



# Board Agenda Item 19

DATE: October 19, 2021

TO: Board of Supervisors

SUBMITTED BY: Paul Dictos, CPA, Assessor-Recorder

SUBJECT: Mutual Release and Satisfaction of Claims with California Electronic Recording Transaction Network Authority (CERTNA) and 9 Other Counties

RECOMMENDED ACTION(S):

**Approve and authorize the Chairman to execute a Mutual Release and Satisfaction of Claims with the California Electronic Recording Transaction Authority (CERTNA), and the counties of Santa Cruz, San Joaquin, El Dorado, Madera, Merced, Monterey, Santa Clara, Shasta, and Solano, relating to \$2,525,121 in unfunded pension liability of CERTNA to the San Bernardino County Employees' Retirement Association as of June 30, 2021, and establishing \$349,127 as the County's proportional share of CERTNA's unfunded pension liability, effective upon execution by all parties.**

Approval of the recommended action will establish the County's proportional share of CERTNA's liability for unfunded pension liability associated with CERTNA's withdrawal from the San Bernardino County Employees' Retirement Association (SBCERA) effective June 30, 2021, and provide for a mutual release by the County, CERTNA, and the other signatory counties of all claims, demands, liens, obligations, rights, actions, causes of action, loss of profits, and damages related to CERTNA's unfunded pension liability arising from CERTNA's withdrawal from SBCERA, and the counties' proportional shares of that liability. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended actions are not approved by your Board, the County will still be obligated under the joint exercise of powers agreement for CERTNA to pay the County's proportional share of CERTNA's unfunded pension liability arising from CERTNA's withdrawal from SBCERA, but would not be released from further such liability.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. The total cost under the Mutual Release and Satisfaction of Claims (Release) is \$349,127. Sufficient appropriation and estimated revenues for the costs associated with the proposed agreement are included in the Recorder Org 1048 Fiscal Year 2021-22 Adopted Budget.

DISCUSSION:

On July 22, 2008, the Board approved Agreement No. 08-397 to join CERTNA for the purpose of using the California Electronic Recording Transaction Network, 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.

On November 24, 2020, the Board adopted Resolution No. 20-361 to withdraw from the CERTNA effective July 1, 2021. Under section 11 of the JPA, however, the County remains "liable for and shall pay its proportional share of any indebtedness incurred while [it] is a party."

CERTNA employees are currently members of SBCERA. On March 25, 2021, however, the board of directors for CERTNA (CERTNA Board) approved a resolution to withdraw as a participating employer from SBCERA. On April 7, 2021, the CERTNA Board amended its resolution to provide that CERTNA shall cease to be a participating employer of SBCERA effective June 30, 2021, and that all current, withdrawing, and former members of CERTNA will be liable for CERTNA's unfunded pension liability obligations associated with withdrawal from SBCERA. Under section 11 of the JPA, that liability is divided by proportional shares.

CERTNA currently has two members with SBCERA. As of June 30, 2021, one of those members was a retiree, while the other was a terminated vested member. SBCERA retained the obligation to provide benefits to both of those former employees after CERTNA's termination date. The purpose of the unfunded pension liability amount is to pay the cost for SBCERA to provide those benefits.

On April 22, 2021, the CERTNA Board approved an allocation of the unfunded pension liability obligation associated with CERTNA's withdrawal from SBCERA, based on the estimated termination liability, and subject to change to reflect the final amounts to be determined by SBCERA. On May 27, 2021, SBCERA through its actuary Segal provided to CERTNA a termination study with an estimated termination liability of \$2,525,121 as of June 30, 2021. That includes unfunded pension liabilities for all of CERTNA's employees, current and former, including all benefits except those provided by the Survivor Benefit Reserve, for which CERTNA's obligation is \$0 because it has no beneficiaries receiving payments from that reserve.

The County's proportional share of CERTNA's unfunded pension liability arising from CERTNA's withdrawal from SBCERA as of June 30, 2021, is \$349,127. That amount will be paid from Recorder's Org 1048 Fiscal Year 2021-22 budget.

Under the proposed agreement, CERTNA and all of the signatory counties, include the County, agree that, upon payment of proportional shares by all counties, including the County, the obligation to CERTNA for its unfunded pension liability arising from its withdrawal from SBCERA as of June 30, 2021, is satisfied. The parties to the proposed agreement also mutually release each other from any and all claims demands, liens, obligations, rights, actions, causes of action, loss of profits, damages, whether known or unknown, related to CERTNA's unfunded pension liability arising from CERTNA's withdrawal from SBCERA and each CERTNA Member's obligation to pay a proportional share of CERTNA's unfunded pension liability arising from CERTNA's withdrawal from SBCERA.

The proposed agreement is effective once all of the parties have signed it. After the proposed agreement is effective, each county, including the County, is obligated to pay its proportional share to CERTNA.

CERTNA previously executed a separate release agreement with the counties of San Bernardino and Kern, because those two counties also had debts arising from loans for the initial funding of CERTNA.

REFERENCE MATERIAL:

BAI #31, November 24, 2020  
BAI #22, July 22, 2008

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Mutual Release and Satisfaction of Claims

CAO ANALYST:

Ronald Alexander