



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Auditor-Controller
Department No.: 061
For Agenda Of: May 17, 2016
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors

FROM: Department Theodore A. Fallati, CPA
Director(s) Ext 2100
Contact Info: Ed Price, CPA
Ext 2181

SUBJECT: Impoundment of Various Taxing Entities' 2015-16 Property Tax Revenue

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a. Approve and authorize the Auditor-Controller to impound \$4,850,126 of 2015-16 current year taxes from various entities' property tax revenues to mitigate potential losses from large assessment appeals filed by taxpayers (majority vote);
- b. Approve Budget Revision Request No 0004440 to establish appropriations of \$1,821,493 in multiple County departments and funds for an increase in nonspendable fund balance funded by property tax revenues that have been impounded due to assessment appeals filed by taxpayers (4/5ths vote); and
- c. Determine that the decision to approve and authorize the impoundment is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA Guidelines, because it is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical effect on the environment.

Summary Text:

California Government Code § 26906.1 authorizes the Auditor-Controller, with the approval of the Board of Supervisors, to impound disputed revenues of any tax upon secured or unsecured property levied and collected by the county for the county or any revenue district when a claim or action is filed for the return of the revenues. The significant Assessment Appeals cases described under the Background section below are being recommended for impounding of taxes. This action does not require the Board to conclude that refunds are reasonably likely in whole or in part.

The impounded tax revenues will be held in an interest bearing fund. The Auditor-Controller will continue to impound the revenues until the final disposition of the claim or action, or a refund of the tax is no longer anticipated. If, under final disposition, it is determined that the taxes were properly levied against the property, the Auditor-Controller will release the impounded taxes to the County or district.

By separate correspondence we will inform all impacted entities.

Background:

For the past several years the Board of Supervisors approved the impounding of property taxes for the significant Assessment Appeals cases. As these cases have not yet been settled and new significant Assessment Appeals cases have been filed it is again recommended that a portion of the property taxes in dispute be impounded for 2015-16 as following:

Oil and Energy

New for 2015-16 are appeals filed by ERG Resources, LLC, a petroleum and gas company with operations in Cat Canyon. Our analysis based on the best information available at this time indicates \$1,087,850 of 2015-16 taxes are in dispute. We feel it would be prudent to continue with impounding 50% (\$543,925) of these taxes as for others in this industry group.

ERG Resources, LLC, also filed additional appeals in 2015-16 on changed assessments related to a change in ownership event in December 2011. These changed assessments (some which will result in prior year escape assessments) have been noticed by the Assessor but due to the new property tax system implementation have not yet been billed. Consequently since these taxes have not yet been billed nor collected, they are not subject to impoundment. Once these items are billed, collected and appealed we will come to your Board for additional impound requests if deemed appropriate.

In prior years Breitburn Energy, a petroleum and gas company and one of the county's largest taxpayers, had filed significant assessment appeals disputing regular taxes for 2010-11 and 2011-12. Pacific Coast Energy Holdings, LLC, the successor to Breitburn Energy has filed appeals for fiscal year 2013-14, 2014-15 and 2015-16. On May 3, 2016 the taxpayer and the Assessor agreed upon taxable values for tax years 2010-11 through 2015-16 resulting in a combination of refunds to be issued and escaped assessments to be billed. The escaped assessments exceed the refunds.

Aerospace

United Launch Alliance (ULA), a 50-50 joint venture between Lockheed Martin Corporation and The Boeing Company providing space launch services for the US Government and one of the county's largest taxpayers, has filed significant assessment appeals on its leased land and launch facilities and its business property on Vandenberg Air Force Base. Appeals filed in 2011-12 and 2012-13 dispute regular

and escaped assessments billed on the unsecured roll of which \$2,890,961 of those disputed taxes were previously impounded.

In 2014-15, taxes resulting from escaped assessments spanning seven tax years (2007-08 through 2013-14) totaling \$33 million (\$24.6 million of taxes plus \$8.4 million of interest penalties) were billed to, appealed by, and as requested by ULA were put on a payment plan over 4 years as allowed by law. As taxes collected on payment plans are held in trust and are not distributed until the entire bill plus associated interest is collected, these disputed taxes are effectively impounded. Should resolution of the appeal take more than four years we will analyze at the time of final payment the need to impound those collected taxes prior to distribution. In addition to the escapes for prior years, 2014-15 regular taxes of almost \$4.9 million were also billed and appealed of which \$2,245,100 was impounded.

Again for 2015-16 ULA filed appeals on \$2,900,223 of disputed taxes. New for 2015-16 are appeals filed by Space Exploration Technologies Corporation (SpaceX) of \$2,156,349. Per their website, SpaceX designs, manufactures and launches advanced rockets and spacecraft.

While we feel it is unlikely that the entire amount in dispute would be required to be refunded to either taxpayer, we do feel it would be prudent to set aside via this impound a portion of these revenues. We feel impoundment of 75% (ULA \$2,175,167, SpaceX \$1,617,262) of the disputed 2015-16 tax amounts for these appeals is warranted.

Residences & Estates

New for this year the Fairway BB Property, LLC, an oceanfront estate in Montecito and one of the county's largest taxpayers filed appeals for 2015-16 and prior years. We feel it would be prudent to impound 50% (\$513,772) of the disputed 2015-16 taxes of \$1,027,544.

Fiscal and Facilities Impacts:

Budgeted: No.

The impounding of property taxes establishes accounts receivables for multiple departments and funds under the control of the County. Accordingly nonspendable fund balance must be increased to reflect these property tax accounts receivables. Budget Revision Request 0004440 funds this increase of nonspendable fund balance with the property tax revenues that have been impounded.

Fiscal Analysis:

The schedule below delineates the impacts to the affected taxing entities for the proposed 2015-16 impounds as well as those taxing entities under your board's control requiring budget revisions for nonspendable fund balance increase.

Proposed 2015-16 Impounds by Taxing Entity and
 Related BOS Controlled Taxing Entities Requiring Budget Revisions for
 Nonspendable Fund Balance Increase
 As of April 25, 2016

Fund	Aerospace	Oil & Energy	Residences & Estates	Total Impound Request	Included in BJE 0004440
0001 General	\$ 902,404	\$ 132,422	\$ 120,942	\$ 1,155,768	\$ 1,155,768
2280 Fire Protection Dist	542,201	78,337		620,538	620,538
2400 Flood Ctrl/Wtr Cons Dst Mt	12,276	1,795	1,647	15,718	15,718
2500 Los Alamos Flood Zone Number 1		1,453		1,453	1,453
2510 Orcutt Flood Zone Number 3				-	-
2610 So Coast Flood Zone 2			7,058	7,058	7,058
2670 North County Lighting Dist		770		770	770
3050 Water Agency	15,811	2,258	2,119	20,188	20,188
3210 Santa Maria Public Airport Dst		6,788		6,788	N/A
3290 Lompoc Cemetery District	31,648			31,648	N/A
3300 Los Alamos Cemetery District		640		640	N/A
3320 Santa Maria Cemetery District		1,784		1,784	N/A
3650 Montecito Fire Protection Dist			82,969	82,969	N/A
3750 Lompoc Healthcare Dist	79,075			79,075	N/A
4090 Santa Barbara MTD			1,471	1,471	N/A
4160 Mosquito & Vector Mgt District	854	103	114	1,071	N/A
4500 Cachuma Resource Cons Dist	3,680	340	-	4,020	N/A
5100 Montecito San Dist-Running Exp			2,830	2,830	N/A
6101 Blochman Union Sch Dist-Gen		27,597		27,597	N/A
7301 Montecito Union Sch Dist-Gen			73,666	73,666	N/A
7401 Orcutt Union Sch Dist-Gen		25,897		25,897	N/A
8201 SBUSD General			92,280	92,280	N/A
8301 SMJH District-General		130,391		130,391	N/A
8901 Lompoc Unified Sch Dist-Gen	1,328,803			1,328,803	N/A
9401 Allan Hancock CC Dist-Gen	239,609	34,826		274,435	N/A
9610 SBCC Dist-Gen			32,271	32,271	N/A
9801 County School Service	165,537	23,848	22,175	211,560	N/A
9802 Education Revenue Augmentation	470,531	74,676	74,230	619,437	N/A
Grand Total	<u>\$ 3,792,429</u>	<u>\$ 543,925</u>	<u>\$ 513,772</u>	<u>\$ 4,850,126</u>	<u>\$ 1,821,493</u>

N/A - Not applicable as Fund not under BOS control

Attachments:

BRR/BJE 0004440
 Schedule of Proposed Impounds by Taxpayer and Taxing Entity

Authored by:

Ed Price, Property Tax Division Chief