

CCO Form: DE35
Approved: 09/08 (ASB)
Revised: 08/09 (ASB)
Modified:

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
GLOBAL NAVIGATION SATELLITE REAL TIME NETWORK FOR
CONTINUOUSLY OPERATING REFERENCE STATIONS USER'S
RESPONSIBILITY AND AGREEMENT FOR THE USE AND ACCESS OF
DATA**

THIS AGREEMENT is made by and between the Missouri Highways and Transportation Commission (hereafter, "MHTC") and System User (hereafter, "User").

WHEREAS,

NOW THEREFORE, in consideration of the mutual covenants and promises made in this instrument, the parties agree to the following:

(1) PURPOSE: This Agreement sets provisions for MHTC to provide, The Real Time Correction Broadcasts in Radio Technical Commission for Maritime Services (RTCM) format for the stations which are a part of the Missouri Department of Transportation (hereafter "MoDOT") network is offered to you, the User, as a public service.

(2) INTENDED USES: Government personnel and the general public may use this system to retrieve RTCM Messages in real time or as a download for post processing. A User may not:

(A) Knowingly and without authorization, alter, damage, or destroy MoDOT's or another user's computer system, network, software, program, documentation or data contained therein

(B) Use this service to conduct or attempt to conduct any business or activity or solicit the performance of any activity that is prohibited by law. Including, but not limited to, taking action which results in blocking access to this IP address by other users. Such action will be deemed an unauthorized use and may subject the User to civil and criminal legal liability.

(3) ADMINISTRATIVE MONITORING: This system uses administrative monitoring of Users accessing the system. User is consenting to monitoring by signing this agreement. A User shall not hold himself or herself out as a representative, agent, or employee of the MHTC and MHTC shall not be liable for

any representation, act or omission of the User. System administrators may provide evidence of possible criminal activity identified during such monitoring to appropriate law enforcement officials.

(4) DISCLAIMER OF LIABILITY AND RELIABILITY: In preparation of this RTCM broadcast service, MHTC has endeavored to offer current, correct, and clearly expressed information. Nevertheless, errors may occur.

(A) MHTC expressly disclaims any liability, of any kind, or for any reason, that might arise out of any use of the RTCM information broadcast provided by this service or data downloaded from this service. MHTC disclaims any responsibility for typographical errors or inaccuracies of the information provided or contained within the broadcast message. MHTC makes no warranties or representations whatsoever regarding the quality, content, completeness, suitability, adequacy, sequence, accuracy, or timeliness of the information and data provided by this service.

(B) MHTC makes no representations or warranties of any kind regarding this service for any consequence of the use of this information contained in the RTCM Broadcast message or data downloaded from this service. MHTC makes no representations or warranties regarding the condition or functionality of this broadcast service, its suitability for use, or that this Broadcast Service will be uninterrupted or error-free.

(C) If misleading, inaccurate or otherwise inappropriate information is discovered User agrees to bring it to MODOT's attention immediately so that efforts may be made to fix or remove it. It is the sole responsibility of the user to determine the quality, accuracy, and suitability of the service provided.

(D) The User shall agree not to disclose any information regarding TCP/IP addresses to any other entity without the express written consent of MHTC.

(E) To gain access to the RCTM system the authorized representative of the User must complete the form marked as Exhibit A attached hereto and incorporated herein. Failure to complete each and every item on the form invalidates this contract.

(F) MODOT will provide general information necessary for a real time data user to connect to the system. Detailed configuration for the specific hardware used to connect to the system is the responsibility of the User. No support for hardware and software necessary to make the connection will be provided by MHTC.

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

(6) CANCELLATION: Either party may cancel this Agreement at any time for any reason. Should either party exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the other party.

(8) 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.

(9) ENTIRE AGREEMENT: This Agreement represents the entire understanding between the parties regarding this subject, and supersedes all prior written or oral communications between the parties regarding this subject.

(10) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of MHTC and User.

(11) 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.

(12) INDEMNIFICATION: User 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 Users performance of its obligations under this Agreement.

(13) NO ADVERSE INFERENCE: This Agreement shall not be construed more strongly against one party or the other. The parties to this Agreement had equal access to, input with respect to, and influence over the provisions of this Agreement. Accordingly, no rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this Agreement.

(14) SEVERABILITY: If any clause or provision of this Agreement is found to be void or unenforceable by a court or agency of proper jurisdiction, then the remaining provisions not void or unenforceable shall remain in full force and effect.

(15) NOT A JOINT VENTURE: Nothing contained in this Agreement shall be deemed to constitute the MHTC and the User as partners in a partnership or joint venture for any purpose whatsoever.

(16) 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.

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

Executed by _____ this _____ day of _____, 20____.

Name of Firm City of Lee's Summit, Missouri_____

By Randy Rhoads

Title: Mayor

ATTEST (signature):

City Clerk, Trisha Fowler Arcuri

ACKNOWLEDGMENT BY INDIVIDUAL

STATE OF Missouri)
)SS
COUNTY OF Jackson)

On this ____ day of _____, 20__, before me appeared _____, personally known to me to be the person who executed the foregoing instrument and acknowledged to me that *he/she* executed the same as *his/her* free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid the day and year written above.

Notary Public

My Commission Expires: _____

SYSTEM USER INFORMATION

Name of Individual or Firm

City of Lee's Summit, Missouri

Title Mayor

Signature _____

Date _____

Contact Information for User

Name George Binger

Street 220 SE Green St

City Lee's Summit State MO Zip 64063

Email PublicWorks@cityofls.net

Office Phone 816.969.1800 Mobile Phone _____

Equipment Used for Real Time Access

GPS System Make and Model Geomax Zenith 15 Series Net Rover

Data Collector Make and Model Geomax Zenius 5

Data Collector Software SurvCE GPS

Please return this agreement to:

Missouri Department of Transportation
Surveying and Photogrammetry Unit, Design Division
P.O. Box 270
Jefferson City, MO 65102-0270