

CLEVELAND PUBLIC LIBRARY

Finance Committee

May 17, 2016

RESOLUTION AUTHORIZING AMENDMENT TO AGREEMENT WITH ROBERT P. MADISON INTERNATIONAL, INC. FOR ARCHITECTURAL SERVICES

WHEREAS, On September 17, 2015, the Board of Trustees of the Cleveland Public Library authorized the Library Administration to proceed with negotiating a development agreement with University Circle City Center LLC (“UC3”) for the relocation and construction of a new Martin Luther King Jr. library branch as a part of UC3’s overall development project in University Circle; and

WHEREAS, The Library determined it would be helpful to the Library in negotiations to engage an architect to prepare conceptual drawings of a potential new Martin Luther King Jr. branch, and obtain an estimate of the cost of constructing a new branch based upon that drawing. To that end, on January 26, 2016 the Library entered into an agreement in the amount of \$23,000.00 with Robert P. Madison International, Inc. architects (“Madison”), to prepare one conceptual drawing; and

WHEREAS, In order to advance negotiations of the development agreement, the Library would like to engage Madison to prepare two more conceptual drawings of different sized buildings, and Madison has provided an estimate of \$5,600.00 to prepare the additional drawings, for a total contract amount of \$28,600.00; and

WHEREAS, Once the development agreement has been negotiated, the Library plans to engage in a formal qualifications-based procurement process to select the design architect for the new Martin Luther King Jr., branch; now therefore be it

RESOLVED, That the Board of Library Trustees authorizes the Executive Director, CEO or his designee to enter into an amendment to the agreement with Robert P. Madison International, Inc. to provide preliminary architectural services described in this Resolution in connection with the Martin Luther King Jr. branch relocation project, in an amount not-to-exceed \$28,600.00, which expenditure shall be charged to the General Fund Account 11400053-53710 (Professional Services), and to execute such other instruments or documents as may be necessary or appropriate to effectuate the terms of this Resolution, subject to the approval of the Chief Legal Officer.



Robert P. Madison International, Inc.

April 28, 2016

Ms. Joyce Dodrill
Chief Legal Officer
Cleveland Public Library
525 Superior Avenue
Cleveland, OH 44114

Re: Martin Luther King, Jr. Branch Library

Dear Ms. Dodrill:

Thank you for the opportunity offered to Robert P. Madison International, Inc. (RPMI) to provide conceptual design/schematic design services for the new Martin Luther King, Jr. Library Branch. Per your request, we are pleased to submit this proposal for the development of two additional conceptual design schemes as follows.

Additional Scheme 2 : 1 Story 16,000 gross square feet
Additional Scheme 3 : 2 Story 20,000 gross square feet

The two additional schemes will consist of floor plans only at this time. Additional Structural, Mechanical, Plumbing, Fire Protection, Electrical and Technology narratives are not required at this time.

RPMI Team

Roy Kevin Madison – Project Manager
Yaunshuai Si – Designer

Project Schedule

RPMI will require approximately two weeks to complete the two additional schemes. We will begin upon your approval of our proposal.

Fee Proposal

RPMI Fee

\$5,600.00

Thank You,
Roy Kevin Madison, AIA, LEED AP BD+C

cc: Robert Klann

AGREEMENT BETWEEN ROBERT P. MADISON INTERNATIONAL,
INC. AND THE CLEVELAND PUBLIC LIBRARY

This Agreement is made and entered into as of the 26 day of January 2016 (the "Effective Date") by and between ROBERT P. MADISON INTERNATIONAL, INC., an Ohio corporation with a principal place of business at 2930 Euclid Avenue, Cleveland, Ohio 44115 ("MADISON" or "Architect") and the BOARD OF TRUSTEES OF THE CLEVELAND PUBLIC LIBRARY, with a principal place of business at 325 Superior Avenue, Cleveland, Ohio 44114 ("CPL" or "Library"), by and through its authorized representative.

RECITALS

A. MADISON has submitted a proposal to the Cleveland Public Library for preliminary conceptual architectural design services for a new Dr. Martin Luther King Jr. branch to be located on Euclid Avenue near the intersection of E. 105th Street, adjacent to and east of 10501 Euclid Avenue (the "Project"), in the amount of TWENTY-THREE THOUSAND DOLLARS (\$23,000). A copy of MADISON's proposal is attached hereto and incorporated herein by reference as Exhibit "A".

B. In accordance with Ohio Revised Code Section 153.71(A), the Library is authorized to enter into an agreement for design services in an amount less than FIFTY THOUSAND DOLLARS (\$50,000) if the design professional has submitted a current statement of qualifications within the immediately preceding year, and provided that contract negotiations comply with the criteria set forth in Ohio Revised Code Section 153.69(B).

C. MADISON submitted a current statement of qualifications to CPL on November 30, 2015 and the Library has determined that the criteria set forth in Ohio Revised Code Section 153.69(B) have been met.

NOW, THEREFORE, for and in consideration of the mutual promises and conditions contained in this Agreement, CPL and MADISON hereby agree as follows:

1. **Scope of Services.** MADISON shall provide certain conceptual architectural and schematic engineering services ("Services") in accordance with the terms and conditions contained herein, which Services are more fully described in MADISON's proposal dated January 15, 2016 attached as Exhibit "A" to this Agreement. The design shall be developed with the input of CPL to the satisfaction of CPL in its sole discretion.

1.1 **Meetings.** MADISON shall meet with CPL on a periodic basis to review MADISON's progress and to solicit CPL's input on design. MADISON shall be available to make presentations to the Library's Board of Trustees.

1.2 **Approvals/Revisions.** CPL must approve all aspects of the design before MADISON produces the final drawings.

2. **Term/Schedule.** MADISON acknowledges that CPL is in the process of negotiating a development agreement concerning the new Dr. Martin Luther King Jr. branch and that developing a conceptual design is critical so that the Library may obtain an estimate for the cost of the proposed building and incorporate the information into the development agreement

negotiations. MADISON, therefore, agrees to work expeditiously and acknowledges that time is of the essence. MADISON has estimated that the Services can be provided within two months, and shall present a detailed draft time line and schedule for design within one (1) week of execution of this Agreement for CPL's input and approval. This timeline may change as the process evolves and requests for changes and revisions from CPL are proposed. Except as otherwise provided in this Agreement, the term of this Agreement shall expire when MADISON has completed all Services to the satisfaction of CPL and MADISON has received all payments due, unless extended by written agreement of the parties.

3. Payment for Services.

(a) CPL agrees to pay MADISON for services as described in Exhibit "A", including all expenses and reimbursable costs, an amount not-to-exceed Twenty-Three Thousand One Hundred Dollars (\$23,000.00). The Architect's compensation includes all compensation for services, including without limitation, salaries or other compensation of the Architect's employees at the principal office, general operating expenses of the Architect's principal office, any part of the Architect's capital expenses, including interest on the Architect's capital employed for the Project, overhead or expenses of any kind, the Architect's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, fees and expenses of consultants, and membership in trade, business or professional organizations.

(b) MADISON shall submit monthly invoices to CPL itemizing the S

(c) Services performed by MADISON, its consultants or subcontractors during the previous month (specifying the services performed, the number of hours worked, and the hourly rate. CPL shall provide payment to MADISON within 30 days of receipt of a complete invoice. MADISON is responsible for payments to its consultants and subcontractors, and agrees to indemnify and hold CPL harmless from the responsibility for such payments. CPL shall have no responsibility to pay any sums in excess of Twenty-Three Thousand Dollars (\$23,000.00) without prior written approval by CPL.

(d) Additional Services: Any additional services requested by the Library shall be charged at MADISON's Direct Billable Hourly Rates in the Statement of Qualifications dated November 30, 2015. CPL shall have no responsibility to pay for Additional Services performed by MADISON without prior written approval by CPL.

4. Taxes. CPL is a public entity and is exempt from the obligation to pay sales taxes. CPL shall provide RPI with a sales tax exemption certificate. Any sales taxes shall be paid by MADISON, and MADISON shall be solely responsible for payment of all employment and other tax obligations arising out of payments from CPL.

5. Insurance. MADISON shall maintain at its own cost and expense from a qualified insurance company acceptable to CPL, a broad form commercial general liability insurance policy naming CPL, its officers and employees, as additional insureds which insurance shall provide coverage to CPL for damage or loss to CPL resulting from the performance of MADISON's Services. The amount of primary and secondary coverage shall be a minimum of

one million dollars (\$1,000,000.00) for each single occurrence, \$2,000,000 aggregate, with a deductible or self-insured retention of no greater than five thousand dollars (\$5,000.00), unless prior written approval of a greater deductible amount is specifically provided by CPL.

MADISON shall also maintain professional liability insurance in the amount of \$1,000,000 per claim, \$2,000,000 aggregate, with a deductible or self-insured retention of no greater than seventy-five thousand dollars (\$75,000).

MADISON shall maintain the insurance required by this Section 5 for the period during which a cause of action related to this Project may be filed in accordance with ORC 2305.131. MADISON shall provide certificates of insurance evidencing all insurance required by this Section 5 at the time of execution of this Agreement. This Paragraph 5 shall survive the termination or expiration of this Agreement.

6. Representations and Warranties. MADISON warrants that MADISON and its employees shall exercise the degree of care and diligence in the rendering Services under this Agreement in accordance with the professional and industry standards expected of an architectural firm with significant experience and expertise with projects of a similar design, size, function and complexity as the Project.

7. Indemnification by MADISON. MADISON shall indemnify, defend, save and hold CPL harmless from all loss, damage (including, without limitation personal injury or property damages) and expenses (including, without limitation, reasonable attorneys' fees) arising out of or connected with the Services provided by MADISON or its subcontractors under this Agreement, including, without limitation, any claim asserted by any third party alleging the infringement of copyright(s), trademark(s), or other intellectual property as a result of MADISON's designs in relation to the Project, (each, a "Claim"). CPL shall give notice to MADISON of any Claim, and MADISON shall provide a legal defense on behalf of CPL to that Claim. CPL shall have the right to participate in the defense of the Claim at CPL's sole cost and expense. In the event CPL determines that there exists a conflict of interest by reason of having common defense counsel with MADISON, then CPL may employ separate counsel satisfactory to CPL to represent it with respect to a Claim, and MADISON shall pay the reasonable fees and expenses of such counsel. This Paragraph 7 shall survive the termination or expiration of this Agreement.

8. Copyright and Intellectual Property Ownership. Upon full payment of MADISON's Services in accordance with the terms of this Agreement, CPL shall own all copyright and intellectual property rights in the design, drawings and specifications and other documents related to the Project prepared by MADISON. Unless this Agreement is terminated by reason of MADISON's breach or default, MADISON is hereby granted a non-exclusive, limited, perpetual license to use pictures, images, or samplings of the Project for marketing purposes, provided MADISON first obtains CPL's approval for use of any interior photographs of the Project. This Paragraph 8 shall survive the termination or expiration of this Agreement.

9. Independent Contractor. MADISON is an independent contractor and shall not be deemed a partner or agent of or joint venturer with the Library. The employees, agents and subcontractors of MADISON who will be involved in the performance of the Services shall not be deemed the employees or agents of the Library. Neither party shall have any right, power or authority to create any contract or obligation on behalf of, or binding upon, the other party,

without the prior written consent of such other party. MADISON agrees that its employees are not “public employees” for the purpose of membership in the Ohio Public Employees Retirement System.

10. Amendments. Any modifications to this Agreement shall be made only in writing, signed by the duly authorized representatives of both parties, and a copy shall be attached to the original Agreement.

11. Choice of Law; Forum. This Agreement is entered into within the State of Ohio and shall be construed in accordance with the laws of Ohio (the “State”) (without giving effect to conflicts of law principles) applicable to contracts to be wholly performed in Ohio. Any action, suit or proceeding based upon any matter, claim or controversy arising under or related to this Agreement shall be brought in a court of competent jurisdiction in Cuyahoga County, Ohio.

12. Severability; Entire Understanding. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision of this Agreement. This writing sets forth the entire understanding between MADISON and CPL with respect to the subject matter of this Agreement. This Agreement shall be binding upon MADISON and CPL, their successors and/or assigns.

13. Termination. CPL shall have the right to cancel or terminate this Agreement for any reason upon fourteen (14) days prior written notice to MADISON. CPL may also terminate this Agreement immediately in the event of MADISON’s bankruptcy, insolvency, or dissolution. CPL shall be responsible for payment of actual work satisfactorily completed by MADISON in accordance with MADISON’s obligations under this Agreement up through the date of MADISON’s receipt of notice of termination, once MADISON has transferred all documents, drawings, reports, and files concerning the Project to CPL.

14. Assignment/Subcontractors. MADISON may not assign, subcontract, sublicense or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of CPL. CPL acknowledges that MADISON will subcontract with Barber & Hoffman and Tec Inc. for engineering schematic design services, and approves the engagement of these subcontractors.

15. Paragraph Headings. Paragraph headings in this Agreement are for convenience only and will not be construed as part of this Agreement.

16. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same agreement. Faxed signatures or signatures in PDF copies transmitted via e-mail will be deemed original signatures for all purposes.

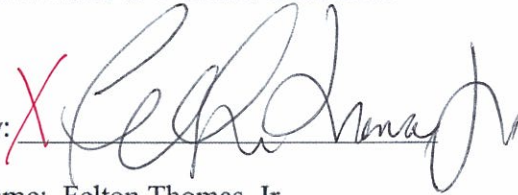
17. Conflict. In the event of a conflict between the terms and conditions of this Agreement and Exhibit “A” and its attachments, the terms and conditions of this Agreement shall control.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed

as of the Effective Date, on the last day and year written below.

“CPL”

THE BOARD OF TRUSTEES OF THE
CLEVELAND PUBLIC LIBRARY

By: 


Name: Felton Thomas, Jr.

Its: Executive Director, CEO

Date: 1/28/16

“MADISON”

ROBERT P. MADISON INTERNATIONAL
INC.

By: 

Name: Roy Kevin Madison

Its: Vice President

Date: January 26, 2016