

OB-2013-15
RESOLUTION NO. _____

**A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR
AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE
CITY OF CATHEDRAL CITY RE-APPROVING AND REAUTHORIZING
THE PAYMENT FROM 2007 BOND PROCEEDS OF CERTAIN
AMOUNTS RELATED TO THE EASTERN RIVERSIDE COUNTY
INTEROPERABLE COMMUNICATIONS AUTHORITY ("ERICA")
PROJECT**

WHEREAS, in accordance with the provisions of the California Community Redevelopment Law (Health and Safety Code section 33000, et seq. ("**CRL**"), the City Council of the City of Cathedral City ("**City**") previously established the Redevelopment Agency of the City of Cathedral City, a public body, corporate and politic ("**Agency**"), to carry out the purposes of and exercise the powers granted to community redevelopment agencies in accordance with the CRL; and

WHEREAS, on February 1, 2012, the Agency was dissolved in accord with Assembly Bill IX26 (Stats. 2011, 1st Ex. Sess., Ch. 5) ("**AB 26**"), and its rights, powers, duties and obligations were transferred to a "successor agency" (as defined by CRL section 34171(j) and section 34173); and

WHEREAS, in accord with AB 26, the City Council took official action electing to become both the Agency's successor agency ("**Successor Agency**") and its successor for housing functions in accord with CRL sections 34173 and 34176; and

WHEREAS, in 2007, the Agency issued a series of bonds ("**2007 Bonds**") for the purpose of generating proceeds to fund various redevelopment activities and programs, as described in the Official Statement and other documents governing the 2007 Bonds (collectively, "**2007 Bond Documents**"); and

WHEREAS, the 2007 Bond Documents provide that the 2007 Bond proceeds may be used for projects consistent with the CRL, and

WHEREAS, the City and Motorola, Inc. are parties to that certain "**Equipment Lease Purchase Agreement**" dated September 17, 2008 (as subsequently amended, the "**LPA**"); and

WHEREAS, the LPA was entered into to implement the City's participation in the "Eastern Riverside County Interoperable Communications Authority" ("**ERICA**"), a joint powers agency providing for interoperable public safety communications in Eastern Riverside County; and

WHEREAS, the LPA provided for the City's lease-purchase of certain capital facility public safety communications improvements and facilities ("**Communication Equipment**"); and

WHEREAS, the 5-year implementation plan for the Project Area adopted by the Agency under CRL section 33491 provided for the funding of communication systems such as the

Communication Equipment and, thus, the purchase of the Communication Equipment serves a legitimate redevelopment purpose and is consistent with the CRL; and

WHEREAS, by minute order dated July 8, 2008 ("**July 8, 2008 Action**"), the Agency's governing board authorized the Agency's financial support of ERICA in the form of funding for communication systems as provided in the Agency's implementation plan; and

WHEREAS, payment for the Communication Equipment is an authorized use of the 2007 Bond proceeds and is in accord with the 2007 Bond Documents; and

WHEREAS, under that certain "**Reimbursement Agreement**" dated January 17, 2011, between the City and the Agency, the Agency agreed to reimburse the City for the costs of certain "**Project Improvements**" (as defined in the Reimbursement Agreement); and

WHEREAS, the Communication Equipment qualifies as a "**Project Improvement**" under the Reimbursement Agreement; and

WHEREAS, the Agency's obligations under the Reimbursement Agreement are payable from taxes levied in the Project Area "and out of any other available funds"; and

WHEREAS, the 2007 Bond proceeds constitute "other available funds" under the Reimbursement Agreement; and

WHEREAS, the City has incurred costs of no less than \$1,486,743 related to the Communication Equipment which are eligible for reimbursement under the 2007 Bond Documents, the Reimbursement Agreement, and the July 8, 2008 Action; and

WHEREAS, in fulfillment of the Agency's obligations under the July 8, 2008 Action and the Reimbursement Agreement, the City requested that the Agency pay any sums owed by the City under the LPA to Motorola, Inc., on the City's behalf; and

WHEREAS, on or about February 28, 2013, the Successor Agency submitted its Recognized Obligation Payment Schedule for the July-December, 2013 fiscal period ("**ROPS 13-14A**") to the Department of Finance; and

WHEREAS, the ROPS 13-14A included a payment of \$1,486,743 to Motorola, Inc. (as the City's payee-designee under the LPA) from the 2007 Bond proceeds to meet the Agency's obligation under the Reimbursement Agreement and July 8, 2008 Action; and

WHEREAS, on April 13, 2013, the Department of Finance notified the Successor Agency that it had disapproved the use of the 2007 Bond proceeds to reimburse the City for those costs it incurred with relation to the Communication Equipment because the LPA was not an enforceable obligation for purposes of the ROPS 13-14A because the Agency was not a party to the LPA; and

WHEREAS, on April 17, 2013, the Department of Finance issued a finding of completion ("**Finding of Completion**") under CRL section 34179.7 to the Successor Agency; and

WHEREAS, as a result of the Successor Agency's receipt of a Finding of Completion, the Agency's obligation under the July 8, 2008 Action and the Reimbursement Agreement related to the Communication Equipment may be paid from 2007 Bond proceeds, as authorized by CRL section 34191.4(c); and

WHEREAS, the Successor Agency has initiated meet and confer proceedings with the Department of Finance under CRL section 34177(m) for the purpose of causing the Department of Finance to reverse its disapproval of the Communication Equipment payment included on the ROPS 13-14A; and

WHEREAS, the Oversight Board now wishes to re-approve the Reimbursement Agreement and the July 8, 2008 Action and reauthorize the Successor Agency's Communication Equipment reimbursement payment and to make other findings and determinations under the CRL.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY OF THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF CATHEDRAL CITY AS FOLLOWS:

Section 1. The Oversight Board finds and determines that: (a) as a result of the Successor Agency's receipt of a Finding of Completion, the Reimbursement Agreement and July 8, 2008 Action are enforceable obligations (as provided in CRL section 34191.4(b)(1)) and were entered into for legitimate redevelopment purposes; and (b) the limitations on repayment schedules and interest rates set forth in CRL section 34191.4(b)(2) do not apply to obligations payable from bond proceeds under CRL section 34191.4(c).

Section 2. The Oversight Board re-approves the expenditure of \$1,486,743 from 2007 Bond proceeds to fulfill the Agency's obligations under the Reimbursement Agreement and July 8, 2008 Action with respect to the Communication Equipment.

Section 3. The Oversight Board directs the Successor Agency's staff to give notice to the Department of Finance of the approval of this Resolution and to otherwise comply with CRL section 34179(h).

Section 4. This Resolution will become effective as provided by CRL section 34179(h).

The foregoing Resolution was duly and regularly adopted at a regular meeting of the Oversight Board to the Successor Agency of the Redevelopment Agency of Cathedral City held on April 25, 2013 by the following vote:

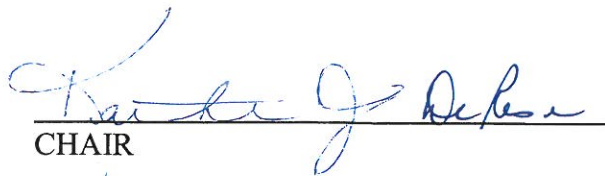
AYES: 6 DeRosa, Aguilar, Ellis, Howell, Bruley, Scott

NOES: 0

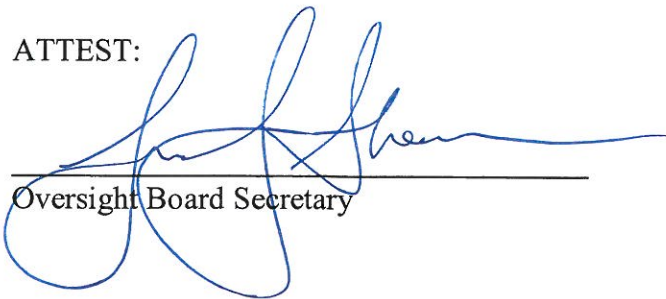
ABSENT: 1 Henry.

ABSTAIN: 0

APPROVED:


CHAIR

ATTEST:


Oversight Board Secretary