the Polish Waters.

Tasks described under this LA&RAP were implemented until 12/31/2017 by the Marshal, in the name of which Małopolski Board of Amelioration and Hydraulic Structures in Cracow operated, and from 01/01/2018 they are implemented by the State Water Holding Polish Waters, which – as



stated above – is a legal entity and executes ownership rights in the name and on behalf of the State Treasury. The Regional Water Management Authority in Cracow is an internal organizational unit of Polish Waters and acts in the name and on behalf of PGW WP as the Project Implementation Unit at implementation of the Tasks in question.

The legal changes described above do not affect existing provisions concerning the acquisition of properties, determining the form and amount of compensation and the payment of compensation.

The acquisition of properties is based on the provisions of the Special Flood Act and the Act on Property Management.

Instruments correcting inconsistencies between OP4.12 and Polish law are described in detail in Chapter 8.3 Adopted mechanisms for acquiring rights to properties.

Final version

## 5 Primary Principles Adopted in the LA&RAP

This LA&RAP is to document the planned process of obtaining land and to assess if it meets the requirements under OP 4.12, or are there any gaps, which need to be filled.

In accordance with the World Bank policy, unless necessary mitigating and preventive measures are planned and implemented, real property acquisition may create and strengthen social inequalities, cause social exclusion and result in permanent environmental damage. Therefore, the principles below have to be followed in the design and implementation of the land acquisition and resettlement process:

1. Permanent real property acquisition shall be minimized or avoided where possible. Where permanent acquisition is unavoidable, one shall follow the procedures and requirements outlined in this LA&RAP which concern mitigating the impact of real property acquisition on the affected parties.
2. The expropriation procedures shall improve the people's living conditions, and shall at least restore them to the level present prior to implementation of the contract.
3. All Project Affected Persons shall participate in social consultations on equal terms and the needs of particularly vulnerable groups shall be taken into account. They shall also be offered a possibility of participation in the Contract development process and access to grievance redress mechanisms. Public consultations shall include the needs of particularly vulnerable groups, as well as those resulting from the gender personality of participants.
4. Project Affected Persons have access to honest, fair and inexpensive proceedings of their appeal to an independent authority or court without intentional delay if enforced.
5. All cases of real property acquisition, either permanent or temporary, shall undergo procedures based on Polish law and OP 4.12. LA&RAP is in compliance with LARPF (see: [http://odrapcu2019.odrapcu.pl/doc/OVFP/Resettlement\\_Policy\\_Framework.pdf](http://odrapcu2019.odrapcu.pl/doc/OVFP/Resettlement_Policy_Framework.pdf)).
6. The LA&RAP is related to permanent or temporary acquisition of real properties, and also to permanent or temporary restriction of use of the properties, especially resulting in the loss (temporary or full) of income sources or in deterioration of life standards.
7. The implementation of the LA&RAP shall be monitored and reported and, after its completion, evaluated by the World Bank.
8. The process of social participation as well as protective and mitigating measures shall be carried out in accordance with the necessity of fair treatment regardless of age, ethnic origins, sex or disability of Project Affected Persons. Particular attention shall be paid to the households with members/member belonging to particularly vulnerable groups.
9. The LA&RAP and plots occupation is an integral part of the Works Contract. All costs connected with the necessity of planning and implementing the compensation measures shall be included in the budget as well as the benefits of the Contract.
10. Compensation for Project Affected Persons on whom the Contract has an economic impact shall be paid in principle prior to starting the construction works on the real property undergoing expropriation.

11. Within the framework of compensation measures, in accordance with World Bank policies, priority shall be the “land-for-land” compensation through allocation of properties with an equivalent productive potential and location.

Payment of cash compensation for lost assets may be appropriate where livelihoods are land-based but the land acquired for the Contract constitutes a small fraction<sup>4</sup> of the affected asset and the remainder is economically viable or PAPs’ livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost on local markets.

Cash compensation will also apply wherever persons economically affected by the effects of the Project are willing to receive cash compensation and where there is no appropriate replacement property.

Socio-economic studies done show that acquisition has mostly insignificant or negligible impact on revenue of households of owners of the acquired properties.

12. Project Affected Persons mostly informed during the socio-economic survey a will of receiving cash compensation, due to small area of acquired properties, lack of their agricultural and non-agricultural use or lack of impact on income of households.
13. For the persons who have indicated a form of "land for land" compensation, an attempt will be made to obtain suitable replacement properties.
14. The Contractor shall obtain the land for temporary acquisition on its own, in a range wider than given in the IPIP, and – while negotiating the temporary acquisition conditions for the properties – it shall observe the rules determined under this LA&RAP (the process will be monitored by the PIO and by the Consultant and shall be performed on a voluntary basis and in accordance with rules specified in the agreement concluded between the property owner and the Contractor for works). Template of an agreement is given in Appendix no. 9.
15. The Contractor shall agree and provide the Investor with information related to all agreements concluded for temporary acquisition. Temporary acquisition of properties for implementation of the Contract is possible only with voluntary consent of the property owner. Prior to the temporary acquisition of the property, the Contractor shall perform a detailed inventory and shall develop photo documentation for the aforementioned property, and after its completion the properties shall be restored to their original state or to the condition determined in the agreement, and returned in a good condition so as to enable their owners or users to use those properties in the same manner as before Contract implementation.
16. Permanent restrictions in the use of the properties, as indicated in the IPIP decision, will, as a rule, be compensated in cash. The amount of compensation will take into account the loss of market value of the property. At the request of PAPs, the property on which a permanent restriction in use will be imposed will be purchased, and PAPs will receive compensation on the terms specified for permanent loss of the property.
17. The agreed obligation to reconstruct the existing land development network, as set out in the IPIP Decision (**temporary** restriction in use), will, in principle, be compensated in the form of cash. The basis for determining the amount of such compensation will be valuation

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<sup>4</sup> As a general principle, it may be applied if the land acquired constitutes less than 20% of the total productive area.

reports prepared by independent experts acting at the Investor's expense, payment of such compensation will be made on the basis of a written agreement between the Investor and PAPs. If there is no consensus between the parties as to the amount of compensation, PAPs will be entitled to an appeal mechanism.

18. All PAP, without regard to the legal title to the real property, shall receive support of various types, as per the principles set out in the Matrix of Compensation Measures included in this LA&RAP. Lack of a legal title to the real property should not be a bar to receiving compensation and/or a different type of support. Detailed principles of real property acquisition, social participation and mitigating, protective, preventive and compensation measures shall be established in this LA&RAP.

The LA&RAP shall be updated as necessary when the Works Contract progresses and new factual or legal circumstances emerge.

The ex-post evaluation will be conducted six months after the LA&RAP is fully implemented and its objectives will be assessed and it shall provide documented evidence that directly impacted PAPs have successfully established a standard of living equal to, or better than, pre-contract levels.

Final version

## 6 Impact Mitigation

### 6.1 SOCIAL IMPACT

Under OP 4.12, social impact related to expropriation includes all direct economic and social losses stemming from real property expropriation as well as from permanent restriction of the former manner of use or of the access to the real property. Thus, the primary criterion of assessing the significance of social impact shall be the percentage ratio of the entire real property to its expropriated part. One shall also take into account the data obtained during a socio-economic survey.

The following criteria compliant with OP 4.12 were adopted to assess the social impact for the purposes of this LA&RAP:

- secondary impact: for farms, this is an impact exerted by an acquisition of less than 10% of the household production area or resources, without physical relocation. For other real properties, such impact is exerted by a loss of less than 20% of the land or resources, without physical relocation;
- significant impact: for farms, this is an impact exerted by a loss of more than 10% of the household production area or resources, or by a real property division line running in a manner preventing agricultural/orchard production on that real property. For wastelands and non-agricultural real properties, such impact is exerted by a loss of more than 20% of the land. Note: this does not apply to cases where PAP in socioeconomic surveys indicated that the loss of more than 20% of land does not affect their standard of living.

For the introduction of the division into significant and secondary impact, the value of 10% was adopted, in accordance with the World Bank Operational Policy, because for some inhabitants running agricultural farms the loss of 10% and more of the farm's production area shall result in some restriction of income from agricultural fields; it shall not, however, exert substantial impact on economic profitability of the farm due to the areal structure of the farm.

Simultaneously, local specificity of the location of expropriated real properties should be taken into consideration.

Therefore, the socio-economic study covered those households located or owning properties in the investment area, where the acquisition covers more than 10% of the original area of the plot and more than 100 m<sup>2</sup> is acquired (areas up to 100 m<sup>2</sup> can hardly be considered as generating income that constitutes the possibility of ensuring the household sustenance).

#### **Occurrence of significant impact**

In the case of areas owned by Communes and the State Treasury, the impact was considered insignificant because the acquisition of a property from these entities does not have a significant impact on their situation and functioning.

There are no impacts related to the necessity of physical relocation of households or farms for the planned Contract.

There are no significant impacts on PAPs in connection with the performance of the Contract. There is no physical or economic resettlement. Impacts associated with the Contract have been assessed to be insignificant in all cases.

PAPs spoke positively about the contract implementation, which will increase flood safety in Cracow and Wieliczka.

The main issues raised by the respondents during the survey were: leaving part of the property, which was small in size and unfit for further use, and in cases of permanent or temporary restrictions in the use of the property, concerns that the property would not be restored to its original condition after the completion of construction works. During the survey the PAPs have already been informed by the surveyors about a right to submit applications for the purchase of "remnants" and about the Contractor's obligation to restore the original condition of the property or the status compliant with provisions of the concluded agreement (in case of temporary acquisition) or the status compliant with indications under the Construction Design (in case of permanent restriction in the use of properties), and about the related necessity of relevant compensation payment. Those issues have been discussed during public consultations, and they have been considered in the information brochure issued.

Impacts on individual households are described in Appendix no. 2 List of properties, owners and impacts.

## 6.2 MITIGATION MEASURES

1. The design works are carried out in such a way as to minimize the number of plots necessary to acquire.
2. The amount of compensation for lost properties (both cash compensation and in the form of "land for land") will be determined by agreement, based on estimates prepared by independent property valuers or by decision of the Governor of Malopolska Region. The valuation constituting the basis for determining the amount of compensation will be reliable, objective and independent, so that the current owner receives a price for the property corresponding to the actual loss, and thus minimizes the negative impact of the loss of property ownership on their financial situation. The amount of compensation will be determined according to the definition of the property price.
3. Priority within the framework of compensatory measures will be given to compensation on the basis of "land for land" by granting a property of the similar production potential and location. Cash compensation will be applied where the property acquisition or part of it does not affect the possibility of using the property for existing purposes, as well as where the person economically affected by the Contract is willing to receive cash compensation, and in cases where there is no property on the market with similar production potential and market value, which makes it impossible to make compensation on the basis of the "land for land" principle.
4. For the persons who have indicated a form of "land for land" compensation, an attempt will be made to obtain suitable replacement properties.

5. Any cost associated with implementation of measures mitigating and compensating adverse impact are included in the OVFM Project cost as eligible expenses.
6. The Investor has prepared an information brochure, which is attached as Appendix No. 8. Its aim is to provide PAPs with the most important information on the rules of purchasing the properties for the purposes of Contract implementation, on the rules of determining and paying compensation for the expropriated properties and on the possibilities of lodging complaints, comments and motions in connection with the planned Contract implementation.
7. Within the information campaign, PAP shall also be informed (information leaflet forming Appendix no. 8) about the possibility of applying for purchase of the remaining part of the real property, i.e. the so called "remnant", if the remaining part is not fit for use for its former purposes after real property division and acquisition of its part for the Contract implementation (under Article 23 (2) of the Special Flood Act). During the socio-economic research the owners, who were interested in purchasing a part of properties left after expropriation, were informed about a procedure for the purchase of "remnants", as described under this LA&RAP in Clause 8.2.4. Where parts of properties left after the expropriation would not allow for use for previous aims in accordance with the purpose of properties (so-called "remnants"), the Investor – after completing an analysis in that scope – shall purchase those properties through a civil law agreement, in accordance with a procedure described under this LA&RAP (Chapter 8.2.4).
8. As part of the information campaign conducted during the course of the socio-economic study, PAPs were informed (in accordance with the right under Article 21 (7) of the Special Flood Act) that for the existing owner or perpetual usufructuary of the property covered by IPIP who releases the property not later than within 30 days from the date of delivery of the IPIP notification, the amount of compensation is increased by an amount equal to 5% of the value of the property or the value of the right of perpetual usufruct, on the terms specified in the Special Flood Act. In addition, the Investor will provide PAPs with the forms of the property release protocols and will provide necessary explanations in this respect.
9. Property owners benefiting from EU financial support (direct subsidies and agri-environmental schemes) were informed about the obligation to report the reduction of the area of land on which they farm. This fact should be reported to the District ARMA Office Manager in writing together with relevant evidence (in the analyzed case it will be a copy of the IPIP decision) within 15 working days counted from the day on which he/she or a person authorized by him/her is able to perform this action (in the case of RDP 2007-2013 and 2014-2020 this period is 10 working days) about the occurrence of force majeure and change in the subsidized area. This information is also contained in a brochure addressed to PAPs prepared as part of the information campaign (Appendix no. 8).
10. The Investor, if necessary, will provide assistance to PAPs in preparing applications to the ARMA concerning the occurrence of "force majeure" in the event of expropriation of properties covered by the subsidies (depending on the needs, preparation of applications, preparation of attachments).

11. The Investor, if necessary, will provide assistance to PAPs in preparing map attachments to the applications for purchase of "remnants".
12. Due to implementation of the Contract it may be necessary for the Contractor to temporarily acquire real properties (with its own effort and upon its own cost), in a range wider than given in the IPIP (e.g. acquisition for construction backyard and for storage of soil and other construction materials). The scope and target locations of temporary acquisition shall be determined after selection of the Contractor. The Contractor – while negotiating the conditions for temporary acquisition of properties – shall observe the rules determined under this LA&RAP (the process shall be voluntary). The negotiations and agreements between the Contractor and the property owner referring to the temporary acquisition shall be monitored by the PIO and by the Consultant to assure fairness of the agreement and favorable nature for the landowner. A template agreement is given in Appendix no. 9.
13. The construction facilities will be located in a way that will have the least possible impact on the quality of life of the residents, if possible within the splitting lines of the Contract area. Additional areas considered as working areas which are located outside the construction site will require agreement with the Investor.
14. Prior to the commencement of works, the Investor will conduct an information campaign about the planned execution of the Contract and launching an information point for persons affected by the Contract impact, where they will be able to submit their applications and comments to the performed construction works and planned acquisition. An information brochure will be prepared and sent to all persons covered by the impact of the contract, including information on the possibility of lodging complaints (in accordance with the provisions of LA&RAP) and providing the contact details.
15. PAPs will be notified about the physical commencement of works by the Investor in advance, which will allow the completion of properties' management, but not less than 30 days. The Investor may agree to extend the deadline if the change does not collide with the Works implementation schedule.
16. In the case of plots on which agricultural activity is carried out, the plots will be released after the harvesting period of the current crops in the given growing year for the given crop. If the crops are not harvested, the cash equivalent will be paid.
17. In case that the negotiations between the Investor and the owner/perpetual usufructuary of the property (regarding the amount of compensation) fail, pursuant to Art. 20 paragraph 2 of the Special Flood Act, the case is handed over to the Governor. The Governor will determine the amount of compensation by way of a decision. Regardless of the above, the Investor shall propose PAP with payment of compensation for expropriated property in the amount of 70% of the property value defined in the estimate developed upon the Investor's order, regardless of the administrative proceeding establishing the compensation amount in progress. Payment of the undisputable portion of compensation shall be done based upon an agreement between the PAP and the Investor. If the compensation value determined under the administrative decision would be higher than the compensation proposed by the Investor, the remaining portion of compensation (up to the amount established in the decision) shall be accounted and paid to the PAP after



the decision would get final. It is important that accepting the portion of compensation proposed by the Investor would not mean accepting the amount of compensation established in the estimate developed upon the Investor's order, and it would not affect the case in progress on the amount of compensation for the expropriated property.

18. In case the PAP would not accept the value of compensation indicated by the Governor, the PAP is entitled to claim against that decision to the Minister responsible for civil engineering (as at the date of the final version LA&RAP preparation, the Minister of Development, Labor and Technology), and at the written request of a party to payment of undisputable portion of the compensation, i.e. the amount indicated under the discussed decision of the Governor (Article 21 (11) of the Special Flood Act.
19. Any expropriated person will be entitled to use the land in its current manner free of charge until the compensation is obtained or (in case of failure to reach agreement on the amount of compensation) its undisputed part.
20. For the duration of the works, investment supervision will be provided in consultation with the owners of the infrastructure network. The owners of these networks will be notified in advance by the Contractor of the date of commencement of the works.
21. Prior to the temporary acquisition of the property, the Contractor shall perform a detailed inventory and shall develop photo documentation for the aforementioned property.
22. The properties to be temporarily acquired shall be restored to their original condition or to the condition determined in the agreement after completion of the works and returned in a good condition in order to allow their owners or holders to use those properties in a way they did prior to implementation of the Works Contract or in accordance with a statement of agreement. The PIO and the Consultant shall monitor the reinstatement of the site to the good condition or a contractually agreed temporary acquisition to ensure that the Contractor complies with this requirement.
23. Previous access to all land properties formed after splitting shall not be deteriorated during the works associated with the development of dry flood storage reservoirs.
24. On leaving the construction site, stands for washing of car wheels and wheels of machines leaving the construction site will be provided. The works Contractor is obliged to remove periodically the pollutants produced on roads as a result of the traffic of vehicles and machines connected with the planned construction. This will reduce the impact on road infrastructure.
25. In the event of permanent restrictions in the use of the property, the owner or perpetual usufructuary, who considers that the property is useless, may request its purchase under civil law by filing a request within 90 days from the date of notification of the initiation of the proceedings for issuing the IPIP, in accordance with Article 22 (2) of the Special Flood Act (purchase cannot be requested by the owner of the property on which the public roads are located, i.e. a local government unit or the State Treasury).The purchase price will constitute the appropriate value of the property of similar potential and purpose.
26. Assistance for the PAPs in splitting of mortgage units. Advising in the scope of: (I) choosing the best procedure for particular legal situation of the PAP after an initial examination of

the legal status of mortgage unit, (II) support in actions associated with: commencement of proceedings for establishment of boundaries or for splitting the properties, especially in the range of requirements for contents of motions; establishing parties of the proceeding; selection of a certified surveyor; advising on contents of splitting documentation developed by the certified surveyor, including examination of bases for establishing the boundaries, as required by provisions of the PGiK, (III) eventual assistance at submission of a motion to institute legal proceedings.

27. A wider description of measures mitigating and minimizing adverse impact, including ones referring to valuable environmental resources, is given in the document titled: Environmental Management Plan for the Contract 3A.2 – Flood Protection in Serafa Valley, Works Contract 3A.2/1 Flood protection in Serafa Valley – Malinówka 1 reservoir and Works Contract 3A.2/2 Flood protection in Serafa Valley – Malinówka 2 reservoir.

Final version

## 7 Socio-economic Survey

### 7.1 SOURCES AND METHODOLOGY

The socio-economic survey was conducted by the legal, properties and procurement team located in the structure of the Consultant responsible for developing this LA&RAP.

The basic source of information on the development and use of the real properties to be acquired is the analysis of GIS data, written extracts and outlines from the land and building register, maps for designing purposes, mortgage register data, information obtained from Geoportal, as well as verification on the Contract implementation site. Legal titles or claims related to acquired properties were identified based upon data taken from EGIB, land and mortgage registers, and other documents available at the development of LA&RAP. The presence of the infrastructure was established on the basis of the analysis of GIS data and design documentation (including maps for design purposes).

In case of social impact the basic data source were data obtained based upon available registers (e.g. business register, National Court Register), and data obtained based upon visits on Contract implementation site.

The main source of data in this analysis is the results of field test done by the Consultant in October 2019 among representatives of households owning properties located within the Contract area. The study covered all households located or having properties in the Contract area, in case of which more than 10% of the original plot area is to be taken over and the acquisition exceeds 100 m<sup>2</sup> (it is difficult to consider areas of up to 100 m<sup>2</sup> as generating income and being able to ensure the existence of a household).

A summary of households comprised by the socio-economic survey was determined based upon criteria resulting from the World Bank's policy OP 4.12. Additionally, the survey covered those households, which own several properties to be expropriated.

The survey also included data obtained based upon visits at the Contract site and statistic data provided by the CSO and materials published in the Internet.

Standardized questionnaire interviews constituted the data gathering method. Answers to all questions were taken down and they were used to prepare this analysis.

The survey questionnaire was developed based on the guidelines of the World Bank's operational policy OP 4.12 and included a request to indicate and discuss in detail all the socio-economic costs associated with the Contract by the representatives of the households.

#### 7.1.1 Problems

Three categories of issues, which effected in disability to collect complex data from representatives of households affected by the Works Contract, were identified during the site survey. All of them were discussed below.

**Interview completed without answering vulnerable questions.** Most of representatives refused to take part in full questionnaire interview, and informed inadequacy of that interview in their case

as a reason. The respondents did not see a reason for provision of information on the number of people in their households, age, education and professional activities, and particularly income. In the opinion of respondents that information did not have any relation with expropriation procedure and payment of compensation. However, those people provided the most information on the character and method of using the plots covered with expropriation procedure, which were sufficient for the purpose of analysis.

**Interview not completed, along with obtaining information on the current use of the property.**

Some of the respondents indicated in EGiB as owners of properties intended for expropriation are dead. In such cases, the surveyors did not conduct a full interview, but due to the lack of a legally valid group of heirs of the plot, encouraged to initiate inheritance proceedings, and to settle the legal status of the property, in order to allow for obtainment of compensation for the property or its part acquired on behalf of the State Treasury. In addition, information was obtained on how the land with unregulated legal status is managed.

**No possibility of reaching the respondent.** Another issue identified during the survey was inability to reach the owner. The reason was outdated or incorrect address data contained in Register of land and buildings (EGiB) or the respondent's permanent absence at the indicated address.

### 7.1.2 Summary of and conclusions on the socio-economic survey done

Socio-economic studies began with the presentation to PAPs of the proposed divisions of the properties owned by them with indicating the parts and areas of properties to be acquired on behalf of the State Treasury. The rules of taking over the properties and the procedure of determining the amount of compensation were discussed. It was also informed that it was possible to obtain additional 5% compensation for the release of the property in due time.

It was additionally advised that any expropriated person will be entitled to use the land in its current manner free of charge until the compensation is obtained or (in case of failure to reach agreement on the amount of compensation) its undisputed part.

None of the property owners indicated during the survey that financial support in the form of EU subsidies is applied.

The PAPs were informed about the compensation they are entitled to for permanent or temporary restrictions in the use of properties (to the extent indicated in IPIP, which would be issued by the Governor) and about the manner of determining the amount of compensation, which will be based on a valuation made by an independent valuer.

Additionally, the PAPs, on whose properties permanent restrictions in the use of the property are to be imposed, were explained that each owner or perpetual usufructuary, who considers that the property is useless, may request its purchase under civil law by filing a request. The purchase price will represent the appropriate value of the property of similar potential and purpose, i.e. with a replacement value (purchase cannot be requested by the owner of the property on which public roads are located, i.e. a local government unit or the State Treasury).

Questions arose during site surveys and accompanying consultations about the purchase of the remaining parts of properties, which were not planned to be taken over by the State Treasury, and those which would be unfit for further use due to their small size.

Respondents also asked about the properties directly adjacent to the future construction site, but not included by the expropriation procedure.

In connection with the questions referred to above (8 cases), the Consultant explained the procedure of purchasing "remnants", acquiring properties in the scope of temporary acquisition by the Contractor, including the need to restore these plots of land after the completion of the works to the original state or the state specified in the contract and return them in good condition.

The survey done proved that the most of respondents is highly interested in and supports the soonest possible implementation of the contract.

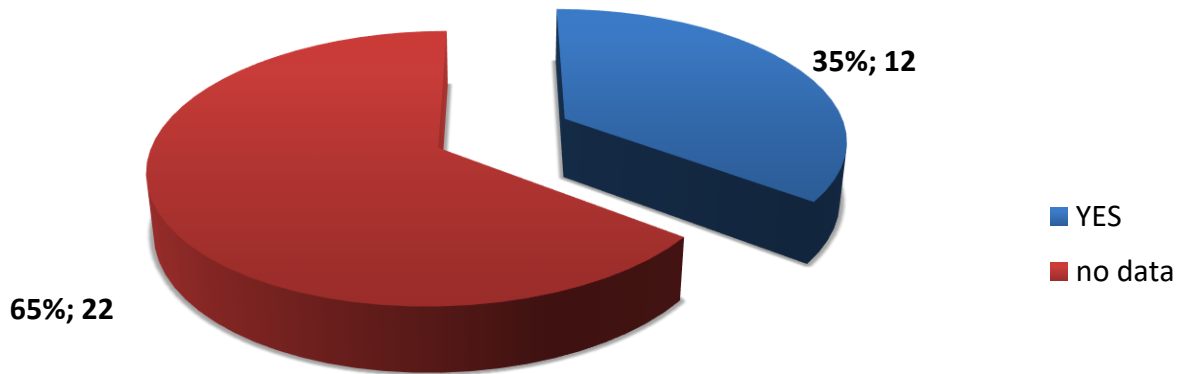
However, representatives of the analyzed households informed that the planned expropriation related to the loss of:

- recreation sites, which have been used for individual needs of the PAPs (2 cases) – after developing the dry reservoir the bowl shall also be available for recreational purposes for anyone who would like to apply that space as a public place;
- land (unused, but remaining a physical form of capital investment), which is a financial resource in one case. The PAP is however interested in payment of cash compensation.
- in one case the owner stated that he has consent for development of a house dated 2005. Simultaneously the PAP did not inform that he has commenced the development, what allows for supposing that in accordance with Construction Law Act the decision has expired after 3 years from the day the decision became final, as according to the Construction Law – Article 37 (1):

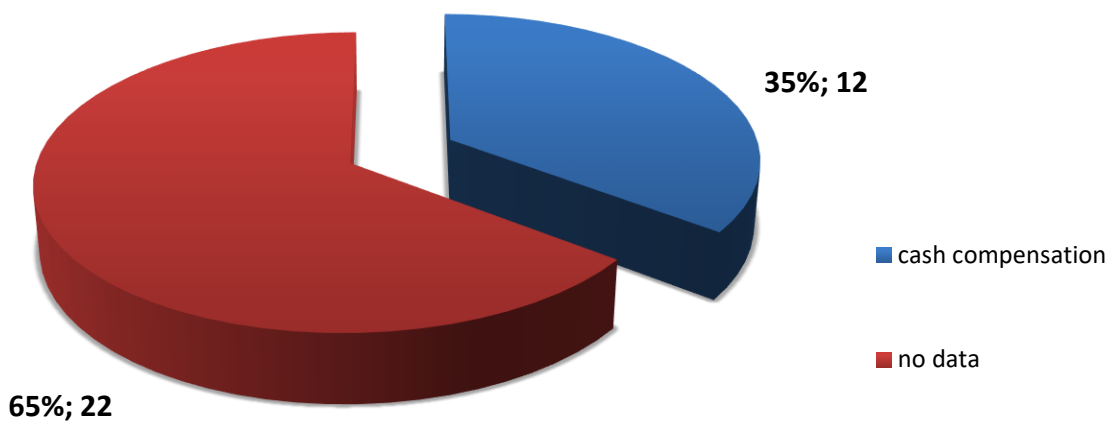
*“A decision on development consent expires if the construction process has not been commenced within 3 years from the day the decision became final or if the construction has been stopped for more than 3 years.”*

However, all of the respondents confirmed during the survey – despite the aforementioned reservations – that they are satisfied with the planned contract improving flood protection in the area and that they prefer cash compensation.

### Do you support the flood protection investment which is the implementation of the "Odra-Vistula Flood Management Project"?



### Compensation form



## 7.2 SOCIAL AND ECONOMIC DATA

### 7.2.1 Land use

The Contract area covering approximately 11.7646<sup>5</sup> ha is located on 129 plots of land located within two communes, i.e.: Cracow – city on district rights (register unit Podgórze – areas no. 99 and 100), and the commune of Wieliczka (register unit Wieliczka 3).

The area intended for the development of 2 dry flood storage reservoir is grown with trees and shrubs, it often is farmland not used for many years, which has been proved during site visits. An

<sup>5</sup> The final scope of permanent acquisition and restriction in the use of properties shall be determined in IPIP decisions.

oxbow lake and an ecological use land are located within remaining areas designated for the contract. Developed land properties are located in the direct neighbourhood of the contract area, and they will most experience the troublesome construction works, noise and other related factors, however, due to the application of measures mitigating and minimizing (described in the EMP) adverse impacts, the implementation of the Contract will not cause disturbances in the daily functioning of these households.

It was established based on the socio-economic studies that the land intended for the Contract implementation is not used for farming for a long time, and only in one case the owner stated that the property is subject to a long-term investment in a form of financial security (capital investments).



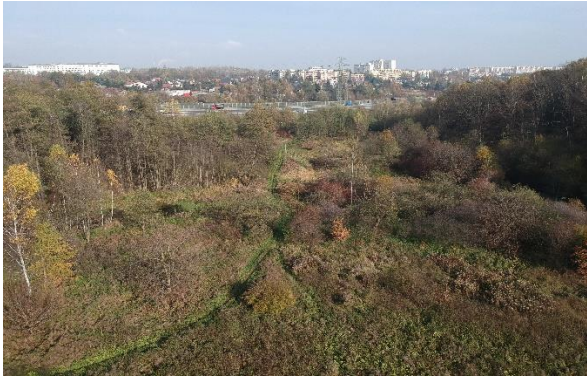
*Photo no. 1: Works Contract 3A.2/1, Malinówka 1– investment implementation site – Source: own materials*



*Photo no. 2: Works Contract 3A.2/1, Malinówka 1– investment implementation site – Source: own materials*



*Photo no. 3: Works Contract 3A.2/2, Malinówka 2– investment implementation site – Source: own materials*



*Photo no. 4: Works Contract 3A.2/2, Malinówka 2– investment implementation site – Source: own materials*



*Photo no. 5: Works Contract 3A.2/2, Malinówka 2– investment implementation site – Source: own materials*



*Photo no. 6: Works Contract 3A.2/2, Malinówka 2– investment implementation site – Source: own materials*





**Figure 3. Location of the Works Contracts 3A.2/1 and 3A.2/2 on an orthophoto map**

Source: own materials

### 7.2.2 Public services

The Contract area runs along the Malinówka Stream in Cracow in the district of Podgórze up to the town of Wieliczka. The contract site is located in vicinity of residential areas, as well as forest areas, and runs in the neighborhood of A4 Motorway and the railway line.

In the area to be acquired, as well as in its direct vicinity, there are no public utility objects.

Due to the lack of physical and economic resettlement of households of owners whose properties will be transferred to the State Treasury, the performance of works does not in any way limit the access of plot owners to public utility facilities.

### 7.2.3 Cultural and historic object

There are no cultural or historic objects in the area to be acquired or in its direct vicinity.

Due to the lack of physical and economic resettlement of households of owners whose properties will be transferred to the State Treasury, the performance does not in any way limit the access of plot owners to cultural and historic objects.

#### 7.2.4 Gender Equality

Discrimination is legally banned in Poland, and it is determined in the Constitution of 1997. Article 32 states that no one shall be discriminated against in political, social or economic life for any reason whatsoever. Discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women of 1979).

While willing to become a member of the European Union, Poland needed to adapt its law to valid EU regulations, also in the scope of gender equality. It mainly resulted in adjustments to the labour codex, but also in modification of politicians' and public administration's attitude.

In accordance with the Human Development Index (HDI) of the United Nations Development Programme (UNDP) for 2012 Poland is amongst the countries with a very high social development index. It is on 39 place in the ranking of 187 countries, i.e. above the average of countries in EBOR action area, and on a similar level to the average for countries of Central Europe and Baltic States. The Human Development Index covers three elements: health, education, and standard of living. In terms of UNDP Gender Inequality Index (GII) Poland is even higher – it is 24 in the world ranking. The Gender Inequality Index is a rate, which reflects the loss of development possibilities within the area of a given country due to unequal treatment of sex, and it covers three elements under appraisal, i.e.: reproductive health, empowerment, and labor market participation.

In case of participation of women in public life, the share of women in make-up of public units formed as a result of elections is small. In those terms the following are indicated, e.g.: low percentage of women present in the Sejm and in the Senate. Similar negative trends are characterizing other units formed as a result of elections, e.g.: commune councils, district councils, or provincial seyms (women are about ¼ of all councilors). It shall be emphasized that a minor percentage of women is for many years noticeable amongst village mayors, city managers, or mayors. However, an increasing number of women holding the position of village administrators draws attention, and that function is one of the most important ones in the context of civilian activities and development of social capital. Experience also indicates that women are equal participants of public hearings, and their engagement in local activities often results in their leading role in consultations. Finally, it shall be stated that for the purpose of promoting women and increasing their representation in decision-making and managing groups in business, numerous civil actions, declarations of political parties, and popularization of other countries' examples are implemented, and the European Commission undertakes its own initiatives ex officio, etc., which should result in the enhancement of equality of women and men in participation in the labour market or in decision-making groups. The analysis of survey results for last 10 years proves the progress in that field.

### 7.3 SPECIFICITY OF THE PAP<sup>6</sup>

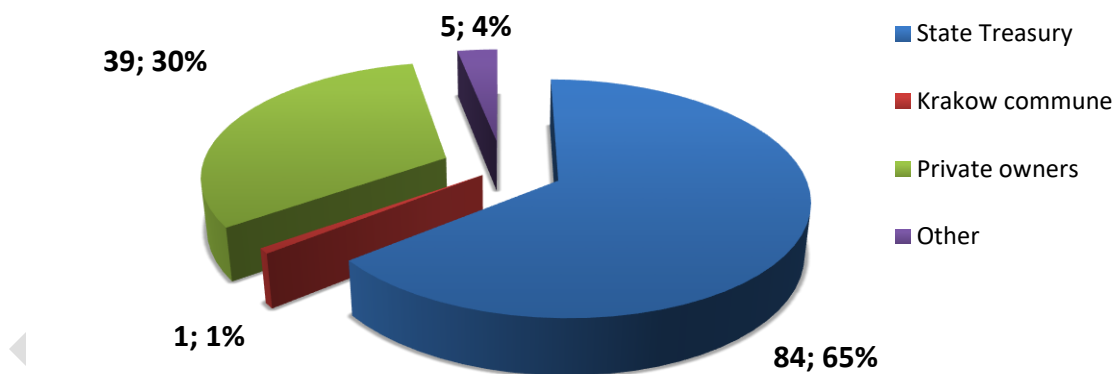
Among the households covered by permanent acquisition no such were identified requiring physical or economic resettlement in connection with the implemented Contract and which would be significantly affected by the Works Contract. Due to the way in which the land intended for embankment expansion is used by its owners, the land was classified into the following groups:

- Households located in the immediate vicinity of the Contract area;
- Households located outside the Contract area:
  - ✓ Households using the properties covered by permanent acquisition or by restricted use,
  - ✓ Households not using the properties covered by permanent acquisition or by restricted use,

Despite the incomplete nature of the data, resulting from the inability to reach the owners of certain properties or the unregulated legal status, it was possible to determine the actual manner of using the land designated for the Contract implementation.

Detailed PAP characterization is included in the Socio-economic Study constituting Annex No. 5 to this LA&RAP. Due to the requirements concerning personal data protection, the Study shall not be revealed to the public.

The area intended for the development of flood storage reservoirs is diversified in terms of the ownership structure. The diagram given below shows a percentage share for individual categories of plot owners under the analysis.



**Chart no. 1: Ownership structure of the plots covered by the Contract (permanent acquisition, permanent restriction in use, properties subject to the obligation to redevelop the existing network)**

Over a half of plots under the contract are grounds of public entities (66%), which are owned by the State Treasury (65%, 84 plots; including holder/administrator/representatives of the resources: District Governor, MPWiK, Road Authorities for the City of Cracow, GDDKiA, PGL State Forests, PGW WP) or by the Municipality of Cracow (1%, 1 plot; administered by Road Authorities for the City of Cracow).

<sup>6</sup> The list of properties, the area of permanent acquisition and the type of restrictions in the property use were determined on the basis of the available documentation at the stage of preparation of the application for IPIP decision. The final scope of permanent acquisitions and restrictions in the use of properties will be determined by IPIP decisions.

The share of plots owned by private persons (75 natural persons and one limited liability company) is 30% (39).

The category "Others" contains 5 plots. There are:

- 2 plots which are co-owned by the State Treasury and 7 natural persons,
- 2 plots remain mortgage units, whose potential co-owners are both natural persons and the State Treasury, and
- 1 plot remain mortgage units.

Cases of perpetual usufruct have not been identified.

In the case of a significant number of properties, entries related to the owners in the EGİB are outdated and do not reflect the actual situation with respect to the owner (holder) of the property. The data will be systematically brought in line with the current factual and legal situation in accordance with the applicable provisions of law.

There is a right of compensation for properties with an unregulated legal status, including plots being mortgage units, which will be transferred to a court deposit and paid after establishing the legal status of the above-mentioned properties.

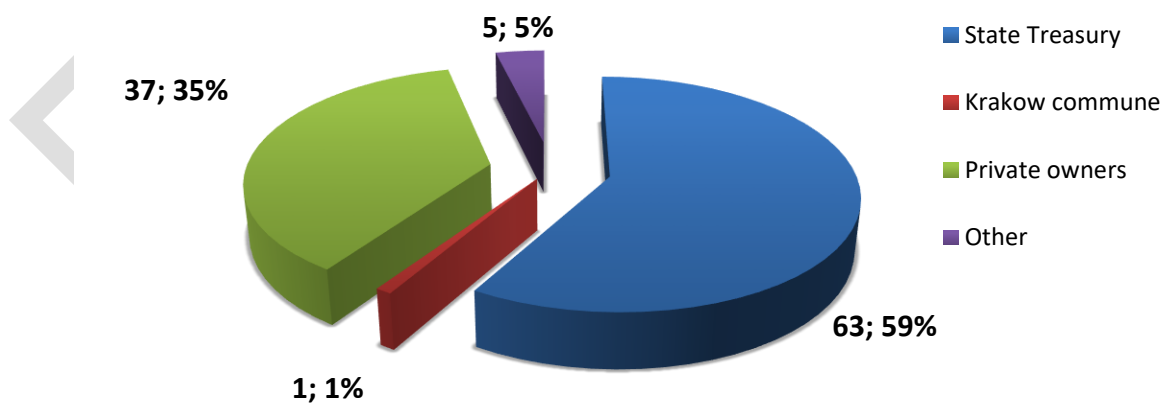
In case of mortgage units we face a situation, when a register plot, i.e. a mortgage unit, is formed by several plots belonging to various owners.

In reference to the properties, in case of which limited property rights were established, Article 20 (4) of the Special Flood Act shall be applied, provision of which states that if limited property rights have been established for the property, those rights expire on the day when the investment project implementation permit for the Contract becomes final.

The scope of works covers 129 plots.

After obtaining 2 final IPIP decision:

- The permanent acquisition will cover 106 properties. The ownership structure of permanent acquisition is shown in the chart below.



**Chart no. 2: Ownership structure of plots subject to permanent occupation**

About one third (35%) of plots under the contract – in the range of permanent acquisition – is owned by private owners (natural persons – 36 plots, and a legal person – 1 plot). 59%, 63 plots to be

permanently acquired are owned by the State Treasury including holder/administrator/representatives of the resources: District Governor, MPWiK, Road Authorities for the City of Cracow, GDDKiA, PGL State Forests, PGW WP). Local authorities (Municipality of Cracow) own 1 plot, i.e. 1% of properties to be permanently acquired.

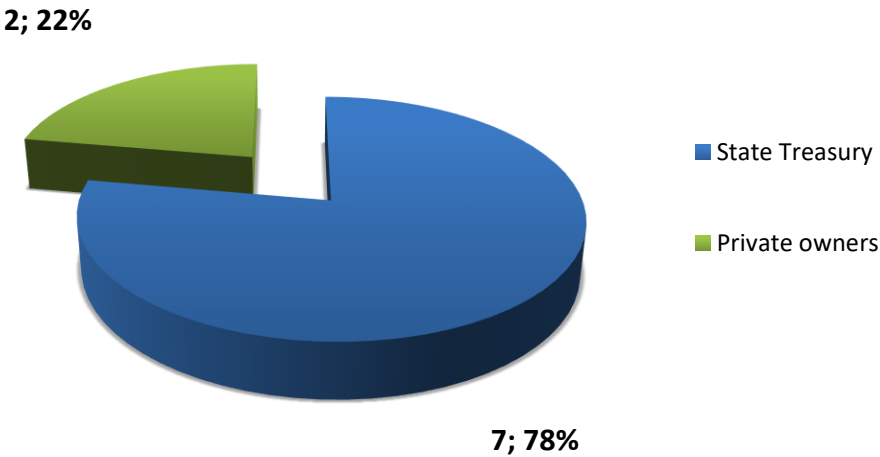
The category "Others" contains 5 plots. There are:

- 2 plots which are co-owned by the State Treasury and 7 natural persons,
  - 2 plots remain mortgage units, whose potential co-owners are both natural persons and the State Treasury, and
  - 1 plot remain mortgage units.
- A permanent restriction in use will cover 14 properties, which are owned by the State Treasury (administrator/representative of resources: District Governor and PGW WP) – it is 100% of properties under permanent restriction.

Permanent restriction in the use of properties shall be applied in case of plots, which – due to separate regulations – cannot be covered by splitting lines for the contract site or cannot undergo splitting in administrative proceedings (detailed legal regulations on permanent restriction were described in Chapter 8.2.2).

In case of Works Contracts 3A.2/1 and 3A.2/2 such plots are e.g.: properties forming plots underneath flowing water (type of use – Wp) and stagnant water (type of use – Ws), and a part of land associated with redevelopment of a descend road.

- The obligation to redevelop the existing land utilities will be established for 9 properties. The ownership structure of the above-mentioned plots is presented in the chart below



**Chart no. 3: Ownership structure of the plots subject to the obligation to redevelop the existing land utilities**

22%, i.e. 2 plots, are owned by natural persons. The State Treasury owns 78%, i.e. 7 plots (including one plot administered by the Road Authorities for the City of Cracow, in the case of the others, the resource representative is District Governor).

The obligation to redevelop the existing land utilities refers to:

- ✓ Redevelopment, construction and protection of water-sewage networks,
- ✓ redevelopment, construction and protection of overhead power networks.

#### **7.4 THE NEED FOR UPDATING THE SOCIO-ECONOMIC STUDY**

Due to the permanent nature of data such as the kind, the method of land use or the presence of developments on the land, it may be assumed that data gathered in the field test shall remain valid for a long time.

Final version

## 8 The Binding Provisions of Law and Valuation Methodologies

This LA&RAP for the Works Contracts 3A.2/1 and 3A.2/2 is based on the provisions of Polish law, as well as, due to funding from the resources of the World Bank, on the World Bank's Operational Policy 4.12 – Involuntary Resettlement.

The Loan Agreement between Poland and the World Bank is an act governed by international law and by concluding the agreement, Poland obliges to apply the World Bank's policies.

In case of discrepancies between Polish law and WB policies, the provisions which are more beneficial to the affected population are applied, while keeping WB standards with reservation of corrective instruments determined under Clause 8.3.

### 8.1 OBLIGATIONS ARISING FROM OP 4.12<sup>7</sup>

OP 4.12 is applied whenever the implementation of the Contract requires:

- a) involuntary real property acquisition resulting in:
  - a. relocation or loss of shelter;
  - b. loss of assets or access to assets;
  - c. loss of income<sup>8</sup> sources or lowering the standard of quality of life
- b) involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the quality of life of Project Affected Persons.

The following obligations stem from OP 4.12:

- Involuntary resettlement should be avoided where feasible by exploring all viable alternative contracts, and if it is not feasible to avoid resettlement, its range and impact should be minimized;
- Resettlement should be conceived and executed as development activities providing sufficient measures and resources that will enable people affected by resettlement to participate in the benefits of the implemented Works Contract. Assistance should be given to social groups affected by the resettlement process in order to improve their state of the economy, income and standard of living, or at least restore the status from before the Contract implementation;
- Resettled persons should be given full compensation before resettlement in an amount equal to the restoration costs, assistance in relocation and assistance and support during the transition period;
- Lack of a legal title to the land should not be a bar to receiving compensation;
- Particular attention should be paid to vulnerable social groups and individuals (e.g. single mothers, the handicapped, the poor);
- Communities should be given opportunity to participate in planning, implementation and monitoring of the resettlement process;
- The resettled persons should be assisted in the integration with the host commune;

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<sup>7</sup> Chapter acc. to LARPF

<sup>8</sup> In Polish economy understood as revenue.

- Resettlement should be closely linked with the Contract implementation schedule so that the resettled persons could obtain the compensation before starting the construction or before other activities of the Works Contract;
- Monitoring of resettlement shall be performed as well as its evaluation;
- As regards rural or farming lands, even when it is possible to apply financial compensation, "land-for-land" compensation is particularly recommended, if economically feasible. Farms that lost their fixed assets entirely and became entirely unprofitable should receive compensation in the amount equal to the value of the entire farm;
- For losses valuation or monetary compensation of which is complicated, for example, access to public services, access to customers or suppliers, fishing areas, access to pasture and forest areas, efforts should be made to establish access to equivalent and culturally appropriate resources and income opportunities.

## 8.2 POLISH LEGAL REQUIREMENTS

The most important normative acts concerning acquisition of rights to real properties necessary for Contract implementation are:

- Constitution of the Republic of Poland of April 2, 1997 (Journal of Laws no. 78 item 483 as amended),
- CC,
- Special Flood Act,
- PMA Law,
- Water Law Act,
- Regulation on the evaluation.

The Civil Code governs legal relationships between natural and legal persons, including those concerning conclusion of real property sale agreements. A binding principle here is the freedom of drafting agreement content and deciding if and with whom one wishes to conclude the agreement. Unanimous declarations of the parties determine agreement conclusion. The Civil Code provides for a special form of concluding agreements whose subject is the transfer of ownership of property. They should be concluded as a notary deed in order to be valid.

The mechanisms of compulsory acquisition of rights to property is included in the Special Flood Act and in the PMA law.

### 8.2.1 Real property acquisition under the Special Flood Act

According to the Special Flood Act the expropriation of real estate or parts thereof, as well as permanent and temporary restriction of the use of property or part of it takes place in IPIP issued by the Governor. Expropriation occurs at the moment in which IPIP becomes final.

With the transfer of the property in favor of the State Treasury or of local government units, the property owner, the holder of perpetual leasehold rights or person who have a limited property right is entitled to compensation. The compensation is paid in cash or in the form of "land-for-land". The Special Flood Act does not indicate any preference for the "land-for-land" compensation; financial compensation allowing for purchasing a similar real property at a market price is rather assumed.



The amount of compensation is determined on the basis of an independent and objective valuation of the appraiser, having the relevant qualifications, separately for each property.

The amount of compensation is determined in the condition as of the date of issuing the IPIP, but with reference to real property value as of the date on which the amount of compensation is determined.

In case the Investor and the expropriated party (owner or/and holder of perpetual usufructs rights or/and person who have a limited property right) reach an agreement as regards the amount of compensation, a written agreement is concluded, determining the amount of compensation, and time and manner of payment.

However, if the agreement is not reached within 2 months of the date of issuing the final IPIP, the amount of compensation is determined by the Governor in a decision. Before issuing a decision, the Governor appoints an independent expert – a valuer. The party has also the right to property valuation prepared by a valuer in the proceedings before the Governor. In such case the Governor has to account for the opinion presented by the affected party in the decision determining the amount of compensation. In the case in which the party makes any comments and proposals in the proceedings before the Governor, the Governor has to refer essentially to these comments and proposals at the stage of the proceedings, and then in the issued compensation decision.

The compensation due to the owner or holder of perpetual usufructs rights is reduced by the amount of limited property rights established on the property (e.g. use, easement, pledge, cooperative ownership right to the premises or mortgage). This amount is estimated by an independent property appraiser in accordance with the principles set out in the Regulation of the Council of Ministers on the valuation of real estate and the preparation of an appraisal report. The compensation referred to above shall be credited towards the repayment of the principal claim secured by the mortgage, together with interest. This compensation is paid to those who were entitled to these rights.

The decision issued by the Governor may be appealed to an authority of higher level i.e. to the relevant Minister (for the day of developing the final version LA&RAP it was the Minister of Development, Labor and Technology).

In case of an appeal against the decision establishing the amount of compensation, the expropriated party may file a motion for paying the compensation in the amount stated in the contested decision. In such case the compensation is paid as stated, which does not influence the appeal proceedings.

The decision issued in the appeal proceedings can be appealed to the Regional Administrative Court within thirty days of the decision delivery to the applicant. In turn, the party has the right to lodge an appeal in cassation against the judgment of the Regional Administrative Court to the Supreme Administrative Court within thirty days of the delivery of the copy of the judgment with the justification to the party.

### 8.2.2 Establishing permanent restriction and temporary restriction in managing real properties

The initiation of proceedings for the issuance of such IPIP requires a motion from the Investor, which is required to identify, among others, real property or parts thereof that are part of the Works Contract necessary for its functioning, which does not become the property of the State Treasury or the local government unit, but to which the use is permanently restricted (hereinafter referred to as the PR). Such a motion has to be considered and, depending on the administrative authority's arrangements, disclosed in an IPIP decision issued by the Governor (Article 9 (5b) of the Special Flood Act).

Another PR category stemming from the IPIP, but not necessarily from the Investor's motion, covers areas exposed to direct flooding risk and areas exposed to potential flooding risk, or areas exposed to particular flooding risk if designated (Article 9 (8) letter f) of the Special Flood Act). Such real properties shall not be subject to a permanent change of the manner of managing them and, as a rule, shall be able to be used by the owner (the holder of perpetual leasehold rights) like before Works Contract implementation, but after Contract implementation always with certain functional restrictions.

PR imposed under the Special Flood Act and the inconveniences related to them as well as restrictions of the economic and market potential of the real property (e.g. a construction ban, a ban on planting trees, a ban on running the agricultural activity) negatively affect the real property market value and have to be made up for by a due compensation. In an extreme case of the property loss of usefulness for the owner (holder of perpetual leasehold rights) they can demand its redemption on civil law making the request in this regard in accordance with Article 22 (2) of the Special Flood Act (redemption cannot be claimed by the owner of the property, which includes public roads, i.e. a local government or the State Treasury). In the case of non-use of this procedure, an administrative course remains establishing appropriate compensation.

The Special Flood Act does not define PR or indicate the administrative authority competent in the subject matter of determining such compensation in administrative proceedings. Such condition, i.e. the lack of an explicit provision of law indicating the subject matter (competence) of an authority, is caused by an obvious legal loophole and authorizes one to apply in the administrative proceedings on the issuance of IPIP the premises fixed by the CIRD and defined in the Judgement of the Supreme Administrative Court in Warsaw of November 9, 2012 (ref. no.: I OW 142/12). The Court states unambiguously that *"the competent authority to determine the compensation is the authority that issued the decision on consent for implementation of a road development (...) because the legislator cannot separate the competence to determine the compensation for the results of the same decision depending on the subject of that compensation"*.

It should also be assumed that there may be a necessity for applying Article 30 of the Special Flood Act, according to which *"the provisions of the Real Estate Management shall apply respectively"* to the extent not regulated in these Acts and realizing that instruction base on the of PMA Law.

As a consequence, the Governor – who issued the IPIP – shall be competent to establish the compensation due to implementation of PR, and the compensation itself may be established based upon the rules determined under this LA&RAP.

Another category of restrictions will consist of a temporary restriction in the use of properties covered by the IPIP Decision, and associated with the necessary redevelopment of colliding facilities, compensation for which shall be paid by the Investor.

Temporary restrictions in use will be associated with among others:

- removal of the existing overhead power lines;
- disassembly and reassembly of existing overhead power lines;
- redevelopment of the existing outlet of the storm canalization;
- redevelopment of the existing outlet of the ditch draining A4 Motorway;
- removal of parts of ditches or a water-course's channel.

The properties intended for temporary restriction in use, on which the above-mentioned works will be conducted, do not need to be taken over for the benefit of the State Treasury (they are not necessary for the implementation of the Contract) nor do they need to be covered by a permanent restriction in use. After the completion of the works described above, the existing owners will be able to use these properties in the existing manner, due to the lack of changes or removal of existing facilities.

Therefore, in the design documentation, these properties were covered only by the border of the planned Contract area. The final scope of permanent acquisition and permanent and temporary restrictions in the use of properties will be determined after the conclusion of the administrative proceedings and after the issuance of the IPIP decision.

### **8.2.3 Special Procedures**

Under Article 133 of the PMA Law, the Investor shall submit the amount of compensation to a court deposit in accordance with the decision of the Governor requiring the Investor to pay compensation for the court deposit, which is equivalent to the fulfilment of performance. It takes place only in two cases:

- 1) when the person entitled refuses to accept compensation or the payment thereof encounters impediments difficult to overcome (lack of legal capacity of the creditor, his prolonged absence in the country in the absence of the establishment of a proxy, natural disasters, martial law), and
- 2) if the compensation for expropriation applies to properties with unsettled legal status.

Submission of a court deposit has the same effect as the fulfilment of performance and – in accordance with OP 4.12 – the project affected person does not bear any cost in that scope.

### **8.2.4 Purchase of “remnants”**

If a part of a real property is acquired and the remaining part is not fit for use for its former purposes (so-called “remnant”), the Investor is obliged to purchase that remaining part of the real property if its owner or holder of perpetual leasehold rights submits a relevant motion (under Article 23 (1) of the Special Flood Act).

The motion concerning the purchase of “remnants” may be submitted before issuing the IPIP, but the real property purchase may take place only after issuing the IPIP.

The “remnants” shall be purchased by concluding civil law agreements for Contract 3A.2 in accordance with the following procedure:

1. The real property owner/holder of perpetual leasehold rights submits a motion containing:
  - a. a justification indicating why the remaining part of the real property after the acquisition is not fit for use for its former purposes,
  - b. marking of the remaining part of the real property on the copy of the property allotment map or on the site map or on the property splitting map as attached to the application.
2. Assessment of the submitted motion by committee appointed by the Investor. The committee composition shall include the representative of the team for monitoring and implementation of LA&RAP and specialists for technical matters and for the real property management. A representative of the LA&RAP Consultant may participate in commission meetings as an advisor.
3. A decision about purchase or refusal to purchase is made promptly but not before issuing the IPIP decision. A condition for efficient consideration of the application is its completeness.
4. The motion submitter is notified of the decision about purchase or refusal to purchase of the “remnants”.
5. Development of a study by a valuer determining the value of the “remnants”.
6. Negotiations are conducted with the real property owner/holder of perpetual leasehold rights concerning the amount of compensation.
7. A real property purchase contract (purchase of the “remnants”) is concluded as a notary deed.
8. The compensation is paid.
9. If a property is not qualified for purchase as a “remnant”, the owner is entitled to file for purchase to a court of general jurisdiction.

### **8.2.5 EU subsidies**

Among the properties expropriated for the purpose of Works Contract implementation there may be agricultural/forest properties covered by support programs, i.e. ones for which the owners/holders receive subsidies or for which support is provided.

Expropriation of that land shall result in the lack of possibility to fulfil liabilities under particular programs, as adopted by the farmer in agreements with a certified state payment agency, i.e. Agency of Restructuring and Modernization of Agriculture (ARMA). This in turn may be associated with determined consequences, including a necessity of returning payments done, as well as with administrative fines. (ATTENTION: there will be no need to return the subsidies or pay fines if the farmer reports the fact of expropriation to the ARMA).

In order to enable farmers to comply properly with their contractual obligations and not to be exposed to related losses, it is necessary to provide for identification, mitigation and compensation measures.

The properties which were identified at the stage of preparing the construction design will be subject to expropriation for the benefit of the State Treasury. Due to the fact that a significant part of these properties is land for agricultural purposes, a brochure was prepared and will be sent to PAPs, in which information on the steps to be taken to avoid reimbursement of subsidies is presented. In addition, as part of preparing the draft LA&RAP, one of the essential parts of which is a socio-economic survey, aimed at, among others, identification of the socio-economic situation of PAPs, a questionnaire was prepared in which questions were included concerning subsidies/support to which the expropriated properties are eligible.

Mitigation measures to avoid farmers having to reimburse the aid:

- carrying out an extensive information campaign, also during the questionnaire surveys (among all PAPs), what steps should be taken to avoid the return of collected subsidies.
- carrying out an information campaign addressed, inter alia, to a group of identified farmers (distribution of brochures), who reported in their surveys that they had received subsidies at the stage of an administrative procedure conducted by the Governor for the issuance of the IPIP. The aim of the action will be to remind the need to report to the ARMA the fact of expropriation and/or permanent restriction in the manner of property use. This information will also be provided to PAPs during the public consultations of the draft LA&RAP.
- monetary compensation - the agricultural producer will receive compensation for the expropriated property and can purchase (lease) the property with similar production potential for the received funds and report it for subsidy/support (if possible, within the framework of the given measure).
- the amount of compensation (cash compensation) for the expropriated property will be determined by an independent property valuer. The valuation of the property will take into account, among others, the value of the expropriated property, which is based on the possibility of receiving subsidies/support.

A solution for this issue is implementation of a special mechanism and a definition of so-called force majeure - on the level of European Union's regulation, which would obviously disable a farmer from fulfilling contractual liabilities. Those provisions contain an opened catalogue of cases, when we deal with force majeure. That catalogue comprises the following circumstances of force majeure, e.g. expropriation of properties. In order to apply that mode initiative of the farmer/beneficiary is however necessary. He needs to notify the occurrence of force majeure (in this case: expropriation and/or permanent restriction of the use method for the property) to the District ARMA Office Manager in writing, along with relevant evidence (in the analyzed case those would be a copy of IPIP decision or of CIRD decision), within 15 working days counted from the day when he or a person authorized by him would be able to perform that action (in case of RDP 2007-2013 and 2014-2020 this deadline amounts to 10 working days).

The District ARMA Office Manager runs a relevant administrative proceeding and identifies whether force majeure occurred through a decision.

Consequences of issuing a decision confirming the occurrence of force majeure are as follows:

- for RDP 2007-2013 and 2014-2020 (long-term liabilities and payments): the farmer/beneficiary does not need to return a part of support awarded for the previous years or its whole, subsidies

may be reduced for the year when force majeure occurred, liabilities or payments are continued in accordance with the original duration (if eligibility parameters are met, e.g. minimum area), and furthermore – administrative penalties are not implemented in the scope of so-called cross-compliance;

- for direct subsidies: the support granted is not returned, the beneficiary keeps the right to payments within the framework of direct support systems in reference to the area or to animals, which were eligible at the moment force majeure occurred, for payments within the framework of direct support systems.

It shall be stated that one would also face force majeure in case of properties or their parts remaining an element of Works Contract, which would be necessary for its functioning, and which do not become a property of the State Treasury, but their use is permanently limited (so-called permanent restriction in the use of property), and in case of so-called “remnants” (properties purchased based upon an application of the party in case a part of the property is taken over under the IPIP, and the remaining part cannot be properly used for previous purposes).

The time for notifying about the occurrence of force majeure of that type and an evidence of that occurrence – similarly as in case of expropriation – shall be given in the IPIP decision. In this case force majeure also results from expropriation of properties, but it does not bereave the property of this particular part of property, but it causes the lack of possibility to use it for previous purposes (e.g. farming). A similar case occurs for permanent restrictions, if they obviously caused the lack of possibilities to apply the property in accordance with liabilities accepted by the farmer.

Persons provided with subsidies were not identified until the day of developing the LA&RAP.

### 8.2.6 Properties resources according to the PMA

The PMA Act regulates aspects referring to the properties management, and especially the rules for:

- Managing the properties owned by the State Treasury and by the local authorities;
- Types of the properties;
- Merging and splitting of the properties;
- Pre-empting the properties;
- Expropriating the properties and returning the expropriated properties;
- Participating in costs of developing the technical facilities;
- Evaluating the properties;
- Professional activities related to the properties management.

The Act defines in Chapter 2 the public properties resources, which were broken down by the legislator according to the ownership status (according to Article 20 of the PMA). The following were distinguished:

1. State Treasury’s properties resources;
2. Communal properties resources;
3. District properties resources;
4. Provincial properties resources.

The State Treasury's properties resources include those properties, which are owned by the State Treasury and have not been transferred for perpetual usufruct, and those properties, which are subject to perpetual usufruct by the State Treasury (according to Article 21 of the PMA). Those resources are administered by Prefects.

The communal properties resources include those properties, which are owned by communes and have not been transferred for perpetual usufruct, and those properties, which are subject to perpetual usufruct by communes (according to Article 24 of the PMA). The communal properties resources are administered by village mayors, town clerks, and mayors.

The district properties resources include those properties, which are owned by districts and have not been transferred for perpetual usufruct, and those properties, which are subject to perpetual usufruct by districts (according to Article 25a of the PMA). The district properties resources are administered by district boards.

The provincial properties resources include those properties, which are owned by provinces and have not been transferred for perpetual usufruct, and those properties, which are subject to perpetual usufruct by provinces (according to Article 25c of the PMA). The provincial properties resources are administered by provincial boards.

Provisions under the PMA do not refer to the properties resources of other owners than the ones listed above.

Public assets remain a special type of assets included within the boundaries of the Republic of Poland, and due to their specificity – assets used for implementation of tasks by the: State Treasury, communes, districts, and provincial authorities – they are subject to particular legal restrictions determined under the PMA and many other legal acts.

### 8.3 ADOPTED MECHANISMS OF ACQUISITION OF RIGHTS TO REAL PROPERTIES<sup>9</sup>

The LARPF indicates a number of inconsistencies between OP 4.12 and Polish law: <b>OP 4.12</b>	Polish law	Corrective measures
<p>Lack of a legal title to the land should not be a bar to receiving compensation/compensation payment. Persons without a legal title are eligible for compensation.</p>	<p>The Polish legal system does not account for the right to compensation of landowners/users that do not hold legal title to it (except for persons who acquired the title by usucaption, i.a. a method by which ownership can be gained by uninterrupted possession of the real property for a period indicated in the act CC).</p>	<p>Each case of a Contract Affected Person without a legal title to the real property shall be analyzed individually for the possibility of applying general mechanisms from the Civil Code to achieve the objectives of OP 4.12.</p> <p>As per OP 4.12, Project Affected Persons without a legal title to the real property are not eligible to receive cash compensation for the real property. However, they are eligible for compensation for any facilities, plantings or improvements to the real property that were done before the cut-off date and for receiving adequate solutions in cases where they have to be physically or economically displaced. In those cases, additional mitigating measures shall also be applied.</p>
<p>WB policy requires compensation for loss of income<sup>10</sup> (e.g. from business or agriculture, etc.) resulting from real property acquisition for the purposes of implementation of the planned Works Contract.</p>	<p>Provisions of Polish law do not provide for compensation for the loss of income resulting from Contract implementation.</p>	<p>Persons who lost the income or employment shall receive support (health insurance, professional trainings etc.) from employment offices.</p> <p>In case of entrepreneurs, it is possible to apply general mechanisms from the Civil Code (covering the loss suffered and the expected profits which were lost).</p>
<p>Particular attention should be paid to the needs of vulnerable social groups, such as the poor, the elderly, single mothers, children or ethnic minorities.</p>	<p>Polish law does not require planning specific measures aimed at providing additional assistance to vulnerable social groups (the elderly, the handicapped, the poor and other groups which may have special needs).</p>	<p>The expropriated persons shall receive all the necessary help in obtaining assistance provided to citizens by offices and institutions.</p> <p>Additional measures shall also be implemented as needed to ensure that the objectives of OP 4.12 are met.</p>

<sup>9</sup> Table included in this chapter is compliant with the LARPF.

<sup>10</sup> In Polish economy understood as revenue.



<p>The LARPF indicates a number of inconsistencies between OP 4.12 and Polish law: <b>OP 4.12</b></p>	<p><b>Polish law</b></p>	<p><b>Corrective measures</b></p>
<p>WB Policy requires additional compensation for the expenses incurred by the PAP as a result of physical relocation (e.g. transport of materials) and assistance in implementing the resettlement.</p>	<p>Assistance regarding incurring the costs of relocation and other similar costs resulting from the necessity to move to a new location by citizens and enterprises is not provided in the law.</p>	<p>In order to cover the costs of relocation and other similar costs, it is possible to apply general mechanisms from the Civil Code in a manner that achieves the objectives of OP 4.12.</p>
<p>The compensation should be paid prior to physical acquisition of the land for the purposes of Contract implementation.</p>	<p>The Special Flood Act allows for acquiring the land and commencing works before the compensation is paid.</p>	<p>In all cases, no works shall begin until it is confirmed that the Project Affected Person has been informed about the commencement of works in advance, compensation has been paid and permission to enter the land has been granted.</p> <p>The only exceptions are cases where appeal proceedings have been initiated due to negotiation failure, owner absence or the impossibility of determining the owners.</p> <p>In such a case the amount shall be transferred to the court deposit and placed on the court's deposit account.</p> <p>To minimize the risk of commencing the works before compensating for losses, the Works Contract shall plan and conduct real property acquisition in advance of the commencement of works.</p>

The LARPF indicates a number of inconsistencies between OP 4.12 and Polish law: <b>OP 4.12</b>	Polish law	Corrective measures
<p>Compensation for the loss of assets is based on their market value plus any transaction costs (e.g. taxes, fees) and the objective is for the compensation to be sufficient to effectively restore the lost assets (replacement value).</p>	<p>The applied methods of valuation may lead to lowering the real property value as compared to prices of similar real properties on the local market.</p>	<p>The valuation of the real property shall be conducted by an independent and experienced expert. The expert's opinion should be verified by the PIU. The expropriated party should be granted a proper amount of time to become familiar with the expert's opinion. Should there be any doubts regarding the sufficiency of the due amount of compensation, the value of the real property should be estimated by an independent expert in the proceedings before the Governor.</p> <p>In all cases, the valuation has to indicate the compensation value necessary to reach the replacement cost for lost assets without depreciation of assets.</p>
<p>It is required to prepare a socio-economic survey and a LA&amp;RAP as well as to monitor compensation measures, resettlement and life quality level restoration measures and evaluate the efficiency of all the above measures.</p>	<p>Provisions of Polish law do not account for an obligation to prepare a socio-economic survey or a LA&amp;RAP as such. There is no obligation to monitor or evaluate their implementation either.</p>	<p>Socio-economic surveys and the LA&amp;RAP are being prepared based on the LARPF, OP 4.12 and good practices.</p>

## 8.4 VALUATION PRINCIPLES <sup>11</sup>

The owner or holder of perpetual leasehold rights to a real property or its part which is a part of a flood protection investment and is necessary for Works Contract implementation is entitled to compensation for the transfer of ownership of the real property to the State Treasury or a local government entity.

In all cases, compensation must meet the principle of a replacement value which means the amount needed to replace asset without depreciation of asset due to age, condition, or any other

<sup>11</sup> Contents of the chapter compliant with the LARPF.

factor. This tends to be based on market value of the land and related assets (e.g. crops) increased by a transaction cost required to replace it, such as taxes and other fees, cost of moving to a new location. Compensation is determined on the basis of a valuation by property appraiser and another team of property appraisers (e.g. agricultural property appraiser) as required.

According to OP 4.12, with regard to real properties and facilities, “replacement value” is defined as follows:

a) for agricultural lands, it is the pre-contract or pre-displacement (whichever is higher) market value corresponding to the market value of a land with a comparable productive potential or use located in the vicinity of the land acquired for the Contract, plus the cost of preparing the land for the functions similar to those of the land acquired for the Contract, plus transaction costs;

b) for real properties in urban areas, it is the pre-displacement market value or the compensation/indemnification needed to recover replacement cost for the assets lost (taking into account the benefit principle) or displacement costs (whichever is greater), corresponding to the value of a land with a comparable size and use, with similar or improved access to public infrastructure facilities and services and located in the vicinity of the acquired real property, plus transaction costs;

c) for houses and other facilities, it is the market value or displacement costs excluding devaluation (whichever is higher) or the compensation/indemnification value necessary to obtain replacement cost for lost assets (taking into account the principle of benefit) of the materials to be built in new houses and facilities replacing the project affected houses and facilities, with the amount and quality similar to or better than those of the expropriated or partially project affected houses and facilities, plus: the costs of transporting the materials to the construction site, construction employee remunerations, transaction costs, fees and taxes related to the implementation of the new facilities.

The real properties expropriated for the purposes of Contract implementation shall be governed by the principles indicated above in letters a) and b). In case of the Works Contracts in questions, there are no residential buildings or outbuildings located within the lines splitting the contract area; thus, provisions under letter c) do not apply.

In determining the replacement value, 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 Contract, deducted from the valuation of a contract affected asset. Where Polish law does not provide for the necessity of compensation at a replacement value, compensation is supplemented by additional measures so as to meet the replacement value standard, such as support after displacement throughout a transition period based on a reasonable estimate of the time necessary to restore the quality of life (including means of support), etc. Such a proceeding assures implementation of compensation in compensation standard according to the replacement value.

The compensation is vested in the amount agreed between the Investor and the former owner, perpetual user or a person, who has a limited real right to the property, from the State Treasury or a unit of local authorities, respectively.

NOTE:

The valuation methods are defined by a legal act in the form of a regulation: the Regulation of the Council of Ministers of September 21, 2004 on real property valuation and appraisal study preparation (Journal of Laws No. 207, item 2109, as amended). This act contains details concerning methods and techniques of estimating the amount of compensation.

#### **8.4.1 Real property valuation<sup>12</sup>**

The market value of real property is a basis for establishing the compensation value. While ascertaining the real property market value, the following factors in particular are taken into consideration: type, location, manner of use and purpose, existing technical infrastructure, overall condition and current market prices. The real property market value is determined based on its current manner of use if the real property purpose compliant with the Contract objective does not increase the real property value. If the data from the local or regional real property market allow the valuer to ascertain the real property market value, they shall apply one of the market approaches, i.e. the sales comparison approach, the income capitalization approach or the combined approach. Should the real property purpose in accordance with the expropriation purpose increase the real property value, its market value shall be ascertained according to the alternative use resulting from that new purpose. If the data from the local or regional real property market do not allow the valuer to ascertain the real property market value, they shall ascertain the replacement value of the real property based on the cost approach.

If the previous owner or perpetual user of the property under IPIP would hand this property over or would hand the property over and empty the building and other rooms not later than 30 days from the day of:

- delivery of the notice of issuing of the IPIP decision, if the decision is made immediately enforceable,
- delivery of decision to order immediate enforceability on the IPIP decision,
- the date on which the IPIP decision became final,

the amount of compensation shall be increased by the amount equal to 5% of the property value or value of perpetual usufruct right, based upon rules determined in the Special Flood Act.

#### **8.4.2 Valuation of plantings and crops<sup>13</sup>**

The valuation of tree stand or tree cover, if the tree stand includes usable resources, shall involve the valuation of timber in the tree stand. If the tree stand includes no usable resources or if the value of obtainable timber is exceeded by the costs of reforestation and maintenance of the tree stand, the valuation concerns the costs of reforestation and maintenance of the tree stand until the date of expropriation.

Valuation of fields of perennial plants involves the estimation of the costs of establishing the field and its maintenance until the first yield as well as lost profit in the period from the date of expropriation until the completion of the full yield. The aggregate of costs and the value of lost

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<sup>12</sup> Contents of the chapter compliant with the LARPF.

<sup>13</sup> Contents of the chapter compliant with the LARPF.

profits are reduced by the sum of the yearly depreciation charge resulting from the period of using the field from the first year of yield until the date of expropriation. In determining the value of sowings, crops and other annual harvests, the value of the forecast yields at marketable prices is estimated, reducing it by the value of the inputs needed for harvesting such crops.

The valuation of crops, cultivations and other yields of annual plants involves the estimation of the expected yield according to the current market prices, reduced by the value of necessary expenditures related to the collection of the yields.

NOTE:

In the event of delay in the payment of compensation as provided for in Article 21 (12) of the Special Flood Act, the compensation shall be adjusted on the day of payment.

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## 9 Eligibility Criteria and Catalogue of Beneficiaries

### 9.1 ELIGIBILITY CRITERIA<sup>14</sup>

According to the policy of the World Bank, the following groups of people are eligible for compensation and assistance in connection with real property acquisition resulting in loss of assets and (physical or economic) displacement:

- a) those who have a formal legal title to the land or other project affected assets (including customary and traditional rights);
- b) those who do not have a formal legal title at the time the census begins but have a claim to the land or assets, provided that such claims are recognized under the laws of the country or become recognized during the works on the LA&RAP;
- c) those who have no legal title or claim to the real property they are acquiring.

Persons included in paragraph (a) or (b) above should receive compensation for the land they lose, as well as other assistance. Persons included in paragraph (c) should be provided with resettlement assistance in lieu of compensation for the land they acquire, as well as other assistance, as necessary, to achieve the objectives of OP 4.12, if they acquire the Contract implementation area prior to the cut-off date (in that case it is the day when the IPIP was issued). Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in paragraph (a), (b) and (c) are provided with compensation for loss of assets other than land.

Thus, the lack of a legal title to the real property as such should not preclude the eligibility for compensation or other assistance offered in connection with involuntary acquisition of the real property.

Under Polish law, persons using a property without a legal title are aware of the illegality of their actions.

The manner of estimating the impact on the PAP was described in chapter 6.1. Social impact.

### 9.2 CATALOGUE OF BENEFICIARIES<sup>15</sup>

Eligibility for compensation and assistance shall be determined according to the following principles:

- PAP being legal possessors of real property in the Contract area shall receive full compensation with the priority given to the rule of “land for land”;
- PAP being lessees, tenants, life estate holders and other dependent possessors of real property in the Contract area shall receive full compensation for the loss of these rights (value of damages / compensation necessary to reach the replacement cost for lost assets),

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<sup>14</sup> Contents of the chapter compliant with the LARPF.

<sup>15</sup> Chapter compliant with the LARPF.

- PAP being possessors of limited property rights in real property shall receive full compensation for the loss of these rights,
- owners of cultivations, plants, structures and other constructions related to the land shall receive compensation for those cultivations, plants, structures and constructions (value of damages / compensation necessary to reach the replacement cost for lost assets),
- PAP who lose their revenue, salaries/wages or ability to run business activity in relation to Contract implementation shall receive adequate compensation and, if necessary, a package of adequately selected protective measures – there are no situations of that kind for the Contract in question,
- PAP being illegal possessors of real property in the Contract area who have no legal title and no expectancy right to obtain a legal title to the real property shall receive no compensation for the expropriation from the real property, as that is not possible under Polish law. However, those persons shall receive compensation for plants and constructions owned by them and, if necessary, a package of specially selected protective measures to restore or improve their quality of life.

PAPs shall be entitled to receive compensation for the following categories of impact/losses:

- **Permanent loss of property** (37 properties owned – on the day of developing the LA&RAP – by 76 PAPs, i.e. 75 natural persons and 1 limited liability company, 1 property owned by Cracow Municipality , 2 properties co-owned by the State Treasury and seven natural persons, 3 properties on unregulated legal status) - where possible and where the PAP express such will, the loss shall be compensated in the form of “land for land” (10 properties) by way of granting a real property of a similar value, location and functions as the expropriated real property. If finding a real property that meets the criteria of adequate compensation is not possible, the PAP do not express their will to receive compensation in the form of “land for land”, or only a small part of the plot is subject to acquisition, the compensation shall be paid in cash and correspond to the market value of the expropriated real property or its part. In addition, for an immediate release of the real property it shall be possible to increase the compensation by an amount corresponding to 5% of the value of the expropriated real property under the terms of the Special Flood Act. PAP not being owners or holders of perpetual leasehold rights, but having a legal title to the property (e.g. lessees, tenants) shall receive compensation corresponding to the value of the expropriated rights. On the request of the PAP, the Investor may take over the entire real property and compensate for the acquisition of that real property according to the abovementioned principles. At the moment, any owner have declared willingness to buy the remnants, but related enquiries emerged during the survey. Any and all transaction costs including taxes connected with the granting of compensation for expropriation shall be covered by the Investor. PAP being illegal possessors of real properties in the Contract area (having no legal title) shall receive no compensation for the expropriation from the real property, as that is not possible. However, those persons shall receive compensation for plants, plantings and constructions owned by them and, if necessary, a package of protective measures to restore or improve their quality of life;

- **Permanent restriction in the current use of the property** (14 plots of the State Treasury, PR has not been expected in case of natural persons' plots) – as a rule, PR shall be compensated in cash, taking into account the loss of market value of the property (details are described in item 8.2.2). In that case all of 14 properties are owned by the State Treasury; thus, payment of compensation is not anticipated for the day of developing the LA&RAP.
- **Indication in the IPIP decision of the obligation to redevelop existing development networks** (owners of properties – 9 plots, including 2 owned by natural persons (5 PAPs) and 7 owned by the State Treasury) - compensation for temporary land acquisition and possible loss of value of the property will be determined on the basis of a valuation report estimate prepared by an independent valuer;
- **Non-residential buildings and structures (fences, technical infrastructure etc.)** (such object have not been identified at the moment) – as a rule, owners and users of these buildings and structures are compensated on the basis applicable to a permanent loss of the real property. Within the framework of protective measures, the Investor shall propose reconstruction of infrastructure networks or redevelopment of fences (and, where appropriate, of structures and buildings) at the Investor's expense;
- **Loss of plantings** – (natural persons and PGL National Forests) compensation for lost plant components (plantings, trees, etc.) shall be compensated in cash, taking into account the costs of planting and caring for the plantings and the value of the lost benefits between the expropriation date and the end of the complete harvest. Persons entitled to compensation for these elements of the land are both those holding a title to the property and those holding an autonomous title. These elements will be valued in estimated reports to be prepared by independent property appraisers. In the case of PGL State Forests, tree felling will be carried out in accordance with art. 28 of Special Flood Act.
- **Particularly vulnerable groups** – shall be covered by a specially selected package of protective measures adjusted to their needs within the compensation (a schedule of measure implementation in this scope shall be determined individually after identifying such groups/persons; no person belonging to that category was identified until the LA&RAP development);
- **Temporary real property acquisition** determined in the IPIP decision shall be compensated in cash through the payment by the Investor of monthly amounts corresponding to market prices of tenancy or lease of the real property. Moreover, if the PAP incur a loss due to the temporary real property acquisition, the loss shall be compensated separately according to the abovementioned principles. After the completion of construction activities, all real properties shall be restored to their original state. Remaining temporary acquisition, not determined in the IPIP but necessary (if the Contractor deems so) to the Contractor for implementation of the technological process, shall be implemented by the Contractor based upon a civil agreement concluded with the providing party;
- **Damage to houses, buildings and structures due to construction works (e.g. vibration, accidents, etc.)** shall be compensated according to their nature in order to make the restoration of the full substance of the affected object or the purchase of a new one



possible. Depending on the situation, appropriate rules of compensation payment for the above impacts shall be applied.

A detailed catalogue of people entitled to compensation is included in Appendix no. 2 to this LA&RAP.

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### 9.3 ELIGIBILITY MATRIX<sup>16</sup>

Impact / damages	Determination of PAP	Compensation
Permanent loss of land	Owners, perpetual usufruct holders, autonomous holders of properties	<ul style="list-style-type: none"> <li>• “Land for land” compensation,</li> <li>• If “land for land” compensation is not feasible or not wanted then cash compensation (<i>the value of compensation/indemnification necessary to obtain replacement cost for lost assets</i>),</li> <li>• Coverage for all transactional costs</li> </ul>
	Users	<ul style="list-style-type: none"> <li>• Cash compensation for loss of right to the property,</li> <li>• Assistance in taking the use of a similar property</li> </ul>
	Lessees, tenants	<ul style="list-style-type: none"> <li>• Cash compensation for losses incurred in connection with the termination of the contract,</li> <li>• Coverage of transactional costs</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>• No compensation for value of land</li> </ul>
	Holders of limited property rights: easement, mortgage, lien upon properties	<ul style="list-style-type: none"> <li>• Cash compensation for loss of right (e.g. easement or mortgage established on the property),</li> <li>• For land easement holders – support in finding a solution allowing for using their property (holding the expropriated property), for example in establishing another right of way.</li> <li>• Coverage for all transactional costs</li> </ul>
	Illegal easement holders	<ul style="list-style-type: none"> <li>• For illegal easement holders - support in finding a solution allowing for using their property (holding the expropriated property).</li> </ul>

<sup>16</sup> Chapter based on the LARPF.

Impact / damages	Determination of PAP	Compensation
Permanent and temporary restriction in the use of properties	Owners, perpetual usufruct holders, autonomous holders of properties	<ul style="list-style-type: none"> <li>• Cash compensation for losses caused by the restriction</li> <li>• Coverage for transactional costs,</li> <li>• Proposing an institutional support and advising in the scope of possibilities of other use for properties</li> </ul>
	Users	<ul style="list-style-type: none"> <li>• Cash compensation for loss of right caused by the restriction</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>• Proposing an institutional support and advising in the scope of possibilities of other use for properties</li> </ul>
	Leaseholders, legal users of properties	<ul style="list-style-type: none"> <li>• Cash compensation caused by limitation,</li> <li>• Coverage for transactional costs,</li> <li>• Proposing an institutional support and advising in the scope of possibilities of other use for properties</li> </ul>
	Easement holders	<ul style="list-style-type: none"> <li>• Support in finding a solution allowing for using their property (holding the expropriated property),</li> <li>• Cash compensation for losses caused by limitation of use,</li> <li>• Coverage for transactional costs</li> </ul>
	Illegal easement holders	<ul style="list-style-type: none"> <li>• Support in finding a solution allowing for using their property (holding the expropriated property).</li> </ul>
Non-residential buildings and structures (fences, technical infrastructure, etc.)	Owners, perpetual usufruct holders, autonomous holders of buildings and structures	<ul style="list-style-type: none"> <li>• Cash compensation of the replacement value of the assets lost (the value of the compensation/indemnification necessary to obtain the replacement cost for the lost assets)</li> <li>• Transfer or reconstruction of lost assets.</li> </ul>
	Users	<ul style="list-style-type: none"> <li>• cash compensation of the replacement value of the assets lost (the value of the compensation/indemnification necessary to obtain the replacement cost for the lost assets)</li> <li>• transfer or reconstruction of lost assets.</li> </ul>

Impact / damages	Determination of PAP	Compensation
	Illegal possessors of buildings and structures	<ul style="list-style-type: none"> <li>• cash compensation of the replacement value of the assets lost (the value of the compensation/indemnification necessary to obtain the replacement cost for the lost assets),</li> <li>• transfer or reconstruction of lost assets.</li> </ul>
	Lessees, tenants of buildings and structures	<ul style="list-style-type: none"> <li>• cash compensation of the replacement value of the assets lost (the value of the compensation/indemnification necessary to obtain the replacement cost for the lost assets),</li> <li>• transfer or reconstruction of lost assets.</li> </ul>
Loss of plantings and trees <sup>17</sup>	Owners, perpetual usufruct holders, autonomous holders of properties	<ul style="list-style-type: none"> <li>• Cash compensation, including costs for arranging and curing of plantings/trees and for lost crops,</li> <li>• Allowing for harvest</li> </ul>
	Users	<ul style="list-style-type: none"> <li>• Cash compensation, including costs for arranging and curing of plantings/trees and for lost crops,</li> <li>• Allowing for harvest</li> </ul>
	Lessees, tenants	<ul style="list-style-type: none"> <li>• Cash compensation, including costs for arranging and curing of plantings/trees and for lost crops,</li> <li>• Allowing for harvest</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>• Allowing for harvest</li> </ul>
Commune Assets	Commune	<ul style="list-style-type: none"> <li>• Reconstruction or replacement of the lost structure in consultation with communes.</li> </ul>
Temporary acquisition of properties (actions to be performed by the Contractor)	Owners, perpetual users, autonomous possessors of properties	<ul style="list-style-type: none"> <li>• Cash compensation or other form agreed with the authorized party,</li> <li>• Reinstatement of the property to its previous status or to the condition indicated in the agreement.</li> </ul>

<sup>17</sup> In the case of PGL State Forests, tree felling will be carried out in accordance with art. 28 of Special Flood Act.

Impact / damages	Determination of PAP	Compensation
	Illegal possessors of properties	<ul style="list-style-type: none"> <li>• Reinstatement of the property to its previous status or to the condition indicated in the agreement.</li> </ul>
	Leaseholders, users of properties	<ul style="list-style-type: none"> <li>• Cash compensation or other form agreed with the authorized party,</li> <li>• Reinstatement of the property to its previous status or to the condition indicated in the agreement.</li> </ul>

Details concerning the eligibility of people entitled to compensation are included in Appendix no. 2 to this LA&RAP.

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## 10 Public consultations and public participation

In relation to obtaining a loan from the World Bank's funds and the necessity of implementing the resettlement process principles stemming from the requirements of OP 4.12, the Investor has taken actions aiming at engaging the society in LA&RAP development and implementation. Society engagement is treated as a continuous process correct implementation of which is anticipated to enable mitigation of risks related to a potential social conflict for the Contract.

So far, the local commune was informed about the planned Contract by notices, posted on the website of the Regional Director for Environmental Protection in Cracow (at the stage of issuing the Decision on Environmental Conditions from **05/08/2012 to 10/29/2012**, the decision became final on 12/03/2012) and the Ministry of Maritime Economy and Inland Navigation (at the stage of issuing the Water Law Permit – from **08/06/2019 – 03/05/2020**) - as it is customary - on publicly available bulletin boards in towns where the Contract will be implemented.

The PAPs shall be informed about the fact the PIU filed an application for the issuance of an IPIP decision, for conduction of that proceeding, and for the issuance and the possibility of appealing against the decision in question by the Governor of Malopolska Region.

In **August 2019** the Consultant informed private owners of the properties foreseen for acquiring by State Treasury in writing about the planned socio-economic survey to be conducted in the break of **September and October 2019**. In its correspondence, the Consultant explained the validity of the planned survey, main objective of which was to determine the impact of the planned Contract on the quality of life of households of the owners of expropriated properties. During the socio-economic survey the PAPs were provided with information on the planned Contract/Works Contract and on rules and rights related to the purchase of the properties.

Table 3. Initial identification of stakeholders participating in public consultations, units affecting the development and implementation of LA&RAP.

External stakeholder	Type of impact on LA&RAP	Time of engagement
Competent Minister (for the day of developing the final version LA&RAP – Minister of Development, Labor and Technology)	<ol style="list-style-type: none"> <li>1. Consideration of the appeal against the IPIP</li> <li>2. Consideration of the appeal against the decision establishing compensation amounts</li> </ol>	<ol style="list-style-type: none"> <li>1. After the issuance of IPIP decision – in case of an appeal.</li> <li>2. After the issuance of decision on compensation amount – in case of an appeal.</li> <li>3.</li> </ol>
Regional Director for Environmental Protection in Cracow	<ol style="list-style-type: none"> <li>1. Issuance of the ED</li> </ol>	<ol style="list-style-type: none"> <li>1. 05/08/2012 – 10/29/2012, decision became final on 12/03/2012</li> </ol>

External stakeholder	Type of impact on LA&RAP	Time of engagement
Ministry of Maritime Economy and Inland Navigation	1. Issuance of the water-law permit	1. 08/06/2019 – 03/05/2020
Governor of Malopolska Region	1. Issuance of the IPIP 2. Issuance of the decision establishing compensation amounts	1. During proceeding the IPIP decision. 2. After the issuance of decision on compensation amount – in case of appeal and re-consideration of the application.
Mayor of Cracow	1. Support in identification of local society's needs 2. Direct participation in public consultations	1. At the development of the LA&RAP. 2. During public consultation of the Draft LA&RAP.
Head of the Town and Commune of Wieliczka	1. Representation of the Commune as a unit where the Contract shall be implemented 2. Informing PAPs on public consultations 3. Direct participation in public consultations	1. At the development of the LA&RAP. 2. During public consultation of the Draft LA&RAP 4.
City Council of Cracow and Town and Commune Council of Wieliczka	1. Representation of the City/Commune of Tarnów as a unit to be expropriated 2. Informing PAPs on public consultations 3. Direct participation in public consultations	1. At the development of the LA&RAP. 2. During public consultation of the Draft LA&RAP 4.
Village Administrators	1. Informing PAPs on public consultations 2. Direct participation in public consultations	1. At the development of the LA&RAP. 2. During public consultation of the Draft LA&RAP 3.
Units to be expropriated	1. Determination of needs and of damage suffered due to the planned expropriation 2. Selection of indemnity and compensation forms 3. Direct participation in public consultations 4. Participation in an inventory	1. At proceeding of the IPIP, its issuance and making establishments on the compensation amount. 2. At the development of the LA&RAP. 3. During public consultation of the Draft LA&RAP 5.
Citizens of Cracow and Wieliczka	1. Direct participation in public consultations	1. At the development of the LA&RAP. 2. During public consultation of the Draft LA&RAP

### **Public Consultation of the LA&RAP Draft**

After completing the works on the Draft LA&RAP and obtaining the acceptance of the World Bank, the publication procedure shall commence, this document was a subject of public consultation meeting requirements of the World Bank's operational policies (OP 4.12). The aim of the public consultations

was to allow for acknowledging contents of that document to natural persons, institutions, and all other interested parties, as well as to secure the possibility of filing remarks, claims, enquiries, and motions referring to its contents.

The publication of the Draft Land Acquisition and Resettlement Action Plan was commenced on **July 22, 2020**, at publication of an announcement in TEMI Galicyjski Tygodnik Informacyjny and in Gazeta Krakowska (local magazines) (Appendix 2 to Report on Public Consultation). The announcement invited natural persons, the authorities, and interested institutions to review the Draft LA&RAP for the Contract 3A.2 including Works Contracts 3A.2/1 and 3A.2/2.

As informed in the announcement (quote): (...) **DUE TO THE STATE OF EPIDEMIC THREAT IN POLAND AND CARE FOR YOUR HEALTH, A FORMULA FOR CONDUCTING PUBLIC CONSULTATIONS OF THE DRAFT LA&RAP DOCUMENT IS CHANGED, NO OPEN MEETING WILL BE HELD FOR ALL INTERESTED PARTIES, BUT THE CONSULTATIONS IN QUESTION SHALL BE CONDUCTED BY POST, USING AVAILABLE (SAFE) COMMUNICATION CHANNELS (...)**

The draft LA&RAP is made available on the following websites:

- SWH Polish Waters RZGW in Cracow at <https://krakow.wody.gov.pl/aktualnosci/>,
- City Office of Cracow at – <https://www.bip.krakow.pl/>,
- City and Municipal Office of Wieliczka at – <https://bip.malopolska.pl/umigwieliczka>,
- Powiat Starosty in Wieliczka at - <https://www.powiatwielicki.pl/>,
- Odra-Vistula Flood Management Project Coordination Unit at – <http://odrapcu2019.odrapcu.pl/ogloszenia/>.

Each interested party may submit remarks and motions referring to the DRAFT LAND ACQUISITION AND RESETTLEMENT ACTION PLAN in writing (i.e. by post) to the address of the PIU in Cracow:

**State Water Holding Polish Waters**

**Regional Water Management Authority in Cracow**

**22 Marszałka J. Piłsudskiego Street**

**31-109 Cracow**

or in electronic form by mail to:

**[jrp.krakow@wody.gov.pl](mailto:jrp.krakow@wody.gov.pl)**

and by phone at numbers:

**505 028 137, 601 824 298** (on working days from 9:00 a.m. to 5:00 p.m.)

from **22.07.2020 to 12.08.2020** inclusive (21 days).

The institution competent to examine the comments and motions was the SWH POLISH WATERS RZGW in Cracow.

Except for publishing the announcement in press as informed above (TEMI Galicyjski Tygodnik Informacyjny, Gazeta Krakowska – local magazines), it has also been placed on information boards at:

- SWH POLISH WATERS RZGW in Cracow,

- City Office of Cracow,



- City and Municipal Office of Wieliczka,

as well as published at websites of those institutions, and at **performance sites**.

Posters informing about the Works Contracts 3A.2/1 and 3A.2/2 were additionally placed – except for the announcement – at performance sites.

Simultaneously, every owner of properties subject to acquisitions was provided – at the place of residence / correspondence address given in the register of land and buildings – by a Polish Post, priority registered mail with e-mail confirmation, with information packet concerning the Draft LA&RAP, which comprised the following:

1. Cover letter;
2. Announcement on the consultations;
3. Questionnaire for provision of opinions and enquiries;
4. Information brochure;
5. Presentation on the Project and on the Draft LA&RAP.

An example set of documents has been attached to this Report (Appendix no. 3 to the Report on Public Consultation).

After 10 days from provision of the documents, a process of direct telephone discussions with the PAPs has been commenced, and it aimed at presenting effects of the investment on their situation and at provision of information on the properties acquired for the purpose of Task implementation, as well as at clarifying potential doubts related to contents of the LA&RAP.

None of the PAPs requested for submission of the LA&RAP by mail, and such a possibility was proposed to persons without an access to the Internet.

Publication of the Draft LA&RAP, commenced officially **on July 22, 2020**, was completed after 21 days on **August 12, 2020**.

A webinar was held on **August 13, 2020 from 5.00 p.m. to 7.00 p.m.**, during which Mrs. Marta Rak gave a multimedia presentation:

1. The purpose and funding for the OVFMP was briefly discussed.
2. It was explained why the draft LA&RAP was developed and what the procedure for making it public was.
3. The issue of changing the investor was discussed, i.e. liquidation as of 31.12.2017, the Małopolskie Board of Amelioration and Water Structures in Cracow and appointing on 01.01.2018 a new entity - State Water Holding Polish Waters, which entered into the rights and obligations of the liquidated entity.
4. Information on Works Contracts 3A.2/1 and 3A.2/2 (physical scope, area protected from flooding due to the execution of the Contract in question) was presented.
5. Information was provided on the number of properties subject to permanent occupation and restrictions on use by property category.
6. Legal basis for implementation of the LA&RAP was indicated.
7. Minimizing measures were discussed, with particular emphasis on the issue of purchasing the remnants, EU subsidies and informing the ARMA, the payment of 5% bonus.

8. Most attention was paid to legal regulations concerning the procedure of issuing the IPIP decision, payment of compensations, compensation agreement procedures, submission of appeals and conc. redress and grievance mechanism.
9. The participants of the meeting were informed about the possibility of receiving an indisputable part of the compensation despite a possible appeal against the Governor's decision determining the amount of compensation or payment of 70% of the compensation.
10. Information on temporary acquisition was presented.

After the end of the presentation, the webinar leader answered questions that were received during the period of publication of the draft LA&RAP, and then the questions submitted during the webinar.

The webinar was attended by 10 people (some of them participated anonymously).

During the publication process for the Draft Land Acquisitions and Resettlement Action Plan:

- 18 phone calls were received/held;
- 6 questions/applications were received via e-mail or Polish Post;
- interest in the document was also noted; downloads of files from websites given in the announcement was observed.

All questions were answered in accordance with the contact method indicated by PAP (by phone, e-mail or traditional written correspondence). Some comments sent by PAP were included in the final version of the LA&RAP document.

A meeting Report was developed, which was submitted to the World Bank. This Report is an Appendix no. 7 to the LA&RAP.

The final LA&RAP – after obtaining the WB's "no objection" clause - shall be available for the interested parties, i.e. published at a website until completion of the Contract. Any updates of the LA&RAP shall also be available for the interested parties at websites of the PIU and the PCU.

## 11 The Complaint Management Mechanism

A principle was assumed in this LA&RAP that the PIO will take all measures to amicably resolve complaints concerning the Contract (including those submitted during the design works). The Complaint management mechanism is diverse in order to integrate it into the administrative procedures of the various stages of Contract preparation.

### 11.1 THE GENERAL COMPLAINT AND MOTION MANAGEMENT MECHANISM

The general complaint and motion management mechanism shall be applied to the following complaints and motions:

- a) those submitted during the social consultations concerning this LA&RAP draft,
- b) submitted prior to the Investor's request for the IPIP,
- c) submitted in the course of IPIP proceedings or a decision determining the amount of compensation directly to the Investor,
- d) those submitted after issuing the decision determining the amount of compensation for the expropriated real property,
- e) submitted during the design works,
- f) filed directly to the: PIU, PCU, PGW WP or other entity acting on behalf of PAPs.

Concerning this mechanism, the primary principle adopted by the Investor is giving everyone the right to submit a complaint or motion concerning the Contract regardless of the fact if their real property, rights or assets are situated in the area intended for Contract implementation or not.

Submitting complaints or motions is not subject to fees. Furthermore, the person filing a complaint or motion may not be exposed to any damage or allegation on account of such submission.

Complaints and motions may be submitted in written, electronic and oral form to the minutes. They may be submitted directly to the headquarters of:

PGW WP RZGW in Cracow, mailed to the address (22. Marsz. Józefa Piłsudskiego Street, 31-109 Cracow)

or via e-mail to: [jrp.krakow@wody.gov.pl](mailto:jrp.krakow@wody.gov.pl).

Complaints and motions shall be archived by the PIO in a relevant register, with the dates of their submission, dates of providing answers and the method of resolving.

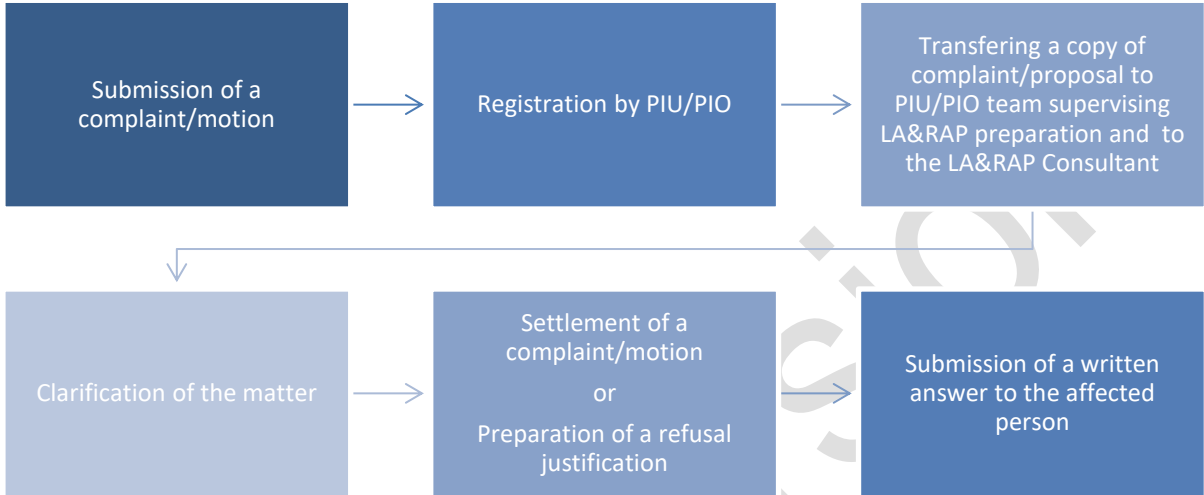
The complaint or motion will be reviewed immediately, which means that an official notice of how the complaint or request will be handled must be given to the party without undue delay. Such a notice shall include the identification of the entity from which it originates, an indication of how the complaint has been handled and a signature stating the name, surname and official position of the person authorized to handle the complaint or request.

In particularly complex cases as well as in cases where the examination of the complaint or motion requires introducing changes to the LA&RAP, the term allowed for answering a complaint or motion shall be extended to 30 days. If this term is too short, the party shall be notified of the cause for not receiving a subject matter answer to the party's complaint/motion on time; the term of providing such an answer shall also be stated.

In the case of a refusal to settle a complaint, the person submitting the complaint or motion shall be informed in an exhaustive manner about the causes for the refusal.

A diagram of the general complaint and motion management mechanism is presented below:

Figure 4 - Scheme of general mechanism for management of complaints and motions



### 11.2 SPECIAL COMPLAINT AND MOTION MANAGEMENT MECHANISMS

Special complaint and motion management mechanisms are directly connected with the IPIP issue proceedings as well as the determination of compensation for the lost right to the real property and related assets (e.g. civil profits, appurtenance or devices and machines unfit for use in a different location).

They shall be applied during the IPIP issuance proceeding, negotiations on compensation after the issuance of IPIP, in a proceeding on the issuance of a decision establishing the compensation amount by the Governor of Malopolski Region, and in appealing and court proceeding on the IPIP and on the compensation amount.

Persons whose property is within the contract implementation area shall be parties to the IPIP issuance proceedings. They have the right to participate actively, free of charge, in the proceedings concerning the issuance of the IPIP, including the right to submit comments and motions directly to the Governor of Malopolski Region. It should be noted that comments and motions submitted in the proceedings do not always require a response from the Investor. In the event that such a response is required, the Investor will immediately take a position on the matter and forward it to the Governor of Malopolski Region. The Investor's replies will be delivered to the parties by the Governor of Malopolska Region.

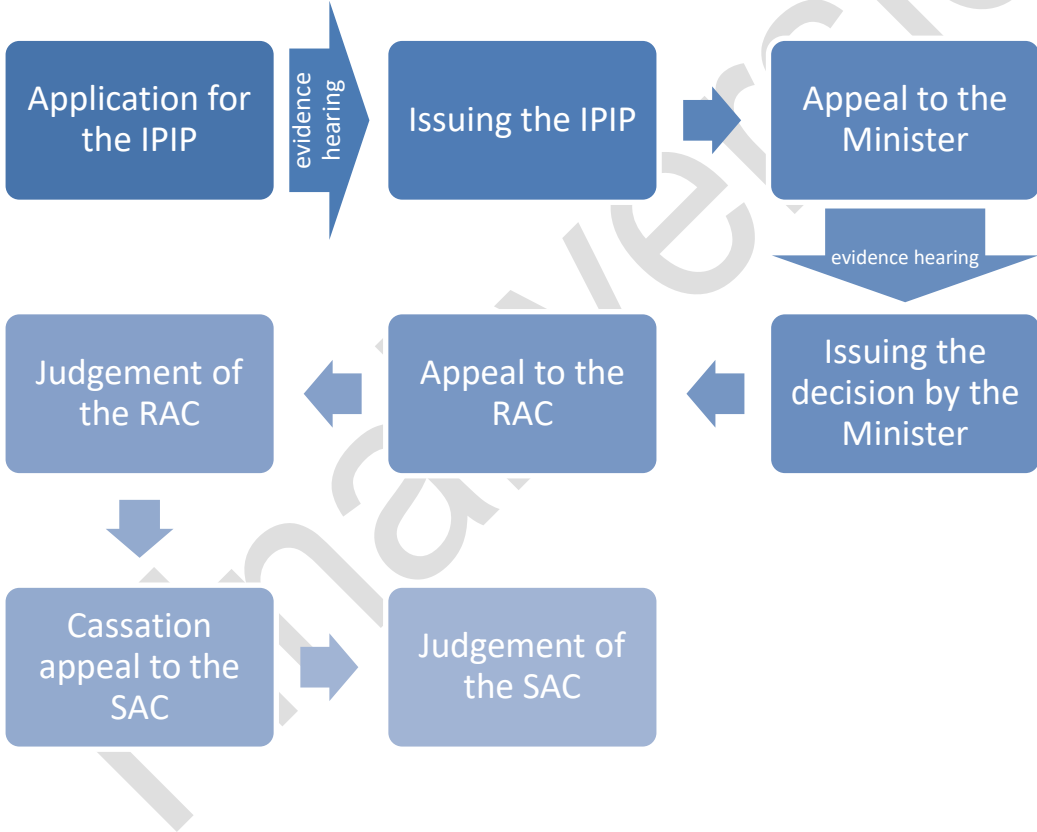
If the parties are not satisfied with the decision issued by the Governor, they will be entitled to lodge an appeal with the competent Minister (as at the date of drawing up the final version LA&RAP the Minister of Development, Labor and Technology) within the period specified in this decision. All

statements, motions and evidence submitted in the proceedings before the minister will have to be admitted by the minister and considered when issuing the decision.

If the party would not be satisfied with settlements of the Minister, it may file a claim to the Regional Administrative Court in Cracow. The court shall verify, if the Governor and the Minister properly and reliably implemented the proceeding, including remarks, motions and evidence provided by the proceeding parties. In conformity with valid regulations the complaint is subject to a court fee of PLN 500. Furthermore, the losing party is obliged to pay the court proceeding cost to the other party.

In case the RAC decision would not satisfy the party, it has a right to submit a cassation appeal to the Supreme Administrative Court. That court shall verify not only the properness and legitimacy of the proceeding completed by the Governor and by the Minister, but also the RAC sentence. The cassation appeal is subject to fee of PLN 250. Furthermore, the losing party is obliged to pay the court proceeding cost to the other party.

Figure 5 – Complaint management mechanism at the IPIP stage



Once a final IPIP is obtained, negotiations will be held with persons who have lost their right to a property or asset (e.g. civil benefits, affiliations or equipment and machines that are not suitable for use in the new location), at the initiative of the Investor on the amount of compensation and the acquisition of the property. The objections raised by the Parties during the negotiation stage will be archived in the minutes of the negotiation meetings.

For properties expropriated on the basis of the IPIP, protocols and other documents sent to each other by the parties during negotiations, will be transferred to the Governor of Malopolski Region unless an

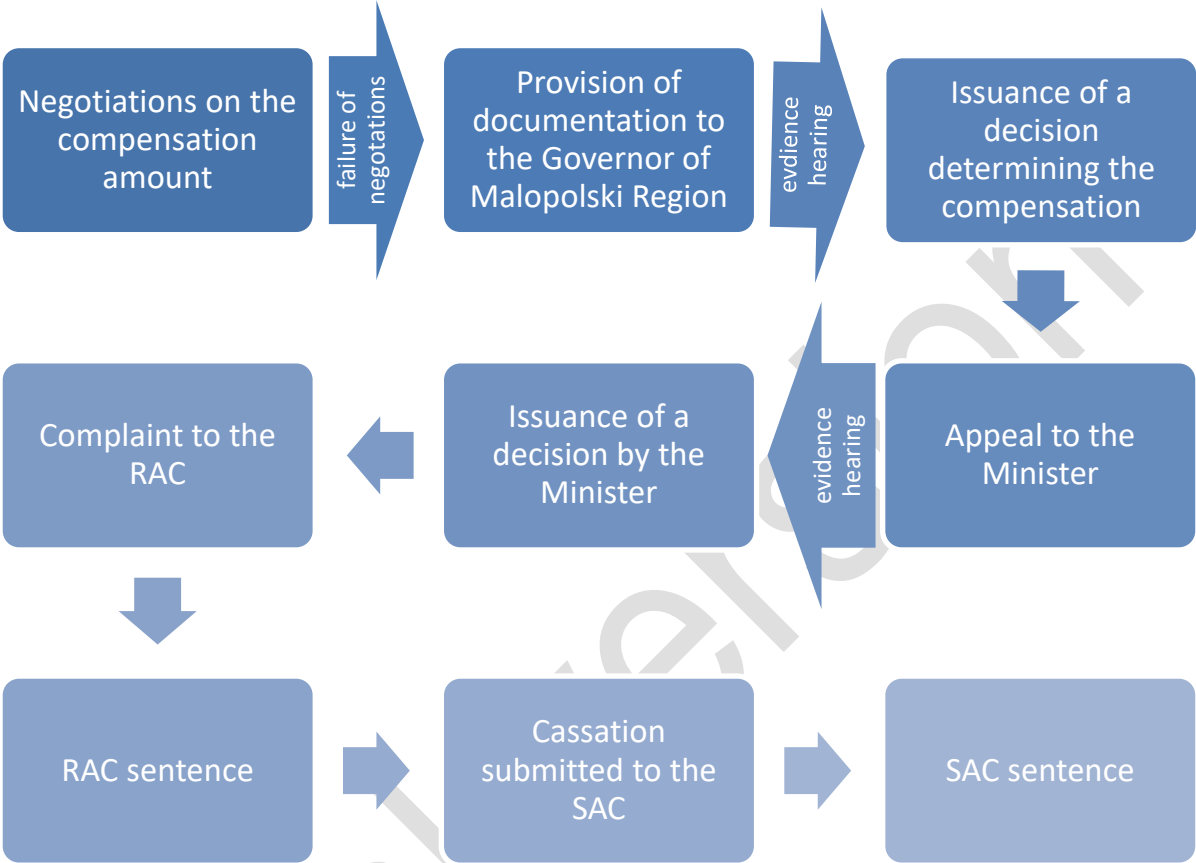
agreement on compensation is reached. These documents, in addition to the valuation report, will constitute the basis for the decision on the amount of compensation.

PAPs' rights in the proceedings concerning the issue of the decision determining the amount of compensation are analogous to those in the IPIP proceedings. It means that the PAPs have the right to actively participate in those proceedings free of charge, submit remarks and motions, appeal against the decision issued by the Governor, and submit a complaint about the appeal decision issued by the competent Minister to the relevant Regional Administrative Court (on the dates indicated in the decisions) and then - to the SAC. However, unlike in the proceedings concerning the IPIP issue, a complaint to the RAC about the decision determining the amount of compensation is subject to a proportional court fee which depends on the due amount of money covered by the decision which is appealed against and equals:

1. up to PLN 10,000 – 4% of the complaint subject value, but no less than PLN 100;
2. over PLN 10,000 up to PLN 50,000 – 3% of the complaint subject value, but no less than PLN 400;
3. over PLN 50,000 up to PLN 100,000 – 2 % of the complaint subject value, but no less than PLN 1.500;
4. over PLN 100,000 – 1% of the complaint subject value, but no less than PLN 2,000 and no more than PLN 100,000.

The court fee for cassation to the SAC equals a half of the court fee for the complaint to the RAC, but no less than PLN 100. If PAP is not able to bear the cost of the trial, he/she is entitled to submit an application on releasing for the obligation of bearing the court fees.

Figure 6 - The complaint management mechanism at the stage of issuing a decision determining the compensation amount (after issuance of the IPIP and its final status)



**11.3 THE SUBMISSION MECHANISM FOR CLAIM AND MOTIONS CONCERNING IMPLEMENTATION OF THE WORKS CONTRACT**

The mechanism of submitting complaints and motions concerning the construction and assembly works conducted by the Contractor shall be implemented at the beginning of the whole process and shall be binding throughout the entire period of implementation, functioning and closure of the Contract.

**11.3.1 Places where complaints and motions may be submitted**

A complaint or motion may be submitted by the party to one of the following three places:

1. Directly to the main Project office, which shall fulfil the function of a consultation point: AECOM Polska Sp. z o.o., Odra-Vistula Flood Management Project Office, 1. Pokoju Alley, Building K1, Cracow 31-548, Mrs. Marta Rak, tel. +48 601 824 298 (Senior Supporting Expert for Properties and Technical Assistance for the Client, AECOM Polska Sp. z o.o.),

Mr. Tomasz Jankowski, tel. +48 505 028 137 (Properties Specialist, AECOM Polska Sp. z o.o.).

2. Directly to the Employer's office:  
PGW WP RZGW in Cracow  
22. Marsz. Józefa Piłsudskiego Street  
31-109 Cracow  
+48 12 62 84 306 (Mrs. Aleksandra Macek PGW WP RZGW in Cracow Senior Specialist, Mr. Rafał Sionko PGW WP RZGW in Cracow Specialist).
3. Directly to the office on the construction site (the address of this office will be announced on the website of the Investor before the commencement of works).

In addition, complaints and motions may be submitted:

- via mail to the addresses, as above, or

- via internet:

Website: <http://www.krakow.wody.gov.pl>

e-mail: [jrp.krakow@wody.gov.pl](mailto:jrp.krakow@wody.gov.pl)

### **11.3.2 Time for consideration of complaints and motions**

Terms of considering complaints and motions:

- Proposed resolution: immediately, up to 30 days from receiving the complaint.

The principles referenced in Chapter 11 concerning the consideration of complaints and motions are also binding upon that type of complaints.

The proposed complaint registration form is presented in Appendix 16.6.

### **11.3.3 Persons responsible for consideration of complaints and motions**

Responsibility for reviewing complaints and motions lies with PIO personnel indicated by the PIO Manager.

### **11.3.4 Audits and independent appeal mechanism**

It is assumed that internal audits of the "complaint and motion mechanism operation" shall be conducted periodically (once in a half year) in order to assess the efficiency of the implemented system.

## **11.4 PERSONAL DATA PROTECTION POLICY FOR THE CONTRACT**

The purpose of the rules below, applied for implementation of this Contract, is to ensure transparency, protection and safety of collection of personal data of Project Affected Persons (PAP).



#### 11.4.1 Who is the personal data administrator?

In accordance with Article 13 (1) and (2) of the general regulation on the personal data protection dated April 27, 2016, the personal data is administered by the State Water Holding Polish Waters with its registered office in Warsaw 00-848, 59A. Żelazna Street. It is responsible for using the data safely and in accordance with the valid law - especially in accordance with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

#### 11.4.2 Contact details for the Personal Data Inspector

Would you have any questions about the manner and scope of processing your personal data regarding the work of the PGW WP, as well as your rights, you can contact the Personal Data Protection Inspector at PGW WP using the address [iod@wody.gov.pl](mailto:iod@wody.gov.pl).

#### 11.4.3 Legal basis for procession

The legal basis for the processing of personal data is Article 6 (1) letter e) of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC in connection with Article 3 of the Law of July 8, 2010 on particular conditions for preparing flood management contracts for implementation.

#### 11.4.4 What personal data may be collected and for what purpose?

Personal data is any information of personal character, allowing for identification of a particular person. **PGW WP RZGW in Cracow** collects only such data as necessary for execution of the Contract carried out by **PGW WP RZGW in Cracow** (in this case it relates to execution of the Works Contracts 3A.2/1 and 3A.2/2). Such data is processed solely to the extent provided for by PAPs, with their voluntary consent expressed with a relevant form and may include:

- a) data determining identity: full name and surname and date of birth,
- b) contact details: telephone number, address of registration and/or residence, e-mail address,
- c) data connected with payment of compensation for permanent acquisition of property, restrictions in use: PESEL [Personal Identification] number, series and number of the identity document, parents' names, bank account number.

The consent to store and process personal data is voluntary, lack thereof may however prevent payment of compensations or provision of information to PAPs about commencement of works and their progress.

**PGW WP RZGW in Cracow** stores current personal data of PAPs only, and should inform RZGW in Cracow of any changes to PAP data.

#### 11.4.5 What personal data was obtained in a way different than from a person being its subject and from which source/sources?

In order to identify owners / perpetual users / holders of properties that will be subject to permanent acquisition or restriction in use, **PGW WP RZGW in Cracow** obtained personal data from the Register of Lands and Buildings (EGiB) and the electronic system of Land and Mortgage Registers. The obtained data is:

- a) data specifying the identity: full name and surname and parents' names (in those cases where they were indicated in the EGiB), PESEL number (in those cases where it was indicated in the Mortgage Register),
- b) contact details: registered address (in those cases where they were indicated in the EGiB).

#### 11.4.6 To whom the personal data may be made available

PAPs' personal data may only be disclosed to:

- a) entitled public entities for the purpose of procedures they conduct, when **PGW WP RZGW in Cracow** is so obliged under relevant regulations and documents (e.g. a court summons, injunction order or another legal procedure),
- b) the agencies involved in execution of the Works Contracts 3A.2/1 and 3A.2/2, only as far as necessary for performance of particular activities.
- c) postal operators, in order to inform PAPs,
- d) representatives of the Consultant and lawyers in order to support the implementation of the Works Contract and compensation payments.

Personal data will not be transferred to third countries or to international organizations.

#### 11.4.7 Rights of the person to whom data applies

Each PAP has the right to:

- a) access his/her personal data and to update and correct it,
- b) delete his/her personal data ("right to be forgotten") or to move it to another data manager,
- c) limit the processing of one's personal data - some data may be marked as limited to processing in certain cases only,
- d) bring a complaint concerning the processing of his/her data by **PGW WP RZGW in Cracow** to a relevant body supervising personal data processing, when PAP considers, that the processing of personal data infringes on the provisions of the general Regulation on the protection of personal data of April 27, 2016 (indicated above),
- e) withdraw consent, at any time, to process his/her personal data by **PGW WP RZGW in Cracow**.

PAP data will not be subject to automated decision-making processes (profiling).

#### 11.4.8 Contact to supervising authorities considering complaints

President of the Office for Personal Data Protection

2. Stawki Street

00-193 Warsaw

phone +48 22 531 03 00

fax +48 22 531 03 01

Office opening hours: 8.00 am – 4.00 pm

Hotline: 606-950-000 open on working days from: 10.00 am - 1.00 pm.

#### **11.4.9 Contact person at PGW WP RZGW in Cracow for data protection policy**

**Data Protection Inspector** at PGW WP tel.: +48 22 37 20 213 e-mail: [iod@wody.gov.pl](mailto:iod@wody.gov.pl)

At RZGW in Cracow:

Tel.: +48 12 62-84-301 (Mrs. Katarzyna Szczepanek)

E-mail: [riod.krakow@wody.gov.pl](mailto:riod.krakow@wody.gov.pl)

#### **11.4.10 Time of keeping the personal data**

Personal data will be kept until the day of prescription of PAPs' compensation claims.

Final version

## 12 Institutional Structure and Implementation Team

The institutional structure of the LA&RAP developing team is presented in the following diagrams:

Figure 7 - Institutional structure of the LA&RAP developing team

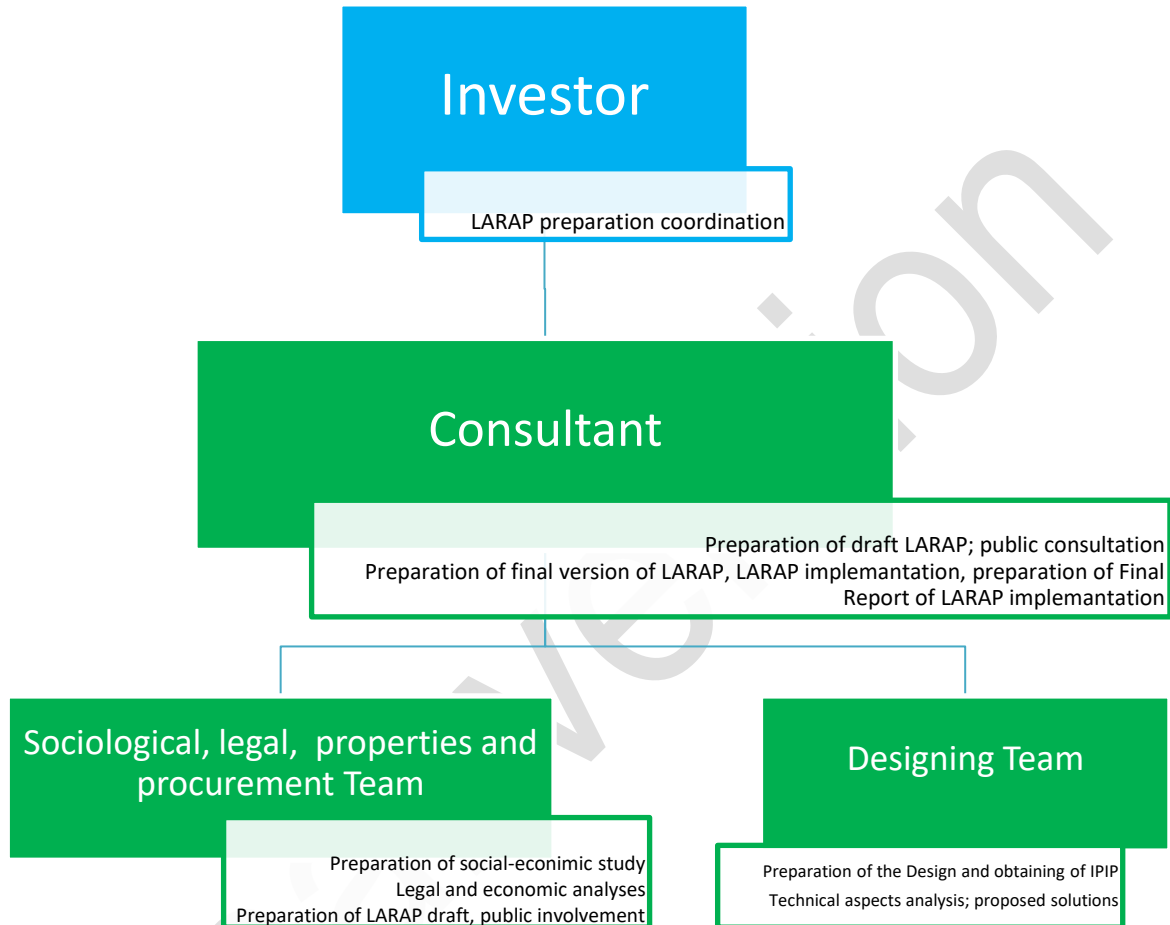
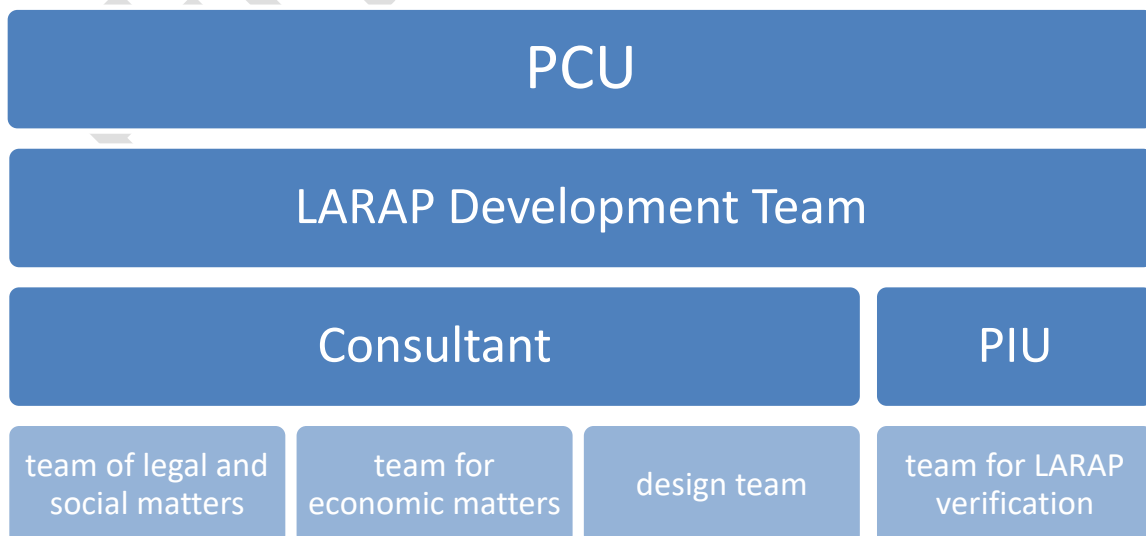


Figure 8 - Institutional structure of the LA&RAP developing team indicating location of PCU in the structure



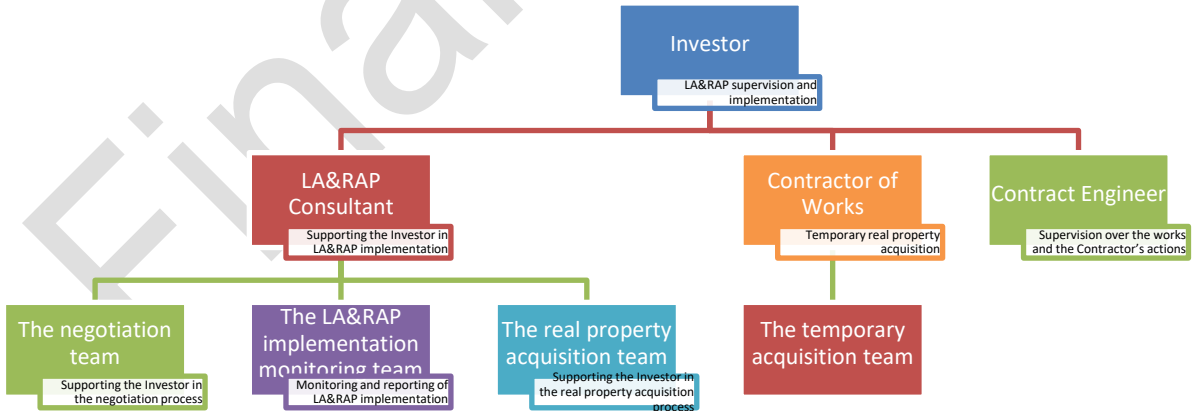
The LA&RAP Consultant for the preparation of this LA&RAP is AECOM Polska Sp. z o. o.

The scope of competence of the LA&RAP developing team is as follows:

1. The Investor – LA&RAP preparation coordination:
  - a. facilitation supervision over LA&RAP preparation;
  - b. monitoring the LA&RAP preparation process.
  
2. The Consultant – LA&RAP draft preparation:
  - a. conducting the socio-economic survey and preparation of a socio-economic study;
  - b. collection and analysis of the data on real property management and use;
  - c. performance of public hearings;
  - d. coordination of the social consultation process;
  - e. preparation of impact mitigation proposals and their technical analysis; submission of proposed changes to the construction design to the Investor;
  - f. eligibility analyses;
  - g. preparation of compensation packages;
  - h. LA&RAP draft preparation,
  - i. Development of the final LA&RAP.
  - j. preparation of a construction design;
  - k. obtaining administrative decisions, including decisions on the environmental conditions, IPIP;
  - l. a technical analysis of the proposed changes to the detailed design which are presented by the Consultant.

The scope of competence of the LA&RAP implementation team is as follows:

Figure 9 – The scope of competence of the LA&RAP implementation team



The scope of competence of the LA&RAP implementation team is as follows:

1. Investor
  - a. facilitation supervision over LA&RAP implementation;
  - b. concluding the compensation agreements;
  - c. compensation payment;

- d. ensuring information flow between the LA&RAP Consultant, the Engineer and the Contractor,
- e. ensuring the lack of impact on the properties, which have not been purchased and compensated as properties to be applied at the works,
- f. taking the properties over.

## 2. LA&RAP Consultant

- a. negotiation planning and participation in the negotiations;
- b. preparation of opinions and valuations by expert valuers for the purposes of negotiations with the PAP;
- c. monitoring of LA&RAP implementation by the Contractor and the Engineer;
- m. proposals of mitigation actions in case of problematic situations,
- n. supporting the Investor in taking the properties over.

## 3. Engineer

- a. supervision over the commencement and implementation of works;
- b. supervision over meeting the obligations by the Contractor.

## 4. Contractor

- a. real property obtainment for temporary acquisition;
- b. payment of compensation for real properties acquired for temporary acquisition;
- c. implementation of works on permanently acquired real properties;
- d. restoration of real properties acquired for temporary acquisition to their pre-Contract state or to the condition agreed under the contract on temporary acquisition of the properties.

## 5. PCU

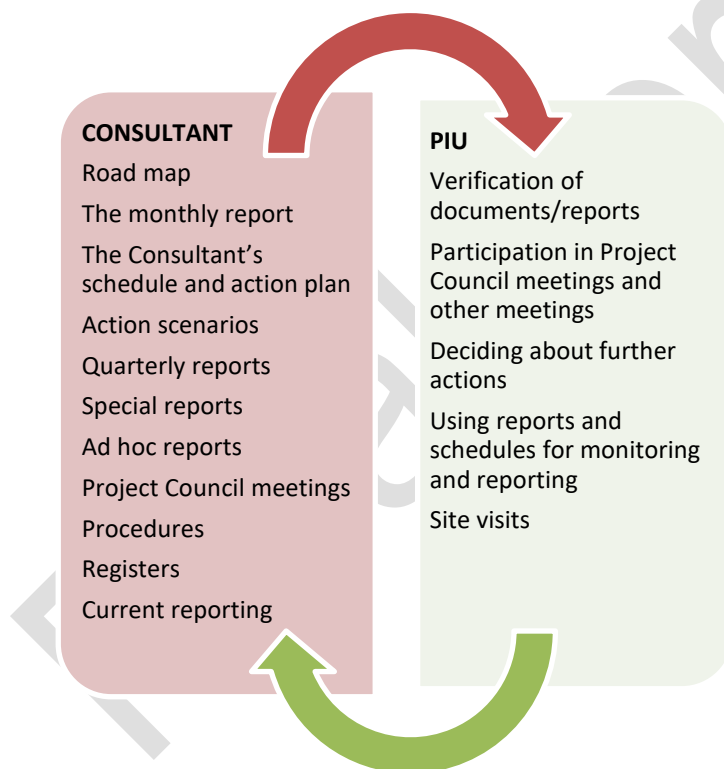
- a. Coordination of actions undertaken by the PIO within the framework of Contract implementation, also in terms of LA&RAP implementation, including submission of the draft LA&RAP to the WB for the purpose of obtaining consent for the commencement of public consultations, and subsequent – after the public consultations – re-submission in order to obtain NO for the final LA&RAP.

### 13 Monitoring and Evaluation

LA&RAP implementation monitoring is an integral part of the Contract monitoring and management system. Therefore, the tools used for Contract implementation monitoring shall be used for the purposes of LA&RAP implementation monitoring. Its task is reporting to financing institutions and providing current information about problems, random incidents and irregularities. LA&RAP is an integral part of the investment process that allows immediate response in the event of problems or irregularities. Ensuring appropriate cooperation between the Consultant and the PIU is also of fundamental importance. Schematic flow of information within the framework of the monitoring is shown in the chart below.

General procedures of monitoring and evaluation are described in greater detail in a document entitled Land Acquisition and Resettlement Policy Framework (LARPF) available at the following address:  
[http://odrapcu2019.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://odrapcu2019.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf).

Figure 10 – Scheme of LA&RAP implementation monitoring



It is crucial for LA&RAP implementation monitoring that the Consultant and the PIU register events and facts, in particular via a correspondence register, a register of progress in obtaining titles to use real properties for construction purposes, and a compensation payment progress register. The data contained in those registers are used for preparing a set of data on the number of acquired real properties and the amount and type of provided compensation, in accordance with Appendix no. 1.

All changes have to be recorded in the registers. The abovementioned registers are the basis for a detailed monitoring of the following parameters:

- a) the number of real properties to be expropriated and those already expropriated,

- b) the number of people requiring resettlement and already resettled,
- c) the number of real properties to be temporarily acquired (planned and achieved),
- d) the sum of all expenses of the resettlement process (planned and achieved),
- e) compensations paid for the loss of legal titles to real properties,
- f) compensations paid for loss of income sources,
- g) the implementation degree and status of protective measures,
- h) the number of complaints.

The LA&RAP implementation monitoring system shaped in this manner allows for a quick reaction to problems and for efficient reporting within the existing Contract management systems. The data shall be updated once in a quarter of a year.

The main indexes to be monitored in relation to the Contract implemented by PGW WP RZGW in Cracow are shown in the table<sup>18</sup> below.

Index	Source of information	Frequency of monitoring	Progress indicator
<b>Assumed parameters</b>			
Number of persons threatened by flooding	Data from model investigations	One-off at the Works Contract preparation stage	Number
Number of hectares of land threatened by flooding	Data from model investigations	One-off at the Works Contract preparation stage	Quantity (ha)
The number of real properties subject to expropriation	IPIP decision	Once, after issuing the decision	Number (items)
The number of real properties subject to permanent restriction in the use of properties	IPIP decision	Once, after issuing the decision	Number (items)
The number of real properties subject to temporary restriction in the use of properties	IPIP decision	Once, after issuing the decision	Number (items)
The number of real properties subject to temporary occupation (beyond IPIP)	Contractor	When signing the agreements by the Contractor, Once a month during the works At the end of the temporary occupation period	Number (items)

<sup>18</sup> Since there are no physical and economic resettlements, PAP will remain in their households and impact on level of income is not anticipated.



Index	Source of information	Frequency of monitoring	Progress indicator
Number of project affected persons (PAPs)	Land and mortgage registers, written extracts from land registers, IPIP decision	Once, after issuing the decision  Continuous updating during the period of agreeing on and paying the compensations	Number
The sum of all expenses of the compensations (planned)	Registers of PGW WP RZGW in Cracow/Consultant	Monthly/Quarterly	PLN
The number of acquired real properties	Registers of PGW WP RZGW in Cracow/Consultant	Monthly/Quarterly	Number (items)
<b>Achieved parameters</b>			
Number of persons protected against flooding	RZGW/ Consultant's records	One-off, after completion of Contract	Number
Number of hectares of land protected against flooding	RZGW/ Consultant's records	One-off, after completion of Contract	Quantity (ha)
The sum of all expenses of the compensations (expenses)	Financial registers of PGW WP RZGW in Cracow	Monthly/Quarterly	PLN
The number of acquired real properties	Registers of PGW WP RZGW in Cracow/Consultant	Monthly/Quarterly	Number (items)
<b>Efficiency indicators</b>			
The number of complaints	Registers of PGW WP RZGW in Cracow/Consultant	Monthly/Quarterly	Number (items)
The number of addressed claims	Registers of PGW WP RZGW in Cracow / the Consultant	Monthly / Quarterly	Number (items)
Paid compensations, others	Financial registers of PGW WP RZGW in Cracow	Monthly/Quarterly	PLN

Actions resulting from the LA&RAP will be continuously monitored, on the basis of established indicators, as well as periodically updated by the Consultant's team and by the PIO, as the works progress and new factual and legal circumstances emerge which affect the implementation of its provisions. It will allow, among others, for: provision of relevant information to Project Affected

Persons, early risk identification, and implementing the methods that allow for the risk minimization or elimination.

The monitoring results will be presented in monthly reports and in quarterly reports. The ex-post evaluation will be conducted six months after the LA&RAP is fully implemented, and its objectives will be assessed and it will provide documented evidence that directly affected PAPs have successfully established a standard of living equal to, or better than, pre-Project levels.

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## 14 Costs and Budget

No.	Item	Unit	Price PLN/ha	Area [ha]	Total [PLN]
1	Permanent acquisition <sup>19</sup>	Number/Hectare	No data	11.3810	No data <sup>20</sup>
2	Permanent restriction in the use <sup>21</sup>	Number/Hectare	No data	0.2848	No data
3	Temporary restriction in the use of properties resulting from the necessary redevelopment of the existing network <sup>22</sup>	Number/Hectare	No data	0.0988	No data
4	Court costs <sup>23</sup>	Not applicable	No data	No data	No data
5	Costs of implementation of LA&RAP <sup>24</sup>	Not applicable	No data	No data	No data
6	Unexpected costs (+20% to the total of item no. 1)	PLN	Not applicable	Not applicable	No data
7	Protective measures (5% to item no.: 1)	PLN	Not applicable	Not applicable	No data
8	Total: (sum of the items - No.: 1-7)	PLN	Not applicable	Not applicable	No data

Information on the amount of compensation for permanent acquisition, permanent restriction in the use of properties, and for plots where obligation to redevelop the existing land utilities shall be imposed shall be supplemented after developing an evaluation by a valuer.

The compensation is paid by the Investor, i.e. by PGW WP RZGW. The funds are guaranteed by the State Treasury and transferred to the Polish Waters via the Ministry of Finance and the Ministry competent to matters of Polish Waters.

PAP receive compensation from the bank account of PGW WP RZGW to an indicated bank account or, if PAP does not have a bank account, the payment will be made by postal order.

The costs of IPIP implementation will include, among others, the costs of correspondence with PAPs and the costs of remittances in case of compensation payment to persons without a bank account.

<sup>19</sup> The final amount will be decided by the IPIP.

<sup>20</sup> The amount will result from appraisal reports and will be increased by 5% (in the case of the release of real estate by PAP within 30 days of the day indicated in Chapter 8.4.1 of LARAP).

<sup>21</sup> The final amount will be decided by the IPIP.

<sup>22</sup> The final amount will be decided by the IPIP.

<sup>23</sup> The amount will include the costs of proceedings before administrative courts and common courts (costs of court entries, costs of experts, costs of legal representation, deposits and other fees related to this).

Costs before administrative courts can be estimated after obtaining the final value of the Governor of Malopolski Region decision determining the amount of compensation

<sup>24</sup> The amount will be determined at the stage of determining the amount of compensation with PAP.

## 15 LA&RAP Implementation Schedule

The individual steps necessary for the preparation and implementation of LA&RAP, according to LARPF, are shown in the table below. A detailed schedule in this regard is contained in Appendix no. 3 to this document.

LA&RAP DEVELOPMENT			
Steps	Action	Responsibility	Verification of performed actions
1	Preliminary social impact estimation for the Contract	PGW WP RZGW in Cracow – team for LA&RAP verification	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
2	Determination of the final scope of expropriation and development of a construction design	Consultant – Designing Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
3	Determination of coordination framework for LA&RAP implementation with relevant government administration authorities	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
4	Collection of written and graphic extracts from land and building registers and from spatial management plans	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
5	Socio-economic research	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
6	Assessment of Contract's social impact	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
7	Estimation of losses and damages and their replacement value, in accordance with relevant provisions	Consultant – Economic Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
8	Verification and update of collected materials, impact analyses and economic analyses	Consultant – Legal, Properties and Procurement Team	PIO in PGW WPRZGW in Cracow – team for LA&RAP verification
9	LA&RAP draft development	Consultant – Legal, Properties and Procurement Team	PIO in PGW WPRZGW in Cracow – team for LA&RAP verification

### LA&RAP DEVELOPMENT

Steps	Action	Responsibility	Verification of performed actions
10	Public consultations on LA&RAP	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
11	In the scope resulting from taking into consideration comments and motions to the LA&RAP – implementation of changes to the construction design	Consultant –Designing Team	PIO in PGW WP RZGW in Cracow – technical team
12	PIO in PGW WP RZGW in Cracow – verification and update of collected materials, impact analyses, and economic analyses	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
13	In the scope resulting from taking into consideration comments and motions to the LA&RAP – introduction of changes into the LA&RAP	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP verification
14	Submission of the LA&RAP to the World Bank	PGW WP RZGW in Cracow	PCU
15	No remarks from the World Bank	WB	-
16	LA&RAP publishing (also on the World Bank web page)		PIO in PGW WP RZGW in Cracow – team for LA&RAP verification

### LA&RAP IMPLEMENTATION

Steps	Action	Responsibility	Verification of performed actions
1	Determination of a detailed LA&RAP implementation schedule	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
2	Submission of motions for the IPIP	Consultant –Designing Team (authorized by the Investor)	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation

## LA&RAP IMPLEMENTATION

Steps	Action	Responsibility	Verification of performed actions
3	PIU's acquisition of real properties that shall be handed over as replacement real properties	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
4	Obtaining the IPIP	Consultant –Designing Team (authorized by the Investor)	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
5	Informing the PAP about obtaining the IPIP, its effects and the Investor's further planned actions	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
6	Valuation of real property by valuers, in line with the law in force, and valuation verification	Consultant – Legal, Properties and Procurement Team, Financial Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
7	Delivery of the appraisal studies to the expropriated persons and conducting negotiations	Consultant – Legal, Properties and Procurement Team, Financial Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
8	Should negotiations fail – obtaining a decision from the Governor on the amount of compensation	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
9	Payment of compensation or handover of replacement real properties, commencement of other compensation and protective measures stipulated in the LA&RAP	PGW WP with the support of the Contract Engineer	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
10	Physical acquisition of expropriated real properties and commencement of works	Consultant – Legal, Properties Team/ Contractor	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
11	LA&RAP implementation evaluation	Consultant – Legal, Properties and Procurement Team, Financial Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation

<b>CYCLIC TASKS</b>			
<b>Steps</b>	<b>Action</b>	<b>Responsibility</b>	<b>Verification of performed actions</b>
1	Permanent internal monitoring of LA&RAP implementation	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation
2	Reporting to the World Bank	PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation	PCU
3	Permanent coordination with the government and local government administration authorities	PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation	PCU
4	Permanent communication with the PAP	Consultant – Legal, Properties and Procurement Team	PIO in PGW WP RZGW in Cracow – team for LA&RAP monitoring and implementation

<b>POST-IMPLEMENTATION TASKS</b>			
<b>Steps</b>	<b>Action</b>	<b>Responsibility</b>	<b>Verification of performed actions</b>
1	LA&RAP implementation evaluation	Independent external auditor	-

## **16 Appendices**

### **16.1 PLOTS ACQUISITION PROGRESS MONITORING TABLE**

Appendix no. 1 – Table attached in an electronic version.

### **16.2 TABLE – LIST OF REAL PROPERTIES, OWNERS, AND IMPACT**

Appendix no. 2 - Table attached in an electronic version.

### **16.3 PLOTS ACQUISITION SCHEDULE**

Appendix no. 3 - Schedule attached in an electronic version.

### **16.4 INVESTMENT LOCATION PLAN**

Appendix no. 4 - Maps attached in an electronic version.

### **16.5 SOCIO-ECONOMIC STUDY**

Appendix no. 5 - Socio-Economic Study attached in an electronic version. The paper is not published due to protection of personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

### **16.6 FORM OF SUBMITTING COMPLAINTS TO THE CONSULTANT (BASE UPON WB GUIDELINES)**

Appendix no. 6 - Form attached in an electronic version.

### **16.7 REPORT ON THE PUBLIC CONSULTATION OF THE LA&RAP DRAFT**

Appendix no. 7 – The report attached in an electronic version.

### **16.8 INFORMATION BROCHURE**

Appendix no. 8 – Brochure attached in an electronic version.

### **16.9 TEMPLATE OF AGREEMENT ON TEMPORARY ACQUISITION**

Appendix no. 9 –Template of agreement for provision of properties for the purpose of temporary acquisition attached in an electronic version.