




Office of the City Manager

RECESS ITEM
CONSENT CALENDAR
September 19, 2006

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Douglas Hambleton, Chief of Police

Subject: Purchase Order: Deoxyribonucleic Acid (DNA) Testing

RECOMMENDATION

Adopt a Resolution ratifying the action taken by the City Manager during recess to increase FY 2006 Purchase Order #57001 to Forensic Analytical Laboratory by \$11,720.00 for DNA testing and analysis services provided in FY 2006, expenditures that exceeded the \$45,000 purchase limit.

NEGATIVE EFFECT IF ACTION IS DELAYED UNTIL AFTER COUNCIL RECESS

Forensic Analytical Laboratory would have suspended scientific analysis services on current and future criminal evidence until payment on outstanding FY 2006 invoices had been remitted. Current and future criminal investigations would have been adversely effected. Transfer of evidence from Forensic Analytical Laboratory to another laboratory would have: delayed examination of biological materials susceptible to degradation; created opportunity for evidence corruption, or allegations of same; complicated evidentiary 'chain of custody'; and, negated the opportunity for certain kinds of examination due to inability of other laboratories to perform services provided by Forensic Analytical Laboratory. As a result, criminal prosecutions would have been complicated, impractical or rendered impossible.

FISCAL IMPACTS OF RECOMMENDATION

Approval of the recommendation would ratify the City Manager's increase purchase authority of FY 2006 Purchase Order #57001 by \$11,720. Funding for this cost is allocated via FY 2007 General Fund budget code 010-7105-420-3038.

CURRENT SITUATION AND ITS EFFECTS

Resolution No. 62,529 N.S. passed by Council on June 15, 2004 authorized establishment of a Purchase Order with Forensic Analytical Laboratory in an amount not to exceed \$45,000.00. In FY 2006, submission of evidence to Forensic Analytical Laboratory in furtherance of violent crime investigation (i.e., homicide, rape, etc.) resulted in costs approximately 26% above the authorized expenditure amount. With respect to Forensic Analytical Laboratory's invoices pending payment, dating April 2006 through June 2006, there was an outstanding balance of \$11,720 as of July 25, 2006.

Prolonged failure to remit payment would have resulted in Forensic Analytical Laboratory refusing to process new or current evidence submitted. As a result, investigation of violent crime by the Police Department and related prosecutions would have been adversely impacted.

BACKGROUND

For many years, the Police Department has submitted evidentiary materials to Forensic Analytical Laboratory for the purpose of scientific examination of evidence, such as DNA testing. Technologies have advanced to such a level that DNA testing has become a more available and, in some cases, expected investigative tool for law enforcement. Courts have affirmed the validity of current scientific examination processes and prosecutors have requested of law enforcement DNA evidence on an increasingly frequent basis to support their prosecutorial efforts. DNA testing on "cold case" evidence has proven successful for the Police Department in the identification and prosecution of violent offenders.

Forensic Analytical Laboratory is a private laboratory that provides various aspects of forensic analysis in one location. They provide evidence handling and testing, DNA-related extractions, biological screening, quantitations, analysis report preparation, as well as, other scientific examination and reporting services (e.g., gunshot residue analysis.) Forensic Analytical Laboratory has provided effective and timely service to the Police Department for many years, service that has facilitated the investigation and prosecution of numerous violent crimes. Forensic Analytical Laboratory has advised they may suspend their services until the outstanding invoice is paid.

RATIONALE FOR RECOMMENDATION

The collection and examination of DNA and similar biological evidence is more readily available and expected in the law enforcement and judicial communities. This evidence advances the competency and accuracy of criminal investigations, promotes public confidence in law enforcement and criminal justice system, and serves to protect individual civil rights. Suspension or unnecessary delay in the examination of such evidence due to overdue FY 2006 invoices represented an administrative urgency to the Police Department and City. Ratification of the City Manager's action taken during Council recess, based on authority granted in Resolution No. 62,857 N.S., to increase the authorized amount of the Purchase Order will affirm resolution of outstanding FY 2006 invoices submitted by Forensic Analytical Laboratory, and ensure continuity of investigative services by Forensic Analytical Laboratory for the current fiscal year.

ALTERNATIVE ACTIONS CONSIDERED

Wait for Council approval after Summer Recess, resulting in a delay of evidence handling. Therefore, it is the recommendation of the Police Department that the Council ratify the actions taken by the City Manager to increase the funding authorized in FY 2006 Purchase Order #57001, resolve the outstanding FY 2006 invoices, and ensure continuity of scientific services by Forensic Analytical Laboratory.

CONTACT PERSON

Bobby Miller, Captain, Police, 981-5970

RESOLUTION NO. -N.S.

INCREASING PURCHASE ORDER FOR DEOXYRIBONUCLEIC ACID (DNA) TESTING

WHEREAS, the Police Department is responsible for emergency response to and investigation of violent criminal activity within the City of Berkeley; and

WHEREAS, effective investigation of violent crime involves the location, identification, and collection of evidence, including, but not limited to, biological material containing Deoxyribonucleic Acid, also known as DNA; and

WHEREAS, the collection, analysis and presentation of DNA evidence is an effective and expected investigative tool utilized to accurately identify violent criminal offenders, due to advances in technology and expectation of the community and Court; and

WHEREAS, the Police Department received evidentiary scientific examination services from Forensic Analytical Laboratory that advanced the successful investigation and prosecution of violent crime in FY 2006; and

WHEREAS, the cost for provision of scientific examination services provided by Forensic Analytical Laboratory in FY 2006 exceeded authorized funding established by Resolution No. 62,529 N.S by an amount of \$11,720; and

WHEREAS, prolonged failure to remit \$11,720 to Forensic Analytical Laboratory for services rendered in FY 2006 would have caused that vendor to suspend evidentiary examination services, adversely impacting the Police Department's ability to investigate violent crime; and

WHEREAS, FY 2006 funding in Purchase Order #57001 for services provided by Forensic Analytical Laboratory was insufficient to address outstanding FY 2006 invoices submitted to the City by that vendor.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley ratifies the action taken during recess by the City Manager increasing FY 2006 Purchase Order #57001 by \$11,720 to remit payment for outstanding FY 2006 invoices submitted to the Police Department by Forensic Analytical Laboratory.