

OWNER'S REPRESENTATIVE SERVICES AGREEMENT

THIS OWNER'S REPRESENTATIVE SERVICES AGREEMENT (this "Agreement") is made as of the 18th day of December, 2013 (the "Effective Date"), by and between THE COUNTY OF CUYAHOGA, OHIO, a body corporate and politic and a political subdivision of the State of Ohio organized and existing under the Charter of Cuyahoga County effective January 1, 2010, as same may have been amended, modified, and supplemented to the Effective Date (the "County"), and PROJECT MANAGEMENT CONSULTANTS LLC ("Consultant"). The County and Consultant agree as follows:

1.0 SERVICES

1.1 Consultant shall act as the County's representative during all phases of the development, design and construction of the building and other improvements comprising the new convention center hotel ("Project"). In general, Consultant shall act as an extension of the County's staff and shall facilitate and monitor the activities of Cooper Carry, Inc. ("Criteria Architect"), Turner Construction Company and its joint venture partners ("Design-Builder"), Hilton Hotels Worldwide ("Hotel Operator"), and other architects, engineers and subcontractors ("Subcontractors") and other key Project participants during the development, design and construction phases of the Project. Consultant shall coordinate its services hereunder with the services of such other third party service providers (*e.g.*, design consultants, lawyers, architects, engineers) as the County may designate from time to time. Consultant's scope of services is more particularly described in **Exhibit A**, attached hereto and made a part hereof (the "Services"). Consultant shall perform the Services in a timely and professional manner. Consultant's Services shall be coordinated by Jeffrey Appelbaum, who shall be Consultant's primary liaison to the County. Consultant's primary personnel who will be providing Services are listed in **Exhibit A**.

1.2 Consultant's scope of services does not include any design, construction management or construction work. Consultant shall not have control over or charge of, and shall not be responsible for, the design of the Project, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are the responsibility of Criteria Architect, Design-Builder, Hotel Operator and Subcontractors, as the case may be. Consultant shall not be responsible for schedules of the Criteria Architect, Design-Builder, Hotel Operator or Subcontractors, or their failure to carry out their work or services in accordance with their respective agreements.

1.3 Attached as **Exhibit B** is a list of the subconsultants that Consultant will use in performing the Services. Consultant shall not change any such subconsultants without the prior written consent of the County, nor will Consultant engage other subconsultants unless the County shall have approved the same in writing. Notwithstanding any subcontract or delegation of the Services as permitted above, Consultant shall remain fully responsible for all obligations hereunder, including the Services provided by Consultant subconsultants.

1.4 Consultant is wholly owned by Thompson Hine LLP, but is a consulting business and does not engage in the practice of law.

2.0 COUNTY'S RESPONSIBILITIES

2.1 The County shall furnish all legal, accounting and insurance services for the Project through separate contracts. Design, engineering, construction management and construction services are being provided by Criteria Architect, Design-Builder, architects, consultants or engineers pursuant to their separate contracts with the County.

3.0 DEFAULT/TERMINATION FOR CONVENIENCE/ANNUAL APPROPRIATIONS

3.1 This Agreement may be terminated by either party should the other party fail to cure any material default in the performance of its obligations hereunder within fourteen (14) days of receipt of written notice from the other party specifying the nature of the material default. In addition to the right of termination of this Agreement, the non-defaulting party may recover any damages it may be entitled to at law or in equity by reason of the other party's default, subject to the limitation of liability set forth in Section 8.1 hereof.

3.2 This Agreement may be terminated by the County, without cause and at the County's convenience, upon not less than fourteen (14) days' written notice from the County to Consultant. Upon such termination for convenience, the County shall pay to Consultant (a) its monthly compensation as set forth in **Exhibit C** through the month of the termination, (b) plus any outstanding reimbursable expenses incurred, and (c) plus an equitable termination fee to the extent that Consultant can reasonably demonstrate that its actual costs incurred in providing Services through the date of termination materially exceed the compensation paid under clause (a) hereof, but only if Consultant is terminated during the first 18 months of service. Consultant shall not, in any event, be entitled to lost profits on unperformed Services. In no circumstance, however, may the combined total amount of (1) all compensation already paid under the contract as of the date of termination plus (2) the total combined amounts under clauses (a), (b), and (c) exceed the maximum contract value outlined in Section 14 of this Contract.

3.3 All of the County's obligations under this Agreement are contingent upon the County Council's appropriating the funds on an annual basis necessary for the continuation of this Agreement in any contract year. In the event the funds necessary for the continuation of this Agreement are not appropriated or approved, the County will notify the Consultant of such occurrence in writing. This Agreement shall thereafter terminate and be rendered null and void on the last day of the last fiscal period for which appropriations were made. Such termination is made pursuant to and in accordance with the terms of this Agreement (including, without limitation, Section 3.2 hereof) and shall not be considered to be a breach or default on the part of the County, and shall not result in the County having liability to the Consultant or any third party for any penalty, liability or any other expense.

4.0 INDEMNIFICATION

4.1 Consultant hereby indemnifies, defends and holds harmless the County and its respective officers, officials, directors, board members, employees, and agents, from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses

(including attorney's fees and other costs of defense), of any nature, kind or description, that result from (a) the negligent acts or omissions of Consultant, including all of its officers, owners, principals, subcontractors, employees, and agents, or (b) breach or default by Consultant under any terms or provisions of this Contract.

4.2 Consultant acknowledges that, as a political subdivision of the State of Ohio, the County does not indemnify any person or entity. Consultant agrees that no provision of this Contract or any other contract or agreement between Consultant and the County may be interpreted to obligate the County to indemnify or defend Consultant or any other party.

5.0 COUNTY REPRESENTATIVE

5.1 The County Representative shall be the Director of the Department of Public Works or such other individual as may otherwise be designated from time to time in writing by the County to Consultant. The County Representative shall be the County's agent in regard to the administration of Consultant's performance of its Services. Whenever action is to be taken, or approval or acceptance or information given or taken, to or by the County hereunder, such action shall be deemed to have been taken or given only if and when so taken or given by the County Representative.

6.0 INDEPENDENT CONTRACTOR

6.1 Consultant's status shall be that of an independent contractor and not that of an agent or employee of the County. Consultant shall not hold itself out as, nor claim to be acting as, an employee or agent of the County. Consultant is not authorized to, and shall not, make or undertake any agreement, understanding, waiver or representation on behalf of the County.

6.2 Consultant shall cause its employees and agents to observe the working hours, working rules, security regulations and holiday schedules of the County while working on the County's premises and to perform their respective duties in a manner that does not unreasonably interfere with the County's business and operations.

6.3 Consultant shall, at its own expense, comply with all applicable workers' compensation, unemployment insurance, employer's liability, minimum wage and other federal, state, county and municipal laws, ordinances, rules, regulations and orders relating to Consultant's employees.

7.0 PAYMENT

7.1 Invoices for payment shall be submitted monthly by Consultant to the County. Payment shall be made within thirty (30) days after the County's receipt of an invoice.

8.0 INSURANCE

8.1 Consultant shall carry and maintain at its own cost liability insurance that shall include the following requirements: (a) Workers' compensation and employer's liability insurance to the full extent as required by applicable laws and employer's liability insurance with minimum limits of \$1,000,000; (b) commercial general liability coverage, including contractual liability

and public liability coverage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate; and (c) business automobile liability insurance covering owned, non-owned and leased vehicles with limits not less than \$1,000,000 combined single limit. Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

8.2 Consultant shall also purchase and maintain professional liability insurance for its legal liability arising out of the performance of Consultant's professional services under this Agreement. Such insurance shall be in the minimum limits of \$1,000,000 per claim/annual aggregate. Such insurance may be written on either an occurrence or claims-made basis. However, if written on a claims-made basis, the claims-made retroactive date on the policy shall be prior to the commencement of any activity related to this Agreement. Consultant shall keep such insurance in effect for at least two (2) years after completion of the Services.

8.3 Upon the County's request, Consultant shall provide the County with certificates of insurance evidencing the coverages and amounts set forth above.

8.4 Requirements for the insurance coverage

1. The insurance policies of the Consultant required for this Agreement, with the exception of the Professional Liability Insurance, shall each name the "County of Cuyahoga, Ohio and its employees" as an Additional Insured and shall contain the following provisions:
 - a. Thirty (30) days prior notice of cancellation or material change;
 - b. A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.
2. The insurance required for this Agreement shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A VII or above.
3. These insurance provisions shall not affect or limit the liability of the Consultant stated elsewhere in this Contract or as provided by law.
4. The Consultant shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages outlined above with respect to products, services, work and/or operations performed in connection with this Agreement with limits of liability consistent with the industry standards for their work or service.
5. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County. If such modifications result in any increased cost to Consultant, then the County shall reimburse the Consultant for such increased cost.

6. The Consultant shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Agreement.

9.0 LIMITATION OF LIABILITY

9.1 Notwithstanding anything herein to the contrary, and to the extent permitted by law, the maximum total liability of Consultant to the County arising out of the Services performed by Consultant shall be limited to \$1,000,000 in total liability. Such limitation of liability will remain in effect regardless of the theory of recovery, whether negligence, strict liability, tort or breach of contract.

10.0 NOTICES

10.1 All notices, demands and other communications hereunder shall be in writing and shall be delivered to or mailed at the addresses set forth below:

1. Notices to the County:

- (a) Cuyahoga County Executive
Courthouse Square – 7th Floor
310 Lakeside Avenue
Cleveland, Ohio 44113
Attn: County Executive
- (b) Cuyahoga County Department of Law
Courthouse Square – 7th Floor
310 Lakeside Avenue
Cleveland, Ohio 44113
Attn: Majeed G. Makhlouf, Director
Fax: (216) 698-2744
- (c) Cuyahoga County Department of Public Works
2100 Superior Viaduct
Cleveland, Ohio 44113
Attn: Bonita G. Teeuwen, P.E.
Fax: (216) 348-3896

2. Notices to Consultant:

Project Management Consultants LLC
3900 Key Center
127 Public Square
Cleveland, OH 44114
Attn: Jeffrey R. Appelbaum, Esq.

Notices shall be deemed delivered upon delivery if personally delivered or three (3) business days after deposited in the US mail or the next business day after deposited with a nationally recognized overnight courier service (such as Federal Express). Either party may change the addresses set forth for it herein upon written notice thereof to the other delivered in accordance with the provisions of this Section.

11.0 ASSIGNMENT

11.1 Neither party hereto shall assign its rights or obligations hereunder without the other party's prior written approval, except to the extent that the County is required to assign its rights hereunder in connection with its financing of the Project.

12.0 MISCELLANEOUS

12.1 The Article and Section headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof.

12.2 This Agreement shall be governed by and construed under the laws of the State of Ohio without regard to conflicts of law provisions. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Agreement, and each party consents to the exclusive jurisdiction of such courts. Consultant hereby agrees not to challenge any provision in this Agreement, including this Governing Law and Jurisdiction provision, and not to attempt to remove any legal action outside of Cuyahoga County for any reason.

12.3 All schedules, attachments or exhibits, if any, referred to in or attached to this Agreement are and shall be deemed to be an integral part of this Agreement as if fully set forth herein.

12.4 This Agreement, together with the schedules, attachments and exhibits referred to herein, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and this Agreement supersedes all prior proposals, agreements, memoranda, understanding, negotiations and discussions, whether written or oral, of the parties in connection with the subject matter hereof.

12.5 No change, amendment or modification of this Agreement shall be binding unless in writing and executed by the party to be bound thereby. This Agreement shall be binding upon and inure to the parties and their respective successors and assigns.

12.6 Consultant recognizes and agrees that no public official or employee of Cuyahoga County may be deemed to have apparent authority to bind the County to any contractual obligations not properly authorized pursuant to the County's Contracting and Purchasing Procedures Ordinance.

12.7 This Agreement shall bind and benefit the parties hereto and, as applicable, their respective owners, members, directors, officers, representatives, successors, and assigns.

12.8 The County's failure to require performance of any provision of this Agreement, or if it requires performance and does not follow through, shall not affect the County's right to require performance at any time thereafter. Additionally, the County's waiver of any breach or default of this Agreement shall not constitute a waiver of any subsequent breach or default or a waiver of the provision itself or any other provision.

12.9 In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as though drafted by both parties, and no presumption or burden of proof shall arise favoring or disfavoring one party by virtue of the authorship of any of the provisions of this Agreement.

12.10 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement (and each amendment, modification and waiver in respect of it) by facsimile or other electronic transmission, including email, shall be as effective as delivery of a manually executed original counterpart of each such instrument.

12.11 If any provision of this Agreement is invalid or unenforceable for any reason, this Agreement shall be divisible as to such provision and the remainder of this Contract shall be and remain valid and binding as though such provision was not included.

12.12 All County contracts, including this Agreement, are subject to all applicable County ordinances, including, but not limited to, the Cuyahoga County Ethics Ordinance, Cuyahoga County Inspector General Ordinance, and Cuyahoga County Contracting and Purchasing Procedures Ordinance. Copies of all County ordinances are available on the County Council's web site at <http://council.cuyahogacounty.us/>.

12.13 All parties hereto acknowledge that County is a political subdivision in the State of Ohio and as such is subject the Ohio Revised Code and other law related to the keeping of and access to Public Records, including any and all applicable Sunshine Laws, open meeting requirements, and retention schedules effecting any and all manner of communication with the County and any and all documents in any format or media.

13.0 TERM

13.1 Unless terminated earlier as pursuant to Article 3 hereof, the term of this Agreement shall be 35 months commencing on November 1, 2013.

14.0 COMPENSATION

14.1 Consultant's compensation shall not exceed \$4,150,000.00 ("Contract Sum"), as set forth on **Exhibit C**, attached hereto and made a part hereof.

15.0 ELECTRONIC; FACSIMILE SIGNATURE

15.1 THE CONSULTANT AGREES ON BEHALF OF THE SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES,

AGENTS OR ASSIGNS, THAT ALL CONTRACT DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. THE CONSULTANT ALSO AGREES ON BEHALF OF THE AFOREMENTIONED ENTITY AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

15.2 Signatures to this Agreement transmitted by facsimile shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an execution original to this Agreement with its actual signature to the other party, but a failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement shall be bound by its own facsimile signature and shall accept the facsimile signature of the other party to this Agreement.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement as of the Effective Date.

THE COUNTY OF CUYAHOGA, OHIO

By: Ed Fitzgerald
Name: Edward Fitzgerald
Title: _____

PROJECT MANAGEMENT CONSULTANTS LLC

By: Jeff Appelbaum
Jeffrey R. Appelbaum, Managing Director

The legal form for the within instruments is hereby approved.

By: Alexand G. Mathews
Date: December 19, 2013

EXHIBIT A

Scope of Services and Consultant's Staff

I. Scope of Services. In general, Consultant shall act as an extension of the County's staff and shall provide such services as are requested by the County Representative, which may include the following:

A. General

1. **Project Communications.** Consultant shall regularly update County Representative, Director of Law, and County Council on Project status and material events that may impact Project scope, schedule or budget. Consultant shall advise the County Representative and County Council of required approvals with as much advance notice as reasonably possible without compromising the overall Project schedule. Consultant shall assist the County in communicating with media, community stakeholders and others as requested.
2. **Project Coordination.** Throughout all phases of the Project, Consultant shall generally oversee coordination of activities among the County, other County consultants, Criteria Architect and Design-Builder. On behalf of the County, Consultant shall attend regularly scheduled Project meetings.
3. **Project Processes and Procedures.** Consultant shall work with County Representative with respect to establishment and implementation of processes and procedures to be utilized in connection with the Project design and construction phases of the Project.
4. **Community Outreach/Economic Inclusion Initiatives.** Consultant shall coordinate the services to be provided by the diversity outreach and economic inclusion consultant.

B. Development Phase Services

1. **Development of Project Approach.** Consultant shall work in conjunction with County representatives, financial, legal and planning consultants, and community stakeholders, including representatives of the City of Cleveland, in the development of a comprehensive Project structure and Project delivery approach.
2. **Selection of Criteria Architect, Hotel Operator, Design-Builder and Other Project Consultants.** Consultant shall work in collaboration with County Representative to establish a process for selection of the Criteria Architect, Hotel Operator, Design-Builder and other key consultants and participate in the selection process for such entities as designated by the County Representative.
3. **Negotiation of Contracts.** Consultant shall work in collaboration with County Representative and Project legal counsel with respect to negotiation of the Criteria Architect, Hotel Operator, Design-Builder and other consultants' agreements as requested by County Representative.

4. Assistance With Respect to Real Estate Transactions. Consultant shall assist the County Representative with respect to evaluation of issues pertaining to property transactions, including negotiations with the City of Cleveland and the Cleveland-Cuyahoga County Port Authority as needed.

5. Project Partnering. Consultant shall implement a Project Partnering process to facilitate Project communications and prompt issue resolution among project stakeholders.

C. Design Phase Services (*Conceptual/Schematic Design, Design Development, GMP Development and Construction Documents*)

1. Confirmation of Project Program, Budget and Schedule. Working in conjunction with the Criteria Architect, Hotel Operator and Design-Builder, Consultant shall confirm agreement as to Project Program, Budget and Schedule.

2. Budget Monitoring & Fiscal Reporting. Consultant shall validate the budgets developed for the Project. Consultant shall develop a cash flow analysis for the Project. Consultant shall monitor the Criteria Architect and Design-Builder to assure that a comprehensive hard and soft cost Master Project Budget is updated and reviewed on a monthly basis and that Project contingencies, allowances, change orders and potential cost impacts to the Project are tracked and reported to the County. Consultant shall assist in the development of a process for monitoring compliance by the Design-Build Team with all agreements for achievement of Project workforce and business inclusion goals.

3. Master Project Schedule. Consultant's design and construction professionals shall work with the County to validate the information proposed by the Design-Build Team in the Master Project Schedule to be prepared by the Design-Build Team.

4. Design Schedule and Progress. Consultant shall attend weekly design status and review meetings with the Design-Build Team and other Project stakeholders to monitor progress and facilitate resolution of issues. Consultant shall coordinate efforts to achieve the County's input and design approvals. Consultant shall advise the County on the progress of the design documents to confirm compliance with the schedule requirements contained in the Project agreements.

5. Design Document Quality Reviews. Consultant shall provide ongoing review of design documents as they are made available and provide comments to the Criteria Architect and Design-Builder as appropriate. In conjunction with the Criteria Architect, the Consultant shall review the Construction Documents for compliance with the design requirements contained in the Project agreements.

6. Design Coordination With Local Utilities. Consultant shall assist the Design-Build Team and the County, as needed, to work cooperatively with Cleveland Public Power, Cleveland Water and Sewer Departments, telephone, internet and cable providers to identify and resolve utility hookup issues.

7. Design Coordination With Permitting Agencies. Consultant shall assist the Design-Build Team in obtaining necessary approvals from the various design approval committees and permitting agencies.
8. Site Utilization Plans. Consultant shall work with the Design-Builder to create logistics plans that minimize adverse impact to public activities on the surrounding streets, sidewalks and neighborhood.
9. Construction Schedule Development. Consultant shall work with the Design-Builder and the County to coordinate the most cost and time effective schedule for commencement, completion and closeout of construction activities.
10. GMP. Consultant shall work with the Criteria Architect, Design-Builder and Hotel Operator to structure a facilitated guaranteed maximum price ("GMP") development process, and represent the County's interests during all phases of GMP development.
11. Management of the County's Consultants. Consultant shall manage and coordinate the efforts of various other consultants that the County may employ for the Project.
12. Establishment and Management of a Design Conflict Resolution Process. Consultant shall work with the Design-Build Team and the County to develop a conflict resolution process to identify potential issues, elevate them to the appropriate level of authority for resolution in a timely manner, and establish parameters and time frames for rapid resolution so that design conflict issues do not adversely impact the Project schedule.
13. Procurement Agent. Consultant shall implement a process for selection of the Procurement Agent who shall be responsible for procurement of FF&E and OS&E for the Project. Consultant shall negotiate the terms and conditions of an agreement with the Procurement Agent, such that the activities of the Procurement Agent will be fully coordinated with the activities of the Criteria Architect, Design-Builder and Hotel Operator.

D. Construction Phase Services (*Construction and Closeout*)

1. Construction Quality Validation. Consultant shall monitor the quality control procedures implemented for the Project and take appropriate steps to obtain from Design-Builder correction of work failing to meet quality standards.
2. Construction Schedule Monitoring. Consultant shall review the Project schedule on a weekly basis and, if a critical path Project delay appears imminent, Consultant shall work with Design-Builder (or other Project Stakeholders who may be involved) to investigate reasonable alternatives for recovery of the Project schedule. The coordination of County activities shall be included in the Design-Builder's Project schedule to avoid issues of insufficient notice from either party regarding joint tasks or coordinated effort.
3. Payment Processes. Consultant shall review submitted cost requisitions and monthly payment requests from the Design-Builder (and other Project participants having contracts with the County, as appropriate) for accuracy of invoicing, documentation of work in place,

appropriate lien waivers and certifications and conformance to any local, minority, disadvantaged, or other business relationship reporting or participation requirements.

4. Budget and Change Control. Consultant shall advise the County on projected estimated values and impacts of costs or changes that may be pending in advance of formal notice from the Design-Builder (or other Project participants), enabling a team review of the validity of the costs and impacts. As part of Consultant's monthly reporting, a cost to date in conjunction with an estimated cost to complete shall be provided.

5. Site Logistics Coordination. Consultant shall work closely with the Design-Build Team to meet the requirements and expectations of the County in adjusting or adapting the site logistics plan in an effort to minimize disruption to the public and/or other County interests.

6. Closeout Documentation. Consultant shall conduct a closeout partnering session at least six months in advance of Project completion to review and confirm all Project closeout and commissioning activities. Consultant shall coordinate closeout activities, including the coordination of substantial and final completion inspections, review and acceptance of as-built drawings and other required closeout documents, contractor training for County staff and establishment of processes for warranty and guarantee work requests.

II. Consultant's Staff

Jeffrey Appelbaum
Ellis Katz
Steven Zannoni
Julie Criscione
Patrick O'Brien
Ryan Sommers
Eric Gonczy

EXHIBIT B

Consultant's Subconsultants

1. Land Studio
2. HDC & Associates
3. Pinnacle Consulting
4. Conventional Wisdom

EXHIBIT C

Compensation

1. **Consultant's Fee.** Commencing on November 1, 2013, Consultant shall be paid a fixed fee of \$100,000.00 per month until September 2016, which fee shall equal the total lump sum amount of \$3,500,000 during the 35-month term of this Agreement.

If the County requests services in addition to those being provided by Consultant under this Agreement ("Additional Services"), then, unless the parties agree to a negotiated fixed sum for a particular Additional Service, Consultant's compensation shall be equal to Consultant's hours actually expended in performing such Additional Services times Consultant's standard hourly rates for Consultant's personnel performing the Additional Service, which rates shall be reviewed and approved by the County in advance of any such work being performed.

2. **Subconsultants and Reimbursable Costs.** In addition to Consultant's Fee in Section 1 above, but subject to an overall limit of \$650,000, Consultant shall be paid the following: (a) the actual approved cost of charges by each subconsultant listed on Exhibit B, plus 5% of the amount invoiced by such subconsultant; and (b) actual costs and expenses incurred (without markup) in providing the Services, including travel outside Cuyahoga County, reproduction of documents, long distance telephone calls, and overnight or courier services pursuant to the attached reimbursable expense policy.

Project Management Consultants LLC – Billing of Disbursements and Charges

Disbursements include all matters in which the firm has incurred an expense for the client. These matters usually involve a receipt by the firm of a bill or statement to be paid by the client, but which, for convenience, is paid by the firm and then billed to the client. In appropriate instances, we may forward a bill to the client for direct payment. Disbursements are billed to the client in the amount of the bill received by the firm. There is typically no increase for any overhead or administrative expense, and no decrease for early payment or other discounts. Below is a list of expenses and the corresponding Project Management Consultants charges.

<u>Cost Type</u>	<u>Charge</u>
Conference Room Usage	No charge
Electronic Legal Research	If LexisNexis: 70% discount from "Gross Amount" plus tax, per Lexis "Standard Per Search Pricing Schedule" * If Westlaw: 70% discount from "Total Charges" plus tax, per Westlaw "Schedule A Pricing" * All other electronic legal research: Actual cost
Duplication / Copying	\$0.20 per page, up to 1,000 copies. Additional copies: 1,000 - 2,999 = \$0.10 per page 3,000 - 3,999 = \$0.09 per page 4,000 - 4,999 = \$0.08 per page 5,000 - 5,999 = \$0.07 per page 6,000 and above = \$0.06 per page
Facsimile	\$1.00 per page
Postage	No charge for ordinary mailings. Actual cost for single mailings with postage above \$1.00 and for Certified, Registered or Special Mail, or Bulk Mailings
In-House Meals	Actual cost (if applicable)
Local Delivery	Actual cost for third party courier and messenger service. Out of pocket costs only if using firm personnel
Overnight Delivery	Actual cost
Local Travel Expenses	Actual cost for tolls, parking, etc. IRS stated rate for mileage in excess of commute
Out of Town Travel	Actual cost of lodging, meals, transportation, etc. or mileage at IRS stated rate
Secretarial & Word Processing	No charge
Secretarial Overtime	No charge
Overtime Related Expenses - Transportation, Meals, etc.	No charge
Storage of Files	No charge
Telephone	No charge for local and long distance. Conference call and off-site (e.g. hotel) charges at actual cost

* This approximates the firm's negotiated contract discount.