

**Agreement
for Network Security Consultation and Training**

THIS AGREEMENT (“Agreement”) is made and entered into by and between the City of Bainbridge Island, a Washington State municipal corporation, (“City”) and the Kitsap Public Health District, a Washington State municipal corporation, (“District”).

WHEREAS, on February 29, 2020, Governor Jay Inslee declared a state of emergency in response to the spread of COVID-19 in Washington State; and

WHEREAS, on March 9, 2020, the City Manager, as the executive head of the City for purposes of emergency management, issued a Proclamation of Emergency in response to the COVID-19 public health emergency; and

WHEREAS, on March 10, 2020, the City Council adopted Resolution No. 2020-06, affirming the Proclamation of Emergency; and

WHEREAS, to reduce the spread of COVID-19, many members of City staff have been authorized to telecommute from home; and

WHEREAS, in order to accommodate the sudden increase in the percentage of staff telecommuting, the City is exploring how to increase the capacity and efficiency of the City’s IT infrastructure, including network security; and

WHEREAS, the District has significant in-house staff expertise in network security and is willing to provide such expertise to the City at a reduced rate.

NOW, THEREFORE, in consideration of the mutual commitments set forth in this Agreement, the City and the District (the “Parties”) agree as follows:

1. SERVICES PROVIDED. Subject to the terms and conditions of this Agreement, the District shall provide network security consultation and training services to the City as time permits. When the City desires the District to provide such services, the City shall submit a request to the District and the Parties will negotiate a mutually agreeable time and place for such services to be provided. All network security consultation and training services provided under this Agreement shall be performed by the District’s Network Administrator, Nii Nortey Quist-Therson, or alternative approved by the City.

2. PAYMENT. The City shall pay the District hourly at the rate of \$100.00 per hour, plus travel expenses, but not more than a total of twelve thousand dollars (\$12,000.00). Travel expenses shall be reimbursed at the IRS standard mileage rate for business use in effect at the time the expenses were incurred. The District shall submit, in a format acceptable to the City, monthly invoices for services performed in a previous calendar month.

3. TERM. This Agreement shall become effective upon execution by both parties and shall continue in full force and effect for a period of five years, unless terminated earlier by either party as provided below.

4. TERMINATION. This Agreement may be terminated by either party without cause upon thirty (30) days' written notice to the other party. The Administrator of the District, at their discretion, may provide such notice on behalf of the District. The City Manager of the City, at their discretion, may provide such notice on behalf of the City.

5. INDEPENDENT CONTRACTOR. The District and the City understand and expressly agree that the District is an independent contractor in the performance of each and every part of this Agreement. The District expressly represents, warrants, and agrees that the District's status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195. The District, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The District shall make no claim of City employment nor shall the District claim any related employment benefits, social security, and/or retirement benefits. The District shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the District shall pay the same before it becomes due.

6. INDEMNIFICATION.

A. The District shall defend, indemnify, and hold harmless the City, its officers, officials, employees, and volunteers from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or resulting from the acts, errors, or omissions of the District in performance of this Agreement, except for injuries and damages caused by the negligence, criminal acts, or willful misconduct of the City. If such claims, injuries, damages, losses, or suits, including attorney fees, are caused by or result from the concurrent negligence of the City, its officers, agents, employees, or volunteers, then this indemnity provision shall be valid and enforceable only to the extent of the negligence of the District.

B. The City shall defend, indemnify, and hold harmless the District, its officers, officials, employees, and volunteers from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or resulting from the acts, errors, or omissions of the City in performance of this Agreement, except for injuries and damages caused by the negligence, criminal acts, or willful misconduct of the District. If such claims, injuries, damages, losses, or suits, including attorney fees, are caused by or result from the concurrent negligence of the District, its officers, agents, employees, or volunteers, then this indemnity provision shall be valid and enforceable only to the extent of the negligence of the City.

C. It is further specifically and expressly understood that the indemnification provided herein constitutes each party's waiver of immunity under industrial insurance, Title 51 RCW, solely to carry out the purposes of this indemnification clause. The parties further acknowledge that they have mutually negotiated this waiver.

D. The provisions of this section shall survive the expiration of this Agreement and shall also survive and remain in effect in the event that a court or other entity with jurisdiction determines that this Agreement or any portion thereof is not enforceable.

7. INTERLOCAL AGREEMENT. To the extent that, to be enforceable, this Agreement is required to be an interlocal agreement entered into pursuant to the authorization of Chapter 39.34 RCW, the following provisions are set forth in accordance with the provisions of RCW 39.34.030:

A. No separate legal or administrative entity is created by this Agreement.

B. The cooperative undertakings of the City and the District shall be financed as provided in this Agreement. Each party shall be responsible for its own budget.

C. No administrator or joint board shall be responsible for administering the undertakings. To the extent that RCW 39.34.030 requires an administrator for this Agreement, the City Manager, on behalf of the City, and the Administrator, on behalf of the District shall jointly administer this Agreement.

D. No joint property shall be acquired, held, or disposed of. Any real or personal property used in the joint or cooperative undertaking shall be considered to be and remain the property of the party who purchased such real or personal property.

8. SAFEGUARDING OF PERSONAL INFORMATION

The District shall not use or disclose Personal Information, as defined in RCW 19.255.010, in any manner that would constitute a violation of federal law or applicable provisions of Washington State law. The District agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of Personal Information.

The District shall protect any Personal Information collected, used, or acquired in connection with the Agreement, against unauthorized use, disclosure, modification, or loss. Where Personal Information is used under this Agreement, the District shall ensure its directors, officers, employees, subcontractors, or agents use Personal Information solely for the purposes of accomplishing the services set forth in the Agreement.

The District agrees not to release, divulge, publish, transfer, sell, or otherwise make Personal Information known to unauthorized persons without the express written consent of the City or as otherwise authorized by law.

The District agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of Personal Information.

The District shall certify the return or destruction of any Personal Information obtained under this Agreement upon expiration or termination of the Agreement and the District shall retain no copies. If the District and the City mutually determine that return or destruction is not feasible, the District shall not use the Personal Information in a manner other than those permitted or authorized by state and federal laws.

The District shall notify the City in writing immediately upon becoming aware of any unauthorized access, use, or disclosure of Personal Information. The District shall take necessary steps to mitigate the harmful effects of such use or disclosure. The District is financially responsible for notification of any unauthorized access, use or disclosure. The details of the notification must be approved by the City. Any breach of this clause may result in termination of the Agreement and the demand for return of all Personal Information.

9. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

10. VENUE. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Kitsap County, Washington.

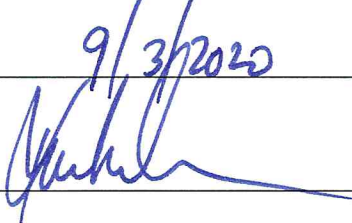
11. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

12. AUTHORIZATION. In signing this Agreement, the undersigned individuals attest that they are authorized to execute this Agreement on behalf of their public agency.

IN WITNESS WHEREOF, the City and the District have executed this Agreement as of the later of the signature dates included below.

KITSAP PUBLIC HEALTH DISTRICT


Date: 9/3/2020

By: 

Keith Grellner, Administrator

CITY OF BAINBRIDGE ISLAND

Date: August 3, 2020

By: 

Morgan Smith, City Manager