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## OFFICE MEMORANDUM

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**DATE:** November 22, 2005

**TO:** Ed Timpf, Division Administrator  
Financial Operations Division

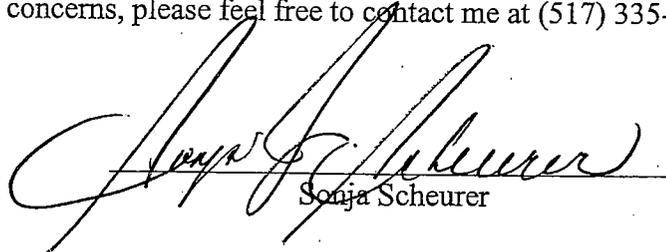
**FROM:** Sonja Scheurer, Administrative Manager  
Operations Administrative Services

**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

MEMORANDUM OF UNDERSTANDING

CONTRACT NO. 05-XXXX

This Memorandum of Understanding is made this XXX day of XXXX, 200X, by and between the State of Michigan, Department of Transportation (hereinafter referred to as "MDOT") and XXXXXXXXXXXXXXXXXXXXXXXX.

WHEREAS, MDOT operates an Intelligent Transportation System (hereinafter referred to as "ITS") which monitors traffic conditions.

WHEREAS, when the ITS is operating and not being updated, serviced or repaired and when the traffic information is available, MDOT is willing to disseminate traffic information to the public.

NOW THEREFORE; the parties agree to the following:

1. MDOT agrees to provide XXXXXXXXXXXXXXXXXXXXXXXX access to the ITS data and video in exchange for the benefits defined herein.

2. MDOT agrees that such access shall be provided at a single point agreed upon by MDOT and XXXXXXXXXXXXXXXXXXXXXXXX. The parties acknowledge that the ITS information, including but not limited to the video signal, is owned by MDOT and controlled by MDOT. MDOT reserves the exclusive right to restrict access to the video feed and other information that is not in the public interest (such as a Homeland Security or other catastrophic event). XXXXXXXXXXXXXXXXXXXXXXXX expressly waives any right they may have to challenge in any forum a decision to restrict or eliminate any information or particular television camera images referenced in this paragraph. MDOT shall provide access to the designated access point and the communications and modem facilities therein for maintenance purposes during normal business hours (Monday – Friday, 7:30 AM – 4:30 PM) and upon reasonable advance request made by XXXXXXXXXXXXXXXXXXXXXXXX.

3. XXXXXXXXXXXXXXXXXXXXXXXX agrees to provide and maintain, at its own expense, all equipment, communications and modem facilities, as well as hardware and software compatible with ITS requirements, and any and all other equipment and supplies needed or desired to support its connections or other access to the ITS. The connection to the video signal must be made according to MDOT specifications at a designated location. None of the referenced equipment, communications and modem facilities, or hardware and software may interfere with the signal provided. In addition, any personnel based or visiting the ITS will be required to abide by all ITS safety and security rules and other basic office regulations, which are attached hereto as Exhibit A.

4. XXXXXXXXXXXXXXXXXXXXXXXX agrees to use the ITS traffic information with timeliness and accuracy, commensurate with its receipt from the ITS, with the mandatory credit to the MDOT. Verbal traffic reports shall include verbal source credits as provided by MDOT.

Visual traffic reports shall include the MDOT logo as provided by MDOT. Textual traffic reports shall include textual source credits as information provided by MDOT.

5. XXXXXXXXXXXXXXXXXXXXXXXX agrees to provide ITS personnel with: (1) a technical contact person; (2) lists of all equipment tied into the ITS and its feed, including the basic operational capabilities of such equipment; and (3) lists of all secondary non-end users (e.g., parents or subsidiaries of XXXXXXXXXXXXXXXXXXXXXXXX), if any, of traffic reports based on the ITS information. MDOT shall provide XXXXXXXXXXXXXXXXXXXXXXXX with no less than ten (10) business days advance notice of any additions, subtractions and/or modifications to the cameras associated with the ITS system.

6. XXXXXXXXXXXXXXXXXXXXXXXX agrees to train its reporting staff in the proper use and interpretation of the ITS information, and, in cooperation with ITS personnel, to send such staff to occasional briefings at the ITS as determined by MDOT.

7. XXXXXXXXXXXXXXXXXXXXXXXX agrees that if it becomes aware through the ITS traffic information of currently existing traffic incidents which XXXXXXXXXXXXXXXXXXXXXXXX has reason to believe are unknown to MDOT ITS personnel, XXXXXXXXXXXXXXXXXXXXXXXX will make its best efforts to report those traffic incidents to MDOT MITS Center Operations Staff and, further, to consider any request by MDOT ITS personnel for the sharing of XXXXXXXXXXXXXXXXXXXXXXXX' own information and feeds from aircraft, ground patrols, spotters or other sources, subject to XXXXXXXXXXXXXXXXXXXXXXXX' judgment. Other MDOT contractors receiving similar information from MDOT have the same obligation to share information that they obtain, and XXXXXXXXXXXXXXXXXXXXXXXX shall have the right to use that information as though it were information provided by MDOT, with the sole exception of Mobility Technologies information that is obtained from Mobility Technologies' placement of an additional 100 detectors, which information shall remain property of Mobility Technologies.

8. XXXXXXXXXXXXXXXXXXXXXXXX agrees to sell the raw ITS information to other users, although associated value-added services can be bartered or sold; not to misrepresent the source of the ITS information, and not to misrepresent the availability of the ITS access to others. XXXXXXXXXXXXXXXXXXXXXXXX is allowed to broadcast and to record or otherwise save the information for broadcast at a later time. Secondary non end users are bound by the same conditions and restrictions on timeliness and accuracy as the primary user. The exception to these conditions is the requirement of mandatory credit to MDOT. Data that is used by secondary non-end users shall not have the MDOT logo associated with the data. Nothing herein shall be construed as prohibiting XXXXXXXXXXXXXXXXXXXXXXXX from including ITS information in its normal retention of broadcast programming and/or retention of ITS information as file footage provided, however, that tapes of file footage of ITS information shall not be provided to third parties except as may be compelled by subpoena, court order, or other legal process. Nothing herein shall be deemed to imply any liability on the part MDOT for any acts or omissions that may be depicted in any ITS information retained as file footage.

9. XXXXXXXXXXXXXXXXXXXXXXXX agrees not to hold MDOT liable for any loss of the ITS data and video feeds for any reason. XXXXXXXXXXXXXXXXXXXXXXXX will not be reimbursed by MDOT for any losses or costs associated with the loss of MDOT data and video streams.

10. MDOT reserves the right to charge XXXXXXXXXXXXXXXXXXXXXXXX an amount limited to MDOT's actual cost to deliver the data to XXXXXXXXXXXXXXXXXXXXXXXX upon sixty (60) days prior written notice. Such costs shall be non-discriminatorily charged to all vendors to whom MDOT provides the data.

11. XXXXXXXXXXXXXXXXXXXXXXXX is responsible for the maintenance of all XXXXXXXXXXXXXXXXXXXXXXXX installed infrastructure at the MITS Center. If MDOT personnel are utilized for maintenance of any equipment associated with XXXXXXXXXXXXXXXXXXXXXXXX operations, XXXXXXXXXXXXXXXXXXXXXXXX is responsible for all costs associated with providing this service, including hours lost, special equipment used, or purchasing of parts. If MDOT personnel are requested by XXXXXXXXXXXXXXXXXXXXXXXX to provide trouble-shooting activities for any loss of data or video feeds from MDOT to XXXXXXXXXXXXXXXXXXXXXXXX, and the activities result in an identification of issues not associated with MDOT, XXXXXXXXXXXXXXXXXXXXXXXX will be responsible for all costs associated with providing this troubleshooting, including hours lost, special equipment used, or purchasing of parts. Any interruptions to the MDOT system resulting equipment owned and/or operated by XXXXXXXXXXXXXXXXXXXXXXXX will result in XXXXXXXXXXXXXXXXXXXXXXXX reimbursing MDOT for all costs associated with troubleshooting, repairs, disconnections, parts, labor, re-connection and reprogramming.

12. This agreement only permits XXXXXXXXXXXXXXXXXXXXXXXX access to the ITS data and video gathered by MDOT. Other data and video feeds at the MITS Center, including but not limited to data and video generated by other media outlets, third parties and local cities, counties and other jurisdictions will not be provided to XXXXXXXXXXXXXXXXXXXXXXXX.

13. The parties agree that any "custom" or otherwise unique ITS arrangements or any variations to this agreement will be set forth in a subsequent amendment.

14. This agreement can be terminated at any time by either party for convenience and without cause upon thirty (30) days written notice without recourse to the other party and XXXXXXXXXXXXXXXXXXXXXXXX agrees to promptly remove any and all of its equipment upon termination of this agreement.

**MICHIGAN DEPARTMENT OF TRANSPORTATION**

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**XXXXXXXXXXXXXXXXXXXXXXXXXXXX**

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# MICHIGAN DEPARTMENT OF TRANSPORTATION

## MEDIA COMPANY

### CONTRACT

This contract is made and entered into this date of MEDIA COMPANY by and between the Michigan Department of Transportation, hereinafter referred to as "MDOT," and MEDIA COMPANY hereinafter referred to as "MEDIA COMPANY".

WITNESSETH:

WHEREAS, MDOT operates an Intelligent Transportation System, hereinafter referred to as the "ITS," that monitors traffic conditions; and

WHEREAS, when the ITS is operating and not being updated, serviced, or repaired and when the traffic information is available, MDOT is willing to disseminate traffic information to the public;

NOW, THEREFORE, the parties agree to the following:

1. MDOT will provide MEDIA COMPANY with access to ITS traffic data and video when the ITS is operating and is not being updated, serviced, or repaired and when the traffic information is available in exchange for the benefits exchanged herein.
2. Such access will be provided at a single point agreed upon by MDOT and MEDIA COMPANY. The parties acknowledge that the ITS information, including, but not limited to, the video signal, is owned by MDOT and controlled by MDOT. MDOT reserves the exclusive right to restrict access to the video feed and other information that is not in the public interest (such as Homeland Security or catastrophic event information). MEDIA COMPANY expressly waives and right it may have to challenge in and forum a decision to restrict or eliminate and information or particular television camera images referenced in this paragraph. MDOT will provide access to the designated access point and the communications and modem facilities therein for maintenance purposes during normal business hours (Monday – Friday 7:30 am – 4:30 pm) and upon reasonable advance request made by MEDIA COMPANY.
3. MEDIA COMPANY will provide and maintain, at its own expense, all equipment, communication and modem facilities, and hardware and software compatible with ITS requirements and any and all other equipment and supplies needed or desired to support its connections or other access to the ITS. The connection to the video signal must be made according to MDOT specifications at a designated location. None of the referenced equipment, communications and modem facilities, or hardware and software personnel based at or visiting the ITS will be required to abide by all Michigan Intelligent Transportation System (MITS) Center safety and security rules and other basic office regulations.
4. MEDIA COMPANY will use the ITS traffic information with timelines and accuracy, commensurate with its receipt from the ITS, with the mandatory credit to MDOT. Verbal traffic reports will include verbal source credits as provided by MDOT. Visual traffic reports will include the MDOT logo as provided by MDOT. Textual traffic reports will include textual source credits as information provided by MDOT.

5. MEDIA COMPANY will provide ITS personnel with (1) a technical contract person; (2) lists of all equipment tied to the ITS and its feed, including the basic operational capabilities of such equipment; and (3) lists of all secondary non-end users (e.g., parents or subsidiaries of MEDIA COMPANY), if any, or traffic reports based on the ITS information. MDOT will provide MEDIA COMPANY with no less than ten (10) business days advance notice of any additions, subtractions, and/or modifications to the cameras associated with the ITS system.
6. MEDIA COMPANY will train its reporting staff in the proper use and interpretation of the ITS information and, in cooperation with ITS personnel, to send such staff to occasional briefings at the ITS as determined by MDOT.
7. MEDIA COMPANY agrees that if it becomes aware through the ITS traffic information of currently existing traffic incidents that MEDIA COMPANY has reason to believe are unknown to MDOT ITS personnel, MEDIA COMPANY will make its best efforts to report those traffic incidents to MDOT MITS Center operations staff and, further, to consider any request by MDOT ITS personnel for the sharing of MEDIA COMPANY own information and feeds from aircraft, ground patrols, spotters, or other sources, subject to MEDIA COMPANY judgment.
8. MEDIA COMPANY will not sell the raw ITS information to other users, although associated value-added services may be bartered or sold; will not misrepresent the source of the ITS information; and will not misrepresent the availability of the ITS access to others. MEDIA COMPANY will not transmit data to non-end users without the prior written approval of MDOT. MEDIA COMPANY is allowed to broadcast and to record or otherwise save the information for broadcast at a later time. Secondary non-end users are bound by the same conditions and restrictions on timelines and accuracy as the primary user. The exception to these conditions is the requirement of mandatory credit to MDOT. Data that is used by secondary non-end users will not have the MDOT logo associated with the data. Nothing herein will be constructed as prohibiting MEDIA COMPANY from including ITS information as file footage, provided, however, that tapes of file footage of ITS information will not be provided to third parties except as may be compelled by subpoena, court order, or other legal process. Nothing herein will be deemed to imply any liability on the part of MDOT for any acts or omissions that may be depicted in any ITS information retained as file footage.
9. MEDIA COMPANY agrees that MDOT is not liable for any loss of any ITS data and/or video feeds for any reason whatsoever. MEDIA COMPANY will not see any reimbursement from MDOT for any financial losses or costs of any kind due to the loss or unavailability of any of the ITS data and/or video.
10. MDOT reserves the right to charge MEDIA COMPANY to deliver the data to MEDIA COMPANY upon sixty (60) days written notice.
11. MEDIA COMPANY is responsible for the maintenance of all MEDIA COMPANY installed infrastructure at the MITS Center. If MDOT personnel are utilized for maintenance of any equipment associated with MEDIA COMPANY operations, MEDIA COMPANY is responsible for all costs associated with providing this service, including hours lost, special equipment used, and purchasing of parts. If MDOT personnel are requested by MEDIA COMPANY to provide trouble-shooting activities for any loss of data or video feeds from MDOT to MEDIA COMPANY, and the activities result in an identification of issues not associated with MDOT, MEDIA COMPANY will be responsible for all costs associated with providing this troubleshooting, including hours lost, special equipment used, and purchasing of parts. Any interruptions to the MDOT system resulting from problems with equipment owned and/or operated by MEDIA COMPANY will result in MEDIA COMPANY reimbursing MDOT for all costs associated with troubleshooting, repairs, disconnections, parts, labor, re-connection, and reprogramming.

12. Any costs charged by MDOT to MEDIA COMPANY as set forth in section 11 will be 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 or 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 MDOT.
  - c. Overhead and Indirect Costs: A pro-rated portion of the actual overhead and indirect costs incurred by MDOT during work. 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.
  
13. With regard to audits and record-keeping,
  - a. MEDIA COMPANY will establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses and revenues related to this Contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts will be established and maintained for all expenses incurred and revenues earned under this Contract.
  - b. MEDIA COMPANY will maintain the RECORDS for at least three (3) years from the date of the last certified audit report provided. In the event of a dispute with regard to the allowable costs, revenues, or any other issue under this Contract, MEDIA COMPANY 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. MDOT 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, MEDIA COMPANY will assure compliance with subsections (a), (b), and (c) above for all subcontracted work.
  - e. MEDIA COMPANY will obtain an annual independent audit under this Contract to be submitted to the DEPARTMENT within three months of MEDIA COMPANY's fiscal year.
  
14. In the event that an audit performed by or on behalf of MDOT indicates an adjustment to the costs and/or revenues reported under this Contract or questions the allowability of an item of expense, MDOT will promptly submit to MEDIA COMPANY a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to MEDIA COMPANY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, MEDIA COMPANY will (a) respond in writing to the responsible Bureau of MDOT 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 MDOT 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, MEDIA

COMPANY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by MDOT. The RESPONSE will refer to and apply the language of the Contract. MEDIA COMPANY 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 MDOT to finally disallow and items of questioned or no opinion expressed cost and/or revenue.

MDOT will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of Notice of Audit Results. If MDOT determines that an overpayment has been made to and/or excess revenue has been earned by MEDIA COMPANY, MEDIA COMPANY will repay that amount to MDOT or reach an agreement with MDOT on a repayment schedule within thirty (30) days after the date of an invoice from MDOT. If MEDIA COMPANY fails to repay the overpayment and/or excess revenues or reach an agreement with MDOT on a repayment schedule within the thirty (30) day period, MEDIA COMPANY agrees that MDOT will deduct all or a portion of the overpayment and/or excess revenues for any funds then or thereafter payable by MDOT to MEDIA COMPANY under this Contract or any other agreement or payable to MEDIA COMPANY 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. MEDIA COMPANY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a law suit in the Court of Claims to contest MDOT's decision only as to any item of expense and/or revenue the disallowance of which was disputed by MEDIA COMPANY in a timely filed RESPONSE.

15. In connection with the performance contract MEDIA COMPANY (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 part hereof. This provision will be included in a subcontracts relating to this Contract.
16. This Contract permits MEDIA COMPANY access only to the ITS data and video gathered by MDOT. Other data and video feeds at the MITS Center, including, but no limited to, data and video generated by other media outlets, third parties, and local cities, counties, and other jurisdictions will not be provided to MEDIA COMPANY.
17. Any custom or otherwise unique ITS arrangements and/or any other changes to this Contract will be by award of a prior written amendment to this Contract by the parties/
18. MEDIA COMPANY will not assign the Contract or any portion of this Contract without written approval of MDOT.
19. This Contract may be terminated at any time for either party for convenience and without cause upon thirty (30) days written notice without recourse to the other party; MEDIA COMPANY will promptly remove any and all of its equipment upon termination of this Contract.

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

MEDIA COMPANY

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

Michigan Department of Transportation

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