



**COUNTY OF SAN MATEO**  
**Inter-Departmental Correspondence**

Assessor-County Clerk-Recorder

**DATE:** May 8, 2006  
**BOARD MEETING DATE:** June 6, 2006  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** 4/5ths

**TO:** Honorable Board of Supervisors

**FROM:** Warren Slocum, Assessor-County Clerk-Recorder 

**SUBJECT:** Agreement with California Department of Justice for Participation in the Electronic Recording Delivery Act under AB 578 (Government Code 27390)

**RECOMMENDATION:**

A) Approve a resolution:

- 1) approving the participation of the County of San Mateo (County) in the State of California Electronic Recording Delivery Act of 2004 as enacted by AB 578; and
- 2) authorizing the Assessor, County Clerk-Recorder, or his designee to:
  - a. execute a Memorandum of Understanding (MOU) with the California Department of Justice (DOJ) for County participation in the Electronic Recording Delivery; and
  - b. terminate the MOU as needed provided that County Counsel approval is obtained prior to executing an amendment or termination; and
  - c. negotiate and execute Submitter Agreements, in accordance with the rules and regulations established by the California Attorney General for use with Title companies and lending institutions who wish to submit Real Property records electronically, providing County Counsel reviews said Submitter Agreement and approval as to form is obtained; and
  - d. with approval of the Board of Supervisors: 1) impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system and 2) impose a fee upon any person seeking a Submitter Agreement; and
  - e. assess a statutory surcharge on all recorded instruments and to increase or decrease the fee as needed, up to a maximum charge not to exceed one dollar (\$1.00) per document to offset the cost of the Electronic Recording

Delivery System.

- B) Approve a resolution authorizing a transfer (an Authorization Transfer Request (ATR)) in the amount of \$19,824 for participation in FY 2005-06.

**VISION ALIGNMENT:**

**Commitment:** Responsive, effective and collaborative government;

**Goals 20, 23:** Government decisions are based on careful consideration of future impact rather than temporary relief or immediate gain; and leaders throughout the County provide the impetus for broader regional solutions in land use, housing, childcare, education, health and transportation.

This Agreement will expand the current electronic recording system from a government to government recordation system to include private to government recordation of real property instruments. This step greatly improves service delivery to County residents as well as the efficiency and effectiveness of County operations.

<b>Performance Measure:</b>	<b>FY 2004-05 Actual</b>	<b>FY 2005-06 Projected</b>
Efficiency/Service Quality- Percentage of documents electronically recorded	<b>5%</b>	<b>6%</b>

**BACKGROUND:**

In 2002 San Mateo County implemented a successful e-recording pilot project using securable, manageable, archivable, retrievable, and transferable document technology. After completion of the pilot, however, the project stalled due to perceived legal restrictions that surfaced from the state.

In 2004, the Office of the Assessor-County Clerk-Recorder (ACR) worked with the state legislature for the passage of AB 578 which allowed for e-recording on a statewide basis. Since the bill's passage, we have been working collaboratively with the Attorney General's Office and other counties interested in advancing e-recording to create regulations for full implementation.

**DISCUSSION:**

Participation in the statewide e-recording program will further enable this office to improve and modernize its systems of recording and handling real property instruments by permitting the electronic delivery, recording and return of specified documents, including reconveyances, substitutions of trustee, and assignments of deed of trust.

Electronic document preparation and recording systems offer an important value proposition for submitters as well as recorders in improving their business operations, such as faster recording of time-sensitive material. Title companies, banks, realtors and citizens making real estate transactions all stand to benefit from this modernization.



We ask your Honorable Board to approve the participation of the County of San Mateo in the State of California Electronic Recording Delivery Act of 2004 as enacted by Assembly Bill No. 578.

**FISCAL IMPACT:**

There is no Net County Cost, nor any impact to the County's General Fund.

The initial cost to the County to participate in the Electronic Recording Delivery System, which was determined by the total number of Real Property instruments recorded during the 2004 calendar year, is \$19,823.27. The cost will be paid from the Recorder Modernization Trust Fund monies. Thereafter, the annual cost will be determined by the total number of Real Property instruments recorded in the previous calendar year. The annual cost and any other service related costs will be paid by the statutory surcharge assessed on recorded Real Property instruments, Modernization Funds, or some combination thereof.