



City Attorney

# OAKLAND CITY COUNCIL

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

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

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**RESOLUTION: 1) AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE GRANT FUNDS IN AN AMOUNT NOT TO EXCEED THREE HUNDRED SIXTY-SEVEN THOUSAND EIGHT HUNDRED NINETY EIGHT DOLLARS (\$367,898) FROM THE U.S. DEPARTMENT OF JUSTICE (US DOJ), OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE FOR IMPLEMENTATION OF THE FISCAL YEAR 2021 DNA CAPACITY ENHANCEMENT FOR BACKLOG REDUCTION (CEBR) GRANT PROGRAM FOR THE OAKLAND POLICE DEPARTMENT (OPD); AND 2) WAIVE THE CITY’S ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS FOR THE PURCHASE OF DNA TYPING SUPPLIES AND INSTRUMENTS FROM (1) QIAGEN FOR FIFTY-FIVE THOUSAND SIX HUNDRED DOLLARS (\$55,600), (2) PROMEGA FOR ONE HUNDRED SEVENTY THOUSAND ONE HUNDRED DOLLARS (\$170,100), (3) THERMO FISHER/LIFE TECHNOLOGIES FOR FORTY-TWO THOUSAND TWO HUNDRED THIRTY DOLLARS (\$42,230), (4) NICHEVISION FOR EIGHTY THOUSAND DOLLARS (\$80,000), AND (5) FISHER SCIENTIFIC FOR TWELVE THOUSAND EIGHT HUNDRED NINETY-ONE DOLLARS (\$12,891).**

**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 Capacity Enhancement for Backlog Reduction (CEBR) Program was created by the U.S. Department of Justice, Office of Justice Program, Bureau of Justice Assistance (DOJ/OJP/BJA) to assist laboratories that conduct DNA analysis with a goal of improving DNA laboratory infrastructure and analysis capacity so that DNA samples can be processed efficiently and effectively; and

**WHEREAS**, grant funds in an amount not to exceed \$367,898, awarded by DOJ/OJP/BJA to OPD will be applied to Fiscal Year 2022 implementation of the DNA Capacity Enhancement for Backlog Reduction Program; and

**WHEREAS**, the DNA CEBR Program was created to assist crime laboratories in increasing DNA typing capacity and reducing the number of cases in their backlog in which DNA analyses may be conducted on biological evidence; and

**WHEREAS**, the funds will be allocated to purchase equipment, staff required training, and purchase laboratory-validated DNA typing reagents and supplies; and

**WHEREAS**, a list of technologies was introduced by the Crime Lab to the Privacy Advisory Commission (PAC) where both a Surveillance Impact Report and a Biometric Technology Use Policy for DNA Instrumentation and Analysis Software were provided to and recommended by the PAC, and approved by the City Council via adoption of Resolution No. 88388 C.M.S. on December 1, 2020; and

**WHEREAS**, the OPD Criminalistics Division must use and maintain rigorously validated DNA typing reagents and instruments from specific vendors because purchasing DNA supplies from vendors other than those who manufacture DNA kits or instruments not currently used by the crime lab 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 2.04.050.1.5 authorizes the City Council to waive the advertising and competitive bidding requirements of OMC Section 2.04.050 after finding and determining that it is in the best interests of the City to do so; and

**WHEREAS**, the proposed initiative grant term has a performance start date of October 1, 2021, and end date of September 30, 2023; and

**WHEREAS**, the City Council previously authorized acceptance of similar grant funds by Resolution No. 88358 C.M.S., dated November 10, 2020, Resolution No. 87996 C.M.S., dated January 21, 2020, Resolution No. 87429 C.M.S., dated November 1, 2018, Resolution No. 87428 C.M.S., dated September 27, 2018, 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; and 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; 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 and equipment from vendors other than

those who manufacture DNA kits and equipment currently used by the Crime Laboratory would not be effective as other DNA supplies and instruments from other vendors have not been validated for use; now, therefore be it

**RESOLVED:** That the City Council hereby authorizes the City Administrator to accept and appropriate grant funds in an amount not to exceed \$367,898 from the DOJ/OJP/BJA 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 \$367,898, 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 purchase four cold storage units; 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 cold storage units for \$12,891 from Fisher Scientific, and DNA typing supplies from Qiagen for \$55,600, Promega for \$170,100; and Thermo Fisher/Life Technologies for \$15,230, and software upgrade and maintenance for \$80,000 from NicheVision, and instrument performance maintenance for \$27,000 from Promega; and be it

**FURTHER RESOLVED:** that the Department continues to be in compliance with O.M.C 9.64.030(2) regarding DNA technology by virtue of the Department providing to the Privacy Advisory Commission (PAC) a list of all DNA technology used by the Crime Lab included in the Impact Statements and Use Policies which were both approved by Council in Resolution 88380 dated November 10, 2020; and be it

**FURTHER RESOLVED:** the Department is prohibited from purchasing any new equipment or software that may be considered surveillance technology for use by the Crime Lab or that contains any new capabilities or features beyond the existing technology in the Crime Lab's possession as of November 2020, and that this proposal does not contain any technology which has a new capability or feature; and be it

**FURTHER RESOLVED:** That the City Administrator 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 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 – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO, and PRESIDENT BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
Asha Reed  
City Clerk and Clerk of the Council  
of the City of Oakland, California