



TO: Mayor Shaun Sipma
Members of the City Council

FROM: John R. Zakian, DR Grant Program Manager & Chief Resilience Officer

DATE: March 23, 2020

SUBJECT: APPROVE FIELDCREST PROGRAM AGREEMENT AMENDMENT

I. RECOMMENDED ACTION

City Council approve Amendment to the Agreement with Beyond Shelter, Inc. which provided CDBG-DR funds in support of construction of Fieldcrest LMI Multi-Family Rental Housing

II. DEPARTMENT CONTACT PERSONS

John R. Zakian, DR Program Manager & Chief Resilience Officer, 420-4528

III. DESCRIPTION

A. Background

On January 13, 2014, the City of Minot entered into what was called a CDBG Disaster Recovery Program Agreement with Beyond Shelter, Inc, to provide up to \$850,000 in City's CDBG-DR funds to support construction of a 42-unit apartment building known as Fieldcrest which the City required 57% of the units to be LMI for 5 years. State of North Dakota through several funding sources was lead agency for this project which is why the City did not issue the usually required RFP. On May 14, 2014, Beyond Shelter, Inc. conveyed the site for Fieldcrest to a newly created Limited Liability Corporation called Fieldcrest, LLC. On the same date, a Declaration of Land Use Restrictive Covenant was attached to the site by Fieldcrest, LLC granted to North Dakota Housing Finance Agency which among the requirements is that the 42 units all be LMI for 20 years. On August 4, 2014 the City of Minot entered into an amended and restated Agreement with Beyond Shelter in which the primary change was to have the period of LMI go from 5 years to 20 years but there is no reference to Fieldcrest, LLC or the Restrictive Covenant, or change from 57% of the units to 100%.

B. Proposed Project

The intent of the Amendment is to bring into compliance as best as possible as well as link the City's requirements with those of the State of North Dakota as follows:

- Incorporate Fieldcrest, LLC throughout the amended and restated Agreement to assure there are no questions regarding responsibility for compliance
- Include both the property conveyance deed to Fieldcrest, LLC and the Restrictive Covenant with North Dakota Housing Finance Agency as a new exhibit to the City agreement
- Provide that a violation of the Restrictive Covenant shall be a violation of the City Agreement

It should be noted that the City has confirmed through records that for the first quarter of 2020 that the LMI occupied units in Fieldcrest meet the City Agreement percentage.

IV. IMPACT:

A. Strategic Impact:

The discovery of the compliance issues is the result of the city's ongoing internal review of past activities demonstrating to HUD that the City has an effective and continuing internal audit and compliance review policy, that, upon discovering errors, moves quickly to correct as well as assure no similar errors occur in the future.

B. Service/Delivery Impact:

Amendment creates coordination with State of North Dakota which had lead on this project as well as incorporates changed property ownership.

C. Fiscal Impact:

N/A

V. ALTERNATIVES

N/A

VI. TIME CONSTRAINTS

N/A

VII. LIST OF ATTACHMENTS

- i. Amendment
- ii. August 4, 2014 Agreement between City of Minot and Beyond Shelter, Inc.
- iii. May 14, 2014 Quit Claim Deed transferring ownership to Fieldcrest, LLC
- iv. May 14, 2014 Restrictive Covenant granted by Fieldcrest, LLC to North Dakota Housing Finance Agency