

RESOLUTION NO. 2017-_____

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 CONSENT TO ASSIGNMENT AND SECOND AMENDMENT TO THE PROFESSIONAL CONSULTANT-DESIGN SERVICES AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND WANTMAN GROUP, INC. FOR THE POMPANO BEACH PIER REPLACEMENT; PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That a Consent to Assignment and Second Amendment to the Professional Consultant-Design Services Agreement between the City of Pompano Beach and Wantman Group, Inc. for the Pompano Beach Pier Replacement, 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 Consent and Amendment between the City of Pompano Beach and Wantman Group, Inc.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 20__.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

CONSENT TO ASSIGNMENT AND
SECOND AMENDMENT TO THE PROFESSIONAL
CONSULTANT-DESIGN SERVICES AGREEMENT

This Consent to Assignment and Second Amendment is by and between the City of Pompano Beach, hereinafter referred to as "CITY" and Wantman Group, Inc., a Florida corporation, hereinafter referred to as "CONSULTANT" either of which is sometimes referred to herein individually as "Party" and collectively as the "Parties."

WHEREAS, the CITY and Bridge Design Associates, Inc. n/k/a BDA, Inc., hereinafter referred to as "BDA," entered into an Agreement dated January 23, 2015, which was authorized by City Resolution No. 2015-144, (the "Consultant Agreement") wherein BDA was to provide professional consulting design services for the Pompano Beach Pier Replacement project with Brian C. Rheault providing such services as the sole principal/owner of BDA and engineer of record for the project; and

WHEREAS, CONSULTANT acquired from BDA the assets and contract rights, inclusive of the Agreement between CITY and BDA for the Pompano Beach Pier Replacement project pursuant to an Amendment to Asset Purchase Agreement made as of November 30, 2016, Assignment and Assumption Agreement dated as of November 30, 2016, and Reinstatement and First Amendment approved by the City Commission on December 13, 2016; and

WHEREAS, CONSULTANT is requesting that the CITY consent to the assignment and transfer to CONSULTANT of the rights provided for in the Consultant Agreement; and

WHEREAS, CONSULTANT agrees that as consideration of CITY providing its Consent to the Assignment and Assumption Agreement that Brian C. Rheault shall remain the sole and principal engineer of record under the Consultant Agreement as to comply with the Consultant Competitive Negotiation Act as provided for in Florida Statute 287.055, as amended; and

WHEREAS, CITY and CONSULTANT hereto agree to reinstate and amend the Contract Schedule and any other affected provision or terms of the Consultant Agreement for one (1) additional one-year period, ending December 31, 2017; and

WHEREAS, Article 15, Excusable Delays, of the Consultant Agreement authorizes the CITY to extend the time period of the Contract Schedule and any other affected provision of this contract upon mutual consent of the parties due to delay causes beyond the reasonable control of the CONSULTANT.

NOW, THEREFORE, in consideration of the covenants and mutual promises herein, it is mutually agreed as follows:

1. The CITY hereby consents to the assignment by BDA to CONSULTANT of the entirety of the rights, title and interest BDA may have in and to the Consultant Agreement hereinabove described, Exhibit "A" attached hereto and incorporated herein by this reference, as of the date of last signature hereunder (the "Effective Date").

2. CONSULTANT hereby agrees that it shall be liable to the CITY for each and every duty and obligation in the original Consultant Agreement. CONSULTANT hereby agrees to assume each and every such duty and obligation. The date of the original Consultant Agreement and any renewal dates or terms shall be the same and remain applicable for purposes of this Consent and Amendment.

3. CONSULTANT hereby agrees that it will not assign any of the rights, title or interest in, or the duties and obligations under the Assigned Agreement(s) without the prior written consent of the CITY, unless otherwise specifically provided under the Assigned Agreement(s). CONSULTANT further agrees that, in the event of any future assignment approved by CITY, CONSULTANT shall remain jointly and severally liable to CITY for each and every assigned duty and obligation under said Assigned Agreement(s).

4. CONSULTANT hereby agrees that as consideration of CITY providing its Consent to the Assignment and Assumption Agreement between CONSULTANT and BDA, that Brian Rheault shall remain the sole and principal engineer of record under the Consultant Agreement as to ensure continued compliance with the Consultants Competitive Negotiation Act, as provided for in Florida Statute 287.055, as amended.

5. That the Consultant Agreement, including the Contract Schedule, between CITY and CONSULTANT is hereby extended, as amended herein, said term expiring December 31, 2017, or until the services referenced in the Consultant Agreement are complete, whichever occurs first.

6. Other than as specifically provided herein, this Consent and Second Amendment is neither a modification of nor an amendment to the remaining original terms of the Consultant Agreement.

7. The Parties hereto agree that this Consent and Second Amendment shall be construed and interpreted in accordance with the laws of the State of Florida.

8. No term, covenant or condition hereof shall be deemed waived and no breach excused unless such waiver or excuse shall be in writing and signed by the Party claimed to have so waived or excused.

Witnesses:

CITY OF POMPANO BEACH

Print Name

By: _____
Lamar Fisher, Mayor

Print Name

By: _____
Dennis W. Beach, City Manager

Attest:

Ascleeta 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 _____, 20__ 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

Witnesses:

WANTMAN GROUP, INC., a Florida corporation

Print Name

By:

Typed or Printed Name

Title:

(SEAL)

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 5 day of December, 2016, by David Wantman as President of WANTMAN GROUP, INC., a Florida corporation, on behalf of the corporation. He/she is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number



/jrm
12/1/16
Vagr/cip/2017-172