DATE: January 19, 2016

TO: City Council

THROUGH: Greg Nyhoff, City Manager
Office of the City Manager

FROM: Kymberly Horner, Economic Development Director
Community Development Department

SUBJECT: Adoption of the First Annual Recognized Obligation Payment Schedule for the Period of July 1, 2016 – June 30, 2017

CONTACT: Kymberly Horner, Economic Development Director
Kymberly.horner@ci.oxnard.ca.us, 385-7407

RECOMMENDATION

That the Community Development Commission Successor Agency ("Successor Agency") adopt a Resolution approving the first Annual Recognized Obligation Payment Schedule (ROPS) 16-17 covering the period of July 1, 2016 – June 30, 2017.

BACKGROUND

Current law requires a Successor Agency to prepare an Oversight Board-approved ROPS for every six (6)-month fiscal period (HSC Section 34177). However, SB 107 terminates this ROPS timeline as of December 31, 2015 and instead will require annual ROPS reporting. Hence, all successor agencies must submit their ROPS no later than February 1, 2016 for the period beginning July 1, 2016 and ending June 30, 2017. SB 107 continues the civil penalty of ten thousand dollars ($10,000) for every day a successor agency is past due on ROPS submission. The Department of Finance ("DOF") shall make its determinations by April 15, 2016 and each April 15 thereafter. Within five (5) business days of a determination, a Successor Agency may request a meet and confer with the exception of items that are subject to litigation disputing DOF’s related or previous determination.

Furthermore, beginning January 1, 2016, SB 107 allows for Successor agencies to submit a Last and Final ROPS in certain situations where the remaining debt of a successor agency is limited to administrative costs and enforceable obligation payments, all remaining obligations have been previously listed on a ROPS approved by DOF, and the Successor Agency is not a party to any ongoing
litigation. Upon approval by DOF, the Last and Final ROPS will establish the maximum amount of redevelopment property tax trust funds to be distributed to the successor agency for each remaining fiscal year, until all obligations are fully paid.

Another change relating to the ROPS will commence on October 1, 2018 (and every October 1 thereafter), when the differences between actual payments and the past estimated obligations on prior ROPS must be submitted by successor agencies to the County Auditor-Controller for review. The County Auditor-Controller must then provide DOF with a review of these differences no later than February 1, 2019 and every February 1 thereafter (HSC 34186 [c]).

**The Recognized Obligation Payment Schedule (ROPS)**

The “Detail” section of the ROPS is, for the most part, a document pre-populated by the DOF. Line items from previous ROPS are carried over by the DOF to create a new template for the new ROPS cycle. The information listed in Columns A-H of the Detail section of the ROPS has been carried forward from the prior ROPS. Line items highlighted in red on the ROPS are items disallowed by DOF as set forth in a letter dated November 18, 2015 for the ROPS 15-16B (January 1, 2016 – June 30, 2016). However, these items remain on the ROPS for one of two reasons: (i) the agency would like for DOF to reconsider its determination, provided that the agency is able to demonstrate that appropriate requirements and conditions have been met; or (ii) the items may not be eligible for the forthcoming ROPS but may be funded in subsequent reporting periods.

**Dissolution of Successor Agency**

Once all enforceable obligations are retired or paid off, all real property has been disposed of, and all outstanding litigation has been resolved, SB 107 now requires the Successor Agency to submit a request to its Oversight Board with a copy to the County Auditor-Controller to formally dissolve the Successor Agency (HSC 34187[b]). The Oversight Board has thirty (30) days to approve the request and submit it to the DOF. If a redevelopment agency was not allocated property tax revenue, then the Successor Agency was required by November 1, 2015 to submit a request to dissolve the Successor Agency to its Oversight Board. Again, the Oversight Board has thirty (30) days to approve the request and submit it to the DOF.

In either of these two scenarios, the DOF then has thirty (30) days to approve or deny a request to dissolve. Within one hundred (100) days of a DOF approval for a Successor Agency to dissolve, the Successor Agency must dispose of all remaining assets as directed by the Oversight Board and notify the Oversight Board once this step is accomplished. Next, the Oversight Board verifies completion of this step and then within fourteen (14) days of its verification must adopt a final resolution of dissolution for the Successor Agency. Once a Successor Agency is finally dissolved, the legislative body of the City or County that formed the redevelopment agency will become the legislative body of any existing community facilities district formed by the redevelopment agency.

**California Environmental Quality Act (CEQA)**

The actions set forth in the recommended accompanying resolution, as summarized above, are exempt under section 15378 (b)(4) of the State CEQA Guidelines in that the actions do not constitute a “project,” but instead are required to continue a governmental funding mechanism for enforceable
obligations of the former Community Development Commission and to perform the statutorily mandated unwinding of the assets, liabilities and functions of the former Community Development Commission pursuant to the Dissolution Act.

Summary
AB 1484 greatly expanded the review period and authority of the DOF and significantly changed the ROPS review and approval process. Furthermore, amendments to section 34179(h) of the Health and Safety Code give the DOF the authority to eliminate or modify any item on the ROPS being reviewed under Section 34179 prior to the DOF approval.

SB 107 terminates the every six (6)-month ROPS timeline as of December 31, 2015 and instead requires an annual ROPS reporting. Hence, all successor agencies must submit their ROPS no later than February 1, 2016 for the period beginning July 1, 2016 and ending June 30, 2017.

If a Successor Agency does not timely submit a ROPS pursuant to the deadlines set forth in AB 1484 and now reaffirmed in SB 107, then the Sponsoring Entity may be subject to a $10,000 per day civil penalty for each day the ROPS is delinquent. In addition, failure of a Successor Agency to submit a ROPS within 10 days of the deadline may result in a 25% reduction of a Successor Agency’s maximum administrative cost allowance for the period covered by the delinquent ROPS (per Health and Safety Code section 434177(m)(2)).

After its adoption, the ROPS is required to be posted on the City’s website and provided to the County Auditor-Controller, the California State Controller and the DOF. The ROPS must then be certified by the Ventura County Auditor-Controller and approved by the Oversight Board and by the DOF. The attached resolution authorizes Staff to administratively amend the ROPS as a result of action by the Oversight Board and/or the California Department of Finance.

The Successor Agency reserves all rights to challenge the validity and/or application of any or all provisions of AB1X 26, AB 1484, and SB 107, in any administrative or judicial proceeding, without prejudice to the Successor Agency’s right to list any such removed item on this or a future ROPS. The Successor Agency reserves the right to pursue any and all appeals and any available legal or equitable remedy provided or available by law to obtain the correction of any erroneous decision regarding the ROPS.

FINANCIAL IMPACT

Approval of ROPS 16-17 will facilitate the ability of the Successor Agency to continue payment of the enforceable obligations of the former Community Development Commission and is among the reasonable measures required to be taken to avoid triggering an event of default under any enforceable obligations. Failure to approve and submit the ROPS 16-17 by the deadlines required by AB 1484 and SB 107 will result in $10,000 per day civil penalties.

ATTACHMENTS

Attachment #1 – Resolution
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY

RESOLUTION NO. 19

RESOLUTION OF THE OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY ADOPTING THE FIRST ANNUAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 16-17) FOR JULY 1, 2016 – JUNE 30, 2017

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 Division 24 of the California Health and Safety Code; and

WHEREAS, by enactment of Part 1.85 of Division 24 of the Health and Safety Code, subject to all reservations herein stated, the Community Development Commission was dissolved as of February 1, 2012 such that the Community Development Commission shall be deemed a former redevelopment agency under Health and Safety Code section 34173(a); and

WHEREAS, Health and Safety Code section 34173(a) designates successor agencies as successor entities to former redevelopment agencies; and

WHEREAS, on January 10, 2012, by Resolution 14,135, the City Council of the City of Oxnard declared itself as the successor agency upon the dissolution of the Community Development Commission, subject to all reservations stated in such resolution; and

WHEREAS, the California Supreme Court in California Redevelopment Association v. Matosantos, Case No. S194861 upheld the constitutionality of ABx1 26 and established May 1, 2012 as the date by which the draft Recognized Obligation Payment Schedule ("ROPS") must be prepared; and

WHEREAS, California Health and Safety Code Sections 34171(h) and 34177(m) provide that a successor agency must prepare a ROPS every six months after the initial ROPS period; and

WHEREAS, SB 107 terminates the every six months ROPS timeline as of December 31, 2015 and instead requires annual ROPS reporting starting with the first annual ROPS 16-17 for the period beginning July 1, 2016 and ending June 30, 2017; and

WHEREAS, on April 24, 2012 the Successor Agency adopted a Draft ROPS; and

WHEREAS, on April 25, 2012 the Oversight Board to the Oxnard Community Development Commission Successor Agency directed Successor Agency Staff to amend the ROPS to incorporate the State Department of Finance’s revised ROPS format; and

WHEREAS, on May 8, 2012 a revised Amended ROPS I was adopted by the Successor Agency and identified enforceable obligations for the period of February 1, 2012 through June 30, 2012; and
Resolution No. 19
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WHEREAS, on May 8, 2012 a ROPS II was adopted by the Successor Agency and identified enforceable obligations for the period of July 1, 2012 through December 31, 2012; and

WHEREAS, on July 22, 2012 a ROPS III was adopted by the Successor Agency and identified enforceable obligations for the period of January 1, 2013 through June 30, 2013; and

WHEREAS, on February 12, 2013 a ROPS IV (13-14A) was adopted by the Successor Agency and identified enforceable obligations for the period of July 1, 2013 through December 31, 2013; and

WHEREAS, on September 10, 2013 a ROPS V (13-14B) was adopted by the Successor Agency and identified enforceable obligations for the period of January 1, 2014 through June 30, 2014; and

WHEREAS, on February 11, 2014 a ROPS VI (14-15A) was adopted by the Successor Agency and identified enforceable obligations for the period of July 1, 2014 through December 31, 2014; and

WHEREAS, on September 9, 2014 a ROPS VII (14-15B) was adopted by the Successor Agency and identified enforceable obligations for the period of January 1, 2015 through June 30, 2015; and

WHEREAS, on February 24, 2015 a ROPS VIII (15-16A) was adopted by the Successor Agency and identified enforceable obligations for the period of July 1, 2015 through December 31, 2015; and

WHEREAS, on September 1, 2015 a ROPS IX (15-16B) was adopted by the Successor Agency and identified enforceable obligations for the period of January 2016 through June 30, 2016.

WHEREAS, the proposed first annual ROPS (16-17) identifies each enforceable obligation on which payments will be required during the period of July 1, 2016 through June 30, 2017.

NOW, THEREFORE, THE OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The Oxnard Community Development Commission Successor Agency hereby finds and determines that the foregoing recitals are true and correct.

Section 2. All legal prerequisites to the adoption of this Resolution have occurred.

Section 3. The attached Proposed ROPS is hereby adopted.

Section 4. Successor Agency staff is hereby authorized to administratively amend the ROPS in order to modify, adjust or remove line items pending the outcome of
review by the Oversight Board, the County Auditor-Controller, and/or the California Department of Finance and to format the ROPS to conform with State Department of Finance requirements not yet published, and to take all necessary and appropriate actions to prepare and submit the ROPS, provided, however, that neither such authorization nor such removal shall be deemed to be, nor are they intended as, an acknowledgment of the validity of ABx1 26, AB 1484, and SB 107 or such action by the Oversight Board, the County Auditor-Controller and/or the California Department of Finance. The Successor Agency reserves all rights to challenge the validity and/or application of any or all provisions of ABx1 26, AB 1484, and SB 107 in any administrative or judicial proceeding, without prejudice to the Successor Agency's right to list any such removed item on this or a future ROPS. The Successor Agency reserves the right to pursue any and all appeals and any available legal or equitable remedy provided or available by law to obtain the correction of any erroneous decision regarding the ROPS.

Section 5. This Resolution shall take effect immediately upon its adoption.

Section 6. The Successor Agency's Secretary Designate shall certify as to the adoption of this resolution.

PASSED, APPROVED and ADOPTED this ___19th___ day of ___January___, 2016, by the following vote:

AYES:

NOES:

ABSENT:

______________________________
Tim Flynn, Chairman

ATTEST:

______________________________
Daniel Martinez, Secretary Designate

APPROVED AS TO FORM:

______________________________
Stephen M. Fischer, Interim General Counsel
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Name: 
Title: 
City: 
County: 
Successor Agency: 

**Agreed:**

Obligation Payment Schedule for the above named successor

Funded by the above is a 1 and Asumers Recalled

Program to Section 214.179 (o) of the Health and Safety Code.

Contribution of Oversight Board Chairman:

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**Sources (50-50):**

- Current Period Enforceable Obligations (A+E):
- Administrative Costs
- Non-Administrative Costs
- Encumbered Obligations Funded with RPTFF Funding (E+G):
- Other Funding
- Reserve Balance Funding
- Bond Proceeds Funding

**Current Period Required Funding for Enforceable Obligations (ROPS Deal):**

16.77A Total

**ROPS 16-17 Summary:**

For the July 1, 2016 through June 30, 2017 Period

Recognized Obligation Payment Schedule (ROPS 16-17): Draft
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**Note:** The table above represents the financial information for a particular schedule. Each entry in the table corresponds to a specific financial figure. The table includes various amounts in thousands of dollars. The total amount listed is $15,104,496.

**Attachment #1**

_Draft_