

Hayti Promise Community Development Corporation
 P.O. Box 13 Durham, N.C. 27701
HaytiPromiseInfo@gmail.com

**Request for Proposals/Invitation to Bid
 COMMUNITY DEVELOPMENT CORPORATION NON-PROFIT LEGAL SERVICES**

I. Background

In May 2024, the Durham City Council approved a \$10 million dollar grant to Hayti Promise Community Development Corporation (Hayti Promise or CDC) as seed funding to catalyze revitalization along Durham’s historic Fayetteville Street Corridor and surrounding neighborhoods. Hayti Promise is a North Carolina non-profit organization. Additional details regarding the Hayti Promise history, mission, vision, and goals, and City of Durham seed grant may be found in **Appendix A**.

HAYTI PROMISE INVITES PROPOSALS FROM HIGHLY QUALIFIED ATTORNEYS/FIRMS TO PROVIDE LEGAL SERVICES FOR A NEW NORTH CAROLINA NON-PROFIT COMMUNITY DEVELOPMENT CORPORATION.

II. Scope of Work

Description

Highly qualified proposers capable of delivering the specified scope of work in collaboration with Hayti Promise will possess capacity, as well as a proven record of success supplying the specified Scope of Work outlined in Appendix C hereto. Highly qualified proposers additionally will possess attributes needed to work productively with Hayti Promise directors, staff, and vendors, as well as local government officials.

Target Audience

Through the services contemplated under this solicitation, Hayti Promise must ensure that it successfully abides by all applicable local, state, and federal laws to uphold its fiduciary obligations to its diverse constituency and stakeholders, including:

- Durham taxpayers;
- Residents or businesses exploring services to be provided;
- Donors and investors seeking to support the organizational mission and goals;
- Vendors interested in supplying goods or services;
- Elected officials, journalists, and researchers.

III. Timeline and Milestones

Highly qualified proposers will adhere to the following:

Schedule

Solicitation Issued:	10/25/2024	Vendor Selection/Notification:	11/25 to 12/2/2024
Q&A Period Ends:	11/8/2024	Anticipated Contract Signing:	12/3 to 12/11/2024
Proposals Due by Noon:	11/15/2024	Project Start:	12/12 to 12/18/2024
Virtual Finalist Interviews:	11/20 to 11/22/2024	Project Completion:	12/31/2026

Interviews

Hayti Promise anticipates interviewing selected proposers (finalists) via video conference as part of the review process. Proposers selected for an interview will be notified via Email and will be expected to maintain availability to facilitate timely interview scheduling.

Questions and Answers

Questions regarding this solicitation must be submitted **via email only** to HaytiPromiseInfo@gmail.com. Answers will be provided via email reply with a carbon copy to all identified potential proposers.

IV. Submittal Guidelines

Responses submitted by highly qualified proposers will adhere to the following guidelines:

- *Timing* – be submitted **via email only** by **12pm** on the **Proposal Due Date**.
- *Format* – consist of a single (1) electronic file provided in Portable Document Format (.pdf) no larger than 50 MB in size using 11 point font.
- *Confirmation* – ensure a submittal confirmation is received via electronic mail reply.

V. Proposal Content

Responses submitted by highly qualified proposers will include:

- *Cover Letter* – A one (1) page letter introducing the proposer to Hayti Promise and describing the proposer’s interest in delivering the specified Scope of Work.
- *Vendor Information* – Legal Name, Business Type (individual, corporation, limited partnership, general partnership, limited liability company, professional corporation, professional association, etc.), State Organized (must be registered with the N.C. Secretary of State prior to contract execution), Name and Title of the individual(s) authorized to sign a contract with the Hayti Promise.
 - If a firm, describe the organization, size, structure, areas of practice, and office location(s).
 - Indicate, if appropriate, if the firm is a small or minority/owned business.
- *Statement of Qualifications* – In one (1) page, describe recent past successful experience providing the deliverables specified in the Scope of Work to non-profit or similar clients. Provide data or other evidence of effectiveness of the services provided.
 - High qualified proposers shall have experience in the following areas: non-profit and tax-exempt organizations; real estate, including bond financing; government grants and contracts; labor and employment; and general business operations.
- *Key Staff/Partner* – Name, Title, Mailing address, Phone number, E-mail address and one (1) page resume for each staff member partner expected to be engaged in the Scope of Work.
 - If a firm, describe the qualifications of attorneys to be assigned to the representation.
 - Descriptions shall include professional and education background; overall supervision to be exercised; relevant prior experience of the individual; education, position in firm, total years of experience, and continuing professional education if applicable.
- *Approach to Scope of Work* – In no more than two (2) pages, describe your proposed approach to completing the Scope of Work including a description of the role of each Key Staff/Partner. Detail the proposer’s expectations (if any) of Hayti Promise during the process.
- *Delivery Schedule* –A one (1) page schedule with progress steps and deadlines for completing the Scope of Work by the **Project Completion Deadline** specified in **Section III** hereto (**Timeline and Milestones**).
- *Fee Schedule* – A one (1) page itemized budget for delivering the Scope of Work detailing proposed fees associated with each milestone/deliverable and whether the fee(s) is one-time or recurring in nature.
- *References* – Name, Title, Phone Number and E-mail) address for three (3) clients that can speak the proposer’s experience and qualifications.
- *Work Samples* – At least two (2) unique samples of work/deliverables similar to the specifications in the Scope of Work provided to prior nonprofit or local government client(s).

VI. Evaluation Criteria

Criteria for selecting a highly qualified proposer(s) to contract for services with Hayti Promise may be predicated upon factors including, though not limited to:

- *Cost* – Lowest proposed cost for services which is less than or equal to the specified budget and/or going market rates;
- *Responsiveness* – Commitment to meeting all legal requirements and conform to specifications;
- *Responsibleness* – Quality, appropriateness, and completeness of proposed deliverables, commitment to beginning and completing work within the time specified in **Section III** herein (**Timeline and Milestones**), and demonstrated skill, judgment, and integrity necessary to engage with non-profit leadership to deliver services supporting the mission, vision, and goals of Hayti Promise.

VII. General Conditions

Rejection of Proposals

Hayti Promise retains the right to reject any and all bids, for any reason or no reason.

Claims Against Hayti Promise

No proposer will have any claims or rights against Hayti Promise arising out of the participation by a proposer in the solicitation process.

No Compensation Express or Implied

No compensation shall be due or implied to be due to any proposer unless and until a mutually negotiated agreement between the parties is approved by the Hayti Promise Board of Directors and is fully executed by all parties. Said agreement shall dictate the terms upon which any eventual compensation may be earned.

Hayti Promise Actions and Participation

Any assumption that Hayti Promise will take certain actions, provide facilities, or do anything else must be explicitly stated in the solicitation, and further reflected in any subsequent proposal submitted.

Insurance Requirements

Proposer agrees to maintain, on a primary basis and at its sole expense, at all times during the life of the contract contemplated under this solicitation applicable coverages and limits as specified in **Appendix B** hereto. The requirements specified, as well as CDC's review or acceptance of insurance maintained by Proposer shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under the contract.

Flow-Down Requirements

Proposer understands that Hayti Promise may utilize funding received from a variety of sources including the local, state, or federal government. Proposer agrees at all times to comply with any reasonable requirement from any funder which Hayti Promise must impose, enforce or "flow-down" to the Proposer as part of any contract in order to comply with obligations dictated to Hayti Promise by the funder, or applicable law. Such requirements if applicable will be included in **Appendix D**.

Equal Business Opportunity

It is the intent of Hayti Promise to provide equal opportunities for contracting to underutilized firms owned by minorities and women. It is further the intent of Hayti Promise to prohibit discrimination against any firm in pursuit of these opportunities.

VIII. Appendices

Appendix A – **Hayti Promise Fayetteville Street Corridor Improvements Project Overview**

Appendix B – **Minimum Insurance Requirements**

Appendix C – **Scope of Work for Community Development Corporation Non-Profit Legal Services**

Appendix D – **City of Durham Uniform Guidance Contract Clauses for Federal Funding (UGCCFF)**

APPENDIX A

HAYTI PROMISE – FAYETTEVILLE STREET CORRIDOR IMPROVEMENTS PROJECT OVERVIEW

DESCRIPTION

Durham’s Fayetteville Street Corridor Improvements Project (the Project) will mitigate negative social, cultural, economic, and financial impacts that were exacerbated by COVID-19. The Project, and partner institutions, Hayti Promise Community Development Corporation (Hayti Promise) supported by St. Joseph’s Historic Foundation serving as fiscal agent, will leverage a \$10 million dollars grant from the American Rescue Plan Act of 2021 (ARPA) approved by the Durham City Council in May 2024 to fuse local, state, federal and private advocacy and investment to hasten inclusive, equity centered, resident-focused revitalization strategies to counteract negative economic and social conditions along the Fayetteville Street Corridor and adjacent neighborhoods.

MILESTONES

2023 – Hayti Promise Community Development Corporation (Hayti Promise) was founded with the mission of inviting inclusive economic growth and local wealth creation in underinvested neighborhoods along the Fayetteville Street Corridor.

Durham City Council commits initial \$10 million American Rescue Plan Act “seed” grant to Hayti Promise to support revitalization in the Corridor.

2024 – Hayti Promise recruits its Board of Directors centering equity, community representation, unity and proven economic and community development commitment.

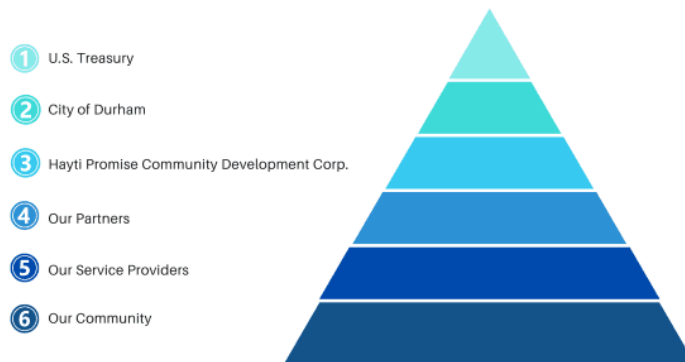
Hayti Promise and the City develop an ARPA compliant project scope of work supported by St. Joseph’s Historic Foundation in the role of fiscal agent and contract Hayti Promise to implement the Fayetteville Street Corridor Improvements Project.

PEOPLE, PARTNERSHIPS, COMMUNITY

Hayti Promise will implement the multi-year project with the help of its volunteer board of directors. The board will guide how ARPA grant funding is used, and raise additional funding from public, private, and charitable sources to support and expand Hayti Promise’s programs beyond the initial grant period.

Hayti Promise will partner with local neighborhood, cultural, business, and community development groups to improve housing and commercial buildings, attract and grow businesses, and create more vibrant community spaces.

Roles



APPENDIX B

MINIMUM INSURANCE REQUIREMENTS

The Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of the Contract the following applicable coverages and limits. The requirements contained herein, as well as Hayti Promise's review or acceptance of insurance maintained by Contractor, is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

Commercial General Liability – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability, Cross Liability, or Personal and Advertising Injury Liability.

Worker's Compensation & Employers Liability – Contractor agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 and with Employer Liability limits of no less than \$1,000,000 for each accident, each employee, and policy limit. This policy must include a Waiver of Subrogation.

Cyber Liability – Limits of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate.

Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. **Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract.**

Umbrella or Excess Liability – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies. Contractor agrees to endorse Hayti Promise Community Development Corporation as an 'Additional Insured' on the Umbrella or Excess Liability unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

Additional Insured – The contractor agrees to endorse Hayti Promise Community Development Corporation as an Additional Insured on the Commercial General Liability. The Additional Insured shall read Hayti Promise Community Development Corporation as its interest may appear.

Certificate of Insurance – Contractor agrees to provide Hayti Promise Community Development Corporation a Certificate of Insurance evidencing that all coverage, limits, and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Contractor's insurer. If Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify Hayti Promise Community Development Corporation within five (5) business days with a copy of the nonrenewal or cancellation notice, or written specifics as to which coverage is no longer in compliance.

The Certificate Holder address should read:
Hayti Promise Community Development Corporation
P.O. Box 13
Durham, N.C. 27701

All primary insurance carriers must be authorized to do business in North Carolina. The requirements listed above, as well as Hayti Promise's review or acceptance of insurance maintained by Contractor, is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

APPENDIX C

SCOPE OF WORK – COMMUNITY DEVELOPMENT CORPORATION NON-PROFIT LEGAL SERVICES

Only attorneys who are currently licensed to practice law in North Carolina, and maintain an office in Durham, North Carolina, or law firms including such attorneys, may respond to this RFP.

I. SERVICES

Highly qualified proposers shall be readily available to perform the following legal services, as requested by Hayti Promise:

- a. Review, draft, and negotiate contracts and leases
- b. Advise on corporate and tax-exempt organization legal issues
- c. Advise on individual labor and employment matters
- d. Review personnel, fiscal and other policies, as well as corporate by-laws
- e. Attend Board of Directors and Committee meetings as necessary
- f. Advise on government grant and contract issues
- g. Advise on responses to subpoenas, court orders, and requests for information from third parties
- h. Defend lawsuits, administrative claims, or other legal claims
- i. Conduct litigation as necessary
- j. Other legal services as needed

II. BILLING STATEMENTS

Proposers shall be prepared to submit detailed monthly billing statements for all services billed at an hourly rate broken down into time increments of no more than a quarter hour. Statements shall also include summaries of work performed and time spent on services performed under a flat monthly fee, as discussed below.

III. FEE SCHEDULE

Proposer's price shall include hourly billing rates of each attorney or other legal staff who is expected to work on this representation and charges for expenses, if any, such as legal research, copies, mail services, etc. Proposals shall also include a flat monthly fee that would be charged to advise on routine matters that could be handled via virtual meeting attendance, email or otherwise without extensive research or other legal work.

Hayti Promise reserves the right to negotiate with proposers on the structure of billing and/or fees.

APPENDIX D

City of Durham Uniform Guidance Contract Clauses for Federal Funding (UGCCFF)

(A) Cumulative Nature of These Clauses; Conflicts with Other Clauses. It is intended that the clauses in this document, Uniform Guidance Contract Clauses for Federal Funding (“UGCCFF”), are to be in addition to other clauses in this contract. The clauses in this UGCCFF will control in case of conflict with other clauses in this contract except for those additional clauses, if any, provided in this contract at the direction of the federal awarding agency or pass-through agency; clauses provided by such direction will control over this UGCCFF. A termination for cause clause elsewhere in this contract (not in this UGCCFF) will control over the termination for cause clause in this UGCCFF.

(B) Termination.

- (1) **Termination for Cause; Default.** Each of the following is included as an example of a default by the contractor under this contract:
 - (1) The contractor made a false statement or omitted information in the proposal or bid, such that if the City had known of its falsity or of the facts before contract award, there would have been a reasonable possibility that the City would not have made the award to the contractor;
 - (2) The contractor fails to observe or perform one or more of its contractual duties, and the failure continues 15 days after the City gives written notice describing the failure in reasonable detail; however, if failure requires performance that cannot by its nature be completed within such 15-day period, the failure does not constitute a default for purposes of this subsection “ii” as long as the contractor begins curing the failure to perform one or more of its contractual duties before or during the 15-day period and diligently and continuously carries out the cure to completion;
 - (3) The contractor files a voluntary petition in bankruptcy or is adjudicated a bankrupt or insolvent, or files a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the federal bankruptcy act or any other applicable laws, or seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the contractor, the contractor’s interest in this contract, or of any substantial part of its property;
 - (4) A proceeding against the contractor seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the federal bankruptcy act or any other applicable law is not dismissed within 60 days after its commencement;
 - (5) A trustee, receiver, or liquidator of the contractor, the contractor’s interest in this contract, or of any substantial part of its property, is appointed, and the appointment is not vacated or stayed within 30 days; or
 - (6) A levy under execution or attachment is made against the contractor or any of its property and the execution or attachment is not vacated or removed by court order, bonding, or otherwise within 60 days.
- (2) **Termination for Cause; City’s Remedies on Default.** Upon the contractor’s default, the City is entitled to all remedies lawfully available, including all of the following to the extent they are applicable:
 - (1) The City may proceed with remedies available under any performance bond, letter of credit, or other security.
 - (2) The City may proceed with legal action, including obtaining damages and specific performance.
 - (3) The City may give written notice stating that the contract or the services of the contractor shall terminate on the date described in this notice. Such termination shall not be deemed to impliedly renounce, discharge, or waive any remedy, including claims in damages for breach.
- (3) **Termination for Convenience (“TFC”).**
 - (1) Procedure. Without limiting any party’s right to terminate for breach, the parties agree that the City may, without cause, and in its discretion, terminate this contract for convenience by giving the Contractor written notice that refers to this section. TFC shall be effective at the time indicated in the notice.
 - (2) Obligations. Upon TFC, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions and the section of this contract titled Trade Secrets and Confidentiality, if any, shall remain in force. At the time of TFC or as soon afterwards as is practical, the Contractor shall give the City all Work, including partly completed Work. In case of TFC, the Contractor shall follow the City’s instructions as to which subcontracts to terminate.
 - (3) Payment. The City shall pay the Contractor an equitable amount for the costs and charges that accrue because of the City’s decisions with respect to the subcontracts, but that amount will exclude profit for the Contractor. Within 30 days of the Contractor’s receipt of notice of TFC, the City shall pay the Contractor one hundred dollars (\$100) as a TFC fee. The City shall pay the Contractor for all Work performed up to the termination date indicated in the TFC notice, except to the extent Work has been paid for previously. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed, except to the extent it would be inequitable to either party. If Work was to be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. The Contractor shall not be entitled to any payment because of TFC except as stated in this section, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

Note on subsections (C) – (Q). In subsections (C) – (Q) below, where an obligation must be imposed on any subcontractors, changes in language may be made in the subcontract as shall be appropriate to properly identify the parties and their obligations.

(C) Equal Employment Opportunity. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include

these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FEDERAL AWARDDING AGENCY may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FEDERAL AWARDDING AGENCY may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FEDERAL AWARDDING AGENCY may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FEDERAL AWARDDING AGENCY may issue.

(D) Reserved.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). If this contract is in excess of \$100,000 and involves the employment of mechanics or laborers, the contractor must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). If the Act, as supplemented by said regulations applies to this contract, then under 40 U.S.C. 3702 of the Act, the contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

(F) Contract Work Hours and Safety Standards for Awards Not Involving Construction

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5. The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the Federal Awarding Agency and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job. The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

(G) Rights to Inventions Made Under a Contract or Agreement. If the Federal award applicable to this contract meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient enters into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(H) Clean Air Act and the Federal Water Pollution Control Act, as amended. If this contract or the subgrant is in excess of \$150,000, the contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution

Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor agrees: 1) It will not use any violating facilities; 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;" 3) It will report violations of use of prohibited facilities to the Federal Awarding Agency; and 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

(I) Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The contractor and subcontractors of all tiers shall include the substance of this section in every subcontract so that it will be binding upon subcontractors of all tiers, with a clause requiring subcontractors of all tiers to include the substance of this section in every lower tier subcontracts. The contractor shall be responsible for compliance by subcontractors of all tiers with the substance of this section.

(J) Byrd Anti-Lobbying Amendment, CONTAINING CERTIFICATION BY CONTRACTOR AND SUBCONTRACTORS OF ALL TIERS. Unless this is a contract for which such certifications are not required by 31 U.S.C. 1352 (the Byrd Anti-Lobbying Amendment) or 2 CFR 200 Appendix II, every contractor and subcontractor of every tier certifies, by signing a contract containing this section, to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also immediately disclose to the City of Durham any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. If requested by the City, each tier shall promptly complete, sign under oath, and return to the City the forms the City will provide regarding the tier's lobbying or the tier's use or non-use of Federal funds relevant to this paragraph. Such disclosures are forwarded from tier to tier up to the non-Federal award. The contractor and subcontractors of all tiers shall include the substance of this section in every subcontract so that it will be binding upon subcontractors of all tiers, with a clause requiring subcontractors of all tiers to include the substance of this section in every lower tier subcontract. The contractor shall be responsible for compliance by subcontractors of all tiers with the substance of this section.

(K) Procurement of Recovered Materials. The contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(L) Access to Records and Reports; Retention of Records

- (1) The contractor agrees to permit, and require its subcontractors to permit, the granting federal agency, and the Comptroller General of the United States, and, to the extent appropriate, the State of North Carolina, the City or their authorized representatives, upon their request to inspect all project work records, documents, papers, materials, payrolls, and other data, and to audit the books, records, and accounts of the contractor and its subcontractors pertaining to the project.
- (2) The contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (4) The contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than five (5) years after that the City makes final payment and all other pending matters are closed, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the Comptroller General, granting federal agency, state agency, City or any of their duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

(M) Bond Requirements. Contracts or subcontracts for construction or facility improvement exceeding the Simplified Acquisition Threshold set by the Federal Acquisition Regulation (FAR) at 48 CFR part 2, subpart 2.1, shall be subject to the bidding and bid, performance and payment bonding requirements of N.C. Gen. Statute § 143-129 *et seq.* and Article 3 of Chapter 44A (N.C.G.S. 44A-25 *et seq.*) of

(N) Domestic Preference. The Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts including all contracts and purchase orders for work or products under this agreement. (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(O) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. Contractor and subcontractor must comply with 2 C.F.R. 200.216 which prohibits the obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract to procure or obtain equipment, services, or systems that uses equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Video surveillance and telecommunications equipment produced by Hytera Communications corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or any entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or connected to, the government of a covered foreign country are also prohibited.

(P) Equal Opportunity/Disadvantaged Business Program Compliance. Unless the conditions of the federal funding for this contract require compliance with federal contracting with small and minority businesses, women's business enterprises, and/or labor surplus area firms, the Contractor shall comply with those contract clauses referencing the City's Equal Business Opportunities Ordinance.

(Q) Conflict of Interest. Contractor shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts in conformance with 2 CFR 200.318(c). Contractor shall immediately disclose in writing to City any potential conflict of interest affecting the awarded funds in accordance with 2 CFR 200.112. The contractor shall comply with all applicable conflicts of interest laws including N.C.G.S. § 133-32 and 23 C.F.R. § 1.33.

The contractor does hereby certify that it has not entered into and, during the lifetime of the contract, will not enter into any agreement with a third-party affording the contractor, or any subcontractors that they may hire, with any direct or indirect financial interest in the outcome of the project, except with regard to the project development, human and natural environmental and/or engineering services associated with this contract.

- (1) Pursuant to N.C.G.S. § 133-1, the contractor will not knowingly specify building materials, equipment, or other items that are manufactured, sold or distributed by any firm or corporation in which the designer has a financial interest.
- (2) Pursuant to N.C.G.S. § 133-2, the contractor will not employ or allow manufacturers or their representatives or agents to write, plan, draw, or make specifications for such public works.
- (3) The contractor does hereby certify that it does not have any potential conflict of interest with any entity involved with the project. Any potential conflict of interest shall be disclosed immediately to the City.

(R) Determination of allowable costs in accordance with the Federal cost principles. The contractor agrees to comply with established principles and standards for determining costs incurred under the contract pursuant to the cost principles established for state and local governments pursuant to OMB Circular A-87 Revised.