



COUNTY OF HUMBOLDT

Legislation Details (With Text)

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On agenda: 6/8/2021 **Final action:** 6/8/2021
Title: Establish an Electronic Recording Delivery System (ERDS) and Approve a Memorandum of Understanding (MOU) with California Electronic Recording Network Authority to participate in the California Electronic Recording Network Authority (CeRTNA) Electronic Recording Delivery System

Sponsors:

Indexes:

Code sections:

Attachments: 1. Staff Report, 2. Final Intent to Participate - DOJ 21 22.pdf, 3. ERDS RESOLUTION .pdf, 4. Example - Final Intent to Participate and MOU - DOJ.pdf, 5. CeRTNA Client Tier Costs - 1-1-2021.pdf, 6. SECURE Client Tier Costs and Buy-In Fee.pdf, 7. CERTNA ERDS Client MOU-Humboldt.pdf, 8. CERTNA G2G MOU - Humboldt County.pdf, 9. Resolution 21-56.pdf

| Date | Ver. | Action By | Action | Result |
|----------|------|----------------------|----------|--------|
| 6/8/2021 | 1 | Board of Supervisors | approved | Pass |

To: Board of Supervisors

From: Clerk/Recorder

Agenda Section: Consent

SUBJECT:

Establish an Electronic Recording Delivery System (ERDS) and Approve a Memorandum of Understanding (MOU) with California Electronic Recording Network Authority to participate in the California Electronic Recording Network Authority (CeRTNA) Electronic Recording Delivery System

RECOMMENDATION(S):

That the Board of Supervisors:

1. Adopt a resolution establishing an Electronic Recording Delivery System (ERDS) for the recording of specified digitized and digital electronic records pursuant to California's Electronic Recording Delivery Act of 2004;
2. Approve and authorize the Clerk Recorder to execute a MOU and Final Intent to Participate Agreement with the California Department of Justice (DOJ) for the county's participation in the ERDS program and to pay the county's share of the DOJ's initial startup cost to develop an electronic system to permit the electronic delivery, recording, and return of real property instruments;
3. Approve and authorize the Clerk Recorder to execute a MOU with the CeRTNA, a California joint powers authority, to participate in the CeRTNA Electronic Recording

Delivery System, and payment of an annual amount not to exceed \$10,000; and

4. Approve and authorize the Clerk Recorder to execute a MOU with authorized submitters (such as title insurers and institutional lenders), in the form of a MOU approved by CeRTNA, permitting submission of real property records electronically to the Clerk Recorder.

SOURCE OF FUNDING:

Recorder Record Conversion Fund (1310)

DISCUSSION:

The Clerk Recorder seeks to implement an Electronic Recording Delivery System (ERDS) which will enable the Clerk Recorder to adapt its current manual paper-based system of recording to accept electronic submissions, greatly improving efficiency, effectiveness, and service delivery.

The Electronic Recording Delivery Act (ERDA) of 2004 (Assembly Bill 578, amending Government Code §§27390- 27399, effective September 21, 2004) authorized a Clerk Recorder, upon approval by resolution of the Board of Supervisors, to establish an Electronic Recording Delivery System (ERDS) for recording of specified digitized and digital electronic records, subject to specified conditions, including system certification, regulation, and oversight by the California Attorney General. Utilizing e-recording technology would eliminate time consuming steps in the recording process, reducing repetitive motion by staff, allowing documents to be recorded and returned to submitters within a shorter time frame, and decreasing the amount of paper generated.

The process would allow an authorized submitter to send the image of a document and related information to the Clerk Recorder's Office electronically, through a secure portal. Clerk Recorder staff would receive the document, import the information and image into the recording system, record the document, and send the recording information back to the submitter electronically through the same secure portal. Both the submitter and Clerk Recorder's Office would save time lost while the documents are in transit, and repetitive motion tasks performed by Recorder staff, such as mail opening and extracting, page counting and scanning, would be reduced.

Under the terms of ERDA both the county and the Department of Justice must perform specific statutory duties before the county puts its ERDS into operation. The regulations require extensive oversight by the Attorney General to obtain system certification and ensure ongoing compliance.

There are currently two entities offering e-recording systems certified for use by the California Attorney General and Department of Justice; the California Electronic Recording Transaction Network Authority (CeRTNA) and the Statewide Electronic Courier Universal Recording Environment (SECURE). The County received quotes from both entities, attached. The Clerk Recorder is proposing to utilize the CeRTNA system as a Client County, as opposed to SECURE, as CeRTNA has a Board of Directors on which the County may sit, no initial start-up fees, lower annual costs, and because once the CeRTNA software is installed, no further integration with the County's current recording system is needed. CeRTNA is a California Joint Powers Authority (JPA) organization that was created for the purpose of designing, developing, implementing, and overseeing on-going operation and maintenance of an ERDA-compliant ERDS. The system is used by multiple California

counties to facilitate secure electronic recording. Counties have the option of joining the JPA as a full member, sitting on the CeRTNA Board of Directors, or as Client County, a participant, but not a voting member. The County will inform CeRTNA of how many documents were e-recorded the prior year no later than February 1 annually, and pay agreed-upon fees by March 1 annually for the prior year.

Government Code section 27397 authorizes the Clerk Recorder to impose a fee in an amount up to and including one dollar (\$1) for each real property instrument that is recorded. Funds collected pursuant to said legislation may only be used for the sole purpose of supporting the Electronic Recording Delivery Act. The fee must be collected for a minimum of one year to offset implementation costs of moving forward with electronic recording.

In January of 2019 the Clerk Recorder began collecting a one dollar (\$1) fee for recording the first page of every real estate instrument, paper, or notice required or permitted by law to be recorded to be used solely for the implementation and ongoing operation of an ERDS as provided in the Electronic Recording Delivery Act of 2004.

The recording fees designated for the ERDS collected since January 2019, will offset the cost of the program. The annual cost to participate in CeRTNA as a client county is based on the total number of documents recorded in the prior year at a cost of .20 cents per title if the total number of documents recorded is below 25,000, or .25 cents per title if the total number of documents recorded is above 25,000. Humboldt County recorded a total of 23,574 documents in 2019, and 25,779 documents in 2020. Though the number cannot be predicted, for the calendar year 2021, the anticipated annual cost of participation in CeRTNA is expected to be between \$4,800 to \$6,250. This annual fee is not paid until the county's ERDS is operational and electronically recording.

FINANCIAL IMPACT:

The anticipated annual cost of participation in CeRTNA is expected to be between \$4,800 to \$6,250.

Additionally, the DOJ requires all counties intending to participate in the ERDS pay a share of the DOJ costs of oversight, based on the number of total recordings for the prior year in the county. The estimated DOJ cost for the next budget year is less than \$800.

The county will have other costs relating to the initial DOJ audit of the ERDS computer, background checks for employees utilizing the computer and the purchase of the proper computer equipment and computer security equipment, altogether estimated at approximately \$10,000.

The one dollar (\$1) recording fee collected to fund the ERDA is intended to offset costs associated with implementing and maintaining electronic recording. There are sufficient funds in the Recorder Record Conversion Fund (1310) for this expense.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by fostering transparent, accessible, welcoming and user friendly services by enhancing Clerk Recorder systems to provide the option for electronic recording which will save money in the long term, as well as move a majority of official record submissions to a paperless and green procedure.

OTHER AGENCY INVOLVEMENT:

IT Department
Purchasing
Auditor Controller

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to adopt the resolution establishing an Electronic Recording Delivery System. However, this is not recommended as that would restrict Humboldt County's ability to record documents electronically and the county would lose an opportunity to make advancements in the recording processes

ATTACHMENTS:

1. ERDS Resolution
2. Final Intent to Participate Agreement - California Department of Justice
3. (Example) Final Intent to Participate and MOU - California Department of Justice
4. CeRTNA Membership Fee Structure
5. SECURE Client Tier Costs and Buy-In Fee
6. CeRTNA Client MOU - Humboldt County
7. CeRTNA G to G MOU - Humboldt County

PREVIOUS ACTION/REFERRAL:

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