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OAKLAND
2020 JAN -2 PM 1:25

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne Kirkpatrick
Chief of Police

SUBJECT: OPD 2019 DNA Backlog Reduction
Program

DATE: November 6, 2019

City Administrator Approval

Date:

1/2/2020

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution: 1) Authorizing The City Administrator Or Designee To Accept And Appropriate Grant Funds In An Amount Not To Exceed Three Hundred Twenty-Five Thousand, Seven Hundred Fifty Dollars (\$325,750) From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIC) For Implementation Of The Fiscal Year 2019 DNA (Deoxyribonucleic Acid) Backlog Reduction Grant Program For The Oakland Police Department; 2) Waive The Advertising And Competitive Bidding Requirements For The Purchase Of DNA Typing Supplies From (A) Promega For One Hundred And Six Thousand Dollars (\$106,000), (B) Qiagen For Thirty-Four Thousand Three Hundred Dollars (\$34,300), (C) Thermo Fisher/Life Technologies For One Hundred Twenty-Eight Thousand Eight Hundred Dollars (\$128,800), And (D) Thermo Fisher/Life Technologies, Aurora Biomed, Qiagen, And/Or Remi For Thirty-Two Thousand Six Hundred Seventy-Four Dollars (\$32,674) For DNA Typing Supplies, Instruments, And Service Maintenance.

EXECUTIVE SUMMARY

Adoption of this resolution will allow OPD to accept the USDOJ/NIJ Fiscal Year (FY) 2019 DNA Capacity Enhancement and Backlog Reduction grant of \$325,750, which will fund the continuation of staff 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. This resolution calls for waiving the City's Advertising and Competitive Bidding Requirements because of the need to buy specialized laboratory validated DNA typing equipment and supplies available only from specific vendors.

BACKGROUND AND LEGISLATIVE HISTORY

The DNA Capacity Enhancement for 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

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Public Safety Committee
January 14, 2020

analysis capacity so that DNA samples can be processed efficiently and effectively. The program also provides continuing education courses and training associated with DNA analyses, as well as funds to analyze backlogged forensic DNA casework samples. Improvements are necessary and critical to reduce current and prevent future DNA backlogs and to help the criminal justice system reach its full potential in the utilization of DNA technology.

Backlogged case requests from homicides, sexual assaults, robberies, assaults, and property crime cases will be enrolled into the FY 2019 DNA Backlog Reduction Program. The eligible DNA profiles obtained from evidence in these cases will be entered into the Combined DNA Index System (CODIS). DNA profiles entered into CODIS has resulted in an approximately forty-five 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.

OPD has previously received several 2019 DNA Backlog Reduction Program grants. The Oakland City Council has previously authorized acceptance of the following grant-authorizing resolutions:

- Resolution No. 87429 C.M.S., dated November 27, 2018;
- Resolution No. 87428 C.M.S., dated November 27, 2018;
- 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 November 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 Nos. 79534 and 79535 C.M.S., both dated October 18, 2005; and
- Resolution Nos. 78909 and 78910 C.M.S., both dated November 16, 2004.

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

ANALYSIS AND POLICY ALTERNATIVES

The Crime Lab will focus on three goals with the implementation of the FY 2019 DNA Backlog Reduction Program grant initiative:

Goal #1: Reduce the Forensic DNA Case Backlog

Between July 2018 to June 2019, the Forensic Biology Unit has completed the analyses on 426 requests in an average of 97 business days². The goal of the proposed grant is to decrease the Forensic Biology Unit's backlog by in-part reducing turnaround time. Turnaround time will be reduced through specialized training and the purchase of instruments and supplies for Forensic Biology Unit Criminalists to analyze 155 backlogged cases. Case evaluation, biological evidence examination and screening, DNA typing, technical review, and data entry into CODIS will be conducted during normal business hours. Forensic DNA typing kits and reagents will be purchased to analyze these 155 backlog cases.

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

The Crime Laboratory will use the grant to purchase two real-time polymerase chain reaction (PCR) DNA typing instruments. These instruments will replace two antiquated real-time PCR DNA typing instruments and increase the capacity of conducting DNA typing on case samples.

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)³
- 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 education and training 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. This federal grant will fund travel and tuition for various conferences and training opportunities. It is anticipated that case completion time would improve, because 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.

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

³ ANSI = American National Standards Institute; ASQ = American Society for Quality

Waiver of the Advertising and Bidding Process

Section 2.04.050.1.5 (Bid Procedure) explains that the City can make exceptions to its competitive bidding process when City Council finds and determines that it is in the best interest 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 federal grant. The Forensic Biology Unit has conducted extensive validation studies as part of the selection process in determining which typing kits and instruments to implement in our evidence processing scheme. The use of other products which have not been validated would hence violate the FBI DNA QAS; OPD therefore believes that waiving the competitive bidding process in this instance is in the best interest of the City. The Crime Lab must adhere to FBI DNA QAS standards to enter DNA profiles into CODIS for searching. The reagents to be purchased through this grant include: DNA extraction kits (Qiagen), DNA quantitation kits (Promega), DNA typing kits (Promega), DNA typing instruments and supplies (Thermo Fisher/Life Technologies). These reagents and instruments from these specific 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 2019 DNA Backlog Reduction Grant Program funds. The table lists the use of funding for staff travel and training, and technology and supply costs.

Budget Category	Amount
Instrument	
DNA Typing Instruments (Thermo Fisher/Life Technologies)	\$114,000
Total Instruments	\$114,000
Training and Travel	
Travel and Lodging Costs	\$18,876
(16) Forensic Biology Unit Training Registrations	\$5,100
Total Training and Travel	\$23,976
Technology and Supplies	
DNA Typing Supplies (Thermo Fisher/Life Technologies)	\$14,800
DNA Typing Supplies (Promega)	\$106,000
DNA Typing Supplies (Qiagen)	\$34,300
Total Technology and Supplies	\$155,100
Service Instrument Maintenance	
Annual Maintenance (Aurora Biomed)	
Annual Maintenance (Qiagen)	
Annual Maintenance (Thermo Fisher/Life Technologies)	
Annual Maintenance (REMI)	\$32,674
Total Service Instrument Maintenance	\$32,674
TOTAL	\$325,750

The \$325,750 in grant funds from the USDOJ/NIJ for the implementation of the FY 2019 DNA Backlog Reduction Grant Program shall be appropriated in the Federal Grant Fund (2112), Criminalistics Division Organization (102610), Criminalistics Division Program (PS05), in a Project Number to be established.

Fiscal Year	Fund Source	Organization	Project	Program	Amount
2019-2020	2112	102610	TBD	PS05	\$325,750

PUBLIC OUTREACH / INTEREST

The public has a significant interest in ensuring that the OPD Crime Laboratory can effectively process DNA evidence; successfully processed DNA evidence helps OPD with investigations that bring leads 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.

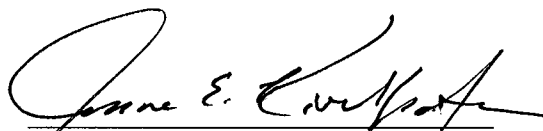
Social Equity: Provisions for continuing education and supplies funded by this grant will enhance OPD's ability to analyze biological evidence in criminal cases in a timelier fashion. The public safety for all Oakland residents and visitors is enhanced through greater OPD investigative capacity.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution: 1) Authorizing The City Administrator Or Designee To Accept And Appropriate Grant Funds In An Amount Not To Exceed Three Hundred Twenty-Five Thousand, Seven Hundred Fifty Dollars (\$325,750) From The U.S. Department Of Justice, National Institute Of Justice (USDOJ/NIC) For Implementation Of The Fiscal Year 2019 DNA (Deoxyribonucleic Acid) Backlog Reduction Grant Program For The Oakland Police Department; 2) Waive The Advertising And Competitive Bidding Requirements For The Purchase Of DNA Typing Supplies From (1) Promega For One Hundred And Six Thousand Dollars (\$106,000), (2) Qiagen For Thirty-Four Thousand Three Hundred Dollars (\$34,300), (3) Thermo Fisher/Life Technologies For One Hundred Twenty-Eight Thousand Eight Hundred Dollars (\$128,800), And (4) Thermo Fisher/Life Technologies, Aurora Biomed, Qiagen, And/Or Remi For Thirty-Two Thousand Six Hundred Seventy-Four Dollars (\$32,674) For DNA Typing Supplies, Instruments, And Service Maintenance.

For questions regarding this report, please contact Bonnie Cheng, Criminalist II, 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:
Bonnie Cheng, Criminalist II
OPD, Criminalistics Division

Bruce Stoffmacher, Legislation Manager
OPD, Research and Planning, Training Section

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2019 JAN -2 PM 1:25

Approved as to Form and Legality

OAKLAND CITY COUNCIL

DRAFT
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 THREE HUNDRED TWENTY-FIVE THOUSAND, SEVEN HUNDRED FIFTY DOLLARS (\$325,750) FROM THE U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE (USDOJ/NIJ) FOR IMPLEMENTATION OF THE FISCAL YEAR 2019 DNA (DEOXYRIBONUCLEIC ACID) BACKLOG REDUCTION GRANT PROGRAM FOR THE OAKLAND POLICE DEPARTMENT; 2) WAIVE THE ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS FOR THE PURCHASE OF DNA TYPING SUPPLIES FROM (1) PROMEGA FOR ONE HUNDRED AND SIX THOUSAND DOLLARS (\$106,000), (2) QIAGEN FOR THIRTY-FOUR THOUSAND THREE HUNDRED DOLLARS (\$34,300), (3) THERMO FISHER/LIFE TECHNOLOGIES FOR ONE HUNDRED TWENTY-EIGHT THOUSAND EIGHT HUNDRED DOLLARS (\$128,800), AND (4) THERMO FISHER/LIFE TECHNOLOGIES, AURORA BIOMED, QIAGEN, AND/OR REMI FOR THIRTY-TWO THOUSAND SIX HUNDRED SEVENTY-FOUR DOLLARS (\$32,674) FOR DNA TYPING SUPPLIES, INSTRUMENTS, AND SERVICE MAINTENANCE.

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 Forensic Capacity Enhancement and Casework Backlog 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 so that DNA samples can be processed efficiently and effectively; and

WHEREAS, grant funds in an amount not to exceed \$325,750 were awarded by USDOJ/NIJ to the Oakland Police Department (OPD) to its Fiscal Year 2019 implementation of the DNA Backlog Reduction Program; and

WHEREAS, the DNA Backlog Reduction Program was created to assist 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 continue to purchase real-time polymerase chain reaction (PCR) typing instruments, staff required training, and purchase laboratory validated DNA typing reagents; 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 grant term for the proposed initiative is January 1, 2020 through December 31, 2021; and

WHEREAS, the City Council previously authorized acceptance of similar grant funds by 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; 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 instruments from vendors other than those who manufacture DNA kits and instruments 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, or designee, to accept and appropriate grant funds in an amount not to exceed \$325,750 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 \$325,750, 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 two real-time DNA typing instruments; 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 instruments for \$114,000 from Thermo Fisher/Life Technologies, DNA typing supplies from Thermo Fisher/Life Technologies for \$14,800, Promega for \$106,000; and Qiagen for \$34,300, and DNA typing instrument service maintenance from Thermo Fisher/Life Technologies, Aurora Biomed, Qiagen, and/or REMI for \$32,674, 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 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 – BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO, and PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

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