



**REQUEST FOR  
LETTERS OF INTEREST AND STATEMENTS OF QUALIFICATIONS  
TRAFFIC OPERATIONS/ITS/SAFETY PROJECTS FEASIBILITY STUDIES**

**ADDRESS:**

Volusia Transportation Planning Organization  
2570 W. International Speedway Blvd., Suite 100  
Daytona Beach, Florida 32114

**TELEPHONE:**

(386) 226-0422 FAX: (386) 226-0428

**e-mail:**

rkeeth@volusiatpo.org

**One (1) original, four (4) hard copies, and one (1) CD containing the response in Adobe Acrobat Portable Document Format (pdf) must be received by the Volusia TPO no later than 5:00 p.m. local time on Friday, August 9, 2013. Responses received after this date and time will not be considered.**

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# **VOLUSIA TPO REQUEST FOR LETTERS OF INTEREST AND STATEMENTS OF QUALIFICATIONS TRAFFIC OPERATIONS/ITS/SAFETY PROJECTS FEASIBILITY STUDIES**

## **SECTION 1: INTRODUCTION**

### **Purpose**

The Volusia Transportation Planning Organization (VTPO) intends to enter into a contract with one or more of the most qualified firms for professional transportation planning services as described in the attached Scope of Services at compensation which the agency determines is fair, competitive, and reasonable. The purpose of this Request for Qualifications (RFQ) is to solicit letters of interest and statements of qualifications from qualified consulting firms interested in providing these services. The respondent(s) selected will be expected to have a broad range of experience in transportation planning including traffic modeling, level of service analysis, development impact review, and a clear understanding of the metropolitan planning process. A detailed list of proposed services is provided under the Scope of Services section (**Exhibit A**).

### **Background**

The Volusia TPO is the federally designated Metropolitan Planning Organization (MPO) for Volusia County and the incorporated communities of Flagler Beach and Beverly Beach in Flagler County. The VTPO's Metropolitan Planning Area is situated on Florida's central east coast and includes approximately 1,400 square miles and includes just fewer than 500,000 persons (2010 Census).

An expansion of the VTPO's Metropolitan Planning Area is currently underway as a result of the 2010 Census delineation of an enlarged urbanized area including parts of Palm Coast, Bunnell, and unincorporated areas in Flagler County.

The Volusia TPO's Governing Board consists of nineteen (19) elected officials from all of the member local governments – county and city – and also has representation from the Volusia County School Board and FDOT. Four advisory committees – the Technical Coordinating Committee (TCC), the Citizens' Advisory Committee (CAC), the Transportation Disadvantaged Local Coordinating Board (TDLCB) and the Bicycle/Pedestrian Advisory Committee (BPAC) support the Governing Board. Together, the board and committees are responsible for working together to improve the safety and efficiency of the transportation system in the area served by the VTPO. All modes and concerns are addressed including: transportation issues and services for the transportation disadvantaged, public transportation, roadways, bridges, and bicycle and pedestrian facilities.

## **SECTION 2: GENERAL INFORMATION, TERMS AND CONDITIONS**

### **Proposed Schedule \***

*Post RFQ on Volusia TPO website, e-mail RFQ to consultants, and submit*

**VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

*legal advertisement to press ..... July 9, 2013*

*Last day to submit questions/requests for clarification ..... July 23, 2013, 5:00 p.m.*

*Last day for responses to questions..... July 30, 2013, 5:00 p.m.*

*RFQ closing, due date for letters of interest and statements of qualifications ..... August 9, 2013, 5:00 p.m.*

*Selection Committee review and short listing ..... August 15, 2013*

*Notice to short listed firms ..... August 15, 2013*

*Oral presentations & ranking ..... August 29-30, 2013*

*VTPO Executive Committee reviews Selection Committee recommendation; authorizes Executive Director to enter into contract negotiations with top-ranked firm(s) ..... September 2, 2013*

*VTPO Executive Director executes contracts with selected consulting firms ..... September 25, 2013*

*\* Schedule is subject to change. Changes will be posted on the VTPO’s website.*

**RFQ Closing Date and Time**

One (1) original, four (4) hard copies, and one (1) CD containing the respondent’s letter of interest and statement of qualifications in portable document format® (pdf) must be received by the Volusia TPO no later than 5:00 p.m. local time on Friday August 9, 2013. Responses received after this date and time will not be considered.

**Delivery of RFQs**

All responses shall be sealed and delivered or mailed to (faxes and e-mails will not be accepted):

Volusia Transportation Planning Organization, 2570 W. International Speedway Blvd., Suite 100,  
Daytona Beach, Florida 32114

Mark package(s) containing responses as follows: **VTPO TRAFFIC OPERATIONS/ITS/SAFETY PROJECTS FEASIBILITY STUDIES RFQ**

**Note:** *Please ensure that if a third party carrier (Federal Express, UPS, USPS, etc.) is used, they are properly instructed to deliver the responses only to the Volusia TPO at the above address. To be considered, a response must be accepted at the VTPO office no later than the RFQ closing date and time. If the response is delivered anywhere else, it may not reach the VTPO office in time.*

**Questions Concerning RFQ/No Contact Provision**

Respondents are hereby notified not to contact any member of the Selection Committee, or any member of the Volusia Transportation Planning Organization members, their committees or staff, except as provided herein regarding this RFQ until such time as a contract has been awarded. All inquiries pertaining to this RFQ should be directed to the designated VTPO staff liaison. Failure to abide by this condition of the RFQ may be cause for disqualification of the firm from consideration.

Questions concerning any portion of this RFQ shall be directed in writing (electronic mail and facsimile transmission is acceptable) to the below named individual who shall be the official point of contact for

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

this RFQ. Questions must be received no later than 5:00 p.m. on July 23, 2013.

### **Mark envelope(s) & submit questions to:**

QUESTIONS: VTPO TRAFFIC OPERATIONS/ITS/SAFETY PROJECTS FEASIBILITY STUDIES RFQ  
Robert Keeth, Senior Planner  
Volusia Transportation Planning Organization  
2570 W. International Speedway Blvd., Suite 100,  
Daytona Beach, Florida 32114

or e-mail to: [rkeeth@volusiatpo.org](mailto:rkeeth@volusiatpo.org)

### **Clarification and Addenda to RFQ**

It is incumbent upon each respondent to carefully examine these specifications, terms and conditions. Any inquiries, suggestions or requests concerning interpretation, clarification or additional information shall be made in writing (electronic mail and facsimile transmissions acceptable) through the designated VTPO staff liaison. The VTPO shall not be responsible for any oral representation(s) given by any employee, representative or others. The issuance of a written addendum is the only official method whereby interpretation, clarification or additional information can be given.

If it becomes necessary to revise or amend any part of this RFQ, a good faith attempt will be made to notify all prospective respondents who were sent a Request for Qualifications, picked up or mailed an RFQ. However, **PRIOR TO SUBMITTING ITS RESPONSE, IT SHALL BE THE RESPONSIBILITY OF EACH PROPOSER TO CONTACT THE VOLUSIA TPO** to determine if addenda were issued and, if so, to obtain such addenda. Failure to acknowledge receipt of amendments by the respondent in its response may be cause for disqualifying a respondent from consideration. It is incumbent upon each respondent to ensure that they have received all addendum and amendments to this RFQ before submitting its response. All addendums will be posted on the VTPO's website at <http://www.volusiatpo.org/>.

### **Presentations by Respondents**

The VTPO, at its discretion, may ask any respondent to make an oral presentation and/or demonstration without charge. The VTPO reserves the right to require any respondent to demonstrate to its satisfaction that the respondent has the fiscal and technical ability to perform the requested services. The demonstration must satisfy the VTPO and they shall be the sole judges of compliance.

### **Selection Committee Review and Short-listing**

The Selection Committee will review all responses submitted according to the requirements of this Request for Qualifications package and meet on August 15, 2013 to develop a short-list of respondents for further consideration. Short-listed firms will be notified on August 15, 2013.

Short-listed firms will be given up to twenty (20) minutes to present an overview of their qualifications and up to twenty (20) minutes to answer questions from the Selection Committee. The Project Manager and other key staff and sub-consultants must be present at the oral presentations. Oral presentations will occur on Thursday and Friday, August 29-30, 2013.

## VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant

### Americans with Disabilities Act

In accordance with the Americans with Disabilities Act and Section 286.26, F.S., persons with disabilities needing special accommodations to participate should contact the VTPO staff office no later than 48 hours prior to any meeting at (386) 226-0422 for assistance.

### Disclosure of Response Content

All responses shall be held confidential to the extent permitted by law from parties other than the VTPO until the recommendation for award is made.

The VTPO is governed by the Public Records Law, Chapter 119, F.S.

### Award of Contract

Qualified respondents will be ranked by the Volusia TPO's Selection Committee on the basis of the criteria provided herein, unless the Volusia TPO determines to abandon the project prior to ranking. The Volusia TPO will attempt to enter into negotiations with the highest-ranked respondent(s), and if negotiations are successful, the Volusia TPO will attempt to enter into a contract with that (those) respondent(s).

Due to the unknown volume of work and diverse nature of activities expected to be performed under this (these) contract(s), the Volusia TPO reserves the right to award the contract to one or more respondents that they deem to offer the best overall qualifications. No firm dollar amount for services to be performed under this (these) contract(s) can be established in advance as the extent of work required cannot be estimated at this time. **There is no guarantee of work tasks or a firm dollar amount for services to be performed under each contract.** The VTPO has the sole discretion, and reserves the right to cancel this RFQ, and to reject any and all respondents, to waive any and all informalities and or irregularities, or to re-advertise with either the identical or revised specifications, if it is deemed to be in its best interests to do so.

### Professional Services Agreement Contract

The responder(s) selected in response to this RFQ shall be expected to enter into a legally binding professional services agreement to perform the services described under the Scope of Services section (**Exhibit A**).

If the Consultant(s) fails to properly perform the conditions of the agreement, in the sole opinion of the VTPO, the VTPO will communicate to the Consultant(s) in writing the problem(s) that exist. The Consultant(s) will have up to ten (10) calendar days to rectify the problem(s). If the same or other problems persist or recur the VTPO may immediately cancel the agreement by advising the Consultant(s) in writing.

The VTPO reserves the right to cancel the agreement without cause with a minimum of thirty (30) days written notice.

### Contract Discussions with Respondents

It is the VTPO's intent to commence final contract negotiations with the respondent(s) deemed most

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

advantageous to the VTPO in accordance with the evaluation criteria specified elsewhere in this RFQ. The VTPO reserves the right, however, to conduct contract discussions with any respondent possessing a realistic possibility of contract award including request for additional information and request for "best and final" offers.

### **Length of Contract**

The contract will be for a period of two (2) years, with the option to extend for up to two (2) additional years in one year increments.

### **Respondent's Responsibility**

A respondent, by submitting a letter of interest and statement of qualifications represents that:

1. The respondent has read and understands the Request for Qualifications (RFQ) and the response is made in accordance therewith and;
2. The respondent is familiar with the local conditions under which services described in the Scope of Work must be performed. The respondent possesses the capabilities, resources and personnel necessary to provide efficient and successful service to the VTPO and;
3. It is understood and the respondent agrees to be solely responsible for all services provided. Notwithstanding the details presented in the RFQ, it is the responsibility of the respondent to verify the completeness of the requirements and its suitability to meet the intent of this RFQ.

## **SECTION 3: CONSULTANT QUALIFICATIONS**

In order to be considered for this work, the Consultant(s) must meet the following conditions at a minimum:

1. The Consultant(s) must have relevant transportation planning experience.
2. The Consultant(s) must have the hardware, software and trained technicians necessary to perform the elements described in the scope of services in an accurate and timely manner. The Consultant(s) must have the hardware and software necessary to produce geographic information system (GIS) mapping in printed and digital format. Any digital data, maps, text and plans shall be functional with the existing hardware and software systems used by the Volusia TPO (ESRI ArcGIS version 10.1, Microsoft Office, Adobe Creative Suite, and others).
3. The Consultant(s) must be qualified by FDOT to perform all work assigned to them.

### **CONSULTANT ELIGIBILITY:**

It is a basic tenet of the VTPO's contracting program that contracts are procured in a fair, open, and competitive manner. The VTPO requires that consultants representing the VTPO be free of conflicting professional or personal interests.

Nondiscrimination: The Consultant, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment.

## VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant

**FEDERAL REQUIREMENTS** – All Expanded Letters of Response must meet the terms of Federal Aid Contracts

- **Certification for Disclosure of Lobbying Activities** on Federal-Aid Projects;
- **DBE Participation Statement**;
- **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion** for Federal Aid Contracts; and
- **E-VERIFY:** Federal Law requires, as a condition of this contract:  
The Consultant shall utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of;
  1. all persons employed by the Consultant during the term of the contract to perform employment duties within Florida; and
  2. all persons including sub-consultants/sub-contractors assigned by the Consultant to perform work pursuant to the contract with the department

### SECTION 4: RESPONSE FORMAT

Each firm, to be considered, shall submit a written response describing how the firm is qualified to fulfill the requirements of the Scope of Services. The response should include sufficient information to enable the Selection Committee to fully evaluate the capabilities of the firm to provide the specified services. The written response shall utilize the following format and address in detail the items included in the Scope of Services (Exhibit A). The relative weight of each component is indicated below.

The original response must be signed by an official authorized to legally bind the respondent to its provisions and shall contain a statement that the information contained in the Letter of Interest and Statement of Qualifications is true and correct to the best of his/her knowledge and belief.

Responses should be formatted as 8-1/2" by 11" pages (electronic and hard copy); maps and other graphic information may be included as 11" by 17" formatted pages. Responses should not exceed eight (8) pages in length exclusive of resumes and required forms. Resumes of key personnel should be provided and should not exceed two (2) pages in length each. All included pages should be formatted with a minimum type size of 11 points and minimum margins of 0.5 inch.

Terms and conditions differing from those in this RFQ may be cause for disqualification of the responding firm.

#### A. GENERAL INFORMATION

Respondents must provide the following information:

1. The firm's name, address, phone number and e-mail address and indication as to whether the prime firm and/or sub-consultants are disadvantaged business enterprises (DBE) and/or minority business enterprises (MBE).
2. Names and qualifications of the project manager and key staff members/consultants/subcontractors who would be involved in the project.
3. Provide three (3) previous work products in this field.
4. Provide four (4) professional references.
5. Primary contact person(s), phone number, and e-mail address



## VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant

If sub-consultants will be utilized, the above information is required for each firm.

### B. STAFFING & PROGRAM MANAGEMENT

**Responsible Office:** Firms being considered for this project may have more than one office location. The Consultant must identify the location(s) at which project activities will be performed. The Consultant should identify the resources of the office where the team will be located and how the resources of the primary office (or other office) will be used. Location of the consultant staff and how the location of the firm will affect the cost-effectiveness of the services to be provided should also be discussed.

**Staffing Plan:** Respondents should discuss and submit a staffing plan, with applicable resumes, which clearly illustrates the organizational structure proposed to accomplish the management, technical and administrative services required to fulfill the scope of services. Project management and key technical personnel shall be identified along with the elements of the scope of services that each will participate in. Personnel must have professional written and oral communication skills. Experience with public involvement activities and ability to create innovative outreach programs preferred. If sub-consultant(s) will be utilized to make up for a deficiency in staffing, the sub-consultant(s) and the key staff should be included in the staffing plan.

**Technical Resources:** The Consultant must have the hardware, software and trained technicians necessary to perform the planning and analysis services in an accurate and timely manner. The respondent should discuss the firm's technological capabilities in areas such as computer imaging, GIS mapping, web based data applications, data visualizations, data driven applications, traffic modeling, or other applicable areas necessary to complete the project elements in the scope of services.

**Program Management and Quality Control:** The respondent should discuss management of the overall contract. Quality control techniques should be clearly defined and procedures for assuring quality work products should be discussed.

### C. PREVIOUS PROJECT EXPERIENCE

The respondent should list and describe up to three (3) examples of projects completed within the last 3 years for which the respondent has provided the same or similar services to those being requested in the scope of services. Each example must include the name and address of the client for whom the work was completed and the name and telephone number of a contact person at the client's organization. Each example should also include a description of the client's objectives addressed by the project. Examples of graphics, mapping or other work products should be included.

### D. CERTIFICATIONS/STATEMENTS

The following certifications/statements **must** be included:

1. DBE Participation Statement
2. Truth-In-Negotiations Certificate.
3. Non-Collusion Proposal Certification
4. Certification of Eligibility
5. Certification Regarding Lobbying
6. Debarment and Suspension Certification

7. E-Verify

**SECTION 4: EVALUATION CRITERIA**

Consultant ranking and selection shall be based on the following criteria:

1. Qualifications and relevant experience of the personnel assigned to the project (25%);
2. Capacity of the firm and availability of key personnel to perform assigned tasks on short notice and in a timely manner (25%);
3. Technical capabilities of the firm (availability of tools and personnel required for data collection, analysis, documentation, etc.) (25%); and
4. Past performance of the firm (25%).

## **EXHIBIT A**

### **SCOPE OF SERVICES**

#### **TRAFFIC OPERATIONS/ITS/SAFETY PROJECT FEASIBILITY STUDIES**

This exhibit forms an integral part of the AGREEMENT which provides for services by the CONSULTANT to prepare planning-level Traffic Operations/ITS/Safety Project Feasibility Studies for projects within the Volusia Transportation Planning Organization's (VTPO) Metropolitan Planning Area.

#### **PURPOSE**

The VTPO requires the professional services of one or more traffic planning/engineering firms to support its planning staff in developing Feasibility Studies for Traffic Operations/ITS/Safety projects. To be considered, a firm must possess technical proficiency in all aspects of traffic planning/engineering and in developing accurate design, construction, right-of-way (confidence level "C") planning cost estimates and design schedules for the VTPO's XU-funded Traffic Operations/ITS/Safety Program. The work performed under this Scope of Services MUST meet the standards currently used by the Florida Department of Transportation, District Five Office for the programming of traffic operations, ITS, and safety projects using federal Surface Transportation Program funds.

#### **TASK DESCRIPTIONS**

The CONSULTANT will assist the VTPO staff in performing certain traffic operations/ITS/safety planning activities as may be assigned to the CONSULTANT by the VTPO. All assignments MUST be completed in accordance with VTPO policies, procedures, guidelines and rules. Federal and state guidelines and manuals may be required as supplemental documents. All work MUST be accomplished according to professionally acceptable planning and engineering standards and practices. The CONSULTANT will be managed by a VTPO Project Manager who will provide specific direction on the work to be performed by the CONSULTANT for each major task as defined below through the issuance of a written Notice to Proceed. The Notice to Proceed will include a Task Assignment prescribing specific task requirements, schedules, documentation and total allowable task costs. Such Task Assignments will be developed in cooperation with the CONSULTANT and issued to the CONSULTANT prior to any work on the initial task being initiated.

As minimum, Task Assignments shall include the following:

##### **Task 1 – Draft Task Assignment**

The VTPO will submit a Project Application to the CONSULTANT. The CONSULTANT shall prepare a draft Task Assignment including a scope, schedule and fee proposal. The scope shall define the work required to: 1) confirm the need for the proposed project; 2) evaluate the effectiveness of the proposed project in addressing the need; 3) identify and evaluate alternative projects that might reasonably be expected to address the need; 4) recommend a preferred alternative; and 5) provide an opinion of probable cost including, as may be applicable, estimated costs for design, permitting, environmental mitigation, utility relocation, right-of-way, and construction.

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

The fee proposal prepared by the CONSULTANT will be a binding fee that the VTPO will pay the CONSULTANT to conduct the specific Task Assignment. The Fee Proposal should take into account the CONSULTANT's time and effort to complete the following items:

- preparation of the draft Task Assignment;
- project coordination meetings with local government project sponsor and VTPO staff, permitting agencies, and other stakeholders, as may be appropriate;
- data collection and analyses (i.e., aerial photos, plans, maps, traffic counts, crash data, etc. as necessary);
- site visit (conduct project site visit with local government sponsor and VTPO staff – i.e., walk through the project site);
- development of a feasible concept plan based on the coordination meetings, data analyses, and site visit;
- development of a final planning cost estimate for the proposed project addressing design, permitting, environmental mitigation, utility relocation, right-of-way (confidence level "C"), and construction using FDOT District V standards and procedures;
- presentations (if needed) to VTPO committees and stakeholders; and
- preparation of draft and final Feasibility Study documents;

The Fee Proposal MUST be broken down by the above eight work categories, as well as by individual work hours and salary costs.

### **Task 1 - Deliverables (Fee Proposal)**

At a minimum, three (3) copies of the Fee Proposal will need to be produced for each project reviewed. VTPO staff will compare the submitted Fee Proposal to previous Fee Proposals to ensure the reasonableness of the costs.

### **Task 2 - Feasibility Study**

Once the Fee Proposal has been finalized, VTPO staff will seek commitment for a local match, if required, and then issue a Work Order (through a Notice to Proceed) to authorize the CONSULTANT to begin work on the Feasibility Study as outlined in the Task Assignment and Fee Proposal.

The CONSULTANTS will need to review each Traffic Operations/ITS/safety Project proposal to assess the engineering and planning characteristics. This will include, but not be limited to, site visits and consultation with the sponsoring agency, stakeholders and permitting agencies to determine and document the nature and severity of the problem and one or more alternative projects that could be reasonably expected to address the problem (including any alternatives proposed by the sponsoring agency). For each alternative project, the CONSULTANT shall evaluate the general cost, effectiveness and feasibility. As appropriate, the CONSULTANT shall determine whether: 1) additional right-of-way will be required; 2) obstacles exist that may impede the

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

project's constructability; 3) mitigation of environmental impacts will be required; and 4) permits will be required.

The CONSULTANT shall prepare a Feasibility Study document including a feasible concept plan based on appropriate data and analyses and a written project cost estimate identifying related planning, design, right-of-way, permitting, mitigation, and construction costs. Potential costs excluded from the estimates must be clearly identified (e.g., right-of-way acquisition, relocation of utilities, etc.) The cost estimates used in the document preparation MUST be coordinated and approved with FDOT District V Long Range Estimate (LRE) figures associated with design and construction costs.

The CONSULTANT shall be required to provide an annual inflationary factor (multiplier) that can be used by the VTPO to estimate future costs for design, right-of-way, and construction, in case implementation of the project cannot proceed once the study has been finalized. The annual inflationary factor must be provided in a table for three consecutive years after the completion of the final project cost estimate. For example, if a final project cost estimate is completed in March of 2014, a table showing the inflationary factors for March 2015, March 2016, and March 2017 must be provided.

The CONSULTANT shall provide monthly progress reports for each Task Assignment. These progress reports shall document progress, problems encountered or may be anticipated and their proposed solutions, adherence to schedules, percentage of work completed, and planned activities. Invoices will be based upon the CONSULTANT's reporting of hours worked on each task.

### **Task 2 - Deliverables (Feasibility Study documents)**

Five (5) printed copies and one (1) electronic copy of the Draft Feasibility Study document shall be submitted. The document shall include a project description, supporting data and analyses, maps, list of staff contacts involved in the review, site visit photos of opportunities and constraints, and a cost estimate table using the latest information from the FDOT District V LRE Office. All five (5) copies shall be provided to the VTPO who will then distribute a copy to the sponsoring agency of the project and the FDOT District V Special Projects Office. The VTPO will review the Draft Feasibility Study document and will provide written comments and revisions (if any) to the CONSULTANT. The CONSULTANT shall implement the revisions (if any) and produce a Final Feasibility Study document. At a minimum, five (5) printed copies and one (1) electronic copy of the Final Feasibility Study document will need to be produced for each project reviewed. All five (5) copies shall be provided to the VTPO who will then distribute a copy to the sponsoring agency of the project and to the FDOT District V Special Projects Office.

## EXHIBIT B

### PROFESSIONAL SERVICES AGREEMENT

This is an agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the Volusia Transportation Planning Organization, an agency of the State of Florida organized and operating pursuant to Section 339.175, Florida Statutes, hereinafter referred to as the VTPO, and \_\_\_\_\_, hereinafter referred to as CONSULTANT.

For and in consideration of the mutual agreement hereinafter contained, the VTPO hereby retains the CONSULTANT and the CONSULTANT hereby covenants to provide professional services as prescribed herein and describes in as EXHIBIT A – SCOPE OF SERVICES for TRAFFIC OPERATIONS/ITS/SAFETY PROJECT FEASIBILITY STUDIES.

#### **SECTION I - GENERAL IDENTIFICATION OF SERVICES**

All professional services provided by the CONSULTANT for the VTPO shall be identified in Work Orders and performed to current professional standards of the applicable discipline. Work Orders shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation and a projected schedule for completion of the work to be performed by the CONSULTANT. A Work Order shall not give rise to any contractual rights until approved by the VTPO in the form of a written Notice to Proceed signed by the Chairman of the VTPO or other authorized representative of the VTPO. The written Notice to Proceed and specific Work Order, as approved by the VTPO, shall constitute an addendum to this agreement.

#### **SECTION II - VTPO OBLIGATIONS**

The VTPO shall make available to the CONSULTANT, upon request, any data available in the VTPO's files pertaining to the work to be performed under this Agreement.

#### **SECTION III - PROFESSIONAL SERVICES**

Upon receipt of the Notice to Proceed, CONSULTANT agrees to perform professional services associated with the requested work in accordance with the negotiated terms of the applicable Work Order, and in accordance with current accepted professional standards and practices currently used or in effect in East Central Florida and acceptable to the Florida Department of Transportation. The CONSULTANT warrants the adequacy and constructability of any plans or specifications provided under this Agreement and Work Orders, and agrees to immediately correct any errors and omissions which may be required within thirty (30) calendar days of notice by the VTPO, or upon a determination of the CONSULTANT of the existence of such errors or omissions, whichever event shall first occur, because the plans/specifications were found defective at no cost to the VTPO. This remedy shall be cumulative to all other remedies available under law.

In connection with professional services to be rendered pursuant to this Agreement, the CONSULTANT further agrees to:

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

- A. Maintain an adequate staff of qualified personnel.
- B. Ensure that plans meet all current federal, state, VTPO, and local laws, rules, ordinances, and other governmental requirements, applicable to the work.
- C. Cooperate fully with the VTPO in the scheduling and coordination of all phases of the work.
- D. Cooperate and coordinate with other VTPO consultants, as directed by the VTPO.
- E. Report the status of the work to the VTPO upon request and hold pertinent data, calculations, field notes, records, sketches and other projects open to the inspection of the VTPO or its authorized agent at any time.
- F. Submit for VTPO review design computations, sketches and other data representative of the work's progress at the percentage stages of completion which may be specified in the applicable Work Order. Submit for VTPO approval the final work product upon incorporation of any modifications requested by the VTPO during any previous review. Any VTPO approval of the CONSULTANT'S plans, design or specifications shall not be deemed to diminish the CONSULTANT'S warranty or obligations set forth.
- G. Confer with the VTPO during the further development and implementation of improvements for which the CONSULTANT has provided design or other services.
- H. Interpret plans and other documents; correct errors and omissions and prepare any necessary plan revisions not involving a change in the scope of the work required, at no additional cost within thirty (30) calendar days of notice by the VTPO, or upon a determination of the CONSULTANT of the existence of such errors or omissions, whichever event shall first occur.

### **SECTION IV - TIME OF COMPLETION**

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Notice to Proceed from the VTPO subsequent to the execution of the Agreement and shall be completed within the time stated in the Work Order.

As additional consideration for this Agreement, the CONSULTANT agrees that a reasonable extension of time shall be granted by and at the discretion of the VTPO in the event there is a delay on the part of the VTPO in fulfilling its part of the Agreement or should weather conditions, acts of God or hidden conditions delay performance of the CONSULTANT's duties, and such. Extensions of time shall be the sole remedy of the CONSULTANT for such delays, and the CONSULTANT will not be entitled to any damages or any claim for extra compensation.

### **SECTION V - COMPENSATION**

The VTPO agrees to pay and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below, as specified in an approved Work Order:

- A. Hourly Rate - the CONSULTANT shall be compensated at the attached Hourly Rate Schedule

## VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant

(Attachment "A") for each hour engaged directly in the work.

- B. Lump Sum Fee - The fee for any requested portion of work may, at the option of the VTPO, be a lump sum mutually agreed upon by the VTPO and the CONSULTANT and stated in the written Work Order.
- C. Reimbursable Expenses - The CONSULTANT shall be compensated for certain work-related expenditures not covered by fees for planning services, provided such expenditures are previously authorized by the VTPO in an approved Work Order. Upon receipt of satisfactory backup materials, the CONSULTANT will be compensated for such reimbursable expenses. Such expenses shall include, unless stated otherwise in the work order:
1. Expenses for document reproduction or other incidental expenses on a direct cost basis.
  2. Expenses for travel, transportation and subsistence outside the VTPO limits, on a direct cost basis subject to limits as allowed by law. Justified and reasonable travel expenses which are directly and exclusively related to this Agreement will be reimbursed in accordance with Section 112.061, Florida Statutes, provided that VTPO approval is obtained prior to incurring the expense. For the purpose of computing travel expenses, the CONSULTANT's place of business shall be utilized for computation of all travel expenses. Mileage shall only be charged, if at all, for trips in excess of 10 miles one way, mileage to be computed based on a reasonably direct route taken to the destination by the mode of transportation employed.
  3. Routine expenses such as local phone calls, routine postage of under \$1, local (Orlando area) travel expenses, word processing, and clerical or secretarial services are overhead and will not be separately compensated. Postage charges will be billed, if at all, at the amount charged by the U.S. Post Office. Postage will be charged only if the cost is \$1 or over for mailing. If a courier is utilized, courier charges will be billed at the amount charged by the Contractor's courier. Photographic copies will be billed at the standard rate charged to other clients of the CONSULTANT but in no event shall this rate exceed 15 cents per page for black and white copies or \$1.00 per page for color. Charges for facsimile transmissions or use of computers or CAD systems will not be made. Long distance calls will be billed at the rate charged from the CONSULTANT's long distance carrier.
  4. When reimbursement is sought, a copy of the invoice shall be submitted to the VTPO. The invoice must specify the charge made, who or what company made the charge, the date of the charge, what the charge was for, and that it is related to this Agreement, specifying the particular task under this Agreement.
- D. At least thirty (30) days prior to each anniversary date of this Agreement either party may request an adjustment to the rates (Attachment A) provided for herein to apply on the anniversary date of this Agreement. Failure of the parties to agree on a new rate shall constitute a basis for issuing a Notice of Termination by the VTPO. Any proposed change in rates by the CONSULTANT shall be subject to the prior approval of the VTPO. In the event the CONSULTANT requests a change in rate, either party may terminate this Agreement in accordance with Section XVIII should the proposed rates or fees not be mutually acceptable.
- E. At least thirty (30) days prior to each anniversary date of this Agreement either party may request



## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

an update or change to the personnel and staffing provided in Attachment A. These changes will apply on the Anniversary date of this Agreement. Any proposed change in personnel and staffing by the CONSULTANT shall be subject to the prior approval of the VTPO. In the event of unanticipated staffing changes by the CONSULTANT prior to the anniversary date of this Agreement, the CONSULTANT shall provide a written request to the VTPO Chairman or his designee requesting a staffing and/or associated rate change. These changes will apply upon approval of the VTPO Chairman or his designee. In the event the CONSULTANT's requested changes are not mutually acceptable to either party, this Agreement may be terminated by either party in accordance with Section XVIII.

### **SECTION VI - PAYMENT AND PARTIAL PAYMENTS**

Subject to the VTPO's right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the VTPO shall make payments or partial payments to the CONSULTANT for all authorized work performed in accordance with the Florida Prompt Payment Act, Florida Statutes section 218.70, et seq. A payment schedule shall be determined in each work order.

- A. The CONSULTANT shall submit signed invoices to the VTPO.
- B. The amount of each invoice submitted shall be the amount due for all services performed to date in connection with authorized work, as certified by the CONSULTANT. Each invoice shall include any authorized work and must reference the particular Work Order which authorized the services performed. The invoice shall be accompanied by copies of invoices for reimbursable expenses.
- C. Invoices for work other than lump sum shall include a breakdown for each part of the work billed for each item and personnel as identified in Attachment "A". The VTPO shall be billed on a per hour basis, and in the bill, each individual action taken or task performed by the CONSULTANT that is billed shall be accounted for in tenths of an hour with an explanation of the individual work task performed, including but not limited to individual telephone calls, preparation or editing/revision of letters, research, preparation or editing/revision of reports, preparation of drawings, etc. Premium rates will *not* be paid for overtime work. Each billing shall include the date that the service was performed, a brief description of the service provided, who performed it, the billing rate of the person performing the service, the amount of time taken to perform the service in tenths of an hour, and the dollar amount charged for reimbursement. For example:

Copies of all invoices paid by the CONSULTANT for expenses shall be included with the CONSULTANT's invoice.

- D. Sales Tax. The VTPO is exempted from payment of Florida state sales and use taxes and Federal Excise tax. The CONSULTANT, however, shall not be exempted from paying Florida state sales and use taxes to the appropriate governmental agencies or for payment by the CONSULTANT to suppliers for taxes on materials used to fulfill its contractual obligations with the VTPO. The CONSULTANT shall not use the VTPO's exemption number in securing such materials. The CONSULTANT shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement. Said sales and use or excise taxes may be submitted for reimbursement to the VTPO. The CONSULTANT shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- E. The CONSULTANT shall not pledge the VTPO's credit or make the VTPO a guarantor of payment or

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

### **SECTION VII - SCHEDULE OF WORK**

The VTPO shall have the sole right to determine on which units or sections of the work the CONSULTANT shall proceed and in what order. Should a Work Order revision effect a change in scope, cost or schedule, the CONSULTANT shall submit such revisions for review and, if warranted, approval by the VTPO in writing prior to commencing the revision. CONSULTANT waives any right to make a claim based upon a revision if such notice was not provided.

### **SECTION VIII - RIGHT OF APPEAL**

All services shall be performed by the CONSULTANT to current reasonable professional standards and practices and to the reasonable requirements of the VTPO. The VTPO staff shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of the VTPO, within ten (10) days after determination by the VTPO staff, the CONSULTANT shall present any such objections in writing to the VTPO Chairman and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the VTPO Board, the VTPO Technical Advisory Committee and the VTPO Citizens Advisory Committee for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the CONSULTANT goes through the appeal process established in this Agreement and provided further that the CONSULTANT strictly abides by the ten-day time deadline set forth in this paragraph.

### **SECTION IX – PUBLIC RECORDS**

- A. It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONSULTANT related, directly or indirectly, to this Agreement, or any Work Order, hereunder, shall be deemed to be a Public Record whether in the possession or control of the VTPO or the CONSULTANT or a Sub-consultant. Said Public Record is subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the VTPO's contract administrator. Because certain of the PUBLIC RECORDS may be exempt from disclosure or confidential under Florida or Federal law, the Public Records may not be released for viewing or copying by the CONSULTANT, or the CONSULTANT's employees or agents or sub-consultants, if any, without the prior approval of the VTPO contract administrator. However, when a request is made by the public for a public record, the CONSULTANT shall immediately contact the VTPO contract administrator for direction on how to handle release of the Public Record for either viewing or copying.

Upon request by a citizen requesting records, the CONSULTANT shall immediately supply copies of said non-exempt or non-confidential Public Records to the citizen requesting records or other individual authorized by the VTPO. Upon request by the VTPO, the CONSULTANT shall immediately supply copies of any and all Public Records to the VTPO. All books, cards, registers, receipts, documents and other papers in connection with this Agreement and approved Work Orders shall at any and all reasonable times during the normal working hours of the CONSULTANT be open and freely exhibited to the VTPO for the purpose of examination and/or audit.

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

Upon request by the VTPO, the CONSULTANT shall supply copies of said Public Records to the VTPO or other individual authorized by the VTPO. All books, cards, registers, receipts, documents and other papers in connection with this Agreement and approved Work Orders shall at any and all reasonable times during the normal working hours of the CONSULTANT be open and freely exhibited to the VTPO for the purpose of examination and/or audit.

- B. The CONSULTANT shall maintain all Public Records, including records of accounts between the VTPO and the CONSULTANT of the CONSULTANT'S expenses or any items upon which a request for reimbursement shall be based pursuant to this Agreement in accordance with generally accepted accounting practices and available for inspection by the VTPO or its authorized representative at all reasonable times.

### **SECTION X - OWNERSHIP OF DOCUMENTS**

The VTPO and the CONSULTANT agree that upon payment of compensation due to the CONSULTANT under this Agreement and all approved Work Orders by the VTPO for a particular plan, design, drawing, specification, document, model, recommendation, schedule or otherwise, said plan, design, drawing, specification, technical data, recommendation, model, schedule or other instrument produced by, or pursuant to sub-consulting agreement with, the CONSULTANT in the performance of the Agreement, shall be the sole property of the VTPO and the VTPO is vested with all rights therein. The CONSULTANT waives all rights of copyright in said plan, design, drawing, document, specification, technical data, recommendation, model schedule and other instrument produced by the CONSULTANT, or pursuant to sub-consulting agreement with, the CONSULTANT in the performance of this Agreement, and hereby assigns and conveys the same to the VTPO whether in the possession or control of the CONSULTANT or not.

### **SECTION XI - REUSE OF DOCUMENTS**

The CONSULTANT may not reuse data or work products developed by the CONSULTANT for the VTPO without express written permission from the VTPO; provided, that the VTPO shall not be liable for any injuries, damages, or losses for reuse of data or work products. Any plans which the Consultant provides under this Agreement or Work Orders shall contain a statement that they are subject to reuse in accordance with the provisions of Florida Statute Section 287.055. The VTPO may reuse data or work products developed by the CONSULTANT for the VTPO without express written permission from the CONSULTANT; provided, that the CONSULTANT shall not be liable for any injuries, damages, or losses for reuse of data or work products without the express permission of the CONSULTANT. Any plans which the CONSULTANT provides under this Agreement or Work Orders shall contain a statement that they are subject to reuse in accordance with the provisions of Florida Statute Section 287.055.

### **SECTION XII - NOTICES**

Any notices, reports or other written communications from the CONSULTANT to the VTPO shall be considered delivered when posted by the United States Postal Service (USPS) or delivered in person to:

Volusia TPO Executive Director, 2570 W. International Speedway Blvd, Suite 100, Daytona Beach, FL 32114

The foregoing name or address may be unilaterally changed by the VTPO by giving notice as provided herein to the CONSULTANT.

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

Any notices, reports or other communications from the VTPO to the CONSULTANT shall be considered delivered when posted by the USPS to the CONSULTANT at the last address left on file with the VTPO or delivered in person to said CONSULTANT or the CONSULTANT's authorized representative. The CONSULTANT's name or address may be unilaterally changed by the CONSULTANT by giving notice as provided herein to the VTPO.

### **SECTION XIII - AUDIT RIGHTS**

The VTPO reserves the right to audit the records of the CONSULTANT related to this Agreement and approved Work Orders at any time during the prosecution of the work included herein and for a period of five years after final payment is made. The CONSULTANT agrees to provide copies of any records necessary to substantiate payment requests to the VTPO as may be requested by the VTPO solely at the cost of reproduction.

### **SECTION XIV - SUBCONTRACTING**

The CONSULTANT shall not subcontract, assign, or transfer any work under this Agreement or approved Work Orders without the written approval of the VTPO. When applicable, the CONSULTANT shall cause the names of any subcontracted firms responsible for major portions (or separate specialty) of the work to be inserted in the pertinent documents or data.

### **SECTION XV - UNAUTHORIZED ALIEN WORKERS**

Volusia TPO will not intentionally award publicly funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a (Section 274a of the Immigration and Nationality Act "INA".) of the Immigration Nationality Act ("INA"). The VTPO shall consider a violation of the INA as grounds for unilateral cancellation of this Agreement by the VTPO.

### **SECTION XVI - ATTORNEY'S FEES**

In the event any action is taken to enforce the terms of this Agreement or any Work Orders under this Agreement, each party shall bear its own attorney's fees and costs and any trial shall be non-jury. The CONSULTANT hereby waives any right to a jury trial on any matter litigated and arising from this Agreement, data or information furnished by the VTPO as a part of work production by the CONSULTANT, or work provided pursuant to this Agreement.

### **SECTION XVII - CONTINGENT FEES**

The CONSULTANT warrants that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employee, any fee commission, contribution, donation, percentage, gift, or any other consideration, contingent upon, or resulting from award of this Agreement. For any breach or violation of this provision, the VTPO shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the contract price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

### **SECTION XVIII- TERMINATION/MODIFICATION OF AGREEMENT**

- A. The VTPO may terminate this Agreement for any reason upon thirty (30) days written notice. The CONSULTANT may terminate this Agreement for any reason upon thirty (30) days written notice, and the VTPO shall pay the CONSULTANT for work completed to the date of termination; provided, that a billing consistent with Section VI of this Agreement is first provided by the CONSULTANT. The VTPO reserves the right and is hereby granted the right to direct the CONSULTANT to complete any outstanding approved Work Order.
- B. In the event of termination by the VTPO, the VTPO's sole obligation to the CONSULTANT shall be payment for those portions of satisfactorily completed performed work previously authorized by approved Work Order. Such payment shall be determined on the basis of the hours of work performed by the CONSULTANT, or the percentage of work complete as estimated by the CONSULTANT and agreed upon by the VTPO up to the time of termination after submission of a billing consistent with Section VI of this Agreement is first provided by the CONSULTANT. In the event of such termination, the VTPO may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.
- C. The terms of this Agreement may be modified upon the mutual agreement of the CONSULTANT and the VTPO as confirmed in writing.
- D. In the event that the CONSULTANT changes its name, merges with another company, becomes a subsidiary or makes other substantial change in structure or in the following principles or project managers, the VTPO reserves the right to terminate this Agreement subject to the terms prescribed above.
- E. In the event of termination of this Agreement, the CONSULTANT agrees to surrender any and all documents prepared by the CONSULTANT for the VTPO in connection with this Agreement, of which the VTPO will shall have full ownership thereof. The CONSULTANT shall retain copies of such documents for record purposes.

### **SECTION XIX- DURATION OF AGREEMENT**

This Agreement shall remain in full force and effect for a period of two (2) years after its date of execution, although actual completion of the services hereunder may extend beyond such term, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. In addition, subject to the VTPO's sole discretion, this Agreement may be extended by the VTPO Executive Director or designee in one (1) year increments for up to two (2) years beyond the initial two (2) year period of the Agreement, if specifically delegated this authority by the VTPO.

### **SECTION XX - DEFAULT**

In the event the CONSULTANT fails to comply with the provisions of this Agreement, the VTPO may declare the CONSULTANT in default by written notification. In the event partial payment has been made for professional services not completed or defectively performed, the CONSULTANT shall return any sums due to the VTPO as a result of the CONSULTANT's default within ten (10) days after notice and demand that said sums are due. The CONSULTANT shall not be compensated on a percentage of any deficient professional services which have been performed at the time the VTPO declares a default. The VTPO shall pay for that portion, if any, of the performed work which is used or useful by any other

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

Consultant retained by the VTPO to finish the work to the extent that the VTPO does not incur additional costs over those set forth in the CONSULTANT's canceled Work Order.

### **SECTION XXI – INSURANCE**

The amount of liability insurance to be maintained by the **CONSULTANT** is \$1,000,000.

### **SECTION XXII - QUALITY CONTROL**

The CONSULTANT warrants a high level of quality control and accuracy. The VTPO may request additional data collection or re-analysis of data at no expense to the VTPO. If the original data collection or data analysis is found to be accurate and reasonable, the CONSULTANT shall be compensated for the additional work in accordance with Section IV of this Agreement.

The CONSULTANT acknowledges that the VTPO will periodically evaluate the CONSULTANT'S performance and that the evaluation will be used by the VTPO in determining the CONSULTANT'S qualifications for future contracts with the VTPO.

### **SECTION XXIII - NON EXCLUSIVE AGREEMENT**

The parties acknowledge that this agreement is not an exclusive agreement and the VTPO may employ other engineers, planners, professional or technical personnel to furnish services for the VTPO, as the VTPO, in its sole discretion, finds is in the public interest.

The VTPO reserves the right to assign such work to the CONSULTANT as it may approve in the sole discretion of the VTPO.

### **SECTION XXIV - TRUTH-IN-NEGOTIATIONS**

In accordance with the provisions of Section 287.055, Florida Statutes, the CONSULTANT agrees to execute a truth-in-negotiations certificate and agrees the original contract price and any additions may be adjusted to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.

### **SECTION XXV - INTEREST OF CONSULTANT**

The CONSULTANT covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The CONSULTANT further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

### **SECTION XXVI– USE OF FEDERAL FUNDS**

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 any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making on 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.

## **VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.

This certification is a material representation of fact upon which reliance is 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 section 1352, title 31,

U.S. Code. 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.

### **SECTION XXVII- NONDISCRIMINATION**

- (a) *Compliance with Regulation.* The VTPO and the CONSULTANT shall comply with the regulations of U.S. Department of Transportation relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation, which are herein incorporated by reference and made a part of this Agreement.
- (b) *Nondiscrimination.* The VTPO and the CONSULTANT, with regard to the work performed by it after award and prior to completion of the contract work will not discriminate on the grounds of race, color, religion, sex or national origin in the selection and retention of contractor and subcontractors, including procurements of material and leases of equipment. The VTPO and the CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Federal regulations.
- (c) The VTPO will take such action with respect to any subcontract or procurement as the Federal Highway Administration (FHWA) may direct as a means of enforcing such provision, including sanctions for noncompliance; provided, however, that, in the event the VTPO becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the VTPO may request the State to enter into such litigation to protect the interests of the State, and, in addition, may request the United States to enter into such litigation to protect the interests of the United States.

### **SECTION XXVIII – DISADVANTAGED BUSINESS ENTERPRISE (DBE):**

The CONSULTANT and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of this Agreement. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts.

### **SECTION XXIX - ENTIRETY OF AGREEMENT**

This writing, together with Work Orders and signed Notices to Proceed that may follow, embody the entire agreement and understanding between the parties hereto, and there are not other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

**VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement, or as specifically prescribed in a Work Order.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties or a joint venture. The CONSULTANT shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. The VTPO shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance, as the CONSULTANT is an independent contractor.

**SECTION XXX – VENUE**

Venue for any dispute shall be located in state court in Volusia County, Florida, or in Federal court in the U.S. District Court for the Middle District of Florida. The CONSULTANT waives venue in any other location and agrees to the bringing of suit involving this Agreement only in the locale set forth above. The parties agree that this location venue is the most convenient to the parties; that Volusia County is where the contract is made; that the governmental agency is headquartered in Volusia County; that the costs of litigation will be less in the venue selected; and the greatest number of witnesses are located conveniently in this venue.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

VOLUSIA TRANSPORTATION PLANNING ORGANIZATION

An agency of the State of Florida organized and operating Pursuant to Section 339.175, Florida Statutes

\_\_\_\_\_ name

\_\_\_\_\_ signature

\_\_\_\_\_  
Chairman, Volusia Transportation Planning Organization

ATTEST:

\_\_\_\_\_  
Pamela Blankenship, Office Manager, Volusia TPO (seal)



**VTPO – Traffic Operations/ITS/Safety Project Feasibility Study Consultant**

CONSULTANT:

By: \_\_\_\_\_  
(authorized signature)

\_\_\_\_\_ title

(print full name)

\_\_\_\_\_ name of firm

\_\_\_\_\_ street address

\_\_\_\_\_ city, state, zip code

\_\_\_\_\_ phone number

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## FORMS

### DBE PARTICIPATION STATEMENT

Note: The Consultant is required to complete the following information and submit this form with the technical proposal.

Project Description: \_\_\_\_\_

Consultant Name: \_\_\_\_\_

This Consultant (is \_\_\_\_\_) (is not \_\_\_\_\_) a Department of Transportation certified Disadvantaged Business Enterprise (DBE).

Expected percentage of contract fees to be subcontracted to DBE(s): \_\_\_\_\_ %

If the intention is to subcontract a portion of the contract fees to DBE(s), the proposed DBE sub-Consultants are as follows:

| DBE Sub-Consultant | Type of Work/Commodity |
|--------------------|------------------------|
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |
| _____              | _____                  |

By: \_\_\_\_\_

Date: \_\_\_\_\_

**TRUTH-IN-NEGOTIATIONS CERTIFICATE**

STATE OF FLORIDA COUNTY OF VOLUSIA

Before me, the undersigned authority, personally appeared Affiant, \_\_\_\_\_, who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Truth-in-Negotiation Certification pursuant to Section 287.055(5)(a) of the Florida Statutes for the undersigned firm to receive an agreement for professional services with the Volusia Transportation Planning Organization of Volusia County, Florida.
2. That the undersigned firm is a corporation which engages in furnishing professional engineering and/or planning services and is entering into an agreement with the Volusia Transportation Planning Organization to provide professional Continuing Planning Consulting Services.
3. That the undersigned firm will furnish the Volusia Transportation Planning Organization a detailed analysis of the cost of the professional services that will be required to perform various tasks as each work order is proposed.
4. That the wage rates and other factual unit costs supporting the compensation for this project's agreement will be accurate, complete and current at the time the undersigned firm and the Volusia Transportation Planning Organization enters into the agreement for professional continuing planning consulting services and at the time of execution of each work order.
5. The undersigned firm agrees that the original agreement price and any additions thereto shall be adjusted to exclude any significant sums by which the Transportation Planning Organization determines the agreement price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such agreement adjustments shall be made within one (1) year following the end of the agreement. For the purpose of this certificate, the end of the agreement shall be deemed to be the date of final billing or acceptance of the work by the Transportation Planning Organization, whichever is later.

Name of Firm/Consultant: \_\_\_\_\_

By: \_\_\_\_\_  
authorized signature date

Title: \_\_\_\_\_

Attest: \_\_\_\_\_ (seal)

Notary

The foregoing instrument was acknowledged before me by \_\_\_\_\_ who has produced \_\_\_\_\_ as identification or is personally known to me.

WITNESS my hand and official seal in the State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

## Non-Collusion Proposal Certification

By submission of this proposal, each Proposal and each person signing on behalf of any Proposer certifies, and in the case of a joint proposal, each party certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

- 1) The prices in the Proposal have been arrived at independently without collusion, consultation, communication or agreement, with any other Proposer or with any other competitor for the purpose of restricting competition as to any other matter relating to such prices.
- 2) Unless otherwise required by law, the prices which have been noted in this Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by Proposer prior to opening, directly or indirectly, to any other Proposer or to any competitor and,
- 3) No attempt has been made or will be made by the Proposer to induce any other person, partnership, or corporation to submit or not to submit a Proposal for the purpose of restricting competition.

Firm/Consultant (Proposer) Name: \_\_\_\_\_

Typed Name and Title of Authorized Official: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Certification of Eligibility

\_\_\_\_\_ hereby certifies that it is not included on the lists of persons or firms currently debarred for any reason, including but not limited to violations of various public contracts incorporating labor standards provisions, maintained by the United States Comptroller General, the United States Department of Transportation, the Florida Department of Transportation, the Volusia Transportation Planning Organization, Volusia County or any other transportation agency of any state.

Firm/Consultant (Proposer) Name: \_\_\_\_\_

Typed Name and Title of Authorized Official: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**CERTIFICATION REGARDING LOBBYING**  
**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of her or his 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 any agency, 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 influencing or attempting to influence an officer or employee of any agency, 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.
  
- (3) The undersigned shall require that the language of this certification 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 sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is 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 Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

The Contractor, \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understand and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Firm/Consultant (Proposer) Name: \_\_\_\_\_

Typed Name and Title of Authorized Official: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## DEBARMENT AND SUSPENSION CERTIFICATION

As required by U.S. Regulations on Government wide Debarment and Suspension (Non procurement) at 49 CRF 29.510

- (1) The (Name of Proposer) \_\_\_\_\_ 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 agency;
  - (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 (Name of Proposer) \_\_\_\_\_ 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. DOT.

Firm/Consultant (Proposer) Name: \_\_\_\_\_

Typed Name and Title of Authorized Official: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
E-VERIFY**

Contract No:  
Financial Project No(s):  
Project Description:

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Vendor/Consultant acknowledges and agrees to the following:

Vendor/Consultant shall utilize the U.S. Department of Homeland Security’s E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of;

- 1. all persons employed by the Vendor/Consultant during the term of the Contract to perform employment duties within Florida; and
- 2. all persons, including subcontractors, assigned by the Vendor/Consultant to perform work pursuant to the contract with the Department.

Company/Firm: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_