

## **RESOLUTION NO. 11-**

### **RESOLUTION OF THE AGENCY BOARD FOR THE REDEVELOPMENT AGENCY OF THE COUNTY OF MENDOCINO ACCEPTING AND APPROVING THE WORK PLAN FOR FISCAL YEAR 2011-12 AND THE SECOND AMENDMENT TO THE COOPERATION AND REPAYMENT AGREEMENT BETWEEN THE COUNTY OF MENDOCINO AND THE AGENCY AND TAKING RELATED ACTIONS**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq., the "Redevelopment Law"), the County of Mendocino Board of Supervisors (the "County Board") has adopted a redevelopment plan by Ordinance No. 4111 dated July 8, 2003 (the "Redevelopment Plan"), as may be amended from time to time, pertaining to the redevelopment of the Mendocino County Redevelopment Project Area as described therein (the "Project Area"); and

WHEREAS, the Redevelopment Plan grants the Redevelopment Agency of the County of Mendocino (the "Agency") the powers, duties and obligations to implement the redevelopment program for the Project Area set forth in the Redevelopment Plan; and

WHEREAS, to assist in implementing the Redevelopment Plan, the Agency adopted its Five-Year Implementation Plan (the "Implementation Plan") pursuant to Section 33490 of the Redevelopment Law on November 18, 2008 pursuant to Resolution No. 08-230; and

WHEREAS, by Resolution No. 00-004, the Agency adopted bylaws of the Agency authorizing the County of Mendocino (the "County") County Administrative Officer to be the Executive Director of the Agency, and whereas, by County Ordinance No. 4140, Title 2 of the Mendocino County Code was amended by deleting the position of County Administrative Officer and establishing the position of Chief Executive Officer; and

WHEREAS, by Resolution No. 00-005 the Agency determined that it did not intend to employ any staff separate from the County but intended to use the services of existing County staff for all purposes and therefore did not adopt personnel rules pursuant to Health and Safety Code Section 331226(a); and

WHEREAS, the County staff implementing the redevelopment program on behalf of the Agency have prepared a work plan to begin in the 2011-2012 fiscal year identifying the projects the Agency desires to fund beginning in the 2011/2012 fiscal year (the "FY 11/12 Work Plan"). The FY 11/12 Work Plan is attached to the Staff Report (as defined below) as Exhibit 1; and

WHEREAS, the FY 11/12 Work Plan consists of two types of projects: (1) plans and studies, as set forth in Section A of the Work Plan, (the "Plans and Studies") and (2) public improvement projects, as set forth in Section B of the Work Plan, (the "Public Improvement Projects"). The Plans and Studies and the Public Improvement Projects may collectively be referred to as the "Projects." Section C of the FY 11/12 Work Plan sets forth projects that were approved in the 2010/11 Work Plan, but not yet completed; and

WHEREAS, the Agency does not currently have the funds to finance the Projects and desires to have the County finance the Projects on a temporary basis with the expectation that the Agency will pay these funds back to the County with tax increment receipts; and

WHEREAS, the County does not have the funds in the long-term to finance the Projects, but is able to finance the Projects on a short-term basis with the understanding, and the requirement, that the Agency will pay these funds back to the County with tax increment

receipts so that there will be no ultimate net cost to the County; and

WHEREAS, in furtherance of the Redevelopment Plan and the Implementation Plan, the Agency desires to: (1) approve the Work Plan, (2) obtain financial assistance from the County to fund the Plans and Studies pursuant to Health and Safety Code Section 33131, and (3) obtain financial assistance from the County to fund land acquisition for, and the design and construction of, the Public Improvement Projects pursuant to Health and Safety Code Section 33445; and

WHEREAS, in considering approval of this Resolution, the Agency and the County Board have complied, or will comply, with the requirements of the California Environmental Quality Act ("CEQA") in the manner found and determined below; and

WHEREAS, the following additional materials (collectively, the "Supporting Documents") have been presented to and considered by the Agency in support of the findings and approvals set forth in this Resolution: (1) the Executive Office Staff Report dated September 20, 2011 accompanying this Resolution (the "Staff Report"); and (2) the CEQA Documentation (as defined below); and

WHEREAS, by Resolution No. 00-008, the Agency authorized the execution of an agreement entitled Cooperation and Repayment Agreement (Redevelopment Project Area 2000) BOS No. 99-289 by and between the County and Agency (the "Cooperation and Repayment Agreement"), to establish, among other things, a mechanism for reimbursement by the Agency of specified future administrative costs, public works improvements costs and other redevelopment activity costs incurred by the County in furtherance of the redevelopment program for the Project Area; and

WHEREAS, by Resolution No. 06-177, the Executive Director of the Agency was granted authority to sign and execute any agreement to provide for the reimbursement of any County costs anticipated in the Cooperation and Repayment Agreement; and

WHEREAS, the Cooperation and Repayment Agreement anticipated the addition of an "Exhibit B" wherein specific public works improvements costs and other redevelopment activity costs, such as the costs associated with the Projects set forth in the Work Plan, to be incurred by the County on behalf of the Agency, would be delineated and become a debt of the Agency; and

WHEREAS, by Resolution No. 10-154, the Agency authorized the execution of that certain Amendment No. 1 to Cooperation and Repayment Agreement (Redevelopment Project Area 2000) dated September 21, 2010, amended the Cooperation and Repayment Agreement to attach an "Exhibit B" approving \$662,000 in costs to be paid by the County to fund redevelopment projects set forth in the Fiscal Year 2010-2011 Work Plan; and

WHEREAS, the FY 11/12 Work Plan specifies the costs associated with Plans and Studies and the Public Improvement Projects, which amount totals One Million Three Hundred Thousand Dollars (\$1,300,000) (the "FY 11/12 Work Plan Costs"); and

WHEREAS, the County and the Agency desire to enter into that certain Amendment No. 2 to Cooperation and Repayment Agreement (Redevelopment Project Area 2000), (the "Second Amendment"), which would amend the Cooperation and Repayment Agreement by attaching an "Exhibit B-1" setting forth the redevelopment activities of the FY 11/12 Work Plan and the FY 11/12 Work Plan Costs, which will be incurred by the County and become a debt to the Agency. A form of the Second Amendment is attached to the Staff Report as Exhibit 3; and

WHEREAS, the Agency desires to clarify that the Mendocino County Policy #1 Purchasing, Leasing and Contracting Policy, as may be amended or superseded from time to time, applies to purchasing, leasing and contracting by the Agency; and

WHEREAS, in June 2011, two bills were signed by the Governor of California that would significantly modify the California Community Redevelopment Law: ABx1 26 (the "Dissolution Act") and ABx1 27 (the "Voluntary Program Act") (together, the "Redevelopment Restructuring Acts"). The Dissolution Act immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011, and the Voluntary Program Act allows redevelopment agencies to avoid dissolution under the Dissolution Act by opting into an alternative voluntary redevelopment program; and

WHEREAS, on August 11, 2011, the California Supreme Court (the "Court") agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as modified on August 17, 2011 (the "Stay"), including a stay of the provisions of the Voluntary Program Act; and

WHEREAS, the Agency intends to opt-in under the Voluntary Program Act and, to that end, the Board of Supervisors enacted Ordinance No. 4283 on September 13, 2011 (the "Continuation Ordinance"), which effectiveness is conditioned upon the lifting of the Stay; and

WHEREAS, accordingly, the Agency intends to adopt this Resolution understanding that it will be effective only upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.

NOW, THEREFORE, BE IT RESOLVED that the Board of the Redevelopment Agency of the County of Mendocino hereby finds that the above Recitals are true and correct and have served, together with the Supporting Documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the Agency hereby approves the Work Plan and authorizes the Agency to obtain financial assistance from the County, on a short-term basis, to cover the costs specified in the Work Plan for the Plans and Studies and Public Improvement Projects.

BE IT FURTHER RESOLVED that the Agency acknowledges that the County does not have the money in the long-term to finance the Public Improvement Projects or the Plans and Studies, but is able to finance them on a short-term basis, based on the understanding, and the requirement, that the Agency will pay back these funds to the County with tax increment receipts so that there will be no ultimate net cost to the County.

BE IT FURTHER RESOLVED that the Agency's currently adopted annual budget is amended to the extent necessary to reflect the terms of this Resolution and the Amendment.

BE IT FURTHER RESOLVED that, based on the information and analysis contained in the Recitals and the Supporting Documents, and in accordance with Section 33445 of the Redevelopment Law, the Agency hereby finds that: (1) the Public Improvement Projects will be publicly owned; (2) the funding of the construction of the Public Improvement Projects is of benefit to the Project Area by helping to eliminate blight in the Project Area (as more fully

identified and described in the Supporting Documents); (3) there is no other reasonable means of financing the construction of the Public Improvement Projects available to the community, including the County, other public entities and the private sector (as more fully identified and described in the Supporting Documents); and (4) the Public Improvement Projects are consistent with the Agency's Implementation Plan (as more fully identified and described in the Supporting Documents).

BE IT FURTHER RESOLVED that the funding of the Plans and Studies is categorically exempt from the requirements of CEQA pursuant to 14 California Code of Regulations ("CCR") Section 15262 in that they are feasibility or planning studies for possible future actions which have not been approved, adopted or otherwise funded by the Agency.

BE IT FURTHER RESOLVED that the funding of the Public Improvement Projects is conditioned upon the appropriate CEQA review being completed by the County and that approval of conditional funding does not constitute approval of the Public Improvement Projects by the Agency.

BE IT FURTHER RESOLVED that, based on the foregoing CEQA considerations, Agency staff is authorized to file the appropriate notices of exemption documents (the "CEQA Documentation") pursuant to CEQA in connection with the actions and approvals set forth in this Resolution.

BE IT FURTHER RESOLVED that the Agency hereby approves the Second Amendment to the Cooperation Agreement and authorizes the Chair to execute said Second Amendment.

BE IT FURTHER RESOLVED that the Agency is authorized to repay the County the indebtedness incurred by the Agency to the County in connection with the execution of the Second Amendment.

BE IT FURTHER RESOLVED that the Mendocino County Policy #1 Purchasing, Leasing and Contracting Policy, as may be amended or superseded from time to time, applies to purchasing, leasing and contracting by the Agency and the Agency Executive Director, and the Agency Executive Director is authorized to enter into contracts to implement the FY11/12 Work Plan in accordance with Mendocino County Policy #1, Purchasing, Leasing and Contracting Policy.

BE IT FURTHER RESOLVED the County Auditor-Controller, acting in the capacity of the Agency Treasurer, is hereby directed to account for the Agency's indebtedness to the County incurred by the execution of the Amendment to the Agreement as indebtedness on the Agency's annual Statement of Indebtedness.

BE IT FURTHER RESOLVED that this Resolution shall take immediate effect upon adoption, subject however, to the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.

The foregoing Resolution introduced by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and carried this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:  
NOES:  
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO  
Clerk of the Board

\_\_\_\_\_  
Deputy

*APPROVED AS TO FORM:*  
JEANINE B. NADEL, County Counsel

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\_\_\_\_\_  
KENDALL SMITH, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO  
Clerk of the Board

\_\_\_\_\_  
Deputy