



500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM



Date: July 16, 2024

To: Robert J. Bruner, Acting City Manager

From: Megan E. Schubert, Assistant City Manager
Rob Maleszyk, Chief Financial Officer
Dee Ann Irby, Controller
Kurt Bovensiep, Public Works Director
Dennis Trantham, Deputy Public Works Director
Emily Dumas, Library Director
Emily Frontera, Purchasing Manager

Subject: Bid Waiver - Troy Public Library Consulting Services (Introduced by: Emily Dumas, Library Director)

History

In April 2023, after a public bid process, Troy City Council contracted with ReThinking Libraries to assist Troy Public Library staff in creating a High Level 2024-2028 Strategic Plan for the Library. (#2023-04-061-J-4a)

On June 10, 2024, ReThinking Libraries delivered this Plan to Troy City Council. The Plan cited deficiencies in the Library building and concluded that the building is dramatically undersized and functionally obsolete for a modern library. The Plan suggested steps to move a discussion on the building forward, including a deeper exploration of the size, needs, and cost of expanded Library space; and a robust engagement with the public on this issue. (*Library Strategic Plan, page 19, attached*)

On June 24, 2024, Troy City Council discussed the Library building. Council members agreed that staff should pursue the outline laid out in the Strategic Plan.

Library staff is now seeking permission to waive the bid process and to use budgeted operational funds to contract with ReThinking Libraries for consulting services during the next steps of this process.

Specifically, ReThinking Libraries would: assist Library staff during a Feasibility/Concept Development stage, including identifying and working with an appropriate architect; support community engagement efforts; ensure that design work is in line with the needs of the community; and support the work on the Space Needs and Cost Finalization stage.

Purchasing

ReThinking Libraries has submitted a contract agreement to the City, dated July 8, 2024, for consulting services for the Library in an amount not to exceed \$15,000.

Financial

The Library has funds available for this project, in the Library's FY2025 operating budget, 271.790.816.010 – Consultant Services.

Recommendation

City Management, in the best interest of the City, recommends waiving the bid process and awarding a contract to *ReThinking Libraries, of Ft. Collins, CO*, for Troy Public Library Consulting Services as detailed in the attached contract agreement for a not to exceed amount of \$15,000.

Recommended Next Steps

■ Conduct a full Community Needs Assessment and Facility Feasibility Study

- Though input was sought about the library facility and the related community and staff needs, and basic space assessments and a preliminary space needs analysis were completed. Those were not as complete and thorough as a facility-focused process would be.
- An architect should also be engaged to fully assess the possibilities of the current site, and other potential sites (likely somewhere on the civic campus).
- More accurate and dependable pricing estimates would also be developed during this process.
- Staff and community leaders should visit other libraries across the region to gain further perspectives and look for elements that would best resonate with Troy residents.

■ Continue to engage the community and conduct focus groups about the library facility and the issues being faced

- The library should continue to engage the community around its specific needs and seek further input into possible plans and directions under consideration.
- The library should continue to raise awareness about the facility's problems and limitations, through marketing and facility tours (in person and virtual).

■ Begin a conversation about possible funding solutions for an enhanced library building

- City Leaders should begin to explore the variety of avenues that could be pursued to fund a new or renovated/expanded library.

■ Develop the initial outline of a capital campaign. Private fundraising should be a key component of a public project of this size

- Start to identify overall goals for private funding.
- Being conversations about participation in and leadership of a future campaign

"When you are growing up there are two institutional places that affect you most powerfully: the church, which belongs to God, and the public library, which belongs to you." – Keith Richards

RETHINKING LIBRARIES, LLC
CONSULTANT CONTRACT

This Contract made and entered into on this ____ day of _____ 2024, by and between the City of Troy Public Library located at 510 W Big Beaver Rd, Troy, MI 48084, hereinafter called the "CLIENT," and ReThinking Library, LLC (RTL) located at 508 Villanova CT, Fort Collins, CO 80525 hereinafter called the "CONSULTANT".

I.A. Services

The CLIENT and the CONSULTANT agree as set forth below:

- A. CONSULTANT is in the business of providing facility vision, assessments, guidance, and recommendations for improving the design, usability, efficiency, and aesthetics of public libraries and generally guiding libraries through the process of evaluating and designing new or renovated library facilities.
- B. Rob Cullin shall serve as the Lead Principal on this project with Janet Nelson in full support and engagement throughout. Other RTL Associates will also likely be engaged to help with various aspects of the project.

Phase 1 Service Details (Facilities Plan Development and Feasibility Study Support)

- Support TPL in the next phases of evaluating building replacement or major renovation
- Support as needed Architect selection for Feasibility Study
- Support the Feasibility Study as needed in terms of space needs and program
- Support the library in any additional needed community/stakeholder engagement

II. Point of Contact

For purposes of this engagement, Emily Dumas, Library Director, will act as the primary point of contact for the CLIENT and Janet Nelson will act as the first point of contact for CONSULTANT concerning this Project with Rob Cullin being the secondary point of contact.

III. Contract Costs

Project will be handled as a time and material agreement with a NOT TO EXCEED amount of \$15,000 unless otherwise agreed to by CLIENT in advance and in writing. Time for Principal Consultants: Rob Cullin and Janet Nelson will be billed at \$150/hour, and other RTL associates billed at \$100/hour. Work as outlined in the proposal will include project management, staff and community input and survey, facility and space analysis, concept development with recommendations, and budgetary estimates to coincide with these recommendations. Any incurred expenses (onsite travel IF requested and approved in writing by TPL) will be billed at costs.

IV. Timetable for Completion of the Consultation and Reports

CONSULTANT will work with CLIENT to ensure that project progresses in a timely manner.

V. Payment Schedule

- As this is a time and material project, all expended work and incurred expenses will be billed on a monthly basis at the aforementioned rates.
- The monthly invoices will provide detailed information on the hours spent on all project related tasks by day by consultant.
- All expenses will be billed to the CLIENT at their cost to RTL.

Payments should be made in 30 days or less whenever possible.

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VI. Additional Services and the use of Subcontractors

Any work above and beyond this scope must be pre-approved by the CLIENT in writing and will be billed on a time and material basis for hours completed at the rates of \$150/hour for Rob Cullin or Janet Nelson, and \$100/hour for other non-professional Associates, plus reasonable associated out of pocket expenses.

CONSULTANT reserves the right to engage subcontractors subject to advanced written approval by CLIENT for the purposes of providing services herein, granted that those services are deemed necessary and in support of the project. Primary responsibility for the project and primary communications with the CLIENT shall not be sub-contracted.

VII. Ownership of Intellectual Property

To the extent that CONSULTANT has received payment of compensation as provided in this Contract, CONSULTANT hereby assigns to CLIENT all right, title, and interest in any intellectual property created or developed by CONSULTANT for CLIENT under this Contract including any reports generated herein. Notwithstanding the preceding sentence, it is understood and agreed that CONSULTANT may incorporate proprietary routines, sub routines, libraries, tools, interfaces, methodologies, procedures, templates or controls that CONSULTANT has developed, refined or licensed over time (and apart from the work done for CLIENT by CONSULTANT) for the efficient execution of common functions (collectively "CONSULTANT Proprietary Works".) With respect to these CONSULTANT Proprietary Works, all right, title and interest remain with CONSULTANT. Further, CONSULTANT and its personnel shall be free to use and employ its and their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any confidential or proprietary information of CLIENT and without any unauthorized disclosure of work product. CONSULTANT also reserves the right to share the in READ-ONLY form any public documents that results from the project, as required to further its business interests with current and future clients.

VIII. Confidentiality/Mutual Non-Disclosure/Reliance on Client's Information

Each party acknowledges that in connection with this Contract it may receive certain confidential, sensitive or proprietary technical and business information and materials of the other party (hereinafter, "Confidential Information"). Notwithstanding the foregoing, CONSULTANT acknowledges that CLIENT is a governmental unit which is subject to Freedom of Information Act (FOIA) requests. As such, public records that are not exempt from disclosure may be provided to CLIENT under this engagement and may be subject to such FOIA requests. Moreover, any materials presented at any meeting of the Troy City Council may be included in the Council packet which is posted on the CLIENT website and generally available to the CLIENT employees, its patrons, and the general public. Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations under the proposal contained in Attachment A except as may be required by a court or governmental authority. Notwithstanding the foregoing, Confidential Information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality.

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CLIENT acknowledges and agrees that CONSULTANT will be using and relying on information provided to CONSULTANT without assuming any responsibility for independent verification thereof and that CONSULTANT does not assume responsibility for the accuracy or completeness of such information or any other information regarding CLIENT.

CLIENT shall: (a) provide CONSULTANT with reliable, accurate and complete information, and such information will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in light of the circumstances under which such statements are made, as required; (b) promptly notify CONSULTANT if CLIENT learns of any material inaccuracy or misstatement in, or omission from, any information previously provided to CONSULTANT; and (c) make timely decisions and obtain required management approvals.

IX. Responsibilities of CONSULTANT and CLIENT

CONSULTANT is responsible for completing the project described in this Contract in a timely fashion. CLIENT and CLIENT'S representatives are responsible for cooperating with CONSULTANT by, among other things, furnishing the required information, services, and decisions relating to this Contract as expeditiously as necessary for the orderly progress of the project.

X. Limitation of Liability

The liability of the CLIENT and the CONSULTANT shall be limited to the total amount of compensation included in this Contract. In no event shall CONSULTANT be liable for any loss of profit or revenue by CLIENT, or for any other consequential, incidental, indirect or economic damages incurred or suffered by CLIENT arising as a result of or related to CONSULTANT's work whether in contract, tort, or otherwise, even if CLIENT has advised of the possibility of such loss or damages.

Up to and including the limits of its liability, CONSULTANT shall indemnify and hold CLIENT and its employees, contractors, and agents harmless from and against any claims, demands, losses, damages, and expenses (i) resulting from any claim that CONSULTANT is not an independent contractor, (ii) resulting from a breach by CONSULTANT of its covenants or obligations under this Agreement, (iii) related to or resulting from any negligent or intentional act performed by CONSULTANT in the scope of performing its duties under this Contract, and/or (iv) Workers' Compensation claims incurred by CONSULTANT's employees in the course of providing services to CLIENT. In no event shall CLIENT be liable for any consequential, incidental, or punitive damages, losses, or expenses in any such circumstance, even if it has been advised of their possible existence. CLIENT shall similarly indemnify and hold CONSULTANT harmless from any claim or loss resulting from the conduct of CLIENT's officials, employees, agents, or other contractors.

XI. Termination of Contract

Either party may terminate this Contract for any reason after providing 30 days' advance written notice, unless both parties agree in writing that notice has been provided and this Contract should be terminated in fewer than 30 days. In the event of termination for any reason, CONSULTANT shall be compensated for the services and expenses performed and incurred through the date of termination. and CLIENT shall pay all expenses, fees, out of pockets incurred through and up to, the date of cancellation. In the event of termination by CLIENT and upon full payment of compensation as provided herein, CONSULTANT grants to CLIENT full right and title with respect to those deliverables provided to and accepted by CLIENT as of the date of termination.

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XIII. Arbitration

In the event of a dispute regarding the meaning or performance of this Contract, the Parties shall first attempt in good faith to resolve the dispute, without formal legal proceedings, via a telephone conference or other meeting. If a resolution or settlement cannot be reached through such informal means, the Parties agree to submit such dispute to binding arbitration, with each Party responsible for its own respective attorney fees and costs, unless the arbitrator agrees in his/her discretion that an award of attorney's fees and costs to the prevailing Party is appropriate, in which case the arbitrator can award such fees and costs. The arbitration shall be governed by the then applicable American Arbitration Association rules for commercial arbitration. The Parties shall each be responsible for paying fifty percent (50%) of the cost of the arbitrator's fee. To the extent that it cannot be held remotely, any arbitration proceeding will be held in Metro Detroit, MI, and Michigan law will control the interpretation of this Contract, as well as the parties' rights and liabilities pursuant to the terms of this Contract.

XIV. Relationship of the Parties

The performance by CONSULTANT of its duties and obligations under this Contract shall be that of an independent contractor, and nothing herein shall create or imply an agency relationship between CONSULTANT and CLIENT, nor shall this Contract be deemed to constitute a joint venture or partnership between the parties. CONSULTANT shall retain the right to perform work for others during the term of this Contract. CLIENT shall retain the right to cause work of the same kind or a different kind to be performed by its own personnel or other consultants during the term of this Agreement.

XV. Employee Solicitation/Hiring

During the period of this Contract and for twelve (12) months thereafter, neither party shall directly or indirectly solicit or offer employment to or hire any employee, former employee, subcontractor, or former subcontractor of the other. The terms "former employee" and "former subcontractor" shall include only those employees or subcontractors of either party who were employed or utilized by that party on date this Contract is last executed.

XVI. Miscellaneous Provisions

- A. Except as provided herein, neither party may assign this Contract, in whole or in part, without the prior written consent of the other party. This Contract shall inure to the benefit of, and be binding upon, the parties hereto, together with their respective legal representatives, successors, and assigns, as permitted herein.
- B. If any term of this Contract is found to be unenforceable or contrary to applicable state or federal law, it shall be modified to the least extent necessary to make it enforceable, and the remaining portions of this Contract will remain in full force and effect.
- C. Neither party shall be held responsible for any delay or failure in performance of any part of this Contract to the extent such delay is caused by events or circumstances beyond the delayed party's reasonable control.
- D. The waiver by any party of any breach of covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. No custom or practice of the parties that varies from this Contract shall constitute a waiver of the right of a party to demand exact compliance. All waivers must be in writing, and signed by the party waiving its rights. This Contract may be modified only by a written instrument executed by authorized representatives of the parties hereto.

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- E. This Contract constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements, proposals, negotiations, representations, or communications relating to the subject matter.
- F. The headings contained in this Contract have been inserted solely for the convenience of the parties and shall be of no force or effect in the interpretation of the provisions in this Contract.

XVII. Signatures

This Contract is effective when it is by authorized representatives of each party. The contract may be executed in one or more counterparts, each of which will constitute an original agreement, but is not enforceable until delivery and exchange of the executed counterparts. Copies of this Contract (including facsimiles) have the same force and effect as a signed original document.

CLIENT:
Troy Public Library

CONSULTANT:
ReThinking Libraries, LLC
Robert S Cullin
Managing Principal

By: _____
Signature

By: _____
Signature

Date Signed

Date Signed

Appendices:

Future Possible Phases

- *The following future services can be covered under this contract with an extension of contract amount in writing by TPL/City of Troy.*

Pre-Design and Programming Prep

- This service includes working with the TPL team in establishing final space and facility needs and requirements.
- Developing the final building program and coordinating/collaborating with project architects on final design considerations.

Design Collaboration, Reviews, and Ongoing Project Consultation

- This service includes RTL working collaboratively with the project team, side by side with the TPL team, and other key stakeholders, including the architectural team throughout the design process and even the construction phase if desired.
- Specific work elements might include:
 - Design collaboration and/or review through the design process including support for Collection and Shelving planning (highly recommended)
 - Interior Design collaboration or input/review (RTL has deep experience in Library Furniture, Shelving, and even carpet and finishes that work well in public library environments)
 - Signage and wayfinding design input
 - Technology consulting (requirements, meeting rooms, specialty--RFID & Sortation/AMH Systems)
 - Advice or review of construction/design changes and assessment of impact on library operations or long-term building upkeep.
 - Support through construction phases as (if) needed.