

REQUESTED COMMISSION ACTION:

Consent Ordinance Resolution Consideration/
 Discussion Presentation

SHORT TITLE A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND LANSING MELBOURNE GROUP, LL FOR OWNER'S REPRESENTATION FOR CONSTRUCTION OF THE PIER GARAGE; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

Staff is seeking City Commission authorization to execute a Resolution approving an amendment to the agreement with Lansing Melbourne LLC (LM). When approved, the amendment will increase the original contract by \$55,560.96 (from \$283,750.00 to \$339,310.96). The amendment is necessary to offset the costs of additional 689 hours of professional services necessary due to significant increase in scope as the initial Owner's Rep agreement was approved prior to finalization of the overall scope for the pier parking garage project. The original contract award accounted for 3241 hours and the new amendment will add sufficient funding to compensate LM for 3930 hours, instead.



(1) Origin of request for this action: City Commission
 (2) Primary staff contact: Horacio Danovich Ext. 786-4601
 (3) Expiration of contract, if applicable: _____
 (4) Fiscal impact and source of funding: \$55,560.96 (account no. 473-7549-545-65-12)
in support of CIP Project 15271 with the attached budget adjustment.

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
City Attorney	<u>2/24/2016</u>	2016-545	
Budget	<u>3/1/16</u>	Approval	
Finance	<u>3/1/16</u>		
<input checked="" type="checkbox"/> Finance Director			
<input checked="" type="checkbox"/> City Manager			

ACTION TAKEN BY COMMISSION:

<u>Ordinance</u>	<u>Resolution</u>	<u>Consideration</u>
<u>Workshop</u>		
1 st Reading	1 st Reading	Results: Results:
2 nd Reading		

MEMORANDUM

February 25, 2016

TO: City Commission

THRU: Dennis Beach, City Manager
Greg Harrison, Assistant City Manager
Suzette Sibble, Finance Director

FROM: Horacio Danovich, CIP Manager

Issue

Staff is seeking City Commission approval to approve an amendment to the existing contract with Lansing Melbourne ("LM") to provide Owner's Rep services related to the Pier Parking Garage in the sum of \$339,310.96 (an increase of \$55,560.96).

Recommendation

Staff recommends Approval.

Background

Staff is seeking City Commission approval to execute a first Amendment to an existing contract with LM. Originally, LM was awarded a contract in the sum of \$243,750.00 plus \$40,000.00 for subconsultant services (testing and inspections). The original contract was based on the initial Pier Garage scope, and based on projected expenditures of roughly \$12 million requiring 3241 hours of professional service. The project was later modified and the scope increased adding additional design elements. The extra efforts resulted in more professional hours (3930, or an increase of 689 extra hours of professional service).

LM's initial request was for \$73,150.00. Staff negotiated reasonable compensation for the extra efforts resulting in an increase of \$55,560.96, or a savings of \$17,589.00.

Staff recommends approval.



City Attorney's Communication #2016-545

February 24, 2016

TO: Horacio Danovich, CIP Engineer
FROM: Carrie L. Sarver, Assistant City Attorney
RE: Resolution – First Amendment / Lansing Melbourne Group, LLC

Pursuant to your request, attached please find the following captioned resolution:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND LANSING MELBOURNE GROUP, LLC FOR OWNER'S REPRESENTATION FOR CONSTRUCTION OF THE PIER GARAGE; PROVIDING AN EFFECTIVE DATE.

Please feel free to contact me if I may be of further assistance.



CARRIE L. SARVER

/jrm
l:cor/engr/2016-545

Attachment

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND LANSING MELBOURNE GROUP, LLC FOR OWNER'S REPRESENTATION FOR CONSTRUCTION OF THE PIER GARAGE; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That a First Amendment to the Agreement between the City of Pompano Beach and Lansing Melbourne Group, LLC for owner's representation for construction of the pier garage, a copy of which Amendment is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Amendment between the City of Pompano Beach and Lansing Melbourne Group, LLC.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2016.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

FIRST AMENDMENT

THIS IS A FIRST AMENDMENT TO THE AGREEMENT dated the _____ day
of _____, 2016, between:

LANSING MELBOURNE GROUP, LLC, a Florida limited liability company, hereinafter referred to as "Consultant,"

and

CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060, hereinafter referred to as "Owner."

WHEREAS, the parties entered into a design build agreement to design and construct the Pier Parking Garage project ("Original Agreement"), a copy of which is attached hereto and made a part hereof, and approved by City Resolution No. 2014-271; and

WHEREAS, the parties now desire to amend certain terms and conditions to the agreement to amend the scope of work and fees associated with the Original Agreement; and

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, the parties agree as follows:

1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.
2. The Original Agreement shall remain in full force and effect except as specifically amended hereinbelow.
3. The attached Exhibit "3" is hereby substituted for, and in all references replaces, that Exhibit "3" which was attached to, referenced and made a part of the Original Agreement.

4. Section 5.1 of Article 5 to the Original Agreement is hereby amended to read as follows:

ARTICLE 5 COMPENSATION

§ 5.1 Compensation to Consultant for the services under this Agreement shall be the Lump Sum Amount of ~~\$243,750~~ \$299,310.96, payable in installments, as provided for elsewhere in the Agreement. This Lump Sum Amount includes, but is not limited to, all wages payroll burden, benefits, taxes, insurances, equipment, computers, software, cell phones, tools, licenses, permits, overhead and profits arising out of, or in connection with, performing the services associated with this Agreement. In the event that the Owner exercises the Add Alternate either at the time of executing this Agreement, or thereafter, the above Lump Sum Compensation shall be increased in an amount not to exceed an additional forty thousand (\$40,000) to cover the actual cost of the subconsultant, including a markup for overhead and profit of ten percent (10%). In no event shall the Lump Sum Compensation, including the Add Alternate, if exercise by Owner, exceed the sum of ~~\$283,750~~ \$339,310.96, as adjusted by Changes in Service, if any.

5. All other terms and conditions of the said agreement shall remain in full force and effect as provided by the original agreement and any previous amendments and renewals thereto, unless earlier terminated pursuant to the provisions of the agreement.

6. That no other amendment to the terms of the said agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

IN WITNESS WHEREOF, the parties have caused this Amendment to Agreement to be duly executed on the day and year first above written.

"CONSULTANT":

Witnesses:

LANSING MELBOURNE GROUP, LLC
a Florida Limited Liability Company

Helena Kolenda
HELENA KOLENDA
Print Name

By: Peter Flotz
Peter Flotz, Managing Member

Shannon McGaugh
SHANNON MCGAUGH
Print Name

(SEAL)

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 25 day of February, 2016, by Peter Flotz, Managing Member of LANSING MELBOURNE GROUP, LLC, a Florida Limited Liability Company, on behalf of the company. He is personally known to me or who has produced _____
_____ (type of identification) as identification.

NOTARY'S SEAL:

Mirjam Sandau-Brooks
NOTARY PUBLIC, STATE OF FLORIDA
Mirjam Sandau-Brooks
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number  **MIRJAM SANDAU-BROOKS**
MY COMMISSION #FF075743
EXPIRES December 11, 2017
(407) 398-0153 FloridaNotaryService.com

"OWNER":

Witnesses:

CITY OF POMPANO BEACH

By: _____
Lamar Fisher, Mayor

By: _____
Dennis W. Beach, City Manager

Attest:

Asceleta Hammond, City Clerk

(SEAL)

Approved As To Form:

Mark E. Berman, City Attorney

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instruments were acknowledged before me this _____ day of _____, 2016, by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

CLS:jsm
2/24/16
l:ag:reng/2016-540

Memo to: Dennis Beach

Through: Greg Harrison
Chris Brown
Horacio Danovich
Suzette Sibble

From: Peter Flotz
Lansing Melbourne Group, LLC

Date: January 19, 2016

Re: Reconciliation of B142 Contract

This memo is presented to provide background and specific information as to the Owner's Representation Agreement between the City and Lansing Melbourne Group as it pertains to the Pier Parking Garage.

Selection Process

On March 31, 2014, the City issued a Request for Proposals for Owner's Representation in the development and construction of the new Pier Parking Garage. In order to conduct a fair selection process among potential owner's representatives, the RFP only discussed the project as a "500 car parking garage" and did not reveal any potential iconic design, site work, potential enlargement, Pier Street, or similar scope items.

On April 29, 2014 the City received proposals from five firms, and during a subsequent selection process, ranked LMG highest among the proposers by the selection committee on May 13, 2014. A contract was negotiated through outside counsel (Peter Brandt) and the CIP Manager (Mr. Danovich), and on June 26, 2014 a Notice to Proceed was issued to LMG by the City.

Concurrently, an RFP had been issued for design build services for the Parking Garage. On March 20, 2014 a pre bid meeting was held with potential bidders and on May 2, 2014 a short list of three bidders was announced. The City's intent was to receive proposals that included pricing and design later that month, and on June 24, 2014 the City authorized staff to enter into negotiations with Kaufman Lynn Construction.

Contract and Fee Negotiation

Because of the concurrent nature of these procurements, the contract presented by counsel to LMG included certain placeholders for project effort and budget that were consistent with the original RFP but necessarily ignored the ongoing procurement process with design build firms. In addition, the design and pricing

was rather fluid as the scope was varying widely with many options for the ultimate scope of the garage work.

City’s legal counsel proposed, and LMG accepted, an adjustment mechanism in the American Institute of Architects form B142 Contract that states that “material changes in the scope of the project” (defined as changes in actual cost greater than 25% of the contracted project budget of \$12,000,000) allow for “equitable” changes in the proposed fee for owner representation.

Determination of Project Scope

The changes that occurred in the scope of the construction fall into a number of areas, some of which change the work effort required (and therefore the corresponding fee) and some of which have no effect on the work effort. The following table summarizes the increases in the project budget and the effect on the scope of work.

Item	Value	Effect on Scope	Add to Base
Base Price	\$ 1,099,747.00	Proportional	\$1,099,747
Addition of Fifth Level	\$ 2,365,319.00	Proportional	\$2,365,319
Aesthetic	\$ 1,614,615.00	None	\$0
Environmental/Marine	\$ 514,597.00	None, just higher costs	\$0
Infrastructure/Roads	\$ 2,133,497.00	Proportional	\$2,133,497
Tourism Office	\$ 25,585.00	Proportional	\$ 25,585
Contingencies/Allowances	\$ 2,103,000.00	Significant, includes lift station	\$2,103,000
Financing/Admin	\$ 1,638,640.00	None	\$0
Base Price	\$12,000,000.00	None, this was bid basis	\$0
Total Project Budget	\$23,495,000.00		

The total value of changes that affected the work effort is \$7,727,148 as known today. This amounts to a 64.39% increase in the project budget represented by the City in the RFP and subsequent contract.

Effect on LMG Work Effort

The lump sum fee offered by LMG to the City in the response (section 5) to the original RFP (assuming a \$12,000,000 project budget) was \$243,750, which included 3241 man hours of effort over two and a half years and a ten thousand dollar allowance for third party costs. Attached to this memo is a recalculation of man hours required for the 79 individual tasks included in the LMG scope of work. This recalculation included deleting all the hours associated with tasks B.7.1

through B.7.17 which involved work during the contractor RFP process since this work was conducted by City staff prior to LMG's selection. In total the overall work effort increased to 3930 man hours. When hourly rates are applied to the individual staff members performing the work, the change in fee is \$73,150, or 30.01% of the original value. *Subsequent to the preparation of this analysis, the CIP Engineer suggested that the calculation should be made using the original average hourly rates, which would result in a reduction of the request to \$55,560.96.*

Requested Action

LMG respectfully requests that the City Manager direct staff to undertake a fee adjustment of \$55,560.96 to the existing agreement as anticipated in Section 3.3 of the contract as executed (excerpt below).

§ 3.3.2 If any of the following circumstances substantially affects the Consultant's services for the Project, the Consultant shall be entitled to an appropriate adjustment in the Consultant's schedule and compensation:

- .1 change in the instructions or approvals given by the Owner that necessitate (1) revisions in Instruments of Service, (2) changes to services previously performed, (3) changes in the manner of preparing Instruments of Service, or (4) changes to the performance of services not yet performed;
- .2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service or services previously performed or which will necessitate changes in the manner of preparation of Instruments of Service not yet prepared or the performance of services not yet performed;
- .3 decisions or approvals of the Owner not rendered in a timely manner;
- .4 significant change in the Project, including, but not limited to, size, quality, complexity, the Owner's schedule, overall budget or budget for the Cost of the Work, or procurement method;
- .5 repeated failure of performance on the part of the Owner or the Owner's consultants, contractors, design-builders or others retained by the Owner;
- .6 reviewing subsequent submittal(s) from the Owner's consultants, contractors, design-builders or others retained by the Owner due to the previous submittal's failure to conform to the Consultant's requirements;
- .7 preparation for and attendance at a public meeting or hearing not originally included in the Consultant's scope of services; or
- .8 substantial change in the information referred to in Article 1.

Pompano Beach Parking Enterprise Fund	LMG Average Hourly Rate			
Pier Garage Owner's Representation	\$150 princ			
Detailed Billing Worksheet	\$50 tech/clerical			

		AS PROPOSED - \$12 MILLION PROJECT					AS MODIFIED - \$22 MILLION PROJECT				
		Scheduled Value	LMG			Sub	Value	LMG			Sub
		Value	Prin Hrs	Tech Hrs	Fee	Fee	Value	Prin Hrs	Tech Hrs	Fee	Fee
	SCOPE OF OWNER REPRESENTATIVE BASIC SERVICES										
B.2	Project Administration Services										
B.2.1	Project Administration	\$10,500	30	120	\$10,500		\$10,500	30	120	\$10,500	
B.2.2	Discipline Coordination	\$10,500	30	120	\$10,500		\$10,500	30	120	\$10,500	
B.2.3	Owner-Supplied Data Coordination	\$3,200	8	40	\$3,200		\$3,200	8	40	\$3,200	
B.2.4	Agency Consultation/Review/Approval	\$3,900	10	48	\$3,900		\$3,900	10	48	\$3,900	
B.2.5	Schedule Development/Monitoring	\$7,200	8	120	\$7,200		\$7,200	8	120	\$7,200	
B.2.6	Submissions to Owner	\$10,500	30	120	\$10,500		\$13,800	52	120	\$13,800	
B.2.7	Presentations	\$18,000	80	120	\$18,000		\$18,000	80	120	\$18,000	
B.3	Data Gathering Services	\$0			\$0		\$0			\$0	
B.3.2	Extent and Detail	\$1,200		24	\$1,200		\$1,200		24	\$1,200	
B.3.3	Additional Data, not required, but relevant	\$600		12	\$600		\$600		12	\$600	
B.3.4	Preparation of Draft Data Gathering Report	\$1,400	4	16	\$1,400		\$1,400	4	16	\$1,400	
B.3.5	Preparation of Final Data Gathering Report	\$1,400	4	16	\$1,400		\$1,400	4	16	\$1,400	
B.3.13	Identification of Reviewing Agencies/Groups	\$1,800	4	24	\$1,800		\$1,800	4	24	\$1,800	
B.3.14	Identification of Applicable Regulations	\$800		16	\$800		\$800		16	\$800	
B.4	Programming and Planning Services	\$0	0		\$0		\$0	0		\$0	
B.4.2	Review of Planning & Programming Req's.	\$3,200	16	16	\$3,200		\$3,200	16	16	\$3,200	
B.4.3	Preparation of Draft Program Document	\$1,400	8	4	\$1,400		\$1,400	8	4	\$1,400	
B.4.4	Preparation of Final Program Document	\$2,400	8	24	\$2,400		\$2,400	8	24	\$2,400	
B.4.10	Other Programming & Planning Services	\$1,600	8	8	\$1,600		\$1,600	8	8	\$1,600	
B.5	Project Criteria Development Services	\$0	0		\$0		\$0	0		\$0	
B.5.1	Preparation of Draft Project Criteria Docs.	\$800	4	4	\$800		\$800	4	4	\$800	
B.5.2	Preparation of Final Project Criteria Docs.	\$1,000	4	8	\$1,000		\$1,000	4	8	\$1,000	
B.5.3	Revisions to Project Criteria Docs.	\$1,600	8	8	\$1,600		\$1,600	8	8	\$1,600	
B.5.4	Narrative of Program Requirements/Objectives	\$2,400	12	12	\$2,400		\$2,400	12	12	\$2,400	
B.5.5	Narrative of Design Goals & Objectives	\$900	2	12	\$900		\$900	2	12	\$900	
B.5.6	Project Concept Diagrams & Docs.	\$800	4	4	\$800		\$800	4	4	\$800	
B.5.7	Performance Specifications	\$800	4	4	\$800		\$800	4	4	\$800	
B.5.8.1	Project Use	\$400	2	2	\$400		\$400	2	2	\$400	
B.5.8.2	Project Space Requirements	\$400	2	2	\$400		\$400	2	2	\$400	
B.5.8.3	Building System Requirements	\$400	2	2	\$400		\$400	2	2	\$400	
B.5.8.4	Building Materials Requirements	\$400	2	2	\$400		\$400	2	2	\$400	
B.5.8.5	Equipment Requirements	\$400	2	2	\$400		\$400	2	2	\$400	
B.5.8.6	Project Schedule	\$400	2	2	\$400		\$400	2	2	\$400	
B.5.8.7	Project Phasing	\$1,000	6	2	\$1,000		\$1,000	6	2	\$1,000	
B.5.8.9	Project Expandability Requirements	\$1,000	6	2	\$1,000		\$1,000	6	2	\$1,000	
B.6	Budgeting And Cost Estimating Services	\$0			\$0		\$0			\$0	
B.6.2	Contingencies Regarding Cost	\$600	4		\$600		\$600	4		\$600	
B.6.3	Adjustment For Changes see:B.2.5	\$1,800	2	30	\$1,800		\$7,500	40	30	\$7,500	
B.6.4	Preliminary Estimate	\$2,700	8	30	\$2,700		\$2,700	8	30	\$2,700	
B.6.5	Updated Estimate	\$2,400	8	24	\$2,400		\$4,800	12	60	\$4,800	
B.6.6	Advise on Adjustments to Previous Estimates	\$1,500	2	24	\$1,500		\$7,950	45	24	\$7,950	
B.6.9	Budget Development Services	\$1,500	2	24	\$1,500		\$4,200	20	24	\$4,200	
B.7	Design-Build Procurement Services	\$0			\$0		\$0			\$0	

B.7.1	Advise on Selection Process/Evaluation Criteria	\$1,000	4	8	\$1,000						
B.7.2	Advise on Contract Type	\$600	4		\$600						
B.7.3	Advise on Contract Form and Conditions	\$600	4		\$600						
B.7.6	Evaluations of Proposers	\$1,200	8		\$1,200						
B.7.7	Recommendation of Selected Proposers	\$3,600	16	24	\$3,600						
B.7.8	Determination of Proposal Submission Requirements	\$100		2	\$100						
B.7.9	Preparation of Request For Proposals	\$100		2	\$100						
B.7.10	Reproduction and Distribution of Proposal Docs	\$100		2	\$100						
B.7.11	Maintain Distribution/Deposit/Retrieval Log	\$1,200		24	\$1,200						
B.7.12	Respond to Questions Regarding Criteria Intent	\$4,200	8	60	\$4,200						
B.7.13	Evaluate Requests for Project Criteria Modifications	\$3,200	8	40	\$3,200						
B.7.14	Preparation/Distribution of Addenda	\$1,500	2	24	\$1,500						
B.7.15	Attend Proposers Conference	\$2,400	8	24	\$2,400						
B.7.16	Evaluation of Proposals	\$2,400	8	24	\$2,400						
B.7.17	Recommendation of Selected Proposal	\$900	2	12	\$900						
B.7.18	Design-Build Contract Award	\$5,600	24	40	\$5,600	\$11,000	60	40	\$11,000		
B.8	Consulting Services/Final Design Docs by Design-Builder	\$0			\$0	\$0			\$0		
B.8.1	Respond to Questions regarding Criteria Intent of Docs.	\$700	2	8	\$700	\$2,800	12	20	\$2,800		
B.8.2	Review Docs Prepared by Design-Builder	\$1,800	8	12	\$1,800	\$1,800	8	12	\$1,800		
B.8.3	Recommendations for Payment	\$400	2	2	\$400	\$400	2	2	\$400		
B.8.4	Advise and Consult with the Owner	\$700	4	2	\$700	\$700	4	2	\$700		
B.8.5	Attend and Participate at Project Meetings	\$1,600	8	8	\$1,600	\$1,600	8	8	\$1,600		
B.9	Consulting Services re: Construction Docs Prepared by D/B	\$0			\$0	\$0			\$0		
B.9.1	Respond to Questions regarding Intent of Criteria docs	\$250	1	2	\$250	\$250	1	2	\$250		
B.9.2	Review Docs Prepared by Design-Builder	\$1,000	4	8	\$1,000	\$1,000	4	8	\$1,000		
B.9.3	Recommendations for Payment	\$1,000	4	8	\$1,000	\$1,000	4	8	\$1,000		
B.9.4	Advise and Consult with the Owner	\$1,600	8	8	\$1,600	\$1,600	8	8	\$1,600		
B.9.5	Attend and Participate at Project Meetings	\$1,600	8	8	\$1,600	\$1,600	8	8	\$1,600		
B.10	Consulting Services in connection with Construction of Project	\$0			\$0	\$0			\$0		
B.10.1	Respond to Questions	\$3,300	2	60	\$3,300	\$6,000	20	60	\$6,000		
B.10.2	Review Docs Prepared by Design-Builder previously reviewed	\$2,100	4	30	\$2,100	\$8,200	28	80	\$8,200		
B.10.3	Site Visits for Selected Purposes	\$6,500	10	100	\$6,500	\$48,000	240	240	\$48,000		
B.10.4	Recommendations for Payment	\$19,200	48	240	\$19,200	\$30,000	80	360	\$30,000		
B.10.5	Substantial Completion and Final Completion Inspections	\$5,500	10	80	\$5,500	\$5,500	10	80	\$5,500		
B.10.6	Recommendation for Final Payment	\$3,200	8	40	\$3,200	\$3,200	8	40	\$3,200		
B.10.7	Advise and Consult with the Owner	\$4,600	4	80	\$4,600	\$10,900	36	110	\$10,900		
B.10.8	Attend and Participate at Project Meetings	\$21,000	60	240	\$21,000	\$31,500	110	300	\$31,500		
B.11	Post Contract Completion	\$0			\$0	\$0			\$0		
B.11.1	Attend Meetings	\$1,600	8	8	\$1,600	\$1,600	8	8	\$1,600		
B.11.2	Administer Remedial Work of Design-Builder	\$2,300	2	40	\$2,300	\$2,300	2	40	\$2,300		
B.11.3	Warranty Review Services	\$2,300	2	40	\$2,300	\$2,300	2	40	\$2,300		
B.11.4	Post-Contract Completion Evaluation Services	\$400	2	2	\$400	\$400	2	2	\$400		
B.11.5	Advise and Consult with the Owner	\$3,600	16	24	\$3,600	\$3,600	16	24	\$3,600		
B.12	Other Services	\$0			\$0	\$0			\$0		
B.12.2	Tenant-Related Services	\$7,500	30	60	\$7,500	\$7,500	30	60	\$7,500		
B.12.3	Project Promotion/Public Relations	\$8,500	30	80	\$8,500	\$8,500	30	80	\$8,500		
B.12.12	Model Construction (Update existing model)(now office rental)	\$10,000			\$0	\$10,000			\$0		
Grand total schedule of Values		\$243,750.00	717	2,524	\$233,750	\$10,000	\$316,900.00	1,204	2,726	\$316,900	\$0
TOTAL HOURS			3,241				HOURS	3,930			
AVG Cost			\$75.21				AVG Cost	\$80.64	Delta	\$73,150	30.01%

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND LANSING MELBOURNE GROUP, LLC IN THE AMOUNT OF \$243,750.00 PLUS AN ALLOWANCE OF \$40,000.00 FOR OWNER'S REPRESENTATION FOR CONSTRUCTION OF THE PIER GARAGE; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That an Agreement between the City of Pompano Beach and Lansing Melbourne Group, LLC for owner's representation for construction of the pier garage, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Lansing Melbourne Group, LLC.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 24th day of June, 2014.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

 **AIA**® Document B142™ – 2004**Standard Form of Agreement Between Owner and Consultant** where the Owner contemplates using the design-build method of project delivery

Revision 2 (06-17-2014)

AGREEMENT made as of the 27th day of June in the year 2014
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

The City of Pompano Beach, a political subdivision of the State of Florida
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

Attention: Dennis Beach, City Manager

and the Consultant:
(Name, legal status, address and other information)

Lansing Melbourne Group, LLC
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306

for the following Project:
(Name, location and detailed description)

Design/Build Services for the Pier Garage

The Owner and Consultant agree as follows:

Performance of the services to be provided by Consultant shall not commence until Owner issues a written Notice to Proceed to Consultant, and shall continue for the ensuing nine hundred thirteen (913) calendar days thereafter, unless the Agreement is extended in writing and/or terminated during the course of performance, as provided for elsewhere herein. A failure by the Owner to authorize work under this Agreement or to issue a Notice to Proceed shall not be deemed a breach of this Agreement.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 RESPONSIBILITIES OF THE PARTIES
- 3 TERMS AND CONDITIONS
- 4 SCOPE OF AGREEMENT
- 5 COMPENSATION

TABLE OF EXHIBITS

- A INITIAL INFORMATION
- B CONSULTANT'S SERVICES

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the information and assumptions contained in Exhibit A of this Agreement, and as addressed in Request for Proposals T-36-14 ("RFP"), and Consultant's Proposal bearing the submittal date of April 29, 2014 ("Consultant's Proposal"), Exhibits "1" and "2", respectively, which are attached hereto and made a part hereof. By its execution of this Agreement, Consultant warrants and represents that it has visited the Project site, reviewed and is familiar with the contents and Project concepts and criteria set forth in Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage), and has correlated personal observations and said review with its Consultant's Proposal and prior to entering into this Agreement.

ARTICLE 2 RESPONSIBILITIES OF THE PARTIES

§ 2.1 The Owner and the Consultant shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project Team. Time is of the essence with respect to performance under this Agreement.

§ 2.2 OWNER

§ 2.2.1 The Owner's Designated Representative is authorized to act on the Owner's behalf with respect to the Project.

§ 2.2.2 The Owner shall provide full and timely information regarding requirements for and limitations on the Project and shall render decisions in a timely manner so as to avoid delay in the Consultant's performance of its services.

§ 2.2.3 The Owner shall periodically review and, if appropriate, update the overall budget for the Project, including that portion allocated to the Cost of the Work, and shall promptly notify the Consultant thereof in writing. If the overall budget, or that portion allocated to the Cost of the Work, including any contingencies included therein, is materially increased or decreased, then the Owner and Consultant shall agree upon, as appropriate, corresponding changes in the Project scope, quality and schedule. For purposes of this Agreement, "materiality" shall mean an increase or decrease in the Cost of the Work exceeding or reducing the Cost of the Work by twenty-five percent (25%) of the Project Budget.

§ 2.2.4 The Owner, at its discretion, may furnish the services of consultants other than those designated as being furnished by the Consultant in Exhibit A or shall authorize the Consultant to furnish them as a Change in Services when such services are reasonably required by the scope of the Project.

§ 2.2.5 The Owner shall provide prompt written notice to the Consultant if the Owner becomes aware of any errors, omissions or inconsistencies in the Consultant's services or in the services or information furnished by the Owner.

§ 2.2.6 Services provided by parties retained by the Owner, if any, whether such services are performed directly by such parties or by sub-consultants retained by such parties, shall be performed by qualified professionals licensed as may be required by applicable law to perform such services in the jurisdiction in which the Project is located.

§ 2.2.7 The Owner shall require the Design-Builder to obtain from each of the Design-Builder's design professionals certifications with respect to the documents and services provided by such professionals (a) that, to the best of their knowledge, information and belief, the documents or services to which such certification relates (i) are consistent with the criteria set forth in the Project Criteria documents prepared by the Consultant pursuant to Article B.5 of Exhibit B, except to the extent specifically identified in such certificate, (ii) comply with applicable professional practice standards, and (iii) comply with applicable laws, ordinances, codes, rules and regulations governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the representations and statements contained in such certifications.

§ 2.3 CONSULTANT

§ 2.3.1 The Consultant's Designated Representative is authorized to act on the Consultant's behalf with respect to the Project.

§ 2.3.2 The services the Consultant and its sub-consultants, if any, shall provide are designated in Exhibit B of this Agreement.

§ 2.3.3 The Consultant shall perform its services in accordance with applicable standards of professional skill and care. When applicable law requires that services be performed by licensed professionals, the Consultant shall provide those services through the performance of qualified persons or entities duly licensed to practice their professions, which costs are included in Consultant's compensation, Article 5 below.

§ 2.3.4 The Consultant shall submit for the Owner's approval a schedule for the performance of the Consultant's services which initially shall be consistent with the time periods established in Exhibit A and which shall be adjusted as necessary as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants and, if applicable, for approval of authorities having jurisdiction over the Project. Time limits established by this schedule and any adjustments thereto approved by the Owner shall not, except for reasonable cause, be exceeded by the Consultant or the Owner.

§ 2.3.5 The Consultant shall maintain the confidentiality of information specifically designated by the Owner in writing as confidential, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Consultant from establishing a claim or defense in an adjudicatory proceeding. The Consultant shall require similar agreements from its sub-consultants. Unless exempted under Chapter 119, F.S. (Florida Public Records Act), all communications and work product arising out of, or in connection with, this Agreement are subject to review by members of the public. § 2.3.6 Except with the Owner's knowledge and written consent, the Consultant shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Consultant's professional judgment with respect to the Project; and, additionally, during the term of this Agreement, Consultant shall not perform consulting work for any developer, tenant or landowner with properties within a one-half mile radius of the Project that would in any way conflict or compete with the Project.

§ 2.3.7 The Consultant shall be entitled to rely on the accuracy, timeliness and completeness of services and information furnished by the Owner. The Consultant shall provide prompt written notice to the Owner if the Consultant becomes aware of any errors, omissions or inconsistencies in such services or information.

§ 2.3.8 Consultant is to review submittals of the Design-Builder as part of the Consultant's services under this Agreement. Such review by the Consultant shall be for the limited purpose of evaluating conformance with the information given and the design concept expressed in the Design-Build Documents. By undertaking such review, the Consultant does not have or assume responsibility to coordinate design performed or information provided by multiple design professionals engaged by the Design-Builder and/or its trade contractors.

§ 2.3.9 Consultant is to review submittals of the Design-Builder as part of the Consultant's services under this Agreement. The Owner shall require that prior to transmission to the Consultant for the Consultant's review, all final design documents, construction documents, Shop Drawings, Product Data, Samples and other submittals of the Design-Builder or its trade contractors shall first be reviewed and approved in writing by the Design-Builder and its

design professionals as conforming to the information given and the design concept expressed in the Design-Build Documents. The Consultant shall be entitled to rely upon such approvals.

§ 2.3.10 Evaluations of the Owner's overall Project budget and budget for the Cost of the Work and preliminary estimates and updated estimates thereof represent the Consultant's professional judgment. It is recognized, however, that neither the Consultant nor the Owner has control over the cost of labor, materials or equipment, over the Design-Builder's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Consultant cannot and does not warrant or represent that Design-Build proposals or negotiated prices will not vary from the Owner's overall Project budget or budget for the Cost of the Work or from any evaluation or estimate thereof.

§ 2.3.11 By performing the services under this Agreement the Consultant does not assume any responsibility for the preparation, adequacy, suitability, performance, quality and completeness of the final design, or for the construction of the Work in accordance with the approved final design. The Consultant shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs of the Project.

§ 2.3.12 Services, if any, performed by the Consultant during the construction of the Project are undertaken and performed by the Consultant in the sole interest and for the exclusive benefit of the Owner.

(Paragraph deleted)

ARTICLE 3 TERMS AND CONDITIONS

§ 3.1 COST OF THE WORK

§ 3.1.1 The Project Cost of the Work includes all costs, charges and expenses to be paid by the Owner to the Design-Builder in connection with the Project, including, but not limited to, the Design-Builder's fee, costs of tests, evaluations and reports required for the execution of the Work, and all fees and expenses of design professionals retained by the Design-Builder, and the cost of construction of the Work.

§ 3.1.2 The Project Cost of the Work does not include the compensation of the Consultant and the Consultant's sub-consultants, if any, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.

§ 3.2 INSTRUMENTS OF SERVICE

§ 3.2.1 Consultant hereby irrevocably assigns to Owner the exclusive ownership of the property rights, as well as copyrights, of all documents, drawings, specifications, electronic data, budgets, and information (hereafter collectively "Documents") prepared, provided or procured by the Consultant and its sub-consultants, if any, in connection with this Agreement.

§ 3.2.2

(Paragraphs deleted)

§ 3.3.2 If requested by Owner, Consultant shall periodically provide Owner all documents generated in connection with this Agreement in an electronic format AutoCAD, PDF and hard copy.

§ 3.3 CHANGE IN SERVICES

§ 3.3.1 Consultant and Owner acknowledge that the scope of services included in this Agreement do not delineate every detail and minor work task required to be performed by Consultant in connection with the Project. If, during the course of the performance of the services included in this Agreement, Consultant determines that work should be performed to complete the Project which, in the Consultant's opinion, is outside the level of effort originally anticipated, Consultant shall notify the Owner in writing in a timely manner and agree to an adjustment, in writing, before proceeding with the work. If Consultant proceeds with said work without so notifying the Owner, said work shall be deemed to be within the scope of services included in this Agreement, and Consultant thereby waives any entitlement to additional compensation.

§ 3.3.2 If any of the following circumstances substantially affects the Consultant's services for the Project, the Consultant shall be entitled to an appropriate adjustment in the Consultant's schedule and compensation:

- .1 change in the instructions or approvals given by the Owner that necessitate (1) revisions in Instruments of Service, (2) changes to services previously performed, (3) changes in the manner of preparing Instruments of Service, or (4) changes to the performance of services not yet performed;
- .2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service or services previously performed or which will necessitate changes in the manner of preparation of Instruments of Service not yet prepared or the performance of services not yet performed;
- .3 decisions or approvals of the Owner not rendered in a timely manner;
- .4 significant change in the Project, including, but not limited to, size, quality, complexity, the Owner's schedule, overall budget or budget for the Cost of the Work, or procurement method;
- .5 repeated failure of performance on the part of the Owner or the Owner's consultants, contractors, design-builders or others retained by the Owner;
- .6 reviewing subsequent submittal(s) from the Owner's consultants, contractors, design-builders or others retained by the Owner due to the previous submittal's failure to conform to the Consultant's requirements;
- .7 preparation for and attendance at a public meeting or hearing not originally included in the Consultant's scope of services; or
- .8 substantial change in the information referred to in Article 1.

§ 3.4 DISPUTE RESOLUTION, INDEMNIFICATION, AND WAIVER OF TRIAL BY JURY

§ 3.4.1 If the parties do not resolve their dispute through mediation pursuant to Section 3.4.2, the method of binding dispute resolution shall be the following:

*(If the parties do not select a method of binding dispute resolution, then the method of binding dispute resolution shall be by litigation in a court of competent jurisdiction.)
(Check one.)*

Arbitration pursuant to Section 3.4.3 of this Agreement

Litigation in a court of competent jurisdiction

Other *(Specify.)*

§3.4.1.1 To the fullest extent permitted by law, and more specifically, §725.06 (2) and (3), F.S., Consultant shall indemnify, defend and hold harmless the Owner, its employees, managers, and elected officials ("Indemnitees") from and against all liability, claims, damages, losses and expenses, including, but not limited to, reasonable attorneys' fees, expert witness fees and other consulting fees, to the extent such claims, damages, loss or expense arise out of, relate to or result from the negligence, recklessness, or intentional wrongful misconduct in the performance of the services for the Project by Consultant, its employees and subconsultants, if any, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

§ 3.4.1.2 This indemnification provision is not intended to provide indemnification to the Owner for its own negligence, recklessness, or intentional wrongful misconduct. The Consultant shall promptly remedy all damage or loss to any property caused in whole or in part by the Consultant, any subconsultant, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The foregoing obligations of the Consultant are in addition to its other obligations under this Agreement. The provisions of §3.4.1.1 §3.4.1.2 shall survive the termination or expiration of this Agreement, and are hereby substituted for Article 9 of the RFP in the event of conflict therewith.

§ 3.4.1.3 THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER

PARTY TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE OWNER AND THE CONSULTANT TO ENTER INTO THIS AGREEMENT.

§ 3.4.2 MEDIATION

§ 3.4.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal, equitable or other proceedings by either party.

§ 3.4.2.2 The Owner and Consultant shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect at the time of the mediation. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the institution of legal, equitable or other proceedings but, in such event, mediation shall proceed in advance of such proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 3.4.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

§ 3.5 CLAIMS FOR CONSEQUENTIAL DAMAGES

§ 3.5 Limited Waiver of Consequential Damages. Consultant and Owner waive certain claims against each other for consequential damages arising out of or relating to this Agreement but only to the extent as specifically set forth in this paragraph. The Owner and Consultant agree to limit their right to recover for those specified consequential damages being waived against the other party to those consequential damages available under any insurance policies procured by Owner and Consultant in connection with this Agreement and the Project. This waiver shall not be construed to limit rights of recovery for those waived consequential damages otherwise available under any Worker's Compensation, General Liability, Excess Liability Insurance, Builder's Risk insurance, and Professional Liability policies, each party agreeing to waive its rights of subrogation against the other for such consequential damages covered by insurance. This waiver of consequential damages includes:

- .1 damages incurred by Owner for excess operating and staff costs, lost rental income, lost profits, loss of management or employee productivity or the services of such persons; and business interruption; and
- .2 damages incurred by Consultant for principal office expenses, lost business opportunities, lost profit from those business opportunities, losses of financing, lost professional reputation, lost productivity, and lost home-office personnel, expenses, and associated overhead.

This Limited Waiver of Consequential Damages is applicable to such consequential damages due to termination by either party as provided for elsewhere in this Agreement.

§ 3.6 MISCELLANEOUS PROVISIONS

§ 3.6.1 This Agreement shall be governed by the law of the State of Florida, and venue for any litigation shall be in Broward County, Florida.

§ 3.6.2 Terms not defined in this Agreement shall have the same meaning as those in the edition of AIA Document A141-2004, Agreement Between Owner and Design-Builder, Exhibit A, Terms and Conditions. Modifications to those definitions in the A141-2004 executed by the Owner and Design-Builder shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Consultant.

§ 3.6.3 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Consultant.

§ 3.6.3.1 Consultant is an independent contractor under this Agreement. Services provided by Consultant shall be subject to the supervision of Consultant, exclusively. In providing the services, Consultant or its agents shall not be acting, and shall not be deemed as acting as employees or agents of the Owner. This Agreement shall not constitute or

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make the parties a partnership or joint venture, or create any other joint relationship. The Owner does not extend to Consultant or sub-consultants, if any, any authority of any kind to bind the Owner in any respect whatsoever.

§ 3.6.4 Unless explicitly provided otherwise in this Agreement, the Consultant and its sub-consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of, or for the exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 3.6.5 The Owner and Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Consultant shall assign this Agreement without the written consent of the other.

§ 3.6.6 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run as provided for, and governed by, applicable Florida law.

§ 3.6.7 In its contract with the Design-Builder, the Owner shall require the Design-Builder to study carefully and to compare the various documents, materials and other information provided to the Design-Builder by the Owner; to take field measurements of any existing conditions related to the Work; to observe any conditions at the site affecting the Work; and to report promptly in writing to the Owner any errors, omissions or inconsistencies discovered by the Design-Builder.

§ 3.6.8 The Owner shall provide the Consultant with a copy of the executed agreement between the Owner and the Design-Builder.

(Paragraph deleted)

§ 3.6.9 This Agreement is the joint product of the parties, and shall not, solely as a matter of judicial construction, be construed more strictly against any party.

§ 3.6.10 If there is a conflict or inconsistency between any term, statement, requirement, or provision in an Exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference, and a term, statement, requirement or provision set forth in this Agreement, the term, statement, requirement, or provision set forth in this Agreement shall govern and prevail.

§ 3.6.11 Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

§ 3.7 TERMINATION OR SUSPENSION

§ 3.7.1 If the Owner fails to make payments to the Consultant in accordance with this Agreement, such failure shall be considered substantial non-performance and cause for termination or, at the Consultant's option, cause for suspension of performance of services under this Agreement. Prior to suspension or termination of services, the Consultant shall give seven days' written notice to the Owner. The Consultant shall have no liability to the Owner for delay or damage caused to the Owner because of such suspension or termination of services. In the event of suspension of services, and before resuming services, the Consultant shall be paid for all sums due prior to suspension and any direct, reasonable and documented expenses incurred in the interruption and resumption of the Consultant's services.

§ 3.7.2 If the Owner suspends the Project or the Consultant's services, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Consultant shall be compensated for any direct, reasonable and documented expenses incurred in the interruption and resumption of the Consultant's services.

§ 3.7.3 If the Project is suspended or the Consultant's services are suspended for more than 90 cumulative days, the Consultant may terminate this Agreement by giving not less than seven days' written notice.

§ 3.7.4 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 3.7.5 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Consultant for the Owner's convenience and without cause. In such event, Consultant shall be entitled only to

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payment for services performed prior to said termination, together with direct, reasonable and documented expenses associated with the termination, if any. In no event shall Consultant be entitled to any other damages, direct, indirect or consequential.

(Paragraph deleted)

§ 3.7.6 If the Owner terminates Consultant for cause and it is later determined by a Court that the termination was not justified, then in such event, such termination for cause shall be automatically be converted to a termination for convenience as set forth above.

§ 3.7.7 To the extent that the provisions of this Article 3.7 and subparagraphs conflict with the provisions in the RFP, this Article 3.7 and subparagraphs shall govern and take precedence.

§ 3.8 PAYMENTS TO THE CONSULTANT

§ 3.8.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Consultant's statement of services. No deductions shall be made from the Consultant's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, design-builders or others or on account of the cost of changes to the Work other than those for which the Consultant has been adjudged to be liable; provided however, that such payment(s) shall not preclude Owner for asserting claims against Consultant's for any damages sustained by Owner associated with Consultant's performance hereunder.

§ 3.8.2 Certain Reimbursable Expenses are included in Consultant's Lump Sum Compensation. In addition to compensation for the Consultant's services and included Reimbursable Expenses, should other expenses that are incurred by the Consultant and its employees and sub-consultants directly related to the project for which Owner has agreed in writing prior to incurring same, and which are not included in the Lump Sum Compensation, shall be reimbursable, without markup, s identified in the following sub-sections:

- .1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;
- .2 fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .4 renderings, models and mock-ups requested by the Owner;
- .5 the expense of additional insurance coverage or limits requested by the Owner in excess of that set forth in the RFP;
- .6 Reimbursable Expenses as designated in Section 5.5; and

§ 3.8.3 Records of Reimbursable Expenses, of expenses pertaining to a Change of Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

§ 3.8.4 Direct Personnel Expense is defined as the direct salaries of the Consultant's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

ARTICLE 4 SCOPE OF AGREEMENT

§ 4.1 This Agreement represents the entire and integrated agreement between the Owner and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant. This Agreement is comprised of the documents listed below:

- .1 AIA Document B142-2004, Standard Form of Agreement Between Owner and Consultant.
- .2 Exhibit A: AIA Document B142-2004, Exhibit A, Initial Information, or as follows:
(List other documents, if any, delineating initial information and assumptions upon which this Agreement is based and attach to this Agreement as Exhibit A.)

- .3 Exhibit B: AIA Document B142-2004, Exhibit B, Standard Form of Consultant's Services, or as follows:
(List other documents, if any, delineating Consultant's scope of services and attach to this Agreement as Exhibit B.)

- .4 Other documents, as follows:
(List other documents, if any, forming part of the Agreement.)
 - .1 Exhibit "1" RFP;
 - .2 Exhibit "2" Consultant's Proposal;
 - .3 Exhibit "3" Consultant's Revised Billing Worksheet, with add Alternate; and
 - .4 Exhibit "4 Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage),

§ 4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

NOT APPLICABLE

ARTICLE 5 COMPENSATION

§ 5.1 Compensation to Consultant for the services under this Agreement shall be the Lump Sum Amount of \$243,750, payable in installments, as provided for elsewhere in this Agreement. This Lump Sum Amount includes, but is not limited to, all wages payroll burden, benefits, taxes, insurances, equipment, computers, software, cell phones, tools, licenses, permits, overhead and profits arising out of, or in connection with, performing the services associated with this Agreement. In the event that the Owner exercises the Add Alternate either at the time of executing this Agreement, or thereafter, the above Lump Sum Compensation shall be increased in an amount not to exceed an additional forty thousand (\$40,000) to cover the actual cost of the subconsultant, including a markup for overhead and profit of ten percent (10%). In no event shall the Lump Sum Compensation, including the Add Alternate, if exercised by Owner, exceed the sum of \$283,750, as adjusted by Changes in Service, if any.

§ 5.1.1 Exhibit "3" hereto attached is Consultant's line item estimate of the work activities and associated expenses. This estimate may have some influence on evaluating payment requisitions, but is not dispositive for such purposes. Services that are not expressly noted in the Exhibit, but are reasonably related and incidental thereto, and inferable therefrom, shall not be the basis for entitlement to additional compensation, unless they strictly qualify as a Change in Services, as provided for below. Moreover, if the estimated time for any activity noted on Exhibit 3 is exceeded, separately or in the aggregate, such additional time shall not be the basis for entitlement to additional compensation, unless such additional time strictly qualifies as a Change in Services.

§ 5.2 For a Change in Services as described in Section 3.3, the Consultant's compensation shall be adjusted as described below or, if no method of adjustment is indicated in this Section 5.2, in an equitable manner.
(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply.)

§ 5.3 For a Change in Services of the Consultant's sub-consultants, compensation shall be computed, as follows: Consultant's hourly rate actually paid to personnel directly engaged on the Project, plus payroll taxes, insurance and fringe benefits, together with a combined overhead and profit added thereto in the amount of ten percent (10%) of said costs. If requested by Owner, Changes in Services are subject to audit by the Owner or its representatives.

§ 5.4 For Reimbursable Expenses as described in Section 3.8.2 and for any other items included in Section 5.5 as Reimbursable Expenses, compensation shall be computed at cost, plus a markup of combined overhead and profit of ten percent (10%) of said costs. Except for those Reimbursable Expenses included in the Lump Sum Compensation, additional Reimbursables are subject to audit by Owner or its representatives.

§ 5.5 Other Reimbursable Expenses, if any are as follows:

NOT APPLICABLE

(Paragraphs deleted)

§ 5.5.1 Change in Services agreed to, in writing, preliminarily between Owner and Consultant that do not exceed, either individually or in the aggregate, ten percent (10%) of the Lump Sum Compensation may be approved at the City Manager level. All others are subject to approval of the Commission, at a regularly scheduled public meeting.

§ 5.76 Payments for services shall be made monthly and, where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

§ 5.8 Payments are due and payable within fifteen (15) calendar days from the date of the Consultant's invoice. Amounts unpaid thirty (30) calendar () days after the invoice date shall bear interest at the rate entered below or, in the absence thereof, at the legal rate prevailing from time to time at the principal place of business of the Consultant. Unless other wise later agreed to by the parties, in writing, Consultant shall submit its invoices no later than the first day of each calendar month.

(Insert rate of interest agreed upon.)

six percent (6 %)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws, and other regulations at the Owner's and Consultant's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications and also regarding requirements such as written disclosures or waivers.)

§ 5.9 If the services covered by this Agreement have not been substantially completed by on or before nine hundred and thirteen (913) calendar days through no fault of the Consultant, extension of the Consultant's services beyond that time may entitle Consultant to be compensated as provided in Section 5.2. In the event of delays due to weather affecting the Design/Build construction phase services, Consultant shall be entitled to non-compensable extensions of time. In the event that non-weather extensions of time for which the Design/Build Contractor is assessed liquidated damages by the Owner, Consultant shall have entitlement to coextensive extensions of time, compensable as set forth in §5.2 and 5.3 above.

THIS SPACE NOT USED

This Agreement entered into as of the day and year first written above.

OWNER:

City of Pompano Beach, Florida

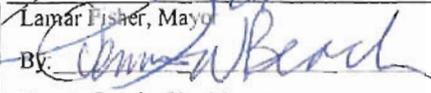
Witnesses:

By: _____

(Row deleted)

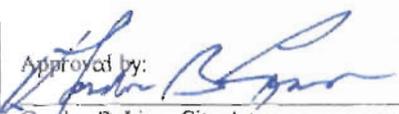
Init.


Lamar Fisher, Mayor

By: 
Dennis Beach, City Manager

Attest: 
Mary Chambers, City Clerk

(SEAL)

Approved by: 
Gordon B. Linn, City Attorney

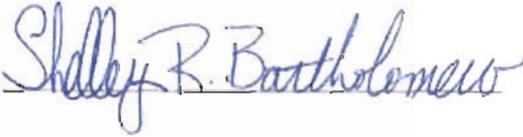
(Row deleted)

Peter Flotz, Managing Member
(Printed name and title)
CONSULTANT:

Lansing Melbourne Group, LLC

By: 
Its Managing Member





Asceleta Hammond, Deputy City Clerk
(Printed name and title)



Int.

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Sally J. Fischer
Signature

By: [Signature]
LAMAR FISHER
MAYOR

Shelby R. Bartholomew
Signature

By: [Signature]
DENNIS W. BEACH
CITY MANAGER

Attest:

[Signature]
MARY L. CHAMBERS
CITY CLERK

(SEAL)

Approved As To Form:

[Signature]
GORDON B. LINN
CITY ATTORNEY

**STATE OF FLORIDA
COUNTY OF BROWARD**

The foregoing instrument was acknowledged before me this 27th day of June, 2014 by **LAMAR FISHER**, as Mayor; **DENNIS W. BEACH** as City Manager and **MARY L. CHAMBERS** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number



KRYSTAL AARON
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE874865
Expires 2/14/2017

Additions and Deletions Report for AIA[®] Document B142[™] – 2004

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:25:46 on 06/17/2014.

PAGE 1

Revision 2 (06-17-2014)

AGREEMENT made as of the ___ day of ___ in the year 2014

...

(Name, legal status, address and other information)

The City of Pompano Beach, a political subdivision of the State of Florida
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

Attention: Dennis Beach, City Manager

...

(Name, legal status, address and other information)

Lansing Melbourne Group, LLC
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306

...

Design/Build Services for the Pier Garage

...

Performance of the services to be provided by Consultant shall not commence until Owner issues a written Notice to Proceed to Consultant, and shall continue for the ensuing nine hundred thirteen (913) calendar days thereafter, unless the Agreement is extended in writing and/or terminated during the course of performance, as provided for elsewhere herein. A failure by the Owner to authorize work under this Agreement or to issue a Notice to Proceed shall not be deemed a breach of this Agreement.

PAGE 2

§ 1.1 This Agreement is based on the information and assumptions contained in Exhibit A of this Agreement, and as addressed in Request for Proposals T-36-14 ("RFP"), and Consultant's Proposal bearing the submittal date of April 29, 2014 ("Consultant's Proposal"), Exhibits "1" and "2", respectively, which are attached hereto and made a part hereof. By its execution of this Agreement, Consultant warrants and represents that it has visited the Project site, reviewed and is familiar with the contents and Project concepts and criteria set forth in Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage), and has correlated personal observations and said review with its Consultant's Proposal and prior to entering into this Agreement.

...

§ 2.1 The Owner and the Consultant shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project Team. Time is of the essence with respect to performance under this Agreement.

...

§ 2.2.3 The Owner shall periodically review and, if appropriate, update the overall budget for the Project, including that portion allocated to the Cost of the Work, and shall promptly notify the Consultant thereof in writing. If the overall budget, or that portion allocated to the Cost of the Work, including any contingencies included therein, is materially increased or decreased, then the Owner and Consultant shall agree upon, as appropriate, corresponding changes in the Project scope, quality and schedule. For purposes of this Agreement, "materiality" shall mean and increase or decrease in the Cost of the Work exceeding or reducing the Cost of the Work by twenty-five percent (25%) of the Project Budget.

§ 2.2.4 ~~The Owner shall~~ Owner, at its discretion, may furnish the services of consultants other than those designated as being furnished by the Consultant in Exhibit A or shall authorize the Consultant to furnish them as a Change in Services when such services are ~~requested by the Consultant~~ or reasonably required by the scope of the Project.

PAGE 3

§ 2.2.6 Services provided by parties retained by the Owner, if any, whether such services are performed directly by such parties or by sub-consultants retained by such parties, shall be performed by qualified professionals licensed as may be required by applicable law to perform such services in the jurisdiction in which the Project is located.

§ 2.2.7 The Owner shall require the Design-Builder to obtain from each of the Design-Builder's design professionals certifications with respect to the documents and services provided by such professionals (a) that, to the best of their knowledge, information and belief, the documents or services to which such certification relates (i) are consistent with the criteria set forth in the Project Criteria documents prepared by the Consultant pursuant to Article B.5 of Exhibit B, except to the extent specifically identified in such certificate, (ii) comply with applicable professional practice standards, and (iii) comply with applicable laws, ordinances, codes, rules and regulations governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the representations and statements contained in such certifications. ~~The Owner shall also include provisions similar to this Section 2.2.7 in the Project Criteria documents.~~

...

§ 2.3.2 The services the Consultant and its ~~sub-consultants~~ sub-consultants, if any, shall provide are designated in Exhibit B of this Agreement.

§ 2.3.3 The Consultant shall perform its services in accordance with applicable standards of professional skill and care. When applicable law requires that services be performed by licensed professionals, the Consultant shall provide those services through the performance of qualified persons or entities duly licensed to practice their ~~professions~~ professions, which costs are included in Consultant's compensation, Article 5 below.

...

§ 2.3.5 The Consultant shall maintain the confidentiality of information specifically designated by the Owner in writing as confidential, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Consultant from establishing a claim or defense in an adjudicatory proceeding. The Consultant shall require similar agreements from its sub-consultants. Unless exempted under Chapter 119, F.S. (Florida Public Records Act), all communications and work product arising out of, or in connection with, this Agreement are subject to review by members of the public. § 2.3.6 Except with the Owner's knowledge and written consent, the Consultant shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Consultant's professional judgment with respect to ~~the Project.~~ the Project; and, additionally, during the term of this Agreement, Consultant shall not perform consulting work for any developer, tenant or landowner with properties within a one-half mile radius of the Project that would in any way conflict or compete with the Project

...

§ 2.3.8 ~~If the Consultant is to review submittals of the Design-Builder as part of the Consultant's services under this Agreement, then such Agreement.~~ Such review by the Consultant shall be for the limited purpose of evaluating conformance with the information given and the design concept expressed in the Design-Build Documents. By undertaking such review, the Consultant does not have or assume responsibility to coordinate design performed or information provided by multiple design professionals engaged by the Design-Builder and/or its trade contractors.

§ 2.3.9 ~~If the Consultant is to review submittals of the Design-Builder as part of the Consultant's services under this Agreement, then the Agreement.~~ The Owner shall require that prior to transmission to the Consultant for the Consultant's review, all final design documents, construction documents, Shop Drawings, Product Data, Samples and other submittals of the Design-Builder or its trade contractors shall first be reviewed and approved in writing by the Design-Builder and its design professionals as conforming to the information given and the design concept expressed in the Design-Build Documents. The Consultant shall be entitled to rely upon such approvals.

PAGE 4

§ 2.3.12 Services, if any, performed by the Consultant during the construction of the Project are undertaken and performed by the Consultant in the sole interest and for the exclusive benefit of the ~~Owner~~ Owner.

~~§ 2.3.13 The Owner shall include in its agreement with the Design-Builder provisions similar to those set forth in Sections 2.3.8. through 2.3.12.~~

...

§ 3.1.1 ~~The Project Cost of the Work includes all costs, charges and expenses to be paid by the Owner to the Design-Builder in connection with the Project, including, but not limited to, the Design-Builder's fee, costs of tests, evaluations and reports required for the execution of the Work, and all fees and expenses of design professionals retained by the Design-Builder. The Cost of the Work shall also include the cost at current market rates of labor and materials to be furnished by the Owner and equipment to be designed, specified, selected or specially provided by parties preparing the construction documents, including the costs of management or supervision of construction or installation thereof, plus a reasonable allowance for overhead and profit. In addition, the Cost of the Work shall include a reasonable allowance for contingencies for market conditions and for changes in Design-Builder, and the cost of construction of the Work.~~

§ 3.1.2 ~~The Project Cost of the Work does not include the compensation of the Consultant and the Consultant's sub-consultants, if any, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.~~

...

§ 3.2.1 Drawings, specifications, and other documents, including those in electronic form, prepared by the Consultant and its sub-consultants are Instruments of Service for use solely with respect to the Project. The Consultant and its sub-consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. Consultant hereby irrevocably assigns to Owner the exclusive ownership of the property rights, as well as copyrights, of all documents, drawings, specifications, electronic data, budgets, and information (hereafter collectively "Documents") prepared, provided or procured by the Consultant and its sub-consultants, if any, in connection with this Agreement.

§ 3.2.2 Upon execution of this Agreement, the Consultant grants to the Owner a non-exclusive license to reproduce and use the Consultant's Instruments of Service solely in connection with the Project, including the Project's further development by the Owner and others retained by the Owner for such purposes, including the Design-Builder and the Design-Builder's design professionals, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. Subject to the Owner's compliance with such obligations, such license shall extend to those persons or entities retained by the Owner for such purposes. The Consultant shall obtain similar non-exclusive licenses from its sub-consultants consistent with this Agreement. No other license or right shall be deemed granted or implied under this Agreement. The Owner shall not otherwise assign or transfer any license herein to another party without the prior written agreement of the Consultant. Any unauthorized reproduction or use of the Instruments of Service by the Owner or others shall be at the Owner's sole risk and expense and without liability to the Consultant and its sub-consultants.

§ 3.2.3 Prior to any electronic exchange by the parties of the Instruments of Service or any other documents or materials to be provided by one party to the other, the Owner and the Consultant shall agree in writing on the specific conditions governing the format thereof, including any special limitations or licenses not otherwise provided in this Agreement and, if appropriate, on adjustments in the Consultant's compensation and schedule for performance of its services.

§ 3.2.4 Submission or distribution of the Consultant's documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the rights reserved in Section 3-2.1.

§ 3.2.2 If requested by Owner, Consultant shall periodically provide Owner all documents generated in connection with this Agreement in an electronic format AutoCAD, PDF and hard copy.

§ 3.3.1 Change in Services of the Consultant, including services required of the Consultant's sub-consultants, may be accomplished after execution of this Agreement without invalidating this Agreement if mutually agreed in writing, if required by circumstances beyond the Consultant's control or if the Consultant's services are affected as described in Section 3.3.2. In the absence of mutual agreement in writing, the Consultant shall notify the Owner prior to providing such services. If the Owner deems that all or a part of such Change in Services is not required, the Owner shall give prompt written notice to the Consultant, and the Consultant shall have no obligation to provide those services. Except for a change due to the fault of the Consultant, a Change in Services of the Consultant shall entitle the Consultant to an adjustment in schedule and in compensation pursuant to Sections 5.2 and 5.3, and to any Reimbursable Expenses described in Section 3.8.2 and Sections 5.4 and 5.5. Consultant and Owner acknowledge that the scope of services included in this Agreement do not delineate every detail and minor work task required to be performed by Consultant in connection with the Project. If, during the course of the performance of the services included in this Agreement, Consultant determines that work should be performed to complete the Project which, in the Consultant's opinion, is outside the level of effort originally anticipated, Consultant shall notify the Owner in writing in a timely manner and agree to an adjustment, in writing, before proceeding with the work. If Consultant proceeds with said work without so notifying the Owner, said work shall be deemed to be within the scope of services included in this Agreement, and Consultant thereby waives any entitlement to additional compensation.

§ 3.3.2 If any of the following circumstances substantially affects the Consultant's services for the Project, the Consultant shall be entitled to an appropriate adjustment in the Consultant's schedule and compensation:

PAGE 5

- .5 repeated failure of performance on the part of the Owner or the Owner's consultants, contractors, design-builders or others retained by the Owner;

...

- .7 preparation for and attendance at a public meeting or hearing not originally included in the Consultant's scope of services, a dispute resolution proceeding or a legal proceeding except where the Consultant is a party thereto; or services; or
- .8 substantial change in the information referred to in Article 1.

§ 3.4 ~~DISPUTE RESOLUTION~~ DISPUTE RESOLUTION, INDEMNIFICATION, AND WAIVER OF TRIAL BY JURY

...

[X] Litigation in a court of competent jurisdiction

[] Other (*Specify*)

§3.4.1.1 To the fullest extent permitted by law, and more specifically, §725.06 (2) and (3), F.S., Consultant shall indemnify, defend and hold harmless the Owner, its employees, managers, and elected officials ("Indemnitees") from and against all liability, claims, damages, losses and expenses, including, but not limited to, reasonable attorneys' fees, expert witness fees and other consulting fees, to the extent such claims, damages, loss or expense arise out of, relate to or result from the negligence, recklessness, or intentional wrongful misconduct in the performance of the services for the Project by Consultant, its employees and subconsultants, if any, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

§ 3.4.1.2 This indemnification provision is not intended to provide indemnification to the Owner for its own negligence, recklessness, or intentional wrongful misconduct. The Consultant shall promptly remedy all damage or loss to any property caused in whole or in part by the Consultant, any subconsultant, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The foregoing obligations of the Consultant are in addition to its other obligations under this Agreement. The provisions of §3.4.1.1 §3.4.1.2 shall survive the termination or expiration of this Agreement, and are hereby substituted for Article 9 of the RFP in the event of conflict therewith.

§ 3.4.1.3 THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE OWNER AND THE CONSULTANT TO ENTER INTO THIS AGREEMENT.

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§ 3.4.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal, equitable or other proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Consultant's services, the Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to conclusion of mediation.

...

~~§ 3.4.3 ARBITRATION~~

~~§ 3.4.3.1 Claims, disputes and other matters in question between the parties arising out of or related to this Agreement that are not resolved by mediation and which are subject to arbitration pursuant to Section 3.4.1 shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect at the time of the arbitration. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association.~~

~~§ 3.4.3.2 A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would have been barred by the applicable statute of limitations.~~

~~§ 3.4.3.3 No arbitration arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by the Owner and Consultant and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 3.4.3.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~The Consultant and the Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Section 3.7.~~

~~§ 3.5 Limited Waiver of Consequential Damages. Consultant and Owner waive certain claims against each other for consequential damages arising out of or relating to this Agreement but only to the extent as specifically set forth in this paragraph. The Owner and Consultant agree to limit their right to recover for those specified consequential damages being waived against the other party to those consequential damages available under any insurance policies procured by Owner and Consultant in connection with this Agreement and the Project. This waiver shall not be construed to limit rights of recovery for those waived consequential damages otherwise available under any Worker's Compensation, General Liability, Excess Liability Insurance, Builder's Risk insurance, and Professional Liability policies, each party agreeing to waive its rights of subrogation against the other for such consequential damages covered by insurance. This waiver of consequential damages includes:~~

- ~~.1 damages incurred by Owner for excess operating and staff costs, lost rental income, lost profits, loss of management or employee productivity or the services of such persons; and business interruption; and~~
- ~~.2 damages incurred by Consultant for principal office expenses, lost business opportunities, lost profit from those business opportunities, losses of financing, lost professional reputation, lost productivity, and lost home-office personnel, expenses, and associated overhead.~~

~~This Limited Waiver of Consequential Damages is applicable to such consequential damages due to termination by either party as provided for elsewhere in this Agreement.~~

~~§ 3.6.1 This Agreement shall be governed by the law of the Project's location, unless otherwise provided in Section 4.2.~~

~~State of Florida, and venue for any litigation shall be in Broward County, Florida.~~

§ 3.6.3.1 Consultant is an independent contractor under this Agreement. Services provided by Consultant shall be subject to the supervision of Consultant, exclusively. In providing the services, Consultant or its agents shall not be acting, and shall not be deemed as acting as employees or agents of the Owner. This Agreement shall not constitute or make the parties a partnership or joint venture, or create any other joint relationship. The Owner does not extend to Consultant or sub-consultants, if any, any authority of any kind to bind the Owner in any respect whatsoever.

§ 3.6.5 Subject to the confidentiality requirements of Section 2.3.5, the Consultant shall have the right to include in its promotional and professional materials photographic representations of the Project, copies of its Instruments of Service or any other materials prepared by the Consultant in connection with the Project. The Consultant shall be given reasonable access to the completed Project to make such photographic representations. The Owner shall provide professional credit to the Consultant in the Owner's promotional materials for the Project.

The Owner and Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Consultant shall assign this Agreement without the written consent of the other.

§ 3.6.6 The Owner and Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Consultant shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under this Agreement, and the Consultant shall execute all reasonable consents facilitating such assignment, conditioned upon the Consultant's receipt of all amounts due as provided in this Agreement.

Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run as provided for, and governed by, applicable Florida law.

§ 3.6.7 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date when the Consultant's services are substantially completed. In its contract with the Design-Builder, the Owner shall require the Design-Builder to study carefully and to compare the various documents, materials and other information provided to the Design-Builder by the Owner; to take field measurements of any existing conditions related to the Work; to observe any conditions at the site affecting the Work; and to report promptly in writing to the Owner any errors, omissions or inconsistencies discovered by the Design-Builder.

§ 3.6.8 In its contract with the Design-Builder, the Owner shall require the Design-Builder to study carefully and to compare the various documents, materials and other information provided to the Design-Builder by the Owner; to take field measurements of any existing conditions related to the Work; to observe any conditions at the site affecting the Work; and to report promptly in writing to the Owner any errors, omissions or inconsistencies discovered by the Design-Builder. The Owner shall provide the Consultant with a copy of the executed agreement between the Owner and the Design-Builder.

~~§ 3.6.9 The Owner shall provide the Consultant with a copy of the executed agreement between the Owner and the Design-Builder.~~

§ 3.6.9 This Agreement is the joint product of the parties, and shall not, solely as a matter of judicial construction, be construed more strictly against any party.

§ 3.6.10 If there is a conflict or inconsistency between any term, statement, requirement, or provision in an Exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference, and a term, statement, requirement or provision set forth in this Agreement, the term, statement, requirement, or provision set forth in this Agreement shall govern and prevail.

§ 3.6.11 Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

§ 3.7.1 If the Owner fails to make payments to the Consultant in accordance with this Agreement, such failure shall be considered substantial non-performance and cause for termination or, at the Consultant's option, cause for suspension

of performance of services under this Agreement. Prior to suspension or termination of services, the Consultant shall give seven days' written notice to the Owner. The Consultant shall have no liability to the Owner for delay or damage caused to the Owner because of such suspension or termination of services. In the event of suspension of services, and before resuming services, the Consultant shall be paid for all sums due prior to suspension and any direct, reasonable and documented expenses incurred in the interruption and resumption of the Consultant's services. ~~The Consultant's compensation and schedule for the remaining services shall be equitably adjusted.~~

§ 3.7.2 If the Owner suspends the Project or the Consultant's services, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Consultant shall be compensated for any direct, reasonable and documented expenses incurred in the interruption and resumption of the Consultant's services. ~~The Consultant's compensation and schedule for the remaining services shall be equitably adjusted.~~

PAGE 7

§ 3.7.5 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Consultant for the Owner's convenience and without cause. In such event, Consultant shall be entitled only to payment for services performed prior to said termination, together with direct, reasonable and documented expenses associated with the termination, if any. In no event shall Consultant be entitled to any other damages, direct, indirect or consequential.

~~§ 3.7.6 In the event of termination not the fault of the Consultant, the Consultant shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all expenses directly attributable to termination for which the Consultant is not otherwise compensated.~~

§ 3.7.6 If the Owner terminates Consultant for cause and it is later determined by a Court that the termination was not justified, then in such event, such termination for cause shall be automatically be converted to a termination for convenience as set forth above.

§ 3.7.7 To the extent that the provisions of this Article 3.7 and subparagraphs conflict with the provisions in the RFP, this Article 3.7 and subparagraphs shall govern and take precedence.

§ 3.8.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Consultant's statement of services. No deductions shall be made from the Consultant's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, design-builders or others or on account of the cost of changes to the Work other than those for which the Consultant has been adjudged to be ~~liable~~ liable; provided however, that such payment(s) shall not preclude Owner for asserting claims against Consultant's for any damages sustained by Owner associated with Consultant's performance hereunder.

§ 3.8.2 Certain Reimbursable Expenses are included in Consultant's Lump Sum Compensation. In addition to compensation for the Consultant's services and ~~include expenses included~~ Reimbursable Expenses, should other expenses that are incurred by the Consultant and its employees and sub-consultants directly related to the project, as to the project for which Owner has agreed in writing prior to incurring same, and which are not included in the Lump Sum Compensation, shall be reimbursable, without markup, s identified in the following sub-sections:

PAGE 8

- ~~3~~ reproductions, plots, standard form documents, postage, handling, and delivery of Instruments of Service or other documents or materials;
- ~~4~~ expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- ~~5~~ 4 renderings, models and mock-ups requested by the Owner;
- ~~6~~ 5 expense of professional liability insurance dedicated exclusively to this Project or ~~5~~ the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Consultant and its sub-consultants; set forth in the RFP;
- ~~7~~ 6 Reimbursable Expenses as designated in Section 5.5; and

~~8~~ — other similar direct Project related expenditures.

PAGE 9

.1 Exhibit "1" RFP;

.2 Exhibit "2" Consultant's Proposal;

.3 Exhibit "3" Consultant's Revised Billing Worksheet, with add Alternate; and

.4 Exhibit "4 Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage),

...

NOT APPLICABLE

...

~~§ 5.1 For the Consultant's services under this Agreement, compensation shall be computed as follows: (Insert amount and/or basis of determining each component of compensation, including, where applicable, rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required.) Compensation to Consultant for the services under this Agreement shall be the Lump Sum Amount of \$243,750, payable in installments, as provided for elsewhere in this Agreement. This Lump Sum Amount includes, but is not limited to, all wages payroll burden, benefits, taxes, insurances, equipment, computers, software, cell phones, tools, licenses, permits, overhead and profits arising out of, or in connection with, performing the services associated with this Agreement. In the event that the Owner exercises the Add Alternate either at the time of executing this Agreement, or thereafter, the above Lump Sum Compensation shall be increased in an amount not to exceed an additional forty thousand (\$40,000) to cover the actual cost of the subconsultant, including a markup for overhead and profit of ten percent (10%). In no event shall the Lump Sum Compensation, including the Add Alternate, if exercised by Owner, exceed the sum of \$283,750, as adjusted by Changes in Service, if any.~~

§ 5.1.1 Exhibit "3" hereto attached is Consultant's line item estimate of the work activities and associated expenses. This estimate may have some influence on evaluating payment requisitions, but is not dispositive for such purposes. Services that are not expressly noted in the Exhibit, but are reasonably related and incidental thereto, and inferable therefrom, shall not be the basis for entitlement to additional compensation, unless they strictly qualify as a Change in Services, as provided for below. Moreover, if the estimated time for any activity noted on Exhibit 3 is exceeded, separately or in the aggregate, such additional time shall not be the basis for entitlement to additional compensation, unless such additional time strictly qualifies as a Change in Services.

...

~~§ 5.3 For a Change in Services of the Consultant's sub-consultants, compensation shall be computed as a multiple of (—) times the amounts billed to the Consultant for such services. computed, as follows: Consultant's hourly rate actually paid to personnel directly engaged on the Project, plus payroll taxes, insurance and fringe benefits, together with a combined overhead and profit added thereto in the amount of ten percent (10%) of said costs. If requested by Owner, Changes in Services are subject to audit by the Owner or its representatives.~~

§ 5.4 For Reimbursable Expenses as described in Section 3.8.2 and for any other items included in Section 5.5 as Reimbursable Expenses, compensation shall be computed as a multiple of (—) times the expenses incurred by the Consultant and the Consultant's employees and sub-consultants at cost, plus a markup of combined overhead and profit of ten percent (10%) of said costs. Except for those Reimbursable Expenses included in the Lump Sum Compensation, additional Reimbursables are subject to audit by Owner or its representatives.

PAGE 10

NOT APPLICABLE

~~§ 5.6~~ The rates and multiples for services of the Consultant and its sub-consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices.

~~§ 5.7~~ An initial payment of ~~(\$)~~ shall be made upon execution of this Agreement and is the minimum payment made under this Agreement. It shall be credited to the Owner's account at final payment. Subsequent payments for services shall be made monthly and, where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

§ 5.5.1 Change in Services agreed to, in writing, preliminarily between Owner and Consultant that do not exceed, either individually or in the aggregate, ten percent (10%) of the Lump Sum Compensation may be approved at the City Manager level. All others are subject to approval of the Commission, at a regularly scheduled public meeting.

§ 5.76 Payments for services shall be made monthly and, where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

§ 5.8 Payments are due and payable ~~(—)~~ within fifteen (15) calendar days from the date of the Consultant's invoice. Amounts unpaid thirty (30) calendar () days after the invoice date shall bear interest at the rate entered below or, in the absence thereof, at the legal rate prevailing from time to time at the principal place of business of the Consultant. Unless other wise later agreed to by the parties, in writing, Consultant shall submit its invoices no later than the first day of each calendar month.

...

six percent (6 %)

...

§ 5.9 If the services covered by this Agreement have not been substantially completed by on or before nine hundred and thirteen (913) calendar days through no fault of the Consultant, extension of the Consultant's services beyond that time ~~shall may~~ entitle Consultant to be compensated as provided in Section 5.2. In the event of delays due to weather affecting the Design/Build construction phase services, Consultant shall be entitled to non-compensable extensions of time. In the event that non-weather extensions of time for which the Design/Build Contractor is assessed liquidated damages by the Owner, Consultant shall have entitlement to coextensive extensions of time, compensable as set forth in §5.2 and 5.3 above.

THIS SPACE NOT USED

This Agreement entered into as of the day and year first written above.

OWNER:

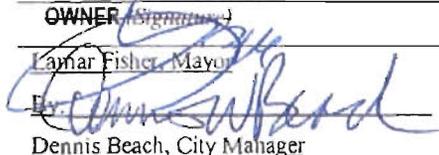
City of Pompano Beach, Florida

Witnesses:

By:

OWNER (Signature)

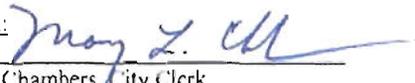
Lamar Fisher, Mayor



Dennis Beach, City Manager

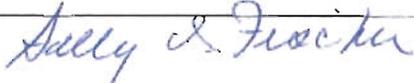
Attest:

Mary Chambers, City Clerk



(SEAL)

CONSULTANT (Signature)



Approved by:

Gordon B. Linn, City Attorney



(Printed name and title)

(Printed name and title)

Peter Flotz, Managing Member

(Printed name and title)

CONSULTANT:

Lansing Melbourne Group, P.C.

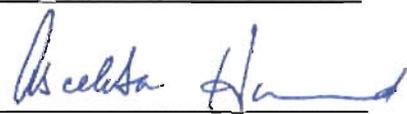
BY:

Its Managing Member



Asceleta Hammond, Deputy City Clerk

(Printed name and title)



"CITY":

Witnesses:

CITY OF POMPANO BEACH

Shelly D. Fischer

By: [Signature]
LAMAR FISHER, MAYOR

Shelley R. Bartholomew

By: [Signature]
DENNIS W. BEACH
CITY MANAGER

Attest:

[Signature]

MARY L. CHAMBERS
CITY CLERK

(SEAL)

Approved As To Form:

[Signature]

GORDON B. LINN
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 27th day of June, 2014 by **LAMAR FISHER**, as Mayor, **DENNIS W. BEACH** as City Manager and **MARY L. CHAMBERS**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron

(Name of Acknowledger Typed, Printed or Stamped)



KRYSTAL AARON
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE874865
Expires 2/14/2017

Commission Number

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Alan C. (Peter) Brandt, Jr., hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:25:46 on 06/17/2014 under Order No. 5788386019_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B142™ – 2004, Standard Form of Agreement Between Owner and Consultant where the Owner contemplates using the design-build method of project delivery, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Army for City

(Title)

07-01-2014

(Dated)



AIA[®]

Document B142™ – 2004 Exhibit A

Initial Information

for the following PROJECT:

(Name and location or address)

Pier Garage Design/Build

THE OWNER:

(Name, legal status and address)

The City of Pompano Beach, a political subdivision of the State of Florida
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

Attention: Dennis Beach, City Manager

THE CONSULTANT:

(Name, legal status and address)

Lansing Melbourne Group, LLC
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

Init.

The Agreement is based on the following information and assumptions and the Owner and Consultant may reasonably rely upon them in determining the Consultant's Lump Sum compensation. Both parties recognize, however, that such information may change and, in such event, the Owner and Consultant shall, if warranted, negotiate appropriate adjustments in schedule, compensation or changes in services in accordance with Section 3.3 of this Agreement. *(Note the disposition of the following items by inserting the requested information or a statement such as "not applicable," "unknown at this time" or "to be determined later by mutual agreement.")*

ARTICLE A.1 PROJECT PARAMETERS

§ A.1.1 The objectives and uses are as follows:
(Identify or describe, if appropriate, proposed uses or goals.)

See Request for Proposals T-36-14 ("RFP"), and Consultant's Proposal bearing the submittal date of April 29, 2014 ("Consultant's Proposal"), Exhibits "1" and "2", respectively, which are attached hereto and made a part hereof, and Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage).

§ A.1.2 The physical parameters are as follows:
(Identify or describe, if appropriate, size, location, dimensions or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; etc.)

See A.1.1 above. Consultant has visited the Project site, is familiar with local conditions, and limitations under with the Project is to be performed.

(Paragraphs deleted)

§ A.1.5 The financial parameters are as follows:

- .1 Amount of the Owner's overall budget for the Project, including the Consultant's compensation, as follows:

Not Applicable

- .2 Amount of the Owner's budget for the Cost of the Work, excluding the Consultant's compensation, as follows:

Twelve Million Dollars (\$12,000,000)

- .3 The source(s) of the Owner's financing, and the schedule(s) of its(their) availability is(are):

Source	Schedule of availability
Not Applicable	

§ A.1.6 The schedule parameters are as follows:
(Identify, if appropriate, sequence, milestone dates, durations or fast-track scheduling.)

See, Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage).

§ A.1.7 The Owner's contemplated procurement and delivery method for the Project is as follows:

(Identify procurement method, such as negotiated or competitively bid, and identify delivery method, such as designer-led design-build, contractor-led design-build, developer-led design-build or single-purpose design-build entity.)

Procurement Method
Request for Proposals

Delivery Method
Contractor-led Design/Build

§ A.1.8 The insurance parameters are as follows:

(Identify types and limits of insurance coverage, deductible amounts, and other insurance requirements applicable to the Project.) See, Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage).

Type of Insurance	Limit of Coverage	Deductible Amounts	Other Requirements
-------------------	-------------------	--------------------	--------------------

§ A.1.9 Other parameters are as follows:

(Identify special characteristics or needs of the project, such as energy, environmental, historic preservation or Design-Builder insurance requirements.)

Not applicable

ARTICLE A.2 PROJECT TEAM

§ A.2.1 The Owner's Designated Representative is as follows:

(List name, address and other information.)

Horacio Danovich
R.M.A. Director of Engineering Services for
Pompano Beach Community Redevelopment Agency (CRA)
100 West Atlantic Boulevard, Room 276
Pompano Beach, Florida 33060
T: (954) 786-7834 F: (954) 786-7836
E-mail: Horacio.Danovich@copbfl.com

§ A.2.2 The persons or entities, if any, in addition to the Owner's Designated Representative, who are required to review the Consultant's services and Instruments of Service are as follows:

(List name, address and other information.)

Unknown at this time.

§ A.2.3 The cost consultant to be retained by the Owner is as follows:

(If the Owner will retain a cost consultant, list name, legal status, address and other information.)

Budgeting and Cost Estimating Services are included in Consultant's Lump Sum Compensation

§ A.2.4 The Design-Builder to be retained by the Owner is as follows:

(If known, list name, legal status, address and other information.)

Unknown at this time

§ A.2.5 Other consultants, contractors or others to be retained by the Owner are as follows:
(List disciplines, and, if known, identify them by name and address.)

Unknown at this time

§ A.2.6 The Consultant's Designated Representative is as follows:
(List name, address and other information.)

Peter Flotz
Managing Member
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306
321-302-2930
pflotz@lmgroup.us

§ A.2.7 The cost sub-consultant, if any, to be retained at the Consultant's expense is as follows:
(If the Consultant will retain a cost sub-consultant, list name, address and other information.)

Not Applicable.

§ A.2.8 Other sub-consultants to be retained at the Consultant's expense are as follows:
(List disciplines and, if known, identify them by name and address.)

Unknown at this time.

ARTICLE A.3 OTHER INITIAL INFORMATION

§ A.3.1 Other initial information is as follows:
(Identify other initial information on which the Agreement is based.)

Not applicable.

Additions and Deletions Report for **AIA[®] Document B142[™] – 2004 Exhibit A**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:32:11 on 06/17/2014.

PAGE 1

Pier Garage Design/Build

...

The City of Pompano Beach, a political subdivision of the State of Florida
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

Attention: Dennis Beach, City Manager

(Name, legal status and address)

Lansing Melbourne Group, LLC
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306

PAGE 2

The Agreement is based on the following information and assumptions and the Owner and Consultant may reasonably rely upon them in determining the Consultant's Lump Sum compensation. Both parties recognize, however, that such information may change and, in such event, the Owner and Consultant ~~shall~~ shall, if warranted, negotiate appropriate adjustments in schedule, compensation or changes in services in accordance with Section 3.3 of this Agreement.

...

See Request for Proposals T-36-14 ("RFP"), and Consultant's Proposal bearing the submittal date of April 29, 2014 ("Consultant's Proposal"), Exhibits "1" and "2", respectively, which are attached hereto and made a part hereof, and Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage).

...

See A.1.1 above. Consultant has visited the Project site, is familiar with local conditions, and limitations under with the Project is to be performed.

~~§ A.1.3 The program for the Project is as follows:
(Identify documentation or state the manner in which the program will be developed.)~~

~~§ A.1.4 The legal parameters are as follows:
(Identify pertinent legal information, including, if appropriate, land surveys and legal descriptions and restrictions of the site, such as zoning and other public regulations governing use of the site, deed restrictions, covenants and other restraints, availability of public and private utilities and services, etc.)~~

...

Not Applicable

...

Twelve Million Dollars (\$12,000,000)

...

Not Applicable

...

See, Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage).

PAGE 3

Request for Proposals

Contractor-led Design/Build

...

(Identify types and limits of insurance coverage, deductible amounts, and other insurance requirements applicable to the Project.) See, Design/Build Request for Proposals T-16-14 (Step 2) (Design/Build Services for Construction of Beach Parking Garage).

...

Not applicable

...

Horacio Danovich
R.M.A. Director of Engineering Services for
Pompano Beach Community Redevelopment Agency (CRA)
100 West Atlantic Boulevard, Room 276
Pompano Beach, Florida 33060
T: (954) 786-7834 F: (954) 786-7836
E-mail: Horacio.Danovich@copbfl.com

...

Unknown at this time.

...

Budgeting and Cost Estimating Services are included in Consultant's Lump Sum Compensation

PAGE 4

Unknown at this time

...

Unknown at this time

...

Peter Flotz
Managing Member
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306
321-302-2930
pflotz@imgroup.us

...

Not Applicable.

...

Unknown at this time.

...

Not applicable.



AIA[®] Document B142[™] – 2004 Exhibit B

Consultant's Services

for the following PROJECT:

(Name and location or address)

| Pier Garage Design/Build

THE OWNER:

(Name, legal status and address)

| The City of Pompano Beach, a political subdivision of the State of Florida
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

| Attention: Dennis Beach, City Manager

THE CONSULTANT:

(Name, legal status and address)

| Lansing Melbourne Group, LLC
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

Init.

TABLE OF ARTICLES

- B.1 SCOPE OF SERVICES
- B.2 PROJECT ADMINISTRATION SERVICES
- B.3 DATA-GATHERING SERVICES
- B.4 PROGRAMMING AND PLANNING SERVICES
- B.5 PROJECT CRITERIA DEVELOPMENT SERVICES
- B.6 BUDGETING AND COST ESTIMATING SERVICES
- B.7 DESIGN-BUILD PROCUREMENT SERVICES
- B.8 CONSULTING SERVICES in connection with FINAL DESIGN DOCUMENTS PREPARED BY DESIGN-BUILDER
- B.9 CONSULTING SERVICES in connection with CONSTRUCTION DOCUMENTS PREPARED BY DESIGN-BUILDER
- B.10 CONSULTING SERVICES in connection with the CONSTRUCTION OF THE PROJECT
- B.11 POST-CONTRACT COMPLETION
- B.12 OTHER SERVICES
- B.13 DESCRIPTION OF SERVICES

ARTICLE B.1 SCOPE OF SERVICES

§ B.1.1 The Consultant shall provide to the Owner only the services in this Exhibit B that are designated by a check or "X" in the box adjacent to the listed service.

(Designate the services the Consultant shall provide by placing a check or "X" in the box adjacent to the listed service. If necessary, provide expanded or modified descriptions of the designated services in the space provided or in Article B.13.)

ARTICLE B.2 PROJECT ADMINISTRATION SERVICES

§ B.2.1 **Project Administration:** Manage the Consultant's services and administer the Project to the point of design-build contract award, consult with the Owner during such period, attend Project meetings, communicate with members of the Project Team, and issue progress reports.

§ B.2.2 **Discipline Coordination:** Coordinate the services provided by the Consultant and the Consultant's sub-consultants with those services provided by the Owner and parties retained by the Owner.

§ B.2.3 **Owner-Supplied Data Coordination:** Coordinate information and data provided to the Consultant by the Owner with information and data developed by the Consultant in the performance of its services.

§ B.2.4 **Agency Consultation/Review/Approval:** Assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ B.2.5 **Schedule Development/Monitoring:** Prepare and periodically update the Project schedule in accordance with the schedule set forth in Section 2.3.4 of the Agreement which shall identify milestone dates for decisions and approvals required of the Owner, services furnished by the Consultant, completion of documentation provided by the Consultant, design-build proposal and contract award, completion of final design by the Owner's selected Design-Builder, commencement of construction and Substantial Completion of the Work.

§ B.2.6 **Submissions to Owner:** Submit appropriate documentation to the Owner at intervals appropriate to the Consultant's services for purposes of evaluation and approval by the Owner. The Consultant shall be entitled to rely on approvals received from the Owner in the further development of the Consultant's services.

§ B.2.7 **Presentations:** Present the Owner with an explanation of the Project and the progress of the Consultant's services.

§ B.2.8 **Other Administration Services** *(Identify)*

ARTICLE B.3 DATA-GATHERING SERVICES

§ B.3.1 Data-Gathering Services are to provide appropriate and sufficient information and a reasonable basis for subsequent programming, planning and Project Criteria development.

§ B.3.2 Unless otherwise defined by the Owner in writing, determine the extent and detail of the data to be gathered by the Consultant.

§ B.3.3 In a timely manner, advise the Owner of any additional data not the responsibility of the Consultant which, in the judgment of the Consultant, is required in connection with the Project.

§ B.3.4 **Preparation of Draft Data Gathering Report:** Prepare and deliver to the Owner, upon completion of data gathering, a written draft Data-Gathering Report identifying data gathered by the Consultant or provided to it by the Owner.

§ B.3.5 **Preparation of Final Data Gathering Report:** Revise the draft Data-Gathering Report in response to the Owner's comments and provide the Owner with such number of copies of the final Data-Gathering

| Report incorporating such revisions as the Owner requests.

- [] § B.3.6 Site Investigation
- [] § B.3.7 Site Surveying
- [] § B.3.8 Environmental Studies and Reports
- [] § B.3.9 Geotechnical Studies and Reports
- [] § B.3.10 Existing On-Site Utilities Survey
- [] § B.3.11 Existing Off-Site Utilities Survey
- [] § B.3.12 Existing Facilities Survey
- | [X] § B.3.13 Identification of Reviewing Agencies/Groups
- | [X] § B.3.14 Identification of Applicable Regulations
- [] § B.3.15 Marketing Studies
- [] § B.3.16 Economic Feasibility Studies
- [] § B.3.17 Project Financing Studies
- [] § B.3.18 Other Data-Gathering Services (*Identify*)

ARTICLE B.4 PROGRAMMING AND PLANNING SERVICES

§ B.4.1 After acceptance by the Owner of the Data-Gathering Report, if any, and based on the mutually agreed-upon schedule and Project cost budget and budget for the Cost of the Work, provide the Programming and Planning Services designated below. The purpose of providing such services is to establish and document requirements of the Project, including, but not limited to design objectives, site planning and design concepts, facility planning and design concepts, approximate gross facility areas and space requirements, space adjacencies, flexibility and expandability requirements, and identification of special equipment and systems.

| [X] § B.4.2 **Review of Planning and Programming Requirements:** Review planning and programming requirements with the Owner, identify and evaluate alternate concepts, and make recommendations to the Owner of those concepts which in the Consultant's judgment meet the Owner's requirements for the Project.

| [X] § B.4.3 **Preparation of Draft Program Document:** Prepare and deliver to the Owner a written draft Program Document documenting all programming and planning requirements identified as being the responsibility of the Consultant as set forth below and those, if any, provided to the Consultant by the Owner

Init.

or others, identified alternate concepts, and those concepts recommended by the Consultant with the reasons therefor.

- § B.4.4 Preparation of Final Program Document: Revise planning and programming requirements in response to the Owner's comments and, based upon the Owner's selected alternative, provide to the Owner such number of copies of the final Program Document incorporating all such revisions as the Owner shall request.
- § B.4.5 Space Adjacencies/Flow Diagrams
- § B.4.6 Site Analysis and Selection
- § B.4.7 Site Development Planning
- § B.4.8 Detailed Site Utilization Studies
- § B.4.9 Off-Site Utility Studies
- § B.4.10 Other Programming and Planning Services (*Identify*)

ARTICLE B.5 PROJECT CRITERIA DEVELOPMENT SERVICES

- § B.5.1 Preparation of Draft Project Criteria Documents: After acceptance by the Owner of the Program Document, if any, and based on a mutually agreed-upon program, schedule, and Project cost budget and budget for the Cost of the Work, prepare draft Project Criteria documents describing the detailed Project Criteria for the Project. Project Criteria documents are intended to show or describe the character, scope, relationships, forms, size and appearance of the Project; major materials and systems and, in general, their quality levels, performance standards, requirements or criteria; and major equipment layouts in such detail as necessary to solicit and evaluate either competitive Design-Build bids or negotiated Design-Build proposals. Project Criteria documents may consist of, as appropriate, textual narratives, diagrams, specifications, plans, sections, elevations, equipment layouts, and other drawings, documents and materials, including, but not limited to, models, perspective sketches, electronic modeling or combinations of these media.
- § B.5.2 Preparation of Final Project Criteria Documents: Revise the draft Project Criteria documents in response to the Owner's comments and provide to the Owner such number of copies of the final Project Criteria documents incorporating all such revisions as the Owner shall request.
- § B.5.3 Revisions to Project Criteria Documents: Revise the Project Criteria documents to reduce the estimated Project cost and/or the Cost of the Work after receipt of Design-Build proposals or negotiations to within the budget for the Cost of the Work identified in Section A.1.5.1.
 - .1 Provide not more than () revisions over the duration of the Project.
- § B.5.4 Narrative of Program Requirements/Objectives
- § B.5.5 Narrative of Design Goals and Objectives
- § B.5.6 Project Concept Diagrams and Documents

Init.

| § B.5.7 Performance Specifications

§ B.5.8 Detailed Criteria For:

| § B.5.8.1 Project Use

| § B.5.8.2 Project Space Requirements

| § B.5.8.3 Building Systems Requirements

| § B.5.8.4 Building materials Requirements

| § B.5.8.5 Equipment Requirements

| § B.5.8.6 Project Schedule

| § B.5.8.7 Project Phasing

| § B.5.8.8 Project Performance Requirements

| § B.5.8.9 Project Expandability Requirements

| § B.5.8.10 Project Flexibility Requirements

| § B.5.8.11 Energy Requirements

| § B.5.8.12 MBE/WBE/DBE/Other Similar Requirements

| § B.5.8.13 Architectural Design

| § B.5.8.14 Structural Design

| § B.5.8.15 Mechanical Design

| § B.5.8.16 Electrical Design

| § B.5.8.17 Fire Protection Design

| § B.5.8.18 Civil Design

Init.

- § B.5.8.19 Landscape Design
- § B.5.8.20 Interior Design
- § B.5.8.21 Code Analysis
- § B.5.8.22 Accessibility Analysis
- § B.5.8.23 Other Detailed Criteria (*Identify*)
- § B.5.8.24 Other Project Criteria Development Services (*Identify*)

ARTICLE B.6 BUDGETING AND COST ESTIMATING SERVICES

§ B.6.1 Budgeting and cost estimating services are intended to provide a basis upon which evaluations of the Project Criteria development to date may be evaluated against the Owner's overall Project budget and budget for the Cost of the Work.

§ B.6.2 The Consultant, when preparing estimates of overall Project cost and of the Cost of the Work, shall include contingencies for design, bidding and/or negotiation, and price escalation.

§ B.6.3 If the design-build contract award has not occurred within 90 days of the date shown on the schedule referred to in Section 2.5, above, the overall Project budget and the budget for the Cost of the Work shall each be adjusted to reflect changes in the general level or prices in the construction industry.

- § B.6.4 **Preliminary Estimate:** When Project Criteria requirements have been sufficiently identified, prepare a preliminary estimate of the overall Project cost and the Cost of the Work. This estimate may be based on information provided by the Owner and on current area, volume or similar estimating techniques.
- § B.6.5 **Updated Estimate:** As the Project Criteria requirements become more clearly articulated, update and refine the preliminary estimate of the overall Project cost and the Cost of the Work.
- § B.6.6 **Advise on Adjustments to Previous Estimates:** Advise the Owner of any adjustments to previous estimates of overall Project cost or the Cost of the Work indicated by changes or refinements in Project requirements or in general market conditions.
- § B.6.7 **Recommendation to Adjust Project Parameters:** If estimates of the Project cost or the Cost of the Work exceed the Owner's budgets therefore, make appropriate recommendations to the Owner to adjust the Project's size, quality, budget or other parameters. The Owner shall cooperate in making such adjustments or in authorizing an increase in the Project cost budget and/or the budget for the Cost of the Work, as appropriate.
- § B.6.8 **Cost Research/Advice**
- § B.6.9 **Budget Development Services**
- § B.6.10 **Cost Plan Development**

Init.

- § B.6.11 Value Analysis Services
- § B.6.12 Life Cycle Cost Analysis
- § B.6.13 Other Budgeting/Cost Estimating Services (*Identify*)

ARTICLE B.7 DESIGN-BUILD PROCUREMENT SERVICES

- § B.7.1 Advise on Selection Process/Evaluation Criteria
- § B.7.2 Advise on Contract Type
- § B.7.3 Advise on Contract Form and Conditions
- § B.7.4 Identify Proposer Criteria/Qualifications
- § B.7.5 Proposer List
- § B.7.6 Evaluations of Proposers
- § B.7.7 Recommendation of Selected Proposers
- § B.7.8 Determination of Proposal Submission Requirements
- § B.7.9 Preparation of Request for Proposals
- § B.7.10 Reproduction and Distribution of Proposal Documents
- § B.7.11 Maintain Distribution/Deposit/Retrieval Log
- § B.7.12 Respond to Questions Regarding Project Criteria Intent
- § B.7.13 Evaluate Requests for Project Criteria Modifications
- § B.7.14 Preparation/Distribution of Addenda
- § B.7.15 Attend Proposers Conference

Int.

§ B.7.16 Evaluation of Proposals

§ B.7.17 Recommendation of Selected Proposal

§ B.7.18 Design-Build Contract Award

§ B.7.19 Other Design-Build Procurement Services

ARTICLE B.8 CONSULTING SERVICES in connection with **FINAL DESIGN DOCUMENTS PREPARED BY DESIGN-BUILDER**

§ B.8.1 Respond to Questions: Respond to questions regarding the intent of the Project Criteria documents.

§ B.8.2 Review Documents Prepared by Design-Builder: Review design documents prepared by the Design-Builder for the limited purpose of evaluating conformance with the information given and the design concept expressed in the Design-Build Documents.

§ B.8.3 Recommendations for Payment: Recommend to the Owner amounts due the Design-Builder on the basis of (1) the payment provisions of the Design-Build Contract, (2) the data comprising the Design-Builder's Application for Payment, and (3) an evaluation of the extent, on a percentage basis, of the Design-Builder's progress toward completion of the final design documents in accordance with the provisions of the Design-Build Contract. Such recommendation shall not constitute a representation that the Consultant has evaluated the Design-Builder's final design documents for their technical accuracy, conformance with applicable codes and regulations, or for any purpose other than as set forth above.

§ B.8.4 Advise and Consult with the Owner

§ B.8.5 Attend and Participate at Project Meetings

§ B.8.6 Other Consulting Services (*Identify*)

ARTICLE B.9 CONSULTING SERVICES in connection with **CONSTRUCTION DOCUMENTS PREPARED BY DESIGN-BUILDER**

§ B.9.1 Respond to Questions: Respond to questions regarding the intent of the Project Criteria documents.

§ B.9.2 Review Documents Prepared by Design-Builder: Review construction documents prepared by the Design-Builder for the limited purpose of evaluating conformance with the information given and the design concept expressed in the Design-Build Documents.

§ B.9.3 Recommendations for Payment: Recommend to the Owner amounts due the Design-Builder based on (1) the payment provisions of the Design-Build Contract, (2) the data comprising the Design-Builder's Application for Payment, and (3) an evaluation of the extent, on a percentage basis, of the Design-Builder's progress toward completion of the construction documents in accordance with the provisions of the Design-Build Contract. Such recommendation shall not constitute a representation that the Consultant has evaluated the Design-Builder's construction documents for their technical accuracy, constructability, conformance with applicable codes and regulations, or for any purpose other than as set forth above.

§ B.9.4 Advise and Consult with the Owner

Init.

§ B.9.5 Attend and Participate at Project Meetings

§ B.9.6 Other Consulting Services (*Identify*)

ARTICLE B.10 CONSULTING SERVICES in connection with the **CONSTRUCTION OF THE PROJECT**

§ B.10.1 Respond to Questions: Respond to questions regarding the intent of the Project Criteria documents.

§ B.10.2 Review Documents Prepared by Design-Builder: Review submittals required by the Design-Build Documents previously reviewed and approved by the Design-Builder, such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of evaluating conformance with the information given and the design concept expressed in the Design-Build Documents.

§ B.10.3 Site Visits for Selected Purposes: Visit the site to review selected issues with the Owner and the Design-Builder, but only for the limited purpose of evaluating conformance of the Work with the Design-Build Documents.

§ B.10.4 Recommendations for Payment: Recommend to the Owner amounts due the Design-Builder on the basis of (1) the payment provisions of the Design-Build Contract, (2) the data comprising making up the Design-Builder's Application for Payment, and (3) an evaluation of the extent that the Work, on a percentage basis, has progressed to the point indicated in accordance with the provisions of the Design-Build Contract. Such recommendation shall not constitute a representation that the Consultant has (1) evaluated the quality of the Work or made exhaustive or continuous inspections to check the quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from the Design-Builder's Contractor(s) and material suppliers and other data requested by the Owner to substantiate the Design-Builder's right to payment, or (4) ascertained how or for what purpose the Design-Builder has used money previously paid on account of the Contract Sum.

§ B.10.5 Substantial Completion and Final Completion Inspections: Conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion. Inspections shall be conducted with the Owner's Designated Representative to check conformance of the Work with the requirements of the Design-Build Documents and to verify the accuracy and completeness of the list submitted by the Design-Builder of Work to be completed or corrected.

§ B.10.6 Recommendation for Final Payment: Recommend to the Owner the final amount due the Design-Builder on the basis of (1) the payment provisions of the Design-Build Contract, (2) the data comprising making up the Design-Builder's final Application for Payment, and (3) a final inspection indicating the Work complies with the requirements of the Design-Build Contract. Such recommendation shall not constitute a representation that the party making the recommendation has (1) evaluated the quality of the Work or made exhaustive or continuous inspections to check the quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from the Design-Builder's Contractor(s) and material suppliers and other data requested by the Owner to substantiate the Design-Builder's right to payment, or (4) ascertained how or for what purpose the Design-Builder has used money previously paid on account of the Contract Sum.

§ B.10.7 Advise and Consult with the Owner

§ B.10.8 Attend and Participate at Project Meetings

§ B.10.9 Other Consulting Services (*Identify*)

Init.

ARTICLE B.11 POST-CONTRACT COMPLETION

§ B.11.1 **Attend Meetings:** Attend and participate at meetings subsequent to Substantial Completion of the Work.

§ B.11.2 **Administer Remedial Work of Design-Builder:** Administer and assist the Owner in coordinating remedial work required of the Design-Builder after Substantial Completion of the Project.

§ B.11.3 **Warranty Review Services:** Consult with the Owner during the duration of warranties in connection with inadequate performance of materials, systems and equipment under warranty; inspect selected materials, systems and equipment prior to expiration of the warranty period(s) to ascertain their adequacy of performance; and document defects or deficiencies and assist the Owner in preparing instructions to the Design-Builder for correction of noted defects.

§ B.11.4 **Post-Contract Completion Evaluation Services:** One year following Substantial Completion of the Project, conduct a Project evaluation, interview appropriate supervisory, operating and maintenance personnel of the Owner, and analyze operating costs and related cost data for evaluation of (1) the initial Project programming versus actual facility use, (2) functional effectiveness of planned spaces and relationships, and (3) the operational effectiveness of systems and materials installed.

§ B.11.5 **Advise and Consult with the Owner**

§ B.11.6 **Other Post-Contract Completion Services** (*Identify*)

ARTICLE B.12 OTHER SERVICES

§ B.12.1 **Special Studies**

§ B.12.2 **Tenant-Related Services**

§ B.12.3 **Project Promotion/Public Relations**

§ B.12.4 **Leasing Brochures**

§ B.12.5 **Special Furnishings Design**

§ B.12.6 **Furniture, Fixtures and Equipment Services**

§ B.12.7 **Special Disciplines Consultation**

§ B.12.8 **Special Building Type Consultation**

§ B.12.9 **Fine Arts and Crafts Consultation**

§ B.12.10 **Graphic Design Services**

§ B.12.11 Renderings

§ B.12.12 Model Construction

§ B.12.13 Still Photography

§ B.12.14 Audio-Video Services

§ B.12.15 Computer Animation Services

§ B.12.16 Energy Studies

§ B.12.17 Quantity Surveys

§ B.12.18 Other Services (*Identify*)

ARTICLE B.13 DESCRIPTION OF SERVICES

(In the space below, provide expanded or modified descriptions of the services designated above, add other services as space permits, or refer to an exhibit attached to this document.)

Add Alternate (see Exhibit "3")

Additions and Deletions Report for **AIA® Document B142™ – 2004 Exhibit B**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:34:13 on 06/17/2014.

PAGE 1

Pier Garage Design/Build

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The City of Pompano Beach, a political subdivision of the State of Florida
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

Attention: Dennis Beach, City Manager

...

Lansing Melbourne Group, LLC
2805 East Oakland Park Blvd., #185
Fort Lauderdale, Florida 33306

PAGE 3

- [] **§ B.2.1 Project Administration:** Manage the Consultant's services and administer the Project to the point of design-build contract award, consult with the Owner during such period, attend Project meetings, communicate with members of the Project Team, and issue progress reports.
- [] **§ B.2.2 Discipline Coordination:** Coordinate the services provided by the Consultant and the Consultant's sub-consultants with those services provided by the Owner and parties retained by the Owner.
- [] **§ B.2.3 Owner-Supplied Data Coordination:** Coordinate information and data provided to the Consultant by the Owner with information and data developed by the Consultant in the performance of its services.
- [] **§ B.2.4 Agency Consultation/Review/Approval:** Assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.
- [] **§ B.2.5 Schedule Development/Monitoring:** Prepare and periodically update the Project schedule in accordance with the schedule set forth in Section 2.3.4 of the Agreement which shall identify milestone dates for decisions and approvals required of the Owner, services furnished by the Consultant, completion of documentation provided by the Consultant, design-build proposal and contract award, completion of final design by the Owner's selected Design-Builder, commencement of construction and Substantial Completion

of the Work.

- § **B.2.6 Submissions to Owner:** Submit appropriate documentation to the Owner at intervals appropriate to the Consultant's services for purposes of evaluation and approval by the Owner. The Consultant shall be entitled to rely on approvals received from the Owner in the further development of the Consultant's services.
- § **B.2.7 Presentations:** Present the Owner with an explanation of the Project and the progress of the Consultant's services.
- ...
- § **B.3.2** Unless otherwise defined by the Owner in writing, determine the extent and detail of the data to be gathered by the Consultant.
- § **B.3.3** In a timely manner, advise the Owner of any additional data not the responsibility of the Consultant which, in the judgment of the Consultant, is required in connection with the Project.
- § **B.3.4 Preparation of Draft Data Gathering Report:** Prepare and deliver to the Owner, upon completion of data gathering, a written draft Data-Gathering Report identifying data gathered by the Consultant or provided to it by the Owner.
- § **B.3.5 Preparation of Final Data Gathering Report:** Revise the draft Data-Gathering Report in response to the Owner's comments and provide the Owner with such number of copies of the final Data-Gathering Report incorporating such revisions as the Owner requests.

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- § **B.3.13 Identification of Reviewing Agencies/Groups**
- ...
- § **B.3.14 Identification of Applicable Regulations**
- ...
- § **B.4.2 Review of Planning and Programming Requirements:** Review planning and programming requirements with the Owner, identify and evaluate alternate concepts, and make recommendations to the Owner of those concepts which in the Consultant's judgment meet the Owner's requirements for the Project.
- § **B.4.3 Preparation of Draft Program Document:** Prepare and deliver to the Owner a written draft Program Document documenting all programming and planning requirements identified as being the responsibility of the Consultant as set forth below and those, if any, provided to the Consultant by the Owner or others, identified alternate concepts, and those concepts recommended by the Consultant with the reasons therefor.
- § **B.4.4 Preparation of Final Program Document:** Revise planning and programming requirements in response to the Owner's comments and, based upon the Owner's selected alternative, provide to the Owner such number of copies of the final Program Document incorporating all such revisions as the Owner shall request.

PAGE 5

- § **B.4.10 Other Programming and Planning Services** (*Identify*)

§ B.5.1 Preparation of Draft Project Criteria Documents: After acceptance by the Owner of the Program Document, if any, and based on a mutually agreed-upon program, schedule, and Project cost budget and budget for the Cost of the Work, prepare draft Project Criteria documents describing the detailed Project Criteria for the Project. Project Criteria documents are intended to show or describe the character, scope, relationships, forms, size and appearance of the Project; major materials and systems and, in general, their quality levels, performance standards, requirements or criteria; and major equipment layouts in such detail as necessary to solicit and evaluate either competitive Design-Build bids or negotiated Design-Build proposals. Project Criteria documents may consist of, as appropriate, textual narratives, diagrams, specifications, plans, sections, elevations, equipment layouts, and other drawings, documents and materials, including, but not limited to, models, perspective sketches, electronic modeling or combinations of these media.

§ B.5.2 Preparation of Final Project Criteria Documents: Revise the draft Project Criteria documents in response to the Owner's comments and provide to the Owner such number of copies of the final Project Criteria documents incorporating all such revisions as the Owner shall request.

§ B.5.3 Revisions to Project Criteria Documents: Revise the Project Criteria documents to reduce the estimated Project cost and/or the Cost of the Work after receipt of Design-Build proposals or negotiations to within the budget for the Cost of the Work identified in Section A.1.5.1.

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§ B.5.4 Narrative of Program Requirements/Objectives

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§ B.5.5 Narrative of Design Goals and Objectives

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§ B.5.6 Project Concept Diagrams and Documents

PAGE 6

§ B.5.7 Performance Specifications

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§ B.5.8.1 Project Use

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§ B.5.8.2 Project Space Requirements

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§ B.5.8.3 Building Systems Requirements

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§ B.5.8.4 Building materials Requirements

...

§ B.5.8.5 Equipment Requirements

...

§ B.5.8.6 Project Schedule

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§ B.5.8.7 Project Phasing

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§ B.5.8.9 Project Expandability Requirements

PAGE 7

§ B.6.4 Preliminary Estimate: When Project Criteria requirements have been sufficiently identified, prepare a preliminary estimate of the overall Project cost and the Cost of the Work. This estimate may be based on information provided by the Owner and on current area, volume or similar estimating techniques.

§ B.6.5 Updated Estimate: As the Project Criteria requirements become more clearly articulated, update and refine the preliminary estimate of the overall Project cost and the Cost of the Work.

§ B.6.6 Advise on Adjustments to Previous Estimates: Advise the Owner of any adjustments to previous estimates of overall Project cost or the Cost of the Work indicated by changes or refinements in Project requirements or in general market conditions.

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§ B.6.9 Budget Development Services

PAGE 8

§ B.7.1 Advise on Selection Process/Evaluation Criteria

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§ B.7.2 Advise on Contract Type

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§ B.7.3 Advise on Contract Form and Conditions

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§ B.7.6 Evaluations of Proposers

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§ B.7.7 Recommendation of Selected Proposers

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§ B.7.8 Determination of Proposal Submission Requirements

...

§ B.7.9 Preparation of Request for Proposals

...

§ B.7.10 Reproduction and Distribution of Proposal Documents

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§ B.7.11 Maintain Distribution/Deposit/Retrieval Log

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§ B.7.13 Evaluate Requests for Project Criteria Modifications

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§ B.7.14 Preparation/Distribution of Addenda

...

§ B.7.15 Attend Proposers Conference

PAGE 9

§ B.7.16 Evaluation of Proposals

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§ B.7.17 Recommendation of Selected Proposal

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§ B.7.18 Design-Build Contract Award

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§ B.8.4 Advise and Consult with the Owner

...

[] § B.8.5 **Attend and Participate at Project Meetings**

...

[] § B.9.1 **Respond to Questions:** Respond to questions regarding the intent of the Project Criteria documents.

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[] § B.9.4 **Advise and Consult with the Owner**

PAGE 10

[] § B.9.5 **Attend and Participate at Project Meetings**

...

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§ B.10.7 **Advise and Consult with the Owner**

...

§ B.10.8 **Attend and Participate at Project Meetings**

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§ B.11.1 **Attend Meetings:** Attend and participate at meetings subsequent to Substantial Completion of the Work.

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§ B.11.5 **Advise and Consult with the Owner**

...

§ B.12.2 **Tenant-Related Services**

...

§ B.12.3 **Project Promotion/Public Relations**

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§ B.12.12 **Model Construction**

...

Add Alternate (see Exhibit "3")

Location Map



Google earth



