

City Attorney

# OAKLAND CITY COUNCIL

RESOLUTION No. 88262 C.M.S.

AS AMENDED BY COUNCIL ON JULY 28, 2020

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION WAIVING THE CITY'S ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS AND WAIVING THE REQUEST FOR PROPOSALS/QUALIFICATIONS (RFP/Q) PROCESS 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, 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, Airgas, American Society for Quality, ANSI National Accreditation Board LLC, Artic White LLC, Arrowhead Forensics, Aurora Biomed, Autodesk, Brownells, Cabella's, Cayman Chemicals, Cerilliant Corporation, Cheaper Than Dirt?, Coherent Inc., Collaborative Testing Services Inc., Covanta Inc., CSI Forensic Supply, Environmental Science Research, EVIDENT, Fisher Scientific, Foray Technologies, Forensic Comparison Software Company, Foster + Freeman Ltd, Full Spectrum, Grainger, Leeds Forensic Systems Inc., Leeds Precision Instruments Inc., Leica Geosystems, Life Technologies, Manthei Mess Systeme, Mettler-Toledo Rainin LLC, Midway USA, Perkin-Elmer, Promega Corporation, Qiagen, Niche Vision Forensic LLC, The REMI Group Inc., Rice Lake Weighing Systems Division, Ron Smith and Associates, Safariland, San Diego Police Equipment Co Inc., Security Envelope Company, Serological Research Institute, Sigma Aldrich, Sirchie, Steraloids Inc., Thermo-Fisher, Thomas Scientific, Tri-Tech Inc., Uline, Unity Lab Services, USA Scientific, and VWR; 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 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. 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 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 calendar year; 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, Airgas, American Society for Quality, ANSI National Accreditation Board LLC, Artic White LLC, Arrowhead Forensics, Aurora Biomed, Autodesk, Brownells, Cabella's, Cayman Chemicals, Cerilliant Corporation, Cheaper Than Dirt?, Coherent Inc., Collaborative Testing Services Inc., Covanta Inc., CSI Forensic Supply, Environmental Science Research, EVIDENT, Fisher Scientific, Foray Technologies, Forensic Comparison Software Company, Foster + Freeman Ltd, Full Spectrum, Grainger, Leeds Forensic Systems Inc., Leeds Precision Instruments Inc., Leica Geosystems, Life Technologies, Manthei Mess Systeme, Mettler-Toledo Rainin LLC, Midway USA, Perkin-Elmer, Promega Corporation, Qiagen, Niche Vision Forensic LLC, The REMI Group Inc., Rice Lake Weighing Systems Division, Ron Smith and Associates, Safariland, San Diego Police Equipment Co Inc., Security Envelope Company, Serological Research Institute, Sigma Aldrich, Sirchie, Steraloids Inc., Thermo-Fisher, Thomas Scientific, Tri-Tech Inc., Uline, Unity Lab Services, USA Scientific, and VWR; and be it

**Further Resolved:** that the Department will bring forth a list of all technology used by the Crime Lab to the Privacy Advisory Commission (PAC) by September 2020 to develop appropriate Impact Statements and Use Policies for these items in order to allow the PAC to make a recommendation to the City Council before the end of the calendar year; 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 our possession as of this date, until the above process is complete; and be it

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**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, JUL 28 2020

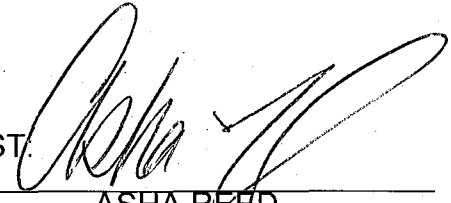
**PASSED BY THE FOLLOWING VOTE:**

AYES – BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO, and  
PRESIDENT KAPLAN – 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: 

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