



Agenda Date: 10/11/2005
Agenda Placement: 6F

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: John Tuteur - Recorder-County Clerk
Recorder - County Clerk
REPORT BY: John Tuteur, Assessor-Recorder-County Clerk, 253-4459
SUBJECT: Assessor-Recorder-County Clerk requests approval of Electronic Recording MOU

RECOMMENDATION

Assessor-Recorder-County Clerk requests approval of and authorization for the Chair to sign:

1. A resolution authorizing participation in the statewide Electronic Recording Delivery System; and
2. A Memorandum of Understanding (MOU) with the California Department of Justice for participation and cost-sharing in a statewide Electronic Recording Delivery System (ERDS).

EXECUTIVE SUMMARY

Assessor-Recorder-County Clerk requests approval of a Resolution of Participation and a Memorandum of Understanding (MOU) with the California Department of Justice for participation and cost-sharing in a statewide Electronic Recording Delivery System. Initial County contribution and annual support charges will come from designated trust funds and will be offset with future revenue generated by the electronic recording fees.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	Recorder Modernization Trust Fund
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	California has authorized the creation of a statewide Electronic Recording Delivery System (ERDS) for recording of digital documents. While currently designed as voluntary, Napa County will at some point be asked to accept digital documents as authorized by law. Participation in the ERDS from the

	outset along with 20 other counties will be beneficial for Napa County in assuring our concerns and suggestions are addressed.
Is the general fund affected?	No
Future fiscal impact:	Once ERDS is implemented in Napa County we will collect a fee for each document based on our participation in the program. This fee will generate revenue for future enhancements of our recording system.
Consequences if not approved:	Napa County will not participate in the ground floor construction of the ERDS. At some future date we will be required to join the system without having had a say in its design or implementation.
Additional Information:	None

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Assembly Bill Number 578 became effective on September 21, 2004 amending Government Code section 27393 establishing an electronic recording delivery system. It also authorizes the California Attorney General to oversee the process and for counties to participate in the program via Resolution. GC 27393 requires any county establishing an e-recording system to pay the Attorney General for costs related to the development and adoption of corresponding regulations and oversight. The Code additionally allows county recorders to establish a new fee up to one dollar (\$1.00) per recorded document to cover start-up costs of the Attorney General, development of the e-recording system, the review and approval of vendors and authorized submitters, and security testing. 21 counties, including Napa County, have participated in the task force setting up the new program.

The budget for setting up the Electronic Recording Delivery System has initially been estimated at \$1,000,000. Pro-rata cost to Napa County of these start-up costs, which was determined by the total number of Real Property instruments recorded during the 2004 calendar year, is \$5,120.23. Napa's cost will be paid from the Recorder Modernization Trust Fund monies. Thereafter, the annual cost will be determined by the total number of Real Property instruments recorded in the previous calendar year. The annual cost and any other service related costs will be paid by the statutory surcharge assessed on recorded Real Property instruments.

Eventually electronic recording will be mandated in all counties in California. It is recommended that the Board approve the Assessor-Recorder-County Clerk's participation in this program at no cost to the County General fund and with potential revenue to maintain the system and pay any annual contributions to the Attorney General in future years.

SUPPORTING DOCUMENTS

A . Resolution

CEO Recommendation: Approve

Reviewed By: Lorenzo Zialcita