

**HAINES CITY WATER CONTROL DISTRICT  
SCHEDULED / ADVERTISED  
PUBLIC HEARING and MEETING  
August 23, 2022**

**AGENDA**

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- I. Call to Order
- II. Establish Quorum
- III. Election of Kenneth Kipp to fill vacancy on the Board of Supervisors with term ending on January 31, 2024
- IV. Approve Minutes of Meeting of July 13, 2022
- V. Approve Finance Report dated August 23, 2022
- VI. General Public Comment (*limited to 5 minutes per person*)
- VII. Old Business - None
- VIII. New Business
  - a) Special Counsel Mark Lawson to give a brief overview of Resolution No. 2022-16
  - b) Open Public Hearing on Preliminary Budget for Fiscal Year 2022-2023
    - 1) Public Comment and Discussion
    - 2) Close Public Hearing on Budget
  - c) Open Public Hearing on Resolution No. 2022-16
    - 1) Call for Motion to Introduce Resolution No 2022-16
    - 2) Attorney Reilly to Read Resolution No. 2022-16 (Title Only):

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE HAINES CITY WATER CONTROL DISTRICT, POLK COUNTY, FLORIDA, PERTAINING TO THE IMPOSITION AND LEVY OF NON-AD VALOREM ASSESSMENTS ON LANDS WITHIN THE DISTRICT; ADDRESSING THE NECESSARY MEANS TO GOVERN AND CARRY OUT THE OBJECTIVES AND RESPONSIBILITIES OF THE DISTRICT; RECOGNIZING THE STATUTORY USE OF ACREAGE AS A UNIT OF MEASUREMENT IDENTIFIED BY THE LEGISLATURE IN THE FLORIDA STATUTES; ESTABLISHING THE

RATE OF ASSESSMENT; ADOPTING A METHOD OF APPORTIONING COSTS TO BE ASSESSED AND PROVIDING FOR DIRECTION IN THE PROCESS OF CALCULATING AND IMPOSING ASSESSMENTS; ADOPTING AN ASSESSMENT ROLL; PROVIDING FOR THE METHOD OF COLLECTION; PROVIDING FOR ASSOCIATED POLICY AND ADMINISTRATIVE DIRECTION; AND PROVIDING AN EFFECTIVE DATE

- 3) Call for Motion to Adopt Resolution No. 2022-16
  - 4) Call for Public Comments/Questions
  - 5) Close Public Hearing on Resolution No. 2022-16
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- d) Attorney Mark Lawson to Discuss Updating Water Control Plan; District's Boundaries; District's Non-Ad Valorem Assessment Rates
  - e) Approval of Continuing Engineering Services Contract with Pennoni Engineers for FY 2022/2023
  - f) Amphibious Aquatics Rate Increase (Ben Selser will attend the meeting to discuss with Board of Supervisors an increase in hourly rate from \$90 to \$110.)
  - g) Board of Supervisors to Discuss and Set Priorities for Future Projects relating to the Drainage Ditch

IX. Supervisors' Comments

X. Attorney's Comments

XI. Secretary's Comments

XII. Set Date for Next Meeting – September 13, 2022

XIII. Adjourn Meeting

# **HAINES CITY WATER CONTROL DISTRICT**

## **Meeting of the Board of Supervisors**

### **July 13, 2022**

## **Minutes of Meeting**

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PRESENT: Chairman Russell Yates, Vice Chairman Nicholas Gollattscheck, Supervisor Sean McCoy, Attorney Fred Reilly; Secretary/Treasurer Linda Robinson

GUESTS: Kenneth Kipp, Maricela Arteaga

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### Call to Order

Chairman Yates called the meeting to order at 5:05 p.m. and pronounced that a quorum was present. Chairman Yates introduced Kenneth Kipp who is attending as a prospective member of the Board of Supervisors. Chairman Yates also introduced Maricela Arteaga, a candidate for the secretary/treasurer position.

### Approval of Minutes

- a) Vice Chairman Gollattscheck motioned to approve the minutes of the meeting of April 27, 2022. Supervisor McCoy seconded. Motion carried with all yeas.
- b) Supervisor McCoy motioned to approve the minutes of the cancelled meeting of May 25, 2022. Vice Chairman Gollattscheck seconded. Motion carried with all yeas.

### Approve Finance Report Dated May 25, 2022

Secretary/Treasurer Robinson reported that as of May 25, 2022, the balance in the District's bank account is \$305,320.24. Vice Chairman Gollattscheck motioned to approve the Finance Report dated May 25, 2022. Supervisor McCoy seconded the motion. Motion carried with all yeas.

### Approve Finance Report Dated July 13, 2022

Secretary/Treasurer Robinson reported that as of July 10, 2022, the balance in the District's bank account is \$339,562.62. Supervisor McCoy motioned to approve the Finance Report dated July 13, 2022. Vice Chairman Gollattscheck seconded the motion. Motion carried with all yeas.

### General Public Comments (*limited to 5 minutes per person*)

No one from the General Public nor any owners of property within the District were in attendance. There were no comments made to the Board of Supervisors.

### Chairman's Report

Chairman Yates reported on the conference sponsored by the Florida Association of Special Districts, which both he and Vice Chairman Gollattscheck attended. Chairman Yates was impressed with the amount of information that was disseminated at the conference; i.e., the Board's fiscal responsibility regarding the non-ad valorem assessments that are collected.

Chairman Yates further discussed the issue of liability insurance. He expressed his concern that the Board members might be financially responsible. Attorney Reilly responded by explaining that there is mitigation against exposure. By law, the Board is required to have an attorney. It is the attorney's responsibility to make sure that the Board follows State statutes and adheres to the scope of responsibility for the drainage ditch. As long as the Board stays within the scope of what it is supposed to do, then there is no liability.

Attorney Reilly suggested that this matter be put on a later agenda for further discussion. Supervisor McCoy suggested that this could be explored further as we move forward with the boundary expansion. Vice Chairman Gollattscheck inquired about exposure should the drainage ditch not be maintained properly. Would there be liability? Attorney Reilly replied that it is the Board's responsibility to make sure that the ditch is maintained. If not, then liability could be involved; but not as long as the Board acts within the scope of what it is supposed to do.

Attorney Reilly suggested that Chairman Yates might contact the person with whom he discussed this at the conference to give a quote on the cost of liability insurance. It might be good for Chairman Yates to get multiple quotes.

### Old Business

- a) Engineer Steve Shealey was out of town. In his absence, Secretary Robinson distributed copies of the report that he filed on July 25, 2022, in compliance with Florida House Bill 53.
- b) Vacancies on the Board of Supervisors – Due to former members Lonnie Large and Janie Large moving out of the District and Omar Arroyo being elected to the City Commission, there are two vacancies on the Board. Kenneth Kipp stated that he is interested in serving as a Board member. Chairman Yates advised that at the next meeting, the Board would vote on Mr. Kipp's election to the Board. Attorney Reilly stated that he had a conversation with Lyle Winger, who indicated that he also is interested in serving on the Board.

### New Business

- a) The current fiscal year budget allocates the sum of \$3,300 to purchase chemicals to control the invasive aquatic weeds in the drainage ditch. Because it is anticipated that the cost of chemicals will increase dramatically and also because there may become a shortage of these chemicals, the decision was made to purchase additional amounts of chemicals. On June 7, 2022, Chairman Yates purchased 60 gallons of Roundup Custom and 80 gallons of Platoon for a total amount of \$5,100, which exceeded the amount that was originally budgeted. Vice Chairman

Gollattscheck motioned to allocate an additional sum of \$1,800 from “Contingency” line item to “Invasive Aquatic Weed Control/Chemicals” line item to cover the expenditure. Supervisor McCoy seconded the motion. Motion carried with all yeas.

- b) In the current fiscal year’s budget, the sum of \$250 is allocated for office supplies and postage. To date, the sum of \$443.99 has been paid out. This is due to unplanned expenditures for various items such as a new supply of bank checks as well as plaques for outgoing Chairman Lonnie Large and Supervisor Janie Large. Supervisor McCoy motioned to allocate an additional sum of \$300 from “Contingency” line item to “Office Supplies/Postage”. Vice Chairman Gollattscheck seconded the motion. Motion carried with all yeas.
- c) The Board held a discussion with Maricela Arteaga regarding the secretary/treasurer position.
- d) The Board reviewed the first draft of the proposed Operating Budget for Fiscal Year 2022-2023, as well as Erin Pomeroy’s (of ENNEAD) analysis of the non-ad valorem assessment roll and the list of government-owned parcels and other parcels located within the District that are not taxable.

Because the Library was closing for the day (6:00 p.m.), it was the consensus of the Board to adjourn the meeting and reconvene outside in the Library patio.

#### Supervisors’ Comments

Supervisor McCoy advised that he and Steve Shealey recently met and walked the ditch. He now has a good understanding of the Board’s responsibilities, and talked about prospective maintenance projects to be considered at a future date.

#### Attorney’s Comments

Attorney Reilly advised:

- a) Attorney Mark Lawson will attend the August meeting.
- b) Public Utilities Director James Keene is following up with Tenold re: Lake Henry project.

#### Secretary’s Comments - None

Set Date for Next Meeting – Tuesday, August 23, 2022 at 5:00 p.m.

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Meeting Minutes  
July 13, 2022  
Page 4 of 4

There being no further business, at 6:43 p.m. Supervisor McCoy motioned to adjourn the meeting; seconded by Vice Chairman Gollattscheck. Motion carried with all yeas.

Attest:

Approved:

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Linda Robinson, Secretary

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Chairman Russell Yates

# HAINES CITY WATER CONTROL DISTRICT

## Finance Report

### Meeting Date – August 23, 2022

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*Bank Balance as of July 10, 2022 ..... \$339,562.62*

*Deposits and Other Credits: ..... \$0.00*

***Withdrawals / Debits:***

*08/05/2022 – Ck. 2078 Amphibious Aquatics ..... \$4,050.00*

*08/08/2022 – Ck. 2076 Reilly International Law Firm (August) ..... \$2,000.00*

*08/10/2022 – Ck. 2074 Pennoni (Invoice No. 1127464) ..... \$2,462.00*

*08/10/2022 – Ck. 2077 Linda Robinson (August)..... \$250.00*

*Ending Bank Balance as of August 20, 2022 ..... \$330,800.62*

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***Checks written but not cleared as of August 23, 2022:***

*Ck. 2073 – Russell Yates (Travel Reimbursement)..... \$232.83*

*Ck. 2075 – DigiSquid (Domain Name)..... 24.95*

*Available Balance as of August 23, 2022..... \$330,542.84*

# **HAINES CITY WATER CONTROL DISTRICT**

## **Preliminary Annual Operating Budget For Fiscal Year 2022—2023**

**Chairman/Supervisor Russell S. Yates  
Vice Chairman/Supervisor Nicholas Gollattscheck  
Supervisor Sean McCoy  
Supervisor Kenneth Kipp**



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(Estimated through 9/30/2022)	

HAINES CITY WATER CONTROL DISTRICT				
Analysis of Fiscal Year 2021 / 2022 Operating Budget				
<i>Estimated</i> Through September 30, 2022				
	FY 2021 / 2022	FY 2021 / 2022		FY 2021 / 2022
	ADOPTED	Payments		Funds
ITEMIZED	BUDGET	As of 9/30/2022		Remaining
<b>REVENUES</b>				
Non-Ad Valorem Assessments	\$139,750.00	\$152,803.80		\$152,803.80
HCWCD Administrative Fees; Collection Costs	\$6,385.00			
Uniform Method Charges	\$9,326.00			
Misc. Receipt re: Public Records Request		\$52.50		\$52.50
<i>Sub-Total Revenues</i>	\$155,461.00			
Less: Adjustments; Discounts; Tax Collector Fees	\$9,326.00			
<i>TOTAL REVENUES</i>	\$146,135.00	\$152,856.30		\$152,856.30
<b>EXPENDITURES</b>				
<b>INVASIVE AQUATIC WEED CONTROL:</b>				
Spraying Drainage Ditch (Amphibious Aquatics)	\$17,000.00	\$13,050.00		\$3,950.00
Purchase Chemicals	\$3,300.00	\$5,100.00		-\$1,800.00
<b>ADMINISTRATIVE:</b>				
Advertisements	\$2,000.00	\$1,791.74		\$208.26
Agency Fees - Florida Department of Economic Opportunity	\$175.00	\$175.00		\$0.00
Agency Fees - Polk County Property Appraiser	\$1,700.00	\$1,559.14		\$140.86
Agency Fees - Polk County Tax Collector Prorated Postage	\$50.00	\$0.00		\$50.00
Attorney - Reilly International Law Firm	\$24,000.00	\$24,000.00		\$0.00
District Secretary (\$52.50 is reimbursement for PR Request)	\$3,000.00	\$3,000.00		\$0.00
Professional Services - CPA (Not yet invoiced - \$14,000)	\$15,000.00	\$14,000.00		\$1,000.00
Professional Services - Engineer	\$17,000.00	\$9,257.25		\$7,742.75
Professional Services - Special Counsel - Mark Lawson	\$10,000.00	\$0.00		\$10,000.00
Professional Services - NAV Assessment Roll - ENNEAD	\$15,000.00	\$15,000.00		\$0.00
FASD Conference - Education / Training (6 Attendees)	\$3,000.00	\$1,315.00		\$1,685.00
FASD Per Diem - Hotel / Travel Expenses (6 Attendees)	\$5,600.00	\$1,069.84		\$4,530.16
FASD Certified District Official Regis. & Classes (1 Attendee)	\$750.00	\$0.00		\$750.00
FASD Certified District Manager Registration & Classes	\$0.00	\$0.00		\$0.00
FASD Membership Dues	\$750.00	\$750.00		\$0.00
Miscellaneous-Seminar Registration and Per Diem (Secretary)	\$100.00	\$0.00		\$100.00
Miscellaneous - Office Supplies / Postage	\$250.00	\$443.99		-\$193.99
Miscellaneous - Website Maintenance & Domain Name	\$400.00	\$274.45		\$125.55
Miscellaneous - Special Mailings to Property Owners	\$4,000.00	\$0.00		\$4,000.00
<i>TOTAL BUDGETED EXPENDITURES</i>	\$123,075.00	\$90,786.41		\$32,288.59
<i>Miscellaneous Expenditure Per Public Records Request</i>		\$52.50		-\$52.50
		\$90,838.91		\$32,236.09

## BUDGET NARRATIVE

For Fiscal Year Ending September 30, 2023

### REVENUES

#### Estimated Non-Ad Valorem (NAV) Assessments

The Haines City Water Control District (hereinafter “the District”) levies non-ad valorem assessments on the assessable property within the District boundaries in order to pay the operating expenditures during the fiscal year.

#### Adjustments, Early Discount, Fees

Florida Statute Section 298.345 allows the District to include in the non-ad valorem assessment a charge of \$5 to defray District assessment notice, administrative and implementation costs; plus, the charges of the Property Appraiser and Tax Collector allowed by law; and plus, an adjustment for statutory discount for early payment necessarily associated with the use of the uniform method of collection. In addition, the Tax Collector deducts his 1% administrative fee (commission) from the funds that are collected prior to distribution to the District.

### EXPENDITURES

INVASIVE AQUATIC WEED CONTROL – The District currently utilizes Amphibious Aquatics for invasive aquatic weed control throughout the drainage ditch. Chemicals are purchased from Nutrien Ag Solutions in Waverly, Florida. Amphibious Aquatics recently advised that its fees will increase from \$90 per hour to \$110 per hour. In addition, Nutrien Ag Solutions informed the District that the costs of chemicals are increasing. Therefore, the budgeted amounts for these two lines items have been increased.

#### ADMINISTRATIVE:

- 1) Advertising – The District is required to advertise various meeting notices in a newspaper of general circulation. Due to the rise in advertising costs, the amount budgeted for this line item is being increased.
- 2) Agency Fees to Department of Economic Opportunity – The District is required to pay an annual fee of \$175 to the Florida Department of Economic Opportunity.
- 3) Agency Fees to Polk County Property Appraiser -- Marsha Faux provides the District with a listing of the legal description of each parcel within the District boundaries, and the names and addresses of the owners of such property. Per Florida Statutes, the District reimburses the Property Appraiser for administrative costs incurred by her office. The budget for the Property Appraiser’s cost is based on 1% of the gross assessments.

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- 4) Agency Fees to Polk County Tax Collector – The Tax Collector is responsible for the collection of all taxes in Polk County. He is reimbursed for administrative costs incurred by his office, which is 1% of the assessments collected. Tax Collector deducts his 1% commission as funds are collected and prior to depositing into the District's bank account.
  - 5) Attorney – Attorney Fred Reilly (Reilly International Law Firm) provides legal services to the District as directed or requested by the Board of Supervisors. He has served as legal counsel for the Haines City Water Control District since 2011. In Fiscal Year 2021-2022 the Board of Supervisors approved a monthly fee for Mr. Reilly's services in the amount of \$2,000 in lieu of an hourly rate.
  - 6) District Secretary/Treasurer – The District secretary keeps minutes of the meetings; maintains the records of the District; provides annual financial records to the District's CPA to facilitate preparation of the annual audit report that is filed with the State of Florida; transmits the annual financial audit to the Florida Department of Financial Services and the Office of the Auditor General; and performs other general administrative services as needed i.e. the District's financial records, (accounts payable, financial statements, budgets, etc.), coordination of the District's website, and other duties as directed by the Board of Supervisors. The fee to be paid to the Secretary/Treasurer is being increased to \$300 per month.
  - 7) Professional Services Certified Public Accountant – Special Districts are required by Florida Statutes to file annual financial reports with the Florida Department of Financial Services and the Office of the Auditor General. Because the District's revenues and expenditures exceed the \$50,000 threshold, it is required to have its finances audited by a CPA prior to filing with the Auditor General. The District has retained the services of Bunting, Tripp & Ingley CPAs (BTI) in Lake Wales, Florida. In Fiscal Year 2021/2022, the District budgeted \$15,000 for accounting fees. The actual amount of BTI's fee is \$14,000. For Fiscal Year 2022/2023 the amount allocated for CPA fees is being increased to \$20,000 in order to avoid any shortfall in this line item.
  - 8) Professional Services Engineering – The District's engineer, Steve Shealey of Pennoni, provides general engineering services to the District, attends board meetings when requested and performs engineering assignments as directed by the Board of Supervisors.
  - 9) Professional Services Special Legal Counsel and Non-Ad Valorem Assessment Roll – The District has contracted with Mark Lawson P.A. and ENNEAD for legal and professional services relating to non-ad valorem assessment review and preparation of the TRIM tax roll.
  - 10) Florida Association of Special Districts Member Dues – The District is a member of the Florida Association of Special Districts (FASD). FASD strengthens special districts through education, the exchange of ideas and active involvement in the legislative process. It is important that the Board members utilize the "learning and networking" opportunities that FASD provides. Member dues are based upon the type of district and the amount of revenue the district generates through non-ad valorem assessments.
  - 11) Florida Association of Special Districts Conference / Per Diem Expenses / Travel – Funds are allocated for the 5 members of the Board of Supervisors and the District Secretary to attend the annual Summer Conference in 2023, to be held in Orlando, Florida.

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- 12) Florida Association of Special Districts Certified District Official (CDO) Program and Component Classes – The CDO program is open to all Governing Board Officials from special districts in Florida, regardless of the service, how it is funded or whether it is dependent or independent. The CDO designation requires the completion of 25 hours of training in the educational components, or subjects, within a two-year period. These educational components are offered at various FASD Meetings and at the Annual Conference. At this time the budget is allocating funds for one Supervisor to enroll in the CDO program.
  - 13) Florida Association of Special Districts Certified District Manager – This is a newly budgeted item for Fiscal Year 2022/2023. The FASD Certified District Manager (CDM) Program is offered in partnership with the Florida Institute of Government. This program and component classes provide the knowledge and skills to successfully manage a special district. The educational components are offered at various FASD District Meetings and at the Annual Conference. FASD offers a scholarship for this program. The application for the scholarship can be found on the FASD website.
  - 14) Miscellaneous Office Supplies / Postage – This line item is to cover general office expenses for paper, envelopes, postage, etc. For the upcoming Fiscal Year 2022/2023, an additional sum of \$300 is being budgeted to allow the secretary to purchase either a file cabinet or storage cabinet for District records.
  - 15) Miscellaneous Web Hosting – DigiSquid LLC in Lakeland maintains the District’s website. The annual fee for this service is \$249.50. The District also pays an annual fee (\$25) for domain name registration.
  - 16) Miscellaneous Special Mailings – From time to time the District will be required to send by US Postal Service specific notices and reports to each individual property owner.
  - 17) Contingency Fund and Shortfall Elimination and Reserve Build-Up – Funds are being allocated for these two specially designated funds. Because in this current fiscal year ending September 30, 2022, the total expenditures are less than anticipated. Therefore, excess revenues over expenditures are carried over for reserve build-up and contingency fund.

# HAINES CITY WATER CONTROL DISTRICT

## General Fund

### Preliminary Operating Budget For Fiscal Year 2022 - 2023

#### REVENUES

Estimated Non-Ad Valorem Assessments	\$138,600
HCWCD Administrative Fees; Collection Costs	\$6,400
Uniform Method Charges	\$10,914
Sub-Total Revenues	\$155,914
Less: Adjustments; Discount; Tax Collector Fees	-10,914
<b>PROPOSED TOTAL REVENUES FY 2021/2022</b>	<b>\$145,000</b>

Estimated Bank Balance Carry Over From FY 2021/2022	309,952
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<b>ESTIMATED REVENUES FY 2022/2023</b>	<b>\$454,952</b>
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#### EXPENDITURES

##### FIELD:

Maintenance of Drainage Ditch	\$17,000
Chemicals	6,500

##### ADMINISTRATIVE:

Advertising	3,000
Agency Fees - Florida Department of Economic Opportunity	175
Agency Fees - Polk County Property Appraiser	1,700
Agency Fees - Polk County Tax Collector Prorated Postage	50
Attorney - Fred Reilly (Reilly International Law Firm)	24,000
District Secretary / Treasurer	3,600
Professional Services CPA	18,000
Professional Services Engineer	17,000
Professional Services - Special Counsel	15,000
Professional Services - Prepare NAV Assessment Roll	15,000
FASD Conference Education / Training (6 Attendees)	3,000
FASD Per Diem Hotel / Travel Expenses (6 Attendees)	8,700
FASD Certified District Official Registration	250
FASD Certified District Official Per Diem for Travel/Hotel/Meals	500
FASD Certified District Manager Registration	1,200
FASD Certified District Manager Per Diem for Travel/Hotel/Meals	500
FASD Membership Dues	750
Miscellaneous Office Supplies / Postage	800
Miscellaneous Website Maintenance	275
Miscellaneous Special Mailings to Property Owners	4,000
Excess Revenues over Expenditures for Contingency	
Fund and Shortfall Elimination and Reserve Build-Up	4,000
<b>PROPOSED EXPENDITURES FY 2022/2023</b>	<b>145,000</b>

Estimated Reserve Build-Up Carried Over from FY 2020/2021	309,952
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<b>TOTAL</b>	<b>\$454,952</b>
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HAINES CITY WATER CONTROL DISTRICT				
Preliminary Fiscal Year 2022 / 2023 Operating Budget				
Compared with FY 2021 / 2022 Estimated Revenues and Expenditures Through 9/30/2022				
	FY 2021 / 2022	FY 2021 / 2022		FY 2022 / 2023
	ADOPTED	Estimated		PROPOSED
ITEMIZED	BUDGET	Thru' 9/30/2022		BUDGET
<b>REVENUES</b>				
Non-Ad Valorem Assessments	\$139,750.00	\$152,856.30		\$138,600.00
HCWCD Administrative Fees; Collection Costs	\$6,385.00			\$6,400.00
Uniform Method Charges	\$9,326.00			\$10,914.00
<i>Sub-Total Revenues</i>	\$155,461.00			\$155,914.00
Less: Adjustments; Discounts; Tax Collector Fees	\$9,326.00			\$10,914.00
<i>TOTAL REVENUES</i>	\$146,135.00	\$152,856.30		\$145,000.00
<b>EXPENDITURES</b>				
<b>INVASIVE AQUATIC WEED CONTROL:</b>				
Spraying Drainage Ditch (Amphibious Aquatics)	\$17,000.00	\$13,050.00		\$17,000.00
Purchase Chemicals	\$3,300.00	\$5,100.00		\$6,500.00
<b>ADMINISTRATIVE:</b>				
Advertisements	\$2,000.00	\$1,791.74		\$3,000.00
Agency Fees - Florida Department of Economic Opportunity	\$175.00	\$175.00		\$175.00
Agency Fees - Polk County Property Appraiser	\$1,700.00	\$1,559.14		\$1,700.00
Agency Fees - Polk County Tax Collector Prorated Postage	\$50.00			\$50.00
Attorney - Reilly International Law Firm	\$24,000.00	\$24,000.00		\$24,000.00
District Secretary	\$3,000.00	\$3,000.00		\$3,600.00
Professional Services - CPA (Not yet invoiced - \$14,000)	\$15,000.00	\$14,000.00		\$18,000.00
Professional Services - Engineer	\$17,000.00	\$9,257.25		\$17,000.00
Professional Services - Special Counsel - Mark Lawson	\$10,000.00	\$0.00		\$15,000.00
Professional Services - NAV Assessment Roll	\$15,000.00	\$15,000.00		\$15,000.00
FASD Conf. - Education/Training Registration	\$3,000.00	\$1,315.00		\$3,000.00
FASD Conf. Per Diem/Hotel/Mileage (6 Attendees)	\$5,600.00	\$1,069.84		\$8,700.00
FASD Certified District Official Registration (1 Attendee)	\$750.00	\$0.00		\$250.00
FASD CDO Per Diem for Travel / Hotel / Meals		\$0.00		\$500.00
FASD Certified District Manager Registration & Classes	\$0.00	\$0.00		*\$1,200.00
FASD CDM Per Diem for Travel / Hotel / Meals	\$0.00	\$0.00		\$500.00
FASD Membership Dues	\$750.00	\$750.00		\$750.00
Miscellaneous-Seminar Registration and Per Diem (Secretary)	\$100.00	\$0.00		\$0.00
Miscellaneous - Office Supplies / Postage	\$250.00	\$443.99		**\$800.00
Miscellaneous - Website Maintenance & Domain Name	\$400.00	\$249.50		\$275.00
Miscellaneous - Special Mailings to Property Owners	\$4,000.00	\$0.00		\$4,000.00
<i>TOTAL EXPENDITURES</i>	\$123,075.00	\$90,761.46		\$141,000.00
<i>Excess Revenues Over Expenditures for Contingency</i>				
<i>Fund and Shortfall Elimination and Reserve Buildup</i>	\$23,060.00	***\$62,094.84		\$4,000.00
<i>TOTAL</i>	\$146,135.00	\$152,856.30		\$145,000.00
* FASD Certified District Manager - Registration and Per Diem Expenses are new Line Items added for FY 2022-2023				
** Increased Office Supplies Line Item for purchase of file cabinet.				
***The amount shown here for "Excess Revenues Over Expenditures" is an estimated amount. It is anticipated that the HCWCD will receive additional invoices from Pennoni Engineers and from the newspaper. In that event, the amount of Excess Revenues will be less than what is shown here.				

**RESOLUTION NO. 2022-16**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE HAINES CITY WATER CONTROL DISTRICT, POLK COUNTY, FLORIDA, PERTAINING TO THE IMPOSITION AND LEVY OF NON-AD VALOREM ASSESSMENTS ON LANDS WITHIN THE DISTRICT; ADDRESSING THE NECESSARY MEANS TO GOVERN AND CARRY OUT THE OBJECTIVES AND RESPONSIBILITIES OF THE DISTRICT; RECOGNIZING THE STATUTORY USE OF ACREAGE AS A UNIT OF MEASUREMENT IDENTIFIED BY THE LEGISLATURE IN THE FLORIDA STATUTES; ESTABLISHING THE RATE OF ASSESSMENT; ADOPTING A METHOD OF APPORTIONING COSTS TO BE ASSESSED AND PROVIDING FOR DIRECTION IN THE PROCESS OF CALCULATING AND IMPOSING ASSESSMENTS; ADOPTING AN ASSESSMENT ROLL; PROVIDING FOR THE METHOD OF COLLECTION; PROVIDING FOR ASSOCIATED POLICY AND ADMINISTRATIVE DIRECTION; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE HAINES CITY WATER CONTROL DISTRICT, AS FOLLOWS:**

**ARTICLE I**

**INTRODUCTION**

**SECTION 1.01. AUTHORITY.** This Resolution of Haines City Water Control District (the “District”) is adopted pursuant to Chapters 298, 189 and 197, Florida Statutes, Chapter 2004-402, Laws of Florida, and other applicable provisions of law.



**SECTION 1.02. DEFINITIONS.** All words and terms not otherwise defined herein shall have the meaning set forth in the Act, unless the context hereof otherwise requires.

**“Act”** means, as the context requires, Chapters 298, 189 and 197, Florida Statutes, Chapter 2004-402, Laws of Florida, as same may be amended from time to time.

**“Assessed Cost”** or **“Water Control Assessed Cost”** means all or that portion of the annual budget for any Fiscal Year representing all or some portion of the cost of providing administration, governance, and the provision of water control related services, facilities, and programs to Tax Parcels within the District which will be funded through the imposition of Assessments.

**“Assessed Property”** means all Tax Parcels of land included in the Assessment Roll that receive a special benefit (including relief of burdens) from costs associated with administration, governance, and the provision of water control related services, facilities.

**“Assessment”** or **“Water Control Assessment”** means a special assessment imposed by the Board pursuant to the Act, this Resolution or other provisions of law, after a public hearing, to fund the Water Control Assessed Cost. The term **“Assessment”** and the reference to special assessments or non-ad valorem assessments herein means those assessments which can become a lien against a homestead as permitted by Article X, Section 4 of the Florida Constitution, as amended.

**“Assessment Resolution”** means this Resolution, establishing the rate and any algorithms at which an Assessment for a specific Fiscal Year will be computed; and the adoption of which, after a fairly noticed public hearing, shall be the final proceeding for the imposition of Assessments related to the provision and funding of water control related services, facilities and programs.

**“Assessment Roll”** or **“Water Control Assessment Roll”** means the special Assessment Roll relating to an Assessment confirmed by the Board after a public hearing conducted substantially in compliance with this Resolution and applicable law.

**“Board of Supervisors”** or **“Board”** means the governing body of the District.

**“District”** means the Haines City Water Control District, an independent special district, or as the context requires, the area encompassed by the District.

**“District Secretary”** means the District Secretary, or such person’s designees, responsible for coordinating the notice, calculation and collection of Assessments as provided herein

**“Fiscal Year”** means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the District.

**“Government Property”** means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

**“Obligations”** means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligation issued or incurred to finance water control related facilities and equipment and secured, in whole or in part, by proceeds of the Assessments.

**“Pledged Revenue”** means, as to any series of Obligations, (A) the proceeds of such Obligations, including investment earnings, (B) proceeds of the Assessments pledged to secure the payment of such Obligations, and (C) any other legally available non-ad valorem revenue pledged, at the District’s sole option, to secure the payment of such Obligations, as specified by law and/or any resolution authorizing such Obligations.

**“Property Appraiser”** means the Property Appraiser of Polk County, Florida.

**“Tax Collector”** means the Tax Collector of Polk County, Florida.

**“Tax Parcel”** means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

**“Tax Roll”** means the real property ad valorem tax assessment roll and data base maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

**“Uniform Assessment Collection Act”** means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem

assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

**SECTION 1.03. INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this resolution; and the term “hereafter” means after, and the term “heretofore” means before, the effective date of this resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

**SECTION 1.04. FINDINGS.**

(A) It is hereby ascertained, determined and declared as follows:

(1) The District was originally established in 1926, and was codified under the Laws of Florida, Chapters 13649 (1929) and 14517 (1929) as the Haines City Drainage District No. 1. The District was re-established in 2004 as the Haines City Water Control District and as an independent special district under Chapter 2004-402, Laws of Florida, and under Chapters 189 and 298, Florida Statutes.

(2) The Haines City Water Control District was created for the purposes of maintaining a drainage ditch that meanders in a southerly direction on both the east and west side of U.S. Highway 27 that is located within a defined geographic area lying generally on the western side of the corporate limits of Haines City, Florida, and in the adjacent unincorporated area of Polk County (the “Ditch”).

(3) A primary responsibility of the District is to implement its water control plan for the land and properties located within the boundaries of the District.

(4) The most recent water control plan for the District was adopted April 9, 2019, and has not been updated or changed since that date.

(5) The District is located entirely within the Peace River Basin. The water flow within the District drains and flows from the Ditch into Middle Lake Hamilton and proceeds to Big Lake Hamilton, continuing its flow into Peace Creek Drainage District Canal that eventually reaches Peace River, which flows into Charlotte Harbor in Charlotte County.

(6) Among other things, the District has the statutory power to excavate, clean, open, widen, change the course and flow, alter or deepen any canal, ditch, drain, or natural stream and to construct facilities within the District for the purposes of water control and making the lands within the District available and habitable for settlement and agriculture. For the purpose of exercising its duties and responsibilities the District reasonably has all of the necessary power to hold, control, acquire and document the use of land and easements for drainage projects and other allowed works of the District.

(7) The District expressly has the power to levy non-ad valorem assessments based *inter alia* on acreage and issue bonds and obligations to finance the cost of equipment and improvements.

(8) The District had operated in a minimal or almost dormant state for several years prior to Fiscal Year 2018-19, continued to carry minimal reserves, and the Board determined in 2018 that the District was facing shortfall deficits and forward-looking costs likely beyond its revenues without action to update its assessment revenue. The Board of Supervisors found itself almost in the same position as if it was a new or start-up water control district with little or no cash on hand to underwrite its affairs, but with 'aging facilities' and a ditch system suffering from deferred maintenance.

(9) It is necessary for the Board to continue to act deliberately and with dispatch to increase capital accounts and reserves available in the next fiscal years or risk failure caused by lack of necessary capital to accomplish the most fundamental purposes of the District and the Act.

(10) The Board is directed and authorized by statute *inter alia* to levy non-ad valorem assessments to pay the costs of carrying out the objectives of the District, including at a minimum budgeting in addition thereto ten percent (10%) of the total amount assessed for contingencies.

(11) By law the Board has full power and authority to adopt resolutions and policies to implement the purposes of the Act.

(12) In 2018 the Board carefully sought expert engineering advice and counsel, *inter alia* in the form of a preliminary engineer's report which did not and was not intended to (a) revise the District's current water control plan, or (b) require the increase

of any levy of assessments or taxes beyond the maximum amount previously authorized by general law or special law, or (c) change the use of said assessments or taxes from that of the purpose of District administration and paying for lawful expenses of the District, or (d) result in any substantial change to District facilities (hereinafter the "Informational Report"). Rather, the Informational Report served to better inform the Board and the public as an evidentiary and decision-making resource and serves to be a possible threshold to commence in the future the process of amendment, restatement and overdue update of a water control plan.

(13) In advance of any consideration of a water control plan change of any kind, the Board determined to first levy and certify for imposition and collection assessments within or equal to the maximum amount previously authorized by general law to fund only so much of its FY 2018-19 or other future budgets as is possible under such constraints and within the confines of section 297.225(8), Florida Statutes, and for so long as is necessary to act to use such funds for the purpose of District administration, and paying District expenses necessarily incurred, and build reserves.

(14) A benchmark for the maximum amount of assessment previously authorized by general law rests in Section 298.349, Florida Statutes, in the form of an assessment of \$50 per acre to be used for the purposes of District administration, paying expenses necessarily incurred, or other expenses relating to the conduct of the District, as such assessment is estimated or determined by the Board.

(15) The action to levy and impose assessments within or equal to the maximum amount previously authorized by general law continues to be and is in this circumstance necessarily remedial, and provides lawful, fair and reasoned means and method for the District to continue to recapitalize and in ensuing fiscal years to refocus efforts to better serve and achieve better compliance under the Act.

(16) Expressly by statutory law and additionally by implication, the Board has been vested with the power and authority to levy and impose non-ad valorem assessments and adopt resolutions and policies to implement the purposes of the Act. Using the benchmark amount and guidance of the Act, and consistent with past practice and procedure, the Board by Resolution since 2018 determined, and henceforth determines, to levy the amount of non-ad valorem assessments at the rate of \$50 per acre or fraction thereof on all Tax Parcels within the District.

(17) The non-ad valorem assessments to be imposed herein meet and are consistent with *inter alia* the statutory as well as established case law elements of a valid special or non-ad valorem assessment which benefits the properties in the District by the provision of District-wide services, facilities, and programs, is fairly and reasonably apportioned by a well-settled and statutorily-recognized unit of apportionment, set at an amount under or equal to the maximum amount previously authorized by general law, is levied consistent with policy and direction in place for many years, must be collected using the uniform method of collection under the Uniform Collection



Assessment Act as directed by the Legislature, and such matters and actions were considered and validated with finality in 2018 in the Circuit Court of the 10<sup>th</sup> Judicial Circuit (the “2018 Final Judgment”).

(18) Under both Florida’s case law and even by certain statutory components, it is well settled that the benefit required for a valid special assessment may be measured or benchmarked against something other than simply an increase in real property market value. The concept of benefit also includes the relief of a burden or demand created by property as well as added use and enjoyment of the real property. The benefits then can be conceptual in this legal framework, but they must be capable of being evaluated by some metric and being apportioned in some reasonable manner. It is not necessary that the benefits be direct or immediate, but they must be substantial, certain, and capable of being realized within a reasonable time.

(19) The benefits of non-ad valorem assessments must be distinguishable or different from those of non-assessed properties, but they may coincidentally extend to non-assessed properties. Specifically, Florida’s case law, as well as its statutory regime relating to special assessments, supports substantial latitude both in how benefit to or relief of burden created by real property is identified and determined and the subsequent manner by which an assessment itself is apportioned and calculated. Though Florida law requires that special assessments which fund improvements or services must be fairly and reasonably apportioned, the State’s Supreme Court has held

the method of apportionment is immaterial and may vary provided the amount of the assessment for each property does not exceed the proportional benefits it receives compared to other properties.

(20) Since the 1920's, all lands within the District have benefited from or used or employed the presence of the Ditch. The Ditch has been and continues to be a significant land feature (greatly affected and relied upon by District property owners and civilization over the last century) in the District. The Ditch and the activities of the District unquestionably serve and benefit all lands presently and will continue to do so in the future as present uses continue and subdivision, reconfigured ownership, development, demolition, and redevelopment may occur.

(21) By history and custom, the Ditch has been also recognized by not only the Legislature in the very establishment of the District, but as a fundamental land feature in the local land use, land planning, and development processes.

(22) The benefits, burdens and costs reasonably associated with an annual and recurring budget that underwrites the actions, services and capital of the District which commonly serve to provide water control and related activities and functions of the District to the Tax Parcels in the District are the proper subject of a non-ad valorem assessment.

(23) The District is under an express mandate by the Legislature to levy a non-ad valorem assessment on all lands in the District to pay the costs of the completion of

the proposed works and improvements, as shown in the District's adopted water control plan, and in carrying out the objectives of the District.

(24) Using a common unit for apportionment as suggested by the Legislature – per acre basis – (which has also been used for decades by the State, water management or control districts and local governments) as a proxy to apportion the costs of benefits to property when dealing with drainage or water control is reasoned and based on long established precedent in Florida.

(25) The maximum assessment amount authorized by general law is at a rate of Fifty Dollars (\$50) per acre, which using the District's apportionment approach results in approximately \$138,600 in annual revenue much needed by the District.

(26) The District's apportionment algorithms allow for periodic (annual) recalculation in reasonable units (whole acres) and require a minimum of one unit with rounding up to the next full unit in each calculation. Such an algorithm regime allows for reasonable avoidance of diminishing returns in the administration of rates and assessments, and practically, proportionately addresses and fairly requires more meaningful minimum participation in sharing benefits, burdens and costs as usage of District facilities, services and resources intensifies or more and more ratepayers participate on a minimal basis.

(27) Having one common methodology and calculation regime capable of automatic adjustment and extension annually, such as presented in this Resolution,

over all properties receiving the benefits of the District's activities and services, concerning a fundamental water control feature, such as the Ditch, is by its structure thoughtful and by its nature and result fair and reasonable.

(28) The fact that the District is located in a single basin (Peace River Basin) supports that the benefits and burdens relieved which emanate from the District's water control related functions and activities are predominantly jurisdiction-wide.

(29) The apportionment method considered and employed by the Board does not focus on land use, rather it focuses on sharing the basic cost, benefits and burdens of the annual budget each year.

(30) The expenditures in the proposed budget, as well any expenditures necessary to complete the current water control plan, are fairly characterized as impactful jurisdiction-wide or District-wide because the ultimate and end nature of such expenditures focuses on the functionality and capacity of the predominant land feature in the District - the drainage Ditch.

(31) The Board is cognizant that any system, metric or analytical view of appraising benefits or assessing costs will be open to some criticism or suggestion of alternative methods or approaches and has labored to educate itself as to the facts, analysis, law and policy latitudes available to it in determining the Assessment in the process of approving the Assessment Roll.

(32) The findings of the District presented in this Resolution are not arbitrary, and are premised upon information, input, analysis and review from District staff, officials and experts, and public comment, as well as personal knowledge of the members of the Board and careful consideration by the Board.

(33) The benefits derived or burdens relieved as a result of the water control services, facilities and programs provided by the District to each tax parcel subjected to the District's assessment equal or exceed the amount of the special assessments as described, levied and imposed by the District. The assessment for any tax parcel within the District in employing such approach also does not exceed the proportional benefits (or corresponding relief of burdens) that such tax parcel will receive (or cause) compared to any other tax parcel so assessed within the District.

(34) The apportionment of the District's annual budget for services, facilities and programs using the rates of assessment and apportionment method presented in this Resolution among tax parcels within the District is a fair and reasonable means to annually allocate and share benefits, burdens and costs emanating from the District's budget for the upcoming Fiscal Year and in subsequent Fiscal Years. The foregoing determinations were considered by the Circuit Court as a part of the rendering of the 2018 Final Judgment, remain true and correct and are ratified and confirmed by the Board.

(35) The Act reasonably provides for the adoption each year of an annual assessment resolution approving and confirming the assessment roll after reasonable notice.

(36) The Board timely scheduled and fairly noticed a public hearing for August 23, 2022, to consider adoption of the Assessment Roll for Fiscal Year 2022-23. Notice required by law of such public hearing was published and in substantial accord with the Uniform Collection Assessment Act and proof of publication is attached hereto as an appendix.

(37) The Assessment Roll (along with additional explanatory information available on the District's website or through contacting the District Secretary) has heretofore been made available for inspection by the public. All notice required to be provided to a property owner in the manner required by the Uniform Assessment Collection Act and the Act has been duly and substantially provided. Although not required by law, by timely direction of the Board, additional and extraordinary notice is also being made available as a part of the annual TRIM process conducted by the Property Appraiser pursuant to Section 200.069, Florida Statutes, later this summer.

(38) A public hearing was held on August 23, 2022, and comments, concerns and objections of all interested persons were duly received, heard and considered. Additionally, the Board has reviewed and considered the matters referenced and incorporated herein. All of the foregoing has been considered in the context of public

discussion of the subject of funding the District's water control related services, facilities and programs at regularly scheduled meetings and workshops of the Board on numerous occasions during the past year, as well as the overall fiscal and other circumstances of the District. All affected property owners have been afforded due process.

(39) The Assessments contemplated in this Resolution are imposed by the Board, and not any State water management agency, Polk County, the City of Haines City nor the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of the Act and this Resolution shall be construed solely as ministerial. Further, the Assessments contemplated in this Resolution are distinct and entirely separate from any charges or non-ad valorem assessments imposed by Polk County or the City of Haines City, and do not repeat, duplicate or otherwise pay for the purposes of such other charges or assessments by any other such governmental entity.

(B) For timing, economic and better decision-making purposes, the Board has determined not to advance any consideration of any water control plan (including any engineer's report which might be construed to be a prerequisite to a change in the District's water control plan), or amendment thereto during the current Fiscal Year, but may do so in the upcoming Fiscal Year.

(C) This Resolution and the foregoing determinations present an accumulation of research, facts and circumstances assistive to the Board in decision-making, and serve to accumulate in writing a history of District activity for the public, fairly articulate the necessity to increase revenue and reserves, share the reasons and rationale for imposing the Assessments, and better inform State water managers who will likely be asked for grant assistance, and continue to lay the predicate to favorably attract credit markets and cooperation from State water managers.

## **ARTICLE II**

### **NOTICE AND PUBLIC HEARING**

#### **SECTION 2.01. ESTIMATED ASSESSED COST; CALCULATION AND RATE OF ASSESSMENT.**

(A) The estimated Assessed Cost to be recovered through non-ad valorem assessments for the Fiscal Year commencing October 1, 2022, is \$138,600.

(B) The non-ad valorem assessments established in this Resolution are to be determined by whole units or acres in the preparation of the Assessment Roll for the Fiscal Year commencing October 1, 2022.

(C) The rate and unit of assessment is \$50 per acre.

(D) To calculate the Assessment for each Tax Parcel the number of acres in area are determined, with one assessment unit (or whole acre) being assigned for each acre and any fraction thereof. Such determination is then multiplied by the rate of \$50



per acre or any portion thereof. The minimum assessment for any fractional unit or acre is one (1) unit or acre.

**SECTION 2.02. NON-AD VALOREM ASSESSMENT ROLL**

(A) The District Secretary has caused to be prepared a preliminary non-ad valorem Assessment Roll that contains the following information:

(1) a summary description of each Tax Parcel (conforming to the description contained on the Tax Roll maintained by the Property Appraiser for the purpose of levying and collecting ad valorem taxes) which is intended to be subject to the non-ad valorem assessment;

(2) the name of the owner of record of each Tax Parcel, as shown on the Tax Roll; and

(3) the proposed amount of the total non-ad valorem assessment for each affected Tax Parcel for the Fiscal Year commencing October 1, 2022, exclusive of anticipated costs of statutory discounts, collection and administration.

(B) The preliminary non-ad valorem assessment roll has been made available and open to public inspection by contacting the District Secretary at [myhcwd@gmail.com](mailto:myhcwd@gmail.com) since August 3, 2022. Notice of the proposed apportionment approach, and amount of assessment for each Tax Parcel has been published and a copy of that notice has also been available at or through the District's website.

(C) In the event the District Secretary makes, or is directed to make, any corrections, exemptions, or other modifications to the Assessment Roll authorized by the Board, this Resolution or otherwise, such changes shall not require any recalculation or change in the rate or rates of assessment otherwise considered or adopted pursuant to this Resolution.

**SECTION 2.03. NOTICE BY PUBLICATION.** The Board has caused or directed the publication of a public hearing in the manner and time as provided by law to be held on August 23, 2022 at a duly called meeting. Proof of publication of the notice is attached hereto as Appendix A.

**SECTION 2.04. PUBLIC HEARING.** A public hearing was held on August 23, 2022, commencing at or about 5:00 p.m. in the Lobby/Community Room of the Haines City Public Library, 111 North 6<sup>th</sup> Street, Haines City, Florida, at which time the Board received and considered evidence, information and comments on the Assessments from District officials, staff, experts and advisors, as well as the public and affected property owners, and considered imposing the Assessments and the method of calculation thereof as required by fundamental due process fairly and substantially consistent with the Uniform Assessment Collection Act.

### **ARTICLE III**

#### **ASSESSMENTS**

**SECTION 3.01. IMPOSITION THROUGHOUT DISTRICT.** Upon adoption hereof, Assessments are to be levied and imposed throughout the entire area within the boundaries of the District and this Resolution shall be deemed to be adopted and confirmed for all purposes.

**SECTION 3.02. IMPOSITION OF ASSESSMENTS.** Assessments shall be imposed against Tax Parcels located within the District, the annual amount of which shall be computed for each Tax Parcel in accordance with this Resolution, and for the upcoming Fiscal Year shall include administration and collection costs, or fees and adjustments provided for in the published notice provided in advance of the public hearing. When imposed, the District's assessment shall constitute a lien upon Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments as provided by law.

**SECTION 3.03. APPORTIONMENT APPROACH.**

(A) As provided for herein, the Assessed Cost shall be apportioned among all Tax Parcels within the District, not otherwise exempted hereunder, and including any statutorily defined parcels such as multiple-building parcels, or individual condominium or cooperative units with extraordinary alienability considered as one

unit for purposes of calculation of the Assessments. The estimated Assessed Cost and rate of Assessment shall be that described in Section 2.01 hereof.

(B) It is hereby ascertained, determined, and declared that the method of determining the Assessments as set forth in this Resolution is a fair and reasonable method of paying for, recovering and apportioning the Assessed Cost among Tax Parcels of Assessed Property located within the District.

(C) The Assessment Roll is hereby approved.

**SECTION 3.04. APPLICATION OF ASSESSMENT PROCEEDS.** Proceeds derived by the District from the Assessments, after payment of costs and expenses associated with collection and administration of the Assessments, shall be utilized for the provision of governance and water control related services, facilities, and programs provided by the District. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund costs associated with District governance and water control related services, facilities, and programs.

**SECTION 3.05. COLLECTION OF ASSESSMENTS; CAPITAL FINANCING.**

(A) Collection of the Assessments shall take place pursuant to the uniform method of collection as required by Section 298.345, Florida Statutes.

(B) The amount of the assessment imposed, levied, and billed to each owner of Assessed Property shall additionally include (1) a charge of \$5 to defray District assessment notice, administrative and implementation costs, plus (2) the charges of the Property Appraiser and Tax Collector allowed by law, plus (3) adjustment for statutory discount for early payment necessarily associated with the use of the uniform method of collection.

(C) Capital equipment and facilities are fundamental components to accomplish the District's water control plan and provide water control services, facilities and programs. The 2018 Final Judgment confirmed the District's authority to issue its Obligations secured by the pledge of proceeds from the Assessments. Any Obligations issued by the District shall contain a covenant by the District to adopt an annual assessment resolution imposing Assessments for each Fiscal Year until the Obligations have been paid in full.

**SECTION 3.06. DIRECTION CONCERNING ANY EXEMPTION.**

(A) Tax Parcels which are statutorily exempted from the payment of ad valorem taxes are in most circumstances subject to non-ad valorem assessments contemplated hereunder. Tax Parcels classified or described by the Property Appraiser as institutionally tax exempt are subject to the Assessments contemplated hereunder.

(B) Tax parcels comprising Government Property are not subject to the Assessments contemplated hereunder. Such Tax Parcels include those classified or

described by the Property Appraiser as government-owned, including the following: (1) military, (2) publicly owned forest, parks, or recreational, (3) public county schools, (4) public colleges, (5) public hospitals, (6) other county-owned property, (7) other state-owned property, (8) other federal-owned property, and (9) other municipal-owned property. Provided, however, each such Government Property owner may be approached by the Chair, or such person's designees, and asked to pay as a fee or charge an amount comparable to the assessment for each such Government Property. Said amount may be invoiced annually, quarterly, or monthly.

(C) The following Tax Parcel classifications are special designations used by the Property Appraiser for recordkeeping purposes and do not represent actual or assessable Tax Parcels and are not subject to the Assessments contemplated hereunder: (1) common element, (2) header record, and (3) notes parcel.

(D) Certain Tax Parcels associated with the following classifications used by the Property Appraiser typically do not receive a special benefit from the provision of water control services and facilities or are infeasible or impractical to assess, and therefore are not subject to the Assessments contemplated hereunder: (1) right-of-way), (2) rivers, lakes & submerged land, (3) sewage disposal & waste lands, and (4) government owned outdoor recreation or parkland.

(E) The classifications of properties in this Section which are or may be exempted, in whole or in part, are reasonably determined to be inappropriate, infeasible

or impracticable to assess, and either benefit marginally or create a lesser or nominal demand or burden on the District's costs, do not merit the expenditure of public funds to impose or collect the Assessments, are exempt and/or otherwise generally serve in some respect to promote the public health, safety, morals, general welfare, security, prosperity and contentment of the inhabitants or residents of the District. The District Secretary, or such person's designees, is authorized and directed to use sound judgment in extending such determinations and guidance as the Assessment Roll is collected. The foregoing classifications of properties not to be assessed do not include Government Property that is leased for private use.

(F) Based upon the foregoing, there are relatively few exempt properties within the District.

(G) Provided, however, the Board reserves the right and ability in the future to impose Assessments against Tax Parcels determined to be exempt, in whole or in part, hereunder to the extent permitted by law, or otherwise in the event required or directed to do so by a court of competent jurisdiction.

**SECTION 3.07. EFFECT OF ANNUAL ASSESSMENT RESOLUTION.**

The adoption of this Resolution shall be the final adjudication of the issues presented herein (including, but not limited to the assessed costs and amounts assessed, the unit of measurement employed, the method of apportionment, rate or rates of assessment, the algorithms used to calculate the Assessment, the Assessment Roll, the levy and lien

of the Assessments, the method of collection and charges, costs and enforcement associated therewith, and the adequacy of compliance or substantial compliance with any procedures), unless proper steps are initiated in a court of competent jurisdiction to secure relief within thirty (30) days from the date of the Board's adoption of this resolution.

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## **ARTICLE IV**

### **GENERAL PROVISIONS**

#### **SECTION 4.01. AUTHORIZATIONS.**

(A) Looking forward, the Board directs and authorizes staff, counsel and approved consultants to further explore, prepare and recommend the necessity (or not), along with the actions, steps and costs involved in the adoption of an updated plan, which activity should include, but not be limited to, (1) a more scientific-based understanding of the boundaries of lands impacting the Ditch, (2) the action(s) or process(es) to more equitably include and serve all lands impacting the Ditch, (3) the need for an updated capital improvements list or plan, and reasoning therefore, and (4) the need for an updated operational plan, and reasoning therefore at the earliest possible time.

(B) The Chair and any member of the Board, the District Secretary, District Counsel, and such other officials, employees, engineers, attorneys, or agents of the District as may be designated by the Board are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the District that are necessary or desirable in connection with this Resolution and the imposition and collection of the Assessments contemplated hereunder, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**SECTION 4.02. CONFLICTS.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 4.03. SEVERABILITY.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable.

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**SECTION 4.04. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its passage and adoption.

**PASSED and ADOPTED** in regular session of the Board of Supervisors of the Haines City Water Control District, this 23<sup>rd</sup> day of August 2022.

**HAINES CITY WATER CONTROL  
DISTRICT BOARD OF SUPERVISORS**

By: \_\_\_\_\_(Seal)  
Russell S. Yates, Chairman

ATTEST:

\_\_\_\_\_  
Linda Robinson, Secretary

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Fred Reilly, District Counsel

## **APPENDIX A**

### **PROOF OF PUBLICATION**

# LOCALiQ

The Gainesville Sun | The Ledger  
Daily Commercial | Ocala StarBanner  
News Chief | Herald-Tribune

PO Box 631244 Cincinnati, OH 45263-1244

## PROOF OF PUBLICATION



Haines City Water Control Dist  
Po Box 1257  
Davenport FL 33836-1257

STATE OF WISCONSIN, COUNTY OF BROWN

The Ledger-News Chief, a newspaper printed and published in the city of Lakeland, and of general circulation in the County of Polk, State of Florida, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue dated or by publication on the newspaper's website, if authorized, on:

08/03/2022

and that the fees charged are legal.  
Sworn to and subscribed before on 08/03/2022

Legal Clerk   
Notary, State of WI, County of Brown   
7/27/25

My commision expires

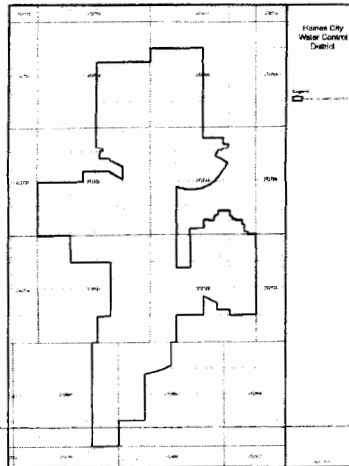
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SARAH BERTELSEN  
Notary Public  
State of Wisconsin

**NOTICE OF PUBLIC HEARING  
BEFORE THE HAINES CITY WATER CONTROL DISTRICT IN  
POLK COUNTY TO CONSIDER THE LEVY AND TO PROVIDE  
FOR COLLECTION OF ANNUAL NON-AD VALOREM SPECIAL  
ASSESSMENTS TO FUND COSTS ASSOCIATED WITH  
WATER CONTROL AND ACTIONS TO MAKE LANDS WITHIN  
THE DISTRICT AVAILABLE AND HABITABLE FOR SETTLEMENT  
AND AGRICULTURE**



The property subject to this district and assessment lies within Polk County, Florida.

This notice concerns the process the Board of Supervisors of the Haines City Water Control District, an independent special district (the "District"), is considering to accomplish funding of essential District services and facilities. This published Notice is compliant with the requirements of law, and at the same time provides to the reader an overview and brief explanation of the District's annual funding process.

The District hereby gives notice of annual consideration of the adoption of non-ad valorem assessments as a part of the annual budget process which necessarily involves levying such assessments to provide adequate revenues to pay for annual operating and capital costs associated with the District's required water control and planning process, and to create necessary and reasonable reserves. The District water control plan and assessments are for the purpose of comprehensive water management and control toward development of lands within the District, and managing water by means of canals, ditches, levees, dikes, pumping, and other water control works and improvements toward making the lands within the District available and habitable for settlement and agriculture, for the public convenience, welfare, utility and benefit, and other purposes as provided by Chapter 296, Florida Statutes, and other applicable law.

In 2018 the District Board recognized a lack of significant reserves, and determined its operations and statutory responsibility required imposition of rates necessary to increase annual reserves and better position the District to receive matching or other funding or contributions from other state or federal agencies. The District Board's objective was to take guidance from Chapter 296, Florida Statutes, and put in place the minimum rate of non-ad valorem assessment of Fifty Dollars (\$50) per acre or portion thereof in each instance for each parcel in the District as provided for in Section 296.349, Florida Statutes, which is recommended for initial or start-up operations. Such action was then validated by the Circuit Court. The District Board proposes and intends to consider the same rates, fees and charges as imposed last year for the upcoming Fiscal Year 2022-2023, and to fund substantially the same budget amount as budgeted last year. The District Board also intends to consider actions needed to update the District's required water control plan, the consequences of past practices, the necessity to create and replenish reasonable reserves in the annual budget, and reasonably and realistically better anticipate costs of District service, operations, capital delivery and administration in the District's overall budget, and other economic conditions while showing financial and water control stewardship, and in consideration of the required timing for notice and public hearing on the matter - this Notice is necessary and required by law.

Accordingly, provision of water control and actions to make lands within the District available and habitable for settlement and agriculture will likely continue in ensuing years to be funded, almost exclusively, by these assessments apportioned and levied by law on property located within the District.

United additional information will be posted on the District's website at <http://hainescitywatercontroldistrict.com>. If you wish to learn more, more information can be obtained at the District's website.

On Tuesday, August 23, 2022, at 5:00 p.m. in the Lobby of the Haines City Public Library, 111 North 6th Street, Haines City, Florida, the District Board of Supervisors of the Haines City Water Control District will hold a public hearing for the purpose of receiving comments on the District's proposed annual non-ad valorem assessments.

You are invited to attend or appear at the public hearing, and/or to file written comments or objections with the District Secretary within the 20 days before the hearing. You are encouraged to send your written comments or objections to the District Secretary at [myhainecity@gmail.com](mailto:myhainecity@gmail.com). All written comments or objections received prior to the hearing will be summarized and shared with the District Board for consideration. If you decide to appeal any decision made by the District Board with respect to any matter considered at or after the hearing, you will need a record of the proceedings and may need to assure that an assessment record is made, including the testimony and evidence upon which the appeal is to be made.

In this approach the District Board will consider each parcel of property assigned an identification number by the Polk County Property Appraiser as one (1) tax parcel. If approved by District Board after the hearing, the rate of assessment for each tax parcel is proposed to be the sum of (i) fifty dollars (\$50) per acre or portion thereof uniformly attributed to the tax parcel by the Polk County Property Appraiser at the time the District's assessment roll is certified for collection, plus (ii) \$5.00 to defray District notice, administrative and implementation costs, plus (iii) the costs of the Property Appraiser and Tax Collector allowed by law, plus (iv) adjustment for statutory discount for early payment necessarily associated with the use of the uniform method of collection.

Any non-ad valorem assessment imposed will by law only be imposed by the District Board, as an independent special district, and NOT by the Haines City Commission, nor the Polk County Board of County Commissioners, nor the Polk County Property Appraiser, nor the Polk County Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this process are purely ministerial.

The dollar amount attributed to each affected tax parcel in the District and other information concerning the proposed non-ad valorem assessment can be obtained by email request sent to [info@hainecitywatercontrol.com](mailto:info@hainecitywatercontrol.com).

The amount of revenue the District expects to collect using the specific assessment rates described in this Notice, net of cost for statutory discount for early payment necessarily associated with the use of the uniform method of collection (by law up to 4%) and statutory commissions and fees charged by the County constitutional offices of the Polk County Tax Collector and Polk County Property Appraiser (by law up to 2% for each), and the District's cost to partially defray associated assessment and roll development, advertising implementation and administrative costs (\$5 per tax parcel) is approximated to be \$138,000; and, such revenue must be used exclusively to fund the associated budget for the District.

Payment of the subject non-ad valorem assessment for the Fiscal Year beginning October 1, 2022, is anticipated to be due and collected as a non-ad valorem assessment on the same bill as taxes to be mailed in early November 2022. The District has also provided the proposed amounts to be assessed for each parcel to the Polk County Property Appraiser to include in the 18th notice expected to be sent by that office in August pursuant to Section 200.069, Florida Statutes, later this summer. The collection process by the Polk County Tax Collector for non-ad valorem assessments of this nature is called the uniform method. General law requires that affected property owners be reminded that: Until paid, the District's non-ad valorem assessment will constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Assessments become delinquent in the same manner as for unpaid taxes, and failure to pay the upcoming assessment will cause a tax certificate to be issued against the property which may result in loss of title.

Please note: The notified rate of assessment herein can be decreased by this District Board, but by law the rate of the assessment notified herein cannot be increased beyond that previously noticed without another mailed and published notice of this nature being provided by the District. Thank-you for your review.

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN THE HEARING SHOULD CONTACT THE DISTRICT SECRETARY, LINDA ROBINSON, PRIOR TO THE PROCEEDINGS AT (888) 221-2516 OR [MYHAINECITY@GMAIL.COM](mailto:MYHAINECITY@GMAIL.COM), FOR ASSISTANCE AT LEAST 48 HOURS IN ADVANCE OF THE MEETING. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS (800) 955-8771 (TDD) OR (800) 955-8770 (VOICE) FOR ASSISTANCE.

TO BE PUBLISHED AT THE DIRECTION OF THE DISTRICT BOARD OF SUPERVISORS  
/s/ Linda Robinson, Secretary/Treasurer  
Haines City Water Control District (seal)

# LOCALiQ

The Gainesville Sun | The Ledger  
Daily Commercial | Ocala StarBanner  
News Chief | Herald-Tribune

PO Box 631244 Cincinnati, OH 45263-1244

## **PROOF OF PUBLICATION**

Haines City Water Control Dist  
Po Box 1257  
Davenport FL 33836-1257

STATE OF WISCONSIN, COUNTY OF BROWN

The Ledger-News Chief, a newspaper printed and published in the city of Lakeland, and of general circulation in the County of Polk, State of Florida, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue dated or by publication on the newspaper's website, if authorized, on:

08/03/2022

and that the fees charged are legal.

Sworn to and subscribed before on 08/03/2022

Legal Clerk

Notary, State of WI, County of Brown

My commision expires

Publication Cost: \$347.00

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-1

PO #:

**THIS IS NOT AN INVOICE!**

*Please do not use this form for payment remittance.*

SARAH BERTELSEN  
Notary Public  
State of Wisconsin

**HAINES CITY WATER CONTROL DISTRICT  
NOTICE OF PUBLIC HEARING on RESOLUTION 2022-16  
PERTAINING TO THE IMPOSITION AND LEVY OF ANNUAL  
NON-AD VALOREM ASSESSMENTS ON LANDS  
WITHIN THE DISTRICT; HEARING ON PRELIMINARY BUDGET FOR  
FISCAL YEAR 2022-2023; AND ELECTION TO BOARD OF  
SUPERVISORS**

Owners of land situated within the Haines City Water Control District are hereby notified that a meeting of the Board of Supervisors will be held on **the 23rd day of August, 2022, at 5:00 p.m., or as soon thereafter as may be heard, in the Lobby of the Haines City Public Library, 111 North 6th Street, Haines City, Florida.** Matters to be considered at said meeting shall include, but are not limited to:

- 1) Public Hearing on Resolution 2022-16: A Resolution Pertaining to the Imposition and Levy of Annual Non-Ad Valorem Assessments on Lands Within the District; Addressing the Necessary Means to Govern and Carry Out the Objectives and Responsibilities of the District; Recognizing the Statutory Use of Acreage as a Unit of Measurement Identified by the Legislature in the Florida Statutes; Establishing the Rate of Assessment; Adopting a Method of Apportioning Costs to be Assessed and Providing for Direction in the Process of Calculating and Imposing Assessments; Adopting an Assessment Roll; Providing for the Method of Collection; Providing for Associated Policy and Administrative Direction; and Providing an Effective Date
- 2) Hearing on Proposed Budget for Fiscal Year 2022-2023
- 3) Election of Nominee Kenneth Kipp to fill vacancy on the Board of Supervisors

At said hearing any person, his/her agent, or attorney may appear and be heard. Any person desiring to appeal any decision made by the Haines City Water Control District with respect to any matter considered at the above meeting or hearing will need a record of proceedings; and for any such purpose that person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0150).

In accordance with the American with Disabilities Act and F.S.S. 286.26, persons with disabilities needing special accommodation to participate in this proceeding should contact Linda Robinson prior to the proceeding at 863-221-2516, for assistance. If hearing impaired, telephone the Florida Relay Service numbers 1-800-955-8771 (TDD) or 1-800-955-8770 (VOICE) for assistance.

Dated: July 28, 2022

Linda Robinson, Secretary/Treasurer  
Haines City Water Control District

August 3, 2022





401 Third Street SW  
Winter Haven, FL 33880  
T: 863-324-1112  
F: 863-294-6185

[www.pennoni.com](http://www.pennoni.com)

July 26, 2022

HCWCD22001P

Board of Supervisors  
Haines City Water Control District  
Mrs. Linda Robinson  
PO Box 1257  
Davenport, FL 33836

**RE: CONTINUING ENGINEERING SERVICES FOR FY 2022/23 – HAINES CITY WATER CONTROL DISTRICT**

Dear Mrs. Robinson:

**Pennoni Associates Inc.** is pleased to submit this proposal to you (the Client) to provide professional engineering services as they relate to the above-referenced project.

#### **SCOPE OF SERVICES**

Pursuant to the Board of Supervisors' specific direction, Pennoni Associates Inc. will perform on call miscellaneous engineering and surveying services for the District during the 2022/23 fiscal year. Project specific work requested by the Board of Supervisors will be handled under a separate agreement.

#### **FEE**

Pennoni will invoice the District for these services on a time and expense basis with an estimated not-to-exceed fee of \$17,000. Our fees for authorized services will be in accordance with our current Schedule of Hourly Rates and Reimbursable Costs (attached).

#### **BILLING AND PAYMENT**

Invoices for professional services completed will be presented for payment on a monthly basis. Invoices are due upon receipt. The Client acknowledges that the method of billing and payment has been discussed in detail, that the terms agreed upon can only be changed by a written addendum agreed to by both parties, and that work may be stopped until payment is made in accordance with this agreement.

#### **TERMS AND CONDITIONS**

Pennoni Associates Inc. General Terms and Conditions (Form LE01FL 01/2018) are attached hereto and are considered as part of the Scope of Services. The Client indicates by the execution of this proposal that they have reviewed and understand the General Terms and Conditions.

Thank you for the opportunity to provide these professional services. If this proposal is acceptable, please sign and return a copy as our Notice-To-Proceed. If you have any questions, or if you would like to discuss any of the above, please do not hesitate to contact us.

PURSUANT TO 558.0035 F.S., AN AGENT OR INDIVIDUAL EMPLOYEE OR AGENT OF PENNONI ASSOCIATES, INC CANNOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF THIS PROFESSIONAL SERVICES CONTRACT OR THE PERFORMANCE OF PROFESSIONAL SERVICES HEREUNDER. BY SIGNING THIS AGREEMENT, YOU HAVE ACCEPTED THIS LIMITATION OF LIABILITY.

Sincerely,

**PENNONI ASSOCIATES INC.**



Steven C. Shealey  
Senior Consultant



Brian Diehl, PE  
Regional Vice President

**ACCEPTED BY:** \_\_\_\_\_

**Signature**

**Date**

\_\_\_\_\_  
**Print Name and Title**



## PENNONI ASSOCIATES INC. GENERAL TERMS & CONDITIONS

1. Unless withdrawn sooner, proposals are valid for thirty (30) days.
2. The technical and pricing information in proposals is the confidential and proprietary property of Pennoni Associates Inc. ("Pennoni") or any Pennoni subsidiary or affiliate. Client agrees not to use or to disclose to third parties any technical or pricing information without Pennoni's written consent.
3. The agreement created by the Client's acceptance of a proposal and these Terms & Conditions is hereinafter referred to as the "Agreement." If a proposal is submitted to Client and Client fails to return a signed copy of the proposal but knowingly allows Pennoni to proceed with the services, then Client shall be deemed to have accepted the terms of the proposal and these General Terms & Conditions. If there is a conflict or inconsistency between any express term or condition in the proposal and these General Terms & Conditions, then the proposal shall take precedence. The proposal and these General Terms & Conditions constitute the entire Agreement, and supersede any previous agreement or understanding.
4. Payment is due upon receipt of invoices as submitted. If Client chooses to make any payment via major credit card, Client agrees to pay a 3% surcharge or 1.03 times the total amount invoiced. Client agrees to pay interest at the rate of 1½ percent per month on invoices that are more than 30 days past due. If an invoice is 30 or more days past due, then Pennoni may suspend services and refuse to release work on this Agreement or any other agreement between Client and Pennoni until Client has paid all amounts due. Unless Pennoni receives written notice of Client's dispute of an invoice within 30 days of the invoice date, the invoice will be presumed correct. If payment is not made in accordance with the Agreement, then Client agrees to pay reasonable costs and attorney's fees incurred by Pennoni to collect payment.
5. All drawings, sketches, specifications and other documents ("Documents") in any form, including electronic, prepared by Pennoni are instruments of Pennoni's services, and as such are and shall remain Pennoni's property. Upon payment in accordance with the Agreement, Client shall have the right to use and reproduce the Documents solely for the purposes of constructing, remediating, using or maintaining the project contemplated by the Agreement ("Project"). The Documents are prepared for use on this Project only, and are not appropriate for use on other projects, any additions or alterations of the Project, or completion of the Project by others. Client shall not use the Documents in violation of this paragraph without Pennoni's express written consent; and such use is at the Client's sole risk. Client agrees to indemnify, defend and hold harmless Pennoni from any claims, damages, losses, liabilities and expenses arising from such prohibited use.
6. The proposed fees and schedule constitute Pennoni's best estimate of the charges and time required to complete the Project. As the Project progresses, facts uncovered may dictate revisions in scope, schedule or fee. The hourly rate schedule for services provided on a time and material basis will be subject to increases annually.
7. Fee and schedule commitments will be subject to change for delays caused by Client's failure to provide specified facilities or information, or for delays caused by third parties, unpredictable occurrences or force majeure.
8. Where the method of payment is based on time and materials, Client agrees that the following will apply: The minimum time segment for charging work is one-quarter hour, except the minimum time segment for charging of field survey work is four (4) hours. Client reimbursable expenses include travel and living expenses of personnel when away from the home office on business connected with the Project; subcontractor and subconsultant costs; identifiable communications, mailing and reproduction costs; identifiable drafting and stenographic supplies; and expendable materials and supplies purchased specifically for the Project. A ten (10) percent administrative and handling charge will be added to client reimbursable expenses.
9. Client's termination of this Agreement will not be effective unless Client gives Pennoni seven (7) days prior written notice with accompanying reasons and details, and affords Pennoni an opportunity to respond. Where the method of payment is "Lump Sum," Client agrees that the final invoice will be based on services performed to the effective date of cancellation, plus an equitable adjustment to provide for costs Pennoni incurred for commitments made prior to cancellation. Where the method of payment is time and materials, Client agrees that the final invoice will include all services and direct expenses up to the effective date of cancellation plus an equitable adjustment to provide for costs Pennoni incurred for commitments made prior to cancellation.
10. Pennoni will maintain at its own expense Workman's Compensation insurance, Commercial General Liability insurance, and Professional Liability insurance.
11. Neither the Client nor Pennoni shall assign this Agreement without the written consent of the other.

12. Pennoni does not represent or warrant that any permit or approval will be issued by any governmental or regulatory body. Pennoni will endeavor to prepare applications for such permit or approval in conformance with applicable requirements; but, in view of the complexity of and the frequent changes in applicable rules and regulations and interpretations by the authorities, Pennoni cannot guarantee that any such application will be considered complete or will conform to all applicable requirements.
13. Pennoni will perform its work in accordance with generally accepted professional standards. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED. This Agreement is solely for the benefit of the Client and its successors. There is no third-party beneficiary of this Agreement.
14. CLIENT AND PENNONI HAVE CONSIDERED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, AS WELL AS PENNONI'S TOTAL FEE FOR SERVICES. CLIENT AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, PENNONI'S TOTAL AGGREGATE LIABILITY (INCLUDING THE LIABILITY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND CONSULTANTS) TO THE CLIENT (AND ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT) FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES ARISING OUT OF THIS AGREEMENT FROM ANY CAUSE OR CAUSES IS LIMITED TO THE TOTAL FEE RECEIVED BY PENNONI UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. SUCH CAUSES INCLUDE, BUT ARE NOT LIMITED TO, PENNONI'S NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, OR BREACH OF CONTRACT OR WARRANTY.

IN THE EVENT THE CLIENT IS UNABLE TO ACCEPT THE ABOVE LIMITATION OF LIABILITY, PENNONI AGREES TO INCREASE THE LIMITATION TO \$1,000,000 UPON ITS RECEIPT, PRIOR TO PERFORMING ANY SERVICES, OF CLIENT'S WRITTEN AGREEMENT TO PAY AN ADDITIONAL SUM OF NOT LESS THAN 10% OF THE TOTAL FEE UNDER THIS AGREEMENT OR \$1,000, WHICHEVER IS GREATER.

15. Client shall make no claim against Pennoni unless the Client first provides a written certification, executed by an independent design professional, specifying those acts or omissions which the independent design professional contends is a violation of generally accepted professional standards and upon which the claim will be premised. The independent design professional must be licensed to practice in the state where the Project is located and in the discipline related to the claim. Client agrees that the independent design professional's certification is a condition precedent to the Client's right to institute any judicial proceeding.
16. If required under the scope of services, Pennoni shall visit the Project site to become generally familiar with the progress and quality of the work for which Pennoni prepared contract documents, and Pennoni shall not make exhaustive or continuous onsite inspections. Pennoni's services do not include supervision or direction of the contractor's work. Observation by Pennoni field representatives shall not excuse the contractor for defects or omissions in its work. Pennoni shall not control construction means, methods, techniques, sequences, or procedures, and the contractor is solely responsible for all work on the Project, including safety of all persons and property.
17. If Client does not retain Pennoni to render construction phase services, then Client waives any claim it may have against Pennoni and agrees to indemnify, defend, and hold harmless Pennoni from any loss or liability, including attorneys fees and other defense costs, arising out of or related to the interpretation of Pennoni's plans and specifications, the review of shop drawings, the evaluation of contractor's request for change orders, or the failure to detect and correct obvious errors or omissions in Pennoni's plans and specifications.
18. Unless and until a court determines that Pennoni's preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, specifications and/or Pennoni's giving or failure to give instructions is the primary cause of any damage, claim, loss or expenses, Client shall indemnify, defend and hold harmless Pennoni and its officers, employees and consultants from and against all damages, claims, losses or expenses, including reasonable attorneys fees and other costs of defense, arising out of this Agreement. In the event the Client is required to defend Pennoni under this paragraph, Pennoni shall have the right to select its attorneys.
19. Client agrees to pay reasonable expert witness fees if Pennoni or any of its employees is subpoenaed to testify as a fact or opinion witness in any court proceeding, arbitration, or mediation to which the Client is a party.
20. Unless otherwise provided in this proposal, Pennoni shall have no responsibility for the discovery, presence, handling, removal, or disposal of hazardous materials or underground structures at the Project site.
21. Client and Pennoni waive consequential damages arising out of this Agreement.
22. This Agreement shall be governed by the laws of the State of Florida.
23. Both Pennoni and Client agree to waive the right to subrogation for covered losses and each shall obtain similar waivers from Owner, subcontractors, property and casualty insurers, and any other party involved in this Project.

# Billing Rates

## 2022 SCHEDULE OF FEES

Pennoni provides engineering consulting services to its clients in accordance with the terms and conditions of our contract. Pennoni's compensation will be based on the following schedule of fees and charges unless our contract specifies otherwise.

LABOR CATEGORY	RATES: \$/HOUR
Senior Principal Professional .....	\$275
Principal Professional.....	\$220
Senior Professional .....	\$195
Project Professional .....	\$180
Staff Professional .....	\$170
Associate Professional .....	\$158
Graduate Professional .....	\$135
Technician III .....	\$127
Technician II .....	\$117
Technician I .....	\$104
3-man Survey Crew.....	\$180
2-man Survey Crew.....	\$135
Senior Field Technician .....	\$132
Field Technician III .....	\$95
Field Technician II .....	\$85
Field Technician I .....	\$75
Laboratory Technician .....	\$95
Building Code Official.....	\$110
Project Assistant .....	\$80

- Add 15% to above Survey Crew rates when OSHA 40-hour training required
- Technical Support/Expert Testimony Fee provided upon request
- 3 Person Survey Crew rates for roadwork provided upon request

"Professional" includes all disciplines (Engineer, Landscape Architect, Surveyor, Geologist, etc.)

### EXPENSES:

Pennoni does not bill for routine office management or accounting services; however, direct expense charges described below are subject to an additional administrative and handling fee as indicated:

- Subconsultant/Subcontractor services: cost plus 10%
- Project Related Travel and Living Expenses: cost plus 10%
- Field Equipment, Expendable Materials/Supplies and Outside Reproduction): cost plus 10%
- Passenger Vehicles: per IRS standard rate
- Field Vehicles: \$100.00/day
- Record Retrieval: \$500.00/request plus reprographic charge
- Communication Fee: 2% of billable labor. Includes cost for non-deliverable in-house photocopies, non-express postage and telephone/fax/computer.



# AMPHIBIOUS AQUATICS

Benjamin N. Selser  
2108 Autumn Leaf Lane, SE  
Winter Haven, FL 33884-1803  
(863) 287-9517

Ms. Linda Robinson, Secretary/Treasurer, Haines City Drainage District  
Russ Yates 419-450-1125  
[myhewcd@gmail.com](mailto:myhewcd@gmail.com)  
Haines City, FL 33844

July 29, 2022

Dear Ms. Robinson:

The following is a bill for Haines City Drainage District # 1. A total of 45 hours at a rate of \$90.00 per hour to spray the invasive aquatic vegetation in the drainage ditch was accumulated and is itemized below.

**CHEMICAL APPLICATION.....\$4,050.00**

DATE	LOCATION	EQUIPMENT	HOURS	HERBICIDES remaining
7/6/2022	HC MHP	6x6	5	
7/7/2022	HC MHP	6x6	5	
7/8/2022	Sod Co., Cloverleaf, HCPD	6x6	7	
7/11/2022	HCPD	Airboat	4	
7/12/2022	544 Pasture and Mid Lk Hamilton	Airboat	7	
7/13/2022	544 and Morrison Ranch	6x6	5	
7/19/2022	Morrison Ranch	6x6	6	
7/25/2022	Morrison Ranch	6x6	5	60 Gallons of Platoon 2,4,D
June 2022	Herbicide Pickup	Truck	1	50 Gallons of Rodeo

\*Due to the increases in fuel and repair/maintenance of equipment costs, I respectfully request that Haines City Drainage District consider an increase to the hourly rate of \$20/hour, which brings that rate up from \$90/hour to \$110/hour.\*

Ms. Robinson, I appreciate the opportunity to work with you on Haines City's drainage ditch. If there are any questions or suggestions regarding this bill, please do not hesitate to call me at 863-287-9517.

Sincerely,

Ben Selser