

**PROFESSIONAL SERVICES AGREEMENT WITH THE  
CITY OF LAKE WORTH**



**FOR CIVIL ENGINEERING  
SERVICES  
(RFQ NO. 18-303)**

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is made on the 16<sup>th</sup> day of March, 2018, between the **City of Lake Worth**, a Florida municipal corporation ("City") and **Wantman Group, Inc.**, a Florida corporation ("CONSULTANT").

**WHEREAS**, the City issued Request for Qualifications (No. 18-303) for engineering, architecture and related professional services in accordance with the Consultants' Competitive Negotiations Act, section 287.055, Florida Statutes ("RFQ"); and

**WHEREAS**, the CONSULTANT submitted its qualifications in response to the RFQ; and

**WHEREAS**, the City desires to award the RFQ to the CONSULTANT based on CONSULTANT's qualifications and experience to provide **Civil Engineering** services; and

**WHEREAS**, the City finds making the non-exclusive award of the RFQ to the CONSULTANT as described herein serves a valid public purpose.

**NOW THEREFORE**, the City hereby engages the services of the CONSULTANT, and in consideration of the mutual promises herein contained, the sufficient of which is hereby acknowledged by both parties, the parties agree as follows:

### **ARTICLE 1 - SCOPE OF SERVICES AND TASK ORDER(S)**

A. Scope of Services: The City has awarded the CONSULTANT the non-exclusive right to provide the City with **Civil Engineering** services ("services").

B. Task Order(s): This non-exclusive Agreement does not guarantee that the City will utilize CONSULTANT in any capacity or for any services identified herein. When the City identifies a need for the CONSULTANT's services, the City will request a proposal from the CONSULTANT to provide the services requested. The CONSULTANT's proposal shall be submitted in the format of the sample task order, attached hereto and incorporated herein as **Exhibit "A"** and shall be based on the CONSULTANT's fee schedule agreed to by the City, attached hereto and incorporated herein as **Exhibit "B"**. If a subconsultant(s) is to be utilized for services under a task order, the CONSULTANT shall obtain a written proposal from the subconsultant(s) and attach the same with to the CONSULTANT's proposal submitted to the City. Upon receipt of the CONSULTANT's proposal, the City shall decide in its sole discretion whether to award the task order to the CONSULTANT. Depending on the lump sum, not to exceed amount of each proposed task order, the task order may be awarded by the City Manager (if within his purchasing authority of \$25,000 or less) or the City Commission. If the task order is awarded to the CONSULTANT, the CONSULTANT shall commence the identified services upon receipt of a Notice to Proceed from the City or upon the CONSULTANT's receipt of a fully executed task order for the services. The City reserves the right to reject any and all proposals submitted by the CONSULTANT.

### **ARTICLE 2 - TERM OF AGREEMENT**

This non-exclusive Agreement shall become effective upon approval by the City Commission and execution by the Mayor and shall have an initial term of two (2) years with three (3) optional one (1) year renewals. The City Manager is authorized to exercise the optional one (1) year renewals. Each fiscal year of this Agreement and any renewals will be subject to the availability of funds lawfully appropriated for its purpose by the State of Florida or Palm Beach County (if applicable) and the City.

### ARTICLE 3 – COMPENSATION

A. Fee Schedule: The fee schedule attached as **Exhibit “B”** shall remain firm for the first two (2) years of this Agreement. After the first two (2) years, the CONSULTANT may request a change to the fee schedule. No changes to the fee schedule shall occur unless approved in writing by the City, which may be by an approved task order signed by the City Manager or approved by the City Commission. The fee schedule shall be the basis for all fees proposed by the CONSULTANT and in any approved task order.

B. Lump Sum Task Orders: The City shall pay the CONSULTANT the lump sum, not to exceed amount(s) set forth in an approved task order. The CONSULTANT expressly acknowledges and agrees that the total cost to complete all services as set forth in an approved task order shall be a lump sum, not to exceed price, and no additional costs shall be authorized or paid by the City unless approved by written amendment to the task order by the City Manager or City Commission (depending on the City’s required level of approval for such additional costs). In no case shall the CONSULTANT bill the City for any amount not stated in an approved task order or written amendment thereto.

C. Reimbursable Expenses: The CONSULTANT's reimbursable, out-of-pocket expenses including, but not limited to, travel, per diem and other living expenses, shall be identified in an approved task order. The City shall not be responsible for payment of any such reimbursable, out-of-pocket expenses except as provided for in an approved task order or amendment thereto. Reimbursement for mileage shall only be for travel required outside of Palm Beach County. CONSULTANT shall not be reimbursed for travel within Palm Beach County and all travel shall be proposed and reimbursed pursuant to section 112. 061, Florida Statutes.

D. Direct Project Expenses: Unless otherwise specifically stated in an approved task order, charges for printing, reproduction, use of computer-aided design equipment, field equipment, and any laboratory analysis performed by the CONSULTANT or its subconsultants or its subcontractors, and the use of the CONSULTANT's and employee's automobiles shall be identified in an approved task order. The City shall not be responsible for payment of any other direct project expenses. **All direct project expenses shall be billed at cost to the City and the CONSULTANT shall not mark-up or charge an administrative fee in addition to the direct cost for such expenses.**

E. Additional Services: If the City seeks to utilize the CONSULTANT for any additional services related to the services identified herein, the City and CONSULTANT will meet and negotiate a reasonable fee for such services. The negotiated fee shall be approved by the City in the form of a task order prior to said services being provided.

F. Status Report: The CONSULTANT shall complete and submit a technical summary and budgetary status report with each invoice at no additional cost to the City (format to be provided by City for each approved task order).

### ARTICLE 4 - TERMS OF PAYMENT

A. Monthly Invoices: The CONSULTANT shall submit invoices once each month to the City for the services performed and the expenses and other charges accounted for under this Agreement pursuant to an approved task order. Separate invoices shall be submitted for each task order. Payment as prescribed in Article 3 for services rendered by the CONSULTANT during the previous billing period shall be processed in accordance with the Florida Prompt

Payment Act, Section 218.70, Florida Statutes.

B. Sales Tax: The CONSULTANT shall pay all applicable sales taxes; or the City shall provide to the CONSULTANT the tax exemption information, where and if appropriate.

C. Fiscal Non-funding: In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the CONSULTANT of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the City. The CONSULTANT will be paid for all services rendered through the date of termination.

## **ARTICLE 5 - TERMS OF PERFORMANCE**

A. Starting Work: The CONSULTANT will not begin any of the services until authorized in writing by a Notice to Proceed from the City or upon the CONSULTANT's receipt of a fully executed task order for the services.

B. Ownership of Documents: The drawings, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the CONSULTANT in a task order or such other drawings, specifications, calculations, supporting documents, or work products prepared for the City under this Agreement shall become the property of the City upon delivery or completion. The CONSULTANT may keep copies or samples thereof and shall have the right to use such drawings, specifications, calculations, supporting documents, or other documents. The City accepts sole responsibility for its reuse of any such documents in a manner other than as initially intended, or for any use of incomplete documents unless prior written approval is obtained from the CONSULTANT.

C. Account Records: The CONSULTANT's accounting records, insofar as they pertain to invoicing the City or for disbursements made from the CONSULTANT's account for services under this Agreement, shall be open to City's inspection and audit at the CONSULTANT's office upon reasonable prior notice and during normal business hours. Backup documentation for out-of-pocket expenses exceeding Twenty-Five and 00/100 Dollars (\$25.00) each shall be available at the CONSULTANT's office. These records will be retained by the CONSULTANT for five (5) years after the calendar year in which the services to which they pertain were rendered or the disbursements were made.

D. Force Majeure: Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The CONSULTANT or City may suspend its performance under this Agreement as a result of a force majeure without being in default of this Agreement, but upon the removal of such force majeure, the CONSULTANT or City shall resume its performance as soon as is reasonably possible.

Upon the CONSULTANT's request, the City shall consider the facts and extent of any failure to perform the services and, if the CONSULTANT'S failure to perform was without its or its subconsultants fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the City's rights to change, terminate, or stop any or all of the services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

E. Approval of Changes: The City, through the City Commission or the City Manager (as

specifically identified herein) must approve in writing any changes in the scope of services which result in additional costs or expenses to the City, extension of the schedule or which would change the underlying purpose of the services. Changes include, but are not limited to, issuing additional instructions, requesting additional work, direct omission of work previously ordered, or changes in time of performance.

F. Authorized Representative: Before starting work, the CONSULTANT shall designate an authorized representative acceptable to the City to represent and act for the CONSULTANT and shall inform the City in writing of the name and address of such representative together with a clear definition of the scope of their authority. The CONSULTANT shall keep the City informed of any subsequent changes in the foregoing. The authorized representative of the City shall be the City Manager or his designee.

G. Time of the Essence: Time is of the essence in the performance of this Agreement. The CONSULTANT shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the schedule set forth in each task order, subject to delays in the schedule which are not the fault of CONSULTANT or its subconsultants.

H. Design/Construction Phase Services: Visits to construction sites and observations made by the CONSULTANT as part of construction phase services, if any, shall not relieve the construction contractor(s) of obligation to conduct comprehensive inspections of the work sufficient to insure conformance with the intent of the construction contract documents, and shall not relieve the construction contractor(s) of full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s) and for all safety precautions incidental thereto. Safety precautions administered by the CONSULTANT, if any, to protect the CONSULTANT's personnel shall meet those policies enacted by the City. Further, CONSULTANT shall endeavor to make reasonable efforts to guard the City against defects and deficiencies in the services of the construction contractor(s) and to help determine if the provisions of the construction contract documents are being fulfilled. This paragraph does not, however, release the CONSULTANT from any liability which might be attributable to its negligent acts, errors, or omissions, including but not limited to design, construction phase services, or other services as defined in this Agreement, of the CONSULTANT.

I. Personnel: The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The CONSULTANT shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. The CONSULTANT shall comply with all applicable laws in the provision of services under this Agreement. The CONSULTANT agrees that it is fully responsible to the City for the acts and omissions of subconsultants and of persons either directly or indirectly employed by the CONSULTANT. Nothing contained herein shall create any contractual relationship between any subconsultant and the City. All of the CONSULTANT's personnel (and all subconsultants) while on City premises, will comply with all City requirements governing conduct, safety, and security. The City reserves the right to request replacement of any of CONSULTANT's personnel furnished by the CONSULTANT upon written notice by City to CONSULTANT of the cause for such replacement.

J. Conflict of Interest: The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance. The CONSULTANT shall promptly notify the City's representative, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the CONSULTANT. The City agrees to notify the CONSULTANT of its opinion within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the City shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the CONSULTANT under the terms of this Agreement.

K. Status as an Independent Contractor: The status of the CONSULTANT under this Agreement is that of an independent contractor. Nothing in this Agreement shall create or be construed as creating a partnership or joint venture between the City and the CONSULTANT. The CONSULTANT does not have the power or authority to bind the CITY in any promise, contract or representation other than as specifically provided for in this Agreement (if any).

L. News Releases / Publicity: The CONSULTANT shall not make any news releases, publicity releases, or advertisements relating to this Agreement or the tasks associated with the services without prior written City approval.

M. Nondiscrimination: The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, CONSULTANT shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

## **ARTICLE 6 - CITY'S RESPONSIBILITIES**

A. Service of Others: The City shall furnish to the CONSULTANT, if required for performance of the Consultant's services, all available data prepared by or the result of the services of others, including without limitation (as may be appropriate): building plans and related drawings, core borings, probings, and subsurface explorations, hydraulic surveys, laboratory tests, and inspections of samples, materials, and equipment, appropriate professional interpretations of all of the foregoing; environmental assessments and impact statements, appropriate professional interpretations of all of the foregoing; property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed, and other land use restrictions; and any other special data or consultations relating to the Project.

B. Examine Work of the Consultant: Within a reasonable time so as not to delay the services of the CONSULTANT, the City shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the CONSULTANT, obtain advice

of an attorney, insurance counselor, or other consultants, as the City deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

#### **ARTICLE 7 – SUSPENSION BY CITY FOR CONVENIENCE**

The City may, at any time without cause, order CONSULTANT in writing to suspend, delay or interrupt its services in whole or in part for such period of time as City may determine for City's convenience. Such order shall be by written notice to the CONSULTANT providing at least ten (10) days advance notice unless such order is immediately necessary for the protection of the public health, safety or welfare or for the protection of property.

#### **ARTICLE 8 –TERMINATION**

A. Termination for Default by the City: If the City's authorized representative deems that the CONSULTANT is in default for failure to supply adequate personnel, or services of proper quality, or has failed in any other respect to satisfactorily perform the services specified in this Agreement, the City's authorized representative may give written notice to the CONSULTANT specifying the default(s) to be remedied within five (5) days. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If the CONSULTANT does not remedy defaults within five (5) days or commence steps to remedy default to the reasonable satisfaction of the City's authorized representative, the City may do one or all of the following: secure such services from another consultant; withhold any money due or which may become due to the CONSULTANT for such services related to the claimed default(s); and/or, elect to immediately terminate this Agreement. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits or other costs incurred due to termination of this Agreement for default.

B. Termination for Default by the Consultant: This Agreement may be terminated by the CONSULTANT upon thirty (30) days prior written notice to the City in the event of a failure by the City to perform in accordance with the terms of this Agreement through no fault of the CONSULTANT; provided the City fails to cure same within that thirty (30) day period.

C. Termination Without Cause: Notwithstanding the foregoing, the parties reserve the right and may elect to terminate this Agreement at any time upon ten (10) days' notice to the other party. At such time, the CONSULTANT shall be compensated only for those services which have been performed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits or other costs incurred due to termination of this Agreement without cause.

D. Early Termination: If this Agreement is terminated before the expiration of the initial term or expiration of the renewal term by either party, the CONSULTANT shall:

1. Stop service on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of the terminated services.
3. Transfer all work in progress, completed work, and other materials related to the terminated services to the City in the format acceptable to City.
4. Continue and complete all parts of the services that have not been terminated.

## **ARTICLE 9 –INDEMNIFICATION AND INSURANCE**

A. Indemnification: The CONSULTANT agrees to indemnify and hold harmless the City, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees (at all trial and appellate levels), to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT, its agents, officers, subconsultants, employees, or anyone else employed or utilized by the CONSULTANT in the performance of this Agreement. The CONSULTANT's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of the CONSULTANT against the City and the CONSULTANT hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 725.08, Florida Statutes, as amended. CONSULTANT expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.08, Florida Statutes, as amended. Nothing contained in the foregoing indemnification shall be construed as a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

B. Insurance: The CONSULTANT shall not commence any services in connection with this Agreement until it has obtained all of the types of insurance required pursuant to the RFQ and such insurance has been approved by the City. The City shall be named as an additional insured on all insurance except for Worker's Compensation Coverage and Professional Liability. The CONSULTANT shall require all subconsultants to obtain the same insurance as required herein (without the City named as an additional insured) and no subconsultant shall commence any services under this Agreement until the CONSULTANT has obtained a copy of all subconsultant(s) proofs of insurance. The CONSULTANT shall provide the City with proof of all subconsultant's insurance upon request by the City. The CONSULTANT's insurer shall have a currently valid Certificate of Authority issued by the State of Florida, Department of Insurance authorizing it to write insurance policies in the State of Florida and be conducting business in the State of Florida. Insurers shall have at least a Policy Holders Rating of A-, and Financial Rating of Class IV as identified in the latest issue of "Bests Key Rating Guide" unless otherwise accepted by the City in writing. The CONSULTANT's insurance shall be considered primary and shall not be canceled or materially changed without at least thirty (30) days' notice to the City. The City's insurance, if any, shall be considered excess, as may be applicable to claims which arise out of indemnifications, insurance, certificates of insurance and any additional insurance provisions of this Agreement. The CONSULTANT shall procure and maintain all insurance listed above for the life of this Agreement. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City or by any of its representatives which indicate less coverage than required by this Agreement does not constitute a waiver of the CONSULTANT's obligations to fulfill the requirements of this Article.

## **ARTICLE 10 - SUCCESSORS AND ASSIGNS**

The City and CONSULTANT each binds themselves and their partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assignees of such other party in respect to all covenants of this Agreement. The CONSULTANT shall not assign, sublet, or transfer any interest in this



Agreement without the prior written consent of the City, which the City may withhold in its sole and absolute discretion. Nothing herein shall be construed as creating any personal liability on the part of any elected official, officer, employee or agent of the City, nor shall it be construed as giving any rights or benefits hereunder to any third party other than the City and CONSULTANT.

## **ARTICLE 11 - REMEDIES**

A. Claims, Counter-Claims, Disputes, Etc.: Prior to the filing of any claim, proceeding or litigation related to the Agreement, all claims, counter-claims, disputes, and other matters in questions between the CONSULTANT and the City will be first reviewed by authorized representatives of both parties for a recommended solution. If no solution or resolution is forthcoming, either party may pursue its claim, proceeding or litigation.

B. Governing Law and Venue: This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submits itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court, in and for Palm Beach County, Florida for state actions, and the jurisdiction of the United States District Court for the Southern District of Florida, West Palm Beach Division for federal actions, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Agreement; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense or otherwise in any suit, action or other proceeding, (i) any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever, and (ii) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any party hereto is brought in an inconvenient forum, or that the venue of such suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such courts.

## **ARTICLE 12 – NOTICE**

A. Any notice required to be given under this Agreement shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service (return receipt requested) or other nationally recognized overnight courier service, such as Federal Express.

B. Unless otherwise notified in writing of a new address, all notices shall be made to each party at the below listed addresses. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

All notices to the CONSULTANT shall be sent to:

**Wantman Group, Inc.  
Attn: Project Manager  
2035 Vista Parkway  
West Palm Beach, FL 33411**

All notices to the City shall be sent to:

City of Lake Worth  
Attn: City Manager  
7 North Dixie Highway

Lake Worth, FL 33460.

### **ARTICLE 13 – NO CONTINGENT FEES**

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

### **ARTICLE 14 – TRUTH-IN-NEGOTIATION CERTIFICATE**

The signing of this Agreement by the CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The lump sum not to exceed price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the lump sum not to exceed price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

### **ARTICLE 15 – PUBLIC ENTITIES CRIMES**

As provided in Sections 287.132 and 289.133, Florida Statutes, by entering into this Agreement or performing any service in furtherance thereof, the CONSULTANT certifies that it, its affiliates, suppliers, subconsultants and contractors who will perform under the terms and conditions of this Agreement have not been placed on the convicted vendor list maintained by the Florida Department of Management Services within the 36 months immediately preceding the date of this Agreement.

### **ARTICLE 16 - NONEXCLUSIVE AGREEMENT**

This Agreement is not intended to be and shall not be construed as an exclusive agreement, and the City may employ additional or other professional consulting firms to perform services contemplated by this Agreement without liability to the City.

### **ARTICLE 17 - MISCELLANEOUS**

A. Validity, Severability and Reformation: The validity, interpretation, construction, and effect of this Agreement shall be in accordance with and be governed by the laws of the State of Florida. Any provision or part of this Agreement held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

B. Headings: The headings of the sections of this Agreement and capitalizations are for the purpose of convenience only and shall not be deemed to expand or limit the provisions contained in such sections.

C. Entire Agreement and Conflicts: This Agreement, including the RFQ, the exhibits hereto and any approved task orders, constitutes the entire Agreement between the parties hereto and supersedes any prior negotiations, representations, Agreements, and understandings, either written or oral. This Agreement consists of the terms and conditions provided herein; the RFQ (including all drawings, maps, specifications, exhibits and addenda attached thereto or referenced therein); Exhibit "A", Exhibit "B"; and, any approved task orders. To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail; provided, however, that the specific scope of services set forth in an approved task order shall take precedence over any other more general description of services. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

D. Waiver: No waiver of any of the terms or conditions of this Agreement shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Agreement.

E. Waiver of Jury Trial: **To encourage prompt and equitable resolution of any litigation, each party hereby waives its rights to a trial by jury in any litigation, claim or proceeding related to this Agreement.**

F. Counterparts: This Agreement and all task orders may be executed in two or more counterparts, each of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.

G. Preparation: This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

H. Survivability: Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

## **ARTICLE 18 - PALM BEACH COUNTY INSPECTOR GENERAL**

In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

## **ARTICLE 19 - PUBLIC RECORDS**

The CONSULTANT shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

A. Keep and maintain public records required by the City to perform the service.

B. Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable

time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the CONSULTANT does not transfer the records to the City.

D. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the CONSULTANT or keep and maintain public records required by the City to perform the service. If the CONSULTANT transfers all public records to the City upon completion of the Agreement, the CONSULTANT shall destroy any duplicate public records that are confidential or exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Agreement, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT (561) 586-1660, [dandrea@LakeWorth.org](mailto:dandrea@LakeWorth.org), or 7 North Dixie Highway, Lake Worth, FL 33460.**

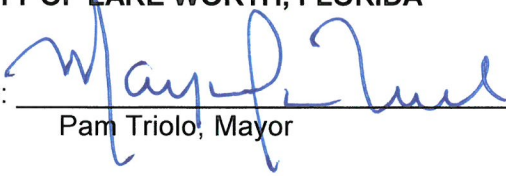
#### **ARTICLE 20 - REPRESENTATIONS/BINDING AUTHORITY**

By signing below, CONSULTANT's signee has full power, authority and legal right to execute and deliver this Agreement and perform all of its obligations under this Agreement. By signing this Agreement, CONSULTANT hereby represents to the City that it has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

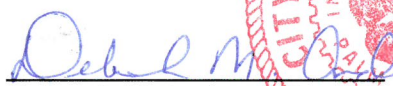
[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]


IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement for the Lake Worth Beach Complex Conceptual Plans Design, Cost Estimates & Construction Design and Construction Phase Services on the day and date first above written.

**CITY OF LAKE WORTH, FLORIDA**

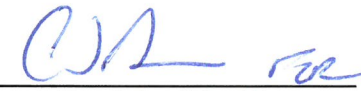
By:   
Pam Triolo, Mayor

ATTEST:

  
Deborah M. Andrea, City Clerk



Approved as to form and legal sufficiency:

  
Glen J. Torcivia, City Attorney

*PA 2/26/17*



**CONSULTANT:**

Wantman Group, Inc. (WGI)


By: 

Print Name: **Michael L. Davis**

Title: **Senior Vice President**

STATE OF FLORIDA)  
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 02 day of February 2017 by Michael L. Davis, as Senior Vice P (title), of Wantman Group, Inc., a corporation authorized to do business in the State of Florida, and who is personally known to me or who has produced the following \_\_\_\_\_ as identification.

Notary Public  
  
Print Name: Paula Miller  
My commission expires: 11/29/20

**EXHIBIT "A"**  
**SAMPLE TASK ORDER**

Task Order for the Lake Worth \_\_\_\_\_ Services

TASK ORDER NO. \_\_\_\_\_

THIS TASK ORDER ("Task Order") is made on the \_\_\_\_ day of \_\_\_\_\_, 2018, between the **City of Lake Worth**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth, Florida 33460 ("City") and **Wantman Group, Inc.**, a Florida corporation ("Consultant").

**1.0 Project Description:**

The City desires the Consultant to provide those services as identified herein and generally described as: \_\_\_\_\_  
(the "Project").

**2.0 Scope**

Under this Task Order, the Consultant will provide professional services to the City as detailed in the **Consultant's proposal attached hereto and incorporated herein as Exhibit "1"**.

**3.0 Schedule**

The services to be provided under this Task Order shall be completed within \_\_\_\_\_ calendar days from the City's approval of this Task Order or the issuance of a Notice to Proceed.

**4.0 Compensation**

This Task Order is issued for a lump sum, not to exceed amount of \$\_\_\_\_\_. The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

**5.0 Project Manager**

The Project Manager for the Consultant is \_\_\_\_\_,  
phone: \_\_\_\_\_; email: \_\_\_\_\_; and, the Project  
Manager for the City is \_\_\_\_\_,  
phone: \_\_\_\_\_; email: \_\_\_\_\_.

**6.0 Progress Meetings**

The Consultant shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

**7.0 Authorization**

This Task Order is issued in compliance with the Consultants' Competition Negotiation

Act, section 287.055, Florida Statutes, and pursuant to the Agreement for Professional Services between the City of Lake Worth and the Consultant, dated \_\_\_\_\_, 2018 ("Agreement" hereafter). If there are any conflicts between the terms and conditions of this Task Order and the Agreement, the terms and conditions of the Agreement shall prevail; however, the specific scope of services set forth in this Task Order shall take precedence over any other more general description of services.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order as of the day and year set forth above.

**CITY OF LAKE WORTH, FLORIDA**

By: \_\_\_\_\_  
Pam Triolo, Mayor

ATTEST:

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Deborah M. Andrea, City Clerk

\_\_\_\_\_  
Glen J. Torcivia, City Attorney

**Consultant:** \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

[Corporate Seal]

STATE OF FLORIDA)  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of **Wantman Group, Inc.**, a corporation authorized to do business in the State of Florida, and who is personally known to me or who has produced the following \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

**EXHIBIT "B"**  
**FEE SCHEDULE**  
**(consisting of 1 page(s))**

CITY OF LAKE WORTH CCNA - CIVIL ENGINEERING WANTMAN GROUP, INC. FEE SCHEDULE EFFECTIVE DATE FEBRUARY 12, 2018			
ENGINEERING SERVICES		LANDSCAPE ARCHITECTURE SERVICES	
	Proposed Hourly Rate		Proposed Hourly Rate
Executive Engineer	\$240.00	Principal Landscape Architect	\$190.00
Chief Engineer	\$220.00	Senior Project Manager	\$170.00
Senior Project Manager	\$180.00	Project Manager	\$145.00
Principal Engineer	\$200.00	Senior Designer	\$125.00
Project Manager	\$160.00	Designer	\$95.00
Senior Engineer	\$140.00	Entry Level Designer	\$80.00
Senior Project Engineer	\$130.00	<b>ENVIRONMENTAL SERVICES</b>	
Project Engineer	\$125.00	Principal Environmental Scientist	\$190.00
Senior Designer	\$115.00	Senior Environmental Scientist	\$170.00
Engineer	\$130.00	Project Manager	\$132.00
Senior Engineer Intern	\$120.00	Environmental Scientist	\$110.00
Engineer Intern	\$95.00	Environmental Technician	\$85.00
Chief Designer	\$135.00	<b>OTHER PROFESSIONAL SERVICES</b>	
Designer	\$95.00	Expert Witness	\$325.00
Field Engineer	\$130.00	GIS Technician	\$90.00
Field Inspector	\$100.00	Administrative Assistant	\$70.00
<b>PLANNING SERVICES</b>		<b>REIMBURSABLE EXPENSES</b>	
Principal Planner	\$190.00	Copies, Black & White (each)	\$0.30
Senior Project Manager	\$170.00	Copies, Color (each)	\$1.00
Project Manager	\$145.00	Plots, Black & White (each)	\$2.00
Senior Planner	\$125.00	Plots, Color (each)	\$15.00
Planner	\$95.00	Mylars (each)	\$70.00
Entry Level Planner	\$80.00	All Third Party Expenses	Cost Plus 10%

**Expenses:** In addition to labor, WGI bills for the following project related costs at a contractually agreed markup: printing; conference calling charges; document review, permit or recording fees paid on behalf of CLIENT; shipping; bid advertisement; specialty materials, software or equipment rental; sub-consultant fees. WGI also bills for the cost of internal reproduction and the use of specialized equipment related to subsurface utility vacuum excavation, mobile scanning (LIDAR), and hydrographic surveying.