

CALACT

Subcontractor Agreement

The Subcontractor Agreement (Agreement) is entered into effective July 1, 2024 by and between the California Association for Coordinated Transportation, referred to herein as CALACT, and _____, herein referred to as Subcontractor, subject to the following terms and conditions.

1. Services to be performed by Subcontractor and attachments

The Subcontractor agrees to perform the services described in the attached Subcontractor Scope of Work (Attachment A), Prime Contract (Attachment B), Subcontractor proposal (Attachment C), and Federal Clauses (Attachment D) which are hereby incorporated into this Subcontractor Agreement. The Subcontractor warrants (i) that it is customarily engaged in the established business of providing services of the kind to be performed under this Subcontractor Agreement; that it (ii) will determine the method, details and means of performing these services; (iii) and that all services will be performed in a professional and competent manner. CALACT shall be the sole judge of whether the services have been provided in accordance with the terms of this Agreement.

2. Termination of Performance

This Agreement continues through June 30, 2026

3. Payment for Services

- A. For services rendered under this Agreement, CALACT shall pay the Subcontractor on a time and materials basis the rates shown in the attached Subcontractor Scope Overview. The maximum expenditure for work completed under this Agreement shall be \$500,000.
- B. The Subcontractor will submit to CALACT a monthly invoice in arrears in PDF format to jacklyn@calact.org by the 5th business day of each month for services provided. The Subcontractor shall submit invoices and itemize the services rendered. CALACT agrees to pay the Subcontractor within forty-five (45) days after receipt of correct and complete invoices, or upon receipt of payment from the Client, whichever is later.

4. Budget Contingency Clauses

- A. It is mutually understood between the parties that this Agreement was written, for the mutual benefit of both parties, before ascertaining the availability of congressional or legislative appropriation of funds in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statutes enacted by the Congress or the

State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.

- C. It is mutually understood by the parties that this Agreement may be reduced in scope and dollar amount based upon the availability of federal funds authorized under the FTA. Any reductions will be determined by CALACT, in consultation with the Subcontractor. CALACT will not be responsible for any overage costs on the proposal because neither the FTA or ODOT will not reimburse for any additional costs.

5. Equipment Purchase by Subcontractor

The Subcontractor shall not purchase any equipment or software for these contracted services without prior written authorization by the CALACT Program.

6. Notifications

All notifications under this agreement should be sent to

To CALACT:

Jacklyn Montgomery

jacklyn@calact.org

Or if by phone or physical mail

916-920-8018

4632 Duckhorn Drive

Sacramento, CA 95834

To Subcontractor:

Or if by phone or physical mail

7. PROPERTY RIGHTS IN REPORTS

All property rights, including publication rights, in progress reports and final reports produced by the Contractor in connection with this contract provided for hereunder shall rest in the Government.

8. PROTECTION OF INFORMATION

It is anticipated that in performance of this contract, the Contractor through its employees may have access to, or be in receipt of, certain confidential and proprietary information of Government Contractors, and/or data relating to FTA's plans, programs, technical requirements, budgetary matters, and such other information, the disclosure of which may give the Contractor a competitive advantage or be adverse to the interests of the Government. The Contractor shall not disclose such information acquired to anyone, other

than the Government, including Contractor's other employees, without the prior written consent of the Contracting Officer.

To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and provided such data is marked

"Proprietary and Confidential," the Contractor shall protect such information from unauthorized use and disclosure and agrees not to use it to compete against such companies.

For these purposes, "Proprietary and Confidential" information shall mean any information reasonably so designated that is not generally available to the public; but not information that becomes available on a non-confidential basis from another source, or was known to Contractor on a non-confidential basis prior to its disclosure to Contractor in the performance of this contract.

The Contractor shall include the substance of this confidentiality agreement in all subcontracts and Consultant agreements for performance of work under this contract unless excused in writing by the Contracting Officer.

9. Termination

It is understood that this Agreement may be terminated at the discretion of CALACT for inadequacy of services provided or for failure to timely provide competent services listed on the attached Scope of Work. CALACT shall be the sole judge of the competence and performance of the Subcontractor. If the Subcontractor fails to complete the services described under Scope of Work, CALACT shall not be obligated to pay any amounts that exceed the reasonable value of services actually provided by the Contractor. Nothing in this CALACT's determination of Agreement shall oblige CALACT to pay for services not actually performed.

10. Limitation of Liability

In no event shall CALACT be liable for special, incidental, or consequential damages resulting from any breach of this Agreement. Subcontractor will provide proof of liability insurance and obtain a certificate of insurance indemnifying CALACT as the lead agency.

The subcontractor shall protect, defend, indemnify, save, and hold harmless the United States Government and its employees or agents, from and against any and all claims, demands, expenses, causes of action, judgments and liability arising out of, or in connection with, any negligent acts or omissions of the Contractor, its agents, Subcontractors, employees, assignees, or anyone for whom the Contractor may be responsible. The Contractor shall also be liable for any and all costs, expenses and attorney's fees incurred as a result of any such claim, demand, cause of action, judgment or liability, including those costs, expenses, and attorneys' fees incurred by the United States Government and its employees or agents. The Contractor's liability shall not be limited by any provision or limits of insurance set forth in the resulting contract.

11. Arbitration

- A. Any controversy or dispute between the parties to this Agreement regarding this Agreement will, on the written request of one party served by registered mail on the other, be submitted to arbitration.
- B. Both parties to this Agreement expressly waive, by their consent to this Agreement, any right to seek relief or resolution of any controversy or dispute between the parties in state or federal court regarding this Agreement.
- C. The parties to this Agreement will each appoint one outside and non-related person to jointly hear and determine the dispute and those persons so chosen will select another arbitrator to participate in the decision. Except as provided by statute, the decision of the arbitration panel will be final and binding on the parties to this Agreement.
- D. The cost of arbitration will be borne by the parties to this Agreement in such proportions as the arbitrators decide. The arbitrators shall have the authority to decide any questions of fact or law necessary to resolve the controversy between the parties. In the event that the arbitrators determine that there was a wrongful breach of this Agreement by any of the parties, the arbitrators may award damages limited to back pay, expenses and lost benefits. The arbitrators may not award punitive damages, or damages for pain and suffering, emotional or mental distress, humiliation, or any damages except those expressly provided for hereinabove.

12. Governing Law

This Agreement and the performance of the parties hereunder shall be construed in accordance with and governed by the laws of the State of California.

13. Civil Rights Compliance

The Subcontractor shall comply with regulations relative to Title VI (nondiscrimination in federally assisted programs of the Department of Transportation - Title 49 Code of Federal Regulations Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

14. Nondiscrimination

The Subcontractor, with regard to the work performed by it during the Agreement, shall act in accordance with Title VI. Specifically, the Subcontractor shall not discriminate based on race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Subcontractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

15. Assignment

The Subcontractor may not transfer any part of this Subcontractor Agreement to another party, without the express written permission of CALACT.

16. Partial Invalidity

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

17. Retention of Records/Audit

For determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et. seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Subcontractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The California Department of Transportation, the State Auditor, FTA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the Subcontractor that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

18. Cost Principles

- A. The Subcontractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., shall be used to determine the allowable status of all individual cost items.
- B. The Subcontractor also agrees to comply with Federal procedures in accordance with the applicable Office of Management and Budget Circulars, either A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations; or A-122, Cost Principles for Nonprofit Organizations, which shall be used to determine costs of grants, Contracts and other Agreements with nonprofit organizations (excluding colleges, universities and hospitals).
- C. Any costs for which payment has been made to Subcontractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., OMB A-122, Cost Principles for Non-Profit Organizations, or OMB A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations, are subject to repayment by Subcontractor to CALACT.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first written.

For the Subcontractor:

By: _____

Title:

Date: _____

For CALACT:

By: _____
Jacklyn Montgomery

Title: Executive Director

Date: _____

Attachment A Subcontractor Scope of Work

Attachment B Prime Contract

Attachment C Subcontractor Proposal

Attachment D Federal Clauses