

**AGREEMENT**  
**BETWEEN THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY AND (NAME OF FIRM) FOR USE OF THE C/CAG-VTA SAN MATEO COUNTYWIDE TRANSPORTATION MODEL**

This AGREEMENT (“Agreement”), effective \_\_\_\_\_, 2022, is entered into by and between the City/County Association of Governments of San Mateo County (“C/CAG”) and (name of firm) (“Consultant”), a transportation planning consulting firm providing travel simulation and forecast services for C/CAG and C/CAG’s authorized users.

**WHEREAS**, for use as an advance transportation planning tool, C/CAG has licensed the Santa Clara Valley Transportation Authority (VTA) travel forecasting model of the transportation system of the San Francisco Bay Area that is centered on Santa Clara County and optimized for San Mateo County, but accounts for transportation impacts from neighboring counties and regional commute sheds (the “C/CAG-VTA Model”); and

**WHEREAS**, C/CAG’s rights in connection with the C/CAG-VTA Model are set forth in the agreement between C/CAG and the Santa Clara Valley Transportation Authority (“VTA”) dated March 18, 2011 (the “VTA Agreement”) attached hereto as Exhibit A, or any successor agreement between the VTA and C/CAG; and

**WHEREAS**, C/CAG and its Member Agencies (the County of San Mateo and the twenty cities in San Mateo County) require a transportation forecasting model in order to develop travel demand analysis for San Mateo County; and

**WHEREAS**, C/CAG wishes to create terms of use in order to authorize use of the C/CAG-VTA Model by designated transportation planning firms, including Consultant, providing travel demand simulation and forecasting services to C/CAG and its Member Agencies, C/CAG Planning partners (including Caltrain JPB, SamTrans, and the San Mateo County Transportation Authority), and consultants under contract with C/CAG or its Member Agencies and Planning partners (collectively the “C/CAG Users”); and

**WHEREAS**, Consultant agrees to abide by the terms and conditions of the VTA Agreement regarding use of the C/CAG-VTA Model; and

**WHEREAS**, C/CAG and Consultant wish to set forth in this Agreement their respective obligations and terms of use of the VTA Model.

**NOW, THEREFORE**, C/CAG and Consultant agree as follows:

**1. Terms of Use.**

- a. Consultant is granted the right to run and/or adapt the C/CAG-VTA Model solely for the purpose of developing and running a travel demand analysis for projects within San Mateo County (the “C/CAG-VTA Model”).

- b. Written authorization from C/CAG to Consultant must be obtained prior to application of the C/CAG-VTA Model for any project within San Mateo County.
- c. Except as provided herein, no copying, reproduction, publication, modification, adaptation, reverse-engineering, distribution or transfer of the C/CAG-VTA Model is allowed. The VTA Model (including the software scripts, files, documentation, and datasets) is proprietary, protected by copyright, and is the intellectual property of VTA. VTA retains all rights, title, and interest in said intellectual property. Consultant shall take affirmative steps as necessary to prevent misappropriation or misuse of the C/CAG-VTA Model.
- d. Upon termination of this agreement, Consultant shall furnish C/CAG with a signed letter indicating they have removed and destroyed all C/CAG-VTA model components, datasets, files, scripts, etc. in their possession.
- e. In the role of providing configuration control, all enhancements to the VTA Model will be done by the VTA. The VTA will provide archival and nominal technical support for the C/CAG-VTA Model. Minor changes made to the C/CAG - VTA Model by Consultant to perform specific model runs will be provided to the VTA for possible future incorporation into the archived C/CAG - VTA Model.
- f. Violations of Sections 1.a through 1.d above will result in immediate termination of all rights granted to the Consultant.
- g. Nothing herein is intended to serve as, nor shall be deemed to specify or determine, the confidentiality of any of the data input to or obtained through the application of the C/CAG-VTA Travel Forecast Model pursuant to Consultant's third party contractual arrangements. The confidentiality of any such data, including whether or not such data is a public record, is to be determined in accordance with applicable law and the provisions of those contractual arrangements.

2. **No Waiver.**

The failure of either Party to insist upon the strict performance of any of the terms, covenant and conditions of this Agreement shall not be deemed a waiver of any right or remedy that either Party may have, and shall not be deemed a waiver of their right to require strict performance of all of the terms, covenants, and conditions thereafter.

3. **Term.**

The term of this Agreement shall begin upon full execution by both Consultant and C/CAG and shall terminate on June 30, 2024; provided however this Agreement may be terminated by either party by delivery of a 30-day written notice of termination to the other Party.

4. **Notice.**

Any notice required to be given by either Party, or which either party may wish to give, shall be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows:

To \_\_\_\_\_ : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To C/CAG: San Mateo City/County Association of Governments  
Sean Charpentier, Executive Director  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, CA 94063

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the United States mail.

5. **Indemnification.**

Consultant shall indemnify, defend, and hold harmless against any Claim, whether arising in tort or contract or any other theory of liability, brought by any third party for injury to or death of any person or persons, or for loss of or damage to property, or for misuse or misappropriation of the C/CAG-VTA Model by Consultant, arising out of or in any way relating to use of the C/CAG-VTA Model by Consultant, its agents, or assigns, excepting only those Claims caused by the gross negligence or willful misconduct of C/CAG.

6. **Amendments.**

Future amendments to this Agreement are permitted only by mutual written agreement of the Parties. Whenever possible, notice of a desire to amend this Agreement shall be provided ninety (90) calendar days prior to the desired effective date of such amendment.

7. **Warranty of Authority to Execute Agreement.**

Each Party to this Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Agreement on behalf of the entity that is a Party to this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the dates set forth below.

Consultant

C/CAG

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

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

Sean Charpentier  
C/CAG Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Consulting Firm Counsel

\_\_\_\_\_  
C/CAG Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

DRAFT