

Du Page County, Illinois

**Substantial Amendment
Number 4 for CDBG Disaster
Recovery Funds**

Public Law 113-2

DRAFT FOR PUBLIC COMMENT
June 30, 2016



Executive Summary and Citizen Participation

DuPage County, Illinois was required to publish an Action Plan for the purpose of receiving a Community Development Block Grant-Disaster Recovery Grant (CDBG-DR) in the amount of \$7,000,000 in accordance with the Disaster Relief Appropriations Act, 2013 (Public Law 113-2). The U.S. Department of Housing and Urban Development (HUD) guidance for the funding was published December 16, 2013 in the Federal Register as Docket No. FR-5696-N-07 (the “Notice”) with an effective date of December 23, 2013. On June 3, 2014, a supplemental allocation of \$18.9 million was published in the Federal Register as Docket No. FR-5696-N-09 (“Second Notice”) with an effective date of June 9, 2014. On January 8, 2015, an additional supplemental allocation of \$5,626,000 was published in the Federal Register as Docket No. FR-5696-N-13 (“Third Notice”) with an effective date of January 13, 2015. This brings the total allocation to DuPage County to \$31,526,000. (The title “Action Plan” as used in this document includes the original Action Plan and all amendments made to it.) These funds are being made available to assist disaster recovery efforts in response to a declared major disaster occurring in DuPage County in April, 2013. These funds can be used only for specific disaster recovery-related purposes.

This Substantial Amendment Number 4 revises the criteria for the Strategic Buy-Out Program described in the Action Plan to include non-owner occupied property. While committed funding remains unchanged by this Substantial Amendment 4, the following table illustrates, at the most practical level, how CDBG-DR funds are currently programmed:

Current Activity Summary Table - No Changes Made by this Amendment 4	
Activity	Total Budget
Administration	\$1,521,000
Planning	\$1,418,000
Strategic Buy-Out Program	\$ 5,997,000
HMGP Buy-Out Match	\$1,450,000
Rehab/Mold Remediation	\$50,000
Carol Stream - Klein Creek Watershed Flood Control Plan/Armstrong Park Facility	\$9,460,000
Municipal Activities	\$3,500,000
Bloomingtondale - Springbrook Culvert	\$250,000
Villa Park – Downtown Green Infrastructure	\$1,000,000
Warrenville - West Branch River Restoration & Flood Mitigation	\$2,830,000
Westmont - Liberty Park Improvement	\$1,000,000
Glen Ellyn - Lake Ellyn Outlet	\$500,000
Glen Ellyn - Perry’s Pond	\$275,000
Villa Park - Sugar Creek Watershed Improvement	\$550,000

Winfield - Winfield Creek Watershed Plan	\$110,000
Glen Ellyn – Glenrise Avenue Culvert Replacement	\$350,000
Glendale Heights (unincorporated) Nelson’s Highview Flood Control	\$300,000
Glenn Ellyn – Pearl Avenue Drainage Ditch	\$100,000
To be Reprogrammed at a Future Date	\$865,000
TOTAL	\$31,526,000

In accordance with the DuPage County Community Services Language Access Plan, it has been determined that this Executive Summary is a vital document and it will be translated into Spanish and posted with the English version of the Executive Summary.

This Amendment Number 4 has been designed to be consistent with the primary objective of providing funds for local projects with activities that meet one of the following national objectives of the Housing and Community Development Act of 1974, as amended: benefit to low/moderate income persons; slums or blight; urgent needs. At least fifty percent (50%) of the CDBG-DR grant award must be used for activities that benefit low- and moderate income persons.

Citizen Participation:

The intent to prepare this Substantial Amendment 4 and a review of buy-out criteria took place at a public meeting of the DuPage Community Development Commission Executive Committee held on June 7, 2016. Substantial Amendment Number 4 is hereby submitted for public comment by publication in the *Daily Herald* on June 30, 2016 and placement on the following website where the full text may be viewed: www.dupageco.org (link to CDBG-DR on the left) or directly accessed at <http://www.dupageco.org/cdbg-dr/>, including an Executive Summary in Spanish. A paper copy of the full text will be provided upon request. A link to Substantial Amendment Number 4 will also be e-mailed to all municipal members of the DuPage Community Development Commission with a request that it be posted in a public place within the city or village, all persons/entities that have indicated an interest in DuPage County community development activities, members of the DuPage County Continuum of Care, and agencies able to disseminate the information to persons with disabilities. The public comment period will end on August 1, 2016. A summary of comments and views received and a summary of comments or views not accepted, including the reasons for non-acceptance, will be inserted after the public comment period. Substantial Amendment Number 4 will then be approved by the DuPage County Health & Human Services Committee and at a duly called public meeting of the DuPage County Board.

A public hearing will be held to gain input on Substantial Amendment Number 4 as follows:

Tuesday, July 26, 2016
7:00 p.m.
421 North County Farm Road
Wheaton, IL
Room 1-500 B

The location of the public hearing is accessible to people with disabilities. Anyone requiring special accommodation for language assistance, hearing impairment, physical or other disability, or to ask questions, comment on Substantial Amendment Number 4, make a complaint, or request a paper copy of Substantial Amendment Number 4 or any other document related to these disaster recovery funds, should do so in accordance with the following contact information. Any individual, group, or agency wishing to comment on this proposed Substantial Amendment Number 4 may submit such comments in writing to be received by 4:30 p.m. on August 1, 2016.

Contact Information:

Call: 630-407-6706
TDD (Hearing Impaired): 630-407-6502
Fax: 630-407-6702

E-mail: mary.mitros@dupageco.org

Mail a comment or request or visit office in person:

Mary Mitros
Stormwater Management
DuPage County Government
421 N. County Farm Road
Wheaton, IL 60187

1) Need for Substantial Amendment 4

The DuPage County Action Plan, as amended, currently has the following criteria for the “Strategic Buy-Out” Activity:

- The activity must meet either a low-mod or urgent need national objective (funds were set aside for both national objectives)
- The activity is primarily for residential property (one potential commercial property was included)
- The activity is for owner occupied property that was impacted by the April, 2013 flood event and meets at least one of the following criteria: structures not protected by capital improvement projects in approved watershed plans; OR structure subject to flooding depth of one foot above the low entry elevation for any one historic event; OR structure subject to a flooding depth of one-half foot for any two historic flood events; OR FEMA repetitive loss structure

This activity is currently being carried out in accordance with the *Property Acquisition & Buy-Out Policies and Procedures* adopted by the DuPage Community Development Commission on October 6, 2015 and amended on December 1, 2015 (Policies & Procedures). As the activity has progressed, the ability to acquire or buy-out residential property that is not owner occupied has been identified as an unmet need. There are substantially damaged residential structures within DuPage County that are required to be elevated above flood level or demolished, but have been occupied by persons other than the owner of the property.

DuPage County will, therefore, add residential structures that are not owner occupied to the list of potential structures for buy-out or acquisition through the “Strategic Buy-Out Activity” if a structure that is not owner occupied was impacted by the April, 2013 flood event and meets at least one of the following criteria:

- Determined to be substantially damaged by a local, County or Federal official, according to FEMA regulations: Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (these properties would have the highest priority); OR
- Designated as a Repetitive Loss or Severe Repetitive Loss property under the National Flood Insurance Program; OR
- Located in a mapped FEMA-defined floodway: A “regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must

be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height; OR

- Located adjacent to other flood prone properties that have been or are currently in the process of being acquired.

Properties are also being acquired through the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP), as administered through the Illinois Emergency Management Agency (IEMA) using CDBG-DR funds to pay the required 25% match for the program. The CDBG-DR Action Plan does not explicitly state that property purchased under the HMGP must be owner occupied.

Property acquisition and buy-out must be in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). Acquisition and buy-out of non-owner occupied property will trigger provisions of the URA as they relate to tenants that may have occupied the property. While there is potentially a cost associated with these provisions for rental assistance and moving expenses, there is no way to determine at this point what that cost will be. Funds already programmed to the activity will be used for the URA costs. If funds need to be reprogrammed to this activity at a later date, a substantial amendment process will be followed. The Federal Register Notices published for the CDBG-DR program contain waivers for certain portions of the URA and/or for certain additional HUD requirements for lower-income persons under Section 104(d). Therefore, a policy and procedures document as to how URA compliance will be accomplished will be considered at a public meeting of the Community Development Commission and adopted prior to the acquisition or buy-out of any non-owner occupied property.

Over the course of the CDBG-DR program, additional guidance has been issued that impacts the Action Plan and Policies & Procedures in relation to the ability of a buy-out program to meet a low-mod national objective if they are only an “individual benefit” activity rather than an “area wide” benefit activity and determining the value of property not located in a FEMA regulatory floodplain. It was previously stated in Substantial Amendment 3 that buy-out activities would now be carried out under an urgent need national objective. Further, the DuPage Community Development Commission is proposing that the Policies & Procedures be amended in accordance with Attachment 1 to this Substantial Amendment 4.

2) Program/Activity Details

Detailed information about the Strategic Buy-Out Activity, as amended, is stated in the following Activity Detail Table:

Activity Detail Table		
Activity	Description	Budget for Activity
<p>Strategic Buy-Out Program</p> <p>Eligibility: Housing</p> <p>National Objective: Urgent Need</p> <p>Projected start date: 11/1/2014</p> <p>Projected end date: 9/29/2019</p>	<p>This activity will undertake voluntary buy-out or acquisition of owner occupied single family dwellings (as defined by HUD) impacted by this flood event which meet the DuPage County buy-out criteria: structures not protected by capital improvements projects in approved watershed plans; structure subject to flooding depth of one foot above the low entry elevation for any one historic event; subject to a flooding depth of one-half foot for any two historic flood events; or a FEMA repetitive loss structure.</p> <p>This activity will also undertake voluntary buy-out or acquisition of non-owner occupied dwellings impacted by this flood event and which meet any one of the following criteria:</p> <ul style="list-style-type: none"> • Determined to be substantially damaged by a local, County or Federal official, according to FEMA regulations: Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (these properties would have the highest priority); OR • Designated as a Repetitive Loss or Severe Repetitive Loss property under the National Flood Insurance Program; OR • Located in a mapped FEMA-defined floodway: A “regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height; OR • Located adjacent to other flood prone properties that have been or are currently in the process of being acquired. 	<p>\$5,997,000 (threshold per house determined on a case-by-case basis)</p>

	<p>Specific impact and long term recovery: Buy-out is the only alternative in many flood prone areas of the County where there is no permanent infrastructure solution to the flooding. This will result in long-term recovery for these households.</p> <p>Location/geographic description: DuPage County.</p> <p>Responsible Organization: DuPage County (Stormwater)</p> <p>Performance measures will be: # of units (24 anticipated)</p>	
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3) Budget and Timeline Information

No funds are reprogrammed by this Substantial Amendment 4. Activity timelines are not modified by this Substantial Amendment 4.

4) Environmental

DuPage County Community Development will assume responsibility for environmental reviews at the appropriate level on behalf of DuPage County, the responsible entity, for projects stated in this Substantial Amendment 3.

5) Public Comments

TO BE ADDED AT THE END OF THE CITIZEN PARTICIPATION PROCESS.

Community Development Block Grant – Disaster Recovery (CDBG-DR)

Property Acquisition & Buy-Out Policies and Procedures
 Adopted October 6, 2015
 Amended December 1, 2015
 Amended _____, 2016

1. **Authority to undertake property acquisition and buy-outs.** DuPage County has filed the following Action Plan and Amendments with the U.S. Department of Housing and Urban Development (HUD) that authorize this activity. Please note that under CDBG-DR requirements stated in Federal Register Docket No. FR-5696-N-01 dated March 5, 2013, the term “buyouts” refers to acquisition of properties located in a floodway or floodplain. Properties not located in a floodway or floodplain may also be acquired. Homeowners must complete an Application requesting property buy-out or acquisition.

<p>Action Plan filed March 4, 2014</p>	<p>Voluntary acquisition or buy-out of houses that meet following criteria:</p> <ul style="list-style-type: none"> • Impacted by April, 2013 event • Owner occupied by low-moderate income household (See amendment of low-moderate national objective in Amendments 3 and 4). • Not protected by capital improvement project in approved watershed plan OR subject to flooding depth of one foot above the low-entry elevation for April, 2013 event OR subject to a flooding depth of one-half foot for any two historic flood event (one must be April, 2013 event) OR FEMA repetitive loss structure <p>Municipalities may also apply for up to 50% of costs for buy-out/acquisition projects with low-mod benefit (\$250,000 funding request cap)</p>
<p>Substantial Amendment 1 filed September 11, 2014</p>	<p>Voluntary acquisition or buy-out of single family dwellings (as defined by HUD) that meet following criteria:</p> <ul style="list-style-type: none"> • Impacted by April, 2013 event • Owner occupied • Not protected by capital improvement project in approved watershed plan OR subject to flooding depth of one foot above the low-entry elevation for April, 2013 event OR subject to a flooding depth of one-half foot for any two historic flood event (one must be April, 2013 event) OR FEMA repetitive loss structure <p>Municipalities may also apply for up to 75% of costs for buy-out/acquisition projects with low-mod or urgent need benefit (\$400,000 funding request cap)</p> <p>Added Hazard Mitigation Grant Program (HMGP) Buy-Out Match as an activity.</p>

Substantial Amendment 2 filed April 28, 2015	Activity amended to include potential acquisition of one commercial property. Municipalities may also apply for up to 75% of costs for buy-out/acquisition projects with low-mod or urgent need benefit (\$500,000 funding request cap)
Substantial Amendment 3 filed May 6, 2016	Amends “Strategic Buy-Out” activity to be an urgent need national objective activity, unless an area benefit can be established to meet a low-mod national objective.
Amendment 4 filed _____, 2016	Activity amended to include acquisition and/or buy-out of non-owner occupied property if a structure that is not owner occupied was impacted by the April, 2013 flood event and meets at least one of the following criteria: <ul style="list-style-type: none"> • Determined to be substantially damaged by a local, County or Federal official, according to FEMA regulations: Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (these properties would have the highest priority); OR • Designated as a Repetitive Loss or Severe Repetitive Loss property under the National Flood Insurance Program; OR • Located in a mapped FEMA-defined floodway: A “regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height; OR • Located adjacent to other flood prone properties that have been or are currently in the process of being acquired.

2. **Ownership.** All persons on title of a property must voluntarily agree to sell the property. If seeking buy-out or acquisition under the criteria for owner-occupied property, the property must be, and have been at the time of the flood event, the primary residence of the homeowner seeking assistance, unless the home is uninhabitable due to the flood event. The home may have been vacated for periods of rehabilitation, when necessary, and may be vacated by the homeowner prior to the closing of the buy-out or acquisition in anticipation of closing; however, no second homes are eligible. Homeowner must present documentation satisfactory to DuPage County to demonstrate their occupancy of the property. If seeking buy-out or acquisition under the criteria for non-owner-occupied property, owner will be required to supply information on all occupants of the property, beginning six (6) months before the flood event to present time. Property held in trust for the benefit of natural persons can be eligible as long as at least one of the occupants at the time of the flood event was a current beneficiary of the trust. Contiguous vacant parcels owned by the homeowner

may be included in the buy-out or acquisition. Properties in foreclosure will not be considered for this program. To be eligible for assistance, owners must also be a United States citizen or have eligible immigration status, must sign a Citizenship Declaration form, and must present one of the following forms of verification (or a document as listed on the Citizenship Declaration form):

- Valid U.S. Passport
- Valid Birth Certificate
- Certificate of Naturalization

The Citizen Declaration form and review of documentation may be completed by DuPage County staff, by consultant under contract with DuPage County, or by municipal staff. However, original Citizen Declaration form and copies of documentation must be presented to DuPage County staff for final approval.

3. Appraisal Process/Property Values/Allowed Uses. “Buy-out” properties will be purchased at the pre-flood value MINUS duplicative benefits already received as described in Paragraph 6 *Duplication of Benefits*. The purpose of “buy-out” will be to restore and preserve the natural and beneficial functions and values of floodplains and wetlands, and the properties: will be cleared of all existing structures and related improvements; will be dedicated for permanent use for flood control, wetland protection, park land, or open space; and a permanent covenant restriction will be placed on the property’s continued use to preserve the floodplain or wetland from future development. No new structures may be erected on buy-out properties other than: (a) a public facility that is open on all sides and functionally related to a designated open space; (b) a 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. After receipt of the assistance for the property, no subsequent application for additional disaster assistance for any purpose may be made by the recipient to any Federal entity in perpetuity.

Properties not located in a floodway or floodplain will be purchased based on post-flood fair market value. Acquired properties may be redeveloped.

Value for DuPage County acquisitions or property to be bought out or acquired solely with CDBG-DR funds will be determined by appraisal made by an appraiser qualified under the DuPage County Request for Qualification Process. Appraisals obtained by DuPage County will be reviewed by the DuPage County Supervisor of Assessments Office. Appraisals obtained by a municipality under a Hazard Mitigation Grant Program (HMGP) for the purpose of using CDBG-DR funds for the required match may be reviewed under whatever process is acceptable to the agency funding the HMGP. Since this is a voluntary acquisition program, homeowners may “counter offer” an offer made by DuPage County or a municipality if the counter offer is based on an appraisal by an appraiser meeting the same qualifications required under the DuPage County RFQ for appraisers and utilizing the same scope of work as the DuPage County appraisal.

Appraisals obtained by homeowners will also be subject to review by the DuPage County Supervisor of Assessments Office. DuPage County, however, will not buy-out or acquire any property for more than a ten percent variance over an appraisal obtained by DuPage County. DuPage County acknowledges that appraising these properties can present a challenging appraisal problem and reserves the right to obtain a second appraisal on behalf of DuPage County if, in its sole discretion, there appears to be a significant variance between the initial appraisal obtained by DuPage County and an appraisal obtained by a homeowner. If DuPage County and the homeowner seeking assistance cannot come to a mutually agreed upon price within the parameters of these policies and procedures, DuPage County will not purchase the property. Because of the voluntary nature of these buy-outs and acquisitions, property owners are not eligible for assistance under the Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act. DuPage County will not pay any additional Replacement Housing Assistance.

4. **National Objectives.** Both buy-out and acquisition properties must meet one of the following CDBG national objectives:

- L/M Area Benefit if area qualifies and there is a continuing use that complies with all HUD regulations.
- Urgent Need (direct benefit) – if the activity addresses the serious threat to community welfare following the disaster and the household assisted is above 80% AMI.

The national objective is the same for all activities associated with the applicant's parcel.

5.

**RESERVED FOR FUTURE ADOPTION OF POLICIES AND PROCEDURES
COMPLIANT WITH UNIFORM RELOCATION ACT.**

6. **Duplication of Benefits.** Policy: A Duplication of Benefits review will be completed for each homeowner seeking buy-out under CDBG-DR. Procedure: The first step in determining whether a potential duplication of benefits exists is to gather information from the homeowner seeking assistance. This will be done using the “DuPage County CDBG-DR Duplication of Benefits Information Form”. This information gathering may be done by DuPage County staff, by consultant under contract with DuPage County, or by municipal staff. Please note that this form must be signed by the homeowner(s). The second step is the actual Duplication of Benefits review, which is completed by analyzing the information received and determining what benefits are duplicative. The results of that analysis will be noted on the “Reviewer Analysis” form and then dollar amounts stated on the “DuPage County CDBG-DR – Duplication of Benefits Review Spreadsheet.” Because this is an acquisition/buy-out program, the Applicant's

Total Need will be the amount determined through the appraisal process described in Paragraph 2 above to be the offer to be made to buy-out or acquire the property (and then adjusted to be the actual contract price of the property, if different than the initial offer). Benefits are not considered to be duplicative if they fall into one of the following categories

- Funds received for a different purpose and used for the allowed purposes
- Funds received for the same purpose, but different eligible use
- Funds that were not available to the applicant
- Private loans
- Other personal assets or lines of credit available to the homeowner

The analysis form and spreadsheet may be completed by DuPage County staff, by consultant under contract with DuPage County, or by municipal staff. However, upon completion, all duplication of benefit information must be transmitted to DuPage County for final approval. Since the duplication of benefits calculation is included in the Voluntary Acquisition letter, DuPage County approval must be obtained prior to presentation of this letter to any homeowner.

With regard to loans from the Small Business Administration (SBA), if a property owner has declined an SBA loan, the property owner will be asked to state the reasons for such declination. If the property owner declined the loan because of concerns about the cost burdens of repayment, DuPage County will accept such statement as a legitimate reason for declining the loan. Since the purpose of this program is to buy-out/acquire and demolish flood prone properties, not to rehabilitate them, no positive impact to this program would have been realized by any property owner's acceptance of such loan to repair a property.

Prior to receiving assistance, each homeowner will be required to sign an agreement requiring that any amount of additional disaster assistance received subsequent to CDBG-DR and in excess of need will be returned to DuPage County. DuPage County will maintain a database of assisted homeowners and will annually require a statement and certification regarding any additional disaster assistance received for a period of three years following CDBG-DR assistance.

7. Environmental Review Requirements. DuPage County considers entering into a contract to acquire or buy-out a specific address to be a "commitment of funds." Therefore, no contract may be entered until an appropriate level of environmental review has been completed.

- In accordance with the Federal Register Notices, DuPage County may use the environmental review performed by another Federal Agency. HUD has issued a guidance memorandum dated March 4, 2013 for such adoption of reviews. DuPage County will request Release of Funds from HUD under adopted reviews.

- For properties that have not had an Environmental Review by another Federal Agency, DuPage County will complete the Environmental Review. Specific properties may be grouped for purposes of publication and Request for Release of Funds as the reviews are completed.
- The 8 step flood plain process is not required for properties that meet the requirements of 24 CFR 55.12(c)(3): the property is cleared of all existing structures and related improvements; the property is dedicated for permanent use for flood control, wetland protection, park land, or open space; and a permanent covenant or comparable restriction is placed on the property's continued use to preserve the floodplain or wetland from future development.

Portions of any environmental review may be completed by DuPage County staff, by consultant under contract with DuPage County, or by municipal staff. However, upon completion, the entire Environmental Review Record, with documentation, must be presented to DuPage County staff for final approval.

Because this is a voluntary acquisition program, homeowners need to be made aware of the price that DuPage County would be willing to pay for the property in order to determine if they are interested. The Uniform Relocation Act requires that an appraisal must take place to determine a price and that price is then presented to the homeowner in a Notice to Owner/"Voluntary Acquisition" document. DuPage County cannot publish the address of properties eligible for buy-out during the environmental assessment process unless the homeowner has actually expressed an interest in the acquisition or buy-out and is aware that publication of their address will occur. Therefore, appraisals may occur prior to any environmental review process as an exempt "study" activity under 58.34(a)(1). Appraisal of a home and presentation to a homeowner of the Notice to Owner/Voluntary Acquisition document does not constitute a commitment of funds to that address.

8. **Conflict of Interest.** Each homeowner participating in the program must sign a Conflict of Interest Disclosure form. Any potential conflict of interest must be cleared before a purchase can proceed.

9. **Contract Provisions.** When an environmental review has been completed, a Release of Funds obtained from HUD, and a contract price agreed to, DuPage County may enter into a Contract to purchase a property. The contract shall contain contingencies for satisfactory completion, review, and acceptance of: a Phase I environmental study; lead based paint assessment; asbestos testing; survey; and title commitment. DuPage County State's Attorney's Office will be responsible to determine if the contingencies have been satisfied. The contract shall state that sellers will not be allowed to scavenge fixtures or architectural items from the property. Any item that is not a permanent fixture or architectural item that is allowed to be removed (e.g. appliances, ceiling fans, light fixtures), shall be clearly stated in the contract. The

contract shall provide that DuPage County will pay for all closing costs on behalf of seller.

10. **Closing.** A date for closing of title will be set in the Contract, with provisions for amendment should unforeseen circumstances arise. DuPage County will work with sellers to set a closing date that allows the seller to have adequate time to locate housing.

11. **Post Closing Activities.** Following the closing, DuPage County will secure the property, ensure that utilities are turned off, and bid out the demolition of the property. Buy-out properties will be deed restricted. Sellers will be placed on a monitoring log so that duplication of benefits received after closing can be determined for a period of three (3) years following the closing. The Subrogation Agreement entered into with each homeowner will require that homeowners keep DuPage County informed as to their current address or contact information.

12. **Appeals.** Should any homeowner be denied a buy-out or acquisition Contract, an appeal may be made to the Community Development Commission. The homeowner should provide a written letter or e-mail to the Commission at least ten days prior to a scheduled meeting which states the request and basis for the request. If the appeals request is not received by the Commission at least ten days prior to the meeting, the appeal will be delayed until the next meeting of the Commission. Notwithstanding the foregoing, the Commission only has the ability to grant appeals based on County policies. Any appeal for waiver of a Federal regulation or requirement cannot be granted by the Commission.

13. **“Not Suitable for Rehabilitation” Definition.** There are Federal requirements for replacing demolished dwelling units when the units are considered “lower-income dwelling units.” The one-for-one replacement requirements of Section 104(d) and 24 CFR 42.375 are waived by HUD for the CDBG-DR funds, provided the disaster-damaged units being demolished meet the DuPage County definition of “not suitable for rehabilitation.” DuPage County hereby defines “not suitable for rehabilitation” as being any dwelling unit damaged by the April, 2013 flood event which is not protected by a capital improvement project in an approved watershed plan OR is subject to flooding depth of one foot above the low-entry elevation for April, 2013 event OR subject to a flooding depth of one-half foot for any two historic flood event (one must be April, 2013 event) OR FEMA repetitive loss structure.