

MEETING DATE: 01/05/26

AGENDA ITEM SUMMARY

Subject: Plan for Future Engineering Services

Background Summary: Trout

Due to the upcoming retirement of the City Engineer, the City of Charles City must establish a plan for the continuation of engineering services to ensure minimal disruption to ongoing operations, capital projects, and regulatory compliance. The City Engineer position has historically provided day-to-day engineering support, project oversight, and professional guidance across multiple departments.

To address this transition, staff has evaluated alternatives for maintaining consistent access to engineering expertise. Staff recommends contracting with a private engineering firm on a retainer basis to provide general engineering services. Under this model, the firm would serve as the City's primary engineering resource, offering a level of service comparable to that historically provided by a City Engineer while allowing flexibility in staffing and expertise.

This approach would provide the City with a reliable and consistent engineering provider, reduce the risk of service interruptions during the transition, and allow projects and routine engineering needs to continue without delay. Retainer-based engineering services are a common practice among similarly situated communities.

Attached for reference is an example of a comparable engineering services agreement currently used by the City of Waverly, which illustrates how such an arrangement may be structured.

Resolution 24-34

A Resolution approving a General Engineering Services Contract with Bolton & Menk, Inc.

WHEREAS, the City of Waverly will need General Engineering Services going forward; and

WHEREAS, Bolton & Menk, Inc. will provide engineering services as needed for a reduced hourly rate of \$100 per hour up to 40 hours per month. Any hours above the 40 hours per month will be charged at their regular hourly rate; and

WHEREAS, up to \$48,000 per year will be billed hourly as needed (40 hours per month) and will be paid for from the Water Fund, Sewer Fund, and General Fund.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Waverly, Iowa does hereby approve a General Engineering Services Contract with Bolton & Menk, Inc. of Cedar Rapids, Iowa who will provide will provide engineering services as needed for a reduced hourly rate of \$100 per hour up to 40 hours per month. Any hours above the 40 hours per month will be charged at their regular hourly rate. Up to \$48,000 per year will be billed hourly as needed (40 hours per month) and will be paid for from the Water Fund, Sewer Fund, and General Fund.

PASSED AND ADOPTED this 19th day of February, 2024.



Mark A. Anderson, Mayor

ATTEST:



Carla Guyer, City Clerk



AGENDA MEMORANDUM

City Council Meeting

February 19, 2024

SUBJECT: General Engineering Services contract with Bolton and Menk, Inc.

Prepared By: James W. Bronner, City Administrator

Recommended City Council Action: Approve the General Engineering Services contract with Bolton & Menk, Inc..

Summary Statement: The City of Waverly will need general engineering services going forward. After discussion with a few different firms, Bolton & Menk, Inc had the best presentation and most reasonable fee. They will provide engineering services as needed for a reduced hourly rate of \$100 per hour, up to 40 hours per month. After that, the rate would be at their normal rate schedule.

Expenditure Required: Up to \$48,000 per year billed hourly as needed (40 hours a month)

Funding Source: Water Fund, Sewer Fund and General Fund

Alternative(s): Do not approve the contract or search for another firm to provide the services.

Respectfully submitted,

James W. Bronner
City Administrator

AGREEMENT FOR PROFESSIONAL SERVICES

GENERAL ENGINEERING SERVICES

CITY OF WAVERLY, IOWA

This Agreement, made this 19th day of February 2024, by and between City of Waverly, 200 1st St NE, Waverly, IA 50677, hereinafter referred to as CLIENT, and BOLTON & MENK, INC., 401 1st Street SE, Suite 201, Cedar Rapids, IA 52401, hereinafter referred to as CONSULTANT.

WITNESS, whereas the CLIENT requires professional General Engineering Services in conjunction with various City projects and whereas the CONSULTANT agrees to furnish the various professional services required by the CLIENT.

NOW, THEREFORE, in consideration of the mutual covenants and promises between the parties hereto, it is agreed:

SECTION I - CONSULTANT'S SERVICES

- A. The CONSULTANT agrees to perform General Engineering Services requested by the CLIENT as described in Section III-A of this Agreement.
- B. Upon mutual agreement of the parties hereto, Additional Project Engineering Services may be authorized by separate work order as outlined in Section III – B of this Agreement.

SECTION II - THE CLIENT'S RESPONSIBILITIES

- A. The CLIENT shall promptly compensate the CONSULTANT in accordance with Section III of this Agreement.
- B. The CLIENT shall place any and all previously acquired information in its custody at the disposal of the CONSULTANT for its use. Such information shall include but shall not be limited boundary surveys, topographic surveys, preliminary sketch plan layouts, building plans, soil surveys, drainage reports, abstracts, deed descriptions, tile maps and layouts, aerial photos, utility agreements, environmental reviews, and zoning limitations. The CONSULTANT may rely upon the accuracy and sufficiency of all such information in performing services unless otherwise instructed, in writing, by CLIENT.
- C. The CLIENT will guarantee access to and make all provisions for entry upon both public and private portions of the project and pertinent adjoining properties.
- D. The CLIENT will give prompt notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the proposed project.

- E. The CLIENT shall designate a liaison person to act as the CLIENT'S representative with respect to services to be rendered under this Agreement. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret and define the CLIENT'S policies with respect to the project and CONSULTANT'S services.

City of Waverly James Bronner City Administrator
City of Waverly 200 1st St NE Waverly, IA 50677 Phone: (319) 848-4103

- F. The CLIENT shall provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for completion of the consultant services described in this agreement.
- G. The CLIENT will obtain any and all regulatory permits required for the proper and legal execution of the project.
- H. The CLIENT will hire, when requested by the CONSULTANT, an independent test company to perform laboratory and material testing services, and soil investigation that can be justified for the proper design and construction of the project. The CONSULTANT shall assist the CLIENT in selecting a testing company. Payment for testing services shall be made directly to the testing company by the CLIENT and is not part of this Agreement.

SECTION III - COMPENSATION FOR SERVICES

- A. **Basic Services.** Bolton & Menk, Inc. proposes to serve the City of Waverly on an hourly basis. Therefore, to assist the City in handling day-to-day general engineering items not associated with a particular project it is proposed to perform these tasks at reduced rate of \$100/hour for the Consultant City Engineer and other professional engineers for non-project related services up to 40 hours per month.

As this applies to non-project related items, the savings are generally related to expenditures from the general fund budget of the City. In addition, there is only a one (1) hour charge to the City for attendance at City Council Meetings, if attendance is requested by the Client.

For work requested in excess of 40 hours per month, standard hourly billing rates shall apply.

- B. **Project Engineering Services.** When requested by the Client, Bolton & Menk will develop, by Work Order, a scope of services and estimate of hours to complete each project phase. This information

will be the basis for developing a not-to-exceed fee for projects.

Billings are based on hours spent at rates in effect for the individuals performing the work. The hourly rates for Principals, Senior Associates, Associates and members of the staff vary according to skill and experience. These rates shall apply for projects for the period through December 31, 2023, and may be adjusted annually thereafter to account for changed labor costs, inflation or changed overhead conditions.

Hourly rates include labor, general business and other normal and customary expenses associated with operating a professional business. Unless otherwise agreed, the above rates include vehicle and personal expenses, mileage, telephone, survey stakes and routine expendable supplies; and no separate charges will be made for these activities and materials. Expenses beyond the agreed scope of services and non-routine expenses, such as large quantities of prints, extra report copies, out-sourced graphics and photographic reproductions, document recording fees, outside professional and technical assistance and other items of this general nature, will be invoiced separately, upon client approval. Rates and charges do not include sales tax, if applicable.

The CLIENT will compensate the CONSULTANT in accordance with the attached schedule of fees effective through December 31, 2023, for the time spent on performance of Agreement services.

IV - GENERAL

- A. **Standard of Care.** Professional services provided under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's profession currently practicing under similar conditions. No warranty, express or implied, is made.
- B. **Change in Project Scope.** In the event the CLIENT changes or is required to change the scope of the project from that described in Section I and/or the applicable addendum, and such changes require Additional Services by the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the applicable hourly rates. The CONSULTANT shall give notice to the CLIENT of any Additional Services, prior to furnishing such additional services. The CLIENT may request an estimate of additional cost from the CONSULTANT, and upon receipt of the request, the CONSULTANT shall furnish such, prior to authorization of the changed scope of work.
- C. **Limitation of Liability.** CONSULTANT shall indemnify, defend, and hold harmless CLIENT and its officials, agents and employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CONSULTANT'S employees, agents, or subconsultants. In no event shall CLIENT be liable to CONSULTANT for consequential, incidental, indirect, special, or punitive damages.

CLIENT shall indemnify, defend, and hold harmless CONSULTANT and its employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CLIENT'S employees,

agents, or consultants. In no event shall CONSULTANT be liable to CLIENT for consequential, incidental, indirect, special, or punitive damages.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services provided hereunder. The CLIENT agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of the paragraph.

- D. **Insurance.** The CONSULTANT agrees to maintain, at the CONSULTANT'S expense, statutory worker's compensation coverage.

The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, general liability insurance coverage insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT'S general business activities (including automobile use). The liability insurance policy shall provide coverage for each occurrence in the minimum amount of \$1,000,000.

During the period of design and construction of the project, the CONSULTANT also agrees to maintain, at CONSULTANT'S expense, Professional Liability Insurance coverage insuring CONSULTANT against damages for legal liability arising from an error, omission or negligent act in the performance of professional services required by this agreement, providing that such coverage is reasonably available at commercially affordable premiums. For purposes of this agreement, "reasonably available" and "commercially affordable" shall mean that more than half of the design professionals practicing in this state in CONSULTANT'S discipline are able to obtain coverage. The professional liability insurance policy shall provide coverage for each occurrence in the amount of \$1,000,000 and annual aggregate of \$1,000,000 on a claims-made basis.

Upon request of CLIENT, CONSULTANT shall provide CLIENT with certificates of insurance, showing evidence of required coverages.

- E. **Opinions or Estimates of Construction Cost.** Where provided by the CONSULTANT as part of Exhibit I or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since the CONSULTANT has no control over the cost of labor, materials, competitive bidding process, weather conditions and other factors affecting the cost of construction, all cost estimates are opinions for general information of the CLIENT and the CONSULTANT does not warrant or guarantee the accuracy of construction cost opinions or estimates. The CLIENT acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.
- F. **Construction Services.** It is agreed that the CONSULTANT and its representatives shall not be responsible for the means, methods, techniques, schedules or procedures of construction selected by the contractor or the safety precautions or programs incident to the work of the contractor.
- G. **Use of Electronic/Digital Data.** Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CLIENT are

limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable by this AGREEMENT or except as otherwise explicitly provided in this AGREEMENT, all electronic/digital data developed by the CONSULTANT as part of the PROJECT is acknowledged to be an internal working document for the CONSULTANT'S purposes solely and any such information provided to the CLIENT shall be on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind. As such, the CLIENT is advised and acknowledges that use of such information may require substantial modification and independent verification by the CLIENT (or its designees). Provision of electronic/digital data, whether required by this Agreement or provided as a convenience to the Client, does not include any license of software or other systems necessary to read, use or reproduce the information. It is the responsibility of the CLIENT to verify compatibility with its system and long-term stability of media. CLIENT shall indemnify and hold harmless CONSULTANT and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from third party use or any adaptation or distribution of electronic/digital data provided under this AGREEMENT, unless such third party use and adaptation or distribution is explicitly authorized by this AGREEMENT.

- H. **Reuse of Documents.** Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by CONSULTANT pursuant to this AGREEMENT are instruments of service in respect to the Project and CONSULTANT shall retain an ownership interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall acquire an ownership interest in all identified deliverables, including Plans and Specifications, for any reasonable use relative to the Project and the general operations of the CLIENT. CLIENT may make and disseminate copies for information and reference in connection with the use and maintenance of the Project by the CLIENT. However, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project and any reuse other than that specifically intended by this AGREEMENT will be at CLIENT'S sole risk and without liability or legal exposure to CONSULTANT.
- I. **Confidentiality.** CONSULTANT agrees to keep confidential and not to disclose to any person or entity, other than CONSULTANT'S employees and subconsultants any information obtained from CLIENT not previously in the public domain or not otherwise previously known to or generated by CONSULTANT. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of CONSULTANT; or is furnished to CONSULTANT by a third party who is under no obligation to keep such information confidential; or is information for which the CONSULTANT is required to provide by law or authority with proper jurisdiction; or is information upon which the CONSULTANT must rely for defense of any claim or legal action.
- J. **Period of Agreement.** This Agreement will remain in effect for a period of five years or such other explicitly identified completion period, after which time the Agreement may be extended upon mutual agreement of both parties.
- K. **Payments.** If CLIENT fails to make any payment due CONSULTANT for services and expenses within thirty days after date of the CONSULTANT'S invoice, a service charge of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, may be charged on any unpaid balance. In addition, after giving seven days' written notice to CLIENT, CONSULTANT may, without waiving any claim or right against the CLIENT and without incurring liability whatsoever to

the CLIENT, suspend services and withhold project deliverables due under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and charges.

- L. **Termination.** This Agreement may be terminated by either party for any reason or for convenience by either party upon seven (7) days written notice.

In the event of termination, the CLIENT shall be obligated to the CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section III of this Agreement.

- M. **Contingent Fee.** The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Agreement.
- N. **Non-Discrimination.** The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein.

The CONSULTANT is an Equal Opportunity Employer and it is the policy of the CONSULTANT that all employees, persons seeking employment, subcontractors, subconsultants and vendors are treated without regard to their race, religion, sex, color, national origin, disability, age, sexual orientation, marital status, public assistance status or any other characteristic protected by federal, state or local law.

- O. **Controlling Law.** This Agreement is to be governed by the law of the State of Iowa.
- P. **Dispute Resolution.** CLIENT and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law. Any claims or disputes unresolved after good faith negotiations shall first be submitted to mediation, using a mutually acceptable Neutral Third Party and mutually agreeable mediation process. If the mediation is unsuccessful in resolving the dispute, the parties may mutually agree to submit to another method of dispute resolution or submit the dispute to a court of competent jurisdiction.
- Q. **Survival.** All obligations, representations and provisions made in or given in Section IV of this Agreement will survive the completion of all services of the CONSULTANT under this Agreement or the termination of this Agreement for any reason.
- R. **Severability.** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and CONSULTANT, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

SECTION V - SIGNATURES

THIS INSTRUMENT embodies the whole agreement of the parties, there being no promises, terms, conditions or obligation referring to the subject matter other than contained herein. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their behalf.

CLIENT: City of Waverly, Iowa

CONSULTANT: Bolton & Menk, Inc.



Mark A. Anderson, Mayor

Mathew Ferrier, P.E.
Principal Engineer



Attest: City Clerk, Carla Guyer

Date

February 19, 2024
Date