

CCO Form: CM10
Approved: 19/89 (GWS)
Revised: 08/20 (BDG)
Modified:

Project No. _____

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
STANDARD RESEARCH AGREEMENT**

THIS AGREEMENT is made by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the _____ (hereinafter, "Contractor").

WITNESSETH:

WHEREAS, the Commission has indicated the need for a research study to _____;

WHEREAS, the Contractor has qualified personnel able to perform the study; and

WHEREAS, the Commission desires the Contractor to conduct the study.

NOW THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein, the parties agree as follows:

(1) SCOPE OF WORK: The specific services to be provided by the Contractor are set forth in the proposal and work plan titled "_____", designated as Appendix A, which is attached hereto and made a part of this Agreement.

(2) REPORTS:

(A) Quarterly Progress Reports: The Contractor shall submit one (1) electronic copy of each quarterly progress report for quarters ending March 31, June 30, September 30, and December 31, beginning _____ and continuing until the final report is published.

(B) Draft Copies of Final Report: The Contractor shall submit one (1) electronic copy of a draft final report on the complete work by _____ or upon the completion of the work. Acceptance of the final report by the Commission shall be the requirement for Agreement completion.

(C) Final Published Report: The Contractor shall furnish one (1) electronic copy of the final report by _____. Electronic copies of any report submitted under this Agreement shall be provided in Adobe Acrobat, Microsoft Word or Microsoft compatible format. The cost of preparing these reports is included in the total Agreement price. If additional copies are required, the Contractor and the Commission

shall execute an amendment to this Agreement. Acceptance of the final report by the Commission shall be the requirement for Agreement completion.

(3) PERIOD OF PERFORMANCE: The Contractor agrees that all work connected with the study will be performed during the period beginning _____, 20__ and ending _____, 20___. The Commission shall have the discretion to grant time extensions. Requests for extensions of time shall be made by the Contractor in writing stating fully the reasons giving rise to the request. Such extensions of time shall be the sole allowable compensation for such delays.

(4) CONTRACT PRICE: The total sum paid the Contractor under this Agreement shall not exceed _____ dollars (\$_____) which sum shall include both direct and indirect costs and cannot be exceeded without modification of this Agreement. The items to be shown as direct costs and the basis for determining overhead or indirect costs are shown in the attached Appendix B.

(5) PAYMENTS:

(A) Contract Payments: Payment will be made to the Contractor upon submittal from Contractor to the Commission of monthly invoices detailing costs for services rendered and for reimbursable costs incurred during the month preceding invoice date. The total of all invoices shall not exceed the total Agreement price. The invoices shall be submitted within thirty (30) days following the end of the period covered by each invoice.

(B) Retainage: Will not effect this Agreement unless an extension is required for completion of the Agreement.

(C) Progress Payments: In no event will the total payments exceed the amount of the Agreement price without prior approval and authorization by both the Contractor and the Commission.

(D) Final Voucher: The Contractor shall submit a final voucher for the Agreement within thirty (30) days of project completion.

(E) Final Payment: The final payment will be made only after acceptance of a final report considered to be satisfactory and the completion of an audit by representatives of the Commission.

(6) SUBCONTRACTING: The Contractor agrees to perform the work contemplated by this Agreement within its organization. The Contractor agrees that no subcontracting of this work is allowed without the prior written approval of the Commission.

(7) PROPRIETARY RIGHTS: The parties to this Agreement agree that if

patentable discoveries or inventions should result from research described herein, all rights accruing from such discoveries or inventions shall be the sole property of the Contractor. The Contractor agrees to and does hereby grant to all state highway and/or transportation departments and the United States government an irrevocable, nonexclusive, non-transferable and royalty-free license to practice each invention in the manufacture, use and disposition, according to law, of any article or material, and in the use of any method that may be developed as part of the work under this contract.

(8) PATENT COST: Cost of preparing documents relating to patents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the government, are allowable. These costs shall be approved by the Commission before they may be incurred.

(9) ROYALTIES AND OTHER COSTS FOR USE OF EXISTING PATENTS: Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the Agreement and applicable tasks or processes thereunder, are allowable unless: (1) the government has a license or the right to free use of the patent; (2) the patent has been adjudicated to be invalid or has been administratively determined to be invalid; (3) the patent is considered to be unenforceable, or (4) the patent has expired. These costs shall be approved by the Commission before they may be incurred.

(10) INSPECTION OF WORK: The Commission and the Federal Highway Administration (FHWA) shall be accorded proper facilities for review and inspection of the work hereunder and shall at reasonable times have access to the premises, to all books, records, correspondence, instructions, receipts, vouchers, and memoranda of every description pertaining to the work hereunder. Arrangements for all reviews and inspections by the FHWA will be made by the Commission.

(11) AUDIT OF RECORDS: The Contractor shall maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission, the FHWA, and any designees or representatives during the period of this Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Agreement. If the Commission has notice of a potential claim against the Contractor and/or the Commission based on the Contractor's services under this Agreement, the Contractor, upon written request of the Commission, shall retain and preserve its records until the Commission has advised the Contractor in writing that the claim is resolved.

(12) OWNERSHIP OF DATA: The data collected under the Agreement, together with summaries and charts derived therefrom, shall be owned jointly by the Commission and the Contractor with full and complete accessibility to both parties to this Agreement unless otherwise agreed to in writing.

(13) EQUIPMENT AND INSTRUMENTATION: It is agreed that any items of special equipment which are not identified specifically in the proposal require specific

approval by the Commission prior to purchase. Items of equipment and instrumentation as listed in the proposal are approved by the Commission and the cost, therefore, is included in the Agreement price. The Contractor certifies that no item listed has been included in the indirect costs that are approved for this project. Title to such equipment and instrumentation shall vest with the Commission. If, at the conclusion of the project, the Contractor desires to acquire the equipment and instrumentation, the Commission shall be allowed a credit equal to the current value at that time. This current value will be determined by mutual Agreement between the Contractor and the Commission.

(14) RENTAL OF SPACE, SPECIAL EQUIPMENT, OR FACILITIES:

(A) The actual cost to the Contractor for renting additional space, special equipment or facilities not owned by the Contractor, but required for the project, is approved by the Commission, as set forth in Appendix B.

(B) The Commission approves the items and classes of items set forth in Appendix B as the indirect costs of the project and those costs are included in the contract price.

(15) TRAVEL: Travel expenses for this work are set forth in Appendix B.

(16) PUBLICATION PROVISIONS:

(A) Copyright: The Contractor shall be free to copyright material developed under this Agreement with the provision that the Missouri Highway and Transportation Commission and the FHWA reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for government purposes.

(B) Request for Publication: Either party to the Agreement or the FHWA may initiate a request for publication of the final or interim reports, or any portions thereof.

(C) Disclosure: Neither party shall publish or otherwise disclose, or permit to be disclosed or published, the results of the investigation herein contemplated, or any particulars thereof, during the period of the Agreement, without notifying the other and securing its consent in writing, unless disclosure is required by law.

(D) Review: The parties to this Agreement shall have equal responsibility to review and approve material for publication, except that the Commission reserves the right to initially publish the final report, in which case the Contractor shall furnish reports as specified in Section (2)(D) above. The original plates and negatives and or computer disks to print the report shall vest with the Commission upon completion of final publication and shall be turned over to the Commission within thirty (30) days of the Commission's written request of such items.

(E) Publication by Commission: In the event of failure of agreement

between the Commission and the Contractor relative to the publication of the final report, or any progress reports during the period of this Agreement, the Commission reserves the right to publish independently, in which event the non-concurrence of the Contractor shall be set forth, if requested by the Contractor.

(F) Publication by Contractor:

1. If the Commission does not elect to publish the final report, publication by the Contractor shall then be a matter within the province of the Contractor's policy; but if the Contractor then elects to publish independently, the non-concurrence of the Commission and/or the FHWA shall be set forth, if requested by the Commission and/or the FHWA.

2. In the event the Contractor cannot agree with the comments of the FHWA, the Missouri Highways and Transportation Commission may authorize the Contractor to publish the material contained in the report sixty (60) days after it has been resubmitted in final form to the FHWA, but the following statement shall be included in the report: "The Federal Highway Administration does not concur with the findings and conclusions of this report".

(G) Abstracts: When the scheduled time for presentation of a paper does not permit formal review and approval of a completed report, abstracts may be used for notification of intent to present a paper based on the study. Such presentation must protect the interests of the other party by the inclusion of a statement in the paper and in the presentation to the effect that the paper has not been reviewed by the other party or the FHWA.

(H) Releases: Both written and oral releases are considered to be within the context of publication. However, there is no intention to limit discussion of the study with small technical groups or lectures to employees or students. Lectures to other groups which describe the plans, but disclose neither data nor results, are permissible.

(I) Report Credit: Publication by either party shall give credit to the other party and to the FHWA unless upon failure of Agreement on any report of the study, FHWA or either of the contracting parties requests that its credit acknowledgment be omitted.

(J) Use of Data: After acceptance of the final report, the Contractor, Commission and FHWA are free to use the data and results without restriction.

(K) Mandatory Clause: All reports, papers, drafts, or abstracts published by the Contractor shall contain the following statement:

"The opinions, findings and conclusions expressed in this publication are not necessarily those of the Department of Transportation, Federal Highway Administration. This report

does not constitute a standard, specification or regulation."

(17) CHANGES IN STUDY: Any change in this Agreement, including any alteration, extension, supplement, or modification of the scope of work, budget, or method of study as detailed in the Appendices must be accomplished by a formal amendment signed and approved by the authorized representatives of the Contractor and the Commission.

(18) TERMINATION OF CONTRACT: Either party may terminate this Agreement by giving the other party thirty (30) days written notice of its election to do so. If the Agreement is terminated under this provision, the Commission shall reimburse the Contractor for all reimbursable costs incurred by Contractor to date of termination. Within sixty (60) days of receipt by Contractor of notice of termination as provided by this paragraph, the Contractor shall deliver to the Commission, at its office at 105 West Capitol Ave., Jefferson City, Missouri, for the use and benefit of the Commission as it should see fit, either original or satisfactory duplicate copies of all data, results, reports and other materials developed by the Contractor as a result, either directly or indirectly, of the performance of this Agreement.

(19) DISPUTES: Any disputes of facts which might develop as a result of this contract shall be decided by the Chief Engineer, Missouri Department of Transportation. Should the Contractor not agree with a decision by the Chief Engineer, the Contractor may make a written appeal to the Commission. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of appeal. Following decision by the Commission, the Contractor may appeal to a competent court of law.

(20) COMMISSION REPRESENTATIVE: The Commission's Chief Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement.

(21) ASSIGNMENT: The Contractor shall not assign or delegate any interest in the Agreement and shall not transfer any interest in the Agreement, whether by assignment or novation, without the prior written consent of the Commission.

(22) BANKRUPTCY: Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary, or upon the appointment of a receiver, trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel the Agreement or affirm the Agreement and hold the Contractor responsible for damages.

(23) LAW OF MISSOURI TO GOVERN: The Agreement shall be construed according to the laws of the state of Missouri. The Contractor shall comply with all local, state and federal laws and regulations relating to the performance of the Agreement.

(24) EXECUTIVE ORDER: The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

(A) By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law.

(B) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the Contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.

(C) In accordance with Sections 285.525 & 285.530 RSMo, which became effective January 1, 2009, the contractor must complete Appendix C Employment Eligibility and Verification.

[Drafter's Note: If applicable to extend the application of the EO to the subcontractors as well as the contractors, add the following paragraph. Delete this note when agreement is complete and ready for execution.]

(25) INCORPORATION OF PROVISIONS: The Contractor shall include the provisions of paragraph 24 of this Agreement in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

(26) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(27) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the Contractor:

Facsimile No: _____

(B) To the Commission:

Dave Ahlvers
Construction and Materials
1617 Missouri Blvd., PO Box 270
Jefferson City, MO 65102
Facsimile No.: 573/522-8416

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(28) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the Contractor agrees as follows:

(A) Civil Rights Statutes: The Contractor shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d and 2000e, *et seq.*), as well as any applicable titles of the Americans with Disabilities Act. In addition, if the Contractor is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the Americans with Disabilities Act.

(B) Administrative Rules: The Contractor shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 CFR Subtitle A, Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The Contractor shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the Contractor. These apply to all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the Contractor of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The Contractor shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the Contractor fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the Contractor complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The Contractor shall include the provisions of paragraph **28** of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The Contractor will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the Contractor becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(29) NONSOLICITATION: The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(30) INDEMNIFICATION: The Contractor shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Contractor's performance of its obligations under this Agreement.

(31) SECTION HEADINGS: All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

(32) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the Contractor.

(33) AUTHORITY TO EXECUTE: The signers of this Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Agreement.

(34) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The Contractor shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(35) ANTI-DISCRIMINATION AGAINST ISRAEL CERTIFICATION: By signing the contract, below, the Contractor certifies that it is not currently engaged in and shall not, for the duration of the contract, engage in a boycott of goods or services from the State of Israel, companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or persons or entities doing business in the State of Israel as defined by Section 34.600 RSMo. This certification shall not apply to contracts with a total potential value of less than One Hundred Thousand Dollars (\$100,000) or to contractors with fewer than ten (10) employees.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date written below.

Executed by the Contractor this ____ day of _____, 20__.

Executed by the Commission this ____ day of _____, 20__.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CONTRACTOR

Title _____

By _____
Title _____

Attest:

Attest:

Secretary to the Commission

By _____
Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

By _____
Title _____