

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND  
CITY/COUNTY ASSOCIATION OF GOVERNMENTS**

This Agreement is entered into this \_ 3rd \_ day of \_ July \_ , 20 20 \_ , by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and City/County Association of Governments (C/CAG), hereinafter called "Entity."

\* \* \*

Whereas, it is necessary and desirable that County perform work/services for City/County Association of Governments (C/CAG) for the purpose of hosting their website domain <https://www.ccag.ca.gov/>.

**Now, therefore, it is agreed by the parties to this Agreement as follows:**

**1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services  
Exhibit B—Payments and Rates

**2. Services to be performed by County**

In consideration of the payments set forth in this Agreement and in Exhibit B, County shall perform services for Entity in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

**3. Payments**

In consideration of the services provided by County in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, Entity shall make a one-time upfront payment to County based on the rates and in the manner specified in Exhibit B within 30 days of receiving the invoice. In no event shall Entity's total fiscal obligation under this Agreement exceed Three Thousand, One Hundred Twenty-Four dollars and forty cents (\$3,124.40). In the event that the Entity makes any advance payments, County agrees to refund any amounts in excess of the amount owed by the Entity at the time of contract termination or expiration.

**4. Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from the date upon which the Agreement is executed by both parties through June 30, 2021.

**5. Termination**

This Agreement may be terminated by County, by the County's Chief Information Officer (CIO) or his/her designee, or by Entity at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. In the event of termination, County shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

**6. Relationship of Parties**

It is expressly understood that this is an agreement between two independent contractors and that no agency, employee, partnership, joint venture or other relationship is established by this Agreement. The intent by both County and Entity is to create an independent contractor relationship.

**7. Hold Harmless**

**a. General Hold Harmless**

County shall indemnify and save harmless Entity from all claims, suits or actions resulting from the performance by County of its duties under this Agreement. Entity shall indemnify and save harmless County from all claims, suits or actions resulting from the performance by Entity of its duties under this Agreement.

The duty of the parties 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. Intellectual Property Indemnification**

Entity hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses or provides to County in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement. Entity warrants that the information and materials it provides to County under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Entity shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the information and materials provided to County under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Entity's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Entity promptly in writing of any notice of any such third-party claim; (b) County cooperates with Entity, at Entity's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Entity retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Entity shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Entity's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes Entity's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Entity shall, at Entity's option and expense, either: (i) procure for Entity the right to continue using the information and materials without infringement or (ii) replace or modify the information and materials so that they become non-infringing but remain functionally equivalent.

The duty of Entity to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**8. Assignability and Subcontracting**

County shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by County under this Agreement without the prior written consent of Entity.

**9. Insurance**

**a. General Requirements**

Entity shall advise County of any insurance coverage requirements, and County shall provide evidence of appropriate coverage to Entity upon request.

**b. Workers' Compensation and Employer's Liability Insurance**

Each party to this agreement shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, each party certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

**c. Liability Insurance**

County shall be self-insured during the term of this Agreement under such bodily injury liability and property damage liability insurance as shall reasonably protect County and all of its employees/officers/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 claims for property damage which may arise from County's operations under this Agreement, whether such operations be by County, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them.

**10. Retention of Records: Right to Monitor and Audit**

(a) Each party shall maintain all required records relating to services provided under this Agreement for three (3) years after Entity makes final payment and all other pending matters are closed, and such records shall be subject to the examination and/or audit by the other party, a Federal grantor agency, and the State of California.

(b) Each party agrees upon reasonable notice to provide to the other party, to any Federal or State department having monitoring or review authority, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

**11. Merger Clause: Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

**12. Controlling Law: Venue**

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

**13. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to: Name/Title: Jon Walton / Director and Chief Information Officer Address: County Office Building - 455 County Center, Redwood city, CA Telephone: 650-599-1284 Email: <a href="mailto:jwalton@smcgov.org">jwalton@smcgov.org</a>	In the case of Entity, to: Name/Title: Reid Bogert, Stormwater Program Specialist, San Mateo Countywide Water Pollution Prevention Program Address: 555 County Center, Fifth Floor, Redwood City 94063 Telephone: 650-599-1433 Email: <a href="mailto:rbogert@smcgov.org">rbogert@smcgov.org</a>
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**14. Electronic Signature**

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

THIS CONTRACT IS NOT VALID UNTIL SIGNED BY ALL PARTIES.

**For Entity:**

Sandy Wong  
Entity Signature

6-30-2020  
Date

Sandy Wong  
Entity Name (please print)

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**For County:**

[Signature]  
Purchasing Agent Signature  
(Department Head or Designee)  
County of San Mateo

7/3/20  
Date

Sean Thattar  
Purchasing Agent Name (please print)  
(Department Head or Designee)  
County of San Mateo

Deputy CIO  
Purchasing Agent Title (please print)

### **Exhibit A**

In consideration of the payments set forth in Exhibit B, County shall provide the following services described in tables below.

#### **Description of Services to be performed by County:**

One-Time hosting subscription fee for hosting the site on Flywheel for the month of June 2020. The following services are included: <ul style="list-style-type: none"><li>• Hosting services for 1 WordPress website</li><li>• Staging environment</li><li>• Daily website backups (retained for 30 days)</li><li>• SSL Certificate provided by 'LetsEncrypt'</li></ul>	\$44.00 (1 month flat fee)
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#### **Hourly work estimates to support the site for the month of June 2020:**

One-time cost of onboarding – 2 hours (@\$164/hr) <ul style="list-style-type: none"><li>• Create Entity Flywheel accounts</li><li>• Migration assistance to Flywheel</li></ul>	2 hours
Hosting maintenance (@\$164/hr/month) for June <ul style="list-style-type: none"><li>• Flywheel vendor relationship management, including:<ul style="list-style-type: none"><li>○ Support, escalations and ISD Incident response</li></ul></li></ul>	1 hours
Subtotal of work hours	3 hours

#### **Description of Services to be performed by the County in fiscal year FY2020-21**

One-Time hosting subscription fee for hosting the site on Flywheel for duration of FY 2020 -21 (12 months). The following is included: <ul style="list-style-type: none"><li>• Hosting services for 1 WordPress website</li><li>• Staging environment</li><li>• Daily website backups (retained for 30 days)</li><li>• SSL Certificate provided by 'LetsEncrypt'</li></ul>	\$528.00 (12 month flat fee)
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#### **Hourly work estimates for FY 2020-21:**

Annual hosting maintenance (@\$171.70/hr/month) for 12 months <ul style="list-style-type: none"><li>• Flywheel vendor relationship management, including:<ul style="list-style-type: none"><li>○ Support, escalations and ISD Incident response</li></ul></li></ul>	12 hours
Subtotal of work hours for FY 2020-21	12 hours

### **Exhibit B**

In consideration of the services provided by County described in Exhibit A and subject to the terms of the Agreement, Entity shall pay County based on the following fee schedule and terms:

#### **C-CAG Website Hosting Schedule of Payment (C-CAG to County):**

<b>Year</b>	<b>Invoice Dates:</b>	<b>Invoice Amount</b>
<b>FY 2019-20</b> (hosting for 1 month)	<b>June 2020</b>	<b>\$536.00</b>
<b>FY 2020-21</b> (hosting for 12 months)	<b>July 2020</b>	<b>\$2588.40</b>

#### **Itemized costs for FY2019-2020 Fiscal year:**

Hosting subscription for June 2020	\$44.00
One-time cost of onboarding (2 hrs @\$164/hr)	\$328.00
Hosting maintenance (@\$164/hr/month)	\$164.00
<b>Subtotal for FY 2019-20</b>	<b>\$536.00</b>

#### **Itemized costs for FY2020-2021 Fiscal year:**

Hosting subscription for FY 2020 -21 (12 months)	\$528.00
Annual hosting maintenance (@171.70/hr/month)	\$2060.40
<b>Subtotal for FY 2020-21</b>	<b>\$2588.40</b>

<b>Total payment due for FY2019-20 and FY2020-2021</b>	<b>\$3124.40</b>
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Invoiced amounts are due within 30 days upon receipt.