



Legislation Details (With Text)

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Title: Recorder-Clerk's Department recommending the Board:
1) Approve and authorize the Chair to sign the Mutual Release and Satisfaction of Claims Agreement in the amount of \$75,429 with California Electronic Recording Transaction Network Authority; and
2) Approve and authorize the Chair to sign a budget transfer increasing revenue and appropriations in the amount of \$75,429 for said Agreement (4/5 vote required).

FUNDING: Electronic Recording Trust Account.

Sponsors:

Indexes:

Code sections:

Attachments: 1. A - Counsel Approval, 2. B - Contract, 3. C - Budget Transfer, 4. Executed Budget Transfer

| Date | Ver. | Action By | Action | Result |
|------------|------|----------------------|----------|--------|
| 11/16/2021 | 1 | Board of Supervisors | Approved | Pass |

Recorder-Clerk's Department recommending the Board:

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FUNDING: Electronic Recording Trust Account.

DISCUSSION / BACKGROUND

The Electronic Recording Delivery Act of 2004 was enacted to authorize a county recorder to establish an electronic recording delivery system for recording of specified digitized electronic records, pursuant to the provisions and regulations developed by the California Department of Justice (DOJ). In September 2008, CERTNA was certified by the DOJ, and on March 9, 2010 the Board of Supervisors adopted Resolution 026-2010 authorizing the County Recorder's participation in CERTNA and execution of Addendum Number 5 to the CERTNA Joint Powers Agreement (JPA). As a member of the CERTNA, the Recorder is a Board member county that electronically records through the CERTNA portal.

CERTNA has two enrolled members with San Bernardino County Employees' Retirement Association (SBCERA), one a retiree and one a terminated vested member. On March 25, 2021, the CERTNA's Board of Directors approved a resolution to withdraw as a participating employer of SBCERA. On April 7, 2021, CERTNA's Board of Directors amended its resolution and directed that CERTNA shall cease to be a participating employer of SBCERA effective June 30, 2021, and that all current, withdrawing, and former members counties of CERTNA will be liable for the unfunded pension liability obligations. Under Section 11 of the JPA, that liability is divided by proportional shares. SBCERA retained the obligation to provide benefits to those members 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.

On May 27, 2021, SBCERA through its actuary Segal provided to CERTNA a termination study with an estimated termination liability in the amount of \$2,525,121 based on the June 30, 2021 withdrawal date. The County's proportional share of CERTNA's unfunded pension obligation arising from the withdrawal from SBCERA is \$75,429. This amount will be paid from the Recorder's Electronic Recording funds, with no impact on the general fund.

Under the proposed agreement, CERTNA and all the signatory counties under the JPA agree that upon payment of proportional shares by the counties that the obligation to CERTNA for its unfunded pension liability 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 SBCERA unfunded pension liability. Each CERTNA member will be paying their proportional share of the unfunded pension liability to CERTNA.

ALTERNATIVES

If the recommended actions are not to approve by your Board, the County will still be obligated under the CERTNA JPA 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.

PRIOR BOARD ACTION

Legistar Item 10-1069 - 3/9/2010 - Enter Joint Powers Agreement with CeRTNA.

Legistar Item 20-1622 - 12/15/2020 - Recorder-Clerk authority to take specific actions relating to participation with Electronic Recording Delivery Act of 2004

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

There is no general fund cost associated with this action. There are sufficient funds in the ERDS Special Revenue Fund.

CLERK OF THE BOARD FOLLOW UP ACTIONS

Obtain the Chair's signature on two original agreements and return to the Recorder-Clerk for final processing.

Obtain the Chair's signature on the budget transfer and return to the CAO for processing.

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

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