AGREEMENT
BETWEEN THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY AND THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY FOR COUNTYWIDE TRANSPORTATION MODEL

This AGREEMENT ("Agreement"), retroactively effective April 1, 2026, is entered into by and between the City/County Association of Governments of San Mateo County ("C/CAG") and the Santa Clara Valley Transportation Authority ("VTA"), a special district, serving as the designated congestion management agency for Santa Clara County, collectively referred to herein as "Party" or "Parties".

WHEREAS, for use as an advance transportation planning tool, VTA has developed a software forecasting model of the transportation system of the San Francisco Bay Area that is centered on Santa Clara County but accounts for transportation impacts from neighboring counties and regional commute sheds (the "VTA Travel Model"); and

WHEREAS, C/CAG is the designated Congestion Management Agency responsible for the development and implementation of the Congestion Management Program for San Mateo County; and

WHEREAS, C/CAG needs a transportation forecasting model in order to develop travel demand analyses for San Mateo County; and

WHEREAS, C/CAG and the VTA are parties to an agreement originally dated July 14th , 20221(the "2022 Contract") that allows C/CAG to license from VTA a software forecasting model of the transportation system of the San Francisco Bay Area that is optimized for Santa Clara and San Mateo counties and accounts for transportation impacts from neighboring counties and regional commute sheds; and

WHEREAS, C/CAG and VTA desire to enter into a new contract on substantially similar terms as the 2022 Contract and have VTA provide maintenance, update, and on-call services to C/CAG as it pertains to the VTA Travel Model; and

NOW, THEREFORE, C/CAG and VTA agree as follows:

1. Terms of License of VTA Model.

a. For the term provided in this Agreement, VTA grants to C/CAG a nonexclusive and, except as provided herein, nontransferable license to use the VTA Travel Model, which includes the following:

- Base year 2019 model and datasets;
- Forecast year 2035 model and datasets;
- Forecast year 2050 model and datasets;
- Bentley OpenPaths CUBE scripts; and

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- Traffic Analysis Zone (TAZ) boundary shapefiles

b. C/CAG (including C/CAG staff and employees), its Member Agencies (defined as the twenty cities within San Mateo County, and the County of San Mateo), C/CAG Planning partners including Caltrain Joint Powers Board, SamTrans, the San Mateo County Transportation Authority, and consultants under contract with C/CAG or its Member Agencies (collectively the "C/CAG Users") intend to and are granted the right to, adapt the VTA Travel Model solely for the purpose of developing and running a travel demand analysis for San Mateo County (the "C/CAG Model").

c. C/CAG shall not make electronic or other copies or reproductions of any part of the VTA Travel Model except for those purposes necessary to complete travel demand analysis, and will not distribute the VTA Travel Model or any of its derivative components to any person, department, agency or firm other than to C/CAG Users. The total allowable number of copies being used concurrently shall not exceed ten (10) unless authorized in writing by VTA. If any such distribution is made to the C/CAG Member Agencies or consultants, C/CAG shall obtain a written agreement from those parties to abide by the conditions of this license.

d. Except as provided herein, no copying, reproduction, publication, modification, adaptation, reverse-engineering, distribution or transfer is allowed. The VTA Travel 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. C/CAG shall take affirmative steps as necessary to prevent misappropriation or misuse of the VTA Travel Model by C/CAG Users.

f. In the role of providing configuration control, all enhancements to the VTA Travel Model will be done by the VTA. VTA will provide archival and nominal technical support for the C/CAG Model and variations thereto developed under Section 1b. Minor changes made to the VTA Travel Model by a C/CAG consultant to perform specific model runs will be provided to the VTA for incorporation into the archived VTA Travel Model. Incorporation of the minor changes to the most recent archived VTA Travel Model, consisting of networks and socioeconomic data revisions, will be mutually agreed to by VTA and C/CAG prior to inclusion.

2. **Maintenance and Update Services.**

Upon written request from C/CAG, VTA will provide routine updates to the VTA Travel Model for a fixed annual fee of $35,000 per year or $140,000 for the four-year term of this Agreement. These updates include any major updates of input data (e.g., development of zonal - level socio-economic data based on new regional forecast, development of network and other files based on new regional transportation plan, etc.), model scripts, structural changes to the programs and/or procedures implemented by VTA staff to improve the VTA Travel Model and

would be major enhancements over and above minor revisions such as minor networks and socioeconomic data revisions considered as configuration control identified under Section 1f. Routine updates to the VTA Travel Model will, upon written request from C/CAG, be provided once per year.

3. On-Call Modeling Services.

a. VTA staff will provide on-call travel demand modeling services to C/CAG based on a task order basis with a mutually agreed upon scope of services, budget, and schedule. On-call modeling services may include but are not limited to the following activities:
   - **i.** Base year model calibration and validation model runs,
   - **ii.** Development of general travel demand forecasts to support highway and/or transit corridor studies,
   - **iii.** Development of detailed traffic output volumes for site-specific development traffic impacts analysis,
   - **iv.** Calculation of air quality analysis impacts to support Greenhouse Gas (GHG) emissions reduction strategies,
   - **v.** Development of advanced modeling applications for HOV Toll Modeling and Congestion Pricing analysis,
   - **vi.** Development of modeling procedures to estimate vehicle-miles-travel under the policy framework of State Bill 743, and
   - **vii.** Development of modeling applications for equity analysis.

b. Annual on-call modeling services, may vary depending on schedule, need, and scope, but will be capped at $100,000 per year. Total on-call modeling services for the term of this Agreement will not exceed $400,000. These services may only be provided subject to an amendment to the agreement.

4. Fees and Payment:

AGREEMENT SECTION	TASK/ITEM	FEE	PAYMENT DUE DATE
2	Maintenance and Update Services	Not to exceed $140,000 total	$35,000 annually*
3	On-Call Modeling Services	Not to exceed $400,000 total	Per Task Order**

*** Per Section 2 of this Agreement, C/CAG may choose to not receive annual updates, in which case C/CAG will not be obligated to pay the annual maintenance fee.**
**** These services may only be provided subject to an amendment to the agreement**

5. Limited Warranty and Representation.

a. The VTA Travel Model is constantly updated and improved. Nonetheless, C/CAG accepts the VTA Travel Model "as is" at the time of delivery to C/CAG.

C/CAG UNDERSTANDS THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, VTA MAKES NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND DISCLAIMS ANY LIABILITY FOR THE VTA TRAVEL MODEL, INCLUDING BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

However, VTA will ensure that a fully operational version of the most recent VTA Travel Model as of the date of this Agreement will be provided to C/CAG. VTA will provide output files for C/CAG users to verify that the VTA Travel Model results can be replicated on C/CAG computers.

b. VTA warrants that it is the sole owner of the VTA Travel Model and has all proprietary rights therein. The VTA Travel Model consists of scripts written in Bentley OpenPaths Cube together with data. C/CAG acknowledges that it is aware that it must purchase or otherwise acquire the Bentley OpenPaths Cube software from Bentley the right to use the correct version of Bentley OpenPaths Cube or related software to run the VTA Travel Model. VTA is under no obligation to supply Bentley OpenPaths Cube or other software or hardware necessary to run the VTA Travel Model.

c. The VTA Travel Model follows industry-accepted standards for accuracy. However, VTA assumes no liability for its accuracy and or for the use of the VTA Travel Model, its networks, and datasets by the C/CAG.

6. <u>Limitation of Liability.</u>

a. **EXCEPT FOR THE PARTIES' INDEMNIFICATION OBLIGATIONS UNDER SECTION 7 OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED IN THE AGGREGATE THE TOTAL AMOUNT PAID BY C/CAG TO VTA HEREUNDER. THE FOREGOING SHALL NOT LIMIT C/CAG'S PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION ABOVE.**

b. **IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.**

7. Indemnification.

a. VTA shall indemnify, defend, and hold C/CAG harmless against any claim, demand, suit, or proceeding ("Claim") made or brought against C/CAG by a third party alleging (i) that the use of the VTA Travel Model as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify C/CAG for any damages finally awarded against, and for reasonable attorney's fees incurred by C/CAG in connection with any such Claim; provided that C/CAG (a) promptly gives VTA written notice of the Claim, (b) gives VTA sole control of the defense and settlement of the Claim (provided that VTA may not settle or defend any Claim unless it unconditionally releases C/CAG of all liability), and (c) provides to VTA all reasonable assistance, at C/CAG's expense.

b. C/CAG shall indemnify, defend, and hold VTA harmless against any Claim, whether arising in tort or contract, brought by any third party for injury to or death of any person or persons, or for loss of or damage to property arising out of or in any way relating to use of the VTA Travel Model or the C/CAG Model by C/CAG, its Member Agencies, or consultants under contract with C/CAG or its Member Agencies, excepting only those Claims caused by the gross negligence or willful misconduct of VTA.

8. Term of Agreement.

This Agreement is effective retroactively as of April 1st, 2026 and will remain in effect until March 31st, 2030; unless earlier terminated by either party by delivery of a 60-day written notice of termination to the other party. Upon end of the term or termination of this Agreement, C/CAG will retain access to the VTA Model as then provided with no further support from VTA.

9. Parties' Representatives.

The General Manager of VTA or her designee is hereby made the representative of VTA for all purposes under this Agreement. The C/CAG Executive Director or his designee is hereby made the representative of C/CAG for all purposes under this Agreement.

10. 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.

11. 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 VTA: Santa Clara Valley Transportation Authority
Deborah Dagang, Director, Planning and Programming
3331 North First Street, Bldg. B-2
San Jose, CA 95134-1906

To C/CAG: San Mateo City/County Association of Governments
Name, Executive Director
555 County Center, 5th 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.

12. Dispute Resolution.

If a question arises regarding interpretation of this Agreement or its performance, or the alleged failure of a Party to perform, the Party raising the question or making the allegation shall give written notice thereof to the other Party. The Parties shall promptly meet in an effort to resolve the issues raised. If the Parties fail to resolve the issues raised, alternative forms of dispute resolution, including mediation or binding arbitration, may be pursued by mutual agreement. It is the intent of the Parties to the extent possible that litigation be avoided as a method of dispute resolution.

13. Entire Agreement.

This Agreement constitutes the entire Agreement between the Parties pertaining to the subject matter contained therein and supersedes all prior or contemporaneous agreements, representations and understandings of the Parties relative thereto.

14. Amendments.

Future amendments to this Agreement shall be processed 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.

15. 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.

16. Severability

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent

jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

17. Governing Law.

This Agreement shall be construed and its performance enforced under California law.

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

Santa Clara Valley Transportation Authority

By: _____
Carolyn Gonot
General Manager/CEO

_____
Date

APPROVED AS TO FORM:

_____
Name
Assistant Counsel

_____
Date

City/County Association of Governments of San Mateo County

By: _____
Name
C/CAG Executive Director

_____
Date

APPROVED AS TO FORM:

_____
C/CAG Counsel

_____
Date