



Revision to ASR and/or Exhibits/Attachments

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CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

Date: August 17, 2011

To: Darlene J. Bloom, Clerk of the Board of Supervisors

From: Steve Franks, Director, OC Community Resources

CC: County Executive Office 

ASR Control #(s): 11-001195 **Agenda Item(s) # 46 for the 8/23/11 Board Meeting**

Subject: Redevelopment Ordinance

Explanation:

On August 9, 2011, the Board made its first reading of the "Voluntary Ordinance" that, if adopted, will authorize the Orange County Development Agency (OCDA) to participate in the Voluntary Alternative Redevelopment Program. On August 23, 2011, the Board is scheduled to read the Ordinance for the second time. Through this revision memo, OCDA requests that a "Transfer Agreement" and an "Enforceable Obligation Payment Schedule (EOPS)" be added to ASR #11-001195. As required by AB 1X 27, the County and OCDA must enter into an Agreement regarding the annual transfer of tax increment funds to make the required "Voluntary Payment". Additionally, adoption of the EOPS will allow the OCDA to continue to make payments of its existing legally enforceable obligations until the California Redevelopment Association (CRA) litigation is resolved.

Revised Recommended Action(s)

Add the following Recommended Actions to the ASR:

- 6. Adopt the Enforceable Obligation Payment Schedule as required by AB 1X 26.
- 7. Execute the "Transfer Agreement" between the County and the Orange County Development Agency authorizing the transfer of tax increment funds, on an annual basis, to the County in amounts not to exceed the annual community remittance payments to enable the County to make the annual remittance payments.
- 8. Authorize the County Executive Officer or designee to execute the "Transfer Agreement" on behalf of the Orange County Development Agency.

Make modifications to the:

- Subject
- Background Information
- Summary

Add the following as the 5th paragraph in the Background Information Section:

On August 11, 2011, the California Supreme Court issued an order in *California Redevelopment Association ("CRA" or "Association") v. Matosantos*, the litigation challenging the validity of Assembly Bill Nos. 1X 26 & 1X 27 directing the parties to show cause as to why the Association's petition for writ of mandate should not be granted. AB 1X 26 and AB 1X 27 would collectively change the statutory framework for redevelopment agencies in the State, requiring redevelopment agencies to make certain annual payments to continue to operate or to cease operation

altogether. The Court also issued a stay as to the effect of AB 1X 26, except for the parts within the legislation that prevent it from entering into any new legally enforceable obligations including incurring new indebtedness, transferring assets and entering into new contracts or modifying existing contracts. The stay prevents OCDA from continuing payment on all of its existing “enforceable obligations,” as defined by AB 1X 26, if they are not part of an adopted “enforceable obligation payment schedule” (“EOPS”). Staff recommends adoption of the attached EOPS in order to assure that OCDA may continue to make payment of its existing legally enforceable obligations until the California Redevelopment Association (CRA) litigation is resolved.

Add the following as the 6th paragraph in the Background Information Section:

Should your Board adopt the recommended Ordinance, the County will need to enter into an agreement with OCDA, as authorized pursuant to Health and Safety Code Section 34194.2, whereby OCDA will transfer annual portions of its tax increment to the County in amounts not to exceed the annual community remittance payments to enable the County, directly or indirectly, to make the annual remittance payments.

Revised Exhibits/Attachments (attached)

Add "Transfer Agreement" as an Attachment to the ASR.

Add “Enforceable Obligation Payment Schedule” as an Attachment to the ASR.

Additional Information and/or Correspondence (attached)

**AGREEMENT BETWEEN THE ORANGE COUNTY DEVELOPMENT
AGENCY AND THE COUNTY OF ORANGE FOR THE TRANSFER OF
REDEVELOPMENT FUNDS IN COMPLIANCE WITH PART 1.9 OF
DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE**

This Agreement is made and entered into this _____ day of _____ 2011, by and between the Orange County Development Agency (the "Agency"), an agency created pursuant to Community Redevelopment Law ("CRL") of the State of California under California Health and Safety Code 33000 *et. seq.*, and the County of Orange, a political subdivision of the State of California ("County"). From time to time County and Agency may be referred individually as "Party" or collectively as "Parties."

I. RECITALS

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Areas to eliminate blight, to improve public facilities and infrastructure, and to rehabilitate and construct affordable housing; and

WHEREAS, over the next few years, the Agency hopes to implement a variety of redevelopment projects and programs to continue to eliminate and prevent blight, create and develop affordable housing opportunities and alleviate deficiencies in public infrastructure; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature has recently enacted and the Governor has signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; and

WHEREAS, Part 1.9 of Division 24 of the California Health and Safety Code ("AB 1X 27") provides that a community may participate in an Alternative Voluntary Redevelopment Program, in order to enable a redevelopment agency within that community to remain in existence and carry out the provisions of the CRL, by enacting an Alternative Voluntary Redevelopment Program Ordinance ("Ordinance") agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

WHEREAS, the community enacted the Ordinance on August 23, 2011; and

WHEREAS, under the Ordinance, the County has agreed to make an initial Fiscal Year 2011-2012 payment, of Twelve Million Nine Hundred Ninety-Three Thousand Nine Hundred Sixty-Nine Dollars (\$12,993,969), as well as the subsequent annual payments as set forth in the CRL ("Community Remittance(s)"); and

WHEREAS, pursuant to AB 1X 27, the community must make said Community Remittances to the County Auditor-Controller.

NOW, THEREFORE, the Parties agree as follows:

II. COMMUNITY REMITTANCES

A. The Agency shall transfer an initial Community Remittance in an amount not to exceed Twelve Million Nine Hundred Ninety-Three Thousand Nine Hundred Sixty-Nine Dollars (\$12,993,969) to the County. Thereafter, the Agency shall transfer Community Remittances as determined annually by the State of California, Department of Finance to the County.

B. The County shall remit an amount equal to the Community Remittance as determined by Chapter 3 of Part 1.9 of Division 24 of the California Health and Safety Code.

C. The Parties agree that should any part of AB 1X 27 be deemed illegal by a court of competent jurisdiction making Community Remittances null and void, the County shall return any such Community Remittances it possesses.

-Signature Page to Follow-

SIGNATURE PAGE

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

COUNTY

By _____
Chairman of Board

APPROVED AS TO FORM

By: _____
County Counsel

AGENCY

By: _____
County Executive Officer

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

(Board Approved Projects)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month (Estimated)					
					Aug**	Sept	Oct	Nov	Dec	Total
1) Silverado Community Center	OC Parks	Construction of a Community Center	12,000,000.00	12,000,000.00					12,000,000.00	\$ 12,000,000.00
2) Silverado Trail Head	OC Parks	Construction of a Recreational Facility	3,000,000.00	3,000,000.00						\$ -
3) Emergency Shelter	OC Community Resources	Affordable Housing	5,000,000.00	5,000,000.00						\$ -
4) Affordable Housing	Developers	Construction of affordable housing	22,413,318.00	4,563,094.00						\$ -
5) The Ranch Project	Rancho Mission Viejo LLC.	Affordable Housing	315,500,000.00	10,000,000.00		10,000,000.00				\$ 10,000,000.00
6) Community Stabilization Prog.	County of Orange	Project Area Improvement Program	191,977,736.00	7,800,000.00			2,000,000.00			\$ 2,000,000.00
7) Animal Control Facility	OC Animal Care	Construction of an Animal Control Facil.	763,239.00							\$ -
8) Stoneybrook Drain Improvement	OC Public Works	Drainage Improvement Project	2,500,000.00							\$ -
9) Colonia Storm Drain Project	OC Public Works	Drainage Improvement Project	4,000,000.00							\$ -
10) El Modena Community Cntr.	OC Community Resources	Community Center Rehabilitation	3,000,000.00	3,000,000.00						\$ -
11) Orange-Olive Alleyway	OC Public Works	Roadway/Drainage Improvement	640,000.00	640,000.00	25,000.00	50,000.00	150,000.00	207,500.00	207,500.00	\$ 640,000.00
12) Modjeska Olive Storm Drain	OC Public Works	Drainage Improvement Project	1,500,000.00							\$ -
13) Modjeska Grade Improvement	OC Public Works	Roadway Improvement Project	6,362,500.00							\$ -
14) Inter-Canyon Bridge Improv.	OC Public Works	Bridge Improvements	2,000,000.00	888,566.00	22,000.00	50,000.00	150,000.00	330,250.00	336,316.00	\$ 888,566.00
15) Trabuco Creek Road	OC Public Works	Roadway Improvement Project	800,000.00	800,000.00	35,000.00	75,000.00	190,000.00	250,000.00	250,000.00	\$ 800,000.00
16) Magnolia Ave. Access Ramps	OC Public Works	Roadway Improvement Project	3,000.00							\$ -
17) Midway City Storm Drain	OC Public Works	Drainage Improvement Project	3,600,000.00							\$ -
18) Eastside Water Association	Eastside Water Assoc.	Public Facility Improvements	180,000.00	180,000.00						\$ -
19) Kline Drive Improvements	OC Public Works	Roadway/Drainage Improvement	774,000.00	774,000.00				774,000.00		\$ 774,000.00
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Totals - This Page			\$ 576,013,793.00	\$ 48,645,660.00	\$ 82,000.00	\$ 10,175,000.00	\$ 2,490,000.00	\$ 1,561,750.00	\$ 12,793,816.00	\$ 27,102,566.00
Totals - Page 2			\$ 16,391,839.00	\$ 16,391,839.00	\$ -	\$ -	\$ -	\$ -	\$ 16,391,839.00	\$ 16,391,839.00
Totals - Page 3			\$ 60,233,986.00	\$ 11,415,337.94	\$ 19,305.62	\$ 2,309,113.75	\$ -	\$ -	\$ -	\$ 2,328,419.37
Totals - Page 4			\$ 25,410,972.00	\$ 12,162,540.72	\$ 5,170,485.87	\$ 1,707,203.13	\$ -	\$ -	\$ -	\$ 6,877,689.00
Grand total - All Pages			\$ 678,050,590.00	\$ 88,615,377.66	\$ 5,271,791.49	\$ 14,191,316.88	\$ 2,490,000.00	\$ 1,561,750.00	\$ 29,185,655.00	\$ 52,700,513.37

* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than 8/29/11. 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.

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

Project Area(s) Santa Ana Heights and Neighborhood Development and Preservation Project

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE
Per AB 26 - Section 34167 and 34169 (*)
 (Affordable Housing Projects)

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) Birch Hills Apartment Homes	Jamboree Housing Corp	Affordable Housing Development	3,800,000.00	3,800,000.00						
2) Stonegate Apt Homes	Katella Family Housing Partners, L.P.	Affordable Housing Development	891,900.00	891,900.00					3,800,000.00	\$ 3,800,000.00
3) Stonegate Apt Homes II	Katella II Family Housing Partners, L.P.	Affordable Housing Development	565,200.00	565,200.00					891,900.00	\$ 891,900.00
4) Avenida Villas Apartments	AMCAL Avenida Fund, L.P.	Affordable Housing Development	1,894,627.00	1,894,627.00					565,200.00	\$ 565,200.00
5) Buena Vista Apartments	C&C Development and OHDC	Affordable Housing Development	2,740,112.00	2,740,112.00					1,894,627.00	\$ 1,894,627.00
6) Tonner Hills Apartment	Jamboree Housing Corp	Affordable Housing Development	2,000,000.00	2,000,000.00					2,740,112.00	\$ 2,740,112.00
7) Tustin Facility	Orange County Social Services Agency	Affordable Housing Development	4,500,000.00	4,500,000.00					2,000,000.00	\$ 2,000,000.00
8)									4,500,000.00	\$ 4,500,000.00
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Totals - This Page			\$ 16,391,839.00	\$ 16,391,839.00	\$ -	\$ -	\$ -	\$ -	\$ 16,391,839.00	\$ 16,391,839.00

* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than 8/29/11. 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.

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

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE
Per AB 26 - Section 34167 and 34169 (*)
 (Debt Service - Santa Ana Heights)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					Total
					Aug**	Sept	Oct	Nov	Dec	
1) Bonds	US Bank	Tax Allocation Revenue Bonds	\$ 38,233,986.00	\$ 2,956,665.00		\$ 2,309,113.75				\$ 2,309,113.75
2) Pass Through (FY 10-11)	OC Flood	Per Pass Through Agreement		\$ 251,649.62						\$ -
3) Pass Through (FY 10-11)	OC Water District	Per Pass Through Agreement		\$ 9,210.50	\$ 9,210.50					\$ 9,210.50
4) Low Mod Transfer (FY 10-11)	Low Mod Income Housing Fund	Per Redevelopment Law		\$ 2,187,717.70						\$ -
5) Low Mod Interest Transfer (FY 10-11)	Low Mod Income Housing Fund	Per Redevelopment Law		\$ 10,095.12	\$ 10,095.12					\$ 10,095.12
6) OCDA Surplus Transfer	OCDA Operating Fund 173	Per OCDA's Budgeted Admn. Cost	\$ 2,000,000.00	\$ 2,000,000.00						\$ -
7) Bankruptcy Recovery Contribution	General Fund (Budget Control 016)	Per Health and Safety Code 33670.9	\$ 20,000,000.00	\$ 4,000,000.00						\$ -
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Totals - This Page			\$ 60,233,986.00	\$ 11,415,337.94	\$ 19,305.62	\$ 2,309,113.75	\$ -	\$ -	\$ -	\$ 2,328,419.37

* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than 8/28/11. 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.
 ** Includes only payments to be made after the adoption of the EOPS.

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)
 (Debt Service - Neighborhood Development and Preservation Project)

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) 2001 OCDA Tax Allocation Refunding Bonds	US Bank	Refund portion of OCDA 1992 Tax Allocation Revenue Bonds, Series A	\$ 25,410,972.00	\$ 2,160,856.26		\$ 1,707,203.13					\$ 1,707,203.13
2) Pass Through (FY 10-11)	Anaheim Union High School District	Per Pass Through Agreement		\$ 231,890.00	\$ 231,890.00						\$ 231,890.00
3) Pass Through (FY 10-11)	Coast Community College District	Per Pass Through Agreement		\$ 184,309.81	\$ 184,309.81						\$ 184,309.81
4) Pass Through (FY 10-11)	Huntington Beach High School District	Per Pass Through Agreement		\$ 186,126.90	\$ 186,126.90						\$ 186,126.90
5) Pass Through (FY 10-11)	Irvine Ranch Water District	Per Pass Through Agreement		\$ 69,906.62	\$ 69,906.62						\$ 69,906.62
6) Pass Through (FY 10-11)	Magnolia Elementary School District	Per Pass Through Agreement		\$ 342,683.00	\$ 342,683.00						\$ 342,683.00
7) Pass Through (FY 10-11)	Midway City Sanitary District	Per Pass Through Agreement		\$ 101,260.02	\$ 101,260.02						\$ 101,260.02
8) Pass Through (FY 10-11)	North OC Community College District	Per Pass Through Agreement		\$ 109,103.17	\$ 109,103.17						\$ 109,103.17
9) Pass Through (FY 10-11)	OC Water District	Per Pass Through Agreement		\$ 111,849.99	\$ 111,849.99						\$ 111,849.99
10) Pass Through (FY 10-11)	Orange Unified School District	Per Pass Through Agreement		\$ 391,424.02	\$ 391,424.02						\$ 391,424.02
11) Pass Through (FY 10-11)	Rancho Santiago Comm College Dist.	Per Pass Through Agreement		\$ 45,530.16	\$ 45,530.16						\$ 45,530.16
12) Pass Through (FY 10-11)	Saddleback Valley Unified School Dist.	Per Pass Through Agreement		\$ 139,939.92	\$ 139,939.92						\$ 139,939.92
13) Pass Through (FY 10-11)	Silverado-Modjeska Recreation&Parks	Per Pass Through Agreement		\$ 36,076.64	\$ 36,076.64						\$ 36,076.64
14) Pass Through (FY 10-11)	South OC Community College District	Per Pass Through Agreement		\$ 24,503.52	\$ 24,503.52						\$ 24,503.52
15) Pass Through (FY 10-11)	Trabuco Canyon Water District	Per Pass Through Agreement		\$ 45,907.29	\$ 45,907.29						\$ 45,907.29
16) Pass Through (FY 10-11)	OC Flood	Per Pass Through Agreement		\$ 266,575.66							\$ -
17) Pass Through (FY 10-11)	City of Lake Forest	Per Pass Through Agreement		\$ 4,560,217.00							\$ -
18) Pass Through (FY 10-11)	City of Lake Forest (Interest-estimated)	Per Pass Through Agreement		\$ 4,405.93							\$ -
19) Low Mod Transfer (FY 10-11)	Low Mod Income Housing Fund	Per Redevelopment Law		\$ 3,140,015.16	\$ 3,140,015.16						\$ 3,140,015.16
20) Low Mod Interest Transfer (FY 10-11)	Low Mod Income Housing Fund	Per Redevelopment Law		\$ 9,959.65	\$ 9,959.65						\$ 9,959.65
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Totals - This Page			\$ 25,410,972.00	\$ 12,162,540.72	\$ 5,170,485.87	\$ 1,707,203.13	\$ -	\$ -	\$ -	\$ -	\$ 6,877,689.00

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