

AMENDMENT TO
CDBG DISASTER RECOVERY PROGRAM AGREEMENT
With
BEYOND SHELTER, INC.

THIS AMENDMENT ("AMENDMENT") TO CDBG DISASTER RECOVERY PROGRAM AGREEMENT is made and entered into May 18, 2020 by and among The City of Minot, ND, a municipal corporation ("City"), Beyond Shelter, Inc., a 501c3 non-profit organized as a North Dakota nonprofit corporation ("Developer"), and Cook's Court, LLLP, a North Dakota limited liability limited partnership ("Owner")

WHEREAS, The City and Developer entered into that certain CDBG Disaster Recovery Program Agreement dated January 13, 2014 (the "Original Agreement"), as amended by that certain Amendment #1 To the Contract Between The City of Minot, North Dakota and Beyond Shelter For the Development of Cook's Court Senior Housing dated March 7, 2016 (the "First Amendment", and together with the Original Agreement, collectively, the "CDBG-DR Agreement") for the purpose of providing specific financial support to a Low/Moderate Income Multi-Family rental apartment development primarily supported through and led by State of North Dakota financial resources; and

WHEREAS, Developer (as purchaser) and the Assembly of God of Minot (as seller) entered into that certain Purchase Agreement dated September 24, 2013, as amended by that certain Amendment Number One (1) to Purchase Agreement dated December 17, 2013, and as further amended by that certain Amendment Number Two (2) to Purchase Agreement dated December 17, 2013 (collectively, the "Purchase Agreement"), a copy of which is attached hereto as Exhibit A, for the purchase of the following property originally described in the CDBG-DR Agreement as Township 155N, Range 83W Section 25: Outlot 16 of SW1/SW1/4 in the City of Minot, ND, comprised of approximately 3.19 acres (the "Development Site"); and

WHEREAS, Developer subsequently assigned its interest in the Purchase Agreement, as purchaser thereunder, to the City pursuant to that certain Assignment and Assumption of Purchase Agreement dated March 27, 2014, a copy of which is attached hereto as Exhibit B (the "Purchase Agreement Assignment"); and

WHEREAS, In connection with the CDBG-DR Agreement and the Purchase Agreement Assignment, the City expended \$1,206,000 (the "CDBG-DR Funds"), \$690,000 of which the City used to purchase the Development Site from the Assembly of God of Minot and \$516,000 of which the City used to provide certain infrastructure improvements to the Development Site, as more thoroughly described in the CDBG-DR Agreement; and

WHEREAS, The City (as seller) and the Developer (as purchase) entered into that certain Purchase Agreement dated March 27, 2014, a copy of which is attached hereto as Exhibit C, for sale and purchase of the Development Site (the "City and Developer Purchase Agreement"); and

WHEREAS, The City, through the prescribed City Planning Department and Commission process, filed and recorded that certain Plat of Cook's Court Addition to the City of Minot on

September 22, 2014 as Document No. 2977961, whereby the Development Site is legally described as Lot 1, Cook's Court Addition to the City of Minot, Ward County, North Dakota (the "Cook's Court Lot"); and

- WHEREAS, The City conveyed the Cook's Court Lot to the Developer pursuant to that certain Warranty Deed dated October 9, 2014 and recorded October 10, 2014 at 12:54 p.m. in Recorder's Office for Ward County, a copy of which is attached hereto at Exhibit D (the "City Deed").
- WHEREAS, The Developer subsequently conveyed the Cook's Court Lot to Owner pursuant to that certain Warranty Deed dated October 8, 2014 (the "Cook's Court Deed") and recorded October 10, 2014 at 12:54 p.m. in Recorder's Office for Ward County, a copy of which is attached hereto as Exhibit E, for purposes of constructing, developing and operating a 40-unit affordable housing project known as "Cook's Court Apartments" (the "Cook's Court Project"); and
- WHEREAS, The Developer is the sole member and manager of Cooks Court, LLC, a North Dakota limited liability company (the "MGP"), which is the Managing General Partner of Owner; and
- WHEREAS, The Owner entered into that certain Declaration of Land Use Restrictive Covenants North Dakota Housing Incentive Fund for the benefit of the Industrial Commission of North Dakota acting as the North Dakota Housing Finance Agency on November 18, 2014 and recorded on the Cook's Court Lot on November 21, 2014 (the "LURA"), and
- WHEREAS, The LURA requires that Eight (8) units in the Cook's Court Project be occupied by tenants with total household income at or below 30% of the AMI as published by HUD for Ward County, and that an additional thirty-two (32) units in the project must be occupied by tenants with total household income at or below 80% of the AMI as published by HUD for Ward County, and
- WHEREAS, The LURA and the requirements contained therein are consistent with, or more restrictive than the CDBG-DR Program Agreement for LMI restricted units.

NOW, THEREFORE, in consideration of the foregoing, the City and Developer, including Developer as the sole member and manager of the MGP, desire to amend the CDBG Agreement as follows:

1. The Developer agrees that, as the sole member and manager of the MGP, it shall cause the Owner to comply with the Developer's obligations under the CDBG-DR Program Agreement with respect to the Cook's Court Project from and after the date of the Cook's Court Deed.
2. The Owner, as a third party beneficiary under the CDBG-DR Program Agreement and as owner of the Cook's Court Project, agrees to comply with the Developer's obligations under the CDBG-DR Program Agreement solely with respect to the Cook's Court Project from and after the date of the Cook's Court Deed.
3. Exhibit A of the CDBG-DR Program Agreement is hereby amended and restated in its entirety in the form attached hereto as Exhibit F.

4. A copy of the LURA is hereby added to the CDBG-DR Program Agreement as a new "Exhibit H", in the form attached hereto as Exhibit G.
5. The recitals set forth above are true and correct statements of fact and are incorporated herein by reference with the same force and effect as though restated herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the date set forth above.

Witness

Lance K. Becherer

Witness

Lance K. Becherer

Beyond Shelter, Inc.

Date

[Signature]

5-22-2020

Cook's Court, LLLP, a North Dakota
limited liability limited partnership

Date

By: Cooks Court, LLC
Its: Managing General Partner

By: Beyond Shelter, Inc.
Its: Sole Member and Manager

[Signature]

5-22-2020

Witness

Kellymatalka

City of Minot

[Signature]

5-27-2020

Exhibit A

Purchase Agreement

Exhibit B

Purchase Agreement Assignment

Exhibit C

City and Developer Purchase Agreement

Exhibit D

The City Deed

Exhibit E

The Cook's Court Deed

Exhibit F

"Exhibit A CDBG-DR Agreement

Project Description

Beyond Shelter, Inc., a North Dakota nonprofit corporation ("BSI"), in partnership with the Minot Housing Authority ("MHA") will, collectively, develop 40 affordable housing units on approximately 3.19 acres at Township 155N, Range 83W Section 25: Outlot 16 of SW1/SW1/4 in the City of Minot, ND (the "Development Site"), which has been re-platted pursuant to that certain Plat of Cook's Court Addition to the City of Minot on September 22, 2014 as Document No. 2977961, whereby the Development Site is legally described as Lot 1, Cook's Court Addition to the City of Minot, Ward County, North Dakota (the "Cook's Court Lot").

BSI is the sole member and manager of Cooks Court, LLC, a North Dakota limited liability company (the "MGP"), which is the Managing General Partner of Cook's Court, LLLP, a North Dakota limited liability limited partnership (the "Cook's Court Partnership"). BSI conveyed the Cook's Court Lot to the Cook's Court Partnership pursuant to that certain Warranty Deed dated October 6, 2014 (the "Cook's Court Deed"), for purposes of constructing, developing and operating a 40-unit affordable housing project known as the "Cook's Court Apartments" ("Cook's Court Project").

BSI has caused the Cook's Court Partnership to construct, develop and operating the Cook's Court Project with mix of thirty-two (32) one-bedroom units (3 fully accessible), and eight (8) two-bedroom units (4 fully accessible). All units are reserved for households having initial incomes at or below eighty percent (80%) of Area Median Family Income, adjusted for household size, as established by HUD.

MHA has formed MHA CC, LLC, a North Dakota limited liability company, which serves as the Administrative General Partner of the Cook's Court Partnership and assists the MGP in the ownership and operating of the Cook's Court Project. MHA also serves directly as the property manager of the Cook's Court Project and provides eight (8) Project Based Housing Choice Vouchers to the Cook's Court Project.

Exhibit G
LURA