

**Workshop**  
**Meeting Date: 2/1/2016**

**Subject:** Annual Utilities Revenue Loss and Property Tax Loss from Post-Flood Buyout/Acquisition Programs

**Presenter:** Tony Cavalier, Finance Director Town of Lyons

**Background:**

Based on the current list of properties in the FEMA HMGP and CDBG-DR Acquisition/Buyout Programs, the Town is expecting to lose an estimated \$27,604.00 of Property Tax Revenue and \$66,150.00 of Utility Revenue (Electric, Water, Sanitation) annually. This is based on 28 properties, one of which is a mobile home park (17 accounts). The number of Utility accounts associated with the properties is 43.

A monthly average by property multiplied by 12 was used to calculate the annual utility revenue loss. Months used were pre-flood.

Annual property tax revenue loss was taken from the Boulder County Assessor's Site.

# 404 Properties

<u>Address</u>	<u>Average utilities</u>	<u>2013 Taxes</u>
124 4th	\$ 217.78	\$ 1,256.90
415 Prospect	\$ 211.22	\$ 512.66
415 (Garage)	\$ 75.00	
405 Evans	\$ 114.66	\$ 565.70
117 Park	\$ 247.33	\$ 649.62
329 5th	\$ 109.88	\$ 409.00
509 Evans	\$ 171.00	\$ 878.66
425 Prospect	\$ 188.00	\$ 2,614.86
341 Park	\$ 179.22	\$ 2,024.18
323 5th	\$ 102.66	\$ 1,257.02
104 5th	\$ 84.22	\$ 4,841.80
109 Park	\$ 149.66	\$ 1,244.66
221 Park	\$ 107.77	\$ 986.62
315 5th	\$ 92.22	\$ 1,031.28
342 Park	\$ 138.11	\$ 482.78
318 3rd	\$ 145.00	\$ 157.58
340 Park	\$ 144.00	\$ 1,388.31
111 Park	\$ 152.00	\$ 1,590.60
417 Evans	\$ 140.00	\$ 585.56
233 Park	\$ 239.00	\$ 290.58
403 Park	\$ 72.00	\$ 962.04
411 Park	\$ 170.00	\$ 1,182.36
437 Evans	\$ 130.00	\$ 422.24
332 PARK	\$ 75.00	\$ 482.78
319 5th	\$ 85.00	\$ 819.78
405 Prospect	\$ 145.00	\$ 484.54
Vacant Lot no utilities		
Vacant Lot no utilities		
		\$2,796.00.
104 5th Ave (House)	\$ 90.42	
440 Meily #1	\$ 135.16	\$ 41.60
440 Meily #2	\$ 103.59	
440 Meily #3	\$ 169.50	
100 4th #4	\$ 149.50	\$ 98.26
100 4th #5	\$ 110.00	\$ 77.22

440 Meily #6	\$	138.49		
440 Meily #7	\$	83.01	\$	114.54
100 4th #8	\$	158.94	\$	29.12
100 4th #9	\$	60.00		
440 Meily #10	\$	77.57		
440 Meily #11	\$	147.08	\$	19.48
440 Meily #12	\$	112.00		
440 Meily #13	\$	108.00	\$	85.32
440 Meily #15	\$	103.14	\$	16.18
440 Meily	\$	80.51		

## MEMORANDUM

TO: Board of Trustees

FROM: Rosi Dennett, Joe Kabala and Angela Norman

DATE: February 1, 2016

RE: Workshop on Acquired Properties and Uniform Relocation Act

As of today, the Town has purchased 19 properties in the buyout program with 4 properties scheduled to be purchased in February and 4 more in March for a total of 27 properties. An additional 7 properties remain on the "maybe" buyout list that could possibly be funded in Round 3 CDBG-DR, if the property owners decide to sell. Most have rebuilt, or are in the process of rebuilding, but have kept their names on the buyout list as an option. The buyout list, organized by grant types, is attached as well the closing schedule and map. Also included are photos of the purchased properties with the property owners at the time of closing.

The Lyons Volunteers are currently salvaging materials as we close on the properties, and the Center for Resource Conservation in Boulder is accepting the materials to be reused. Salvaged materials include doors, windows, closet shelves, gas fireplaces, toilets, tubs, light fixtures, counter tops, and sinks. A photo of the salvaging activity is attached.

The majority of the salvaging efforts will be complete by next week with demolition to begin on February 8. Inspections for hazardous materials (asbestos and lead paint) have been completed by SJR Environmental. Removal of hazardous materials (mostly asbestos) will be handled by the demolition contractor in accordance with state and federal requirements. Demolition and removal of all above-surface improvements, and grading and seeding of the disturbed sites for properties in Phase 1 must occur by February 29. Completion of Phase 2, which includes the four properties to be purchased in March, will be completed in April.

The rules and regulations implemented in the Uniform Relocation Act passed by Congress in 1970 apply to any properties being purchased with CDBG-DR. Five properties are affected by this act. Tenants that resided in the five properties, at the time of the 2013 flood or afterward, are potentially eligible for relocation funds. This relocation benefit is required by law in order to meet the Uniform Relocation Act's objectives as listed in the enclosed document, "Overview of the Uniform Act (URA)." A map of the five eligible properties is included in this packet.

HMGP-404 Buyout List

1/14/16

1. 124 4<sup>th</sup> Koester
2. 332 Park Smith
3. 340 Park Tiller
4. 342 Park Dickes
5. 111 Park Tschanz
6. 318 3rd Elston
7. 117 Park Carter
8. 233 Park Thomas
9. 405 Prospect Schilling
10. 405 Evans Darnell
11. 417 Evans McConnell
12. 437 Evans Babcock
13. 415 Prospect Briggs
14. 411 Park Reed
15. 319 5th Wegemann
16. 315 5th Allison
17. 329 5th Jansen
18. 509 Evans Schroeder

CDBG-DR Round 1a Buyout List

1. 0 4th Eisler Vacant Lot
2. 425 Prospect Ernst

CDBG-DR Round 1b Buyout List

1. 0 4th Schilling Vacant Lot
2. 221 Park Tilson
3. 403 Park Thweatt

CDBG-DR Round 2 Buyout List

1. 341 Park Stacy
2. 104 5th Baranway - Foothills Mobile Home Park
3. 323 5<sup>th</sup> Jones
4. 109 Park Young

CDBG-DR Round 2 or 3 "Maybe" Buyout List

- |                        |  |
|------------------------|--|
| 1. 346 Park            | Arp - Preference to Stay                         |
| 2. 401 2nd             | Yoder - Preference to Elevate                    |
| 3. 194 2 <sup>nd</sup> | James/Tarbet - Preference to Sell on Open Market |
| 4. 115 Park            | Kier - Preference to Rebuild                     |
| 5. 337 Park            | Doug Miller - Preference to Rebuild              |
| 6. 338 4th             | Hubbard - Preference to Rebuild                  |
| 7. 423 Evans           | Kanizay - Preference to Rebuild                  |

Feb.16	HMGP	CARTER	117 Park
	HMGP	SCHROEDER	509 Evans
	DR1A	ERNST	425 Prospect
	DR2	STACY	341 Park

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Mar.16	HMGP	JANSEN	329 5 <sup>th</sup>
	DR2	JONES	323 5 <sup>th</sup>
	DR2	YOUNG	109 Park
	DR2	BARANWAY	104 5 <sup>th</sup>

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Properties Already Purchased

0 4<sup>th</sup> - Eisler Vacant Lot (Nov.4)  
 0 4<sup>th</sup> - Schilling Vacant Lot (Dec.4)  
 405 Prospect – Schilling (Dec.4)  
 319 5<sup>th</sup> – Wegemann (Dec.7)  
 332 Park – Smith (Dec.9)  
 437 Evans – Babcock (Dec.17)  
 411 Park – Reed (Dec.23)  
 403 Park – Thweatt (Dec.23)  
 221 Park – Tilson (Dec.23)  
 315 5<sup>th</sup> – Allison (Dec.30)  
 342 Park – Dickes (Dec.30)  
 318 3<sup>rd</sup> – Elston (Jan.6)  
 340 Park – Tiller (Jan.6)  
 111 Park – Tschanz (Jan.8)  
 417 Evans – McConnell (Jan.13)  
 233 Park – Thomas (Jan.19)  
 124 4<sup>th</sup> – Koester (Jan.27)  
 415 Prospect – Briggs (Jan.27)  
 405 Evans – Darnell (Jan.27)



405 PROSPECT STREET—SCHILLING



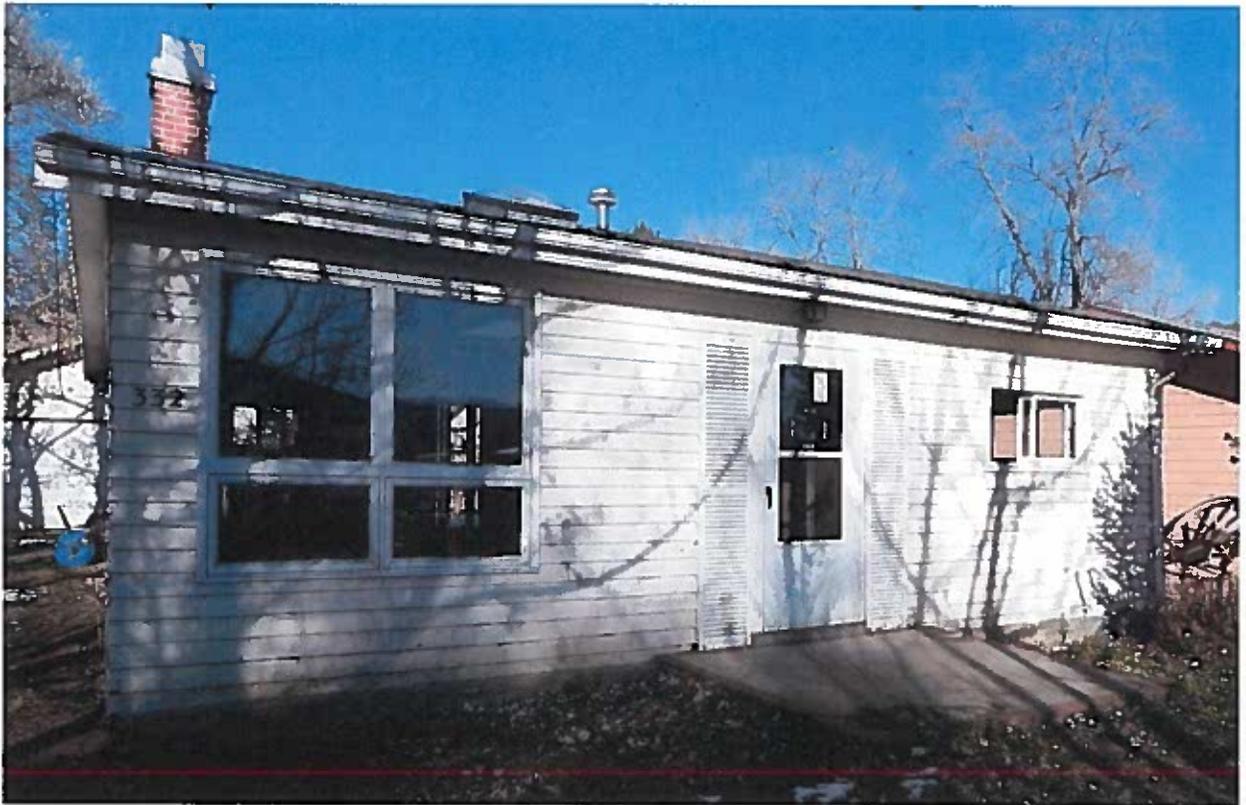


319 5TH AVNEUE—WEGEMANN





332 PARK STREET—SMITH





437 EVANS AVENUE—BABCOCK





403 PARK STREET—THWEATT





411 PARK AVENUE—REED





221 PARK STREET—TILSON



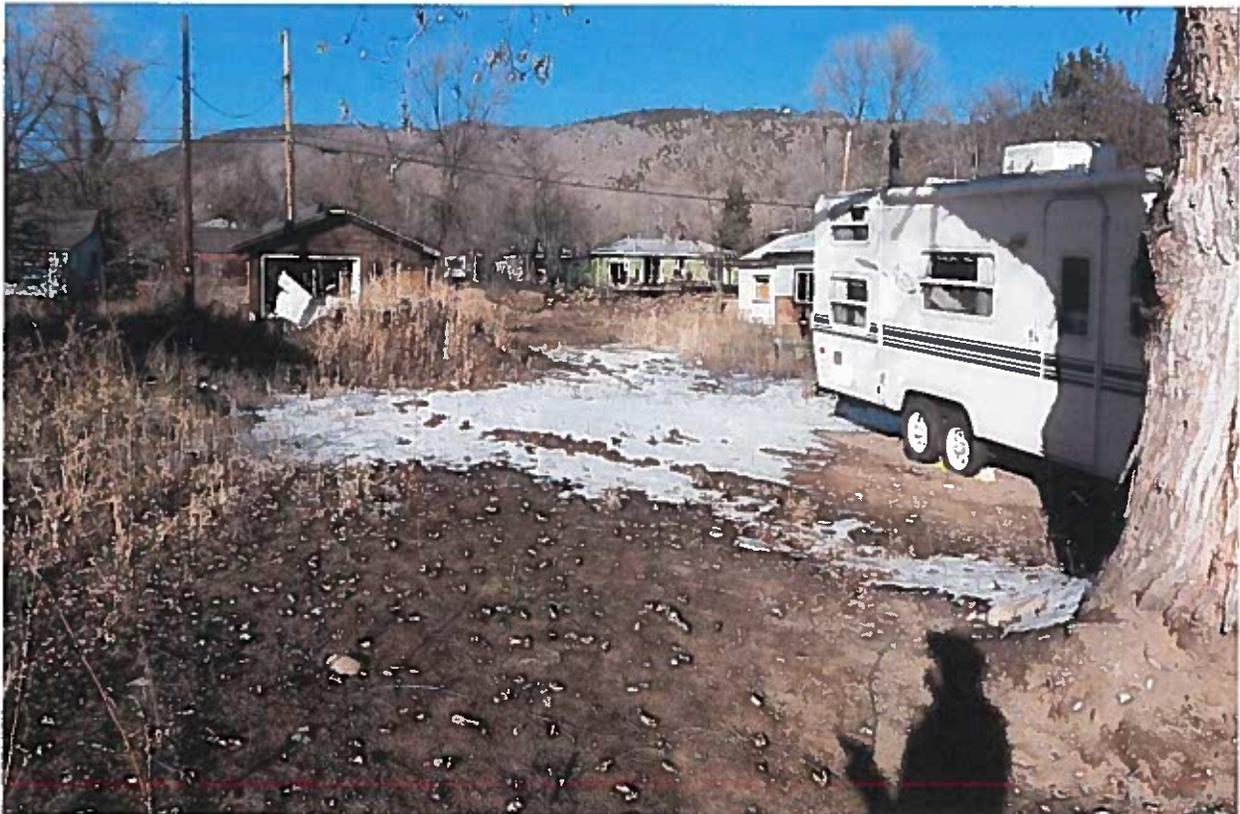


315 5TH AVNEUE—ALLISON





342 PARK STREET—DICKES





318 3RD AVENUE—ELSTON





111 PARK AVENUE—TSCHANZ





417 EVANS AVENUE—MCCONNELL





233 PARK STREET—THOMAS





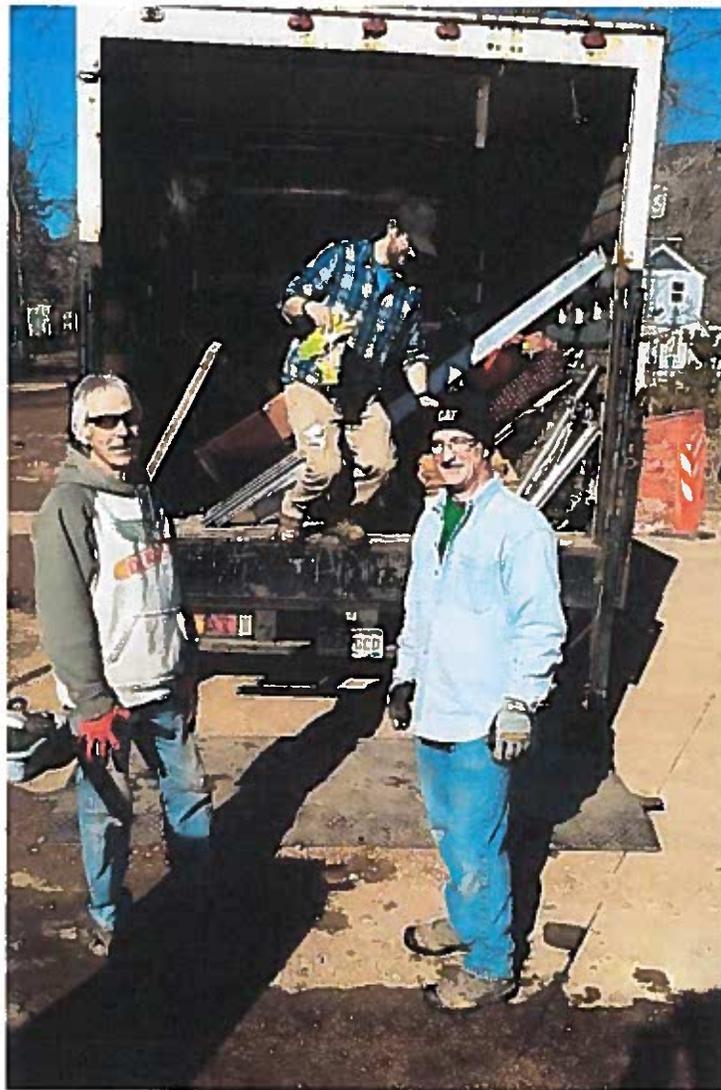
124 4TH AVENUE—KOESTER





415 PROSPECT— BRIGGS





Lyons Volunteers, Rick, Mike, and Ben salvaging materials.



# SAMPLE - HMGP USE RESTRICTION

## Exhibit A

In reference to the property or properties ("Property") conveyed by the Deed between [REDACTED], participating in the federally-assisted acquisition project ("the Grantor") and the Town of Lyons, Colorado ("the Grantee"), its successors and assigns:

WHEREAS, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, ("The Stafford Act"), 42 U.S.C. § 5121 et seq., identifies the use of disaster relief funds under § 5170c, Hazard Mitigation Grant Program, including the acquisition and relocation of structures in the floodplain;

WHEREAS, the mitigation grant program provides a process for a local government, through the State, to apply for federal funds for mitigation assistance to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the structures, and to maintain the use of the Property as open space in perpetuity;

Whereas, The State of Colorado has applied for and been awarded such funding from the Department of Homeland Security, Federal Emergency Management Agency and has entered into a mitigation grant program Grant Agreement dated [date] with FEMA and herein incorporated by reference; making it a mitigation grant program grantee.

Whereas, the Property is located in Lyons, County of Boulder, Colorado, and the Town participates in the National Flood Insurance Program and is in good standing with NFIP as of the date of the Deed;

Whereas, the Town of Lyons, acting by and through the Town's Board of Trustees, has applied for and been awarded federal funds pursuant to an agreement with the State of Colorado dated October 29, 2015 ("*State-Local Agreement*"), and herein incorporated by reference, making it a mitigation grant program subgrantee;

WHEREAS, the terms of the mitigation grant program statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State-local Agreement require that the Grantee agree to conditions that restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values;

Now, therefore, the grant is made subject to the following terms and conditions:

1. Terms. Pursuant to the terms of the Hazard Mitigation Grant program statutory authorities, Federal program requirements consistent with 44 C.F.R. Part 80, the Grant Agreement, and the State-local Agreement, the following conditions and restrictions shall apply in perpetuity to the Property described in the attached deed and acquired by the Grantee pursuant to FEMA program requirements concerning the acquisition of property for open space:

a. **Compatible uses.** The Property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: parks for outdoor recreational activities; wetlands management; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; buffer zones; and other uses consistent with FEMA guidance for open space acquisition, Hazard Mitigation Assistance, Requirements for Property Acquisition and Relocation for Open Space.

b. **Structures.** No new structures or improvements shall be erected on the Property other than:

i. A public facility that is open on all sides and functionally related to a designated open space or recreational use;

ii. A public rest room; or

iii. A structure that is compatible with open space and conserves the natural function of the floodplain, including the uses described in Paragraph 1.a., above, and approved by the FEMA Administrator in writing before construction of the structure begins.

Any improvements on the Property shall be in accordance with proper floodplain management policies and practices. Structures built on the Property according to paragraph b. of this section shall be floodproofed or elevated to at least the base flood level plus 1 foot of freeboard, or greater, if required by FEMA, or if required by any State, Tribal, or local ordinance, and in accordance with criteria established by the FEMA Administrator.

c. Disaster Assistance and Flood Insurance. No Federal entity or source may provide disaster assistance for any purpose with respect to the Property, nor may any application for such assistance be made to any Federal entity or source. The Property is not eligible for coverage under the NFIP for damage to structures on the property occurring after the date of the property settlement, except for pre-existing structures being relocated off the property as a result of the project.

d. Transfer. The Grantee, including successors in interest, shall convey any interest in the Property only if the FEMA Regional Administrator, through the State, gives prior written approval of the transferee in accordance with this paragraph.

i. The request by the Grantee, through the State, to the FEMA Regional Administrator must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.

ii. The Grantee may convey a property interest only to a public entity or to a qualified conservation organization. However, the Grantee may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a), of this section, with the prior approval of the FEMA Regional Administrator, and so long as the conveyance does not include authority to control and enforce the terms and conditions of this section.

iii. If title to the Property is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth in this section, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:

a) The Grantee shall convey, in accordance with this paragraph, a conservation easement to an entity other than the title holder, which shall be recorded with the deed, or

b) At the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.

iv. Conveyance of any property interest must reference and incorporate the original deed restrictions providing notice of the conditions in this section and must incorporate a provision for the property interest to revert to the State, Tribe, or local government in the event that the transferee ceases to exist or loses its eligible status under this section.

2. Inspection. FEMA, its representatives and assigns including the state or tribe shall have the right to enter upon the Property, at reasonable times and with reasonable notice, for the purpose of inspecting the Property to ensure compliance with the terms of this part, the Property conveyance and of the grant award.

3. Monitoring and Reporting. Every three years in April, the Grantee (mitigation grant program subgrantee), in coordination with any current successor in interest, shall submit through the State to the FEMA Regional Administrator a report certifying that the Grantee has inspected the Property within the month preceding the

report, and that the Property continues to be maintained consistent with the provisions of 44 C.F.R. Part 80, the property conveyance, and the grant award.

4. Enforcement. The Grantee (mitigation grant program subgrantee), the State, FEMA, and their respective representatives, successors and assigns, are responsible for taking measures to bring the Property back into compliance if the Property is not maintained according to the terms of 44 C.F.R. Part 80, the property conveyance, and the grant award. The relative rights and responsibilities of FEMA, the State, the Grantee, and subsequent holders of the property interest at the time of enforcement, shall include the following:

a. The State will notify the Grantee and any current holder of the property interest in writing and advise them that they have 60 days to correct the violation.

i. If the Grantee or any current holder of the property interest fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the State shall enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.

ii. FEMA, its representatives, and assignees may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to 1 or more of the following:

a) Withholding FEMA-mitigation awards or assistance from the State or Tribe, and Grantee; and current holder of the property interest.

b) Requiring transfer of title. The Grantee or the current holder of the property interest shall bear the costs of bringing the Property back into compliance with the terms of the grant; or

c) Bringing an action at law or in equity in a court of competent jurisdiction against any or all of the following parties: the State, the Tribe, the local community, and their respective successors.

5. Amendment. This agreement may be amended upon signatures of FEMA, the state, and the Grantee only to the extent that such amendment does not affect the fundamental and statutory purposes underlying the agreement.

6. Severability. Should any provision of this grant or the application thereof to any person or circumstance be found to be invalid or unenforceable, the rest and remainder of the provisions of this grant and their application shall not be affected and shall remain valid and enforceable.

*[Signed by Grantor(s) and Grantee, witnesses and notarization in accordance with local law.]*

Grantor's Signature Wayne C. Elston

Date 1-6-16

Grantor's Name: Wayne C. Elston

Grantor's Signature Susan May Elston

Date 1-6-16

Grantor's Name: Susan May Elston

# SAMPLE - CDBG USE RESTRICTION

## Use Covenant

In reference to the property ("Property") conveyed by the Deed between [REDACTED] participating in the federally-assisted acquisition project (the "Grantor"), and the Town of Lyons, Colorado, (the "Grantee" or the "Town"), its successors and assigns:

## Recitals

- A. CDBG-DR funds have been allocated by the United States Department of Housing and Urban Development to the State of Colorado. The State has, in turn, allocated a portion of funds to the Town for acquisition of real property and flood buyouts (the "Buyout Program").
- B. The Buyout Program provides a process for the Town to acquire interests in property, including the purchase of property in the floodplain, to demolish and remove any structures on such property, and to maintain the use of the Property as open space in perpetuity.
- C. The Property is located in the Town of Lyons, Colorado.
- D. The Grantee is required to restrict the use of the land in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices pursuant to 78 Fed. Reg. 14,329 (March 5, 2013)) (the "Program Requirements").

## Agreement

Pursuant to the Program Requirements, the following restrictions shall apply to the Property described in the attached deed and acquired by the Grantee:

1. Compatible uses. The Property shall be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices.
2. Structures. No new structures or improvements shall be erected on the Property other than:
  - a. A public facility that is open on all sides and functionally related to a designated open space or recreational use;
  - b. A public rest room;
  - c. A flood control structure; or
  - d. A structure that the local floodplain manager approves in writing before the commencement of the construction of the structure.

[Signature Page to Follow]

HUD > Program Offices > Community Planning and Development > Affordable Housing > HOME Training > HOME Front - Interactive Technical Support for the HOME Program > Real Estate Acquisition and Relocation in HUD Programs > Overview of the Uniform Act (URA)

# Overview of the Uniform Act (URA)

The **Uniform Act**, passed by Congress in 1970, is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

- **49 CFR Part 24** is the government-wide regulation that implements the URA.
- **HUD Handbook 1378** provides HUD policy and guidance on implementing the URA and 49 CFR Part 24 for HUD funded programs and projects.

This module covers URA requirements as they apply to HUD programs.

## What are the URA's objectives?

- - To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects
  - To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement
  - To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means
  - To help improve the housing conditions of displaced persons living in substandard housing
  - To encourage and expedite acquisition by

## In This Section

### Introduction and Objectives

Overview of the URA  
Planning

What is a Program or Project?

Voluntary vs. Involuntary Acquisition

Involuntary Acquisition

Who is/ Who is Not Displaced?

Relocation Notices

Relocation Advisory Services

Residential Relocation  
Housing of Last Resort

Temporary Relocation

Nonresidential Relocation

Overview of Section 104(d)

Additional Information

agreement and without coercion

## How do URA requirements impact your project?

Agencies conducting a program or project under the URA must carry out their legal responsibilities to affected property owners and displaced persons. Agencies should plan accordingly to ensure that adequate **time, funding and staffing** are available to carry out their responsibilities.

Some of those responsibilities include:

- **For Real Property Acquisition**
  - Appraise property before negotiations
  - Invite the property owner to accompany the appraiser during the property inspection
  - Provide the owner with a written offer of just compensation and a summary of what is being acquired
  - Pay for property before possession
  - Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.

Please note that agency responsibilities for voluntary acquisitions differ. (Please see **Voluntary Acquisition vs. Involuntary Acquisition** in this training module for additional information.)

- **For Residential Displacements**
  - Provide relocation advisory services to displaced tenants and owner occupants
  - Provide a minimum 90 days written notice to vacate prior to requiring possession
  - Reimburse for moving expenses
  - Provide payments for the added cost of renting or purchasing comparable replacement housing
- **For Nonresidential Displacements (businesses, farms, and nonprofit organizations)**
  - Provide relocation advisory services
  - Provide a minimum 90 days written notice to vacate prior to requiring possession
  - Reimburse for moving and reestablishment expenses

## Which HUD Community Development Programs are covered by URA Requirements?

URA requirements apply to HUD provided grants, loans, or contributions, including HOME, CDBG, or Section 108 loan guarantees. There are, however, a few exceptions to this general rule.

One such exception is the American Dream Downpayment Initiative (ADDI). On December 16, 2003, ADDI was signed into law under the American Dream Downpayment Act (Public Law 108-186). By law, ADDI is not subject to the URA requirements. See the **URA Exemption** for additional information on ADDI.

A sample listing of HUD programs covered by the URA is provided below. Note that this list is representative and it may change as new programs are enacted.

You should refer to HUD's program rules to help determine whether the URA covers a particular program. When in doubt, grantees should contact their **HUD Regional Relocation Specialist** for assistance.

- Community Development Block Grants (CDBG) Entitlement Program
- Section 108 Loan Guarantees
- CDBG HUD Administered Small Cities Program
- State CDBG Program
- Urban Development Action Grants
- HOME Investment in Affordable Housing
- Rental Rehabilitation Loans
- Housing Opportunities for Persons with AIDS
- Supportive Housing Program
- Emergency Shelter Grants
- Transitional Housing Program
- Permanent Housing Program for Handicapped Homeless Persons
- Supplemental Assistance for Facilities to Assist the Homeless
- Shelter Plus Care
- Section 312 Rehabilitation Loans
- Special Purpose Grants
- Supportive Housing for the Elderly
- Supportive Housing for Persons with Disabilities