

MEMORANDUM OF UNDERSTANDING

NORTH CAROLINA INDIAN HOUSING AUTHORITY & FAYETTEVILLE METROPOLITAN HOUSING & AUTHORITY THE CITY OF FAYETTEVILLE, NORTH CAROLINA

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 18 day of July, 2022, by and among the NORTH CAROLINA INDIAN HOUSING AUTHORITY ("NCIHA"), the FAYETTEVILLE METROPOLITAN HOUSING AUTHORITY ("FMHA"), and the CITY OF FAYETTEVILLE, NORTH CAROLINA (the "City" and together with FMHA, the "Grantees").

- I. **DEFINED TERMS:** Capitalized terms not defined herein shall have the meaning ascribed to them in the Murchison Choice Neighborhood Draft Plan dated June 2022.
- II. **PURPOSE:** This Memorandum sets out the understanding between NCIHA and the Grantees for the planning of the Elliott Properties Site, located at 1002 Elliott Circle, for the Housing Element of Choice Neighborhoods Implementation Grant ("CNI Grant") that the Grantees intend to pursue immediately following the completion of the HUD Choice Neighborhoods Planning Grant for the Murchison Neighborhood.
- III. **TIME FRAME:** Once the Grantees complete the final Murchison Choice Neighborhood Plan, which is anticipated to occur in November 2022, they intend to pursue the CNI Grant.
- IV. **BACKGROUND:** Grantees have partnered to transform the Murchison Neighborhood through a Choice Neighborhood Plan. The Grantees jointly submitted the application on September 13, 2020. In July 2022, the Grantees intend to release a request for qualifications for a Developer Partner ("Housing Lead") with the responsibility of developing mixed income housing.
- V. **PROGRAM DESCRIPTION:** The Choice Neighborhoods program employs a comprehensive approach to neighborhood transformation. The program transforms neighborhoods of concentrated poverty into mixed-income neighborhoods with long-term viability by revitalizing severely distressed public and/or assisted housing; improving access to economic opportunities; and investing and leveraging investments in well-functioning services, effective schools and education programs, public assets, public transportation, and improved access to jobs. Choice Neighborhoods ensures that current residents benefit from this transformation by preserving affordable housing in the neighborhood and providing the choice to move to affordable housing in another neighborhood of opportunity. The CNI Grant implements a Transformation Plan that has been developed through a local planning process and furthers the housing, people, and neighborhood goals of the Choice Neighborhoods program.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. PURPOSE

The NCIHA and the Grantees will cooperate for the purposes of applying for FY 2023 CNI Grant funds and undertaking or assisting in undertaking eligible activities identified in the application for Planning and Action Grant funds if awarded a grant.

2. SCOPE OF WORK

The NCIHA and the Grantees have a commitment to work collaboratively throughout the entirety of the process leading up to applying for the CNI Grant. The Grantees shall serve as the lead applicant for the

purposes of the CNI Grant application, and Elliott Properties will be included as one of the identified properties for replacement housing.

3. GRANTEES RESPONSIBILITY

In its role as Lead Applicant, the Grantees shall have overall responsibility to administer and implement the Choice Neighborhood Implementation grant if awarded by HUD. The Grantees will be responsible for: a) submitting all pertinent documents and reports to HUD as required by a grant agreement; b) accessing funding through HUD's Line of Credit Control system (LOCCS); and c) determining the adequacy of performance under project agreements and procurement contracts. The Grantees will provide capacity and expertise in neighborhood planning and implementation, including analysis of and coordination with the Comprehensive Plan and other relevant planning documents. The Grantees will coordinate provision of necessary expertise from relevant City departments, including but not limited to, Economic and Community Development, Police, Parks and Recreation, and other applicable departments for consultation and information sharing. The Grantees will also engage in communication and coordination with community stakeholders. The Grantees will inform the NCIHA of plans and projects undertaken that will impact and influence the CNI Grant.

4. NORTH CAROLINA INDIAN HOUSING AUTHORITY ("NCIHA) RESPONSIBILITY

NCIHA will support the Grantees to ensure planning of the Housing Element can occur on the Elliott Properties Site. NCIHA will work with the Grantees to ensure that current residents are relocated in an efficient and equitable manner.

5. MODIFICATION

No waiver, alteration, modification, or termination of the MOU shall be valid unless made in writing and signed by the authorized parties hereof.

6. AMENDMENT AND TERMINATION

This MOU shall terminate upon completion of all obligations of the parties, or in the event that the CNI Grant is not awarded. This MOU may be amended at any time in writing and by mutual consent of the parties. The MOU may be canceled by any party upon sixty (60) days written notice, however, if the cancellation is for cause, i.e., a material and significant breach of the provisions of this MOU, the MOU may be canceled upon delivery of written notice to the other parties.

7. EFFECT OF TERMINATION

Termination of this MOU by any party for any reason shall not affect any other agreement or relationship between the parties unless otherwise specified in writing by the parties.

8. NOTICE

All notices, requests, claims, and other communications required herein shall be in writing and made by personal delivery, courier, or deposited in the United States Mail, postage prepaid, registered or certified mail, return receipt requested, and addressed as follows:

If to FMHA:

Fayetteville Metropolitan Housing Authority
Attn: Dawn Weeks, Executive Director
1000 Ramsey Street
Fayetteville, NC 28301

If to the City:

City of Fayetteville
Attn: _____
433 Hay Street
Fayetteville, NC 28301

If to NCIHA:

[INSERT ADDRESS]
NC Indian Housing Authority
Attn: Barbara Melvin
2125 Sapona Road
Fayetteville, NC 28312

9. INDEMNIFICATION

Except as otherwise provided in this MOU, in the event a claim, lawsuit, or demand is brought against one party (the "Defending Party") that arises solely and directly out of the acts or omissions of the other parties (the "Indemnifying Party") or which results from any material breach by the Indemnifying Party or any representation or warranty contained herein, the Defending Party shall be indemnified and held harmless by the Indemnifying Party to the extent of any such lawsuit, claim, or demand, including costs of litigation and reasonable attorney's fees not covered by insurance. The parties agree to give each party notice of any such claim, demand, or action (Defending Party shall notify the Indemnifying Party) within ten (10) business days of receipt of such lawsuit, claim, or demand, and to the extent that there is no material conflict of interest, the Indemnifying Party shall be given the opportunity to fully participate in the defense and all negotiations for a settlement or compromise and the Defending Party shall cooperate fully with the Indemnifying Party in the defense and/or settlement thereof. The Indemnifying Party will not be responsible for any settlement entered into by the Defending Party which the Indemnifying Party has not approved in writing, provided that such approval shall not be unreasonably withheld or delayed.

10. RETENTION OF RECORDS

The parties agree to retain all documents pertinent to this MOU for (a) five (5) years from the termination of this MOU (b) until all pending federal, state, and county audits are completed; or (c) as required by applicable North Carolina public record retention schedules, whichever is later.

11. COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

In the performance of the services under this MOU, the parties shall comply with all applicable statutes, ordinances, regulations, and rules of the Federal Government. This MOU is subject to any required approvals by the governing body of the City, FMHA, NCIHA, and/or HUD.

12. COUNTERPARTS

This MOU may be executed in counterparts, all of which shall constitute an original of the same.

13. GOVERNANCE

This MOU shall be construed and enforced under the laws of the State of North Carolina. The parties agree that North Carolina courts shall have jurisdiction over any disputes arising out of this MOU, and that venue is proper in Cumberland County, North Carolina for any state court action and in the Eastern District of North Carolina for any federal court action.

14. ASSIGNMENT

This MOU shall not be assigned without the prior written consent of the parties. All of the terms of this MOU shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, transferees, and assigns.

15. FORCE MAJEURE

No party shall be deemed in default of its obligations under this MOU if prevented from performing by acts of God, acts of war, strikes, civil insurrection, or by acts of any other party to this MOU.

16. AMENDMENT PROVISION

This MOU may be amended at any time in writing and by mutual consent of the parties.

17. HEADINGS

Section headings are not to be considered a part of this MOU and are not intended to be a full and accurate description of the contents herein.

18. SEVERABILITY

If one or more of the provisions in this MOU are deemed void by law then the remaining provisions will continue in full force and effect.

19. MORALITY CLAUSE

If, in the sole opinion of the City at any time the parties or any of their owner(s) or employee(s) or agent(s) (collectively referenced as an "Actor") engages in any one or more actions that bring disrepute, contempt, scandal, or public ridicule to the Actor or subject the Actor to prosecution or offend the community or public morals or decency or denigrate individuals or groups in the community served by the City or are scandalous or inconsistent with community standards or good citizenship or may adversely affect the City's finances, public standing, image, or reputation or are embarrassing or offensive to the City or may reflect unfavorably on the City or are derogatory or offensive to one or

more employee(s) or customer(s) of the City, the City may immediately upon written notice to the parties terminate this Agreement, in addition to any other rights and remedies that the City may have hereunder or at law or in equity.

20. SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed the day and year first above written.

Signed: *Barbara Melvin* Date: 7/18/2022
North Carolina Indian Housing Authority

Signed: _____ Date: _____
City of Fayetteville, North Carolina

Signed: *Law Wark* Date: 8/19/22
Fayetteville Metropolitan Housing Authority