



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 17-0070, **Version:** 1

Authorize the Auditor-Controller to amend FY 2016-17 by increasing appropriations totaling \$250,000 in the Enterprise Risk Fund, 001-1210-8429, Appropriation Unit COU006 offset by a decrease of appropriations in the amount of \$250,000 from General Fund Contingencies, 001-1050-8034 Appropriations Unit CAO020 in FY 2016-17 for initial costs associated with defense of Measure Z previously approved on January 10, 2017 (4/5th vote required)

RECOMMENDATION:

It is recommended that the Board of Supervisors authorize the Auditor-Controller to amend FY 2016-17 by increasing appropriations totaling \$250,000 in the Enterprise Risk Fund, 001-1210-8429, Appropriation Unit COU006 offset by a decrease of appropriations in the amount of \$250,000 from General Fund Contingencies, 001-1050-8034 Appropriations Unit CAO020 in FY 2016-17 for initial costs associated with defense of Measure Z previously approved on January 10, 2017 (4/5th vote required)

SUMMARY

On Tuesday, January 10, 2017 the Board approved a transfer totaling \$100,000 from General Fund Contingencies, 001-1050-8034-CAO020, to Enterprise Risk Fund, 001-1210-8429-COU006 for initial costs associated with defense of Measure Z, however the language should have been “Approve and Authorize the Audit/Controller’s office to amend the FY 2016-17 budget by increasing COU006 and decreasing CAO020 by \$100,000. Since the original request, cost estimates have increased. We now request the appropriation transfer of \$250,000.

DISCUSSION:

Previously the Board of Supervisors approved the transfer of \$100,000 for the defense of Measure Z in Board of Supervisor Meeting on January 10, 2017, however, the language should have included authorizing the Auditor-Controller to amend the FY 2016-17 Budget.

As you are aware, Measure Z was successfully adopted by the voters at the November 8, 2016 general election. Although it is predominantly known as a ban on hydraulic fracturing (“fracking”), its impact is much broader. Measure Z amends the County’s General Plan and several Local Plans to limit and ban many oil extraction practices in Monterey County, including acid stimulation, wastewater disposal and new well drilling. Understandably, Measure Z has spurred significant interest by proponents, opponents, property owners, workers, oil and gas companies, environmental groups, school districts, agriculture, and others.

Two lawsuits have been filed against Monterey County to overturn Measure Z. The Plaintiffs in these two cases are Aera Energy, Chevron Corporation, Ensign United States Drilling, San Ardo Union Elementary School District, and some individuals. Plaintiffs are represented by several attorneys from San Francisco, Sacramento and Los Angeles based law firms. We expect additional lawsuits from other interested entities and persons.

The issues are complex and include State regulation versus local regulation (preemption), vested rights to continue operations, temporary government regulatory taking of property (property rights), injunctions, permanent government regulatory taking, vagueness, due process, and other State and Federal Constitutional claims.

Because of the complexity of issues and parties, at this time, costs are unknown. We request the Board authorize a transfer of \$250,000 from Contingencies into the Enterprise risk Fund for initial funding of defense.

OTHER AGENCY INVOLVEMENT:

Originally approved in Board of Supervisors meeting on January 10, 2017, County Administrative Office and Audit/Controller's Office

FINANCING:

The appropriations transfer of \$250,000 is needed to cover the initial legal defense of Measure Z from the General Fund Contingencies.

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