

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.

201911001

Originating Department:	Sheriff's Office								
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Emergency Management								
Contract or Grant Administrator:	John Gargett								
Contractor's / Agency Name:	Ferndale School District								
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/>									
Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____									
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____									
Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)									
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____									
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____									
Is this contract the result of a RFP or Bid process? Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: _____									
Is this agreement excluded from E-Verify? No <input checked="" type="radio"/> Yes <input type="radio"/> If no, include Attachment D Contractor Declaration form.									
If YES, indicate exclusion(s) below: <table style="width:100%; border:none;"> <tr> <td><input type="checkbox"/> Professional services agreement for certified/licensed professional.</td> <td><input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than \$100,000.</td> <td><input type="checkbox"/> Work related subcontract less than \$25,000.</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than 120 days.</td> <td><input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</td> </tr> <tr> <td><input checked="" type="checkbox"/> Interlocal Agreement (between Governments).</td> <td></td> </tr> </table>		<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.	<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	<input checked="" type="checkbox"/> Interlocal Agreement (between Governments).	
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Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>200,000.00</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 								
This Amendment Amount: \$ _____									
Total Amended Amount: \$ _____									
Summary of Scope:									
To provide emergency management services to the Ferndale School District @ \$40,000/year for Five years.									
Term of Contract: Five-Year	Expiration Date: 12/31/2023								

Contract Routing:	1. Prepared by: F Burkhart	Date: 10/23/2019
	2. Attorney signoff: _____	Date: <u>10/25/19</u>
	3. AS Finance reviewed: <u>bbennett</u>	Date: <u>10/29/19</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____ ✓	Date: <u>10-23-19</u>
	6. Submitted to Exec.: _____ ✓	Date: <u>11-1-19</u>
	7. Council approved (if necessary): _____ ✓	Date: <u>11-19-19</u>
	8. Executive signed: _____ ✓	Date: <u>11-20-19</u>
	9. Original to Council: _____ ✓	Date: <u>11-22-19</u>

COUNTY ORIGINAL

Whatcom County Contract No.

201911001

CONTRACT FOR SERVICES AGREEMENT
Between
Whatcom County and Ferndale School District
Through the Whatcom County Sheriff's Office, Division of Emergency Management

Ferndale School District, hereinafter called **Requestor**, and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

Exhibit A - Scope of Work

Copies of Exhibit A is attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2019, regardless of the date of signature, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2023.

The general purpose or objective of this Agreement is for the Whatcom County Sheriff's Office, Division of Emergency Management to provide emergency management services to the Ferndale School District (FSD) in the City of Ferndale, WA and Whatcom County, WA.

The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Billings shall be for a fixed annual cost of \$40,000.00 per year, to be billed semi-annually.

Payment for Services. The County shall bill the Requester for services provided and shall send billings to the Requester billing address identified in this Agreement. The Requester shall reimburse the County within 30 days of receipt of billing from the County.

Agreement Alterations and Amendments. The County and the Requester may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind the County and the Requester.

Assignment. The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express written consent of the other party.

Governing Law. This Contract shall be governed in all respects by the laws of the State of Washington.

INSURANCE. The Requestor shall obtain and keep in force during the terms of the Agreement, or as otherwise required, the following insurance with companies or through sources approved by the Washington State Insurance Commissioner pursuant to Title 48 RCW. The Requestor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:
Property Damage per occurrence - \$1,000,000.00
General Liability & Property Damage for bodily injury- \$3,000,000.00

A Certificate of Insurance and endorsements must be provided by the Requestor that identifies the County as a named additional insured in the Requestor's insurance policy. This insurance shall be primary and shall waive all rights of subrogation. The County insurance shall be noncontributory. Proof of insurance requirements shall be provided by a Certificate of Insurance and endorsements. Requestor must submit Certificate of Insurance and Endorsements as described above to the County prior to the commencement of any work on this project.

Failure of the Requestor to take out and/or maintain any required insurance shall not relieve the Requestor from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification.

It is agreed by the parties that insurers shall have no right of recovery or subrogation against the County, including its employees and other agents and agencies. It is further agreed by the parties that insurance companies issuing the policy or policies required by this Agreement shall have no recourse against the County (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of policy. It is further agreed by the parties that any and all deductibles in the above described insurance policies shall be assumed by and be at the sole risk of the Requestor .

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the Requestor, Whatcom County, its departments, officials, employees, agents, and volunteers will be named on all policies as an additional insured. The Requestor's insurance required by this Section shall be in all circumstances primary to any coverage for third-party liability claims or actions provided to the Sheriff's Office and/or the County by the County's membership in a Ch. 48.62 RCW "Risk Pool." The Requestor shall furnish the Whatcom County's Sheriff's Office (WCSO) with verification of insurance and endorsements required by the Agreement. The WCSO reserves the right to require complete, certified copies of all required insurance policies and any endorsements at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the WCSO.

Any coverage for third party liability claims provided to Whatcom County, its departments, employees, officials, agents, or volunteers by a "Risk Pool" created pursuant to Ch. 48.62 RCW shall be non-contributory with respect to any policy of insurance the Requestor must provide in order to comply with this Agreement.

If the proof of insurance or certificate indicating the County is an "additional insured" to a policy obtained by the Requestor refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Requestor to obtain the full text of that endorsement and forward that full text to the County.

PARTIES ARE INDEPENDENT. The parties agree that neither shall be considered an employee or agent of the other.

Survival of Indemnity Obligations. Contracting Party with the County in this contract agrees all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

Waiver: Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of either party to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

REQUESTOR'S BUSINESS PERFORMED AT ITS OWN RISK. Requestor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, guests, and all persons on Requestor's property and invitees at all times when Emergency Management staff or Sheriff's Office personnel are performing services pursuant to this Agreement.

EMERGENCY INTERRUPTIONS IN SERVICE. Emergency Management Staff and Sheriff's Office personnel performing services called for in this Agreement shall at all times be subject to the rules, regulations, and policies of Whatcom County and its Sheriff's Office, and shall be required to follow the orders of supervisors and command staff. Requestor understands that Emergency Management Staff and Sheriff's Office personnel, while performing services pursuant to this Agreement may, from time to time, be required to perform traditional duties for the benefit of the greater public. Therefore, from time to time, Emergency Management Staff and Sheriff's Office personnel performing services for Requestor may be required to respond to emergencies and abandon the services being called for under this Agreement.

Termination. Either party may terminate this agreement upon ninety (90) days written notice to the other party. Requestor will only be liable to the County for the pro rata amount of the \$40,000 annual cost earned by the County through the date of termination. The County will return any such unearned amount of the annual cost to the Requestor within thirty (30) days of the termination date.

Compliance with Laws. Requestor and the County agree to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Requestor's or the County's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

Compliance with Civil Rights Laws. During the period of performance for this Agreement, both parties shall comply with all federal, state, and local laws nondiscrimination laws.

MISCELLANEOUS PROVISIONS.

Non-Waiver of Breach. The failure of Whatcom County to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements, or options, and the same shall be and remain in full force and effect.

Resolution of Disputes and Governing Law. Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in

Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Written Notice. All written notices required under this agreement shall be sent to the parties at the addresses listed on the signature pages of the Agreement or forwarded electronically to the emails of the parties listed, and notices shall be deemed received three (3) business days after the date sent.

Assignment. Any assignment of this Agreement by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.

Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the Whatcom County Sheriff's Office and the Requestor.

Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this and the provisions of this Agreement are declared to be severable.

Entire Agreement. The written provisions and terms of this Agreement, together with any Exhibits or Attachments attached hereto or referenced herein, shall supersede all prior verbal statements of any officer or other representative of the Whatcom County Sheriff's Office and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits or Attachments to this Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail. Further, the representative signing this Agreement on behalf of Requestor swears and affirms that he or she is authorized to enter into this Agreement on behalf of Requestor and that action is binding on the Requestor.

By signing this Agreement, I represent and warrant that I am duly authorized and have legal capacity to execute and deliver this Agreement. I have read, acknowledge, and accept the Terms and Conditions set forth in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this 23 day of October, 20 19.

FOR FERNDALE SCHOOL DISTRICT:



Mark Deebach

10/23/19
Date

Contact Administrator / Contact Name: Mark Deebach
Assistant Superintendent for Business & Support Services
Contact Phone: 360-383-9203
Contact Email: mark.deebach@ferndalesd.org
Contact Mailing Address: 6041 Vista Drive, Ferndale, WA 98248

FOR WHATCOM COUNTY:
Recommended for Approval:

[Signature]
Whatcom County Sheriff

10/25/19
Date

Approved as to form:

[Signature]
Civil Deputy Prosecuting Attorney

10/25/19
Date

Approved:
Accepted for Whatcom County

By: [Signature]
Jack Louws, Whatcom County Executive

11-20-19
Date

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this 20th day of November, 2019, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Suzanne M. Mildner
NOTARY PUBLIC in and for the State of Washington, residing at Bellingham
My commission expires 12-31-22

EXHIBIT "A"
(SCOPE OF WORK)

The Whatcom County Sheriff's Office, Division of Emergency Management (WCSO-DEM), will provide the following services to the Ferndale School District FSD:

Risk Assessment and Impact Analysis (RAIA) – The WCSO-DEM will provide an annual update to the RAIA for the FSD to include all risks that impact the ability of the FSD to deliver educational services. This RAIA will be completed each year and presented to the FSD as a basis for the Risk, Safety Security, Emergency and Crisis Management Planning that is a continuing and ongoing effort.

Risk, Safety Security, Emergency and Crisis Management Plan (R-SEC Plan) Update – The WCSO-DEM will provide an annual update to the R-SEC Plan for the FSD based upon changes from the RAIA, personnel, and regulatory requirements. This R-SEC Plan will be completed by December 31 of each year as an annual update. Changes that are required during the year (such as additional action guidelines) will be issued as needed.

Annual Risk, Safety Security, Emergency and Crisis Management Plan (R-SEC Plan) Workshop - The WCSO-DEM will provide an annual one-day workshop which will be held at the Whatcom Unified Emergency Coordination Center that will include each of the Schools, Facilities and public agencies that are responsible for R-SEC Planning within the FSD. The output of this workshop will be updated school plans specific to each location, building and staff.

Assessment and Audit Exercise Design & Conduct - The WCSO-DEM will provide exercise design for the FSD to include at least one full-scale or functional exercise and three table-top exercises each calendar year. The specific locations and scenarios will be determined by the FSD Safety Advisory Committee.

Ferndale School District Security Improvement Planning – The WCSO-DEM will provide ongoing Security Improvement Planning with the FSD, following the recommendations contained in the security improvement plan provided by the FSD consultant report conducted in 2015. This work will include at least one annual assessment of each school.

Ferndale School District Emergency Preparedness Improvement Planning – The WCSO-DEM will provide ongoing Emergency Preparedness Improvement Planning with the FSD for each school to include a site visit to each location and an assessment of the schools' capacity to support students, visitors, staff and faculty needs during and following a significant event such as an earthquake, winter storm or chemical emergency. This annual site visit will include a summary report of the preparedness level for each location.

Chair the Ferndale School District Safety Advisory Committee Meetings - The WCSO-DEM will chair the monthly FSD SAC Meetings to include the preparation of the agenda, conducting the meetings, and issuing meeting minutes.

Preparation of Annual Risk, Safety Security, Emergency and Crisis Management Improvement Plan - The WCSO-DEM will prepare an annual Improvement Plan that will be used for FSD planning for improvements to its R-SEC program. This plan will be the guide for the FSD both in terms of short term improvements that can be undertaken with existing budgets as well as a guide for capital improvements.

Costs

The cost for this scope of work is \$40,000 per year based on a five-year contract.

**WHATCOM COUNTY
SHERIFF'S OFFICE**

BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

RECEIVED

NOV 1 - 2019

**JACK LOUWS
COUNTY EXECUTIVE**

MEMO

To: Jack Louws, County Executive

From: Sheriff Bill Elfo, Director
John Gargett, Deputy Director
Whatcom County Sheriff's Office Division of Emergency Management

Subject: Ferndale School District Emergency Management Services Contract

Date: October 23, 2019

The attached Contract for Services Agreement specifies the terms whereby the Whatcom County Sheriff's Office Division of Emergency Management (WCSD-DEM) will provide emergency management services to the Ferndale School District.

WCSD-DEM will provide emergency management services that, as detailed in Exhibit A: Scope of Work, include planning, training, and exercise deliverables.

The Ferndale School District will pay WCSD-DEM \$40,000 per year for these services.

This is a five-year contract and runs from 01/01/2019 through 12/31/2023.

Please contact John Gargett (jgargett@co.whatcom.wa.us, 778-7160) if you have any questions.