

COUNTY DEPARTMENT: Information Technology

CONTACT PERSON: Trever Esko

ADDRESS: 3000 Rockefeller Ave. Everett, WA 98201

TELEPHONE/FAX NUMBER: (425) 388-3739 / (425) 388-3985

PUBLIC AGENCY: Snohomish Health District

AGENCY CONTACT PERSON: Shawn Frederick

TELEPHONE/FAX NUMBER: (425) 339-8687

PROJECT: Information Technology Services

AMOUNT: Not to exceed \$4,500,000

FUND SOURCE: Snohomish Health District

CONTRACT DURATION: Five (5) Years from date of Contract Execution

INTERLOCAL AGREEMENT FOR INFORMATION SERVICES

THIS AGREEMENT ("Agreement") between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), through its Department of Information Technology ("SCDOIT"), and Snohomish Health District, a public agency as that term is defined in RCW 39.34.020(1) ("SHD"), is for the purpose ("Purpose") of the County providing Information Services to SHD. In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

WHEREAS, Chapter 2.350.030(6) of the Snohomish County Code authorizes Snohomish County, through its Department of Information Technology to provide information services, information processing, proprietary software and purchased services to public agencies and cash-on-delivery customers; and

WHEREAS, SHD is a "public agency" as that term is defined under the Interlocal Cooperation Act at RCW 39.34.020(1); and

WHEREAS, SHD requires information services including maintenance and support, assistance in the planning, management, control, operation, and use of information services, network, telecommunications, information processing, equipment, purchased services and proprietary software.

NOW, THEREFORE, for and in consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Scope of Information Services to be performed by SCDOIT: SCDOIT will provide information technology goods and information processing services according to Supplemental Work Orders, approved and signed by the duly authorized person(s) at Snohomish County and SHD, and subject to the general terms of this Agreement. Each Supplemental Work Order will include a description of the specific services to be provided, the term, and the costs of such service from quotation or from the published rate or fee schedule, and any other terms or conditions applicable to that service. The scope of information technology goods and information services to be provided may include but are not limited to the following:

- A. Coordination for the planning, management, control, operation, and use of information services, backbone network, telecommunications, information processing, equipment, purchased services and proprietary software required by SHD; and

- B. Administration of centralized support services for SHD, which may include the following:

- 1.) Management, development, maintenance and operation of SHD's information systems and equipment, and connections to Snohomish County network and systems;

- 2.) Management, development, maintenance and administration of telephony and telecommunication systems for SHD;

- 3.) Review of equipment, proprietary software, license agreements and service acquisitions from outside sources before purchase by SHD;

- 4.) Other functions as may be mutually agreeable;

Each Supplemental Work Order under this Interlocal Agreement shall be submitted for

approval and signature to the County Executive so long as the aggregate value of all Supplemental Work Orders under this Agreement is \$50,000 or less. Thereafter each Supplemental Work Order under this Interlocal Agreement shall be submitted to the County Council for approval. Each Supplemental Work Order under this Interlocal Agreement shall be submitted for approval and signature by the SHD Administrator and where appropriate, for approval by the Board of Health pursuant to the procurement policies of SHD.

2. Treatment of Assets:

COMPUTER APPLICATION PROGRAMS AND OTHER SOFTWARE SYSTEMS FURNISHED TO SHD BY COUNTY ARE FURNISHED ON AN "AS IS" BASIS WITH NO REPRESENTATIONS OR WARRANTIES REGARDING USE OR RESULTS INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, UNLESS INDICATED IN A SUPPLEMENTAL WORK ORDER FOR SERVICE.

SHD Data: "SHD Data" means the data provided or input by or on behalf of SHD, any User or Affiliate of SHD or any authorized Third Party User for use with the services. SHD shall own all rights, title and interest in and be completely responsible for the SHD Data, which shall never be deemed to be property of the County, even if delivered or incorporated therewith into any custom software or service provided by the County. The County shall have no responsibility, whatsoever, for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership of SHD Data, and the County shall not review, monitor or check the SHD Data except as necessary to provide the services to SHD. The County shall not be responsible or liable, in any way, for the deletion, destruction, damage, breach or loss of any SHD Data through no fault of the County or its providers.

Privacy. The County acknowledges that the SHD data will contain protected health care data, personal data, health data, and/or medical records data, the use of which data is subject to various Privacy Laws, including all state, federal, and international laws and regulations and state, federal, and national government agency orders and decrees to which the SHD may be subject ("Privacy Laws"), as well as certain restrictions imposed on the SHD Data by the data

subjects or other third party data providers. SHD agrees to strictly abide by all such restrictions pertaining to the SHD Data, as they are promulgated and applied, currently and in the future. Furthermore, the County shall in good faith execute any and all agreements that the SHD is required to have the County execute in order that the SHD may comply with any Privacy Laws. Attached as Exhibit [A] hereto is an executed BUSINESS ASSOCIATE AGREEMENT (BAA) between the County and SHD which by this reference incorporated herein.

SHD represents and warrants to the County that it has the right to collect, possess, own and disclose the Confidential Information and to grant to the County the usage rights hereunder.

Surrender of SHD Data: The County shall surrender to SHD all SHD Data upon completion, termination, or cancellation of this Agreement, except to the extent the County is required to retain Confidential Information according to records retention requirements.

Property: Title to all property furnished by the County shall remain in the County. Title to all property purchased by the SHD for which SHD is not reimbursed by the County shall remain the property of SHD. Title to all property purchased by SHD for which SHD is reimbursed by the County and is used as a component of services provided under this Agreement shall pass to and vest in the County upon completion, termination, or cancellation of the relevant Supplemental Work Order or this Interlocal Agreement.

Any property of the County furnished to SHD shall, unless otherwise provided for in this Agreement, or approved by SCDOIT Director or his designee, be used only for the performance of this Agreement or a Supplemental Work Order. SHD shall be responsible for any loss or damage to County property that County furnishes to SHD.

If County property is lost, destroyed, or damaged, SHD shall immediately notify the County and shall take all reasonable steps to protect the property from further damage.

Surrender of Property: SHD shall surrender to the County all property belonging to the County upon completion, termination, or cancellation of this Agreement.

3. Confidentiality.

In order to facilitate the County's performance of the Purpose, SHD shall disclose to the County SHD Data.

SHD Data may include Confidential Information. Protected Health Information ("PHI"), a subset of Confidential Information, is defined by and governed by the BUSINESS ASSOCIATE AGREEMENT (BAA) between the County and SHD, attached hereto as Exhibit 2. *ez*

Subject to Section 17 of this Agreement, the County may disclose Confidential Information if required by applicable law. Subject to Section 17 of this Agreement, the County shall: (i) use the Confidential Information only for the Purpose herein described unless otherwise permitted with SHD's prior written approval; (ii) limit disclosure and/or use of Confidential Information to/by the County's authorized employees who reasonably need to know such information for the Purpose (deemed to include employees as well as individuals who are agents or independent contractors of the County who have a need to know for the Purposes) and who have been advised of the obligations of confidentiality and have agreed to keep the information confidential; (iii) if required by subpoena or other legal process to disclose the Confidential Information, prior to disclosure, give SHD immediate written notice of receipt of such disclosure obligation to allow it to protect its interests therein and (iv) require that agents and/or independent contractors of County sign Confidentiality Agreements and/or BAA prior to their receiving Confidential Information.

Confidential Information will be returned to SHD by the County or destroyed upon the written request of SHD at any time, except to the extent the County is required to retain Confidential Information according to records retention requirements.

4. Time of Performance. This Agreement shall become effective upon signature by both parties and recording of the same with the Snohomish County Auditor or listed by subject on the County's web site as required by RCW 39.34.040 and shall remain in force for a period up to five (5) years, unless terminated earlier by either party upon ninety (90) days

prior written notice to the other party.

5. Compensation:

At no additional cost to SHD, SHD may request an estimate or quotation of cost for proposed information technology goods or information processing services from the County. Specific Agreements addressing costs, term, schedules, and other factors will be described in an associated Supplemental Work Order ("SWO") developed from initial estimates or quotations.

SHD will pay County for services provided hereunder and as set out in Supplemental Work Orders.

Charges for information technology goods and information processing services under this Agreement will be based on the then current published rate or fee schedule of SCDOIT, or on the specific quotation described in Supplemental Work Orders. Rate and Fee schedules are subject to change. The most current rate and fee schedule supersedes and replaces all previous published rate and fee schedules.

The County will submit an invoice, to SHD monthly, or as defined in a Supplemental Work Order, detailing charges for services rendered during the preceding month. Payment is due in full upon receipt of the invoice by SHD and becomes delinquent 30 days thereafter.

A late payment fee may be applied to any remaining balance 60 days after invoice. Late payment charges, if any, will be imposed on the unpaid balance at a rate of 1% per month. Supplemental Work Orders with balances more than 90 days past due may be terminated and services discontinued. Amounts disputed by SHD under Section 7 of this Agreement are not subject to late payment charges.

6. Obligations of SHD are as follows:

As to all new SHD acquisitions of any equipment, software or systems to be serviced by County under this Agreement, SHD shall undertake such acquisitions in accordance with guidelines, standards or procedures established by County and shall secure written

concurrence for any such procurement from the SCDOIT director or his/her designee.

7. Mutual Covenants:

SHD shall promptly notify County in writing of issues regarding invoices, or of services that SHD believes do not conform with the agreed-upon terms of this Agreement and/or Supplemental Work Order, within 60 days of receipt of invoice or performance of services, whichever occurs later. Failure of SHD to give written notice to County within 60 days after receipt of invoice or performance of services constitutes waiver of any objection to services or invoices.

The parties shall attempt to resolve any issues arising under this Agreement and/or supplemental Work Order through negotiation and consultations. If that fails, the parties will seek to resolve disputes through the aid of a mutually selected, independent third party;

When necessary, the parties may modify this Agreement as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

Both parties understand that County retains discretion regarding the operation and allocation of the aggregate information processing capacity at its disposal, including the capacity covered by this Agreement. County agrees to allocate sufficient capacity to meet the processing requirements of SHD during the term of this Agreement.

8. County Review/Approval:

Upon submittal of any request to execute a Supplemental Work Order or to perform optional services under any executed Supplemental Work Order, County may, following review by the SCDOIT Director or his designee, agree to perform such work or reject it, or request such modification or additions as it deems appropriate;

Upon the submittal of a request for or modification to a Supplemental Work Order, County

will either accept or reject SHD systems and services as listed in the Supplemental Work Order. County will not bill SHD until County has accepted service and/or system delivery responsibility. SHD is not required to pay for services or systems until County accepts delivery responsibility for those services and/or systems.

9. Access to Books/Records:

Each party may, at reasonable times, and upon prior notification inspect the records of the other party relating to performance of this Agreement. County and SHD shall keep all records required by this Agreement in accordance with statutory archival requirements.

10. Indemnification and Hold Harmless:

SHD shall hold harmless, indemnify, and defend, at its own expense, the County, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of SHD's collection, disclosure, maintenance, use or the breach of SHD Data, or its performance of this Agreement, including claims by SHD's employees or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of the County, its elected and appointed officials, officers, employees or agents.

Subject to the liability limitations stated in Section 11, the County shall hold harmless, indemnify, and defend, at its own expense SHD, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, except loss for data breach, not caused by the County arising out of the County's performance of this Agreement, including claims by County employees or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of SHD, its elected and appointed officials, officers, employees or agents.

11. Limitation of Liability:

IN NO EVENT WILL THE COUNTY BE LIABLE FOR ANY STATUTORY

OBLIGATIONS, CONSEQUENTIAL, INDIRECT, PUNITIVE OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO BREACH AND/OR LOSS OF DATA NOT CAUSED BY THE COUNTY, LOSS OF REVENUE, LOSS OF GOODWILL OR LOSS OF PROFITS, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE COUNTY UNDER THIS AGREEMENT OR ANY SUPPLEMENTAL WORK ORDER HEREUNDER, WHETHER BASED IN CONTRACT, TORT, INTENDED CONDUCT OR OTHERWISE, INCLUDING WITHOUT LIMITATION COSTS INCURRED AS A RESULT OF DECISIONS MADE IN RELIANCE ON THE SERVICES, LOSS OF THE SERVICES, OR ANY OTHER LOSS OF DATA NOT CAUSED BY THE COUNTY, THE COSTS OF RECOVERING OR RECONSTRUCTION SUCH DATA OR CLAIMS BY THIRD PARTIES,...

12. Compliance with Laws:

The County and SHD shall comply with all applicable federal, state and local laws, rules, and regulations in performing this Agreement. SHD will comply with County procedures and policies related to technology management and use of applicable County systems, applications and services. The County agrees to provide SHD with copies of all such systems, applications and services or other information sufficient to enable SHD to be advised of such systems, applications and services.

13. Non-assignment:

Neither County or SHD shall assign any of the rights, duties, or obligations covered by this Agreement without the prior express written request and consent of each party.

14. Conflicts Between Attachments and Text:

Should any conflicts exist between any attached exhibit or schedule and the text of this Agreement, the text shall prevail.

15. Governing Law and Venue:

This Agreement shall be governed by the laws of the State of Washington and any lawsuit

regarding this Agreement must be brought in Snohomish County, Washington.

16. Severability:

Should any clause, phrase, sentence or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

17. Public Records:

This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of SHD are needed for the County to respond to a request under the Act, as determined by the County, SHD agrees to make them promptly available to the County. If SHD considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, SHD shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by SHD and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify SHD (a) of the request and (b) of the date that such information will be released to the requester unless SHD obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If SHD fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. To the extent that public records then in the custody of the County are needed for SHD to respond to a request under the Act, as determined by SHD, the County agrees to make them promptly available to SHD. If the County considers any portion of any record provided to SHD under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the County shall clearly identify any specific information that it claims to be confidential or proprietary. If SHD receives a request under the Act to inspect or copy the information so identified by the County and SHD determines that release of the information is required by the Act or otherwise appropriate, SHD's sole obligations shall be to notify the County (a) of the request and (b) of the date that such information will be

released to the requester unless the County obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the County fails to timely obtain a court order enjoining disclosure, SHD will release the requested information on the date specified.

Neither the County nor SHD has, and by this section assumes, any obligation on behalf of the other party to claim any exemption from disclosure under the Act. Each party ^{SHD} shall not be liable to the other for releasing records not clearly identified as confidential or proprietary. Neither party shall be liable to the other for any records that it releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

18. Authorization.

Each individual executing this Agreement represents that he/she has been duly authorized to do so on behalf of the party by the governing body as required under RCW 39.34.030(2).

19. No separate entity created. The Agreement is not intended nor shall it be construed to establish a separate legal or administrative entity.

20. Any and all prior agreements of the parties related to the same subject matter as this Agreement shall be replaced and superceded by this Agreement.

"County"

SNOHOMISH COUNTY

By: *[Signature]* 6-13-18
County Executive Date

KEN KLEIN
Executive Director

Approval Recommended:

"SHD"

SNOHOMISH HEALTH DISTRICT

By: *[Signature]* 7-11-2018
SHD Administrator Date

Trever Esko, Director
Snohomish County Department of Information Technology

Approved as to Form Only:

Approved as to Form Only:

Rebecca Wendling
Deputy Prosecuting Attorney
Subject to memo dated 4/5/2018

SHD Attorney

COUNCIL USE ONLY	
Approved:	<u>6/13/18</u>
Docfile:	<u>D-10</u>