

RESOLUTION NO. 39-2017

A RESOLUTION BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO TO ENTER INTO AN AGREEMENT FOR GENERAL AIRPORT ENGINEERING AND PLANNING SERVICES AT NEW PHILADELPHIA MUNICIPAL AIRPORT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of New Philadelphia operates the New Philadelphia Municipal Airport and Harry Clever Field; and

WHEREAS, it is necessary for grant purposes and for continuity and ongoing airport operations to maintain a relationship with a consultant and/or engineering firm; and

WHEREAS, the New Philadelphia Airport Commission has met with, interviewed, and recommended Michael Baker, Jr. Inc. to be the new airport consultant for a period of 5 years.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO AS FOLLOWS:

SECTION 1. The Mayor of the City of New Philadelphia is authorized to enter into the attached agreement, which is a five-year agreement for general airport engineering and planning services at the New Philadelphia Municipal Airport with Michael Baker, Jr. Inc.

SECTION 2. This Resolution is hereby declared to be an emergency measure and its immediate passage is necessary in order to preserve, protect and maintain the health, safety and welfare of the citizens of the City of New Philadelphia, Ohio.

SECTION 3. This Resolution shall take effect immediately upon its passage and approval.

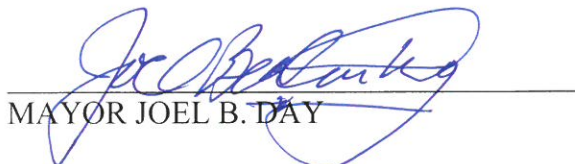
PASSED: November 13, 2017

  
SAM R. HITCHCOCK  
PRESIDENT OF COUNCIL

ATTEST:

  
JULIE COURTRIGHT  
CLERK OF COUNCIL

APPROVED:

  
MAYOR JOEL B. DAY

SPONSORED BY: SALARY COMMITTEE

**AGREEMENT FOR GENERAL AIRPORT ENGINEERING AND  
PLANNING SERVICES  
AT  
NEW PHILADELPHIA MUNICIPAL AIRPORT**

**THIS AGREEMENT** entered into this \_\_\_ day of \_\_\_\_\_ 2012, by and between Michael Baker Jr., Inc. (hereinafter "**BAKER**") with an office at 1228 Euclid Avenue, Suite 1050 Cleveland, Ohio 44115 and the City of New Philadelphia (hereinafter, "**CLIENT**"), located at 150 East High Avenue, New Philadelphia, Ohio 44663.

**WHEREAS**, the **CLIENT** owns the New Philadelphia Municipal Airport and desires **BAKER** to perform general airport engineering and planning services.

**WHEREAS**, **BAKER** is in the business of providing engineering and planning services and desires to perform such services for **CLIENT**.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **TERM OF CONTRACT** The term of this agreement shall be five (5) years from the date of this agreement. Individual Task Orders assignments will have Task specific schedules.
2. **SCOPE OF WORK**, **BAKER** shall perform such engineering and technical services as described in individual Task Orders, to be assigned by the **CLIENT**. The **CLIENT** and **BAKER** will develop and agree upon each assigned Task Order scope, prior to the commencement of any work on the Tasks. The **CLIENT** and **BAKER** will jointly amend this agreement to include all assigned Task Orders, including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, "Work"). A sample General Services Task Order form is included as Attachment "A".
3. **STANDARD OF CARE**. The standard of care applicable to **BAKER's** services is the degree of skill and diligence normally employed by engineers or providers of technical services performing the same or similar services.
4. **COMPENSATION AND PAYMENT**, **CLIENT** shall compensate **BAKER** for the Work in such manner as described in the assigned Task Orders, including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, the "Payment Terms"). The payment terms for individual task orders shall be included as part of the general task order and will be based on **BAKER** current rates subject to yearly changes. Partial payments for the Work shall be made monthly by the **CLIENT** to **BAKER** based on invoices submitted by **BAKER**. The **CLIENT** shall also pay **BAKER** a late payment charge for any payments not made within thirty (30) days of the date of applicable invoices at the rate of one and one-half percent (1½ %) per month.

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11. **CHANGES.** The **CLIENT** may, at any time prior to the completion of the Work, direct, in writing, any changes to the Work, including but not limited to the revision of the Work's scope, time period, or schedule of performance. **BAKER** shall perform such changes to the Work as directed by the **CLIENT** in writing and shall be paid for such Work at rates established by the Task Order assignment, or as may be otherwise agreed between the **CLIENT** and **BAKER**.
12. **SUSPENSION OR TERMINATION.** In the event that the Work is terminated or suspended by the **CLIENT** prior to its completion, **BAKER** shall be paid an equitable amount proportional to the services rendered to the date of termination or suspension, plus reasonable profit and termination costs.
13. **DEFAULT.** Should either party breach any provisions of this Agreement the non-breaching party shall have the rights and remedies provided by law or under these terms and conditions.
14. **INDEMNIFICATION.** Except as stated below, **BAKER** shall indemnify and save harmless the **CLIENT** from these claims, losses, lawsuits or expenses caused directly by **BAKER's** sole negligent acts, errors or omissions with performance of **BAKER's** services hereunder. To the fullest extent permitted by law, with respect to claims, damages, losses and expenses which are related to hazardous waste or asbestos removal, disposal or cleanup or environmental liability, the **CLIENT** shall indemnify, save harmless and defend **BAKER** from and against all such claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance of **BAKER's** services, or claims against **BAKER** arising from work of others.
16. **WAIVER OF CONSEQUENTIAL DAMAGES.** Under no circumstances shall either party be liable to the other party for any consequential damages, including but not limited to loss of use or rental, loss of profit or cost of any financing, however caused, including either party's fault or negligence.

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22. **GOVERNING LAWS.** The validity or construction of this Agreement, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its choice of law provisions.
23. **ENTIRE AGREEMENT.** This Agreement constitutes the whole agreement between the parties with respect to the subject matter contained herein, and there are no terms other than those contained herein. No modification or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto.
24. **TERMINATION FOR CONVENIENCE.** **CLIENT** or **BAKER** shall have right at any time to terminate this Agreement in whole, or in part, by written notice. Upon receipt or issuing of this notice **BAKER** shall immediately discontinue performance, will not place any further orders and will promptly cancel all orders.

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ATTACHMENT "A"

GENERAL SERVICES TASK ORDER NUMBER  
CITY OF NEW PHILADELPHIA  
NEW PHILADELPHIA MUNICIPAL AIRPORT  
GENERAL AIRPORT ENGINEERING AND PLANNING SERVICES AGREEMENT  
AIRPORT PROJECTS

BAKER is authorized to proceed with the performance of the following services under the terms of the Professional Services Agreement, General Airport Engineering and Planning Services, dated \_\_\_\_\_ and in accordance with the following scope of services and price proposal.

**Terms of Task:** In accordance with the attached Scope of Work.

**Schedule:** In accordance with the attached Schedule.

**Compensation and Payment:** In accordance with the attached payment terms. Payment terms may be lump sum, time and materials, cost plus or other agreed upon terms.

Submitted by:  
**MICHAEL BAKER JR., INC.**

\_\_\_\_\_

Date: \_\_\_\_\_

Approved by:  
**CITY OF NEW PHILADELPHIA**

\_\_\_\_\_

Date: \_ \_ \_ \_ \_