

**REDEVELOPMENT AGENCY  
AND THE CITY OF OAKLAND**  
*AGENDA REPORT*

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2007 OCT 11 PM 2:15

**To:** Office of the City/Agency Administrator  
**Attn:** Deborah Edgerly  
**From:** CEDA / Redevelopment and Oakland Police Department  
**Date:** October 23, 2007

**Re: A Resolution Adopting A Redevelopment Agency Public Safety And Police Services Program For The Broadway/MacArthur/San Pablo, Central City East, Central District, Coliseum, And West Oakland Redevelopment Projects For An Amount Not-To-Exceed \$5,202,000 Of Previously-Allocated Redevelopment Funds For FY 2007-09 And An Additional Allocated Amount Not-To-Exceed \$327,250 For The Broadway/MacArthur/San Pablo Redevelopment Project Area**

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**SUMMARY**

As a part of the Fiscal Year 2007-09 Adopted ORA Budget, \$5,202,000 in Redevelopment Agency funds were allocated to fund 12 new police officers, one sergeant to supervise eight of the twelve officers, and their associated equipment and vehicles in four redevelopment project areas. In addition, the Broadway/MacArthur/San Pablo Redevelopment Project Area Committee recommends allocating \$327,250 for 18 months of patrol enhancement, to fund a 14<sup>th</sup> police officer as a part of the same program. Staff requests authorization to move forward with the proposed funding strategy for these monies, described herein.

The Redevelopment Agency (ORA) and Oakland Police Department (OPD) have worked together to create an implementation strategy for both the \$5,202,000 in ORA funds allocated for enhanced patrol areas for 24 months, and the proposed \$327,250 from the Broadway/MacArthur/San Pablo Redevelopment Area for 18 months of patrol enhancement. Therefore, both the CEDA Redevelopment Division and OPD have contributed to the development of this report.

**FISCAL IMPACT**

As a part of the Fiscal Year 2007-09 Adopted ORA Budget, a total of \$5,202,000 in ORA funds were allocated to fund twelve new police officers, one new sergeant of police, and their associated equipment and vehicles in the redevelopment project areas as denoted in the upper portion of in **Table 1**. The \$5,202,000 in ORA funds include \$2,550,000 for FY 2007-08, and \$2,652,000 for FY 2008-09.

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A fifth redevelopment project area, the Broadway/San Pablo/MacArthur Redevelopment Project Area proposes to pay for one full-time sworn police officer for a period of 18 months by a FY 2007-08 allocation of \$106,250 and a FY 2008-09 allocation of \$221,000 as denoted in the lower portion of **Table 1** (the two appropriations combined total \$2,656,250 for FY 07-08, and \$2,873,000 for FY 08-09).

**Table 1**

Redevelopment Project Area	Fiscal Year Allocation		Full-Time Employees	Funding Block
	2007-08	2008-09		
Coliseum	\$850,000	\$884,000	4.5	9450 / 101110 / 56801 / S28600 / 0000
Central City East	\$850,000	\$884,000	4.5	9540 / 101110 / 56801 / S233310/ 0000
Central District	\$425,000	\$442,000	2	9510 / 101110 / 56801 / S00800 / 0000
West Oakland	\$425,000	\$442,000	2	9590 / 101110 / 56801 / S233510 / 0000
<b>Subtotal of Previous Allocation</b>	<b>\$2,550,000</b>	<b>\$2,652,000</b>	<b>13</b>	
<i>Proposed</i>				9529 / 88669 / 52921 / P187510 / 0000
Broadway / MacArthur / San Pablo	<b>\$106,250</b>	<b>\$221,000</b>	1	(To Be Determined Depending On Approval)
<b>Total FY 2007-09</b>	<b>\$2,656,250</b>	<b>\$2,873,000</b>		

In addition to the budgeted \$5,202,000 in ORA funds for public safety over FY 2007-09, the Coliseum Redevelopment Area is currently contributing \$150,000 to continue the 4L18 Enhanced Patrol Area overtime activity.<sup>1</sup> The Coliseum Area also continues to fund a \$15,000 annual contract for a commercial security consultant. In FY 2005-06, Coliseum paid \$25,000, and Central City East paid \$113,100 for lighting upgrades on select high-crime, commercial corridors for security purposes. The Central District Redevelopment Area is also contributing \$568,308 for three full-time sworn police officers to patrol the downtown area.

Shown in **Table 2**, the budgeted \$3,389,558 for police and public safety in FY 2007-08 funding represents 13.5% of redevelopment net tax increment per year in FY 2007-08. This is the highest percentage contribution made to the Oakland Police Department by the Redevelopment Agency to date.

<sup>1</sup> 4L18 Enhanced Patrol is a program sponsored by the Coliseum Redevelopment Area that funds overtime costs for extra police patrols in the commercial/industrial areas on nights and weekends.

**Table 2**  
**Redevelopment Agency 2007-08 Budget Summary**  
**Percent of ORA Budget Allocated to Public Safety Programs**

	FY 2007-08 Budget	% of Gross TI	% of Net TI
Gross Tax Increment	\$107,638,461	100.0%	
AB1290 Set-Aside	(\$15,177,653)	14.1%	
Housing Set-Aside - Mandatory Portion - 20%	(\$21,527,692)	20.0%	
Housing Set-Aside - Voluntary Portion - 5%	(\$5,381,923)	5.0%	
School Set-Aside	(\$704,627)	0.7%	
Annual Debt Service	(\$39,721,152)	36.9%	
Net Available TI [A]	\$25,125,414	23.3%	100.0%
City Personnel (net of Police) [B]	(\$14,991,026)	13.9%	59.7%
Current ORA Public Safety Commitments	(\$3,389,558)	3.1%	13.5%
Net Available for Projects	\$6,744,830	6.3%	26.8%

[A] Net available tax increment represents revenue that is available after all mandatory transfers, set-asides and debt payments have been covered.

[B] Excludes Personnel charged to the Low-Moderate Income Housing Set-Aside. These Personnel account for 23.7% of the Set-Aside (\$6,386,618/ \$26,909,615)

## BACKGROUND

Crime rates within the City of Oakland have catalyzed a need for the City and Redevelopment Agency to increase financial and staff resources in order to adequately pay for public safety services. The reduction of crime in commercial corridors, due to increased public safety services, would greatly assist redevelopment efforts.

Under California law, redevelopment funds cannot be used to pay for regular City services normally covered by City funds (such as basic police services) but can be used to supplement such services within a redevelopment project area if there is a redevelopment purpose behind the supplemental service. Enforcing security in a redevelopment project area to promote business activity and investment is considered a valid use of redevelopment funds. In 1996, the City Attorney's Office issued a legal opinion (Attachment A) concluding that the use of redevelopment tax increment funds to fund crime prevention and supplemental police services in the Coliseum redevelopment project area, though not specifically authorized by redevelopment law, was legally-defensible given the nexus between crime reduction and community revitalization. Redevelopment law considers high crime to be an economic condition that causes

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blight. The blight study that had been performed for the Coliseum area when the redevelopment plan was adopted documented a strong link between high crime and physical and economic blight in the project area, and drew the connection between crime prevention, the elimination of blight, and the successful redevelopment of the project area. However, since redevelopment law does not permit the use of redevelopment funds to pay for City employee or contractual services unless the funding is directly related to redevelopment purposes, the City Attorney advised that the redevelopment funding be targeted specifically to the Coliseum Redevelopment Project Area and be used only to supplement police and public safety expenditures in the area, over and above the level of services that the City normally funds.

Therefore, the Police Department may only use redevelopment funds to provide additional police services (such as additional patrols) above and beyond existing police service levels. In other words, the level of policing activity that has thus far been paid for by the City's General Fund has been defined, through crime analysis, as the "existing service level" needed to keep the City safe. The Redevelopment Agency, through these supplemental monies, could fund an enhanced level of policing services for the community in the designated redevelopment project areas that generate the funds, as a means to improve security conditions in the project area and encourage redevelopment activities in the area.

Both the Central District and the Coliseum redevelopment project areas have previously funded security enhancement programs in prior budget cycles. These programs will serve as a potential model for how security enhancement programs can be structured in other redevelopment areas during the life of those redevelopment plans.

All of the redevelopment project areas participating in this program have crime rates that are significantly greater than those areas of the City that are not in redevelopment project areas. The link between high crime and blight conditions in these project areas is strong. Crimes such as graffiti and vandalism contribute directly to physical blight. High crime rates reduce property values and contribute to economic blight as well. Burglary, theft, and other property crimes act as strong deterrents for business owners to locate in the area and for developers to invest in the area. Fear of crime dissuades customers from patronizing retail businesses in many of the City's commercial nodes. It follows that the nexus between funding public safety enhancements and crime reduction programs and the physical redevelopment of the project area is also strong. Enhanced public safety will encourage business retention and attraction, financial investment, and developer interest in the project area, and is thus important to, and in fact may be a necessary precondition to, a successful redevelopment program.

The following discusses crime and redevelopment issues in each of the participating areas:

### Central District

Annually, the Central District Redevelopment Project Area contributes \$568,308 to the Downtown Walking Patrol Program. The Walking Patrol Program was established to enhance safety and security above standard police patrol levels in downtown Oakland. The service has rendered an improved perception of security by business owners, customers, and workers in the area, and decreased crime rates.

Crimes relating to property vandalism and blight have taken place at various locations within the Central District Redevelopment Area. As the City has worked to revitalize the downtown area for significant economic development and housing growth, it is also a priority to maintain a standard level of safety and contain crime in the downtown, so that growth efforts are not undermined or impeded.

Last year, the *San Francisco Business Times* published an article about the concerns of downtown companies regarding the growing number of robberies and other crimes. The article highlighted the concerns of large employers, such as Clorox, and Kaiser Permanente, as well as smaller merchants, stating, "Recent incidents are worrying not only shopkeepers, but also some of Oakland's largest employers. A concerned Clorox Co. called a January meeting with the police, major downtown landlords and representatives of Councilmember Nancy Nadel and the Oakland Chamber of Commerce. The Clorox meeting was attended by at least one other large local employer, Kaiser Permanente. In downtown Oakland, robberies rose 63 percent in the latter half of 2005 to 140, compared with the same period in 2004." ["Oakland Crime Spreads," *San Francisco Business Times*, February 10, 2006]

### Coliseum

In the Coliseum Redevelopment Project Area, the 4L18 Security Enhancement Program funds overtime costs for extra police patrols in the commercial/industrial areas on nights and weekends. For FY 2007-08, Coliseum will contribute \$150,000 to the 4L18 Program.

The relationship between crime and blight was described as follows in the blight study performed for the Coliseum area in 1995:

High crime rates significantly affect the image of an area and is a serious disincentive to any residential or business investment in the area. The fear for personal safety is a major criterion in the decision of any household or business to locate in an area. Within commercial areas, in particular, crimes against persons and property discourage patronage and add to the cost of doing business in the form of vandalism, burglary, theft, etc. When these crimes are disproportionately

high, patrons, tenants and businesses relocate elsewhere. In residential areas, crimes have the effect of devaluing property, and discouraging sales and reinvestment. Local business sources agree that fear for personal safety is one of the most serious impediments to investment in the Study Area. [“Coliseum Area Redevelopment Plan Report to Council,” July 1995, pp. II-109 to II-110]

Crime takes place at various locations within the Coliseum Redevelopment Area. Furthermore, the stretch of International Boulevard that defines the Coliseum Area’s northern boundary, a major commercial strip in the project area, has been referred to by OPD as one of the most problematic, unsafe areas in Oakland. OPD intends to initially deploy all eight officers funded by the East Oakland redevelopment areas (Coliseum and Central City East) on International Boulevard.

### **West Oakland**

The blight study of West Oakland that was conducted in 2003 describes the connection between the crime problem and blight in the project area:

A high crime rate, or even the perception of a high crime rate, adversely affects economic conditions in a community. A high crime rate reduces the demand for and value of all types of real property. Retailers also are affected, if outsiders are unwilling to enter a neighborhood to shop, and if local residents travel to retail districts outside the local area to shop. Policing and prosecuting crime in an affected community, as well as related costs associated with crime prevention, correction, and rehabilitation, place a significant financial burden on the City and County. With the decline in economic activity, jobs leave the community, the cost of social programs increases, the upkeep of existing facilities is deferred, and tax collections are reduced. The burden on the community of a high crime rate, both directly and indirectly, is great. [“Report To City Council for the West Oakland Redevelopment Project,” September 2003, pp. III-42 to III-43]

The West Oakland Redevelopment blight study further found:

Data from the Oakland Police Department indicate that crime, and violent crime in particular, is a significant problem in the West Oakland Project Area. The overall crime rate in the Project Area (crimes per population) is 152 percent of the citywide average of all categories of crime and 225 percent of the citywide average for violent crimes, including homicide, assault, rape, and robbery. Such large multiples, occurring across all categories of major crime, constitute a serious threat to the public welfare and safety... A testament to the pervasiveness of

crime in the area is the presence of security bars on doors and windows, which the survey team identified on 50 percent of the properties evaluated. [“Report To City Council for the West Oakland Redevelopment Project,” September 2003, p. III-43]

The West Oakland Redevelopment Project Area Five-Year Implementation Plan specifically states that one of the Project Area’s goals is to, “Improve public safety for people living and working in the Project Area”. On October 1, 2007, the *Oakland Tribune* published an article that discusses the recent closure of an important business in the Mandela Gateway area of West Oakland due to experiencing three daytime robberies in one month, in spite of the presence of security cameras. The article includes telling statements made by the franchise owner, as he says, “I had three team members working today. I have video, they can see themselves on a 15-inch screen. This is the third time in 30 days, each time people with guns in broad daylight, 11 a.m., 2p.m., we’re not talking 8 or 9 at night. It’s getting to the point of why am I doing this? It’s unfortunate because I think the community wants us. But not at this price.” [“Crime Forces Subway in Oakland to Close,” *Oakland Tribune*, October 1, 2007]

On June 7, 2007, the West Oakland Economic Development Working Group (WOEDWG) held a special meeting to discuss public safety improvements and possible funding sources. The impetus for the meeting was the concerns of the business community around the growing incidences of crime and violence in and around their businesses. For instance, the number of forcible robberies, auto burglaries and thefts, and burglaries to businesses has seemingly increased. The group felt that more patrols (including private security), increased lighting, and surveillance cameras would help to alleviate the problems they were experiencing. The group also felt that redevelopment funds could be used for that purpose, and wanted to explore the recommendation in more detail. A number of redevelopment committee members attended the meeting and agreed that redevelopment funds could possibly be utilized for the purpose of increased public safety.

### **Central City East**

As noted above, the stretch of International Boulevard that defines a large part of the Central City East Redevelopment Project Area’s southern boundary has been referred to by OPD as one of the most problematic, unsafe areas in Oakland. Similar to West Oakland, the Central City East Redevelopment Area is associated with a high crime rate as noted in its blight study that was conducted in 2003:

The [Central City East] Project Area is impacted by a variety of crimes and crime-related problems. As a major portion of East Oakland, the Project Area is one of two hardest hit areas (East Oakland and West Oakland) of the City..... The

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Project Area accounts for a disproportionate share of homicides, assaults with deadly weapons, corporate injury to spouse, and robberies. For these categories, the crime rate in the Project Area is between 225 and 150 percent higher than the City. One block in the Project Area was dubbed the “deadliest block in Oakland.” due to the deaths of two men in separate incidents within a two-week period..... On a per capita basis, the rates of crime in the Project Area are high relative to most of the rates for Alameda County and several types of crime for the balance of the City. [“Report To City Council for the Central City East Redevelopment Project,” May 2003, pp. 96-97]

### **Broadway/MacArthur/San Pablo**

A significant portion of the City’s crimes take place in the Broadway/MacArthur/San Pablo Redevelopment Area. The project area’s blight study, conducted in 2000, stated:

High crimes rates significantly affect the image of an area and are a serious disincentive to any residential or business investment in the area. The fear for personal safety is a major criterion in the decision of any household or business to locate in an area. Within commercial areas in particular, crimes against persons and property discourage patronage and add to the cost of doing business in the form of vandalism, burglary, theft, etc. When these crimes are disproportionately high, patrons, tenants and businesses relocate elsewhere. In residential areas, crimes have the effect of devaluating property, and discouraging sales and reinvestmen..Based on crime information provided by the Oakland Police Department, Crime Analysis Unit, the Broadway/MacArthur/San Pablo Redevelopment Survey Area suffers a disproportionately high rate of crime relative to its population. [“Broadway/MacArthur/San Pablo Redevelopment Plan Report to Council,” July 2000, p. 66]

The blight study specifically cited nuisances and crime related to the motels in the area, and concluded that “problems with these hotels/motels continue to plague the business climate in the area, as well as the health and safety of the neighborhood residents. A recent market analysis of the area around the MacArthur BART station (next to which many of these motels are located) concluded that the illegal activities associated with the motels create a negative atmosphere that hinders investment and development” [Ibid., p. 68]

### **KEY ISSUES AND IMPACTS**

As the proposed Public Safety and Police Services Program is intended to reduce crime within five redevelopment areas in Oakland, the Redevelopment Agency will use the results of the

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Program from FY 2007-09 as a gauge for determining the size of monetary contributions the Redevelopment Agency will allocate for similar efforts and services in future years. Depending on crime levels in subsequent years, and the success of the Program's design and implementation strategy, the Redevelopment Agency will continue to revise the Program in an effort to maximize its return to the community.

Redevelopment staff recognizes the linkage between crime and the ability to attract development projects and supports the use of ORA funds to reduce crime. Staff also recognizes the need to be prudent in the expenditure recommendations for tax increment- and non-tax increment-generating projects. As a result, redevelopment staff strongly recommends Council consider establishing an annual reserve to be calculated as a fixed percentage of the Redevelopment Agency's annual gross tax increment. This set-aside would be solely for tax-increment generating projects and programs.

### **PROGRAM DESCRIPTION**

The Redevelopment Agency and Oakland Police Department seek Council approval to move forward with the proposed funding strategy outlined herein:

The **Coliseum Redevelopment Project Area** and OPD propose to use the \$850,000 (FY 2007-08) and \$884,000 (FY 2008-09) in approved funding for OPD patrol enhancement to fund four full-time police officers each year to patrol equal-length segments of International Boulevard, between 22<sup>nd</sup> Avenue and the San Leandro border. While initial officer deployment is along International Boulevard, these officers will eventually service all commercial corridors and neighborhoods.

The **Central City East Redevelopment Project Area** and OPD also propose to contribute its approved OPD funding (amount is equal to Coliseum Redevelopment Area) to fund an additional four officers to initially focus on International Boulevard and its environs. The four officers funded by Central City East would eventually patrol MacArthur Boulevard and other areas within the Central City East Redevelopment Area. The Agency has presented this Program to the Central City East Project Area Committee. The Central City PAC expressed their general support for the Program, but chose to await City Council's direction before holding an official vote.

The eight supplemental sworn police officers on International Boulevard funded by the two redevelopment areas in East Oakland is anticipated to effectively address crime on one of the City's most targeted corridors. OPD has assigned this supplemental policing unit of eight officers, referred to as a Neighborhood Enhancement Team (NET), under the supervision of a sergeant of police whose salary will be reimbursed equally by the two project areas served.

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The **Central District Redevelopment Project Area** and OPD propose to use its approved funding of \$425,000 (FY 2007-08) and \$442,000 (FY 2008-09) to fund two full-time sworn police officers to patrol targeted areas of Downtown Oakland, and to pay for associated police vehicles and equipment. OPD has indicated that the NET for the Central District Redevelopment Area would report to a sergeant of police regularly assigned to supervise the existing Foot Patrol Unit.

The **West Oakland Redevelopment Project Area** and OPD propose to use its approved funding of \$425,000 (FY 2007-08) and \$442,000 (FY 2008-09) to fund two full-time sworn police officers to patrol targeted areas of West Oakland, and to pay for associated police vehicles and equipment. OPD has indicated that the NET for the West Oakland Redevelopment Area would report to a sergeant of police supervising an existing Crime Reduction Team. The West Oakland Project Area Committee voted unanimously in favor of the Program on September 19, 2007, but want to work with OPD on specific programs and target areas for the officers.

The **Broadway/MacArthur/San Pablo Redevelopment Area** Project Area Committee is requesting to allocate funding for patrol enhancement activity by one full-time sworn police officer in its redevelopment area to be effective in January 2008 for an 18-month trial period. This funding would cover a six-month period in the amount of \$106,250 for the second-half of FY 2007-08, and \$221,500 for FY 2008-09. The Broadway/MacArthur/San Pablo Redevelopment Project Area Committee recommended the use of the total \$327,250 for 18 months of enhanced patrol at a special Project Area Committee meeting on this topic held on August 2, 2007.

OPD is required to send monthly crime activity reports to the Redevelopment Agency detailing the Program's monthly progress. These reports shall be composed by the officers assigned to the Program so that the information is current and accurate. Copies of the reports may be released to the public upon request.

The cost of a supplemental police officer is fully loaded with the costs of benefits, overhead, automobile, and other equipment. **Table 3** separates out the cost component for equipment and vehicles that will be needed for the Program. As shown in **Table 3**, approximately \$513,000 of the total budgeted funding will be spent on equipment and vehicles needed for the Program. In the event that OPD incurs an unanticipated need to purchase additional equipment or fund special operations for the Program after all of the funds in **Table 3** are spent, the Redevelopment Agency would allow those additional purchases to be made only in the second year of the Program (FY 2008-09), and the equipment purchases may not exceed \$100,000. The OPD is also required to obtain Redevelopment Agency authorization for additional equipment purchases prior to expending any Program funds.

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**Table 3**  
**ORA FY 2007-09 Public Safety and Police Services Program**  
**OPD Vehicles and Equipment Cost Component**

<b>Item</b>	<b>Cost Per Unit</b>	<b>Quantity</b>	<b>Total Cost</b>
Police Vehicles	\$63,000	7	\$441,000
Laptop Computers	\$5,150	7	\$36,050
Dual-Purpose Motorcycles	\$7,350	2	\$14,700
Police equipment for each	\$1,000	7	\$7,000
Cell Phones	\$406	14	\$5,680
Cameras	\$400	7	\$2,800
Training (DRE, CPTED etc)	\$1,640	n/a	\$1,640
Minor computer hardware	1,000	n/a	\$1,000
Office supplies	3,000	n/a	\$3,000
<b>Total Cost Equip. and Vehicles</b>			<b>\$512,870</b>

## **SUSTAINABLE OPPORTUNITIES**

### ***Economic:***

Several businesses located within the redevelopment areas included in the proposed Public Safety and Police Services Program are negatively impacted by increasing crime activity in those areas. More specifically, overall revenues and sales tax generation have been comparatively low, and the City's efforts at business attraction and retention are hindered by increasing crime. The proposed Program is designed to deter crime, therefore improving the overall business environment in respective redevelopment areas.

### ***Environmental:***

Crime has been determined as a subcomponent of blight. As the Redevelopment Agency strives to reduce blight within its project areas, the proposed program is anticipated to reduce crime and make the neighborhoods within these redevelopment areas more pleasant, peaceful, and safer environments for residents, businesses, and visitors,

***Social Equity:***

The proposed Program will provide a much needed public service that will cater equally to a community with emerging mixed-income levels and increased density. Crime has prevented economic development and the growth of neighborhood services in many Oakland communities. A reduction in crime is likely to attract a variety of businesses to Oakland, and increase the types of services that many communities currently lack.

**DISABILITY AND SENIOR CITIZEN ACCESS**

The ORA Public Safety and Police Services Program is anticipated to reduce crime in the participating redevelopment project areas. This reduction in crime is in turn beneficial to the overall safety of senior citizens who reside within those redevelopment areas.

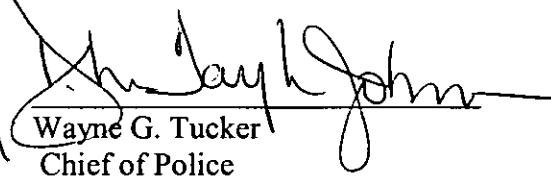
**RECOMMENDATION(S) AND RATIONALE**

The Redevelopment Agency seeks to reduce crime to assist its efforts to attract economic development and real estate development projects to redevelopment project areas. Increasing crime rates within the City of Oakland have increased the need for the City and Agency to pool financial and staffing resources in an effort to ensure that adequate funding is available to pay for resources needed to combat crime and make the City's neighborhoods safer. The ORA Public Safety and Polices Services Program is designed to reduce crime and therefore reduce blight in five major redevelopment areas of Oakland.

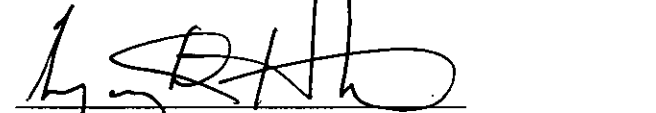
**ACTION REQUESTED OF THE CITY COUNCIL**

CEDA and OPD staff requests passage of the proposed Agency resolution adopting a Public Safety and Police Services Program for the five project areas for an amount not-to-exceed \$5,202,000 of previously-allocated redevelopment funds for FY 2007-09, and allocating an additional amount not-to-exceed \$327,250 from Broadway MacArthur/San Pablo Redevelopment Area for the Program.

Respectfully submitted,

  
Wayne G. Tucker  
Chief of Police

Respectfully submitted,

  
Gregory D. Hunter, Deputy Director  
Community and Economic Development Agency  
Economic Development & Redevelopment

Reviewed by:  
Deputy Chief David Kozicki, OPD  
Ms. Cynthia Perkins, Legislative Analyst, OPD

Reviewed by:  
Patrick Lane, Redevelopment Area Manager

Prepared by:  
Rupa Parikh, Urban Economic Analyst III  
Community and Economic Development Agency  
Redevelopment Division

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT  
AND PUBLIC SAFETY COMMITTEES:

  
Office of the City/Agency Administrator

Attachment: City Attorney Opinion, Use of Coliseum redevelopment tax increment funds for police and security program (November 12, 1996)

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CITY OF OAKLAND



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November 12, 1996

**PUBLIC SAFETY COMMITTEE**  
Oakland Redevelopment Agency  
Oakland, California

Chairperson Miley and Members of the Committee:

**Re: Use of Coliseum redevelopment tax increment funds for police and security program**

In a letter to the Public Safety Committee dated July 17, 1996, the Coliseum Area Redevelopment Advisory Committee requested that the Redevelopment Agency approve the use of \$230,000 in Coliseum Project Area redevelopment funds for a Security and Safety Enhancement Program. The Committee subsequently requested the City Attorney's Office to review the legality of the proposal.

**I.**

**ISSUE**

May the Redevelopment Agency use Coliseum Redevelopment Area tax increment funds to fund a Security and Safety Enhancement Program providing crime prevention and police services for the Coliseum Redevelopment Project Area?

**II.**

**SUMMARY CONCLUSION**

The Redevelopment Agency has a defensible argument that state law permits the use of Coliseum Redevelopment Project tax increment funds to fund the Security and Safety Enhancement Program, although the authority to fund this program is somewhat unclear. If the Agency chooses to fund this Program, it will be critical to document findings that link the Program to the elimination of blight in the Coliseum Redevelopment Project Area and the development and rehabilitation of structures in the Area.

Attachment A

III.

BACKGROUND FACTS

The Redevelopment Agency and the City Council adopted the Coliseum Area Redevelopment Plan on July 28, 1995, pursuant to the California Community Redevelopment Law (Health & Safety Code §33000, et. seq.). A stated goal of the Five-Year Implementation Strategy for the Coliseum Plan is to "[i]mprove public safety for people living and working in the Project Area." The Strategy calls for establishing a "fund to assist Project Area residents and businesses with private security measures," and lists Coliseum tax increments, the General Fund, and Community Development Block Grants as possible funding sources for this program.

The Coliseum Area Redevelopment Advisory Committee ("CARAC"), a private organization that has worked closely with the City in adopting and implementing the Coliseum Area Redevelopment Plan, has requested that the Redevelopment Agency approve the use of \$230,000 a year in Coliseum redevelopment funds<sup>1</sup> to support a "Security and Safety Enhancement Program" for the Coliseum Redevelopment Project Area. The stated goal of this Program would be to help retain businesses in the Project Area by reducing crime, making the Area safer for companies and employees, and improving the image of the business neighborhoods.

The Security and Safety Enhancement Program would have two components. The first would be the expansion of the existing Coliseum Area BusinessAlert Pilot Program now operated by the Oakland Commerce Corporation. The BusinessAlert program is a community-based crime prevention program designed to organize businesses and employees in Coliseum neighborhood to share information on criminal activity in the neighborhood and work with the Oakland Police Department. Redevelopment funds would be used by OCC to hire a Security and Safety Enhancement Coordinator for the Coliseum Project Area to conduct outreach to businesses and act as a liaison between businesses and the Police Department. The CARAC is proposing that the BusinessAlert component be funded on an interim basis at \$42,052 a year.

The second component would be the establishment of a "police enhancement zone" in the Coliseum Project Area. Redevelopment funds would be used to hire dedicated "off-duty" police officers during evening and weekend hours. The officers would concentrate on commercial areas

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<sup>1</sup> While the proposal does not specify the exact source of redevelopment funds, we are assuming for purposes of this Opinion that the proposed source of funds are redevelopment tax increment funds generated from the Coliseum Project Area. It is clear that tax increment funds generated from other redevelopment areas in the City, including the Central District, may not be used to fund this program. Health and Safety Code Section 33678 states that tax increment revenues may only be used for an activity that "primarily benefits the project area." We think it is clear that the statutory language as well as the legislative intent of the Community Redevelopment Law is to limit the use of tax increment funds only to redevelopment activities that primarily benefit the project area generating the funds.

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in the Project Area from Doolittle Avenue to San Leandro Avenue and from 54th Avenue to 98th Avenue. The Police Department states that these officers would "supplement" existing police services to the area during these hours. The CARAC is proposing that the Police Enhancement Zone component be funded on an interim basis at \$187,948 a year.

IV.

ANALYSIS

The Community Redevelopment Law limits the use of tax increment funds (among other limitations) to authorized "redevelopment activities." (Health & Safety Code §33678.)<sup>2</sup> An authorized "redevelopment activity" must meet all three of the following criteria:

- It must be "redevelopment" as defined in the Community Redevelopment Law;
- It must primarily benefit the redevelopment project area; and
- It may not involve paying for employee or contractual services of any local public agency, unless those services are directly related to defined "redevelopment purposes."

(Health & Safety §33678.<sup>3</sup>) "Redevelopment" is generally defined as "the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and the provision of those residential, commercial, industrial, public or other structures or spaces as may be appropriate or necessary in the interest of the general welfare..." (Health & Safety Code §33020(a).<sup>4</sup>) The definition of "redevelopment" includes the "alteration, improvement, modernization, reconstruction, or rehabilitation, or any combination of these, of existing structures in a [redevelopment] project area" (Health & Safety Code §33021(a)); the provision of open space uses, public or private buildings and improvements, and improvements of recreation areas and public grounds (b); and the "replanning or redesign or original development of undeveloped areas," if certain conditions are met.

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<sup>2</sup> Redevelopment law also specifically authorizes the use of tax increment funds to support the development of low and moderate income housing. See Health & Safety Code sections 33334.2, et seq., and 33449. The law also contains a number of additional limitations on the use of tax increment funds for certain specified uses. None of these limitations are relevant to this Opinion.

<sup>3</sup> Section 33678 actually sets forth the conditions under which tax increment financing is exempt from the provision of the California Constitution (Article XIII B) requiring governmental entities to adopt spending limits.

<sup>4</sup> The statute also specifically includes within the definition of "redevelopment" loan guarantees to small business and the financing of small business incubators in Oakland and other specified localities.



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We first conclude that the BusinessAlert component of the Security and Safety Enhancement Program probably does meet the test for a "redevelopment activity" under the California Community Redevelopment Law, although the law here is somewhat unclear. The program easily meets two of the three criteria set forth in Section 33678: it primarily benefits the Coliseum Redevelopment Project Area, since the activities of the BusinessAlert program would be focused on businesses located within the Project Area boundaries; and it does not involve paying for employee or contractual services of the City or any other local public agency, since the pilot BusinessAlert program was created by a private entity (OCC), has been staffed by persons employed by OCC, and will continue to be privately-staffed under the expanded program.

The difficult question is whether a noncapital program such as this meets the statutory definition of "redevelopment" under Section 33678. We believe the BusinessAlert program as described does fall within the scope of "redevelopment," if the definition is viewed in a broad sense. While the BusinessAlert program does not involve direct assistance to a building rehabilitation or construction project, a primary goal of the program in preventing crime is to promote the "alteration, improvement, modernization, reconstruction, or rehabilitation" of structures in the Coliseum Redevelopment Area by the private sector. In that sense it is a "rehabilitation" program. We do not believe that the legislature in defining the scope of allowable "redevelopment" activities necessarily intended to limit the use of tax increment funds only to subsidize "bricks and mortar" activities, i.e., capital projects involving the direct construction or physical improvements of buildings or facilities.

The nexus between a crime prevention program such as this and the elimination of physical and economic blight in the Coliseum Redevelopment Project Area is strong. The incidence of crime, both perceived and actual, has an important effect on the redevelopment of an area. A high crime rate is specifically listed in the Community Redevelopment Law as an economic condition that causes blight. (Health & Safety Code §33031(b)(5).) High crime can, along with other blight factors, justify the adoption of a redevelopment plan, and in fact adoption of the Coliseum Plan was justified in part by the disproportionately high crime rate in the area. (Coliseum Area Redevelopment Plan, Report to Council (July 18, 1996), at II-109 and II-110.)<sup>5</sup> The prevention of property crimes like vandalism, arson and graffiti directly addresses conditions of physical blight in a project area. Crime prevention also correlates with the elimination of economic blight. Businesses would be more likely to locate in a project area, and financial

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<sup>5</sup> "High crime rates significantly affect the image of an area and is a serious disincentive to any residential or business investment in the area. The fear for personal safety is a major criterion in the decision of any household or business to locate in an area. Within commercial areas, in particular, crimes against persons and property discourage patronage and add to the cost of doing business in the form of vandalism, burglary, theft, etc. When these crimes are disproportionately high, patrons, tenants and businesses relocate elsewhere. In residential areas, crimes have the effect of devaluing property, and discouraging sales and reinvestment." Coliseum Area Redevelopment Plan, Report to Council (July 18, 1996), at II-109.

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institutions would be more likely to invest in the area, if the area is perceived as safe and secure. One could go farther and argue that security and safety are necessary preconditions to any successful redevelopment effort -- that businesses will not locate or invest in a redevelopment project area if the area is viewed as unsafe; no matter how much money a redevelopment agency commits to fund development projects in the area.

We likewise conclude that the Police Enhancement Zone component of the Program could be defended as a "redevelopment activity" under the California Community Redevelopment Law, although this too is open to debate. The Police Enhancement Zone program easily passes the first part of the Section 33678 three-part test, i.e. the primary benefit test, since the officers would be dedicated to patrolling the Coliseum Project Area. The program would also probably fit within a broad interpretation of the definition of "redevelopment," under the same reasoning laid out above for the BusinessAlert program, although this is debatable. However, the third prong of the test, i.e., the requirement that if tax increments are used to pay for employee or contractual services of the City, the use must directly relate to defined redevelopment purposes, is the most problematic. It appears that the Police Enhancement Zone program would involve using tax increment funds to pay for the employee or contractual services of the City. While the officers who would be funded under the Police Enhancement Zone have been characterized as "off-duty," it appears that they will be sworn officers employed by the Oakland Police Department, and the funding for this program would either go directly to the Department or passed through the Department by contract to an outside party. While the patrols funded by tax increment funds would be "supplemental" to regular police services provided by the City, police services such as this are historically part of the services normally provided for by the City.

Therefore, the Agency will need to show that the Police Enhancement Zone program is "directly" related to a defined redevelopment purpose. One could argue that the use of the word "directly" could indicate the legislature's intent that the use of tax increments by a redevelopment agency to fund employee services of another local agency must be provided in the context of capital building development projects benefiting the project area, and that, unlike the first prong of the Section 33678 test, it is not enough simply to draw a causal link between the use of the tax increment funds for a program and the eventual redevelopment activities that would flow from the program. However, it can also be argued that, since the program is designed to address a condition -- crime -- that is directly linked to the creation of blight conditions, the program is in fact directly related to a redevelopment purpose, namely, the elimination of blight. Since there is analysis and supporting data readily available in the Coliseum blight study that draws the link between crime and blight in the Coliseum Area, the Agency's argument in favor of funding the patrols would be defensible.

We should point out that while the conceptual arguments in favor of including crime prevention within the scope of redevelopment are strong, the statutory language does not give the Agency the undisputed authority to undertake this effort. It is certainly possible for a court to

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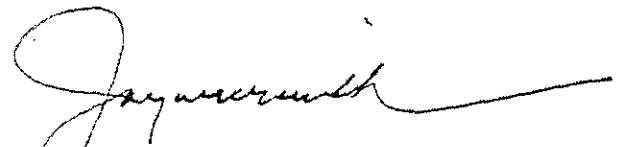
interpret the definition of "redevelopment activities" narrowly to encompass only building projects. If the Agency chooses to support either component of the Security and Safety Enhancement Program with Coliseum tax increment funds, it will be critical to document findings that link the Program with the rehabilitation and improvement of structures in the Area and with the elimination of physical and economic blight in the Coliseum Project Area.

v.

### CONCLUSION

The Agency has a defensible argument that the Security and Safety Enhancement Program meets the three part test for a "redevelopment activity" set forth in Health and Safety Code Section 33678, and that state redevelopment law therefore would permit Coliseum tax increment funds to be used to fund this Program. However, the authority to do this under state law is less than clear, and it will be important to make careful findings of fact to support the use of tax increment funds for this purpose. We should point out that there is no monitoring body that regularly oversees the use of redevelopment agency tax increment revenues. However, the use of tax increment revenues for a program such as this could be subject to court challenge in the form of a taxpayer's suit or other legal action, should someone wish to take issue with the Agency's position. It is possible that a court could enjoin the program if it interprets Section 33678 in a more conservative way. In that case, the Agency could possibly be liable for payment of attorneys fees and costs to the successful challenger.

Respectfully submitted,



JAYNE W. WILLIAMS  
City Attorney

ATTORNEY ASSIGNED:  
Daniel Rossi

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cc: Kofi Bonner, CEDA  
Roy Schweyer, CEDA  
Jeff Chew, CEDA  
Deputy Chief Marvin Young, OPD  
Captain Richard Ehle, OPD

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OAKLAND

2007 OCT 11 PM 2:15

Approved as to Form and Legality

  
Agency Counsel

## REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. \_\_\_\_\_ C.M.S.

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A RESOLUTION ADOPTING A REDEVELOPMENT AGENCY PUBLIC SAFETY AND POLICE SERVICES PROGRAM FOR THE BROADWAY/MACARTHUR/SAN PABLO, CENTRAL CITY EAST, CENTRAL DISTRICT, COLISEUM, AND WEST OAKLAND REDEVELOPMENT PROJECTS FOR AN AMOUNT NOT-TO-EXCEED \$5,202,000 OF PREVIOUSLY-ALLOCATED REDEVELOPMENT FUNDS FOR FY 2007-09 AND AN ADDITIONAL ALLOCATED AMOUNT NOT-TO-EXCEED \$327,250 FOR THE BROADWAY/MACARTHUR/SAN PABLO REDEVELOPMENT PROJECT

**WHEREAS**, the Redevelopment Agency strives to prevent and reduce blight and encourage redevelopment activities and investment within the redevelopment project areas of Oakland; and

**WHEREAS**, Section 33031(b)(5) of the California Community Redevelopment Law ("CRL") identifies a high crime rate that constitutes a serious threat to the public safety and health as an economic condition that causes blight; and

**WHEREAS**, Section 33678 of the CRL allows an agency to use tax increment funds to pay for services of a local governmental agency if the services are directly related to redevelopment purposes; and

**WHEREAS**, there is a significant correlation between crime, blight conditions, and the lack of redevelopment within the Broadway/MacArthur/San Pablo, Central City East, Central District, Coliseum, and West Oakland redevelopment project areas, and so a reduction in crime within those project areas would be directly related to the prevention and elimination of blight conditions in and the successful redevelopment of those project areas; and

**WHEREAS**, crime within the project areas has steadily been rising; and

**WHEREAS**, crimes such as graffiti and vandalism contribute directly to physical blight in the project areas; and

**WHEREAS**, burglary, theft, and other property crimes act as strong deterrents for business owners to locate in the project areas and for developers to invest in the areas; and

**WHEREAS**, fear of crime dissuades customers from patronizing retail businesses in the project areas, reduces property values, and thus contributes to economic blight in the project areas; and

**WHEREAS**, enhanced public safety is vital to a successful redevelopment program; and

**WHEREAS**, funding public safety enhancements and crime reduction programs will encourage business retention and attraction, financial investment, and developer interest in the project areas; and

**WHEREAS**, the City of Oakland's General Fund does not have sufficient funds to pay for extra sworn police officer positions with the Oakland Police Department above and beyond those required to meet the current, established service levels in the project areas; and

**WHEREAS**, the Agency wishes to pay for supplemental police and security services in those redevelopment project areas so long as those services are above and beyond existing police activities and services levels paid for by the City's General Fund; and

**WHEREAS**, the Redevelopment Agency authorized the allocation of \$5,202,000 in redevelopment funds for the creation of a public safety and police services set-aside as part of the FY 2007-09 Adopted ORA Budget; and

**WHEREAS**, the Broadway/MacArthur/San Pablo redevelopment project area proposes to add \$327,250 in additional Agency funds to the public safety and police services program; and

**WHEREAS**, CEDA staff working within the five redevelopment project areas have collaborated with the Oakland Police Department to design a public safety and police services program tailored to those areas to commence as soon as possible; and

**WHEREAS**, the Agency wishes to support these activities by appropriating \$5,202,000 in ORA funds already budgeted for the Program from the following FY 2007-2009 accounts:

<u>Redevelopment Area</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>Fund / Project</u>
Coliseum	\$850,000	\$884,000	9450 / S28600
Central City East	\$850,000	\$884,000	9540 / S233310
Central District	\$425,000	\$442,000	9510 / S00800
West Oakland	\$425,000	\$442,000	9590 / S233510

; and,

**WHEREAS**, the Agency wishes to further support these activities by allocating and appropriating an additional \$106,250 in FY 2007-08 and \$221,000 in FY 2008-09 of funds from Broadway/MacArthur/San Pablo (9529, 88669, 52921, P187510, 0000) to the Program; and

**WHEREAS** the City and the Redevelopment Agency entered into a Cooperation Agreement on July 1, 2004, which governs the provision of assistance and the payment of funds between the two agencies; now, therefore be it

**RESOLVED:** That the Redevelopment Agency hereby adopts a Redevelopment Agency Police and Public Safety Program to fund enhanced police services and crime-reduction activities within the Broadway/MacArthur/San Pablo, Central City East, Central District, Coliseum, and West Oakland redevelopment project areas; and be it

**FURTHER RESOLVED:** That the Agency hereby appropriates \$327,250 of funds from the Broadway/MacArthur/San Pablo Redevelopment Project Area to the Program as indicated above; and be it

**FURTHER RESOLVED:** That the Oakland Police Department will submit to the Agency monthly crime activity reports by each participating redevelopment project area that detail monthly progress of the Program; and be it

**FURTHER RESOLVED:** That the Agency hereby finds, based on the information contained in the staff report accompanying this Resolution and the information it has received from business owners, residents, and police officers in the project areas, that the Program is directly related to the elimination of blight and the successful redevelopment of those project areas; and be it

**FURTHER RESOLVED:** That this action is exempt from the California Environmental Quality Act ("CEQA") under section 15321(b) (law enforcement) of the CEQA regulations; and be it

**FURTHER RESOLVED:** That the Agency Administrator or her designee is authorized to adopt guidelines for the Program and take any other actions with respect to the Program consistent with this Resolution and its basic purposes.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2007

**PASSED BY THE FOLLOWING VOTE:**

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND  
CHAIRPERSON DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
Secretary of the Redevelopment Agency  
of the City of Oakland, California