

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

2018 SEP 27 PM 2: 24

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne Kirkpatrick
Chief of Police

SUBJECT: OPD 2018 DNA Backlog Reduction
Program

DATE: August 6, 2018

City Administrator Approval

Date 9/26/18

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To: 1) Accept And Appropriate Grant Funds In An Amount Not To Exceed \$217,676 From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIJ) For Implementation Of The Fiscal Year (FY) 2018 Oakland Police Department (OPD) Forensic Casework Deoxyribonucleic Acid (DNA) Backlog Reduction Grant Program In The Oakland Police Department; And 2) Waive The City Advertising And Competitive Bidding Requirements For The Purchases Of DNA Typing Supplies and Instruments From Three Companies (1) Promega For Thirty-Five Thousand Nine Hundred Twenty Dollars (\$35,920), (2) Qiagen For Eleven Thousand Five Hundred Dollars (\$11,500), (3) ThermoFisher For Four Thousand Two Hundred and Forty-Four Dollars (\$4,244), and (4) ThermoFisher for One Hundred Forty-Three Thousand Eight Hundred and Sixty-Four Dollars (\$143,864) for DNA Typing Instrument.

EXECUTIVE SUMMARY

Adoption of this resolution will allow OPD to accept the USDOJ/NIJ DNA Capacity Enhancement and Backlog Reduction grant of \$217,676, which will fund the continuation of a critical staff position as well training and technology costs. The OPD Crime Laboratory (Crime Lab), with these grant funds, will be able to decrease the biological evidence analysis turnaround time and the backlog of cases needing testing. This resolution calls for waiving the City's Advertising and Competitive Bidding Requirements because of the need to buy highly specialized equipment available only from particular vendors.

BACKGROUND AND LEGISLATIVE HISTORY

The DNA Forensic Capacity Enhancement and Casework Backlog Reduction Program was created by the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) to assist laboratories that conduct DNA analysis. The goal of the Program is to improve DNA laboratory infrastructure and analysis capacity so that DNA samples can be processed efficiently and effectively. The program also provides continuing education courses associated with DNA analyses, as well as funds to analyze backlogged forensic DNA casework samples.

Item: _____
Public Safety Committee
October 09, 2018

Improvements are necessary and critical to prevent future DNA backlogs and to help the criminal justice system reach its full potential in the utilization of DNA technology.

OPD Criminalists conduct analysis on sexual assault evidence and produce reports to the investigators within 40 business days of the receipt of the kit in the Crime Lab; the Crime Lab utilizes robotic processes to analyze DNA evidence associated with homicides, other person crimes, and non-person crimes.

Backlogged case requests from homicides, non-sexual assault person crimes, and property crime cases will be enrolled into the FY2018 DNA Backlog Reduction Program. The DNA profiles obtained from probative evidence in these cases will be entered into the Combined DNA Index System (CODIS). Experience with DNA profiles entered into CODIS have resulted in a sixty-three percent hit rate.¹ This will assist not only Oakland Police Department investigators, but also the Alameda County District Attorney, and other law enforcement, prosecutorial, and judicial agencies in the surrounding area.

The City Council previously authorized acceptance of similar grant funds by Resolution No. 86982 C.M.S., dated November 2, 2017, Resolution No. 86532 C.M.S., dated November 22, 2016, Resolution No. 85899 C.M.S., dated November 17, 2015, Resolution No. 85223 C.M.S., dated October 21, 2014, Resolution No. 84686 C.M.S., dated November 5, 2013, Resolution No. 84041 C.M.S., dated October 2, 2012; Resolution No. 83672 C.M.S., dated December 15, 2011; Resolution No. 83030 C.M.S., dated October 19, 2010; Resolution No. 82291 C.M.S., dated September 22, 2009; Resolution No. 81624 C.M.S., dated October 21, 2008; Resolution No. 80869 C.M.S., dated October 2, 2007; Resolution No. 80129 C.M.S., dated September 19, 2006; Resolution No. 79534 C.M.S., dated October 18, 2005 and Resolution No. 78909 C.M.S., dated November 16, 2004.

ANALYSIS AND POLICY ALTERNATIVES

The Crime Lab will focus on three goals with the implementation of the FY 2018 DNA Backlog Reduction Program grant initiative:

Goal #1: Reduce the Forensic DNA Case Backlog

In the first half of 2018, the Forensic Biology Unit completed the analysis on 232 requests in an average of 114 business days². The goal of the proposed grant is to decrease the Forensic Biology Unit's turnaround time on all DNA analyses to less than 60 business days. Turnaround time will be reduced through specialized training and the purchase of supplies for Forensic Biology Unit Criminalists to analyze 52 backlogged cases. Case evaluation, biological evidence examination and screening, DNA typing, technical review, and data entry into CODIS will be

¹ "Hit rate" is defined as that portion of cases with DNA profiles submitted to CODIS in which at least one association (named individual and case-to-case) is made to a DNA profile(s) in the database. Multiple suspects may be identified in some portion of the cases examined.

² The Crime Lab counts business days as from the date of receipt of request to report publication.

conducted during normal business hours. Laboratory DNA kits will be purchased to analyze these 52 backlog cases.

Goal #2: Increase Capacity of the Crime Lab for Forensic Casework

The Crime Laboratory will use the grant to purchase a state of the art DNA Typing Instrument. This instrument will replace two antiquated DNA Typing Instruments and increase the capacity of conducting DNA typing on cases.

Goal #3: Provide Required Continuing Education for Each Criminalist and Forensic DNA Technician

The Criminalistics Division must comply with several types of credentialing processes:

- ANSI-ASQ National Accreditation Board accreditation (ANAB)
- Certification of individual scientists
- National DNA Index System (NDIS) requirements for CODIS data entry
- American Board of Criminalistics educational requirements
- Federal Bureau of Investigation (FBI) DNA Quality Assurance Standards (QAS) mandatory educational requirements

To comply with and maintain the Criminalistics Division's required accreditations, scientific staff must obtain continuing education credits. The Criminalistics Division and Forensic Biology Unit do not have independent budgets for training. The USDOJ/NIJ grant will fund travel and tuition for various conferences and training opportunities. It is anticipated that case completion time would improve to less than 60 days, on average, as a result of conference attendance, implementation of the new technologies learned, and training of Forensic Biology Unit staff. By the end of the award period, it is expected that the Forensic Biology Unit Criminalists will have fulfilled a portion of their required continuing education through this grant.

Waiver of the Advertising and Bidding Process

Section 2.04.050.1.5 (Bid Procedure) explains that the City can make exceptions to its complete bidding process when City Council finds and determines that it is in the best interests of the city. Purchasing DNA supplies and typing instruments from vendors other than those who manufacture DNA kits and instruments used by the Crime Laboratory would not be acceptable for this USDOC/NIJ grant. The Forensic Biology Unit has not validated the use of other products – the use of other products would hence violate the FBI DNA QAS; OPD therefore believes that waiving the complete bidding process in this instance is in the best interest of the City. The FBI DNA QAS must be followed for the Crime Lab to enter DNA profiles into the CODIS for searching. The reagents to be purchased through this grant include: DNA extraction kits (QIAgen), quantitation kits, Fusion6C DNA Typing Kits (Promega), DNA Typing Instrument and capillaries (ThermoFisher). These reagents and instruments from these particular vendors have undergone rigorous validation studies and no vendor substitutions are acceptable.

FISCAL IMPACT

The table below details how OPD will utilize the USDOJ/NIJ FY 2018 OPD Forensic Casework DNA Backlog Reduction Grant Program funds. The table lists the use of funding for personnel, travel and training, and technology and supply costs.

| Budget Category | Amount |
|---|------------------|
| Instrument | |
| DNA Typing Instrument | \$143,864 |
| Total Instruments | \$143,864 |
| Training and Travel | |
| Travel and Lodging Costs | \$12,598 |
| (12) Forensic Biology Unit Training Registrations | \$9,550 |
| Total Training and Travel | \$22,148 |
| Technology Supplies | |
| DNA Typing Supplies (Promega) | \$35,920 |
| DNA Typing Supplies (QIAgen) | \$11,500 |
| DNA Typing Supplies (ThermoFisher) | \$4,244 |
| Total Technology Supplies | \$51,664 |
| TOTAL | \$217,676 |

**Personnel costing does not include the 4% vacancy rate.*

The \$217,676 in grant funds from the USDOJ/NIJ for the implementation of the FY 2018 OPD Forensic Casework DNA Backlog Reduction Grant Program shall be appropriated in the Federal Grant Fund (2112), Criminalistics Division Org. (102610), Criminalistics Division Program (PS05), in a Project Number to be established.

| Fiscal Year | Fund Source | Organization | Account | Project | Program | Amount |
|--------------------|--------------------|---------------------|----------------|----------------|----------------|---------------|
| 2018-19 | 2112 | 102610 | PS05 | TBD | PS05 | \$217,676 |

PUBLIC OUTREACH / INTEREST

The public has a significant interest in ensuring that the OPD Crime Laboratory is able to effectively process DNA evidence; successfully processed DNA evidence helps OPD with investigations that bring lead to effective criminal prosecutions.

COORDINATION

The Budget Bureau and the Office of the City Attorney were consulted by OPD on the production of this report as well as the accompanying resolution.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

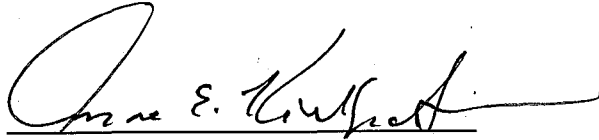
Social Equity: Provisions for continuing education and supplies funded by this grant will enhance OPD's ability to analyze biological evidence in criminal cases in a timelier fashion. The public safety for all Oakland residents and visitors is enhanced through greater OPD investigative capacity.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To: 1) Accept And Appropriate Grant Funds In An Amount Not To Exceed \$217,676 From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIJ) For Implementation Of The Fiscal Year (FY) 2018 Oakland Police Department (OPD) Forensic Casework Deoxyribonucleic Acid (DNA) Backlog Reduction Grant Program In The Oakland Police Department; And 2) Waive The City Advertising And Competitive Bidding Requirements For The Purchases Of DNA Typing Supplies and Instruments From Three Companies (1) Promega For Thirty-Five Thousand Nine Hundred Twenty Dollars (\$35,920), (2) Qiagen For Eleven Thousand Five Hundred Dollars (\$11,500), (3) ThermoFisher For Four Thousand Two Hundred and Forty-Four Dollars (\$4,244), and (4) ThermoFisher for One Hundred Forty-Three Thousand Eight Hundred and Sixty-Four Dollars (\$143,864) for DNA Typing Instrument.

For questions regarding this report, please contact Jennifer Mihalovich, DNA Technical Leader, Criminalist III, at (510) 238-3386.

Respectfully submitted,



Anne Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
Sandra Sachs, Crime Laboratory Manager,
OPD, Criminalistics Division

Prepared by:
Jennifer S. Mihalovich, Criminalist III
OPD, Criminalistics Division

Bruce Stoffmacher, Legislation Manager
OPD, Research and Planning, Office of the Chief

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2018 SEP 27 PM 2:24

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION: 1) AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO ACCEPT AND APPROPRIATE GRANT FUNDS IN AN AMOUNT NOT TO EXCEED TWO HUNDRED SEVENTEEN THOUSAND AND SIX HUNDRED AND SEVENTY-SIX DOLLARS (\$217,676) FROM THE U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE (USDOJ/NIJ) FOR IMPLEMENTATION OF THE FISCAL YEAR 2018 FORENSIC CASEWORK DEOXYRIBONUCLEIC ACID (DNA) BACKLOG REDUCTION GRANT PROGRAM IN THE OAKLAND POLICE DEPARTMENT; 2) WAIVING THE ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS FOR THE PURCHASE OF DNA TYPING SUPPLIES FROM THREE COMPANIES: (1) PROMEGA FOR THIRTY-FIVE THOUSAND NINE HUNDRED TWENTY DOLLARS (\$35,920), (2) QIAGEN FOR ELEVEN THOUSAND FIVE HUNDRED DOLLARS (\$11,500), AND (3) THERMOFISHER FOR FOUR THOUSAND TWO HUNDRED AND FORTY-FOUR DOLLARS (\$4,244); AND 3) THERMOFISHER FOR ONE HUNDRED FORTY-THREE THOUSAND EIGHT HUNDRED AND SIXTY-FOUR DOLLARS (\$143,864) FOR A DNA TYPING INSTRUMENT

WHEREAS, the advent of Deoxyribonucleic Acid (DNA) technology and automation equipment has revolutionized law enforcement's ability to analyze biological evidence at a genetic level; and

WHEREAS, the DNA analysis of semen evidence encountered in sexual assault cases can provide information leading to arrest and prosecution; and

WHEREAS, Oakland Police Department (OPD) Criminalists conduct analysis on sexual assault evidence and produce reports to the investigators within 40 business days of the receipt of the kit in the laboratory; and

WHEREAS, the Forensic Casework DNA Backlog Reduction Program was created by the U.S. Department of Justice, National Institute of Justice (USDOJ/NIJ) to assist laboratories that conduct DNA analysis, with a goal of improving DNA laboratory infrastructure and analysis capacity for more effective and efficient DNA sample

processing; and

WHEREAS, grant funds in an amount not to exceed \$217,676 were awarded by USDOJ/NIJ to OPD for its Fiscal Year 2018 implementation of the DNA Backlog Reduction Program; and

WHEREAS, the Forensic Casework DNA Backlog Reduction Program was created to assist laboratories in reducing the number of cases in their backlog in which DNA analyses may be conducted on biological evidence; and

WHEREAS, the OPD Criminalistics Division also plans to use \$51,664 in USDOJ/NIJ DNA Backlog Reduction Program grant funds to purchase needed DNA reagent typing supplies; and

WHEREAS, the OPD Criminalistics Division also plans to use \$143,864 in USDOJ/NIJ DNA Backlog Reduction Program grant funds to purchase a needed DNA typing instrument; and

WHEREAS, the OPD Criminalistics Division must use reagent typing supplies from particular vendors who have undergone rigorous validation studies and are currently in use by the OPD Crime Laboratory. Purchasing DNA supplies from vendors other than those who manufacture DNA kits would not be acceptable as the OPD Forensic Biology Unit has not validated their use and hence would violate the Federal Bureau of Investigation (FBI) DNA Quality Assurance Standards (QAS); and

WHEREAS, Oakland Municipal Code (OMC) Section 2.04.051(B) 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 purchasing DNA supplies from vendors other than those currently used by the Crime Laboratory have not been clinically validated for use, and

WHEREAS, the grant term for the proposed initiative is January 1, 2019 through December 31, 2020; and

WHEREAS, the City Council previously authorized acceptance of similar grant funds by Resolution No. 86982 C.M.S., dated November 28, 2017, Resolution No. 86532 C.M.S., dated December 13, 2016, Resolution No. 85899 C.M.S., dated November 17, 2015, Resolution No. 85223 C.M.S., dated October 21, 2014, Resolution No. 84686 C.M.S., dated November 5, 2013, Resolution No. 84041 C.M.S., dated October 2, 2012; Resolution No. 83672 C.M.S., dated December 20, 2011; Resolution No. 83030 C.M.S., dated October 19, 2010; Resolution No. 82291 C.M.S., dated September 22, 2009; Resolution No. 81624 C.M.S., dated October 21, 2008; Resolution No. 80869 C.M.S., dated October 2, 2007; Resolution No. 80129 C.M.S., dated

September 19, 2006; Resolution No. 79534 C.M.S., dated October 18, 2005 and Resolution No. 78909 C.M.S., dated November 16, 2004; therefore be it

RESOLVED: That the City Council hereby authorizes the City Administrator, or designee, to accept and appropriate grant funds in an amount not to exceed \$217,676 from the USDOJ/NIJ and to increase revenues and appropriate said budget to OPD; and be it

FURTHER RESOLVED: That said grant funds, in an amount not to exceed \$217,676, shall be appropriated in the Federal Grant Fund (2112), Criminalistics Division Org. (102610), Criminalistics Division Program (PS05), in a Project Number to be established; and be it

FURTHER RESOLVED: That said grant funds shall be used to fully fund one (1) Criminalist I position to conduct examination of biological material during the term of the grant; and be it

FURTHER RESOLVED: That said grant funds shall be used to fund DNA training courses, and purchase laboratory-validated DNA typing reagents utilized in the examination of biological material; and be it

FURTHER RESOLVED: That the City Council finds and determines that pursuant to OMC Section 2.04.050.1.5 and based upon the reasons stated above and in the City Administrator's report accompanying this resolution, that it is in the best interests of the City to waive the advertising and competitive bidding requirements of the OMC for the purchases of DNA typing instrument for \$143,864 from ThermoFisher, DNA typing supplies from ThermoFisher for \$4,244, QIAGEN for \$11,500 and Promega for \$35,920; and be it

FURTHER RESOLVED: That the City Administrator, or designee, is hereby authorized to complete all required negotiations, certifications, assurances, agreements and documentation required to accept, modify, extend and/or amend the grant award and all contracts entered into pursuant to spending said grant funds, provided the not-to-exceed amounts are complied with; and be it

FURTHER RESOLVED: That any agreement authorized by this resolution shall be reviewed and approved by the Office of the City Attorney for form and legality prior to execution, and a copy shall be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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