



City of Muscatine



AGENDA ITEM SUMMARY

City Council

DATE:
July 15, 2021

STAFF

Brian Stineman, Public Works Director

SUBJECT

Request to enter into a contract with RDG Planning & Design for an amount not to exceed \$50,000, for preliminary design of a riverfront amphitheater

EXECUTIVE SUMMARY

In April of 2021 staff requested proposals from firms to design an amphitheater on the Muscatine Riverfront as a continuation of the Riverfront Master Plan. A selection committee comprised of city staff, citizens, and elected officials, reviewed all of the proposals, conducted interviews of the top four, and now recommends contracting with RDG Planning & Design to design the structure. Council approved a budget of \$50,000 for this project in the FY2022 budget.

STAFF RECOMMENDATION

Staff recommends to approve and sign the contract with RDG for preliminary design of a riverfront amphitheater.

BACKGROUND/DISCUSSION

This amphitheater project is a continuation of the Riverfront Master Plan previously approved by the City Council. It is anticipated that this will be a signature structure on our riverfront and will serve as a place making venue for the community and allow for multiple uses.

CITY FINANCIAL IMPACT

Council approved a budget of \$50,000 for design of an amphitheater and this funding is available in the Riverfront Master Plan Budget. It is expected that after the preliminary design is completed and approved a fundraising drive will begin to secure funding for final design and construction of the project.

ATTACHMENTS

Scope of Services and Contract

AIA Document B105™– 2017

Standard Short Form of Agreement Between Owner and Architect

For the purpose of this agreement, wherever the term “Architect” is used, it shall mean “Landscape Architect”.

AGREEMENT made as of the Ninth day of July in the year Two Thousand Twenty-One.
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Muscatine
215 Sycamore Street
Muscatine, IA 52761
Phone Number: 563-272-2505

And the Architect:
(Name, legal status, address and other information)

<u>RDG IA Inc</u> <u>d/b/a RDG Planning & Design</u> <u>301 Grand Avenue</u> <u>Des Moines, IA 50309-1718</u> <u>Phone Number: 515-288-3414</u>	<u>R3004.763.00</u>
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For the following Project:
(Name, location and detailed description)

Riverside Park Amphitheater Master Plan
Muscatine, IA

The Owner and Architect agree as follows.

ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide architectural services for the Project as described in this Agreement. The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall assist the Owner in determining consulting services required for the Project. The Architect's services include the following consulting services, if any consulting services described in Scope of Services dated July 9, 2021.

During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, the Architect shall develop a design, which shall be set forth in drawings and other documents appropriate for the Project. Upon the Owner's approval of the design, the Architect shall prepare Construction Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining bids or proposals, and in awarding contracts for construction.

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™ 2017, Standard Short Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A105 2017, those modifications shall not affect the Architect's services under this Agreement, unless the Owner and Architect amend this Agreement.

ARTICLE 2 OWNER'S RESPONSIBILITIES

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information as expeditiously as necessary for the orderly progress of the Project. The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information. The Owner shall furnish consulting services not provided by the Architect, but required for the Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

§ 2.1 To the fullest extent permitted by law, the Owner shall defend, indemnify, and hold harmless the Architect, the Architect's consultants and agents, and employees of any of them, from and against any and all claims, damages, awards, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from latent existing conditions and/or documentation or information furnished by the Owner, its consultants or agents, or employees of any of them.

ARTICLE 3 USE OF DOCUMENTS

Drawings, specifications and other documents prepared by the Architect are the Architect's Instruments of Service, and are for the Owner's use solely with respect to constructing the Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the construction of the Project, provided that the Owner substantially performs its obligations under this Agreement, the Architect grants to the Owner a license to use the Architect's Instruments of Service as a reference for maintaining, altering and adding to the Project. The Owner agrees to indemnify the Architect from all costs and expenses related to claims arising from the Owner's use of the Instruments of Service without retaining the Architect. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information, or has permission from the copyright owner to transmit the information for its use on the Project. Any unauthorized use of the Architect's documents shall be at the Owner's sole risk and without liability to the Architect.

§ 3.1 In the event the Owner uses the Architect's documents contrary to the permitted uses set forth in Article 3 or without retaining the Architect, the Owner releases the Architect, its consultants and agents, and employees of any of them, from any and all claims and causes of action arising out of or resulting from such unauthorized uses, including but not limited to those arising out of or resulting from any defects, errors, or omissions in the Architect's documents. The owner, to the fullest extent permitted by law, shall defend, indemnify and hold harmless the Architect, its consultants and agents, and employees of any of them, from and against any and all claims, causes of actions, damages, awards losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from the Owner's unauthorized use of the Architect's documents under Article 3.

ARTICLE 4 TERMINATION, SUSPENSION OR ABANDONMENT

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed and Reimbursable Expenses then due. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days, or if the other party substantially fails to perform in accordance with the terms of this Agreement. Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 4.1 The Owner and Architect's rights set forth in this Article 4 are in addition to without prejudice to their other rights and remedies provided by law.

§ 4.2 The termination of this Agreement shall not relieve either the Owner or the Architect of any obligation previously accrued. The following provisions of this Agreement, and any other provisions that by their terms so provide, shall specifically survive any such termination: Section 2.1, Article 3, Article 5, and Article 7.

ARTICLE 5 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the law of the place where the Project is located. Terms in this Agreement shall have the same meaning as those in AIA Document A105–2017, Standard Short Form of Agreement Between Owner and Contractor. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

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 Owner or the Architect.

The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 5.1 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date payment is due the Architect pursuant to Article 6.

§ 5.2 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral including, but not limited to, the terms of any purchase order, invoice, bid documents, or proposal attachment to the Agreement. This Agreement may be amended only by written instrument signed by both Owner and Architect.

ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Architect's Compensation shall be:

Compensation shall be a stipulated lump sum of Fifty Thousand dollars and No cents (\$50,000.00)

The Owner shall reimburse the Architect for expenses incurred in the interest of the Project, estimated to be Three Hundred Dollars (\$300.00), plus 0 percent (0.00%).

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid Sixty (60) days after the invoice date shall bear interest from the date payment is due at the rate of One percent (1.00%) per month, or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

At the request of the Owner, the Architect shall provide additional services not included in Article 1 for additional compensation. Such additional services may include, but not be limited to, providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the Project scope, quality or budget, or due to Owner-requested changes in the approved design; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; providing services necessitated by the Contractor's failure to perform; and the extension of the Architect's Article 1 services beyond six (6) months of the date of this Agreement through no fault of the Architect. Compensation for these services shall be hourly in accordance with the Standard Hourly Rate Schedule current at the time services are provided. The Standard Hourly Rate Schedule shall be adjusted in accordance with the Architect's normal review practices.

ARTICLE 7 OTHER PROVISIONS

(Insert descriptions of other services and modifications to the terms of this Agreement.)

§ 7.1 MEDIATION

§ 7.1.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation.

§ 7.1.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, if the parties mutually agree, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. A request for mediation shall be made in writing, mailed to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the institution of a legal or equitable action, but, in such event, mediation shall proceed in advance of the legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 7.1.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 7.1.4 The Architect or Owner, as appropriate, shall include a similar mediation provision in all its agreements with independent contractors and consultants retained for the Project and shall require all independent contractors and consultants to also include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators so retained for the Project, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

§ 7.2 The Owner acknowledges that the requirements of the Americans with Disabilities Act (ADA), Fair Housing Act (FHA) and other federal, state and local accessibility laws, rules, codes, ordinances and regulations will be subject to various and possibly contradictory interpretations. The Architect, therefore, will use its reasonable professional efforts and judgment consistent with the degree of skill and care ordinarily exercised by architects currently practicing under similar circumstances to interpret applicable accessibility requirements in effect as of the date of the execution of this Agreement, and as they apply to the Project. The Architect, however, cannot and does not warrant or guarantee that the Owner's Project will comply with all interpretations of the accessibility requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project. The Owner shall defend, indemnify, and hold harmless the Architect, the Architect's consultant and agents, and employees of any of them, from and against any and all claims, damages, awards, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from noncompliance with ADA or FHA.

§ 7.3 To the maximum extent permitted by law, the Owner agrees to limit the Architect's liability for claims brought by or through the Owner to the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) or the Architect's fee, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

§ 7.4 If the services covered by this Agreement have not been completed within six (6) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated hourly in accordance with the Standard Hourly Rate Schedule current at the time services are provided.

§ 7.5 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 7.6 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Article 4.

§ 7.7 At the conclusion of services covered by this Agreement, and at such time that the Owner has secured funding for the scope of improvements to be implemented, the Architect and Owner shall execute an amendment to this Agreement, or a subsequent agreement, for the Architect to provide the Owner with Schematic Design, Design Development, Construction Documents, Bidding, and Construction Administration services for the scope of improvements approved by the Owner.

§ 7.8 This Agreement is comprised of the following documents listed below:

§ 7.9.1 AIA Document B105™-2017, Standard Short Form of Agreement Between Owner and Architect as modified by RDG IA Inc.

§ 7.9.2 Exhibit A Scope of Services attached hereto and incorporated herein by this reference.

This Agreement entered into as of the day and year first written above.

OWNER

(Signature)
Diana Broderson
Mayor
(Printed name and title)

ARCHITECT


(Signature)
Scott Crawford, PLA, ASLA, LEED® AP
Principal
(Printed name and title)

Date: July 9, 2021

Project: Riverside Park Amphitheater Master Plan (3004.763.00)

Location: Muscatine, IA

Owner: City of Muscatine
215 Sycamore Street
Muscatine, IA 52761

Description: The scope of this project is to develop a master plan for Riverside Park Amphitheater.

Scope of Services

Our approach to achieving the goals and objectives the City of Muscatine has established for the Riverside Park Amphitheater Master Plan project will capitalize on the strengths of each team member and provide the City with an efficient and seamless process. The focus throughout the entire process will be on engagement of the public and stakeholders to ensure the current and future park needs of the community are appropriately addressed in the Master Plan. Our project approach will focus on the following phased process:

- Phase 1. Discovery:** Inventory and Analysis
- Phase 2. Input:** Community and Stakeholders
- Phase 3. Development:** Alternatives and Refinements
- Phase 4. Articulation:** Approvals and Deliverables

To help our consultant team effectively serve the City of Muscatine, we encourage the City to establish a steering committee. The steering committee could consist of City staff, representatives from the selection committee, City Council, community leaders and key stakeholders. The primary role of the steering committee is to provide our consultant team with guidance, critical input, direction and authorization throughout the process.

Our approach to execute this step-by-step process is as follows:

Phase 1. Discovery: Inventory and Analysis

- 1A. Consultant team will review existing Riverside Park Amphitheater Master Plan, relevant base mapping and topographic data, narratives and other information related to the Park site provided by the City and acquired from other sources.
- 1B. Consultant team will develop comprehensive existing conditions mapping of the project site and analysis diagrams of development opportunities and challenges.
- 1C. Consultant will conduct technical analysis of collected data in order to better understand the site as well as the site's regional context and watershed. This preliminary technical analysis is essential to understanding existing conditions, identifying opportunities and constraints, and informing subsequent goal-setting and prioritization of the future environmental conditions of the park.
- 1D. Consultant team will develop content for the City website to facilitate information sharing and project updates with City staff, the steering committee, stakeholders and the public throughout the project. Information provided on the project website could include surveys, project schedule, programming documents, concept plan alternatives and other master plan graphics.



- 1E. City will establish the steering committee to provide leadership, input and direction throughout the project.
- 1F. Workshop #1 Consultant team will facilitate this meeting with the steering committee. This workshop is proposed as a one-day meeting as follows:

12:00 PM – 4:00 PM	Site Tour & Assessment
4:00 PM – 6:00 PM	Steering Committee Meeting

Consultant team will complete an on-site assessment of existing site conditions with representatives from the City. Particular attention will be paid to existing infrastructure, including existing underground utilities, stormwater management practices and cultural assets.

The intent of this workshop is to review the existing conditions or the site, mapping and technical analysis in order to establish benchmarks, goals and measurable objectives for the project, and to begin discussing possible program elements of the park.

- 1G. The steering committee will identify benchmarks, goals and measurable objectives for the project that will inform the development of program priorities and the Master Plan design.

Phase 2. Input: Community and Stakeholders

- 2A. Workshop #2 Consultant team will work with the steering committee to facilitate these input sessions with stakeholder groups and the public. These input sessions are proposed to occur during a one-day meeting format as follows:

12:00 PM – 2:00 PM	Steering Committee Meeting
2:00 PM – 5:00 PM	Stakeholder Groups Input Sessions
5:00 PM – 7:00 PM	Public Input Session

The intent of this workshop is to provide stakeholder groups and the public with an overview of the project scope and technical findings and allow a forum for input and comments to be expressed. These input sessions are critical to ensure consensus and support for future improvements.

- 2B. Based on the City's benchmarks, goals and objectives for the project and information received during the stakeholder groups and public input sessions, our consultant team will develop a draft of program priorities for future improvements and development of the Park. These priorities will address issues such as site access, utilities, railroad considerations, amphitheater and support facility programming and all other appropriate design aspects of the park.
- 2C. Consultant team will review potential future program elements for the Riverside Amphitheater to ensure consistency with existing City zoning ordinances and engineering practices.
- 2D. Steering committee will provide direction to our consultant team related to program elements to be considered for incorporation into the Master Plan concept alternatives.

Phase 3. Development: Alternatives and Refinement

- 3A. Consultant team will develop preliminary concept plan alternatives incorporating potential program elements established during the previous Input phase of the process and site investigation data discovered during the Discovery phase of the process. Graphics at this step in the process will communicate the overall design direction, convey ideas, illustrate amphitheater orientation and are intended to engage the steering committee, stakeholders and public in discussion.



3B. Consultant team will prepare preliminary budget estimates for improvements proposed as part of the preliminary concept plan alternatives.

3C. Workshop #3 Consultant team will facilitate this meeting with the steering committee. This workshop is proposed to occur as a meeting with the steering committee as follows:

4:00 PM – 6:00 PM Steering Committee Meeting

The intent of this workshop is to review the preliminary concept plan options and preliminary budget estimates and receive feedback from the steering committee. The information to be shared and format for the upcoming Workshop #4 will be established at this meeting.

- 3D. Steering committee identifies the preferred amphitheater concept plan option and directs the consultant team to proceed with further refinements to the plan.
- 3E. Consultant team will refine the preferred amphitheater concept plan option, incorporating final comments from the steering committee and more detail and information about specific design elements. Graphics at this step will be prepared with an emphasis on clear communication of design elements.
- 3F. Consultant team will refine the budget estimate for the proposed design elements identified in the concept plan. Estimated costs will address final design, construction, anticipated permitting and other applicable costs based on local understanding of material and labor costs and practices. This will provide the City with an understanding of total project costs, rather than only the construction costs to implement the proposed improvements.
- 3G. Consultant team will develop a phasing implementation plan for specific design elements identified in the amphitheater concept plan based on the previously established program priorities. This phasing strategy will provide the City with a clear guide for all future phasing of Riverside Park Amphitheater and park development.
- 3H. Workshop #4 Consultant team will work with the steering committee to facilitate these design review sessions with stakeholder groups and the public. These input sessions are proposed to occur during a one-day meeting format as follows:

12:00 PM – 2:00 PM	Steering Committee Meeting
2:00 PM – 5:00 PM	Stakeholder Groups Review Sessions
5:00 PM – 7:00 PM	Public Review Session

The intent of this workshop is to provide stakeholder groups and the public with forums for input and comments to be expressed through an individual user group meeting format and a town hall meeting format. Input and comments received during these design review sessions will inform the final program and Riverside Park Amphitheater Master Plan development and reinforce the political capital for consensus and support of the future improvements to the Park.

- 3I. Steering committee will identify the preferred concept plan option and direct the consultant team to proceed with final refinements to the plan.
- 3J. Consultant team will complete final design refinements to the concept plan, budget estimate and phasing plan.

Phase 4. Articulation: Approvals and Deliverables

4A. Consultant team will finalize all Riverside Park Amphitheater Master Plan graphics, budget estimates, phasing implementation plan and project narratives and develop a draft of the Master Plan Summary Report and provide it to the City for review.



- 4B. City will review the draft Riverside Park Amphitheater Master Plan Summary Report and provide feedback to the consultant team.
- 4C. Consultant team will revise Riverside Park Amphitheater Master Plan Summary Report, appropriately incorporating feedback provided by the City, and format the final Riverside Park Amphitheater Master Plan Summary Report.
- 4D. Workshop #5 Consultant team will facilitate this meeting with the steering committee. This workshop is proposed to occur as a meeting with the steering committee as follows:

4:00 PM – 6:00 PM Steering Committee Meeting

The intent of this workshop is to review the final deliverable with the steering committee.

4E. Final Presentations Consultant team will facilitate these presentations of the final Riverside Park Amphitheater Master Plan:

Park Board

The intent of this presentation is to provide the Park Board with an overview of the Riverside Park Amphitheater Master Plan for approval consideration and answer any questions.

City Council

The intent of this presentation is to provide the City Council with an overview of the Riverside Park Amphitheater Master Plan for approval consideration and answer any questions.

Public

The intent of this presentation is to provide the general public with an opportunity to review the final Riverside Park Amphitheater Master Plan and inform citizens of the anticipated phasing strategy to implement future improvements.

- 4F. Consultant team will present the Riverside Park Amphitheater Master Plan to the Community Improvement Action Committee (CIAT).
- 4G. Consultant team will provide the City with final project deliverables for the Riverside Park Amphitheater Master Plan project.

END SCOPE OF SERVICES

