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# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Sean Whent  
Chief of Police

**SUBJECT:** Frozen Evidence Storage

**DATE:** November 6, 2015

City Administrator Approval

Date

12/3/15

**RECOMMENDATION**

**Staff Recommends That The City Council:**

**Adopt A Resolution Authorizing The City Administrator, Or Designee, To 1) Waive The Advertising/Bidding And Request For Proposal/Qualifications Requirements, And 2) Purchase Frozen Evidence Storage Services From Schaefer's Cold Storage For Two Years With Two Discretionary One-Year Extensions For One Hundred Twenty Five Thousand Dollars (\$125,000) Per Year And A Total Not To Exceed Five Hundred Thousand Dollars (\$500,000).**

**EXECUTIVE SUMMARY**

OPD requests approval of a resolution authorizing a contract with Schaefer's Cold Storage ("Schaefer's") in the amount of \$125,000 per year for the period of October 1, 2015 to September 30, 2017 with two discretionary one-year extensions. This agreement is needed so Schaefer's can continue providing temperature-controlled evidence storage and pallet retrieval services to the Oakland Police Department (OPD), as they have done for nearly 15 years. The source of funds is the General Purpose Fund approved in the Fiscal Year (FY) 2015-17 City of Oakland Policy Budget and expected in the FY 2017-19 and FY 2019-21 Policy Budgets. OPD requests that Council waive the advertising/bidding and Request for Proposal/Qualifications (RFP/Q) requirements per Oakland Municipal Code (OMC) Section 2.04.05.1.5, which allows waiver of the competitive bidding process and qualification-based awards for professional service contracts, as it is within the City's best interests to do so because Schaefer's is the only identified service provider following an unsuccessful RFP/Q process.

**BACKGROUND/LEGISLATIVE HISTORY**

California Penal Code Section 1417.9 requires all biological material recovered in a criminal case be retained as long as someone is incarcerated in connection with the case. This material must be stored in a condition suitable for DNA testing. The material may be destroyed sooner, but only after a lengthy, complex, and burdensome process. Nationwide, there have been over 350 convictions overturned as a consequence of post-conviction testing of DNA evidence. Many of these cases involved individuals who were sentenced to death. OPD does not have

Item: \_\_\_\_\_  
Public Safety Committee  
December 15, 2015

the capacity to store the required amount of biological evidence and must contract with a private vendor for this storage service.

**ANALYSIS AND POLICY ALTERATIVES**

Biological evidence is frequently collected for analysis in violent crimes including homicides and sexual assaults. This evidence is best preserved by freezing. The OPD Criminalistics Laboratory uses state and national databases for matching DNA in this biological evidence. This matching has led to the identification of suspects and contributed to successful prosecutions. Other cases may be solved in the future by analyzing DNA available in frozen samples. It is critical that such samples are not thawed and re-frozen, as such thawing and refreezing can cause degradation of DNA evidence.

With the continuous accumulation of frozen evidence at Schaefer's Cold Storage, the OPD Property and Evidence Unit staff can reduce the amount of frozen biological evidence by in a manner compliant with California Penal Code Section 1417.9. The influx of frozen biological evidence is growing and continues to exceed available storage space within OPD.

OPD conducted an RFP/Q process in late 2014 and received no responses. Following that unsuccessful process, OPD contacted Schaefer's Cold Storage and they agreed to provide frozen evidence storage services as they have done for OPD since 2001. Due to the lack of responses to the RFP/Q process, OPD is requesting waiver of the advertising/bidding and Request for Proposal/Qualifications (RFP/Q) requirements per OMC Section 2.04.05.1.5, which allows waiver of the competitive bidding process and qualification-based awards for professional service contracts when it is within the City's best interests to do so.

**FISCAL IMPACT**

The agreement with Schaefer's Cold Storage is initially for two years, with up to two additional one-year extensions. The \$125,000 per year cost estimate is based on the amount of frozen biological evidence projected for the next four years for a total cost of \$500,000. The evidence refrigeration services will be paid from the General Purpose Fund (1010), Property and Evidence Org (102120), Miscellaneous Rental Account (53219), Non-Project (0000000), Criminal Investigations Program (PS03).

<b>Fund Source</b>	<b>Organization</b>	<b>Account</b>	<b>Project</b>	<b>Program</b>	<b>Amount</b>
1010	102120	53219	0000000	PS03	\$125,000/yr.
<b>Total Expenditure</b>					<b>\$125,000/yr.</b>

**PUBLIC OUTREACH/INTEREST**

The public has a strong interest in the preservation of data/information that is gathered from a crime scene. This critical information is used to assist the Oakland Police Department in solving crimes and restoring peace and safety to the community at large. Schaefer's Cold Storage continues to provide the ideal environment for this preservation.

**COORDINATION**

This report was reviewed by the Office of the City Attorney and the Controller's Bureau.

**SUSTAINABLE OPPORTUNITIES**

**Economic:** There are no economic concerns associated with this report.

**Environmental:** There are no environmental concerns associated with this report.

**Social Equity:** Proper storage of biological evidence will continue to help ensure proper convictions and exonerations of individuals identified as suspects in criminal investigations.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To 1) Waive The Advertising/Bidding And Request For Proposal/Qualifications Requirements, And 2) Purchase Frozen Evidence Storage Services From Schaefer's Cold Storage For Two Years With Two Discretionary One-Year Extensions For One Hundred Twenty Five Thousand Dollars (\$125,000) Per Year And A Total Not To Exceed Five Hundred Thousand Dollars (\$500,000).

For information regarding this report, please contact Mary Gibbons, Crime Laboratory Manager, at (510) 238-3386 or Gary Chan, Police Services Manager I, at (510) 238-3074.

Respectfully submitted,



SEAN WHENT  
Chief of Police, Oakland Police Department

Reviewed by:  
D. Nell Taylor, Police Services Manager I

Prepared by:  
Danielle Cortijo, Administrative Analyst II  
Fiscal Services Division

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OFFICE OF THE CITY CLERK  
OAKLAND

**OAKLAND CITY COUNCIL**

Approved as to Form and Legality

  
City Attorney

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RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO 1) WAIVE THE ADVERTISING/BIDDING AND REQUEST FOR PROPOSAL/QUALIFICATIONS REQUIREMENTS, AND 2) PURCHASE FROZEN EVIDENCE STORAGE SERVICES FROM SCHAEFER'S COLD STORAGE FOR TWO YEARS WITH TWO DISCRETIONARY ONE-YEAR EXTENSIONS FOR ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$125,000) PER YEAR AND A TOTAL NOT TO EXCEED FIVE HUNDRED THOUSAND DOLLARS (\$500,000)**

**WHEREAS**, the City Council and residents of Oakland expect the Oakland Police Department (OPD) to maintain its ability to protect and preserve evidence associated with the commission of crimes; and

**WHEREAS**, Schaefer's Cold Storage has been the provider of evidence storage protection for the Oakland Police Department since 2001; and

**WHEREAS**, California Penal Code Section 1417.9 requires the appropriate governmental entity—in this case the Oakland Police Department—to retain all biological material recovered in connection with a criminal case for the period of time that any person remains incarcerated in connection with the case, and to store it in a condition suitable for DNA testing; and

**WHEREAS**, relocating evidence to another vendor can cause thawing and refreezing of evidence and potentially jeopardize criminal prosecutions; and

**WHEREAS**, Schaefer's Cold Storage agrees to maintain its ongoing relationship with the Oakland Police Department as a vital business ally; and

**WHEREAS**, funds have been identified in the General Purpose Fund (1010), Property and Evidence Org (102120), Miscellaneous Rental Account (53219), Non-Project (0000000), Criminal Investigations Program (PS03); and

**WHEREAS**, Oakland Municipal Code (OMC) Section 2.04.050.1.5 authorizes the City Council to waive the advertising and competitive bidding requirements of OMC Section 2.04.050 after a finding and determination that it is in the best interests of the City to do so; and

**WHEREAS**, staff recommends that the City Council make a finding and a determination that it is in the best interests of the City to waive advertising and bidding processes because Schaefer's Cold Storage is the only identified service provider

following an unsuccessful RFP/Q process; now, therefore be it

**RESOLVED:** That the Oakland City Council does hereby authorize the City Administrator, or designee, to waive the advertising/bidding and request for proposal/qualification requirements because it is within the City's best interests to do so as Schaefer's Cold Storage is the only identified service provider following an unsuccessful RFP/Q process; and be it

**FURTHER RESOLVED:** That the Oakland City Council, hereby authorizes the City Administrator, or designee, to purchase goods and services from Schaefer's Cold Storage for frozen storage facility use and bins procurement for the preservation of evidence for \$125,000 per year for two years, plus two discretionary one-year extensions, for a total amount not to exceed five hundred thousand dollars (\$500,000); and be it

**FURTHER RESOLVED:** That the contract term shall be July 1, 2015 through June 30, 2017 with two discretionary one-year extensions; and be it

**FURTHER RESOLVED:** That the \$125,000 annual cost for cost for Schaefer's Cold Storage shall be paid from the General Purpose Fund (1010), Property and Evidence Org (102120), Miscellaneous Rental Account (53219), Non-Project (0000000), Criminal Investigations Program (PS03); and be it

**FURTHER RESOLVED:** That the City Administrator or designee shall place a copy of the fully executed Schaefer's Cold Storage Agreement on file with the Office of the City Clerk; and be it

**FURHER RESOLVED:** That the City Administrator or designee is authorized to enter into a sole-source agreement with Schaefer's Cold Storage and complete all negotiations, certifications, assurances and documentation required to accept, modify, extend, and/or amend this agreement for services, except for any increases in the Agreement Cap set forth herein, without returning to City Council; and be it

**THEREFORE RESOLVED:** That the City Attorney shall approve the agreement and contract terms as to form and legality.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and  
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California