

**EL DORADO COUNTY BOARD OF SUPERVISORS**  
**AGENDA ITEM TRANSMITTAL**  
**Meeting of October 3, 2006**

**AGENDA TITLE:** Electronic Recording Delivery System Addendum to Memorandum of Understanding with the Department of Justice.

**DEPARTMENT:** Recorder-Clerk

**DEPT SIGNOFF:**

**CAO USE ONLY:** C

**CONTACT:** William E. Schultz

**DATE:** 9/19/2006

**PHONE:** 7505/5494

*Seamless 9-22-06*

**DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:**

This addendum is to continue the agreement found in the Department of Justice MOU executed in 2005. To comply with the Electronic Recording Delivery Act of 2004 (ERDA). This addendum finalizes the proportionate share of costs for development and implementation of regulations and the costs for regulation and oversight in the fiscal year 2006/2007.

**CAO RECOMMENDATIONS:**

*Recommend approval. Lauren A. Hill 9/27/06*

Financial impact? ☒ Yes ( ) No

Funding Source: ( ) Gen Fund ☒ Other

**BUDGET SUMMARY:**

Other: Micrographics Trust 7728300

Total Est. Cost \$6,188.12

**Funding**

Budgeted \$10,000.00

New Funding                     

Savings \$3,811.88

Other                     

Total Funding \$6,188.12

Change in Net County Cost (\$3,811.12)

**CAO Office Use Only:**

4/5's Vote Required ( ) Yes ☒ No

Change in Policy ( ) Yes ☒ No

New Personnel ( ) Yes ☒ No

**CONCURRENCES:**

Risk Management *yes*

County Counsel *yes*

Other                     

**\*Explain** Actual cost based upon number of counties participating and documents recorded.

**BOARD ACTIONS:**

Vote: Unanimous                      Or

Ayes:

Noes:

Abstentions:

Absent:

Rev. 04/05

I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors

Date:                                     

Attest: Cindy Keck, Board of Supervisors Clerk

By:

# EL DORADO COUNTY



## RECORDER-CLERK REGISTRAR OF VOTERS

William E. Schultz

**Recorder-Clerk  
Commissioner of Civil Marriages**

360 Fair Lane  
Placerville CA 95667  
[www.co.el-dorado.ca.us/countyclerk/](http://www.co.el-dorado.ca.us/countyclerk/)  
Phone: 530.621.5490  
Fax: 530.621.2147  
JANE KOHLSTEDT  
Assistant Recorder-Clerk

**Registrar of Voters**

2850 Fairlane Court  
P.O. Box 678001  
Placerville CA 95667-8001  
[www.co.el-dorado.ca.us/elections/](http://www.co.el-dorado.ca.us/elections/)  
Phone: 530.621.7480  
Fax: 530.626.5514  
NORMA GRAY  
Assistant Registrar of Voters

September 19, 2006

El Dorado County Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667

Dear Board Members:

Subject: Approval and Signature of the Electronic Recording  
Delivery System Addendum to Memorandum of Understanding  
With the Department of Justice

### **Recommendation:**

County Recorder-Clerk is recommending the Board of Supervisors:

1. Approve and cause to be signed the 2006/2007 Addendum to the Department of Justice Memorandum of Understanding for Electronic Recording.

### **Reason for Recommendation:**

The Recorder-Clerk's office has in the past few years recorded several thousand El Dorado County Tax Collector and State Franchise Tax Board liens and releases electronically. Reducing the number of employee hours required to complete the task from days to minutes.

This new technology will allow a similar system for the recording of certain real estate transactions. This technology will allow for faster more accurate and, more efficient recording and indexing.

### **Fiscal Impact:**

The Recorder-Clerk has budgeted \$10,000 as part of the operational transfer from the Micrographic Trust (7728300) for the 2006/2007 fiscal year. The Department of Justice has determined our proportionate share to be \$6,188.22. This will reduce our current Net County Cost by \$3,811.22.

This will be an ongoing cost determined by the Department of Justice (using the formula of the number of documents recorded by

each county divided by the number of documents recorded by all participating counties).

**Action to be Taken:**

The Recorder-Clerk respectfully requests that the Board of Supervisors approve and cause to be signed the attached Fiscal Year 06-07 Addendum to Memorandum of Understanding with the Department of Justice.

Very Truly Yours,

William E. Schultz  
Recorder-Clerk-Registrar of Voters

# CONTRACT ROUTING SHEET

Date Prepared: 8/3/06

Need Date: \_\_\_\_\_

**PROCESSING DEPARTMENT:**

Department: CAO/Proc. & Contracts  
 Dept. Contact: Pam Carlone  
 Phone #: 5833  
 Department  
 Head Signature: Bonnie H. Rich  
 Bonnie H. Rich

**CONTRACTOR:**

Name: Calif. Dept. of Justice  
 Address: 4949 Broadway, D214  
Sacramento, CA 95820  
 Phone: 916-227-3244

EL DORADO COUNTY COUNSEL  
 2006 AUG - 3 PM 4:49  
 [Signature]

**CONTRACTING DEPARTMENT:** Recorder-Clerk/Registrar of VotersService Requested: MOU for Electronic Recording Delivery System (ERDS)Contract Term: \_\_\_\_\_ Amendment Value: \$6,188.12Compliance with Human Resources requirements? Yes: \_\_\_\_\_ No: 49

Compliance verified by: \_\_\_\_\_

**COUNTY COUNSEL:** (Must approve all contracts and MOU's)

Approved: ✓ Disapproved: \_\_\_\_\_ Date: 8-15-06 By: [Signature]  
 Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

ASSIGNMENT

DATE 08/04/2006  
 ATTORNEY EO Kwa  
 DEPT INDEX NO. 026100  
[Signature]

PLEASE FORWARD TO RISK MANAGEMENT. THANKS!

**RISK MANAGEMENT:** (All contracts and MOU's except boilerplate grant funding agreements)

Approved: ✓ Disapproved: \_\_\_\_\_ Date: 8-18-06 By: [Signature]  
 Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

AUG 16 2006

**OTHER APPROVAL:** (Specify department(s) participating or directly affected by this contract).

Departments: \_\_\_\_\_  
 Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_  
 Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

**Fiscal Year 06-07 Addendum to Memorandum of Understanding  
Department of Justice  
Electronic Recording Delivery System  
Costs for Developing and Implementing Regulations and Costs for Regulation and Oversight**

**Parties**

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

**Incorporation by Reference of MOU**

Both County and DOJ agree that the terms of the MOU, previously executed, continue to operate and are incorporated herein by reference.

**Purpose**

The purpose of this Addendum is to continue the agreement found in the MOU previously executed by the parties to comply with the Electronic Recording Delivery Act of 2004 (ERDA) (Gov. Code, §§ 27390-27399; "Act") This Addendum shall operate to bind the parties to the final proportionate costs to the County for fiscal year 2006/07. These costs include the costs for developing and implementing regulations and the costs for regulation and oversight.

**Agreement**

DOJ and County hereby consent and agree that County will pay DOJ for the direct cost of developing and implementing regulations and the costs for regulation and oversight in support of the Act, as set forth in Article 6 (commencing with Section 27390) to Chapter 6 of Division 2 of Title 3. The final proportionate cost for fiscal year 2006/07 is attached and incorporated by reference. Upon receipt of payment, the County is authorized to participate in the Electronic Recording Delivery System (ERDS).

**Term of Addendum**

The term of this Addendum operates for fiscal year 2006/07.

### **MOU Representatives**

The Addendum representatives during the term of this Addendum are:

County of: El Dorado

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 Addendum Representatives

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

County of: El Dorado

Name: Jack Sweeney, Chairman  
Board of Supervisors

Department of Justice

Name: Paul Pane

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Attachment: Final Proportionate Costs:

Attachment 1

**FINAL PROPORTIONATE COST  
FOR COUNTY RECORDERS TO  
FUND DOJ PROGRAM COSTS**

Attachment A

<b>County</b>	<b>Recordings*</b>	<b>% of Recordings (Based on Letter of Intent)</b>	<b>Initial County Cost Estimate FY 2006/07</b>
<b>Total</b>	<b>11,454,632</b>	<b>100.00%</b>	<b>\$648,182.00</b>
Alameda	554,065	4.84%	\$31,352.82
Contra Costa	581,955	5.08%	\$32,931.02
El Dorado	109,356	0.95%	\$6,188.12
Fresno	307,194	2.68%	\$17,383.15
Kern	361,387	3.15%	\$20,449.77
Los Angeles	3,213,754	28.06%	\$181,856.34
Marin	111,948	0.98%	\$6,334.79
Merced	104,071	0.91%	\$5,889.05
Napa	66,464	0.58%	\$3,760.99
Placer	175,240	1.53%	\$9,916.29
Riverside	1,082,688	9.45%	\$61,265.95
Sacramento	798,479	6.97%	\$45,183.44
San Bernardino	994,000	8.68%	\$56,247.37
San Diego	1,317,981	11.51%	\$74,580.45
San Mateo	228,443	1.99%	\$12,926.88
Santa Barbara	126,214	1.10%	\$7,142.06
Santa Clara	582,493	5.09%	\$32,961.47
Solano	232,126	2.03%	\$13,135.29
Trinity	5,970	0.05%	\$337.82
Tulare	147,477	1.29%	\$8,345.26
Ventura	353,327	3.08%	\$19,993.68
	<b>11,454,632</b>	<b>100.00%</b>	<b>\$648,182.00</b>

\*Recordings are based on what the counties submitted to the Insurance Commissioner in 2005 per the LOI

**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 the "DOJ" and the County of El Dorado, hereinafter referred to as "County."

**Purpose**

The purpose of this MOU is to comply with the Electronic Recording Delivery Act (ERDA) of 2004 (Government Code, §§ 27390-27399; "Act")<sup>1</sup> 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 the 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 27397. 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.*"

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<sup>1</sup> Hereafter, references to the Government Code are by section number only.



## **Agreement**

The DOJ and County hereby consent and agree that County will pay the DOJ for their proportionate share of the direct cost of developing and implementing regulations and other costs in support of the 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 the DOJ for its proportionate 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 MOU beyond the first year will be accomplished by addendum to the MOU. This will allow the DOJ to issue a new estimated cost figure, via the Letter of Intent process, for the next fiscal year to include the cost of regulation and oversight without the necessity of a new MOU from the County. The County's estimated cost calculations for succeeding fiscal years, will be prepared by DOJ and will follow the annual Letter of Intent process.

### **Cost 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.

### **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 final 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 final cost to the County will be incorporated herein by reference.

### **Payback and/or Carry Over**

If the actual costs exceed the estimated costs, the following year's estimated direct costs will be adjusted to capture the additional costs; the following year's estimated costs along with the previous year's adjusted amount will then be used as the base for redistribution to each

participating county. If the total actual costs are less than the estimated costs, the following year's estimated direct costs will be adjusted to capture the decreased costs; the following year's estimated costs along with the previous year's adjusted amount will then be used as the new base for redistribution to each participating county.

### **DOJ Reporting**

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

### **Payment**

County shall pay to the DOJ a lump sum of the final proportionate cost to the County, as incorporated herein by reference, toward the direct cost to be incurred by the DOJ. Payments to the DOJ shall be deposited in the Electronic Recording Authorization Account, which is hereby created in the Special Deposit Fund.

### **Payment Method**

Upon receipt of the signed MOU from each county, the DOJ representative will sign and return a copy of the MOU to the county representative as identified herein, for their records. A copy of the signed MOU will be forwarded to the DOJ accounting office, who will generate an invoice for payment due. Upon receipt of the invoice, the county will send the said lump sum payment along with the bottom portion of the invoice to the address as referenced in the MOU and on the Invoice.

Payment shall reference the invoice number and customer number and shall be made to:

California Department of Justice  
Accounting Office, Cashiering Unit  
PO Box 944255  
Sacramento, CA 94244-2550

### **Term**

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 Fiscal Year 2005/2006. 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 MOU, without the mutual intent of the parties to renew, the County Recorder shall cease operation of its electronic recording delivery system.

**Representatives**

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

**Department of Justice**

Name: Paul Pane, Manager

Phone: (916) 227-4705

Fax: (916) 227-0595

E-Mail: [paul.pane@doj.ca.gov](mailto:paul.pane@doj.ca.gov)

**County MOU representative (please complete):**

**County of El Dorado**

Name/Title: William Schultz, Recorder-Clerk/Registrar of Voters

Address: 330 Fair Lane

City, State, Zip Code: Placerville, CA 95667

Phone: 530-621-5494

Fax: 530-544-6463

E-mail: [oschultz@co.el-dorado.ca.us](mailto:oschultz@co.el-dorado.ca.us)

County of El Dorado Contract Administrator: William Schultz

**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 EL DORADO

Department of Justice

Name/Title: Bonnie H. Rich, Purchasing Agent

Name: Paul Pane, Manager

Signed: Bonnie H. Rich

Signed: Paul Pane

Dated: 9/20/05

Dated: 10/5/05

**Please return the completed MOU to:**

California Department of Justice  
Electronic Recording Delivery System (ERDS)  
PO Box 160526  
Sacramento, CA 95816-0526

Attachment: Final Costs: Attachment A

**FINAL COST  
FOR COUNTY RECORDERS TO  
FUND DOJ PROGRAM COSTS**

Attachment A

<b>County</b>	<b>Recordings</b>	<b>% of Recordings (Based on Letter of Intent)</b>	<b>Final County Cost FY 04/05 &amp; 05/06</b>
<b>Total</b>	<b>12,956,845</b>	<b>100%</b>	<b>\$1,000,000</b>
Alameda	574,180	4.43%	\$44,314.80
Butte	93,045	0.72%	\$7,181.15
Contra Costa	573,156	4.43%	\$44,235.77
<b>El Dorado</b>	<b>108,644</b>	<b>0.84%</b>	<b>\$8,385.07</b>
Fresno	292,898	2.26%	\$22,605.66
Kern	403,786	3.12%	\$31,163.90
Los Angeles	3,333,336	25.73%	\$257,264.48
Merced	88,083	0.68%	\$6,798.18
Napa	66,342	0.51%	\$5,120.23
Orange	1,514,761	11.69%	\$116,908.17
Placer	176,373	1.36%	\$13,612.34
Riverside	1,039,166	8.02%	\$80,202.09
Sacramento	791,589	6.11%	\$61,094.27
San Bernardino	965,416	7.45%	\$74,510.11
San Diego	1,412,884	10.90%	\$109,045.37
San Mateo	256,847	1.98%	\$19,823.27
Santa Barbara	138,711	1.07%	\$10,705.62
Santa Clara	612,927	4.73%	\$47,305.27
Trinity	5,547	0.04%	\$428.11
Tulare	136,027	1.05%	\$10,498.47
Ventura	373,127	2.88%	\$28,797.67