

DATE: November 22, 2005

TO: Ed Timpf, Division Administrator
Financial Operations Division

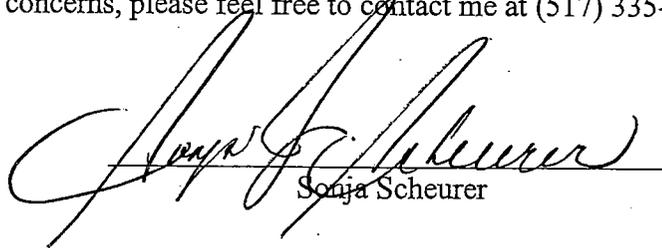
FROM: Sonja Scheurer, Administrative Manager
Operations Administrative Services

SUBJECT: Reporting Requirements for FY 2006
Operating Appropriation Act

In accordance with Public Acts of 2005, Public Act 158, Section 384 the department is required to report on three components of the intelligent transportation service center for FY 2005.

Public Act 158, Section 384 (1), requires the department to report on the operations of the intelligent transportation service center. Public Act 158, Section 384 (2), requires the department to submit copies of agreements between the department and all private and public organizations. Public Act 158, Section 384 (3), requires the department to submit copies of policies for public and private access to the service center. To ensure compliance of these reporting requirements, attached is the following documentation: Summaries of our responses, the FY 2005 annual report, current contracts, and policies for access to the service center.

If you have any questions or concerns, please feel free to contact me at (517) 335-2258.


Sonja Scheurer

cc: L. Hank
L. Tibbits
M. Frierson
J. Friend
R. Safford
G. Krueger
File

CONTRACT NO. 2002-0175
CONTROL SECTION: 84900
JOB NO. 55020
ACCT. NO. 8780
AGENDA: DAB

MICHIGAN DEPARTMENT OF TRANSPORTATION
DUNN ENGINEERING ASSOCIATES
CONTRACT

THIS CONTRACT is made and entered into this date of FEB 06 2002 by and between the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," and Dunn Engineering Associates, of 66 Main Street, Westhampton Beach, NY 11978, hereinafter referred to as the "CONSULTANT."

WITNESSETH:

WHEREAS, the DEPARTMENT desires to engage the professional services of the CONSULTANT to develop, implement, and maintain methodologies and procedures to optimize the management and operations of the Michigan Intelligent Transportation Systems (MITS) Center in Detroit, Michigan;

NOW, THEREFORE, the parties agree that:

THE CONSULTANT WILL:

1. Perform the work set forth in Exhibit A, dated October 19, 2001, pages 1 through 25, attached hereto and made a part hereof, said work performed by the CONSULTANT to be hereinafter referred to as the "SERVICES."
2. Perform all SERVICES in conformity with the DEPARTMENT's applicable standards.
3. During the performance of the SERVICES herein defined, be responsible for any loss of or damage to original documents belonging to the DEPARTMENT while they are in the CONSULTANT's possession. Restoration of lost or damaged original documents will be at the CONSULTANT's expense.

4. Make such trips to confer with representatives of the DEPARTMENT and the United States Department of Transportation, Federal Highway Administration (FHWA), as may be necessary in the carrying out of the SERVICES set forth in this Contract.
5. Submit written monthly Progress Reports to the DEPARTMENT that outline the work accomplished during the reporting period; identify any problems, real or anticipated, associated with the conduct of the SERVICES; and identify any deviations from the agreed upon work plan.
6. Prepare the graphics and text for all reports in a form suitable and acceptable to the DEPARTMENT, such suitability and acceptability to be determined by the DEPARTMENT. This section is limited to the format of the graphics and text. Nothing herein is to be construed as allowing the DEPARTMENT to declare as unsuitable or unacceptable any of the graphics or text because of the conclusions arrived at by the CONSULTANT through analysis of data collected for this project.

As used throughout this Contract, the words "satisfactory" and "acceptance" are defined to mean that the product is in the format required and is completely in accordance with the contract requirements; however, it does not mean that the conclusions arrived at for this project must be approved or agreed to by the DEPARTMENT or the FHWA.

7. Prepare and submit to the DEPARTMENT a written preliminary copy of the Final Project Report in accordance with the work plan set forth in Exhibit A for its review and acceptance prior to submission of the Final Project Report. The DEPARTMENT will notify the CONSULTANT of its acceptance or rejection of the Final Project Report within sixty (60) days of receipt of same from the CONSULTANT.
8. Submit any proposed publication by the CONSULTANT or its subcontractors of the results of project work for prior review and acceptance by the DEPARTMENT. Such review and acceptance is for the DEPARTMENT's own purposes and does not relieve the CONSULTANT from claims arising out of such publication. Said proposed publication will include proper credit for all parties to this Contract.
9. Permit representatives of the DEPARTMENT, the FHWA, and other authorized public agencies interested in the SERVICES to have full access to the SERVICES during the CONSULTANT's performance.
10. With regard to audits and record-keeping,
 - a. The CONSULTANT will establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract, said records to be hereinafter referred to as the

“RECORDS.” Separate accounts will be established and maintained for all costs incurred under this Contract.

- b. The CONSULTANT will maintain the RECORDS for at least three (3) years from the date of final payment made by the DEPARTMENT under this Contract. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the CONSULTANT will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
 - c. The DEPARTMENT or its representative may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
 - d. If any part of the work is subcontracted, the CONSULTANT will assure compliance with subsections (a), (b), and (c) above for all subcontracted work.
11. If the DEPARTMENT discloses its confidential information to the CONSULTANT, the CONSULTANT will maintain such information as confidential. Information provided by the DEPARTMENT will be deemed confidential if it is marked confidential or stated in writing to be confidential. The above obligations of confidentiality will not apply to:
- a. Information for which the DEPARTMENT gives prior written permission for publication or use.
 - b. Information that is required to be disclosed based on court order.

A violation of this provision will be considered a breach of this Contract, and the DEPARTMENT may terminate this Contract under the provisions of Section 22 (b).

News releases pertaining to this Contract or the SERVICES to which it relates will not be made without prior written approval from the DEPARTMENT, and then only in accordance with explicit instructions from the DEPARTMENT. News releases made without the DEPARTMENT's approval will be considered a breach of the Contract, and the DEPARTMENT may terminate this Contract under the provisions of Section 22 (b).

12. Submit monthly billings for SERVICES and a written progress report to the DEPARTMENT. The CONSULTANT agrees that the costs reported to the DEPARTMENT for this Contract will represent only those items that are properly chargeable in accordance with this Contract. The CONSULTANT also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.

THE DEPARTMENT WILL:

13. Furnish for the use of the CONSULTANT such DEPARTMENT standards and other information as may be needed, unless specifically required to be provided by the CONSULTANT in a particular instance.
14. Pay the CONSULTANT for the SERVICES after receipt of billings, subject to verification of progress. Compensation for the SERVICES will be on the basis of actual cost and a fixed fee and will not exceed Three Million Six Hundred Thirty-Seven Thousand Two Hundred Twenty-Eight Dollars and Thirty-Eight Cents (\$3,637,228.38), which amount includes a fixed fee of Four Hundred Ten Thousand One Hundred Twenty-Four Dollars and Seventy Cents (\$410,124.70), as set forth in Exhibit A. The CONSULTANT will be responsible for all costs in excess of the DEPARTMENT and the FHWA funds shown above.
15. Determine that payment for costs of the SERVICES required and performed are in accordance with the following:
 - a. Direct Salary Costs: Actual labor costs of personnel performing the SERVICES. This cost will be based on the employees' actual hourly rates of pay and the actual hours of performance on the SERVICES as supported by employee time and earning records.
 - b. Other Direct Costs: Actual costs of materials and services as may be required hereunder but that are not normally provided as part of the overhead of the CONSULTANT. All actual costs will be itemized and certified as paid to specifically named firms or individuals and will be supported by proper receipts and proofs of payments.
 - c. Overhead and Indirect Costs: A pro-rated portion of the actual overhead and indirect costs incurred by the CONSULTANT during work. The amount of overhead payment, including payroll overhead, will be calculated as applied rates to direct labor costs, as set forth in Exhibit A. Overhead and indirect costs will include those costs that, because of their incurrence for common or joint objectives, are not readily subject to treatment as direct costs.
 - d. Subconsultant Costs: Actual costs of subconsultants performing SERVICES under this Contract. Amounts for fixed fees paid by the CONSULTANT to the subconsultant will not be considered an actual cost of the CONSULTANT, but will be considered a part of the fixed fee of the CONSULTANT.
 - e. Travel and Subsistence: Actual costs in accordance with and not to exceed the amounts set forth in the current State of Michigan Standardized Travel Regulations, incorporated herein by reference as if the same were repeated in full herein.

- f. Fixed Fee: In addition to payments set forth under (a), (b), (c), (d) and (e) above, the DEPARTMENT agrees to pay the CONSULTANT a fixed fee. It is agreed and understood that such amount will constitute full compensation to the CONSULTANT for profit from SERVICES performed and will not vary because of any differences between the estimated cost and the actual cost. Overruns in the actual cost of the SERVICES will not warrant an increase or adjustment in the amount of the fixed fee. Adjustments in the fixed fee will only be allowed under the provisions of Sections 19 and 22 of this Contract.
 - g. Reimbursement for costs incurred is subject to the cost criteria set forth in 48 CFR, Federal Acquisition Regulations, Part 31, incorporated herein by reference as if the same were repeated in full herein.
 - h. The CONSULTANT will not be paid for costs attributable to correction of errors and omissions by the CONSULTANT.
16. Make payment to the CONSULTANT in accordance with the following:
- a. Progress payments may be made for reimbursement of amounts earned to date upon receipt of a billing and the written progress report. Progress payments will include direct salary costs, other direct costs, and calculated amounts for overhead using applied overhead rates, as herein set forth. The portion of the fixed fee that may be included in progress payments will be equal to the total fixed fee multiplied by the percentage of the work that has been completed to date of billing. Progress payments will not be made more than once a month.
 - b. Upon receipt by the DEPARTMENT of the required documents and any other accompanying information in a form satisfactory to the DEPARTMENT, the DEPARTMENT will process the payment request if the CONSULTANT is complying with its obligations pursuant to the contract. Reimbursement of any costs pursuant to this section will not constitute a final determination by the DEPARTMENT of the allowability of such costs and will not constitute a waiver by the DEPARTMENT of any violation of the terms of this Contract committed by the CONSULTANT.

Regardless of its costs, the CONSULTANT will not be entitled to compensation in excess of the maximum amount(s) set forth in Section 14 hereof.

17. When work occasioned at the DEPARTMENT's request is in addition to or other than work provided for by the expressed intent of this Contract, the DEPARTMENT will reimburse the CONSULTANT for all such work on the basis of actual costs incurred, as defined in Section 15, plus a predetermined lump sum amount for normal profit for such work. The

performance of and payment for such work will require the submission of a proposal to perform the work and the award of a written amendment prior to beginning the work.

IT IS FURTHER AGREED THAT:

18. The parties will consider the SERVICES to be complete when accepted by the DEPARTMENT. Such acceptance by the DEPARTMENT is not intended to nor does it relieve the CONSULTANT of any of its obligations and responsibilities herein.
19. If the CONSULTANT deems that extra compensation is due it for work not clearly covered in this Contract, the CONSULTANT will notify the DEPARTMENT in writing of its intention to make claim for such extra compensation before beginning such work. Failure on the part of the CONSULTANT to give such notification will constitute a waiver of the claim for such extra compensation. The filing of such notice by the CONSULTANT will not be construed to establish the validity of the claim.
20. When delays are caused by circumstances or conditions beyond the control of the CONSULTANT, as determined by the DEPARTMENT, the CONSULTANT may be granted an extension of time, as set forth in Section 45. Such extension will not operate as a waiver by the DEPARTMENT of any of its rights herein set forth.
21. In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this Contract or questions the allowability of an item of expense, the DEPARTMENT will promptly submit to the CONSULTANT a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to the CONSULTANT at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the CONSULTANT will (a) respond in writing to the responsible Bureau of the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE." The RESPONSE will be clearly stated and will provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the CONSULTANT may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE will refer to and apply the language of the contract. The CONSULTANT agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the CONSULTANT, the CONSULTANT will repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the CONSULTANT fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the CONSULTANT agrees that the DEPARTMENT will deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the CONSULTANT under this Contract or any other agreement or payable to the CONSULTANT under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The CONSULTANT expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT's decision only as to any item of expense the disallowance of which was disputed by the CONSULTANT in a timely filed RESPONSE.

22. The DEPARTMENT may terminate this Contract for convenience or cause, as set forth below, before the SERVICES are completed. Written notice of termination will be sent to the CONSULTANT. The CONSULTANT will be reimbursed in accordance with the following:

a. **Termination for convenience:**

If the DEPARTMENT terminates this Contract for convenience, the DEPARTMENT will give the CONSULTANT written notice of such termination thirty (30) days prior to the date of such termination, and the CONSULTANT will be reimbursed for all costs incurred up to receipt of said Notice of Termination. Such reimbursement will be as set forth in Section 15. The CONSULTANT will be reimbursed a proportionate share of the fixed fee based on the portion of the project that is complete as determined by the DEPARTMENT. The DEPARTMENT will receive the work product produced by the CONSULTANT under this Contract up to the time of termination, prior to the CONSULTANT being reimbursed. In no case will the compensation paid to the CONSULTANT for partial completion of SERVICES exceed the amount the CONSULTANT would have received had the SERVICES been completed.

b. **Termination for Cause:**

In the event the CONSULTANT fails to complete any of the SERVICES in a manner satisfactory to the DEPARTMENT, the DEPARTMENT may terminate this Contract. Written notice of termination will be sent to the CONSULTANT. The CONSULTANT will be reimbursed as follows:

The CONSULTANT will be reimbursed for SERVICES completed up to receipt of said Notice of Termination. The DEPARTMENT may pay a proportional share for the work product. The value of such partially completed work product will be determined by the DEPARTMENT based on actual costs incurred up to the estimated value of the work product received by the DEPARTMENT, as determined by the DEPARTMENT. Such actual costs will be as set forth in Section 15. The CONSULTANT will be reimbursed a proportionate share of the fixed fee based on the portion of the project that is complete, as determined by the DEPARTMENT. The DEPARTMENT will receive the work product produced by the CONSULTANT under this Contract up to the time of termination, prior to the CONSULTANT being reimbursed. In no case will the compensation paid to the CONSULTANT for partial completion of the SERVICES exceed the amount the CONSULTANT would have received had the SERVICES been completed.

In the event that termination by the DEPARTMENT is necessitated by any wrongful breach, failure, default, or omission by the CONSULTANT, the DEPARTMENT will be entitled to pursue whatever remedy is available to it, including, but not limited to, withholding funds or off-setting against funds owed to the CONSULTANT under this Contract, as well as any other existing or future contracts between the CONSULTANT and the DEPARTMENT, for any and all damages and costs incurred or sustained by the DEPARTMENT as a result of its termination of this Contract due to the wrongful breach, failure, default, or omission by the CONSULTANT. In the event of termination of this Contract, the DEPARTMENT may procure the professional SERVICES from other sources and hold the CONSULTANT responsible for any damages or excess costs occasioned thereby.

23. All documents prepared by the CONSULTANT are the property of the DEPARTMENT and cannot be furnished to any party without the permission of the DEPARTMENT, except to the involved governmental agencies and commissions as part of the progress reporting process and except as provided in and limited in Section 34 herein.
24. The DEPARTMENT will retain ownership of office furniture and computers included in the cost proposal, Exhibit A, at the conclusion of the SERVICES; the CONSULTANT may purchase said office furniture and computers from the DEPARTMENT at a depreciated cost, as mutually agreed upon by the parties.

25. No portion of the SERVICES, as herein defined, will be sublet except with the prior written consent of the DEPARTMENT and the FHWA. Consent to sublet any portion of the SERVICES will not be construed to relieve the CONSULTANT of any responsibility or obligation under or for the fulfillment of this Contract. All contracts, including amendments with subconsultants, including those named below, in excess of Twenty Five Thousand Dollars (\$25,000.00) will be submitted to the DEPARTMENT and the FHWA for approval prior to award and will contain all applicable provisions of this Contract. Any such approvals will not be construed as a warranty of the subcontractor's qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity.

The following named subconsultant(s), as set forth in Exhibit A, will perform portions of the SERVICES:

Metro Commute

26. No portion of the SERVICES, as herein defined, will be assigned.
27. The CONSULTANT agrees to pay each subcontractor for the satisfactory completion of work associated with the subcontract no later than ten (10) calendar days from the receipt of each payment the CONSULTANT receives from the DEPARTMENT. The CONSULTANT agrees further to return retainage payments to each subcontractor within ten (10) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement from these time frames may occur only upon receipt of written approval from the DEPARTMENT. These requirements are also applicable to all sub-tier subcontractors and will be made a part of all subcontract agreements.

This prompt payment provision is a requirement of 49 CFR, Part 26.29, and does not confer third-party beneficiary right or other direct right to a subcontractor against the DEPARTMENT. This provision applies to both Disadvantaged Business Enterprise (DBE) and non-DBE subcontractors.

The CONSULTANT further agrees that it will comply with 49 CFR, Part 26.37, and will report any and all DBE subcontractor payments to the DEPARTMENT with each billing and within twenty (20) days of the receipt of final payment for services performed under this Contract in the format set forth in Appendix G, dated June 1, 2001, attached hereto and made a part hereof, or any other format acceptable to the DEPARTMENT.

28. All questions that may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, the interpretation of designs and specifications, and the satisfactory and acceptable fulfillment of the terms of this Contract will be decided by the DEPARTMENT.

29. With regard to non-discrimination requirements,
- a. In connection with the performance of SERVICES under this Contract, the CONSULTANT (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts" as set forth in Appendix A, dated March 1998, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.
 - b. During the performance of this Contract, the CONSULTANT, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the Department of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated March 1992, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.
30. The CONSULTANT will carry out the applicable requirements of the DEPARTMENT's Disadvantaged Business Enterprise (DBE) program and 49 CFR Part 26, including, but not limited to, those requirements set forth in Appendix C, attached hereto and made a part hereof.
31. The CONSULTANT warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONSULTANT to solicit or secure this Contract and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the DEPARTMENT will have the right to annul this Contract without liability or, at its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
32. The CONSULTANT specifically agrees that in the performance of the SERVICES herein enumerated, by itself, or by an approved subcontractor, or by anyone acting in its behalf, it will comply with any and all state, federal, and local statutes, ordinances, and regulations and will obtain all permits that are applicable to the entry into and the performance of this Contract.

33. If the DEPARTMENT does not wish to subscribe to the findings or conclusions of the SERVICES, the following statement will be added to the credit line of all reports published by the CONSULTANT or by the DEPARTMENT:

"The opinions, findings, and conclusions expressed in this publication are those of the authors and not necessarily those of the Michigan State Transportation Commission or the Michigan Department of Transportation or the Federal Highway Administration."

34. It is agreed that the CONSULTANT will not copyright any papers, reports, forms, or other materials that are part of its work under this Contract without the prior written approval of the DEPARTMENT.
35. In addition to the protection afforded by any policy of insurance, the CONSULTANT agrees to indemnify and save harmless the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT, the FHWA, and all officers, agents, and employees thereof:
- a. From any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to the CONSULTANT in connection with the CONSULTANT's performance of the SERVICES, and
 - b. From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation, response and cleanup costs, and for attorney fees and related costs arising out of, under, or by reason of the CONSULTANT's performance of the SERVICES under this Contract, except claims resulting from the sole negligence or willful acts or omissions of said indemnitee, its agents, or its employees.

The DEPARTMENT will not be subject to any obligations or liabilities by contractors of the CONSULTANT or their subcontractors or any other person not a party to the contract without its specific consent and notwithstanding its concurrence with or approval of the award of any contract or subcontract or the solicitation thereof.

It is expressly understood and agreed that the CONSULTANT will take no action or conduct that arises either directly or indirectly out of its obligations, responsibilities, and duties under this Contract that results in claims being asserted against or judgments being imposed against the State of Michigan, the DEPARTMENT, the Michigan State Transportation Commission, and/or the FHWA, as applicable.

In the event that the same occurs, it will be considered as a breach of this Contract, thereby giving the State of Michigan, the DEPARTMENT, the Michigan State Transportation

Commission, and/or the FHWA, as applicable, a right to seek and obtain any necessary relief or remedy, including, but not limited to, a judgment for money damages.

36. In accordance with 1980 PA 278, MCL 423.321 *et seq*; MSA 17.458(22) *et seq*, the CONSULTANT, in the performance of this Contract, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the State of Michigan, Department of Labor, of employers who have been found in contempt of court by a federal court of appeals on not less than three (3) occasions involving different violations during the preceding seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 U.S.C. 158. The DEPARTMENT may void this Contract if the name of the CONSULTANT or the name of a subcontractor, manufacturer, or supplier utilized by the CONSULTANT in the performance of this Contract subsequently appears in the register during the performance of this Contract.
37. For all contracts in excess of One Hundred Thousand Dollars (\$100,000.00), the CONSULTANT certifies to the best of its knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid by or on behalf of the CONSULTANT 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 any agency, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. 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 Contract, the CONSULTANT will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The CONSULTANT will require that the language of this certification be included in the award documents for all third-party contracts (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than

Ten Thousand Dollars (\$10,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00) for each such failure.

38. The CONSULTANT's signature on this Contract constitutes the CONSULTANT's certification of "status" under penalty of perjury under the laws of the United States in respect to 49 CFR Part 29 pursuant to Executive Order 12549.

The certification that is included as a part of this Contract as Attachment A is Appendix A of 49 CFR Part 29 and applies to the CONSULTANT (referred to in Appendix A as "the prospective primary participant").

The CONSULTANT is responsible for obtaining the same certification from all subcontractors under this Contract by inserting the following paragraph in all subcontracts:

"The subcontractor's signature on this Contract constitutes the subcontractor's certification of 'status' under penalty of perjury under the laws of the United States in respect to 49 CFR Part 29 pursuant to Executive Order 12549. The certification included as a part of this Contract as Attachment B is Appendix B of 49 CFR Part 29."

This certification is required of all subcontractors, testing laboratories, and other lower tier participants with which the CONSULTANT enters into written arrangements for the procurement of goods and services provided for in this Contract.

39. For contracts in excess of One Hundred Thousand Dollars (\$100,000.00):
- a. The CONSULTANT stipulates that any facility to be utilized in the performance of this Contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 7401 et seq., as amended, including Pub. L. 101-549), and/or under the Clean Water Act, as amended (33 U.S.C. 1251 et seq., as amended, including Pub. L. 100-4), and/or under Executive Order 11738 and regulations in implementation thereof (40 CFR Part 15), is not listed on the date of contract award on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
 - b. The CONSULTANT agrees to comply with all the requirements of the Clean Air Act and the Clean Water Act and all regulations and guidelines listed thereunder related to the CONSULTANT and services under this Contract.
 - c. The CONSULTANT will promptly notify the DEPARTMENT and the U.S. EPA, Assistant Administrator for Enforcement, of the receipt of any communication from the Director, the Office of Federal Activities, or the EPA indicating that a facility to

be utilized for this Contract is under consideration to be listed on the EPA List of Violating Facilities.

- d. The CONSULTANT agrees to include or cause to be included the requirements of the preceding three paragraphs (a), (b), and (c) in every nonexempt subcontract.
40. The CONSULTANT agrees that no otherwise qualified individual with disabilities in the United States, as defined in Section 1630.2 of the Americans with Disabilities Act, Title 42 U.S.C. 12101, will, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving benefits under this Contract.
41. Any change in scope or character of the SERVICES, cost, compensation, or term of this Contract will be by award of a prior written amendment to this Contract by the parties.
42. The CONSULTANT agrees that it will not volunteer, offer, or sell its services to any litigant against the DEPARTMENT with respect to any SERVICES it has agreed to perform for the DEPARTMENT under this Contract, provided that this provision will not apply either when the CONSULTANT is issued a valid subpoena to testify in a judicial or administrative proceeding or when the enforcement of this provision would cause the CONSULTANT to be in violation of any Michigan or federal law.
43. Any approvals, acceptances, reviews, and inspections of any nature by the DEPARTMENT will not be construed as a warranty or assumption of liability on the part of the DEPARTMENT. It is expressly understood and agreed that any such approvals, acceptances, reviews, and inspections are for the sole and exclusive purposes of the DEPARTMENT, which is acting in a governmental capacity under this Contract, and that such approvals, acceptances, reviews, and inspections are a governmental function incidental to the SERVICES under this Contract.

Any such approvals, acceptances, reviews, and inspections by the DEPARTMENT will not relieve the CONSULTANT of its obligations hereunder, nor are such approvals, acceptances, reviews, and inspections by the DEPARTMENT to be construed as a warranty as to the propriety of the CONSULTANT's performance but are undertaken for the sole use and information of the DEPARTMENT.
44. All software used by the CONSULTANT in the performance of services for the DEPARTMENT under this Contract, either for sale or license to the DEPARTMENT and used by the DEPARTMENT prior to, during, or after the calendar year 2000, includes or will include, at no added cost to the DEPARTMENT, design and performance so as not to cause delay in completion of the services under this Contract or cause the DEPARTMENT to experience software abnormalities and/or the generation of incorrect results from the software due to date oriented processing in the operation of the business of the

DEPARTMENT. Also, any software used by the CONSULTANT to carry out its normal business, e.g. accounting and payroll, will not cause delay in completion of the services under this Contract due to date oriented processing in the operation of the business of the CONSULTANT. Therefore, any business failure due to software problems attributed to the calendar year 2000 is unacceptable as a cause for delay in providing services under this Contract.

To insure year 2000 compatibility, the software design will include, but is not limited to, data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4-digit years; and assurance that the year 2000 will be correctly treated as a leap year within all calculation and calendar logic.

45. This Contract will be in effect from the date of award through February 28, 2004. Costs incurred outside of the term of this Contract will not be eligible for reimbursement.
46. Prior to expiration, the time for completion of performance under this Contract may be extended by the DEPARTMENT upon written request and justification from the CONSULTANT. Upon approval and authorization by the DEPARTMENT, a written time extension amendment will be prepared and issued by the DEPARTMENT. Any such extension will not operate as a waiver by the DEPARTMENT of any of its rights herein set forth.
47. In case of any discrepancies between the body of this Contract and any Exhibits hereto, the body of this Contract will govern.

48. This Contract will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the CONSULTANT and of the DEPARTMENT and upon adoption of a resolution approving said Contract and authorizing the signature(s) thereto of the respective representatives of the CONSULTANT, a certified copy of which resolution will be sent to the DEPARTMENT with this Contract, as applicable.

IN WITNESS WHEREOF, the parties have caused this contract to be awarded.

DUNN ENGINEERING ASSOCIATES

By: Walter M. Dunn Jr.
Title: PRESIDENT

By: _____
Title: _____

MICHIGAN DEPARTMENT OF TRANSPORTATION

By: [Signature]
Title: Department Director

FORM APPROVED
2/1/02
[Signature]
ASSISTANT
ATTORNEY
GENERAL

1.0 Team Qualifications

1.1 Business Organization

The prime consultant for this project is: Dunn Engineering Associates, P.C.
66 Main Street
Westhampton Beach, N.Y. 11978

Dunn Engineering Associates operates as a professional corporation organized in the State of New York. The Federal Identification Number is: 11-3466505.

1.2 Consultant Qualifications and Prior Experience

Since its formation in 1982, Dunn Engineering Associates (DEA) has dedicated itself to providing quality professional engineering services in the fields of traffic engineering, traffic operations and intelligent transportation systems (ITS). Two projects, highly relevant to MITSC are described in this section.

INFORM TRAFFIC OPERATIONS CENTER

DEA principals and professional staff of 65 employees have played major roles in initiating, designing, implementing and operating INFORM, one of the most extensive advanced traffic management systems in the country. INFORM (Information For Motorists) is a corridor traffic management system designed to obtain better utilization of existing highway facilities.

Dunn has several responsibilities related to operating the INFORM TMC. The firm maintains system software, serving as system administrator. In this capacity, Dunn has the responsibility of finding and correcting software bugs, modifying software to enhance existing functions or provide new ones, maintaining databases, and checking software supplied by other vendors and consultants. Dunn personnel also develop and maintain support software for functions such as tracking equipment inventory, correlating maintenance contractor invoices with work performed, logging traffic signal repair dispatches, logging HELP (Highway Emergency Local Patrol) calls, and tracking DOT roadwork to avoid scheduling lane closures in adjacent locations.

In addition, the firm supervises all maintenance of INFORM equipment and monitors maintenance and protection of traffic during maintenance operations. This work includes keeping records, assessing maintenance contractor claims, monitoring work in the field, ensuring proper maintenance and protection of traffic, and supervising NYSDOT's equipment warehouse.

Dunn maintenance inspectors monitor the performance of the maintenance contractor's repair work on traffic control cabinets, fiber optic cable, coaxial cable, variable message signs, ramp metering installations, remote communications units, and all equipment elements which comprise INFORM.

Dunn has designated and trained a cadre of personnel who serve as on-call system operators should the need arise. This can occur as a result of sickness, family emergencies, religious holidays, etc. Dunn also provides NYSDOT with traffic engineering services related to system operations.

INFORM Emergency Preparedness

When it comes to incident and emergency management, Dunn literally wrote the book for the Federal Highway Administration. DEA prepared the first *Incident Management Handbook* which has become an important resource for many agencies involved with incident management and emergency preparedness.

Dunn personnel, as part of their involvement in the INFORM program, chaired the Region's Incident Management Committee. This committee included personnel from the NYSDOT maintenance, traffic and parkway towing groups as well as representatives of the Nassau County Highway Patrol, the Suffolk County Highway Patrol, the State Police, the New York City Police and the NYS Department of Environmental Conservation. The committee conducted post-mortem analyses of responses to major incidents and other matters relating to improving efficiency in incident response.

For more information on the performance of Dunn Engineering for INFORM, the Michigan DOT should contact the INFORM Director Mr. Emilio Sosa, NYSDOT Region 10 State Office Building, Veterans Memorial Highway, Hauppauge, New York 11788, 631-952-6733.

RHODE ISLAND TRAFFIC OPERATIONS CENTER

In association with another consultant, Dunn has operated the RIDOT TOC since January 1999. This TOC serves as the catalyst in accomplishing many of the recommendations presented in the recent Rhode Island Congestion Management Plan, including strategies addressing incident management, traffic operational improvements, ITS applications, advanced public transit information and transportation system management. The TOC serves as the heart of the various hardware and software components designed to better manage transportation on the state's highways.

In getting the TOC up and running, Dunn performed these tasks:

- Prepared Unified Response Manual.
- Updated construction information on the Highway Advisory Radios on a biweekly basis.
- Provided staffing plan for summer 1999 and ultimate buildout. This included job descriptions and specifications necessary for creating new Civil Service titles.
- Conducted review and assessment of TOC resources.
- Created computerized inventory to be part of future automated maintenance management system.
- Began developing Regional ITS architecture.

- Began developing ITS deployment plan.
- Developed MS Access database to track TOC tasks.
- Completed Variable Message Sign Failure Tracking Program.

RITOC Emergency Preparedness

As part of its operations responsibility, Dunn engaged in enhancing incident and emergency management in Rhode Island. Activities included:

- Developed a Duty Officer Procedure Manual for personnel who may be called into service during emergencies as a reference guide to TOC procedures and equipment operation.
- Provided 24-hour 7-day on-call services to respond to incidents.
- Developed incident tracking program in MS Access.
- Reconstituted the Incident Management Task Force.
- Developed a "Cell-Mate" system to encourage drivers with cellular phones to call in incidents.

For more information on the performance of Dunn Engineering for the RIDOT TOC, the Michigan DOT should contact Mr. David D'Amico, Frederick R. Harris, 10 Orms St., Suite 405, Providence, RI 02904, 401-861-2766.

1.3 Key Personnel: Experience and Qualifications

Dunn Engineering Associates Key Personnel

Dunn Engineering Associates (DEA) and team members bring to MDOT unequalled background and experience in system operations, business plan development and marketing/media relations.

DEA has designated **Louis Fiore** to manage the MITS Center for MDOT. In his most recent role, Mr. Fiore served as operations supervisor for Rhode Island DOT. He previously supervised maintenance activities for INFORM, the extensive traffic management system previously mentioned. In these capacities, he has been involved in virtually all aspects of operating freeway traffic management systems. Mr. Fiore's resume was included in our Letter of Interest.

Mr. Fiore's present assignment at the Rhode Island DOT TOC ends in January 2002 in accordance with RIDOT's plan to assume operation of the center with state personnel. Thus, Mr. Fiore will be available to assume his duties at the MITS Center.

On INFORM, DEA has provided operations personnel in the following positions: technical advisor, assistant project manager, systems administrator, systems equipment engineer, maintenance inspection supervisor, maintenance inspectors and backup system operators. DEA's project assignments bring additional staff experience in operations to MDOT.

- **Principal-in-Charge. Robert A. Reiss, P.E.**, a Principal of DEA, has managed the firm's INFORM operations project for the past ten years. Bob supervises the firm's five full time positions on the project, handles the personnel assignments, and assists the project manager as required. For example, when the project manager was on medical leave for six weeks, Bob served as interim INFORM project manager. Bob also contributed significantly to INFORM's design, including traffic management strategy and algorithm development. Mr. Reiss will serve as **Principal-in-Charge**, should DEA be selected for the MITS Center operations project.
- **Quality Assurance. James Kuzloski, P.E.** has served as the Quality Manager for DEA since 1996. Previously, he was the Regional Director of NYSDOT Region 10 (Long Island). In that capacity, he had final responsibility for the development, operation, maintenance of INFORM.
- **Technical Advisor. DEA's founder, Walter M. Dunn, Jr., P.E.**, serves as Technical Advisor to the INFORM project, and will serve in a similar role should DEA be selected to operate the MITSC system. Walter is known as the Father of INFORM, having conceived and implemented the project when he was with NYSDOT. He has been actively involved in traffic operations for 25 years.
- **Traffic Engineer. Steve Latoski, P.E.**, has served as Traffic Engineering Group Leader at DEA since September 1999. Steve has performed many traffic engineering and traffic impact studies for state DOTs and private developers. For the Rhode Island TOC project he prepared the *Unified Response Manual* and was part of the team that identified candidate incident diversion routes. He most recently served as Project Manager on *Survey of National Roadway Incident Diversion Practices* for the Transportation Research Board. This project included past research pertaining to incident diversion practices, surveyed selected transportation and other agencies that have developed and implemented incident diversion plans, reviewed and summarized reports on current and proposed technologies and identified successful processes and plan components.
- **MITSC Operations Advisor. Robert Rosendahl, P.E.**, has served as Engineer at DEA since he retired as Director of INFORM Operations in September 1996. Most recently, Bob was Project Manager on the Operational Support Contract for the start-up of the RIDOT-TOC in Providence. Previously, as Director of INFORM, he chaired the Region's Incident Management Committee. The operation, design integrity and maintenance of the INFORM system was his direct responsibility.
- **MITSC Technical Advisor. Joseph McDermott, P.E.** recently retired from the Illinois DOT after 36 years of service and now serves as a Consultant to DEA. His most recent position was Bureau Chief of Traffic for District 1 (Chicago Area). He headed the District Bureau of Traffic and its traffic engineering and systems operational functions for nearly 3,000 lane miles of expressways and arterials serving more than 7,000,000 residents. An annual operating budget of more than \$11 million

included 218 permanent and as many as 60 temporary employees. The traffic engineering functions included traffic programs, studies, access management and permits, signs, signals, pavement markings, and overall system operations. The Bureau operates from District Headquarters and six field facilities, four sign shops, the Emergency Traffic Patrol ("Minutemen") garage, and the Traffic Systems Center.

MetroCommute Key Personnel

MetroCommute has designated **Evan Lemonides** as its **task leader** for Business Plan Development (Task 2), Marketing/Media Relations (Task 8) and Operation of DOT/511 Call Takers for Traveler Information (Task 9).

In 1994, Evan Lemonides co-founded and is now a principal of MetroCommute, the first privately developed real time traffic information website in the United States. The site provides real time travel speeds and incidents for over 400 lane miles of limited access highways in Long Island, NY, as well as scheduled roadway construction, major incident information, and transit updates for the entire New York metropolitan area around-the-clock. The firm focuses on developing on-line transportation information products, car pooling services and the provision of on-demand commuter information.

Wilson McHenry Company Key Personnel

Media firm Wilson McHenry has designated **Charlstie Laytin** as its **task leader** in Marketing/Media Relations (Task 8) on this project.

As a senior account executive at Wilson McHenry Company, Charlstie Laytin is responsible for the successful execution of media relations activities, including securing news coverage, feature stories and speaking engagements. She is also responsible for the development of media relations materials, pitches and hot topics.

Since joining WMC in June 1999 as an account associate, she has established and maintained positive media relations with the analyst, trade and business community. Charlstie has gained coverage for Wilson McHenry clients in top-tier publications including *Forbes*, *Red Herring* and *Investor's Business Daily* as well as top tier trades such as *PC Magazine*, *Interactive Week*, *Computerworld*, *InformationWeek*, and *InternetWeek*.

1.4 Authorized Negotiators

The authorized negotiator for this contract is:

Robert A. Reiss, P.E.
Dunn Engineering Associates, P.C.
66 Main Street
Westhampton Beach, New York 11978

Mr. Reiss is a Principal of the firm. His phone number is (631) 288-2480. His e-mail address is rreiss@dunn-pc.com.

1.5 Subconsultants

METROCOMMUTE

MetroCommute provides real-time traffic information through its website, and via e-mail and text alerts to subscribers' desktops, pagers, and mobile phones. The company also serves the radio, television, print, and electronic media industry, as well as corporate, fleet and travel organizations. Founded in 1994, MetroCommute is a private company that has developed and successfully deployed the technology needed to compile accurate and complete traffic information, and to deliver it based on traveler profile anytime, anywhere and to any device.

The reader is urged to access MetroCommute.com on the web to view the wealth of information made available to the traveling public.

In March, 2001, MetroCommute completed a transaction with the Lucent Technology's New Ventures Group. As part of this business agreement, MetroCommute acquired the worldwide rights to Lucent's PhoneBrowser product, and Lucent's New Ventures Group acquired an equity stake in MetroCommute. MetroCommute will use automatic speech recognition, text-to-speech and the PhoneBrowser technology developed by Bell Labs, to provide interactive, voice driven traffic information over landline and wireless telephones.

MetroCommute currently serves five major US markets and plans to expand to 10 additional markets by 2002.

Consumer Products

MetroCommute provides customized real-time traffic and transit reports through its website and via e-mail and text alerts to subscribers' desktops, pagers, and mobile phones. The company will soon launch its interactive telephone service that will allow callers to speak their specific highway or transit routes, and be read back current conditions on those facilities. By defining a travel profile through 'my MetroCommute', users can quickly obtain the information they need without having to navigate the website or the telephone system menus.

Media Products

MetroCommute provides custom traffic and transit information services to the radio, television, print, and electronic media industry. Our products include real time announcer screens and live traffic video products for radio and television broadcasters, as well as custom and co-branded website applications to complement any media application interested in providing up-to-the minute information. Our traffic applications are consistently among the most popular areas in our client's sites.

Corporate and Fleet Products

MetroCommute develops standard and custom traffic information products for corporate clients as a benefit to their employees, and also has a suite of products available for fleet oriented companies to minimize time spent in traffic, and maximize the productive use of their fleets.

WILSON MCHENRY COMPANY

Wilson McHenry Company is a full service public relations and strategic business communications firm serving a wide variety of high-growth, technology-based clients.

Effective traveler information requires an integrated approach to communications. The Wilson McHenry Company will apply its help to MDOT to achieve this objective.

1.6 Project Organization

Figure 1 shows the proposed organization for this project. The project will have a mixture of on-site and off-site personnel from each team member. The key member of the on-site organization is Louis Fiore of DEA. In his most recent assignment, Mr. Fiore served as operations supervisor for Rhode Island DOT. To staff the MITSC operations center, DEA plans to hire first from the current group of MITSC operators. The staffing of the call taker positions for Task 9 will be based on a local area hiring campaign conducted just prior to the start of the third year of the contract.

Key members of the team who will be performing project tasks both on and off site are Robert A. Reiss, P.E. (DEA); James Kuzloski, P.E., (DEA); Steve Latoski, P.E. (DEA); Evan Lemonides, P.E. (MetroCommute) and Charlstie Laytin (Wilson McHenry). Finally, the technical advisors to this project are Walter Dunn, Jr., P.E. (DEA); Bob Rosendahl, P.E. (DEA); and Joe McDermott, P.E. (consultant).

1.7 Project Schedule and Staff Allocation

For purposes of this proposal, the project shall be of 36 months duration. It shall assume a start date of January 1, 2002 and continue through December 31, 2004.

The allocation of person-hours to each task by personnel classification is given in Table 1. This table also includes subconsultants MetroCommute and Wilson McHenry Company.

Figure 1: MITSC Project Organization

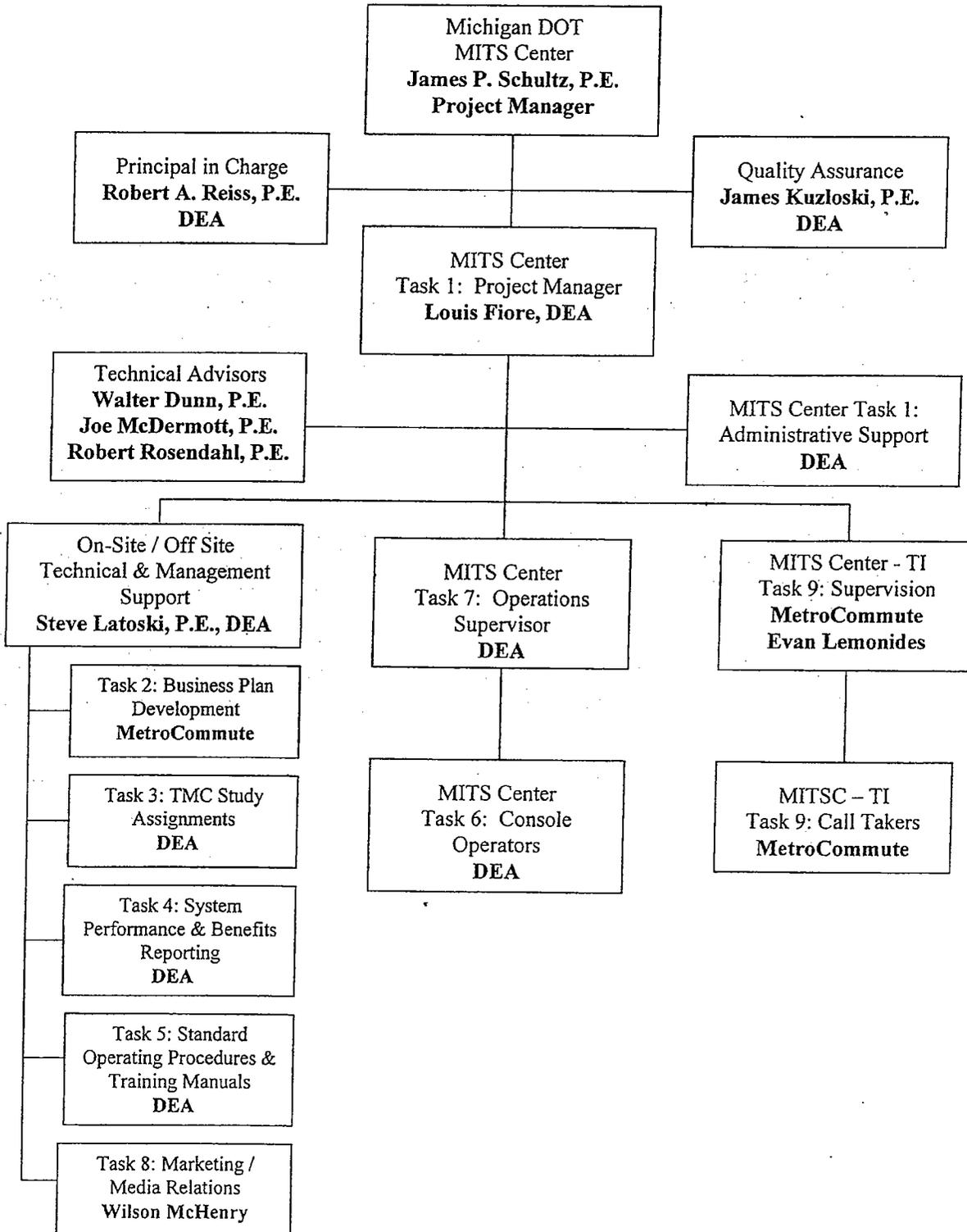


Table 1
Staff Allocation Table
(By Classification and Task)

DEA Team Staff Classification	Person Hours By Task								
	1	2	3	4	5	6	7	8	9
Dunn Engineering Associates									
Principal	144	12	72	72	72	-	-	36	-
Technical Advisor	144	12	72	72	72	-	-	36	-
Project Manager	1440	144	576	144	144	-	3600	-	144
Traffic Engineer	720	48	720	720	720	-	288	-	-
Console Operators	-	-	-	-	-	49920	-	-	-
MetroCommute									
Principal	-	100	-	-	-	-	-	120	40
Analyst	-	120	-	-	-	-	-	-	-
Editor	-	80	-	-	-	-	-	-	-
Graphic Artist	-	40	-	-	-	-	-	-	-
Technician	-	80	-	-	-	-	-	-	-
Programmer	-	-	-	-	-	-	-	200	-
Design/Graphics	-	-	-	-	-	-	-	120	-
Supervisor	-	-	-	-	-	-	-	-	2050
Call Takers	-	-	-	-	-	-	-	-	10320
Wilson McHenry									
Senior Vice President	-	-	-	-	-	-	-	500	-
Account Director	-	-	-	-	-	-	-	500	-
Senior Account Executive	-	-	-	-	-	-	-	125	-

2.0 Project Approach

DEA will ensure a seamless transition from the current MITSC operator to operation under our direction. This will be accomplished by rehiring most of the current operators and support staff as DEA employees, and initially continuing the procedures currently being used in the MITSC. There is successful precedent for this approach.

The INFORM Center on Long Island initiated operation with another consultant. After the initial 5-year period, the contract was transitioned to the DEA Team which hired former operators and shift supervisors. This transition was transparent to the motorists. We fully expect the same for the Michigan ITS Center.

One of the many strengths of the Dunn Team is that we are not only operators of Intelligent Transportation Systems (ITS), but also designers, implementers, integrators, and software developers of ITS. This broad perspective will benefit the MITSC as the Team will be able to enhance and improve the various operations tasks, and improve the use of the hardware and software systems to maintain traffic mobility during upgrades and enhancements to the ITS system. The team proposes to start this *systems evaluation* of the operations during the transition period from January 2002 to April 2002.

As innovators in the effective use of ITS systems in traffic management, the Dunn Team has an informed appreciation for the complexity of the MITSC operation. The collection, organization, recording, and dissemination of data from/to a myriad of sources and destinations is a challenging activity. The only way to handle the plethora of data is with effective procedures, and an informed operations staff. Therefore, besides a *systems* approach to the operations, there will be emphasis on staff training focusing on a number of elements, including:

- Fostering a professional, can-do attitude
- Low turn-over
- Cross-training
- Information dissemination

In essence, the Team's goal is the integration of all functions – both systems related and human-oriented – at the MITSC.

2.1 Task 1 - Project Management

The DEA Team acknowledges MDOT's goal of making the operation of the MITSC as efficient and effective while providing uninterrupted operations. DEA will provide a full time on-site Project Manager, Louis Fiore, to perform the following work items:

- Provide regular progress reports.
- Administer resource allocation plan and provide periodic resources loaded schedules for the project.
- Track project budget and provide regular updates, invoices and cost summaries.

- Provide coordination of all subcontractors utilized on the project.
- Participate in weekly progress meetings with MDOT and its maintenance provider.

In addition, DEA will work with MDOT to develop and host a Partnering Workshop at project start-up to define customers/client expectations and develop means of effectively dealing with conflict during the life of the project.

Finally, DEA will work with MDOT's Project Manager and MITSC Management to develop a Strategic Plan for the project.

As part of this work item, the DEA Team recommends that a peer review of the MITSC be conducted including observing the MITSC in action for a 24-hour period. In particular, we recommend that Mr. Joseph McDermott, former Manager of the Chicago Area Traffic Systems Center be called in to review the MITSC operation. He performed this function for the INFORM system and made a number of valuable suggestions. We also recommend that Mr. Robert Rosendahl, P.E., participate in this review. Mr. Rosendahl is former NYSDOT Director of the INFORM TOC (1988-1995) and most recently the TOC Manager during the start-up and initial 18 months of operation for the Rhode Island DOT Traffic Operations Center.

Staffing of the MITSC is one of the most critical issues affecting the quality of the operations. Having operated traffic operations centers for ten years, we are very familiar with the performance of and the workloads placed on the system operators.

To facilitate the transition from the current contract to this contract, we will review the performance of and interview all current MITSC operations staff. Where it is in the best interests of MDOT, every attempt will be made to retain existing staff.

2.2 Task 2 - MITSC Business Plan Development

A new business plan is key to supporting the ongoing operation, maintenance, and expansion of the MITSC activities through the next four years. The business plan will need to consider the identified goals and objectives described in other portions of the RFP and should be designed specifically to optimize the management and operations of the MITSC.

After the goals and objectives of the MITSC are defined, the business plan will be developed to quantify and meet the fiscal requirements of the Center during the three-year period of this contract and beyond. An accurate and detailed projection of operational expenses is essential to quantifying the resources required. Initial budget data will be gathered from MDOT. This data will help determine whether the Center can be sustained during the contract period through taxpayer dollars, ancillary revenue generating opportunities, or a combination of both. The financial projections contained in the business plan will be adjusted on an ongoing basis during the term of contract, in response to possible state budget changes, experience with revenue generating activities, and the potential identification of new revenue opportunities going forward.

MetroCommute has successfully developed, operated and maintained a private sector traveler information service for more than six years. Based on this experience, the firm, as part of the DEA Team, is ready to lead development of the MITSC business plan. Recently, MetroCommute in conjunction with its equity partner Lucent Technologies, completed a business plan that identifies major opportunities in the provision of traveler information services. The business plan is based on the firm's direct experience in providing the real-time traffic data that commuters want. There are differences between a private information system deployment such as MetroCommute.com, and a public agency deployment of information for a similar purpose. However, much of the firm's direct consumer experience can help inform the MITSC business plan. We will leverage this experience into the MITSC business plan development effort.

We identify some of the potential traveler information product revenue streams below. Others will be defined during the assembly of the business plan:

- Providing users with 'free' customized advertiser supported web pages, profile based email alerts, and text messaging alerts sent to cell phones, pagers and PDAs.
- Customized traffic information application for southeast Michigan corporations and organizations interested in providing personalized regional traffic information to their employees.
- Custom traffic cam feeds for trucking companies and other fleet operations, including taxis, car services and package delivery services.
- Customized traffic information applications that run on the web sites of area media organizations.
- Subscription fee based call-in services, with real-time traffic information available on demand via MetroCommute's Phonebrowser© Interactive Voice Response (IVR) software.

With this contract, the MITSC is adopting a new policy with regard to sharing of its information. The consultant team chosen for this contract will be expected to make the MITSC data (as defined by MDOT) available to interested third party information providers. This policy change will play a central role in the development of the business plan. MetroCommute agrees that travel condition information collected by state and local transportation agencies should be made available to third party providers that want to develop products and services for the general public and organizations. This policy, as outlined in the MITSC RFP should result in the delivery of as much transportation information to the public, via as many methods (TV, internet, radio, SMS, email, etc.) and in as many formats as possible. The involvement of third party providers is the distribution of MITSC data will provide two key benefits. First, the third parties will become partners with the MITSC in building information services built and distributing the information to the public. Second, outside third parties will provide competition to the DEA consultant team, which intends to develop its own traveler information products. Competition is key to developing products that get the information to travelers in southeast Michigan in ways that meet their needs.

MITSC staff, working with MetroCommute, will be well positioned to compete effectively with other private third party information providers. The business plan will leverage the following advantages of the in-house team:

- The MITSC will be in direct continuous contact with the data. Benefits include lower transmission costs and fresher data (less hops to the end user)
- The MITSC will be able to promote the various services through its network of Dynamic Message Signs (DMS) and other mechanisms.
- The MITSC may have access to the 511 number for traveler information. This simple three digit number will be easier to brand than a competing local or 800 number for traveler information.
- MetroCommute has already developed the best web, email, and voice delivery mechanisms available in the market today, so it is likely that the services that will eventually be provided will be superior to any of the third party providers.

2.3 Task 3 - Transportation Management Center Studies

The DEA Team will work closely with the MDOT Manager of the MITSC to provide technical and analytical services on a task study basis. Categories of studies that may be authorized under this task would include:

- Human Factor Studies of Transportation Management Center Operations. These studies would include: workspace layout; location of computer workstation and display equipment and input/output devices. How the operators should interact with and receive/transmit data to the system would also be included.
- Studies of current research, recommended practices, lessons learned and operation of other successful management centers to be used to develop optimum maintenance and operations strategies for the MITSC. The DEA team, through its decade of experience in operating traffic management systems, is well positioned to bring lessons learned to the MITSC.

Based on these broad ATMS study areas, the DEA Team recommends that during the transition phase, a Task Analysis be performed that includes an assessment of the overall operations including existing Standard Operating Procedures (SOP) and staffing. Task Analysis will include the following:

- Observations and recommendations on the existing systems, including, but not limited, to the CCTV, DMS, Vehicle Detectors, HAR.
- Observations and recommendations on incident and freeway management, job engineering and training.
- Analysis and recommendations on the current staffing, shifts, and organizational structure and functions.
- Workflow analysis and recommendations of the traffic system operations.
- Environmental analysis and recommendation of the MITSC.
- User Analysis and recommendation of the MITSC staff.

- Analysis of work related social structures and dynamics among MITSC staff.
- Workflow analysis and recommendations of implementing a Traveler Advisory Telephone Service (TATS).
- Recommendations on using Digital Short Range Communication (DSRC) to upgrade Highway Advisory Radio (HAR).

2.4 Task 4 – System Performance and Benefits Reporting

Under this task, the DEA Team shall perform the following work items:

- Determine appropriate measures of effectiveness (MOE's) for the MITSC and the ITS in terms of efficiency and effectiveness in providing transportation management, traveler information, and incident management, and develop means of capturing and monitoring data for these metrics.
- Assist MDOT in capturing and reporting on benefits of the ITS system in terms of congestion mitigation and air quality improvements.
- Assist MDOT in measuring customer satisfaction of the services provided by the MITSC and the ITS system. The Consultant will devise appropriate means of gathering this information, such as by the use of surveys, focus groups, etc.
- Develop, implement, and maintain new tools, or identify existing tools to be used to capture, monitor, and report on system performance and benefits data.
- Prepare monthly status reports on MITSC and ITS system performance based on the predetermined MOE's in a format approved by MDOT. A more detailed annual report, including costs and benefits shall be prepared at the end of the State's fiscal year.

DEA will utilize its INFORM experience serving as system administrator, to develop, operate and maintain the software applications used to report system performance and benefits. In this task, Dunn will assess and evaluate the current software applications for these system functions. Dunn will then recommend to MITSC management, modifications necessary to produce monthly status performance reports and a separate detailed annual report that includes both costs and benefits.

2.5 Task 5 - Standard Operating Procedures and Training Manual

Under this task, the DEA Team shall perform the following work items:

- Evaluate all MITSC Standard Operating Procedures (SOP's) to ensure that they are as efficient and effective as possible.
- Develop an SOP Manual as required to conform to the current status of ITS deployment, software systems, and MITSC policy.
- Continue to make modifications to the SOP Manual as necessary as a result of system performance analysis.
- Evaluate MITSC training materials to ensure that they are as effective as possible in providing training of new employees and refresher training of veteran employees.

- Update the existing training materials as required to conform to updates in the SOP Manual, status of ITS deployment, software systems, and MITSC policy.
- Continue to make modifications to the training materials as necessary as a result of system performance analysis.
- Prepare individual sections of SOP and training manuals in modules with a consistent format, allowing them to be easily updated, identified by date, and replaced in a 3-ring binder.
- The first update shall be completed by June 2002. Thereafter, manuals shall be updated every three months by the end of each calendar year quarter.

The DEA Team will modify previously developed standard operating guidelines using our previous O&M contracts as a starting point to evaluate the current MITSC SOP's. These updated documents will serve as the foundation for subsequent training of MITSC staff. In order to facilitate the operators' usage of procedures contained within the manual, the MDOT may consider placing this information in an interactive format for the operator to use in pulling down sign message menus or required forms. Operators would also be required to read certain sections of the manual during slow periods (e.g., night-shift). The development of these procedures will be organized in three documents: TOC Operators Guide, Procedural Notebook, and Diversion Plans Manual.

The DEA Team will use existing and future policies, procedures, and guidelines to serve as the basis in developing a series of standard operating procedures that will direct both routine and emergency activities of the ATIS, ATMS and the MITSC. The objectives of these procedures are to:

- Provide travelers with a consistent message for a particular or set of conditions.
- Provide guidance for the MITSC operations staff when incidents occur.
- Establish reasonable priorities when there are several conditions that should be brought to the attention of travelers.
- Govern the conduct of MITSC staff in the field and their interactions with staff from other organizations.
- Establish the curriculum for the training of new staff.

2.6 Task 6 - Provide MITSC Console Operators

Under this task the DEA Team will provide MITSC Console Operators to work with MDOT staff to support continuous coverage of the 24 hour a day, 7 days a week operation of the MITSC. Current staffing levels are two staff from 5 AM to 11 PM Monday to Friday. One staff is on duty during all other times. Under this task, strategies will be developed to define how this can be successfully accomplished given the duties of a full time MITSC Console Operator as described in the RFP.

In determining staff, schedules and assignments, the following conditions need to be considered:

- A full-time Operator employee must be present whenever a substitute is employed.

- The A.M. shift has the greatest exposure to outside agencies, public relations events, and traffic signal dispatches while responding to the daily problems of rush traffic.
- The P.M. shift typically has a heavier workload related to traffic congestion because of the higher traffic volumes and also congestion in the *off-peak* direction.
- Summertime traffic may place an extra workload on the P.M. shift as the exodus can begin in the early afternoon hours and can sometimes extend into the midnight shift starting at 2200 hours. This congestion is exacerbated by summertime construction activities.
- A typical evening usually quiets down after 1900 hours, and when this occurs, operators can spend their remaining time with data entry tasks such as completing traffic signal work orders, maintaining system graphic screens and database files, and generating/compiling routing or special request report forms.
- While the midnight shift is the quietest of the three with respect to traffic congestion, operators on this shift can often encounter the more serious traffic incidents. These types of incidents can also last into the A.M. rush hour and therefore, monitoring of incident clearance activities is very important.
- When the midnight shift is not working an incident, the shift is responsible for compiling the various failure reports that were generated throughout the day, maintaining database files and ensuring all systems remain operational and ready for the next day. It is through the diligent work of this shift that system component failures can be promptly identified and repaired. This shift is responsible for generating special reports for use by management and the monthly summary report.
- The procedure for staffing shifts during anticipated absences of normal operators needs to be addressed explicitly. Under no circumstances is an operator allowed to leave their position until their replacement has arrived.

DEA's association with the full-time operation of the INFORM System has yielded considerable experience in the do's and don'ts of TOC operation. This experience coupled with our responsibilities in operating the TOC in Rhode Island have formed a set of ideas and practices that we know to be the keys to success in operations. A sample of some of these keys is provided below:

- Our experience has shown that 4 to 6-hour shifts are the best work periods for operators. Determining the right length of shift is important in holding both the attention of the operator, ensuring proficient and accurate work, and tempering the stress that can be associated with these positions.
- Our experience has also shown that college students (co-op students) prove to be very good operators. These individuals are generally quick learners and work well in a short shift environment that can complement class schedules.
- A training regimen of classroom, hands-on, and field environments is effective in providing a well-rounded operator who understands the big picture. Our prior training programs consisted of classroom style orientation for new operators, followed by over-the-shoulder training for a period of time until the Operations Supervisor determines that the new operator is able to function independently. We also work with field personnel (Highway Patrol, Incident Management teams from the DOT, etc.) to provide rotational cross-training. In this program, our operators

periodically ride a shift with these staff to get a better idea of how the field uses the TOC for support. These interactions also promote team-building and put a face to the voice they otherwise only hear on the radio. Field staff are also invited to work on shift in the TOC so the cross-training and awareness of the program flows in both directions.

- A program of continuous re-training and evaluation is needed to ensure that individual operators have a common approach to performing their responsibilities and to provide a forum for the introduction of new approaches or job functions. We regularly meet with our operators in a group setting and go through scenarios in both verbal and written forms. These sessions again promote team-building and allow operators to interact and learn from each other. In a round the clock shift environment, it is not uncommon for staff to never meet other members of the team that may work at entirely different times of the day. It is important for operators to interact with others who have the same jobs and to be able to share ideas and experiences.
- Operations staff that are employed by a consultant need to shed their corporate identity and recognize the public service aspects of their position. In TOC environments, DEA staff is truly an extension of the public agency and we emphasize that point to each individual. As a point of interface with the public, our staff must also look and act professional and create a positive image for the agency that we are serving.

2.7 Task 7 - Provide Supervision of all MITSC Consultant Staff

The selection of a traffic engineer to provide technical supervision for the DEA Team staff is critical to the success of this project. The traffic engineer must have strong written and verbal communication skills and be a recognized presence in the Transportation Community. He must succeed as the formal point of contact with MDOT's MITSC Managers; Operations Center Manager and Shift Supervisors. His presence on-site for a minimum of 20 hours/week will fluctuate upwards as he sets up the DEA Team staff. A critical qualification is his experience in working with the first responders on an Incident Management Committee.

With these requirements in mind, Dunn Engineering has selected **Steve Latoski, P.E.**, as its supervising Traffic Engineer. He previously wrote the Unified Response Manual for the Rhode Island TOC and participated in the Rhode Island Incident Management Task Force meetings.

Robert Rosendahl will serve as Dunn technical advisor on this task. He chaired the NYSDOT Region 10 Incident Management Committee. This committee included personnel from the NYSDOT maintenance, traffic and parkway towing groups as well as representatives of the Nassau County Highway Patrol, the Suffolk County Highway Patrol, the State Police, the New York City Police and the NYS Department of Environmental Conservation. The committee conducted post-mortem analyses of responses to major incidents and other matters relating to improving efficiency in incident response.

2.8 Task 8 – Marketing / Media Relations

The MITSC provides real-time traffic updates to travelers to minimize the impacts of incidents and traffic congestion. MITSC needs to be sure that not only the real-time information is disseminated, but that all audiences are aware of where they can get the information and decision makers understand and endorse the approach to the market. The goal of this task is to increase MITSC name recognition, both statewide and nationally; to increase knowledge and awareness of the system and its benefits; and to promote increase in system usage.

Marketing of Traveler Information Systems

MetroCommute will provide traveler information services based on its current offerings that would include MDOT web pages (map and text based reports), MDOT email traffic alerts, MDOT text message updates to cell phones, pagers, and PDAs, and other services as they are developed. MetroCommute will work with MDOT, its design team, and the Media firm (Wilson McHenry) to develop an MDOT/MITSC look and feel. MetroCommute would integrate with the existing MDOT and MITSC information systems (speed data, scheduled and unscheduled incident data, and traffic video) during the first year of the contract, and add data as it becomes available. We would expect to launch the services before the beginning of the second year, and continue to enhance the services during years two and three. Based on our experience in the New York, New Jersey, Connecticut, California, and Houston markets, and the existing availability of data for the Detroit area, we anticipate that the services would be very well received.

Marketing Program

Objectives of a marketing program include: inform the public that MITS is providing valuable real-time traffic updates available through multiple sources; promote use of the MITS system; maintain MITSC as the *de facto* source for accurate, comprehensive, and reliable traveler information; showcase the innovative state support for commuters, businesses and travelers.

Wilson McHenry, as part of the DEA team, has identified a three-pronged approach for the public relations/marketing campaign:

- I. Relaunch develops key messages for marketing communications efforts; creates awareness of service; and creates awareness of availability of all outlets that offer service as viable tool for the consumers. Relaunch tools includes PITSTOP and Messaging Workshops:

Vision Statement -- PITSTOP (Point in Time Status of Perception)

The PITSTOP™ is a measurement tool, proprietary to Wilson McHenry Company, which examines market perceptions over a specific time period. Our methodical approach to analysis establishes a thorough understanding of our client's industry issues, competitive landscape and marketplace. Gaining insight

into how customers, employees, journalists and industry analysts currently view a company, industry or technology sector sets the stage for our messaging workshop and messaging programs going forward.

Messaging Workshop

Immediately following the completion of the PITSTOP, conduct a messaging workshop to solidify vision, category, and brand and establish unique messaging that differentiates MITS from competitors. Leverage messages in all communications materials including Web site content.

- II. Ongoing Awareness drives adoption of the service; develops a community to contribute to information; makes this service a priority stop for consumers looking for reliable, real-time traffic information; and establishes transportation information as a daily part of our stakeholders' lives. Ongoing awareness tools includes:

MITS News Bureau

An ongoing, proactive news bureau for MITSC is the core of an effective overall public relations campaign. A news bureau approach will allow us to constantly churn out releases and talk to the media about MITSC on a daily basis. This constant flow of information to as many media outlets as possible is critical to the perception of momentum. In addition to a planned schedule of major news announcements and traffic data, there will be unanticipated announcements that merit media attention such as competitive activities.

Corporate Blue Chip media and industry analyst relations

Target blue chip media among all audiences in order to communicate MITSC vision and leadership position in the industry; arrange on-site media visits, develop bylined articles and opinion pieces to promote MITSC. Media relations includes: development of press list, press releases, kit contents, etc., on an ongoing basis.

POP Rate

Quarterly measurement of program success based on messaging, audience, differentiation and position.

- III. Target Programs to key audiences includes:

Facility tours

Conduct targeted facility tours with key media and stakeholder groups to support MITS leadership position, key messages, business model, and market approach. Ensure events are tailored to meet the specific needs of each group.

Product Launches/News/Tours

News releases on funding, new products, milestones, customer wins and aggressive pitching with key media and analyst contacts. Product tours to update target media/analysts.

2.9 Task 9 – Provide MITSC Traveler Information (DOT/511) Call Takers

The MITSC will be staffed 24/7 with call takers whose duties shall include answering calls from the general public, MDOT personnel and other involved agencies. The call takers will use ITS software to provide callers with current traffic condition and incident information for the MITSC service area. The Call Takers shall also direct calls to MITSC Console Operators or Supervisors, as needed.

MetroCommute operates a call-in service staffed primarily by part time call takers, and would leverage this experience in performing the MITSC call-in functions.

In order to properly staff, train, and operate the MITSC call center function properly, several elements are required:

- Ongoing recruitment to maintain a part-time work force of sufficient size to respond to the call volume and scheduling that work force according to call volume pattern by: day of week; time of day; season; weather conditions; special events; and unusual occurrences.
- A training period that introduces new personnel to the policies, procedures, and work duties required by the job. Training should include direct experience working alongside experienced Call Center personnel and supervisors. During the first six months of the contract period, we would review the existing MITSC SOP Manual pertaining to Call Taker duties and operations. We would propose drafting a Call Taker Training Manual, in collaboration with MDOT personnel. This manual, which would be updated from time to time, as required, would contain a complete description of the work duties and policies pertaining to the Call Center call takers and work
- Advanced Traveler Information Services software tools so that calls are effectively answered. The MetroCommute call takers rely on a combination of tools that include live digital traffic camera views, a graphic displaying real time travel speeds along with incidents, and a method to quickly query specific roads and facilities for current conditions.
- At some point as usage grows, it may be cost effective to supplement the live call takers with an automated system. The procedures established for the live call takers will mirror those for an automated system, so that this transition can be made effectively.

MetroCommute would staff, train, and operate the call taker functions for the MITSC in the same professional manner that it operates its call taker program for the New York/New Jersey/Connecticut region ensuring that the system operates at the highest levels of customer service.

Addendum

Dunn Engineering Associates Technical Proposal

Michigan ITS Center Operations

Since the time of Dunn Engineering Associates' response to MDOT's Michigan Intelligent Transportation Systems Center Operations Request for Proposals, MDOT has determined that it is in the best interest of the Department to make the following modifications.

1. All of Task 9, to provide MITSC travel information (DOT/511) call takers, is deleted from the technical proposal. The cost proposal has been modified to delete all costs associated with this task. MDOT reserves the right to add this task later through a contract amendment.
2. A portion of Task 8, all marketing program activities to be performed by Wilson McHenry, is deleted from the technical proposal. The cost proposal has been modified to delete all costs associated with Wilson McHenry. MDOT reserves the right to add these activities later through a contract amendment.

DERIVATION OF COST PROPOSAL

DUNN ENGINEERING ASSOCIATES, P.C.

Summary

December 21, 2001

Federal ID # 11-3466505

ESTIMATED DIRECT LABOR

<u>Classification</u>	<u>Estimated Person-hours</u>	x	<u>Hourly Rate</u>	=	<u>Labor Costs</u>
<u>Home Office</u>					
Principal	408		60.00		24,480.00
Technical Advisor	204		50.00		10,200.00
Sr. Traffic Engineer	1608		35.00		56,280.00
Software Engineer	0		50.00		0.00
Total Home Office Labor	2220				90,960.00
<u>Field</u>					
Sr Traffic Engineer	1428		35.00		49,980.00
Project Manager	6048		32.00		193,536.00
Operations Supervisor	6240		23.00		143,520.00
Operators	43680		17.00		742,560.00
Operator Overtime Premium	2184		8.50		18,564.00
Total Field Labor	57396				1,148,160.00
Total Estimated Hours	59616		Total Estimated Labor		1,239,120.00

ESTIMATED OVERHEAD

\$90,960.00	X	145.83%	=	Home Office Overhead	\$133,556.57
\$1,148,160.00	X	118.58%	=	Field Overhead	\$1,361,488.13
				Total Estimated Overhead	1,495,044.70

ESTIMATED DIRECT EXPENSES

(Estimated Actual Cost)

Telecommunications Service		36 months @	2,000.00		\$72,000.00
Equipment Leasing		36 months @	100.00		\$3,600.00
Equipment Maintenance		36 months @	50.00		\$1,800.00
Equipment Purchases	3 PCs@ 1500 \$4,500.00 plus	1 laptops @	2,500.00		\$7,000.00
Equipment Purchases		UPS/Master Switch			\$5,000.00
Office Furniture					\$5,000.00
Shipping		36 months @	100.00		\$3,600.00
Printing/Reproduction					\$8,275.00
Photo Development					\$2,150.00
Uniforms					\$1,500.00
Travel					\$70,000.00
				Total Direct Expenses	\$179,925.00

FIXED FEE

\$2,734,164.70	X	15.00%	=	Total Fixed Fee	\$410,124.70
(Total Estimated Labor + Overhead)					

SUBTOTAL - PRIME CONSULTANT

\$3,324,214.40

(Sum Totals: Labor, Overhead, Direct Expenses, Fixed Fee)

MetroCommute

\$243,653.98

Subconsultant Technical Advisors	204 Hours @	135.00	\$27,540.00
Subconsultant Traffic Engineer	72 Hours @	150.00	\$10,800.00
Subconsultant Traffic Engineer	108 Hours @	65.00	\$7,020.00
Subconsultant Software Engineer	160 Hours @	150.00	\$24,000.00

TOTAL ESTIMATED COST
(Sum Totals: Prime & Subs)

\$3,637,228.38

DERIVATION OF COST PROPOSAL

METROCOMMUTE - Summary

Federal ID # 06-1554051

ESTIMATED DIRECT LABOR

<u>Classification</u>	<u>Estimated Person-hours</u>	x	<u>Hourly Rate</u>	=	<u>Labor Costs</u>
Principal	260		58.54		15,219.51
Analyst	120		36.59		4,390.24
Programmers	200		36.59		7,317.07
Editor	80		29.27		2,341.46
Design/Graphics	120		29.27		3,512.20
Graphic Artist	40		24.39		975.61
Technicians	80		15.00		1,200.00
Total Estimated Hours	<u>900</u>			Total Estimated Labor	<u>\$34,956.10</u>

ESTIMATED OVERHEAD

\$34,956.10	X	110.00%	=	Total Overhead	<u>\$38,451.71</u>
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(Total Estimated Labor)

ESTIMATED DIRECT EXPENSES

(Listed by Item at Estimated Actual Cost to you - NO MARKUP)

Software License (3 years - includes support)	\$90,000.00
Web Servers	\$15,000.00
Internet Access (3 mbps average - estimated, for 3 years)	\$43,200.00
Travel	\$10,000.00
Shipping	\$500.00
Printing/Reproduction	\$400.00
Telephone	\$135.00
Total Direct Expenses	\$159,235.00

FIXED FEE

\$73,407.80	X	15.00%	=	Total Fixed Fee	\$11,011.17
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(Total Estimated Labor + Overhead)

SUBTOTAL

(Sum Totals: Labor, Overhead, Direct Expenses, Fixed Fee)

\$243,653.98

Sub Consultant 1	\$0.00
Sub Consultant 2	\$0.00

TOTAL ESTIMATED COST

(Sum Totals: Metro Commute & Subs)

\$243,653.98

DERIVATION OF COST PROPOSAL

TECHNICAL ADVISORS - Summary

ESTIMATED DIRECT LABOR

<u>Classification</u>	<u>Estimated Person-hours</u>	x	<u>Hourly Rate</u>	=	<u>Labor Costs</u>
Technical Advisor - J. McDermott	140		135.00		18,900.00
Technical Advisor - D. Roper	64		135.00		8,640.00

Total Estimated Hours	<u>204</u>		Total Estimated Labor		<u>\$27,540.00</u>
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ESTIMATED OVERHEAD					
\$27,540.00	X	0.00%	=	Total Overhead	<u>\$0.00</u>

(Total Estimated Labor)

ESTIMATED DIRECT EXPENSES

(Listed by Item at Estimated Actual Cost to you - NO MARKUP)

Total Direct Expenses	\$0.00
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FIXED FEE

\$27,540.00	X	0.00%	=	Total Fixed Fee	\$0.00
(Total Estimated Labor + Overhead)					

SUBTOTAL	\$27,540.00
(Sum Totals: Labor, Overhead, Direct Expenses, Fixed Fee)	

TOTAL ESTIMATED COST	\$27,540.00
(Sum Totals: Technical Advisors)	

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

- b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

Assurances that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR § 26.13)

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

INSTRUCTIONS

This statement reports the actual dollar amounts of the project cost earned by and paid to DBE subconsultants. Complete and submit to the Contract Administrator with each billing and within 20 days of receipt of final payment. Some forms may be blank if no payment was made since the previous billing.

For "Authorization No., Contract No.," and "Job No." as appropriate, use the numbers assigned by MDOT.

For "Billing Period," report the calendar days covered by the billing.

For "Services Work Performed" report the main service performed by the subconsultant during the reporting period.

For "Total Contract Amount" report the total amount of the contract between the prime consultant and subconsultant.

For "Cumulative Dollar Value of Services Completed" report the total amount the subconsultant has earned since beginning the project.

For "Deductions," report deductions made by the prime consultant to the subconsultant's "Cumulative Dollar Value of Services Completed" for retainage, bond or other fees, materials, services or equipment provided to the subconsultant according to mutual, prior agreement (documentation of such agreement may be required by MDOT).

For "Actual Amount Paid to Date," report cumulative actual payments made to the subconsultant for services completed.

For "Actual Amount Paid During this Billing Period" report actual payments made to the subcontractor for services during this billing period.

Provide "DBE Authorized Signature" for final payment only.

Be sure to sign, title and date this statement.

MDOT CONTRACT ADMINISTRATOR:

Complete "Comments" if necessary, sign, date and forward to the Office of Equal Opportunity within seven (7) days of receipt.

Attachment A
(This is a reproduction of Appendix A of 49 CFR Part 29)
**Certification Regarding Debarment, Suspension, and Other
Responsibility Matters -- Primary Covered Transactions**

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48

CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions

1. The prospective primary participant 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 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 enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

[60 FR 33042, 33064, June 26, 1995]

ATTACHMENT B

[This is a reproduction of Appendix B of 49 CFR Part 29]
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY,
AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the

eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone No. (517) 335-2513 or (517) 335-2514).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

[Federal Register Doc. 88-11561 Filed 5-25-88; 8:45 a.m.]

March 9, 1989

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3/26/04

**AGREEMENT FOR INTELLIGENT TRANSPORTATION SYSTEM
INTEGRATED SURVEILLANCE AND DATA MANAGEMENT
INFRASTRUCTURE SERVICES**

THIS AGREEMENT ("AGREEMENT"), made this ^{4th} day of ^{August} [] , 2004, by and between the State of Michigan, acting through the Department of Transportation ("STATE"), and

Mobility Technologies, Inc., a Delaware corporation, with its principal place of business at Suite 220, 851 Duportail Road, Wayne, Pennsylvania 19087 ("MOBILITY TECHNOLOGIES").

WITNESSETH:

WHEREAS, the Intelligent Transportation Infrastructure Program ("ITIP") created by Section 5117(b)(3) of the federal Transportation Equity Act for the 21st Century ("TEA-21"), Pub. L. 105-178, as amended, provides funding for data services for the measurement of various transportation system activities as described in paragraph 14(e) ("DATA SERVICES") in the Detroit metropolitan area ("PROJECT") to aid in transportation and analysis while making a significant contribution to the intelligent transportation system ("ITS") program; and,

WHEREAS, the STATE has established a set of ITS Goals and the PROJECT can help achieve these goals as follows:

STATE ITS Goal	ITIP implementation satisfies through...
Goal 1: Improve: safety, traffic flow, air quality, and fuel consumption	Reducing congestion and travel time
Goal 2: Improve operations	<ul style="list-style-type: none"> • Integrates and enhances legacy system • Self sustaining system • Provides comprehensive incident and event information to assist with traffic operations and emergency response
Goal 3: Improve functionality and reliability of hardware and software	<ul style="list-style-type: none"> • The Web-based system eliminates the need for STATE-sponsored software enhancements for this ATIS application
Goal 4: Develop effective partnerships	The program is a public-private partnership that reaches out to and embraces public agency stakeholders

WHEREAS, the various transportation activities which may be measured and/or collected under the ITIP PROJECT may include any and all sources of information related to traffic flow and/or conditions, both real-time and historical, including but not limited to video images, detector station information relating to volumes, speeds and classification, etc., accident information, construction information, weather information, homeland security information and

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all information collected and owned by MOBILITY TECHNOLOGIES under this AGREEMENT, unless otherwise restricted ("DATA"); and,

WHEREAS, Section 5117(b)(3) of TEA-21 provides further that this PROJECT can be made available to the metropolitan area of Detroit in the STATE at a federal cost of \$2,000,000; and,

WHEREAS, Section 5117(b)(3) of TEA-21 requires further that the PROJECT provide private technology commercialization initiatives to generate revenues which will be shared with the STATE pursuant to the TASK ORDER, as defined more fully below; and,

WHEREAS, federal funding will cover eighty percent of the cost of the PROJECT, but not to exceed \$2,000,000 per metropolitan area, the balance of the funding to come from private sector partners; and,

WHEREAS, the United States Department of Transportation ("USDOT"), Federal Highway Administration ("FHWA"), pursuant to the mandate of Section 5117(b)(3) of TEA-21, extended a competitively bid contract on June 21, 2002 to the team led by MOBILITY TECHNOLOGIES under the USDOT Information Technology Omnibus Procurement ("ITOP") program for the PROJECT that is carried out through specific federal task orders ("TASK ORDER"); and,

WHEREAS, the FHWA's purpose under the ITOP is to enter into a partnership with the private sector and state departments of transportation to develop and deploy the PROJECT to enhance data available for transportation operations, planning, analysis and maintenance purposes; and,

WHEREAS, the FHWA expected the offeror to propose a PROJECT that would satisfy both local needs and its own needs for commercialization purposes, the FHWA's intent being to spur the deployment of systems that will ultimately be self-supporting through commercial initiatives; and,

WHEREAS, MOBILITY TECHNOLOGIES is investing its own capital in the procurement, maintenance and installation of the infrastructure; and,

WHEREAS, the STATE desires to participate in the PROJECT and receive DATA

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises set forth below, the parties agree, with the intention of being legally bound, to the following:

1. **RECITALS**--The foregoing recitals are incorporated by reference as a material part of this AGREEMENT.

2. **INDEPENDENT CONTRACTORS**--The parties to this AGREEMENT are independent contracting parties, and nothing in this AGREEMENT shall be deemed to create a business partnership for purposes of sharing profits and losses. Nothing contained in this AGREEMENT shall be construed as creating any agency, partnership or other form of joint enterprise between the parties or to allow either party to bind the other or incur any obligation on its behalf.

3. **GENERAL**--MOBILITY TECHNOLOGIES shall perform the PROJECT in accordance with the TASK ORDER; the TASK ORDER's attachments and all applicable

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terms, conditions and attachments of the ITOP contract under which the RFP was issued, designated as Contract DTTS59-99-D-00445. The TASK ORDER and its attachments are incorporated by reference into this AGREEMENT as if physically attached to it.

4. **DELIVERABLES--**MOBILITY TECHNOLOGIES agrees to use commercially reasonable efforts to complete all PROJECT deliverables in accordance with the Schedule of Deliverables set forth in item 5.B of the TASK ORDER.

5. **PAYMENT--** All costs for the PROJECT in excess of the payments to be made under the TASK ORDER shall be the responsibility of MOBILITY TECHNOLOGIES.

6. **SUBCONTRACTOR PERFORMANCE AND PAYMENT BONDS--** MOBILITY TECHNOLOGIES shall take such measures as it deems appropriate to secure any statutory obligation to pay subcontractors and suppliers.

7. **INSURANCE--** If it has not done so already, MOBILITY TECHNOLOGIES, its contractors or subcontractors shall purchase and maintain, at their sole expense, for the duration of this AGREEMENT as set forth below in Paragraph 18, the following types of insurance issued by companies acceptable to the STATE:

(a) Workers' compensation insurance sufficient to cover all of MOBILITY TECHNOLOGIES' employees and those of any subcontractor working to perform this AGREEMENT, as required by the Workmen's Compensation Act, as amended.

(b) Public liability insurance for bodily injury, including death, and property damage, in the minimum amounts of five hundred thousand and no/100 dollars (\$500,000.00) per person and two million and no/100 dollars (\$2,000,000.00) per occurrence. These coverages shall be occurrence-based. The policy(ies) shall name the STATE as an additional insured and shall contain a provision that the coverages afforded shall not be cancelled or reduced unless the STATE has been given at least thirty (30) days prior written notice. Before the commencement of work under this AGREEMENT, MOBILITY TECHNOLOGIES shall furnish the STATE with a current certificate(s) of insurance showing the required coverages and provisions.

8. **INDEMNIFICATION--** MOBILITY TECHNOLOGIES agrees to indemnify and save harmless the State of Michigan, the Michigan State Transportation Commission, the Michigan Department of Transportation, and all officers, agents, and employees thereof:

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- a. From any and all claims by persons, firms, or corporations for labor, services, materials, or supplies provided to MOBILITY TECHNOLOGIES in connection with the services which MOBILITY TECHNOLOGIES will perform under the terms of this Contract, and
- b. From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, from environmental damage, degradation, response and cleanup costs, and from attorney fees or other related costs arising out of, under, or by reason of this Contract, except claims resulting from the sole negligence of wilful acts or omissions of said indemnitee, its agents, or its employees.

The STATE will not be subject to any obligations or liabilities by contractors of MOBILITY TECHNOLOGIES, their subcontractors, or any other person not a party to this Contract without its specific consent and notwithstanding its concurrence in or approval of the award of any contract, subcontract, or the solicitation thereof.

It is expressly understood and agreed that MOBILITY TECHNOLOGIES will take no action or conduct that arises either directly or indirectly out of its obligations, responsibilities, and duties under this Contract that results in claims being asserted against or judgments being imposed against the State of Michigan, the Michigan Department of Transportation, and/or the Michigan State Transportation Commission.

In the event that the same occurs, it will be considered as a breach of this Contract, thereby giving the State of Michigan, the Michigan Department of Transportation, and/or the Michigan State Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not limited to, a judgment for money damages.

9. **REVIEW RIGHTS**--The STATE and the FHWA shall have the right to review and inspect all PROJECT activities with reasonable notice at reasonable times.

10. **AUDITS**--The STATE shall have the right, at reasonable times, with reasonable notice, and at MOBILITY TECHNOLOGIES' principal office, to audit MOBILITY TECHNOLOGIES' books, documents and records to the extent that the books, documents and records relate to REVENUE for the PROJECT, as defined in paragraph 15. MOBILITY TECHNOLOGIES shall preserve books, documents and records that relate REVENUES for the PROJECT for a period of three (3) years from the end of each of MOBILITY TECHNOLOGIES' fiscal years. The STATE agrees to maintain the confidentiality of the books, documents and records to the full extent permitted by state law

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47 11. INSTALLATIONS ON PUBLIC RIGHTS-OF-WAY AND
48 STRUCTURES--MOBILITY TECHNOLOGIES shall comply with the following
49 requirements in installing the components of the PROJECT on public rights-of-way and
50 structures:

51 (a) MOBILITY TECHNOLOGIES shall obtain the prior written
52 approval, which shall not be unreasonably withheld, of the STATE before installing any
53 components of the PROJECT within public rights-of-way or on public structures,
54 including signs, under the jurisdiction of the STATE. The STATE's review and approval
55 of MOBILITY TECHNOLOGIES' installations is limited to determining acceptable
56 locations for the devices and methods for the installation. Locations will be deemed
57 acceptable when they comply with the STATE's Design Manuals for offset from the
58 roadway and protection of obstructions and neither interfere with the STATE's
59 maintenance or construction activities nor pose a hazard to the traveling public. The
60 plans for the proposed installations, future upgrades, the installation activities, the items
61 installed and their subsequent maintenance and upgrades (the "PLANS") shall all be in
62 accordance with the applicable provisions of STATE law and regulations. The STATE
63 shall grant MOBILITY TECHNOLOGIES, its sub-contractors or assigns such access for
64 installation and/or maintenance in the same manner and at similar times as it does to
65 STATE contractors or any utility performing maintenance. A professional engineer
66 licensed in Michigan shall stamp all of MOBILITY TECHNOLOGIES' PLANS. In
67 addition, the actual placement of the installations within the rights-of-way or on
68 structures shall be in compliance with STATE requirements. The STATE recognizes that
69 the components of the PROJECT are not utility facilities; nevertheless, they are most
70 closely analogous to utility facilities for purposes of the STATE's regulatory authority.

71 (b) MOBILITY TECHNOLOGIES may not attach PROJECT
72 components to existing Intelligent Transportation System equipment or facilities owned
73 by the STATE without specific authorization by the appropriate authorities.

74 (c) The STATE cannot authorize installations within rights-of-way
75 and on structures outside its jurisdiction or ownership. For installations within public
76 rights-of-way and on structures under the jurisdiction of other governmental or quasi-
77 governmental entities and on privately owned real property and structures, including
78 utility facilities situated within STATE rights-of-way, MOBILITY TECHNOLOGIES
79 shall be responsible for obtaining prior approval from the owner of the right-of-way,
80 structure or other property.

81 (d) MOBILITY TECHNOLOGIES shall be responsible for securing
82 and paying for the electrical power and telecommunications sources including but not
83 limited to antenna, fiber optic cable, transmitters, solar panels, wiring, or batteries
84 ("ELECTRICAL AND TELECOMMUNICATION FACILITIES") as deemed necessary
85 by MOBILITY TECHNOLOGIES as required to operate and maintain the components.
86 MOBILITY TECHNOLOGIES may not use ELECTRICAL AND
87 TELECOMMUNICATION FACILITIES and services provided to the STATE in any
88 manner or for any purpose unless specifically authorized in writing by the STATE.
89 ELECTRICAL AND TELECOMMUNICATION FACILITIES and equipment providing
90 operational capabilities and power to the PROJECT components and installed within the
91 right-of-way shall be considered part of the installation and must be included in any
92 PLANS. For installations within limited access right-of-way, the ELECTRICAL AND
93 TELECOMMUNICATION FACILITIES and equipment shall be designed so as to

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94 occupy as little of the right-of-way as possible while allowing for accurate system
95 operation, reasonable maintenance, growth and expansion of the PROJECT.

96 (e) MOBILITY TECHNOLOGIES shall require its contractor(s) to
97 certify to the STATE in writing that each completed installation complies with the
98 PLANS and specifications; all applicable STATE statutes, regulations, manuals, policies,
99 procedures, publications and criteria as set forth above in Paragraph 11(a); and all other
100 applicable codes, standards and criteria, including those generally accepted in the
101 industry. The STATE reserves the right to conduct spot inspections of completed
102 installations with its own forces or by contract. However, such spot inspections shall not
103 relieve MOBILITY TECHNOLOGIES of its obligation to require its contractor(s) to
104 provide certifications.

105 (f) This AGREEMENT does not create any property interest in
106 MOBILITY TECHNOLOGIES with respect to the approvals granted pursuant to this
107 paragraph. MOBILITY TECHNOLOGIES shall maintain the original or copies of the
108 approvals granted by the STATE as a permanent record. Upon completion of the
109 PROJECT, MOBILITY TECHNOLOGIES shall submit as-built PLANS for the
110 approved installations to the STATE, which shall maintain them as a permanent record.

111 (g) At the STATE's direction, MOBILITY TECHNOLOGIES shall
112 remove or relocate its installations from STATE rights-of-way or structures at its sole
113 expense, within sixty (60) days after receiving written notice, when such removal or
114 relocation is necessary to accommodate STATE projects or enhance public safety. The
115 STATE recognizes that where a relocation is requested, MOBILITY TECHNOLOGIES
116 will need to relocate the installation(s) to a mutually agreeable location which shall be at
117 the nearest mutually acceptable location in the immediate area of the original location.

118 (h) MOBILITY TECHNOLOGIES shall be responsible for obtaining
119 all other necessary approvals, permits and licenses as may be required for completion of
120 the PROJECT and operation and maintenance of the deployed PROJECT. MOBILITY
121 TECHNOLOGIES shall comply with all applicable statutory and regulatory requirements
122 governing safety and permitting in performing the PROJECT and maintaining and
123 operating the deployed PROJECT.

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126 **12. OPERATION AND MAINTENANCE OF SYSTEM--**

127 (a) Deployed Project. Upon completion of the PROJECT deliverables,
128 MOBILITY TECHNOLOGIES shall own, operate and maintain, at its expense, the
129 deployed PROJECT, including all of the equipment, devices, cables or lines, and
130 electrical and telecommunications services installed within the public rights-of-way or on
131 public structures with the approval of the STATE. Neither the STATE nor the FHWA
132 shall be responsible for operation and maintenance activities or for their cost. The
133 continued occupancy and use by MOBILITY TECHNOLOGIES of rights-of-way and
134 structures under the jurisdiction of the STATE shall be contingent upon the satisfactory
135 maintenance of the PROJECT and the delivery of DATA SERVICES in a form mutually
136 agreed upon by both parties and at a level of quality in accordance with the TASK
137 ORDER.

138 (b) Data Quality. The STATE will be responsible for assuring quality of
139 its data. MOBILITY TECHNOLOGIES will perform screening of the integrated data for
140 quality purposes. For non-ITIP generated data, MOBILITY TECHNOLOGIES shall,

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141 where practical and applicable, flag data anomalies to the STATE and the U.S. DOT.
142 DATA will conform to the "acceptable" level presented in the Data Specifications table
143 in the TASK ORDER. During the System Requirements process, MOBILITY
144 TECHNOLOGIES and the STATE will review the data type and quality of agency data
145 and determine the suitability for integrating and using for the purpose of calculating
146 performance measures. Should problems be found with the data quality or quantity, the
147 problems will be described to the STATE and the U.S.DOT. Every effort will be made to
148 integrate the STATE data to the extent practical. During the period of this
149 AGREEMENT, the STATE reserves the right to perform, or cause to be performed,
150 quarterly audits to verify the DATA quality in the metropolitan area using its own
151 contractors at its expense.

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153 **13. INTELLECTUAL PROPERTY RIGHTS--** Rights to the
154 intellectual property used or created within the PROJECT and the licensing of those
155 rights shall be the property of MOBILITY TECHNOLOGIES, except as modified by the
156 provisions of Paragraph 14 below.

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158 **14. DATA RIGHTS AND EXCLUSIVITY--** (a) MOBILITY
159 TECHNOLOGIES shall make available to the STATE, the FHWA and other public
160 agencies that agree in writing to the terms of paragraph 13 and 14 of this AGREEMENT
161 all privately collected DATA or DATA SERVICES (as defined in paragraph 14(e) of the
162 PROJECT for their own internal and non-commercial public purposes and applications,
163 whether the DATA or DATA SERVICES are utilized by the agencies' own personnel or
164 by contractors and consultants retained by them. Contractors and consultants retained by
165 the public agency who use the DATA or DATA SERVICES shall also agree in writing to
166 the terms of paragraph 13 and 14 of this AGREEMENT. Whenever the STATE so
167 desires, it shall be able to receive raw DATA from the PROJECT in a form as provided in
168 Paragraph 14(c) below, for real-time applications, so long as such applications are for
169 internal agency purposes and do not make the DATA available in a form which is able to
170 be commercially exploited in real-time or archived applications. Permissible internal
171 agency usages of the DATA or DATA SERVICES include, but are not limited to,
172 incident detection and response, congestion management, traffic signal operation, safety,
173 planning, analysis, design, construction, maintenance and modal integration. The data
174 elements that are part of basic traveler information are the only data elements that
175 MOBILITY TECHNOLOGIES is required to provide for free for dissemination to the
176 public for personal use, whether by MOBILITY TECHNOLOGIES itself, and/or by the
177 STATE, or its agent. "BASIC TRAVELER INFORMATION" is defined as:
178 construction/maintenance information; road closures/major delays; major special events;
179 weather (where available) and road conditions; incidents/crashes; and high level (red,
180 yellow, green coding) congestion information. Other than BASIC TRAVELER
181 INFORMATION provided to the public for personal use, the STATE agrees that it will
182 not market, distribute, donate, or otherwise provide or cause to be provided the privately
183 collected DATA or DATA SERVICES to non-governmental entities for commercial use
184 and agrees to establish terms of use on its web site or sites that requires commercial users
185 to license the use of the DATA or DATA SERVICES from MOBILITY
186 TECHNOLOGIES. Furthermore, the STATE agrees that it may not, nor may it authorize
187 its contractors or consultants to, market, distribute, copy, make available or otherwise

188 commercially exploit any privately collected DATA or DATA SERVICES to which they
189 gain access. However, the STATE shall be able to provide historical traffic count DATA
190 to non-governmental entities for their internal use when requested in accordance with
191 STATE policies and procedures regarding recoupment of administrative costs incurred in
192 the provision of such DATA. Examples of traffic count DATA include average daily
193 traffic counts, peak hour traffic counts, peak hour factors, any and all hourly volumes,
194 and classifications.

195 (b) Furthermore, MOBILITY TECHNOLOGIES shall not require
196 exclusivity of the use of data collected by the STATE or other public agency and
197 incorporated into the PROJECT. The STATE or other public agency shall provide raw
198 and processed data to the PROJECT and shall retain rights to that data, subject to any
199 conditions required by the STATE and subject to the right of MOBILITY
200 TECHNOLOGIES to market that data to other private sector organizations in accordance
201 with Paragraph 14(a) above.

202 (c) MOBILITY TECHNOLOGIES and the STATE shall exchange
203 data by providing such data in the form in which each party generates its data.
204 MOBILITY TECHNOLOGIES commits to providing STATE with DATA in a format
205 that is mutually agreed upon by both partners. To access DATA collected by
206 MOBILITY TECHNOLOGIES, the STATE shall provide a computer, Internet browser
207 and Internet connectivity. Subject to and consistent with relevant STATE policies and
208 procedures, the STATE commits to sharing access to publicly collected data, including
209 video images, in a mutually agreed upon format with MOBILITY TECHNOLOGIES.
210 The data and DATA shall be accessible by MOBILITY TECHNOLOGIES and the
211 STATE via an Internet connection, where each party is responsible for the costs of its
212 Internet connection to its facility. If either party chooses additional connectivity, any
213 installation and monthly communication costs are the responsibility of the requesting
214 party. However, it shall be the responsibility of MOBILITY TECHNOLOGIES to
215 ensure the existence of compatible interfaces for such lines.

216 (d) If MOBILITY TECHNOLOGIES transfers ownership of all or any
217 portion of the PROJECT to another private entity, it shall require its successor in interest
218 to afford the STATE and other public agencies the same rights with respect to both the
219 privately collected DATA and publicly collected data.

220 (e) DATA SERVICES is subject to the provisions of paragraph 14 and
221 is defined as follows: a compilation of raw and processed traffic DATA to the STATE; a
222 feed of BASIC TRAVELER INFORMATION for the STATE's consumer web site to
223 display compilations of DATA to individuals for non-commercial use; a sensor
224 information management system to provide the STATE a graphical and textual display of
225 lane-by-lane DATA for each sensor; an archived DATA warehouse for the STATE that
226 compiles the raw sensor, and basic incident and event information into a searchable
227 archived database system; commercialized traveler information that disseminates DATA
228 to the broadcast media and other commercial users such as telematics and logistics
229 providers; and support for non-commercial 511 telephone services by providing BASIC
230 TRAVELER INFORMATION to the STATE or its contractor.

231 (f) In no event, shall the terms of this contract be construed in a
232 manner that is contrary to the provisions of the Freedom of Information Act, 1976 PA
233 442, MCL 15.231 et seq.
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235 15. REVENUE SHARE REINVESTMENT--MOBILITY
236 TECHNOLOGIES agrees to reinvest in the PROJECT a share of the revenue received by
237 it from the sale or marketing of information obtained from the operation of the deployed
238 PROJECT in the Detroit metropolitan area attributable to the ITIP traffic monitoring
239 sensor system sales to other private sector organizations in accordance with the following
240 conditions.

241 (a) MOBILITY TECHNOLOGIES shall reinvest annual commercial
242 revenue from the PROJECT attributable to the ITIP sensor system in the Detroit
243 metropolitan area ("REVENUE") in accordance with the following formula established
244 by the FHWA, which shall be applied separately for each metropolitan area and which
245 shall not be subject to periodic renegotiation by the parties:

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- 247 (1) 0% for REVENUE up to \$250,000
- 248 (2) 5% for REVENUE between \$250,000.01 and \$1,000,000
- 249 (3) 10% for REVENUE above \$1,000,000
- 250

251 For example, if annual REVENUE is \$1,500,000, the share reinvested in
252 the PROJECT will be \$87,500, calculated as follows:

253					
254	(1)	from \$0 to \$250,000	=	\$250,000	x 0% = \$ 0
255	(2)	from \$250,000.01 to \$1,000,000	=	\$750,000	x 5% = \$37,500
256	(3)	from \$1,000,000.01 to 1,500,000	=	\$500,000	x 10% = \$50,000
257				TOTAL	\$87,500

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259 (b) MOBILITY TECHNOLOGIES shall escrow the reinvestment
260 share annually, on the basis of MOBILITY TECHNOLOGIES' fiscal year, which runs
261 from January 1 to December 31, on or before May 1 of each year. Supporting
262 documentation demonstrating how the share was calculated shall accompany the escrow.

263 (c) If requested, MOBILITY TECHNOLOGIES shall make available
264 to the STATE and its representatives within ten (10) days of such request books,
265 documents, records and all other information pertinent to this revenue share reinvestment,
266 for inspection and audit. MOBILITY TECHNOLOGIES shall preserve books,
267 documents and records and all other information that relate to the revenue share
268 reinvestment for a period of three (3) years from the end of each MOBIL
269 TECHNOLOGIES' fiscal years.

270 (d) MOBILITY TECHNOLOGIES, after consultation with the
271 STATE, shall invest the amount of the REVENUE share escrowed exclusively for needs
272 and activities related to the PROJECT. Examples of acceptable expenditures include, but
273 are not limited to, operation and maintenance of existing ITS equipment as described
274 above in this subparagraph, defrayal of costs related to integration of legacy and new
275 systems and DATA SERVICES, DATA, and installation of additional sensors and
276 different technologies for the PROJECT.

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278 16. OFFSET PROVISION--MOBILITY TECHNOLOGIES agrees
279 that the STATE may offset the amount of any Michigan tax or liability of MOBILITY
280 TECHNOLOGIES that is owed to Michigan against any payments due MOBILITY
281 TECHNOLOGIES under this or any other contract with the STATE.

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17. **WARRANTY--** (a) Limited Warranty. MOBILITY TECHNOLOGIES warrants that it shall perform its obligations hereunder in accordance with generally accepted industry standards applicable to the performance of obligations of a similar nature. In the event of any breach of the foregoing warranty, and provided that STATE reports such breach to MOBILITY TECHNOLOGIES in writing within 90 days following the date of performance of the obligations in question, MOBILITY TECHNOLOGIES shall, as its sole obligation and STATE's sole and exclusive remedy, promptly repair, replace or re-perform the obligation in question, without additional cost to STATE, so as to correct the warranty non-compliance as promptly as practicable (within 60 days to the extent technically feasible).

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(b) **Disclaimer. WITH THE EXCEPTION OF THE EXPRESS WARRANTY PROVIDED IN PARAGRAPH 17(a), MOBILITY TECHNOLOGIES AND ALL AFFILIATES OF MOBILITY TECHNOLOGIES SPECIFICALLY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS RELATING TO ANY THE PERFORMANCE OF ANY OF ITS OBLIGATIONS HEREUNDER OR ALL OR ANY PORTION OF THE PROJECT.**

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18 **DURATION OF AGREEMENT--** All PROJECT deliverables required in paragraph 4 shall be completed by the dates specified in the TASK ORDER unless extended by mutual agreement as evidenced by a signed writing. The revenue reinvestment shall continue until the PROJECT is deactivated or removed by agreement of the parties.

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19. **TERMINATION--**The STATE has the right to terminate this AGREEMENT for any of the reasons and in accordance with the conditions that follow:

(a) The STATE may terminate this AGREEMENT in whole or part for cause at any time, which termination shall be effective upon sixty (60) days' written notice; provided, however the STATE shall first give MOBILITY TECHNOLOGIES written notice of any deficiency and a period of thirty (30) days (or more if specified by the notice) after receipt of the notice to remedy such deficiency. If the STATE terminates this AGREEMENT for cause, it shall have all right and remedies available to it under this AGREEMENT and the law, including the right to seek damages.

(b) The STATE may terminate this AGREEMENT if federal funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period.

(c) If the STATE terminates this AGREEMENT for either of the reasons set forth above, disposition of any equipment, devices, cables and lines ("EQUIPMENT") purchased prior to the date of termination that have been or will be installed as part of the PROJECT shall proceed in the manner set forth below in Paragraph 21. In the event of termination, MOBILITY TECHNOLOGIES shall have the

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327 right to access any data generated by the EQUIPMENT by paying the monthly PROJECT
328 operating costs necessary for transmitting and receiving this data on an on-going basis.

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330 20. **FORCE MAJEURE**-- (a) Neither party will incur any liability to
331 the other if its performance of any obligation under this AGREEMENT is prevented or
332 delayed by causes beyond its control and without the fault or negligence of either party.
333 Causes beyond a party's control may include, but are not limited to, acts of God or war,
334 changes in controlling law, regulations, orders or the requirements of any governmental
335 entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and
336 quarantines, general strikes throughout the trade and freight embargoes.

337 (b) **MOBILITY TECHNOLOGIES** shall notify the STATE orally
338 within five (5) business days and in writing within ten business(10) days of the date on
339 which **MOBILITY TECHNOLOGIES** becomes aware, or should have reasonably
340 become aware, that such cause would prevent or delay its performance. Such notification
341 shall (i) describe fully such cause(s) and its (their) effect upon performance, (ii) state
342 whether performance under the AGREEMENT is prevented or delayed and (iii) if
343 performance is delayed, state a reasonable estimate of the duration of the delay.
344 **MOBILITY TECHNOLOGIES** shall have the burden of proving that such cause(s)
345 delayed or prevented its performance despite its diligent efforts to perform and shall
346 produce such supporting documentation as the STATE may reasonably request. After
347 receipt of such notification, the STATE may elect either to cancel the AGREEMENT or
348 to extend the time for performance as reasonably necessary to compensate for
349 **MOBILITY TECHNOLOGIES'** delay.

350 (c) In the event of a declared emergency by competent governmental
351 authorities, the STATE by notice to **MOBILITY TECHNOLOGIES** may suspend all or a
352 portion of the AGREEMENT until such emergency is over.

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354 21. **DISPOSITION OF EQUIPMENT**--If **MOBILITY**
355 **TECHNOLOGIES** ceases to operate, maintain and manage the PROJECT deployed
356 pursuant to this AGREEMENT and does not transfer ownership of the PROJECT to
357 another private entity, it shall dispose of equipment, devices, cables and lines
358 (collectively "EQUIPMENT") installed in the metropolitan area as part of the PROJECT
359 in a commercially reasonable manner at its own expense. The STATE shall not be liable
360 for any removal or disposition costs and shall have the right of first refusal to purchase
361 the EQUIPMENT installed in the metropolitan area at fair market value.

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363 22. **NOTICES**-- Any notices or communications required or permitted
364 by this AGREEMENT or given in connection with it, including invoices and payments,
365 shall be in writing and made by certified mail, overnight courier service, first-class mail,
366 postage prepaid, or personal delivery, to the following addresses:

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368 for the STATE:
369 Director, Michigan Department of Transportation
370 425 West Ottawa
371 Lansing, MI 48933

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373 for MOBILITY TECHNOLOGIES:

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406 28. COUNTERPARTS-- This AGREEMENT may be executed in
407 one or more counterparts, each of which shall be deemed an original and all of which
408 together shall constitute one and the same instrument. This AGREEMENT shall become
409 binding when any one or more counterparts hereof, individually or taken together, bear
410 the signatures of both parties hereto. For the purposes hereof, a facsimile copy of this
411 AGREEMENT, including the signature pages hereto, shall be deemed an original.

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413 IN WITNESS WHEREOF, the parties have executed this AGREEMENT-the date
414 first above written.

415
416 ATTEST:

MOBILITY TECHNOLOGIES, INC.

417
418 *John P. Collins* 7/27/04
419 Title: Vice Pres & Corp. Counsel DATE

BY *David Dammatta* 7/27/04
Title: President DATE

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STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION

BY *[Signature]* AUG 04 2004
For Director DATE