

**AGREEMENT FOR COMPLETE STREETS FUNDING
BETWEEN FORWARD PINELLAS AND THE CITY OF CLEARWATER**

THIS AGREEMENT is entered into the ____ day of _____ 2017 between **FORWARD PINELLAS**, in its role as the Pinellas County Metropolitan Planning Organization (MPO) and the Pinellas Planning Council (PPC), and the City of Clearwater (hereinafter referred to as "City"), collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, Forward Pinellas recently developed an incentive program to assist local governments in planning, designing and constructing "Complete Streets" projects that entail roadway redesign to provide better access, safety, and mobility for all users, with emphasis on projects that serve as an economic catalyst within corridors or activity centers; and

WHEREAS, during a countywide call for local governments to submit applications for funding for Complete Streets projects, the CITY submitted an application for the development of a concept plan for Drew Street in Clearwater, Florida (PROJECT); and

WHEREAS, a subcommittee comprised of members of the Technical Coordinating Committee and the Planning Advisory Council met to review each application and develop a recommendation for funding; and

WHEREAS, said subcommittee recommended Forward Pinellas provide Federal Highway Administration (FHWA) funding to the CITY for the PROJECT; and

WHEREAS, Forward Pinellas is authorized to provide FHWA funding to local governments for qualified projects; and

WHEREAS, Forward Pinellas has determined that the PROJECT is eligible for FHWA funding and adopted the subcommittee recommendation to provide such funding for the PROJECT on (enter date of meeting where this was approved); and

WHEREAS, the CITY has stated that it is qualified to develop this concept plan with the assistance of Forward Pinellas funding support; and

WHEREAS, it is necessary for the parties to reduce their mutual agreements to writing.

NOW, THEREFORE, in consideration of the mutual performance of the covenants and promises contained herein, the parties agree as follows:

1. SCOPE OF SERVICES

- A. The City shall develop a Complete Streets Concept Plan for the Drew Street corridor from North Osceola Avenue to US Highway 19, the scope of which will

include the outline and deliverables included in the City's Application for Concept Planning Grant, attached hereto and incorporated herein as Exhibit A (hereinafter referred to as the "PROJECT").

- B. Funding provided by Forward Pinellas to the City shall not exceed the agreed-upon fifty thousand dollars (\$50,000), which will be paid to the CITY on a reimbursement basis as further outlined herein.

In accordance with the requirements of 2 CFR 200, Section 287.55 F.S., federal Brooks Act 23 CFR 172 and 23 USC 112, CITY can utilize Forward Pinellas procured consultants to fulfill the scope of service requirements as outlined herein.

2. TERM

- A. This shall be a one-time project. The **CITY** agrees to begin the **PROJECT** work in a timely manner after receiving a Notice to Proceed from the assigned Forward Pinellas project manager ("project kick-off"), which shall be given no later than 30 days from the date this agreement is executed by both parties, and complete the **PROJECT** by July 1, 2018.

3. BILLING AND COMPENSATION

- A. The **CITY** shall submit electronic invoices on a quarterly basis. All invoices must include a progress report showing the actual tasks performed and their relationship to the scope of services and the fee claimed. Invoices shall include a table showing the percentage complete by task and the total budget amount. Each invoice must include a transmittal letter signed by the **CITY'S** project manager stating that the submittal package is complete, and all pertinent calculations and details have been checked for accuracy and completion. Incomplete invoice submittals and invoices not properly prepared (mathematical errors, billing not reflecting actual work done, no signature, etc.) shall be returned to the **CITY** for correction. All progress reports and invoices shall be e-mailed to the attention of the Forward Pinellas project manager.
- B. Forward Pinellas shall have the right to monitor the **CITY** to ensure funding provided by this AGREEMENT is used for authorized purposes. Forward Pinellas may request additional information and evidence to support any and all invoices for fees claimed to be earned by the **CITY** before Forward Pinellas processes the invoices for payment. Reimbursement will be provided only for authorized costs that can be documented as directly related to the **PROJECT**.
- C. Should the **CITY** collect any third-party payments for eligible activities for which Forward Pinellas has reimbursed the **CITY**, the **CITY** shall reimburse Forward Pinellas up to the total amount reimbursed by Forward Pinellas.

D. In consideration of the satisfactory performance of the provisions of this Agreement, Forward Pinellas shall compensate the CITY an amount not to exceed fifty thousand dollars (\$50,000). Any costs of the PROJECT above and beyond this amount are the sole responsibility of the CITY.

E. Upon Board or Executive Director approval of submitted invoices, as applicable, Forward Pinellas shall make payments, as invoiced, to the CITY within 30 days of approval by the Board or Executive Director.

4. FUNDING CLAUSE

The source of funds available for the PROJECT require approval by the Federal Highway Administration (FHWA) and FDOT. Forward Pinellas will seek such required approval before submitting a Notice to Proceed to the CITY. In the event that Federal Highway Administration does not authorize the use of funds contemplated hereunder, this AGREEMENT shall be null and void and neither party shall be liable or have an obligation to perform hereunder.

5. RECORDS

The CITY will keep adequate records and supporting documentation applicable to this contractual matter including any deliverables related to the PROJECT. Said records and documentation will be retained by the CITY consistent with 49 CFR 19.53 retention requirements or chapter 119, Florida Statutes, whichever is longer. Forward Pinellas and its authorized agent shall have the right to review, inspect, and copy all such records and documentation as often as it deems necessary during the record retention period stated above; provided, however, such activity shall be conducted only during normal business hours.

6. NOTICE

All notices required to be given by law or under this AGREEMENT shall be in writing and sent to the following addresses, unless the parties indicate otherwise in writing:

Forward Pinellas
(project manager or executive director)
310 Court Street , 2nd Floor
Clearwater, Florida 33756
(email if desired)

City of Clearwater
Zain Adam
PO Box 4748

7. TERMINATION

All services are to be performed by the **CITY** to the satisfaction of Forward Pinellas' Executive Director based on the requirements of Exhibit A. Forward Pinellas' Executive Director shall decide all questions and disputes, of any nature whatsoever, that may arise in the execution and fulfillment of the services provided for under this **AGREEMENT**.

a. Termination for Convenience Forward Pinellas may terminate this **AGREEMENT**, in whole or in part, at any time upon thirty day's (30) written notice to the **CITY**. The **CITY** shall be paid its costs, including **AGREEMENT** close-out costs, and profit on work performed up to the time of termination. The **CITY** shall promptly submit its invoice to Forward Pinellas for costs incurred up to the effective date of termination, provided **CITY** has not been previously reimbursed for such costs.

b. Termination for Cause If the **CITY** fails to perform in the manner called for in the **AGREEMENT**, Forward Pinellas may terminate this **AGREEMENT** for default. Termination shall be effected by serving a notice of termination on the **CITY** setting forth the manner in which the **CITY** is in default. The **CITY** will only be paid the **AGREEMENT** price for services performed in accordance with the manner of performance set forth in the **AGREEMENT**.

If it is later determined by Forward Pinellas that acts beyond the **CITY'S** control led to the breach or default, including but not limited to a strike, fire, or flood, Forward Pinellas, after setting up a new delivery of performance schedule, may allow the **CITY** to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure In the event of termination for breach or default, Forward Pinellas shall allow the **CITY** an opportunity to cure the defect within 30 days of receiving a notice of termination. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the **CITY** fails to remedy to Forward Pinellas satisfaction the breach or default of any of the terms, covenants, or conditions of this **AGREEMENT** within thirty (30) days after receipt by the **CITY** of written notice from Forward Pinellas setting forth the nature of said breach or default, Forward Pinellas shall have the right to terminate the **AGREEMENT** without any further obligation of either party. Any such termination for default shall not in any way operate to preclude Forward Pinellas from also pursuing all available remedies against the **CITY** and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that Forward Pinellas elects to waive its remedies for any breach by CITY of any covenant, term or condition of this AGREEMENT, such waiver by Forward Pinellas shall not limit Forward Pinellas' remedies for any succeeding breach of that or of any other term, covenant, or condition of this AGREEMENT.

8. FEDERAL CLAUSE REQUIREMENTS

The following federally required clauses, incorporated herein by this reference, apply to this AGREEMENT:

- a) Fly America Requirements
- b) Civil Rights Requirements
- c) Disadvantaged Business Enterprise (DBE)
- d) Energy Conservation Requirements
- e) Clean Water Requirements
- f) Clean Air
- g) Recycled Products
- h) Lobbying
- i) No Government Obligation to Third Parties
- j) Program Fraud and False or Fraudulent Statements and Related Acts
- k) Government-Wide Debarment and Suspension
- l) Incorporation of Federal Transit Administration (FTA) Terms
- m) Access to Records
- n) Federal Changes
- o) Breaches and Dispute Resolution
- p) Patent and Rights in Data

a) Fly America Requirements - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

b) Civil Rights Requirements

a. Nondiscrimination - In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332:

The **CITY** shall not discriminate on the basis of race, age, creed, disability, marital or family status, color, national origin, religion, or sex in the performance of this contract. The **CITY** shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the **CITY** to carry out these requirements is a material breach of this **AGREEMENT**, which may result in the termination of this **AGREEMENT** or such other remedy, as Forward Pinellas deems appropriate.

Each subcontract the **CITY** signs in regards to this **TASK WORK ORDER** must include the assurance in this paragraph (see 49 CFR 26.13(b)). The **CITY** agrees to comply with applicable federal and state implementing regulations and other implementing requirements the Federal Transit Administration (FTA), FDOT or CTD may issue. In addition to the above assurance, the Operator shall not discriminate on the basis of sexual orientation, in accordance to Pinellas County Code Chapter 70 as amended. In connection with this Agreement, the undersigned will complete and submit Exhibit E "Title VI/Nondiscrimination Policy Statement", in accordance with its instructions.

b. Equal Employment Opportunity - The following equal employment opportunity requirements apply to this **AGREEMENT**:

(1). Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the **CITY** agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of

the **TASK WORK ORDER**. The **CITY** agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the **CITY** agrees to comply with any implementing requirements FTA may issue.

(2). Age - In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 through 634 and Federal transit law at 49 U.S.C. § 5332, the **CITY** agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the **CITY** agrees to comply with any implementing requirements FTA may issue.

(3). Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the **CITY** agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the **CITY** agrees to comply with any implementing requirements FTA may issue.

(4). Access to Services for Persons with Limited English Proficiency – To the extent applicable and except to the extent that FTA determines otherwise in writing, the **CITY** agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 *Fed. Reg.* 6733 *et seq.*, January 22, 2001. The MPO's LEP Plan is available at the Forward Pinellas office or may be viewed on-line at: <http://www.pinellascounty.org/mpo/PDFs/DBETitleV/lep.pdf>.

(5). Environmental Justice – The **CITY** agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

(6). Other Nondiscrimination Laws – The CITY agrees to comply with all applicable provisions of other federal laws, regulations, and directives pertaining to and prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing. The CITY also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.

c) Disadvantaged Business Enterprise – This AGREEMENT is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The MPO's overall goal for FY 2014-2016 DBE participation is 4.4% and is applicable to this AGREEMENT. This requirement reflects the availability of willing and able DBEs who are registered with the State of Florida that would be expected to participate in MPO and its CITYs contracts absent the effects of discrimination.

The CITY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted AGREEMENT. Failure by the CITY to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as Forward Pinellas deems appropriate.

The CITY is required to pay its subcontractors/SUBCITYs performing work related to this AGREEMENT for satisfactory performance of that work no later than 30 days after the CITY's receipt of payment for that work from Forward Pinellas. In addition, the CITY may not hold retainage from its CITY.

The CITY must promptly notify Forward Pinellas, whenever a DBE performing work related to this AGREEMENT is terminated or fails to complete its work, and must make good faith efforts to engage another DBE to perform at least the same amount of work. The CITY may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Forward Pinellas.

Information on Forward Pinellas' DBE Program requirements is available at the Forward Pinellas offices and on-line at: <http://www.pinellascounty.org/mpo>.

More information on the State of Florida DBE Program, including an application and available DBE bidders list may be found at:

http://www.dot.state.fl.us/equalopportunityoffice/New_Folder/Files/UCP%20MODIFIED%20APPLICATION.pdf.

4. Energy Conservation - The CITY agrees to the extent applicable, to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

5. Clean Water – The CITY agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The CITY agrees to report each violation to Forward Pinellas and understands and agrees that Forward Pinellas will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The CITY also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

6. Clean Air - The CITY agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The CITY agrees to report each violation to Forward Pinellas and understands and agrees that Forward Pinellas will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The CITY also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

7. Recycled Products – Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

8. Lobbying – Clause and specific language therein are mandated by 49 CFR Part 19.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. §

1601, et seq.] - CITYs who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." The **CITY** agrees that no Federal appropriated funds have been paid or will be paid by or on the behalf of the **CITY**, to any person for influencing or attempting to influence any officer or any employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid by the **CITY** to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the undersigned will complete and submit Exhibit F Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The Agency shall require that the language of this section be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all SUBCITYS shall certify and disclose accordingly, pursuant to Exhibit F (Certification Regarding Lobbying).

9. No Obligation by the Federal Government to Third Parties – Forward Pinellas and **CITY** acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying **AGREEMENT**, absent the express written consent by the Federal Government, the Federal Government is not a party to this **AGREEMENT** and shall not be subject to any obligations or liabilities to Forward Pinellas, **CITY**, or any other party (whether or not a party to that **AGREEMENT**) pertaining to any matter resulting from the underlying **AGREEMENT**.

The **CITY** agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

10. Program Fraud and False or Fraudulent Statements and Related Acts - The CITY acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this **TASK WORK ORDER**. Upon execution of the underlying **AGREEMENT**, the CITY certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this **TASK WORK ORDER** work is being performed. In addition to other penalties that may be applicable, the CITY further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CITY to the extent the Federal Government deems appropriate.

The CITY also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CITY, to the extent the Federal Government deems appropriate.

The CITY agrees to include the above two clauses in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

11. Government-Wide Debarment and Suspension - This **AGREEMENT** is a covered transaction for purposes of 49 CFR Part 29. As such, the CITY is required to verify that none of the CITY, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The CITY is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting this **AGREEMENT**, the CITY certifies as follows:

The certification in this clause is a material representation of fact relied upon by Forward Pinellas. If it is later determined that the CITY knowingly rendered an erroneous certification, in addition to remedies available to Forward Pinellas, the

Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The **CITY** agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The **CITY** further agrees to include a provision requiring such compliance in its lower tier covered transactions and will review the "Excluded Parties Listing System" at the following Internet address: <http://epls.arnet.gov> before entering into any third party or subagreement.

12. Incorporation of Federal Transit Administration (FTA) Terms – The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding **AGREEMENT** provisions. All contractual provisions required by DOT, as set forth in [FTA Circular 4220.1F](#) are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this **AGREEMENT**. The **CITY** shall not perform any act, fail to perform any act, or refuse to comply with any Forward Pinellas requests which would cause Forward Pinellas to be in violation of the FTA terms and conditions.

13. Access to Records - Upon request, the **CITY** agrees to permit the Secretary of Transportation; Forward Pinellas; the Comptroller General of the United States; and, if appropriate or their authorized representatives to inspect all **TASK WORK ORDER** work, materials, payrolls, and other data, and to audit the books, records, and accounts of the **CITY** and Third Party contractors pertaining to the **TASK WORK ORDER** as required by 49 U.S.C. § 5325(g).

14. Federal Changes – The **CITY** shall at all times comply with all applicable federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the FTA [Master Agreement](#) as they may be amended or promulgated from time to time during the term of this **AGREEMENT**. The **CITY's** failure to so comply shall constitute a material breach of this **AGREEMENT**.

15. Breaches and Dispute Resolution – All services are to be performed by the **CITY** to the satisfaction of Forward Pinellas' Executive Director based on the requirements of Exhibit A. Forward Pinellas' Executive Director shall decide all initial questions and disputes, of any nature whatsoever, that may arise in the execution and fulfillment of the services provided for under this **AGREEMENT**. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the **CITY** mails or otherwise furnishes a written appeal to the Forward Pinellas Executive Director.

a. Appeals – After properly submitting an appeal in accordance with the provisions herein, the CITY shall be afforded an opportunity to be heard by the Executive Director and to offer evidence in support of its position. The decision of the Forward Pinellas Executive Director shall be binding upon the CITY and the CITY shall abide by the decision.

b. Performance During Dispute - Unless otherwise directed by Forward Pinellas, the CITY shall continue performance under this AGREEMENT while matters in dispute are being resolved.

c. Claims for Damages - Should either party to the AGREEMENT suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

d. Rights and Remedies - The duties and obligations imposed by the AGREEMENT documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Forward Pinellas or CITY shall constitute a waiver of any right or duty afforded any of them under the AGREEMENT, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

16. Patent and Rights Data-

A. Rights in Data – The following requirements apply to each contract involving experimental, developmental or research work:

1. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

2. The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

a. Except for its own internal use, the **CITY** may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may **CITY** authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

b. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the **CITY** using Federal assistance in whole or in part provided by FTA.

c. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the **CITY** performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the **CITY's** use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

d. Unless prohibited by state law, upon request by the Federal Government, the **CITY** agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of

their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the CITY of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The CITY shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

e. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

f. Data developed by the CITY and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the CITY identifies that data in writing at the time of delivery of the contract work.

g. Unless FTA determines otherwise, the CITY agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

3. Unless the Federal Government later makes a contrary determination in writing, irrespective of the CITY's status (i.e. , a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the CITY agrees to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

4. The CITY also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights – The following requirements apply to each contract involving experimental, developmental, or research work:

1. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country,

the **CITY** agrees to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

2. Unless the Federal Government later makes a contrary determination in writing, irrespective of the **CITY's** status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the **CITY** agrees to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

3. The **CITY** also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

9. INDEMNIFICATION

Forward Pinellas shall in no way be held responsible for any injuries or damage received or sustained by any person, persons, or property by any act, omission, neglect or misconduct of the **CITY** or third-party consultants hired to conduct the scope of services outlined herein. Nothing herein shall be construed as a waiver of either party's sovereign immunity pursuant to §768.28, Florida Statutes.

10. SEVERABILITY

If any provision of this AGREEMENT is held invalid, the remainder of this AGREEMENT will not be affected thereby, and all other parts of this AGREEMENT will remain in full force and effect.

11. WAIVER

Waiver of one or more covenants or conditions of this AGREEMENT by Forward Pinellas shall not be construed as a waiver of a subsequent breach of the same covenant or conditions, and the consent or approval by Forward Pinellas to or of any act by the **CITY** requiring Forward Pinellas' consent or approval shall not be construed as consent or approval to or of any subsequent similar act by the **CITY**.

12. ENTIRE AGREEMENT

This AGREEMENT represents the entire written agreement between the parties and supersedes all prior communications and proposals, whether electronic, oral, or written between the parties with respect to this AGREEMENT. This AGREEMENT may be amended only by written instrument signed by both Forward Pinellas and the **CITY**.

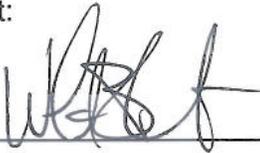
13. GOVERNING LAW AND VENUE

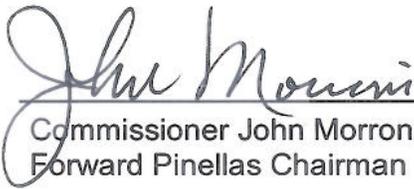
The laws of the federal government and the State of Florida shall govern this **AGREEMENT**, and venue shall be in Pinellas County, Florida.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

PINELLAS PLANNING COUNCIL AND PINELLAS METROPOLITAN PLANNING ORGANIZATION

Attest:

By: 
Whit Blanton, FAICP
Forward Pinellas Executive
Director

By: 
Commissioner John Morrone
Forward Pinellas Chairman

By: 
Commissioner Dave Eggers
Forward Pinellas Secretary

Approved as to form:


By: Chelsea Hardy
Assistant County Attorney

CITY OF CLEARWATER, FLORIDA,
A municipal corporation and
political subdivision of the State of Florida

George N. Cretekos
Mayor

William B. Horne, II
City Manager

Approved as to form:

Attest:

Camilo A. Soto
Assistant City Attorney

Rosemarie Call
City Clerk

Exhibit A

Drew Street Complete Street Concept Plan Project Scope of Work

Overview

The City of Clearwater is receiving funding assistance through the Forward Pinellas Complete Streets Program to develop a Complete Street Concept Plan for Drew Street from North Osceola Avenue to US Highway 19. The City's primary goals for this Project are to:

- Balance accessibility for all modes of transportation within the corridor
- Enhance safety, comfort, and function for all users, especially pedestrians and bicyclists
- Encourage economic revitalization and reinvestment along Drew Street and within surrounding neighborhoods

The Project has the strong support of local communities who asked the City to pursue the Forward Pinellas Complete Streets grant. Residents, businesses, and schools see the potential to make Drew Street safer, more livable, and a better street for commerce.

Complete Street improvements on Drew Street would work in harmony with a broad spectrum of city and countywide plans, especially those addressing designated activity centers on both ends of the Project. The Project includes an extensive public process to reimagine mobility and accessibility on this important regional thoroughfare and residential and Commercial Street.

Project Location

The City's Complete Street Concept Plan will address Drew Street from North Osceola Avenue in Downtown Clearwater to US Highway 19. The total length of the Project is 4.2 miles.

Scope of Services Outline

The anticipated scope of services is provided below, which was provided to Forward Pinellas within the City's grant application. Once the City selects a consultant and enters contract negotiations, the scope of services may be further refined based on input from the selected consultant. However, the final deliverable shall be design concepts for the Drew Street corridor section identified above.

Task 1: Project Partners/ Stakeholders Consultation & Coordination

- Coordinate agency review
- Conduct project scheduling, budgeting, invoices, and QA/ QC

Task 2: Community Outreach & Engagement Activities

- Conduct public engagement workshops
- Conduct stakeholders outreach campaigns (schools, residential, and business)
- Create project branding
- Develop and distribute project communications

Task 3: Existing Conditions Assessment & Data Collection

- Collect Data: Traffic Data, Safety Data, Travel Characteristics
- Develop Inventories System
- Synthesize community inputs
- Assess the condition of existing facilities

Task 4: Preliminary Design Concepts & Evaluation Criteria

- Identify project needs and project guidance principles
- Develop project alternatives selection criteria & performance evaluation metrics
- Develop project alternatives

Task 5: Preferred Corridor Concept Plan Refinement

- Evaluate proposed alternatives (Traffic analysis, planning, cost, etc.)
- Select the preferred alternative
- Develop short-term & long-term implementation actions list
- Identify funding strategies

Task 6: Project Closing & Final Documentation

- Present project final outputs to partners & stakeholders
- Prepare final project documents