BUILDING SERVICES AGREEMENT

THIS BUILDING SERVICES AGREEMENT (the "**Agreement**") is made this _____ day of _____, 2015, by and between the City of Panama City, a municipality of the State of Florida (the "**City**") and E. P. Consultants, Inc., a Florida Corporation (the "**Contractor**") for the performance of the Services (as that term is defined below) in connection with the City's building inspection, permitting, and plan review functions.

WHEREAS, the City sought proposals from persons or entities who could provide high quality professional building inspection, permitting, and plan review services and advertised for such proposals in RFP No. PC15-020, with a bid opening on March 10, 2015 (the "**RFP**"); and

WHEREAS, the contractor submitted a proposal to the City under the RFP; and

WHEREAS, the City and Contractor desire to enter in this Agreement to memorialize the proposal made in the RFP and the duties of the parties with respect to the Services.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained in this Agreement, the parties agree that:

1.0 Scope of Services

1.1 During the term of the Agreement, Contractor shall provide building inspection, permitting, and plan review to the City (the "Services") as directed and on behalf of the City. The Services specifically include:

- Building, Mechanical, Electrical, Plumbing, and Fire permitting and inspection services;
- Providing a person to serve as the City's Building Official as that term is defined in Section 468.603 (1), Florida Statutes;
- Building plan review;
- Building Code interpretation and advice; and
- Any other task as directed by the City that is related to the City's public safety, permitting and inspection role under the Florida or City's Building Code.

1.2 Contractor shall provide the Services with such personnel and equipment as, in its opinion, is deemed adequate for such purposes.

2.0 Contractor's Duties and Responsibilities

2.1 Personnel. At its own costs, Contractor shall provide all personnel to provide the Services including a Building Official, plan examiners, inspectors, and administrative personnel for ancillary Services work. Contractor's personnel shall be trained, qualified and licensed as required for the duties assigned. Unless specifically provided by the City in Section 3, Contractor shall provide all equipment necessary for its personnel to perform the Services (tools, vehicles, communication equipment, etc.).

2.2 Permits and Documents. Contractor shall provide an online permitting website to handle basic needs including pulling basic permits, obtaining inspection results, checking plan review status, and checking the status of a permit. The Contractor shall collect all permit fees and remit to the City as instructed.

2.3 Insurance. Contractor shall not begin work under this contract until obtaining all insurance described herein and such insurance has been approved by the City. Contractor shall not permit any Subcontractors to work under this contract until similar insurance to cover the Subcontractors has been obtained and approved.

The minimum insurance coverage and limits required are shown by coverage line below. Failure of the City to identify deficiencies in any insurance provided by Subcontractors shall not relieve Subcontractors from any insurance obligations.

(a) Workers Compensation and Employer's Liability
- $500,000 E.L. Each Accident
- $500,000 E.L. Disease – Each Employee
- $500,000 E.L. Disease – Policy Limit

The policy shall include a waiver of subrogation in favor of the City. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all Subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers' (USL&H) coverage and contingent coverage of Jones Act (Marine employers Liability), in compliance with federal statutes or proof of exemption. Contractor shall be responsible for compliance by each Subcontractor.

The certificate must clearly identify that coverage applies in the state the Contractor is located and includes coverage for Florida as required by statute.

(b) Commercial General Liability Coverage

Written on ISO form CG2010 11/85 or CG2010 10/01 or equivalent. The minimum limits of coverage shall be as follows:

- $1,000,000 each occurrence for Bodily Injury and Property Damage;
- $2,000,000 General Aggregate;
- $2,000,000 Products and Completed Operations;
- $1,000,000 Personal and Advertising Injury (with the standard contractual and employee exclusions deleted);
- Employees and Volunteers as Additional Insured for both on-going and completed operations;
- Broad Form Property Damage including underground, explosion and collapse hazards (X, C, U); or no exclusion for Exclusion – Damage to Work Performed by Subcontractors on Your Behalf (CG2294 or CG2295);
- Blanket Contractual Liability;
- Independent Contractor's Liability;
- Errors and Omissions (failure to perform), where applicable;
- Additional Insured – Owners, Lessees or Contractors – Completed Operations (ISO form CG2037); and
- No Exclusion to apply for Assault and Battery Coverage.

(c) Commercial Automobile Liability Insurance

Written on ISO form CA0001 or equivalent. The minimum limits of coverage shall be as follows:

- Bodily Injury and Property Damage: $1,000,000 combined single limit; and
- Any auto coverage includes Hired Auto Liability and Non-Owned Auto Liability.

(d) Professional Liability Insurance

The scope involves professional services and Professional Liability Insurance is required covering liability for claims that arise from the negligent errors, omissions, or acts of the Contractor, in the provision of professional services. The policy shall include Contractual Liability coverage and be effective (retroactively, if applicable) from the date of commencement of professional activities in connection with the scope until five (5) years following completion of the scope. Minimum limits are:

- Professional: $1,000,000 per occurrence/aggregate

Coverage shall include:

- Indemnification Endorsement: the City and any other parties as required by contract as indemnified parties;
- Contractual Liability covering hold harmless agreement contained in the contract must be included without exceptions;
- Delays in project completion and cost guarantees are covered;
- Insurance is primary and non-contributory;
- Insuring agreement to read “to pay on behalf of in lieu of to indemnify”;
- Separation of insureds;
- Retroactive date: will apply back to the first date of professional services; and
- No exclusions for construction means, methods, techniques, sequences and procedures.

(e) Leased Employee Liability

Only for Contractors or Subcontractors who have “Leased Employees” through a Professional Employer Organization (PEO), rather than a separate, stand-alone workers compensation policy in your company name.

Contractual tie – PEO must give the Contractor or Subcontractor an “alternate employer endorsement” and it must state that on the certificate of insurance.

Definition: an endorsement added to a workers compensation policy that provides an entity scheduled as an alternate employer with primary workers compensation and employers liability coverage as if it were an insured under the policy. This endorsement is commonly used when a temporary help agency (the insured) is required by its customer (the alternate employer) to protect the alternate employer from claims brought by the insured’s employees.

Provide waiver of subrogation for each of the workers compensation policies. Insurance and documentation from PEO:

- Certificate of Insurance;
- Alternate Employer Endorsement for our subcontractor clearly stated;
- Workers Compensation;

- Statutory box checked;
- Employers Liability limits: minimum of $500,000/$500,000/$500,000; and
- Waiver of Subrogation in favor of the City.

(f) Other Insurance Requirements

All insurance to be obtained by Contractor or Subcontractor under the foregoing provisions shall be written by insurance companies with an A.M. Best rating “A-“ or better. All liability and automobile insurance shall contain a Severability of Interest clause.

Definition: a policy provision clarifying that, except with respect to the coverage limits, the insurance applies to each insured as though a separate policy were issued to each; thus, a policy containing such a clause will cover a claim made by one insured against another insured.

(g) Certificate of Insurance

Prior to commencing its performance under the contract, the Contractor and all Subcontractors shall provide the City with a Certificate of Insurance evidencing the coverages previously listed. The insurance required hereunder shall be maintained from the commencement of the contract until the end of the applicable warranty period. The Contractor and Subcontractor shall maintain a current Certificate of Insurance with the City for this period.

(h) Waiver of Subrogation

All insurance coverage maintained by the Contractor and all Subcontractors shall include a waiver of any right of subrogation of the insurers thereunder against the City, employees, insurers, and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under any such policy. Contractor and all Subcontractors further waive all claims and all rights of subrogation against our company, employees, insurers, and underwriters for loss of, or damage to, Contractor/Subcontractor scope, tools, machinery, equipment, material, supplies, or any other losses within the scope of any insurance maintained by Contractor/Subcontractor.

(i) Indemnification

To the fullest extent permitted by law, the Contractor and all Subcontractors shall indemnify and hold harmless the City, its consultants, and employees from and against claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Contractor/Subcontractor work under this contract, provided that such claim, damage, loss, or expense is 1) attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including loss of use resulting therefrom; and 2) is caused in whole or in part by any negligent act or omission of the Contractor, Subcontractor, the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts them may be liable, regardless of whether or not such claim, damage, loss, or expense is caused part by a party indemnified hereunder.

2.4 Applicable Standards. Contractor shall perform all professional services in conformance with the applicable standards, rulings, or regulations of the City, Florida Department of Business and Professional Regulation, Florida Building Code Administrators and Inspectors Board, or any other federal, state or local government agency, corporate entity or individual exercising authority with respect to, or affecting the City or its Building Code. Upon oral or written notice, Contractor shall promptly correct any failure to conform to such standard within a reasonable amount of time, as the situation may dictate.

2.5 Special Services. From time to time, the City may request special work from the Contractor outside of the scope of the Services or the City may request an inspection for which no permit fee is generated (i.e. complaints or maintenance inspections). The parties agree that such work, if approved in writing by the Contractor and City, are outside the Scope of the Services and shall be compensated at a separate hourly rate (the "Special Services").

3.0 Compensation

3.1 Compensation for providing these services will be 100% of the fees collected as set forth in the proposal. No other payments will be made to the Contractor for the services provided.

3.2 Special Services shall be performed at a rate of $75.00 per hour for all documented time, including travel time for meetings. Special Services invoices submitted to the City must be in detail sufficient for a proper pre-audit and post-audit

and must be received by the City by 5:00 p.m. on Monday, to receive payment the following Friday. Such invoices shall be for all services rendered during the preceding the calendar month.

4.0 Term and Termination

4.1 Term. The term of this Agreement shall be for a period of three (3) years, commencing on April 29, 2015 and ending on April 28, 2018, unless sooner terminated in accordance with Section 5.2 below. City shall have the option to renew this Agreement for an additional two (2) years by delivering written notice of its intent to exercise this option at least ninety (90) days prior to the end of the original term. The same terms and conditions in this Agreement shall apply throughout any renewal term.

4.2 Termination

(a) *With Cause*. Except as expressly stated elsewhere in this Agreement, either party may terminate this Agreement in the event that the other party breaches a material term or condition of this Agreement. Prior to exercising a right to terminate under this Sub-Section 4.2 (a), the party asserting a breach shall first give written notice to the other party of the alleged breach and the other party shall then have ten (10) days to cure the breach. In the event that the breach is not cured within the ten (10) day period after notice, the party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination to the party in breach.

(b) *Intermediate Termination*. Notwithstanding any other provisions of this Agreement, City may terminate this Agreement immediately in the event:

(1) Contractor or any of its building inspectors or examiners have been formally indicted or charged with any criminal violation involving violent crimes, charges involving moral turpitude, or crimes relating to fraud. If the Contractor's breach of this section is due to a single inspector or examiner, the City may at its option, request that such inspector be immediately removed from providing Service to the City.

(2) Contractor or any of its building inspectors or examiners are formally disciplined by the Florida Department of Business and Professional Regulation or the Florida Building Code Administrators and Inspectors Board. If the Contractor's breach of this section is due to a single inspector or examiner, the City may, at its option, request that such inspector be immediately removed from providing Service to the City.

(3) Contractor refuses to allow public access to all documents, papers, letters, or other materials made or received by the City in conjunction with this contract, unless the records are exempt (as determined by the City) from Section 24 (1) or Article I of the State Constitution and Section 119.07 (a).

(4) Any other immediate termination provisions in the General Conditions attached to this Agreement.

(c) *Termination without Cause.* Notwithstanding any other provision of this Agreement, either party may terminate this Agreement without cause by providing at least ninety (90) days advanced written notice to the other party. Once given by the terminating party, such notice is irrevocable without the written consent of the non-terminating party.

5.0 Contract Documents

5.1 RFP. The RFP is an integrated part of this Agreement. Where a specific conflict exists between a term or condition in this Agreement and the RFP, this Agreement shall control.

5.2 Proposal to RFP. The proposal submitted by the Contractor is an integrated part of this Agreement. Where a specific conflict exists between a term or condition in this Agreement and the Proposal to the RFP, this Agreement shall control.

CONTRACTOR	**CITY**
By_____	_____
	Greg Brudnicki, Mayor
_____	
Date:_____	Date:_____
	Attest
	_____
	Jeffrey E. Brown, City Manager

Correct as to form:

_____

Nevin Zimmerman, City Attorney