

**AGREEMENT BETWEEN
CITY/COUNTY ASSOCIATION OF GOVERNMENTS AND MICHAEL
BAKER INTERNATIONAL, INC. FOR C/CAG WEBSITE SERVICES**

This Agreement, effective **October 1, 2016**, by and between CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY, a joint powers agency formed for the purpose of preparation, adoption and monitoring of a variety of county-wide state-mandated plans, hereinafter called “C/CAG” and Michael Baker International, Inc., a consulting firm, hereinafter called “Michael Baker.”

W I T N E S S E T H

WHEREAS, C/CAG requires website hosting, support services and maintenance services for the C/CAG website; and

WHEREAS, Michael Baker is qualified to provide these services and is willing to provide them according to the terms of the agreement; and

WHEREAS, it is necessary and desirable that Michael Baker be engaged by C/CAG for the purpose of performing services hereinafter described.

NOW, THEREFORE, IT IS HEREBY AGREED by the parties as follows:

1. **Services to be provided by Michael Baker.** In consideration of the payments hereinafter set forth, Michael Baker shall provide services in accordance with the terms, conditions and specifications set forth herein and in Exhibit A attached hereto and by this reference made a part hereof.
2. **Payments.** In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit A, C/CAG shall make payment to Michael Baker as follows. Michael Baker shall submit to C/CAG quarterly invoices for services rendered during the quarter being billed. Payments shall be made within 45 days after receipt and approval of the quarterly invoice from Michael Baker. In the event that C/CAG makes any advance payments, Michael Baker agrees to refund any amounts in excess of the amount owed by C/CAG at the time of termination of this Agreement. C/CAG agrees to pay Michael Baker for services described in Exhibit A, with total payment under this Agreement not to exceed \$20,000.
3. **Relationship of the Parties.** It is understood that this is an Agreement by and between Independent Contractor(s) and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of Independent Contractor.

4. **Non-Assignability.** Michael Baker shall not assign this Agreement or any portion thereof to a third party without the prior written consent of C/CAG, and any attempted assignment without such prior written consent in violation of this Section automatically shall terminate this Agreement.
5. **Contract Term.** This Agreement shall be in effect as of October 1, 2016 and shall terminate on September 30, 2019; provided, however, either party may terminate this Agreement at any time for any reason by providing 30 days' written notice to the other party. Termination to be effective on the date specified in the notice. In the event of termination under this paragraph, Michael Baker shall be paid for all services provided up to and including the date of termination.
6. **Notices.** Any notice which may be required under this Agreement shall be in writing, shall be effective when received, and shall be given by personal service, by U.S. Postal Service mail, or by certified mail (return receipt requested), to the address set forth below, or to such addresses which may be specified in writing to the parties hereto.

Tom Madalena
City/County Association of Governments
555 County Center, 5th Floor
Redwood City, CA 94063

Philip O. Carter
Michael Baker International, Inc.
2729 Prospect Park Drive, Suite 220
Rancho Cordova, CA 95670

7. **Hold Harmless/Indemnity.** Michael Baker shall indemnify and save harmless C/CAG, its officers, directors, employees, and servants from all claims, suits, damages or actions of every name, kind, and description, to the extent caused by any negligent acts, errors, omissions or willful misconduct by Michael Baker in the performance or failure to perform under this Agreement.
 - (a) The duty of Michael Baker to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.
 - (b) The obligations set forth in this section shall continue beyond the term of this Agreement as to any negligent act, error, omission or willful misconduct which occurred during or under this Agreement.
8. **Insurance.** Michael Baker or its subcontractors performing the services on behalf of Michael Baker shall not commence work under this Agreement until all Insurance required under this section has been obtained and such insurance has been approved by the C/CAG Staff. Michael Baker shall furnish the C/CAG Staff with Certificates of Insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending Michael Baker's coverage to include the contractual liability assumed by Michael Baker pursuant to this Agreement. These Certificates shall

specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to C/CAG of any cancellation of the policy, except ten (10) days advance notice shall be given for cancellation due to non-renewal of a policy.

Workers' Compensation and Employer Liability Insurance: Michael shall have in effect, during the entire life of this Agreement, Workers' Compensation and Employer Liability Insurance providing full statutory coverage.

Liability Insurance. Michael Baker shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect Michael Baker, its employees, officers and agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all operations under this Agreement, whether such operations be by Michael Baker or by any sub-contractor or by anyone directly or indirectly employed by either of them. In the event Michael Baker's insurance cannot cover subconsultants, Michael Baker shall require that such subconsultant comply with the insurance terms herein to the same extent as Michael Baker. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than \$1,000,000 unless another amount is specified below and shows approval by C/CAG Staff.

Required insurance shall include:

	Required Amount	Approval by C/CAG Staff if under \$ 1,000,000
a. Comprehensive General Liability	\$ 1,000,000	_____
b. Workers' Compensation	\$ Statutory	_____

Except for Worker's Compensation insurance, C/CAG and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to C/CAG, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if C/CAG, or its officers and employees have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, C/CAG, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

9. **Non-discrimination.** Michael Baker and its subcontractors performing the services on behalf of Michael Baker shall not discriminate or permit discrimination against any person or group of persons on the basis of race, color, religion, national origin or ancestry, age, sex, sexual orientation, marital status, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status, or in any manner prohibited by federal, state or local laws.
10. **Accessibility of Services to Disabled Persons.** Michael Baker, not C/CAG, shall be responsible for compliance with all applicable requirements regarding services to disabled persons, including any requirements of Section 504 of the Rehabilitation Act of 1973.
11. **Substitutions.** If particular people are identified in Exhibit A as working on this Agreement, Michael Baker will not assign others to work in their place without written permission from C/CAG. Any substitution shall be with a person of commensurate experience and knowledge.
12. **Sole Property of C/CAG.** As between C/CAG and Michael Baker any system or documents developed, produced or provided under this Agreement shall become the sole property of C/CAG. Michael Baker shall not be held liable for any modification or re-use of C/CAG-owned work product for purposes outside this Agreement.
13. **Access to Records.** C/CAG, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of Michael Baker which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

Michael Baker shall maintain all required records for three years after C/CAG makes final payments and all other pending matters are closed.

14. **Merger Clause.** This Agreement, including Exhibit A attached hereto and incorporated herein by reference, constitutes the sole agreement of the parties hereto with regard to the matters covered in this Agreement. Any prior agreement, promises, negotiations or representations between the parties not expressly stated in this document are not binding.
15. **Governing Law.** This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California.
16. **Waiver of Consequential Damages.** In no event shall either C/CAG or Michael Baker have any claim or right against the other, whether in contract, warranty, tort (including negligence), strict liability or otherwise, for any special, indirect, incidental, or consequential damages of any kind or nature whatsoever, such as but not limited to loss of revenue, loss of profits on revenue, loss of customers or contracts, loss of use of equipment or loss of data, work interruption, increased cost of work or cost of any financing, howsoever caused, even if same were reasonably foreseeable.

17. **Force Majeure.** In no event shall either C/CAG or Michael Baker have any claim or right against the other for any failure of performance where such failure of performance is caused by or is the result of causes beyond the reasonable control of the other party due to any occurrence commonly known as a “force majeure,” including, but not limited to: acts of God; fire, flood, or other natural catastrophe; acts of any governmental body; labor dispute or shortage; national emergency; insurrection; riot; or war.

IN WITNESS WHEREOF, the parties hereto have affixed their hands to this agreement for the C/CAG website services on the day and year as indicated below.

Michael Baker

By _____ Date _____
Philip O. Carter, Vice President

City/County Association of Governments (C/CAG)

By _____ Date _____
Alicia C. Aguirre, C/CAG Chair

By _____
C/CAG Legal Counsel

Exhibit A

Scope of Work

Task 1.0 Services specific to website hosting, maintenance and support

Internal advanced and redundant hosting to be provided which includes the following features:

- Hosting provided through Michael Baker includes site backups, 24x7x365 uptime, and any server upgrades and maintenance needed.
- Michael Baker staff are available by phone or e-mail from 9 a.m. to 5 p.m. Monday through Friday. We will reply to your inquiry within four hours or less.
- Site monitoring is performed every five minutes and will alert Michael Baker staff of any site issues.
- We perform monthly vulnerability checks to ensure new threats are closed before they can be exploited.
- Server maintenance and minor updates are included as part of the hosting cost.
- Service level meets 99.9% operability and accessibility 24X7X365.
- Michael Baker monitors the site every five minutes for server outages. If the site is having issues, our staff is notified.
- Web content is mirrored between two servers instantaneously. The content is also backed up off-site every hour, and a snapshot of the server is taken every night. Database data is backed up hourly externally. We keep backup data for two weeks.
- Any server/site crash would be resolved by Michael Baker staff. Depending on the event, Michael Baker will take the best path to correct the issue.
- Up to two hours of support is included every month in the quarterly rate.
- Standard Hosting, Maintenance and Support

Service	Cost
Standard Hosting, Maintenance and Support Including: <ul style="list-style-type: none"> – Backups – Bimonthly hot-fix updates – Uptime monitoring – Vulnerability monitoring – Up to two hours of support every month 	\$1,086 Billed Quarterly

Task 2.0 Optional/Additional Services

- To be determined by C/CAG Program Manager. No work under this task shall proceed without written authorization from C/CAG.
- Additional support will be billed at a rate of \$126 per hour at the end of each quarter for services provided during the quarter. The invoice will include a description for each occurrence showing the tasks completed in the billed hour(s).