SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

DATE: JUDGE:	March 16, 2015 HON. SHELLEYANNE W. L. CHANG	DEPT. NO.: CLERK:	24 E. HIGGINBOTHAM
CITY OF GLENDALE, a charter city; **SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF GLENDALE**, a public entity, Petitioners and Plaintiffs, v. **CALIFORNIA DEPARTMENT OF FINANCE; MICHAEL COHEN**, in his official capacity as Director of the State of California Department of Finance; and **DOES** 1-50 inclusive. Respondents and Defendants.		**Case No.: 34-2014-80001924**	
Nature of Proceedings:		**RULING ON SUBMITTED MATTER: PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF**	

The following shall constitute the Court's tentative ruling on the above matter, set for hearing in Department 24, on Friday, February 13, 2015, at 10:00 a.m. The tentative ruling shall become the final ruling of the Court unless a party wishing to be heard so advises the clerk of this Department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the clerk that such party has notified the other side of its intention to appear.

If a hearing is requested, oral argument shall not exceed 25 minutes per side.

As a preliminary matter, Judge Chang discloses that she and counsel for Respondents, Deputy Attorney General Michelle M. Mitchell, worked together in the Office of Legal Affairs of Governor Gray Davis from approximately 2000 to 2003. Judge Chang was the Chief Deputy Legal Affairs Secretary; Ms. Mitchell was a Deputy Legal Affairs Secretary during that timeframe.

Petitioners seek a writ of mandate and ancillary claims for declaratory relief (Petition) ordering Respondents Department of Finance and Michael Cohen (collectively, "DOF") to (1) "approve" an Oversight Board resolution approving particular loan agreements and "approve" the full balance due, and (2) invalidate DOF's rejection of the same Oversight Board resolution. The Petition is **GRANTED** in part and **DENIED** in part.

The dispute centers on the proper interest rate for "re-approved" loans once a successor agency has received a Finding of Completion. Petitioners claim that the proper interest

rate is the variable Local Agency Investment Fund (LAIF) rate from the date that the loan was incurred. DOF contends that the proper interest rate is the LAIF rate in effect on the date that the oversight board re-approves the loan. In this case, the difference between those two interest rate calculations is approximately $30 million.

I. BACKGROUND

a. Legal Background

In June 2011, AB XI 26 (AB 26) became effective, which provided for the dissolution of all redevelopment agencies (RDAs) and wind-up of their affairs.

In *California Redevelopment Assoc. v. Matosantos* (*CRA v. Matosantos*) (2011) 53 Cal.4th 231, the California Supreme Court upheld the constitutionality of AB 26 in December, 2011. The law's provisions went into full effect on February 1, 2012. (*Id.* at p. 276.) In June of 2012, the Legislature adopted AB 1484 to modify and "clean up" the provisions in AB 26. Together, AB 26 and AB 1484 constitute the "Dissolution Law."

The Dissolution Law is divided into two parts: Part 1.8, the "freeze" component, and Part 1.85, the dissolution component. The "freeze" component immediately froze RDA assets upon AB 26's enactment, including monies in the RDAs' accounts, prohibited their transfer, and prohibited RDAs from entering new business. (Health & Saf. Code, § 34163.) The intent of the "freeze" was to allow assets and revenues that were not needed for existing enforceable obligations to be used by local governments to fund core governmental services, including police, fire protection services, and schools. (*Id.*, § 34167, subd. (a); *CRA v. Matosantos, supra,* 53 Cal.4th at p. 250.)

Part 1.85, the dissolution component, establishes "successor agencies" to wind down the RDAs' affairs in accordance with the direction of their respective oversight boards. (Health & Saf. Code, §§ 34173, 34177.) This wind-down process includes making payments on the "enforceable obligations" of the former RDA and now successor agency. (*Id.*, § 34177.)

Each oversight board consists of members appointed as set forth by statute (Health & Saf. Code, § 34179, subd. (a)), and has a fiduciary duty to "holders of enforceable obligations and the taxing entities that benefit from distributions of property tax." (*Id.*, § 34179, subd. (i)) The oversight board must review specified actions by the successor agencies, including "[e]stablishment of the Recognized Obligation Payment Schedule" (ROPS). (*Id.*, § 34180, subd. (g)).

The ROPS is the document listing a successor agency's proposed enforceable obligations, and listing the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period. (*Id.*, § 34171, subd. (h).) After oversight board approval, successor agencies must submit the ROPS to DOF for approval. (Health & Saf. Code, §§ 34177, 34179(h), 34180.)

The Dissolution Law also required successor agencies to remit unencumbered balances of RDA funds to the county auditor-controller to distribute to the taxing entities. AB 1484 enacted the Due Diligence Review (DDR) process to facilitate this distribution. (*See* Health & Saf. Code, §§ 34197.5, 34197.6.) Once a successor agency remitted the balances and paid a "true-up" amount for any sums due for the 2011-2012 fiscal year, a DOF was required to issue a Finding of Completion (FOC) to the successor agency. (Health & Saf. Code, §§ 34183.5, 34179.6, 34179.7, 34191.4.)

After obtaining a FOC, a successor agency is eligible to repay loans between a RDA and its sponsoring entity (in this case, the City), and "stranded" bond proceeds shall be used for the purposes for which the bonds were sold. (Health & Saf. Code, § 34191.4, subds. (b), (c).)

On February 1, 2012, all RDAs dissolved and the successor agencies took their place. In this case, the City of Glendale (City) became the successor agency (Successor Agency) to the City's former RDA.

b. Factual Background

At issue are various loan agreements between the City and former RDA. Because the loan agreements are between City and RDA, these agreements were no longer "enforceable obligations" under the Dissolution Law. (Health & Saf. Code, § 34171(d)(2).) Accordingly, the Successor Agency needed to obtain a FOC before DOF would recognize them as enforceable obligations for which the Successor Agencies could receive monies after listing them on ROPS submissions.

On February 6, 2013, before the Successor Agency received a FOC, the Successor Agency's oversight board (Oversight Board) adopted Resolution OSB-19, finding that unnamed "Cooperation and Reimbursement Agreements" were made for legitimate redevelopment purposes, after reviewing "documentation and testimony" therefor. (5 AR 65-66:0196-1100.) On February 20, 2013, the Successor Agency submitted ROPS 13-14A to DOF, listing as ROPS item No. 89 "Cooperation and Reimbursement Agreement in the amount of $66.1 million."[1] (5 AR 74:01163-0166.) On April 6, 2013, DOF rejected Item No. 89 as an enforceable obligation "at this time" but stated that the item may be listed on ROPS submissions once the Successor Agency received a FOC. (5 AR 74:01163-0166.)

The parties do not dispute that in 2013, DOF issued a FOC to the Successor Agency.

On June 6, 2013, DOF issued a "final" determination on ROPS 13-14A. DOF again rejected Item No. 89 as ineligible for funding at this time. DOF instructed the Successor Agency to wait an additional year before placing this item on a subsequent ROPS, so that the amounts of residual pass-through obligations would be known, which would allow the parties to calculate the exact amount of the repayment of the loan and payment to the Successor Agency. (5 AR 77:01189-01192.)

[1] Petitioners cite DOF's determination on the ROPS 13-14A submission, not the actual ROPS schedule.

Petitioners aver that the Successor Agency waited another year to list the loan agreements on a ROPS submission.

On February 26, 2014, the Oversight Board adopted Resolution No. OSB-35, approving loan indebtedness incurred under the "Cooperation and Reimbursement Agreements" as enforceable obligations, and directing the Successor Agency to include the repayment of funds on subsequent ROPS. Resolution No. OSB-35 noted that the City advanced funds to the RDA in the form of various "cooperation and reimbursement loan agreements" for projects and programs in the Central Glendale and San Fernando Road Corridor Redevelopment Project Areas.[2] Resolution No. OSB-35 found that the funds advanced per the "Cooperation and Reimbursement Agreements" were used for legitimate redevelopment purposes, and that the loan repayment schedule conformed to statutory requirements in Health and Safety Code section[3] 34191.4(b).[4] (5 AR 82:01235-01238.)

Also on February 26, 2014, the Oversight Board also approved ROPS 14-15A. (5 AR 89:01251-01242.) Petitioners assert that ROPS 14-15A included a "line item" for the Loan Agreements. Petitioners appear to refer to ROPS Item No. 89 for "City/County Loans after 6/27/11" with a total outstanding debt of approximately $66 million.

On April 7, 2014, DOF determined that Resolution No. OSB-35 "is not allowed." DOF stated that pursuant to Section 34191.4, subdivision (b)(2), the loan interest should be recalculated using the LAIF rate in effect when the Oversight Board found that the loan was for legitimate redevelopment purposes, which in this case, was .28%. DOF recalculated the total loan outstanding and concluded that nothing ($0) was due. (5 AR 88:01249-1250.) DOF returned Resolution No. OSB-35 to the Oversight Board for reconsideration. (Id.)

Petitioners then met and conferred with DOF and informed DOF that Petitioners miscalculated the outstanding balance of the reinstated loans as $66 million rather than $45.5 million. (Opening Brief, p. 11, fn. 9.) Petitioners also allege that DOF's conclusion that $0 was due was in error, as DOF allowed Petitioner to receive $1,508,814 on the ROPS 14-15A submission. (Id., at p. 11-:19-20; 6 AR 96:01481.)

On May 16, 2014, DOF issued a final determination on ROPS 14-15A. DOF determined that the initial payment on ROPS Item No. 89—$1,508,814—was not denied, but that the Successor Agency "overstated" the outstanding balance of the loans as approximately $66 million, as this amount includes the LAIF interest over the life of the loan rather than

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[2] Petitioners do not cite the documentation and testimony on which the Oversight Board relied; DOF notes that a February 26, 2014 staff report identifies 16 remaining loan agreements with an outstanding debt balance of $66,2521,113, rather than the13 loan agreements Petitioners aver are at issue. (AR 6 81:01202.)

[3] Unless otherwise specified, all future statutory references shall be to the Health and Safety Code.

[4] The loans are not itemized, but the loan repayment schedule attached to Resolution OSB-35 indicates that the total loan amount is approximately $66 million.

the LAIF rate on the date of the Oversight Board's "approval" of the reinstated loans. (6 AR 96: 01481.)

In this determination, DOF also concluded that the loan principal is $13.6 million. Although it did not list a total amount due, DOF stated that the Successor Agency "should recalculate the interest using the LAIF interest rate at the time the Agency's Oversight Board made the finding the loan was for legitimate redevelopment purposes" to accurately reflect the outstanding balance in future ROPS. (6 AR 96:01481-01482.)

Petitioners allege that because of the differing applications of the appropriate interest rate, Petitioners' interest calculation on $13.6 million principal yields approximately $30 million in interest, and that DOF's interest calculation on $13.6 million in principal yields $974,277 in interest. These contentions are undisputed.

II. DISCUSSION

a. Requests For Judicial Notice

Petitioners' requests for judicial notice (RJN) in support of their Opening Brief are unopposed and **GRANTED**. The Court **DENIES** Petitioners' RJN in support of its Reply Brief, as the Court does not consider this evidence in reaching its decision and Respondents have had no opportunity to respond to it.

b. Standard of Review

The standard of review in case seeking mandate relief under Code of Civil Procedure section 1085 is whether the agency abused its discretion in making the challenged determinations. (*See Ridgecrest Charter School v. Sierra Sands Unif. Sch. Distr.* (2005) 130 Cal.App.4th 986, 1003.)

Here, the material facts are generally undisputed, and the legality of the subsequent ROPS withholdings is a question of law. When an agency's action depends solely upon the correct interpretation of a statute, it is a question of law, upon which the Court exercises independent judgment. (*California Correctional Peace Officers' Assn. v. State* (2010) 181 Cal.App.4th 1454, 1460.)

c. Petitioners' Writ Claim to "Invalidate" DOF's Rejection of Resolution OBS-35

Petitioners' First Cause of Action seeks a writ directing that DOF "approve Resolution No. OSB-35 and permit the Oversight Board to approve the "full outstanding balance due." As discussed later, this writ claim in **DENIED**. In their Third Cause of Action, Petitioners also seek a corollary writ of mandate invalidating DOF's "rejection" of Resolution No. OSB-35 and reduction of the total outstanding balance, arguing that DOF abused its discretion either by applying an invalid construction of Section 34191.4 or

applying an "underground" regulation to calculate interest rates. This claim is **GRANTED.**

i. Ripeness

DOF argues that the litigation—which is about the calculation of the interest rate—is not ripe for judicial review because there is no final administrative determination. The Court rejects this claim. DOF argues that until it reviews the individual agreements and confirms the outstanding amount of principal—either by approving another resolution by the Oversight Board, or approving another ROPS at some unspecified point in time, the propriety of the applicable interest rate is not ripe. DOF claims that the number of loan agreements is not clear, and it is also not clear if all items approved by the Oversight Board are actually loan agreements eligible for repayment.

However, as discussed above, DOF has made an administrative determination "rejecting"[5] Resolution No. OSB-35. The decision states that the Resolution is "not allowed" and "returns" the Oversight Board actions for reconsideration. DOF also concedes that the Oversight Board has not submitted any further resolution on this matter.

Moreover, the basis for DOF's finding that Resolution No. OSB-35 "is not allowed" is that "[t]he accumulated interest on the loan should be recalculated using the quarterly LAIF interest rate at the time when the Agency's OB made the finding the loan was for legitimate redevelopment purposes, which in this case is .28 percent. However, the Agency's loan calculation uses variable rates." (5 AR 88:01249.) Thus, Petitioners have presented evidence of "rejection," and the parties do not dispute that this "rejection" was based on DOF's position regarding the proper interest rate to use on reinstated loans.

As to DOF's claim that the outstanding amount of principal is in dispute, Petitioners have also presented evidence that DOF believes the principal is approximately $13 million, but that the total balance is "overstated," as evidenced by its May 16, 2016 letter regarding the Successor Agency's ROPS 14-15A submission. Additionally, by allowing the Successor Agency to receive some monies for the reapproved loan agreements in the ROPS 14-15A submission, DOF appears to concede that *some* amount of principal is due. The fact that principal exists necessarily affects the calculation of interest—the subject of this Petition.

Thus, there has been a final administrative determination regarding the appropriate calculation for interest rates. Additionally, it is undisputed what the parties' opposing positions are.

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[5] Petitioners also debate whether DOF can raise these arguments for objecting to or "rejecting" Resolution OSB-35, because DOF's "objection" was untimely. However, because the Petition seeks a writ of mandate invalidating DOF's "rejection" of OSB-35, this suggests that Petitioners found DOF's review and rejection to be "timely." Accordingly, the Court does not decide whether or not DOF's objection was timely under the Dissolution Law.

Finally, were the Court to accept DOF's argument that the matter is not ripe, a petitioner wishing to dispute the proper interest rate would have no speedy method to seek administrative review: DOF could always argue that there is no "final" administrative decision approving an oversight board's resolution because DOF could disapprove of the resolution and return the action to the oversight board and essentially evade judicial review of its determination. Additionally, Petitioners would arguably not have a "final" administrative decision with regard to ROPS monies until DOF denied a request for ROPS monies that exceeded DOF's calculations. Depending upon the remaining principal, DOF's determination could extend years into the future.

For these reasons, the Court concludes that the matter is ripe for judicial review.

ii. DOF Abused its Discretion in Determining that Resolution OSB-35 is "Not Allowed" Based on DOF's Calculation of the Proper Loan Repayment Rate

The Court addresses DOF's application of Section 34191.4 in rejecting Resolution OSB-35.

The material facts are undisputed. DOF issued a FOC to the Successor Agency. DOF agrees that the Oversight Board reinstated at least *some* loans. The determinative issue is at what interest rate the loans should be repaid. Petitioners argue that the interest rate is determined by the (variable) LAIF over the duration of the loan since its origination date. DOF argues that the interest rate is determined by a fixed rate: the rate of the LAIF on the date that the Oversight Board voted to reapprove it.

Section 34191.4, subdivision (b) governs reinstatement of loans and interest rates:

> **(b)**
>
> **(1)** Notwithstanding subdivision (d) of Section 34171, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.
>
> **(2)** *If the oversight board finds that the loan is an enforceable obligation, the accumulated interest on the remaining principal amount of the loan shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund.* The loan shall be repaid to the city, county, or city and county in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund. The annual loan repayments provided for in the

> recognized obligation payment schedules shall be subject to all of the following limitations:.... (emphasis added).

In construing a statute, the court's fundamental task is to ascertain the intent of the Legislature. (*Guillemin v. Stein* (2002) 104 Cal.App.4th 156, 164.) To determine intent, courts must first examine the statute's words, "because they are generally the most reliable indicator of intent." (*Wirth v. California* (2006) 142 Cal.App.4th 131, 139.) If the statute's language is clear and unambiguous, no construction is necessary and the court need not resort to other indicia of intent. (*Ibid.*) If the language is ambiguous, however, the court may use extrinsic construction aids. (*Ibid.*) The court must adopt constructions that harmonize related statutes to the extent possible and, where uncertainty exists, consider the practical consequences flowing from particular interpretations in adopting reasonable, common sense constructions. (*Id.* at pp. 139-40.)

The dispute centers on the meaning of the word "origination"—and whether it means the date the loan was made, as Petitioners contend, or, as DOF argues, the date the Oversight Board found the loan to be an enforceable obligation. Petitioners have the better argument, based on the plain meaning of the word "origination."

The word "origination" means "coming into existence" or "bringing into existence." (Webster's Third New International Dictionary (1986.); *see also Central Pathology Service Med. Clinic v. Superior Court* (1992) 3 Cal.4th 181, 187 [observing that "origination" is associated with "arising out of" and "growth or flow from the event."].)

Here, the loans were existing, but were no longer recognized as "enforceable obligations" of the former RDA under the Dissolution Law. The loans became eligible to be deemed "enforceable obligations" once the Successor Agency received a FOC. Thus, the loan "origination" and the Oversight Board's finding that the loan was for "legitimate redevelopment purposes" and that the loan is an enforceable obligation are two separate events.

Additionally, Section 34191.4's requirement that the Oversight Board find that the loan "was for legitimate redevelopment purposes" implies that such loans already exist, and that "origination" already occurred.

The word "origination" thus refers to the date upon which the loan was made or came into existence, not the date on which it was "reapproved" as an enforceable obligation. The Legislature chose to use the word "origination" to refer to the date from which interest should be recalculated—it could have, but did not, fix another date or event, such as the date on which an oversight board found that the loan was made for legitimate redevelopment purposes and was an enforceable obligation. Thus, Section 34191.4, subdivision (b) means that interest is to be calculated from the date that the loan was made, not the date on which the Oversight Board found it to be an enforceable obligation.

Additionally, it is undisputed that the LAIF is a variable interest rate that fluctuates over time. Thus, Section 34191.4, subdivision (b) requires that the interest rate be calculated

from "origination" at the rate earned under the LAIF, not by the LAIF rate occurring on a specific date.

Accordingly, because DOF rejected Resolution No. OSB-35, and part of the basis for that rejection (a position which DOF still maintains) is DOF's interpretation of the proper loan interest rate under Section 34191.4, subdivision (b), DOF abused its discretion. DOF's April 7, 2014 decision is set aside.

Petitioners also argue that DOF's application of Section 34191.4 is an impermissible "underground regulation." Because the Court has found that DOF has abused its discretion in invalidating Resolution No. OSB-35 on the basis of its application of Section 34191.4 and the appropriate interest rate, the Court need not decide whether DOF also abused its discretion in applying its interpretation as an improper "underground regulation."

d. Petitioners' Writ Claim Commanding DOF to "Approve" the Oversight Board's Approval of Resolution OSB-35 and Approval of Full Amount Due

Petitioners seek a writ to compel DOF to "approve" the Oversight Board's approval of Resolution OSB-35 and permit the Oversight Board to approve the "full outstanding balance due." This claim is **DENIED.**

The Court cannot order DOF to permit "approval" of the "full outstanding balance due," because this amount is unclear: DOF's determination returns the matter to the Oversight Board, DOF contends that it has not reviewed the purported loan agreements to determine if they are enforceable obligations, and Petitioners' citations to the administrative record do not show the number and type of loan agreements at issue. For example, Petitioners claim that 13 loan agreements are at issue here (Opening Brief, p. 4:7.) However, DOF notes that the Oversight Board, in approving Resolution No. OSB-35 found that 16 loan agreements were reinstated. (Opposition Brief, p. 17:16-17.) For purposes of this claim, the Court is unable to determine and thus, cannot assume the "full amount due." Thus, this writ claim is **DENIED.**

Although the Court sets aside DOF's determination rejecting Resolution No. OSB-35 on the basis of the appropriate interest rate calculation, the Court notes that DOF must have implicitly approved Resolution No. OSB-35, or its predecessor, Resolution No. OSB-19. This is because DOF allowed the Successor Agency to receive monies following the ROPS 14-15A submission for the loan agreements that were the subject of Resolution No. OSB-35. Additionally, DOF's April 4, 2014 letter states that the Oversight Board previously found that the City loan was for legitimate redevelopment purposes and "[a]s such the Agency may place loan agreements between the former [RDA] and [City] on the ROPS, as an enforceable obligation." (5 AR 88:01249.) Thus, by allowing Petitioners to recover monies on ROPS 14-15A, DOF must have implicitly "approved" an Oversight Board resolution reinstating some loan agreements, but disagreed as to the "full

outstanding balance due," which is determined in part by the appropriate interest rate for the reinstated loans.

e. Petitioners' Declaratory Relief Claims

Petitioners also seek declaratory relief claims that are essentially duplicative of the mandate claims. As the Court of Appeal for the Third District has recently stated in *City of Pasadena v. Matosantos* (2014) 228 Cal.App.4th 1461, declaratory relief is not appropriate to review an administrative decision, nor should be declaratory relief be joined with mandate claims seeking to review administrative determinations. (*Id.* at p. 1466-1467.)

Petitioners have not acknowledged this authority, nor do they argue why they Court should decline to apply *City of Pasadena v. Matosantos* in this case. Accordingly, Petitioners' declaratory relief claims are **DISMISSED**.

III. DISPOSITION

The Petition is **GRANTED**, in part, in that the Court grants the claim for a writ of mandate and sets aside DOF's decision rejecting Resolution OSB No. 35. The Petition is **DENIED** in all other respects. Petitioners' claims for declaratory relief are **DISMISSED.**

Counsel for Petitioners is directed to prepare formal order incorporating this ruling as an exhibit thereto, a judgment, and a separate writ of mandate; submit them to opposing counsel for approval as to form, and thereafter submit them to the Court for approval in accordance with the California Rules of Court, rule 3.1312. The writ of mandate shall be prepared for the signature of the Clerk of the Court.

RULING AFTER HEARING

The matter was argued and submitted. The Court affirms the tentative ruling with the following modifications.

Section 34191.4's Use of "Origination" Refers to the Date that the Loan Was Made, Not the Date On Which the Oversight Board Found that It was Made for Legitimate Redevelopment Purposes

At oral argument, counsel for DOF argued that for purposes of calculating the interest rate under Section 34191.4, the reinstated loan is a "new" loan. Thus the statute's reference to "origination" refers to the date that the "new" loan was created.

However, Petitioners' interpretation of Section 34191.4—that "origination" refers to a loan that pre-dated the Dissolution Law—is equally plausible.

A statute capable of two reasonable interpretations is ambiguous. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 776.) If the statute's language is ambiguous, the Court may look to extrinsic construction aids and other indicia of intent. (*Wirth v. California, supra,* 142 Cal.App.4th at p. 139.) The Court must adopt constructions that harmonize related statutes to the extent possible and, where uncertainty exists, consider the practical consequences flowing from particular interpretations in adopting reasonable, common sense constructions. (*Id.* at pp. 139-40.)

Here, Petitioners have advanced persuasive arguments that the Legislature intended that "origination" refer to the date that the original loan was made, not the date on which the Oversight Board found that it was made for legitimate redevelopment purposes.

First, through the FOC process, the Legislature has allowed successor agencies to "revive" loans that would otherwise not be considered enforceable obligations under the Dissolution Law. An interpretation of Section 34191.4 that uses the LAIF rate over the life of the loan from "origination," rather than the LAIF rate on the date of the oversight board's approval, gives successor agencies the incentive to quickly obtain a FOC by remitting unencumbered balances of the former RDA, rather than delaying such repayment to a date when the LAIF rate is higher. An "origination" date that depended upon action of the oversight board would discourage successor agencies from timely remitting monies that could otherwise benefit the taxing entities.

Additionally, a construction that defines "origination" as the date on which the oversight board acts could yield potentially inconsistent repayment rates for successor agencies, especially those that choose to delay oversight board action until a time when LAIF rates are high.

Rather, interpreting the word "origination" to refer to the date on which the loan was made accounts for the LAIF's fluctuations over time and discourages a successor agency from manipulating the rate at which interest is repaid, by delaying remitting the funds required to obtain a FOC. The Court, thus, rejects DOF's interpretation.

<u>Petitioners' Request for Declaratory Relief</u>

At oral argument, counsel for Petitioners requested that the Court construe their declaratory claims as writ relief claims. The Court declines to do so. First, Petitioners did not timely request oral argument, and effectively accepted the Court's tentative ruling on this issue. Second, the Court has found that the claims for declaratory relief essentially duplicate the claims for writ relief, and Petitioners would receive no additional relief if the Court considered the declaratory relief claim as one for writ of mandate. Finally, as the *Pasadena* case was decided well before Petitioners filed their Opening Brief, Petitioners could have made this argument in the briefs had they chosen to do so.

Request for "Clarification" as to the Scope of Relief

At oral argument, DOF requested that the Court "clarify" the appropriate scope of relief, or suggest the procedure the parties should follow after the issuance of the writ setting aside DOF's decision. DOF appears to request that the Court issue additional language directing the Oversight Board to take specific action, although the Oversight Board is not a party.

Petitioner stressed at oral argument, and the Court agrees, that the issue here is a narrow one: the appropriate calculation of the interest rate for reinstated loans. The Court declines to rule on or make findings on any other issue, such as the scope of DOF's ability to review future Resolutions passed by the Oversight Board. The Court finds that DOF abused its discretion in stating that Resolution No. OSB-35 was "not approved" on the basis that the LAIF rate was improperly calculated.

DOF also requested that the Court "clarify" other statements in the tentative ruling, including the statement that DOF appeared to recognize the loans as enforceable obligations by allowing the Successor Agency to recover monies for the loan repayment on ROPS. DOF states that it does not agree that the Successor Agency is entitled to recover any amount, and that it does not agree on the amount of outstanding principal, and that DOF simply made a mistake in allowing the Successor Agency ROPS monies. The Court declines to make any such "revision."

Further, DOF's position that it simply made a mistake in allowing monies to be paid is contradicted by DOF's multiple statements that at least some of the loans at issue are enforceable obligations. Were the Court to accept DOF's argument, no DOF decision could ever be reviewable, because DOF could always claim that it made a "mistake" despite DOF's statements and actions to the contrary.

Declaration of Mailing

I hereby certify that I am not a party to the within action and that I deposited a copy of this document in sealed envelopes with first class postage prepaid, addressed to each party or the attorney of record in the U.S. Mail at 720 Ninth Street, Sacramento, California.

Dated: March 17, 2015

E. Higginbotham, Deputy Clerk **/s/ E. Higginbotham**

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