

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

CONTRACT FOR MUSEUM SERVICES

THIS CONTRACT is entered into on the last date shown by the signatures of the parties, to be effective _____, by and between the CITY OF FAYETTEVILLE, a municipal corporation located in Cumberland County, North Carolina (hereinafter referred to as “City”), and COMMUNITY DEVELOPMENT FOUNDATION, a corporation organized under the North Carolina Nonprofit Corporation Act (hereinafter referred to as “Agency”).

W I T N E S S E T H:

WHEREAS, City’s City Council set aside \$450,000.00 for a proposed African American Museum in the City of Fayetteville, NC; and

WHEREAS, Agency’s board of directors has adopted and presented to City the attached resolution requesting the funds and describing the intended use of the funds in accordance with N.C.G.S. § 153A-437; and

WHEREAS, City has agreed to fund Agency these funds for this public purpose, and in exchange for this funding, Agency has agreed to perform certain services. In furtherance of this agreement, the parties enter this contract subject to the following terms and conditions:

- 1. TERM OF CONTRACT:** This contract shall begin _____, and end December 31, 2024, unless sooner terminated. If the services to be provided by Agency have not been completed by December 31, 2024, this contract shall automatically be extended to June 30, 2025, unless Agency gives notice to City that Agency does not wish to extend it. The City’s City Council may terminate this contract at any time prior to its expiration date upon 60 days’ prior written notice to the Agency. In the event the Agency elects not to extend this contract past December 31, 2024, or City’s City Council terminates

this contract prior to the stated expiration date or the extension thereof, Agency shall return all unused funds to City.

2. **SERVICES TO BE PERFORMED:** Agency, in and for the consideration recited in Paragraph 3 below, shall perform those services stated in **Exhibit 1 - Scope of Services** in accordance with the budget expenditures stated in **Exhibit 2 - Project Budget**. Each exhibit is attached hereto and incorporated herein by reference. Agency shall notify the City Manager in writing immediately of any change in the type or level of services to be performed, and if City agrees to the change, an amendment to this contract must be signed by each party prior to any changes or modifications taking effect. If the City does not agree to the change, this contract will be terminated in accordance with Section 1 above.
3. **DELIVERABLES:** Upon completion of the Scope of Work, Agency shall provide the deliverables set forth in Exhibit 3, attached hereto and incorporated herein.
4. **PAYMENT:**
 - A. City will fund Agency an amount not to exceed Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) for the services provided by Agency during the term of this contract. The amount of City funding is conditioned on Agency securing all funding for the Project Budget set out in **Exhibit 2** with one-half of the funding to be provided by City and one-half to be provided by Cumberland County. The transfer of payments from City to Agency shall be in accordance with Agency's written instructions for mailing checks to Agency or for the direct deposit of funds into Agency's account. These written instructions must be provided to the City's Finance Office prior to any funds being transferred.

- B. Agency shall submit a request for funding at the start of the first calendar quarter for the funds Agency has committed or intends to spend in the first quarter.. City shall provide one-half of the total budget for the requested quarter. Requests for funding shall be made to the City's Finance Office in a form approved by the City's Finance Office. Commencing with the second quarterly request, Agency must provide City with the previous financial quarterly report showing expenditures and services performed in a form that specifically shows the amount of City funds expended, the amount of Cumberland County funds expended, how the funds were used, that the use of the funds was within the purposes shown in **Exhibit 1**, and the progress achieved for any of the deliverables shown in **Exhibit 3**. Thereafter, Agency must provide a financial quarterly report with invoices or approved documentation, as stated herein, for reimbursement of expenditures. If, after a review of the previous quarterly financial report, invoices, and documentation, the City determines that expenditures were made which were not in compliance with N.C.G.S. § 159-40 and any other federal, state, or local law policy, or regulation affecting the expenditure of public funds, the amount of these expenditures may either be deducted from the next quarter's appropriation or the next quarter's appropriation may be withheld.
- C. All monies received from the City that have not been spent by the Agency at the end of the project shall be returned to the City's Finance Office within 60 days from the closing date stated in Paragraph 1 of this Contract.
- D. The Agency shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5)

years. The retention period begins on the date of the expiration of this Contract. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

5. **INDEPENDENT CONTRACTOR:** Agency is a nonprofit corporation registered with the North Carolina Secretary of State and is an independent contractor. Agency is not an agent, officer, or employee of City and shall have no authority to act as an agent of City in any capacity.
6. **NON-APPROPRIATION:** Notwithstanding any other provisions of this contract, the parties agree that payments due hereunder from the City are from appropriations and monies from the City Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the City to pay the terms of this contract for any fiscal year, this contract shall terminate immediately without further obligation of City.
7. **ASSIGNMENT:** Agency shall not assign all or any part of its rights to receive funding under this contract, nor delegate any performance, nor subcontract any performance without first obtaining City's written approval thereof.
8. **AGENCY AND AUTHORITY:** City designates the City Manager as its exclusive agent with respect to this contract. The City Manager is authorized to negotiate directly with Agency on City's behalf on all matters pertaining to this contract and Agency shall deal exclusively with the City Manager or his designee with respect to the terms and conditions

of this contract. Regardless of any negotiations between the City Manager and Agency, any modification of the term of this contract, including the services to be provided, shall only be effective upon the parties executing a written amendment to this contract upon approval by City's City Council.

- 9. NOTICES:** Any notices to be given by either party to the other under the terms of this contract shall be in writing and shall be deemed to have been sufficiently given if delivered by hand with written acknowledgment of receipt; by electronic mail with the receiving party acknowledging receipt of the sending party's email by reply email; or by certified mail, return receipt requested. Any notice shall be personally delivered, emailed, or mailed to the office, email address, or mailing address of the person or office shown for each party below or to such other person and address as either party hereafter from time to time designates in writing to the other for the receipt of notice:

AGENCY:

Robert Van Geons
201 Hay Street, Ste 401A
Fayetteville, NC 28301
(910) 500-6464
robert@fcedc.com

CITY:

Douglas J. Hewett
City Manager
City of Fayetteville
433 Hay Street
Fayetteville, NC 28301
DouglasHewett@FayettevilleNC.gov

Such notice, if mailed, shall be deemed to have been received by the other party on the date contained in the receipt or acknowledgement of receipt.

- 10. CHANGES IN AGENCY'S STATUS:** In the event of any change in Agency's organizational structure or nonprofit status, Agency shall immediately notify the City Manager.

- 11. CERTIFICATION:**

- A. The City certifies that the funds stated in Paragraph 3 above are available for Agency's use consistent with the terms of this contract.
- B. Agency, by its officer's signature below, certifies that it has complied, or will comply, with all requirements of this contract required to be complied with before applying for funds, and further agrees that City is not obligated to pay any funds until such requirements have been met.

12. OTHER TERMS AND CONDITIONS:

- A. Agency shall provide City with a report prepared by independent auditors in accordance with City's agreed upon procedures, and management's response to the auditor's recommendations, if applicable, for the fiscal year periods ending during any term of this contract. The report shall specify whether City's funds were used exclusively for those purposes stated in **Exhibit 1**. The report shall specify any exceptions and the amounts thereof. Agency acknowledges that City's agreed upon procedures may not be determined upon the commencement of this contract. The audit report shall be delivered to the City Manager no later than ninety (90) days after Agency's fiscal year end.
- B. Upon execution of this contract, Agency shall provide City the following documents:
 - (i) A copy of its latest financial statement, to include a balance sheet as of the end of its most recent fiscal year and a statement of operations for that year;
 - (ii) A copy of Agency's most recently filed IRS Form 990, Form 990-EZ, or its Form 990-N submittal confirmation; and

(iii) A copy of the declarations pages or certificates of insurance for general liability and worker's compensation insurance policies maintained by Agency.

C. If City deems it necessary or appropriate, Agency agrees that City may conduct an internal audit of Agency's books or records to assess Agency's then-current financial condition.

D. Upon the termination of this contract, Agency shall return all unused funds, if any, to City.

13. STATUTORY FUNDING AUTHORIZATION: Funding in support of Agency's services described in **Exhibit 1** is authorized by N.C.G.S. § 153A-437.

14. E-VERIFY: As a condition of payment for services rendered under this contract, Agency shall comply with the E-Verify compliance requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Furthermore, if Agency performs any services described in **Exhibit 1** through a subcontractor, Agency shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes as well. Agency shall verify, by affidavit, compliance of this section upon request by City.

15. IRAN DIVESTMENT ACT CERTIFICATION: As of the effective date of the Final Divestment list created by the State Treasurer pursuant to N.C.G.S § 147-86.58, Agency certifies that is not on that list. Agency's officer signing this contract further certifies that he or she is authorized by Agency to make the foregoing statement.

16. MORALITY CLAUSE: If, in the sole opinion of the City, at any time Agency or any of its 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 Agency terminate this contract, in addition to any other rights and remedies that the City may have hereunder or at law or in equity.

17. ATTACHMENTS: Agency shall provide the following documents which are attached to this contract and incorporated herein by reference:

- A. **Exhibit 1 - Scope of Work**, describing the services or purposes for which City funding will be used.
- B. **Exhibit 2 - Project Budget**, describing the specific expenditures of City funds.
- C. **Exhibit 3 - Deliverables**, describing the outcomes of completing the scope of work.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this contract on the date indicated with each signature by their respective duly authorized representatives.

ATTEST:

CITY OF FAYETTEVILLE

PAMELA J. MEGILL, City Clerk

By: _____
DOUGLAS J. HEWETT, ICMA-CM
City Manager

Dated Signed: _____

ATTEST:

**COMMUNITY DEVELOPMENT
FOUNDATION**

JOHN MCCAULEY, Chairman
Board of Directors

By: _____
ROBERT VAN GEONS, Agent

Dated Signed: _____

This instrument has been pre-audited in the manner
required by the Local Government Budget and Fiscal
Control Act.

Approved for legal sufficiency upon execution by the
parties.

JODY PICARELLA, Chief Financial Officer

LACHELLE H. PULLIAM, Interim City Attorney

**RESOLUTION TO THE CITY OF FAYETTEVILLE
REQUESTING FUNDING TO PURSUE THE ESTABLISHMENT
OF THE BLACK VOICE AND HISTORY MUSEUM**

WHEREAS, The Community Development Foundation (CDF) believes our community would greatly benefit from a world-class center dedicated to the exploration and celebration of the Black Voice in America, preliminarily called the Black Voice and History Museum; and

WHEREAS This project would further the transformation of downtown Fayetteville, expand area economic activity, provide educational programming, support racial reconciliation, foster extensive community engagement, and elevate our community as a thought leader within the DC – Charleston Civil Rights History Corridor; and

WHEREAS, The CDF is an independent 501(c)(3) organization that promotes economic development in Fayetteville and Cumberland County; and

WHEREAS, The City and the CDF recognize that the area is uniquely positioned to create a national model for a Community's reconciliation with race and how its Black History is shared; and

WHEREAS, The City has allocated \$450,000 to support the Project Scope of Work, hereto attached, which includes community engagement, preliminary conceptual design, and the general feasibility of a Black Voice and History Museum project; and

WHEREAS, The City understands that the CDF has executed a separate contract with Cumberland County for the same purpose; and

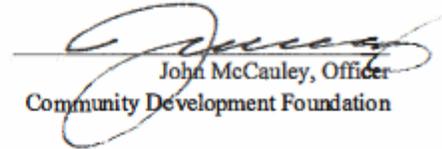
WHEREAS, Robert Van Geons, COO of the Community Development Foundation (CDF) has the authority to sign contracts and submit payment requests on behalf of the organization; and

NOW, THEREFORE, Be it resolved by the Community Development Foundation (CDF), in compliance with G.S § 153A-437, that a request has been made for the City to provide the funding in the amount of \$450,000 to pursue the establishment of the Black Voice and History Museum as described above and in the attached documentation.

Adopted by the CDF Board this, the 9th day of February, 2024.

COMMUNITY DEVELOPMENT FOUNDATION

BY:


John McCauley, Officer
Community Development Foundation

ATTEST:


Robert M. Van Geons, COO
Community Development Foundation

ATTACHMENTS:

- Exhibit 1 - Scope of Work
- Exhibit 2 - Project Budget
- Exhibit 3 - Deliverables

EXHIBIT 1 - SCOPE OF WORK

Black Voice and History Museum

Community Development Corporation will take all steps necessary to complete the study, community engagement, and preliminary conceptual design of a Black Voice and History Museum, to be located in Downtown Fayetteville, including, but not limited to, the following Scope of Work:

1. Establish a Project Leadership Team consisting of Agency's Chief Operating Officer, one member appointed by the City of Fayetteville, and a third member appointed by Cumberland County. The Project Leadership Team shall provide direction, recommendations, and guidance to the Project Implementation Director and contracted service providers. Additionally, the Project Leadership Team shall review and approve all invoices, contracts, and agreements prior to execution or payment.
2. Conduct community and stakeholder outreach, which is anticipated to include individual interviews with key community members, vision workshops with key stakeholders, public meetings, and digital engagement.
3. Establish an academic advisory board and a community advisory board to provide advice, ideas, and counsel to the development team.
4. Organize virtual tours of comparable museum projects, such as the International African American Museum in Charleston, South Carolina.
5. Complete a museum feasibility and economic impact analysis study.
6. Produce initial museum building pre-design ideas and initial building/space programming based on outreach efforts.
7. Collaborate with other current Downtown Fayetteville projects, such as the Crown Event Center and the Market House re-purposing, so project teams are aware of the efforts of all projects.
8. Develop a proposed job description for the museum Executive Director.
9. Create an early concept image of the museum.
10. Deliver a proposed business plan and funding plan.
11. Provide visionary leadership: A nationally prominent architect and urban planner will guide the entire rethinking of downtown Fayetteville and produce architectural and design concepts for the Black Voice Museum, Chesnut Plaza, and the integration of the Historic Downtown area and current Fayetteville Corridor Projects.

**EXHIBIT 2 – PROJECT BUDGET
Black Voice and History Museum**

Revised Budget Option October 12, 2023

Initial Grant:	
Discovery & Visioning	
\$ 150,000	MBP Owner's Representative (hourly, not to exceed) Owner Support/Advisor for cost, schedule and management Stakeholder and Engagement Consultant (community outreach coordinator)
\$ 220,000	Gensler Owner Support/Advisor for content, consultant coordination and task management (hourly, not to exceed)
\$ 125,000	Update Fayetteville Urban Design Plan (lump sum) Museum Pre-Design and Programming (lump sum) Stakeholder and Community Outreach (hourly, not to exceed)
\$ 34,000	Mini-Summits (Optional) Estimated Direct Expenses
\$ 75,000	Supporting Consulting Services for BVM Museum (allowances) Feasibility/Economic Impact/Right Sizing/Visitation Projections Business Planning/Operational planning (Museum) Strategic Planning Interpretive planning concepts/visitor experience plan Architectural planning and concept development Cost estimating/modeling Documenting Museum Development Process MEP engineering programming support
\$ 150,000	Conceptual Design Discovery and Visioning Planning Develop Museum Concept
	Benchmarking site visits (allowance one week full team) Comparable sites to be identified
\$ 100,000	Administrative Costs for project development (allowances) Legal (FCW allowance) Historian's stipend (historiographers) K-12 Educational Programs Staff and Board
	Beta Space for Outreach and Planning Showroom (allowance) Rent and Operations (annual expense) This could be a donated space Design and construction Staffing (annual expense)
	Supporting Consulting Services for Historic Fayetteville Core (allowances) Traffic Study and Parking Update Landscape/Civil Engineering Master Plan/Development Interpretive Masterplan Cost Estimating Sitewide survey Exhibit Design Development (schematics)
\$ 35,100	Owners Contingency (planning reserve)
	Museum Design (allowances) Museum Site Survey Museum Environmental and Geotech reports Museum Schematic Design Estimate (A/E and Exhibit Design)
\$ 109,000	Consultant & Expense Subtotal (Excluding Gensler and MBP)
\$ 10,900	Consultant/Expense Markup (10%) for insurance, accounting and invoice processing
\$ 900,000	INITIAL GRANT (DESIGN) FIXED BUDGET TOTAL

EXHIBIT 3 - DELIVERABLES Black Voice and History Museum

Black Voice Museum + Gensler LOA Initial Grant Appendices
 Agreement for Consulting and Pre-Design Services
 October 12, 2023, Rev 1. 10/19/2023

Schedule to be updated after contract is signed.

Black Voice Museum Development Schedule		2023					
		August	Sept.	Oct.	Nov.	Dec.	Jan.
		1	2	3	4	5	6
Initial Grant: 5 months		DISCOVERY & VISIONING					
Mobilization and Contracts							
Program Mgmt./Advisor							
Stakeholder & Community Outreach							
Business Planning							
Preliminary architectural conceiving							

Outreach Draft Schedule		INITIAL GRANT: 2023				
		August	September	October	November	December
	Quantity					
Stakeholder Outreach						
Outreach Planning	1					
Interviews	12		i1,i2,i3 SW1	i4,i5	i6,i7,8 SW2	i9,i10 i11,12 SW3
Stakeholder Vision Workshops	3					
Summary Development						
Community Outreach						
Public Meetings	1			PM1		
Community Vision Workshops	1				CW1	
Website	1					
Web-Base Survey	1			LAUNCH		
Newsletter	1			NL1		
Event Table/ Story Stand	1				EV1	
Library Story Stand	0					
Summary Development	1					

Black Voice Museum + Gensler LOA Initial Grant Appendices
 Agreement for Consulting and Pre-Design Services
 October 12, 2023, Rev 1 10/19/2023

Revised Budget Option October 12, 2023		
Initial Grant:		
Discovery & Visioning		
\$	150,000	MBP Owner's Representative (hourly, not to exceed) Owner Support/Advisor for cost, schedule and management Stakeholder and Engagement Consultant (community outreach coordinator)
		Gensler
\$	220,000	Owner Support/Advisor for content, consultant coordination and task management (hourly, not to exceed)
		Update Fayetteville Urban Design Plan (lump sum) Museum Pre-Design and Programming (lump sum)
\$	125,000	Stakeholder and Community Outreach (hourly, not to exceed)
\$	34,000	Mini-Summits (Optional) Estimated Direct Expenses
		Supporting Consulting Services for BVM Museum (allowances)
\$	75,000	Feasibility/Economic Impact/Right Sizing/Visitation Projections Business Planning/Operational planning (Museum) Strategic Planning Interpretive planning concepts/visitor experience plan Architectural planning and concept development Cost estimating/modeling Documenting Museum Development Process MEP engineering programming support
		Conceptual Design
\$	150,000	Discovery and Visioning Planning Develop Museum Concept
		Benchmarking site visits (allowance one week full team) Comparable sites to be identified
\$	100,000	Administrative Costs for project development (allowances) Legal (FCW allowance) Historian's stipend (historiographers) K-12 Educational Programs Staff and Board
		Beta Space for Outreach and Planning Showroom (allowance) Rent and Operations (annual expense) This could be a donated space Design and construction Staffing (annual expense)
		Supporting Consulting Services for Historic Fayetteville Core (allowances)
		Traffic Study and Parking Update Landscape/Civil Engineering Master Plan/Development Interpretive Masterplan Cost Estimating Sitewide survey Exhibit Design Development (schematics)
\$	35,100	Owners Contingency (planning reserve)
		Museum Design (allowances)
		Museum Site Survey Museum Environmental and Geotech reports Museum Schematic Design Estimate (A/E and Exhibit Design)
\$	109,000	Consultant & Expense Subtotal (Excluding Gensler and MBP)
\$	10,900	Consultant/Expense Markup (10%) for insurance, accounting and invoice processing
\$	900,000	INITIAL GRANT (DESIGN) FIXED BUDGET TOTAL
\$	539,900	Gensler Team Fee subtotal (including administrative markups and estimated expenses)