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2019 JUL -3 AM 3:08

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick,
Chief of Police

SUBJECT: OPD Cold Storage Evidence
Contract

DATE: June 24, 2019

City Administrator Approval

Date

7/2/19

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To: 1) Waive The Advertising/Bidding And The Request For Proposal/Qualifications Requirements, And 2) Purchase Goods And Services From Schaefer's Cold Storage For Frozen Storage Facility Use And Bins Procurement For The Preservation Of Evidence For Two Years, Plus Two Discretionary One-Year Extensions, At A Cost Of Two Hundred Thousand Dollars (\$250,000) Per Year And A Total Amount Not To Exceed One Million Dollars (\$1,000,000).

EXECUTIVE SUMMARY

OPD must store biological crime scene evidence indefinitely based on California Law. OPD does not have capacity at the Police Administration Building (PAB) and must therefore rely on off-site storage. Schaefer's Cold Storage has provided evidence cold storage to OPD since 2001. The City Council adopted Resolution No. 85942 C.M.S. in 2016 to authorize a four year contract and to waive the City's competitive bidding requirements. OPD is requesting a similar two-year contract with two additional discretionary years and to again waive the City's competitive bidding requirements as staff develops a new Request for Proposal (RFP) to evaluate whether a new vendor can provide OPD's ongoing cold storage needs moving forward.

BACKGROUND/LEGISLATIVE HISTORY

California Penal Code Section 1417.9 requires all biological material recovered in a criminal case be retained as long as someone is incarcerated in connection with the case. This material must be stored in a condition suitable for DNA testing. The material may be destroyed sooner, but only after a lengthy, complex, and burdensome process. Nationwide, there have been over 350 convictions overturned as a consequence of post-conviction testing of DNA evidence. Many of these cases involved individuals who were sentenced to death. OPD does not have the capacity to store the required amount of biological evidence and must contract with a private vendor for this storage service.

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Schaefer's Cold Storage has provided OPD with biological evidence cold storage since 2001. In the interest of seeking a competitive vendor for ongoing evidence storage, OPD conducted a Request for Proposal / Qualifications (RFP/Q) process in late 2014 and received no responses. Following that unsuccessful process, OPD contacted Schaefer's Cold Storage and they agreed to continue to provide frozen evidence storage services as they have done for OPD since 2001. The Oakland City Council adopted Resolution No. 85942 C.M.S. on January 5, 2016, which authorized the City Administrator or designee to: 1) waive the advertising/bidding and RFP/Q requirements, and 2) purchase frozen evidence storage services from Schaefer's cold storage for two years with two discretionary one-year extensions for \$125,000 per year and a total not to exceed \$500,000 for the four-year period.

ANALYSIS AND POLICY ALTERNATIVES

Biological evidence is frequently collected for analysis in violent crimes including homicides and sexual assaults. OPD Criminalistics Laboratory uses state and national databases for matching DNA in this biological evidence; this matching has led to the identification of suspects and contributed to successful prosecutions. Other cases may be solved in the future by analyzing DNA available in frozen samples. It is critical that such samples are not thawed and re-frozen, as such thawing and refreezing can cause degradation of DNA evidence.

With the continuous accumulation of frozen evidence at Schaefer's Cold Storage, OPD Property and Evidence Unit staff can reduce the amount of frozen biological evidence in a manner compliant with California Penal Code Section 1417.9. The influx of frozen biological evidence is growing and continues to exceed available storage space at OPD's Police Administration Building. OPD now relies on Schaefer's storage facility for decades of biological storage. The Schaefer facility is located in Oakland and allows for the necessary regular access for OPD's Criminalistics Laboratory and Evidence Unit.

Need for a Waiver from the City's Competitive Advertising and Bidding Requirements and Increased Annual Cost

Oakland Municipal Code Section 2.04.051 .B. permits the City 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. For OPD to start to relocate evidence to another vendor can lead to thawing and refreezing of evidence, and potentially jeopardize criminal prosecutions. Given the decades of accumulated biological evidence now stored with Schaefer's Cold Storage in Oakland, OPD needs additional time to develop comprehensive plan for a new Request for Proposals (RFP) and to then evaluate what other options can support the need for comprehensive and accessible biological evidence storage; staff believes that a multi-year plan will be needed to actually move existing evidence to a new facility if a new vendor can provide a similar level of service at a different facility. OPD is committed to developing a RFP during the period of this new contract to develop these options. Therefore, OPD recommends that it is in the City's best interests to waive the City's advertising and bidding requirements at this time so that OPD can continue to maintain critical evidence storage capacity as a new evidence storage RFP is developed.

OPD is recommending that the City Council adopt the accompanying resolution that authorizes a contract for up to \$250,000 per year for two years, plus two discretionary years, at a cost not

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to exceed 1,000,000. Staff recognizes that this spending authorization represents up to a 100 percent increase in the annual cost. OPD is requesting an increased spending authority because of the anticipated need to visit the location more frequently during this new contract period to begin the process of clearing evidence in the event of a location transfer. OPD may not need to spend as much as \$250,000 per year over a two to four-year period but request the flexibility as the RFP process ensues.

FISCAL IMPACT

Below is an explanation of the budget for the \$1,000,000 distribution:

The agreement with Schaefer's Cold Storage is initially for two years, with up to two additional one-year extensions. The \$250,000 per year cost estimate is based on the amount of frozen biological evidence projected for the next four years. The evidence refrigeration services will be paid from the General Purpose Fund (1010), Property and Evidence Org (102120), Miscellaneous Rental Account (53219), Non-Project (0000000), Criminal Investigations Program (PS03).

Fund Source	Organization	Account	Project	Program	Amount
1010	102120	53219	0000000	PS03	\$250,000 per year
Total Two-Year Expenditure					\$500,000
Total Four-Year Expenditure					\$1,000,000

PUBLIC OUTREACH/INTEREST

The public has a strong interest in the preservation of data/information that is gathered from a crime scene. This critical information is used to assist the Oakland Police Department in solving crimes and restoring peace and safety to the community at large. Schaefer's Cold Storage continues to provide the ideal environment for this preservation.

COORDINATION

This report was reviewed by both the Office of the City Attorney and the Finance Department, Budget Bureau.

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SUSTAINABLE OPPORTUNITIES

Economic: There are no economic concerns associated with this report.

Environmental: There are no environmental concerns associated with this report.

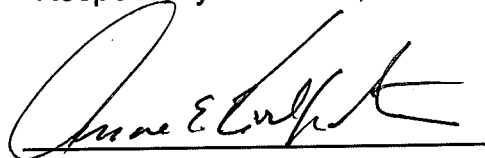
Social Equity: Proper storage of biological evidence will continue to help ensure proper convictions and exonerations of individuals identified as suspects in criminal investigations.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To: 1) Waive The Advertising/Bidding And The Request For Proposal/Qualifications Requirements, And 2) Purchase Goods And Services From Schaefer's Cold Storage For Frozen Storage Facility Use And Bins Procurement For The Preservation Of Evidence For Two Years, Plus Two Discretionary One-Year Extensions, At A Cost Of Two Hundred Thousand Dollars (\$250,000) Per Year And A Total Amount Not To Exceed One Million Dollars (\$1,000,000).

For information regarding this report, please contact Lieutenant Alan Yu (510) 238-3956 or ayu@oaklandca.gov.

Respectfully submitted,



Anne. E. Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
D. Nell Wallington, Police Services Manager I
OPD, Fiscal Division

Bruce Stoffmacher, Acting Police Services Manager
OPD, Training Division, Research and Planning

Prepared by:
Alan Yu, Lieutenant of Police
Information and Technology Section

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City-Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO: 1) WAIVE THE ADVERTISING/BIDDING AND THE REQUEST FOR PROPOSAL/QUALIFICATIONS REQUIREMENTS, AND 2) PURCHASE GOODS AND SERVICES FROM SCHAEFER'S COLD STORAGE FOR FROZEN STORAGE FACILITY USE AND BINS PROCUREMENT FOR THE PRESERVATION OF EVIDENCE FOR TWO YEARS, PLUS TWO DISCRETIONARY ONE-YEAR EXTENSIONS, AT A COST OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) PER YEAR FOR A TOTAL AMOUNT NOT TO EXCEED ONE MILLION DOLLARS (\$1,000,000).

WHEREAS, the City Council and residents of Oakland expect the Oakland Police Department (OPD) to maintain its ability to protect and preserve evidence associated with the commission of crimes; and

WHEREAS, California Penal Code Section 1417.9 requires the appropriate governmental entity—in this case the Oakland Police Department—to retain all biological material recovered in connection with a criminal case for the period of time that any person remains incarcerated in connection with the case, and to store it in a condition suitable for DNA testing; and

WHEREAS, OPD conducted a Request for Proposal / Qualifications (RFP/Q) process in late 2014 and received no responses; following that unsuccessful process, OPD contacted Schaefer's Cold Storage and they agreed to provide frozen evidence storage services as they have done for OPD since 2001; and

WHEREAS, the Oakland City Council adopted Resolution No. 85942 C.M.S. on January 5, 2016, which authorized the City Administrator or designee to: 1) waive the advertising/bidding and RFP/Q requirements, and 2) purchase frozen evidence storage services from Schaefer's cold storage for two years with two discretionary one-year extensions for one hundred twenty-five thousand dollars (\$125,000) per year and a total not to exceed five hundred thousand dollars (\$500,000); and

WHEREAS, Schaefer's Cold Storage has now been the provider of evidence storage protection for the Oakland Police Department for over 19 years; and

WHEREAS, relocating evidence to another vendor can cause thawing and refreezing of evidence and potentially jeopardize criminal prosecutions; and

WHEREAS, Schaefer's Cold Storage agrees to maintain its ongoing relationship with the OPD as a vital business ally; and

WHEREAS, Oakland Municipal Code Section 2.04.051 .B. permits the City 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, staff recommends that it is in the best interests of the City to waive the RFP/Q process because of the evidence preservation requirements cited above; therefore, be it

RESOLVED: That the City Council finds that pursuant to Oakland Municipal Code sections 2.04.051.1.5 and 2.04.051.B, for 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 bidding requirements and the request for the contract with Schaefer's Cold Storage; and be it

FURTHER RESOLVED: That the Oakland City Council, hereby authorizes the City Administrator, or designee, to purchase goods and services from Schaefer's Cold Storage for frozen storage facility use and bins procurement for the preservation of evidence for two years at a cost of two hundred fifty thousand dollars (\$250,000) per year, plus two discretionary one-year extensions, for a total amount not to exceed one million dollars (\$1,000,000); and be it

FURTHER RESOLVED: That cost for Schaefer's Cold Storage shall be paid from the General Purpose Fund (1010), Property and Evidence Org (102120), Miscellaneous Rental Account (53211), OPD Administrative Project (1000008), Criminal Investigations Program (PS03); and be it

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

FUTHER RESOLVED: That all contracts issued hereunder shall be reviewed and approved by the City Attorney for form and legality and copies shall be placed on file in the City Clerk's Office.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO 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