



Board Agenda Item 22

DATE: June 20, 2023

TO: Board of Supervisors

SUBMITTED BY: Paul Dictos, C.P.A, Assessor-Recorder

SUBJECT: Approve Memorandum of Understanding for continued participation in Statewide Electronic Courier Universal Recording Environment (SECURE)

RECOMMENDED ACTION(S):

Approve and authorize Chairman to execute a Memorandum of Understanding with the counties of Orange, Los Angeles, Riverside, and San Diego for continued participation in the Statewide Electronic Courier Universal Recording Environment, a multi-county electronic recording delivery stem, effective June 20, 2023, through June 20, 2028, total not to exceed \$400,000.

Approval of the recommended action will allow the Assessor-Recorder to continue to participate in the Statewide Electronic Courier Universal Recording Environment (SECURE). Participation in SECURE allows authorized submitters, such as title companies and lenders, to submit digitized records and digital electronic records for recording with Recorder's Office.

This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended actions are not approved by your Board, the County will not be able accept digitized records and digital electronic records for recordation through SECURE.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The proposed Memorandum of Understanding (MOU) has an estimated annual compensation amount of \$67,200. The total costs under the MOU shall not exceed \$400,000. Sufficient appropriation and estimated revenues for the costs associated with this MOU are included in the Recorder Org 1048 Fiscal Year 2022-23 Adopted Budget and will be included within subsequent recommended budgets.

DISCUSSION:

On November 24, 2020, the Board approved Agreement No. 20-459 to join SECURE for the purpose of using SECURE, which is an Electronic Recording Delivery System (ERDS). An ERDS allows authorized submitters, such as title companies and lenders, to submit digitized records and digital electronic records for recording under the Electronic Recording Delivery Act of 2004. Currently roughly 73 percent of all documents recorded in Fresno County are submitted through the County's ERDS.

The Electronic Recording Delivery Act of 2004 requires that State Attorney General certifies and monitors

the security of any ERDS. Currently there are only two ERDS that have been approved by State Attorney General: the California Electronic Recording Transaction Network Authority (CERTNA) and SECURE. Back in 2020, the Recorder's Office moved from CERTNA to SECURE as SECURE was a more stable, cost-effective choice than CERTNA.

The counties of Orange, Los Angeles, Riverside, and San Diego created SECURE, sharing ownership and ongoing maintenance of SECURE. Orange County is the lead county and, among other duties, is responsible for negotiating and executing any contract relating to the support and maintenance of SECURE. Other counties may use SECURE by entering into an agreement to use the service.

Counties that use SECURE must pay an initial buy-in fee, based on the number of documents recorded annually, and then pay an annual fee based on documents actually recorded through the system. As the Recorder's Office previously joined SECURE in 2020, the initial buy-in fee are not required. Currently, the fee is \$0.30 per recorded document. Fresno County averages about 224,000 recorded documents per year, staff estimates that the average annual fee would be about \$67,200. The annual maximum under the memorandum of understanding (MOU) for SECURE will not exceed \$400,000.

Orange County is also the venue in the MOU in the event that any legal action arises. The MOU contains a mutual indemnification/defense clause and an intellectual property indemnification clause. The intellectual property indemnification clause allows the Recorder's Office three options in the event that the SECURE system is determined to infringe upon intellectual property. Under the MOU, either party may terminate the agreement for any reason by providing 30 calendar days written notice.

Along with Fresno, other counties that use SECURE include Los Angeles, Orange, San Diego, Ventura, Riverside, San Bernardino, and Tulare.

The current MOU with SECURE expires on August 18, 2023. Approval of the recommended action will allow the Recorder's Office to continue to participate with SECURE without any interruptions in service.

REFERENCE MATERIAL:

BAI #31, November 24, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Fresno Partner Memorandum of Understanding

CAO ANALYST:

Salvador Espino