

**FIRST AMENDMENT TO AGREEMENT
FOR
CAPITAL PLANNING AND OWNER’S REPRESENTATIVE SERVICES**

THIS FIRST AMENDMENT TO AGREEMENT FOR CAPITAL PLANNING AND OWNER’S REPRESENTATIVE SERVICES (the “First Amendment”), is made and entered into on November 20, 2023 (“Effective Date”), is attached to and made part of the Agreement for Capital Planning and Owner’s Representative Services between such parties, dated as of March 1, 2023 (collectively the “Agreement”) by and between **PLANTE MORAN REALPOINT, LLC** (“PMR”) and **LIVONIA PUBLIC SCHOOLS** (“LPS”). PMR and LPS may each be individually referred to here as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, PMR and LPS entered into the original Agreement for the purposes of PMR providing planning and Owner’s Representative Services for LPS’ 2021 Bond Issue; and

WHEREAS, the Parties desire to expand PMR’s Services to cover LPS’ Sinking Fund Program; and

WHEREAS, PMR and LPS desire to modify the terms and conditions of the Agreement, based on the modifications contained in this First Amendment.

NOW THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. **Recitals.** The above Recitals are true and correct and are hereby made part of this First Amendment.
2. **Changes to the Agreement.** PMR and LPS hereby agree to amend the Agreement as follows:
 - a. **Scope of Services:** In addition to PMR’s Services for the 2021 Bond Issue, PMR will provide Owner’s Representation Services as described in **Exhibit A** to the Agreement for LPS’ Sinking Fund Program (the “Sinking Fund Program”). LPS anticipates spending approximately Eighteen Million (\$18,000,000.00) to Twenty-Four Million (\$24,000,000.00) Dollars of Sinking Fund monies over the next Thirty Six (36) months for its Sinking Fund Program. The Parties shall periodically memorialize in writing the projects and Cost Of Work comprising the Sinking Fund Program for which PMR is providing Owner’s Representation Services.
 - b. **Duration:** The Owner’s Representation Services for the Sinking Fund Program will commence on January 1, 2024 and will continue for Thirty Six (36) months until December 31, 2026 (“Term”), unless extended by the Parties or terminated earlier, in accordance with the provisions of the Agreement. Notwithstanding the above, in the event the Sinking Fund Projects started during the Term extend beyond the Term of this First Amendment, the Parties may mutually agree in writing to extend the Term of the Agreement.
 - c. **Compensation:** For Owner’s Representative Services for LPS’ Sinking Fund Program, LPS shall pay PMR a Fixed Fee of Five Hundred and Forty Thousand and 00/100 Dollars (\$540,000.00) due in Thirty Six (36) equal monthly installments of Fifteen Thousand and 00/100 Dollars (\$15,000.00), plus actual Reimbursable Expenses, if any, invoiced at actual cost. Notwithstanding the above, in the event the 2024 through 2026 Sinking Fund Projects extend beyond the term of this First Amendment, PMR shall provide its Services to LPS without any additional compensation in order to complete the Sinking Fund Projects, unless otherwise agreed to by the Parties in writing.

d. Terms and Conditions: The Terms and Conditions of **Exhibit B** are amended as follows:

i. Section 1.3 is replaced with:

PMR's Services are inherently advisory in nature. PMR has no responsibility for, nor do its Services include any management decisions or management functions of LPS in connection with this engagement to provide the Services outlined herein. PMR and LPS acknowledge that PMR 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' projects, transactions, or other business affairs of LPS or to commit or otherwise obligate LPS in any manner whatsoever. Further, LPS acknowledges that LPS is responsible for all such management decisions and management functions; for the evaluation of the adequacy and results of LPS' Services, and for making decisions and the results of those decisions with regard to the assistance, advice, recommendations, and reporting provided by LPS in connection with its Services; and for establishing and maintaining internal controls, including monitoring ongoing activities, in connection with this Agreement.

ii. Section 2.1 is replaced with:

LPS' Superintendent, or his/her designee ("Designated Representative"), shall have the right to prioritize the Services of PMR in consultation with PMR and PMR agrees that its Services shall maintain the overall Sinking Fund Program schedule agreed to by the Parties. LPS represents that its Designated Representative has the necessary skill, knowledge, experience, and authority to act on LPS' behalf to be the contact person for purposes of the communications between LPS and PMR and to provide direction to PMR regarding the Project and PMR's Services.

iii. The following Section 2.10 is added:

LPS will identify in writing to PMR all funding sources and any funding related requirements that may impact the administration or implementation of the Project(s).

iv. Section 3.1 is replaced with the following:

PMR shall perform its Services in a reasonably prompt manner in accordance with the standard of professional skill and care exercised by other owner's representatives of recognized experience and expertise similar to PMR in the design and construction of public school facilities.

v. Section 10.2 is replaced with the following:

PMR shall indemnify and hold harmless LPS, its Board of Education, its Board Members, in their official and individual capacities, its administrators, employees, agents, contractors, successors and assigns, from and against any and all claims, counter claims, suits, debts, demands, actions, judgments, liens, costs, expenses, damages, injuries and liabilities, including reasonable attorney's fees and reasonable expert witness fees, to the extent caused by: (i) the negligent acts or willful misconduct of PMR, its officers, directors, employees, successors, assigns, contractors, consultants and agents; (ii) any breach of the terms of this Contract by PMR, its officers, directors, employees, successors, assigns, contractors, consultants and agents; (iii) any violation or breach of any applicable Federal, State or local law, rule, regulation, ordinance, policy and/or licensing and permitting requirements applicable to providing the services; or (iv) any breach of any written representation or written warranty, made by a representative of the PMR with authority to bind the PMR (a Partner) under this Agreement. This Paragraph shall survive the expiration

or earlier termination of this Agreement and shall not be limited by PMR's insurance obligations contained in this Agreement.

3. **Defined Terms.** All defined terms in this First Amendment shall have the same meanings as set forth in the Agreement, unless the context clearly requires otherwise.
4. **Amendment Controls.** In the event of any conflict or inconsistency between the terms and conditions of this First Amendment and the original Agreement, the terms of this First Amendment shall control.
5. **Agreement Remains in Force.** The Agreement is hereby ratified and reaffirmed, and shall continue in full force and effect in accordance with the provisions thereof except as modified by this First Amendment.
6. **Partial Invalidity.** If any term, covenant, condition or provision of this First Amendment or the Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.
7. **Entire Agreement.** This First Amendment and the Agreement constitutes the whole agreement between the Parties with respect to the subject matter contained herein and there are no terms other than those contained herein. No modification to the Agreement, including this First Amendment, shall be valid unless in writing and signed by the Parties hereto.
8. **Counterparts.** To facilitate execution of this First Amendment, the Parties may execute this First Amendment in counterparts and exchange signatures by facsimile transmission or by electronic delivery of a PDF copy of the executed First Amendment, which facsimile or PDF copy shall be deemed valid and binding.

This First Amendment is entered into as of the day and year first written herein but shall not be effective unless and until it is signed by the Parties.

By: _____

By: _____

Name: Paul Theriault

Name: Alison Smith

Title: Partner

Title: Chief Financial Officer

Date: _____

Date: _____

END OF DOCUMENT

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