



TO: Mayor Shaun Sipma
Members of the City Council

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

DATE: 3/9/2021

SUBJECT: APPROVE TERMINATION AGREEMENT WITH LIGHTHOUSE MANAGEMENT GROUP, INC

I. RECOMMENDED ACTION

City Council approve the Termination Agreement with Lighthouse Management closing out the two sub-recipient agreements with Lutheran Social Services Housing, Inc. and conveying 1901 South Broadway to the City of Minot

II. DEPARTMENT CONTACT PERSON

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

III. DESCRIPTION

A. Background

The City of Minot entered into two sub-recipient agreements with Lutheran Social Services Housing, Inc. with one to construct and operate a 6 unit Family Homeless Shelter and the other to construct 17 units of LMI rental apartments known as Broadway Circle with both projects located on the same site with the physical address of 1901 South Broadway, Minot, ND. On January 15, 2021, Lutheran Social Services North Dakota which includes its subsidiary, Lutheran Social Services Housing (LSSH), ceased all operations effective immediately. This decision included stopping all work on the Broadway Circle Project. On January 25, 2021 Lighthouse Management Group, Inc. was appointed as the Receiver for LSSND which includes LSSH by the Cass County District Court. It is the City's obligation as the CDBG-NDR Grantee to procure repayment from the sub-recipient of all CDBG-NDR funds pursuant to Section R(2) of both sub-recipient agreements which provides "If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition, or improvement to, the property", but, an alternative action acceptable to HUD standards is for the City to gain ownership of the property. The only CDBG-NDR funds which have to date been paid to LSSH by the City is for the costs related to the acquisition of the property on which Broadway Circle was to be built with the amount being \$1,076,338.16 (note: \$300,000 state CDBG grant covered the balance of costs related to the property purchase). Because of the reality that LSSH is in receivership, it would not have been justifiable under necessary and reasonable HUD requirements to pursue repayment of the CDBG-NDR funds which means that gaining ownership of the property is the prudent and appropriate course of action. LSSH has agreed to convey the property to the City of Minot which will assure the City's compliance with HUD requirements as well as afford the opportunity for the City to assure the planned project can be completed.

B. Proposed Project

The form of agreement being employed to completely satisfy HUD expectations for termination of the two sub-recipient agreements with LSSH is a termination agreement with Lighthouse Management Group, Inc. which identifies all known obligations associated with the project incurred by LSSH, requires disclosure of any and all such obligations to which Lighthouse Management Group, Inc. is aware, and agrees to convey the property to the City of Minot. After approval by the parties and subsequent approval of the agreement by Cass County District Court, the Receiver can deliver a Receiver's Deed without any warranties of title. Any CDBG-NDR funds to pay for any remaining obligations incurred by LSSH and associated with the projects may be paid by the City to the vendors/contractors from CDBG-NDR funds conditioned on City compliance review of work performed with a City finding of compliance, and if there is work product that it be placed in the custody of the City. Any such payments are consistent with the project and use of the funds advances successful completion of the project. The agreement also addresses key HUD compliance requirements including accounting for Program Income (rent from tenant(s) on the property, and all available project related documents which are in the possession of the receiver. It should also be noted that the conveyance of the property will occur with the 2020 property taxes not paid. Once the City takes ownership of the property it can proceed to take action to resume completion of the project.

IV. IMPACT:

A. Strategic Impact:

Taking title to the property which had been acquired for the Broadway Circle project assures the City meeting HUD compliance requirements with the expenditure of CDBG-NDR funds.

B. Service/Delivery Impact:

City taking title to the property for Broadway Circles assures the City has the capability to take necessary actions to complete the project within available CDBG-NDR funds.

C. Fiscal Impact:

None

V. ALTERNATIVES

N/A

VI. TIME CONSTRAINTS

NA

VII. LIST OF ATTACHMENTS

- A. Termination Agreement
- B. Sub-recipient agreements with LSSH