

AGREEMENT FOR PLANNING SUPPORT SERVICES

THIS SERVICES AGREEMENT (AGREEMENT) is made and entered into this 20th ^{15th} day of July ~~August~~, 2023, (effective date) by and between FORWARD PINELLAS, in its role as the Pinellas County Metropolitan Planning Organization (MPO) and the Pinellas Planning Council (PPC) (hereinafter referred to as "FORWARD PINELLAS"), and KITTELSON & ASSOCIATES, INC., including all subconsultants and agents hired on its behalf, (hereinafter referred to as "CONSULTANT"), collectively referred to as the "PARTIES."

WITNESSETH:

WHEREAS, FORWARD PINELLAS requested proposals pursuant to 23-0365 - RFP ("RFP") for Planning Support Services; and

WHEREAS, based upon FORWARD PINELLAS' assessment of the CONSULTANT's proposal, FORWARD PINELLAS selected the CONSULTANT to provide the Services as defined herein; and

WHEREAS, CONSULTANT represents that it has the experience and expertise to perform the Services as set forth in this AGREEMENT.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements, terms, and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the PARTIES agree as follows:

1. Recitals

The recitals set forth above are true and correct and incorporated herein by reference.

2. Services to be Furnished by the CONSULTANT

The services generally described and provided for in Exhibit A (Scope of Services), attached hereto and incorporated herein, which are based upon FORWARD PINELLAS' competitive proposal solicitation 23-0365 - RFP, constitute the Scope of Services that may be performed by the CONSULTANT under this AGREEMENT. Materials or services requested by FORWARD PINELLAS shall be provided by the CONSULTANT in a timely manner.

In the event the services required pursuant to the AGREEMENT include the CONSULTANT preparing and submitting cost estimates to FORWARD PINELLAS, the CONSULTANT, by the exercise of their experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth in, or as may be required under the AGREEMENT. Any opinions or estimates of probable construction costs to be provided under this AGREEMENT by the CONSULTANT are to be made or reviews on the basis of the CONSULTANT'S experience and qualifications and represent the CONSULTANT'S judgment as an experienced and qualified professional, familiar generally with the construction industry. FORWARD PINELLAS agrees that the CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others or control over competitive bidding or market conditions, nor the contractor's methods of determining prices. Therefore, CONSULTANT cannot and does not guarantee that proposals, bids or actual final construction costs will not vary from the opinions or estimates prepared or reviewed by the CONSULTANT. FORWARD PINELLAS may choose to employ an independent cost estimator in order to achieve greater assurance of actual construction costs.



The CONSULTANT shall perform its services under this AGREEMENT in accordance with the care, skill, and diligence ordinarily exercised by professionals providing similar services in the same or similar locale and under similar circumstances to that of the CONSULTANT under this AGREEMENT.

3. Term

The term of this AGREEMENT shall commence on the Effective Date and shall remain in full force for three (3) years, or until termination of the AGREEMENT, whichever occurs first. The term of this AGREEMENT may be extended with two two-year options for renewal upon written mutual agreement of the PARTIES.

4. Services to be Furnished by FORWARD PINELLAS

FORWARD PINELLAS shall provide the CONSULTANT copies or all existing and previously prepared files/documents pertinent to the AGREEMENT, which FORWARD PINELLAS may have in its possession, when available. However, the CONSULTANT shall notify FORWARD PINELLAS as to any other information and documentation needed for the satisfactory completion of its services under the AGREEMENT. The CONSULTANT is entitled and will rely upon the accuracy, completeness, currency and non-infringement of information and data provided by FORWARD PINELLAS or obtained from generally accepted sources within the industry, except to the extent such verification by the CONSULTANT may be expressly required as a defined part of the services. The CONSULTANT will not be responsible for defects in its services attributable to its reliance upon or use of such information and data.

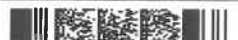
Under no circumstances will FORWARD PINELLAS be held liable or negligent for the perceived or actual inability of any of its employees to locate, retrieve, furnish, supply or provide any of the requested files needed by the CONSULTANT.

FORWARD PINELLAS personnel shall coordinate all releases of information to the public or other outside agencies, unless otherwise discussed and documented by both parties. The CONSULTANT agrees that it shall make no statements, press releases, or publicity releases concerning this AGREEMENT or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this AGREEMENT, or any particulars thereof, during the period of this AGREEMENT without first notifying FORWARD PINELLAS and securing its prior written consent.

Notwithstanding the foregoing, upon completion of the project, CONSULTANT shall have the right to accurately represent their role, contractual relationship, and work performed under this AGREEMENT in client proposals for the purposes of establishing work experience.

5. Invoice Requirements

The CONSULTANT shall be compensated on a reimbursement basis. The CONSULTANT shall submit electronic invoices on a monthly basis. Task work orders will be negotiated on an as-needed basis and may be lump sum or billed based on hourly time worked. All invoices must include a progress report showing the actual tasks performed and their relationship to the fee claimed. All progress reports and invoices shall be emailed to the attention of the FORWARD PINELLAS Executive Director, wblanton@forwardpinellas.org, or his FORWARD PINELLAS staff designee. FORWARD PINELLAS may request additional information and evidence to support



any and all invoices for fees claimed to be earned by the CONSULTANT before FORWARD PINELLAS processes the invoices for payment. Invoices for fees or other compensation for services and expenses shall be submitted to FORWARD PINELLAS in detail sufficient for a proper pre-audit and post-audit. Work completed by Disadvantage Business Enterprises (DBEs) must be reported and those hours worked noted by task with each invoice.

All services to be provided by the CONSULTANT under the provisions of this AGREEMENT shall be in accordance with the professional standard of care. The standard of care applicable to CONSULTANT's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided.

FORWARD PINELLAS shall not approve payment for work done in order to correct negligent acts, errors or omissions on the part of the CONSULTANT. FORWARD PINELLAS in no way obligates itself to check the CONSULTANT's work.

Within 60 calendar days of the AGREEMENT's completion date or termination, the CONSULTANT agrees to submit a final invoice, progress report, a certification of AGREEMENT expenses and third-party audit reports, as applicable.

6. Compensation

Upon the Executive Director or designee's approval of submitted invoices, FORWARD PINELLAS shall make payments as invoiced to the CONSULTANT in accordance with the following terms. These terms are applicable to all fees incurred.

FORWARD PINELLAS agrees to reimburse CONSULTANT for the performance of authorized services described in Exhibit A. Authorized services shall be billed as completed, on a reimbursement basis, and paid in accordance with the Local Government Prompt Payment Act. Hourly rates will be billed as shown in Exhibit B, attached hereto and incorporated herein. Reasonable business expenses for requested travel incurred for the services performed by the CONSULTANT must be pre-approved and follow Forward Pinellas' travel guidelines.

The general cost principle and procedures for negotiation and administration, and the determination or allowance of costs under this AGREEMENT, shall be as set forth in the Code of Federal Regulations, Titles 23, 48 and 49; and other pertinent federal, state, and local regulations, as applicable. In the event there is a conflict between federal, state, and local regulations, the more restrictive of the applicable regulations will govern.

7. Records

The CONSULTANT agrees to establish and maintain a set of accounts within the framework of an established accounting system and procedures that can be identified with the AGREEMENT, in accordance with applicable federal and state regulations and other requirements that FDOT and FHWA may impose.

The CONSULTANT agrees that all checks, payrolls, invoices, contracts, vendors, expenses, orders, or other accounting documents related in whole or in part to the AGREEMENT shall be clearly identified, readily accessible, and available to FORWARD PINELLAS upon its request and, to the extent feasible, kept separate from documents not related to the AGREEMENT. All costs charged to the AGREEMENT, including any approved services contributed by the CONSULTANT



or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers describing the detail in nature and propriety of the charges.

The CONSULTANT agrees to refrain from drawing checks, drafts, or orders for goods or services to be charged against the AGREEMENT until the CONSULTANT has received and filed in its records a properly signed voucher describing in proper detail the purpose for the expenditure.

8. Reporting, Record Retention and Access

The CONSULTANT agrees to maintain intact and readily accessible all data, documents, reports, accounting records, contracts, change order files (including documentation covering negotiated settlements), and supporting materials relating to the AGREEMENT that the federal government, the state government or FORWARD PINELLAS may require during the course of the AGREEMENT and for five years thereafter. Upon request, the CONSULTANT agrees to permit Forward Pinellas, the Secretary of Transportation; the Comptroller General of the United States; and, if appropriate, the State of Florida or their authorized representatives to inspect all AGREEMENT work, materials, payrolls, and other data, and to audit the books, records, and accounts of the CONSULTANT pertaining to the AGREEMENT as required by 49 U.S.C. § 5325(g).

For the purpose of such audits, inspections, examinations and evaluations, Forward Pinellas's agent or authorized representative shall have access to said records from the effective date of the AGREEMENT, for the duration of work, and until five (5) years after the date of final payment by FORWARD PINELLAS to the CONSULTANT pursuant to this AGREEMENT, or the applicable State of Florida public records retention schedule, whichever is longer.

Forward Pinellas' agent or authorized representative shall have access to the CONSULTANT's facilities and all necessary records in order to conduct audits in compliance with this Section. Forward Pinellas' agent or authorized representative shall give the CONSULTANT reasonable advance notice of intended inspections, examinations, and/or audits.

The CONSULTANT agrees that all reports and other documents or information intended for public availability developed under this AGREEMENT and required to be submitted to FORWARD PINELLAS must be prepared and submitted in the original electronic format and in accordance with requirements that FORWARD PINELLAS may specify, understanding that FORWARD PINELLAS reserves the right to request records in other formats.

9. Ownership of Documents

All records, electronic files, documents, plans, specifications, evaluations, reports and other technical data, other than working papers, prepared or developed by the CONSULTANT under this AGREEMENT ("Work Product") shall become the property of FORWARD PINELLAS and shall be made available upon request to FORWARD PINELLAS at any time. All such documents shall be delivered to FORWARD PINELLAS upon completion or termination of this AGREEMENT, provided, however, FORWARD PINELLAS has timely paid CONSULTANT for its services in accordance with this AGREEMENT. The CONSULTANT, at its own expense, may retain copies for its files and internal use.

Any and all reports, documents provided or created in connection with this AGREEMENT are and shall remain the property of FORWARD PINELLAS. In the event of termination of this AGREEMENT, any Work Product prepared by the CONSULTANT, whether finished or unfinished,



shall become the property of FORWARD PINELLAS and shall be delivered to Forward Pinellas' Executive Director within seven (7) days of termination of the AGREEMENT by either party, provided, however, FORWARD PINELLAS has timely paid CONSULTANT for its services in accordance with this AGREEMENT.

However, notwithstanding the foregoing, and any provision to the contrary herein, intellectual property owned or created by any third party other than CONSULTANT, its subconsultants, or FORWARD PINELLAS ("Third-Party Content"), and inventions, improvements, discoveries, methodologies, models, formats, software, algorithms, processes, procedures, designs, specifications, findings, and other intellectual properties developed, gathered, compiled, or produced by CONSULTANT or its subconsultants prior to or independently of their performance of this AGREEMENT ("Background IP"), including such Third-Party Content or Background IP that CONSULTANT or its subconsultants may employ in its performance of this AGREEMENT, or may incorporate into any part of the Work Product, shall not be the property of FORWARD PINELLAS. CONSULTANT, or its subconsultants as applicable, shall retain all rights, titles, and interests, including but not limited to all ownership and intellectual property rights, in all such Background IP. CONSULTANT, and its subconsultants as applicable, grant FORWARD PINELLAS an irrevocable, non-exclusive, non-transferable, royalty-free license in perpetuity to use, reproduce, prepare derivative works based upon, distribute, disclose, derive from, perform, and display, such Background IP, but only as an inseparable part of, and only for the purpose, intended by creation of, the Work Product. In the event the Work Product contains or incorporates any Third-Party Content, or derivative work based on such Third-Party Content, or any compilation that includes such Third-Party Content, CONSULTANT shall secure all licenses to any such Third-Party Content, but only as an inseparable part of the Work Product, where such licenses are necessary for FORWARD PINELLAS to utilize and enjoy CONSULTANT'S services and the Work Product for their intended purposes. Any use of CONSULTANT'S Work Product for any other project or purpose not authorized in writing by CONSULTANT, any changes to the Work Product made by anyone other than CONSULTANT, and any use of incomplete Work Product shall be at FORWARD PINELLAS' or any other user's sole risk, and CONSULTANT shall bear no liability for any such unauthorized use, reuse, or modifications to the Work Product. FORWARD PINELLAS agrees to indemnify, defend and hold CONSULTANT and its officers, agents and employees harmless, from any claims, losses, damages, costs, including without limitation attorneys' fees, arising out of any such use, reuse, or modifications to any of the Work Product not authorized by CONSULTANT.

10. Indemnification

To the extent allowed under Florida Statute §725.08, the CONSULTANT shall indemnify and hold harmless, but not defend, FORWARD PINELLAS from all damages, losses, and judgments, including reasonable attorneys' fees and expenses recoverable under applicable law, on account of any injuries or damages received or sustained by any person, persons, or property, but only to the extent they are caused by the negligent acts, errors, or omissions of the CONSULTANT in the performance of its professional services under this AGREEMENT. Notwithstanding, nothing herein shall be construed as a waiver of either party's sovereign immunity, or limitation thereof beyond Florida Statute §768.28.

The CONSULTANT shall pay FORWARD PINELLAS all losses, damages, expenses, and costs that FORWARD PINELLAS sustains to the proportional extent caused by CONSULTANT'S patent infringements on the part of the CONSULTANT, in connection with the performance of this AGREEMENT.



11. Required Certifications

The CONSULTANT shall obtain, execute and comply with the following certifications:

Insurance. The CONSULTANT shall obtain adequate insurance and provide a certificate of said insurance pursuant to Exhibit C.

Truth-In-Negotiation and Public Entity Crimes Certification. The CONSULTANT agrees to execute the Truth-In-Negotiations Certificate as required by Section 11.45, Florida Statutes, attached to this AGREEMENT as Exhibit, as well as a Public Entity Crimes Certificate, as required by Section 287.133(3)(a), Florida Statutes, and attached to this Agreement as Exhibit D. The original AGREEMENT price and any additions thereto shall be adjusted to exclude any significant sums by which FORWARD PINELLAS determines the AGREEMENT price was increased due to inaccurate or incomplete factual unit costs. All such AGREEMENT adjustments shall be made within one (1) year following the end of the AGREEMENT.

Lobbying. In connection with this AGREEMENT, the CONSULTANT is required to complete Exhibit E “Certification Regarding Lobbying.”

Debarment, Suspension, and Other Responsibility Matters. In connection with this AGREEMENT, the CONSULTANT is required to complete Exhibit F “Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions.”

12. Default and Termination

If the CONSULTANT fails to keep or perform any of the terms, covenants, conditions or provisions in this Agreement that the Auditor is required to keep or perform, then within fifteen (15) days of FORWARD PINELLAS becoming aware of the default, FORWARD PINELLAS shall notify the CONSULTANT of the default and demand the default to be cured. Upon receipt of said notice, the CONSULTANT shall have fifteen (15) days from the date of the receipt to cure said default. FORWARD PINELLAS shall have the right to temporarily withhold payment pending correction of any identified deficiencies or disallow funding for all or part of an activity not in compliance with this AGREEMENT. All defaults shall be cured at the sole cost of the CONSULTANT.

Upon the CONSULTANT’s failure to cure such default, FORWARD PINELLAS may terminate this AGREEMENT and may seek any and all such other remedies available in law or equity. Should FORWARD PINELLAS need to pursue any available remedies as a result of the CONSULTANT’s default, FORWARD PINELLAS shall be entitled to recover damages. Failure to elect any of the available remedies upon the occurrence of any default shall not operate as a waiver of any further election of remedies.

If FORWARD PINELLAS fails to keep or perform any of the terms, covenants, conditions or provisions in this AGREEMENT that FORWARD PINELLAS is required to keep or perform, then within fifteen (15) days of CONSULTANT becoming aware of the default, CONSULTANT shall notify FORWARD PINELLAS of the default and demand the default to be cured. Upon receipt of said notice, FORWARD PINELLAS shall have fifteen (15) days from the date of the receipt to cure said default. CONSULTANT shall have the right to temporarily suspend services until the default is cured. Upon FORWARD PINELLAS’ failure to cure such default, CONSULTANT may immediately terminate this AGREEMENT and may seek any and all such other remedies available



in law or equity. CONSULTANT shall not be held liable for the accuracy or reliability of any partially completed work.

13. Title VI and Disadvantaged Business Enterprise Program

The CONSULTANT, including its subconsultants, will not discriminate on any basis, as required by 49 USC 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex or age in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 USC 2000d through 2000d-4, and Title 49 CFR, Part 21, or any other protected class as defined by state or federal law.

As a recipient of Federal funds, FORWARD PINELLAS is required to administer a Disadvantaged Business Enterprise ("DBE") Program in compliance with all laws, regulations, Executive Orders, and guidance including, but not limited to, 49 CFR Part 26. The FORWARD PINELLAS DBE program also applies to its CONSULTANTS who receive Federal funds through the Florida Department of Transportation ("FDOT"). A race-neutral DBE aspirational goal of 10.65% has been established.

The policy of FORWARD PINELLAS regarding DBEs, as defined in 49 CFR Part 26, includes the following:

1. To ensure equal opportunity to receive and participate in U.S. Department of Transportation (USDOT)-assisted contracts;
2. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
3. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
4. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
5. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
6. To help remove barriers to the participation of DBEs in USDOT-assisted contracts; and
7. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts including an obligation to enter DBE commitments and payments into the Equal Opportunity Compliance System (EOC) system. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this AGREEMENT or such other remedy as FORWARD PINELLAS deems appropriate, which may include, but is not limited to: withholding of payments to CONSULTANT under this AGREEMENT; assessing sanctions; assessing liquidated damages; and/or cancellation, termination or suspension of the AGREEMENT in whole or in part; and/or suspension or debarment of the CONSULTANT from eligibility to contract with FORWARD PINELLAS in the future or to receive bid packages or request for proposal packages. FDOT maintains a directory identifying all firms eligible to participate as DBEs as well as supportive services to assist with the identification and use of DBEs.



14. Assignment

The CONSULTANT shall not assign or transfer its interest in this AGREEMENT without the written consent of Forward Pinellas.

15. Fiscal Funding

Forward Pinellas, in both its roles as the MPO and PPC, is a bona fide CONSULTANT of the State of Florida with its fiscal year ending on September 30 of each calendar. If FORWARD PINELLAS does not have sufficient appropriated funds to continue making the payments required under this AGREEMENT or any of its agreements for any fiscal year subsequent to the one in which this AGREEMENT is executed or entered into, including but not limited to the result of the receipt of insufficient funds from the Florida Department of Transportation or Federal Highway Administration, then this AGREEMENT shall be terminated effective upon expiration of the fiscal year in which sufficient funds were last appropriated, without penalty or expense to Forward Pinellas. In this event, FORWARD PINELLAS shall not be obligated to make any further payments due beyond said fiscal year.

16. Prohibition Against Contingency Fees

The CONSULTANT warrants that they have not employed or retained any company or person other than a bona fide employee working solely for the CONSULTANT to solicit or secure this AGREEMENT and that the CONSULTANT has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working for the CONSULTANT any fee, commission, percentage, gift, or any other considerations, contingent upon or resulting from this award or making of this AGREEMENT.

17. Observance of Laws

The CONSULTANT agrees to observe, comply with and execute promptly at its expense during the term hereof, all applicable and non-conflicting laws, rules, requirements, orders, directives, codes ordinances, and regulations of any and all governmental authorities or agencies, of all municipal departments, bureaus, boards and officials, of all County, State, and Federal boards and agencies, and of the CONSULTANT's insurance carriers that are then in effect at the time the services are performed hereunder, which to the best of the CONSULTANT's knowledge, information, and belief apply to the CONSULTANT's obligations under this AGREEMENT. If any discrepancy or inconsistency should be discovered between the specifications established for the services and any law, regulation, ordinance, order or decree applicable to the services, CONSULTANT will immediately report such discrepancy or inconsistency to FORWARD PINELLAS and will conform its work to any orders or instructions issued by FORWARD PINELLAS. The CONSULTANT specifically acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, located at 8 U.S.C. Section 1324, et. seq, and regulations relating thereto. Failure to comply with this provision of this AGREEMENT shall be considered a material breach and shall be grounds for immediate termination of this AGREEMENT. If a dispute arises regarding this AGREEMENT, the Laws of Florida shall govern. Proper venue shall be in Pinellas County, Florida.



18. Independent Consultant

The CONSULTANT acknowledges that it is functioning as an independent consultant in performing under the terms of this AGREEMENT, and it is not acting as an employee or agent of Forward Pinellas.

19. Severability

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

20. 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 if any act by the CONSULTANT requiring Forward Pinellas' consent or approval shall not be construed as consent or approval to or of any subsequent similar act by the CONSULTANT.

21. Entire Agreement

This AGREEMENT represents, together with all Exhibits, the entire written AGREEMENT between FORWARD PINELLAS and supersedes all prior communications and proposals, whether electronic, oral, or written between FORWARD PINELLAS and the CONSULTANT with respect to this AGREEMENT. This AGREEMENT may be amended only by written instrument signed by both FORWARD PINELLAS and the CONSULTANT.

22. Notice and Contacts

All notices required by law and by this AGREEMENT to be given by one party to the other shall be in writing and shall be sent to the following respective addressees:

FORWARD PINELLAS:
Whit Blanton, FAICP, Executive Director
310 Court Street
Clearwater, Florida 33756
Wblanton@forwardpinellas.org

CONSULTANT:
Franco Saraceno, Principal Planner
400 North Tampa Street, Suite 1360
Tampa, Florida 33602
fsaraceno@kittelson.com

If a different representative is designated after the execution of this AGREEMENT, notice of the new addresses will be made in writing.



23. Conflict of Interest

By accepting award of this AGREEMENT, the CONSULTANT, which shall include its Executive Directors, officers and employees, represents that it presently has no interest in and shall acquire no interest, either directly or indirectly, in any business or activity which would conflict in any manner with the performance of services required hereunder, including as described in the CONSULTANT'S own professional ethical requirements. An interest in a business or activity which shall be deemed a conflict includes, but is not limited to, any direct or indirect financial interest in any of the material and equipment manufacturers, suppliers, distributors, or consultants who will be eligible to supply material and equipment for the AGREEMENT for which furnishing its services is required hereunder.

If, in the sole discretion of Forward Pinellas's Executive Director or designee, a conflict of interest is deemed to exist or arise during the term of the AGREEMENT, Forward Pinellas's Executive Director or designee may cancel this AGREEMENT, effective upon the date so stated in the Written Notice of Cancellation, without penalty to Forward Pinellas.

24. Final Closeout

FORWARD PINELLAS may perform a final audit of the records of the CONSULTANT to support the compensation paid to the CONSULTANT under this AGREEMENT. The audit would be performed as soon as practical after completion and acceptance of all contracted services. The final payment to the CONSULTANT may be adjusted for audit results.

25. Piggybacking

The CONSULTANT agrees to make the prices and terms under this AGREEMENT available to any other governmental entity, should any such governmental entity desire to purchase under the terms and conditions of this AGREEMENT. For purposes of this section, "governmental entity" shall mean all State of Florida agencies, the legislative and judicial branches, political subdivisions, counties, school boards, community colleges, municipalities, transit authorities, special districts, or other public agencies or authorities.

26. Governing Law and Agreement Execution

The laws of the federal government and the State of Florida shall govern this AGREEMENT.

27. Florida Statute 558.0035

Pursuant to FS 558.0035, employees of CONSULTANT may not be held individually liable for damages resulting from negligence under this AGREEMENT.

28. Consequential Damages / Limitation of Liability

In no event shall either party, its parents, affiliates, subsidiaries, directors, officers, and employees, be liable to the other party for any special, incidental, indirect, exemplary, punitive, or consequential losses or damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including but not limited to losses of use, anticipated profit from this job or any other job, business reputation or financing. In no event shall either party's liability for damages in any circumstances exceed the Total Contract Value of this




AGREEMENT. This AGREEMENT shall not create or give to any third party any right of action against FORWARD PINELLAS or the CONSULTANT.


29. Force Majeure

If a force, event, or circumstance beyond either parties control interrupts or delays that party's performance, the time of performance shall be equitably adjusted to reflect only the actual days that were the subject of the force majeure.

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

PINELLAS PLANNING COUNCIL AND PINELLAS COUNTY METROPOLITAN PLANNING ORGANIZATION

Attest: 
By: _____
Whit Blanton, FAICP
Forward Pinellas Executive Direct
Date: 8/15/23

By: 
Janet Long
Forward Pinellas Chair
Date: 8/15/23

CONSULTANT

Attest:
By: 
Jennifer Musselman
Associate Engineer
Date: 26th July 2023

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Exhibit A: Scope of Services

Forward Pinellas planning service support needs generally fall within eight categories: multimodal transportation planning and analysis, economic analysis, website design, maintenance and general communications support, urban design, land use and redevelopment, climate resilience, graphic design and renderings, and geographic information systems. Examples of the types of projects that may be authorized over the term of this agreement include, but are not limited to:

- Transportation/Mobility Impact Fee Evaluation and Development
- Complete Streets
- Safety Audits
- Value Capture Scenario Development and Analysis
- Economic Modeling
- Cost-Benefit Analysis
- Website Development and Troubleshooting
- Site Hosting Alternatives Analysis
- Corridor and Streetscape Design
- Gateway, Wayfinding and Signage Plans
- Comprehensive, Activity Center, and Multimodal Corridor Plans
- Form-Based Codes
- Vulnerability and Risk Assessments
- Hurricane Shelter Space Capacity Analysis and Impact Fee Development
- Graphic Design and Visualization
- Writing, Editing and Digital Publication
- Geospatial Dataset Development and Analysis

This CONSULTANT submitted a proposal for RFP 23-0365 Planning Support Services which demonstrated the CONSULTANT'S ability to provide these specialized services. Individual task work orders that align with one or more of the eight categories noted above may be authorized by Forward Pinellas and completed by this firm over the term of this agreement.



Exhibit B: Rate Schedule

Job Classification	Low (\$)	High (\$)
Chief Professional/Project Director	116	350
Project Manager	134	300
Senior Professional	115	265
Project Professional	90	203
Professional	70	166
Senior Specialist	148	425
Specialist	67	238
Senior Technician	75	200
Technician/Analyst	54	140
Secretary/Clerical	60	140

Rate ranges are fully loaded (include overhead, fringe benefits, facility capital cost, operating margin etc.) and apply to the CONSULTANT and any subconsultant(s) the CONSULTANT may use.



Exhibit C: Certificate of Insurance and Insurance Requirements

Minimum Insurance Requirements

Prior to the time the CONSULTANT is entitled to commence any part of the project, work, or service under this agreement, the CONSULTANT shall procure, pay for and maintain at least the insurance coverage limits specified below. Said insurance shall be evidenced by delivery to FORWARD PINELLAS of: a Certificate of Insurance executed by the insurers listing coverages and limits, expiration dates, and terms of policies and all endorsements required by Forward Pinellas, and listing all carriers issuing said policy. The insurance requirement shall remain in effect throughout the term of this agreement.

1. Workers' compensation limits are required by law; employers' liability insurance of not less than \$500,000 for each accident/employee/policy limit.
2. Commercial general liability insurance including, but not limited to, independent CONSULTANT, contractual, premises/operations, products/completed operations, and personal injury covering the liability assumed under indemnification provisions of this Agreement, with limits for liability for personal injury and/or bodily injury, including death, of not less than \$1,000,000 combined single limits. Coverage shall be on an "occurrence" basis.
3. Professional liability insurance with minimum limits of \$1,000,000 per claim and in the annual aggregate; or Claims Made Form with "tail coverage" extending three (3) years beyond completion and acceptance of the project with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage," the CONSULTANT may submit annually to FORWARD PINELLAS current Certificate of Insurance proving claims made insurance remains in force throughout the same (3) years. Any failure to comply with the provisions of this paragraph will be considered a material breach of this Agreement.
4. Comprehensive automobile liability covering owned, hired, and non-owned vehicles with minimum limits of \$1,000,000 each occurrence, and property damage of not less than \$1,000,000 each occurrence. (Combined single limits of not less than \$1,000,000, each occurrence, will be acceptable unless otherwise stated.) Coverage shall be on an-occurrence basis. Each insurance policy shall include the following conditions by endorsement to the policy:
 - a. Companies issuing the insurance policy, or policies, shall have no recourse against FORWARD PINELLAS for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of the CONSULTANT.
 - b. The term FORWARD PINELLAS shall include all authorities, boards, bureaus, commissions, divisions, departments, committees, and offices of FORWARD PINELLAS and individual members, employees thereof in their official capacities, and/or while acting on behalf of Forward Pinellas.
 - c. FORWARD PINELLAS shall be endorsed to the required policy or policies as an additional insured exclusive of professional liability insurance and workers' compensation insurance.
 - d. The policies shall be endorsed to provide primary and non-contributory coverage, except for the Professional Liability policy and the Workers' Compensation policy.
5. The CONSULTANT hereby waives subrogation rights for loss or damage against Forward Pinellas except under Professional Liability Insurance.



Exhibit D. Truth in Negotiation Certificate

In compliance with this Agreement dated 26th July 2023, between FORWARD PINELLAS and the CONSULTANT, the CONSULTANT herewith certifies that:

1. The rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and correct at the time of contracting.
2. Any and all limitations on current or future years' contract fees, including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting issues are encountered, are disclosed herein.
3. Any and all services to be provided under the above-referenced AGREEMENT at rates or terms that are not customary are described herein.

Annual maximum compensation rate is as specified this AGREEMENT.
Standard compensation rate for this type engagement is as negotiated.

Kittelson & Associates, Inc.
CONSULTANT

By:  Signed on 2023/07/26 14:22:23 -5:00

Date: 26th July 2023

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Exhibit E. Public Entity Crimes Certificate

SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(A). FLORIDA STATUTES ON PUBLIC ENTITY CRIME

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to Forward Pinellas

By: Jennifer Musselman

(print this individual's name and title)

For: Kittelson & Associates, Inc.

(print name of entity submitting statements)

whose business address is: 400 North Tampa Street, Suite 1360, Tampa, FL 33602

and if applicable whose Federal Employer Identification Number (FEIN) is: 93-0964447

If the entity has no FEIN, include the Social Security Number of the individual signing this sworn Statement:

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(a), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transactions of business with any public entity or with an CONSULTANT or political subdivision of any other state or with the United States including, but not limited to any bid or contract for goods or services to be provided to any public entity or any CONSULTANT or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes means a finding of guilt or a conviction of a public entity crime, with or without adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a Jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

- A. A predecessor or successor of a person convicted of public entity crime; or
- B. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one



person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies).

X Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or any affiliate of the entity has been charged with and convicted of a public entity crime within the past 36 months.

The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime within the past 36 months.

AND (Please indicate which additional statement applies).

The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime within the past 36 months. However, there has been a subsequent proceeding before a Hearing Officers of the State of Florida, Division of Administrative Hearings and the Final Order by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attached is a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THE PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED AND FOR THE PERIOD OF THE CONTRACT ENTERED INTO, WHICHEVER PERIOD IS LONGER. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Jennifer Musselman
Signed on 2023/07/26 14:22:23 -5:00

(Signature)

County of Fairfax
City of _____



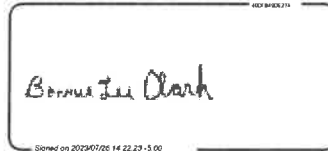
VIRGINIA
STATE OF ~~FLORIDA~~

Sworn and subscribed before me this 26th day of July, 2023 by Jennifer Musselman,

X Who is Personally known to me

_____ Or who produced identification
(Type of Identification)

(Signature) Notary Public—State of ~~Florida~~ ^{Virginia}


Signed on 2023/07/26 14:22:29 -5:00

(Printed, typed or stamped commissioned name of notary public)

My commission expires 31 July 2027

Bonnie Lee Clark
Registration # 7844836
Electronic Notary Public
Commonwealth of Virginia
My commission expires the 31 day of Jul 2027
Notary Stamp: 2023/07/26 11:22:23 PST 432F840E27A

Notarial act performed by audio-visual communication

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Exhibit F: Certificate Regarding Lobbying

49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an CONSULTANT, 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any CONSULTANT, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The CONSULTANT, (name), certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Jennifer Musselman

(signature)

Print Name: Jennifer Musselman

Title: Associate Engineer

Date: 26th July 2023



Exhibit G: Certificate Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions

(1) The prospective primary participant hereby certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or CONSULTANT;

(b) Have not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses listed in paragraph (b) of this certification; and

(d) Have not, within a three-year period preceding this certification, had one or more public transactions (federal, state or local) terminated for cause or default.

(2) The prospective primary participant also hereby certifies that if, later, it becomes aware of any information contradicting the statements of paragraphs (a) through (d) above, it will promptly provide that information to the U.S.D.O.T.

Jennifer Musselman

Jennifer Musselman, Associate Engineer

Signature/Authorized Certifying Official Typed Name and Title

Kittelson & Associates, Inc.

26th July 2023

Applicant/Organization

Date Signed

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To NOTARIZE_28894 - Forward Pinellas Consultant Agreement 002.pdf

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E-Signature Summary

E-Signature 1: Jennifer Musselman (JM)

July 26, 2023 14:22:23 -5:00 [AE79CD9915AD] [24.227.79.146]
 jmusselman@kittelton.com (Principal) (Personally Known)

E-Signature Notary: Bonnie Lee Clark (BLC)

July 26, 2023 14:22:23 -5:00 [40DFB49DE27A] [71.246.200.200]
 bclark@kittelton.com

I, Bonnie Lee Clark, did witness the participants named above electronically sign this document.



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