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February 12, 2010

Board of Supervisors
County of El Dorado
330 Fair Lane
Placerville, CA 95667

**Re: Extension and Amendment to Settlement Agreement and Release with
El Dorado Development Partnership Group, LLC, and Amendment
to Promissory Note**

Honorable Supervisors:

Recommendation:

It is the recommendation of staff that the Board of Supervisors approve the attached Extension and Amendment to Settlement Agreement and Release with El Dorado Development Partnership Group, LLC, and the accompanying Amendment to Promissory Note, and authorize the Chair to sign them.

Reasons for Recommendation:

On June 15, 2007, the County and El Dorado Development Partnership Group, LLC ("El Dorado Development"), entered into a Settlement Agreement and Release settling *County of El Dorado v. Jim Ross, M.D., P.H.D., Inc., et al.*, El Dorado Superior Court Case No. PC20050123. In that case the County brought claims against El Dorado Development for the payment of delinquent installments of assessments, and related penalties and interest, with respect to assessment liens arising from certain bonds. Under the Settlement Agreement and Release, El Dorado Development agreed to pay the County the total sum of \$2,550,000.00 over the course of six equal annual payments of \$425,000.00. The final payment was to be made by April 1, 2012.

10-0154.A.1

El Dorado Development paid the first two annual payments in the total amount of \$850,000.00. However, El Dorado Development failed to make the third annual payment, putting it in default of the Settlement Agreement and Release and giving the County a right of action to obtain performance and/or damages, including foreclosure of the subject property. In or about April, 2009, El Dorado Development requested that the County extend the due dates of the note to allow El Dorado Development to utilize its available capital to advance completion of its development project. The Board authorized Supervisor Knight to negotiate such an extension. The proposal he reached is incorporated in the attached documents.

The basic terms of the amendment are as follows. In essence, the amendment give El Dorado Development about a 2 ½ year extension on their payment schedule. In return, they would pay a fee to the County up front in consideration of the extension of \$17,000.00. This is in addition to the moneys they owe us under the agreement. If the money is not paid off by the original payment date of April 1, 2012, and they have to take advantage of the extension terms, they will pay interest on the amount owed from that date until paid at the initial rate of 5%, increasing .25% each year. All other terms and conditions of the settlement agreement remain unchanged.

This agreement has the advantages of the additional payment which will be made up front, interest on any amounts due and owing after the original final payment date, and forestalling the need to foreclose in this uncertain real estate market.

Fiscal Impact:

There is a trade-off involved. The County will receive payment of \$17,000.00 to which it is not otherwise entitled. It may also receive interest on the money if not paid be April 1, 2010. On the other hand the County is possibly deferring payment of the money for up to 2 ½ years.

Actions to Be Taken Following Board Approval:

Staff will collect the \$17,000.00 payment and will continue to monitor payments under the amended note.

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We would be pleased to answer any questions the Board might have.

Respectfully submitted,



Louis B. Green
County Counsel

LBG/stl

Att.

cc: Chief Administrative Officer
County Auditor

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