



# City Council

## Agenda Item

**Subject:** To approve a Professional Services Agreement with Stockwell Engineers for the performance of a City-Wide Parks Master Plan and to allow the City Manager to sign and execute all applicable documents.

**Meeting:** City Council - Sep 06 2022

**From:** Amanda Mack, City Manager

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### **BACKGROUND INFORMATION:**

The City budgeted for a Master Plan to examine the current conditions of existing parks and to determine the long term growth/needs within the City Parks. This will include a comprehensive look at improvements needed, along with the development of future park space dedications and identify opportunities and any short falls within the Parks system. It will also encompass a master trail plan review for existing and planned additions for the city-wide trail system.

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### **FINANCIAL IMPACT:**

\$50,000.00 was budgeted for the master plan. The additional \$5,000.00 needed to fund the proposal will be funded out of the recreational trail budget to allow for review of the current trail master plan that was last done in 2012.

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### **SUGGESTED MOTION:**

To approve the Professional Services Agreement with Stockwell Engineers to perform the City's Park Master Plan for a contractual price of \$55,000.00 and to allow the City Manager to sign and execute all associated documents.

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### **STAFF REFERENCE(S):**

Amanda Mack, Terry Kelly

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### **ATTACHMENT(S):**

[PENDING - Stockwell Engineers proposal for Parks & Rec Master Plan](#)

## AGREEMENT FOR PROFESSIONAL SERVICES

**Project:** Parks and Recreation Master Plan

**Stockwell Project No.:** 21465

This Agreement for Professional Services (hereinafter "Agreement") is made and entered into by and between **STOCKWELL ENGINEERS, INC.**, 801 North Phillips Avenue, Suite 100, Sioux Falls, SD 57104, (hereinafter "Engineer") and **CITY OF WATERTOWN**, (hereinafter "Client"), for the services described under the Scope of Services (the "Services").

**CLIENT:** City of Watertown

**ADDRESS:** 1900 W Kemp Avenue | Watertown, SD 57201-0250

**Scope of Services:** Client hereby agrees to retain Engineer to perform the Services as outlined in the attached *Proposal for Professional Services* dated December 8, 2021. In general, the Project consists of the creation of a comprehensive Parks and Recreation Master Plan.

**Compensation:** In consideration of these Services, the Client agrees to pay Engineer compensation as follows:

**Basic Compensation:** Lump Sum \$55,000.00 excluding sales tax

**Additional Services Multiplier:** 1.0 times the expense incurred by the Engineer

**Reimbursable Expense Multiplier:** 1.0 times the expense incurred by the Engineer

The attached Proposal for Professional Services and Standard Terms and Conditions are made a part hereof and incorporated into this Agreement.

IN WITNESS WHEREOF, this Agreement is accepted on the date last written below, subject to the terms and conditions above stated and the provisions set forth herein.

**CLIENT**

**STOCKWELL ENGINEERS, INC.**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Name (printed): Jon Brown, P.E.

Title: \_\_\_\_\_

Title: President

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

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

# Proposal for Professional Services

City of Watertown  
Parks and Recreation Master Plan

December 8, 2021

Mr. Terry Kelly  
Watertown Parks, Recreation and Forestry  
1900 W Kemp Avenue  
Watertown, SD 57201-0250  
[TKelly@WatertownSD.us](mailto:TKelly@WatertownSD.us)

Re: Proposal for Professional Services  
Parks and Recreation Master Plan

Dear Terry,

Thank you for your consideration of our proposal. Stockwell Engineers, Inc. (Stockwell) proposes to provide professional services for the Parks and Recreation Master Plan (the "Project"). Stockwell's services will be provided in the manner described in this Proposal. The **City of Watertown** is referred to as the "Client."

## Acknowledgments

**Client:** City of Watertown

**Project:** Parks and Recreation Master Plan

**Description:** In general, the Project consists of the creation of a comprehensive Parks and Recreation Master Plan.

## Scope of Basic Services

The following is a scope of work meant to describe services to be provided to the Client for the abovementioned project. Work listed below will be completed by Stockwell Engineers, Inc. (Stockwell) unless otherwise stated. Work not explicitly listed shall be considered an additional service. The scope is organized into the following tasks.

### Phase 1 | Project Initiation

- 1.1 Coordinate and conduct project kickoff meeting with Client's staff.
  - 1.1.1 Establish timeline for project.
  - 1.1.2 Establish goals.
  - 1.1.3 Establish steering committee.
- 1.2 Review all background information made available to Stockwell by Client.
- 1.3 Establish list of Stakeholders.
  - 1.3.1 Schools, athletic associations, city staff, other service providers, etc.

# Proposal for Professional Services

City of Watertown  
Parks and Recreation Master Plan

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## Phase 2 | Information Collection

- 2.1 Assist Client in developing a web based public survey. Survey to be hosted on Client's web site.
  - 2.1.1 Survey to include QR codes at the various parks.
- 2.2 Coordinate and conduct four (4) focus group meetings. Client to assist with determining which groups will be included in the meetings. Prepare informative exhibits and presentations as necessary.
  - 2.2.1 Maximum one and half (1.5) hours in length.
  - 2.2.2 Determine the community's assessment of the existing park facilities.
  - 2.2.3 Discuss community desired park elements and ideas.
  - 2.2.4 Prepare agenda and necessary presentations.
  - 2.2.5 Client to provide:
    - Venue.
    - Advertisement.
    - Invitations to stakeholders and public meetings.
- 2.3 Coordinate and conduct a public meeting. Prepare informative exhibits and presentations as necessary.
  - 2.3.1 Maximum two (2) hours in length.
  - 2.3.2 Determine the community's assessment of the existing park facilities.
  - 2.3.3 Discuss community desired park elements and ideas.
  - 2.3.4 Provide information regarding project progress and timeline.
  - 2.3.5 Answer any questions or comments.
  - 2.3.6 Client to provide:
    - Venue.
    - Advertisement.
    - Invitations to stakeholders and public meetings.

*Deliverables: Survey mailer; and meeting minutes.*

## Phase 3 | Inventory, Mapping and Level of Service Analysis

- 3.1 Identify existing types of parks.
- 3.2 Conduct site visit to assess level of service of the existing city-wide park components.
  - 3.2.1 Consistency of elements among park types (i.e. parking, walks, surfacing, play equipment, amenities, etc.)
  - 3.2.2 Missing program elements.
  - 3.2.3 Elements in need of maintenance and/or replacement.
  - 3.2.4 "Basic" accessibility and safety issues.
    - Full accessibility code analysis and safety review is not included in the scope of work.
  - 3.2.5 Review all background information made available to Stockwell by Client.
- 3.3 Review existing trail master plan and layout to identify key connections and gaps in service.
- 3.4 Analysis.
  - 3.4.1 Utilize public survey to analyze gaps in services and programs.
- 3.5 Determine recommendations for capital improvements.
  - 3.5.1 Improvements to existing parks.
  - 3.5.2 Development of new parks.
  - 3.5.3 Acquisition of future sites.
  - 3.5.4 Trail connections.
  - 3.5.5 Laid out in short-, mid-, and long-term goals based on public input.

# Proposal for Professional Services

City of Watertown  
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## Phase 4 | Findings and Visioning Strategies

- 4.1 Present a summary of findings from the inventory, needs assessment and initial analysis for validation by staff and steering committee.
- 4.2 Coordinate and conduct a public meeting to present findings. Prepare informative exhibits and presentations as necessary.
- 4.3 Probable Capital Costs.
  - 4.3.1 Capital costs and recommendations for the next five (5) to ten (10) years.

*Deliverables: Findings report.*

## Phase 5 | Master Plan

- 5.1 Prepare draft master plan.
  - 5.1.1 Summarize and synthesize all research and stakeholder input.
  - 5.1.2 Recommendations phased into short-, mid-, and long-term time frames that address goals and action strategies.
- 5.2 Submit to Client one electronic pdf copy of the draft master plan and presentation.
- 5.3 Conduct draft plan and presentation review meeting.
- 5.4 Address comments to review documents and incorporate into final deliverables.
- 5.5 Prepare final master plan.
- 5.6 Submit to Client one electronic pdf copy of the final master plan.
- 5.7 Present final master plan to Park Board.
- 5.8 Present final master plan to City Council.

*Deliverables: Draft master plan; and final master plan.*

## Additional Services

A non-comprehensive outline of additional services and exclusions from Stockwell's proposal are listed below. If authorized in writing by Client, Stockwell will furnish additional services over and above the amount set forth by this agreement. Compensation for additional services will be at Stockwell's current hourly rates or otherwise as mutually agreed upon by both parties.

- Topographic survey.
- Construction documents.
- Full pavement analysis of trails.

## Compensation

Compensation for services provided by Stockwell pursuant to this Proposal will be on a **lump sum basis, in an amount of \$55,000.00 excluding sales or excise tax**. Client must make payments in accordance with Item B of the Standard Terms and Conditions attached to this Proposal.

Where compensation for Basic Services through Lump Sum method of payment is specified, Client shall pay Stockwell for Basic Services as follows:

- 1.1 The Lump Sum includes compensation for Stockwell's services and services of Stockwell's Subcontractors and Subconsultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses). In addition to the Lump Sum, Stockwell is also entitled to reimbursement from Client for Reimbursable Expenses. The portion of the Lump Sum amount billed for Stockwell's services will be based upon Stockwell's estimate of the percentage of the total services actually completed during the

# Proposal for Professional Services

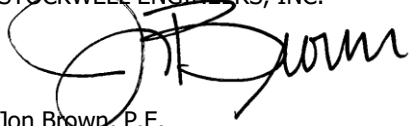
City of Watertown  
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billing period. Stockwell may also bill for any Reimbursable Expenses incurred during the billing period. Compensation will not exceed the total Lump Sum amount unless approved in writing by the Client.

Sincerely,

STOCKWELL ENGINEERS, INC.



Jon Brown, P.E.  
President

## STANDARD TERMS AND CONDITIONS

### A. Commencement of Services.

The Services will be commenced immediately upon receipt of the signed Proposal (the "Agreement"). If after commencement of the Services, the Project is delayed for any reason beyond Stockwell's control for more than 60 days, the terms and conditions contained herein will be subject to revision by Stockwell. Subsequent modifications to this Agreement must be in writing and signed by the parties to the Agreement.

### B. Fees and Payment.

**1.0 Invoices.** Compensation for Services will be as designated in this Agreement. Services based on Stockwell's standard hourly rates will be those rates currently in effect at the time the Services are rendered. Hourly rates are subject to change upon 30 days' written notice, including during the term of this Agreement. Client must reimburse Stockwell for out-of-pocket expenses directly attributable to the Project, such as: (1) living and traveling expenses of Stockwell's employees when away from the home office on business connected with the Project; and (2) additional contracted third-party services to be charged in accordance with the rates in effect at the time the services are rendered.

**2.0 Payment Due.** Stockwell will deliver to Client invoices monthly. Payment will be due within 30 days after the date of the invoice.

**3.0 Failure to Pay.** Client agrees timely payment is a material term of this Agreement and failure to make timely payment as agreed will constitute a breach hereof. In the event payment for Services rendered has not been made within 30 days from the date of the invoice, Stockwell may, after to Client giving 7 days' written notice, and without penalty or liability of any nature, and without waiving any claim against Client, suspend all Services to be performed. Upon receipt of payment in full for Services rendered, plus interest charges, Stockwell will continue with the Services, but all deadlines for Stockwell's performance of services will be extended for a period of time equal to the delay in Stockwell's receipt of payment. Payment of all compensation due Stockwell pursuant to this Agreement will be a condition precedent to Client using any of Stockwell's Services' work product under this Agreement.

**4.0 Interest on Late Payments.** In order to defray carrying charges resulting from delayed payments, interest at the rate of 1.5% per month will be added to the unpaid balance of each invoice. The interest period will commence 45 days after the date of the original invoice and will terminate upon date of payment. Payments will be first credited to interest and then to principal.

### C. Owner's Responsibilities.

**1.0 Client to Provide Information.** Unless otherwise provided for under this Agreement, Client will provide information in a timely manner regarding requirements for and limitations on the Project, including Client's Program objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from Stockwell, Client must furnish the requested information as necessary and relevant for Stockwell to evaluate, give notice of or enforce lien rights.

**2.0 Client to Provide Contractors.** Client will furnish the services of a contractor who along with Client will be responsible for creating the overall Project Schedule. Client will adjust the Project Schedule, if necessary, as the Project proceeds.

**3.0 Client to Provide Representative.** Client will identify a representative authorized to act on Client's behalf with respect to the Project. Client will render decisions and approve Stockwell's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of Stockwell's Services.

**4.0 Client to Provide Notice.** Client will provide to Stockwell prompt written notice if Client becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in Stockwell's instruments of service.

### D. Miscellaneous Provisions.

#### 1.0 Insurance/Indemnification/Risk Allocation

**1.1 Insurance/Limitation of Stockwell's Liability.** Stockwell will maintain the following insurance coverages.

- (a) Worker's compensation insurance pursuant to state law.

(b) Business automobile insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, with a combined single limit of \$1,000,000.

(c) Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of Stockwell with limits of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate.

(d) Professional liability insurance of \$1,000,000 per occurrence and in the aggregate.

**1.2 Professional Liability.** Stockwell agrees to indemnify and hold Client harmless from and against claims, losses, damages, expenses, costs, including reasonable attorney's fees and expenses, but only to the proportionate extent caused by the negligence of Stockwell.

**1.3 Hazardous Materials – Indemnification by Client.** Client understands and agrees Stockwell has not created nor contributed to the creation or existence of any types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at Client's premises, or in connection with or related to the Project with respect to which Stockwell has been retained to provide Services. The compensation to be paid Stockwell for Services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, Client agrees to defend, indemnify and hold harmless Stockwell, its agents, officers, directors, employees, contractors and consultants, from and against any and all claims, damages, and expenses, whether direct, indirect, consequential or otherwise, including, but not limited to, attorneys' fees and court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkaline, toxic chemicals, liquid gases, or other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto upon, in or into the surface or subsurface or soil, water, or water courses, objects, or any tangible or intangible matter, whether sudden or not.

**1.4 No Governmental Action Liability.** Stockwell will not be liable for damages arising out of or resulting from the actions or inaction of government agencies, including, but not limited to, permit processing, environmental impact reports, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, and building permits. Client agrees to defend, indemnify and hold harmless Stockwell, its agents, officers, directors, employees, contractors, and consultants from any and all such liabilities (including reasonable attorneys' fees and court costs), other than that caused by the negligent acts, errors or omissions of Stockwell, arising out of or resulting from the same.

**1.5 No Project Liability.** Notwithstanding any provisions in this Agreement to the contrary, if the Project involves construction, as that term is generally understood, and Stockwell does not provide Services during construction, including, but not limited to, observation, site visits, shop drawing review, and design clarifications, Client agrees to defend, indemnify and hold harmless Stockwell, its agents, officers, directors, employees, contractors and consultants from any and all liability (including reasonable attorneys' fees and court costs) arising out of the Project or this Agreement.

**1.6 Warranty.** Stockwell makes no warranties of any kind, including any implied warranty of merchantability or of fitness for any particular purpose.

**2.0 Documents.** Notwithstanding the foregoing, all computer programs, work product, inventions, patents, copyrights, software, and other like data developed during the course of the Project, are and will remain Stockwell's sole property.

Stockwell's liability to Client for any errors or omissions is limited solely to the correction of residual errors, minor maintenance, or updates as needed.

**2.2 Environmental.** Environmental Audit/Site Assessment reports are prepared for Client's use only. Client agrees to defend, indemnify, and hold harmless Stockwell, its agents, officers, directors, employees, contractors and consultants against all damages, claims, expenses, and losses (including reasonable attorneys' fees and court costs) arising out of or



resulting from any reuse of the Environmental Audit/Site Assessment reports without Stockwell's written authorization.

Nothing contained in this Agreement may be construed or interpreted as requiring Stockwell to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 *et seq.*, as amended, or within any state statute governing the generation, treatment, storage, and disposal of waste.

**3.0 Injury to Workers on Project.** Client agrees Stockwell will be named an Additional Insured on construction contractors' insurance policy for commercial general liability insurance, and Client agrees to insert into all contracts for construction between Client and construction contractors a provision requiring the construction contractors to defend, indemnify and hold harmless both Client and Stockwell from any and all actions arising out of the construction Project, including, but not limited to, injury to or death of any worker on the job site, not caused by the sole negligence of Client or Stockwell.

**4.0 Probable Construction Cost Opinions.** Any opinion of probable construction costs for the Project considered and designed under this Agreement will be prepared by Stockwell through the exercise of its experience and judgment in applying presently available cost data, but it is recognized Stockwell has no control over the cost of labor and materials, the construction contractors' methods of determining prices, competitive bidding procedures, market conditions, and unknown field conditions. Stockwell cannot and does not guarantee proposals, bids, or the Project construction costs will not vary from Stockwell's opinion of probable construction costs.

**5.0 Site Visits.** Visits to the construction site and observations made by Stockwell as part of the Services during construction under this Agreement will not make Stockwell responsible for, nor relieve the construction contractors of the obligation to conduct comprehensive monitoring of the work sufficient to ensure conformance with the intent of the contract documents, will not make Stockwell responsible for, nor relieve the construction contractors of the full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing portions of the work under the construction contracts, and will not relieve the construction contractors of the obligation to provide all safety precautions incidental thereto. Such visits by Stockwell are not to be construed as part of Stockwell's observation duties of the Project site.

**6.0 On-Site Observation.** When Stockwell provides on-site observation personnel as part of the Services during construction, the on-site observation personnel will make reasonable efforts to advise Client of observed defects and deficiencies in the contractors' work, and to help determine if the provisions of the Contract Documents are being fulfilled. Their day-to-day observation will not, however, cause Stockwell to be responsible for those duties and responsibilities which belong to the construction contractors, including, but not limited to, full responsibility for the means, methods, techniques, sequences, and progress of construction, and the safety precautions incidental thereto, and for performing the construction work in accordance with the Contract Documents.

**7.0 Right of Entry.** Client must provide for entry to the Project site for Stockwell's agents, employees, contractors and consultants and for all necessary equipment.

**8.0 Termination.** Either party may, by thirty (30) days written notice to the other, terminate this agreement in whole or part at any time. Upon receipt of notice, a party shall immediately discontinue all services affected, unless the notice directs otherwise. If the termination is for the convenience of the Client, no amount shall be allowed for Stockwell for unperformed service, but Stockwell shall be compensated for services rendered through the date of termination notice.

**9.0 Default and Remedies.**

**9.1 Client's Default.** If Client breaches any of the terms of this Agreement, Stockwell, in addition to other rights set forth in [Section 1.3](#) above, will give Client written notice of default setting forth the default. If Client has not remedied the default within 7 days of the date of default, Stockwell may terminate this Agreement and proceed with any or all remedies provided under applicable law.

**9.2 Stockwell's Default.** If Stockwell breaches any of the terms of this Agreement, Client will give Stockwell written notice of default setting forth the default. If Stockwell has not remedied the default within 7 days of the date of default, Client may terminate this Agreement and proceed with any or all remedies provided under applicable law.

**10.0 Jurisdiction.** This Agreement is governed by the laws of the State of South Dakota and any action at law or other judicial proceeding arising from this Agreement must be instituted only in Minnehaha County Circuit Court, Sioux Falls, South Dakota, and may not be removed to federal district court, nor may venue be changed to any other circuit court.

**11.0 Waiver.** Stockwell's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, will not constitute a waiver of any other term, condition, or covenant, or the breach thereof.

**12.0 Entire Agreement.** This Agreement, and its attachments, constitutes the entire understanding between Client and Stockwell relating to services to be provided by Stockwell and supersedes any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein. Subsequent modifications or amendments to this Agreement must be in writing and signed by the parties to this Agreement. The foregoing notwithstanding, if Client, its agents, officers, directors, employees, contractors and consultants request Stockwell perform extra Services pursuant to this Agreement, Client must pay for the additional Services even though an additional written agreement is not issued or signed.

**13.0 Successors and Assigns.** All of the terms, conditions and provisions of this Agreement will include and be for the benefit of and be binding upon the parties and their respective successors and assigns; provided, however, no assignment of this Agreement may be made without written consent of the other party to this Agreement.

**14.0 Severability.** If any provision of this Agreement is declared invalid, illegal or incapable of being enforced by any court of competent jurisdiction, all of the remaining provisions of this Agreement will nevertheless continue in full force and effect, and no provision will be deemed dependent upon any other provision unless so expressed herein.

**15.0 Force Majeure.** Stockwell will not be liable to Client for delays in performing its obligations, or for the direct or indirect cost resulting from delays that may result from acts of nature, governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond Stockwell's reasonable control. Each party will take reasonable steps to mitigate the impact of any force majeure event. Stockwell will be entitled to an adjustment to the schedule and its compensation under this Agreement to the extent required by the force majeure event.

**16.0 Underground Utilities.** If included as a Service under this Agreement, Stockwell or its authorized consultant will conduct research in Stockwell's or the consultant's professional opinion is necessary, and will prepare a plan indicating the locations intended for subsurface penetrations with respect to assumed locations of underground improvements. These Services will be performed in a manner consistent with the ordinary standard of care. Client recognizes the research may not identify all underground improvements or their locations, and the information upon which Stockwell and the consultant rely may contain errors or may not be complete. Client agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless Stockwell and its agents, officers, directors, contractors and consultants from all liability (including reasonable attorneys' fees and court costs) of Client, its contractors or all other persons for delay or additional compensation relating to the identification, removal, relocation, or restoration of utilities, or damages to underground improvements resulting from subsurface penetration locations established by Stockwell.