COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK
12400 Imperial Highway – P.O. Box 1024, Norwalk, California 90651-1024 – www.lavote.net

DEAN C. LOGAN
Registrar-Recorder/County Clerk

July 14, 2009

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

19 JULY 14, 2009

SACHI A. HAMAI
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

RESOLUTION APPROVING THE COUNTY OF LOS ANGELES COMPLIANCE WITH THE ELECTRONIC RECORDING DELIVERY SYSTEM PROGRAM
(All Districts) (3 Votes)

SUBJECT

Adopt a state-required resolution approving the County of Los Angeles' compliance with the Electronic Recording Delivery System Program (ERDS) as established by the State of California Electronic Recording Delivery Act of 2004 as enacted by Assembly Bill No. 578, codified in Government Code Chapter 6, sections 27390 through 27399 and the regulations established by the Attorney General's ERDS Program advisory committee. The adoption of the regulations and specified security standards are required for system certification by the Attorney General.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt a resolution (Attachment I) approving the County Registrar-Recorder/County Clerk's (RR/CC) compliance with the regulations and specified security standards established by the ERDS Program, as required by California Code of Regulations – Title 11, Division 1, Chapter 18, Article 6 required for system certification by the Attorney General.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The purpose of the recommended action is to obtain approval of the Board resolution to comply with the regulations and specified security standards established by the ERDS Program. Compliance with the ERDS, will allow for certification of the County's electronic recording delivery system (System) by the State of California Office of the Attorney General. The System will enhance the County's recording process by improving and modernizing the recording and handling of real property instruments electronically.

Implementation of Strategic Plan Goals

This request supports the County Strategic Plan as follows:

Goal No. 1: Service Excellent: Provide the public with easy access to quality information and services that are both beneficial and responsive. State certification and implementation of the System will allow the County to automate record keeping, improve recording efficiency, provide better quality copies, and expedite recording of real property documents.

Goal No. 3: Organizational Effectiveness: Ensure that service delivery systems are efficient, effective, and goal-oriented. The System will convert the current manual paper-based system of recording Real Property instruments to an electronic recording delivery system which will greatly improve efficiency and effectiveness as well as service delivery to County residents.

FISCAL IMPACT/FINANCING:

Pursuant to AB 578, GC 27393 requires the Attorney General to develop regulations for review, approval and oversight. GC 27397 requires any county establishing an electronic recording delivery system to pay the Attorney General for cost of regulations and oversight and allows county recorders to establish a new fee up to one dollar ($1.00) per recorded document to cover cost to Attorney General, ERDS, County System and maintenance, the review and approval of vendors and authorized submitters, and security testing. These fees will be paid through the $1.00 recording fee approved by the Board on November 12, 2008 (Attachment III).

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

AB 578 was signed into law on September 21, 2004 and took effect immediately. The legislative action authorized county recorders to establish electronic recording systems for the electronic recording of Real Property instruments and requires the Attorney General to develop regulations for review, approval and oversight of the program. AB 578 requires an MOU by participating counties and approval by resolution of the Board of Supervisors. The Board's resolution was adopted on August 30, 2005 and the MOU with DOJ was executed on November 3, 2005 (Attachment II). On November 12, 2008, your Board approved the establishment of a one dollar fee ($1.00) per recorded real property instrument to defray the cost of the System and approved the County's participation in a Multi-County Agreement for the purchase and maintenance of an electronic recording delivery system. Under this agreement, the County is a co-owner of the System with the counties of Orange, Riverside, and San Diego (Attachment III).

ERDS requires a county resolution to establish an electronic recording delivery system and approval by the Board of Supervisors prior to the certification of the System by the State Office of the Attorney General for implementation. The Attorney General's ERDS Program advisory committee has imposed new regulations and security standards specified in the attached resolution which are required prior to System certification. The resolution includes specifications of the instrument type, Multi-County cooperation, and specified security standards, as required by ERDS.

The Chief Executive Office has reviewed and approved this Board letter. County Counsel reviewed this Board letter and approved as to form the attached resolution. Because this Board Letter is not technology related, there is no CIO Analysis required.

IMPACT ON CURRENT SERVICES:

Approval of the recommended action will provide a fast, efficient, and effective method of recording Real Property instruments to better serve County residents.

CONCLUSION

Upon approval of the recommendation, it is requested that the Executive Officer/Clerk of the Board return one original stamped copy of the adopted Board letter to:

County of Los Angeles Registrar-Recorder/County Clerk
12400 Imperial Highway, Room 7201
Norwalk, CA 90650

Attention: Ngozi Ume, Manager
Finance and Management Division

Respectfully submitted,

DEAN C. LOGAN
Registrar-Recorder/County Clerk

DCL:NU:EB:
RL:yt

Attachments (3)

c: Executive Officer, Board of Supervisors
Chief Executive Officer
Acting County Counsel

ATTACHMENT I

RESOLUTION OF THE BOARD OF SUPERVISORS APPROVING THE COUNTY OF LOS ANGELES COMPLIANCE WITH THE ELECTRONIC DELIVERY SYSTEM PROGRAM REGULATIONS

WHEREAS, California Assembly Bill 578, Chapter 621, September 21, 2004 added to Government Code, Chapter 6 sections 27390 through 27399, and established the Electronic Recording Delivery Act (ERDA) of 2004. Government Code section 27391(a) authorizes a County Recorder upon approval by resolution of the Board of Supervisors to establish an electronic recording delivery system, for the delivery, and when applicable, return of specified digitized electronic records and digital electronic records upon system certification by the Electronic Recording Delivery System (ERDS) Program.

WHEREAS, Government Code section 27397(c)(1) authorizes a County Recorder to impose a fee in an amount up to and including one dollar ($1) for each real property instrument that is recorded by county; and

WHEREAS, Government Code section 27397(c)(2) authorizes a County Recorder to impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and upon any person seeking to contract as an Authorized Submitter; and

WHEREAS, the ERDS Program has established regulations and has been delegated the authority for system certification, regulations and oversight of Electronic Recording Delivery Systems and a County Recorder shall comply with all ERDS regulations; and

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of the County of Los Angeles approves the Registrar-Recorder/County Clerk to:

(1) Establish a Multi-County ERDS for Type 1 and Type 2 instruments, and when applicable, the return functions.

(2) Conduct all negotiations, execute and submit all documents necessary for the establishment of an Electronic Recording Delivery System.

(3) Impose a fee upon any person seeking to contract as an Authorized Submitter.

(4) Use internal county resources in lieu of vendor in an ERDS implementation.

(5) Enter into a Memorandum of Understanding with the ERDS Program, before system certification, agreeing to the computer System Administration Fee and annually thereafter by an addendum to the Memorandum of Understanding.

(6) Issue payments to the ERDS Program for the County's proportionate share of the System Administrative Fee; and

BE IT FURTHER RESOLVED that the Registrar-Recorder/County Clerk shall:

(1) Submit an application for system certification to the ERDS Program; and, in doing so will comply with the California Code of Regulations, Title 11, Division 1, Chapter 18, Articles 1 through 9; and

(2)` Designate those individuals with secure and authorized access to the ERDS compliant with Government Code section 27395(b); and

(3) Notify the ERDS Program if an individual who has secure access no longer requires that access compliant with the California Penal Code section 11105.2(d); and

(4) Notify the Board of Supervisors, District Attorney, Computer Security Auditor on contractual agreement, and ERDS Program if there are any known or suspected security violations that compromises the safety and/or security of the ERDS; and

(5) Notify the ERDS Program if there is a change of the Registrar-Recorder/County Clerk; and

(6) Notify the ERDS Program if the County wishes to withdraw their system certification.

THE FOREGOING RESOLUTION WAS DULY ADOPTED by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts on the 14th day of July, 2009.

SACHI A. HAMAI
Executive Officer
Board of Supervisors

By LaChelle Smitherman
Deputy

APPROVED AS TO FORM:

ROBERT E. KALUNIAN
Acting County Counsel

By P Salseda
PATRICE J. SALSEDA
Senior Deputy County Counsel
Government Services Division

PJS:er

HOA.611030.1

ATTACHMENT II

COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK
12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024

CONNY B. McCORMACK
Registrar-Recorder/County Clerk

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

66 AUG 30 2005

Violet Varona-Lukens
VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

August 30, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

RESOLUTION FOR PARTICIPATION IN THE STATE OF CALIFORNIA ELECTRONIC RECORDING DELIVERY ACT OF 2004 (All Districts) (3 Votes)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt a resolution (Attachment I) approving the County of Los Angeles (County) participation in the State of California Electronic Recording Delivery Act of 2004 as enacted by Assembly Bill No. 578; and authorize the Registrar-Recorder/County Clerk (RR/CC), or her designee, to execute a Memorandum of Understanding (MOU) substantially similar to Attachment II with the California Department of Justice (DOJ) for County participation in the Electronic Recording Delivery System.

2. Authorize the RR/CC, or her designee, to amend or terminate the MOU as needed provided that County Counsel approval is obtained prior to executing an amendment or termination.

3. Authorize the RR/CC, or her designee, to negotiate and execute Submitter Agreements, in accordance with the rules and regulations established by the California Attorney General for use with Title companies and lending institutions who wish to submit Real Property records electronically, providing County Counsel reviews said Submitter Agreement and approval as to form is obtained.

4. Pursuant to Government Code section (GC) 27397(c) (2) & (3), authorize the RR/CC, or her designee, provided that approval by the Board of Supervisors is obtained and the matter is brought before a public hearing, to 1) impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and 2) impose a fee upon any person seeking a Submitter Agreement

5. Delegate the authority to the RR/CC, provided that approval by the Board of Supervisors is obtained and the matter is brought before a public hearing, to assess a statutory surcharge on recorded Real Property instruments and to increase or decrease the fee as needed, up to a maximum charge not to exceed one dollar ($1.00) per document to offset the cost of the Electronic Recording Delivery System.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to allow the County participation in the California Electronic Recording Delivery System. Participation in the program will enable the County to improve and modernize its systems of recording and handling Real Property instruments by permitting the electronic delivery, recording and return of specified instruments.

Implementation of Strategic Plan Goals

This request supports the County Strategic Plan as follows:

Goal No. 3: Organizational Effectiveness: Ensure that service delivery systems are efficient, effective, and goal-oriented. Approval of the recommended action will convert the current manual paper-based system of recording Real Property instruments to an electronic recording delivery system which will greatly improve efficiency and effectiveness, and service delivery to County residents

FISCAL IMPACT/FINANCING

Pursuant to AB 578, GC 27393 requires the Attorney General to develop regulations for review, approval and oversight. GC 27397 requires any county establishing an E-recording system to pay the Attorney General for cost of regulations and oversight and allows county recorders to establish a new fee up to one dollar ($1.00) per recorded document to cover cost to Attorney General, E-recording system, the review and approval of vendors and authorized submitters, and security testing. The total fees assessed by a county can not exceed the reasonable cost for maintaining the system and Attorney General oversight.

The initial cost to the County to participate in the Electronic Recording Delivery System, which was determined by the total number of Real Property instruments recorded during the 2004 calendar year, is $252,249. The 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. There is no impact to the NCC.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

AB 578 was signed into law on September 21, 2004 and took effect immediately. The legislative action authorized county recorders to establish electronic recording systems for the electronic recording of Real Property instruments and requires the Attorney General to develop regulations for review, approval and oversight of the program. AB 578 requires an MOU by participating counties; approval by resolution of the Board of Supervisors; and requires interested counties to submit a Letter of Intent. As such, RR/CC submitted the Letter of Intent (Attachment III) on June 17, 2005 as a notice of interest to participate in the program.

In September 2005, the DOJ will mail an MOU substantially similar to Attachment II to counties that submitted a Letter of Intent. The terms of the MOU are negotiable to meet the specific needs of each participating county. RR/CC will work with County Counsel to ensure County requirements are met and secure County Counsel approval as to form prior to submitting MOU to DOJ. The final signed MOU is due to the DOJ on October 14, 2005.

The Chief Administrative Office has reviewed and approved this Board letter. County Counsel has reviewed this Board letter and approved as to form the attached resolution.

IMPACT ON CURRENT SERVICES

Approval of the recommended action will provide a fast, efficient, and effective method of recording Real Property instruments to better serve County residents.

CONCLUSION

Upon approval of the recommendation, it is requested that the Executive Officer/Clerk of the Board return one originally stamped copy of the adopted Board letter to:

County of Los Angeles
Registrar-Recorder/County Clerk
12400 Imperial Highway, Room 7201
Norwalk, CA 90650

Attention: Ngozi Ume
Head, Management Services

Respectfully submitted,

Conny B McCormack KH

CONNY B. McCORMACK
Registrar-Recorder/County Clerk

CBM:NU:rl

Attachment (3)

c: Chief Administrative Officer
County Counsel

Attachment I

RESOLUTION OF THE COUNTY OF LOS ANGELES BOARD OF SUPERVISORS APPROVING THE COUNTY OF LOS ANGELES PARTICIPATION IN THE ELECTRONIC RECORDING DELIVERY ACT OF 2004

RESOLUTION OF THE COUNTY OF LOS ANGELES BOARD OF SUPERVISORS APPROVING THE COUNTY OF LOS ANGELES PARTICIPATION IN THE ELECTRONIC RECORDING DELIVERY ACT OF 2004

WHEREAS, California Assembly Bill No. 578 of 2004 has been enacted to authorize a county recorder to establish an Electronic Recording Delivery System for the recording of specified digitized and digital electronic records; and

WHEREAS, said legislation requires a resolution from the County of Los Angeles Board of Supervisors to authorize County participation in the Electronic Recording Delivery System; and

WHEREAS, AB 578, GC 27397 authorizes a county recorder to impose a fee in an amount up to and including one dollar ($1) for each Real Property instrument that is recorded by county; and

WHEREAS, AB 578, GC 27397 (c) (2 & 3) authorizes a county recorder to impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and upon any person seeking a Submitter Agreement; and

WHEREAS, the California Attorney General has been delegated the authority and responsibility for establishing regulations and the regulation and oversight of the Electronic Recording Delivery System; and

NOW, THEREFORE, BE IT RESOLVED that the County of Los Angeles Board of Supervisors:

1. Approves the County participation in Electronic Recording Delivery Act of 2004;

2. Appoints the County of Los Angeles Registrar-Recorder/County Clerk, or her designee, as agent to conduct all negotiations and execute and submit all documents which may be necessary for the completion of the aforementioned project.

3. Approves the County of Los Angeles Registrar-Recorder/County Clerk, or her designee, as agent, to impose a fee to be adopted by the Board of Supervisors and after a public hearing, in an amount up to and including one dollar ($1) for each Real Property instrument that is recorded by the County.

4. Approves the County of Los Angeles Registrar Recorder/County Clerk, or her designee, as agent to impose a fee to be adopted by the Board of Supervisors and brought before a Public Hearing, upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and to impose a fee upon any person seeking a Submitter Agreement.

5. Approves the County of Los Angeles Registrar Recorder/County Clerk, or her designee, as agent to issue payments to the California Attorney General through the Department of Justice for County's allocated share of the direct cost of program oversight.

The foregoing resolution was on the 30th day of August, 2005, adopted by the Board of Supervisors of the County of Los Angeles and ex-officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

VIOLET VARONA-LUKENS, Executive
Officer-Clerk of the Board of Supervisors
of the County of Los Angeles

By: _____
Deputy

APPROVED AS TO FORM:

BY THE OFFICE OF COUNTY COUNSEL
RAYMOND G. FORTNER JR, County Counsel

By _____ HALVOR S. MELOM
for Derrick Au
Senior Deputy County Counsel

Electronic Recording Delivery System
Costs for Developing and Implementing Regulations
Memorandum of Understanding

NOTE: Each county's Memorandum of Understanding (MOU) will be written to meet their individual county needs, including for multiple years

Parties

This Memorandum of Understanding (MOU) is between the California Department of Justice, hereinafter, referred to as "DOJ" and the County of _____, hereinafter referred to as "County."

Purpose

The purpose of this MOU is to comply with the Electronic Recording Delivery Act of 2004 (Gov. Code, §§ 27390-27399; "Act")[1] It is the intent of the Legislature "to develop a system to permit the electronic delivery; recording, and return of instruments affecting right, title, or interest in real property." (Stats. 2004, ch. 621, § 1, subd. (a).) The purpose of the electronic recording delivery system is to enable the County to improve: and modernize the counties' systems for recording and handling documents by permitting the electronic delivery, recording and return of specified instruments.

Acknowledgments

Both County and DOJ acknowledge that under the Act specific statutory duties must be performed *before* a county puts its electronic recording system into operation. For example, the Attorney General must adopt regulations "for the review, approval, and oversight of electronic recording delivery systems" (§ 27393); evaluate and certify the system selected by each county (§§ 27391, subd. (a); 27392, subd. (a)); "approve software and other services" (§ 27392, subd. (b)); establish a list of approved computer security auditors (§ 27394), after conducting criminal background checks (§ 27395); and certify that each county's submission method will be secure (§ 27397.5, subd. (d)). These initial duties of the Attorney General bring with them "start up" costs--costs that cannot be adequately met by the Act's scheme of generating revenue through the collection of recording fees authorized in section 2739. Furthermore, each county is responsible for paying the costs of developing, operating, and monitoring its electronic recording system. (§ 27397, subd. (a).) :

"(a) A county establishing an electronic recording delivery system under this article *shall pay for the direct cost of regulation and oversight by the Attorney General."*

[1] Hereafter, references to the Government Code are by section number only.

Agreement

DOJ and County hereby consent and agree that County will pay DOJ for an allocated share of the direct cost of developing and implementing regulations and other costs in support of the Electronic Recording Delivery Act (ERDA) of 2004, as set forth in Article 6 (commencing with Section 27390) to Chapter 6 of Division 2 of Title 3. The development of regulations is being pursued to enable the Attorney General to provide review, approval and oversight of electronic recording delivery systems.

General Provisions

County agrees to pay DOJ for an allocated share of the direct costs of developing and implementing regulations which may include all or part of the following direct costs: staff, consultant, and vendor costs for program development and implementation including hearings, meetings, travel, site visits, minutes, mailing, legal review of regulations, procedure and forms development, advertisement, and drafting and writing of regulations. Continuation of this Memorandum of Understanding beyond the first year will allow the DOJ to issue a new estimated cost figure for the next fiscal year without the necessity of a new Letter of Intent from the County. Continuation of this Memorandum of Understanding beyond the first year shall allow the DOJ' to include the cost of regulation and oversight.

County to County Formula

The direct cost of establishing the regulations and regulation and oversight is allocated to each county by the total documents recorded and filed as reported to the Office of the Insurance Commissioner, as provided in Government Code section 27296, for the previous year. The formula to determine a county's proportionate cost is set by the total documents recorded and filed per individual counties divided by the total documents recorded and filed by all participating counties. The percentage figure obtained for each county is applied to the estimated annual costs of the Attorney General to arrive at an individual county figure.. .

Estimated Cost of the Attorney General

The estimated costs of the Attorney General are those costs projected to be incurred in the next fiscal year and the costs incurred to date in establishing the regulations. County agrees to pay the DOJ for actual expenditures incurred and in accordance with the estimated costs specified herein, which is attached hereto and made a part of this MOU. The County shall annually provide the total documents recorded and filed as reported to the Office of the Insurance Commissioner, as provided in Government Code section 27296, for the previous year. The DOJ shall issue an annual estimated cost to the County based on the Cost to County Formula. The estimated cost to the County will be incorporated herein by reference.

Payback and/or Carry Over

If the actual costs exceed the estimated costs, the parties will amend this MOU to capture the additional costs. If the total actual costs are less than the estimated costs, DOJ will provide a refund to the County or allow for a carry over and credit toward the next Fiscal year at the County's discretion.

DOJ Reporting

DOJ shall report to the County every ninety (90) days on the expenditures made by the DOJ in developing and implementing regulations.

Payment

County shall pay to DOJ a lump sum of the estimated cost to the County, as incorporated herein by reference, toward the direct cost to be incurred by DOJ. Said lump sum payment to be delivered to DOJ within thirty (30) days of execution of the MOU. Payments to DOJ shall be deposited in the Electronic Recording Authorization Account, which is hereby created in the Special Deposit Fund.

Payment shall include a reference to this MOU and shall be made to:

California Department of
Justice Accounting Office
1300 I Street
Sacramento, CA 95814

Term of MOU

The term of this MOU will be from the date this MOU is signed by the DOJ and County MOU representatives until the end of the next fiscal year. An MOU will automatically renew unless one or both parties object or there are modifications to the MOU which would require mutual agreement and signatures by both parties.

A County Recorder reserves the right to terminate this MOU upon thirty (30) days written notice to the DOJ, however, no refund of start-up costs for establishing the regulations will be granted. Refunds of payment toward regulation and oversight will be prorated as incurred in the fiscal year at the time of termination. Upon termination of the Memorandum of Understanding without the mutual intent of the parties to renew, the County Recorder shall cease operation of its electronic recording delivery system.

MOU Representatives

The MOU representatives during the term of this MOU will be:

County of Name: Phone: Fax: E-mail:	Department of Justice Name: Paul Pane Phone: (916) 227-4705 Fax: (916) 227-2545 E-Mail: paul.pane@.doj.ca.gov

Agreed and Accepted

Certification of MOU Representatives

I certify that I have read and understand the aforementioned statements and agree to comply with the requirements contained herein:

County of Registrar-Recorder/County Clerk
Name:

Signed:_____

Dated: _____

Department of Justice
Name: Paul Pane

Signed: _____

Dated: _____

Attachment: Estimated Costs: Attachment 1

ATTACHMENT III

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

At its meeting held November 12, 2008, the Board took the following action:

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At the time and place regularly set, notice having been duly given, the following item was called up:

Hearing on proposed amendments to the County Code, Title 2 - Administration, to establish a $1 fee for the electronic recording of real property documents for all costs associated with the electronic recording delivery system as authorized by AB 578 (All Districts); also approval and authorization for the Registrar-Recorder/ County Clerk to execute a Multi-County agreement with Orange, Riverside and San Diego Counties for Los Angeles County to share in the ownership of the $2.52 million electronic recording delivery system with each County paying an equal share of the acquisition cost and $100,000 per County for ongoing maintenance, for a period of five consecutive years with an automatic renewal of an additional five years unless terminated sooner or extended as provided in the agreement, as further described in the attached letter dated October 28, 2008 from the Registrar-Recorder/County Clerk.

All persons wishing to testify were sworn in by the Executive Officer of the Board. Opportunity was given for interested persons to address the Board. No interested persons addressed the Board. No correspondence was presented.

On motion of Supervisor Burke, seconded by Supervisor Yaroslavsky, unanimously carried (Supervisors Knabe and Antonovich being absent), the Board closed the hearing and took the following actions:

1. Approved establishment of a $1.00 fee for recorded real property documents for all costs associated with the electronic recording delivery system;

(Continued on Page 2)

2. Introduced, waived reading and placed on subsequent agenda for adoption the attached ordinance entitled, "An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the recording fees charged to the public by the Registrar-Recorder/County Clerk."

3. Approved the attached Multi-County agreement (Agreement) for Los Angeles County to participate with the counties of Orange, Riverside and San Diego in the purchase and ongoing maintenance of an electronic recording system. Each County will pay an equal share of the acquisition cost of $2.52 million and the annual maintenance cost estimated at $100,000 per county. The Agreement will commence upon execution by all counties and shall continue for a period of five consecutive years with an automatic renewal of an additional five years unless sooner terminated or extended as provided in the Agreement. The Chief Executive Office Information Technology Fund allocated the initial $730,000 funding for this project. The ongoing maintenance costs beyond the first year will be offset by revenue from the statutory surcharge assessed on recorded real property documents; and

4. Authorized the Registrar-Recorder/County Clerk to execute the Agreement, negotiate, amend, or terminate the Agreement as necessary provided County Counsel approval is obtained prior to initiating any such action.

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Attachments

Copies distributed:
Each Supervisor
Chief Executive Officer
County Counsel
Registrar-Recorder/County Clerk

COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK
12400 Imperial Highway – P.O. Box 1024, Norwalk, California 90651-1024 – www.lavote.net

DEAN C. LOGAN
Registrar-Recorder/County Clerk

October 28, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

PUBLIC HEARING TO INCREASE REAL PROPERTY RECORDING FEES BY $1.00 AND APPROVE AN AGREEMENT WITH THE COUNTIES OF ORANGE, RIVERSIDE AND SAN DIEGO FOR SHARED OWNERSHIP OF A MULTI-COUNTY ELECTRONIC RECORDING DELIVERY SYSTEM (All Supervisorial Districts) (3 Votes)

CIO RECOMMENDATION: APPROVE (X) APPROVE WITH MODIFICATION ( ) DISAPPROVE ( )

SUBJECT

Approval to add a fee of $1.00 to the recordation of real property documents to support electronic recording pursuant to Assembly Bill 578 known as the Electronic Recording Delivery Act of 2004 (AB 578) and request approval of an agreement with the counties of Orange, Riverside, and San Diego for the acquisition and ongoing maintenance of a multi-county electronic recording system. The system will enhance County's recording process to be more efficient and effective and will expedite the availability of electronic recording in Los Angeles County.

IT IS RECOMMENDED THAT YOUR BOARD AFTER THE PUBLIC HEARING:

1. Approve establishment of a one dollar fee ($1.00) for recorded real property documents for all costs associated with the electronic recording delivery system.

2. Introduce, waive reading and place on subsequent agenda for adoption the attached ordinance (Attachment I) amending the County Code, Title 2 – Administration, Chapter 2.32 of the Los Angeles County Code by establishing section 2.32.085 to implement a new fee as authorized by AB 578 for electronic recording of real property documents.

3. Approve the attached Multi-County agreement ("Agreement") (Attachment II) for Los Angeles County ("County") to participate with the counties of Orange, Riverside and San Diego in the purchase and ongoing maintenance of an electronic recording system (the "System"). Each county ("Owners") will pay an equal share of the acquisition cost of $2.52 million and the annual maintenance cost estimated at $100,000 per county. The Agreement will commence upon execution by all counties and shall continue for a period of five consecutive years with an automatic renewal of an additional five years unless sooner terminated or extended as provided in the Agreement. The Chief Executive Office (CEO) Information Technology (IT) Fund allocated the initial $730,000 funding for this project. The ongoing maintenance costs beyond the first year will be offset by revenue from the statutory surcharge assessed on recorded real property documents.

4. Authorize the Registrar-Recorder/County Clerk to execute the Agreement, negotiate and amend, or terminate the Agreement as necessary provided County Counsel approval is obtained prior to initiating any such action.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:

The purpose of the recommended action authorizing the RR/CC to charge an additional fee of $1.00 pursuant to AB 578, for recording a real property document will defray the costs incurred to support the System and comply with the State Department of Justice (DOJ) regulations, including oversight by the State Attorney General (AG).

AB 578 (Gov. Code, §§ 27390-27399), authorizes county recorders in California to accept digitized electronic documents and certain digital electronic documents for recordation pursuant to the provisions and regulations developed by the DOJ. Electronic recording will provide authorized submitters (title insurers, underwritten Title Companies, institutional lenders, and government entities) with the ability to submit digitized and certain digital documents electronically through a single port to participating counties. The program enables the counties to improve and modernize its systems of recording and handling real property documents by permitting the delivery, recording, and return of real property documents electronically. The ability to electronically record documents will reduce processing time, staff workload, and material costs associated with managing paper copies and manually maintaining databases. On August 30, 2005, your Board adopted a Resolution for County participation in the State of California Electronic Recording Delivery Act of 2004 (Attachment III).

The Multi-County Agreement is to provide Los Angeles County with an equal ownership of an electronic recording system. The Multi-County Agreement is a collaborative effort between the counties of Los Angeles, Orange, Riverside and San Diego to allow authorized statewide and national submitters to record documents electronically via a portal. The benefits of this portal include reduced cost to individual counties, closer communication between Southern California title companies and service providers, and quicker, streamlined confirmation times for title companies and other submitters.

The System enables customers submitting significant numbers of documents for recording, to do so by computer, receive direct communication from the County Recorder, and monitor recording status via computer. It also enhances the document recording provided to financial and real estate customers by making it easier, faster and more cost effective. Further, the System facilitates the recording process by dramatically reducing the processing time, staff workload, and material costs associated with managing paper copies. Entering into an agreement with other Southern California counties to share in the ownership and ongoing maintenance of an electronic recording delivery system will be cost effective and enable a more efficient and timely document recording process.

The counties of Los Angeles, Riverside, and San Diego will also benefit from the 132 established business partnerships that Orange County has in place. Implementation of this System will encourage customers to submit documents electronically due to the ability to easily and efficiently record with multiple counties. It will also reduce labor costs for repetitive work such as indexing and scanning documents as well as mailing costs associated with returning paper documents. The System also enhances the document recording services provided to financial and real estate customers by making it easier, faster and more cost effective.

Implementation of Strategic Plan Goals

This request supports the County Strategic Plan as follows:

Goal No. 1: Service Excellence: Provide the public with easy access to quality information and services that are both beneficial and responsive. The System will automate manual record keeping, improve recording efficiency, provide better quality copies, and expedite recording of real property documents.

Goal No. 2: Workforce Excellence: Enhance the quality and productivity of the County workforce. The System will convert the current manual paper-based system of recording real property documents to an electronic format which will, among other things, eliminate hand processing of paper documents, thus improving workforce utilization, efficiency and effectiveness.

Goal No. 3: Organizational Effectiveness: Ensure that service delivery systems are efficient, effective, and goal-oriented. The System provides users with an efficient and effective means to record real property documents electronically and facilitates information sharing with other participating counties.

Goal No. 4: Fiscal Responsibility: Strengthen the County's fiscal capacity. By participating in the multi-county cooperative system, as opposed to buying its own system, the County is potentially saving millions of dollars in acquisition and maintenance costs as well as start-up costs and staff time. The use of the revenue generated from the additional fee assessed on recorded documents will allow the County to provide enhanced services at no additional cost to the County.

FISCAL IMPACT/FINANCING:

The Orange County Clerk-Recorder incurred the initial acquisition cost of $2.52 million for the electronic recording delivery system. Each Owner county will pay an equal share of the acquisition cost, ongoing annual maintenance cost and an equal share of the cost for any required modifications, enhancements, or repairs not covered under general maintenance.

The initial $730,000 funding for the System was provided through the CEO's Information Technology Fund approved by your Board on April 1, 2008 (Attachment IV). Additionally, with the approval of your Board on August 30, 2005 (Attachment III), the RR/CC paid approximately $679,445 to DOJ for participation in the State's electronic recording system. This cost, as well as the annual maintenance cost, and any future cost will be offset by revenue from the $1.00 statutory surcharge which will be assessed on recorded real property documents.

Pursuant to AB 578, a county recorder implementing an electronic recording delivery system may assess an additional fee of up to $1.00 to defray the cost of the System. Subsequent to the public hearing and subject to Board approval, the RR/CC will begin to assess and collect an additional $1.00 fee for each real property document recorded to cover all costs related to electronic recording. The Auditor-Controller concurs that a fee study is not required as the fee would be rounded to the nearest dollar and cannot exceed the $1.00 fee allowed by legislation. The revenue collected will be accounted for in a budgeted special revenue fund with all related program expenses charged to the dedicated account. The RR/CC anticipates collecting approximately $2 million per fiscal year with projected revenue in the current fiscal year for the period of December 1, 2008 through June 30, 2009 being approximately $1.1 million.

Under the Multi-County Agreement, Orange County will act as the lead county. Other counties may join in the collaboration with the approval of the four Owners (Los Angeles, Orange, Riverside, and San Diego). Each additional county ("Participants")

will be required to share in the annual maintenance cost which will reduce the cost to all participating counties.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The Electronic Recording Delivery Act of 2004 (AB 578) was signed into law on September 21, 2004. The act added Article 6 (commencing with Section 27390) to Chapter 6 of Division 2 of Title 3 of the Government Code relating to county recorders, making an appropriation therefore, and declaring the urgency thereof, to take effect immediately. The legislative action authorized county recorders to establish electronic recording systems for the electronic recording of digitized and certain digital real property documents and requires the AG to develop regulations for review, approval, and oversight of the program. AB 578 requires a Memorandum of Understanding (MOU) with the State; approval by resolution of the Board of Supervisors; and required interested counties to submit a Letter of Intent to the DOJ. The RR/CC submitted the Letter of Intent to the DOJ on June 17, 2005 and upon Board authorization on August 30, 2005, executed the MOU with the DOJ on November 3, 2005. The MOU with the DOJ was for one year and automatically renews in one-year increments unless terminated by either party.

AB 578 requires any county establishing an electronic recording system to pay the DOJ for the ongoing cost of regulation and AG oversight and allows counties to establish a fee of up to one dollar ($1.00) per recorded document to support the program. Government Code section 54985 authorizes the Board of Supervisors to set a fee that is otherwise authorized to be levied by another provision of law in the amount reasonably necessary to recover the cost of providing any product or service. Government Code section 27397(c)(1) authorizes a county to impose a fee up to and including one dollar ($1.00) for each instrument recorded to pay the costs associated with the electronic recording delivery system. In addition to the cost of the system and ongoing maintenance, each participant pays the DOJ an allocated share of the direct costs. The cost to each county is determined by the total number of real property documents recorded during the previous calendar year.

The Orange County Clerk-Recorder purchased the ownership rights to an electronic recording delivery system that will be jointly owned and ultimately used by many counties in California. The Multi-County Agreement provides the acquisition, implementation, training, hosting, and support of a system known as the Statewide Electronic Courier Universal Recording Environment ("SECURE"), which will be compliant with AB 578. SECURE will support vendor specific connections to county back-end users; supply electronic recording application program interface to potential participant counties; and will work with potential submitters to install software and provide training.

SECURE will provide all submitters a collective means to submit digitized and certain digital documents electronically to participating counties. Once the document is submitted through the multi-county system, each county will use its own recording, cashier and land records system to retrieve, record, and maintain the document. This cost effective system will help facilitate the unification and sharing of software, without altering the various counties' operations or current practices.

Orange County will host the system and is responsible for the acquisition, installation, implementation, support, and training. However, the Owner counties will all have an equal vote in any decisions, including but not limited to, enhancements, modifications, and maintenance to the System. The county recorder or his/her designee will act as the appointed representative for each county to exercise its vote. A county may withdraw from the Agreement upon providing 60 days written notice to the other Owner counties.

On February 5, 2008, the Orange County Board of Supervisors approved the purchase of the SECURE system and a multi-county agreement for the shared ownership of the System. Based on the collaboration of the Owners respective County Counsel representatives, an amended Multi-County Agreement was adopted by the Orange County Board of Supervisors on August 19, 2008. Riverside County Board of Supervisors adopted the Agreement on July 29, 2008 and San Diego's Board of Supervisors adopted the Agreement on September 16, 2008.

CONTRACTING PROCESS:

The Multi-County Agreement was developed in collaboration between the respective county counsels for each Owner county. This is a government to government collaboration. There was no additional contracting process associated with the recommended Agreement.

The Chief Executive Office has reviewed and approved this Board letter. County Counsel has reviewed this Board letter and approved the Multi-County Agreement as to form.

The Living Wage Program (County Code Chapter 2.201) does not apply to the recommended Agreement.

IMPACT ON CURRENT SERVICES:

Board approval of the proposed surcharge will enable the RR/CC to collect fees to offset the cost of implementing the electronic recording program which will enhance the real property document recording process. County's participation in the Multi-County Agreement will provide Los Angeles County with a cost effective means to electronically

record real property documents. Electronic recording is paperless to the County. The delivery, recording, document maintenance, and return to the submitter, is all done electronically. It will also reduce cost to the County by transferring responsibility for mailing the recorded documents to real property owners back to the submitter.

CONCLUSION:

Upon approval of the recommended Agreement, it is requested that the Executive Officer/Clerk of the Board, return one adopted stamped copy of the approved Board letter to County of Los Angeles, Registrar-Recorder/County Clerk, 12400 Imperial Highway, Room 7201, Norwalk, CA 90650, Attention: Ngozi Ume, Manager, Finance and Management Division

Respectfully submitted,

Dean C. Logan
Registrar-Recorder/County Clerk

Reviewed by:

Richard Sanchez
Acting Chief Information Officer

DCL:SAG:NU:rl

Attachment (4)

c: Chief Executive Office
County Counsel
CIO
Auditor-Controller

CIO ANALYSIS

AGREEMENT WITH THE COUNTIES OF ORANGE, RIVERSIDE AND SAN DIEGO FOR SHARED OWNERSHIP OF A MULTI-COUNTY ELECTRONIC RECORDING DELIVERY SYSTEM AND INCREASE REAL PROPERTY RECORDING FEES BY $1.00.

CIO RECOMMENDATION: ☒ APPROVE ☐ APPROVE WITH MODIFICATION ☐ DISAPPROVE

Contract Type:

☒ New Contract ☐ Contract Amendment ☐ Contract Extension
☐ Sole Source Contract ☐ Hardware Acquisition ☐ Other

New/Revised Contract Term: Base Term: 5 Yrs # of Option Yrs: 5

Contract Components:

☒ Software ☐ Hardware ☐ Telecommunications
☐ Professional Services

Project Executive Sponsor: Dean C. Logan, Registrar-Recorder/County Clerk

Budget Information :

Y-T-D Contract Expenditures	$ 0
Requested Contract Amount	$ 730,000 (approximately)
Aggregate Contract Amount	$1,630,000 (approximately)

Project Background:

Yes	No	Question
☐	☒	Is this project legislatively mandated?
☐	☒	Is this project subvented? If yes, what percentage is offset? CEO IT funds will provide $730,000 which is the initial cost of the project.
☐	☒	Is this project/application applicable to (shared use or interfaced) other departments? If yes, name the other department(s) involved.

Strategic Alignment:

Yes	No	Question
☒	☐	Is this project in alignment with the County of Los Angeles Strategic Plan?
☒	☐	Is this project consistent with the currently approved Department Business Automation Plan?
☒	☐	Does the project's technology solution comply with County of Los Angeles IT Directions document?
☒	☐	Does the project technology solution comply with preferred County of Los Angeles IT standards?
☒	☐	This contract and/or project and its milestone deliverables must be entered into the Information Technology Tracking System (ITTS).

Project/Contract Description:

The Registrar-Recorder/County Clerk (RR/CC) is requesting Board approval to:

1. Establish a one dollar ($1.00) fee for electronic recording of real property documents.
2. Adopt an Ordinance to amend County Code to implement a new fee as authorized by AB 578 for electronic recording of real property documents.
3. Enter into a Multi-County Agreement with the counties of Orange, Riverside and San Diego for the purchase and ongoing maintenance of an electronic recording system.
4. Authorize the RR/CC to execute the Agreement, negotiate, amend or terminate the Agreement as necessary provided County Counsel approval is obtained.

Each county involved in this Multi-County Agreement will be a co-owner of the system and pay an equal share of $2.52 million acquisition cost and the annual maintenance estimated at $100,000 per county. The term of the Agreement is five years, with an automatic renewal of five years, unless sooner terminated or extended. The Chief Executive Office IT Fund allocated $730,000 for this project. Ongoing maintenance costs beyond the first year will be included in the departmental operating budget.

This CIO Analysis focused strictly on the Agreement for the purchase and maintenance of the electronic recording system. Matters related to the $1.00 surcharge are addressed by the RR/CC and County Counsel.

Background:

On February 5, 2008 the County of Orange acquired the ownership rights to an electronic recording delivery system called the Statewide Electronic Courier Universal Recording Environment (SECURE). This system is to be shared and used by a number of counties. This Agreement is a government-to-government collaboration that will enable Los Angeles, Orange, Riverside and San Diego counties to share equally in the ownership, cost and maintenance of a multi-county electronic recording delivery system. Orange County will be the lead county and will coordinate the service preferences of the Agreement and enable implementation, training, hosting and support of the system.

Governance covering enhancements, modifications and maintenance to the system will be made by the four counties. A majority vote of the four counties will be required to allow other counties to participate in the use of the system. New members will be responsible for a portion of the ongoing maintenance costs. The original and any copies of the software will remain the property of the counties.

Project Justification/Benefits:

This system will enable Los Angeles County to receive and process recorded documents through an electronic recording system. It is compatible with the RR/CC's recently implemented Enterprise Recording Archive system, and will integrate into the workflow and management processes. Electronic recording will provide authorized submitters (title insurers, institutional lenders and government entities) the ability to submit digital documents electronically. Electronically recorded documents will reduce processing time, staff workload and material costs associated with managing paper copies and manually maintaining databases.

Project Metrics:

The RR/CC will measure the effectiveness of this system by tracking the reduction in mail and associated postage. The RR/CC will also track how many documents are electronically recorded and how much manual labor is reduced.

Impact on Service Delivery or Department Operations, If Proposal Is Not Approved:

Board approval of the recommended actions will allow the RR/CC to collaborate with other counties in the State, conduct business electronically and better utilize its staff. The system will convert the current manual paper-based system of recording real property documents to an electronic format.

Alternatives Considered:

The alternative considered was to develop an in-house eRecording solution which would be costly and delay the RR/CC's ability to implement an electronic recording system.

Project Risks:

The principal risk with a collaborative effort of this type is that the program partners may not fulfill their roles and responsibilities.

Risk Mitigation Measures:

To address the above risk, County Counsel working with the participating counties developed a comprehensive Multi-County Agreement. The Agreement covers 17 areas of interest, including term, administration, ownership, cost and modifications.

Financial Analysis:

On February 5, 2008 the County of Orange acquired the ownership rights to a Statewide Electronic Courier Universal Recording Environment (SECURE) system at a cost of $2.52 million. Each of the participating counties will initially pay one-fourth of the system acquisition cost which is $630,000 plus $100,000 for the first year of maintenance. Subsequent yearly maintenance of $100,000 will be paid by each of the participating counties, plus their equal share for any system enhancements.

The aggregated amount for the full term of this agreement will be $1,630,000 (initial cost $730,000 plus 9 years maintenance at $100,000 per year).

The RR/CC is also required to pay the Department of Justice a fee up to $1.00 for each recorded document for participation in the State's electronic recording system. The RR/CC expects that all of the on-going costs will be covered by the $1.00 surcharge assessed on recorded real property documents.

CIO Concerns:

None.

CIO Recommendations:

Based on our review of the Board Letter and discussions with the Department, this Office recommends approval of the Multi-County Agreement and related recommended actions.

CIO APPROVAL

Date Received: September 8, 2008

Prepared by: Henry Balta

Date: September 25, 2008

Approved: Richard Sanchez

Date: 9-25-2008

Attachment I

Ordinance

ANALYSIS

This ordinance amends Title 2 – Administration, Chapter 2.32 of the Los Angeles County Code by establishing section 2.32.085, Filing instruments and records – Electronic recording delivery system fee, which authorizes the county to impose a fee in an amount up to and including one dollar ($1.00) for each instrument that is recorded by the county to pay the costs of the electronic recording delivery system; the review and approval of vendors and potential authorized submitters; security testing required by the statute and Attorney General regulations; and reimbursement to the Attorney General for regulation and oversight of the electronic recording delivery system.

Government Code section 54985 authorizes the Board of Supervisors to set a fee that is otherwise authorized to be levied by another provision of law in the amount reasonably necessary to recover the cost of providing any product or service. Government Code section 27397(c)(1) authorizes a county to impose a fee up to and including one dollar ($1.00) for each instrument recorded to pay the costs associated with the electronic recording delivery system.

RAYMOND G. FORTNER, JR.
County Counsel

By

PATRICE J. SALSEDA
Deputy County Counsel
Government Services Division

PJS:er
08/27/08 (Requested)
09/09/08 (Revised)

ORDINANCE NO. _____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the recording fees charged to the public by the Registrar-Recorder/County Clerk.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.32.085 is hereby added to read as follows:

2.32.085 Filing instrument and records – Electronic recording delivery system fee.

A $1.00 fee is imposed for each instrument that is recorded by the registrar-recorder/county clerk to defray the costs required to implement and maintain the electronic recording delivery system. This fee shall be in addition to any other fees provided by this Chapter 2.32, or as otherwise provided for by statute.

[232085PSCC]

Attachment II

Multi-County Agreement

MULTI-COUNTY AGREEMENT BETWEEN THE COUNTIES OF LOS ANGELES, ORANGE, RIVERSIDE AND SAN DIEGO FOR THE SHARED OWNERSHIP AND ONGOING MAINTENANCE OF AN ELECTRONIC RECORDING DELIVERY SYSTEM

This Multi-County agreement ("Agreement") is made and entered into on the 19th day of August, 2008, between the **Counties of Los Angeles, Orange, Riverside and San Diego,** ("Counties") political subdivisions of the State of California.

RECITALS

WHEREAS, Assembly Bill 578 (Stats. 2004, Ch. 621, sec. 2), known as the Electronic Recording Delivery Act of 2004, set forth at Title 3, Division 2, Part 3, Chapter 6, Article 6 of the California Government Code (section 27390 et. seq.), authorizes County Recorders in California to accept digitized electronic records and certain digital electronic documents for recordation pursuant to the provisions and regulations being developed by the Department of Justice; and

WHEREAS, the Counties to this Agreement wish to share in the ownership and ongoing maintenance of an electronic recording delivery system, where authorized submitters (title insurer, underwriter title company, institutional lender, and government entities) would have single points of submission with the ability to submit documents to multiple counties;

NOW THEREFORE, the Counties, above mentioned, for and in consideration of the mutual promises and agreements herein continued, do agree to the following:

AGREEMENT

1. **Statement of Purpose:**

The purpose of this agreement is to allow the Counties to share in the ownership, cost and maintenance of a multi-county electronic recording delivery system. It will be more cost effective for each County to participate in a cooperative system as opposed to purchasing and maintaining a separate system. The electronic recording delivery system has the ability to facilitate access and communication with certain customers electronically that will enable each County's recording process to be more efficient and timely.

The "Counties" Los Angeles, Orange, San Diego and Riverside are the "Owners" of the electronic recording delivery system and any subsequent additional counties are considered the "Participants."

2. **Term:**

The term of this Agreement shall commence upon execution thereof by the Counties and shall continue in effect for a period of five (5) years and will automatically renew for an additional five (5) year period unless terminated or extended as provided herein. The Counties may further extend the term by written agreement

3. **Administration:**

(a) Each party agrees to assign the County of Orange as the Lead County ("Lead County"). The powers, duties and responsibilities of the Lead County are set forth in Exhibit A.

(b) The Lead County will coordinate the service preferences of the Agreement and enable implementation, training, hosting and support of a system known as the Statewide Electronic Courier Universal Recording Environment, "SECURE," which will be compliant with the Electronic Recording Delivery Act of 2004 (AB 578).

(c) The Counties shall each have an equal vote in any decision, including but not limited to, enhancements, modifications and maintenance to the system. The County Recorder or his/her designee shall be deemed the appointed representative of each County to exercise its vote under this Agreement. All voting powers shall reside with the Counties.

(d) SECURE shall be the propriety software used by the Counties.

4. **Ownership:**

(a) Each County shall have an equal share of all rights, title and ownership interest(s), (including but not limited to copyright), in the SECURE system.

(b) The original and any copies of the SECURE software, (including source code), in whole or in part, are and will remain the property of the Counties, and this will be reflected in any agreement with vendors.

(c) Unless otherwise agreed upon by the Counties, all software and related work to be provided by any vendor shall be the sole property of the Counties.

(d) Any vendor hired to modify, enhance, and maintain the software shall have no ownership interest in any software or related work.

(e) Upon majority approval by the Owners, the Lead County shall have the right to transfer and/or distribute software to any other office of the County Recorder within the State of California as "Participants."

5. **Cost**:

(a) The County of Orange shall pay the initial acquisition cost of $2.52 million dollars. Each County that is a party to this Agreement shall pay an equal share of the initial acquisition costs and annual direct maintenance costs, as provided for in Exhibit B and Exhibit C. Exhibit C applies only to the County of Riverside.

(b) Each County shall deposit their share of the initial acquisition cost and first year's annual support costs of this Agreement in a project account to be established in the name of the Lead

County within sixty (60) days of the effective date of this Agreement. Lead County may only make disbursements from this account with majority approval of the Counties.

(c) The Lead County shall provide to the Counties copies of all billings submitted by and all payments made to any provider of services under this Agreement.

(d) The annual costs which include any adjustments and/or enhancement costs will be reviewed by the Lead County, shared with the other Counties, and adjusted annually as provided for in Exhibit B.

6. **Termination**:

A county may withdraw from the Agreement upon providing sixty (60) days written notice to the other Counties; however, the accumulated capital contribution of the withdrawing county shall remain in the project account for SECURE system use without compensation to the withdrawing county. Each withdrawing county shall remain liable for and shall pay its proportional share of any indebtedness incurred before withdrawing. The withdrawing county shall not be entitled to a credit or refund for any sums paid under this Agreement. The withdrawing county shall not otherwise effect this Agreement.

7. **Indemnification**:

(a) Except as provided in section 7(b), in lieu of and not withstanding the *pro rata* risk allocation which might otherwise be imposed between the Counties pursuant to Government Code section 895.6, the Counties agree that all losses or liabilities incurred by a county shall not be shared *pro rata*, but instead the Counties agree that, pursuant to Government Code section 895.4, each of the Counties hereto shall fully indemnify and hold each of the other Counties, their officers, board members, employees and agents harmless from any claim, expense or cost (including attorney's fees), damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of that County's negligent acts, omissions, or willful misconduct of its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such county under this Agreement. Except as provided in Section 7(b), no county, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other Counties hereto or any provider of SECURE, and their board members, employees or agents, under or in connection with or arising out of the Agreement. It is further understood and agreed the indemnification herein extends to and includes liability which arises by operation of law as the result of any act, omission or occurrence related to this Agreement, or which arises from the work performed relative to this Agreement. Should the legality of this Agreement be challenged, the Counties shall equally share the cost of defense, litigation and any damages award.

(b) Notwithstanding any other provision in this MOU and to the fullest extent allowed by law, the County of Orange shall indemnify, defend and hold harmless the other parties to the MOU and their information and technology vendors (collectively "other parties") from and against any and all claims, demands, suit actions, proceedings, judgments, losses, damages, injuries, penalties, costs (including attorney's fees), expenses and liabilities resulting from a

claim that the SECURE system, in whole or in any part, that is in existence at the time of the execution of this Agreement infringes the intellectual property rights of any third party, including without limitation copyrights, patents, or trademarks. If the SECURE system or any part thereof that is in existence at the time of the execution of this Agreement is held to infringe upon any patent, trademark, copyright, trade secret or other intellectual property or proprietary right of any third party, and other parties' use of the system or any other part thereof, is enjoined or interfered with in any manner, then the County of Orange, at its option, within ninety (90) calendar days of such injunction or interference may: (a) procure for other parties' the right to continue using the system free of any liability for infringement or violation; (b) replace or modify the system with a non-infringing system or product equivalent or better functionality; or (c) in the event the County of Orange is unable, after exercising its best efforts to implement one of the options set forth in subsection (a) or (b) above, accept the return of the system at the County of Orange's sole cost and expense and refund to all other parties an amount equal to the total amount paid by the other parties to the County of Orange for the system less the value attributed to the other parties' use of the system. The value attributed to the other parties' use of the system is the pro-rated amount of the acquisition cost as determined by the number of years the other parties had use of the SECURE system over the expected ten year term of this Agreement. For example, if the other parties had use of the SECURE system for three years at which time the system is deemed infringing and the County of Orange issues a refund under this provision, the other parties would receive a refund of seventy percent of their acquisition costs. Maintenance costs are not to be calculated into the refund amount.

8. **Cooperation of parties:**

The Counties recognize that full cooperation is essential in handling of data and information contemplated by this Agreement. Unless otherwise provided by law, the Counties agree to provide any data, information, and documentation reasonably necessary to the performance of this Agreement.

9. **Modification:**

No exceptions, alternatives, substitutes or revisions are valid or binding unless authorized by the Counties in writing.

In the event that a significant system modification is needed, upon majority approval, all Counties shall pay an evenly divided portion of the modification costs.

In the event that a system modification is needed, and the modification be deemed "significant," as referred to in California Code of Regulations, Title 11, Division 1, Chapter 18, Article 6, section 999.167, all Counties to this Agreement shall pay an evenly divided portion of their certification costs to the State of California Attorney General.

10. **Additional parties**:

Additional counties may participate in the use of the SECURE system upon majority approval of the Counties. Participants will be added by use of a separate Memorandum of Understanding Agreement

created and approved by the Counties. In addition, fees for use of the system by Participants shall be determined and imposed by the Counties.

11. **Successors and assigns**:

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Counties.

12. **Assignment**:

This Agreement shall not be assigned by a county, either in whole or in part, without prior written consent of all Counties. Any assignment or purported assignment of this Agreement by a county without the prior written consent of all Counties will be deemed void and of no legal force or effect.

13. **Review for legal adequacy**:

Each County acknowledges and agrees that this Agreement has been reviewed and approved as to form by each County's respective legal counsel.

14. **Governing laws and venue:**

This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California and the Counties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

15. **Waiver**:

No waiver of the breach of any of the covenants, agreements, restrictions, or conditions of this Agreement by any County shall be construed to be a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. No delay or omission of any County in exercising any right, power or remedy herein provided in the event of default shall be construed as a waiver thereof or acquiescence therein, or be construed as a waiver of a variation of any of the terms of this Agreement.

16. **Severability**:

If any term or portion of this Agreement is held to be invalid, illegal, void or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

17. **Notices:**

All notices, billings, or other communications provided for in this Agreement shall be sent by postage prepaid first class mail to the respective Counties as provided in this paragraph.
The County of Los Angeles:

Sharon A. Gonterman
Assistant Registrar-Recorder/County Clerk
12400 Imperial Highway, Room 5013
Norwalk, CA 90650
(562) 462-2073

The County of Orange:

Renee Ramirez, Orange County Assistant Clerk-Recorder
Hall of Finance and Records
12 Civic Center Plaza, Room 101
Santa Ana, CA 92701
(714) 834-2248

The County of Riverside:

Bobbi Schutte, Chief Deputy Assessor-County Clerk Recorder
2724 Gateway Drive
Riverside, CA 92507
(951) 486-7103

The County of San Diego:

Diana Bradrick, San Diego County Chief Deputy Recorder
1600 Pacific Highway, Room 260
San Diego, CA 92101
(619) 531-5236

18. **Signature in Counterparts**:

This Agreement may be executed in counterparts by all Counties. The Agreement is in effect as to any signatory party on execution and, for purposes of enforcement, true copies of signatures shall be deemed to be original signatures.

IN WITNESS WHEREOF, the Counties hereto have caused this Agreement to be executed and attested to by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

THE COUNTY OF LOS ANGELES:

By: Dean C. Logan

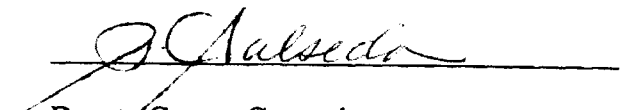
Signature: _____

Title: Los Angeles County Registrar-Recorder/County Clerk

Dated: _____

THE COUNTY OF LOS ANGELES COUNTY COUNSEL:

Approved as to form by: Patrice Salseda

Signature: 

Title: Deputy County Counsel

Dated: July 23, 2008

Approved by the County of Los Angeles Board of Supervisors on: _____

18. **Signature in Counterparts**:

This Agreement may be executed in counterparts by all Counties. The Agreement is in effect as to any signatory party on execution and, for purposes of enforcement, true copies of signatures shall be deemed to be original signatures.

IN WITNESS WHEREOF, the Counties hereto have caused this Agreement to be executed and attested to by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

THE COUNTY OF ORANGE:

By: Tom Daly

Signature: Tom Daly

Title: Orange County Clerk-Recorder

Dated: 8-22-08

THE COUNTY OF ORANGE COUNTY COUNSEL:

Approved as to form by: Karen R. Prather

Signature: Karen R. Prather

Title: Senior Deputy County Counsel

Dated: July 17, 2008

Approved by the County of Orange Board of Supervisors on: 8/19/08

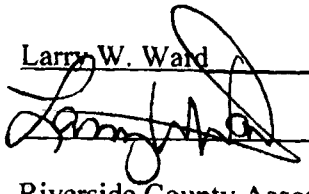
18. **Signature in Counterparts**:

This Agreement may be executed in counterparts by all Counties. The Agreement is in effect as to any signatory party on execution and, for purposes of enforcement, true copies of signatures shall be deemed to be original signatures.

IN WITNESS WHEREOF, the Counties hereto have caused this Agreement to be executed and attested to by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

THE COUNTY OF RIVERSIDE:

By: Larry W. Ward

Signature: 

Title: Riverside County Assessor-County Clerk-Recorder

Dated: 8-29-08

THE COUNTY OF RIVERSIDE COUNTY COUNSEL:

Approved as to form by: Dorothy Hom

Signature: Dorothy Hom

Title: Deputy County Counsel

Dated: 7-22-08

Approved by the County of Riverside Board of Supervisors on: 7-22-08

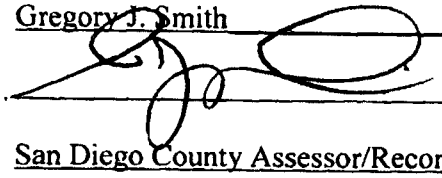
18. **Signature in Counterparts**:

This Agreement may be executed in counterparts by all Counties. The Agreement is in effect as to any signatory party on execution and, for purposes of enforcement, true copies of signatures shall be deemed to be original signatures.

IN WITNESS WHEREOF, the Counties hereto have caused this Agreement to be executed and attested to by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

THE COUNTY OF SAN DIEGO:

By: Gregory J. Smith

Signature: 

Title: San Diego County Assessor/Recorder/County Clerk

Dated: 9-22-08

THE COUNTY OF SAN DIEGO COUNTY COUNSEL:

Approved as to form by: Walter de Larroll

Signature:

Title: Sr. Deputy County Counsel

Dated: 7/24/08

Approved by the County of San Diego Board of Supervisors on: 9-16-08

EXHIBIT A

Responsibilities

The County of Orange, as the Lead County, shall perform the following functions:

1. Acquire all ownership rights to SECURE, which will be AB 578 compliant, and utilize guidance from nationally recognized standard setting bodies, which adheres to applicable Federal and State laws;

2. Ensure SECURE will support vendor specific connections to county back end users;

3. Supply Electronic Recording Application Program Interface (API) document to potential partners;

4. Implement, train, host, support and manage ongoing system operations and support capabilities for SECURE;

5. Work with potential submitters to install software and provide training;

6. In collaboration with San Diego, Riverside and Los Angeles counties, promote the SECURE system to other counties and authorized submitters;

7. Manage the SECURE accounts (approval/denial/suspension) for all county administrators;

8. Encourage the widespread adoption of the SECURE system;

9. Provide a mechanism for additional counties to join as Participants of SECURE on a ongoing fee basis;

10. Perform such other functions as are required to accomplish the purpose of this Agreement;

11. Serve as a liaison with the Office of the California Attorney General and the Counties to ensure that all standards are being met;

12. Select and manage server hosting facilities based on security, disaster survivability, and business continuity requirements;

13. Manage installation testing, and final acceptance of SECURE system modification/enhancements;

14. Work with the Counties and Participants to achieve certification of system;

15. Develop ongoing system management procedures and policies; and

16. Develop and manage process for system upgrades, enhancements, and support.

Powers

With the approval of the Counties, the Lead County shall have the authority to:

a. Employ agents and employees;

b. Make and enter into contracts for support and maintenance; and

c. Perform all other acts reasonable and necessary to carry out the purpose of this Agreement.

EXHIBIT B

Costs

The Lead County, shall:

a. Receive and receipt for all money of SECURE and place it in a special established fund designated solely to SECURE;

b. Be responsible upon his or her official bond for the safekeeping and disbursement of all SECURE money held by him or her;

c. Annually collect the direct maintenance costs for SECURE for each County. The initial annual direct maintenance cost is estimated at $100,000 per County;

d. Review the annual costs for SECURE, to include any adjustment and/or enhancement costs, provide the results of the review to the Counties, and adjust them annually to only include direct costs;

e. Disburse, when due, out of SECURE funds, all sums payable on outstanding bills and money owed approved by the Counties;

f. Issue checks to pay demands against SECURE which have been approved by the Counties;

g. Be responsible on his or her official bond for his or her approval of disbursement of SECURE money;

h. Keep and maintain records and books of accounts on the basis of the uniform classification of accounts adopted by the State Controller (the books of accounts shall include records of assets, liabilities and of contributions made by each party); and

i. Cause to be made an annual audit of the accounts and records of SECURE as prescribed in California Government Code sections 6505 and 26909.

EXHIBIT C

Riverside County shall deposit its share of the first year's annual support costs of this Agreement in a project account to be established in the name of the Lead County within sixty (60) days of the effective date of this Agreement. Riverside County shall also deposit its share of the initial acquisition cost incrementally, upon the occurrence of the following milestones:

1. The sum of $100,000 within sixty (60) days of the effective date of this Agreement.

2. The sum of $200,000 upon the mutual satisfaction of the Lead County and Riverside County of the development of the tasks and responsibilities as set out in the *ERDS Baseline Requirements and Technology Standards Matrix.*

3. The sum of $200,000 when the SECURE system in Orange County is Certified by the California Attorney General.

4. The final payment of $130,000 when the SECURE software is installed and operational in
Riverside County and has been Certified by the California Attorney General.

5. All of the afore-mentioned sums may be disbursed by the Lead County with approval of the Counties.

Attachment III

August 30, 2005 Board Letter
Resolution for Participation in California Electronic Recording

COUNTY OF LOS ANGELES
REGISTRAR-RECORDER/COUNTY CLERK
12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024

CONNY B. McCORMACK
Registrar-Recorder/County Clerk

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

66 AUG 30 2005

Violet Varona-Lukens
VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

August 30, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

RESOLUTION FOR PARTICIPATION IN THE STATE OF CALIFORNIA ELECTRONIC RECORDING DELIVERY ACT OF 2004
(All Districts) (3 Votes)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt a resolution (Attachment I) approving the County of Los Angeles (County) participation in the State of California Electronic Recording Delivery Act of 2004 as enacted by Assembly Bill No. 578; and authorize the Registrar-Recorder/County Clerk (RR/CC), or her designee, to execute a Memorandum of Understanding (MOU) substantially similar to Attachment II with the California Department of Justice (DOJ) for County participation in the Electronic Recording Delivery System.

2. Authorize the RR/CC, or her designee, to amend or terminate the MOU as needed provided that County Counsel approval is obtained prior to executing an amendment or termination.

3. Authorize the RR/CC, or her designee, to negotiate and execute Submitter Agreements, in accordance with the rules and regulations established by the California Attorney General for use with Title companies and lending institutions who wish to submit Real Property records electronically, providing County Counsel reviews said Submitter Agreement and approval as to form is obtained.

4. Pursuant to Government Code section (GC) 27397(c) (2) & (3), authorize the RR/CC, or her designee, provided that approval by the Board of Supervisors is obtained and the matter is brought before a public hearing, to 1) impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and 2) impose a fee upon any person seeking a Submitter Agreement

5. Delegate the authority to the RR/CC, provided that approval by the Board of Supervisors is obtained and the matter is brought before a public hearing, to assess a statutory surcharge on recorded Real Property instruments and to increase or decrease the fee as needed, up to a maximum charge not to exceed one dollar ($1.00) per document to offset the cost of the Electronic Recording Delivery System.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to allow the County participation in the California Electronic Recording Delivery System. Participation in the program will enable the County to improve and modernize its systems of recording and handling Real Property instruments by permitting the electronic delivery, recording and return of specified instruments.

Implementation of Strategic Plan Goals

This request supports the County Strategic Plan as follows:

Goal No. 3: Organizational Effectiveness: Ensure that service delivery systems are efficient, effective, and goal-oriented. Approval of the recommended action will convert the current manual paper-based system of recording Real Property instruments to an electronic recording delivery system which will greatly improve efficiency and effectiveness, and service delivery to County residents

FISCAL IMPACT/FINANCING

Pursuant to AB 578, GC 27393 requires the Attorney General to develop regulations for review, approval and oversight. GC 27397 requires any county establishing an E-recording system to pay the Attorney General for cost of regulations and oversight and allows county recorders to establish a new fee up to one dollar ($1.00) per recorded document to cover cost to Attorney General, E-recording system, the review and approval of vendors and authorized submitters, and security testing. The total fees assessed by a county can not exceed the reasonable cost for maintaining the system and Attorney General oversight.

The initial cost to the County to participate in the Electronic Recording Delivery System, which was determined by the total number of Real Property instruments recorded during the 2004 calendar year, is $252,249. The 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. There is no impact to the NCC.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

AB 578 was signed into law on September 21, 2004 and took effect immediately. The legislative action authorized county recorders to establish electronic recording systems for the electronic recording of Real Property instruments and requires the Attorney General to develop regulations for review, approval and oversight of the program. AB 578 requires an MOU by participating counties; approval by resolution of the Board of Supervisors; and requires interested counties to submit a Letter of Intent. As such, RR/CC submitted the Letter of Intent (Attachment III) on June 17, 2005 as a notice of interest to participate in the program.

In September 2005, the DOJ will mail an MOU substantially similar to Attachment II to counties that submitted a Letter of Intent. The terms of the MOU are negotiable to meet the specific needs of each participating county. RR/CC will work with County Counsel to ensure County requirements are met and secure County Counsel approval as to form prior to submitting MOU to DOJ. The final signed MOU is due to the DOJ on October 14, 2005.

The Chief Administrative Office has reviewed and approved this Board letter. County Counsel has reviewed this Board letter and approved as to form the attached resolution.

IMPACT ON CURRENT SERVICES

Approval of the recommended action will provide a fast, efficient, and effective method of recording Real Property instruments to better serve County residents.

CONCLUSION

Upon approval of the recommendation, it is requested that the Executive Officer/Clerk of the Board return one originally stamped copy of the adopted Board letter to:

County of Los Angeles
Registrar-Recorder/County Clerk
12400 Imperial Highway, Room 7201
Norwalk, CA 90650

Attention: Ngozi Ume
Head, Management Services

Respectfully submitted,

CONNY B. McCORMACK
Registrar-Recorder/County Clerk

CBM:NU:rl

Attachment (3)

c: Chief Administrative Officer
County Counsel

Attachment I

RESOLUTION OF THE COUNTY OF LOS ANGELES BOARD OF SUPERVISORS APPROVING THE COUNTY OF LOS ANGELES PARTICIPATION IN THE ELECTRONIC RECORDING DELIVERY ACT OF 2004

RESOLUTION OF THE COUNTY OF LOS ANGELES BOARD OF SUPERVISORS APPROVING THE COUNTY OF LOS ANGELES PARTICIPATION IN THE ELECTRONIC RECORDING DELIVERY ACT OF 2004

WHEREAS, California Assembly Bill No. 578 of 2004 has been enacted to authorize a county recorder to establish an Electronic Recording Delivery System for the recording of specified digitized and digital electronic records; and

WHEREAS, said legislation requires a resolution from the County of Los Angeles Board of Supervisors to authorize County participation in the Electronic Recording Delivery System; and

WHEREAS, AB 578, GC 27397 authorizes a county recorder to impose a fee in an amount up to and including one dollar ($1) for each Real Property instrument that is recorded by county; and

WHEREAS, AB 578, GC 27397 (c) (2 & 3) authorizes a county recorder to impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and upon any person seeking a Submitter Agreement; and

WHEREAS, the California Attorney General has been delegated the authority and responsibility for establishing regulations and the regulation and oversight of the Electronic Recording Delivery System; and

NOW, THEREFORE, BE IT RESOLVED that the County of Los Angeles Board of Supervisors:

1. Approves the County participation in Electronic Recording Delivery Act of 2004;

2. Appoints the County of Los Angeles Registrar-Recorder/County Clerk, or her designee, as agent to conduct all negotiations and execute and submit all documents which may be necessary for the completion of the aforementioned project.

3. Approves the County of Los Angeles Registrar-Recorder/County Clerk, or her designee, as agent, to impose a fee to be adopted by the Board of Supervisors and after a public hearing, in an amount up to and including one dollar ($1) for each Real Property instrument that is recorded by the County.

4. Approves the County of Los Angeles Registrar Recorder/County Clerk, or her designee, as agent to impose a fee to be adopted by the Board of Supervisors and brought before a Public Hearing, upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and to impose a fee upon any person seeking a Submitter Agreement.

5. Approves the County of Los Angeles Registrar Recorder/County Clerk, or her designee, as agent to issue payments to the California Attorney General through the Department of Justice for County's allocated share of the direct cost of program oversight.

The foregoing resolution was on the _____ day of August, 2005, adopted by the Board of Supervisors of the County of Los Angeles and ex-officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

VIOLET VARONA-LUKENS, Executive
Officer-Clerk of the Board of Supervisors
of the County of Los Angeles

By:_____
Deputy

APPROVED AS TO FORM:

BY THE OFFICE OF COUNTY COUNSEL
RAYMOND G. FORTNER JR, County Counsel

By_____
Derrick Au
Senior Deputy County Counsel

Electronic Recording Delivery System
Costs for Developing and Implementing Regulations
Memorandum of Understanding

NOTE: Each county's Memorandum of Understanding (MOU) will be written to meet their individual county needs, including for multiple years

Parties

This Memorandum of Understanding (MOU) is between the California Department of Justice, hereinafter, referred to as "DOJ" and the County of _____, hereinafter referred to as "County."

Purpose

The purpose of this MOU is to comply with the Electronic Recording Delivery Act of 2004 (Gov. Code, §§ 27390-27399; "Act")[1] It is the intent of the Legislature "to develop a system to permit the electronic delivery; recording, and return of instruments affecting right, title, or interest in real property." (Stats. 2004, ch. 621, § 1, subd. (a).) The purpose of the electronic recording delivery system is to enable the County to improve: and modernize the counties' systems for recording and handling documents by permitting the electronic delivery, recording and return of specified instruments.

Acknowledgments

Both County and DOJ acknowledge that under the Act specific statutory duties must be performed *before* a county puts its electronic recording system into operation. For example, the Attorney General must adopt regulations "for the review, approval, and oversight of electronic recording delivery systems" (§ 27393); evaluate and certify the system selected by each county (§§ 27391, subd. (a); 27392, subd. (a)); "approve software and other services" (§ 27392, subd. (b)); establish a list of approved computer security auditors (§ 27394), after conducting criminal background checks (§ 27395); and certify that each county's submission method will be secure (§ 27397.5, subd. (d)). These initial duties of the Attorney General bring with them "start up" costs--costs that cannot be adequately met by the Act's scheme of generating revenue through the collection of recording fees authorized in section 2739. Furthermore, each county is responsible for paying the costs of developing, operating, and monitoring its electronic recording system. (§ 27397, subd. (a).) :

"(a) A county establishing an electronic recording delivery system under this article *shall pay for the direct cost of regulation and oversight by the Attorney General."*

[1] Hereafter, references to the Government Code are by section number only.

Agreement

DOJ and County hereby consent and agree that County will pay DOJ for an allocated share of the direct cost of developing and implementing regulations and other costs in support of the Electronic Recording Delivery Act (ERDA) of 2004, as set forth in Article 6 (commencing with Section 27390) to Chapter 6 of Division 2 of Title 3. The development of regulations is being pursued to enable the Attorney General to provide review, approval and oversight of electronic recording delivery systems.

General Provisions

County agrees to pay DOJ for an allocated share of the direct costs of developing and implementing regulations which may include all or part of the following direct costs: staff, consultant, and vendor costs for program development and implementation including hearings, meetings, travel, site visits, minutes, mailing, legal review of regulations, procedure and forms development, advertisement, and drafting and writing of regulations. Continuation of this Memorandum of Understanding beyond the first year will allow the DOJ to issue a new estimated cost figure for the next fiscal year without the necessity of a new Letter of Intent from the County. Continuation of this Memorandum of Understanding beyond the first year shall allow the DOJ' to include the cost of regulation and oversight.

County to County Formula

The direct cost of establishing the regulations and regulation and oversight is allocated to each county by the total documents recorded and filed as reported to the Office of the Insurance Commissioner, as provided in Government Code section 27296, for the previous year. The formula to determine a county's proportionate cost is set by the total documents recorded and filed per individual counties divided by the total documents recorded and filed by all participating counties. The percentage figure obtained for each county is applied to the estimated annual costs of the Attorney General to arrive at an individual county figure.. .

Estimated Cost of the Attorney General

The estimated costs of the Attorney General are those costs projected to be incurred in the next fiscal year and the costs incurred to date in establishing the regulations. County agrees to pay the DOJ for actual expenditures incurred and in accordance with the estimated costs specified herein, which is attached hereto and made a part of this MOU. The County shall annually provide the total documents recorded and filed as reported to the Office of the Insurance Commissioner, as provided in Government Code section 27296, for the previous year. The DOJ shall issue an annual estimated cost to the County based on the Cost to County Formula. The estimated cost to the County will be incorporated herein by reference.

Payback and/or Carry Over

If the actual costs exceed the estimated costs, the parties will amend this MOU to capture the additional costs. If the total actual costs are less than the estimated costs, DOJ will provide a refund to the County or allow for a carry over and credit toward the next Fiscal year at the County's discretion.

DOJ Reporting

DOJ shall report to the County every ninety (90) days on the expenditures made by the DOJ in developing and implementing regulations.

Payment

County shall pay to DOJ a lump sum of the estimated cost to the County, as incorporated herein by reference, toward the direct cost to be incurred by DOJ. Said lump sum payment to be delivered to DOJ within thirty (30) days of execution of the MOU. Payments to DOJ shall be deposited in the Electronic Recording Authorization Account, which is hereby created in the Special Deposit Fund.

Payment shall include a reference to this MOU and shall be made to:

California Department of
Justice Accounting Office
1300 I Street
Sacramento, CA 95814

Term of MOU

The term of this MOU will be from the date this MOU is signed by the DOJ and County MOU representatives until the end of the next fiscal year. An MOU will automatically renew unless one or both parties object or there are modifications to the MOU which would require mutual agreement and signatures by both parties.

A County Recorder reserves the right to terminate this MOU upon thirty (30) days written notice to the DOJ, however, no refund of start-up costs for establishing the regulations will be granted. Refunds of payment toward regulation and oversight will be prorated as incurred in the fiscal year at the time of termination. Upon termination of the Memorandum of Understanding without the mutual intent of the parties to renew, the County Recorder shall cease operation of its electronic recording delivery system.

MOU Representatives

The MOU representatives during the term of this MOU will be:

County of Name: Phone: Fax: E-mail:	Department of Justice Name: Paul Pane Phone: (916) 227-4705 Fax: (916) 227-2545 E-Mail: paul.pane@.doj.ca.gov

Agreed and Accepted

Certification of MOU Representatives

I certify that I have read and understand the aforementioned statements and agree to comply with the requirements contained herein:

County of Registrar-Recorder/County Clerk
Name:

Signed:_____

Dated: _____

Department of Justice
Name: Paul Pane

Signed: _____

Dated: _____

Attachment: Estimated Costs: Attachment 1

Attachment IV

April 1, 2008 Board Letter
CEO Information Technology Fund Allocations

County of Los Angeles
CHIEF EXECUTIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

April 1, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

CHIEF EXECUTIVE OFFICE INFORMATION TECHNOLOGY FUND ALLOCATIONS (ALL DISTRICTS AFFECTED) (4 VOTES)

SUMMARY

A Chief Executive Office (CEO) Information Technology (IT) Fund of $25 million was established in July 2007 to provide departments with one-time funding for creative, innovative IT projects that improve the efficiency and effectiveness of County programs and services. In October 2007, the CEO invited departments to submit projects for funding. A total of 92 projects were submitted by departments. After reviewing the various projects, ten projects were initially recommended for funding. Two projects (Board of Supervisors, Executive Office Board Room and Kiosks) were approved in the mid-year Budget Adjustment. The remaining eight projects are covered in this letter (totaling $8.7 million). The purpose of the recommended action is to obtain Board approval to transfer funding from the Designation for Information Technology to the appropriate budget units to implement the recommended projects.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve an Appropriation Adjustment for the Fiscal Year 2007-08 Adopted Budget to transfer $8,684,000 from the Designation for Information Technology Enhancements to the appropriate budget units to implement information technology projects recommended by the Chief Executive Office that improve countywide operations.

JUSTIFICATION OF RECOMMENDED ACTION

The recommended projects will provide important public benefits, including improved public access to services, increased operational efficiencies, and potential multi-department applications. In addition, the recommended IT projects effectively utilize the integrated system of service delivery and demonstrate the value of department collaboration to achieve cost savings through improved operations and service delivery from a countywide perspective.

Implementation of Strategic Plan Goals

The recommended action is consistent with the County's Strategic Plan Goal No. 3, Organizational Effectiveness, which is to ensure that service delivery systems are efficient, effective, and goal-oriented. In addition, as the projects span each of the County's programmatic service areas, the recommended action will also serve to bolster and improve service delivery consistent with the Programmatic Strategic Plan Goals.

FISCAL IMPACT/FINANCING

The funds are currently in a general fund designation. This is one-time funding for projects that are outside of the regular budget requests. Ongoing maintenance costs will be met using existing department operational budget and staffing allocated to IT maintenance.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The recommended projects are listed in the table below, totaling $8,684,000. The attached provides further detail on each recommended project. Additional projects are still under consideration for funding, and we will return to your Board later in the fiscal year with further recommendations, as appropriate.

RECOMMENDED PROJECT	DEPARTMENT	PROJECT COST
Alternate Public Defender, District Attorney, and Public Defender - Remote Access/WiFi Pilot Program	Information Systems Advisory Body (ISAB)	$2,695,000
Sheriff, Probation, and Fire Department - Automated Employee Scheduling System Pilot Program	Sheriff	$1,000,000
New County Emergency Management System	CEO, Office of Emergency Management	$1,000,000
Unified Directory	Public Health	$270,000
Los Angeles County Housing Resource Center - Expansion Project	Community Development Commission	$739,000
Seamless Cadastral Landbase	Public Works	$2,000,000
Los Angeles, Orange, San Diego, and Riverside Counties - Multi-County Electronic Recording Delivery System	Registrar-Recorder/ County Clerk (RR/CC)	$730,000
New Financial Forecasting Tool	CEO, Budget	$250,000
		$8,684,000

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The recommended projects will impact current services by:

- **Providing access to department databases and network resources remotely to better serve clients in the field.** For example, the Remote Access/WiFi Pilot Program will allow attorneys to access department network resources while at the courthouse representing or meeting with clients.

- **Improving information sharing with other agencies.** For example, the new County Emergency Management System will coordinate the County's emergency response and provide information sharing with local, State, and Federal agencies. The Housing Resource Center expansion will increase information sharing among homeless shelters and databases for all County departments to utilize. The RR/CC eRecording System will automate manual record keeping and provide information sharing with other counties in the Southern California region making it easier for the public and businesses to track land records.

- **Expanding existing Web-based systems and replacing outdated systems to increase and improve functionality.** For example, the Unified Directory will replace the existing system with a unified network directory infrastructure, thereby providing a single point of management.

- **Performing complex analysis in a more timely and accurate manner.** The New Financial Forecasting Tool will provide the ability to perform complex multi-year forecasting and budget scenarios that will improve the timing and accuracy of financial forecasts.

The operational improvements, as well as improved services provided and program participation, will be measured and tracked. Departments will provide baseline measures of current operations. From these baseline measures, improvements will be projected as quantifiable targets, expected outcomes, and estimated cost savings, as applicable. Process improvements, such as enhanced workflow, improved efficiencies, and streamlined processes will be tracked and reported.

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:ES
MKZ:KJ:pg

Attachments (1)

c: District Attorney
Sheriff
Alternate Public Defender
Executive Director, Community Development Commission
County Counsel
Fire Chief
Chief Probation Officer
Public Defender
Director of Public Health and Public Health Officer
Acting Director of Public Works

CEO INFORMATION TECHNOLOGY FUND
RECOMMENDED PROJECTS

ATTACHMENT

Project	Dept	Description	Benefit	Project Cost
Remote Access/ WIFI Pilot Program (Partnership)	APD/DA/PD	DA, PD, APD partnering to install WiFi access at Clara Shortridge Foltz Criminal Justice Center. Site survey for number and location of Access points, installation of CAT 5e wiring (includes some asbestos abatement), access point procurement, installation, and testing.	1. Provides ability to remotely access existing department resources and applications including, legal research and motions, appellate legal assistance, departmental intranet sites, Internet sites, case management systems, trial preparation support (paralegals, investigators and trial notebook work), imaged documents and email. 2. Increase case preparation efficiency (less down-time) and improve the quality of representation. 3. Attorneys, investigators, social workers, and support personnel utilizing mobile technologies in the field, provide the basis for future uses of mobile technologies.	$305,000
	Alternate Public Defender	Provide attorneys WiFi access at Clara Shortridge Foltz Criminal Justice Center. Provide investigators remote access to APD's network resources while in the field. (75 laptops/software, 25 Verizon Broadband Wireless, 75 VPN, 20 Blackberrys/service, Dell Server, BES software)		$257,000
	District Attorney	Provide attorneys WiFi access at Clara Shortridge Foltz Criminal Justice Center. Expand assignment of laptops to investigators to facilitate remote access to critical criminal history information while in the field. (741 Laptops and docking stations)		$1,545,000
	Public Defender	Provide attorneys both WiFi access at Clara Shortridge Foltz Criminal Justice Center and broadband capability. Provide investigators with remote access to PD's network resources while in the field. (150 convertible tablet laptops, Broadband Access for 1 year)		$588,000
Automated Employee Scheduling System Pilot Program (Partnership)	Sheriff/Fire/ Probation	Purchase a commercial, off-the-shelf automated system to support scheduling, deployment, and time management requirements. The system will provide real-time reporting of information, increase overtime management, increase accuracy of third party contract billing, and reduce data entry activities for payroll/timekeeping personnel.	1. Reduces costs associated with current scheduling, deployment and time management requirements. 2. Reduces the complexity of scheduling, staffing errors, and number of manpower hours currently used. 3. Improves the timely access and management of available personnel during emergency responses.	$1,000,000
New County Emergency Management System	Chief Exec. Office	Purchase a new Emergency Management System to coordinate the emergency preparedness and emergency response operations of departments and agencies throughout the County.	1. Improves the reliability and security of the County's emergency management information and reduces the cost of emergency operations by streamlining the process. 2. Improves information dissemination and sharing with Federal, State, and local agencies, both critical during emergencies.	$1,000,000

CEO INFORMATION TECHNOLOGY FUND
RECOMMENDED PROJECTS

ATTACHMENT

Project	Dept	Description	Benefit	Project Cost
Unified Directory	Public Health	Establish a unified directory platform for desktop computers and applications, in order to provide a single sign-on capability and better control access to data systems containing sensitive and confidential information.	1. Eliminates redundancies, streamlines operational services (i.e. help desk, e-mail), and improves information security. 2. Facilitates enrollment of agency partners and the general public into the Health Alert Network, in order to receive critical health alerts and advisories, as well as subscribe to obtain additional health information.	$270,000
Los Angeles County Housing Resource Center – Project Expension	Community Development Commission	Expand operation features of existing web-based housing listing service and referral system to include: Shelter Bed Reservation System, universal shelter and agency registration, searchable database.	1. Provides a useable platform and searchable database of homeless shelters and services for caseworkers and housing locators working for all County departments to utilize. 2. Ability to fully integrate with other partners including the Federal Homeless Management Information System (HMIS).	$739,000
Seamless Cadastral Landbase	Public Works	Convert hand drawn maps and electronic CAD data into a GIS land management system that will store parcel information, and acquire tools to enhance the land parcel information maintenance, thereby expanding functionality and capabilities for staff and customers.	1. Reduces the time to complete Preliminary Study Maps (PSM) for road construction projects from 40 to 24 hours/map sheet. An average of three PSMs are required per project. 2. New subdivisions can be inserted immediately after recordation, providing up-to-date maps that reduce Building and Safety's research time for permits from 30 to 10 minutes. 3. Eliminates need to draft multiple data sets for jurisdictional boundaries and infrastructure, and laborious file matching process for large projects.	$2,000,000
Multi-County Electronic Recording Delivery System (Partnership)	Registrar-Recorder/ County Clerk	Purchase ownership rights to a multi-county Electronic Recording delivery system to automate document recording processes. System is hosted by Orange County and will include San Diego and Riverside County.	1. Allows the County to receive and process recorded documents through an electronic recording system. 2. Compatible with existing and recently implemented Enterprise Recording Archive (ERA) system, and will integrate into the workflow and management processes to achieve new capability.	$730,000
New Financial Forecasting Tool	Chief Exec. Office	Purchase/implement a new financial forecasting tool for the department to provide the ability to perform complex multi-year forecasting and budgeting scenarios. The system offers flexibility to easily change data, selection criteria, forecast criteria, and output format, and utilizes standardized data elements and data definitions.	1. Reduces the time needed to develop and maintain financial forecasts and data sources, while improving accuracy.	$250,000
			TOTAL	**$8,684,000**