



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Susan E. Manheimer  
Interim Chief of Police

**SUBJECT:** 2020 Tobacco Law Enforcement Grant      **DATE:** September 23, 2020

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City Administrator   
Approval

Date      Oct 8, 2020

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## **RECOMMENDATION**

**Staff Recommends That The City Council Approve A Resolution:**

**Authorizing The City Administrator Or Designee To Enter Into An Agreement With The California Department Of Public Health (CADOPH) To Clarify “Stop Tobacco Access To Kids Enforcement (STAKE)” Grant Program Requirements, And Accept And Appropriate One Hundred Eighty Thousand Dollars (\$180,000) For A Three-Year CADOPH STAKE Grant; And Authorizing The General-Purpose Services Fund To Contribute Twenty-Seven Thousand Nine Hundred Dollars (\$27,900), To Cover The Associated Central Services Overhead Costs.**

## **EXECUTIVE SUMMARY**

Approval of the resolution accompanying this report will allow OPD and CADOPH to enter into a grant agreement in the amount of \$180,000 via funding from California Proposition 56, the Tobacco Tax Increase Initiative, to expand and enhance the ability of OPD’s Alcoholic Beverage Action Team (ABAT) to:

- Identify and target problematic retailers of tobacco products who sell to minors;
- Increase enforcement efforts against tobacco establishments that generate tobacco-related violations;
- Promote strategies that reduce marketing of tobacco products to minors in Oakland communities; and
- Educate merchants on the laws with respect to tobacco-related violations.

The grant term is from July 1, 2020 to June 30, 2023.

City Council  
October 20, 2020

## **BACKGROUND AND LEGISLATIVE HISTORY**

Cigarette smoking causes more than approximately 480,000 deaths each year in the United States, accounting for nearly one in five deaths nationwide.<sup>1</sup> Nearly 90 percent of adult smokers began smoking by the age of 18.<sup>2</sup> Despite efforts to limit youth access to tobacco, minors are still able to access cigarettes directly from retailers, through vending machines, or by giving money to others to purchase cigarettes for them. Minors consume an estimated 924 million packs of cigarettes each year nationwide.<sup>3</sup>

A 2015 study from the Institute of Medicine estimates that setting the legal smoking age at 21 nationwide would result in nearly a quarter-million fewer premature deaths and 50,000 fewer deaths from lung cancer among people born between 2000 and 2019.<sup>4</sup> In May 2016, California raised the legal age to smoke from 18 to 21. State law now requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 21 years old.

The California Healthcare, Research, and Prevention Tobacco Tax Act (Proposition 56) was approved by 64 percent of California's voters in November 2016 as a combined initiated constitutional amendment and state statute. This law increases the cigarette tax by \$2.00 per pack, with equivalent increases on other tobacco products and electronic cigarettes, bringing the total tobacco tax up to \$2.87 per pack of cigarettes.

In early 2020, the CADOPH released a Request for Proposal (RFP) grant program, soliciting proposals for their Tobacco Law Enforcement Program. On June 16, 2020, OPD learned that its application for a three-year, \$180,000 grant had been approved.

## **ANALYSIS AND POLICY ALTERNATIVES**

OPD's Alcoholic Beverage Action Team (ABAT) focuses on the regulation of both alcohol and tobacco merchants. Strategies such as merchant education and minor decoy operations can help to reduce the use of tobacco by minors. Tobacco sales connect to other nuisance issues. In 2019, OPD received over 482 calls for service regarding drug dealing or alcohol sales in front of and/or around liquor and tobacco stores. If increased enforcement reduces the number of these kinds of calls for service, officers will be freed up to respond to other calls for service. Enforcement on this matter would lead to healthier neighborhoods and may impact the quality of life for members of the community.

Oakland averages 5.25 tobacco sale outlets per mile. Per capita, Oakland contains more tobacco retail establishments than most cities in Alameda County and more than the County average. Many of these outlets are concentrated along major commercial districts and

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1 *2014 Surgeon General's Report: The Health Consequences of Smoking—50 Years of Progress*, Chapter 12, Smoking-Attributable Morbidity, Mortality, and Economic Costs, p. 659.

2 *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, Institute of Medicine of the National Academies Report Brief, March 2015, p. 2.

3 *State and federal revenues from tobacco consumed by minors*, J R DiFranza and J J Librett, *Am J Public Health*. 1999 July; 89(7): 1106–1108, p. 1107.

4 *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, p. 4.

commonly exist within one to three blocks of each other; many are directly adjacent to residential areas and near churches, schools, and parks.

The City has attempted to solve problems with tobacco retail premises in the past. In April 2008, the Oakland City Council adopted a Tobacco Retail License program (Ordinance No. 12867 C.M.S.), which was designed to improve enforcement efforts and investigations against problem tobacco retailers through the combined efforts of OPD, the Office of Planning and Building, and the City Attorney's Office. The Tobacco Retailer License requires that retailers pay an annual fee which offsets the expenses incurred by the regular duties of the ABAT team, as well as costs associated with a dedicated City Attorney. The program also requires that merchants adhere to a specific set of performance standards, and provides education, monitoring, and enforcement efforts against licensed premises. While ABAT's efforts have produced some positive results, substantial problem areas remain.

OPD has noted a prevalence of illegal sales of tobacco products to minors and has verified that tobacco sales to minors decrease when targeted intervention initiatives can be applied. All work done for this grant will be folded into the work of ABAT. The grant term is July 1, 2020 to June 30, 2023.

**Grant Objectives:**

- Conduct 18 minor decoy tobacco operations (six hours each) by June 30, 2023;
- Conduct 15 Single Cigarette and Paraphernalia Enforcement (SCAPE) operations (8 hours each) by June 30, 2023;
- Host three merchant training seminars at OPD (eight hours each) that will be free of charge to business owners by June 30, 2023; and
- Conduct or attend no fewer than 15 community meetings (three hours each) to increase involvement with local community groups by June 30, 2023.

OPD will provide the following trainings, inspections, and communications as part of the grant program, to help ensure successful tobacco law enforcement program outcomes:

- Three academy trainings (one per year) to instruct new recruits about tobacco laws and enforcement by June 30, 2023;
- 18 line up trainings (six per year) to instruct patrol officers about tobacco laws and enforcement by June 30, 2023;
- 150 STAKE ACT Tobacco Inspections (50 per year) to ensure that merchants who vend tobacco products have the required signage by June 30, 2023; and
- Distribute 12 press releases (four per year) to inform the community of efforts to reduce access of tobacco products to minors by June 30, 2023.

Article V, Section 504(l) of the Oakland City Charter requires that the City Council approve all inter-agency relationships such as between the City of Oakland / OPD and the CADOPH. Staff recommends that the City Council adopt the accompanying resolution to authorize the City Administrator or designee to enter into an agreement with CADOPH to clarify STAKE Grant Program requirements and accept and appropriate \$180,000 for a three-year CADOPH STAKE grant.

The City's 15.5 percent Central Service Overhead (CSO) Cost formula equates to an amount of twenty-seven thousand nine hundred dollars (\$27,900); the STAKE Grant rules do not allow funds to be used for overhead expenses. Therefore, the accompany resolution also authorizes the General-Purpose Services Fund to contribute \$27,900, to cover the associated Central Services Overhead costs.

**FISCAL IMPACT**

**Table 1** below outlines the overtime staffing costs of ABAT's Tobacco Enforcement work during the 2020-2021, 2021-2022, and 2022-2023 fiscal years. **Table 2** outlines the operational costs for the project. **Table 3** summarizes all staffing and operational costs for the grant period.

*Table 1: Summary of Staffing Costs*

Item	FY* 2020-21 Cost	FY 2021-22 Cost	FY 2022-23 Cost
Sergeant OT** (228 hours over 3 years)	\$8,717	\$8,815	\$8,927
Officer OT (1170 hours over 3 years)	\$39,658	\$40,996	\$42,227
Police Services Tech OT (201 hours over 2 years)	\$3,280	\$3,394	\$3,513
<b>Total</b>	<b>\$51,655</b>	<b>\$53,205</b>	<b>\$54,667</b>

\* FY = Fiscal Year    \*\* OT=overtime

*Table 2: Operational Costs*

Item	FY 2020-21 Cost	FY 2021-22 Cost	FY 2022-23 Cost
Decoy buy monies for 18 minor decoy operations over 3 years	\$306	\$306	\$306
Merchant mass mailings over 3 years	\$500	\$505	\$510
Flash drives, hard drives, office supplies	\$2,173	\$2,173	\$2,174
Vehicle rentals over 3 years	\$3,840	\$3,840	\$3,840
<b>Total</b>	<b>\$6,819</b>	<b>\$6,824</b>	<b>\$6,830</b>

*Table 3: Summary of All Costs for the Tobacco Enforcement Grant*

Item	FY 2020-21 Cost	FY 2021-22 Cost	FY 2022-23 Cost
OT Staffing Costs	\$51,655	\$53,205	\$54,667
Operational Costs	\$6,819	\$6,824	\$6,830
Annual Total	\$58,474	\$60,029	\$61,497
<b>Total over 3 years</b>	<b>\$180,000</b>		

Acceptance of this grant requires a contribution of \$24,727 from the General-Purpose Fund to cover the associated central services overhead costs of 15.5 percent. These costs are not allowed by the grantor and the grant does not cover them.

All of the CADOPH Tobacco Enforcement Grant revenues will be allocated to the State of California Fund (2159); Special Operations Division Org (107710); Project (TBD); Special Operations Program (PS13), as illustrated below.

<b>Fund Source</b>	<b>Organization</b>	<b>Account</b>	<b>Project</b>	<b>Program</b>	<b>Amount</b>
2159	107710	TBD	TBD	PS13	<b>\$180,000</b>

### **PUBLIC OUTREACH / INTEREST**

The work that will be done under this grant program is of strong interest to Oakland's families and communities. Per capita, Oakland contains more tobacco retail establishments than most cities in Alameda County and more than the County average. Since most smokers begin smoking before they are 18, more resources allocated to enforcing tobacco-related violations will help minimize opportunities for youth to access cigarettes and other tobacco products.

### **COORDINATION**

OPD consulted with the Budget Bureau and the Office of the City Attorney in the development of this report and accompanying resolution.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** This project will support ABAT overtime expenses related to conducting decoy and SCAPE operations, as well as merchant training sessions and community meetings.

**Environmental:** This project will help enforce anti-smoking laws, which will benefit public health and address nuisance issues often associated with stores that vend tobacco products.

**Race and Social Equity:** The grant will help further educate both merchants and community members about the dangers of smoking in general. It is specifically targeted to reduce minor access to tobacco products with an overall goal of improving youth and community health. There are many retail outlets in disadvantaged communities that sell tobacco products. OPD ABAT efforts through this grant will support efforts to decrease illegal tobacco sales in these areas.

**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

Staff Recommends That The City Council Approve Resolution: 1) Authorizing The City Administrator Or Designee To Enter Into An Agreement With The California Department Of Public Health (CADOPH) To Clarify "Stop Tobacco Access To Kids Enforcement (STAKE)" Grant Program Requirements, And Accept And Appropriate One Hundred Eighty Thousand Dollars (\$180,000) For A Three-Year CA DOPH STAKE Grant; And 2) Authorizing The General-Purpose Services Fund To Contribute Twenty-Seven Thousand Nine Hundred Dollars (\$27,900), To Cover The Associated Central Services Overhead Costs.

For questions regarding this report, please contact Sergeant Andrew McNeil, Support Operations Division (SOD) within the Bureau of Field Operations 2, at (510) 238-3455.

Respectfully submitted,



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