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# AGENDA REPORT

2016 OCT 13 PM 2:41

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

**FROM:** David Downing,  
Assistant Chief of  
Police

**SUBJECT:** OPD Crime Lab Supplies Procurement

**DATE:** September 27, 2016

City Administrator Approval  
Approval

Date

10/13/16

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Waiving The City's Competitive Advertising And Bidding, And The Request For Proposals/Qualifications Requirements For The Purchase Of Certified And Accredited Forensic Laboratory Analytical Supplies, Equipment, Instrumentation, Software, And Related Services On An As-Needed Basis When Crime Laboratory Subject Matter Experts Determine Such Supplies And / Or Services Are Required By Forensic Casework Conditions, The Laboratory's Validated Methods, Or Its Quality Assurance Program, Or Needed For The Timely Analysis Of Evidence, Or When The Materials Or Services Are Available From Only One Source In The Amount Of Up To Three Hundred Fifty Thousand Dollars (\$350,000) Per Fiscal Year Through June 30, 2020 For A Total Cost Not To Exceed One Million Four Hundred Thousand Dollars (\$1,400,000).**

## EXECUTIVE SUMMARY

The Oakland Police Department (OPD) requests the approval of a Resolution waiving the City's competitive bidding requirements for the purchase of analytical supplies, instrumentation and services, equipment and services, quality assurance supplies and services, totaling \$350,000 per year, for four years. These items are consistently needed by OPD's forensic crime laboratory (Crime Laboratory) for drug analysis, firearms analysis, latent print, crime scene response, and quality assurance processes.

## BACKGROUND AND LEGISLATIVE HISTORY

OPD's Criminalistics Division, which operates the Crime Laboratory, is responsible for the scientific evaluation, analysis and interpretation of physical evidence. The Criminalistics Division also responds to select crime scenes requiring specialized forensic knowledge and skills of the Criminalistics staff. The Crime Laboratory is accredited to ISO/IEC 17025:2005 standards<sup>1</sup> by

<sup>1</sup> In most major countries, ISO/IEC 17025 is the standard for which most labs must hold accreditation in order to be deemed technically competent.

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the American Society of Crime Laboratory Directors Laboratory Accreditation Board/ANSI-ASQ National Accreditation Board (hereinafter "ANAB"). Accreditation is required to maintain eligibility for federal grants pertaining to forensic science and for access to federal databases, such as the Combined DNA Index System (CODIS), which enables OPD to identify unknown individuals through DNA associations. ANAB is the only organization in the United States that accredits forensic science laboratories. The Crime Laboratory must meet numerous ANAB requirements, including full reassessments every four years, annual surveillance visits, annual external proficiency testing by ANAB approved providers, and regular equipment and instrument maintenance and calibrations conducted by approved (i.e. properly certified) providers. ISO 17025 standards require an evaluation of suppliers of materials and services and the ability of the crime laboratory to select appropriate suppliers for materials and services.

The Crime Laboratory constantly needs various forensic supplies, software, and services for use in drug analysis, firearms analysis, latent print analysis, crime scene response, and quality assurance processes (see page Table 1 on page 4 for more details). The Crime Laboratory requires access to several large forensic supply companies in order to acquire these supplies, which are used on a daily basis. These suppliers include, but are not limited to, VWR, Fisher Scientific, USA Scientific, and Uline. These companies frequently offer discounted government pricing for public agencies such as OPD. The Crime Laboratory often orders 20 or 30 different items on one order from one supply company vendor. Oakland Municipal Code (OMC) Section 2.04.05 requires a competitive advertising and bidding and Requests for Proposal/Qualifications (RFP/Q) process for related supplies and services. Therefore, the Crime Laboratory must comply with the advertising and bidding process for each item needed. The Crime Laboratory cannot place one order with one forensic supply company when it needs to bid each item, supplied by a particular forensic supply company. Additionally, the Crime Laboratory is faced with many more purchase orders and invoices when it must bid each needed supply separately. Furthermore, this multiple-purchase order process is conducted by scientific staff, removing these subject matter experts from otherwise performing casework and strains the Crime Laboratory's very limited administrative capacity.

The Crime Laboratory has conducted extensive validation studies using specific supplies, instrumentation, reagents, and software. Validation studies show that a method is fit for purpose and are a mandatory element of ISO 17025 Standards and the ANAB accreditation program. Where materials or instruments are part of a method validation, those specified materials must be used in the method. If the Laboratory is unable to procure the specified materials or services, the only alternative would be to revalidate analytical procedures—an impractical and time consuming alternative that would be inefficient, expensive, and wasteful. Additionally, the Laboratory cannot always anticipate the requirements of future casework and must be able to acquire materials or services necessary to analyze the physical evidence at hand. In such cases, time is of the essence in order to provide critical information to investigators and/or the courts expeditiously, sometimes within 24 hours. Obtaining a "sole source" designation from City Council in these situations is impractical and may deleteriously affect the outcome of an investigation.

The City's competitive bidding process includes the consideration of suitable alternatives. However, with the Crime Laboratory, alternative products are often not acceptable. Crime Laboratory equipment often contains proprietary components that are under manufacturer warranty and cannot be serviced by any vendor other than the manufacturer. Examples include,

but are not limited to: Thermo-Fisher genetic analyzers used in DNA analysis; Perkin Elmer and Thermo-Fisher UV Visible spectrophotometers and Fourier Transform Infrared (FTIR) spectrometer used in Drug Analysis; the Foray Technologies ADAMS Digital Imaging System, the Coherent, Inc. TracER laser, the Foster and Freeman cyanoacrylate fuming cabinet, the Arrowhead Forensics FDC-5 environmental chamber used in by the Latent Print Unit; and the LEEDS microscopes used in the Firearms Unit.

As a second example, the Laboratory provides collection for the collection of specific types of evidence. One such kit designed by the Alameda County Crime Laboratory to its specifications, is used for the collection of gunshot residue (GSR) from the hands of persons suspected of handling or firing a weapon. OPD is required to use this kit when submitting samples to the Alameda County Crime Laboratory for GSR analysis. This kit is only available from one vendor; there is no alternative source for this supply

Lastly, the Laboratory is the OPD custodian of seized drug evidence. The Laboratory has designated the use of specific envelopes by OPD and outside agencies for the collection, packaging and submission of suspected drug evidence. Since the 1980's, the required envelope is one that is secured by a pair of interlocking metal clasps that provide greater security than the use of tape, as tape will fail with time. This envelope is available from one vendor only—the Security Envelope Company located in Minneapolis, MN.

As custodian, the Laboratory is responsible for the security of drug evidence and, ultimately, for its destruction by incineration. Because these materials are considered hazardous, OPD is required by law to dispose of them at a state regulated incinerator. The closest facility to Oakland is in the central valley and is operated by Covanta, Inc.

The Crime Laboratory also faces time-line challenges that do not always allow for effective compliance with the competitive bidding requirements. There are times when the evidence in a case is of a type that has not previously been seen by the laboratory or requires a unique solution to solve the analytical challenge at hand. Under these circumstances, laboratory standards or specialty equipment need to be acquired quickly. For example, new or novel drugs become available almost weekly on the illicit market and must be analyzed rapidly by the Crime Laboratory to meet court deadlines. Analysis of these drugs requires comparison to a known drug standard in order to identify the material. It is impractical and expensive to have every drug standard on hand. Not all drug standard supply companies stock the same materials, frequently making it impossible to obtain three bids for the material required. Ordering drug standards for these novel drugs is required to meet strict court imposed deadlines, such as “no time waiver” cases. There is insufficient time in these cases to seek “sole source” designation from City Council to obtain the necessary standards under the current ordering rules unless a mechanism allowing rapid ordering of drug standards is authorized.

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## ANALYSIS AND POLICY ALTERNATIVES

It is not possible to anticipate when casework situations will arise which require additional supplies, instrumentation, reagents, or software. The City's competitive advertising and bidding requirements make it difficult for the Crime Laboratory to seek "sole source" purchasing authority each time such situations occur. Also, the Crime Laboratory employs forensic subject matter experts who possess the requisite scientific knowledge to determine which supplies, instruments, and services are most suited to the Laboratory's needs or which are required to successfully analyze evidence in particular cases. Therefore, staff believes that it is in the City's best interests to provide the OPD Crime Laboratory with the \$350,000 annual purchasing authority (for four years) separate from the City's advertising and competitive bidding requirements - Oakland Municipal Code (OMC) Section 2.04.05 requires a competitive advertising and bidding and Requests for Proposals / Qualifications (RFP/Q) process for related supplies and services; OMC Section 2.04.050.1.5 allows the City Council to waive the advertising and competitive bidding requirements after a finding and determination that it is in the best interests of the City to do so. This waiver would be for the purchase of certified and accredited forensic laboratory analytical supplies, equipment, instrumentation, instrument services and software on an as needed basis when crime laboratory subject matter experts determined such supplies and services are required by the following criteria:

- Forensic casework conditions
- The laboratory's validated methods, or its quality assurance program
- Needed for the timely analysis of evidence
- The materials or services are available from only one source

The City Council has authorized several sole-source contracts for large Crime Laboratory purchases where specific supplies and services were needed to maintain accreditation. For example, Resolution No. 85899 C.M.S., approved on November 17, 2015, authorized the acceptance of \$474,282 in U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIJ) funds for a Forensic Casework Deoxyribonucleic Acid (DNA) Backlog Reduction Grant as well as a waiver of the City's advertising and bidding requirements for the purchases DNA analysis software, training and supplies for the same dollar amount. This Resolution allowed the Crime Laboratory to make purchases from several forensic supply firms, each of whom sold supplies that complied with all of the Crime Laboratory's accreditation requirements. Similarly, the City Council approved Resolution No. 85943 C.M.S on January 5, 2016. This resolution authorized a waiver of the City's competitive advertising and bidding requirements for the sole-source purchase of DNA analysis supplies, instrumentation, services, and software from nine different specialized firms, for an initial cost of \$465,000 as well as \$330,000 in annual extensions through June 30, 2020.

However, the Crime Laboratory also regularly needs to make many other, often smaller, non-DNA related purchases throughout the year. Table 1 below lists providers upon whom the Crime Laboratory currently depends for specific supplies, instrumentation, equipment, software and related services – all of which relate to casework, evidence custodial obligations, and quality assurance.

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Table 1: OPD Crime Laboratory Supplies and Services Needed on a Regular Basis

VENDOR/SUPPLIER	CATEGORY (GOODS OR SERVICES)	DESCRIPTION
<b>General Laboratory</b>		
ASCLD/LAB <sup>2</sup> /ANAB	Services	Accreditation services
Collaborative Testing Services	Goods	ASCLD-LAB/ANAB approved proficiency test provider
Heusser-Neweigh Division of Rice Lake, Inc.	Services	NIST <sup>3</sup> traceable instrument and weights calibration services
VWR	Goods	General laboratory supplies
Fisher Scientific	Goods	General laboratory supplies
USA Scientific	Goods	General laboratory supplies
Uline	Goods	General laboratory supplies
REMI	Services	Preventive maintenance service provider for analytical equipment
<b>Drug Analysis</b>		
Cayman	Goods	Drug reference standards
Cerilliant	Goods	Drug reference standards
Grace Alltech Scientific	Goods	Drug reference standards
Steraloids	Goods	Steroid reference standards
Sigma Aldrich	Goods	Chemicals and reference standards
Spectrum Chemicals	Goods	Bulk drug reference standards
Alliance Gas Products	Goods	Compressed gases used in instrumental analyses
Full Spectrum	Services	Gas chromatography/mass spectrometry maintenance
Perkin-Elmer	Goods and Services	Ultraviolet (UV)-Visible instrument accessories vendor and service provider
Thermo-Fisher	Goods and Services	FTIR <sup>4</sup> Instrument and accessories vendor and service provider
Security Envelope Company	Goods	Provider of OPD designed drug submission envelopes with irreversible metal clasp locking closure system
Covanta, Inc.	Services	Closest California state regulated incinerator used for drug evidence destruction
<b>Latent Prints Unit</b>		
Foray Technologies	Equipment and services	ADAMS latent print image management system, software support, maintenance

<sup>2</sup> American Society of Crime Laboratory Directors / Laboratory Accreditation Board

<sup>3</sup> National Institute of Science and Technology

<sup>4</sup> Fourier Transform Infra-Red (FTIR) is used to detect trace explosive residue samples at security checkpoints, but FTIR is better suited to handle the types of samples that enter a forensic laboratory.

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VENDOR/SUPPLIER	CATEGORY (GOODS OR SERVICES)	DESCRIPTION
<b>Latent Prints Unit Continued</b>		
Coherent	Services	TracER laser repair/maintenance
Foster+Freeman	Services	Maintenance and repair of the latent print fuming chamber
Arrowhead Forensics	Services	Maintenance and repair of the latent print environmental chamber
Forensic Comparison Software Company	Goods (software)	Forensic comparison software with mini-AFIS database capability for use in complex latent print comparison cases
<b>Firearms Unit</b>		
LEEDS, Inc.	Goods and Services	Comparison and other optical microscopes; Instrument servicing and calibration of LEEDS comparison microscopes
CSI Forensic Supply, Inc.	Goods	Alameda County Laboratory designed Gunshot Residue Collection Kit

The Crime Laboratory can more effectively focus its capacities on supporting OPD's Bureau of Investigation's (BOI) mission of investigating crimes if authorized to make the regular, purchases from these different forensic supply companies to meet the needs listed above. The Crime Laboratory will also better support BOI if it can modify or add to the list in Table 1 to meet unknown, future casework demands. Consequently, the Laboratory requests the ability to order a material or service not specifically included on this list on a sole source basis when the material or service is critical to a validated analytical method, necessary to meet accreditation requirements, is legislatively required, or is so designated by a Crime Laboratory subject matter expert.

**FISCAL IMPACT**

Funding for these purchases will come from the General Purpose Fund (1010.102610.PS05) as well as from and from state or federal grant sources awarded directly or indirectly to the Crime Lab. No additional general funding sources are requested.

**PUBLIC OUTREACH / INTEREST**

No public outreach was required for this report and Resolution.

**COORDINATION**

The Controller's Bureau and the Office of the City Attorney consulted with this report and accompanying Resolution.

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**SUSTAINABLE OPPORTUNITIES**

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

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

**Social Equity:** All Oaklanders benefit equally from continued support of the Crime Laboratory's analysis which supports criminal investigations.

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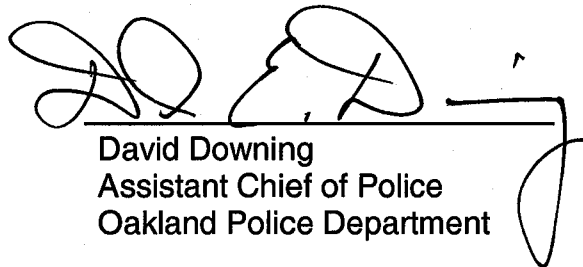
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**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

Staff Recommends That The City Council Adopt A Resolution Waiving The City's Competitive Advertising And Bidding, And The Request For Proposals/Qualifications Requirements For The Purchase Of Certified And Accredited Forensic Laboratory Analytical Supplies, Equipment, Instrumentation, Software, And Related Services On An As-Needed Basis When Crime Laboratory Subject Matter Experts Determine Such Supplies And / Or Services Are Required By Forensic Casework Conditions, The Laboratory's Validated Methods, Or Its Quality Assurance Program, Or Needed For The Timely Analysis Of Evidence, Or When The Materials Or Services Are Available From Only One Source In The Amount Of Up To Three Hundred Fifty Thousand Dollars (\$350,000) Per Fiscal Year Through June 30, 2020 For A Total Cost Not To Exceed One Million Four Hundred Thousand Dollars (\$1,400,000).

For questions regarding this report, please contact Mary M. Gibbons, Crime Laboratory Manager, at (510) 238-3386.

Respectfully submitted,



David Downing  
Assistant Chief of Police  
Oakland Police Department

Reviewed by:  
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Bureau of Investigation

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OPD, Office of the Chief, Research and Planning

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OPD, Office of the Chief, Research and Planning

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*Armeda Lott*

City Attorney

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

RESOLUTION WAIVING THE CITY'S COMPETITIVE ADVERTISING AND BIDDING, AND THE REQUEST FOR PROPOSALS/QUALIFICATIONS REQUIREMENTS FOR THE PURCHASE OF CERTIFIED AND ACCREDITED FORENSIC LABORATORY ANALYTICAL SUPPLIES, EQUIPMENT, INSTRUMENTATION, SOFTWARE, AND RELATED SERVICES ON AN AS-NEEDED BASIS WHEN CRIME LABORATORY SUBJECT MATTER EXPERTS DETERMINE SUCH SUPPLIES AND / OR SERVICES ARE REQUIRED BY FORENSIC CASEWORK CONDITIONS, THE LABORATORY'S VALIDATED METHODS, OR ITS QUALITY ASSURANCE PROGRAM, OR NEEDED FOR THE TIMELY ANALYSIS OF EVIDENCE, OR WHEN THE MATERIALS OR SERVICES ARE AVAILABLE FROM ONLY ONE SOURCE, IN THE AMOUNT OF UP TO THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) PER FISCAL YEAR THROUGH JUNE 30, 2020 FOR A TOTAL COST NOT TO EXCEED ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000)

**WHEREAS, WHEREAS,** the Oakland Police Department Criminalistics Laboratory (Crime Laboratory) is a full service forensic science laboratory accredited by the American Society of Crime Laboratory Directors Laboratory Accreditation Board/American National Standards Institute (ANSI)-American Society for Quality (ASQ) National Accreditation Board (ASCLD-LAB/ANAB); and

**WHEREAS,** the Crime Laboratory must adhere to all applicable accreditation standards and requirements in order to successfully maintain and renew accreditation every four years; and

**WHEREAS,** ASCLD-LAB/ANAB is the only accreditation board in the United States engaging in the accreditation of forensic science laboratories; and

**WHEREAS,** accreditation is a requirement for eligibility for federal grant funds and for access to the state and national DNA databases; and

**WHEREAS,** the use of validated methods and proficiency testing by ASCLD-LAB/ANAB approved providers are requirements of accreditation; and

**WHEREAS**, the Crime Laboratory has implemented validated methods across all its forensic disciplines; and

**WHEREAS**, those validated methods specify supplies, instrumentation and other analytical conditions necessary to produce reliable results; and

**WHEREAS**, the Crime Laboratory relies on specific supplies, instruments, equipment, instrument service providers, equipment service providers, proficiency testing providers, and evidence collection kits in order to perform its casework using its validated methods; and

**WHEREAS**, the Crime Laboratory employs forensic subject matter experts (subject matter experts) who possess the requisite scientific knowledge to determine which supplies, instruments, and services are most suited to the Laboratory's needs or which are required to successfully analyze evidence in particular cases; and

**WHEREAS**, subject matter experts may determine that such supplies, instrumentation, instrument services and related software are specifically required by forensic casework conditions, the laboratory's validated methods, or its quality assurance program, or that the materials are needed for the timely analysis of evidence, or that the materials or services are available from only one source, or that such materials or services cannot be substituted by products from another supplier; and

**WHEREAS**, subject matter experts anticipate entering into such agreements with vendors such as, but not limited to the following: the American Society of Crime Laboratory Directors Laboratory Accreditation Board/ANSI-ASQ National Accreditation Board, Collaborative Testing Services, Heusser-Neweigh Division of Rice Lake, Inc., VWR, Fisher Scientific, USA Scientific, ULine, REMI, Cayman, Cerilliant, Grace Alltech Scientific, Steraloids, Sigma Aldrich, Spectrum Chemicals, Alliance Gas Products, Full Spectrum, Perkin-Elmer, Thermo-Fisher, the Security Envelope Company, Covanta, Inc., Foray Technologies, Coherent, Foster+Freeman, Arrowhead Forensics, Forensic Comparison Software Company, LEEDS, Inc., CSI Forensic Supply, Inc., and

**WHEREAS**, Oakland Municipal Code (OMC) Section 2.04.050.A requires the City Administrator to conduct advertising and bidding and award to the lowest responsible bidder for the purchase of goods, and Oakland Municipal Code section 2.04.050.1.5 allows the City Council to waive the advertising and competitive bidding requirements after a finding and determination that it is in the best interests of the City to do so; and

**WHEREAS**, OMC Section 2.04.051.A requires the City Administrator to conduct a request for proposals/qualifications (RFP/Q) process for professional services contracts in excess of \$25,000 and OMC Section 2.04.051.B allows Council to waive the RFP/Q requirements upon a finding by the Council that it is in the best interest of the City to do so; and

**WHEREAS**, City staff recommends waiving the advertising and bidding requirements, and request for proposals/qualifications requirements because: (1) casework situations require the rapid acquisition of specific supplies and materials which may be available from only one source, and (2) it is not possible to anticipate when such casework situations will arise and thus very difficult for the Crime Laboratory to seek "sole source" purchasing authority each time such situations occur; and

**WHEREAS**, the City Administrator has determined that a professional services agreement authorized by this resolution would be of a professional and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive civil service; and

**WHEREAS**, the City Council previously authorized on five separate occasions the waiving of advertising and competitive bidding for the purchase of Crime Laboratory DNA related supplies, instrumentation and software under Resolution No. 85943 C.M.S. dated January 5, 2016; 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; and Resolution No. 83672 C.M.S., dated December 15, 2011; and,

**WHEREAS**, the Crime Laboratory anticipates the annual need to replenish supplies, instruments, and related services from the listed vendors or required from other sources based on casework needs as determined by forensic subject matter experts at a cost not to exceed approximately \$350,000 per fiscal year; therefore be it

**RESOLVED:** That the City Council finds and determines that pursuant to OMC Sections 2.04.050.1.5 and 2.04.051.B, and based upon the reasons stated above and in the report accompanying this resolution, that it is in the best interests of the City to waive the City's advertising and competitive bidding requirements for purchase of certified and accredited forensic laboratory analytical supplies, equipment, instrumentation, instrument services and software on an as-needed basis when crime laboratory subject matter experts determine such supplies and related services are required by forensic casework conditions, the laboratory's validated methods, or its quality assurance program, or needed for the timely analysis of evidence, or when the materials or services are available from only one source at a cost not to exceed \$350,000 per fiscal year, through June 30, 2020, for a total cost not to exceed one million four hundred thousand dollars (\$1,400,000); and be it

**FURTHER RESOLVED:** That proposed purchase agreements may be entered into with the following vendors: the American Society of Crime Laboratory Directors Laboratory Accreditation Board/ANSI-ASQ National Accreditation Board, Collaborative Testing Services, Heusser-Neueigh Division of Rice Lake, Inc., VWR, Fisher Scientific, USA Scientific, ULine, REMI, Cayman, Cerilliant, Grace Alltech Scientific, Steraloids, Sigma Aldrich, Spectrum Chemicals, Alliance Gas Products, Full Spectrum, Perkin-Elmer, Thermo-Fisher, the Security Envelope Company, Covanta, Inc., Foray Technologies, Coherent, Foster+Freeman, Arrowhead Forensics, Forensic Comparison

Software Company, LEEDS, Inc., CSI Forensic Supply, Inc., or with another forensic supply company not specifically included on this list when the material or service is critical to a validated analytical method, is necessary to meet accreditation requirements, is federally regulated, or is only available from one source when so designated by a Crime Laboratory subject matter expert; and be it

**FURTHER RESOLVED:** That all contracts 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, \_\_\_\_\_, 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