

## JOINT PROJECT AGREEMENT

### BETWEEN PINELLAS COUNTY AND THE TOWN OF KENNETH CITY FOR ROADWAY AND STORMWATER IMPROVEMENTS IN CONJUNCTION WITH CONSTRUCTION OF A RECREATIONAL TRAIL ALONG 46<sup>TH</sup> AVENUE NORTH, FROM EAST OF 61<sup>ST</sup> STREET NORTH TO 55<sup>TH</sup> STREET NORTH

This AGREEMENT, made and entered into this 12 day of August, 2020, by and between PINELLAS COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, hereinafter referred to as "COUNTY", and the TOWN OF KENNETH CITY, FLORIDA, a municipal corporation within said Pinellas County, acting by and through its City Commission, herein referred to as "TOWN".

WITNESSETH that:

WHEREAS, the TOWN desires to construct a recreational trail along 46<sup>th</sup> Avenue North between 61<sup>st</sup> Street North and 55<sup>th</sup> Street North, herein referred to as the "TRAIL".

WHEREAS, the COUNTY owns roadway and stormwater infrastructure along this corridor and seeks to make improvements in conjunction with the construction of the recreational trail, herein referred to as the "PROJECT"; and

NOW, THEREFORE, in consideration of the monies hereinafter agreed to be paid and the mutual covenants contained herein, the parties hereby mutually agree as follows:

#### **SECTION 1 SCOPE OF CONSTRUCTION SERVICES**

The PROJECT will be combination of stormwater, roadway and sidewalk improvements funded by the COUNTY. The scope of work for the PROJECT shall include the following:

Removal and replacement of 1,700 linear feet (LF) of curb, 100 LF of valley curb removal and replacement, concrete and asphalt pavement removal, sidewalk demolition, sidewalk construction, curb ramp construction to adhere to ADA requirements and roadway and sod restoration outside of the limits of recreational trail construction.

Stormwater improvements near the intersection of 46<sup>th</sup> Avenue North and 56<sup>th</sup> Street North. Stormwater improvements include the removal of four (4) drainage structures, associated pipe removal, the construction of three (3) manholes and one (1) curb inlet, removal and replacement of existing curb inlet top slab, construction of 20 linear feet of 24" concrete culvert and restoration of roadway, sidewalk, curbing and sod outside of the limits of recreational trail construction. The removal and replacement of six (6) curb inlet tops and associated sidewalk and curbing improvements within and immediately adjacent to the project area. Restoration outside of the limits of recreational trail construction is also proposed.

Milling and resurfacing of 46<sup>th</sup> Avenue North from 62<sup>nd</sup> Street North to 55<sup>th</sup> Street North, including pavement marking, restoration of signalization loops and traffic signal pull box adjustments.

## **SECTION 2 SERVICES TO BE PROVIDED BY THE TOWN**

2.1 The TOWN will provide a representative to attend construction meetings and inspect the construction of the TRAIL and PROJECT to ensure that construction is completed in accordance with the plans and specifications.

2.2 The TOWN will be responsible for the bidding and award of the construction contract for the TRAIL and the PROJECT. After the TOWN receives, opens, and evaluates the bids, the TOWN will notify the COUNTY, in writing, of the TOWN's intent to award the contract ("Notification"). This Notification will include the amount for the PROJECT option. The bid will be awarded based upon the bids received for the TRAIL, excluding any PROJECT options. The COUNTY will have fifteen (15) days from receipt of the TOWN's notification to request, in writing, that the TOWN delete the PROJECT option from the TOWN's award of bid/construction contract, and to notify the TOWN of the COUNTY's intent to perform the PROJECT work with the COUNTY's own forces or its own contractor. In order not to delay the construction of the TRAIL, the COUNTY must show that it is ready and able to perform all PROJECT work prior to requesting that the TOWN delete the PROJECT work option from the contract award. The COUNTY does not have the right to delay or affect, in any way, the award of the contract. In the event the COUNTY, in performing the PROJECT causes a compensable delay to the TOWN's construction of this TRAIL, the COUNTY will pay all claims and costs incurred due to its delay.

2.3 The TOWN will require the successful contractor to comply with the following conditions. The COUNTY shall be responsible for the costs attributed to said compliance with these conditions as part of the PROJECT work:

(A) Indemnify, hold harmless, pay the costs of defense on behalf of and defend the TOWN and its agents and employees and the COUNTY and its agents and employees from and against all claims, damages, losses and expenses arising out of or resulting from the performance of the Trail and the PROJECT work;

(B) Provide a dual obligee bond in the full amount of the TRAIL and PROJECT, naming the TOWN and the COUNTY as obligees; and

(C) Provide insurance coverage per the requirements in the insurance section of the invitation to bid as well as in the executed contract with the successful contractor. Both the TOWN's invitation to bid and the construction contract will require that the Contractor name the TOWN and the COUNTY as additional insured entities and certificate holders.

2.4 Upon completion of the entire PROJECT, the TOWN shall ensure that any

warranty, including materials, equipment, workmanship and closeout documents, by the contractor constructing the PROJECT, is passed on to the COUNTY under the same terms and conditions as that warranty applies to facilities constructed or installed on behalf of the TOWN.

### **SECTION 3 SERVICES TO BE PROVIDED BY THE COUNTY**

3.1 The COUNTY will produce construction drawings, specifications, quantity list, and cost estimate suitable to construct the PROJECT.

3.2 The COUNTY will provide a representative to attend construction meetings and review the construction of the PROJECT to ensure that COUNTY standards are met.

3.3 When construction of the work is completed, the COUNTY shall own, operate, and maintain the PROJECT infrastructure constructed under this AGREEMENT.

### **SECTION 4 JOINT PROJECT ACTIVITIES**

4.1 Construction coordination of the COUNTY's PROJECT, with that of the TRAIL contractor and other utilities and/or their contractors, will be the responsibility of the TOWN. The COUNTY will cooperate and work with the TOWN to resolve any delays in the construction of the PROJECT.

4.2 All of the PROJECT work performed pursuant to this AGREEMENT shall be done in substantial accordance with the COUNTY's plans and specifications, which plans and specifications are incorporated hereto by reference. All information required for field changes, change orders or supplemental agreements pertaining to the COUNTY's PROJECT will be promptly furnished to the TOWN.

### **SECTION 5 FUNDING AND INVOICING**

5.1 The PROJECT construction cost estimate is \$581,728.25 The COUNTY hereby certifies that funding for the PROJECT plus 5% for TOWN construction/contract administration and testing has been appropriated and is available for deposit.

5.2 The TOWN shall initially pay the total construction cost for the PROJECT. The TOWN will invoice the COUNTY monthly for the construction progress payments for costs of the relocation of COUNTY improvements, not to exceed Five Hundred Eighty One Thousand Seven Hundred Twenty Eight Dollars and Twenty Five Cents (\$581,728.25) plus the five percent (5%) construction/contract administration and testing costs upon approval of the COUNTY Project Manager. The COUNTY shall pay the TOWN in accordance with the Florida Prompt Payment Act time schedule for construction projects.

5.3 During construction, the TOWN shall process invoices from the contractor and

submit a copy to the COUNTY along with progress reports and requests for payment.

## **SECTION 6 ACCOUNTING RECORDS**

Records of expenses pertaining to all services performed shall be kept in accordance with generally recognized accounting principles and procedures.

### **6.1 Compliance with Federal, State, County, and Local Laws**

Both Parties shall comply with all federal, state, county, and local laws, regulations, and ordinances at all times.

### **6.2 Responsibilities of the Parties**

The TOWN and the COUNTY shall be fully responsible for their own acts of negligence and their respective employees' and/or agents' acts of negligence, when such employees' and/or agents are acting within the scope of their employment; and shall be liable for any damages resulting from said negligence to the extent permitted by Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by either the TOWN or the COUNTY. Nothing herein shall be construed as consent by the TOWN or COUNTY to be sued by third Parties in any matter arising out of this AGREEMENT.

### **6.3 Discrimination**

The TOWN and the COUNTY shall, during the performance of this AGREEMENT, comply with all applicable provisions of federal, state and local laws and regulations pertaining to prohibited discrimination.

### **6.4 Assignment**

This AGREEMENT may not be assigned.

### **6.5 Waiver**

No act of omission or commission of either Party, including without limitation, any failure to exercise any right, remedy, or recourse, shall be deemed to be a waiver, release, or modification of the same. Such a waiver, release, or modification is to be effected only through a written modification to this AGREEMENT.

### **6.6 Due Authority**

Each Party to this AGREEMENT represents and warrants to the other Party that (i) it is duly organized, qualified and existing entities under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the persons executing this AGREEMENT to so execute the same and fully bind the party on whose behalf they are executing.

## 6.7 Headings

The paragraph headings are inserted herein for convenience and reference only, and in no way define, limit, or otherwise describe the scope or intent of any provisions hereof.

## 6.8 Fiscal Funding

The obligations of the Parties are subject to appropriate budgeted funds being available in each budget year to achieve the purposes of this AGREEMENT. In the event sufficient budgeted funds are not available in a subsequent fiscal year, this AGREEMENT shall terminate on the last day of the fiscal year for which sufficient budgeted funds are available without penalty to either of the Parties.

## **SECTION 7 TERM OF AGREEMENT**

This AGREEMENT shall commence on the date of execution and shall remain in effect until the TOWN provides to the COUNTY mutually agreeable documentation which substantiates that this AGREEMENT has been fully performed.

## **SECTION 8 TERMINATION**

Upon written notice, this AGREEMENT may be terminated by any of the parties in the event of substantial failure of another party to fulfill its obligation under this AGREEMENT through no fault of the terminating party. This AGREEMENT shall be deemed terminated on the fifteenth (15th) day after receipt of written notice of termination.

All notices or reports under this AGREEMENT shall be directed to the following addresses:

Project Manager for the COUNTY:            Thomas Washburn, P.E.  
Traffic Engineering Section  
Pinellas County Public Works  
22211 US Highway 19 North  
Clearwater, FL 33765

Project Manager for the TOWN:            Matthew Campbell  
Town Manager  
Town of Kenneth City  
6000 54<sup>th</sup> Avenue North  
Kenneth City, FL 33709

Engineer of Record for the TOWN:        William Reidy, PE, Principal  
Advanced Engineering & Design, Inc.  
3931 68th Avenue  
Pinellas Park, Florida 33781

**SECTION 9  
ENTIRE AGREEMENT**

This document embodies the whole AGREEMENT of the parties. There are no promises, terms, conditions or allegations other than those contained herein and this document shall supersede all previous communications, representations and/or Agreements, whether written or verbal, between the parties hereto. This AGREEMENT may be modified only in writing executed by all parties. This AGREEMENT shall be binding upon the parties, their successors, assigns and legal representatives.

**IN WITNESS WHEREOF**, the parties hereto, or their lawful representative, have executed this AGREEMENT as of the date first above written.

TOWN OF KENNETH CITY  
FLORIDA, a municipal corporation  
of the State of Florida

PINELLAS COUNTY, FLORIDA, a  
political subdivision of the State of  
Florida, by and through its  
Board of County Commissioners

By: Wanda L. Dudley  
Wanda Dudley, Mayor

By: \_\_\_\_\_  
Pat Gerard, Chairman

ATTEST:

WITNESS:

By: Cindy Matson  
Cindy Matson, Town Clerk

By: \_\_\_\_\_  
Clerk of the Circuit Court  
(Seal)

LEGAL REVIEW:

APPROVED AS TO FORM:

By: Randy Mora 06-14-2020  
Randy Mora, Town Attorney

By: Joseph Manisak  
Office of the County Attorney