



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: Clerk-Recorder
Assessor
Department No.: 062
For Agenda Of: June 27, 2023
Placement: Administrative
Estimated Time:
Continued Item:
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Joseph E. Holland, County Clerk-Recorder Assessor
Director(s)
Contact Info: Melinda Greene, Chief Deputy Clerk-Recorder
805-568-2252

SUBJECT: Approve the attached MOU for the SECURE (E-recording) System with Orange County

County Counsel Concurrence

As to form: Select_Concurrence Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions: That the Board of Supervisors:

- a) Authorize the Chair to execute the attached MEMORANDUM OF UNDERSTANDING AGREEMENT BETWEEN OWNER COUNTIES AND PARTNER FOR THE USE OF THE SECURE ELECTRONIC RECORDING DELIVERY SYSTEM (Exhibit A)
- b) Determine that the above action is an organizational or administrative activity of the government that will not result in direct or indirect physical changes in the environment and is therefore not a project under the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(5) of the CEQA Guidelines.

Summary Text:

The Clerk-Recorder is responsible for examination and recording of documents presented to this office that deal with establishing ownership of land in the county or as required by law. The Clerk-Recorder implemented electronic recording for these documents with authorization of Resolution 09-141 by the Board on May 5, 2009. The County of Orange is hosting a multi-county electronic recording system (SECURE) and the Clerk-Recorder requests that the Board execute the latest MOU version with a five-year term. Specifically, in Resolution 09-141, "The County Clerk-Recorder is authorized to join in the

collaboration as a partner county, in the use of an Attorney General compliant system hosted by Orange County.”

The first MOU was signed in 2009 and several versions have been updated slightly over the last fourteen years. This MOU updates from the last version to include the following:

- 1st Paragraph:

Clarifies who the owners are and who is the Lead County as far as the agreement goes.

- Agreement Item 2:

Term language was changed. However, the term of the Partner MOU will be good for 5 years.

Agreement Item 5:

Indemnification was changed to include any claim that the SECURE system that is in existence at the time of the execution of the Agreement, in whole or in any part, infringes the intellectual property rights of any third party, including without limitation copyrights, patents, or trademarks.

Agreement Item 14 Termination:

Revised section 14.b. expanded termination to explicitly state nonpayment.

Added section 14.c to emphasize retaining fees for notice to terminate and any breach.

Background:

AB 578 (Govt Code section 27390-27399) authorizes county recorders to participate in electronic recording as dictated by the regulation established by the Attorney General. The Clerk-Recorder joined the SECURE consortium and 2009 with Owners of the SECURE system including Los Angeles, Orange, Riverside, and San Diego. There are many partner counties as well, including San Bernardino, Contra Costa, Ventura, and Tulare. Approximately 58% of the current load of recorded documents are submitted through E-recording. During COVID-19, some days were 80% E-recorded due to the restrictions in accessing the office. Recording would have been a hardship for customers without having E-recording in place. The program continues to be successful and provide efficiencies for customers and for the recording staff.

Performance Measure:

Description	2020-21 Actual	2021-22 Actual	2023-23 Target	2022-23 Est. Actual	2023-24 Target
Percentage of total documents recorded electronically	75% of 120,688	66% of 88,206	75% of 90,000	56% of 65,000	60% of 70,000

Contract Renewals and Performance Outcomes:

The MOU term is for 5 years. The performance efficiency can be tracked through cashiering statistics. Clerks process E-recording faster than paper recording on average.

Fiscal and Facilities Impacts: Participation in SECURE requires an annual contribution based on recording volume. The fee is \$0.30 per document and the volume of recording is variable (Exhibit B, section B of the MOU). For example, Clerk-Recorder paid \$33,620.70 in 2021 compared to \$19,332.90 for 2022, due to the substantial reduction of workload when the interest rates spiked. The annual fees are based on total documents recorded by calendar year paid in the following fiscal year. 2022 will be

calculated based on 64,443 total recorded documents, with 57% (37,006) e-recorded. The cost is paid through the \$3 recording fee for the Electronic Recording Delivery System, and not General Fund.

Budgeted: Yes

Fiscal Analysis:

Federal					
Fees		\$20,000		\$20,000	
Other:					
Total	\$	20,000.00	\$	20,000.00	\$ -

Narrative: The cost to participate in the system is variable based on recording volume. Clerk-Recorder anticipates a budget of \$20,000 for the next few years.

Key Contract Risks:

None

Staffing Impacts:

Legal Positions:

FTEs:

No impact.

Special Instructions:

Please forward a copy of the minute order reflecting the Board of Supervisors' action to the Clerk-Recorder Hall of Records, Attn: Melinda Greene.

Attachments:

Attachment A— MEMORANDUM OF UNDERSTANDING AGREEMENT BETWEEN OWNER COUNTIES AND PARTNER FOR THE USE OF THE SECURE ELECTRONIC RECORDING DELIVERY SYSTEM

Authored by: Melinda Greene

cc: Joseph E. Holland, Michelle Montez