Meeting Date: 8/25/11

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	■ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Kymberly Horner K.H. Agenda Item No. D-1

Reviewed By: City Manager City Attorney Finance Other *(Specify)*

DATE: August 23, 2011

TO: Community Development Commission

FROM: Curtis P. Cannon, Community Development Director
Community Development Department

SUBJECT: **ABx1 26 and ABx1 27 Redevelopment Legislation; Adoption of an Enforceable Obligation Payment Schedule ("EOPS") Pursuant to the Provisions of ABx1 26**

RECOMMENDATION

That the Commissioners in accordance with the requirements of ABx1 26, passed by the State legislature on June 15, 2011, and signed into law by the Governor on June 28, 2011, adopt a resolution approving an EOPS, setting forth a schedule of payments for obligations of the Community Development Commission ("CDC").

DISCUSSION

On June 15, 2011, the State legislature passed ABx1 26, essentially eliminating redevelopment agencies as of October 1, 2011. As part of ABx1 26, agencies are to adopt within sixty (60) days of the effective date of the bill (which was signed by the Governor on June 28, 2011) an EOPS, setting forth the agency's obligations and the schedule for payment through December, 2011. The EOPS must be adopted no later than August 29, 2011. At the same time, however, the Governor signed ABx1 27 (also passed on June 15, 2011), which provided that agencies could adopt a continuation ordinance agreeing to make annual payments as provided in the bill, and by so doing, continue to operate as they previously had operated.

On August 2, 2011, the City of Oxnard adopted a continuation ordinance, and the CDC was, therefore, seemingly relieved of the obligation to adopt the EOPS.

The California Redevelopment Association ("CRA") and several redevelopment agencies sued in the California Supreme Court to have the State's legislative acts declared unconstitutional, and requested a stay of the effectiveness and enforcement of the legislation. On August 11, 2011, the Court accepted jurisdiction and issued a partial stay. The Court stayed the dissolution aspects of ABx1 26. The Court stayed the entirety of ABx1 27 (which, as set forth above, permitted exemption from the EOPS requirement through adoption of the continuation ordinance). The Court was unclear as to certain

aspects of ABx1 26, such as the obligation to adopt the EOPS. On August 17, 2011, the Court modified its stay order to make clear the obligation to adopt an EOPS was not stayed.

Therefore, the bill under which the City acted to adopt the continuation ordinance and be excused from adoption of an EOPS has been stayed, casting doubt on the effectiveness of the adoption and the ability going forward to take advantage of the benefits of adopting of the continuation ordinance. In addition, under ABx1 26, and the Court's modified stay order, the City is to adopt an EOPS within sixty (60) days of the effective date of the bill. The EOPS will then be transmitted to certain County and State offices. A summary of the reportable obligations for an EOPS is contained in Attachment 1.

The CDC's EOPS is attached to the resolution which is Attachment 2 to this report. Staff has been inclusive in its interpretation of what should be listed. The EOPS has been prepared to satisfy the requirements of ABx1 26, and not as a document creating obligations. For example, some payments are listed as contingent, and will become due only upon the occurrence of certain events.

The chaptered bills ABx1 26 and ABx1 27 can be viewed at the following links to the State Legislative Analyst's web site:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0001-0050/abx1_26_bill_20110629_chaptered.pdf

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0001-0050/abx1_27_bill_20110629_chaptered.pdf

FINANCIAL IMPACT

Adoption of the EOPS does not itself create obligations and has no financial impact.

Attachment #1 - Reportable Obligations for EOPS
#2 - Resolution of the Community Development Commission Adopting an Enforceable Obligations Payment Schedule

Reportable Obligations for EOPS
Excerpts from Health & Safety Code section 34167

"...(d) For purposes of this part, 'enforceable obligation' means any of the following:

(1) Bonds, as defined by Section 33602 and bonds issued pursuant to Section 5850 of the Government Code, including the required debt service, reserve set-asides and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the redevelopment agency.

(2) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, including, but not limited to, moneys borrowed from the Low and Moderate Income Housing Fund, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(3) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, and unemployment payments.

(4) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(5) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy

(6) Contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134."

CITY OF OXNARD COMMUNITY DEVELOPMENT

RESOLUTION NO._____

RESOLUTION OF THE CITY OF OXNARD COMMUNITY DEVELOPMENT COMMISSION ADOPTING AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

THE CITY OF OXNARD COMMUNITY DEVELOPMENT COMMISSION HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

WHEREAS, Assembly Bill x1 26 ("**AB 26**") and AB x1 27 ("**AB 27**") were passed by the State Legislature on June 15, 2011 and signed by the Governor on June 28, 2011, and;

WHEREAS, among other things, AB 26 amends Sections 33500, 33501, 33607.5 and 33607.7 of the California Health and Safety Code and adds Part 1.8 and Part 1.85 to the California Health and Safety Code.

WHEREAS, on August 11, 2011, the California Supreme Court granted a stay to prevent the operation of AB 26 and AB 27 (the "**Stay**"), except for a specified portion of Part 1.8 of the California Health and Safety Code (California Health & Safety Code §§ 34161-34167).

WHEREAS, on August 17, 2011, the California Supreme Court modified the Stay to exclude from the stay all of Part 1.8 of the California Health and Safety Code (California Health & Safety Code §§ 34161-34169.5) and California Health & Safety Code Section 34194(b)(2) (the "**Modified Stay**").

WHEREAS, California Health and Safety Code Section 34167(h) ("**Section 34167(h)**") provides that a redevelopment agency may not make a payment unless it is listed in an adopted enforceable obligation payment schedule ("**EOPS**"), other than payments required to meet obligations with respect to bonded indebtedness, and California Health and Safety Code Section 34169.5(g) ("**Section 34169.5(g)**") provides that each redevelopment agency shall adopt an EOPS within 60 days of the effective date of AB 26.

NOW, THEREFORE, the City of Oxnard Community Development Commission resolves:

Section 1. The Commission hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Without waiving its rights under AB 27 or the Modified Stay, or any of its objections that certain or all of the provisions of AB 26 and/or AB 27 violate the State Constitution and other laws and are invalid and unenforceable, the Oxnard Community Development Commission (the "**Commission**") desires to adopt the EOPS attached hereto as Exhibit 1 and incorporated herein by this reference in order to preserve its rights to make payments as authorized under Section 34167(h).

Section 3. All other legal prerequisites to the adoption of this Resolution have occurred.

Section 4. The attached EOPS is hereby adopted.

Section 5. The Commission's Executive Director, or designee, is hereby authorized to take such actions as are necessary and appropriate to comply with Section 34167(h), Section 34169.5(g) and the Modified Stay.

Section 6. This Resolution shall take effect immediately upon its adoption.

Section 7. The Commission' Secretary Designate shall certify as to the adoption of this resolution.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

_____
Dr. Thomas E. Holden, Chairman

ATTEST:

_____
Daniel Martinez, Secretary Designate

Approved as to form:

_____
Alan Holmberg, General Counsel

EXHIBIT 1

TO CITY OF OXNARD COMMUNITY DEVELOPMENT RESOLUTION
ADOPTING AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

(4 pages behind this page)

Name of Redevelopment Agenc Oxnard Community Development Commission

Project Area(s) CCRP, CCRP Annex, Downtown, Southwinds, Ormond Beach, HERO, HERO Annex

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					
						Aug**	Sept	Oct	Nov	Dec	Total
1)	CCRP Tax Allocation Refunding Bond 2004	Wells Fargo	Downtown Infrastructure, Capital Improvement Projects and Façade Program	14,705,000.00	1,371,121.00					1,371,121.00	$ 1,371,121.00
2)	CCRP City Advances Long Term	City of Oxnard General Fund	Development of Project Area	11,376,390.21	11,376,390.21					11,376,390.21	$ 11,376,390.21
3)	CCRP City Advances Short Term	City of Oxnard General Fund	Downtown Projects, Programs and Activities	635,880.00	635,880.00					635,880.00	$ 635,880.00
4)	CCRP City Advances Short Property Acquistion	City of Oxnard General Fund	Acquisition of Property in the Downtown	2,120,120.00	2,120,120.00					2,120,120.00	$ 2,120,120.00
5)	CCRP Lease Guarantee (50%) Share	Oxnard Theater Group	Theater Lease Guarentee Payment	13,356,000.00	667,800.00		83,475.00	83,475.00	83,475.00	83,475.00	$ 333,900.00
6)	CCRP County Property Tax	Ventura County Auditor Controller	Taxes on Heritage Square Property	65,262.00	65,262.00					65,262.00	$ 65,262.00
7)	CCRP Assessment District Payment	Ox. Downtown Maint. District	Property Based Maintenance District Payment	423,410.24	134,415.95					134,415.95	$ 134,415.95
8)	CCRP Homeowner Property Dues	Heritage Square HSPOA	Homeowner Dues Heritage Square	41,000.00	41,000.00					41,000.00	$ 41,000.00
9)	Downtown City Advance Long Term Loan	City of Oxnard General Fund	Project Area Development	1,139,572.00	1,139,572.00					1,139,572.00	$ 1,139,572.00
10)	Downtown Lease Guarantee Pmt 50%	Oxnard Theater Group	Downtown Theater lease guarantee payment	13,356,000.00	667,800.00		83,475.00	83,475.00	83,475.00	83,475.00	$ 333,900.00
11)	Southwinds Tax Allocation Bond 2006	Wells Fargo	Street Reconstruction Bond	3,035,000.00	200,493.00					200,493.00	$ 200,493.00
12)	SouthwindsCity Advances Short Term	City of Oxnard General Fund	Project Area Programs and Activities	430,560.00	430,560.00					430,560.00	$ 430,560.00
13)	Ormond Beach Tax Alloc Bond 2006	Wells Fargo	Street Reconstruction Project	5,310,000.00	347,257.00					347,257.00	$ 347,257.00
14)	HERO Tax Alloc Bond 2006	Wells Fargo	Street Reconstruction Project	10,660,000.00	778,647.00					778,647.00	$ 778,647.00
15)	HERO Tax Alloc Bond 2008	Wells Fargo	RiverPark Parking Structure Infrastructure	11,445,000.00	713,838.00					713,838.00	$ 713,838.00
16)	HERO DDA Esplanade Re-use Project	Home Depot Development of Marlyand IC.	Tax Increment Tax Sharing Payments	3,461,401.00	356,000.00		356,000.00				$ 356,000.00
17)	HERO RiverPark OPA	RiverPark A, Shea Homes,	Infrastructure Improvements New Develp	10,000,000.00	1,000,000.00					500,000.00	$ 500,000.00
18)	HERO 2011-2012 Alternative Voluntary Payment	Ventura County Auditor Controller	"Opt-In" Payment	8,686,024.00	7,004,858.00					7,004,858.00	$ 7,004,858.00
19)	HERO Wagon Wheel Housing	Oxnard CRFL Partners, LLC	Wagon Wheel Affordable Housing Loan	25,000,000.00	12,500,000.00					12,500,000.00	$ 12,500,000.00
20)	HERO Colonial House	Pacific West Communities	Colonial House Affordable Housing Project	4,200,000.00	4,200,000.00		4,200,000.00				$ 4,200,000.00
21)	HERO Paseo Nuevo	Paseo Nuevo LP	Affordable Housing Project Cypress Neighborhood	5,000,000.00	5,000,000.00		5,000,000.00				$ 5,000,000.00
22)	Cuesta Del Mar Housing Project	Housing Authority	Affordable Housing Project	350,000.00	200,000.00		200,000.00				$ 200,000.00
23)	HERO RiverPark Mgt Assist	RiverPark homebuyers	Mortg Assistance to RiverPark Residents364,000.00	364,000.00	325,840.00		325,840.00				$ 325,840.00
24)	HERO EDKOH Affordable Housing	ED KOH	Affordable Housing Loan	1,168,750.00	1,168,750.00		1,168,750.00				$ 1,168,750.00
25)	7th and Meta Affordable Housing		Affordable Housing Assistance	250,000.00	250,000.00					250,000.00	$ 250,000.00
26)	Home 25% Match	Housing Authority	Federal Match Requirement	350,000.00	350,000.00		175,000.00				$ 175,000.00
27)	HERO Aldersgate Aff Housing	Aldersgate	Affordable Housing Loan	750,000.00	241,000.00		241,000.00				$ 241,000.00
28)	HERO Home Buyer	Aldersgate	Funds for Aldersgate Project	500,000.00	500,000.00		500,000.00				$ 500,000.00

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					
						Aug**	Sept	Oct	Nov	Dec	Total
29)	McGrath Wheel Chair Lift		New Wheel Chair Lift for CDC owned Property	80,000.00	80,000.00					80,000.00	$ 80,000.00
30)	Heritage Square Programs	Gary Blum, HS Docents	Heritage Square Reimbursement	160,000.00	160,000.00		160,000.00				$ 160,000.00
											$ -
	Totals - This Page			$ 148,419,369.45	$ 54,026,604.16	$ -	$ 12,493,540.00	$ 166,950.00	$ 166,950.00	$ 39,856,364.16	$ 52,683,804.16
	Totals - Page 2			$ 5,494,850.00	$ 5,494,850.00	$ -	$ 1,643,079.65	$ 448,115.13	$ 448,115.13	$ 448,115.13	$ 2,987,425.04
	Totals - Other Obligations			$ -	$ 3,723,192.00	$ -	$ -	$ -	$ -	$ 1,861,596.00	$ 1,861,596.00
	Grand total - All Pages			$ 153,914,219.45	$ 63,244,646.16	$ -	$ 14,136,619.65	$ 615,065.13	$ 615,065.13	$ 42,166,075.29	$ 57,532,825.20

*** This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.) If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.**

Name of Redevelopment Agency Oxnard Community Development Commission

Project Area(s) CCRP, CCRP Annex, Downtown, Southwinds, Ormond Beach, HERO, HERO Annex

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					
						Aug**	Sept	Oct	Nov	Dec	Total
	ADMINISTRATIVE SERVICES										
1)	Personal Services	Oxnard CDC	Salaries and Benefits Admin and Housing	1,429,929.00	1,429,929.00		714,964.52				$ 714,964.52
2)											$ -
3)	Materials and Supplies	Oxnard CDC		22,000.00	22,000.00		2,750.00	2,750.00	2,750.00	2,750.00	$ 11,000.00
			Postage								
			Suscriptions								
			Office Supplies								
			Minor Equipment								
4)	Contracts and Services			812,912.00	812,912.00		101,614.00	101,614.00	101,614.00	101,614.00	$ 406,456.00
		Kane, Ballmer, and Berkman	Agency Legal Cousel								
		Tom Figg, Dave Newsome, Kelle Pisotne, R.A. Atmore & Sons, Meyer, Hoffman, McCain, Economic Development Corporation of Oxnard, Friends of Heritage Square, National Development Council	Professional Contractors								
		Economic Development Corporation Ventura County	Real Estate								
			Legal Advertising								
			General Liability								
5)											$ -
6)	Maintenance Services	Oxnard CDC	Reimbursements, Rental Vehicle, Service Equipment	64,000.00	64,000.00		8,000.00	8,000.00	8,000.00	8,000.00	$ 32,000.00
7)											
8)	Other Services	Oxnard CDC	Legal Advocacy, External Phone, Cell Phone, Voice mail	25,228.00	25,228.00		3,153.50	3,153.50	3,153.50	3,153.50	$ 12,614.00
9)	Fixed Charges	Oxnard CDC	Data Process, Liability Ins, Indirect Charges, Prorated Charges Facility Rental	2,660,781.00	2,660,781.00		332,597.63	332,597.63	332,597.63	332,597.63	$ 1,330,390.52
	FAÇADE PROGRAMS										
10)	HERO Façade Program	Oxnard CDC	Façade and Paint Improvement Program	330,000.00	330,000.00		330,000.00				$ 330,000.00
11)	Downtown Façade Program	Oxnard CDC	Façade and Paint Improvement Program	150,000.00	150,000.00		150,000.00				$ 150,000.00
12)											$ -
13)											$ -
	Totals - This Page			$ 5,494,850.00	$ 5,494,850.00	$ -	$ 1,643,079.65	$ 448,115.13	$ 448,115.13	$ 448,115.13	$ 2,987,425.04

*** This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.) If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.**

**** Include only payments to be made after the adoption of the EOPS.**

Name of Redevelopment Agenc Oxnard Community Development Commission

Project Area(s) CCRP, CCRP Annex, Downtown, Southwinds, Ormond Beach, HERO, HERO Annex

OTHER OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					
						Aug**	Sept	Oct	Nov	Dec	Total
1)	Statutory Payments	Port Hueneme Elemen Sch Dist	Pass-Through Payment		57,000.00					28,500.00	$ 28,500.00
2)	Statutory Payments	Ocean View Elem Sch District	Pass-Through Payment		80,000.00					40,000.00	$ 40,000.00
3)	Statutory Payments	Oxnard Elementary School Dist	Pass-Through Payment		225,750.00					112,875.00	$ 112,875.00
4)	Statutory Payments	Rio Elementary School District	Pass-Through Payment		253,000.00					126,500.00	$ 126,500.00
5)	Statutory Payments	Oxnard High School District	Pass-Through Payment		365,400.00					182,700.00	$ 182,700.00
6)	Statutory Payments	Ventura Community College Dist	Pass-Through Payment		149,000.00					74,500.00	$ 74,500.00
7)	Statutory Payments	Ventura Comm. College Dist Childrens Center	Pass-Through Payment		840.00					420.00	$ 420.00
8)	Statutory Payments	Ventura County General Fund	Pass-Through Payment		1,399,076.00					699,538.00	$ 699,538.00
9)	Statutory Payments	ERAF 92-93 Shift	Pass-Through Payment		135,102.00					67,551.00	$ 67,551.00
10)	Statutory Payments	ERAF 93-94 Shift	Pass-Through Payment		267,654.00					133,827.00	$ 133,827.00
11)	Statutory Payments	Ventura County Office of Education	Pass-Through Payment		55,954.00					27,977.00	$ 27,977.00
12)	Statutory Payments	County Flood District Admin	Pass-Through Payment		7,063.00					3,531.50	$ 3,531.50
13)	Statutory Payments	County Flood District Zone #2	Pass-Through Payment		113,073.00					56,536.50	$ 56,536.50
14)	Statutory Payments	County Flood District Zone #4	Pass-Through Payment		5.00					2.50	$ 2.50
15)	Statutory Payments	General Fund Ocean View Water Dist	Pass-Through Payment		22.00					11.00	$ 11.00
16)	Statutory Payments	Oxnard Drain #1	Pass-Through Payment		125.00					62.50	$ 62.50
17)	Statutory Payments	United Water Conservation District	Pass-Through Payment		29,242.00					14,621.00	$ 14,621.00
18)	Statutory Payments	City of Oxnard	Pass-Through Payment		553,566.00					276,783.00	$ 276,783.00
19)	Statutory Payments	Calleguas Municipal Water District	Pass-Through Payment		31,320.00					15,660.00	$ 15,660.00
20)											$ -
21)											$ -
22)											$ -
23)											$ -
24)											$ -
25)											$ -
26)											$ -
27)											$ -
28)											$ -
	Totals - Other Obligations			$ -	$ 3,723,192.00	$ -	$ -	$ -	$ -	$ 1,861,596.00	$ 1,861,596.00

*** This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.) If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.**

**** Include only payments to be made after the adoption of the EOPS.**

***** All payment amounts are estimates**