



## MEET AND CONFER REQUEST FORM

**Instructions:** Please fill out this form in its entirety to initiate a Meet and Confer session. Additional supporting documents may be included with the submittal of this form—as justification for the disputed item(s). Upon completion, email a PDF version of this document (including any attachments) to:

[Redevelopment\\_Administration@dof.ca.gov](mailto:Redevelopment_Administration@dof.ca.gov)

The subject line should state “[Agency Name] Request to Meet and Confer”. Upon receipt and determination that the request is valid and complete, the Department of Finance (Finance) will contact the requesting agency within ten business days to schedule a date and time for the Meet and Confer session.

To be valid, all Meet and Confer requests must be specifically related to a determination made by Finance and submitted within the required statutory time frame. The requirements are as follows:

- **Housing Asset Transfer** Meet and Confer requests must be made within five business days of the date of Finance’s determination letter per HSC Section 34176 (a) (2).
- **Due Diligence Review** Meet and Confer requests must be made within five business days of the date of Finance’s determination letter, and no later than **November 16, 2012** for the Low and Moderate Income Housing Fund due diligence review per HSC Section 34179.6 (e).
- **Recognized Obligation Payment Schedule (ROPS)** Meet and Confer requests must be made within five business days of the date of Finance’s determination letter per HSC Section 34177 (m).

Agencies should become familiar with the Meet and Confer Guidelines located on Finance’s website. Failure to follow these guidelines could result in termination of the Meet and Confer session. Questions related to the Meet and Confer process should be directed to Finance’s Dispute Resolution Coordinator at (916) 445-1546 or by email to [Redevelopment\\_Administration@dof.ca.gov](mailto:Redevelopment_Administration@dof.ca.gov).

### AGENCY (SELECT ONE):

Successor Agency       Housing Entity

**AGENCY NAME:** Successor Agency to the Costa Mesa Redevelopment Agency

### TYPE OF MEET AND CONFER REQUESTED (SELECT ONE):

Housing Assets Transfers       Due Diligence Reviews       ROPS Period 14-15A

**DATE OF FINANCE’S DETERMINATION LETTER:** April 8, 2014

### REQUESTED FORMAT OF MEET AND CONFER SESSION (SELECT ONE):

Meeting at Finance       Conference Call

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## DETAIL OF REQUEST

### A. Summary of Disputed Issue(s) *(Must be specific.)*

Item No. 6: The DOF's April 8, 2014 letter disallows the Successor Agency's first loan repayment on the reinstated City/Successor Agency loan pursuant to Health & Safety Code Section 34191.4. (All statutory references are to the Dissolution Law, Division 24, Parts 1.8 and 1.85 of the California Health and Safety Code.) The Successor Agency disagrees with denial of the reinstatement of the loan in DOF's April 4, 2014 letter and the related disapproval of this item on ROPS 14-15A in DOF's April 8 letter, and its refusal to approve monies from the Redevelopment Property Tax Trust Fund (RPTTF) to pay this enforceable obligation during the ROPS 14-15A fiscal period.

The Successor Agency and City of Costa Mesa were and remain eligible to reinstate the City of Costa Mesa Promissory Note. Under Section 34191.4(b), loan agreements between the former redevelopment agency and sponsoring entity (here, the City) may be placed on the ROPS if the following requirements are met:

- (1) The Successor Agency has received a Finding of Completion; and
- (2) The Successor Agency's Oversight Board approves the reinstated loan as an enforceable obligation by finding the loan was for legitimate redevelopment purposes; and
- (3) The reinstated loan is an enforceable obligation.

The Successor Agency received a Finding of Completion on May 24, 2013. The Successor Agency and City reinstated the loan by contract approved by resolutions on February 18, 2104, and then the Oversight Board by Resolution No. 2014-01 and made proper statutory findings that (i) the City/Agency loan between the City and former Agency was entered into for legitimate redevelopment purposes, (ii) that the reinstated loan is an enforceable obligation, and (iii) approved the contract that re-established the loan between the City and Agency following the obtaining of a Finding of Completion in compliance with Section 34191.4. DOF denied that loan, which is Item No. 6 in ROPS 14-15A.

The Successor Agency is prepared to present again to the Oversight Board the reinstatement of the loan through an Amended and Restated Agreement to Re-Establish Loan Pursuant to Section 34191.4, which agreement is scheduled for consideration and action at the next regular meeting of the Oversight Board on April 17, 2014. This new Agreement deletes the late fees and penalty provisions of Section 5 as objected to by DOF in the April 4 and April 8 letters, adds recitals about DOF's April 4 and April 8, 2014 letters relating to and disapproving the reinstated loan, and establishes the remaining principal amount and recalculates the accumulated interest on the remaining principal amount from origination at the LAIF rates in effect when such interest accumulated, all in compliance with the plain words and meaning of Section 34191.4 (not DOF's misreading of the law).

Per a 1993 Promissory Note, the City loaned to the former Agency the principal sum of \$12,596,073.5 at an interest rate of 8%. Through 2003, the former Agency made annual interest-only repayments. In 2004, the City required that the former Agency change its loan repayment schedule to require regular amortized loan repayments so as to reduce the loan balance to zero (\$0) after 20 years. The loan repayment and amortization schedule required the former Agency to make loan repayments once per fiscal year in a fixed amount of \$1,299,705. The former Agency began making these scheduled annual loan repayments to the City in 2004 and such payments continued to the 2011-2012 fiscal year.

As of June 30 2010, the outstanding principal due on the City/Agency loan was \$10,715,073.00. As the DOF may recall and as is evidenced in the DOF's files for this Successor Agency, the DOF approved the annual payment on the City/Agency loan of \$1,299,705 for fiscal year 2012-2013 with monies from the RPTTF, which reduced in part the remaining principal amount. However, because of the DOF's denials and actions on the other funds and accounts due diligence review the DOF disallowed and clawed-back two other payments on the City/Agency loan: (i) a payment of \$1,299,705 made in March 2011 during and allocable to fiscal year 2010 2011, and (ii) a payment of \$1,299,705 made in November 2011 during and allocable to fiscal year 2011 2012. Each of those two loan payments were part principal and interest, so the DOF's claw back of these monies requires an add-back to the remaining principal amount and application of the LAIF interest rate in effect in the 2010-2011 and 2011-2012 fiscal years respectively to recalculate accumulated interest. After making these calculations, the current remaining principal amount on the reinstated loan under Section 34191.4 is \$10,237,174.28. Recalculating the accumulated interest on the remaining principal from origination using the LAIF rate in

effect as interest accrued, results in a reduction of the accumulated interest from \$2,462,585 to \$127,358.19 as of June 30, 2013.

The Successor Agency disagrees with DOF's application of the current LAIF as of February 2014 to recalculate interest that had accumulated in prior years when the LAIF rate was higher. The City's finance officers have "recalculated the accumulated interest on the remaining principal amount of the loan" by applying the LAIF rate in effect on July 1, 2010 and going forward in subsequent years on such remaining principal amount. The terms "accumulated" and "earned" in Section 34191.4(b)(2) presume applying the past, not the present or future, LAIF rates when the accrued interest to be recalculated actually accrued. This calculation is consistent with the plain wording in that clause of Section 34191.4 (b)(2) because this clause requires a "look-back" to recalculate accrued interest that remains owing. In the next sentence of Section 34191.4(b)(2) the Legislature uses words that are forward looking to describe how the Successor Agency is to prepare an estimated schedule for future repayment of the remaining principal amount over a reasonable term of future years using the LAIF rate. There is no language in Section 34191.4 suggesting the applicable LAIF rate is the rate in effect when the Oversight Board approved reinstatement of the loan. Going forward in subsequent fiscal years, if the LAIF rate rises, that new LAIF rate could apply to future payments until the loan is repaid in full.

Using the figures provided by the County Auditor-Controller and the DOF Excel "loan recalculator" posted on its website, the approximate money available, due, and eligible to be paid from the RPTTF as a payment on the reinstated loan is about \$782,983. This amount equals "one-half of the increase between the amount distributed to the taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year ..." Exhibit A is the schedule for repayment of the remaining principal amount over the reasonable term of years; it estimates that 50% of that "residual" amount is about \$782,983 for future years in repayment of the reinstated loan; so the Successor Agency firmly believes the reinstated loan is eligible for about \$782,983 to be paid from the RPTTF for the ROPS 14-15A period, which monies the Successor Agency will pay to the City as repayments in installments until repaid in full.

Further, Section 34179(h) expressly authorizes DOF "to agree to an amendment to a Recognized Obligation Payment Schedule to reflect a resolution of a disputed item[.]" The loan is eligible for an installment payment from the residual monies available in the RPTTF, which is estimated at about \$782,983.

The Successor Agency in this Meet And Confer Application also expressly preserves its original position and arguments, and strongly disagrees with DOF's position. In the alternative to the reinstated loan, the City/Agency Loan remains a perfect fit into the express exception and safe harbor wording of Section 34171(d)(2) and comparable provisions in Section 34178(b)(2), and other express provisions of the Dissolution Law that define and allow as an "enforceable obligation" a city/agency loan pursuant to a "loan agreement" or "written agreement" entered into within two (2) years of the creation of the former Costa Mesa Redevelopment Agency ("former Agency"). As explained in the pending complaint filed in Sacramento Superior Court, the former Agency entered into a loan/written agreement with the City within two years of the formation of the former Agency and it was pursuant to that loan/written agreement that the City advanced funds to the former Agency, which the Successor Agency is now obligated to repay under Health and Safety Code sections 34171(d)(2) and 34178(b)(2).

**B. Background/History** *(Provide relevant background/history, if applicable.)*

The former Costa Mesa Redevelopment Agency was originally created in January 1972 by two ordinances, City Council Ordinance No. 72-2 proclaiming the need for and creating the former Agency and Ordinance No. 72-3 declaring the City Council as the Agency Board. Section 34171(d)(2) expressly provides that "... loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations." The City Council by Ordinance No. 73-44 adopted on December 24, 1973 approved the original Redevelopment Plan for the Costa Mesa Downtown Redevelopment Project ("Redevelopment Plan"). The Redevelopment Plan expressly authorized and anticipated the City would advance funds to the Agency. (See pages 7-

8 of the original Redevelopment Plan.) This agreement was a “loan agreement” and “written agreement” “entered into within two years of the formation of the redevelopment agency” within the meaning of Sections 34171(d)(2) and 34178(b)(2). Under this authority, from October 7, 1975 through March 16, 1981, the City made a series of cash advances to the former Agency, documented by a series of promissory notes (which notes were previously provided to the DOF), and booked and accounted for such advances as a single loan with a revolving balance. In 2004, the City and former Agency agreed to an amortization schedule, which the Successor Agency has already provided the DOF, requiring annual loan repayments of \$1,299,705 until 2024 when the loan would have been fully repaid.

The Successor Agency disagrees with DOF's interpretation that each promissory note is a separate “loan agreement”; in fact, the City/Agency Loan is rooted in the authority granted in the Redevelopment Plan, which agreement was entered into within two years of the formation of the former Agency. Copies of all backup documents have been provided to DOF in connection with the “other funds available” due diligence review and prior ROPS meet/confer sessions, including all 36 promissory notes and the amortization schedule for repayment of the City/Agency Loan over the remaining term of the original Project Area and period that tax increment was to flow to the former Agency prior to the Dissolution Law enactment (i.e., ten years after 2014 or 2024).

As evidenced in the documents provided to the DOF the original loan and series, principal and interest due has had repayment ongoing for the entire period of such loan. The principal amount due under the last promissory note arising from the original note and series was subject to amortized, scheduled repayments that commenced in 1993 and have continued to the present, including the annual amortized repayment made as authorized and approved by DOF through ROPS II.

The DOF properly authorized the annual loan payment for and paid during the ROPS II fiscal period pursuant to the annualized payment schedule. The Successor Agency is informed that DOF has authorized other successor agencies' payments pursuant to an amortized annual schedule. However, the DOF first disapproved the Successor Agency's loan repayment on ROPS 13-14A, then again for ROPS 13-14B and now ROPS 14-15A. As a result, the City and Successor Agency retained counsel, ECG, who have prepared and filed the legal action pending in Sacramento Superior Court that challenge DOF's prior determinations, and will be amended if this item in dispute on ROPS 14-15A is not resolved to the Successor Agency's interpretation and favor.

**C. Justification** *(Provide additional attachments to this form, as necessary.)*

The Successor Agency has fully complied with Section 34191.4 and is eligible for the reinstated loan to be listed on ROPS 14-15A and be eligible for payment from the RPTTF. The Finding of Completion has been issued, the City/Agency loan was determined to have been made for legitimate redevelopment purposes, and is an enforceable obligation under the Dissolution Law. The remaining principal amount of the reinstated loan is \$10,237,174.28, the accumulated interest on the remaining principal has been recalculated at the LAIF rates applicable when that interest accrued, resulting in a reduction of accrued interest from \$2,462,585.88 to \$127,358.19, and as of 2014 the LAIF rate will be applied to the remaining principal amount going forward until repaid in full.

The grounds for the Successor Agency's positions on the enforceability of the City's loan to the Agency are fully explained in the pending complaint filed in the Sacramento Superior Court on October 29, 2013, and the Successor Agency incorporates by reference those arguments.

**Agency Contact Information**

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Date: April 14, 2014

Date: April 14, 2014

**Department of Finance Local Government Unit Use Only**

REQUEST TO MEET AND CONFER DATE:  APPROVED  DENIED

REQUEST APPROVED/DENIED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

MEET AND CONFER DATE/TIME/LOCATION: \_\_\_\_\_

MEET AND CONFER SESSION CONFIRMED:  YES DATE CONFIRMED: \_\_\_\_\_

DENIAL NOTICE PROVIDED:  YES DATE AGENCY NOTIFIED: \_\_\_\_\_

Description	Date	Amount	Note Amount	Note Interest
	06/30/2010	10,715,073.00	10,715,073.00	
Interest	06/30/2011	53,039.61 ^		857,205.84
	06/30/2011	10,768,112.61	10,768,112.61	
Interest	06/30/2012	41,134.19 ^		821,805.97
	06/30/2012	10,809,246.80	10,809,246.80	
Principal*	12/31/2012	(477,898.72)		
Interest	06/30/2013	33,184.39 ^		783,574.07
	06/30/2013	10,364,532.47	10,364,532.47	2,462,585.88
				127,358.19
				2,589,944.07

This represents the recalculation of accumulated interest on the remaining principal according to the LAIF rate.  
Interest savings

\* Approved by DOF

Year	LAIF Rate	Interest	Principal Balance	Total
2011	0.495%		10,715,073.00	
2012	0.382%		(477,898.72)	
2013	0.307% ^	127,358.19	10,237,174.28	10,364,532.47
Feb-14	0.236%			

# Costa Mesa Successor Agency Downtown Redevelopment Project - Combined

	Property Tax		Property Tax		Loan Repmt	Interest(2)	Total Loan Pmt	Residual Payment	Remaining Loan Balance Principal
	RPTTF Installation Date	Projected ROPS Amount <sup>(1)</sup> (July - December)	RPTTF Installation Date	Projected ROPS Amount <sup>(1)</sup> (January - June)					
1	2012-13	June 2012	486,689	308,888	758,823	24,160	-	782,983	10,237,174
2	2013-14	June 2013	886,839	279,825	760,614	22,369	-	782,983	10,237,174
3	2014-15	June 2014	884,825	267,625	762,409	20,574	-	782,983	9,478,351
4	2015-16	June 2015	897,625	252,750	764,208	18,775	-	782,983	8,717,737
5	2016-17	June 2016	919,750	225,000	766,012	16,971	-	782,983	7,955,328
6	2017-18	June 2017	225,000	225,000	767,820	15,163	-	782,983	7,191,119
7	2018-19	June 2018	225,000	225,000	769,632	13,351	-	782,983	6,425,107
8	2019-20	June 2019	225,000	225,000	771,448	11,535	-	782,983	5,657,288
9	2020-21	June 2020	225,000		773,269	9,714	-	782,983	4,887,656
10	2021-22	June 2021			775,094	7,889	-	782,983	4,116,208
11	2022-23	June 2022			776,923	6,060	-	782,983	3,342,939
12	2023-24	June 2023			778,756	4,227	-	782,983	2,567,845
13	2024-25	June 2024			780,594	2,389	-	782,983	1,790,922
14	2025-26	June 2025			231,572	547	-	343,300	1,012,166
15	2026-27	June 2026							231,572
16	2027-28	June 2027							0.00
17	2028-29	June 2028							

(1) The amount has included \$125,000 Successor Agency Admin Allowance and DOF Lawsuit Costs Projection.

(2) Calculated based on February 2014 LAIF 0.236% annual interest rate

### Sponsoring Entity Loan Repayment Calculator

	ROPS II July thru December 2012	ROPS III January thru June 2013	
<b>Base Year:</b>			<b>Total For Base Year</b>
	113,589	1,825,816	1,939,405
<b>Total Residual Balance</b>			

	ROPS 13-14A July thru December 2013	ROPS 13-14B January thru June 2014	
<b>Comparison Year:</b>			<b>Total For Comparison Year</b>
	1,334,242	2,171,128	3,505,370
<b>Total Residual Balance</b>			

A Total Residual Balance for Comparison Year

B Total Residual Balance for Base Year

A-B Difference of Residual Balance

Divide Difference by two

Maximum Repayment Amount Authorized  
Per Fiscal Year

3,505,370	
1,939,405	
1,565,965	
+2	
<b>782,983</b>	

**Note:** This is a tool provided by Finance to assist successor agencies in determining the maximum repayment amount per authorized fiscal year. Placing this amount on the ROPS does not automatically guarantee approval of the repayment amount.

Input fields (amounts from County Auditor-Controller  
RPTTF Distribution Report)

Formula fields: no input required.