

WHATCOM COUNTY
SHERIFF'S OFFICE

BILL ELFO
SHERIFF



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

MEMORANDUM

TO: Jack Louws, County Executive
FROM: Bill Elfo, Sheriff
DATE: March 11, 2019
SUBJECT: Public Safety Testing, Inc.
Agreement for Services – Background Investigations

Enclosed for your review and signature are two (2) original agreements between Whatcom County Sheriff's Office and Public Safety Testing, Inc.

Background and Purpose

Whatcom County has established a relationship with Public Safety Testing, Inc. to conduct background investigations on candidates for employment with the Sheriff's Office.

This is an on-call agreement for services as needed with an annual estimated cost of \$42,000: approximately \$16,000 for Sheriff's Office Administration and Patrol (General Fund) and \$26,000 for Corrections (Jail Fund).

Funding Amount and Source

Funding for these on-call services will come from existing Sheriff's Office budgets.

Please contact Undersheriff Parks at 6610 if you have any questions or concerns regarding the terms of this agreement.

Thank you.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
201903008

Originating Department:	Sheriff's Office
Division/Program: <i>(i.e. Dept. Division and Program)</i>	35 Sheriff's Office / 3510 Administration / 351000 Administration
Contract or Grant Administrator:	Undersheriff Jeff Parks
Contractor's / Agency Name:	Public Safety Testing
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 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="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: _____	
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input checked="" type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ Estimate \$42,000 annually This Amendment Amount: \$ _____ Total Amended Amount: \$ Estimate \$42,000 annually	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 : 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.
Summary of Scope: On-call services agreement for background investigations on candidates for employment with the Sheriff's Office: approximately \$16,000 for Sheriff's Office Administration and Patrol (General Fund) and \$26,000 for Corrections (Jail Fund).	
Term of Contract:	03/11/2019
Expiration Date:	12/31/2021

Contract Routing:	1. Prepared by: <u>D. Pierce</u> <i>DMP</i>	Date: <u>03/11/19</u>
	2. Attorney signoff: _____	Date: <u>3/12/19</u>
	3. AS Finance reviewed: <u>Obennell</u> <i>lg</i>	Date: <u>3/12/19</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



SPECIALIZED SERVICES AGREEMENT

WHEREAS, *PST Investigations* is a skilled provider of pre-employment background investigations, workplace investigations and other services to public agencies and political subdivisions, and

WHEREAS, the Client agency ("Client"), either directly or through a civil service commission, tests, evaluates, ranks and hires law enforcement officers and/or corrections officers and/or other public safety positions in the performance of its public safety functions, and

WHEREAS, the Client desires to contract for new or additional services as set forth herein, NOW, THEREFORE

PST Investigations, a division of *Public Safety Testing, Inc.*, (the "Contractor") and the Whatcom County (the "Client"), do enter into this Agreement under the terms and conditions set forth herein.

Commencement Date: March 11, 2019

Termination Date: December 31, 2021

1. Description of Basic Services. The Contractor will provide or coordinate independent service providers to perform the following services to the Client, on its request and at its direction [***initial next to service(s) desired***]:

BMP 1.1 Background Investigation and Report. This service is described on the attached Exhibit A, incorporated by this reference as fully as if herein set forth.

____ 1.2 EyeDetect Pre-Employment Lie Detection/Truth Verification Test. Contractor will conduct a pre-employment lie detection/truth verification test using EyeDetect and provide results as part of the normal background investigation process.

____ 1.3 Polygraph Examination and Report. Contractor will coordinate an independent service provider and certified polygraph examiner with experience in pre-employment testing of law enforcement, corrections and other public safety candidates to conduct examination. Independent service provider will provide results directly to the Client.

1.4 (check one) The Client does does not require the candidate to submit a financial credit report as part of his/her background investigation.

1.5 (check one) The estimated annual salary (plus anticipated overtime, but without benefits) for this position is: below \$75,000 above \$75,000

V A R I E S (B O T H)

1.6 (check all that apply) For each background investigation, the Client requests the following (unless otherwise noted, most entry-level background investigations' reference interviews will be conducted via telephone):

- Onsite visit to current employer
- Personal visit to the candidate's home; interview spouse/significant other/roommates, etc.
- Personal visit to the candidate's neighborhood; interview neighbors, etc.
- Other(describe): _____
- Other(describe): _____
- Other(describe): _____

2. Professional Fees. The following professional fees for Contractor or independent service provider shall apply:

2.1 Background Investigation and Reporting

- a) Records/data checks @ \$99 per candidate. Records/data checks for candidates that reside or have resided outside of the State of Washington may be higher, depending on the State.
- b) Education Verification report @ \$34
- c) Investigative, interviews, administrative and follow-up work at the following rates:

PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS	2019	2020	2021
Entry-level Candidates	\$59.50/hour	\$61.25/hour	\$63.00/hour
Mid-Manager/Executive-level Candidates	\$79.00/hour	\$81.25/hour	\$83.50/hour

- d) Reimbursement for reasonable & necessary expenses related to travel, lodging, etc. Out of state travel will require prior approval from Client.

2.1.1. Under the Fair Credit Reporting Act, applicants are entitled to dispute the completeness or accuracy of any item in their file. If this occurs, Contractor will conduct a reasonable reinvestigation at no charge to the Client if the disputed information was originally reported by the Contractor.

2.2 Additional Services

	ADDITIONAL SERVICES	2019 Per Candidate	2020 Per Candidate	2021 Per Candidate
<u>NO</u>	EyeDetect Pre-Employment Lie Detection Test	\$125	\$130	\$135
<u>NO</u>	Polygraph Examination	\$350	\$360	\$370
<u>NO</u>	Polygraph Examination Re-Test Following a Pre-Employment Failed Examination	\$350	\$360	\$370

EyeDetect Pre-Employment Lie Detection Test. Conducted at the Contractor's office(s). Additional fees may be added for off-site work.

Polygraph Examination. Examination conducted at the Examiner's Office(s). Additional fees may be added for off-site work.

2.3 PST staff's travel, lodging and per diem expenses are additional, using the federal mileage and per diem rates for your agency's location. Any out of state travel will require pre-approval by the Client. Also, a 4% surcharge is added to actual expenses to cover state and local B&O taxes and fees. Washington State sales tax is NOT charged.

2.4 Contractor will invoice Client following completion of described services on behalf of Contractor or an independent service provider. Client will make payment within 30 days of receipt of invoice.

2.4.1 Direct Deposit (ACH Enrollment). Clients are encouraged to set up direct deposit (ACH enrollment) for their payments. There will be no additional fee for payments made using direct deposit (ACH enrollment).

2.4.2 Credit Card. A three percent (3%) fee will be added at the time of payment to each payment made using a credit card. The purpose of such fee is to cover Contractor's credit card processing fees.

3. Warranties and Reservations

- 3.1 Each service provided pursuant to this agreement shall be conducted and provided in accordance with generally accepted practice in the relevant industry. Contractor shall comply with state and federal statute. No other warranty, express or implied, is provided by Contractor.
- 3.2 The Contractor shall maintain complete written records of its files pertaining to candidates for two years following the background check, in accordance with the Fair Credit Reporting Act statute of limitations. The Contractor expressly agrees and warrants that all tests and written materials utilized have been acquired by the Contractor in accordance with the appropriate copyright agreements and laws and that it has a valid right to use and administer any written materials and tests in accordance with such agreements and laws.
- 3.3 Contractor retains a right of co-ownership to its work product produced under this contract including the right to use, reuse or resell all or any portion of the materials, reports, and information gathered during the investigation.

4. Certifications.

- 4.1 Consumer Reports. The Client is aware that the Fair Credit Reporting Act applies to background checks conducted by third party investigators. Therefore, in accordance with the Fair Credit Reporting Act, Client makes the following certifications to Contractor:

4.1.1. Client certifies that it seeks the information contained in the background check provided by Contractor for employment purposes.

4.1.2. Client further certifies that Client will not use the background check for any purpose except for employment purposes.

4.1.3. Client also certifies that before taking an adverse action based in whole or in part on the background check, Client shall provide to the candidate a copy of the background check report and a description in writing of the rights of the candidate under the Fair Credit Reporting Act, as written by the Federal Trade Commission. Contractor will provide a copy of the candidate's rights under the Fair Credit Reporting Act at the time the background check is provided to Client.

4.1.4. Client is further required to certify that prior to procuring a background check from Contractor, Client will (a) make a clear and conspicuous disclosure in writing to the candidate for employment, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes, and (b) obtain from the candidate for employment an authorization in writing that Client may

procure a background check. However, Contractor shall act as Client's agent for purposes of making this disclosure and obtaining the candidate's authorization. Both the disclosure and authorization will be made and obtained during the candidate's application process with Contractor.

- 4.2 Investigative Consumer Reports. The Client is aware that an "investigative consumer report" means a background check in which information on the candidate's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the candidate or with others with whom he or she is acquainted or who may have knowledge concerning any such items of information. If Client has requested such interviews to take place, Client makes all of the certifications contained in Section 4.1 above and the following additional certifications:

4.2.1. Client certifies that it will comply with Section 606(b) of the Fair Credit Reporting Act, which provides that the Client shall, upon written request made by the candidate within a reasonable period of time after the receipt of the disclosure made pursuant to Section 4.2.2 below, make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure must be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request is received.

4.2.2. Client is further required to certify that it has clearly and accurately disclosed to the candidate that an investigative consumer report including information as to his character, general reputation, personal characteristics and mode of living, whichever are applicable, may be made and that such disclosure has been or will be delivered to the candidate not later than three days after the date on which the report was first requested. Client further certifies that the disclosure will include a statement informing the consumer of his right to request the additional disclosures provided under Section 606(b) of the Fair Credit Reporting Act. However, Contractor shall act as Client's agent for purposes of making this disclosure. The disclosure will be made during the candidate's application process with Contractor.

5. Independent Contractor. The Contractor is an independent contractor. Any and all agents, employees or contractors of the Contractor, shall have such relation only with the Contractor. Nothing herein shall be interpreted to create an employment, agency or contractual relationship between the Client and any employee, agent or sub-contractor of the Contractor.

6. Indemnity and Hold Harmless. The parties agree and hold harmless each other, their officers, agents and employees in accordance with the following provisions:

6.1 The Contractor shall indemnify the Client from:

6.1.1 Violation of any copyright agreement or statute relating to the use and administration of the tests or other written materials herein provided for;

6.1.2 Any cost, claim or liability arising from or out of the claims of an employee, agent or sub-contractor to the end that the Contractor shall be an independent Contractor and the Client shall be relieved of any and all claims arising from or relating to such employment relationships or contracts between the Contractor and third parties;

6.1.3 The alleged negligent or tortious act of the Contractor in the provision of services under this Agreement.

6.1.4 Any claim or charge incurred relating to a charge paid by Client pursuant to Section 2.3 of this Agreement.

6.2 The Client shall indemnify and hold harmless the Contractor, its officers, agents and employees from any and all cost, claim or liability arising from or out of the alleged negligent or tortious act of the Client or its officers, agents or employees in the provision of services hereunder.

6.3 The promises of the Client and Contractor shall include the reasonable cost of legal defense by counsel chosen by the mutual agreement of the parties hereto but shall exclude any cost, claim or liability arising from breach of this Agreement or from the negligent or tortious act of the party seeking indemnity, its officers, agents and/or employees.

7. Termination. The Contractor and the Client may withdraw from this Agreement at any time for any reason with 30 days written notice, provided, however, that the provisions of paragraphs 3.2 shall remain in full force and effect following the termination of this Agreement with respect to, and continuing for so long as the consent of the applicant tested by the Contractor remains in effect.


8. Entire Agreement, Amendment. This is the entire Agreement between the parties. Any prior agreement, written or oral, shall be deemed merged with its provisions. This Agreement shall not be amended, except in writing, at the express written consent of the parties hereto.

This Agreement is dated this 11th day of March, 2019.

Whatcom County, WA

**PST INVESTIGATIONS
PUBLIC SAFETY TESTING, INC.**

By: See attached signature page

By:  March 11, 2019

Print: _____

Print: Jon F. Walters, Jr.

Its: _____

Its: President

Point of Contact: Jason Gum

Greg Wilson

Title: Chief Inspector

Director of Investigative Services

Address: 311 Grand Avenue

20818 – 44TH Ave W, Suite 160

City/State/Zip: Bellingham, WA 98225

Lynnwood, WA 98036

Telephone: 360-778-6619

425.741.8872 / 425.776.9615

Subscriber's Contact for Billing

(Please complete if different from contact information above)

Contact: Dawn Pierce

Title: Sr. Administrative Assistant

Agency: Whatcom County Sheriff's Office

Address: 311 Grand Avenue


City/State/Zip: Bellingham, WA 98225

Telephone: 360-778-6606

Email: DPierce@co.whatcom.wa.us

WHATCOM COUNTY:

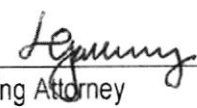
Recommended for Approval:



Bill Elfo, Sheriff

3/12/19
Date

Approved as to form:



Prosecuting Attorney

3/12/19
Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

Date

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 _____, 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.

NOTARY PUBLIC in and for the State of
Washington, residing at Bellingham.
My commission expires _____.

EXHIBIT A

BASIC BACKGROUND INVESTIGATIONS

SCOPE OF WORK

1. PST discusses with department scope of work, important attributes to screen for, etc.
2. Candidate completes Personal History Statement; notarizes signatures; completes necessary waiver and notification forms; submits to PST. PST reviews information provided; PHS, etc.
3. PST conducts records/data checks
 - Public Records Check
 - WA Criminal history conviction information
 - Pending convictions and/or outstanding warrants
 - Federal Court Check
 - Sex Offender Registration
 - Credit Check/Prior Address History
 - SSN Verification
 - Department of Licensing Records (driver's license) (may be submitted by candidate)
4. Personal History Questionnaire (PHQ) completed by applicant online.
5. One-on-one comprehensive in-person interview with the candidate.
6. For entry-level candidates, telephonic interview of significant references (approx. 6-12 telephonic interviews). May conduct in-person or onsite interviews as requested by client agency. Second tier references may also be contacted as necessary.
 - For management/executive and lateral candidates, onsite visits will be conducted. Will visit current/past agencies; meet with coworkers, supervisors, subordinates, government officials, citizens, community leaders, etc.
7. Summary report to the Client
 - Summary of interviews
 - Findings
 - Records check reports
 - Personal History Statement
 - Personal History Questionnaire Report
 - Documents, Certificates
8. PST meets with Client staff – debrief (optional)

CONSIDERATIONS

- Client will notify PST of any issues or other areas that they may want examined closely on any candidate.
- Client is aware that the Fair Credit Reporting Act (FCRA) applies to background checks conducted by third party investigators and that Client must provide a copy of the background check report to a candidate prior to taking an adverse employment decision based on the reports/records. In addition, as a third party investigator, the FCRA prohibits PST from reporting certain adverse information beyond seven (7) years (for positions with an annual salary under \$75,000).
- PST is a licensed Private Investigative Agency with the State of Washington.
- PST will contact the Client at any point during a candidate's background investigation when potentially disqualifying information is obtained. The Client will advise PST on how to proceed at that point.
- Client will provide PST with any relevant information on each candidate, such as a copy of the Client's employment application completed by the candidate, waivers, special requests, etc.
- PST personnel have extensive investigation and/or law enforcement investigative experience. PST investigators are WA licensed unarmed Private Investigators.