



GENESEE COUNTY
METROPOLITAN PLANNING
COMMISSION

March 25, 2024

Ethan Epstein, Office Principal
Chronicle Heritage
3215 Central Street
Dexter, MI 48130

SUBJECT: Genesee County SHPO Section 106 Consultation Contract Extension

Dear Mr. Epstein:

Enclosed are two copies of Genesee County's SHPO Section 106 Consultation Contract Extension with Chronicle Heritage. The Genesee County Board of Commissioners approved the extension on March 13, 2024. Please sign and date both copies of the document. One copy is for Chronicle Heritage to keep, and the other can be mailed to the address listed below:

Genesee County Metropolitan Planning Commission
1101 Beach Street, Room 111
Flint, Michigan 48502-1470

Should you have any questions, please contact me at (810) 766-6565 or by email at gcoselman@geneeecountymi.gov

Sincerely,

Gwynneth Coselman

Gwynneth Coselman, Planner
Genesee County Metropolitan Planning Commission

Derek Bradshaw, Director Christine Durgan, Assistant Director

1101 Beach Street – Room 111, Flint, Michigan 48502-1470 • (810) 257-3010 • www.gcmnpc.org

AMENDMENT TO PROFESSIONAL SERVICES CONTRACT FOR SHPO SECTION 106 REVIEWS

This Amendment is effective April 28, 2024, and is between Genesee County, Michigan, a Michigan municipal corporation whose principal place of business is located at 1101 Beach Street, Flint, Michigan 48502 (the "County"), and **Commonwealth Heritage Group, LLC dba Chronicle Heritage, a Michigan Company**, whose principal place of business is located at 3215 Center Street, Dexter, MI 48130 (the "Contractor") (the Contractor and the County together, the "Parties").

1. Term

1.1 Initial Term

The Parties executed a Professional Services Contract for SHPO Section 106 Reviews effective April 28, 2021 (the "Agreement"), pursuant to which the Contractor would provide documentation of areas of potential effects, identify properties of historical significance, and prepare in depth supporting documentation as part of the Section 106 application on an as needed basis as requested by the County per Resolution #2021-276;

1.2 Extension Terms

The Term of the Agreement is hereby extended by a period of three years, commencing on April 28, 2024, and ending on April 27, 2027.

2. Scope of Work

The Contractor agrees to perform the services described on Exhibit A (the "Services").

3. Compensation

Unit Rate. The Contractor shall be paid according to the rates identified on Exhibit A. The total amount paid to the Contractor shall not exceed \$60,000. The Contractor must provide to the County monthly invoices in a form acceptable to the County, along with any necessary supporting documentation such as time sheets. The County will pay the Contractor within sixty (60) days of the County's acceptance of the invoice and supporting documentation.

4. Taxes.

The County is a Michigan Municipal Corporation. The Contractor acknowledges that the County is exempt from Federal Excise Tax and Michigan Sales Tax.

5. Contract Administrator

The contract administrator for this Contract is **Derek Bradshaw** (the "Contract Administrator"). The Contractor acknowledges that the Contract Administrator is

the primary County contact for notices and instructions related to this Contract. The Contractor agrees to provide a copy of all notices related to this Contract to the Contract Administrator.

6. Warranties

The Contractor warrants that:

- 6.1 The Services will be performed in a good and workmanlike manner and in accordance with generally acceptable practices in the industry.
- 6.2 The Contractor will comply with all federal, state, and local laws in the performance of the Services.
- 6.3 The Contractor will comply with the requirements of any federal or state grants used to fund or support this Contract.
- 6.4 The Contractor will obtain and maintain all applicable licenses and permits necessary to provide the Services for the entire term of this Contract.
- 6.5 The Contractor will obtain and maintain all applicable licenses and permits necessary to provide the Services for the entire term of this Contract.

The Contractor agrees to indemnify, defend, and hold harmless the County, its officials, officers, agents, and employees from any and all claims, damages, or liability, including defense costs, arising out of the Contractor's breach of these warranties.

7. Suspension of Work

7.1 Order to Suspend Performance

Upon written order of the Contract Administrator, the Contractor agrees to immediately suspend performance of the Services. The Contractor shall not be entitled to compensation for any Services performed during any period in which the Contract Administrator has directed that the Services be suspended.

7.2 Necessary Actions Before Suspension

If immediate suspension of the Services would cause harm, injury, or damage to persons or property, the Contractor must immediately notify the Contract Administrator of the nature of such harm, injury, or damage, and obtain written authorization from the Contract Administrator to take such necessary action as to prevent or minimize such harm, injury or damage. Actions authorized by the Contract Administrator pursuant to this paragraph are compensable.

8. Termination

8.1 Termination for Cause

If the Contractor is in breach of any provision of this Contract, and such breach continues for fourteen (14) days after written notice is issued to the Contractor by the County of the breach, the County may terminate this Contract. Such termination for cause is effective upon receipt of the notice of termination by the Contractor.

In addition to any other remedies provided by law or this Contract, the Contractor shall be responsible for all costs incurred by the County as a result of the Contractor's breach and termination, including any costs to obtain substitute performance.

8.2 Immediate Termination

If the County, in its discretion, determines that the Contractor's breach of this Contract constitutes a threat to public health, safety, or welfare, the County may terminate this Contract immediately upon notice to the Contractor.

In addition to any other remedies provided by law or this Contract, the Contractor shall be responsible for all costs incurred by the County as a result of the Contractor's breach and termination, including any costs to obtain substitute performance.

8.3 Termination for Convenience

If the County determines that it is in the County's best interests, the County may terminate this Contract upon thirty (30) days written notice to the Contractor.

The County shall pay for all work properly performed up to the effective date of the notice of termination.

8.4 Termination for Lack of Funding

If this Contract is funded by public funds or a grant from a public or private entity, and the funds are not appropriated or the grant is discontinued, the County may terminate this Contract by written notice specifying the date of termination.

The County shall pay for all work properly performed up to the effective date of the notice of termination.

9. Nondiscrimination

The Contractor covenants that it will not discriminate against an employee or applicant of employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, sexual identity, gender, gender identity, gender expression, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position, and that it will require the same non-discrimination assurances from any subcontractor who may be used to carry out duties described in this contract. Contractor covenants that it will not discriminate against businesses that are owned by women, minorities or persons with disabilities in providing services covered by this Contract, and that it shall require the same assurances from subcontractors. Breach of this covenant shall be regarded as a material breach of this contract.

10. Freedom of Information Act

This Contract and all attachments, as well as any other information submitted by the Contractor to the County, are subject to disclosure under the provisions of MCL 15.231, *et seq.*, known as the "Freedom of Information Act".

11. Intellectual Property

Any intellectual property created by the Contractor in the performance of the Services shall be considered a work made for hire, and any and all rights in such intellectual property shall belong solely to the County. Upon the County's request, the Contractor agrees to execute any documents necessary to convey ownership of such intellectual property to the County.

12. Audit Rights

12.1 Certification of Accurate Information

Contractor certifies that all information provided to the County by the Contractor relating to the award or modification of this Contract, or any payment or dispute related to this Contract, is true and correct. The Contractor further certifies that its accounting system conforms to generally accepted accounting principles.

12.2 Inspection

The Contractor agrees that the County may inspect the Contractor's plant, place of business, or worksite to ensure compliance with the terms of this Contract. If this Contract is funded or supported with any state or federal grant funds, the state or federal agencies responsible for administering the applicable grants may examine the Contractor's plant, place of business,

or worksite to ensure compliance with the terms of this Contract and the terms of the applicable grant.

12.3 Audit

The Contractor agrees that the County may examine the Contractor's records to ensure compliance with the terms of this Contract. If this Contract is funded or supported with any state or federal grant funds, the state or federal agencies responsible for administering the applicable grants may examine the Contractor's records to ensure compliance with the terms of this Contract and the terms of the applicable grant.

12.4 Records Retention

The Contractor agrees to maintain any business records related to this Contract or the Contractor's performance under this Contract for a period of at least three (3) years after final payment.

13. Identity Theft Prevention

13.1 In the event that the Contractor will obtain identifying information during the performance of the Services, the Contractor must take reasonable precautions to ensure that such identifying information is protected from unauthorized disclosure and is used only for the purpose of performing the Services.

13.2 For the purposes of this Paragraph, "identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including but not limited to name, address, telephone number, social security number, date of birth, driver's license number, taxpayer identification number, or routing code.

14. Insurance Requirements and Indemnification

The Contractor shall at all times maintain in full force and effect for duration of the term of this agreement the following insurance coverages. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan, having an AM Best rating of at least A- and acceptable to Genesee County. *In addition, the County reserves the right to modify or waive at any time any applicable insurance requirements based on the scope of services provided at the discretion of the County's Risk Manager or other authorized representative of the County.*

Commercial General Liability Insurance on an "occurrence basis" with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit.-. The policy shall name Genesee County, including all employees, elected and appointed officials and volunteers, all boards, commissions, and/or authorities, and their board members, employees, and volunteers as additional insureds.

Coverage shall be primary and non-contributory, including a waiver of subrogation in favor of the County.

Workers' Compensation Insurance – as required by and in accordance with all applicable statutes of the State of Michigan, including Employers' Liability Coverage.

Automobile Liability – Including Michigan No-Fault coverages, with limits of liability not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. Coverage shall include all owned, non-owned, and hired vehicles. Limits may be satisfied using primary and excess/umbrella liability policies. -. The policy shall name Genesee County, including all employees, elected and appointed officials and volunteers, all boards, commissions, and/or authorities, and their board members, employees, and volunteers as additional insureds.

Professional Liability Insurance – in an amount not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. If this policy is a claims made form, the Contractor shall be required to keep said policy in force, or purchase "tail" coverage for a minimum of three (3) years after the termination of this contract.

A licensee or its insurance broker shall notify the County of any cancellation or reduction in coverage within seven (7) days of receipt of insurer's notification to that effect. The contractor, licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the County Risk Manager within five (5) business days in the event of expiration or cancellation of coverage.

14.1 Insurance Certificate and Additional Insured Coverage

- 1. Certificate of Insurance** – The contractor must provide a Certificate of Insurance evidencing the required insurance set forth above. The Certificate Holder should be listed as follows:

Genesee County
Attn: Risk Management
1101 Beach Street, Flint, MI 48502

- 2. Endorsements** In addition, the contractor must provide the following endorsements, including but not limited to:

- a. An additional insured endorsement (equivalent in coverage to ISO form CG 20 10 and CG 20 37) naming the "Genesee County, its officials, employees and agents, all boards, commissions and/or authorities and board members, including employees and volunteers thereof" as additional insureds under the general liability policy. No person or

department should be identified as the additional insured. Coverage afforded shall be considered primary and any other insurance or self-insurance, maintained by or available to the County shall be considered secondary and/or excess.

- b. An endorsement to each policy stating that such policy shall not be cancelled or reduced in coverage except after thirty (30) days prior written notice to County. Cancellation, material restriction, nonrenewal or lapse of any of the required policies shall be grounds for immediate termination of the Agreement by the County. If any of the required coverages expire during the term of the contract, the vendor shall deliver renewal certificates, endorsements, and/or policies to County at least ten (10) days prior to the expiration date.

In lieu of required endorsements, a copy of the policy sections, where coverage is provided for additional insured and cancellation notice, may be acceptable. Copies of all policies mentioned above shall be furnished, if so requested.

14.2 Indemnification

The Contractor agrees to indemnify, defend, and hold harmless the County, its officials, officers, agents, and employees from any and all claims, damages, or liability, including defense costs, arising out of the Contractor's performance of the Services or presence on the County's property or worksite. Contractor agrees that the insurance requirements specified in the contract do not reduce the liability Contractor has assumed in the indemnification/hold harmless section of the Contract.

15. Independent Contractor

The Contractor and its agents and employees are independent contractors and are not the employees of the County.

16. General Provisions

16.1 Entire Contract

This Contract, consisting of the following documents and Exhibits, embodies the entire Contract between the Parties.

16.1.1. The Contract – This Professional Services Contract

16.1.2. Exhibit A – The Scope of Work

There are no promises, terms, conditions, or obligations relating to the Services other than those contained herein. In the event of a conflict between this Contract and any Exhibit, the terms of this Contract shall control.

16.2 No Assignment

The Contractor may not assign or subcontract this Contract without the express written consent of the County.

16.3 Modification

This Contract may be modified only in writing executed with the same formalities as this Contract.

16.4 Binding Effect

The provisions of this Contract shall apply to and bind the heirs, executors, administrators, and assigns all of the parties hereto.

16.5 Headings

The paragraph headings in this Contract are used only for ease of reference, and do not limit, modify, construe, and or interpret any provision of this Contract.

16.6 Governing Law and Venue

This Contract is entered into under the laws of the State of Michigan. Any litigation between the Parties arising out of this Contract must be initiated within two years of the cause of action accruing and must be brought in a court of competent jurisdiction in Genesee County, Michigan.

16.7 Subpoena Power

The Contractor acknowledges and understands that the Chairperson of the Genesee County Board of Commissioners, pursuant to MCL 46.3(5), as amended, has the power to administer oaths, issue subpoenas, and compel a person's attendance in the same manner as a court of law. The Contractor agrees to submit to this power with respect to this Contract.

16.8 Severability and Survival

In the event that any provision of this Contract is deemed by any court of competent jurisdiction to be legally ineffective, such decision shall have no effect on the remaining provisions of this Contract.

16.9 Interpretation

Each Party has had opportunity to have this Contract reviewed by legal counsel and has had equal opportunity to contribute to its contents. In the event of any dispute concerning the interpretation of this Contract, there

shall be no presumption in favor of any interpretation solely because the form of this Contract was prepared by the County.


16.10 Remedies

All remedies specified in this Contract are non-exclusive. The County reserves the right to seek any and all remedies available under this Contract and applicable law in the event that the Contractor fails to abide by the terms of this Contract.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their duly authorized agents.

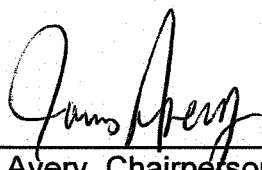
Commonwealth Heritage Group, LLC dba COUNTY OF GENESEE

Chronicle Heritage

By: 

ETHAN EPSTEIN [Name]
Office Principal [Title]

Date: 4/19/2024

By: 

James Avery, Chairperson
Board of Commissioners

Date: 3/20/24

EXHIBIT A

Description of the Services

Background

The Genesee County Metropolitan Planning Commission (GCMPC) is designated as a responsible entity by the United States Department of Housing and Urban Development (HUD) to complete Environmental Reviews (ER) for all HUD funded projects that are administered by Genesee County. A component of the ERs for HUD funded projects involves coordinating with the Michigan State Historic Preservation Office (SHPO). Projects that may have the potential to affect historic properties must be submitted to SHPO for review and approval identifying that no historic properties will be affected by the project, or if there is a historic property present that the potential affect is not adverse or is mitigated. This submission to SHPO is known as a Section 106 review and is required for projects including the construction of new roadways, rehabilitation projects, and many other project types. GCMPC typically conducts ERs on approximately 5 projects annually that require a SHPO Section 106 review.

Purpose

Effective January 1, 2021, the Michigan SHPO updated their Section 106 Application extensively which now requires more information about projects being submitted including a high level of detail on all properties within the project area; new Section 106 application attached. This update requires a qualified historian or architectural historian and a qualified archaeologist to complete item IV. Identification of Historic Properties per 36CFR Part 61 on the attached SHPO Section 106 Application form. Although GCMPC can still complete the rest of the application, GCMPC staff do not hold the credentials to complete item IV. As the designated responsible entity for completing environmental reviews for HUD funded projects administered by Genesee County, GCMPC is requesting a consultant to complete the following tasks related to the Michigan SHPO Section 106 application:

- On the SHPO Section 106 Application form, the selected consultant will complete Items III. Project Information and IV. Identification of Historic Properties as this requires a qualified historian and a qualified archaeologist to complete per 36CFR Part 61. GCMPC staff will complete items I. General Information, II. Federal Agency Involvement and Response Contact Information, V. Identification of Consulting Parties, VI. Determination of Effect and assist with Item III. Project Information.
- GCMPC staff will provide general project information including project limits and scope to the selected consultant to sufficiently complete Items III. Project Information and IV. Identification of Historic Properties on the SHPO Section 106 application. Once completed, the selected consultant will provide GCMPC with all the required documentation to be submitted to the Michigan SHPO.

Determining Area of Potential Effects

The Contractor understands that as a cultural resources consultant, it is often part of their scope to assist the project proponent and lead federal agency in determining a project's area of potential effects (APE) as defined in 36 CFR 800.4(a)(1). The Consultant will use the information provided - project limits and scope - by the County to prepare mapping documentation showing the Contractor's recommendation for the APE, which may differ for archaeological resources and above-ground (historic architectural) resources. Typically, the archaeological APE matches the project's grading limits (limits of disturbance), whereas the above-ground APE is the project limits plus a one-parcel deep area to account for potential effects on historic resources' condition or setting as a result of visual, auditory, or other impacts.

Identifying Historic Properties

The Contractor will conduct archival research using the files stored at the Michigan State Historic Preservation Office (MI SHPO) in Lansing, MI, as well as online repositories (e.g., US Department of Agriculture web soil series descriptions and maps, Bureau of Land Management General Land Office maps, Sanborn fire insurance maps, US Geological Service historic topographic maps, etc.) in order to make use of current information. The Contractor would conduct a literature review at the MI SHPO compiling information regarding previously identified archaeological sites and surveys in each Project Area and a 1-mile radius around it. The Contractor also would conduct a desktop review of above-ground architectural/historic resources in each Project Area and a surrounding 0.5-mile study area to account for potential indirect effects on aboveground properties near the Project.

The literature review and context development entails reviewing historical references for the Project area, determining land use history through historical maps and aerial photographs, and compiling information on previously recorded resources. The gathered materials will be used for the appropriate tables, figures, and text in the project report which shall meet MI SHPO requirements. All identified properties will be compared to the contexts and information about known resources to evaluate their eligibility for inclusion in the National Register of Historic Places.

To meet the requirements of MI SHPO's revised Application for Section 106 Review, the Contractor will, as needed based on the project type and limits, photograph potential historic structures (those 50 years of age or older) in and adjacent to the Project Area for inclusion in the MI SHPO Application for Section 106 Review. At this stage, the Contractor would not propose to complete full in-field archaeological or architectural history surveys unless explicitly contracted to do so based on conversations with the County, the lead agency, and SHPO. Based on the information provided, it is assumed that MI SHPO would first want to see the desktop review and S106 Application before determining the need for full field surveys and evaluations. Therefore, the Contractor's proposal is based on the desktop review and field photography necessary to assist the County and the Department of Housing and Urban Development (HUD) in submitting the Application for Section 106 Review to initiate consultation.

Assessing Effects, Additional Actions, and Preparation of the Section 106 Application with Supporting Documentation

These tasks (Assessing Effects; Actions to Follow After Assessing Effects; Prepare Section 106 Application) are more fluidly discussed and presented together; therefore, the Contractor has lumped them into one scope item, but recognizes that they are technically separate pieces of the Section 106 process.

Based on the results of background research and field photography, the Contractor will prepare a letter report and the required additional documentation necessary for the SHPO Application for Section 106 Review. This includes a summary of the project's potential to impact known or undiscovered archaeological resources, the Contractor's recommendations of eligibility for all potential historic properties documented for the project, and the Contractor's recommendations for assessment of effects on any properties recommended eligible for listing or already listed in the National Register of Historic Places (NRHP). The Contractor's 30+ years of experience with this process in Michigan has helped the Contractor understand what SHPO expects to see regarding recommendations of eligibility and effects.

If the Contractor recommends any recommended or determined eligible/listed properties in the project could have adverse effects, the Contractor will work with the County to describe those effects and propose methods to avoid, minimize, or mitigate the adverse effects so that these recommendations can be included in the initial Application for Section 106 Review, in order to speed up the process.

The Contractor will produce and deliver to the County the following report and documents:

- Letter report and draft Section 106 application (plus necessary attachments such as inventory forms or above-ground properties table) meeting Michigan SHPO standards.

Assumptions

- No formal field survey would be conducted beyond photographing of aboveground structures at least 50 years old;
- Costs are based on the version of the Section 106 form as it currently exists for MI SHPO as of the date of this proposal;
- If the Project Area increases after submission of a task-order proposal, the Contractor will revise the submission to account for the difference in cost;
- If the Project Area changes in any way after background research begins, the Contractor will submit a change order to cover the costs associated with the changes;
- This scope and budget does not include assistance with tribal consultation or SHPO/HUD consultation beyond coordination with SHPO for the file search and submission of the application to SHPO if requested; and
- Results will be provided in a single digital (PDF) letter report with maps as attachments; GIS files can be provided as requested.

Timeline for Completion

The Contractor will begin work on the background data collection immediately after notification of individual task order award and notice to proceed (NTP), including the receipt of mapping data for project limits. Typically, SHPO has been providing file search results within 15 days from date of request. Once we receive the data, the Contractor will conduct the field photography (if needed, based on project limits and scope) within 10 business days, and submit a draft report within 15 business days of completion of field photography. A final report responding to any revisions will be submitted within 5 business days of receiving comments.

Price for Work

Commonwealth’s 2024 hourly rates for the standard personnel who work on Section 106 review projects are in Table 1 below. Projects that involve no formal field survey (only the photographing of buildings/structures at least 50 years old) typically take between 30 and 60 person-hours, at a cost of between \$2,500 and \$5,000. Specific prices would be determined on a case-by-case basis, and if GCMPC provides photographs (based on a map and instructions provided by Commonwealth) minor cost savings can be realized. Costs for the review of 2025-2027 projects to not exceed \$60,000 (account 2340-705.07-801.004).

Table 1. Commonwealth 2024 Rates

Commonwealth GCMPC Section 106 Consultation 2024 Rate Sheet	
Position	Rate
Office Principal	\$195
Senior Level (Archaeology and Architecture History)	\$165
Associate Level (Archaeology and Architecture History)	\$135
Staff Level (Archaeology and Architecture History)	\$115
Field/Lab (Archaeology)	\$90
Research Assistant (Archaeology and Architecture History)	\$90
GIS Specialist	\$115
Editor/Processing	\$115