

CONTRACT #2
RFS # 440.00-763
FA # 07-21983

Transportation

VENDOR:
Kimley-Horn and Associates



RECEIVED

FEB 17 2009

FISCAL REVIEW

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

SUITE 900, JAMES K. POLK BUILDING
NASHVILLE, TENNESSEE 37243-0334
(615) 741-2848

GERALD F. NICELY
COMMISSIONER

PHIL BREDESEN
GOVERNOR

February 3, 2009

Mr. James W. White, Executive Director
Tennessee General Assembly, Fiscal Review Committee
8th Floor, Rachel Jackson Building
Nashville, TN 37243

Subject: Non-Competitive Contract Amendment– Kimley-Horn and Associates

Dear Mr. White:

The referenced contract is for On-Call Assistance for Intelligent Transportation Systems (ITS) Architecture provided to the State and Metropolitan Planning Organizations (MPOs) and Transportation Planning Organizations (TPOs) by Kimley-Horn and Associates. The Contractor has established a state procedure for developing and updating Statewide and Regional ITS Architectures and successfully used this procedure on the development of the Statewide ITS Architecture and six MPO Regional ITS Architectures. As a result several additional MPO/TPOs would like to utilize the services provided under this contract to fully develop their ITS Architecture at no cost to the State in a consistent manner with the other MPO/TPOs. The services will be funded through the MPO/TPOs Federal PL funds.

This packet contains the following materials as required by your office:

1. The proposed amended contract language and its Contract Summary Sheet.
2. The request for non-competitive amendment.
3. Supporting documents:
 - a. Supplemental Documentation Required by the Fiscal Review Committee.
 - b. The original contract and its Contract Summary Sheet.
 - c. OIR endorsement.

Please advise if you have any questions or comments.

Sincerely,

Gerald F. Nicely
Commissioner

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED	<h2 style="margin: 0;">RECEIVED</h2> <p style="margin: 0;">FEB 17 2009</p>
<p style="margin: 0;">FISCAL REVIEW</p>	
<p style="margin: 0;">Commissioner of Finance & Administration</p>	
<p style="margin: 0;">Date:</p>	

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	440.00-763	
2) State Agency Name :	Tennessee Department of Transportation (TDOT)	
EXISTING CONTRACT INFORMATON		
3) Service Caption :	Intelligent Transportation Systems (ITS) Technical Assistance to TDOT and to 11 Metropolitan Planning Organizations/Transportation Planning Organizations (MPO/TPO) Planning Areas	
4) Contractor :	Kimley-Horn and Associates	
5) Contract #	FA-07-21983-00	
6) Contract Start Date :	June 7, 2007	
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	June 6, 2012	
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$600,000.00	
PROPOSED AMENDMENT INFORMATON		
9) <u>Proposed</u> Amendment #	01	
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	April 15, 2009	
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	June 6, 2012	
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$1,065,000.00	
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state	
	<input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
Allows MPO/TPOs to utilize existing state contract to obtain services for update of their Intelligent Transportation Systems Architecture, which is a document required by the Federal Highway Administration for transportation projects involving technology.		
15) Explanation of Need for the Proposed Amendment :		

The current contract funding amount is not adequate to perform all services required, so MPO/TPOs have agreed to cost-share using federal transportation planning funds that are available to them. The contract amount must be increased in order for their funds to be expended.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Kimley-Horn and Associates, 10415 Morado Circle, Bldg I, Suite 300, Austin, TX 78759-5696

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology; N/A to THDA requests)

select one:

Documentation Not Applicable to this Request

Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:

Documentation Not Applicable to this Request

Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:

Documentation Not Applicable to this Request

Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

This is an amendment to an existing contract that was procured competitively through a Request for Proposals; therefore additional effort not taken.

21) Justification for the Proposed Non-Competitive Amendment :

This amendment is being submitted to respond to requests by MPO/TPOs to utilize an existing state contract in order to achieve economic efficiencies.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)



FEB 10 2009

Agency Head Signature

Date



FAX/EMAIL TRANSMITTAL

to Request OIR Procurement Endorsement

TO : Jane Chittenden, Director
 OIR Procurement & Contract Management
 FAX # 741-6164

FROM : Vic Mangrum, IT Director
 FAX # 532-3213

DATE : January 29, 2009

RFS # 440.00-763-00

RE : Procurement Endorsement — SPR1409 Contract Amendment

INFORMATION SYSTEMS PLAN PROJECT: N/A

NUMBER OF FAX PAGES (including cover): N/A (email)

The nature and scope of service detailed in the attached service procurement document(s) appears to require Office for Information Resources (OIR) review and support, because the procurement involves information technology or information systems services.

This communication seeks to ensure that OIR is aware of the procurement and has an opportunity to review the matter. Please determine whether OIR is supportive of the procurement. If you have any questions or concerns about this matter, please call Vic Mangrum (532-9867), Brenda Waldron or Vicki Hassinger at 741-1645.

Please indicate below your response to this proposed procurement, and return this communication at your earliest convenience (note the return FAX number above).

Thank you for your help.

Attachment(s)

Must include the entire contract or amendment document and where applicable, the non-competitive contract or amendment request form. The original contract and any prior amendments that were applied to the same section of the contract must be provided with an amendment. Electronic copies of the contract, amendments, and request form without signature are acceptable.

RFP documents must be provided in electronic form.

OIR Endorsement :


 OIR Chief Information Officer

1/30/09
 Date

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Jeanne Stevens	*Contact Phone:	615-741-3421		
*Contract Number:	FA-07-21983-00	*RFS Number:	440.00-763		
*Original Contract Begin Date:	June 7, 2007	*Current End Date:	June 6, 2009		
Current Request Amendment Number: <i>(if applicable)</i>		1			
Proposed Amendment Effective Date: <i>(if applicable)</i>		April 15, 2009			
*Department Submitting:		Transportation			
*Division:		Long Range Planning			
*Date Submitted:		January 15, 2009			
*Submitted Within Sixty (60) days:		Yes			
<i>If not, explain:</i>					
*Contract Vendor Name:		Kimley-Horn & Associates			
*Current Maximum Liability:		\$600,000.00			
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>					
FY: 2007	FY: 2008	FY: 2009	FY:	FY	FY
\$25,000	\$300,000	\$275,000	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>					
FY: 2007	FY: 2008	FY: 2009	FY:	FY	FY
\$16,868.05	\$295,490.67	\$165,372.60	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures,					

Supplemental Documentation Required for
Fiscal Review Committee

please give the reasons and explain where surplus funds were spent:				
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		It can be difficult to anticipate expenditures to the penny, so we attempt to over anticipate somewhat rather than overspend.		
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:				
*Contract Funding Source/Amount:	State:	\$120,000	Federal:	\$480,000
Interdepartmental:		Other:		
If "other" please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
N/A				
Method of Original Award: <i>(if applicable)</i>		RFP		

1/09 7/1/2006 - 6/30/2007
 FY 08 7/1/2007 - 6/30/2008
 FY 09 7/1/2008 - 6/30/2009

VENDOR PAYMENT FILE
 INQUIRY BY DOCUMENT NUMBER

AGENCY : 00
 DOCUMENT NO: FA0721983 SUF: 01

X	DOCUMENT NUMBER-SUF	VENDOR NUMBER-SUF	BATCH MMDDYY	INVOICE NUMBER	CHECK NUMBER	AMOUNT
FY07	FA0721983-01	0000010243-00	121007	3193481	4804120	7,317.83
	FA0721983-01	0000010243-00	121007	3193670	4804120	9,550.22
	FA0721983-02	0000010243-00	022708	3330804	4995973	19,199.41
	FA0721983-02	0000010243-00	022708	3330805	4995973	17,783.39
FY08	FA0721983-02	0000010243-00	022708	3278764	4995973	5,845.83
	FA0721983-02	0000010243-00	022708	3278765	4995973	15,575.19
	FA0721983-02	0000010243-00	022708	3240487	4995973	19,503.94
	FA0721983-02	0000010243-00	022708	3229093	4995973	15,543.44
	FA0721983-02	0000010243-00	022708	3224369	4995973	29,955.00
	FA0721983-02	0000010243-00	022708	3240488	4995973	23,761.03
	FA0721983-03	0000010243-00	042208	3383290	5126573	23,417.23
	FA0721983-03	0000010243-00	042208	3383494	5126573	8,871.55

(FOR PAYMENT DETAIL, ENTER X ON PROPER LINE, ENTER PF11)
 MORE(PRESS ENTER) (PF4=MATCH, PF5=FIRST, PF6=NEXT, PF3=RETURN, PF10=SIGNOFF)

FY07 \$16,868.05
 FY08 \$295,490.67
 FY09 \$165,372.60

\$ 477,731.32 spent
 \$ 122,268.68

anticipate PL Expenditures	
Memphis	\$ 175,000
Nashville	\$ 150,000
Knoxville	\$ 150,000
Chattanooga	\$ 140,000
	<hr/>
	\$ 615,000

VENDOR PAYMENT FILE
INQUIRY BY DOCUMENT NUMBER

AGENCY : 00
DOCUMENT NO: FA0721983 SUF: 04

X	DOCUMENT NUMBER-SUF	VENDOR NUMBER-SUF	BATCH MMDDYY	INVOICE NUMBER	CHECK NUMBER	AMOUNT
	FA0721983-04	0000010243-00	050508	3402606	5159114	22,221.43
	FA0721983-04	0000010243-00	050508	3414180	5159114	26,032.97
	FA0721983-05	0000010243-00	051408	3452273	5197005	22,384.99
	FA0721983-05	0000010243-00	051408	3452274	5197005	39,708.10
	FA0721983-06	0000010243-00	061708	3489094	5271091	5,687.17
	FA0721983-07	0000010243-00	081208	3489095	5390338	31,216.72
	FA0721983-07	0000010243-00	081208	3571055	5390338	19,948.49
	FA0721983-07	0000010243-00	081208	3571053	5390338	3,609.90
	FA0721983-07	0000010243-00	081208	3571054	5390338	20,425.66
	FA0721983-08	0000010243-00	081308	3517628	5392207	3,061.64
	FA0721983-08	0000010243-00	081308	3517627	5392207	23,082.47
	FA0721983-08	0000010243-00	081308	3517626	5392207	6,854.76

MORE (PRESS ENTER) (FOR PAYMENT DETAIL, ENTER X ON PROPER LINE, ENTER PF11)
(PF4=MATCH, PF5=FIRST, PF6=NEXT, PF3=RETURN, PF10=SIGNOFF)

VENDOR PAYMENT FILE
INQUIRY BY DOCUMENT NUMBER

AGENCY : 00
DOCUMENT NO: FA0721983 SUF: 09

X	DOCUMENT NUMBER-SUF	VENDOR NUMBER-SUF	BATCH MMDDYY	INVOICE NUMBER	CHECK NUMBER	AMOUNT
	FA0721983-09	0000010243-00	092608	3622198	5480595	1,832.79
	FA0721983-09	0000010243-00	092608	3622200	5480595	343.83
	FA0721983-09	0000010243-00	092608	3622200A	5480595	14,777.71
	FA0721983-10	0000010243-00	102008	3633535	5523501	20,748.91
	FA0721983-11	0000010243-00	111808	3676289	5582964	19,469.72
	FA0821849-01	0000029922-00	092507	8230701	R356955	150,000.00
	FA0821849-02	0000029922-00	102407	10040701	R395600	40,426.12
	FA0821849-02	0000029922-00	102407	10040702	R395600	100,000.00
	FA0821849-03	0000029922-00	040308	01310801	R588974	110,819.80
	FA0821849-04	0000029922-00	050108	04160801	R623639	69,580.28
	FA0821849-04	0000029922-00	050108	03260801	R623639	62,168.68
	FA0821849-05	0000029922-00	052208	05130801	R653005	92,904.70

MORE(PRESS ENTER) (FOR PAYMENT DETAIL, ENTER X ON PROPER LINE, ENTER PF11)
(PF4=MATCH, PF5=FIRST, PF6=NEXT, PF3=RETURN, PF10=SIGNOFF)

CONTRACT SUMMARY SHEET

RFS#	Contract#
440.00 — 763 —	FA-07-21983-01
State/Agency	State/Agency/Division
Tennessee Department of Transportation	Long Range Planning Division
Contractor Name	Contractor ID# (FEIN or SSN)
Kimley-Horn and Associates	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 560885615 01

Service Description			
Intelligent Transportation Systems (ITS) Technical Assistance to TDOT and 11 MPO/TPOs Planning Areas			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA#
June 7, 2007	June 6, 2010	Vendor	20.205

Mark Each TRUE Statement

Contractor is on STARS Contractor's Form W-9 is on file in Accounts

Alotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
440	88	134	21		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007	5,000.00	20,000.00			25,000.00
2008	60,000.00	240,000.00			300,000.00
2009	55,000.00	220,000.00		465,000.00	740,000.00
TOTAL:	120,000.00	480,000.00		465,000.00	\$1,065,000.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Audra Colvin 741-2498
2007	25,000		State Agency Budget Officer Approval <i>Deal Ham</i>
2008	300,000		
2009	275,000	465,000	
			Funding Certification (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:	600,000	465,000	
End Date:	June 7, 2009	June 6, 2010	

Contractor Ownership (complete for ALL base contracts — N/A to amendments or delegated authorities)

African American
 Person w/ Disability
 Hispanic
 Small Business
 Government
 Asian
 Female
 Native American
 NOT Minority/Disadvantaged
 Other

Contractor Selection Method (complete for ALL base contracts — N/A to amendments or delegated authorities)

RFP
 Competitive Negotiation *
 Alternative Competitive Method *
 Non-Competitive Negotiation *
 Negotiation w/ Government (ID, GG, GU)
 Other *

Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)

Procured according to F&A regulations for Requests for Proposals.

**AMENDMENT ONE
TO FA-07-21983-00**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and Kimley-Horn and Associates, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B. is deleted in its entirety and replaced with the following:

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on June 7, 2007 and ending on June 6, 2010. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. The text of Contract Section C.1. is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Million Sixty Five Thousand Dollars and NO/Cents (\$1,065,000.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor:

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The revisions set forth herein shall be effective April 15, 2009. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

KIMLEY-HORN AND ASSOCIATES:

Andrew W. Van Leeuwen

2/3/09

CONTRACTOR SIGNATURE

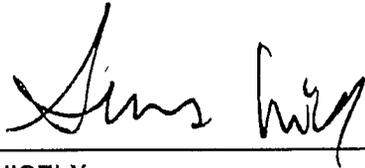
DATE

Andrew W. Van Leeuwen

Vice President

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF TRANSPORTATION:

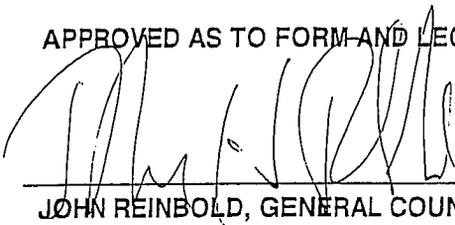


FEB 10 2009

GERALD F. NICELY

DATE

APPROVED AS TO FORM AND LEGALITY:



2/5/09

JOHN REINBOLD, GENERAL COUNSEL

DATE

APPROVED:

COMMISSIONER OF FINANCE & ADMINISTRATION

DATE

COMPTROLLER OF THE TREASURY

DATE

CONTRACT SUMMARY SHEET

060706

RFS # 440.00 - 763		Contract # FA 07-21983-00	
State Agency Tennessee Department of Transportation - TDOT		State Agency Division Long Range Planning Division/Systems Planning and Policy	
Contractor Name Kimley-Horn & Associates, Inc		Contractor ID # (FEIN or SSN) <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 560885615 - 01	
Service Description Intelligent Transportation Systems (ITS) Technical Assistance to TDOT and to 11 MPO/TPOs Planning Areas			
Contract Begin Date 6/7/2007	Contract End Date 6/6/2009	SUBRECIPIENT or VENDOR? VENDOR	CFDA # 20.205

Mark Each TRUE Statement

Contractor is on STARS Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
440	88	134	21		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007	5,000	20,000			25,000
2008	60,000	240,000			300,000
2009	55,000	220,000			275,000
TOTAL:	120,000	480,000			600,000

Selected through RFP process

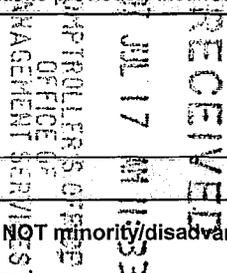
— COMPLETE FOR AMENDMENTS ONLY —

FY	Base Contract & Prior Amendments	THIS Amendment ONLY
TOTAL:		
End Date:		

State Agency Fiscal Contact & Telephone #
Kenitha Reed 741-7773

State Agency Budget Officer Approval
Kenitha Reed

Funding Certification (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)



Contractor Ownership (complete only for base contracts with contract # prefix: FA or GR)

African American
 Person w/ Disability
 Hispanic
 Small Business
 NOT minority/disadvantaged

Asian
 Female
 Native American
 OTHER minority/disadvantaged

Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)

RFP
 Competitive Negotiation
 Alternative Competitive Method

Non-Competitive Negotiation
 Negotiation w/ Government (e.g., ID, GG, GU)
 Other

Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)

Procured according to F&A regulations for Request for Proposals.

JUL 20

DIRECTOR OF ACCOUNTS

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TRANSPORTATION
AND
KIMLEY-HORN AND ASSOCIATES, INC**

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and Kimley-Horn and Associates, Inc, hereinafter referred to as the "Contractor," is for the provision of On-Call Assistance for Intelligent Transportation Systems (ITS) Architecture, as further defined in the "SCOPE OF SERVICES."

The Contractor is an Employee- Owned Corporation.

Contractor Vendor Identification Number: 56-0885615

Contractor Address: 10415 Morado Circle, Bldg 1, Ste 300, Austin, TX 78759-5696

Contractor Place of Incorporation or Organization: Raleigh, North Carolina

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.
- A.2. The Contractor shall provide technical assistance in the management of the Regional and Statewide Intelligent Transportation System (ITS) Architectures to the State and the Metropolitan Planning Organizations (MPOs). Expertise is required in the preparation and maintenance of the ITS Architecture to comply with the Federal Highway Administration policies and procedures (www.its.dot.gov/index).

The Metropolitan Planning Organizations are identified as:

Memphis MPO	Chattanooga Hamilton County TPO	Johnson City MPO
Jackson MPO	Cleveland Area MPO	Bristol Urban Area MPO
Clarksville Montgomery Co. MPO	Knoxville Regional TPO	Kingsport MPO
Nashville Area MPO	Lakeway Area MTPO	

A.3. State Tasks

The following describes work to be performed for the State. The Contractor will provide a work plan and schedule for Tasks 1 through 3 within Twenty (20) work days of the initiation of the notice to proceed. The Payment Rates Per Hour shall adhere to those shown in Section C.3. Payment Methodology. The Maximum Hours Per Task, likewise, shall not exceed those shown in Section C.3. This information shall be provided with the submittal of the work plan on the task order form shown as Exhibit A. The work the Contractor will provide shall include:

1. The Contractor will identify ITS representatives from bordering states for the purpose of facilitating seamless planning and implementation of projects across state borders as it pertains to statewide and regional ITS architecture. The Contractor will establish contact with the following states through the appropriate Tennessee MPO (listed above) for Arkansas, Mississippi, Kentucky, Georgia and Virginia. The Contractor will identify opportunities to establish a seamless planning process between the State and agencies in bordering states. The Contractor will develop an action plan to improve opportunities to facilitate seamless planning for Regional ITS Architectures. The following describes the anticipated subtasks to be completed by the Contractor for this task.

Subtask 1. Initial coordination with Long Range Planning Office/System Planning and Policy Office; develop work plan and project schedule.

Subtask 2. Identify ITS Representatives from bordering states that have potential ITS regional interest (potentially five bordering states); establish contact with representatives and determine the extent to which opportunities exist for the development and execution of an agreement regarding regional ITS projects. Develop and finalize the agreement. Set up coordination meetings between the State of Tennessee and bordering State agencies.

Develop a directory containing the names, addresses, phone numbers and email addresses for each of the individuals contacted per state.

Subtask 3. Assess what efforts need to be done to reflect results of coordination with bordering state(s) within respective existing or to be developed Regional ITS Architecture; constituting incorporation of items agreed to.

Subtask 4. Based upon above efforts; develop an action plan per bordering states that can be used by the State to improve opportunities to facilitate seamless planning for Regional ITS Architecture.

Subtask 5. Develop report summarizing activities, results and recommendations per state.

Task Deliverables: Work Plan, Project Schedule, Project Directory, Action Plan and Report.

2. The Contractor will establish a state procedure for updating Statewide and Regional ITS Architectures. This will involve reviewing current state procedures, identifying opportunities for improvement and recommending procedures to update Statewide and Regional ITS Architectures. The following describes the anticipated subtasks to be completed by the Contractor for this task.

Subtask 1. Initial Coordination with Long Range Planning Office/System Planning and Policy Office; develop work plan and project schedule.

Subtask 2. Review and conduct peer interviews with three states that currently have Statewide and Regional Architectures for urban and rural cities similar to Tennessee; three selected states must be reviewed and approved by the State staff prior to contact; Develop a talking guide for the telephone interviews; document the results of the interviews.

Subtask 3. Review current State of Tennessee procedures for updating statewide and regional ITS architecture; a minimum of three states will be contacted.

Subtask 4. Identify opportunities for improvement and incorporation of procedural elements identified as part of the peer review process that may be of benefit to the State.

Subtask 5. Develop draft procedures for consideration by state staff.

Subtask 6. Finalize procedures for staff approval.

Task Deliverables: Work Plan, Project Schedule, Talking Guide for Peer Interviews, Documentation of Peer Interviews; and Procedure to Update Statewide and Regional ITS Architectures.

3. The Contractor will develop a 10 year strategic statewide ITS plan based on the current approved Long Range Transportation Plan. The following describes the anticipated subtasks to be completed by the Contractor for this task.

- Subtask 1. Initial Coordination with Long Range Planning Office/System Planning and Policy Office; develop work plan and project schedule.
- Subtask 2. Conduct a review of the of the status of the Intelligent Transportation Systems (ITS) Strategic Plan adopted in 2006 and determine the extent to which the nine ITS strategic priorities identified in the 2006 Annual Report have been implemented across the state. Identify percent complete and projected completion dates. The 2006 Annual Report can be viewed at:
<http://www.tdot.state.tn.us/tdotsmartway/itannualreport.pdf>.
- Subtask 3. Identify the funding required to operate and maintain the proposed system over the next 10 years.
- Subtask 4. Identify performance measures needed to evaluate the effectiveness of the 9 applications or technologies identified in the 2006 TDOT Smartway, ITS Annual Report and what action needs to be taken to assure the greatest benefits from the capital investment statewide. Assess ability of the state to establish performance measures based upon current operating procedures.

The 9 applications or technologies identified in the 2006 TDOT Smartway, ITS Annual Report are as follows:

1. Vehicle detection devices to report traffic counts, speed and travel time.
 2. Video surveillance to monitor congested freeways and provide improved incident management capabilities.
 3. Dynamic message signs (DMS) to provide real-time traffic information to motorists.
 4. Freeway service patrols to reduce congestion by removing minor incidents in a timely fashion.
 5. Transportation management centers to serve as a focal point for traffic management operations and communications.
 6. Incident management to detect, verify and respond to incidents in an efficient manner and manage traffic conditions around the incident site.
 7. Traffic control during construction and maintenance to provide traffic information to motorists traveling through construction and maintenance sites.
 8. Road weather monitoring systems to monitor, predict and report information regarding weather-related road conditions to management and the traveling public.
 9. Information services to facilitate the communication of data from ITS devices to a central location and the distribution of transportation information to motorists and other interested parties before and during trip making.
- Subtask 5. Develop a 10 year strategic statewide ITS plan based upon needs. Apply financial constraints for planning purposes to the first three years.
- Subtask 6. Finalize 10 year strategic statewide ITS plan for staff approval.

A.4. MPO Tasks

The following describes work to be performed for the MPOs: The Contractor will assist in the update and development of ITS Architecture for the eleven (11) MPOs. The State will accept requests for technical assistance from the MPOs in the development of or the update of ITS architecture. The State will evaluate and prioritize the requests and issue task orders to the Contractor.

The Contractor shall submit a proposal that identifies the schedule and budget for the task order. (See Exhibit A "Sample Task Order"). The State shall review and approve the Contractor's plan of action including man hours for each individual task prior to the Contractor beginning work. The Contractor shall not commence any task until a signed task order and written notice to proceed is received.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on June 7, 2007 and ending on June 6, 2009. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total Contract term of no more than five (5) years, provided that such an extension of the Contract term is effected prior to the current, contract expiration date by means of an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract, and shall be based upon rates provided for in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Six Hundred Thousand Dollars and No Cents (\$600,000.00). The rates in Section C.3. and the Travel Compensation provided in Section C.4. shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, profit, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Payment Rates in Section C.3 and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to increase for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor shall be compensated based upon the following Payment Rates:

<u>SERVICE</u>	<u>PAYMENT RATE</u>	<u>PAYMENT RATE</u>	<u>PAYMENT RATE</u>	<u>PAYMENT RATE</u>
	<u>PER HOUR</u>	<u>PER HOUR</u>	<u>PER HOUR</u>	<u>PER HOUR</u>
	<u>Years 1 & 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Project Manager	\$175.74	\$181.02	\$186.45	\$192.04

Senior Planner	\$129.06	\$132.93	\$136.92	\$141.02
Planner	\$102.75	\$105.83	\$109.01	\$112.28
Senior Traffic Engineer	\$175.74	\$181.02	\$186.45	\$192.04
Traffic Engineer	\$108.67	\$111.93	\$115.29	\$118.75
CADD Technician	\$67.71	\$69.74	\$71.84	\$73.99
Administrative Support	\$67.71	\$69.74	\$71.84	\$73.99

Task 1: Coordination with ITS Representative from Bordering State(s)	Maximum Hours per Task					
	Subtask 1	Subtask 2	Subtask 3	Subtask 4	Subtask 5	
Project Manager	2	20	5	5	10	
Senior Planner					5	
Planner	4		10	20	20	
Senior Traffic Engineer	2			5	5	
Traffic Engineer						
CADD Technician						
Administrative Support		5			5	
Task 2: Develop a State Procedure for Updating Statewide and Regional ITS Architectures	Subtask 1	Subtask 2	Subtask 3	Subtask 4	Subtask 5	Subtask 6
Project Manager	2		5	5	5	2
Senior Planner	4	20	15	10	15	15
Planner						
Senior Traffic Engineer	2	10	5	5	10	5
Traffic Engineer						
CADD Technician						
Administrative Support						5
Task 3: Develop a 10 year Strategic Statewide ITS Plan	Subtask 1	Subtask 2	Subtask 3	Subtask 4	Subtask 5	Subtask 6
Project Manager	5	5	10	5	10	5
Senior Planner	5	40	60	40	50	45
Planner		20	20	20	80	40
Senior Traffic Engineer	5	40	40	30	30	20
Traffic Engineer						
CADD Technician						
Administrative Support					20	20

*Job Classifications are described in Exhibit B.

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the period, the applicable Payment Rate, the total compensation requested for the individual, and the total amount due the Contractor for the period invoiced.

- C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time. Travel must be authorized by the State in advance and before expenses are incurred. Travel expenses that are incurred without prior authorization will not be reimbursed. The "State Comprehensive Travel Regulations" can be found on the State website at <http://www.tennessee.gov/finance/act/policy8.pdf>.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract or any amendment thereof until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least sixty (60) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest", "Nondiscrimination" and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or contractor to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who,

under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under **Tennessee Code Annotated**, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State (Administrative)

Sandra Hoff, Transportation Research Office Manager
Department of Transportation
Suite 900, James K. Polk Building
Nashville, Tennessee 37243
Telephone: (615)253-6301
Facsimile: (615)532-8451

The State (Technical)

Joe Roach
Department of Transportation
Suite 900, James K. Polk Building
Nashville, Tennessee 37243
Telephone: (615) 253-2435
Facsimile: (615)532-8451

The Contractor

Thomas M. Fowler, Vice President
Kimley-Horn and Associates
10415 Morado Circle
Bldg I, Suite 300
Austin, TX 78759-5696
(512) 418-1771
(512) 418-1791

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled

to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.4. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.5. State Ownership of Work Products. The State shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the State under this Contract. The State shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the State, in accordance with the Contract and applicable State law.
- E.6. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of **Tennessee Code Annotated**, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by **Tennessee Code Annotated**, Section 12-7-103 (d).
- E.7. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.8. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal
 - c. The Request for Proposal and its associated amendments
 - d. Technical Specifications provided to the Contractor
 - e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

- E.9. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, 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, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally 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 contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

- E.10. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.
- E.11. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.
- E.12. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.13. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.14. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

- E.15. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.16. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in **Tennessee Code Annotated**, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to **Tennessee Code Annotated**, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.17. Debarment and Suspension. The Contractor 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 or State department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant 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 government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.
- E.18. Title VI – Civil Rights Act of 1964. This contract will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, as amended, the Regulations of the U.S. DOT issued there under (49 CFR 21 through Appendix H and 23 CFR 710.405(b), and the assurance by the Contractor pursuant thereto.
- E.19. Equal Employment Opportunity. The applicable provisions of 49 CFR §18.36(i) are incorporated herein by reference and include the following:

The Contractor shall comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375

of October 13, 1967, as supplemented in Department of Labor regulations 41 CFR 60; applicable requirements of the Clean Air Act, and Clean Water Act.

IN WITNESS WHEREOF:

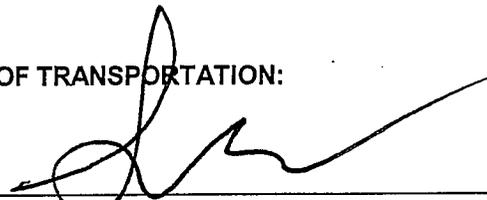
KIMLEY-HORN AND ASSOCIATES:

 6/11/07
CONTRACTOR SIGNATURE DATE

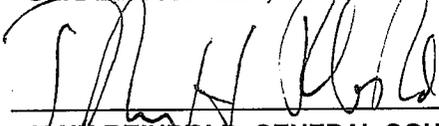
DEAN HENIGSMAN, SENIOR VICE PRESIDENT/PRINCIPAL

DEPARTMENT OF TRANSPORTATION:

JUN 20 2007


GERALD F. NICELY, COMMISSIONER

DATE

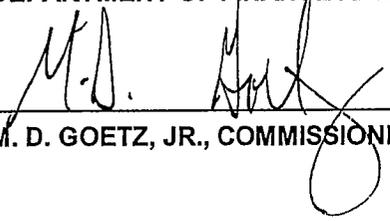

JOHN REINBOLD, GENERAL COUNSEL

DATE

APPROVED AS TO FORM AND LEGALITY

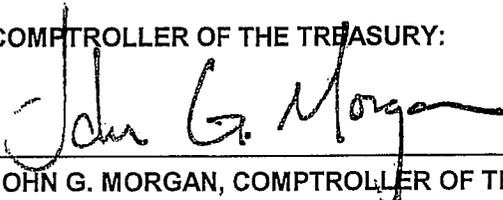
APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

 
M. D. GOETZ, JR., COMMISSIONER

DATE

COMPTROLLER OF THE TREASURY:


JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Kimley-Horn and Associates, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	56-0885615
<p>The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.</p>	
SIGNATURE & DATE:	 6/1/07
	<p>NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.</p>

EXHIBIT A

Task Order #	Contractor Name:
Project Manager:	
Technical Manager:	
Task Description:	
Approach for Task:	
Projected Cost Based On:	
# of hours	Title
Timeline for Task:	

Approval:

TDOT Manager

Systems Planning & Policy Office

Amount Approved for Task: \$

Amount Remaining in Contract: \$

Exhibit B

Definition of Personnel:

- 1) Project Manager- Senior, experienced transportation planner responsible for task leadership, coordination of the project, and liaison between client and contractor group.
- 2) Senior Transportation Planner - Experienced transportation planner with five (5) or more years of experience related to the development of ITS Architectures at the state and regional levels; capable of performing high-level transportation planning work.
- 3) Transportation Planner- Transportation Planner capable of performing low to mid level ITS planning work under the supervision of a senior transportation planner. Must have completed a certified Turbo software training course within the past two years. Also acceptable is an NHI Certified Instructor for the NHI Turbo Architecture Course or an analyst who has worked directly under the supervision of said certified instructor.
- 4) Senior Traffic Engineer- A engineer licensed in the State of Tennessee specializing in ITS/transportation planning with emphasis in the development of ITS Architecture and with a minimum of 7 to 10 years professional experience in Transportation/Traffic engineering.
- 5) Engineer – Person capable of performing mid to high-level engineering work under the supervision of a professional engineer. Must have completed within the past two years a certified Turbo Architecture software course. Also acceptable is an NHI Certified Instructor for the NHI Turbo Architecture Course or an analyst who has worked directly under the supervision of said certified instructor.
- 6) CADD Technician– A person skilled and experienced in working with maps and CADD.
- 7) Administrative Support – Typists, clerks, etc; working under the supervision of planning and engineering personnel.