

PROFESSIONAL CONTINUING SERVICES AGREEMENT

THIS AGREEMENT by and between the CITY OF HAINES CITY, FLORIDA, a Florida municipal corporation (hereinafter referred to as "City"), and Peebles & Smith, Inc. (hereinafter referred to as "Consultant"), takes effect on this 20th day of July, 2017.

RECITALS

1. City is a municipal corporation duly organized pursuant to the laws of the State of Florida with the authority to contract for services, and City desires to have certain professional services performed by Consultant in accordance with Exhibit "A", Scope of Services, attached hereto and with Task Orders to be issued subsequently.

2. The City desires to employ the Consultant in connection thereof upon the terms and conditions hereinafter set forth, and the Consultant is desirous of obtaining such employment and has represented that it is qualified and competent to perform such services upon said terms and conditions.

3. Consultant agrees to perform these services for City under the terms and conditions set forth in this Agreement.

4. Consultant represents that it is eligible for selection for this work pursuant to §287.055, Florida Statutes (Consultants' Competitive Negotiation Act).

ACCORDINGLY, for and in consideration of the Recitals hereof, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the Parties, the Parties hereby covenant and agree as follows:

SECTION 1: DEFINITIONS

For the purposes of this Agreement, the following terms shall have the meanings ascribed thereto unless otherwise defined herein or clearly required by the context in which such term is used.

1.1 Agreement. The term "Agreement" shall mean this Professional Agreement, and any amendments thereto as may be from time to time adopted, as hereinafter provided.

1.2 Services. The term "Services" shall mean the professional services as set forth in this Agreement.

1.3 Term. The "Term" shall mean the contract period provided for under this Agreement and any extensions thereof.

1.4 Task Order. The term "Task Order" shall mean a written document specifically describing the services to be provided by the Consultant, a schedule or timeline for completion of such services, the lump sum or not to exceed fees and costs for such services and any other terms and conditions required by the City for such services.

SECTION 2: DESCRIPTION OF SERVICES

2.1 The professional services to be performed by Consultant includes services including the types of services set forth in Exhibit "A" (Scope of Services) attached hereto.

2.2 Specific services, compensation and project schedules shall be mutually agreed upon in Task Orders issued hereunder. The Consultant shall exercise that degree of care and skill ordinarily exercised by members of the same profession and shall perform the Scope of Services using reasonable skill and judgment in accordance with sound business, ethical and professional standards.

2.3 The Consultant shall provide two complete set of "Record Drawings", also a complete set of record documents, in computerized form to the CITY upon work completion. This documentation shall be on compact disk (CD) in AUTOCAD version 14 or above or DXF format and in FLORIDA STATE PLAIN (NAD83 WEST) projection. In addition to the compact disk, the Consultant shall provide a document listing the layers and color/line-type utilized in preparation of the drawing. These computer files shall contain all the information shown on the "Record Drawings". The Consultant shall provide ESRI shape files on compact disk (CD) for the Water valves, Sewer manholes, and Sewer service laterals, Storm water manholes, and Force main valves, in FLORIDA STATE PLAIN (NAD83 WEST) projection.

2.4 In the event the Consultant is requested pursuant to subpoena or other legal process to produce its documents or any other information relating to Consultant's services under this agreement in judicial or administrative proceedings to which the Consultant is not a party, the City shall reimburse the Consultant at standard billing rates (see Exhibit B ("2017 Schedule of Fees")) for its time and expenses incurred in responding to such requests.

2.5 Contingent Services. When authorized in writing by the City, the Consultant shall furnish contingent services resulting from unforeseen circumstances not anticipated under the basic services detailed in Exhibit A.

Compensation for any contingent service assignments shall be negotiated between the City and the Consultant at the time the need for the contingent service becomes known based on the Consultant's standard billing rates in effect at the time the contingent services are performed.

SECTION 3: CITY RESPONSIBILITIES

3.1 Assist and cooperate with Consultant in any manner necessary and within its ability to facilitate Consultant's performance under this Agreement.

3.2 Designate in writing a person to act as City's representative with respect to this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define City's policies, make decisions and execute documents on City's behalf.

3.3 Furnish Consultant with all technical data in City's possession including, but not limited to, maps, surveys, drawings, soils or geotechnical reports, and any other information required by, or useful to, Consultant in performance of its Services under this Agreement. Consultant shall be entitled to rely upon the information supplied by City.

3.4 Notify Consultant of any known or potential health or safety hazards existing at or near any project site.

3.5 Provide access to and/or obtain permission for Consultant to enter upon all property, whether or not owned by City, as required to perform and complete the Services.

3.6 If Consultant's Scope of Services includes services during construction, City will require the construction contractor to indemnify and hold harmless Consultant, its officers, employees, agents, and consultants against claims, suits, demands, liabilities, losses, damages, and costs, including reasonable attorneys' fees and all other costs of defense, arising out of the performance of the work of the contractor, breach of contract, or willful misconduct of the contractor or its subcontractors, employees, and agents.

3.7 City will require the construction contractor to name Consultant, its directors, officers and employees as additional insureds on the construction contractor's general liability insurance and/or Owner's and Contractor's Protective policy (OCP), and any builder's risk, or other property insurance purchased by City or the contractor to protect work in progress or any materials, supplies, or equipment purchased for installation therein.

City will furnish construction contractor's certificates of insurance evidencing that Consultant, its officers, employees, agents, and consultants are named as additional insureds on construction contractor's general liability and property insurance applicable to the Project. Construction contractor's policies shall be primary and any such insurance carried by the Consultant shall be excess and noncontributory. The certificates shall provide that Consultant be given 30 days' written notice prior to any cancellation thereof.

SECTION 4: INVOICING

The Consultant may submit invoices for fees earned on a monthly basis. Such invoicing shall be supported by a Progress Report showing the actual tasks performed and their relationship to the completion of the project/task authorization/work order.

Invoices shall be submitted to:

City of Haines City
620 E. Main St Street
Haines City, FL 33844
Attention: Public Works

SECTION 5: PAYMENT

5.1 City will pay Consultant as set forth in individual Task Orders either (i) a negotiated lump sum, (ii) costs plus fixed fee, or (iii) in accordance with the agreed upon standard billing rates set forth in Exhibit "B" ("2017 Schedule of Fees") attached hereto, for the Services to be performed under this Agreement. The standard billing rates shown in Exhibit "B" are valid for the term of the Agreement and only subject to escalation upon execution of an extension and after mutual agreement of both parties.

5.2 The standard billing rates are developed based on the Consultant's actual salary costs and a negotiated multiplier. The multiplier has three components: (i) the Consultant's overhead cost rate, (ii) fringe benefit cost rate, plus (iii) a profit percentage. Overhead and fringe benefit rates shall be certified by an independent Certified Public Accountant (CPA). All standard billing rates shall be subject to audit verification.

5.3 Total compensation for all services and expenses shall not exceed the budgeted amount specified for each Task Order without written approval by the City.

5.4 Method of Billing and Payment. The compensation set forth under Section 5.1 shall be paid through periodic payments commencing on execution of a Task Order and continuing through the Term. The period shall be monthly. Consultant shall submit a statement to City for monthly compensation due. Each statement shall describe the nature of the services performed during the applicable monthly period. Consultant shall submit an original statement to the appropriate division of the City of Haines City within fifteen (15) days of the end of month for which compensation is sought, except for the final invoice which shall be submitted no later than sixty (60) days following the termination of this

Agreement. City reserves the right to reject any statement which fails to adequately describe the services rendered by Consultant. In the event City rejects a statement, the Consultant shall submit a revised statement within twenty (20) days of receiving the rejected statement.

5.5 Within thirty (30) days of receipt of an accepted statement, City shall remit payment for the Services described in the statement. Upon written notice to Consultant, payment may be withheld, in whole or in part, for Consultant's failure to comply with a term, condition or requirement of this Agreement. Thereafter, the withheld amount(s) shall be paid upon Consultant's satisfactory demonstration of compliance to the City. All amounts paid by City to Consultant shall be subject to audit by City.

5.6 Payment shall be made to Consultant at:

Peebles & Smith, Inc.
301 South Bronough Street
Suite 500
Tallahassee, FL 32301

SECTION 6: TERM

The initial Term of this Agreement shall be for a period of three (3) years, commencing on the date the Agreement is fully executed by City of Haines City, FL. The Agreement may be extended for additional one (1) year terms upon the mutual written consent of the parties.

SECTION 7: RELATIONSHIP OF PARTIES

The parties intend that an independent consultant relationship will be created by this Agreement. It is understood that City does not agree to use Consultant exclusively. It is further understood that Consultant is free to contract for similar services to be performed for others while under contract with City. The parties expressly acknowledge that Consultant is an independent consultant, and nothing contained in this Agreement will be deemed or construed to create a partnership or joint venture between City and Consultant or any other relationship between the parties.

Additionally, nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, or to allow City, or its agents, representative, or employees, to exercise control or direction over the manner or method by which Consultant performs any services which are the subject of this Agreement.

SECTION 8: TERMINATION

8.1 Either party may terminate this Agreement without cause upon thirty (30) days written notice.

8.2 Further, this agreement may be terminated by either party for cause. For purposes of this agreement, "cause" shall mean any act or omission of either party which is grossly or materially contrary to the other's business interests, reputation, or good will, or for any material breach of this agreement, and failure to cure such breach within thirty (30) days written notice of such breach.

8.3 Termination on a Notice of Default: In the event that either party shall give notice to the other that such other party has substantially defaulted or committed a material breach in the performance of its obligations under this Agreement and such default is not cured within thirty (30) days following the giving of such notice, the party giving such notice shall have the right to immediately terminate this Agreement.

8.4 Effects of Termination: Upon the termination of this Agreement as hereinabove provided, neither party shall have any further obligation hereunder except for (i) obligations accruing prior to the date of termination, and (ii) obligations, promises, or covenants contained herein which are expressly made to extend beyond the term, including without limitation, indemnities and professional insurance coverage.

8.5 In the event of termination under any of the above provisions, Consultant shall, within sixty (60) days after termination date, submit a final statement and report for all services rendered prior to and through the date of termination. In addition, Consultant's final report to City shall apprise City of the status of City's priorities for which it is responsible, any scheduled meetings City must attend, and all other matters which may potentially require City's immediate attention.

8.6 In the event this Agreement is terminated prior to the conclusion of any pay period, the periodic compensation shall be adjusted accordingly.

SECTION 9: ASSIGNMENT

This agreement shall not be assigned by the Consultant without prior written permission of the City.

SECTION 10: INDEMNIFICATION

Consultant agrees to indemnify and hold City, its agents, servants, and employees harmless from and against claims, damages, costs and expenses, including reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Consultant, its employees, agents or subcontractors negligent acts, errors, or omissions. Consultant further agrees to indemnify and hold City harmless from and against liability and loss in connection with, and shall assume full responsibility for, payment of federal, state, and local taxes or contributions imposed or required under unemployment insurance, Social Security and income tax laws, with respect to Consultant's performance of duties pursuant to this Agreement.

CONSEQUENTIAL DAMAGES WAIVER: IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF REVENUE, LOSS OF USE OR INTERRUPTION OF BUSINESS) ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

PURSUANT TO FLORIDA STATUTES SECTION 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT IF THE CONDITIONS OF SECTION 558.0035 ARE SATISFIED."

SECTION 11: TAXES

Consultant shall assume responsibility for payment of federal, state, and local taxes or contributions imposed or required under unemployment insurance, Social Security, and income tax laws, with respect to Consultant's performance of this Agreement.

SECTION 12: GOVERNING LAW

This Agreement has been executed and delivered in, and shall be interpreted, construed and enforced pursuant to and in accordance with the laws of the State of Florida. All duties and obligations of the parties created hereunder are performable in Polk County, Florida and Polk County, Florida shall be the sole and exclusive venue for any litigation, special proceeding or other proceedings as between the parties that may be brought or arise out of or in connection with or by reason of this Agreement

SECTION 13: INSURANCE

13.1 Consultant shall purchase and maintain such insurance as will protect Consultant from the losses or claims set forth below which may arise out of or result from Consultant's performance or obligations to perform under the Agreement, whether such performance be by Consultant or by anyone directly or indirectly employed by Consultant, or by anyone for whose acts Consultant may be legally liable:

- (a) claims under workers' compensation, disability benefit, and other similar employee benefit acts;
- (b) claims for damage because of bodily injury, occupational sickness or disease or death of Consultant's employees;
- (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than Consultant's employees;
- (d) claims for damages insured by usual personal injury liability coverage;
- (e) claims for damages because of injury to or destruction of tangible property;
- (f) claims for design errors or other violations of professional obligations as defined in an approved policy of professional errors and omissions liability insurance.

13.2 The insurance required by the preceding subsection shall be written for not less than the following limits or as required by law, whichever is greater:

- (a) Workers' Compensation: Statutory {with broad form all states endorsement};
- (b) Employers' Liability: \$300,000 occurrence/aggregate;
- (c) Commercial General Liability: \$1,000,000.00 per occurrence/aggregate;
- (d) Automobile, including owned, non-owned and hired vehicles: \$1,000,000.00 combined single limit;

(e) Professional: \$2,000,000 per claim/aggregate

13.3 Certificates of insurance acceptable to the City shall be filed with the City prior to commencement of the Services. The insurance company shall endeavor to notify the City in writing of any cancellation by the insurer of any required coverage not less than 30 days before cancellation, except for cancellation due to non-payment of premium.

SECTION 14: NON-EXCLUSIVE CONTRACT

The City reserves the right at its sole discretion to enter into contracts with other consultants to provide similar services as those identified in the various Scopes of Services applicable to this Agreement.

SECTION 15: THIRD PARTIES

This Agreement is intended only for the benefit of City and Consultant and is specifically not intended to benefit any third parties.

SECTION 16: STANDARDS OF CONDUCT; COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

16.1 The Consultant 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 he 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 any other consideration, contingent upon or resulting from the award of this Agreement.

16.2 The Consultant covenants that it or any of its employees presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any manner or degree with performance of services hereunder.

16.3 Standards of Conduct-Conflict of Interest- The Consultant agrees that it and its employees shall be bound by the Standards of Conduct provided in Section 112.313, Florida Statutes, as it relates to services performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The Consultant agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the services performed.

16.4 The Consultant shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

SECTION 17: SUBCONSULTANTS

Consultant may subcontract certain items of work to sub-consultants. The parties expressly agree that the Consultant shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the City prior to sub-consultant proceeding with any Task Order. The standard billing rates for subcontracts and sub-consultants shall be negotiated in accordance with Section 5.

SECTION 18: BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heir, legal representatives, successors and assigns, but neither this Agreement nor any of the rights hereunder shall be assignable by Consultant.

SECTION 19: WAIVER

A waiver by any party of any of the terms and conditions hereof shall not be construed as a general waiver by such party and such party shall be free to reinstate any such term or condition, with or without notice to the other party

SECTION 20: NOTICE

Whenever any notice, demand or consent is required or permitted under this Agreement, such notice, demand or consent shall be written and shall be deemed given when sent by certified mail, return receipt requested to the following address:

To City: City of Haines City
300 North 5th Street
Haines City, FL 33844
Attention: Public Works Director

To Consultant: Peebles & Smith, Inc.
301 South Bronough Street Suite 500
Tallahassee, FL 32301
Attention: John Wayne Smith

SECTION 21: CHANGES IN LAW

In the event there is a change in a statute, regulation or the application or interpretation thereof, or the adoption of new legislation which may otherwise make this Agreement illegal or unenforceable, the parties agree to use their best efforts to agree upon modifications to this Agreement which will make it legal and enforceable. If after using best efforts, the parties are unable to reach any such agreement, then either party may terminate this Agreement upon thirty (30) days written notice to the other party.

SECTION 22: CONSTRUCTION

Nothing in this Agreement is intended, nor shall be construed or interpreted, to waive or modify the immunities and limitations on liability provided for in Section 768.28, Florida Statutes, as may be amended from time to time, or any successor statute thereof. To the contrary, all terms and provisions contained in this Agreement, or any disagreement or dispute concerning it, shall be construed or resolved so as to insure City of the limitation from liability provided to the State's subdivisions by state law.

SECTION 23: AUDIT AND PUBLIC RECORDS RETENTION

23.1 City shall have the right to audit the books, records and accounts of Consultant that are related to the performance of Services pursuant to this Agreement. Consultant shall keep such books, records and accounts as may be necessary in order to record complete and correct entries related to this Agreement. Consultant shall preserve and make available, at reasonable times for examination and audit by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or if the Florida Public Records Act is not applicable for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by City to be applicable to Consultant's records, Consultant shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Consultant. Any incomplete or incorrect entry in such books, records and accounts shall be a basis for City disallowance and/or recovery of any payment upon such entry.

23.2 The parties acknowledge that City is a “public agency” and Consultant is a “contractor” as defined in Section 119.0701, Florida Statutes, and that Consultant must comply with public records laws, and specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the Service.

(b) Upon request from the public agency’s custodian of public records, provide the public agency 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 under Florida’s Public Records law 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.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

(e) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY CLERK, CITY OF HAINES CITY, FLORIDA (Tel. (863) 421-9921; Email: lbourgeois@hainescity.com; Mailing address; 620 East Main Street, Haines City, FL 33844).

SECTION 24: PRE-SUIT MEDIATION

Disputes arising under this Agreement must first be mediated by a Florida Supreme Court-certified Civil Mediator in accordance with Chapter 44, Florida Statutes. The parties agree that the mediation shall occur within thirty (30) days of the date mediation is requested by either party. The Mediator shall be agreed upon, but if the parties are unwilling or unable to agree, the parties agree that a Civil Mediator from Central Florida Mediation Group, LLC shall be selected by striking names from the mediators in that Group. The parties agree to mediate in good faith, be bound by the Mediation Agreement (if any), pay Mediator fees promptly and share them on an equal basis unless otherwise agreed upon by the parties. Litigation may not be

commenced until after mediation has been (i) declared an impasse by the Mediator, or (ii) terminated in writing by one or both of the parties. The confidentiality provisions of the Mediation Confidentiality and Privilege Act (Section 44.403, Florida Statutes) shall apply to any such pre-suit mediation.

SECTION 25: NONDISCRIMINATION: EQUAL EMPLOYMENT OPPORTUNITY AND AMERICANS WITH DISABILITIES ACT

25.1 Without limitation of any provision herein, Consultant expressly agrees to abide by applicable federal and/or state equal employment opportunity statutes, rules, and regulations, including, without limitation, Title 7 of the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, the Age Discrimination and Employment Act of 1967, the Equal Pay Act of 1963, the National Labor Relations Act, the Fair Labor Standards Act, the Rehabilitation Act of 1973, and the Occupational Safety and Health Act of 1970, and as may be from time to time modified or amended. Consultant further agrees to hold harmless and indemnify City from liability arising from any breach of this covenant.

25.2 Consultant's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for Service delivery.

25.3 Consultant shall comply with Title 1 of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability.

SECTION 26: MODIFICATION

No modification of any of the provisions of this Agreement shall be binding unless in writing and signed by both parties to this Agreement.

SECTION 27: CONFLICT OF INTEREST

27.1 Consultant agrees that it will avoid activities, investments and other situations which may conflict with its duties to City as described herein. In providing services under this Agreement, the Consultant expressly agrees that:

- (a) Consultant does not have any personal financial interest, direct or indirect, with any member of City's Commission, or any person who is employed by City.
- (b) As of the date of this Agreement, Consultant does not represent any known of client whose interest is currently adverse to the interest of the City.

27.2 Consultant further agrees that if, during the term of this Agreement, it determines that a client represented by Consultant has or may potentially have an interest adverse to the interest of City, Consultant shall immediately disclose such conflict of interest. Additionally, before proposing, advocating, or otherwise advancing any legislation, administrative rule, regulation, or policy that may potentially impact City and its operations, Consultant shall disclose the representation and provide a copy of the legislation, administrative rule, regulation, or policy to the City.

27.3 Consultant agrees that it shall not and that its employees shall not, have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Consultant's loyal and conscientious exercise of professional engineering judgment related to its performance under this Agreement.

27.4 Consultant further agrees that if a conflict of interest arises during the performance of this Agreement, Consultant shall disclose, in writing, the existence and nature of such conflict to City. Such disclosure shall occur immediately upon discovery of the conflict, but in no event shall disclosure be made more than three (3) days after Consultant's discovery of the conflict. Consultant's written disclosure shall provide sufficient information concerning the conflict including, but not limited to, name of the client presenting the conflicting position, the nature of the conflict, and the extent to which Consultant is unable to provide the services described. Upon receipt of such disclosure, the City, in its sole discretion, shall take any appropriate action, up to and including termination of this Agreement.

27.5 In the event this Agreement is terminated pursuant to Section 8 or Section 21, the Consultant agrees to, upon request, assist City in its efforts to contact and engage qualified individuals to perform the Services identified in Section 2.

SECTION 28: AUTHORIZATION

Consultant shall not, without authorization first being given by City: a) Use or pledge money or credit of the City, except in the usual and regular course of business and

on account of or for the benefit of the City; b) Release or discharge any debt due to City without receiving the full amount thereof; c) Commit any act causing seizure or attachment of the City's property; or d) Cause City to become a guarantor, surety, or endorser, or give any note which obligates the City.

SECTION 29: REPRESENTATIONS AND WARRANTIES

On behalf of its employees, Consultant represents and warrants to the City that, to the Consultant's knowledge and belief, each of the following:

(a) None of Consultant's employees who will perform services hereunder or the immediate family of such employees has a compensation arrangement of any kind with City. For purposes of this subsection, the term "immediate family" shall include a spouse, natural or adoptive parent, child or sibling, stepparent, stepchild, stepbrother or stepsister, father-in-law, mother-in-law, grandparent, grandchild or spouse of a grandparent or grandchild. For purposes of this subsection, compensation shall be defined as any type of remuneration directly or indirectly, overtly or covertly, paid in cash or in kind.

(b) None of Consultant's employees who will perform services hereunder has been convicted of a criminal offense, has not been and currently is not under investigation by any public or private, state or federal regulatory body.

(c) Consultant is not undergoing any type of audit by a public or private, state or regulatory body or auditing entity.

(d) Consultant and its employees who will perform services hereunder have not engaged in, and during the term of this Agreement agree not to engage in, any activities prohibited under the federal anti-kickback laws (42 U.S.C. 1320a-7, 1320a-7a, 1320a-7b), the regulations promulgated pursuant to such federal statutes, related state or local statutes or regulations, or rules of professional conduct.

(e) Consultant has not employed or retained any company or person, other than a bona fide employee working solely for 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 Consultant, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, City shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the

Agreement price or otherwise recover the fully amount of such fee, commission, percentage, gift or consideration.

(f) Consultant will obtain similar representations and warranties from its subcontractors and sub-consultants.

SECTION 30: SEVERABILITY

In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in force and effect and enforceable in accordance with its terms.

SECTION 31: OWNERSHIP OF DOCUMENTS

31.1 Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of City upon payment by City for Consultant's services. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents which have been prepared by Consultant but not yet delivered to the City, whether finished or unfinished, shall become the property of City and shall be delivered by Consultant to the City within seven (7) days of termination of this Agreement by either party. In the event of termination, any remaining compensation due to Consultant may be withheld until all documents are received as provided herein.

31.2 The City acknowledges the Deliverables are not intended or represented to be suitable for revision by the City, or others, for purposes other than that for the Scope of Services which said Deliverables were prepared. Any reuse or modification of the Deliverables without written verification or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and the Consultant shall not be liable or responsible for any claims arising from the City's reuse or modification of the Deliverables without written verification or adaptation by the Consultant.

SECTION 32: JOINT PREPARATION

Preparation of this Agreement has been a joint effort of City and Consultant and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

[Remainder of page intentionally blank]

ATTEST:

City of Haines City, Florida,
a municipal corporation.

Linda Bourgeois
Linda Bourgeois, BAS, MMC,
City Clerk

H.L. Roy Tyler
H.L. Roy Tyler, Mayor

Approved As To Form And Legality:

Fred Reilly
Fred Reilly, City Attorney
Date: July 20, 2017

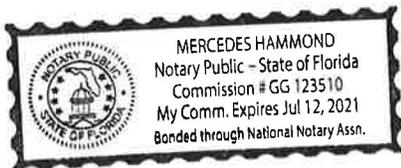


STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged be for me on this this 20 day of July, 2017 by Horace West and Linda Bourgeois on behalf of the City of Haines City, a Florida municipal corporation. They are personally known to me or who have produced _____ as identification and who [] did [] did not take an oath.

My Commission Expires:

Mercedes Hammond
Notary Public, State of Florida
Mercedes Hammond
Name Typed or Printed



Signed, sealed and delivered in the Presence of:

[Signature]

Print Name: Ryan Matthews

[Signature]

Print Name: Ashley Noack

CONSULTANT

Peebles & Smith, Inc.

BY: [Signature]

Print Name: John W. Smith

Title: Principal

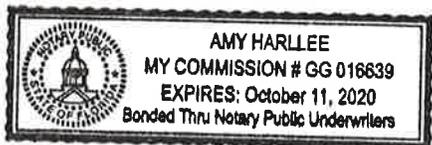
Date: 8/1/17

[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged be for me on this this 1st day of August, 2017 by John W. Smith, Principal of Peebles & Smith Inc., a S corporation authorized to do business in the State of Florida. He is [] personally known to me or [] has produced _____ as identification and [] and [] did [] did not take an oath.

My Commission Expires



[Signature]
Signature of Person Taking Acknowledgement

Amy Harlee
Name of Acknowledger Typed Print or Stamped

Office Manager
Title or Rank

GA 016639
Serial Number, If any

EXHIBIT "A"

SCOPE OF SERVICES

The services being requested will include but not be limited to the services listed below. Services may be funded by the City, FDOT, SWFWMD or by any other agency(s) or combination of funding sources. Services funded in whole or in part with non-City funds shall be designed and executed to conform to the funding agency's requirements.

1. Asset Management and Data Collection
2. Floodplain Management and Studies
3. Geotechnical Investigations
4. Groundwater Monitoring and Environmental Services
5. Litigation Assistance
6. Preparation of Grant Application
7. Project Management with Federal, State and/or Local funding/grants
8. Water Resource and Environmental Economic Evaluation Services.
9. Water Quality and Watershed Management Services
10. Watershed and Basin Modeling
11. Wetland Science and Evaluation Services
12. Stormwater, Flooding, and Drainage Design and Evaluation Services
13. Stormwater collection system, Water Quality, Aggregate Asset Management
14. Stormwater System design
15. Stormwater Drainage/Maintenance
16. Surveys
17. Studies and evaluations including feasibility studies
18. Technical investigations
19. Technical evaluations and pilot studies
20. Permitting and compliance with Federal, State and City regulations
 - (1) preparation of permit applications
 - (2) pre-application meeting with regulatory agency(s)
 - (3) presentations before appropriate regulatory agency(s)

- (4) respond to agency(s) questions and/or requests for additional information
- 21. System planning including new and updating existing master plans and/or facility plans
 - (1) document existing facilities including site utilities (both public and private)
 - (2) determine what new facilities are required
 - (3) develop a proposed site plan of the new facilities
 - (4) develop schedules and phasing sequences if appropriate
 - (5) develop cost estimates
- 22. Program development
- 23. Environmental evaluations including
 - (1) feasibility studies
 - (2) assessments
 - (3) impact statements
 - (4) permitting assistance
 - (5) determination of regional impact
- 24. Designs (conceptual, preliminary, detailed)
 - (1) new and rehabilitation of existing City facilities and/or utilities
 - (2) Docks and retaining walls
 - (3) Stormwater collection and treatment facilities
 - (4) Environmental mitigation, including wetlands
- 25. Preparation of biddable and constructible documents
 - (1) plans
 - (2) technical specifications
 - (3) bid forms
 - (4) construction sequencing
 - (5) cost estimates
- 26. Project bidding including;
 - (1) review of bids
 - (2) attendance at pre-bid meeting
 - (3) recommendation for bid award
- 27. Services during construction including

- (1) attendance at pre-construction meeting
 - (2) review of shop drawings
 - (3) site observations and inspections
 - (4) review of change orders
 - (5) review of contractor's pay estimates
 - (6) attendance at final inspection
 - (7) providing required certifications
 - (8) facility start-up
 - (9) preparation of operation and maintenance manuals
 - (10) staff training in proper operation and maintenance
28. Review and/or update previously prepared plans and reports
 29. Review of various agreements between the City and its customers, suppliers and consultants
 30. Assistance with obtaining governmental grants and funding (State of Florida, FDOT, SWFWMD, and others)
 31. Expert witness testimony, preparation and legal/litigation assistance services
 32. Attendance and/or presentations at City Council meetings
 33. Attendance and/or presentations at public meetings and workshops
 34. Assistance to the City in development of project renderings and exhibits, etc.
 35. Sub-consultant and/or subcontractors administrative services
 36. Quality control/quality management
 37. Surveying
 - (1) property surveys
 - (2) topographic surveys
 - (3) hydrographic surveys
 - (4) preparation of easement descriptions
 - (5) preparation of legal descriptions for acquisition/disposal/vacating of City property
 - (6) preparation of right-of-way maps
 - (7) other surveying services
 38. Subsurface investigations

39. Materials testing

40. Management, operations and marketing studies

- (1) conduct management studies of the existing operations
- (2) conduct operational studies of existing City facilities
- (3) conduct marketing tests for programs and/or facilities proposed to be developed by the City
- (4) evaluate retail/commercial needs and opportunities for any of the above programs
- (5) other related work

41. Provide assistance with regulatory compliance and general consulting including but not limited to:

- (1) existing and/or new Federal and State regulations and requirements
- (2) existing and/or new stormwater quality requirements
- (3) coordinate and arrange meetings as needed with regulatory agency(s)
- (4) preview of draft regulatory agency(s) documents, representation and presentations at public hearings and meetings, negotiation with regulatory agency(s), and representation at regulatory agency(s) and/or court hearings
- (5) monitor and brief City staff on any new and/or proposed changes in regulatory requirements that will impact the operation of City facilities
- (6) provide other miscellaneous assistance related to regulatory and permitting issues

42. Provide services related to energy reduction and conservation

- (1) evaluate existing facilities and processes for potential areas where energy conservation can be implemented
- (2) design modifications to existing facilities and/or new facilities with the intent of reducing energy consumption
- (3) evaluate existing and/or proposed facilities and processes to determine the carbon foot print and areas where the carbon foot print can be reduced
- (4) design modifications to existing facilities and/or new facilities with the intent of reducing their carbon foot print

- (5) evaluate existing and/or proposed facilities and processes to determine the availability of carbon credits and/or green energy credits
- (6) design modifications to existing facilities and/or new facilities with the intent of developing carbon credits and/or green energy credits
- (7) other services related to energy reduction and conservation

43. Provide services related to fuel, chemicals

- (1) study and evaluate existing and proposed fuel systems
- (2) design modifications to existing fuel systems and/or new fuel systems in accordance with all applicable rules and regulations
- (3) submit appropriate permit applications and documents for fuel systems to the regulatory agency(s)
- (4) study and evaluate existing and proposed chemical storage and feed systems
- (5) design modifications to existing chemical storage and feed systems and/or new chemical storage and feed systems in accordance with all applicable rules and regulations
- (6) submit appropriate permit applications and documents for the chemical systems to the regulatory agency(s)
- (7) submit appropriate permit applications and documents to the regulatory agency(s) for the removal and disposal of regulated substances

44. Provide financial services

- (1) construction cost estimates during the study and design phase
- (2) operating cost estimates for equipment and processes
- (3) cost effective analysis and present worth analysis for proposed projects
- (4) rate and user charges analysis for City services
- (5) services related to issuance of additional bonds- traditional tax free bonds, taxable bonds, government subsidized taxable bonds (i.e. Build America Bonds), and/or others
- (6) inspections, analysis, and reports necessary to comply with bond requirements
- (7) other financial services related to operating revenues and expenses

- (8) other financial services related to capital improvement revenues and expenses
 - (9) analysis of revenues and expenses for the City
 - (10) value engineering and/or cost effectiveness of proposed facilities
 - (11) financial analysis related to capital and operating costs for Public-Private Joint Venture projects
 - (12) other related financial work
45. Provide services related to facility security
- (1) study, evaluate and design for the security requirements for existing and proposed facilities
 - (2) study, evaluate and design video and other forms of remote surveillance at existing and proposed facilities
 - (3) study, evaluate and design modifications and/or revisions to existing tanks, buildings and structures to "harden" them from potential damage from severe weather- i.e. hurricanes, tornadoes, micro-bursts, etc.
 - (4) other services related to facility security
46. Professional specialty services including but not limited to:
- (1) Airport/Airfield engineering
 - (2) Agricultural engineering
 - (3) Environmental engineering
 - (4) Civil/sanitary engineering
 - (5) Electrical engineering
 - (6) Industrial engineering
 - (7) Mechanical engineering
 - (8) Structural engineering
 - (9) Architecture
 - (10) Landscape architecture
 - (11) Computer/SCADA/instrumentation engineering
 - (12) Hydraulic engineering
 - (13) Geotechnical

EXHIBIT "B"

2017 SCHEDULE OF FEES

Effective Date: July 20, 2017 to July 19, 2020

Peebles & Smith, Inc.

- An hourly rate of \$150 for principals and professional staff (not to exceed \$3,000 monthly).
 - For the services listed under Exhibit A – Scope of Services, but may also include any other service agreed upon by the City and Peebles & Smith, Inc.
- An hourly rate of \$25 for administrative support staff
- Additionally, reimbursement shall be made to Peebles & Smith, Inc. for travel expenses as authorized by the City.

Langton Consulting, Inc.

- An hourly rate of \$205 for senior staff and principals.
- An hourly rate of \$150 for professional staff.
- Fixed fee agreed upon by the City and Langton Consulting, Inc. for a specific grant application.
 - City funds or grant funds.
- Percentage of the grant agreed upon by the City and Langton, Inc. for specific grant administration.