



## Legislation Text

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**File #:** 23-0057, **Version:** 1

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Planning and Building Department recommending the Board approve and authorize the Chair to sign a budget transfer to allow for the transfer of up to \$500,000 from the Oak Woodland Conservation special revenue fund to a newly established Oak Woodland Set Aside special revenue fund (4/5 vote required).

**FUNDING:** Oak Woodland Mitigation Fees.

### **DISCUSSION / BACKGROUND**

On October 24, 2017 (Item 34, Legistar 12-1203 v. 27), the Board approved Resolution 129-2017 adopting the Oak Resources Management Plan and Resolution 130-2017 establishing an In-Lieu Fee to Mitigate Impacts to Oak Woodland Areas and Individual Oak Trees. The adoption of the resolutions was part of the County's 2017 Biological Resources Update Project (Project) which also included amendments to General Plan biological resources policies and adoption of the Oak Resources Conservation ordinance.

The in-lieu fees are deposited into the Oak Woodlands Conservation special revenue fund, which is used to fund the acquisition of land and/or conservation easements from willing sellers to mitigate impacts to oak resources as described in the Oak Resources Management Plan. This fund may also be used for ongoing monitoring and management activities, including but not limited to fuels treatment, weed control, periodic surveys, and reporting.

Rural Communities United, Conserve El Dorado Oaks, Ellen Van Dyke and Cheryl Langley filed a petition for writ of mandate alleging violations of the California Environmental Quality Act (CEQA) related to the approval of the Biological Resources Update (El Dorado Superior Court case #PC20170536). The writ proceeded to trial and judgment, which resulted in the court granting a limited writ and required certain actions by the County. Both parties filed appeals. Rural Communities United also filed a second related writ of mandate (El Dorado Superior Court case #PC20210189).

On August 30, 2022, the Board approved settlement of both CEQA writ petitions (PC20170536 and PC20210189) and the parties entered into a Compromise Settlement Agreement and Release (Settlement Agreement). The Settlement Agreement was conditioned on the County entering into an agreement with a conservation organization to utilize Oak Resource In-Lieu fees to fund the acquisition of oak resource mitigation properties in furtherance of the County's adopted Oak Resources Management Plan. The Conservation Organization Agreement (CO Agreement) with American River Conservancy and Rural Communities United was approved by the Board on December 13, 2022 (Item 15, Legistar 22-1654).

The Settlement Agreement and the CO Agreement require the County to set aside existing and future Oak Resources In-lieu Fees for use by the conservation organization (CO) for the acquisition of oak resources mitigation properties or interests in real property. The CO Agreement requires the CO to apply to the County for funding from the new account. The Board has final approval on all funding

requests.

The County's funding obligation consists of an initial lump sum transfer of \$250,000 of existing oak in-lieu fees into a newly designated account and thereafter, to deposit 20% of oak in-lieu fees collected each fiscal year starting on July 1, 2021, through June 30, 2035. As a result of this initial funding obligation, a budget transfer is required to allow for the transfer of up to \$500,000 from the existing Oak Woodland Conservation special revenue fund to a newly established Oak Woodland Set Aside special revenue fund.

The parties to the litigation are currently implementing the terms of the Settlement Agreement, which includes seeking a discharge of the writ of mandate from the Superior Court (El Dorado Superior Court case #PC20170536). Discharge of the writ triggers the County's obligation to transfer the specified amounts from the existing Oak Woodland Conservation special revenue fund to the newly established Oak Woodland Set Aside special revenue fund. The transfer of funds between accounts must occur within 30 days of discharge of the writ; therefore, in order to move forward in an expeditious manner, this budget transfer is being requested in advance of the court's final action on the writ. No funds will be transferred to the set aside account prior to actual discharge of the writ by the court.

#### **ALTERNATIVES**

The Board could choose to not approve the budget transfer, which could result in the Department not being able to meet the terms of the Settlement Agreement and CO Agreement.

#### **PRIOR BOARD ACTION**

See Discussion/Background section above.

#### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel, Chief Administrative Office, Community Development Administration and Finance.

#### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

#### **FINANCIAL IMPACT**

There is no change to Net County Cost associated with this item. The budget transfer will decrease the contingency balance for the Oak Woodlands Conservation special revenue fund and increase the residual equity transfers out budget, both by \$500,000. No funds will be transferred prior to the discharge of the writ by the Superior Court. The budget transfer will also establish appropriations in the new Oak Woodland Set Aside special revenue fund.

#### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

The Clerk of the Board will obtain the Chair's signature on the original budget transfer and will forward the budget transfer to the Chief Administrative Office for processing.

#### **STRATEGIC PLAN COMPONENT**

Good Governance

#### **CONTACT**

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Planning and Building Department