



County of El Dorado

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Legislation Text

File #: 09-0529, **Version:** 1

Transportation Department recommending the Board authorize Chairman to 1) sign Joint First Amendment to Settlement Agreement and Release of Claims Together with First Amendment to Reimbursement Agreement for the Intersection Improvements at Durock Road and Business Drive between The County and The Developer with KFRD Investments, Inc. and 2) sign Budget Transfer increasing appropriations and revenue in the amount of \$60,422.

FUNDING: 2004 Traffic Impact Mitigation (TIM) Fees.

BUDGET SUMMARY:		
Total Estimated Cost		\$92,633.00
Funding		
Budgeted	\$32,211.00	
New Funding	\$60,422.00	
Savings	\$	
Other	\$	
Total Funding Available	\$92,633.00	
Change To Net County Cost		\$0.00

Fiscal Impact/Change to Net County Cost:

The Transportation Department (DOT) fiscal year 08/09 budget includes \$32,211.00 for payment to KFRD Investments, Inc (Developer). The attached budget transfer will increase appropriations and revenue by \$60,422.00 for a total budget in 08/09 of \$92,633.00. Funding for this reimbursement to Developer will be provided from the 2004 Traffic Impact Mitigation Fees. There is no change to Net County Cost.

Background:

The County of El Dorado (County) and Developer entered into a Settlement Agreement and Release of Claims on June 10, 2008. The County and Developer entered into a Reimbursement Agreement for the intersection improvements at Durock Road and Business Drive. The Reimbursement Agreement, incorporated by the Settlement Agreement, provided for the payment of \$263,234.00 within 30 days of the agreement, and the remaining sum of \$96,633.00 to be paid over time in three equal installments of \$32,211.00 on the 1st, 2nd, and 3rd anniversary of the initial payment date, respectively. The County has made the payment to the Developer of \$263,234.00 in accordance with the terms of the agreements and the remaining sum of \$96,633.00, comprised of three remaining payments of \$32,211.00 each, is not yet due.

Reason for Recommendation:

The Developer has requested in exchange for the reduction and compromise of the remaining principal sum by \$4,000.00, that County pay the reduced remainder of \$92,633.00 in one lump sum payment within 30 days of the date of this agreement.

The original agreement requires that a payment in the amount of \$32,211.00 be made in June 2009. This leaves only two payments totaling \$60,422.00 that would be advanced. Reducing the remaining payment of \$60,422.00 by \$4,000.00 to \$56,422.00 represents the present value using an interest rate of 4.3821%. The balance in the 2004 TIM Fee Fund has sufficient funds to make payment. The County's agreement to and payment of the lump sum of \$92,633.00 in full will bring final satisfaction of the County's obligations under the Settlement Agreement and Reimbursement Agreement.

Action to be taken following Board approval:

- 1) The Chairman to sign the amended Reimbursement Agreement.
- 2) The Chairman to sign the attached budget transfer.
- 3) The Board Clerk to send a copy of the amended Reimbursement Agreement to DOT for further processing.
- 4) The Board Clerk to forward the signed budget transfer to the Auditor's Office for processing.
- 5) DOT to make payment to KFRD Investments, Inc. in the lump sum amount of \$92,633.00 within 30 days.

Contact:

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Director of Transportation

Concurrence:

County Counsel