

RESOLUTION NO. 25-1880

A RESOLUTION OF THE CITY OF HAINES CITY, FLORIDA; APPROVING THE FISCAL YEAR 2025-26 NON-AD VALOREM ASSESSMENT ROLL FOR STORMWATER MANAGEMENT SERVICES, FACILITIES AND PROGRAMS; PROVIDING FOR AUTHORITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS; PROVIDING FOR DIRECTION CONCERNING INTERIM ASSESSMENTS; PROVIDING FOR RATIFICATION AND CONFIRMATION OF APPORTIONMENT METHODS; DIRECTING CERTIFICATION OF THE ASSESSMENT ROLL AND COLLECTION PURSUANT TO THE UNIFORM ASSESSMENT COLLECTION ACT; CONFIRMING REQUIRED NOTICE AND IMPOSING AND LEVYING STORMWATER MANAGEMENT ASSESSMENTS; PROVIDING FOR ADDITIONAL NOTICE UNDER SECTION 200.069, FLORIDA STATUTES, ONGOING WORK ORDER DIRECTION, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HAINES CITY, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This Resolution of the City Commission (the "Commission") of City of Haines City, Florida (the "City") is adopted pursuant to City Ordinance No. 16-1530 (the "Assessment Ordinance"), City Resolution No. 16-1202, as amended, supplemented, and confirmed from time to time, the "Initial Annual Assessment Resolution", sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS. This Resolution is the Annual Assessment Resolution for the Fiscal Year (sometimes also called the budget year) commencing October 1, 2025, contemplated by Section 2.05 of the Assessment Ordinance. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Assessment Ordinance and the Initial Annual Assessment Resolution.

SECTION 3. FINDINGS. It is hereby ascertained, determined, and declared as follows:

(A) Pursuant to the Assessment Ordinance, the City adopted the Initial Annual Assessment Resolution imposing special assessments to provide for the funding of stormwater management services, facilities, and programs.

(B) Prior to commencing collection, the City obtained a judicial determination from the Circuit Court of the Tenth Judicial District of the State of Florida in and for Polk County that validated and confirmed, among other things, the legality and validity of the Assessment Ordinance, the Initial Annual Assessment Resolution, the reasoned ability to legally rely upon the imposition of special assessments in the form of Stormwater Assessments to annually fund stormwater management essential services and fund and finance associated capital improvements and equipment, the method of apportioning the Stormwater Assessments among the real property subject thereto, the special benefit conveyed by the stormwater management services and facilities funded in part through the Stormwater Assessments, the superior nature of lien of the Stormwater Assessments and the legality of all proceedings and matters in connection therewith (the “Final Judgment”). The Court confirmed with finality all of the City’s determinations presented therein, which in part included:

(1) The City’s stormwater management program considers improved water quality, drainage management, flood hazard minimization, capital needs like equipment and infrastructure construction if needed, enhanced public awareness, and other initiatives, including administration, that support these activities or objectives. Collectively, these stormwater related activities or objectives constitute an essential service and delivery of capital within the City.

(2) The allocation of a portion of the stormwater program costs now, in part, takes the form of a special assessment conforming to the uniform collection process and protections of the Uniform Assessment Collection Act. Special assessments are levies made against certain real properties to defray all or part of the cost of a particular activity or service or provision of capital equipment or improvement deemed to benefit substantially those real properties, or relieves a burden created by those properties.

(3) The National Pollutant Discharge Elimination System (NPDES) establishes the level of pollutant discharge a community can have from its stormwater system. Originally directed at large local governments, an expansion of applicability to require small municipalities such as the City to require programs that will protect water quality and meet the appropriate water quality standards of the Clean Water Act. A failure to comply with NPDES and related State of Florida mandates could result in loss of permits and fines. However, complying with these and related requirements directly burdens a local

government that must deal with administrative, management, capital equipment and construction costs that might otherwise not be affordable within the limitations imposed on general fund revenue by statutes or the Florida constitution let alone political palatability.

(4) The development and use of stormwater management programs and systems inherently benefit and relieve burdens caused by real property.

(5) The lack of continuing investment in stormwater management leads to the deterioration or failure of existing stormwater systems such that costs are often experienced in ways not envisioned. It is not uncommon, for example, for stormwater to intrude on wastewater systems causing them to experience unneeded loads and treatment. At the same time, deficient stormwater management systems lead to obvious environmental damage as persons and wildlife are exposed to pollution from runoff, resulting in damage to property and degradation to water bodies and supplies.

(6) A special assessment is a tax equity tool and is a careful means of defraying the costs of a stormwater program because the City's general fund must otherwise absorb expenditures that are a core responsibility of local government and logically associated with properties, classes of properties, or users of properties.

(C) On May 19, 2016, the City Commission received and considered a report entitled "Technical Memorandum: Stormwater Program Report – Professional Review and Technical Guidance related to Stormwater Assessment for City of Haines City, Florida" prepared by Addie Javed, P.E., Public Works Director (the "Technical Memorandum"). Public Utility Management & Planning Services Inc. reviewed the Technical Memorandum and issued a letter in support of the methods and conclusions reached in the Technical Memorandum (the "Peer Review" and, together with the Technical Memorandum, herein after the "Stormwater Report"), signed by Dr. Frederick Bloetscher, which was reviewed by the City Commission prior to adoption of the associated Annual Assessment Resolution in 2016 and were received into evidence and submitted to the Circuit Court in the immediately subsequent validation proceedings.

(D) Subsequently the City directed the staff to move to inventory and begin to create a 'best available' data approach using available technology and public records to determine impervious area to better implement stormwater management and create an improved means to provide and share the cost of these essential service and capital components in the manner presented to the Court. The City Commission has considered the Executive Summary Concerning Stormwater from Camilla Augustine as requested by work order, dated June 5, 2018, and updated July 11, 2018, detailing the Assessment Roll development; and an annual update summary from Ennead, LLC dated June 23, 2025 collectively (the "Updated Executive Summary"). The Updated Executive Summary

is reasoned and consistent with the use of the refined impervious-based models previously determined by the City Commission and Circuit Court to be a fair and reasoned approach but requires and will allow the City to better use the method approved by the Court.

(E) The use, in part, of data derived from the Tax Roll (both in form and content), which is a statutorily required and uniformly maintained database of all Tax Parcels employed by the Property Appraiser and Tax Collector, together with one or more proxies for impervious characteristics of various Tax Parcels and providing Stormwater Improvements associated with the City's stormwater system represents a reasonably accurate, fair and efficient means to allocate or distribute Stormwater Management Assessed Cost associated with a portion of the level of service focused on undertaking Stormwater Management Service.

(F) Considering and using the impervious based approach articulated in the Stormwater Report and the Updated Executive Summary the City Commission now acts to adopt this Annual Assessment Resolution.

(G) It is fair, reasonable, effective, and efficient for all Tax Parcels, including statutorily defined parcels such as individual condominium or cooperative units with extraordinary alienability, to share equally in the more fixed costs represented by the special assessments to be imposed hereby, particularly since such costs are not entirely nor necessarily dependent upon or determined by physical characteristics or demand, but rather the necessary development of geographic and other data necessary for modern stormwater management in order to achieve a budgeted level of service.

(H) It is also fair and reasonable that some portion of fixed costs and variable costs be shared and distributed among Tax Parcels, including statutorily defined parcels such as individual condominium or cooperative units with extraordinary alienability, using apportionment methods which are weighted more heavily on the Stormwater Assessment Roll (using data from the Tax Roll) toward physical characteristics, such as those represented by an Equivalent Residential Unit or other proxy associated with stormwater run-off.

(I) City staff and consulting professionals have reviewed current and prior year budget information related to the provision of stormwater management services, facilities and programs and conducted a reasoned analysis of fixed and variable cost budget components, resulting in the determination that all Tax Parcels benefit in a substantially uniform manner from services, facilities and programs characterized as fixed and otherwise necessary to provide the Stormwater Management Service and, in particular, the Program Cost. It is fair and reasonable to multiply the estimated budget for stormwater services, facilities and programs by an identified proportion of the costs characterized as fixed associated with the Stormwater Management Service, in order to determine a proportional amount of the estimated budget allocable to such fixed costs;

and, then divide such amount by a reasonable estimate of the total number of Tax Parcels within the City in order to determine the proposed annual rate of assessment per Tax Parcel in an attempt to uniformly and proportionally fund such core fixed costs.

(J) Alternatively, and supplementally, it is fair and reasonable to fund all or a portion of the Stormwater Management Assessed Cost in any given year entirely on the basis of aspects of impervious or physical characteristics of each individual Tax Parcel.

(K) In developing a recurring revenue source to fund a portion of the cost components of the City's annual budget associated with Stormwater Service and in particular Program Cost, it is not necessary to solely focus on the physical characteristics of individual Tax Parcels. Instead, in this context, each individual Tax Parcel contributes similarly to the required Program Costs, and similarly and substantially shares the same benefits from such core fixed cost components; and therefore, it is fair and reasonable to ask the owner of each Tax Parcel to contribute equally toward funding all or a portion of the core fixed costs associated with such Program Costs to provide stormwater management services and facilities.

(L) The findings of the City Commission are premised upon information, input, analysis and review from City staff, officials and experts, and public comment, as well as consideration by the City Commission. A combination of the foregoing yields a reasoned apportionment methodology premised upon two distinct tiers or classes of apportionment allocation: Tier 2 – a sharing of benefits, burdens and costs for stormwater management services and facilities based upon impervious characteristics for each Tax Parcel in the City as compared to the same for all Tax Parcels in the City; and Tier 1 – a sharing of benefits, burdens and costs for stormwater management, services and facilities on a per Tax Parcel allocation premised upon core fixed costs (such as Program Costs) with no substantial logical relation to physical characteristics of the Tax Parcel. Although either of these two tiers might be used singularly to address a significant portion of the budget for special assessment apportionment purposes, together they provide a simplified and powerful equity tool for the City to fairly and reasonably share assessable benefits, burdens, and costs among all assessable Tax Parcels in the City.

(M) The City is not required to fully fund any given essential service or capital cost through a special assessment. So long as the application of funds is for a public purpose and funds are legally available, the City may alternatively determine to fund all or some discrete portion of an essential service or capital cost, such as stormwater services, facilities, and programs, with general fund or other legally available revenues. The determination as to whether to contribute other legally available revenues, and how much to contribute, lies solely in the discretion of the City Commission.

(N) There is no requirement that the City impose an assessment for the maximum amount of the budget, or any portion of the budget, that can be funded by special assessments. Stated in the alternative, the City Commission may annually

determine as a tax equity tool to impose special assessments at a rate less than necessary to fund all or any specific portion of the costs which might otherwise be funded by special assessments associated with stormwater services, facilities, and programs. Costs incurred in providing stormwater services, facilities and programs not otherwise funded through Stormwater Assessment may be paid with general fund or other legally available revenues. Such legally available revenues as a matter of policy may be applied exclusively to any tier or class of budget allocation or expense otherwise funded by a special assessment, in part to one tier or class of any budget allocation or expense, or in any combination thereof, and maintain the validity of each apportionment approach used for the remaining portion of the budget attributed to the Stormwater Management Assessed Cost. This flexibility is implemented through a policy and legislative determination employed through careful adherence to case law, statutory law, and the State Constitution, as well as the exercise of annual budget responsibility, discretion and equity vested in the City Commission. However, in no event shall any annual rate of special assessment exceed that previously noticed to the affected landowners without further notice and public hearing pursuant to the Assessment Ordinance.

(O) 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 the City Commission has been informed as to the facts, analysis, law, and policy latitudes available to it in determining the Stormwater Management Assessed Cost and the rate of the Stormwater Assessment in the process of approving the Stormwater Assessment Roll.

(P) The apportionment among Tax Parcels of a portion of the City's annual budget for services, facilities and programs represented by the assessment rates and Stormwater Assessment adopted are reasonably characterized as necessary for providing the Stormwater Management Service; and is a fair and reasonable means to annually allocate and share such benefits, burdens, and costs for the upcoming Fiscal Year and in subsequent Fiscal Years.

(Q) The benefits derived, or burdens relieved from the Stormwater Management Service to each Tax Parcel subjected to the Stormwater Assessment equal or exceed the amount of the special assessments as described and/or levied and imposed by the City. The Assessment for any Tax Parcel within the City in employing such approach or approaches 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 City.

(R) The Stormwater Assessments imposed in accordance with determinations and provisions of this Annual Assessment Resolution provide a proper and equitable method of funding associated stormwater services, facilities, and programs by fairly and reasonably allocating a portion of the cost thereof among specially benefited property.

(S) Sharing and apportioning among properties the benefits, burdens, and costs of stormwater management among fixed and more variable costs as previously recommended to the Commission in 2016 has been determined by the Circuit Court as proper as it allows the City Commission to take a longer planning view. Year to year the City Commission is better able to visualize and address what stormwater management means to the community, understand its costs, and balance those costs with other competing public needs.

(T) This Annual Assessment Resolution continues to implement the transition presented to the Circuit Court to a more equitable assessment approach with regard to funding stormwater related annual costs. The City will still be able to assess properties based on a two-part rate structure consistent with the manner presented to the Circuit Court in the 2016 validation proceeding.

(U) The rate structure approved herein now serves to annually implement the articulated and contemplated transition focused, in part, upon the impervious aspect for sharing and apportioning some fixed and only variable assessed stormwater costs in the Tier 1 part of the rate structure (variable) again this coming year and in future years. The amount assessed does not reflect full cost recovery of all stormwater management service costs and the remaining costs associated with stormwater management service in the City's public works budget must still come from (1) other legally available funds; (2) simply not addressing additional stormwater management service needs and demands; or (3) cuts in level of service.

(V) The Assessment Ordinance provides for the adoption each year of an Annual Assessment Resolution approving, confirming, or amending the Stormwater Assessment Roll.

(W) The City Commission has considered the annual funding of the stormwater related public works budget along with advice and input from City officials and staff and confirmed the annual notice and budget consideration process for use of the Stormwater Assessment as a component part of the overall annual budget by identifying proposed rates and charges for the assessments.

(X) The City Commission determines that rates will not increase and a timely scheduled and properly noticed a public hearing for July 3, 2025 has been conducted to consider adoption of the Stormwater Assessment Roll for Fiscal Year 2025-26.

(Y) Notice required by law of such public hearing was published in compliance with Section 2.04 of the Assessment Ordinance and the Uniform Collection Assessment Act and proof of publication is attached hereto as composite Appendix A.

(Z) The Stormwater Assessment Roll (along with additional explanatory information on the City's website) 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 Assessment Ordinance has been duly

provided. By timely adoption of the Stormwater Assessment Roll, additional and extraordinary notice will also be available as a part of the annual TRIM process conducted by the Property Appraiser pursuant to Section 200.069, Florida Statutes, later this Summer.

(AA) A public hearing was held on July 3, 2025 and comments, concerns and objections of all interested persons have been duly received, heard, and considered. Additionally, the City Commission 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 stormwater management services, facilities and programs at regularly scheduled meetings and workshops of the City Commission on numerous occasions in the past and currently, as well as the overall fiscal and other circumstances of the City.

(BB) The Assessments contemplated in this Resolution are imposed by the City Commission, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of 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 any state water management or special water control district under the auspices of general law, including chapter 298, Florida Statutes; and do not repeat, duplicate, or otherwise pay for the purposes of such other charges or assessments by any other such governmental entity.

(CC) The legislative determinations and findings set forth in the Initial Annual Assessment Resolution and the Final Judgment, including the evidence presented therein, have again been considered and are also hereby in context incorporated herein by reference.

SECTION 4. DIRECTION CONCERNING INTERIM ASSESSMENTS.

(A) Pursuant to Section 2.13 of the Ordinance an interim Assessment may be imposed against all property for which a Certificate of Occupancy is issued after adoption and confirmation of an Annual Assessment Resolution. The amount of the interim Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Assessment Resolution for the Fiscal Year in which the Certificate of Occupancy is issued, with such monthly rate being imposed for each full calendar month remaining in the Fiscal Year after the issuance of the Certificate of Occupancy.

(B) As a matter of expediency and due to the relatively small amount of growth and disproportionately small amount of revenue to be collected, and the fact that assessment will be captured automatically in the ensuing Fiscal Year assessment, the City Commission makes the practical determination to not seek to collect any such unpaid

interim assessments for the period prior to January 1, 2025. All costs for services and facilities attributable to same shall be paid for by legally available revenues other than any Stormwater Service Assessment proceeds.

SECTION 5. RATIFICATION AND CONFIRMATION. The benefits to property and methods of apportionment provided for herein, and the use of proceeds of the non-ad valorem assessment to pay for capital equipment and facilities have previously been judicially validated as for proper, legal and paramount public purposes and fully authorized by law by the Circuit Court of the Tenth Judicial District of the State of Florida in and for Polk County; and, are hereby ratified, confirmed and advanced as being employed and similarly used by and for the purposes of this Resolution. For the purposes of supporting and adopting this Resolution the determinations in the foregoing Final Judgment, and the Initial Annual Assessment Resolution are each also hereby incorporated as supplements, and herein by reference, and ratified and confirmed under the circumstances and timing required to govern effectively as relevant and applicable.

SECTION 6. APPROVAL AND CERTIFICATION OF ASSESSMENT ROLL.

(A) The Fiscal Year 2025-26 Stormwater Assessment Roll, a copy of which is on file with the City Clerk and incorporated herein by reference, is hereby confirmed and approved at the rates and changes described in the updated Executive Summary for Fiscal Year 2025-26 based upon the number of factored impervious equivalent units (ERU) rate for each Tax Parcel (Tier 1 rate) of \$6.24 per ERU, and a per Tax Parcel rate at \$48.00 per Tax Parcel (Tier 2 rate), together with a \$5 collection charge to defray City costs.

(B) As provided by the Assessment Ordinance, the amount of the annual Stormwater Management Assessment shall include the fees imposed by the Property Appraiser and Tax Collector to employ the uniform method of collection and the Assessment Coordinator is directed to adjust as necessary to account for statutory discounts, both of which are equitably necessitated when employing the efficiencies of collecting the Assessment annually on the same bill as for property taxes.

(C) The Assessment Coordinator is hereby authorized and directed to accordingly update and cause certification for the collection of the foregoing Assessment Roll using the uniform method described in the Uniform Assessment Collection Act.

(D) As directed herein the Stormwater Assessments are hereby imposed and levied for proper, legal, and paramount public purposes, and constitute a lien against Assessed Property equal in rank and dignity with the lien of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims until paid.

SECTION 7. EFFECT OF ADOPTION OF RESOLUTION; DIRECTION.

(A) The adoption of this Annual Assessment Resolution shall be the final adjudication of the matters presented (including, but not limited to, the method of apportionment and assessment, the rate or rates of assessment, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within twenty (20) days of the effective date hereof.

(B) The City Commission also requests inclusion of adopted non-ad valorem assessments in the Property Appraiser's notice of proposed property taxes and adopted non-ad valorem assessments under section 200.069, Florida Statutes, if possible, without any additional cost to the City.

(C) The City has successfully enjoyed an array of judicially validated accomplishments and associated professional services for over a decade. For redundancy and to assure continuation of the array of necessary non-ad valorem services annually, the City Commission confirms the use and involvement of special counsel, Mark G. Lawson, and the following approved consultants: Owen M. Beitsch, GAI Consultants, Inc. (GAI or successor employer); Erin Pomeroy, ENNEAD LLC. (Ennead or successor employer); Frederick Bloetscher, Public Utility Management and Planning Services, Inc. (PUMPS or successor employer), and Kelly Wright and Kuda Wekwete, David Taussig and Associates, Inc. now DTA Public Finance, Inc. (DTA or successor employer) all of which have been used and necessarily employed to serve the City, involving successful and productive results for the City for over 12 years. The foregoing persons and firms are generally and collectively referred to herein as 'approved consultants'. In ensuing years, by cooperative consensus among the foregoing special counsel and the approved consultants, the project lead role under the relevant Work Order may be assigned to any approved consultant upon written approval of the City Manager, or such person's designee as Assessment Coordinator.

(D) The City Manager, City Attorney, and all other City officials, employees, agents, counsel, approved consultants and professionals are each and all directed and authorized act, and they are authorized to take all such actions on behalf of the City to accomplish all matters necessary to timely achieve the purposes and effect of this Resolution. Such actions expressly include updating any work orders to be consistent with this Resolution, and to be effective as of this date; so long as approved in writing by the City Manager, with the concurrence of the City Attorney as to form and content.

SECTION 8. SEVERABILITY. If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction as unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affects the validity of the other provisions of this Resolution.

SECTION 9. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED this _____ day of July 2025.

CITY OF HAINES CITY

(SEAL)

By: _____
Morris L. West
Mayor-Commissioner

ATTEST: _____
Sharon Lauther, MMC
City Clerk

APPROVED AS TO FORM AND
CONTENT:

Fred Reilly, City Attorney

APPENDIX A
PROOF OF PUBLICATION

4910-2374-2234, v. 8