

OAKLAND CITY COUNCIL


Jady Kung (Sep 26, 2024 12:49 PDT)
City Attorney

RESOLUTION No. _____ C.M.S.

RESOLUTION WAIVING THE CITY’S ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS, WAIVING THE REQUEST FOR PROPOSALS/QUALIFICATIONS (RFP/Q) PROCESS REQUIREMENTS, AND WAIVING LOCAL/SMALL LOCAL BUSINESS ENTERPRISE (L/SLBE) PROGRAM REQUIREMENTS FOR THE PURCHASE OF CERTIFIED AND ACCREDITED FORENSIC ANALYTICAL SUPPLIES, EQUIPMENT, INSTRUMENTATION, SOFTWARE, AND RELATED SERVICES ON AN AS-NEEDED BASIS WHEN LABORATORY FORENSIC SCIENCE SUBJECT MATTER EXPERTS DETERMINE SUCH SUPPLIES AND / OR SERVICES ARE REQUIRED BASED ON CASEWORK CONDITIONS, THE LABORATORY’S VALIDATION 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 SIX HUNDRED THOUSAND DOLLARS (\$600,000) PER FISCAL YEAR THROUGH JUNE 30, 2030, FOR A TOTAL COST NOT TO EXCEED THREE MILLION DOLLARS (\$3,000,000)

WHEREAS, the Oakland Police Department’s Criminalistics Laboratory (Crime Laboratory) is a full service forensic science laboratory accredited to ISO/IEC 17025:2017 (ISO) by the American National Standards Institute National Accreditation Board (ANAB); and

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

WHEREAS, ANAB is the largest and most established accrediting body in the United States engaging in the accreditation of forensic science testing laboratories; and

WHEREAS, accreditation is a requirement for eligibility for receipt and use of state and federal grant funds and for access to the state and national databases; and

WHEREAS, the use of validation methods and proficiency testing by ISO 17043 approved providers are requirements of accreditation; and

WHEREAS, the Crime Laboratory has implemented validation 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's Forensic Biology Unit is required to adhere to the Federal Bureau of Investigation (FBI) DNA Quality Assurance Standards (QAS) in order to maintain access to the Combined DNA Index System (CODIS);

WHEREAS, the FBI QAS requires the Forensic Biology Unit to use rigorously validated DNA typing methods that use specific quality controlled reagents and instruments from specific vendors;

WHEREAS, ANAB requires the Crime Laboratory to use only suitable external providers of specific supplies, instruments, equipment, instrument service, equipment service, proficiency testing, and evidence collection kits to perform its casework using its validated methods; and

WHEREAS, 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; 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 agreements with vendors such as, but not limited to the following: Adorama, Agilent Technologies, Air Science, Airgas, Amazon, American Society for Quality, ANSI National Accreditation Board LLC, Apex Integrated Distribution, Artic White LLC, Arrowhead Forensics, Aurora Biomed, Autodesk, B&H, Barnett Medical, Brownells Inc., Cabela's, Cayman Chemicals, CDW, Cerilliant Corporation, Cheaper Than Dirt?, Coherent Inc., Collaborative Testing Services Inc., Covanta Inc., CSI Forensic Supply Inc., Dolan Jenner Industries Inc., Dooley Enterprises Inc., Dräger (Draeger), Empire Optics, Environmental Logistics, Environmental Science and Research (ESR), EviDENT, Fisher Scientific, Foray Technologies, Forensic Comparison Software Company, Foster + Freeman Ltd, Full Spectrum, Gaiaca, Grainger, Great American Dry Cleaners, Hamilton Company, Home Depot, Leeds Forensic Systems Inc., Leeds Precision Instruments Inc., Leica Geosystems, Life Technologies, Manthei Mess Systeme, Measurement Specialties Inc., Mettler-Toledo Rainin LLC, Midway USA, NWN Corporation, Office Depot, PC Professionals, Perkin-Elmer, Phenomenex, Promega Corporation, Qiagen, Niche Vision Forensic LLC, R&S Overhead Garage Door Inc., REMI Group Inc., Restek, Reworld, Rice Lake Weighing Systems, Ron Smith and Associates, Safariland, San Diego Police Equipment Co Inc., Savage Range System, Security Envelope Company, Serological

Research Institute, Sigma Aldrich, Sirchie, Southern Computer Warehouse, Southwest Science, Staples, Steraloids Inc., Thermo-Fisher, Thomas Scientific, Tri-Tech Inc., Uline, Ultra Forensics, Unity Lab Services, USA Scientific, VWR, and Wesco; and

WHEREAS, Oakland Municipal Code (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; and

WHEREAS, OMC Section 2.04.051.A allows the City Council to waive the request for proposals/qualifications (RFP/Q) process requirements upon a finding and determination that it is in the best interest of the City to do so; and

WHEREAS, City staff recommends waiving the advertising and competitive bidding requirements, and request for proposals/qualifications requirements because: 1) specific validated laboratory methods often require specific chemicals and reagents from specific providers, 2) casework situations require the rapid acquisition of specific supplies and materials which may be available from only one source, and 3) it is not possible to anticipate when such casework situations will arise and thus would be very difficult for the Crime Laboratory to seek "sole source" purchasing authority each time such situations occur; and

WHEREAS, the City Council may waive the City's Local and Small Local Business Enterprise program requirements for professional services agreements pursuant to Oakland's Local and Small Local Business Enterprise (L/SLBE) Program guidelines adopted by Ordinance No. 13647 C.M.S.; and

WHEREAS, staff recommends that Council waive the L/SLBE requirements for this agreement because the Crime Lab uses specific forensic vendors and suppliers which provide supplies, instrumentation, equipment, software, and related services – all of which relate to casework, evidence custodial obligations, and quality assurance; 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 multiple occasions the waiving of advertising and competitive bidding for the purchase of Crime Laboratory related supplies, instrumentation and software under Resolution No. 89892 C.M.S., dated September 19, 2023, Resolution No. 89459 C.M.S., dated November 1, 2022, Resolution No. 89011 C.M.S., dated February 1, 2022, 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. 85943 C.M.S., dated January 5, 2016, Resolution No. 86532 C.M.S., dated November 22, 2016, Resolution No. 86529 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 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, 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 \$600,000 per fiscal year; therefore, be it

RESOLVED: That the City Council hereby waives the L/SLBE Program requirements for the reasons stated herein and in the accompanying report; and

RESOLVED; That the City Council to waive the request for proposals/qualifications (RFP/Q) process requirements upon a finding and determination that it is in the best interest of the City to do so; and

RESOLVED: that the City Council finds and determines that pursuant to OMC Sections 2.04.05.1.5 and 2.04.051.B, and based upon the reasons stated above and in the report accompanying this resolution, that is in the best interest of the City to temporarily suspend the City's advertising requirements and competitive bidding requirements for purchase of certified and accredited forensic laboratory analytical supplies and maintenance of any existing equipment that are currently in use by the Crime Lab for an amount not to exceed three hundred thousand dollars to provide appropriate supply levels to last through the end of the fiscal years from 2025 to 2030; 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 for the following vendors: Adorama, Agilent Technologies, Air Science, Airgas, Amazon, American Society for Quality, ANSI National Accreditation Board LLC, Apex Integrated Distribution, Artic White LLC, Arrowhead Forensics, Aurora Biomed, Autodesk, B&H, Barnett Medical, Brownells Inc., Cabela's, Cayman Chemicals, CDW, Cerilliant Corporation, Cheaper Than Dirt?, Coherent Inc., Collaborative Testing Services Inc., Covanta Inc., CSI Forensic Supply Inc., Dolan Jenner Industries Inc., Dooley Enterprises Inc., Dräger (Draeger), Empire Optics, Environmental Logistics, Environmental Science and Research (ESR), EviDENT, Fisher Scientific, Foray Technologies, Forensic Comparison Software Company, Foster + Freeman Ltd, Full Spectrum, Gaiaca, Grainger, Great American Dry Cleaners, Hamilton Company, Home Depot, Leeds Forensic Systems Inc., Leeds Precision Instruments Inc., Leica

Geosystems, Life Technologies, Manthei Mess Systeme, Measurement Specialties Inc., Mettler-Toledo Rainin LLC, Midway USA, NWN Corporation, Office Depot, PC Professionals, Perkin-Elmer, Phenomenex, Promega Corporation, Qiagen, Niche Vision Forensic LLC, R&S Overhead Garage Door Inc., REMI Group Inc., Restek, Reworld, Rice Lake Weighing Systems, Ron Smith and Associates, Safariland, San Diego Police Equipment Co Inc., Savage Range System, Security Envelope Company, Serological Research Institute, Sigma Aldrich, Sirchie, Southern Computer Warehouse, Southwest Science, Staples, Steraloids Inc., Thermo-Fisher, Thomas Scientific, Tri-Tech Inc., Uline, Ultra Forensics, Unity Lab Services, USA Scientific, VWR, and Wesco; 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 88388 on December 1, 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: Funding for these purchases will come from the General Purpose Fund (1010), Organization (102610), and Program (PS05) as well as from state or federal grant sources awarded directly or indirectly to the Crime Lab; 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 – KAPLAN, KALB, FIFE, RAMACHANDRAN, GALLO, JENKINS, REID, and PRESIDENT BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

ASHA REED
City Clerk and Acting Clerk of the Council
of the City of Oakland, California