



County of El Dorado

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Legislation Text

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Department of Transportation recommending the Board authorize the Chair to sign the Settlement, Defense and Indemnity Agreement (11-53228) between AKT Development Corporation and the County related to the reimbursement for Sophia Parkway improvements.

FUNDING: 2004 GP Traffic Impact Mitigation Fees, Zone 8 (El Dorado Hills)

BUDGET SUMMARY:		
Total Estimated Cost		\$ 600,000
Funding		
Budgeted	\$ 600,000	
New Funding	\$	
Savings	\$	
Other	\$	
Total Funding Available	\$ 600,000	
Change To Net County Cost		\$ 0

Fiscal Impact/Change to Net County Cost: Payment to be made out of the 2004 GP Transportation Impact Mitigation Fee funds ("EDH TIM"), Zone 8. There is sufficient budget to accommodate the payment. There is no cost to the General Fund. There is no change in the amount due for reimbursement. This merely affects the timing of reimbursement.

Background: On December 12, 2000, AKT Development Corporation and the County entered into an "Advance Funding and Reimbursement Agreement - Green Valley Road Improvements" which, in Section 5.02, defined reimbursement terms for AKT Development Corporation's infrastructure improvements on Sophia Parkway. The timing of the initial payment has been disputed, with AKT Development Corporation interpreting that the payments should commence on January 20, 2011, and County staff interpreting that the payments should commence on January 20, 2012.

According to cashflow analyses utilizing the "long, slow growth" permit projection, there would be sufficient funds in the EDH TIM account to fund all of the existing reimbursement agreements on the contractually obligated date(s). If actual permit numbers fall below this projected level, there is a possibility that future reimbursements may be delayed beyond their scheduled payment date(s).

Reason for Recommendation: This agreement settles the timing of the initial payment, with the County agreeing to make the initial payment within 30 days of the execution of this agreement, and AKT Development Corporation agreeing to waive it's alleged claim to accrued interest on the lump sum payment for 2011. AKT will provide County defense and indemnity for any claims, actions, etc arising from this action.

Action to be taken following Board approval: Chair of the Board shall execute the Settlement, Defense and Indemnity Agreement between AKT Development Corporation and the County. Once executed, Department of Transportation will submit a claim to the Auditor/Controller to release funds to AKT Development Corporation.

Contact: James W. Ware, P.E.,
Director of Transportation

Concurrences: County Counsel