



Agenda Date: 8/21/2007
Agenda Placement: 6G

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 Second Addendum to Electronic Recording MOU

RECOMMENDATION

Assessor-Recorder-County Clerk requests approval of and authorization for the Chair to sign Amendment No. 2 to Memorandum of Understanding Agreement No. 6527 with the California Department of Justice increasing the amount by \$2,882.36 for a new maximum of \$11,763.58 extending the term through June 30, 2008 for third year participation and cost-sharing in a statewide Electronic Recording Delivery System (ERDS).

EXECUTIVE SUMMARY

Assessor-Recorder-County Clerk requests approval of the extension of a Memorandum of Understanding (MOU) with the California Department of Justice for third-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. Continuing participation in the ERDS |

along with 21 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 reimburse the initial costs, to cover ongoing oversight costs of the Attorney General and to allow future enhancements to our recording system.

Consequences if not approved: Napa County will not participate in the ongoing 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 is one of 21 counties participating with the California Department of Justice in the 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 and the second year cost was \$3,760.99 for participation in the program. This second addendum to the Memorandum of Understanding would permit Napa County to participate in the third year of development at a cost of \$2,882.36. Napa's cost share 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 approved by the California Office of Administrative Law and submitted to the Secretary of State so they will become operative this month.

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 third 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: Karen Gratton