Legislation Details (With Text)

File #:	19-1235	**Name:**	Respond to request letter from the Department of Finance regarding staffing for the Mendota Designated Local Authority
		In control:	Auditor - Controller
On agenda:	10/8/2019	**Final action:**	10/8/2019
Enactment date:		**Enactment #:**	

Title: Consider and take action on request from the State Department of Finance by choosing one of the following three options: authorize the Auditor-Controller/Treasurer-Tax Collector to provide a $30,000 loan to the Mendota Designated Local Authority for the 2020 calendar year for staff costs, as requested by the State Department of Finance; or, direct staff to prepare a resolution of the Board electing to have the County serve permanently as the successor agency of the former Mendota Redevelopment Agency and return to the Board with the proposed resolution for approval, as alternatively proposed by the State Department of Finance; or, reject both options presented by the State Department of Finance and take no action

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Fresno County Loan Request

Date	Ver.	Action By	Action	Result
10/8/2019	1	Board of Supervisors	denied	Pass

DATE: October 8, 2019

TO: Board of Supervisors

SUBMITTED BY: Oscar J. Garcia, Auditor-Controller/Treasurer-Tax Collector

SUBJECT: Respond to request letter from the Department of Finance regarding staffing for the Mendota Designated Local Authority

RECOMMENDED ACTION(S):

Consider and take action on request from the State Department of Finance by choosing one of the following three options:

1. **Authorize the Auditor-Controller/Treasurer-Tax Collector to provide a $30,000 loan to the Mendota Designated Local Authority for the 2020 calendar year for staff costs, as requested by the State Department of Finance; or**
2. **Direct staff to prepare a resolution of the Board electing to have the County serve permanently as the successor agency of the former Mendota Redevelopment Agency and return to the Board with the proposed resolution for approval, as alternatively proposed by the State Department of Finance; or**
3. **Reject both options presented by the State Department of Finance and take no action.**

Approval of the first option proposed by the State Department of Finance (DOF) would allow the County to loan $30,000 to the Mendota Designated Local Authority (DLA) for staff costs for the 2020 calendar year, but the County would not be able to recover payment for many years, and the DOF would likely return annually

seeking further loans. Approval of the second option proposed by the DOF would result in the County becoming the successor agency of the former Mendota Redevelopment Agency (RDA), which would make the County responsible to manage the former RDA's outstanding bonds, which are currently in default. The County has no obligation to carry out either option presented by the DOF, and your Board may choose to reject both options presented by the DOF.

FISCAL IMPACT:

If your Board chooses to provide a loan to the DLA in the amount of $30,000 for staffing costs for the 2020 calendar year, the County of Fresno would not receive payment on this loan until there is available tax increment to make payments. Under the current circumstances, it would be many years until there is available tax increment to repay the loan. Furthermore, the DOF would likely make further loan requests each year until there is available tax increment to satisfy obligations of the former Mendota RDA and administrative expenses of the DLA.

If your Board chooses to direct staff to prepare a resolution electing to have the County to serve as the successor agency to the former Mendota RDA, there would be an increase in Net County Cost for the current fiscal year and for future fiscal years indefinitely. Staff time and costs incurred to perform the duties of a successor agency would only be recoverable within the same calendar year that the duties are performed, provided that there is available tax increment to do so. Under the current circumstances, there would be many years where there will not be any available tax increment to recover costs incurred.

If your Board takes no action, the DLA will no longer have staffing as of January 2020. The Recognized Obligation Payment Schedule (ROPS) will not be filed with the Department of Finance and the DLA will not receive any funding. All outstanding obligations will go unpaid and any tax increment will be distributed to the affected taxing agencies within the DLA's boundaries.

DISCUSSION:

The Mendota RDA was dissolved as of February 1, 2012, pursuant to Part 1.85 of Division 24 of the Health and Safety Code (Dissolution Act). Under the Dissolution Act, each dissolved RDA was to be succeeded by a "successor agency," which would be responsible to wind up the assets and obligations of the former RDA. Each local agency that created an RDA was required to decide whether it would serve as the successor agency to that RDA.

The City of Mendota decided not to become the successor agency to the Mendota RDA. Instead, the DLA was formed by the Governor's appointment of a board of volunteers, under Health and Safety Code section 34173, subdivision (d)(3), to serve as the successor agency to the Mendota RDA.

The DLA took over all of the obligations of the former Mendota RDA, including its $7,245,000 Mendota Redevelopment Project No. 1 1994 Tax Allocation Bonds (Bonds). Under the Dissolution Law, the DLA is obligated to repay the Bonds and other enforceable obligations of the former Mendota RDA, using property tax revenue that would have been allocated to the former Mendota RDA. Enforceable obligations are only paid if they are on a ROPS. Each successor agency is required, under Health and Safety Code Section 34177, subdivision (o), to annually prepare and adopt a ROPS that lists all enforceable obligations of the former RDA for a twelve-month period. For the DLA, however, all available property tax revenue has been used to pay debt service on the Bonds, leaving no money for other enforceable obligations, or for administrative costs. Even so, there has not been enough property tax revenue to pay all of the principal and interest due on the Bonds.

For example, for the period July 2018 to June 2019, the DOF approved the DLA's ROPS for an amount of $2,579,997, to pay principal and interest on the Bonds, but only $937,949 in property tax revenue was received by the DLA. According to public disclosures for the Bonds, they are currently in default, and have been for several years.

Because there is insufficient revenue to cover the principal and interest payments on the Bonds, no funds are available to cover staffing costs for the DLA. The DOF has assisted the DLA by paying for a contract with a private consultant, Kosmont Companies, to provide staff to the DLA. By letter dated July 23, 2019, however, the DOF informed the Auditor-Controller/Treasurer-Tax Collector that, on December 31, 2019, the DOF will no longer pay for a contract to staff the DLA.

Instead, under Health and Safety Code section 34183, subdivision (c), by its July 23 letter, the DOF has requested the Fresno County Treasurer to loan funds in the amount of $30,000 to cover the administrative costs for calendar year 2020. According to the DOF, such a loan would ensure staffing for the DLA for the calendar year 2020, so that the DLA would be able to prepare a ROPS, and so that payment on the Bonds according to that ROPS will be made during 2020 with property tax revenues allocated to the DLA. Auditor-Controller/Treasurer-Tax Collector staff asked the DOF for a more detailed statement supporting the amount requested, but the DOF informed staff that Kosmont Companies supplied the total estimate, and the DOF did not have more detailed information.

If the County made a loan to the DLA, as requested by the DOF, and if the Countywide Oversight Board approved the DLA's incurrence of the loan, the loan would become another enforceable obligation of the DLA, to be listed on future ROPS and the County of Fresno would be paid back over time as revenue is available. The Bonds are a senior enforceable obligation, however. The Bonds are also likely to remain in continuing default, because the amount due on the Bonds each year exceeds the amount of property tax revenue that is allocated to the DLA each year. Thus, it could be many years before the County is repaid for such a loan.

As well, because the loan would only cover administrative costs for the calendar year 2020, the Auditor-Controller/Treasurer-Tax Collector expects that the DOF will request more loans annually, in future years, to cover administrative costs until there is enough property tax revenues to cover the enforceable obligations (including full repayment of the Bonds) and administrative expenses of the Mendota DLA.

Another option proposed by the DOF is the have the County of Fresno become the successor agency to the former Mendota RDA. Under this option, the County would assume the responsibility to manage the former Mendota RDA's bonds, as well as administrative tasks such as preparing the annual ROPS and distributing approved payments. Ordinarily, the County as successor agency would be entitled to administrative costs pursuant to Health and Safety Code section 34171, subdivision (b), for the year in which administrative services are performed. In this case, however, the County would not be reimbursed for costs until there are property tax revenues allocated to the successor agency that are sufficient to cover both the successor agency's enforceable obligations (including the Bonds) and administrative costs. As stated above, because the Bonds are a senior enforceable obligation, and because they are likely to remain in continuing default, it could be many years before the County is paid for those administrative costs. In any case, the County would not be able to recover administrative costs for a prior year.

If the County does not loan funds as requested by the DOF, or elect to become the successor agency, then, beginning on January 1, 2020, the DLA would have no staff to prepare a ROPS. Without a ROPS, the DLA would not be able to pay the bonds, and, as provided in Health and Safety Code section 34177, subdivision (o)(1)(C), property taxes allocated to the DLA would be distributed to other local taxing agencies, including the County, with jurisdiction over the former Mendota RDA's project area.

Finally, under Health and Safety Code section 34173, subdivision (h)(1), the City of Mendota may loan or grant funds to the DLA for payment of administrative costs.

The County has no obligation to carry out either option presented by the DOF. Your Board may reject both options. In that case, the County would not make a loan to the DLA, and the County would not assume duties of the successor agency to the former Mendota RDA. It is likely that the DLA would no longer have staff to perform the necessary administrative tasks, such as preparing a ROPS, and principal and interest on the

Bonds would go unpaid.

According to the Official Statement for the Bonds, the Bonds “are not a debt of … the State of California or any of its political subdivisions, and neither … the State of California nor any of its political subdivisions is liable for the payment thereof. In no event shall the Bonds or any interest or redemption premium thereon be payable out of any funds or properties other than those of the [Mendota RDA, or the DLA].” The County is a political subdivision of the State of California, and therefore not liable for payment of the Bonds.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Fresno County Loan Request

CAO ANALYST:

Debbie Paolinelli

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