



## *Community Development Department*

**DATE:** May 18, 2021  
**FROM:** Ben Ehreth, AICP, Community Development Director  
**ITEM:** Contract Amendment with Highland Acres Historic Survey Consultant

### **REQUEST**

Staff is requesting a contract amendment with Metcalf Archeological Consultants, Inc. for the Highland Acres Historic Survey project.

Please place this item on the May 25, 2021 City Commission meeting agenda.

### **BACKGROUND INFORMATION**

The City Commission approved a contract with Metcalf Archeological Consultants, Inc. on July 14, 2020 for the Highland Acres Historic Architectural Survey project as recommended by the Historic Preservation Commission. On March 9th the City Commission approved a contract amendment to revise the payment schedule.

Staff is recommending approval of the attached contract amendment to revise the project schedule and deadlines to provide more time for the selected contractor to complete architectural site surveys and the draft survey report. Amendments to the compensation schedule are also proposed to align with the revised project schedule and deadline.

These revisions will not alter the project cost or final completion date.

### **RECOMMENDED CITY COMMISSION ACTION**

Staff recommends approval of the attached contract amendment.

### **STAFF CONTACT INFORMATION**

Ben Ehreth, AICP | Community Development Director, 355-1842 or [behreth@bismarcknd.gov](mailto:behreth@bismarcknd.gov)

Kim Lee, AICP | Planning Division Manager, 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov)

Will Hutchings | Planner, 355-1850 or [whutchings@bismarcknd.gov](mailto:whutchings@bismarcknd.gov)

AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES WITH THE CITY OF  
BISMARCK AND METCALF ARCHAEOLOGICAL CONSULTANTS, INC. FOR THE “HISTORIC  
ARCHITECTURAL SURVEY OF HIGHLAND ACRES OF BISMARCK, NORTH DAKOTA”  
PROJECT

This Amendment to Agreement for Professional Services (this “**Amendment**”) is entered into by and between the Metcalf Archaeological Consultants, Inc. (“**Contractor**”), and the City of Bismarck, a North Dakota municipal corporation, (“**City**”).

WHEREAS, Contractor and City are parties to that certain Agreement for Professional Services, dated July 14, 2020, (the “**Agreement**”);

WHEREAS, Contractor and City are parties to an Amendment to the Agreement executed on March 9, 2021; and

WHEREAS, Contractor and City wish to amend some of the terms of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Paragraph 3, Product Deadlines shall be deleted and replaced with the following:

Contractor agrees to project schedules and deadlines as follows:

Preliminary Identification of Neighborhood Features & 15 site forms	September 1, 2020
All remaining site forms	June 9, 2021
Draft Survey report	June 9, 2021
Final Survey report and all remaining products	September 1, 2021

2. Paragraph 5 Compensation shall be deleted and replaced with the following:  
Compensation and expenses to the Contractor in full for this project will not exceed \$38,000.00.

- A. First Payment: 10% of the compensation due in the amount of Three Thousand Eight Hundred (\$3,800.00) Dollars upon completion and approval of the preliminary identification of neighborhood features and first fifteen (15) site forms and (on or about September 1, 2020).
- B. Second Payment: 20% of the compensation due in the amount of Seven Thousand, Six Hundred (\$7,600) Dollars upon completion of all fieldwork (on or about December 1, 2020)
- C. Third Payment: 20% of the compensation due in the amount of Seven Thousand Six Hundred (\$7,600) Dollars upon completion of half of the remaining site forms (on or about March 10, 2021).
- D. Fourth Payment: 20% of the compensation due in the amount of Seven Thousand Six Hundred (\$7,600) Dollars upon completion of all remaining site forms and the preliminary draft survey report (on or about June 8, 2021).
- E. Fifth Payment: 20% of the compensation due in the amount of Seven Thousand, Six Hundred (\$7,600) Dollars upon completion of the draft survey report (on or about June

30, 2021) and the presentation to the Bismarck Historic Preservation Commission (on June 16, 2021).

- F. Final Payment: 10% of the compensation due in the amount of Three Thousand, Eight Hundred (\$3,800) Dollars upon completion of the final survey report and all remaining products to the State Historic Review Board, and final approval of the Survey by the ND SHPO (on or about September 1, 2021).
3. Except as expressly amended by this Amendment, the terms and provisions of the Agreement shall remain in full force and effect. To the extent any of the terms and provisions of the Agreement are inconsistent with the terms and provisions of this Amendment, the terms and provisions of this Amendment shall govern and control. All defined terms used in this Amendment and not otherwise defined herein shall have the respective meanings ascribed to them in the Agreement. No modification, waiver, amendment, discharge or change of this Amendment shall be valid unless the same is in writing and signed by the Party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.
  4. This Amendment may be executed in any number of counterparts, each of which so executed shall be deemed original; such counterparts shall together constitute but one agreement. Facsimile and/or digitally transmitted signatures shall be sufficient to bind the Parties and shall in all respects be treated in court proceedings or otherwise as the legal equivalent of an original signature.
  5. This Amendment is effective upon full execution by all parties.

**CITY OF BISMARCK**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Steve Bakken, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Attest Keith Hunke, City Administrator

**CONTRACTOR**

Date: 05/07/2021

By: 

\_\_\_\_\_  
Damita Engel, General Manager  
Metcalf Archeological Consultants, Inc. - Bismarck