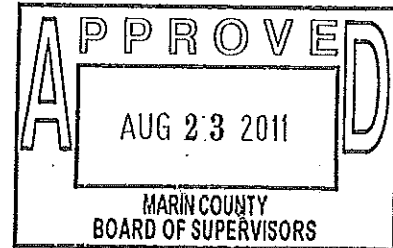


# MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD DIRECTOR

August 23, 2011

Board of Supervisors  
County of Marin  
3501 Civic Center Drive, Room 329  
San Rafael, CA 94903



**SUBJECT:** Redevelopment Restructuring Acts

Dear Supervisors:

**RECOMMENDATION:** 1. Review and approve the attached Resolution electing to be the Successor Agency of the Marin County Redevelopment Agency; 2. Review and approve attached Resolution electing to retain the housing assets and functions previously performed by the Marin County Redevelopment Agency.

**SUMMARY:** The Redevelopment Restructuring Acts were signed into law by Governor Brown on June 29, 2011. The budget bills include ABx1 26, the Dissolution Act, which immediately suspended all new redevelopment activities and dissolves redevelopment agencies (RDAs) effective October 1, 2011. Also included is ABx1 27, the Voluntary Program Act, which allows RDA's to avoid dissolution by opting into an alternative voluntary redevelopment program and requires substantial annual contributions to local schools and special districts. A provision of the Dissolution Act allows the County the option of assuming certain activities currently conducted by the Redevelopment Agency, as a Successor Agency.

**DISCUSSION:** The Marin County Redevelopment Agency's (the Agency) Plan is set to expire on January 1, 2012, after which the Agency cannot initiate new projects or incur new debt. In 2010, the Agency commissioned a study to evaluate the feasibility of extending the Agency's Plan beyond 2012. The study found that the project area would likely not meet the definitions of blight required under State Redevelopment Statute to extend the Plan. Therefore, the Agency has little incentive to participate in the Voluntary Program Act and staff is recommending that the Agency follow the provisions of the Dissolution Act. After October 1, 2011 a Successor Agency and Oversight Board would continue to satisfy enforceable obligations of the former Marin County Redevelopment Agency (RDA). For those agencies opting to dissolve, the Sponsoring Community may elect to be the Successor Agency and assume all assets, properties, and enforceable obligations of the former Redevelopment Agency. The County of Marin is the Sponsoring Community for the Agency.

Staffing for administration of the Successor Agency would continue to be provided by the Community Development Agency with staff working closely with the Department of Finance to insure that the Successor Agency met all obligations and complied with State law. The Successor Agency would be required to continue to separate the roles of the staff who conducted the primary work and the Department of Finance (DOF), as the DOF would have an oversight role. The roles and responsibilities of each entity are described in Attachment 1.

A Successor Agency is required to perform the following tasks:

- Make payments on bonds, and other legally binding and enforceable agreements or contracts;
- Prepare biannual Recognized Obligation Payment Schedules;
- Dispose of the former RDA's assets and property;
- Wind up all other affairs of the former RDA;
- Prepare administrative budgets and pay administrative costs; and
- Work with the oversight board.

The Dissolution Act also requires the establishment of Oversight Boards intended to supervise the activities of the Successor Agency. Actions of the Oversight Board will be overseen by the Director of the State Department of Finance, who may modify or disapprove of the Oversight Board's actions. The Oversight Board has a fiduciary responsibility to holders of enforceable obligations and taxing entities and is required to direct the Successor Agency to evaluate whether contracts and agreements can be terminated or renegotiated to reduce liabilities and increase revenues to taxing entities. The Oversight Board for Marin County would have seven members appointed by and representing the following:

- County Board of Supervisors (three members)
- County Superintendent of Education (one member)
- Chancellor of College of Marin (one member)
- Marin City Community Services District (one member)
- A former RDA employee staff appointed by the Board of Supervisors (one member)

The Redevelopment Agency has no staff as the County provides staffing to the Agency through a cooperation agreement. Therefore, the Board of Supervisors could appoint a County staff or other person with expertise in Redevelopment activities. If the County opts to act as Successor Agency, the Board of Supervisors and other affected agencies they need to will appoint their representatives to the Oversight Board by January 1, 2012.

The County Auditor-Controller also has a role specified in the Dissolution Act, and will be responsible for the following:

- By March 1, 2012 complete a one-time procedural audit of former RDA assets and liabilities and provide the State Controller's Office with a copy of the audit by March 15, 2012;
- Annually determine the amount of property tax increment that would have been allocated to the RDA and deposit that amount into a Redevelopment Property Tax Trust Fund; and
- Administer the Trust Fund for the benefit of the holders of former RDA debt and taxing entities that receive pass-through payments or distributions of property taxes.

The Trust Fund will include the tax increment previously allocated to the Redevelopment Agency. When the County Auditor-Controller allocates funds from the Trust Fund, payments must be allocated in the following priority:

- To make pass-through payments to affected taxing entities in the amounts that would have been owed had the former RDA not been dissolved;
- To the Successor Agency (the County of Marin) to pay obligations of the former RDA;
- To the Successor Agency to pay for administrative costs as approved by the Oversight Board; and
- Any remaining balance in the Trust Fund, to school entities and other local taxing entities as property taxes.

The Marin County Redevelopment Agency has bond payments and other financial obligations including payments to the Marin City Community Land Corporation, the Marin Housing Authority, and the County of Marin which are in effect through September 1, 2025. Tax increment revenue is projected to be adequate to make the required payments.

The County also may elect to assume the housing assets, functions, and obligations of the Marin County Redevelopment Agency, which include oversight and payments on current contracts and outstanding loans. The Dissolution Act clarifies that community development commissions may continue their housing authority and other local community development functions (other than redevelopment) unaffected by the Act. The activities would include meeting the contract terms and processing payment to the Marin City Community Land Corporation, on behalf of the Ridgeway Apartments and oversight of the contract with Marin Housing Authority to monitor and provide services to the Below Market Rate Housing Program. Staff is recommending that these functions also remain with the County.

The California Redevelopment Association (CRA) and the League of California Cities filed suit against the State alleging that the Restructuring Acts (ABx1 26 and 27) are unconstitutional. On August 11, 2011, the California Supreme Court agreed to review the petition challenging the constitutionality of the Redevelopment Restructuring Acts. The Court's order also stays specified portions of the Redevelopment Restructuring Acts, indefinitely postponing certain provisions' effectiveness. This means that while RDAs will not automatically be dissolved on October 1, 2011, they have no authority to conduct new redevelopment activities during the stay. The stay remains in effect until the Court issues a decision on the merits of the petition. Staff was advised by our legal counsel to proceed with the attached Resolutions as they address the litigation and possible stay and provide the County with protection regardless of the outcome of the lawsuit.

**FISCAL IMPACT:** No impact on the General Fund. All enforceable obligations, including bond payments and administrative costs to the County, will be funded through tax increment administered through the Department of Finance.

<b>REVIEWED BY:</b>	<input checked="" type="checkbox"/>	Auditor Controller	<input type="checkbox"/>	Not Applicable
	<input checked="" type="checkbox"/>	Agency Counsel	<input type="checkbox"/>	Not Applicable
	<input type="checkbox"/>	Human Resources	<input checked="" type="checkbox"/>	Not Applicable

Respectfully submitted,

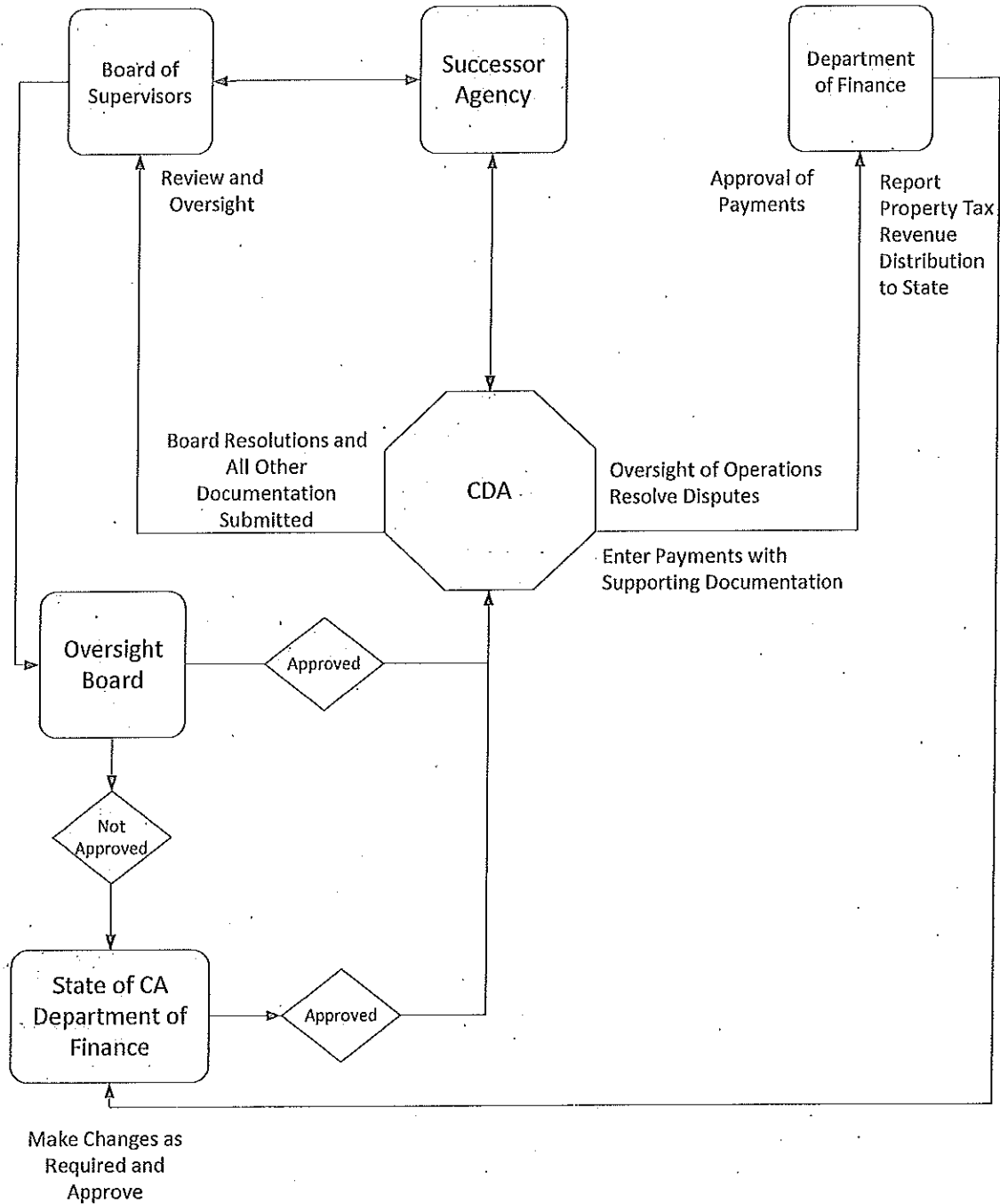
  
Leelee Thomas  
Principal Planner

  
Brian Crawford  
Director

**Attachments:**

1. Roles and Responsibilities of the Successor Agency.
2. Resolution electing to become the Successor Agency to the Marin County Redevelopment Agency
3. Resolution electing to retain the housing assets and functions previously performed by the Marin County Redevelopment Agency

# SUCCESSOR AGENCY: MARIN COUNTY REDEVELOPMENT AGENCY



**RESOLUTION NO. 2011-83**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF MARIN COUNTY,  
CALIFORNIA, ELECTING TO BECOME THE SUCCESSOR AGENCY TO THE  
MARIN COUNTY REDEVELOPMENT AGENCY PURSUANT TO PART 1.85 OF  
DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE**

**WHEREAS**, the Board of Supervisors of the County of Marin ("County") approved and adopted the Redevelopment Plan for the Marin City Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

**WHEREAS**, the Marin County Redevelopment Agency ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, *et seq.*) ("CRL"); and

**WHEREAS**, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; 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**, specifically, AB 1X 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

**WHEREAS**, AB 1X 26 further provides that, upon their dissolution, any properties that would have been allocated to redevelopment agencies will no longer be deemed tax increment, and will be allocated first to successor agencies to make payments on the indebtedness incurred by the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions; and

**WHEREAS**, AB 1X 26 designates successor agencies as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the CRL, are vested in the successor agencies; and

**WHEREAS**, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. 5194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement; and

**WHEREAS**, the County reserves the right, regardless of its election made under this Resolution, to challenge the legality of AB 1X 26 and AB 1X 27; and

**WHEREAS**, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of AB 1X 26 and AB 1X 27, the Board of Supervisors' obligation to elect to become the successor agency to the Marin County Redevelopment Agency shall be suspended for the duration of such injunction, restraint or stay; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

**Section 2. Election to be Successor Agency.** In accordance with Health and Safety Code Section 34173, and based on the Recitals set forth above, the Board of Supervisors hereby elects to become the "successor agency" to the former Marin County Redevelopment Agency. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all authority, rights, powers, duties and obligations previously vested with the former Agency, under the CRL, shall be vested in the County as the successor agency to the Agency.

**Section 3. Effect of Stay or Determination of Invalidity.** In the event a court of competent jurisdiction grants a stay on the enforcement of AB 1X 26 and AB 1X 27, this election by the Board of Supervisors to be the successor agency shall be suspended for the duration of the stay. In the event a court of competent jurisdiction determines that AB 1X 26 and AB 1X 27 are unconstitutional and therefore invalid and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed, this Resolution shall be deemed to be null and void and of no further force or effect.

**Section 4. Implementation.** The Board of Supervisors hereby authorizes and directs the County Administrative Officer to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Marin County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution and the County's election to be the successor agency to the Agency, in accordance with AB 1X 26.

**Section 5. Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Board of Supervisors hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

**Section 6. Certification.** The Clerk of the Board of Supervisors shall certify to the adoption of this Resolution.

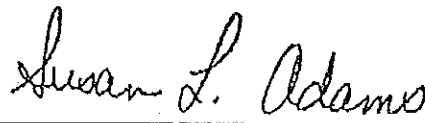
**Section 7. Effective Date.** This Resolution shall become effective upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors on the 23<sup>rd</sup> day of August 2011, by the following vote:

AYES: SUPERVISORS Judy Arnold, Kathrin Sears, Steve Kinsey, Susan L. Adams

NOES: NONE

ABSENT: SUPERVISOR Harold C. Brown, Jr.



\_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
CLERK

RESOLUTION NO. 2011-84

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN, CALIFORNIA, ELECTING TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE MARIN COUNTY REDEVELOPMENT AGENCY PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE**

**WHEREAS**, the Board of Supervisors of the County of Marin ("County") approved and adopted the Redevelopment Plan for the Marin City Redevelopment Project ("Redevelopment Plan") covering certain properties within the County (the "Project Area"); and

**WHEREAS**, the Marin County Redevelopment Agency ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

**WHEREAS**, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; 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**, specifically, AB 1X 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

**WHEREAS**, Health and Safety Code Section 34176, enacted by AB 1X 26, provides that the community that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency, and if the community elects to retain the responsibility for performing housing functions, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the community; and

**WHEREAS**, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. 5194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies; and

**WHEREAS**, the County reserves the right, regardless of its election made under this Resolution, to challenge the legality of AB 1X 26 and AB 1X 27; and

**WHEREAS**, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness on the effectiveness of AB 1X 26 and AB 1X 27, the Board of Supervisors' obligation to elect to become the successor agency to the Marin County Redevelopment Agency of shall be suspended for the duration of such injunction, restraint or stay; and



WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

**Section 2. Election to Retain Housing Assets and Functions.** In accordance with Health and Safety Code Section 34176, and based on the Recitals set forth above, because the Board of Supervisors authorized the creation of the Marin County Redevelopment Agency, the Board of Supervisors hereby elects to retain the housing assets and functions previously performed by the Marin County Redevelopment Agency. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all rights, powers, duties and obligations, excluding any amounts on deposit in the Marin County Redevelopment Agency's Low and Moderate Income Housing Fund shall be transferred to the County of Marin.

**Section 3. Effect of Stay or Determination of Invalidity.** In the event a court of competent jurisdiction grants a stay on the enforcement of AB 1X 26 and AB 1X 27, this election by the Board of Supervisors to retain the housing assets and functions of the Marin County Redevelopment Agency shall be suspended for the duration of the stay. In the event a court of competent jurisdiction determines that AB 1X 26 and AB 1X 27 are unconstitutional and therefore invalid and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed, this Resolution shall be deemed to be null and void and of no further force or effect.

**Section 4. Implementation.** The Board of Supervisors hereby authorizes and directs the County Administrative Officer to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Marin County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution and the County's election to be the successor agency to the Agency, in accordance with AB 1X 26.

**Section 5. Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Board of Supervisors hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

**Section 6. Certification.** The Clerk of the Board shall certify to the adoption of this Resolution.

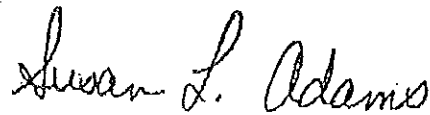
**Section 7. Effective Date.** This Resolution shall become effective upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors on the 23<sup>rd</sup> day of August 2011, by the following vote:

AYES: SUPERVISORS Judy Arnold, Kathrin Sears, Steve Kinsey, Susan L. Adams

NOES: NONE

ABSENT: SUPERVISOR Harold C. Brown, Jr.



\_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
CLERK