



**MEMORANDUM  
OFFICE OF THE  
PLACER COUNTY CLERK-RECORDER-  
REGISTRAR OF VOTERS**

*Jim McCauley*  
*JRC*

**TO:** Honorable Board of Supervisors  
**FROM:** Jim McCauley, County Clerk-Recorder-Registrar of Voters  
Ryan Ronco, Assistant Recorder-Registrar of Voters  
**DATE:** July 24, 2012  
**SUBJECT:** Approve Placer County Participation in CeRTNA for Electronic Recording

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**RECOMMENDATION**

Approve resolution and authorize the County Clerk-Recorder-Registrar of Voters to participate in the California Electronic Recording Transaction Network Authority (CeRTNA) for electronic recording and negotiate and execute all agreements providing for Placer County's participation, subject to concurrence by Risk Management and County Counsel.

**BACKGROUND**

County recorders are responsible for examining and recording documents that deal with establishing ownership of land in counties. This includes the recording of title documents, notes, and home loan payoffs by homeowners, title companies, mortgage companies and government agencies involved in real estate transactions. The recording process traditionally has involved the transmission of original paper documents. However, electronic recording, or e-recording, is less expensive—through saving paper, printing postage and mail processing costs—faster, and arguably, more reliable than the traditional, paper-based process of submitting notarized documents to counties.

E-Recording for California counties was authorized in 2004 when California passed the Electronic Recording Delivery Act (ERDA), following an earlier, large-scale pilot project for e-recording in Orange County. Under the law, a county's electronic recording delivery system (ERDS) must meet specified security standards and all persons with a secure access role are required to undergo fingerprint criminal history checks. Further, the ERDA requires the California Attorney General to certify and provide oversight for any electronic recording delivery system being developed by or for a county. Despite early vendor interest,<sup>1</sup> it now appears that electronic recording in California will primarily be carried out through multi-county consortiums that have developed systems specifically to meet California's requirements.

Your Board may recall that Placer's County Clerk-Recorder was very instrumental in the development of the original ERDA, and contracted with the County Clerk-Recorder system vendors for development of electronic recording for Placer County. However as referenced above, due at least in part to the complexity of the requirements attendant to the ERDA and its subsequent

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<sup>1</sup> There are currently only two certified vendors for ERDS, plus the two certified, multi-county e-recording systems, CeRTNA and SECURE. One of the two certified vendors is PropertyInfo Corp., which is also the vendor for Placer County's Clerk-Recorder system, although that company's electronic recording system is not itself certified by CA at this time. PropertyInfo's vendor certification should, however, allow the company to readily develop the interface(s) between one of the certified ERDS and the County's recording system. The other certified vendor is ACS, which developed the CeRTNA system.

regulations, the only two ERDS systems currently approved for California are both multi-county consortiums.

The ERDA requires that multi-county systems have a lead county, and presently there are two such multi-county consortiums in the State, both approved in 2009. The first multi-county consortium, the California Electronic Recording Transaction Network Authority (CeRTNA) is a California Joint Powers Authority (JPA) organization made up of County Recorders throughout the state, including Fresno (Lead County), Kern, San Bernardino, San Joaquin, and Santa Clara, with additional counties using the CeRTNA system portal for government-to-government electronic recordings and others in the testing or other implementation stages. CeRTNA offers two participation levels: one with JPA Board membership and one without, i.e. as a "client" or fee-for-service sub-county only.

The second consortium, SECURE is owned by Orange and Los Angeles Counties, and consists of those two counties and others in the implementation phases including San Diego, San Mateo and Riverside counties. SECURE offers (at present) only one level of consortium membership, but with the originating counties retaining their overall ownership of the SECURE ERDS. Both multi-county consortiums are designed to spread system development and maintenance costs across a broader base than could be the case for a single-county system.

Because CeRTNA and SECURE are each State certified, have essentially the same e-recording capabilities, and are operational, our Office believes that cost is the most important basis for deciding which system to move forward with for implementing electronic recording in Placer County. For a county the size of Placer – in terms of recording volumes – CeRTNA would currently charge \$.42 per document to the county for electronic recording or approximately \$44,250 annually at current recording levels if Placer desires to participate in the governing of the CeRTNA JPA. However the charge would be only \$20,000 annually if Placer chooses to be a "client" sub-county with no JPA Board participation. There is no one-time participation or "buy-in" fee under either CeRTNA membership alternative. The cost to participate in SECURE for Placer at current recording volumes would be \$25,000 annually plus a one-time \$50,000 participation or "buy-in" fee.

Over ten years, at current recording levels and assuming only a modest one to three percent annual volume growth in recordings and with no fee rate changes, it would cost about \$487,800 to participate in CeRTNA *with* JPA Board participation. By comparison, to participate as a CeRTNA "client" or sub-county only with *no* JPA Board participation would cost \$200,000 over ten years using the same recording volume and rate assumptions and to participate as a SECURE county would cost \$300,000 for the same period, again using the same recording volume and rate assumptions. A robust, five percent annual increase in recording volumes would change the ten-year cumulative costs as shown in the table below, with CeRTNA "client" county status remaining as the lowest cost alternative.

Multi-County ERDS Participation Alternatives:	First Yr. Costs @ Curr. Rec'd. Volume	Cumulative 10 Yr. Costs	
		1-3% Annual Rec'd. Growth	5% Annual Rec'd. Growth
CeRTNA with JPA Board Participation	\$ 44,248	\$ 487,792	\$ 556,550
CeRTNA w/out JPA Board Participation	\$ 20,000	\$ 200,000	\$ 200,000
SECURE Participation	\$ 75,000	\$ 300,000	\$ 300,000

The difference between the two lowest cost alternatives – CeRTNA with no JPA Board participation and SECURE – is significant enough that annual costs for the CeRTNA “client” county option would have to increase by 50% before they would equal those charged by SECURE, which would seem to be unlikely and also a largely controllable risk through negotiation of participation agreement terms. Placer’s elected Clerk-Recorder does not believe there is a need for the County to have CeRTNA JPA Board participation, especially since the County could still speak to any issues before the CeRTNA JPA Board during public comment. Accordingly, our Office recommends that the County initiate participation in the CeRTNA JPA for electronic recording as a “client” sub-county.

### **ISSUE STATEMENT**

California’s Electronic Recording Delivery Act (ERDA) and regulations require that a county recorder must be authorized by resolution of the county’s Board of Supervisors to establish an electronic recording delivery system (ERDS) and must also obtain subsequent, site-specific system certification from the ERDS Program under the State Attorney General before electronic recording can begin.

Since the CeRTNA multi-county ERDS consortium is now operating successfully and is state certified, the Placer County Clerk-Recorder believes that there is no longer a need for deferring the implementation and benefits of electronic recording for Placer County. Assuming your Board’s approval to participate in CeRTNA, initial implementation of electronic recording for Placer County is expected to take at least nine to twelve months based on the experience in other counties, primarily due to the length of time required for the mandated initial security compliance auditing and for formal agreement development between the County and CeRTNA and then for each submitter.

### **FISCAL IMPACT**

All County costs for implementation of electronic recording will be fully paid from the \$1 fee per document title already approved by your Board and established for that purpose, resulting in no new, additional costs to the public or electronic recording filers for the County’s participation in electronic recording.

Total contract, equipment and related electronic recording project costs for initial implementation–not including Clerk-Recorder staff costs–are anticipated not to exceed \$120,650: \$61,725 for systems integration, \$22,425 for technology equipment, communications and training costs, \$20,000 for CeRTNA participation and electronic recording portal costs, \$15,000 for initial security auditing certification, and \$1,500 for required oversight costs by the Attorney General. Annual ongoing operating and maintenance costs are expected to be about two thirds the initial implementation costs. These expected costs are included in the adopted Proposed Budget for FY 12-13 for the County Clerk-Recorder.

Additionally, both the County and electronic filers should realize savings in paper, printing, postage and mail processing costs as a result of the implementation of electronic recording for the County, and annual cost savings for the County Recorder’s Office in mail return and related costs should begin to be realized in FY 2013-14.

**Before the Board of Supervisors  
County of Placer, State of California**

In the matter of:

Resol. No: \_\_\_\_\_

**A RESOLUTION APPROVING THE COUNTY OF PLACER TO ESTABLISH AN ELECTRONIC RECORDING DELIVERY SYSTEM INCLUDING CONTRACTING WITH THE CALIFORNIA ELECTRONIC RECORDING TRANSACTION NETWORK AUTHORITY (CeRTNA)**

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held July 24, 2012, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
Chair, Board of Supervisors

Attest:

Clerk of said Board \_\_\_\_\_

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**WHEREAS**, Assembly Bill 578, Chapter 621, September 21, 2004 added to the Government Code, Chapter 6, sections 27390 through 27399, and established the Electronic Recording Delivery Act (ERDA) of 2004; and

**WHEREAS**, 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 Systems (ERDS) Program under the oversight of the California Department of Justice; and

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

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Placer hereby authorizes the Placer County Recorder to:

- Participate as a "client" sub-county (without joint power authority participation) in CeRTNA, an approved Multi-County ERDS for Type 1 and Type 2 instruments and when applicable, the return function for said instruments, where a "Type 1" instrument is defined to mean an

instrument affecting a right, title, or interest in real property and which shall be delivered as digitized electronic records, and where a "Type 2" instrument is defined to mean an instrument of reconveyance, substitution of trustee, or assignment of deed of trust;

- Conduct all negotiations, execute and submit all documents necessary for the establishment and implementation, including any necessary amendments thereto and subject to concurrence by County Counsel and County Risk Management, of an ERDS;
- Enter into a "client" sub-county (without joint power authority participation) agreement with CeRTNA, an approved Multi-County ERDS, for an ERDS implementation;
- Continue the imposition of a electronic recording fee not to exceed one dollar (\$1) for each applicable real property instrument that is recorded by the County to be used for payment of County costs for implementation and participation in electronic recording under the ERDA;
- Enter into a Memorandum of Understanding with the ERDS Program under the California Department of Justice and before system certification, agreeing to the computer System Administration Fee and annually thereafter by an addendum to the Memorandum of Understanding, and issue payments to the ERDS Program for the County's proportionate share of the System Administrative Fee; and
- Submit an application for system certification to the ERDS Program; and, in doing so to comply with the California Code of Regulations, Title 11, Division 1, Chapter 18, Articles 1 through 9; and

**BE IT FURTHER RESOLVED** by the Board of Supervisors of the County of Placer, that upon submission of an application for system certification to the ERDS Program, the Placer County Recorder is required to:

- Designate those individuals with secure and authorized access to an ERDS comply with Government Code section 27395(b); and thereafter to:
- Notify the ERDS Program if an individual that has secure access no longer requires that access comply with the California Penal Code section 11105.2(d);
- Notify the Board of Supervisors, District Attorney, Computer Security Auditor on contractual agreement, and the ERDS Program if there are any known or suspected security violations that compromises the safety and/or security of the ERDS;
- Notify the ERDS Program if there is a change of County Recorder; and
- Notify the ERDS Program if the County wishes to withdraw their system certification.

