

City of Minot

SUBROGATION AND ASSIGNMENT AGREEMENT

This Subrogation and Assignment Agreement (“Agreement”) is made and entered into on this 21st day of **August 2017**, by and between Essential Living (“Applicant/Co-Applicant”) and the City of Minot (“City”).

Assignment Relating to Funds Received under CDBG-National Disaster Resilience (NDR) Program

In consideration of Applicant’s/Co-Applicant’s receipt of funds or the commitment by City to evaluate Applicant’s/Co-Applicant’s application for the receipt of funds under the CDBG Disaster Recovery National Disaster Resilience (NDR) administered by the City; Applicant/Co-Applicant hereby assigns to City all of Applicant’s/Co-Applicant’s future rights to reimbursement and all payments received under any policy of casualty or property damage insurance (the “Policies”) or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (“FEMA”) or the Small Business Administration (“SBA”), or Bank of North Dakota (BND) for physical damage to the Structure (defined below) that was the basis of the calculation of Applicant’s/Co-Applicant’s award to the extent of the Forgivable Promissory Note proceeds paid to Applicant/Co-Applicant under the Program. The proceeds or payments referred to in the preceding sentence, whether they be from insurance, FEMA, SBA, or the BND shall be referred to herein as “Proceeds.” The rights Applicant/Co-Applicant assigns are specific to the Structure with respect to which the Grant Agreement proceeds were paid (the “Structure”) which is described in Applicant’s/Co-Applicant’s application with the Program arising out of physical damage to the Structure originally caused by the federally declared disaster: FEMA-1981 but also including Proceeds received for damage to the Structure caused by any subsequent event that occurred until the commencement of repair or reconstruction utilizing Program funds. The Policies include, but are not limited to, policies characterized as wind, flood or any other type of casualty or property damage insurance coverage held by Applicant/Co-Applicant and which provides coverage for physical damage to the Structure.

Cooperation and Further Documentation

Applicant/Co-Applicant agrees to assist and cooperate with the City should the City elect to pursue any of the claims Applicant/Co-Applicant has against the insurers for reimbursement under any such Policies. Applicant’s/Co-Applicant’s assistance and cooperation shall include allowing suit to be brought in Applicant’s/Co-Applicant’s name(s), giving depositions, providing documents, producing records and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by the City. Applicant/Co-Applicant further agrees to assist and cooperate in the attainment and collection of any Proceeds that the Applicant/Co-Applicant would be entitled to under any applicable FEMA, SBA, or BND program as described above. If requested by the City, Applicant/Co-Applicant agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the City, to the extent of the Grant Agreement proceeds paid to Applicant/Co-Applicant under the Program, the Policies, the disaster relief funds from FEMA, SBA, or BND and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the City to consummate and make effective the purposes of this Agreement.

Authorization for City to Contact Third Parties

Applicant/Co-Applicant explicitly allows the City to request of any company with which Applicant/Co-Applicant held Policies or FEMA, SBA, or BND any non-public or confidential information needed by the City to monitor/enforce its interest in the rights assigned to it under this Agreement and to give Applicant’s/Co-Applicant’s consent to such company to release said information to the City.

Agreement to Turn over Proceeds; Future Reassignment

If Applicant/Co-Applicant (or any entity holding a lien on the Structure, except to the extent required by superior loan documents) hereafter receives any insurance payment or disaster relief or reimbursement



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funds for physical damage to the Structure (not including proceeds received to cover contents) or a sales tax refund, Applicant/Co-Applicant agrees to promptly pay such amounts to the City if Applicant/Co-Applicant received grant proceeds under the Program in an amount greater than the amount Applicant/Co-Applicant would have received if such insurance and/or disaster relief or reimbursement payment had been considered in the calculation of Applicant's/Co-Applicant's award. Once the City has recovered an amount equal to the grant proceeds paid to Applicant/Co-Applicant, the City will reassign to Applicant/Co-Applicant any rights assigned to the City pursuant to this Agreement.

Mortgage City Rights

Applicant/Co-Applicant acknowledges that this Agreement does not impair Applicant's/Co-Applicant's mortgage or City's rights as loss-payee under any deed of trust or mortgage on the Structure.

Miscellaneous

(a) Applicant/Co-Applicant represents that all statements and representations made by Applicant/Co-Applicant regarding Proceeds received by Applicant/Co-Applicant shall be true and correct as of the date of Closing.

(b) In any proceeding to enforce this Agreement, the City shall be entitled to recover all costs of enforcement, including actual attorney's fees.

(c) The information in this document pertains to duplication of benefits in accordance with Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207) as amended and HUD regulations contained in the Federal Register Notice FR-5582-N-01, effective November 21, 2011.

EXECUTED this 21st day of August, 2017.

Bruce Walker
Applicant Signature

F. Bruce Walker
Applicant (Printed Name)

Lissa Ferris
Witness Name and Signature

EXECUTED this 21st day of Aug., 2017.

