

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

56A0889

PURCHASING AUTHORITY NUMBER (If Applicable)

2660

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Department of Transportation (Caltrans)

CONTRACTOR NAME

2. The term of this Agreement is:

START DATE

August 17, 2026 (estimate), or upon approval by the California Department of Transportation (Caltrans), whichever is later

THROUGH END DATE

August 16, 2029 (estimate)

3. The maximum amount of this Agreement is:

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Statement of Work	51
Exhibit B	Budget Detail and Payment Provisions	2
Exhibit C *	General Terms and Conditions	1
Exhibit D	Special Terms and Conditions	7
Exhibit E	Additional Provisions	15
Exhibit F	Security and Privacy Provision	11
Attach 1	Cost Worksheet (attached at award)	TBD
Attach 2	Technical Proposal (attached at award)	TBD
Attach 3	Bidder Declaration (GSPD-05-105) (attached at award)	TBD
Attach 4	Task Order	1
Attach 5	IP Copyright Assignment Form	2
Attach 6	IP Non-Disclosure Agreement Form	3

Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>***IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.****CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

CONTRACTOR BUSINESS ADDRESS

CITY

STATE

ZIP

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

California Department of Transportation (Caltrans)

CONTRACTING AGENCY ADDRESS

1727 30th Street, MS 65

CITY

Sacramento

STATE

CA

ZIP

95816

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

SCM. Vol 2, 1403.2

DGS PD, PAL Tier 3

STATEMENT OF WORK

1. The work to be performed under this Agreement shall be in accordance with **Exhibit A – Statement of Work, Attachment 1 – Cost Sheet and Attachment 2 – Technical Proposal** in this Agreement. In the event of any conflicts related to this Agreement, **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 3, Order of Precedence, and Section 17, Dispute Resolution**, shall apply.
2. Contractor agrees to provide inventory and collection of retroreflectivity data to Caltrans as described herein.
3. This Agreement will commence on **August 17, 2026 (estimate)**, or upon approval by the California Department of Transportation (Caltrans), whichever is later, and no work shall begin before that time. This Agreement is of no effect unless approved by Caltrans. The Contractor shall not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the Caltrans Contract Manager. This Agreement shall expire on **August 16, 2029 (estimate)**. The services shall be provided during working hours, Monday through Friday from 8:00 a.m. to 5 p.m., Pacific Standard Time (PST), except [State Holidays](#). The parties may amend this Agreement as permitted by law.
4. Agreement Amendment
 - A. Subject to the terms and conditions of the original Agreement, and contingent upon the approval of Caltrans and the Contractor, Caltrans may have the option, prior to the Agreement expiration date, to amend the Agreement. The agreement allows for an amendment for time and/or quantity, for more of the same services.
 - B. The Agreement Amendment shall be amendable up to an additional **three (3) years** and an additional **\$5,000,000.00**.
 - C. If the Agreement were amended, the Contractor's rates offered in the "Amendment Pricing" section of **Attachment 1 – Cost Sheet**, for the additional work would apply.
 - D. Any resulting Agreement Amendment will not take effect until it is signed by a Caltrans Contract Officer, and Contractor has received a signed copy of the Agreement Amendment.
5. All inquiries during the term of this Agreement will be directed to the project representatives listed in the **Table 1 – Project Representatives**, below:

Table 1 – Project Representatives

Department of Transportation (Caltrans)	Contractor: TBD
Contract Manager:	Project Manager:
Address:	Address:
Cell:	Cell:
Email:	Email:

6. Description of Work

The Contractor shall collect, analyze and report of Retro-Reflectivity of Pavement Marking from the Caltrans Highway Network (On-system) as well as on the Non-Caltrans Highway Network (Off-system) as described in APPENDIX A below.

STATEMENT OF WORK

APPENDIX A SCOPE OF WORK

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STATEMENT OF WORK**1. SCOPE**

The objective of this contract is to inventory and collect retroreflectivity data (R_L) of all longitudinal markings at a network level using multiple vehicle-mounted Mobile Retroreflectivity Units (MRU) operating at posted roadway speeds, in compliance with ASTM E3320.

The test method measures the retroreflective properties of dry, longitudinal marking materials, using a Mobile (vehicle-mounted) Retroreflectivity Unit (MRU) operated at posted roadway speeds at a prescribed geometry. The prescribed geometry corresponds to the European Committee for Standardization (CEN) and ASTM E3320. The minimum operational MRUs required are four pieces, including personnel with the necessary experience in mobile retro collection.

This test method does not claim to address all potential safety concerns related to its use. It is the user's responsibility to establish appropriate safety and health practices and to determine the applicability of any regulatory restrictions before use.

The scope of this contract is to survey all Longitudinal markings once per year for three consecutive years in all the following Districts.

DISTRICT	CENTER LINE MILES	STRIPE MILES
1	996	4,170
2	1,839	7,043
3	1,596	7,744
4	1,519	10,302
5	1,218	5,583
6	1,897	8,797
7	1,196	10,075
8	1,949	11,086
9	1,034	4,491
10	1,401	6,143
11	1,137	7,071
12	296	3,051
TOTAL	16,078	85,556

ESTIMATED STRIPE MILES BY DISTRICT.

STATEMENT OF WORK

The contractor shall provide Caltrans with retroreflectivity (RL) data of existing Longitudinal markings in their current condition. To accomplish this, the contractor must supply all necessary resources, including equipment and personnel, to perform a network-level survey.

Any unforeseen events (e.g., weather conditions or equipment malfunctions) occurring during contract execution must be promptly reported to the Contract Manager.

The Contractor shall not commence work until a kick-off meeting has been held. Data collection shall begin upon execution of the contract. Final submittals are due within 9 months from the contract execution date. All deliverables shall be submitted on a weekly and monthly basis to the Caltrans Contract Manager and uploaded to the web-based interface. (Reference section 11 "MINIMUM REPORTING REQUIREMENTS" of this Appendix). Yearly submittals are due in the same month for three consecutive years.

The Contractor shall demonstrate adequate data collection equipment, resources, and technical expertise to meet the project's schedule and scope of services.

A minimum of three years of experience in mobile retroreflectivity data collection is required, with a minimum of 250,000 cumulative stripe-miles collected.

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2. APPLICABLE STANDARDS AND TERMINOLOGY

2.1 STANDARDS

D4061: Standard Test Method for Retroreflectance of Horizontal Coatings

D7585/D7585M: Standard Practice for Evaluating Retroreflective Pavement Markings Using Portable Hand-Operated Instruments

E284: Standard Terminology of Appearance

E808: Standard Practice for Describing Retroreflection

E1710: Standard Test Method for Measurement of Retroreflective Pavement Marking Materials

ASTM E3320: Standard Test Method for Measurement of Retroreflective Pavement Marking Materials Using a Mobile Retroreflectometer Unit (MRU)

ASTM E1347: Standard Test Method for Color and Color-Difference Measurement by Tristimulus Colorimetry

ASTM D6359: Standard Specification for Minimum Retroreflectance of Newly Applied Pavement Marking Using Portable Hand-Operated Instruments

2.2 TERMINOLOGY

The definition of all the terms used in this document, as well as other relevant terms, can be found in **ASTM E284, ASTM E808, ASTM E1710, ASTM E3320, ASTM D7585/D7585M, and ASTM D4061**. The definitions listed below are direct excerpts from the above references for the terms that are most relevant to the content of this document.

Retroreflection: a reflection in which the reflected rays are returned preferentially in directions close to the opposite of the direction of the incident rays, this property being maintained over wide variations of the direction of the incident rays.

Coefficient of retroreflected luminance, R_L : the ratio of the luminance of a projected surface to the normal luminance at the surface on a plane normal to the incident light, expressed in candelas per square meter per lux ($\text{cd}/\text{m}^2/\text{lux}$).

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3. MOBILE RETROREFLECTIVITY EQUIPMENT REQUIREMENTS

The required field testing apparatus consists of a vehicle equipped with the following devices:

A. COMPUTER

The computer is used to operate the mobile retroreflectometer, the video recording system, the distance measuring instrument (DMI), and the global positioning system (GPS) device, which are part of the vehicle setup. The computer must be equipped with an operating system for data entry, acquisition, display, and storage. It must have sufficient capabilities to analyze the collected data, operate the software, and receive input from the mobile retroreflectometer. The computer must be up to date with the most recent version of the software to provide accurate data.

B. HIGH DEFINITION VIDEO RECORDING SYSTEM

The video recording system shall be integrated with the computer to provide a synchronized video overlay displaying both the forward scene (all highway assets per direction of travel) and the collected data for each Line Type. Its primary purpose is to support data verification and identify discrepancies.

Retroreflectometer evaluations shall document average retroreflectivity values, GPS coordinates, and include a high-quality video recording of all measured striping. The video must capture identifiable landmarks and feature a data overlay with all deficient sections marked. The video resolution shall be full HD 1080p or 1080i. The video shall have the overlay of the data being collected. The web-based interface shall have each file number and video displayed for easy download.

The video recording system shall digitally record the roadway while displaying the Date, Time, GPS Coordinates, Route, Direction, Retroreflectivity values, and Odometer reading.

C. DISTANCE MEASURING INSTRUMENT (DMI)

The Distance Measuring Instrument (DMI) is used to tag the data to the roadway Postmile. The DMI must be within ± 5.280 feet (0.1%) when measuring a 1.0-mile section of roadway. The DMI must be calibrated, and GPS verified monthly or as deemed necessary at locations designated by Caltrans. Additionally, a DMI recalibration must be performed anytime tires are changed, rotated, or air pressure is adjusted.

D. GLOBAL POSITIONING SYSTEM (GPS)

The GPS is an antenna for collecting and reporting the GPS coordinates with pavement marking data. GPS must be within an instantaneous horizontal positioning accuracy of ± 3.0 feet (1 meter) or better. A GPS minimum output of ± 5 HZ is required.

E. MOBILE RETROREFLECTOMETER UNIT (MRU)

The retroreflectometer must be capable of collecting data conforming to ASTM E 3320

STATEMENT OF WORK

The retroreflectometer must be capable of collecting pavement marking data at roadway speeds while accounting for horizontal wander and vertical movement of the host vehicle.

The retroreflectometer must be capable of measuring the retroreflectivity of pavement markings ranging from 0 to 2,000 ($\text{mcd} \cdot \text{m}^{-2} \cdot \text{lux}^{-1}$).

The retroreflectometer must be capable of measuring the retroreflectivity of pavement markings during both daylight and nighttime conditions. The contractor is responsible for demonstrating that night readings are comparable to day readings with the reproducibility tests. Measurements must be collected during daylight hours.

The retroreflectometer(s) must be capable of being operated on either side, both sides, or the front of the host vehicle.

Proposed Mobile Reflectometers will be reviewed and approved by the Contract Manager.

STATEMENT OF WORK**4. SUMMARY OF TEST METHOD**

ASTM 30-meter geometry, specified in ASTM E1710, describes the measurement of pavement marking retroreflectivity at 30 meters, mimicking a driver's typical viewing distance. This geometry uses a standardized vehicle with a headlight height of 0.65 meters and a driver's eye height of 1.2 meters.

The entrance angle is 88.76° and the observation angle is 1.05° .

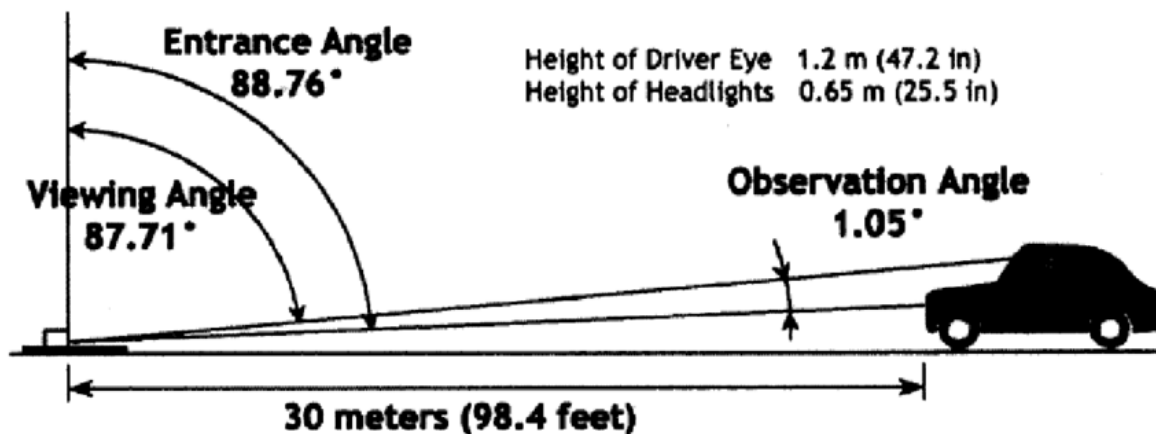


FIGURE 1. STANDARD 30 METER GEOMETRY SPECIFIED IN ASTM E 1710

The MRU must have a known light source that measures the return light of that known light source. The MRU must be calibrated per the manufacturer's specifications. This includes a factory calibration of the known light source with documentation of the MRU's light intensity.

Retroreflectivity is measured with the MRU operated along the section of the roadway.

Retroreflectivity data should be collected, processed, analyzed, and reported using the software provided and recommended by the MRU manufacturer or service provider.

That data collected, including videos and raw data files, shall be uploaded to the service providers web-based browser with all the features required in this scope of work.

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5. PAVEMENT STRIPE NOMENCLATURE

Contractor shall follow the standard naming convention stated below. This standard naming convention was developed to identify each pavement stripe, regardless of the number of lanes. Table 1 shows an explanation of the nomenclature used.

- The pavement stripe nomenclature includes the direction of travel followed by the stripe type as identified in Table 1. For skip lines, a line is used to delineate traffic lanes for the movement of vehicles traveling on the roadway.
- As an example, based on the information shown below, the northbound skip line closest to the center line would be identified as LL1; the edge line is in the same direction as the travel way and is located on the far right side of the roadway would be designated as REL.

Figure 2 shows the Pavement stripe nomenclature for a multi-lane divided roadway, and Figure 3 shows the Pavement Stripe nomenclature for a roadway with HOV lanes, and Figure 4 shows the Pavement stripe nomenclature for a conventional roadway.

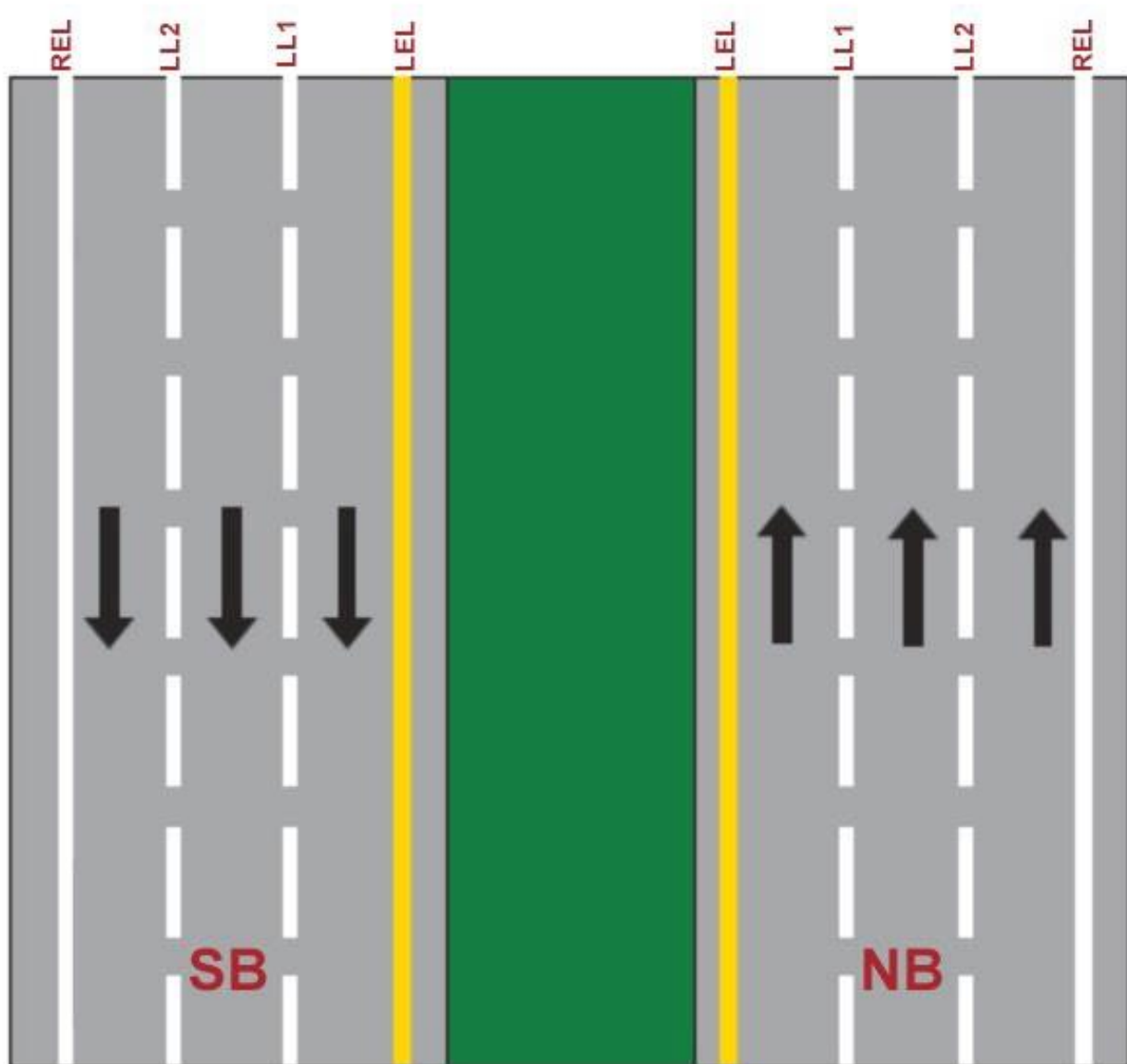
PURPOSE	CODE*	DESCRIPTION
Direction*	NB, SB, EB & WB	Northbound Travel Way, Southbound Travel Way, Eastbound Travel Way & Westbound Travel Way
Stripe Types	REL	Right Edge Line (White)
	LEL	Left Edge Line (Yellow)
	HOV	Double Solid Line (White)
	CL	Center Line (Yellow). All yellow stripes, including yellow skip lines, are considered center lines. When collecting yellow center line pavement markings, white pavement markings such as turn lanes must not influence the yellow center line reflectivity.

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	LL	Lane Line (White Skip Line). A lane line is designated between the through movement in the same direction of travel, and a number is placed after it to indicate the order of the skip lines, starting with the one closest to the center Line
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TABLE 1 - PAVEMENT STRIPE NOMENCLATURE

*Note: The Caltrans Route Directional Designation specifies direction.

**FIGURE 2. PAVEMENT STRIPE NOMENCLATURE FOR A MULTI-LANE DIVIDED ROADWAY**

STATEMENT OF WORK

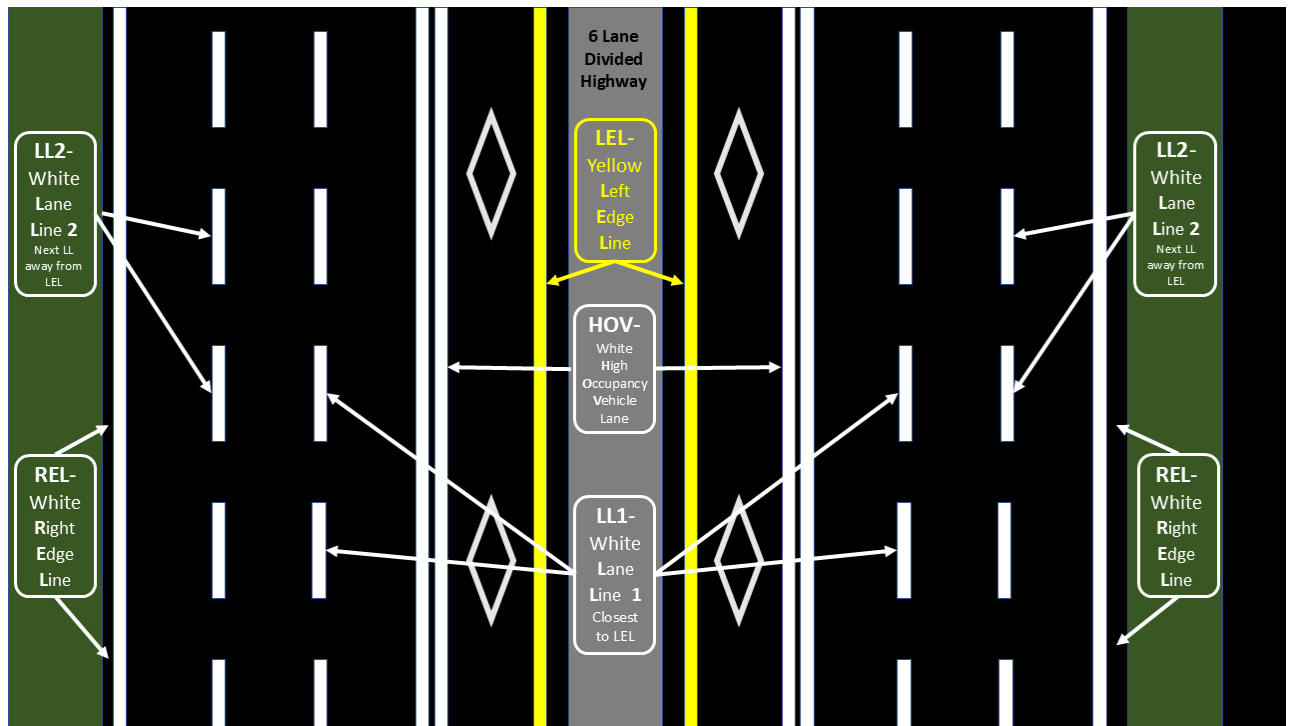


FIGURE 2. PAVEMENT STRIPE NOMENCLATURE FOR HOV LANE

STATEMENT OF WORK

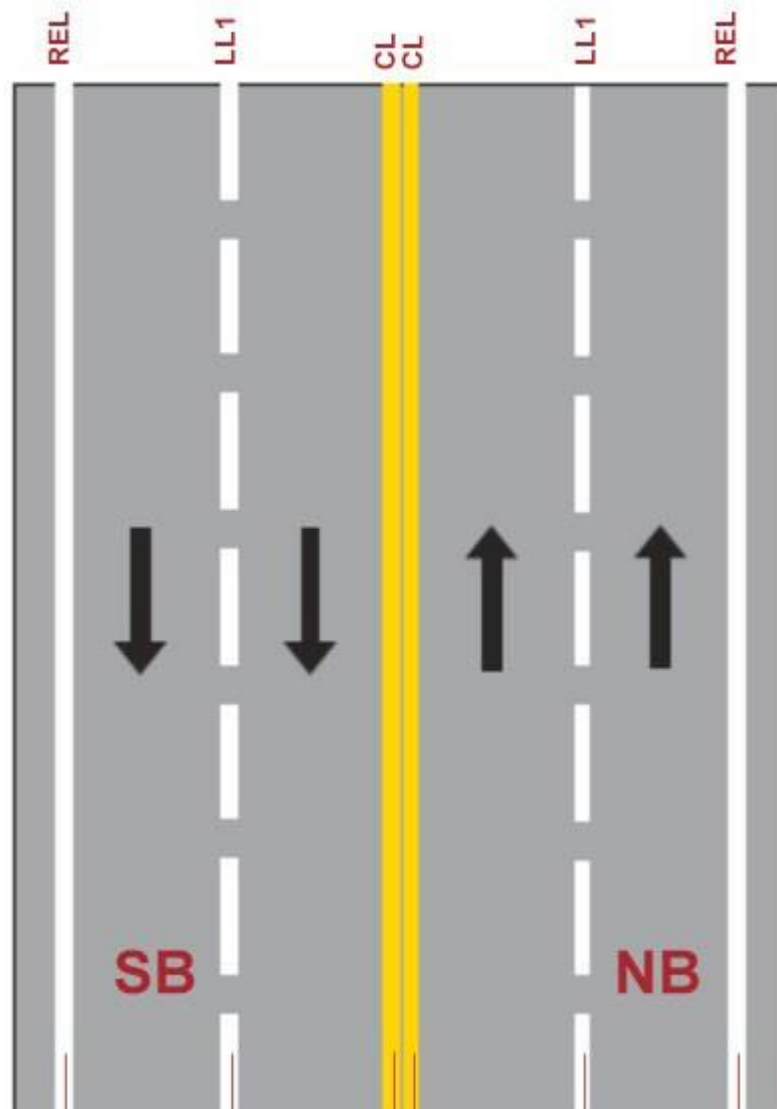


FIGURE 4. PAVEMENT STRIPE NOMENCLATURE FOR A CONVENTIONAL ROADWAY

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6. DATA ACQUISITION, SUBMISSION, AND REPORTING REQUIREMENTS

The retroreflectivity measurements should be based on ASTM E 3320 and the sampling protocol specified in ASTM D7585.

The acquisition frequency must be analyzed for every 0.1-mile interval (unless recommended otherwise) and be reported in millicandelas per square meter per lux ($\text{mcd}\cdot\text{m}^{-2}\cdot\text{lux}^{-1}$).

The MRU must be capable of:

Compensating for changes in background retroreflectivity without influencing the reflectivity of the pavement marking.

- Filtering out the high retroreflectivity levels of Raised Pavement Markings (RPMs) that influence the pavement marking readings.
- Reporting all retroreflectivity statistics as required under "APPENDIX C: "MINIMUM DATA ELEMENTS FOR RAW AND SUMMARY DATA FILES"
- Being operated on either side or the front of the host vehicle.

The acquisition system must be capable of recording manual trigger event codes (Reference Section 9 of this Appendix) during the data collection process to mark roadway characteristics, such as bridges, intersections, pavement changes, etc. Additional information can be found under APPENDIX C: "MINIMUM DATA ELEMENTS FOR RAW AND SUMMARY DATA FILES."

The retroreflectometer evaluations should document the average retroreflectivity values, including GPS location, with a video of all the stripes being measured with identifiable landmarks in high-quality resolution and data overlay with all deficient sections marked.

The data shall be collected for each line on each route continuously at posted roadway speeds with minimal vehicle wander. Any unusual appearance of the striping line (e.g., debris, damaged line, etc.) shall be noted during the survey. In addition, the collected data shall be linked to roadway-specific information. The Raw Data CSV file should contain the Minimum Column Information as shown in APPENDIX C: "MINIMUM DATA ELEMENTS FOR RAW AND SUMMARY DATA FILES".

The contractor will be required to review and evaluate the quality of the data. The contractor will be responsible for submitting the data summarized at every 0.1-mile segment, in addition to the raw data files from the equipment. Both the summary and the raw data files shall be in CSV file format. The minimum required data elements to be included in the raw and summary data files are shown under Appendix C: "MINIMUM DATA ELEMENTS FOR RAW AND SUMMARY DATA FILES".

In addition to the CSV format, summary data files shall be submitted in both KML (Google Earth) format and either Shapefile or File Geodatabase format compatible with Esri ArcGIS. All point and line features shall contain the same attribute fields as those in the summary CSV files. The coordinates in the Shapefile or File Geodatabase must match the latitude and longitude values provided in the CSV files.

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6.1 HOSTING AND WEB-BASED INTERFACE

The Contractor (or other third party) is to host the web-based interface and:

1. Provide details of level-of-service guarantees, including service availability (uptime) and response times. Have backup and restoration plans, and 99% uptime.
2. Web-based interface must support up to 30 users concurrently.
3. Provide details of hosting costs for the duration of the contract period, including maintenance and all available upgrades.
4. Provide the ability to restore data in case of data loss or corruption.
5. Provide access to data after the contract has expired.

Readings shall be uploaded to a cloud-based storage system every week and should be accessible via a Web Browser (Internet Explorer, Chrome, Firefox, ...).

The web-based interface must be able to show each Caltrans District separately. Caltrans has 12 Districts. District locations can be found on the Caltrans Near Me Link.

<https://dot.ca.gov/caltrans-near-me>

The web-based interface shall, at a minimum, provide methods and tools for displaying and interacting with mobile retroreflectivity data. It must be capable of displaying and analyzing the complete dataset, including year-over-year degradation rates. The system shall serve as a centralized, secure platform where Caltrans can access, analyze, download, upload, view, manage, and geospatially visualize all collected data. This includes longitudinal retroreflectivity data, videos, images captured during the project, and any other relevant project information. Key functionalities will include real-time project tracking down to the roadway level, detailing the crew and completion date/time for each segment. Furthermore, the system will offer real-time project tracking for percentage completion per district and real-time crew tracking for vehicles equipped with GPS devices.

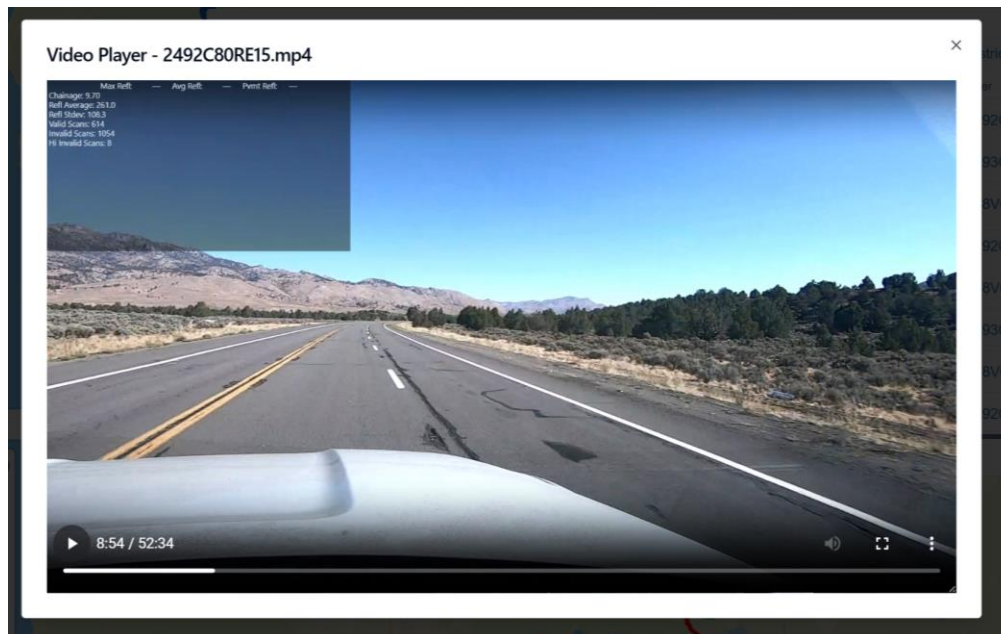
The web-based interface should provide the following capabilities/functionality:

- Data output shall provide the following added attributes for each 1/10th mile interval:
 - a) Contrast Ratios
 - b) Line width
 - c) Subjective Rating as defined in Section 11 of this SOW
 - d) Surface Type i.e., concrete or bituminous
 - e) Surface treatment i.e., grooved markings, surface applied, shoulder rumble strip (6 inch or 12 inch)/centerline rumble strip/sinusoidal rumble strip
- Web based interface must be able to utilize Caltrans POST MILE REFERENCES for all aspects of data reporting.
- Web based interface must be able to produce District/County/Roadway striping plans based on user define dynamic parameters.
 - a. This includes but is not limited to retro values, subjective ratings, user defined length of

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failures, etc.

- Provide line width reports for each district which include a list of contiguous segments of 4" lines within the district and their locations, postmiles, plus other metadata.
- Be accessible via multiple machines simultaneously.
- All collected data should be accessible through a web browser, and no additional software should need to be installed locally.
- Each District should be depicted on a separate layer of a GIS map.
- Analyze the entire data set to include year-to-year degradation rates.
- Access historical asset data.
- Provide a security role for a read-only environment to prevent individuals from making edits to the data.
- Include the ability to export/import mass data in various formats such as Excel, ESRI shapefile, or others.
- Ability to print reports and queries.
- The web-based interface should include a dashboard which includes charts and tables to provide a high-level overview of measurement progress and + reflectivity data, including:
 - a. A graph of measurement progress completion over time.
 - b. A chart of the number of line miles which pass and fail the defined retro thresholds per district.
 - c. A table with statistics per district and totals, including pass and fail mileage and percentage, 4" and 6" line width mileage and percentage.
 - d. A graph of retroreflectivity statistics (min, max, avg, median) over time, broken down by line color or line type, with user selectable filters for county and district.
 - e. A graph of SB1 lifecycle retroreflectivity performance by material age broken down by material type, with user selectable filters for warranty or not, district, county, route, and line type.
 - f. Each chart or table can be downloaded in tabular or image form or can be printed.
 - g. The data on the dashboard is updated at least daily.
- Provide real-time project tracking down to the roadway level, including the crew and the exact date and time of completion for each segment.
- Enable real-time project tracking for percentage complete per district.
- Facilitate real-time crew tracking for each vehicle equipped with GPS devices.
- Allow selecting a roadway on the map and review the video for the given roadway segment

STATEMENT OF WORK**FIGURE 5. VIDEO INTEGRATION INTO WEB BASED INTERFACE**

All data must be made available on the website within 7 days of data collection in the field.

Monthly website maintenance shall include at a minimum:

- a. Unlimited access to website features described above.
- b. Individual logins for each Caltrans website user (3 users per district, 5 users for HQ, and one for the Contract Manager). Unlimited Users within Caltrans
- c. Provide a 99% uptime guarantee

At the end of each year, the contractor shall provide the Contract Manager with a hard drive containing all the data files described under Section 6.

6.2 OWNERSHIP OF EXTRACTED DATA

All extracted data becomes and remains the property of Caltrans.

6.3 TRAINING AND TECHNICAL SUPPORT

- a. Provide a 4-hour training session for each District (Total of 12 Districts) via a video conference at the end of the District Data Collection. The training is for the web-based interface functionality. Creating reports, queries, and exporting data. For District locations, check the Caltrans Near Me link.

<https://dot.ca.gov/caltrans-near-me>

- b. Provide up to 80 hours of onsite/offsite technical support training as needed at Caltrans'

STATEMENT OF WORK

discretion. This would be online training.

STATEMENT OF WORK**7. CALIBRATION**

Before beginning a survey for a day, the equipment shall be warmed up for a duration recommended by the manufacturer and calibrated according to the manufacturer and the listed applicable standards.

7.1 CALIBRATION AND STANDARDIZATION ELEMENTS:

Calibrate the equipment per the manufacturer's specifications.

1. The DMI distance must be calibrated with an error tolerance of ± 5.28 ft/mile or less for test vehicle speeds up to the maximum specified for the equipment utilized.
2. The DMI must be calibrated every month and per the manufacturer's recommendations or as deemed necessary. Additionally, a recalibration must be performed anytime tires are changed, rotated, air pressure is adjusted, or the data is questionable.
3. The MRU system must be calibrated, and its performance verified per the manufacturer's requirements.
4. The calibration of the MRU should conform to the 30-m geometry.
5. The calibration equipment provided and/or recommended by the manufacturer should be used for calibration.
6. A log of calibration must be maintained.
7. The MRU calibration equipment should be verified and standardized by the manufacturer at least once a year.

The frequency of the Check and Calibration Procedures can be found in Table 2 below.

Type of Test	Testing Frequency		
	Daily	Mon thly	Bi- Mon thly
Tire Pressure Check	X		
Distance Check and Calibration		X	
Quality Assurance Testing			X
Field Calibrations and Verifications	X		
Clean and Inspect Detector Optical Window	X		

TABLE 2 – FREQUENCY OF CHECK AND CALIBRATION PROCEDURES

STATEMENT OF WORK**8. INTERFERENCE AND ENVIRONMENTAL INFLUENCE**

- A. Measurements made with the MRU may be adversely affected by moisture in the air and on the surface of the pavement markings. Standing water, dew, sleet, and snow on the surface of the pavement marking or fog and smoke in the air decrease the amount of retroreflected luminance due to light reflecting off the water and away from the detector. Environmental factors are difficult to measure and may vary dramatically; therefore, testing must be avoided when these conditions are present.
- B. Measurements made with the MRU may be adversely affected by surface dirt, debris, and contamination on the pavement marking, which decreases the amount of retroreflected luminance. This may cause variability in the retroreflected luminance of the pavement marking and must be noted accordingly. The operator must note when these conditions are present. See Section 9 – EVENT CODES for additional information.
- C. Background noise from roadway surfaces and high retroreflectivity levels of Raised Pavement Markings (RPMs) can influence the retroreflected luminance of the pavement markings. The operator must recognize these issues if the data acquisition system is not working properly, so that appropriate corrective actions can be applied.
- D. The MRU contains advanced optical and electronic components that are sensitive to temperature fluctuations. To ensure optimal performance, it is recommended to maintain a stable internal temperature within $\pm 2^{\circ}\text{C}$ of 25°C . If this temperature range cannot be maintained, corrective actions must be taken as per the manufacturer's guidelines. It is essential to understand and implement these corrective measures if the optical or electronic components are not functioning properly or as intended.

STATEMENT OF WORK**9. EVENT CODES**

- A. For roadway events, use the standard nomenclature and data acquisition event codes, as shown in Table 3. The roadway events must be recorded to the nearest thousandth of a mile. It should be noted that, except for triggered events, the data should remain in exact 1/10th mile increments. (i.e., if an event is flagged at mile point 1.555 with ascending mile points, regardless of whether it is part of the “Reset Data” or “Hold Event” data, the preceding and following mile points should be 1.5 and 1.6, respectively.
- B. The following items describe how the events must be processed.
1. **Reset Data** – When triggering a roadway event (pavement change, audible, etc.), the data acquisition system must end the current row of data analysis to the nearest thousandth while beginning a new row of data analysis.
 2. **Hold Event** – The data acquisition system must hold the event code while continuing data analysis until the event is triggered a second time for roadway conditions (bridges, turn lane, construction, etc.)
 3. **Stop Collection** – The data acquisition system shall automatically halt data collection whenever conditions may result in an inaccurate representation of pavement markings.

DESCRIPTION*	RESET DATA	HOLD EVENT
Construction	X	
Audible	X	X
No Line	X	X
Bridge	X	X
Rumble Stripe	X	X
Line Damage	X	X
Debris on the Line	X	X
Pavement Change	X	X
Lane Interference	X	X
Misc. Event	X	X

TABLE 3 – DATA ACQUISITION SYSTEM EVENT CODES

*Note: These event codes are used to identify roadway characteristics within a pavement marking survey section.

STATEMENT OF WORK

10. ACCEPTANCE CRITERIA FOR MOBILE RETROREFLECTIVITY UNITS

10.1 VISUAL INSPECTION

Visual inspection is the first step in making sure the MRU is ready for operation. A good practice to ensure the equipment is test-ready is to inspect that all brackets, mounts, and bolts are tight and mounted securely around the exterior of the equipment before calibration and routine operation. The retroreflectometer window shall be inspected to ensure it is clean and free of any damage or debris.

Following the inspection of external components, the MRU shall be powered on. The calibration panel must be checked for signs of damage or wear. The MRU operator shall then perform the calibration procedure, which must be reviewed to verify accuracy and correct geometry. The retroreflectometer's laser power intensity and laser profile shall be measured to ensure readings fall within acceptable limits. Arc-like or parabolic distortions must be avoided to prevent data collection errors. For a 3.28-foot scan, the longitudinal variation of the laser path shall not exceed 3.28 feet. This visual inspection of the MRU shall be performed monthly or as needed.

10.2 CALIBRATION

The MRU calibration equipment should be verified and standardized by the manufacturer at least once a year for

- ALIGNMENT AND WANDER
- LATERAL WANDER
- LONGITUDINAL WANDER

10.3 BACKGROUND NOISE TESTING

Background Noise Testing is performed to ensure that the noise from the environment and other reflective materials are not influencing the R_L values.

10.4 COMPARISON TESTING WITH HANDHELD RETROREFLECTOMETERS

To determine if the R_L values measured using the MRU are comparable to those from conventional handheld retroreflectometer, a total of six panels (3 white and 3 yellow) with R_L values ranging between 100 and 1,000 mcd/m²/lux will be tested. After the MRU has been calibrated, the R_L of all six panels will be measured with the MRU, one at a time. The R_L from the MRU shall be within $\pm 15.0\%$ of the handheld R_L values. The background noise will be monitored during this test to see if different panels affect the background noise. The comparison tests shall be conducted once every two months or as deemed necessary.

STATEMENT OF WORK

10.5 FIELD TESTING

The following field tests will be conducted to verify the performance of the MRU, operator, and data collection software:

1. Distance Measuring Instrument (DMI) Accuracy
2. Precision Testing
3. Retroreflective Stability and Temperature Test
4. Retroreflective Stability and Speed Test
5. Operational Competency Test

10.6 DISTANCE MEASURING INSTRUMENT (DMI) ACCURACY

The MRU must be equipped with a distance measuring instrument (DMI) to measure the distance traveled by the vehicle. The DMI distance must be within ± 5.280 feet (0.1%) when measuring a 1.0-mile section of roadway. The DMI shall be calibrated monthly or as required at locations designated by Caltrans. Additionally, recalibration must be performed whenever tires are changed, rotated, or their air pressure is adjusted.

10.7 RETROREFLECTIVE STABILITY AND TEMPERATURE TEST

Testing for stability with a temperature change is recommended before using an MRU on actual projects.

10.8 RETROREFLECTIVE STABILITY AND SPEED TEST

MRU testing is conducted at Posted Roadway Speeds, so it is important to verify the MRU results are not affected by vehicle speed.

10.9 OPERATIONAL COMPETENCY TEST

Additional field tests will be conducted to evaluate the following factors:

- a. Proper use of event codes such as pavement changes, construction, no stripe line, etc.
- b. Daytime and nighttime testing
- c. Driver competency (e.g., vehicle wander)
- d. Proper identification of stripes
- e. Ability to set R_L thresholds for the Raised Pavement Markings (RPM)
- f. Proper handling of MRU during acceleration, braking, and stopping

For these tests, the MRU will be mounted on either side or the front of the vehicle. Tests shall be conducted on roadways with various pavement types and markings selected by Caltrans to include the following:

- Stripe colors - Yellow and white
- Stripe patterns - Single solid, single skip, double solid, left solid/right skip, left skip/right solid, and edge line.
- Various ranges of retroreflectivity

These additional tests shall be conducted yearly or as deemed necessary.

STATEMENT OF WORK

10.10 QUALITY ASSURANCE

Before providing MRU services to Caltrans, the contractor must demonstrate that their MRU and operator satisfy all the quality assurance criteria described above. To provide MRU services, the contractor must conduct the quality assurance tests at the frequency designated for each respective test. Anytime a quality assurance criterion is not met, the contractor must inform Caltrans and take remedial action. The contractor must notify Caltrans once remedial actions have been implemented and subsequently demonstrate that all quality assurance criteria are met. Caltrans will determine which quality assurance tests need to be repeated after reviewing the issue and the contractor's corrective measures.

Caltrans reserves the right to perform initial inspections to verify that the contractor has provided accurate data and a quality product. These initial checks will occur at the start of the contract and periodically thereafter to ensure data is submitted in the required format and condition. Ongoing data reviews will also be conducted to confirm that all submitted files meet acceptance criteria. Furthermore, Caltrans will examine both summary and raw data files to verify that proper settings and data collection procedures are being followed.

The data will be reviewed by Caltrans using in-house or contractor resources to rate up to 10 percent of the data being collected. The Contractor will be notified of the results. The Contractor shall investigate, at no cost to Caltrans, any data that does not meet acceptance criteria. The Contractor shall conduct the investigation promptly and report the findings. At a minimum, the investigation report shall include the following components:

- Description of the non-compliance and/or errors in the data.
- Reasons/factors for the problems.
- Data that are affected by the same problems.
- Corrective measures, including but not limited to repair and/or recalibration of equipment.
- Debugging and/or recording of the computer programs used for data collection and data analysis.
- Re-collection and/or re-analysis of the affected data.
- Corrective measures that the Contractor will employ to avoid similar problems in the future.

Caltrans will perform quality assurance on the initial batches of data delivered.

Caltrans reserves the right to halt new data collection and/or analysis until the resubmitted data satisfies all acceptance criteria.

STATEMENT OF WORK**11. MINIMUM REPORTING REQUIREMENTS**

The following information must be reported as described in APPENDIX C: “MINIMUM DATA ELEMENTS FOR RAW AND SUMMARY DATA FILES”:

- A. Project information (project ID, beginning/ending mileposts, roadway direction, stripe type, and other relevant information).
- B. Survey date and weather conditions at the beginning of the test.
- C. Identification of the pavement stripe (e.g., CL, LEL, LL1, REL, etc.).
- D. Identification of the MRU ID, operator, and software used.
- E. Equipment calibration information.
- F. The results must be reported in millicandelas per square meter per lux (mcd·m²·lux⁻¹). Worksheets specific to the direction of travel and stripe type must be reported in 0.1-mile intervals.
- G. The results must include event codes as mentioned in Section X – “EVENT CODES”.
- H. Condition Assessment:
A subjective rating will be noted at every 1/10th of a mile of raw data delivered for each line on each route that is surveyed for its retroreflectivity. The scale will rate a given marking between 5 and 1, and that value will be representative of a marking’s daytime presence/condition. The following table is an example of how the markings will be assessed.

<i>Subjective Rating/Condition Assessment</i>	<i>Description of Condition Assessment Rating Value</i>
5	New pavement markings with no visible wear or poor workmanship.
4	Pavement marking is providing 100% presence and no apparent damage.
3	Typical wear and/or discoloration to the pavement marking, the marking still provides good presence with minor damage.
2	Poor condition - pavement marking not providing adequate presence.
1	Failure - pavement marking is not providing any presence.

- I. Summary statistics of retroreflectivity, such as average and standard deviation.
- J. Video Recordings

STATEMENT OF WORK**11.1 DATA REPORT****A. WEEKLY REPORTS**

The Contractor must submit weekly updates on the progress of the retroreflectivity collection. The weekly updates must include a description of any problems encountered. A weekly log must be created even if no work was performed each week. The Contractor shall submit with the weekly logs a brief plan for the routes that are planned for data analysis in the monthly report.

Weekly log reports must include District/Route:

- Center Line-miles estimated.
- Center Line-miles collected.
- Center Line-miles analyzed.
- Center Line-miles reported/uploaded to the web-based interface.
- Percentage of collection complete

B. MONTHLY MEETINGS AND PROGRESS REPORTS

A monthly virtual meeting will be held between the Contractor and the Contract Manager. A Monthly status report shall be submitted a week before the monthly meeting. The monthly report shall detail the progress and status of work completed in each of the twelve (12) Caltrans Districts.

The Contractor must also submit a complete District Report at the end of the collection and analysis for each district.

STATEMENT OF WORK

12. PRECISION

12.1 REPEATABILITY

The results of two properly conducted retroreflectivity tests using the same MRU on the same pavement marking test section must not differ by more than 10.0% at a 95 percent confidence level.

12.2 REPRODUCIBILITY

The results of two properly conducted retroreflectivity tests using different MRUs on the same pavement marking test section must not differ by more than 10.0% at a 95 percent confidence level.

13. WORK PLAN

13.1 General

The Contractor shall develop a complete and detailed Work Plan for each district collection. The Work Plan must include a detailed description of well-identified milestones such as the completion of a district survey, the activities considered necessary to achieve those milestones, and all deliverables described in this Appendix.

The Work Plan must provide a thorough description of the Contractor's staffing and equipment, which must be adhered to in the contract.

The Work Plan shall clearly outline the Contractor's approach to planning, monitoring, submitting, and implementing the activities outlined in this document and specify the time for each task.

13.2 Personnel

The Work Plan shall list all personnel who will be working on the project. Include their titles, qualifications, a summary of similar work or studies performed, a resume for each professional, a statement indicating the amount of time each professional will be assigned to the project, and what tasks each professional will perform. The Contractor shall not substitute members of the project team without prior written approval of Caltrans. The positions below may be combined if an individual possesses the qualifications.

Project Manager: This individual shall oversee the work and shall review all measured and calculated data before uploading it to the web-based interface and submitting it to Caltrans. The project manager must have a working knowledge of asset collection related to roadway safety and an ability to recognize the various assets.

Database Manager: This individual shall lead the data handling and database management for this contract. The individual is expected to be familiar with the data processing software and hardware used for data collection, processing, and storage. This individual must be efficient at database information retrieval and data report formatting and must demonstrate experience and knowledge of the latest computer equipment and the database system.

STATEMENT OF WORK

13.3 Equipment

The Work Plan shall list all equipment which will be used on the project, including:

- Manufacturer Name of the Equipment Used in this contract.
- Address
- City, State, Zip Code
- Brief Description of Equipment
- Equipment Certification and Calibration Dates

If any equipment is changed during collection, the Contractor must notify Caltrans of the changes, and the new equipment shall obtain certification from Caltrans Profiler Certification Program before it can be used for data collection.

STATEMENT OF WORK

APPENDIX B:

**SPECIFICATION FOR VEHICLE MOUNTED MOBILE
RETROREFLECTOMETER**

STATEMENT OF WORK**APPENDIX B:
Specification for Vehicle-Mounted Mobile Retroreflectometer**

1. The instrument shall detect, measure, and record the location of retroreflective road marking based on ASTM E3320.
2. Measuring aspects of the total angular spread shall not exceed 0.33 degrees.
3. The Operating Temperature Range shall be 0° to 120°F.
4. Measurements shall be collected at a minimum of 400+ measurements per second.
5. Longitudinal Resolution of Measurement, 3 inches or better at posted speeds. The resolution of the measurement shall be at least 18-bit.
6. The instrument shall accurately measure skip lines (broken lines) without any correction factors.
7. The device shall be able to measure both white and yellow, flat, and profiled road markings of any type on Flat and Rough, Dry surfaces. The device must compensate for daylight and continue to measure under changing light conditions during the day and night.
8. The instrument shall give individual readings for both lines of a double line.
9. The system shall have a standard real-time display of the retroreflectivity profile of measured markings.
10. The system shall have a built-in standard high-precision Distance Measuring Instrument to tag data to the odometer.
11. GPS shall report GPS coordinates with each measurement point.
12. The system shall have a real-time event code, with programmable header labels so the operator can tag data as measurements are being collected.
13. Data file shall record and report the following values in a user-specified test distance (adjustable from 0.01 to 10 miles, but typically every 0.1 miles, or 10 to 10000 meters).
14. Record number; Odometer reading; Date; Time; GPS Coordinates; GPS position fix accuracy; Vehicle Speed; Ambient Temperature; Ambient Humidity; Number of valid scans; average retroreflectivity, stripe width of left and right stripes individually, stripe type, event codes.
15. Data shall be uploaded to a Cloud-based storage and accessible through a Web Browser.
16. The instrument shall automatically generate color-coded Google Map Files (KML) with up to five (5) different colors representing five (5) different retroreflectivity intervals.
17. Calibration Standard shall have a traceable certificate from NIST and be ISO/IEC 17025 compliant.
18. The retroreflectometer shall be capable of being mounted on either side of a vehicle.
19. Subjective Rating Condition Assessment (5- New pavement markings with no visible wear or poor workmanship; 4- Pavement marking is providing 100% presence and no apparent damage; 3- Typical wear and/or discoloration to the pavement marking, the marking still is providing good presence with damage; 2- Poor condition, pavement marking is not providing adequate presence; 1- Failure, pavement marking is not providing any presence.)

STATEMENT OF WORK

APPENDIX C:
**MINIMUM DATA ELEMENTS FOR RAW AND
SUMMARY DATA FILES**

STATEMENT OF WORK

COMMON RAW DATA

REFERENCE	DATA ELEMENT	EXAMP LE
1	The raw file name is needed for a reference.	BMR_L1SL_201 7-04- 21_ 10_ 27
2	The data analysis software and version being used.	1.013_(TEST6) 1113_202 1)
3	The company performing the data collection.	Joe's Retroreflectivity Testing
4	Enter the operator's initials.	JTS
5	The retroreflectometer serial number.	RR 555
6	Operator's notes specific to the test.	Notes
7	Mobile Reflectometer Model.	ABC57
8	Acquisition frequency is 0.1 mi unless specified otherwise.	0.1
9	Stripe 1 Calibration Date and Time (PST).	5-29- 2015/08:00:44
10	Stripe 1 Calibration factor with at least 4 decimal places.	1.0000
11	Stripe 1 Assigned retroreflective value obtained by a certified testing facility (mcd/m2/lux)	850
12	Stripe 1 Temperature in Celsius inside equipment at the time of calibration.	24.72
13	Stripe 1 Background noise at the time of calibration.	39.3
14	Stripe 2 Calibration Date and Time (PST).	5-29- 2015/08:09:11
15	Stripe 2 Calibration factor with at least 4 decimal places.	0.9999
16	Stripe 2 Assigned retroreflective value obtained by a certified testing facility (mcd/m2/lux).	195
17	Stripe 2 Temperature in Celsius inside equipment at the time of calibration.	35.24
18	Stripe 2 Background noise at the time of calibration.	43.5
19	Describe whether the internal temperature compensation is applied.	YES
20	Describe whether the stripe width compensation is applied.	NO
21	Enter the system number of the roadway being tested.	Freeway
OPTIONS	1. <i>Freeway</i>	
	2. <i>Expressway/Conventional</i>	
	3. <i>Toll Road</i>	
	4. <i>City Street</i>	
22	Enter the district that the test is being run in.	11
23	Enter the county being tested.	SD
24	Enter either the SR (State Route), I (Interstate), or US (US Route).	I
25	Enter the State Route number (3 DIGITS).	005
26	Enter travel direction either NB, SB, EB, or WB.	NB
27	Enter the lane in which is being tested	LEL
28	Enter weather conditions either Sunny Day, Clear Night, Overcast, or Cloudy.	Overcast
29	Enter the temperature of the outside environment.	80

STATEMENT OF WORK

COMMON RAW DATA (Continue)

REFERENCE	DATA ELEMENT	EXA MPL E
30	Enter the test type of roadway being tested.	5
OPTIONS	<i>1. Inventory--Old Striping</i>	
	<i>2. Special Request</i>	
	<i>3. Overlay</i>	
	<i>4. New Construction</i>	
	<i>5. Retest</i>	
	<i>6. Asset Management</i>	
31	Stripe Color: White or Yellow.	White
32	Stripe Type.	Edge Line
OPTIONS	<i>1. Single Solid</i>	
	<i>2. Single Skip</i>	
	<i>3. Double Solid</i>	
	<i>4. Left Solid/Right Skip</i>	
	<i>5. Left Skip/Right Solid</i>	
	<i>6. Edge Line</i>	

STATEMENT OF WORK

RAW DATA FILES

33	Data file number	1542
34	Odometer – The distance traveled. Ex. 0.10	0.10
35	Date.	5/22/ 2017
36	PST Time.	9:00: 47
37	Latitude.	32.95 3255
38	Longitude.	- 117.1 3029 5
39	GPS Accuracy – The uncertainty of the GPS position fix (in meters or feet, depending on units selected).	0.65
40	Vehicle Speed - mph	65
41	Temperature	79.5
42	Humidity	18.25
43	Valid Scans – The number of valid measurements of the line over the complete interval.	925
44	Average road surface retroreflectivity value	115.2
45	Retro Average – Average retroreflectivity value of the line over the complete interval.	110.2
46	Retro Contrast – The average contrast value between the stripe and the pavement of the line over the complete interval	
47	The standard deviation of the retroreflectivity for the stripe (mcd/m2/lux).	32
48	Retro Stripe width – The average stripe width as measured by the line over the complete interval.	3.95
49	The averaged background noise for each row of data	
50	Subjective Rating Condition of the Stripe	3
OPTIONS	<i>5. New Pavement Marking with no visible wear or poor workmanship.</i>	
	<i>4. Pavement Marking provides 100% presence and no apparent damage.</i>	
	<i>3. Typical wear and/or discoloration to the pavement marking, the marking still provides good presence with minor damage.</i>	
	<i>2. Poor Condition – Pavement marking is not providing adequate presence.</i>	
	<i>1. Failure – Pavement marking is not providing any presence.</i>	
51	The event codes were inserted during testing.	Bridge
OPTIONS	<i>1. Pavement Change</i>	
	<i>2. Construction</i>	
	<i>3. Audible</i>	
	<i>4. No Line</i>	
	<i>5. Bridge</i>	
	<i>6. Rumble</i>	
	<i>7. Line Damage</i>	
	<i>8. Debris on the line</i>	
	<i>9. Lane Interference</i>	
	<i>10. Misc. Event</i>	

STATEMENT OF WORK**SUMMARY FILE**

- Postmile (for each 0.1 mile segment)
- Subjective Rating Condition of the Stripe
- Average retroreflectivity for each segment
- Total number of 0.1 mile segments
- Number and percent of 0.1-mile segments with average retroreflectivity in one of the following categories using different colors:
 - Below 100 mcd/m²/lux
 - Between 100 mcd/m²/lux and 150 mcd/m²/lux
 - Above 150 mcd/m²/lux and 200 mcd/m²/lux
 - Between 200 mcd/m²/lux and 500 mcd/m²/lux
 - Above 500 mcd/m²/lux

STATEMENT OF WORK

APPENDIX D:
ESTIMATED LINE MILES BY DISTRICT

Line Mile Accuracy is within +/- 5 %

STATEMENT OF WORK**DISTRICT 1**

ROUTE	CENTERLINE MILES	STRIPE MILES
001	108	371
020	95	338
029	54	216
036	48	160
053	7	36
096	46	154
101	301	1,697
101U	2	6
128	54	177
162	36	118
169	25	83
175	40	130
197	7	23
199	38	156
200	3	9
211	6	19
222	2	6
253	18	60
254	34	111
255	9	37
271	16	51
281	3	11
283	0	1
299	44	193
GRAND TOTAL	996	4,170

STATEMENT OF WORK**DISTRICT 2**

ROUTE	CENTERLINE MILES	STRIPE MILES
003	153	517
005	200	1,301
032	26	88
036	213	748
044	112	402
049	8	26
070	105	373
089	130	450
096	107	356
097	57	210
099	26	88
139	128	426
147	13	41
151	7	29
161	20	67
172	9	30
263	8	28
265	1	2
273	18	116
284	8	28
299	277	972
395	210	744
GRAND TOTAL	1,839	7,043

STATEMENT OF WORK**DISTRICT 3**

ROUTE	CENTERLINE MILES	STRIPE MILES
005	133	951
012	6	23
016	76	257
020	128	502
028	12	48
032	55	195
045	74	244
049	161	582
050	116	783
051	11	91
065	32	176
070	86	398
080	160	1,170
084	17	55
089	91	309
099	123	728
104	19	62
113	40	174
128	11	34
149	6	40
153	1	2
160	50	181
162	82	280
174	14	46
191	12	40
193	38	124
220	3	11
244	1	9
267	13	41
275	0	3
395	6	28
505	23	155
GRAND TOTAL	1,596	7,744

STATEMENT OF WORK**DISTRICT 4**

ROUTE	CENTERLINE MILES	STRIPE MILES
001	172	652
004	51	340
009	14	53
012	67	278
013	11	61
017	15	112
024	15	166
025	3	9
029	57	280
035	48	193
037	23	132
061	7	45
077	0	2
080	79	851
082	44	358
084	75	343
085	25	229
087	9	78
092	29	191
101	185	1,773
109	1	5
112	2	12
113	24	82
114	1	6
116	49	172
121	36	126
123	7	51
128	65	214
130	21	71
131	4	21
152	37	177
156	1	2
160	3	19
185	11	67
205	1	8

STATEMENT OF WORK

220	3	12
221	3	19
237	13	98
238	13	86

242	4	29
260	2	12
262	1	7
280	63	694
380	2	20
505	12	74
580	70	671
680	77	755
780	8	49
880	50	558
880S	3	14
980	2	22
GRAND TOTAL	1,519	10,302

STATEMENT OF WORK**DISTRICT 5**

ROUTE	CENTERLINE MILES	STRIPE MILES
001	278	1,230
009	27	90
017	14	87
025	76	261
033	14	45
035	7	26
041	49	169
046	56	221
058	62	204
068	23	103
101	284	1,930
129	15	55
135	22	116
144	1	4
146	12	39
150	2	7
152	12	45
154	35	120
156	25	99
166	75	258
183	11	42
192	22	74
198	27	91
217	3	16
218	3	11
225	0	1
227	9	34
229	9	32
236	19	61
246	27	113
GRAND TOTAL	1,218	5,583

STATEMENT OF WORK**DISTRICT 6**

ROUTE	CENTERLINE MILES	STRIPE MILES
005	195	1,336
033	172	592
041	140	604
043	103	373
046	61	275
049	9	33
058	75	352
059	0	1
063	42	190
065	68	271
099	183	1,422
119	32	106
137	30	111
145	70	242
152	17	108
155	67	225
166	26	87
168	72	327
178	58	265
178S	1	3
180	119	497
184	15	58
190	59	208
198	122	533
201	26	88
204	5	40
216	19	69
223	32	108
233	4	19
245	44	146
269	32	111
GRAND TOTAL	1,897	8,797

STATEMENT OF WORK**DISTRICT 7**

ROUTE	CENTERLINE MILES	STRIPE MILES
001	95	630
002	76	352
005	99	1,063
005S	4	25
010	49	595
010S	13	55
014	55	512
014U	3	22
018	5	16
019	3	21
022	1	13
023	34	156
027	21	110
033	61	226
034	12	40
039	27	91
047	3	26
057	14	156
060	33	432
066	3	24
071	5	37
072	7	44
090	3	30
091	16	221
101	88	936
103	2	15
105	19	227
107	5	53
110	34	390
118	49	399
126	42	281
134	15	188
138	74	314
150	36	122
164	6	44

STATEMENT OF WORK

170	6	68
187	5	50
210	55	685
213	11	72

232	4	25
405	50	684
605	27	345
710	27	278
GRAND TOTAL	1,196	10,075

STATEMENT OF WORK**DISTRICT 8**

ROUTE	CENTERLINE MILES	STRIPE MILES
002	6	23
010	205	1,771
015	260	2,172
018	116	482
038	63	209
040	181	1,127
058	37	171
060	43	380
062	159	665
066	3	21
071	13	103
074	95	408
078	17	57
079	42	190
083	12	72
086	24	160
091	23	261
095	123	407
111	37	177
127	44	145
138	39	135
142	6	24
173	26	87
177	28	93
178	16	51
189	6	19
210	35	348
210U	6	30
215	59	487
243	32	103
247	82	277
259	2	12
330	16	64
371	22	72
395	74	279
GRAND TOTAL	1,949	11,086

STATEMENT OF WORK**DISTRICT 9**

ROUTE	CENTER LINE MILES	STRIPE MILES
006	43	141
014	69	401
058	69	456
089	8	26
108	16	53
120	61	201
127	51	171
136	19	62
158	17	55
167	22	75
168	59	200
178	85	321
182	14	44
190	138	456
202	9	34
203	9	45
266	13	41
270	11	34
395	321	1,677
GRAND TOTAL	1,034	4,491

STATEMENT OF WORK**DISTRICT 10**

ROUTE	CENTER LINE MILES	STRIPE MILES
004	150	530
005	117	859
012	48	173
016	9	32
026	65	222
033	58	198
041	4	13
049	130	455
059	36	127
088	128	449
089	25	83
099	106	826
104	11	35
108	88	344
120	106	408
124	11	36
132	80	299
140	107	374
152	45	302
165	40	135
205	14	106
207	1	4
219	5	23
580	17	111
GRAND TOTAL	1,401	6,143

STATEMENT OF WORK**DISTRICT 11**

ROUTE	CENTER LINE MILES	STRIPE MILES
005	79	924
007	7	51
008	206	1,374
015	58	697
015S	20	107
052	18	148
054	12	83
056	11	79
067	25	129
075	15	101
076	55	216
078	190	774
079	59	193
086	72	457
094	67	318
098	60	207
111	67	303
115	36	125
125	23	163
163	12	125
186	2	7
188	2	6
282	1	7
805	30	376
905	9	80
905U	2	18
GRAND TOTAL	1,137	7,071

STATEMENT OF WORK

DISTRICT 12

ROUTE	CENTER LINE MILES	STRIPE MILES
001	27	191
005	47	684
022	14	158
039	22	194
055	19	223
057	13	175
072	0	3
073	19	187
074	18	63
090	9	64
091	27	332
133	15	93
142	6	23
241	26	211
261	6	49
405	25	377
605	2	24
GRAND TOTAL	296	3,051

BUDGET DETAILS AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon approval of services by Caltrans Contract Manager, and upon receipt and approval of the invoices, Caltrans agrees to compensate Contractor for actual expenditures incurred in accordance with the rates in **Attachment 1 – Cost Sheet** and this **Exhibit B – Budget Details and Payment Provisions**. Incomplete or disputed invoices shall be returned to Contractor, unpaid, for correction.
- B. Invoices shall be submitted via email and include:
- 1) Agreement number 56A0889
 - 2) Dates of Service
 - 3) Task Order Number
 - 4) Dates of Services
 - 5) Caltrans District Number
 - 6) Centerline Miles (if applicable)
 - 7) Number of Hours for Data Base Support (if applicable)
 - 8) Training Meetings (if applicable) Data Transfer (if applicable)
 - 9) Any other specific information that identifies line-item charges in accordance with Attachment 1, the Cost Worksheet Sheet.
 - 10) Classification/Hourly Rates per **Attachment 1 – Cost Sheet**
- C. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:
- Department of Transportation
D-56/Maintenance
Attention: TBD
TBD@dot.ca.gov
- D. Contractor shall be compensated for Asset Collection in accordance with the rates listed in the Contractor's Cost Worksheet, **Attachment 1** on per centerline mile basis for centerline miles collected.
- E. Contractor shall be compensated for Data Hosting in accordance with the rates listed in the Contractor's Cost Worksheet, **Attachment 1** on per Month basis for actual months hosted.
- F. Contractor shall be compensated for On-Call Data Base Support in accordance with the rates listed in the Contractor's Cost Worksheet, **Attachment 1** on per hourly basis for actual months hosted. No guarantee is made or implied as the number of hours that will be needed.
- G. Contractor shall be compensated for Training Meetings in accordance with the rates listed in the Contractor's Cost Worksheet, **Attachment 1** on per Training Meeting basis for actual meetings requested by Caltrans and satisfactorily conducted by the Contractor.
- H. Contractor shall be compensated for Data Transfer to Caltrans cloud in accordance with the rates listed in the Contractor's Cost Worksheet, **Attachment 1**.

BUDGET DETAILS AND PAYMENT PROVISIONS

- I. Tasks and deliverables in progress may be invoiced in arrears for the costs incurred during the billing period. Invoices must be itemized and provide detail on the specific progress toward the completion of the tasks and deliverables in accordance with the Contractor's Cost Worksheet, **Attachment 1**, and include supporting documentation.
- J. Caltrans shall retain 10% of each invoice until satisfactory completion of all work under this Agreement as determined by the Caltrans Contract Manager

2. Cost Including in Rates

Contractor costs related to items such as materials, supplies, and the cost of employer payments to or on behalf of employees, subsistence, travel and per diem, compensation, insurance premiums, unemployment contributions, social security taxes, Agreement bond premiums, and any other taxes or assessments including sales and use tax required by law or otherwise are the costs of Contractor and shall be inclusive of the hourly rates specified in **Attachment 1 – Cost Sheet**, and no additional allowance will be made thereof, and will not be paid separately as part of this Agreement.

3. Cost Limitation

- A. Total amount of this Agreement shall not exceed **\$TBD**.
- B. It is understood and agreed that this total is an estimate, and that Caltrans will pay only for those services actually rendered as authorized by Caltrans Contract Manager up to the total amount set forth in section 3.1, above.

4. Rates

Rates for these services may be found on **Attachment 1 – Cost Sheet** of this document.

5. Allowable Costs and Payments

- A. Contractor shall not commence performance of work or services until this Agreement has been approved by Caltrans. No payment will be made prior to approval nor for any work performed prior to approval of this Agreement.
- B. The total amount payable by Caltrans shall not exceed **\$TBD**.

6. Cost Principles

- A. Contractor agrees that the Cost Principles and Procedures in 48 CFR Part 31, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, in 2 CFR Part 200, shall be used to determine the allowable individual items of cost.
- B. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Part 31 or 2 CFR, Part 200, are subject to repayment by Contractor to Caltrans.
- C. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

GENERAL TERMS AND CONDITIONS

Department of General Services Procurement Division, Information Technology – General Provisions Cloud-Computing Services, DGS PD 402-ITGP (Cloud) (Revised and Effective 02/20/2025)

<https://www.dgs.ca.gov/-/media/Divisions/PD/Acquisitions/Solicitation-Document-Attachments/IT-General-Provisions-Cloud-DGS-PD-402ITGP-Revised-02202025.pdf>

SPECIAL TERMS AND CONDITIONS**1. Subcontractors**

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any Subcontractor, and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to the State for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its Subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall be under no obligation to pay or to enforce the payment of any monies to any Subcontractor.
- B. Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted except for Subcontractors listed on **Attachment 3 – Offeror's Technical Proposal, Bidder Declaration (GSPD-05-105)**. The electronic fill-in form must reference Agreement number **56A0889** and can be found at <https://www.documents.dgs.ca.gov/dgs/fmc/gspd/gspd05-105.pdf>.
- C. Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall be subject to all of the provisions stipulated in this Agreement.
- D. Any substitution of Subcontractors must be approved in writing by Caltrans Contract Manager in advance of assigning work to a substitute Subcontractor.

2. Evaluation of Contractor

Performance of Contractor under this Agreement will be evaluated upon completion of the Contract. The evaluation shall be prepared on Contract/Contractor Evaluation (STD 4), and maintained in the Office file, and DGS, Office of Legal Services, if the evaluation is negative and the contract price is over \$5,000.

3. Contractor's Reports and/or Meetings

Any document or written report prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, a list of all Contracts and subcontracts (including dollar amounts) relating to the preparation of those documents or reports if the combined costs for work by non-employees of Contractor exceed \$5,000.

4. State-Owned Data-Integrity and Security

- A. Contractor shall comply with the following requirements to ensure the preservation, security, and integrity of State-owned data on portable computing devices and portable electronic storage media.
 - 1) Encrypt all State-owned data stored on portable computing devices and portable electronic storage media using government-certified Advanced Encryption Standard (AES) cipher algorithm with a 256-bit or 128-bit encryption key to protect Caltrans data stored on every sector of a hard drive, including temp files, cached data, hibernation files, and even unused disk space.
 - 2) Data encryption shall use cryptographic technology that has been tested and approved against exacting standards, such as FIPS 140-2 Security Requirements for Cryptographic Modules.
 - 3) Encrypt, as described above, all State-owned data transmitted from one computing device or storage medium to another.

SPECIAL TERMS AND CONDITIONS

- 4) Maintain confidentiality of all State-owned data by limiting data sharing to those individuals contracted to provide services on behalf of the State, and limit use of State information assets for State purposes only.
- 5) Install and maintain current anti-virus software, security patches, and upgrades on all computing devices used during the course of the Agreement.
- 6) Notify Caltrans Contract Manager immediately of any actual or attempted violations of security of State-owned data, including lost or stolen computing devices, files, or portable electronic storage media containing State-owned data.
- 7) Advise the owner of the State-owned data, the agency Information Security Officer, and the agency Chief Information Officer of vulnerabilities that may present a threat to the security of State-owned data and of specific means of protecting that State-owned data.

- B. Contractor shall use the State-owned data only for State purposes under this Agreement.
- C. Contractor shall not transfer State-owned data to any computing system, mobile device, or desktop computer without first establishing the specifications for information integrity and security as established for the original data file(s) (State Administrative Manual (SAM) Section 5335.1).
- D. Contractors have appropriate systems and controls in place to ensure the operation, use, and maintenance of both Caltrans-funded and vendor furnished software will not violate federal and state copyright laws, rules and regulations.

5. Reporting Disabled Veteran Business (DVBE) Utilization

If this Agreement requires DVBE participation, it is the responsibility of Contractor to track DVBE goal progress and Contractor must report the actual amount paid to certified Subcontractors. Contractors must comply with Government Code Section 14841 and Military and Veterans Code Sections 999.5(d) and 999.7 by reporting the actual utilization of certified Subcontractor(s) during the performance of this Agreement. Contractor shall prepare and submit the Report of Utilization of Small/Micro Business and Disabled Veteran Business Enterprise State Funded Contracts Only (ADM-3059) (<https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmid=ADM3059>) to Caltrans Contract Manager with each invoice.

If Contractor fails to submit the ADM-3059 with the final invoice, Caltrans Contract Manager shall withhold \$10,000, or the full payment if it is less than \$10,000, from the final payment on the Agreement until Caltrans Contract Manager receives a complete and satisfactory ADM-3059. Caltrans Contract Manager shall notify Contractor by email that Contractor must submit a complete and satisfactory ADM-3059 within 30 days from the date of the notice. If Contractor fails to fully complete and submit the ADM-3059 within this 30-day period, Caltrans shall permanently withhold payment of the final invoice.

Upon Caltrans Contract Manager's request, Contractor shall provide proof of payment for the work performed by the DVBE subcontractor(s).

6. Reporting Small Business/Micro Business (SB/MB) Utilization

If SB/MB Subcontractor participation is a requirement of this Agreement, Contractor must report the actual amount paid to certified Subcontractors. Contractor must comply with Government Code Section 14841 by reporting the actual utilization of certified Subcontractor(s) during the performance of this Agreement. Contractor shall prepare and submit the Report of Utilization of Small/Micro Business and Disabled Veteran Business Enterprise State Funded Contracts Only (ADM-3059)

SPECIAL TERMS AND CONDITIONS

(<https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmid=ADM3059>) to Caltrans Contract Manager with each invoice.

7. DVBE Participation (Required)

A. Contractor has complied with the requirements of Public Contract Code Sections 10115 et seq. DVBE participation requirements achieved are expressed as a percentage of the estimated dollar value of this Agreement and are identified on the **Bidder Declaration (GSPD-05-105), Attachment 3**.

B. The following participation requirement percentage is are Contractor's commitment set forth in this Agreement based upon the estimated total dollar amount to be expended*

____% of work for DVBE(s) *If this Agreement is amended and the additional work can be included in the subcontracted work, the participation requirements may be amended to reflect this change. A revised **Bidder Declaration form, GSPD-05-105** must be attached to and made a part of the amended Agreement.

8. Substitutions of DVBEs

DVBE subcontractors shall be used per the California Code of Regulations, Title 2, Section 1896.70 unless a substitution is approved in writing by the DGS, Office of Small Business and Disabled Veteran Business Enterprise (OSDS). A DVBE subcontractor shall be replaced by another DVBE to perform the work originally stated. The substitution shall maintain, at minimum, the level of participation required, as stated in the bid.

A. Contractor shall simultaneously notify the DVBE and Caltrans Contract Manager of the intended substitution. The written notice shall contain the reasons for the substitution and be sent by certified mail. Contractor shall submit the following to Caltrans Contract Manager:

- 1) proof of delivery, provide the certified mail receipts.
 - 2) A copy of the DVBE's consent or opposition to the substitution. In the absence of the consent or opposition, provide the returned and unopened certified mail.
 - 3) The name and supplier number of the business being substituted and the name and supplier number of the proposed replacement. If a DVBE cannot be identified as a replacement, the Contractor shall document the absence of DVBEs. This documentation shall include but is not limited to:
 - a. Contact the Caltrans Small Business Advocate at smallbusiness.advocate@dot.ca.gov and the Department of Veterans Affairs at advocate@calvet.ca.gov regarding the absence of DVBEs to perform the specific work.
 - b. Search results from the DGS website for DVBEs to perform the specific work.
 - c. Communication with a DVBE Community Organization nearest the worksite regarding the absence of DVBEs, if applicable.
 - d. Documented communication with DVBEs describing the work to be performed, its percentage of the overall contract, the corresponding dollar amount, and their responses to the request.
- B. The DVBE shall have up to five (5) business days from the postmark date to consent or oppose the substitution. A copy of the DVBE's reply shall be sent simultaneously by certified mail to the Contractor and the Caltrans Contract Manager.

SPECIAL TERMS AND CONDITIONS

- C. When written oppositions to a substitution are filed, Caltrans shall grant the DVBE a hearing. The hearing notice shall be issued within five (5) business days from receipt of the opposition. If Caltrans grants the substitution, continue to G, below.
- D. Caltrans Contract Manager shall submit the substitution request to the DGS, OSDS:
 - 1) The request must meet the criteria as specified above or Section 4107 of the Public Contract Code for Public Works.
 - 2) The substitution request shall be accompanied by the hearing decision, when applicable.
- E. The OSDS will respond to substitution requests within three (3) business days. The OSDS shall consent to the substitution of another DVBE, or in the absence of a DVBE, a California certified Small Business in any of the following situations:
 - 1) When the DVBE becomes bankrupt, insolvent or goes out of business.
 - 2) When the DVBE does not perform as listed in the Bidder Declaration.
 - 3) When the DVBE does not meet the bond requirements of the contractor.
 - 4) When the DVBE's name is incorrect due to an inadvertent clerical error. In the case of public works contracts, compliance with § 4107.5 of the Public Contract Code is required.
 - 5) When the DVBE is not licensed as required by any State of California regulatory agency.
 - 6) When Caltrans, or its duly authorized officer, determines that the DVBE:
 - a. Did not perform in accordance with the plans and specifications; or
 - b. Has delayed or disrupted the progress of the work.
- F. The DVBE substitution process shall not be used as an excuse for noncompliance with any provision of law. This includes, but is not limited to, the Subletting and Subcontracting Fair Practices Act (Public Contract Code Sections 4100 et seq.) or any Agreement requirements relating to substitution of subcontractors.
- G. Contractors who proceed with work pending a substitution decision may be subject to Agreement termination, recovery of damages under rights, remedies and penalties. This is outlined in Military and Veterans Code Section 999.9, Public Contract Code Sections 10115.10 or 4110 (applies to public works only). Failure to adhere to the DVBE participation in the performance of the Agreement may be cause for Agreement termination and recovery of damages under the rights and remedies due Caltrans.
- H. Any DVBE firm acting/working under subcontract must be responsible for providing materials, supplies, equipment or services and must carry out its responsibility by actually performing, managing, or supervising the work involved that is normal for its business services and functions.
- I. The Contractor shall maintain records of all subcontracts entered into with DVBE Subcontractors including records of materials purchased from DVBE suppliers. Such records shall show the name and address of each DVBE Subcontractor or supplier and the total dollar amount paid to each one. Upon completion of the Agreement, a summary of these records shall be prepared and certified correct by Contractor or his authorized representative and the summary shall be furnished to the Caltrans Contract Manager.

SPECIAL TERMS AND CONDITIONS**9. Prohibition from Bidding**

This Agreement is subject to the provisions of Public Contract Code Section 10365.5, which states: "No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, goods or supplies, or any other related action which is required, suggested or otherwise deemed appropriate in the end product of the original consulting services contract."

10. Consultant Contractor's Rights and Obligations

Contractor is advised that the provisions of Public Contract Code Sections 10335 through 10381 pertaining to the duties, obligations, and rights of a consultant service Contractor are applicable to this Agreement.

11. ADA Compliance

All entities that provide electronic or information technology or related services that will be posted online by Caltrans must be in compliance with Government Code Sections 7405 and 11135 and the Web Content Accessibility Guidelines (WCAG) 2.0 or subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success. All entities will respond to and resolve any complaints/deficiencies regarding accessibility brought to their attention.

12. Electronic Signatures

Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures for this Agreement. Documents that are referenced by this Agreement may still require manual signatures.

13. Generative Artificial Intelligence (GenAI)**A. Definitions**

- 1) **Artificial Intelligence (AI):** an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments (Gov Code §§ 11549.64 & 11546.45.5).
- 2) **GenAI Training Data:** any content, information, or data that is used to train, tune, test, or validate a GenAI, including text, images, video, audio, code, or similar types of input.
- 3) **Generated Data:** any output, results, content, or other data that is produced by GenAI, including but not limited to text, images, video, audio, code, or similar types of output.
- 4) **Generative AI (GenAI):** an AI system that can generate derived synthetic content, including text, images, video, and audio, that emulates the structure and characteristics of the system's GenAI Training Data (Gov Code §11549.64).
- 5) **Hallucination:** Generated Data that is nonsensical, false, or misleading, and is not based on real or existing data, but is instead produced by bias or the GenAI's extrapolation or creative interpretation of its Gen AI Training Data.
- 6) **Materially Impacts:** shall have the same meaning set forth in State Administrative Manual (SAM) 4986.2.

SPECIAL TERMS AND CONDITIONS

- 7) **Prompt:** any written, spoken, or rendered information provided as a query, command, or other form of input, to any GenAI in connection with this Contract. For avoidance of doubt, Prompt includes any input automatically detected or created by the GenAI, as well as any derivative works of a Prompt or collection of Prompts.

B. GenAI Disclosure Obligations**1) Disclosure Obligations**

- a. Contractor must immediately notify the State in writing if it: (1) intends to provide GenAI as a Deliverable to the State; or (2) intends to utilize GenAI, including GenAI from third parties, to complete all or a portion of any Deliverable that materially impacts: (i) functionality of the System, (ii) risk to the State, or (iii) Contract performance. For avoidance of doubt, the term “materially impacts” shall have the same meaning set forth in State Administrative Manual (SAM) § 4986.2 Definitions for GenAI.
- b. Such notification shall be provided to the State designee identified in this Contract.
- c. At the direction of the State, Contractor shall discontinue the provision to the State of any previously unreported GenAI that results in a material impact to the functionality of the System, risk to the State, or Contract performance, as determined by the State.
- d. If the use of previously undisclosed GenAI is approved by the State, then Contractor will update the Deliverable description, and the Parties will amend the Contract accordingly, which may include incorporating the GenAI Special Provisions into the Contract, at no additional cost to the State.

- 2) **Failure to Disclose or Discontinue GenAI Use:** The State, at its sole discretion, may consider Contractor’s failure to disclose or discontinue the provision or use of GenAI as described above, to constitute a material breach of Contract when such failure results in a material impact to functionality of the System, risk to the State, or Contract performance. The State is entitled to seek any and all remedies available to it under law as a result of such breach, including but not limited to termination of the contract, for default pursuant to **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 16, Termination.**

3) Contractor’s Obligations for Responsible Use:

- a. Contractor shall ensure that it has obtained all necessary consents, permissions, and licenses from data subjects and third parties to use the GenAI for this Contract. Subject to **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 11, Indemnification**, Contractor represents and warrants, it has the appropriate U.S. Intellectual Property Rights associated with any GenAI used in the Deliverables provided under the Contract.
- b. Contractor shall ensure that the GenAI included, or made available as part of the Deliverables is equitable, non-discriminatory, and reasonably well-designed to avoid harmful, offensive, dangerous, and unlawful impact. (Government Code 11549.63. Contractor shall be liable for any Hallucination produced by the GenAI that has an adverse impact on Generated Data or a Deliverable.
- c. Contractor shall comply with all applicable laws and regulations, including as set forth in **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 13, Statutory &**

SPECIAL TERMS AND CONDITIONS

Regulatory Requirements; Contractor Certifications above and these General Provisions in relation to the provision or use of any GenAI in the Deliverables.

4) GenAI Training Data Ownership:

Except as otherwise agreed to by the Parties, Contractor shall retain all ownership and intellectual property rights in the GenAI Training Data it provides.

5) Rights to State Generated Data:

In addition to Government Purpose Rights set forth in **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 9, Rights in Work Product & Government Purpose Rights**, the Parties agree that Generated Data created from a State provided Prompt is not a derivative work of the GenAI Training Data. Notwithstanding the preceding sentence, in the event a court of competent jurisdiction determines that Generated Data created from a State-provided Prompt constitutes a derivative work of the GenAI Training Data, Contractor agrees to grant the State an unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive right, and license to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Generated Data for any State Government Purpose Rights.

6) Contractor's Use of State Data:

Contractor shall not incorporate any Non-Public State Data into GenAI Training Data and shall not otherwise utilize Non-Public State Data to train, tune, maintain, improve, or develop GenAI, except with the express written authorization from the State specifying the Non-Public State Data that may be used along with the acceptable scope of such usage.

14. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order [N-6-22](#) (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law unless the contract has been Federalized (i.e. there is federal participation in any phase). The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least thirty (30) calendar days to provide a written response. Termination shall be at the sole discretion of the State.

ADDITIONAL PROVISION**1. General Provisions Required in All Insurance Policies**

- A. Deductible: Contractor is responsible for any deductible or self-insured retention contained within the insurance program.
- B. Coverage Term: Coverage must be in force for the complete term of this Agreement. If insurance expires during the term of this Agreement, a new certificate must be received by the Caltrans Contract Manager at least ten (10) days prior to the expiration of the insurance. Any new insurance must continue to comply with the original terms of this Agreement **56A0889**.
- C. Policy Cancellation or Termination and Notice of Non-Renewal: Contractor shall provide, to the Caltrans Contract Manager within five (5) business days, following receipt by Contractor, a copy of any cancellation or non-renewal of insurance required by this Agreement. In the event Contractor fails to keep, in effect at all times, the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of this Agreement.
- D. Primary Clause: Any required insurance contained in this Agreement shall be primary, and not excess or contributory, to any other insurance carried by the State.
- E. Inadequate Insurance: Inadequate or lack of insurance does not negate the Contractor's obligations under this Agreement.
- F. Endorsements: Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- G. Insurance Carrier Required Rating: All insurance companies must carry a rating acceptable to the Department of General Services, Office of Risk and Insurance Management (ORIM). If the Contractor is self-insured for a portion or all of its insurance, review of financial information, including a letter of credit, may be required. Department of General Services, ORIM Website:
<https://www.dgs.ca.gov/ORIM>.
- H. Contractor shall include all of its Subcontractors as insureds under Contractor's insurance or supply evidence of insurance to the State equal to the policies, coverages and limits required of Contractor.
- I. The State will not be responsible for any premiums or assessments on the policy.

2. Insurance Requirements**A. Commercial General Liability**

- 1) Contractor shall maintain general liability on an occurrence form with limits not less than **\$1,000,000** per occurrence and **\$2,000,000** aggregate for bodily injury and property damage liability. The policy shall include coverage for liabilities arising out of premises, operations, independent Contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability.
- 2) The policy must include:

Agreement Number **56A0889** Caltrans, State of California, its officers, agents, and employees are included as additional insured, but only with respect to work performed for the State of California

ADDITIONAL PROVISION

under this Agreement. The additional insured endorsement must accompany the certificate of insurance.

- 3) This endorsement must be supplied under form acceptable to the Department of General Services, Office of Risk and Insurance Management.

B. Automobile Liability

Contractor shall maintain motor vehicle liability with limits not less than **\$1,000,000** combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. The same additional insured designation and endorsement required for general liability is to be provided for this coverage.

C. Workers' Compensation and Employer's Liability

Contractor shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement. Employer's liability limits of **\$1,000,000** are required. When work is performed on State owned or controlled property the workers' compensation policy shall contain a waiver of subrogation in favor of the State. The waiver of subrogation endorsement shall be provided to the Caltrans' Contract Manager.

D. Professional Liability

Contractor shall maintain Professional Liability at **\$1,000,000** covering any damages caused by a negligent error, act, or omission. The policy's retroactive date must be displayed on the certificate of insurance and must be before the date this Agreement was executed or before the beginning of this Agreement work. The Contractor is responsible to maintain continuous coverage for up to three years after the notice of completion.

E. Satisfying a Self-Insured Retention (SIR)

All insurance required by this Agreement must allow, but not require, the State to pay any SIR and/or act as the Contractor's agent in satisfying any SIR. The choice to pay any SIR and/or act as the Contractor's agent in satisfying any SIR is at the State's discretion. If the State chooses to pay any SIR and/or act as the Contractor's agent in satisfying any SIR, the Contractor shall reimburse the State for the same.

F. Available Coverage Limits

In the event the insurance coverages obtained by the Contractor is broader in scope than, and/or the limits are higher than, those required under the contract, all such broader coverage and/or higher limits available to the Contractor shall also be available and applicable to the State.

3. Prohibition of Delinquent Taxpayers

Public Contract Code Section 10295.4 prohibits the State from entering into an Agreement for goods or services with any taxpayer, whose name appears on either list maintained by the California Department of Tax and Fee Administration or the Franchise Tax Board pursuant to Revenue and Taxation Code Sections 7063 and 19195, respectively, of the 500 largest tax delinquencies. Public Contract Code Section 10295.4 provides no exceptions to these prohibitions.

ADDITIONAL PROVISION**4. Contractor Name Change**

An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. Corporate Qualifications to Do Business in California

Contractor needs to be aware of the following provisions regarding current or former State employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

6. Conflict of Interest

Contractor needs to be aware of the following provisions regarding current or former State employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

A. Current State Employees

- 1) No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest, and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent Contractor with any State agency to provide goods or services.

B. Former State Employees

- 1) For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency.
- 2) For the 12-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving State service.

C. If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void (Pub. Cont. Code Section 10420).

D. Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time, and payment for per diem (Pub. Cont, Code Section 10430€).

7. Warranty

Notwithstanding, **Exhibit C – General Terms and Conditions, Section 8:**

- A. Limited Services Warranty and Remedy for Breach. In addition to the warranties provided in **Exhibit C**, Contractor warrants to Caltrans that, for the period beginning on the date of the Agreement and continuing for 90 days after final acceptance of all Services pursuant to the Agreement, Contractor will render all Services under such Agreement with reasonable care and skill. If Caltrans notifies Contractor

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within the warranty period of a breach of the foregoing warranty, Contractor will re-perform such Services in compliance with the foregoing warranty. With regard to the warranties set forth in this **Section 7**, if despite its reasonable efforts, Contractor is unable to provide Caltrans with Services in compliance with the foregoing warranty, then, subject to the limitations set forth in **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 12, Limitation of Liability**, Caltrans may pursue its remedy at law to recover direct damages resulting from the breach of this limited warranty. For the purposes of this Agreement, “Services” means professional services as specified in **Exhibit A – Statement of Work** of this Agreement.

- B. Limited Software Warranty by Contractor and Remedy for Breach. In addition to the warranties provided in **Exhibit C**, Contractor warrants that each Software licensed to Caltrans will operate in accordance with its Documentation for a period of 12 months from the Delivery Date (“Warranty Period”). Contractor warrants that the media on which the Software is delivered will be free of material defects in material and workmanship for a period of 12 months from the Delivery Date. With regard to the warranties set forth in this **Section 7**, Contractor’s sole obligation with respect to a breach of either of the foregoing warranties shall be to repair or replace the Software or media giving rise to the breach of warranty so that each Software licensed to Caltrans operates in accordance with its Documentation. With regard to the warranties set forth in this **Section 7**, if Contractor is unable to repair or replace such Software or media within a reasonable period of time (not to exceed 45 days unless otherwise agreed by the parties), then, subject to the limitations set forth in **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 12, Limitation of Liability**, of this Agreement, Caltrans may pursue its remedies at law to recover direct damages resulting from the breach of the applicable warranty. Caltrans must provide notice to Contractor of any warranty claim within the warranty period. The parties agree the duration of the Warranty Period specified above is offered by Contractor solely in reliance upon Caltrans’s commitment to renew annual Support through the Warranty Period. The support period specified herein is a binding term with respect to the ongoing availability of the Limited Software Warranty and Support may not be cancelled or terminated during this time without terminating the remainder of the Warranty Period.

8. Confidential Information

- A. The following is added to **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 10, Confidentiality; Data Rights**. Except as otherwise permitted under this Agreement, the Recipient will not disclose to any third party, or make any use of the Discloser’s Confidential Information. The Recipient will use at least the same standard of care to maintain the confidentiality of the Discloser’s Confidential Information that it uses to maintain the confidentiality of its own Confidential Information, but in no event less than reasonable care. Except in connection with the computer software programs licensed by Contractor to Caltrans (“Licensed Software”) and any software provided with the Licensed Software, the non-disclosure and non-use obligations of this Agreement will remain in full force with respect to each item of Confidential Information for a period of 10 years after Recipient’s receipt of that item. However, Caltrans’s obligations to maintain both the Licensed Software and any software provided with the Licensed Software as confidential will survive in perpetuity. Notwithstanding the foregoing, this Section is not intended to prevent a Recipient from using Residual Knowledge, subject to any Intellectual Property Rights of the Discloser. “Recipient” means the party receiving Confidential Information of the Discloser. “Discloser” means the party providing Confidential Information to the Recipient. “Residual Knowledge” means ideas, concepts, know-how or techniques related to the Discloser’s technology and Confidential Information that are retained in the unaided memories of the Recipient who had rightful access to Confidential Information.

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- B. Notwithstanding the foregoing, in the event that a court or other governmental authority of competent jurisdiction issues an order, subpoena, or other lawful process requiring the disclosure of the Confidential Information, Caltrans shall notify Contractor immediately upon receipt thereof to facilitate Contractor efforts to prevent such disclosure, or otherwise preserve the confidentiality of the Confidential Information. Caltrans shall not be in violation of the Agreement if (a) Caltrans notifies the Contractor that a third party seeks to obtain the Confidential Information pursuant to a court order and Contractor fails to obtain relief from said court order before the date that Caltrans is required to disclose the Confidential Information, (b) Caltrans notifies the Contractor that a third party seeks to obtain the Confidential Information under right provided by law (such as the California Public Records Act) and Contractor takes no legal action to prevent the disclosure within 30 days from the day of said notice, or (c) Contractor notifies Caltrans that Contractor will take no legal action to maintain the confidentiality of the Confidential Information or does not object to the disclosure of the Confidential Information.

9. Non-solicitation

Subject to the terms of California law, including, without limitation, Business and Professions Code Sections 16600 et al., during the period that Contractor is providing Services pursuant to this Agreement and for a period of one (1) year following the completion of such Services, neither Contractor nor Caltrans will offer to hire, hire, Solicit for employment or retention as an independent Contractor, or in any way employ any Resource of the other party without the prior written consent of the other party. "Solicit" as used in this Section does not include general solicitations, such as advertisements in newspapers, trade publications or on the internet. "Resource" for purposes of this Section means: (a) employees of the non-hiring party who directly worked on the Services project at Caltrans's location (the "Project"), and (b) former employees of the non-hiring party who directly worked on the Project and whose employment with that party ended less than six (6) months prior to the date of such offer to hire, hire, Solicitation, or employment.

10. Termination

The following is added to **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 16, Termination:**

- A. Termination due to Project Abandonment. This Agreement may be terminated in whole or in part in accordance with this Section by either party if the other party abandons the Project. For purposes of this Section, the Project will be considered abandoned if either party (i) stops work on the Project for a period of 30 days, (ii) disbands its Project Team, (iii) refuses in a material and substantial way to undertake its responsibilities in the Project Plan for a period of 60 days, or (iv) refuses to Go Live for reasons unrelated to the performance of the Services by Contractor. Notwithstanding any other provision in this Agreement, abandonment does not include action or inaction by Caltrans' under **Exhibit C – General Terms and Conditions, DGS PD 402-ITGP (Cloud), Section 18, Stop Work**. To effect termination on this Section, the non-abandoning party shall deliver a written notice to the other party which specifies the extent to which the Services under this Agreement are terminated ("Notice of Termination"). The Notice of Termination will become effective no earlier than 30 days from the date of the Notice of Termination ("Termination Date"). Termination shall be effective as of 11:59 p.m., Pacific Time, on the Termination Date. Upon Project terminating under this Section, the non-abandoning party shall promptly proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amount of payment due to Contractor under this Section. If the non-abandoning party is Caltrans, Contractor shall: (i) stop work as specified in the Notice of Termination, (ii) place no further subcontracts for materials, Services, or facilities except as necessary to complete any continuing portion of the Contract, (iii) terminate all subcontracts to the extent they relate to the

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work terminated, and (iv) settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. Caltrans may engage Contractor under a separate Agreement to provide Services for any outstanding Deliverables originally within the scope of this Contract, but which remain open due to termination under this Section. In no event shall payment pursuant to this provision exceed the amount payable to Contractor if the Agreement had been fully performed. The parties shall possess any and all other remedies available under the Agreement.

- B. Payment for Services. In the event of all or any partial termination of this Agreement under this Section, Contractor shall be entitled to the unpaid compensation for services actually rendered and expenses incurred, up to and including the Termination Date. If within 60 days following the Termination Date, the parties have not agreed upon the amount for the Services rendered as of the Termination Date, then the issue will be treated as a dispute under this Agreement. In no event shall payment pursuant to this provision exceed the amount payable to Contractor if the Agreement had been fully performed.

11. Maintenance

The following terms and conditions are superseded and replaced by any alternate or inconsistent terms and conditions in the Agreement.

- A. The correction of any residual errors in any Software Product that may be discovered by Contractor or by the State will be considered maintenance. Such maintenance will be performed by Contractor without additional charge for the duration of this Agreement. Suspected errors discovered by the State in the Software Products will be handled by the following procedures.
- 1) A listing of the output and a copy of the identical input data in machine-readable form will be submitted to Contractor, along with a completed copy of the appropriate Contractor information form and, if appropriate, a listing of the contents of the memory of the CPU at the time the error condition was noted.
 - 2) Errors in the Software Product as verified by Contractor will be corrected by providing a new copy of said Software Product (or of the affected portions) in machine-readable form.
 - 3) The Contractor shall attempt to correct Software Product errors within a reasonable time.
- B. Contractor will be available to assist the State in isolating and correcting error conditions caused by the State's particular Hardware or Operating System at rates in accordance with the Agreement's **Exhibits A and B**, and **Attachment 1**.
- C. If Contractor is called upon by State to correct an error caused by State's negligence, modification by State, State supplied data, machine or operator failure, or due to any other cause not inherent in the original Software Products, Contractor reserves the right to charge State for such service on a time and material basis, or rates in accordance with the Agreement's **Exhibits A and B**, and **Attachment 1**.

12. Acceptance of Software

Notwithstanding the set in **Exhibit C – General Terms and Conditions, , Section 3, Order of Precedence** or any other provision of this Agreement, the following definitions shall control in this Agreement.

- A. Commercial Software. Acceptance of Commercial Software will be governed by the terms and conditions of the Agreement of the parties.

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B. Custom Software. Unless otherwise provided in the Statement of Work, acceptance procedures for Custom Software will be as set forth in this Agreement. No payment for Custom Software will be due before Acceptance thereof, except to the extent required by progress payment terms in the Statement of Work. Any notice of rejection will explain how the Custom Software Product fails to substantially conform to the functional and performance specifications of this Contract. Contractor will, upon receipt of such notice, investigate the reported deficiency and exercise reasonable best efforts to remedy it promptly. The State, in its sole discretion, will have the option to re-perform the acceptance test. If the Contractor is unable to remedy the deficiency within sixty (60) days of notice of rejection, the State shall have the option of accepting substitute Software, terminating for default the portion of the Contract that relates to such Custom Software, or terminating this Contract in its entirety for default.

13. Ownership of Intellectual and Proprietary Property

For the purposes of this section (Ownership of Intellectual Proprietary Property) of **Exhibit E** of this Agreement (herein after referred to as "this Agreement") the following definitions shall apply:

Work: As delineated in **Exhibit A** of the Agreement.

Intellectual Property: means technical information, inventions, developments, discoveries, know-how, methods, techniques, formulae, algorithms, data, processes and other proprietary ideas, whether or not patentable or copyrightable, patent applications, patents, copyrights, trademarks, trade secrets, and any other legally protectable information, including computer software.

Intellectual Property Work ("Work"): means any work or activity performed by the Contractor or jointly with the Contractor's Subcontractor and/or the Contractor's Subcontractor's employee's with one or more employees, within the scope of performance of any Caltrans Intellectual Property Work effort, pursuant to the Statement of Work (SOW), or any other written terms in this Agreement and paid by the California Department of Transportation (Caltrans).

Government: means Caltrans.

Project Research Data: means information including, without limitation, documents, drawings, models, designs, data, memoranda, tapes, drives, disks, any other electronic storage medium, records, and databases, in hard copy form or in electronic form, developed during performance of the Work and regardless of whether paid for by Caltrans, its Contractor(s)/Grant Recipient(s), or subcontractors.

Work Product: As defined as Deliverable in **Exhibit A** of the Agreement including but not limited to, all Work and Deliverables conceived or made, or made hereafter conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six (6) months after the termination thereof, which relates to the Work commissioned or performed under this Agreement. "Work Product" includes all deliverables, inventions, innovations, improvements, or other works of authorship Contractor may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret, or other legal protection.

Inventions: Any idea, methodologies, design, concept, technique, invention, discovery, improvement or development which is or may be patentable or otherwise protectable under Title 35 of the United States Code made solely by the Contractor or jointly with the Contractor's Subcontractor and/or the Contractor's Subcontractor's employee's with one or more employees during the term of this Agreement and in performance of any Work under this Agreement, provided that either the conception or reduction to practice thereof occurs during the term of this Agreement and in performance of Work issued under this Agreement.

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Subject Invention: Any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

Practical Application: To manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

Made: When used in relation to any invention means the conception or first actual reduction to practice of such invention.

Small Business Firm: A small business firm as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

Nonprofit Organization: A university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

A. Ownership of Work Product and Rights:

1) Ownership of Work Product:

Except in regard to Pre-existing Works, all Work Product derived by the Work performed by the Contractor, its employees or by any of the Contractor's Subcontractor's employees under this Agreement, shall be owned by Caltrans and shall be considered works made for hire by the Contractor's Subcontractor for Caltrans. Caltrans shall own all United States and international copyrights in the Work Product.

As such, all Work Product shall contain, in a conspicuous place, a copyright designation consisting of a "c" in a circle followed by the four-digit year in which the Work Product was produced, followed by the words "California Department of Transportation." For example, a Work Product created in the year 2012 would contain the copyright designation © 2012 California Department of Transportation.

2) Vesting of Copyright Rights:

Contractor, its employees or any of Contractor's Subcontractor's employees agrees to perpetually assign, and upon creation of each Work Product automatically assigns, to Caltrans, its successors and assigns, ownership of all United States and international copyrights in each and every Work Product, insofar as any such Work Product, by operation of law, may not be considered work made for hire by the Contractor's Subcontractor from Caltrans. Contractor, its employees or any of Contractor's Subcontractor's employees agree to execute the **Attachment 5 – Caltrans Intellectual Property (IP) Copyright Assignment Agreement Form**, attached to this Agreement, acknowledging Caltrans undivided copyright interest to the Work. From time to time upon Caltrans' request, the Contractor's Subcontractor and/or its employees shall confirm such assignments by execution and delivery of such assignments, confirmations or assignment, or other written instruments as Caltrans may request. Caltrans, its successors and assigns, shall have the right to obtain and hold in its or their own name(s) all copyright registrations and other evidence of rights that may be available for Work Product. Contractor hereby agrees to waive all moral rights relating

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to identification of authorship restriction or limitation on use, or subsequent modifications of the Work.

B. Inventions**1) Vesting of Patent Rights:**

The Contractor, its employees and any Contractor's Subcontractors hereby agrees to assign to Caltrans, its successors, and assigns, all Inventions, together with the right to seek protection by obtaining patent rights therefore and to claim all rights or priority there under, and the same shall become and remain Caltrans' property regardless of whether such protection is sought. The Contractor, its employees and Contractor's Subcontractor shall promptly make a complete written disclosure to Caltrans of each Invention not otherwise clearly disclosed to Caltrans in the pertinent Work Product, specifically pointing out features or concepts that the Contractor, its employees and Contractor's Subcontractor believes to be new or different. Contractor, its employees and Contractor's Subcontractor agree to execute the **Attachment 6 – Caltrans Intellectual Property Non-Disclosure Agreement**, attached to this Agreement. The Contractor, its employees and Contractor's Subcontractor shall, upon Caltrans' request and at Caltrans' expense, cause patent applications to be filed thereon, through solicitors designated by Caltrans, and shall sign all such applications over to Caltrans, its successors, and assigns. The Contractor, its employees and Contractor's Subcontractor shall give Caltrans and its solicitors all reasonable assistance in connection with the preparation and prosecution of any such patent applications and shall cause to be executed all such assignments or other instruments or documents as Caltrans may consider necessary or appropriate to carry out the intent of this Agreement.

2) Agency:

In the event that Caltrans is unable for any reason whatsoever to secure the Contractor's, its employees' and/or Contractor's Subcontractor's signature to any lawful or necessary document required or desirable to apply for or prosecute any United States application (including renewals or divisions thereof), Contractor, its employees and Contractor's Subcontractor hereby irrevocably designates and appoints Caltrans and its duly authorized officers and agents, as its agent and attorney-in-fact, to act for and on Contractor, its employees and Contractor's Subcontractor's behalf and stead, to execute and file such applications and do all other lawfully permitted acts to further the prosecution and issuance of any copyrights, trademarks or thereon with the same legal force and effect as if executed by Contractor, its employees and/or Contractor's Subcontractor. Caltrans shall have no obligations to file any copyright, trademark, or patent applications.

3) Avoidance of Infringement

In performing services under this Agreement, Contractor and its employees agree to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If Contractor or its employees becomes aware of any such possible infringement in the course of performing any work under this Agreement, Contractor or its employees shall immediately notify Caltrans in writing.

4) Pre-Existing Works and License:

Contractor acknowledges that all Work Product shall be the sole and exclusive property of Caltrans, except that any pre-existing works created by Contractor and third parties outside of the Agreement but utilized in connection with the Agreement (the "Pre-existing Works") shall continue to be owned

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by Contractor or such parties. Contractor agrees to notify Caltrans' Contract Manager in writing of any Pre-existing Works used in connection with any Work Product produced under this Agreement and hereby grants Caltrans, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Pre-existing Works with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated into the Work Product resulting from this Agreement.

- 5) To Caltrans a non-exclusive, perpetual, royalty-free license to utilize the Pre-existing Works in connection with the Work Product.

C. Additional Provisions to Subcontractors:

Contractor shall affirmatively bind by contract any of its Subcontractors or service vendors (hereinafter "Contractor's Subcontractor") providing services under this Agreement to conform to the provisions of this Exhibit E. Contractor's Subcontractor shall then provide the signed contract to the Contractor, who shall provide it to Caltrans' Contract Manager prior to the commencement of any work. In performing services under this Agreement, Contractor's Subcontractor agrees to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If Contractor's Subcontractor becomes aware of any such possible infringement in the course of performing any Work under this Agreement, Contractor's Subcontractor shall immediately notify the Contractor in writing, Contractor will then immediately notify the Caltrans Contract Manager in writing.

D. Ownership of Data:

- 1) Upon completion of all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications, and estimates, produced as part of this Agreement will automatically be vested in Caltrans and no further agreement will be necessary to transfer ownership to Caltrans. The Consultant shall furnish Caltrans all necessary copies of data needed to complete the review and approval process.
- 2) It is understood and agreed that all calculations, drawings, and specifications, whether in hard copy of machine readable form, are intended for one-time use in the construction of the project for which this Agreement has been entered into
- 3) The Consultant is not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by Caltrans of the machine readable information and data provided by the Consultant under this Agreement; further, the Consultant is not liable for claims, liabilities or losses arising out of, or connected with, any use by Caltrans of the project documentation on other projects, for additions to this project, or for the completion of this project by others, excepting only such use as may be authorized, in writing, by the Consultant
- 4) Any sub-agreement in excess of twenty-five thousand (\$25,000.00) dollars, entered, into as a result of this Agreement, shall contain all of the provisions of this clause.

E. Patent Rights (Small Business Firms and Nonprofit Organizations):**1) Allocation of Principal Rights:**

The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject

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invention in which the Contractor retains title, Caltrans shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

2) Invention Disclosure, Election of Title and Filing of Patent Application by Contractor:

- a) The Contractor will disclose each subject Invention to the Caltrans Contract Manager within two (2) months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the Invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure, the Contractor will promptly notify the Caltrans Contract Manager of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.
- b) The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Caltrans Contract Manager within two years of disclosure. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened to a date that is no more than sixty (60) days prior to the end of the statutory period.
- c) The Contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.
- d) Requests for extension of the time for disclosure, election, and filing under subparagraphs (a), (b), and (c) may, at the discretion of Caltrans, be granted.

3) Conditions when the Government May Obtain Title:

The Contractor will convey to the Caltrans Contract Manager, upon written request, title to any subject invention:

- a) If the Contractor fails to disclose or elect title to the subject invention within the times specified in (2), above, or elects not to retain title; provided that the agency may only request title within sixty (60) days after learning of the failure of the Contractor to disclose or elect within the specified times.
- b) In those countries in which the Contractor fails to file patent applications within the times specified in (2) above; provided, however, that if the Contractor has filed a patent application in a country after the times specified in (2) above, but prior to its receipt of the written request the Contractor shall continue to retain title in that country.

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- c) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

4) Minimum Rights to Contractor and Protection of the Contractor Right to File:

- a) The Contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the Invention within the times specified in (2), above. The Contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of Caltrans except when transferred to the successor of that party of the Contractor's business to which the invention pertains.
- b) The Contractor's domestic license may be revoked or modified by Caltrans to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of Caltrans to the extent the Contractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.
- c) Before revocation or modification of the license, Caltrans will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty (30) days (or such other time as may be authorized by Caltrans for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

5) Contractor Action to Protect the Government's Interest

- a) The Contractor agrees to execute or to have executed and promptly deliver to the Caltrans Contract Manager all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Caltrans Contract Manager when requested under paragraph (3) above and to enable the Government to obtain patent protection throughout the world in that subject invention.
- b) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject Invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (2), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (2)(a), above. The Contractor shall instruct such employees through employee agreements or

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other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

- c) The Contractor will notify the Caltrans Contract Manager of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.
- d) The Contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by Caltrans. The Government has certain rights in the invention."

6) Subcontracts:

- a) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.
- b) The Contractor will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (cite section of agency implementing regulations or FAR).
- c) In the case of subcontracts, at any tier, when the prime award with Caltrans is a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor, Caltrans with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (9) of this clause.

7) Reporting on Utilization of Subject Inventions:

The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject Invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (9) of this clause. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

8) Preference for United State Industry:

Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by

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Caltrans upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

9) March-In Rights:

The Contractor agrees that with respect to any subject Invention in which it has acquired title, Caltrans may require the Contractor, an assignee or exclusive licensee of a subject Invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request Caltrans has the right to grant such a license itself if Caltrans determines that.

- a) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use
- b) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee or their licensees;
- c) Such action is necessary to meet requirements for public use specified by State regulations and such requirements are not reasonably satisfied by the Contractor, assignee or licensees; or
- d) Such action is necessary because the agreement required by paragraph (8) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject Invention in the United States is in breach of such agreement.

10) Special Provisions for Contracts with Nonprofit Organizations:

If the Contractor is a nonprofit organization, it agrees that:

- a) Rights to a subject invention in the United States may not be assigned without the approval of Caltrans, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Contractor;
- b) The Contractor will share royalties collected on a subject invention with the inventor, including State employee co-inventors when Caltrans it appropriate.
- c) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and
- d) It will make efforts that are reasonable under the circumstances to attract licensees of subject Invention that are small business firms and that it will give a preference to a small business firm when licensing a subject Invention if the Contractor determines that the small business firm has a plan or proposal for marketing the Invention which, if executed, is equally as likely to bring the Invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor. However, the

ADDITIONAL PROVISION

Contractor agrees that the Secretary may review the Contractor's licensing program and decisions regarding small business applicants, and the Contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the Contractor could take reasonable steps to implement more effectively the requirements of this paragraph (10)(d).

SECURITY AND PRIVACY PROVISIONS

The Agreement (and the services and work product produced under the Agreement) must be in compliance with this Exhibit (Security and Privacy General Provisions) to ensure the confidentiality, security, privacy, integrity, and availability of information assets, data, and systems.

Contractor agrees to protect all California Department of Transportation (Caltrans) information by implementing all controls and procedures necessary to comply with the provisions of this Exhibit and all State mandated data security and privacy requirements provided in the California State Administrative Manual (SAM), the State Contract Manual (SCM), all data security and privacy standards of the National Institute of Standards and Technology (NIST), all Federal Information Processing Standards (FIPS), all California State law (including, but not limited to, Government Code §11015.5 and §11019.9, the California Information Practices Act (IPA), the California Consumer Privacy Act (CCPA) and Civil Code §1978 et seq), and all promulgated or published State of California and Caltrans regulations and policies relating to data security and privacy. Contractor further agrees to implement the minimum administrative, physical, and technical safeguards described in this Agreement. Contractor also further agrees to respond to Caltrans surveys and inquiries regarding compliance with the terms and conditions of this agreement. Contractor shall protect Caltrans Data in accordance with this Exhibit for as long as the Contractor is in possession of, maintaining, or accessing Caltrans Data. Contractor shall ensure that all subcontractors and third parties with whom Contractor works comply with this Agreement and agree in writing to adhere to the provisions of this Agreement.

1. DEFINITIONS For purposes of this Exhibit, the following definitions shall apply:

Contractor shall generally refer to the "Contractor" as identified in this Agreement.

Data shall mean a representation of facts, concepts, or instructions in a formalized manner suitable for communication, interpretation, or processing by humans or by automated means.

Caltrans Data shall refer to Data owned by Caltrans.

Confidential Information means any and all nonpublic information relating to the current and future operations and services of Caltrans, including but not limited to, planning, specifications, concepts, technical information, techniques, drawings, sketches, models, know-how, data, databases, electronic information, emails, processes, designs, photographs, apparatus, equipment, specifications, software programs, source code, software documentation, manuals, and formulae. The parties further agree that Confidential Information shall also include information received by Recipient prior to the execution of this Agreement and that would otherwise qualify as Confidential Information as provided herein. Confidential Information does not include information that (a) is lawfully within the public domain other than through disclosure or default by the Recipient; (b) was lawfully obtained from a third party who was legally in possession of the information, and who is authorized in writing by Caltrans to disclose it; (c) was independently developed by Recipient without the use of the Confidential Information, or any derivative works, and without the use of knowledge learned from accessing the Confidential Information; or (d) is subject to the requirements of the California Public Records Act ("CPRA") or otherwise required to be disclosed by order of a court, administrative agency or other governmental body with competent jurisdiction provided that Recipient notifies Caltrans within three (3) business days of receipt of such an order so that Caltrans may, in its sole discretion, seek a protective order from a court of competent jurisdiction preventing or restricting disclosure.

Personal Information shall have the meaning established by California law (including without limitation the IPA) and administrative manuals (including without limitation the SAM and SCM).

Sensitive Information shall have the meaning established by California law (including without limitation the IPA) and administrative manuals (including without limitation the SAM and SCM).

SECURITY AND PRIVACY PROVISIONS

Personnel shall refer to any Contractor employees, volunteers, sub-contractors and third parties commissioned, employed by, or otherwise engaged by Contractor to perform work under this Agreement.

Systems shall refer to workstations, laptops, servers, applications, network, and other information processing components.

Users shall refer to any Contractor personnel with access to Caltrans Data.

2. ADMINISTRATIVE SAFEGUARDS

- A. **Data Ownership:** Caltrans Data provided under this Agreement shall be the sole and exclusive property of Caltrans. Confidential, sensitive, and personal information should not be disclosed to any third-party and it requires special precautions to protect from loss and unauthorized use, disclosure, modification, or destruction. This information must not be shared without the written permission from an authorized representative of Caltrans.

Contractor agrees that it is responsible to protect the confidentiality of information in their custody as provided by this Agreement and to ensure such information is disclosed to only those parties to whom disclosure is permitted under this Agreement.

Contractor shall have a non-exclusive right to use and process the Caltrans Data for only the purposes stated in this Agreement. This right shall be revoked immediately upon termination of this Agreement. Disclosure of the Caltrans Data does not transfer ownership of information to the Contractor or any third party.

- B. **Use Of Information:** Contractor acknowledges and agrees that the information furnished or secured pursuant to this Agreement shall be used only for the purposes described in this Agreement, and Contractor agrees to implement its own policies and procedures to ensure that the confidentiality of said information is maintained in accordance with the provisions of this Agreement.

Contractor further agrees that information obtained under this Agreement shall not be reproduced, copied, published, sold, or released in original or any other form for any purpose other than the purposes set forth in this Agreement. Only the Caltrans Data that is required to perform purposes of this Agreement may be processed, stored, or transmitted by Contractor.

Contractor shall not use any Caltrans Data that identifies any natural person for any purpose that is not set forth in this Agreement, including for testing, training, or research.

- C. **Statement Of Confidentiality and Requirements:** Caltrans Data may be exempt from disclosure under the provisions of federal and state laws. Contractor understands and acknowledges that under California Penal Code §502, it is a public offense to knowingly and without permission alter, damage, delete, destroy, copy, or otherwise use any Caltrans Data. Such action can be prosecuted civilly or criminally, and it is punishable by fine and/or imprisonment.

Contractor shall ensure that all users sign a confidentiality statement, attesting to the fact that he/she is aware of the confidential nature of the Caltrans Data and that there are penalties for unauthorized disclosure of the Caltrans Data under applicable federal and state law. Copies of signed confidentiality statements must be made available to the Caltrans Information Security Office upon request.

- D. **Information Security and Privacy Awareness Training:** Contractor shall ensure that all persons that process or have contact with Caltrans Data will take information security and privacy awareness training prior to accessing and/or using such information, and annually thereafter. Information security and privacy awareness training must contain instructional components such as, but not limited to, information about the confidential nature of information, laws and regulations protecting the confidentiality of information, user responsibility for protecting the information, and the consequences and legal liability of unauthorized use, access, or disclosure of said information. Upon request, the

SECURITY AND PRIVACY PROVISIONS

Contractor must provide the Caltrans Chief Information Security Officer (CISO) or Privacy Officer with a copy of its information security and privacy awareness training components and certification of its annual information security and privacy awareness training completion.

- E. **Employee Access to Information:** Contractor agrees that the Caltrans Data shall be kept in the strictest confidence and made available to only authorized personnel on a “need-to-know” business basis, and only for the purposes authorized under this Agreement. The term “need-to-know” refers to those authorized persons who need specific information to perform their official duties in connection with the purposes described in the Agreement.

Contractor shall maintain records of all authorized users and the authorization level of access granted to the information access and/or used under this Agreement with the purpose described in this Agreement.

- F. **Cyber Risk Assessment:** A Cyber Risk Assessment (CRA) must be conducted every two years on all systems which input, process, store or transmit Caltrans Data, or sooner if there is a significant change to the system or environment. The risk assessment must meet requirements provided by SAM 5305.7; and if Contractor cannot meet this requirement, Caltrans may require a CRA be conducted by Caltrans or a third party at Contractor’s expense. Risk assessment results must be provided to the Caltrans CISO upon request. If the risk assessment reveals risks or vulnerabilities, Caltrans will request in writing that the risks and vulnerabilities be corrected within a reasonable period of time set by Caltrans; and, if such risks and vulnerabilities are not corrected within the period of time set by Caltrans, Caltrans may immediately terminate the Agreement at no cost.

- G. **Incident Reporting:** Contractor shall immediately notify the Caltrans CISO or their Designee of any actual or suspected security event involving Caltrans Data that is accessed or obtained under this Agreement. Contractor shall cooperate fully with Caltrans to comply with the incident reporting requirements to which Caltrans is subject, including without limitation the requirements described in Civil Code section 1798.29 and SAM section 5340.4, as amended.

Contractor shall thoroughly investigate all unauthorized or suspected unauthorized access, use, and/or disclosure of Caltrans Data subject to this Agreement. Caltrans reserves the right to participate in the investigation of any information security incident involving its data; Caltrans may conduct its own independent investigation, possibly including Caltrans authorized vendors in such investigation; and the Contractor shall cooperate fully in such investigations.

In addition, Contractor shall provide a preliminary report within three (3) working days of discovery of any breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as any pertinent preliminary information. In addition, the Contractor shall then provide a full written report of the investigation to the Caltrans CISO and Privacy Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on the measures that were taken to halt and/or contain the improper use or disclosure of the data, the measures to identify the source, method or process used to obtain improper use or disclosure of the data, and the measures to identify the parties who were involved in the improper use or disclosure of the data.

Caltrans reserves the right to take corrective action at any time.

- H. **Breach Or Disclosure of Caltrans Data:** Disclosure of any Caltrans Data to any person or entity that is not specifically authorized in this Agreement is strictly prohibited. Personnel assigned to work with Caltrans confidential information shall not publish, disclose, reveal, share, or divulge to any person or

SECURITY AND PRIVACY PROVISIONS

entity any of the confidential information provided under this Agreement, except as authorized by the provisions of this Agreement or required by law.

Contractor shall immediately notify the Caltrans contract manager in writing of any actual or attempted violations of security of Caltrans Data, including lost or stolen computing devices, files, or portable electronic storage media containing Caltrans Data.

Contractor shall advise the Caltrans CISO in writing of vulnerabilities that may present a threat to the security of Caltrans Data and of specific means of protecting that Caltrans Data.

Contractor shall notify Caltrans immediately by telephone call and email upon the discovery of breach of security of personal information, sensitive information, or confidential information (PSCI) when such data is, or is reasonably believed to be, acquired by an unauthorized person, or within two (2) hours by email of the discovery of any suspected security incident, intrusion or unauthorized use or disclosure of State data in violation of this Agreement, this provision, the law, or potential loss of confidential data affecting this Agreement. In the event of a breach caused by the Contractor, upon the written request of Caltrans, and after Caltrans approves the content of the notifications (as described below), the Contractor shall be responsible for sending out any and all notifications to individuals whose personal information is breached as defined in the Civil Code section 1798.29 and SAM section 5340.4.

Contractor shall bear all costs and expenses associated with sending out any such notices and will strictly comply with the requirements of Civil Code section 1798.29. In the event Contractor fails to send out the requisite notices, Caltrans in its sole discretion may notify all affected individuals, and Contractor shall bear all costs and expenses arising from any notifications sent out by Caltrans.

The Caltrans CISO and Legal Office shall review the content of any and all notifications and written approval must be obtained before notification can be made under this Agreement.

Caltrans shall not be held liable for any breach of Contractor systems that results in the release of any information provided by Caltrans and/or Contractor's breach of this Agreement. Contractor agrees to indemnify and hold harmless Caltrans, its officers, and representatives from and against any liability, losses, costs, damages, or expenses (including but not limited to attorney fees) resulting from any claims arising from the performance of this Agreement, including but not limited to any and all liability, damages, costs, expenses, or attorney fees resulting from a breach of security of the system as defined in the California IPA unless such damages are determined to be the direct result of the gross negligence or willful misconduct of Caltrans, its officers, employees, or representatives. If consumer protective services, such as credit monitoring, are deemed appropriate by Caltrans due to the data breach, all costs associated with such services shall be paid by Contractor.

- 3. DEPARTMENT POLICIES:** Contractor must review the standards, manuals, and other references set forth in this Exhibit, and ensure that their operations comply with the standards, manuals, and other references, as amended from time to time. For general guidance on Caltrans Information Security policies, refer to SIMM 5300-B Foundational Framework.

By virtue of signing this contract, Contractor agrees to and agrees to adhere to Caltrans terms, covenants and conditions set forth in this Security Exhibit and to be responsible for its breaches of these terms, covenants, and conditions.

SECURITY AND PRIVACY PROVISIONS

- A. **Access Control:** Contractor shall ensure information in all forms, such as, but not limited to CDs, DVDs, USB flash drives, or other removable media must be stored in areas that are physically secure and free from access by unauthorized persons as described in this Agreement.

Contractor shall ensure that computer monitors, printers, hard copy printouts, or any other forms of information accessed or obtained under the performance of this Agreement cannot be viewed by unauthorized persons as described in the Agreement.

Contractor shall adhere to all access management protocols including the use of industry-standard multi-factor authentication solutions.

- B. **Supervision Of Data:** Caltrans Data in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk, or office. "Unattended" means that information is not being observed by an employee authorized to access the information. Caltrans Data in paper form shall not be left unattended at any time in transportation vehicles (including planes) and shall not be checked as baggage on commercial airplanes.

Contractor shall maintain confidentiality of all Caltrans Data by limiting data sharing to those individuals contracted to provide services on behalf of the State, and limit use of Caltrans Data assets to State purposes only.

- C. **Escorting Visitors:** Visitors to areas where Caltrans Data is contained shall be escorted and Caltrans Data shall be kept out of sight while visitors are in the area.

- D. **Removal Of Data:** Caltrans Data must not be removed from the premises of the Contractor without express written permission by Caltrans.

Contractor shall not transfer Caltrans Data to any computing system, mobile device, or desktop computer without first establishing the specifications for information integrity and security as established for the original data file(s) including State Administrative Manual (SAM) section 5335.1.

4. TECHNICAL SAFEGUARDS

- A. **Data Retention and Destruction:** Caltrans Data may be retained only to the extent that it is necessary to perform the required business purposes of this Agreement.

All data received by the Contractor under this Agreement and any data created, copied, attributed to data received shall be destroyed when no longer needed for the purposes of this Agreement for which they were obtained, or within thirty (30) calendar days of termination of this Agreement. Data must be destroyed in accordance with the requirements specified by NIST Special Publication (SP) 800-88, Guidelines for Media Sanitization, and other promulgated or published State of California and Caltrans regulations and policies, as amended or superseded.

- B. **Encryption:** Confidential, sensitive, or personal information shall be encrypted in accordance with Federal Information Processing Standards 140-2 (or most current version), Security Requirements for Cryptographic Modules, and other promulgated or published State of California and Caltrans regulations and policies, as amended or superseded.

The data encryption used by Contractor shall use government-certified Advanced Encryption Standard (AES) cipher algorithms with a 256-bit or better encryption key with cryptographic technology that has been tested and approved against exacting standards, meeting FIPS 140-2 level 2 Security Requirements for Cryptographic Modules or better.

Contractor shall encrypt all Caltrans Data stored on portable computing devices and portable electronic storage media to protect Caltrans Data stored on every sector of a hard drive, including temp files, cached data, hibernation files, and unused disk space.

SECURITY AND PRIVACY PROVISIONS

Contractor shall encrypt all Caltrans Data at rest if there is a reasonable likelihood that data storage media may be lost, stolen, or copied, such as when transferring to offsite backup storage.

Contractor shall encrypt, as described above, all Caltrans Data transmitted from one computing device or storage medium to another when traversing an open, public, or other unprotected network (such as the Internet).

- C. **Data At Rest and In Transit:** All Caltrans Data at rest and in transit must be encrypted in accordance with the security and privacy provisions specified within this Agreement.

- D. **Endpoint Protection:** All workstations, laptops and other systems that input, process, store, or transmit Caltrans Data must install and actively use endpoint protection with automatic updates scheduled at least daily. Contractor shall install and maintain current anti-virus software and endpoint protection, security patches, and upgrades on all computing devices used during the agreement.

Contractor shall ensure that it shall apply anti-malware controls to the services to help avoid malicious software gaining unauthorized access to state data, including malicious software originating from public networks. Such controls shall always equal or exceed the controls consistent with the industry standards for such data, but in no event less than the controls that contractor applies to its own internal corporate electronic data of like character.

- E. **Vulnerability Management:** Systems which input, process, store, or transmit Caltrans Data must be scanned for vulnerabilities at least on a monthly basis, and at any time when new vulnerabilities that potentially affect the system are identified and reported. Vulnerabilities by severity must be remediated within the following timeframe:

- 1) Critical (three (3) business days or less)
- 2) High (twenty-one (21) days)
- 3) Medium (sixty (60) days)
- 4) Low (ninety (90) days)

The CISO must be notified within twenty-four (24) hours if critical vulnerabilities cannot be remediated within the required timeframe.

Note: vulnerability severity ratings referenced above must follow the NIST scoring system (<https://nvd.nist.gov/vuln-metrics/cvss>).

- F. **Intrusion Detection:** All systems which store, process, or transmit Caltrans Data that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

- G. **Warning Banners:** All systems which input, process, store, or transmit Caltrans Data must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

- H. **Identification:** All users accessing Caltrans Data must be issued unique user identification.

- I. **Multi Factor Authentication:** Multi factor authentication must be enabled for all users.

- J. **Password Controls:** Passwords must be changed at least every 120 days.

Passwords must be a minimum of 15 characters and must be composed of a minimum one character each from the following four groups:

- 1) Upper case letters (A-Z)
- 2) Lower case letters (a-z)
- 3) Arabic numerals (0-9)

SECURITY AND PRIVACY PROVISIONS

4) Non-alphanumeric characters (punctuation symbols)

- K. **User Accounts:** User accounts must be immediately disabled or deleted upon personnel termination or a change in assigned duties which no longer require access to Caltrans Data.
- L. **Session Lock:** Systems must not be left unattended and logged on. Systems must be configured to prevent access by initiating a session lock after no more than 10 minutes of inactivity. Session locks must be retained until the user reestablishes access using established identification and authentication procedures.
- M. **Change Control:** Contractor shall notify Caltrans thirty (30) days prior of any changes to systems, hardware, software, applications, file structure, data, or record layout which input, process, store, or transmit Caltrans Data. Caltrans shall notify the Contractor of any changes to Caltrans systems, hardware, software, applications, file structure, data, or record layout which input, process, store, or transmit information in the performance of this Agreement at the discretion of Caltrans.
- N. **Auditing:** Contractor shall maintain an audit trail and record data access of authorized users and the authorization level of access granted to information based on job function. Said logs must be made available to Caltrans upon request. Contractor shall allow audits or inspections by individuals authorized by Caltrans at the Contractor premises during regular business hours, with seven (7) business days prior notice for purposes of determining compliance with the terms of this Agreement.
- O. **Protection Of Proprietary Software and Other Proprietary Data:** Contractor shall agree in writing that all material that is marked or identified in writing as proprietary and furnished hereunder by Caltrans to Contractor are provided for the Contractor's exclusive use for the purposes of this contract only. All such proprietary data shall remain the property of the State. Contractor agrees to take all reasonable steps to ensure that such proprietary data are not disclosed to others, without prior written consent of the State, subject to California public records act, or other lawful process (e.g., in response to a subpoena), and to review such steps (at commercially reasonable intervals) to ensure the proprietary data is not disclosed.

Contractor will ensure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed.

Contractor agrees that it will take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to proprietary materials to satisfy its obligations in this contract with respect to use, copying, modification, protection and security of proprietary materials and data, subject to the California Public Records Act and other applicable law.

- P. **Cloud Services:** The applicable Department of General Services Procurement Division, INFORMATION TECHNOLOGY - GENERAL PROVISIONS CLOUD - COMPUTING SERVICES, DGS PD 402-ITGP (Cloud) (hereafter referred to as, the "Cloud Computing Services") are incorporated by reference.

Compliance with SAM section 4983 and SIMM 5315-B Cloud Security Standard must be followed by the Contractor.

- Q. **Remote Access:** Any remote access to Caltrans Data or systems shall be transmitted and executed only over an encrypted method that is approved in writing by Caltrans. All remote access shall be limited to minimum necessary and least privilege principles. Remote Access shall meet security standards as defined in SAM 5360.1 and SIMM 5360-A.
- R. **Out Of Country Storage and Remote Access:** Caltrans Data cannot be stored or accessed by Caltrans employees, agents, representatives, or contractors located outside the United States of America (U.S.) "Outside the U.S." means outside the geographical boundaries of the United States, the United States territories, embassies, or military installations. Furthermore, Caltrans Data may not be

SECURITY AND PRIVACY PROVISIONS

received, processed, stored, transmitted, or disposed of by information technology (IT) systems located outside the U.S. All contractor data centers utilized as part of this contract must be located within the U.S., and all Caltrans Data must be located within the U.S. For reference, see California State Administrative Manual (SAM) Section 4983.1 (#15) -Out of country requirements.

Contractors may receive specific provisional access under the terms of this contract provided they submit the following data and abide by the following provisions: they submit the data to, and they received written approval by, the Contract Manager, Deputy Director of Administration or the District Deputy Director of Administration and State CISO:

REQUIRED CONTRACTOR INFORMATION

- 1) First and Last Names of all contractors working outside the U.S.
- 2) Start and end date of the outside of U.S. access.
- 3) Terms and conditions for the outside of U.S. data breach responsibilities of the Contractor.
- 4) Terms covering Contractor handling of Caltrans Data
- 5) Name(s) of all Caltrans system(s), network zones and applications the Contractor will have access to from outside the U.S.
- 6) All capabilities the Contractor will have to Caltrans applications (user account provisioning, data modification, etc.)
- 7) Third-party Cyber Risk Assessment conducted by a vendor selected by Caltrans at Contractor's expense.

DATA TYPE, CLASSIFICATION AND USE

- 1) Classification of data the Contractor be able to access on from outside the U.S.
- 2) If the Contractor will have access to confidential, sensitive, or personal data from outside of the U.S. the following additional information is required:
 - a. Will the Contractor have access to production data or synthetic (obfuscated) data?
 - b. If the Contractor will have access to Caltrans Data from outside the U.S. list the specific types of data the contractor will be able to access (SSNs, Credit Cards, Names and Addresses, etc.)
 - c. Will the Contractor be able to modify Caltrans Data from outside the U.S.?
 - d. Name(s) of Caltrans Program Manager(s) responsible for ensuring proper handling of Caltrans Data by the Contractor.
 - e. Why the service cannot be offered from within the U.S.?

S. **Hardware and Software Requirements:** Contractor must use State issued equipment to access the Caltrans network and systems or use remote connectivity solutions provided by Caltrans IT.

T. **Material Return/Destruction:** Contractor shall warrant that all materials provided by Caltrans will be returned promptly after use and that all copies or derivations of the materials will be physically and/or electronically destroyed. Contractor shall meet the standards as set forth in NIST 800-88 for destruction of data. All personal, sensitive, and confidential information shall be wiped from systems when the data is no longer necessary. The wipe method shall conform to Department of Defense standards for data destruction. Contractor will include with all returned materials, a letter attesting to the complete return of materials, and documentation evidencing the destruction of copies and derivations. Failure to so comply will subject the Contractor to liability, both criminal and civil, including all damages to the State and third parties. Contractor authorizes the State to inspect and verify the above. Any data that

SECURITY AND PRIVACY PROVISIONS

Contractor is legally required to maintain after contract termination is to be disclosed to Caltrans prior to contract initiation and again at contract termination.

- U. **Compliance With Laws, Regulations and Policies:** Contractor will comply with all federal and state laws, regulations and policies that are enacted, promulgated, or published and that govern the subject matter of this Agreement.
- V. **Contact Information:** Direct security and privacy communications to the below referenced Caltrans staff. Caltrans reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Exhibit or the Agreement to which it is incorporated.

Caltrans Contract Manager	Caltrans Privacy Officer	Caltrans Chief Information Security Officer (CISO)
See the agreement for State Contract Manager information	Paul Flores CA Department of Transportation 1120 N Street Sacramento, CA 95814 Email: paul.flores@dot.ca.gov Telephone: (916) 639-1013	Paul Flores CA Department of Transportation 1120 N Street Sacramento, CA 95814 Email: paul.flores@dot.ca.gov Telephone: (916) 639-1013

References:

Department of General Services Procurement Division, INFORMATION TECHNOLOGY - GENERAL PROVISIONS CLOUD - COMPUTING SERVICES, DGS PD 402-ITGP (Cloud)

SAM sections 4800 through 5900 et. seq.

SIMM 5300-B Information Security Foundational Framework

SIMM 5315-B Cloud Security Standard

SIMM 140 Cloud Security Guide

Caltrans Policies, Procedures and Practices (available through Caltrans Contract Manager)

Websites:

<https://www.dgs.ca.gov>

<https://cdt.ca.gov/policy/simm>

<https://www.nist.gov/>

CALIFORNIA DEPARTMENT OF TRANSPORTATION Print Name and Title of Signatory		CONTRACTOR'S BUSINESS NAME Print Name and Title of Signatory	
Signature of Above Person		Signature of Above Person	
Date		Date	

CALTRANS INTELLECTUAL PROPERTY (IP) COPYRIGHT ASSIGNMENT AGREEMENT FORM

RSM-0005 (NEW 11/2018)

INSTRUCTIONS: This form is to be used for documenting copyrightable works owned by Caltrans from a contractor and/or consultant. You can obtain additional information by visiting the Caltrans IP website at: <https://ip.onramp.dot.ca.gov/>. If you need assistance filling out this form, contact your manager/supervisor.

THIS AGREEMENT is dated _____, 20____, and made by and between the California Department of Transportation (Caltrans) and _____, Assignor.
(Assignor name and address)

RECITALS:

- (A) Whereas the Assignor is the author of certain copyrightable Works (the "Work"), created in performance of Assignor's Work under Contract No. _____, and intends by this Assignment to transfer, convey, and irrevocably assign to Caltrans all of Assignor's Copyright ownership rights, title, and interests, in the Work, including but not limited to, Assignor's entire and exclusive Copyrights under federal and state copyrights laws, in the United States and all jurisdictions outside the United States, including any renewals or extensions associated in the Work pursuant to the terms and conditions set forth below; and
- (B) Assignor for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agrees to the following terms and conditions set forth below in assigning and transferring to Caltrans the proprietary ownership rights, interest, title and entire and exclusive Copyrights in the Work, which is more specifically described herein.

NOW IT IS AGREED AS FOLLOWS:

1. Assignor hereby assigns, transfers, conveys, and irrevocably assigns to Caltrans all of Assignor's Copyright ownership rights, title, and interest in the Work, including but not limited to, Assignor's rights in: (1) Assignor's entire and exclusive Copyrights under federal and state copyright laws, in the United States and all jurisdictions outside the United States; (2) Assignor's entire and exclusive common law Copyrights; (3) any and all other privileges and rights in the Work attributed to a copyright owner; and (4) all other intellectual property rights, including but not limited to, Assignor's full-term, renewal-term and extensions associated and subsisting in the copyrightable Work. A correct copy (or description) of the Work, as described under Contract No. _____ is attached as Exhibit "A" and is hereby incorporated by reference and made part of this Assignment. Caltrans shall be the sole and exclusive copyright owner of Assignor's Copyright ownership rights in the Work from the effective date forward. Assignee shall have the sole and exclusive right to secure registration of the Copyrights in the Work internationally. No Copyright ownership rights in the Work and/or Copyrights in the Work, shall be retained by Assignor, nor shall there be any reversion of those rights to Assignor in the future.
2. The rights assigned by this Assignment include, but are not limited to, rights to any and all versions of the Work, including the right to copy or reproduce the Work, the right to distribute the Work, the right to display the Work publicly, the right to create derivative works, the right to renew or extend the copyright in the Work to the extent permitted by law, and the right to bring suit or make any claim in Caltrans name for prior or future infringement of rights in the Work.
3. Assignor hereby warrants and represents that: (1) the Work is an original work of authorship of Assignor; (2) Assignor as creative originator is the sole proprietor of the Work; (3) the Work does not infringe any existing Copyrights; (4) Assignor has not entered into any assignments, transfers, licenses, contracts, or mutual understandings in conflict with the terms and conditions of this assignment and transfer of Copyrights and Copyright ownership; and (5) there are no claims currently pending or threatened, nor does Caltrans have any reason to believe that any claims will be brought or threatened in the future, against Caltrans' right, title, or interest in the Work.
4. **Covenant to Cooperate by Assignor:** Assignor does hereby covenant and agrees to cooperate with Caltrans whereby, Caltrans may enjoy to the fullest extent the exclusive Copyright ownership right, title, and interest herein conveyed. Such cooperation shall include: (1) prompt execution of all papers (prepared at the expense of Caltrans) which are deemed necessary or desirable by Caltrans to perfect its the right, title, and interest herein conveyed; and (2) prompt execution of all petitions, oaths, specifications, declarations, or other papers (prepared at the expense of Caltrans) which are deemed necessary by Caltrans for obtaining copyright registration with the United States Copyright Office covering said Work.
5. **Indemnification:** Assignor agrees to indemnify, defend and hold harmless Caltrans, its officers, agents, and employees from any and all third party claims, lawsuits, legal actions, costs (including without limitation to reasonable attorneys' fees), and losses arising in any way as a result of a violation of this Assignment or acts or omissions of Assignor or any of Assignor's affiliates, agents, subcontractors, employees, or representatives, including but not limited to, any copyright infringement claims, property claims, breach of contract claims, or damage claims. Such defense and payment will be conditioned upon the following:
 - a. Caltrans will notify Assignor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - b. Assignor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, the California Department of General Services will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.

CALTRANS INTELLECTUAL PROPERTY (IP) COPYRIGHT ASSIGNMENT AGREEMENT FORM

RSM-0005 (NEW 11/2018)

6. **Release and Discharge:** Assignor releases and discharges Caltrans from any and all claims and demands arising out of, or in connection with, any use of the Work, including but not limited to, any and all claims of libel, moral rights, invasion of privacy, and/or any claims under the Visual Artists Rights Act and the California Artists Preservation Act. Assignor realizes that he or she cannot withdraw their consent after executing this Assignment, and acknowledges that this Assignment is binding on Assignor and his or her heirs, legal representatives, and other assigns.
7. **Severability:** The parties hereto agree that if any provision of this Assignment is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Assignment shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
8. **Waiver of Rights:** Any action or inaction by Caltrans or the failure of Caltrans on any occasion, to enforce any right or provision of this Assignment shall not be construed to be a waiver by Caltrans of its rights hereunder and shall not prevent Caltrans from enforcing such provision or right on any future occasion. The rights and remedies of Caltrans hereunder are cumulative and are in addition to any other rights or remedies that Caltrans may have in law or equity.
9. **No License:** No license, either express or implied, is granted hereby to Assignor, with respect to the Work. Assignor agrees that the Work is and will remain the sole property of Caltrans.
10. **Entire Assignment; Duplicate Originals:** This Assignment constitutes the entire agreement with respect to the Work described in Exhibit "A" of the contract and supersedes all prior or contemporaneous oral or written agreements concerning the Work. This Assignment may be executed in duplicate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same Assignment.
11. **Modification by Subsequent Agreement:** This Assignment may be modified by subsequent agreement of the parties only by an instrument in writing signed by the assignor and Caltrans.
12. **Applicable Law:** This Assignment shall be governed by and shall be interpreted in accordance with the laws of the State of California, and venue for any action to enforce the terms of this Assignment will be in Sacramento County, California.
13. **Declaratory Relief:** Assignor acknowledges that damages alone would not be an adequate remedy for the breach of any of the provisions of this Assignment. Accordingly, in addition to any other rights and remedies it may have, Caltrans shall be entitled to obtain declaratory relief from a court of competent jurisdiction preventing or restricting the use of the Work by Assignor, or any other breach of this Assignment.
14. **Delivery:** Assignor must provide Caltrans with this Assignment, properly executed, signed, dated, and notarized and attach the required Exhibit A, necessary to give effect to this Assignment. Assignor shall provide to Caltrans the "original wet signature" of this Assignment. Assignor will receive a copy of the fully executed Assignment.
15. **Copyright Designation:** All displays or publications of the Work shall bear Caltrans' copyright designation notice as suggested by the U.S. Copyright Office.
16. **Term:** The Copyrights protection term of this irrevocable and exclusive assignment shall be for the full term of the copyrighted work, including its renewal term and any applicable extended renewal term of the Copyrights' protection. The terms, covenants, and provisions of this Assignment shall inure to the benefit of Caltrans, its officers, successors, assigns, and/or other legal representatives, and shall be binding upon said Assignor.

Recipient:

Signature _____
Name _____
Title _____
Date Signed ____ / ____ / ____

Caltrans:

Authorized Representative Signature _____
Authorized Representative Name _____
Authorized Representative Title _____
Date Signed ____ / ____ / ____

CALTRANS INTELLECTUAL PROPERTY (IP) NONDISCLOSURE AGREEMENT FORM

RSM-0004 (NEW 11/2018)

INSTRUCTIONS: This form is to be used for documenting IP nondisclosure agreements between Caltrans and Contractor(s)/Consultant(s). You can obtain additional information by visiting the Caltrans IP website at: <https://ip.onramp.dot.ca.gov/>. If you need assistance filling out this form, contact your manager/supervisor.

THIS AGREEMENT is dated _____, 20____, and made by and between the California Department of Transportation (Caltrans) and _____.

(Recipient name and address)

RECITALS:

- (A) Caltrans possesses Confidential Information that is nonpublic, confidential, and proprietary, which Caltrans is willing to disclose to Recipient on the terms and conditions set forth below; and
- (B) Recipient, for valuable consideration the sufficiency of which is hereby acknowledged, agrees to the following terms and conditions in accepting the Confidential Information, and to use the Confidential Information solely for the purpose of: _____ ("the Permitted Purpose").

NOW IT IS AGREED AS FOLLOWS:

1. **"Confidential Information"** means any and all nonpublic information relating to the current and future operations and services of Caltrans, including but not limited to, planning, specifications, concepts, technical information, techniques, drawings, sketches, models, know-how, data, databases, electronic information, emails, processes, designs, photographs, apparatus, equipment, specifications, software programs, source code, software documentation, manuals, and formulae. The parties further agree that Confidential Information shall also include information received by Recipient prior to the execution of this Agreement and that would otherwise qualify as Confidential Information as provided herein. Confidential Information does not include information that:
 - a. Is lawfully within the public domain other than through disclosure or default by the Recipient;
 - b. Was lawfully obtained from a third party who was legally in possession of the information, and who is authorized in writing by Caltrans to disclose it;
 - c. Was independently developed by Recipient without the use of the Confidential Information, or any derivative works, and without the use of knowledge learned from accessing the Confidential Information; or
 - d. Is subject to the requirements of the California Public Records Act ("CPRA") or otherwise required to be disclosed by order of a court, administrative agency, or other governmental body with competent jurisdiction provided that Recipient notifies Caltrans within three (3) business days of receipt of such an order so that Caltrans may, in its sole discretion, seek a protective order from a court of competent jurisdiction preventing or restricting disclosure. Recipient will not oppose any action instituted by Caltrans but will instead cooperate with Caltrans to obtain an appropriate protective order.
 - e. Was ordered to be publicly released by court order or by the lawful order of a governmental agency.
2. **Recipient undertakes for a period of five (5) years from the date of this Agreement:**
 - a. To protect the secrecy of all Confidential Information that it may acquire in any manner by, at a minimum, implementing reasonable, industry-standard controls to maintain its confidentiality and to prevent unauthorized disclosures;
 - b. To prevent the Confidential Information from falling into the public domain or into the possession of unauthorized individuals or entities;
 - c. To use the Confidential Information exclusively for the Permitted Purpose, unless Recipient first obtains the written consent of Caltrans;
 - d. Not to disclose such Confidential Information whether verbally or in writing, except to authorized representatives of Recipient who needs to have access to the Confidential Information in order to effectuate the Permitted Purpose;
 - e. To inform any third party to whom Recipient discloses Confidential Information that it is confidential, and obtains their written agreement to keep it confidential on the same terms as this Agreement;
 - f. To return Confidential Information immediately upon Caltrans' request or when no longer required for the purposes of this Agreement, or to destroy all copies of the Confidential Information maintained in hard copy, electronic media, or in any other form whatsoever, as requested by Caltrans; and
 - g. To notify Caltrans immediately upon learning of any unauthorized disclosure by someone or some entity to which the Recipient has disclosed the Confidential Information, and to cooperate with Caltrans in enforcing Caltrans' legal right to protect the Confidential Information.

CALTRANS INTELLECTUAL PROPERTY (IP) NONDISCLOSURE AGREEMENT FORM

RSM-0004 (NEW 11/2018)

3. **Indemnification:** Recipient agrees to indemnify, defend, and hold harmless Caltrans, its officers, agents, and employees from any and all third party claims, costs (including but without limitation reasonable attorneys' fees and costs), and losses arising in any way as a result of a violation of this Agreement or acts or omissions of Recipient or any of Recipient's affiliates, agents, subcontractors, employees, or representatives. Such defense and payment will be conditioned upon the following:
 - a. Caltrans will notify Recipient of any such claim in writing and tender the defense thereof within a reasonable time; and
 - b. Recipient will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) where a settlement would impose liability on the State, affect principles of California government or public law, or impact the authority of the State, Caltrans will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
4. **Severability:** The parties hereto agree that if any provision of this Agreement is found to be illegal or unenforceable, such term or provision shall be deemed stricken, and the remainder of the Agreement shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **Assignment:** This Agreement shall not be assignable by the Recipient in whole or in part without the written consent of Caltrans. In the event Caltrans approves an assignment in writing, Recipient remains jointly and severally liable for the obligations set forth in this Agreement.
6. **Waiver of Rights:** Any action or inaction by Caltrans or the failure of Caltrans on any occasion, to enforce any right or provision of this Agreement shall not be construed to be a waiver by Caltrans of its rights hereunder and shall not prevent Caltrans from enforcing such provision or right on any future occasion. The rights and remedies of Caltrans hereunder are cumulative and are in addition to any other rights or remedies that Caltrans may have in law or equity.
7. **Survival:** This Agreement shall govern all communications between the parties. Recipient understands that its obligations under Paragraph 2 shall survive the termination of any relationship between Recipient and Caltrans. Upon termination of any relationship between the Parties, Recipient will promptly deliver to Caltrans all documents and other materials furnished to Recipient by Caltrans and will certify in writing that any remaining Confidential Information of Caltrans or derivative works thereof have been destroyed and removed from the possession of Recipient. Notwithstanding the foregoing, the Recipient shall be entitled to retain in its legal department a confidential file containing one (1) archival copy of all such information strictly for purposes of monitoring of its ongoing obligations under this Agreement and its compliance therewith.
8. **No License:** No license, either express or implied, is granted hereby to Recipient, with respect to the Confidential Information other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. Recipient agrees that Confidential Information is and will remain the sole proprietary property of Caltrans.
9. **No Intellectual Property Rights in Confidential Information:** Recipient will not apply for or obtain any intellectual property protection in any of the Confidential Information or related derivative works. All intellectual property rights to any and all materials created, developed, and/or derived from the use of the Confidential Information shall be and remain the sole intellectual property of Caltrans, and Recipient hereby agrees to automatically transfer and assign to Caltrans any and all rights in any derivative works, created, developed or derived from the use of the Confidential Information.
10. **No Liability or Warranties:** In no event shall Caltrans be liable for any damages arising from or related to this Agreement. Caltrans expressly disclaims any and all warranties, express or implied, including without limitation any implied warranty of merchantability, fitness for a particular purpose and non-infringement of third-party rights. Permission to use the Confidential Information is granted "AS IS." No warranty is made that the use of the Confidential Information will be uninterrupted, or that any errors or defects in the Confidential Information will be corrected. No warranty is made regarding the results of use of the Confidential Information. Requester assumes all responsibility for investigating and avoiding any possible infringement of copyright laws or reproduction rights, and any and all other third party intellectual property rights, that may arise from the reproduction or publication of the Confidential Information and/or derivative works.
11. **Entire Agreement; Duplicate Originals:** This Agreement constitutes the entire agreement between both parties pertaining to the Confidential Information disclosed herein and supersedes all prior or contemporaneous oral or written agreements or transactions concerning such Confidential Information. This agreement may be executed in duplicate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement. Any and all other written or oral agreements existing between the parties hereto regarding such transactions are expressly canceled.
12. **Modification by Subsequent Agreement:** The terms of this Agreement may only be modified by a written subsequent agreement dully signed by both parties hereto. Variance from the terms and conditions of this Agreement by Recipient or other written notification will be of no effect.

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13. **Applicable Law:** This Agreement shall be governed by and shall be interpreted in accordance with the laws of the State of California, and venue for any action to enforce the terms of this Agreement will be in Sacramento County, California.
14. **Declaratory Relief:** Recipient acknowledges that damages alone would not be an adequate remedy for the breach of any of the provisions of this Agreement. Accordingly, in addition to any other rights and remedies it may have, Caltrans shall be entitled to obtain declaratory relief from a court of competent jurisdiction preventing or restricting the disclosure or use of the Confidential Information, or any other breach of this Agreement.

Recipient:

Signature _____
Name _____
Title _____
Date Signed ____ / ____ / ____

Caltrans:

Authorized Representative Signature _____
Authorized Representative Name _____
Authorized Representative Title _____
Date Signed ____ / ____ / ____