



Agenda Date: 10/3/2006
Agenda Placement: 60

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 First Amendment to Electronic Recording MOU

RECOMMENDATION

Assessor-Recorder-County Clerk requests approval of and authorization for the Chair to sign Amendment No. 1 to Memorandum of Understanding Agreement No. 6527 with the California Department of Justice extending the term through June 30, 2007 for second year participation and cost-sharing in a statewide Electronic Recording Delivery System (ERDS).

EXECUTIVE SUMMARY

Assessor-Recorder-County Clerk requests approval of an Amended Memorandum of Understanding (MOU) with the California Department of Justice for second-year participation and cost-sharing in a statewide Electronic Recording Delivery System. Initial County contribution and annual support charges will come from the Recorder Modernization Trust Fund 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: Initial costs are funded from the Recorder Modernization Trust Fund. 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 to cover ongoing oversight costs of the Attorney General and for future enhancements of our recording system.

Consequences if not approved: Napa County will not participate in the second year development 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:

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

Napa County has been one of 21 counties participating with the California Department of Justice in the first year of development of an Electronic Recording Delivery System under Government Code (GC) section 27393. The Board executed the original Memorandum of Understanding Agreement No. 6527 on October 11, 2005. GC 27393 requires any county establishing an e-recording system to pay the Department of Justice 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 Department of Justice, development of the e-recording system, the review and approval of vendors and authorized submitters, and security testing.

Napa County's first year cost was \$5,120.23 for participation in the program with a total first year budget for the project of \$1,000,000. This amended Memorandum of Understanding would permit Napa County to participate in the second year of development at a cost of \$3,760.99 with a total second year budget of \$648,182. Napa's second year cost will be paid from the Recorder Modernization Trust Fund monies. The annual cost is determined by the total number of Real Property instruments recorded in the previous calendar year. The regulations governing this program have been submitted to the California Office of Administrative Law by the Attorney General and final approval is expected in a few months.

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 the second year of this program at no cost to the County General fund and with the expectation of potential revenue to maintain the system and pay any annual contributions to the Department of Justice in future years.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Maiko Klieman