



May 6, 2020

VIA EMAIL: asmith34@livoniapublicschools.org

Ms. Alison Smith
Director of Finance
Livonia Public Schools
15125 Farmington Road
Livonia, MI 48154

RE: Proposal for Owner Representation Services for Livonia Public Schools Central Office Project

Dear Ms. Smith:

Thank you for the opportunity to allow Plante & Moran Cresa, L.L.C. ("**PMC**") to present our proposal to provide owner representation services to Livonia Public Schools ("**LPS**").

ENGAGEMENT

It is our understanding that this engagement will generally involve providing owner representation services related to the Central Office Renovation Project (the "**Project**").

The owner representation services to be provided by PMC under this Agreement (as defined hereinafter) are more particularly described in the Scope of Services attached as Exhibit A (the "**Services**") and will be performed subject to the Terms and Conditions attached as Exhibit B.

In preparing this proposal, PMC has made the following key assumptions, which have been relied upon by PMC in determining the Services, PMC's compensation, and the terms of this Agreement.

- The Budget for this project will be between \$3.0M and \$3.5M
- A single Architect will be utilized for Design Services
- A single General Contractor will be utilized for Construction Services
- LPS will provide key relevant information to PMC including:
 - Existing site surveys and drawings
 - Relevant environmental surveys and reports
 - Staff lists and Furniture inventory
- PMC will be entitled to rely on the information provided by, or on behalf of, LPS.

COMPENSATION

PMC will be compensated by LPS in accordance with Exhibit B for its Services as follows:

Phase I - Design: Programming through Construction Documents (CD's)

- **Fixed Fee** - LPS shall pay PMC a fixed fee of forty-five thousand dollars No / 100 dollars (\$45,000.00), payable in monthly installments based on the portion of services provided, plus the actual out of pocket expenses (mileage, travel, reproduction, etc.) incurred by PMC in the performance of its Services.

Phase II - Construction: Bid / Award through Project Closeout

- **Fixed Fee** - LPS shall pay PMC a fixed fee of forty-five thousand dollars No / 100 dollars (\$45,000.00), payable in monthly installments based on the portion of services provided, plus the actual out of pocket expenses (mileage, travel, reproduction, etc.) incurred by PMC in the performance of its Services.

Progress Payments – PMC will invoice LPS monthly based upon a mutually agreed upon percentage of completed Services. In order to determine the percentage of completed Services, the parties will periodically review the progress of the Project and PMC's Services.

ACCEPTANCE

PMC will commence its Phase I services upon execution of this proposal, and the term of PMC's engagement will continue until September 15, 2020. PMC will not begin Phase II services until authorized by LPS to do so.

To accept this proposal including the terms of this letter and Exhibits A and B attached hereto, please sign below and return it to me. Upon execution, this proposal (including Exhibits A and B) will become a binding agreement (the "**Agreement**") between LPS and PMC. Should you have any questions please contact me at 248-223-3380.

Sincerely,

PLANTE & MORAN CRESA, L.L.C.



Paul Theriault, Partner

Exhibit A

Scope of Services

Upon execution of PMC's proposal dated 05.06.2020, this Exhibit A shall be incorporated into the Agreement between LPS and PMC.

PMC shall provide to LPS, in accordance with the terms and conditions set forth in Exhibit B, its Services comprised of the following:

Owner Representation Services

Upon execution of the Agreement, PMC shall commence providing Owner Representation Services related to the Project. PMC's Owner Representation Services may be comprised of the following:

Phase I - Design: Programming through Construction Documents (CD's)

1. **Project Liaison:** Serving as a key liaison between LPS, the architect, general contractor, technology designer, and other professional service firms. Activities may be comprised of the following:
 - a. Assisting LPS with the coordination of Project related activities;
 - b. Facilitating resolution of Project related issues; and
 - c. Periodically reporting the Project's progress to LPS at its Board of Education meetings
2. **Program Development:** Assisting LPS in the development of an initial program by helping to identify the Project's size, scope, cost, delivery method. Activities may be comprised of the following:
 - a. Reviewing the final space and site program;
 - b. Reviewing LPS's building standards;
 - c. Assisting in the development of a Project phasing plan;
 - d. Assisting in the development of an initial budget and schedule for the Project;
 - e. Assisting in the development of a project governance plan outlining the duties and responsibilities of the architect, general contractor, technology designer, and other consultants.
3. **Architect Selection:** Assisting LPS in the selection of architectural firm based on an approved project delivery method. Activities may be comprised of the following:
 - a. Assisting LPS and its legal counsel with drafting and delivering request for proposals (RFPs) to prospective bidders;
 - b. Analyzing proposals and qualifications and preparing an executive summary in a comparative format;
 - c. Participating as an advisor to LPS in interviews of the prospective firm(s); and
 - d. Facilitating LPS's selection committee in formulating a recommendation regarding the selection of architectural firm(s) for the Project.

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4. **Architect Contract Negotiation:** Assisting LPS and its legal counsel in the development of final architectural contract(s) that identify the proposed staffing, scope of services, compensation, and other terms and conditions. Activities may be comprised of the following:
- a. Assisting in developing a defined scope of services for the architect's responsibilities for the Project;
 - b. Identifying instruments of service that provide for LPS's future use of same;
 - c. Assisting in developing a schedule that the architect will adhere to through the schematic design, design development, construction documents, bidding, construction administration, and closeout phases of the Project;
 - d. Developing and implementing a document review process that allows LPS and its vendors time for review and comments;
 - e. Developing invoicing and payment process to align with LPS's Project draw schedule;
 - f. Considering and recommending options to LPS regarding the establishment of a design contingency to reduce LPS's risk in regard to errors and omissions costs;
 - g. Assisting in establishing compensation and terms and conditions in line with current market conditions;
 - h. Assist in conducting the same or a similar process, as outlined above, for the following other required consultants and vendors, as may be appropriate:
 - i. Geotechnical and material testing;
 - ii. Environmental consulting;
 - iii. Technology/Security designer;
 - iv. Commissioning agent;
5. **Design Process Review:** Throughout the design process, assisting and advising LPS regarding the progress of the Project's design. Activities may be comprised of the following:
- a. Monitoring the architect's progress and conformance to the established Project schedule throughout the design process
 - b. Scheduling and attending progress meetings and producing meeting minutes;
 - c. Facilitating the selection of finishes (flooring, ceilings, wall coverings, etc.);
 - d. Comparing cost estimates produced by the design team to the Project budget;
 - e. Reviewing design to promote consistency with the original Project scope;
 - f. Assisting LPS, the architect, general contractor and other vendors in an ongoing value-engineering process to help identify alternative construction methods or materials in order to reduce cost and/or construction time;
 - g. Facilitating the Project team's constructability reviews and reviewing cost analyses as applicable;
 - h. Updating the Project budget and schedule to reflect the impact of a particular design and/or design decision based on information from LPS and the Project team;

- i. Assisting LPS and the Project team in defining the scope for phased construction for the Project;
- j. Assisting LPS and the Project team in determining procurement methods for major long-lead equipment such as air handling units, emergency generators, electrical transformers, and switchgear;
- k. Facilitating the coordination of information technology design as it relates to the interface of architectural, mechanical, and electrical systems;
- l. Assisting LPS in evaluating alternative systems and building products based on information provided by the Project team regarding to material and labor availability in the local marketplace; and
- m. Reviewing invoices of the architect and others, as applicable, on behalf of LPS.

Phase II - Construction: Bid / Award through Project Closeout

6. **General Contractor Selection:** Assisting LPS in the selection of a general contractor. Activities may be comprised of the following:
 - a. Assisting LPS with drafting and delivering RFQs/RFP's to prospective bidders;
 - b. Assisting LPS with reviews for compliance with competitive bidding requirements, including but not limited to bid advertising;
 - c. Participating as an advisor to LPS in pre-bid conferences;
 - d. Analyzing proposals and qualifications and preparing an executive summary in a comparative format;
 - e. Participating as an advisor to LPS in interviews with the prospective firm(s); and
 - f. Providing a recommendation to LPS regarding the selection of a general contractor for the Project.
7. **General Contractor Contract Negotiations:** Assisting LPS and its legal counsel in the development of a final general contractor contract that clearly identify the Project team, scope of work, schedule, compensation, and terms and conditions. Activities may be comprised of the following:
 - a. Assisting LPS and its Project team in developing a defined scope of services;
 - b. Assisting LPS and its Project team in developing a phasing schedule;
 - c. Assisting LPS in developing a process for reviewing contract changes (including change orders and other scope changes) that helps to mitigate and reduce LPS's risk;
 - d. Assisting LPS in developing an invoicing and payment process to align with LPS's Project draw schedule;
 - e. Assisting LPS in defining allowable general conditions items, personnel costs, and reimbursable costs and the propriety of establishing a not-to-exceed amount for the same;
 - f. Assisting LPS in developing a scheduling process that provides information to LPS and its vendors; and

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- g. Assisting LPS in establishing compensation and terms and conditions that are in line with current market conditions.
8. **Construction Process Review:** Assisting LPS in tracking Project's progress once the construction professionals have been selected and communicate progress to LPS. Activities may be comprised of the following:
- a. Assisting LPS in obtaining permits and approvals;
 - b. Coordinating and attending weekly construction progress meetings;
 - c. Tracking conformance to a Project milestone schedule and detailed construction schedules from the general contractor;
 - d. Tracking Project expenditures and cash flow based on information provided by the Project team;
 - e. Assisting with tracking change orders and issue resolution, including assisting in developing an accountability log that will be used for change orders issued for the Project that will indicate the source, cost, and time of change orders (e.g., field conditions, owner-initiated, architect-initiated, general contractor-initiated, etc.);
 - f. Assisting with tracking the Project budget, including expenses to date versus total budget, and remaining projected costs provided by the Project team;
 - g. Preparing periodic Project status reports for LPS's review and use;
 - h. Assisting LPS with coordinating vendor activities with the Project team and other applicable construction participants;
 - i. Reviewing payment applications, waivers, and sworn statements;
 - j. Assisting LPS and the Project team with tracking the collection of insurance certificates and surety bonds from contractors and others in accordance with applicable contractual requirements; and
 - k. Assisting the Project team in making recommendations for payment.
9. **Move Coordination:** Assisting LPS in identifying the requirements to relocate and move staff and equipment to allow construction to proceed and reduce interruption of work flow and down time. Activities may be comprised of the following:
- a. Assisting LPS with identifying and prequalifying move vendors, including drafting and distributing an RFP to prospective bidders;
 - b. Assisting LPS with the coordination of moving logistics for LPS staff to facilitate construction and to limit disruptions to operations;
 - c. Assisting LPS and its legal counsel in the development of final moving contracts;
 - d. Assisting LPS in coordinating the removal and placement of furniture, equipment, and instructional materials prior to construction and upon completion of the Project; and
 - e. Assisting LPS in the development of phasing and schedule for occupancy activities.
10. **Building Startup and Project Closeout:** Assisting LPS in monitoring the Project team's progress towards the Project's close-out. Post-construction services typically commence after

construction is substantially complete and are generally continue for two (2) to three (3) months after opening the facility. Activities may be comprised of the following:

- a. Reviewing punch-list items and assisting with monitoring their completion;
- b. Assisting in the coordination of the delivery of warranties and guarantees certificates;
- c. Assisting LPS in obtaining final release waivers of liens and sworn statements;
- d. Assisting LPS and the Project team in the coordination of building systems testing;
- e. Assisting LPS in obtaining certificates of occupancy;
- f. Assisting the Project team in coordinating record drawings and operational and maintenance manuals; and
- g. Assisting LPS in scheduling training for its staff on building systems.

Exhibit B

Terms and Conditions

Upon execution of PMC's proposal dated 05.06.2020, this Exhibit B shall be incorporated into the Agreement between LPS and PMC.

1. PMC'S SERVICES:

- 1.1. PMC's services (the "**Services**") include the consulting services designated on Exhibit A to the Agreement and additional services, if any, performed by PMC in connection with its engagement under the Agreement. PMC shall perform the Services in accordance with the Terms and Conditions in this Exhibit B.
- 1.2. If PMC determines that additional services are necessary or advisable in the interest of LPS, PMC may notify LPS. PMC shall be compensated on an equitable basis for additional services performed.
- 1.3. PMC and LPS acknowledge that PMC shall have no authority, express or implied, to enter into written or oral agreements on behalf of LPS, to take any other actions with respect to LPS's Project or the business affairs of LPS, or to commit or otherwise obligate LPS in any manner whatsoever, without the prior written approval of LPS. The Services provided by PMC are inherently advisory in nature. PMC shall have no responsibility for the management decisions or the management functions of LPS or its Project.

2. LPS'S RESPONSIBILITIES:

- 2.1. LPS shall designate a representative with authority to act on LPS's behalf to be the contact person for purposes of the communications between LPS and PMC regarding PMC's Services.
- 2.2. LPS shall provide full information to PMC regarding LPS's requirements as necessary for the performance of PMC's Services.
- 2.3. LPS shall provide information, review documents provided by PMC, and render decisions relating to PMC's Services on a timely basis so as not to delay the performance of PMC's Services.
- 2.4. LPS shall engage third parties to provide services, including by way of example, surveyors, testing consultants, engineers, attorneys and risk management consultants, as reasonably required for the performance of PMC's Services.
- 2.5. LPS shall obtain all permits required for LPS's use and operation of the Project facilities and systems which are the subject of this engagement, including, by way of example, air and water discharge permits for operation of manufacturing process equipment.
- 2.6. LPS represents that LPS has obtained, or will obtain, adequate financing for the project/transaction which is the subject of this engagement and that the required funds will be available on a timely basis. LPS acknowledges that LPS's failure to timely provide necessary funds as required may adversely affect the cost and schedule for the Project.

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- 2.7. LPS shall pay PMC for Services in accordance with payment terms in the Agreement and these Terms and Conditions.
 - 2.8. LPS agrees to report promptly in writing to PMC any default or defect in PMC's services or non-conformance with any provision of this agreement.

3. PMC'S RESPONSIBILITIES:

- 3.1. PMC shall perform the Services in accordance with the standard of professional skill and care exercised by other consultants performing similar services under similar circumstances.
- 3.2. PMC does not warrant or guarantee the outcome of project pro formas, budgets or other financial projections developed by PMC for use in connection with its Services. Budgets, cost estimates, schedules, and financial projections prepared by PMC represent PMC's judgment as a consultant. It is recognized, however, that neither PMC nor LPS has control over the cost of labor, materials or equipment, market conditions, contractors' methods of determining bid prices or other competitive bidding or negotiating conditions. PMC cannot and does not warrant or represent that the outcome of bids or negotiated prices will not vary from any project budget proposed, established or approved by LPS, or from any cost estimate, projection or evaluation prepared by PMC.
- 3.3. PMC shall not be responsible for the failure of engineers, architects, general contractors, subcontractors, vendors, attorneys, or other consultants to carry out their respective duties and obligations to LPS. PMC is not responsible for the performance of any party not employed directly by PMC.
- 3.4. PMC's Services do not include professional architectural or engineering services. PMC shall not be responsible for the design of any project, for any errors, omissions or other deficiencies in the construction drawings and specifications for a project, for any other error or omissions of architects or other design professionals, if any, in connection with a project, or for the failure of the construction drawings and specifications for a project to comply with the requirements of LPS or LPS's landlord or subtenants or with applicable codes or legal requirements. It shall be the responsibility of LPS's architect, not PMC, to identify building code and other legal requirements pertaining to the design of a project for LPS.
- 3.5. PMC shall not be responsible for construction means, methods, techniques, sequences and procedures, and safety programs and measures employed by contractors or others in the performance of their contracts, and shall not be responsible for the failure of any contractor or supplier to carry out work in accordance with the construction drawings and specifications or other contract requirements.
- 3.6. Any acts of PMC in providing consultation, advice and/or recommendations to LPS regarding the performance or the default of LPS's architect, contractor(s), vendors or other consultant(s), shall

not be deemed to be the assumption by PMC of management or control of the architect, contractor(s), vendors or consultants or of LPS's project.

- 3.7. PMC shall have no responsibility for budgets, cost estimates or project costs; the acts or omissions of consultants, engineers, architects, contractors, attorneys or others; and/or compliance of the facility or facilities with building codes and other laws.
- 3.8. PMC is not an attorney at law, and the Services provided by PMC exclude professional legal services. If the scope of PMC's Services includes assistance with the negotiations of agreements on behalf of LPS, such agreements shall be subject to LPS's approval. LPS shall provide for the review of such agreements by LPS's attorneys and insurance consultants as deemed to be appropriate by LPS.

4. COMPENSATION:

- 4.1. For the performance of Services, LPS shall compensate PMC as provided in the Agreement. Unless provided otherwise in the Agreement, PMC shall submit invoices for Services rendered by PMC to LPS. All invoices shall be prepared in accordance with the compensation terms in the Agreement and LPS agrees to pay invoice within thirty (30) days after receipt thereof; provided, however, that in the event LPS disputes the accuracy for any invoice prepared and presented, payment for the portion which is disputed by LPS may be withheld until such dispute is resolved. Time is of the essence with respect to LPS's payment obligations hereunder. All billings not in dispute are payable within thirty (30) days of receipt of invoice. Interest at the rate of one and one half (1-1/2%) percent per month shall be added to delinquent payment amounts.
- 4.2. PMC shall be entitled to additional compensation if any of the following occur: increase in the Scope of Services designated on Exhibit A or other changes in the scope of PMC's Services; change in any of the key assumptions of this engagement listed in the Agreement; change in the time period for performance of PMC's Services; change in the nature of the Services required to be performed, including changes that require more effort or resources of PMC; change in LPS's budget, schedule, delivery method, or scope or nature of the transaction or project; default of LPS's architect, contractor(s), consultants or vendors; delay or interruption in the transaction or project; failure of to follow the advice and recommendations of PMC; or failure of to provide adequate financing for the project/transaction on a timely basis.
- 4.3. Should PMC be required to provide evidence, prepare for hearings, evaluate claims, assist in the review or preparation of claims or defenses, or otherwise participate or assist in the resolution of legal disputes either: (i) on behalf of LPS, or (ii) resulting from PMC's role in providing Services to LPS, unless caused by PMC's gross negligence or intentional misconduct), PMC will be reimbursed on a "Time and Materials" basis, which is defined to mean the numbers of hours of Services performed by PMC's personnel multiplied by PMC's then current standard hourly rates ("Standard Hourly Rates") plus the direct cost incurred by PMC in performance of such services.
- 4.4. In the event LPS fails to pay PMC any amount due to PMC under this Agreement, and if such failure to pay continues for a period of fifteen (15) days following written notice of

non-payment, PMC may, without prejudice to any other remedy PMC may have, suspend all or some of PMC's Services until all amounts due to PMC have been paid by LPS.

- 4.5. Any taxes or fees, enacted by local, state or federal government subsequent to the date of this agreement, and based on gross receipts or revenues will be added to the amounts due under this agreement, in accordance with any such fees or taxes.

5. LIMITATION ON LIABILITY:

- 5.1. In no event shall LPS or PMC be liable to the other for special, incidental or consequential damages, including without limitation, loss of anticipated profits, revenue or use of capital, loss of use of leased spaces, and penalties imposed under the leases, whether based on contract, tort, negligence, strict liability or otherwise; provided, however, that the foregoing shall not limit or preclude a claim of PMC with respect to compensation due to PMC under this Agreement.

- 5.2. Not Used

- 5.3. Not Used

6. ENVIRONMENTAL CONDITION OF SITE:

- 6.1. PMC's Services shall not include any services or responsibility (including for the identification, collection of samples, testing of samples, abatement, or disposal) related to known or unknown Constituents of Concern. Constituents of Concern shall include: (i) asbestos, (ii) petroleum, (iii) radioactive material, (iv) polychlorinated biphenyls (PCBs), (v) hazardous waste, (vi) lead, or (vii) any other substance, product, waste, or other material listed under any other federal, state, or local (meaning any applicable jurisdiction) statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards concerning, any hazardous, toxic, or dangerous waste, substance, or material. The parties further acknowledge that PMC is not, and shall not be required to be, an "owner," "arranger," "operator," "generator," or "transporter" of any Constituents of Concern.

7. MISCELLANEOUS:

- 7.1. Nothing contained in this Agreement shall create a contractual relationship or a cause of action in favor of a third party against either LPS or PMC. The Services performed by PMC under this Agreement are for the sole benefit of LPS and shall not be relied upon by other parties.
- 7.2. PMC and LPS may not assign its rights under this Agreement without the prior written consent of the other.
- 7.3. Except as necessary for performance of this Agreement, it is agreed that both parties shall maintain strict confidentiality of any and all proprietary information, documents and processes of the other, such as programs, project deliverables, plans, procedures, methods, and data identified as confidential, utilized in connection with the project or transaction; and, shall not divulge the same to others or otherwise use it now or at any time after the termination of this

Agreement, without the express written consent of the other party. This Agreement and the terms and conditions of this Agreement shall be treated as confidential by both PMC and LPS. PMC shall be entitled to use LPS's name, photographs, renderings, narrative descriptions and similar materials relating to PMC's Services in connection with publications, awards, press releases, and marketing materials.

- 7.4. Provided that LPS has paid all amounts due to PMC under this Agreement, LPS shall be entitled to use all studies, reports, summaries, cost estimates, budgets, and other documents prepared by PMC in the performance of its Services; provided, however that LPS shall not disclose or permit other parties to use such information and documents. PMC shall be entitled to retain copies of such documents for PMC's files. Notwithstanding the foregoing, PMC shall retain all ownership and intellectual property rights in, and LPS shall not use or permit the use by others of, all standard contract provisions and modifications, financial analysis programs and similar tools developed by PMC for PMC's use generally and not developed solely for purposes of this engagement.
- 7.5. Any disputes between LPS and PMC relating to PMC's Services or this Agreement shall be governed by the laws of the State of Michigan. Any controversy, dispute, or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration in accordance with the applicable arbitration rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction. In the event of any dispute between the parties arising out of or in connection with this Agreement or these Terms and Conditions, the prevailing party shall be entitled to recover its costs incurred in connection therewith, including reasonable attorneys' fees.
- 7.6. PMC and LPS shall each maintain insurance coverage as deemed by each to be necessary for its own protection. If PMC provides Services under this Agreement in connection with the construction of a project for LPS, the following shall apply: (i) LPS's general contractor's general liability insurance for such project shall include PMC as an additional insured; and (ii) PMC and LPS shall each waive all rights against each other and the contractors, consultants, agents and employees of the other for any loss or damage, for which property insurance is maintained by the injured party, and PMC and LPS each shall require appropriate similar waivers from their contractors, consultants and agents.
- 7.7. No failure by LPS or PMC to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right, term or remedy for a breach of this Agreement, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition.

8. TERMINATION:

- 8.1. This Agreement may be terminated by LPS upon thirty (30) days prior written notice if PMC is in default under this Agreement and fails to cure such default within such thirty day period. In addition, provided that LPS is acting in good faith, LPS shall be entitled to terminate this Agreement without cause upon thirty (30) days prior written notice to PMC.

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- 8.2. This Agreement may be terminated by PMC upon thirty (30) days prior written notice in the event of any of the following defaults by LPS and failure of LPS to cure such default within such thirty (30) day period: LPS fails to make payment of amounts due to PMC under this Agreement; LPS fails to follow the advice or recommendations of PMC; or LPS otherwise is in default under this Agreement.
- 8.3. If PMC's Services are suspended for more than thirty (30) consecutive days, PMC may terminate this Agreement upon thirty (30) days prior written notice to LPS.
- 8.4. In the event this Agreement is terminated for any reason, PMC shall be compensated on an equitable basis for services performed as of the effective date of termination in accordance with this Agreement. Upon any such termination and payment of amounts due to PMC, the parties hereto shall be released of any and all further liability hereunder.
- 8.5. This Agreement shall commence upon execution of the Agreement between PMC and LPS and shall continue in effect for the term described in the Agreement, as may be extended by agreement of the parties, unless terminated sooner under the terms of this Section.

9. THIS AGREEMENT:

- 9.1. LPS and PMC accept the obligations of good faith and fair dealing towards each other with respect to this engagement.
- 9.2. This Agreement includes the proposal executed by PMC and LPS, Exhibit A Scope of PMC's Services, Exhibit B Terms and Conditions, and other documents, if any, listed in the Agreement. This Agreement sets forth the entire, integrated agreement between PMC and LPS, supersedes all prior proposals, negotiations, representations and agreements, whether written or oral, between PMC and LPS, and shall govern the relationship between PMC and LPS with respect to all Services provided by PMC to LPS in connection with the engagement described in the Agreement. This Agreement may be amended only by written instrument signed by both PMC and LPS.
- 9.3. Neither this Agreement nor PMC's performance of Services shall be deemed to create a partnership or joint venture between LPS and PMC.
- 9.4. The parties hereto have participated jointly in the negotiation and drafting of this Agreement and have been afforded the opportunity to be represented by their own legal and seek advice of their rights from such counsel in connection with this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as jointly drafted by the parties hereto and no presumption of burden of proof is to arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.