

PROJECT AGREEMENT

BETWEEN THE DEPARTMENT OF TRANSPORTATION OF THE
UNITED STATES OF AMERICA

AND

THE FEDERAL MINISTER FOR RESEARCH AND TECHNOLOGY OF
THE FEDERAL REPUBLIC OF GERMANY

CONCERNING RESEARCH COOPERATION ON
MAGNETIC LEVITATION TRANSPORTATION SYSTEM SAFETY

1. Authority

The Department of Transportation of the United States of America and the Federal Minister for Research and Technology of the Federal Republic of Germany (hereinafter referred to as "the Parties") enter into this Project Agreement (hereinafter referred to as "this Agreement") pursuant to the Memorandum of Understanding regarding cooperation on the development of advanced ground transportation, particularly tracked, levitated high-speed transport systems between the Department of Transportation of the United States of America on the one hand and the Federal Minister for Research and Technology and the Federal Minister for Transport of the Federal Republic of Germany on the other hand, signed at Bonn on June 12, 1973, as amended and signed at Washington, D.C. and Bonn on July 12 and August 30, 1978 respectively.

2. Purpose

The overall purpose of this Agreement is to establish a program of research cooperation on magnetic levitation transportation designed to create a safety standard as the basis for allowing the operation of the TRANSRAPID maglev system in the U.S..

The cooperation is directed toward exchanging information on the TRANSRAPID technology and the measures taken to

ensure the public safety so as to avoid unnecessary duplication of effort and minimize cost to both Parties. In carrying out the terms of this Agreement, project management responsibility for the Department of Transportation will be assigned to the Federal Railroad Administration (FRA) and project management responsibility for the Federal Minister for Research and Technology (BMFT) will be assigned to TÜV Rheinland.

Cooperation under this Agreement is subject to the applicable laws and regulations of the Parties.

3. Project Officers

a) Designation. Within thirty days of the entry into force of this Agreement, the Parties will each designate a Project Officer to conduct cooperative activities.

b) Responsibilities. Project Officers will be responsible for the accomplishment of the tasks and objectives as may be set out in accord with this Agreement and in the Annex A, and will be the principal points of contact between the Parties for detailed arrangements and exchanges related to this Agreement. Direct contact on technical matters may be made through the contractors (see paragraph 4).

4. Contractors

In the event that either Party employs a contractor to conduct or participate, on its behalf, in any exchanges pursuant to this Agreement, the name of the contractor and the scope of its assignment and authority shall be notified to the other party.

5. Scope of work

The scope of work to be accomplished by the Parties, individually and jointly, is set out in detail in the Annex

6. Funding

- a) The participation of each Party in the project is subject to the availability of appropriated funds.
- b) No transfer of funds between the Parties is envisaged in connection with the project.

7. Data review and analysis

The FRA will be responsible for analyzing the data obtained from TÜV Rheinland concerning the testing and acceptance of the TRANSRAPID system and, with the assistance of the DOT Transportation Systems Center (TSC), for preparing an assessment of the appropriateness of using the TÜV Rheinland developed Safety Requirements for Magnetic Rapid Trains (Magnetschnellbahnen Sicherheitstechnische Anforderungen) as an interim standard for the installation of TRANSRAPID in the U.S..

8. Disclaimer

Each Party will exercise its best efforts to ensure the accuracy of all data transmitted to the other Party pursuant to this Agreement, but the accuracy of such data is not guaranteed. Each Party will use the other's data at its own risk and may not hold the other Party responsible in the event of claims arising from the use of such data.

9. Proprietary Data and Information

Designated proprietary information, obtained by a party or its duly authorized contractor, shall be treated in accordance with annex B, and only used for the purpose of this Agreement as set forth in Paragraph 2.

10. Berlin Clause

This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the United States of America within three months of the date of entry into force of this Agreement.

11. Duration

- a) This Agreement shall enter into force on the date of signature and shall remain in force for a period of five (5) years. It may be renewed by mutual agreement of the Parties in writing.
- b) This Agreement may be terminated by either Party on sixty (60) days' written notice.

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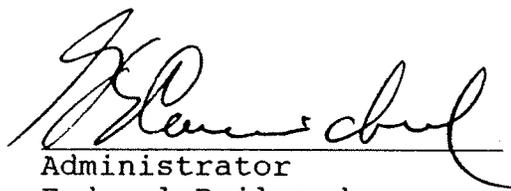
DONE in Washington, D.C., on _____ and Bonn on 19 Feb., 1990 in duplicate in the English and German languages, both texts being equally authentic.

FOR THE FEDERAL MINISTER FOR
RESEARCH AND TECHNOLOGY
OF THE FEDERAL REPUBLIC
OF GERMANY:



Deputy Director General,
Ministry for Research
and Technology of the
Federal Republic of Germany

FOR THE DEPARTMENT OF
TRANSPORTATION
OF THE UNITED STATES
OF AMERICA:



Administrator
Federal Railroad
Administration

ANNEX A TO
PROJECT AGREEMENT ON
MAGNETIC LEVITATION TRANSPORTATION SYSTEM SAFETY
BETWEEN BMFT AND USDOT

I. PURPOSE

The aim of the joint project is to provide for the safety assurances to the FRA for the proposed TRANSRAPID magnetic levitation system operation in the U.S..

II. SCOPE OF WORK

- A. Discussions on the basic difference between maglev and railroad technologies in terms of safety.
- B. Review of German maglev-related safety standards for appropriateness for use in a U.S. application based upon U.S. railroad safety philosophy.
- C. Elaboration of U.S. concerns on specific safety requirements for maglev.
- D. Working out of U.S. concerns and specific safety requirements for maglev on the basis of the findings of points A. to C.

III. IMPLEMENTATION

In order to achieve a better understanding of the maglev technology, especially its safety features, participation of FRA/TSC experts during the conduct of TÜV tests is encouraged along with pre- and post-test discussions on safety test issues between FRA/TSC and TÜV.

A kick-off meeting at a time and place to be mutually agreed upon between FRA/TSC and TÜV with the Florida High Speed Rail Transportation Commission as an interested observer shall be conducted to establish the mechanism for

exchanging safety assurance documentation and inquiries as well as for arranging TVE on-site test observation visits.

The role of TÜV Rheinland in this project is to

- deliver the required and available information
- participate in discussions/meetings
- review draft requirements and other papers
- care for possibilities of witness testing.

Progress meetings alternating between the United States of America and the Federal Republic of Germany shall take place on a regular basis, not less frequently than on a quarterly basis during the first year of the agreement.

ANNEX B
TO PROJECT AGREEMENT ON
MAGNETIC LEVITATION TRANSPORTATION SYSTEM SAFETY
BETWEEN BMFT AND USDOT

PROPRIETARY DATA AND INFORMATION

- (1) Each Party shall provide to the other Party on a current and timely basis information on its Maglev safety research and development activities. The Parties agree that information provided, exchanged, generated or obtained under this Agreement may be given distribution as each Party chooses, except as noted in paragraphs (4) and (5), which means that a Party, its Government or its nationals have a right to freely use, translate, reproduce, publish and distribute such information for the purpose indicated in Annex A.
- (2) It is recognized by both Parties that in the process of exchanging information the Parties may provide to each other proprietary information, subject to the provisions of this Agreement/Annex.
- (3) Definitions as used in this Annex:
 - a) The term "information" means scientific or technical data, results or methods of research and development, and any other information intended to be provided or exchanged under this Agreement.
 - b) For the purpose of this Agreement, "proprietary data and information" shall mean information which contains trade secrets, or commercial or financial information which is privileged or confidential, and may only include such information which:
 - aa) has been held in confidence by its owner;
 - bb) is of a type which is customarily held in confidence by its owner;

- cc) has not been transmitted by the transmitting Party to other entities (including the receiving Party) except on the basis that it be held in confidence; and
- dd) is not otherwise available to the receiving Party from another source without restriction on its further dissemination.

(4) Procedures

- a) A Party receiving proprietary information, as defined in Paragraph (3) b), pursuant to this Agreement shall respect the privileged nature thereof. Any document which contains proprietary information shall be clearly marked with the following (or substantially similar) restrictive legend:

"This document contains proprietary information furnished in confidence under an Agreement dated _____ between the UNITED STATES DEPARTMENT OF TRANSPORT and the FEDERAL MINISTER FOR RESEARCH AND TECHNOLOGY OF THE FEDERAL REPUBLIC OF GERMANY and shall not be disseminated outside these organizations, their contractors, and the concerned departments and agencies of the Governments of the United States and the Federal Republic of Germany without prior approval of _____. This notice shall be marked on any reproduction thereof, in whole or in part. These limitations shall automatically terminate when this information is disclosed by the owner without restriction."

- b) Proprietary information, as defined in Paragraph (3) b), received in confidence under this Agreement may be disseminated on a need-to-know basis by the receiving Party to:
 - aa) persons within or employed by the receiving Party, and other concerned Government departments and Government agencies in the country of the receiving

bb) prime or subcontractors of the receiving Party located within the geographical limits of the receiving Party's legal jurisdiction for use only within the framework of their contract with the receiving Party in work relating to the subject matter of the proprietary information;

provided that any such proprietary information so disseminated shall be pursuant to an agreement of confidentiality and shall be marked with a restrictive legend substantially identical to that appearing in Paragraph (4) a), above.

c) With the prior written consent of the Party providing proprietary information under this Agreement, the receiving Party may disseminate such proprietary information more widely than otherwise permitted in the foregoing Paragraph (4) b). The Parties shall cooperate with each other in developing procedures for requesting and obtaining approval for such wider dissemination, and each Party shall grant such approval to the extent permitted by applicable national policies, regulations and laws.

(5) Each Party shall exercise its best efforts to ensure that proprietary information received by it under this Agreement shall be controlled as provided herein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of this Article, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

(6) Nothing contained in this Agreement shall preclude the use or dissemination of information received by a Party other than pursuant to this Agreement.