



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2012 JUN 28 PM 5:04

# AGENDA REPORT

**TO:** DEANNA J. SANTANA  
CITY ADMINISTRATOR

**FROM:** Howard A. Jordan  
CHIEF OF POLICE

**SUBJECT:** OPD Cold Case Investigator  
Professional Services Agreement

**DATE:** June 13, 2012

City Administrator  
Approval

*Deanna Santana*

Date

6/25/12

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

Staff requests that the City Council approve the resolution authorizing the City Administrator or her designee to enter into a Professional Services Agreement with Mr. Donald Williams for the period of June 1, 2012 through March 31, 2013 with two one-year options to extend, in an amount not to exceed eighty thousand one hundred twelve dollars (\$80,112) for continued investigative assistance to the Oakland Police Department's Major Crimes Cold Case Unit; and 2) Waiving the competitive Request for Proposals/Qualifications (RFP/Q) Process, the advertising and bidding requirements, and Local and Small Business Enterprise Programs (L/SLB) provisions for the proposed Professional Services Agreement with Donald Williams.

## EXECUTIVE SUMMARY

Staff has prepared a report and resolution authorizing the City Administrator or her designee to enter into a Professional Services Agreement with Mr. Donald Williams for the period of June 1, 2012 through March 31, 2013 with two one-year options to extend, in an amount not to exceed eighty thousand one hundred twelve dollars (\$80,112) for continued investigative assistance to the Oakland Police Department's Major Crimes Cold Case Unit; and 2) Waiving the competitive Request for Proposals/Qualifications (RFP/Q) Process, the advertising and bidding requirements, and Local and Small Business Enterprise Programs (L/SLB) provisions for the proposed Professional Services Agreement with Donald Williams.

City Council Resolution No. 82376 C.M.S., dated November 16, 2009 authorized the acceptance of grant funds from the U.S. Department of Justice, National Institute of Justice for implementation of the FY 2009 Solving Cold Cases with DNA Grant Program (grant award number 2009-DN-BX-K264, Project G397410) in the Police Department. Specifically outlined in that proposal is the use of \$132,912 of the total grant allocation (\$582,088) for the services of a Cold Case Investigator. A portion of the funding for the Cold Case Investigator has been

Item: \_\_\_\_\_  
Public Safety Committee)  
July 10, 2012

drawn down. Mr. Williams was assigned to the Cold Case Investigation Unit under this grant as an Amuitant prior to June 1, 2011.

### OUTCOME

The Police Department's Criminalistics Division utilized the FY 2009 Solving Cold Cases with DNA Grant Program funds to further assist in its efforts towards the following:

- With the assistance of a cold case investigator; the identification, review, and prioritization of violent crime cold cases that have the potential to be solved using DNA analysis will be conducted on cold cases.
- The grant funds support the OPD Cold Case Unit's investigation of Cold Cases and the laboratory's DNA analysis of the violent homicide cases and sexual assault cases containing biological evidence.

The DNA profiles obtained from probative evidence will be entered into the Combined DNA Indexing System (CODIS). A DNA match made by CODIS can then be matched to a named individual or to another unknown suspect case. This application of the DNA typing technology to unsolved homicide cases (Cold Cases) can ultimately lead to the arrest and prosecution of violent individuals.

### BACKGROUND/LEGISLATIVE HISTORY

The FY 2009 Solving Cold Cases with DNA Grant Program was created to assist local law enforcement agencies to readily identify, review, and investigate violent crime "cold cases" that have the potential to be solved using DNA analysis, and to locate and analyze biological evidence associated with these cases. Experience has shown that cold case programs can solve a substantial number of violent crime cold cases, including homicide and sexual assaults.

The investigation into cold cases requires the knowledge of a skilled investigator. Advances in DNA technologies have substantially increased the successful DNA analysis of aged, degraded, limited, or otherwise compromised biological evidence. As a result, crime scene samples once thought to be unsuitable for testing may now yield DNA profiles. Additionally, samples that previously generated inconclusive DNA results may now be successfully analyzed using newer methods. A skilled investigator can assist in the evaluation of this physical evidence.

### **ANALYSIS: *Preferred Vendor***

The successful completion of the FY 2009 Solving Cold Cases with DNA Cold Case Grant requirements hinge upon hiring a cold case investigator who is knowledgeable in Oakland Police Department and Alameda County District Attorney's Office homicide investigations.

Item: \_\_\_\_\_  
Public Safety Committee  
July 10, 2012

Due to the limited time remaining on the award period of the Solving Cold Cases with DNA 2009 grant (sunsets March 31, 2013) we are requesting the continued services of Mr. Donald Williams, the experienced Cold Case Investigator consultant, who has been assisting with Major Crimes Cold Case Unit investigations and related activities. Mr. Williams formerly served as a Homicide Investigator and a Cold Case Investigator for the Oakland Police Department and has a breadth of investigative experience. Mr. William's experience across a wide array of investigations, his familiarity and experience with Oakland Police Department and Alameda County District Attorney's Office make him an ideal and uniquely qualified vendor to serve as the Major Crimes Cold Case Unit Investigative consultant.

Mr. Williams was working as an annuitant investigator with the Cold Case Unit under the auspices of this grant. Due to changes in State law and the City's policies regarding Annuitants, Mr. Williams has not been able to complete his investigation of several of these Cold Cases. Many cold homicides and sexual assault cases are still in need of investigative work in order to be submitted to the Alameda County District Attorney's office for charging.

Thus, hiring Mr. Williams under the Cold Cases grant will allow him to continue his role in the investigations of these Cold Cases. Hiring an investigator with no previous experience with these Cold Cases will significantly delay the submission of the cases to the Alameda County District Attorney's Office for charging.

#### PUBLIC OUTREACH/INTEREST

The application of the DNA typing technology to unsolved homicide cases (Cold Cases) can ultimately lead to the arrest and prosecution of violent individuals.

#### COORDINATION

Part of the Oakland Police Department's solving of Cold Cases with DNA strategy involves the use of a retired homicide investigator, retained on a contractual basis, to evaluate the homicide victim cases and sexual assault victim cases for potential biological material. One thousand nine hundred twenty (1920) hours of contractual Annuitant invesfigatory time were funded through this grant initiative. The Cold Case Investigator will be supervised and assisted by a current OPD Cold Case Homicide Investigator.

The City Attorney's Office and the Budget Office have been consulted in preparation of this report and resolution.

COST SUMMARY/IMPLICATIONS

This should include:

1. AMOUNT OF COST OF PROJECT:

Project Delivery	\$582,088
Construction (if applicable)	
Contingency (if applicable)	
Total Project Costs	\$582,088
  
2. COST ELEMENTS OF AGREEMENT/CONTRACT:

Sub Project/Phases	
Management	\$80,112
Equipment	
Software	
Maintenance	
Service	
Labor Rates (If applicable – use separate table detailing labor rates)	
Taxes and Fees*	
TOTAL AGREEMENT/CONTRACT AMOUNT:	\$80,112
  
3. SOURCE OF FUNDING

FY 2009 Solving Cold Cases with DNA Grant Program (grant award number 2009-DN-BX-K264, Project G397410) specifically outlined the use of up to \$132,912 for the services of a Cold Case Investigator. A portion of the funding for the Cold Case Investigator has been drawn down. Expenditures will be made to the coding block: Department of Justice Fund (2112), Criminalist Organization (102610), Miscellaneous Contract Account (54919), 2009 Solving Cold Cases Project (G397410), and Criminalist Program (PS05).

4. FISCAL IMPACT:

Approval of this resolution will allow the Department to enter into a Professional Services Agreement with Mr. Donald Williams for the purpose of assisting the Oakland Police Department Major Crimes Cold Case Unit for the period of June 1, 2012 through March 31, 2013, with two one-year options to extend.

FISCAL/POLICY ALIGNMENT

City Council Resolution No. 82376 C.M.S., dated November 16, 2009 authorized the acceptance of grant funds from the U.S. Department of Justice, National Institute of Justice for

Item: \_\_\_\_\_  
Public Safety Committee  
July 10, 2012

implementation of the FY 2009 Solving Cold Cases with DNA Grant Program (grant award number 2009-DN-BX-K264, Project G397410) in the Police Department. Specifically outlined in that proposal is the use of up to \$132,912 for the services of a Cold Case Investigator. A portion of the funding for the Cold Case Investigator has been drawn down. Mr. Donald Williams was assigned to the Cold Case Investigator under this grant as an Annuitant prior to June 1, 2011.

### **PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

The advent of DNA technology has revolutionized law enforcement's ability to analyze biological evidence at a genetic level, in particular, semen evidence encountered in sexual assaults and homicides with a potential sexual assault. The ability to identify, review and investigate "violent crime cold cases" that have the potential to be solved through DNA analysis has often been constrained by limited resources. This grant addresses that need.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The continuation of the Department's ability to investigate, capture, and prosecute criminals in a timelier manner, thereby increases public safety and makes the City more appealing to prospective business owners, customers, and residents to shop and do business.

***Environmental:*** There are no environmental opportunities identified in this report.

***Social Equity:*** The continuation of the investigation into Cold Cases utilizing a Cold Case Contact Investigator will enhance the Department's ability to investigate, capture, and prosecute criminals in a timelier manner, thereby increasing public safety.

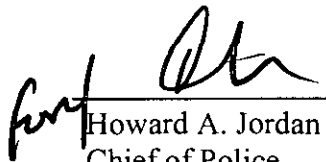
### **CEQA**

"This report is not a project under CEQA."

Item: \_\_\_\_\_  
Public Safety Committee  
July 10, 2012

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

Respectfully submitted,

  
Howard A. Jordan  
Chief of Police

Prepared by:  
Dyana Curreri-Ermañinger, Grant Coordinator  
Fiscal Services Division

Item: \_\_\_\_\_  
Public Safety Committee  
July 10, 2012

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

*Amador Sotol*  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.  
2012 JUN 28 PM 5:04

**RESOLUTION:**

1) AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH MR. DONALD WILLIAMS FOR THE PERIOD OF JUNE 1, 2012 THROUGH MARCH 31, 2013 WITH TWO ONE-YEAR OPTIONS TO EXTEND, IN AN AMOUNT NOT TO EXCEED EIGHTY THOUSAND ONE HUNDRED TWELVE DOLLARS (\$80,112) FOR CONTINUED INVESTIGATIVE ASSISTANCE TO THE OAKLAND POLICE DEPARTMENT'S MAJOR CRIMES COLD CASE UNIT; AND 2) WAIVING THE COMPETITIVE REQUEST FOR PROPOSALS/QUALIFICATIONS (RFP/Q) PROCESS, THE ADVERTISING AND BIDDING REQUIREMENTS, AND LOCAL AND SMALL BUSINESS ENTERPRISE PROGRAMS (L/SLB) PROVISIONS FOR THE PROPOSED PROFESSIONAL SERVICES AGREEMENT WITH DONALD WILLIAMS.

**WHEREAS**, on November 16, 2009, City Council, by resolution No. 82376 C.M.S., authorized the acceptance and appropriation of grant funds from the U.S. Department of Justice, National Institute of Justice (NIJ) FY 2009 Solving Cold Cases with DNA program (FY 2009 Solving Cold Cases with DNA Grant) to support the Police Department's Cold Case Investigative Unit and authorized the Police Department to hire a Forensic Technician to be funded by these grant funds; and

**WHEREAS**, the Police Department has funding in the amount of \$80,112 available from the FY 2009 Solving Cold Cases with DNA grant: grant award number 2009-DN-BX-K264, Project (G397410) and expenditures to be made from the coding block: Department of Justice Fund (2112), Criminalist Organization (102610), Miscellaneous Contract Account (54919), 2009 Solving Cold Cases Project (397410), and Criminalist Program (PS05); and

**WHEREAS**, there is limited time remaining in the award period of FY 2009 Solving Cold Cases with DNA Grant, which expires on March 31, 2013; and

**WHEREAS**, the Police Department's Major Crimes Unit desires to contract with Mr. Donald Williams to provide services as a Cold Case Investigator; and

**WHEREAS**, the Police Department previously contracted with Mr. Williams to provide services as Cold Case Investigator to the Cold Case Investigation Unit by using the FY 2009 Solving Cold Cases with DNA Grant funds; and

**WHEREAS**, the field of Cold Case criminal investigation is small and specialized and Mr. Williams has a breadth of experience based on the fact he also formerly served as a Homicide Investigator and a Cold Case Investigator for the Oakland Police Department; and

**WHEREAS**, Oakland Municipal Code section 2.040.051.B permits the Council to waive the

request for proposal/qualifications (“RFP/Q”) requirements upon a finding that it is in the best interest of the City to do so; and

**WHEREAS**, Oakland Municipal Code section 2.04.050.1.5 permits the Council to waive the advertising and bidding requirements upon a finding that it is in the best interest of the City to do so; and

**WHEREAS**, staff recommends that it is in the best interests of the City to waive the RFP/Q process, advertising and bidding requirements, and the local and small local business enterprise program process and provisions so that the Oakland Police Department can enter into a professional services agreement with Mr. Donald Williams to fulfill the requirements of the FY 2009 Solving Cold Cases with DNA Grant; now, therefore be it

**RESOLVED**: That the City Council hereby authorizes the City Administrator, or her designee, to enter into a Professional Services Agreement with Mr. Donald Williams for the period of June 1, 2012 through March 31, 2013, plus two one-year options to extend, in an amount not to exceed \$80,112 for Cold Case Investigative consulting services; and be it

**FURTHER RESOLVED**: That pursuant to Oakland Municipal Code sections 2.04.051.B and 2.04.051.1.5, for the reasons stated above and in the City Administrator’s report accompanying this resolution, the City Council finds that it is in the City’s best interests to waive the advertising and bidding requirements and the request for RFP/Q process for the services to be contracted under this proposed contract and so waives such requirements; and be it

**FURTHER RESOLVED**: that the City Council hereby waives the Local and Small Local Business Enterprise Program (L/SLB) Provisions for the proposed contract with Mr. Williams; and be it

**FURTHER RESOLVED**: That funding in the amount of \$80,112 for said services is available in the Department’s FY 2009 Solving Cold Cases with DNA grant program (grant award number 2009-DN-BX-K264, Project (G397410)); and be it

**FURTHER RESOLVED**: That should funding for Mr. Donald Williams be unavailable in the FY 2009 Solving Cold Cases with DNA grant program, the Department is authorized to use an alternate funding source, reduce service level to the amount of funding available, or cease using the service of Mr. Williams; and be it

**FURTHER RESOLVED**: That the City Administrator or her designee is hereby authorized to complete all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend the proposed agreement with Mr. Williams; and be it

**FURTHER RESOLVED**: That the City Attorney shall review and approve said proposed Professional Services Agreement with Mr. Donald Williams, as to form and legality and a copy of the fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:



OPD – Cold Case Investigator

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California