



BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE LAKE COUNTY ASSESSOR-RECORDER TO ENTER INTO CERTAIN MEMORANDA OF UNDERSTANDING AND TAKE OTHER ACTIONS TO ESTABLISH AN ELECTRONIC RECORDING DELIVERY SYSTEM UNDER THE ELECTRONIC RECORDING DELIVERY ACT OF 2004.

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, the Electronic Recording Delivery Act (ERDA) of 2004 requires the Attorney General to certify and provide oversight for any electronic recording delivery system being developed by a county. The Attorney General has established the ERDS Program within the Department of Justice, which is responsible for implementing the requirements of the law; and

WHEREAS, Government Code section 27391 authorizes a County Recorder upon approval by resolution of the Board of Supervisors and system certification by the Attorney General to establish an electronic recording delivery system (ERDS);

WHEREAS, under this law, a county's electronic recording delivery system must meet specified security standards and all persons with a secure access role are required to undergo fingerprint criminal history checks; and

WHEREAS, County recorders are responsible generally for examining and recording all documents that deal with establishing ownership of land in counties and that recording process has traditionally involved the transmission of original paper documents; and

WHEREAS, to establish an electronic recording delivery system, a county recorder must be authorized by resolution of the board of supervisors and obtain system certification from the ERDS Program. Certain title insurers, underwritten title companies, institutional lenders and local, state or federal government

agencies are allowed to use a certified county ERDS to send images of original paper documents; and

WHEREAS, subject to the limitations prescribed therein, Government Code section 27397 authorizes a County Recorder to impose a fee in an amount of no more than one dollar for each real property instrument that is recorded by county and further authorized a County Recorder; and

WHEREAS, subject to the limitations prescribed therein, Government Code section 27397 further authorizes a County Recorder to impose a fee upon any Vendor seeking approval of software and other services as part of an electronic recording delivery system and upon any person seeking to contract as an authorized submitter as

WHEREAS, the ERDA authorizes a County Recorder to enter into contracts (submitter agreements) with authorized submitters, such as title companies and lending institutions, who wish to submit real property records electronically; and

WHEREAS, the California Electronic Recording Transaction Network Authority ("CERTNA"), a California joint powers authority established in July of 2007, has standardized electronic recording of documents across multiple member counties by creating an umbrella agency to develop, operate, and maintain an ERDS; and

WHEREAS, CERTNA has developed an electronic recording delivery system approved by the State Attorney General (the "CERTNA ERDS") that allows certain submitters under the ERDA and government agencies to electronically submit real property documents for recording; and

WHEREAS, the County's participation in the CERTNA ERDS will be efficient and will expedite the implementation of electronic recording of real property documents in the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Lake hereby declares, orders, and decrees the following:

1. The above recitals are true and correct.
2. The Assessor-Recorder is authorized to participate in the CERTNA ERDS by executing each of the Memoranda of Understanding specified below and complying with the ERDA.
3. The Assessor-Recorder is authorized to submit applications for system certification to the ERDS Program and, in doing so, comply with California Code of Regulations, Title 11, Division 1, Chapter 18, Articles 1 through 9.

4. The Assessor-Recorder is hereby authorized to execute a Memorandum of Understanding with CERTNA to participate in the multi-county CERTNA ERDS for Type 1 and Type 2 instruments, and, when applicable, the return functions as established and operated by CERTNA. Said agreement may be for a term of up to 5 years and payment of an annual amount not to exceed \$15,000 and \$45,000 over the first three years.
5. The Assessor-Recorder is authorized to execute a Memorandum of Understanding with CERTNA providing for the County's participation in the CERTNA Government Agency to Government Agency (G2G) electronic recording delivery system allowing electronic recording of real property documents by participating government agencies.
6. The Assessor-Recorder is authorized to execute Memoranda of Understanding with authorized submitters (such as title insurers and institutional lenders, and as specified in the ERDA) in the form of Memorandum of Understanding approved by CERTNA and approved as to form by County Counsel, permitting submission of real property records electronically to the Assessor-Recorder.
7. The Assessor-Recorder and staff shall comply with the ERDA and regulations issued under the ERDA, including conducting fingerprinting and criminal background checks on persons with secure access to the CERTNA ERDS, as required by Government Code section 27395(b), notifying the State Attorney General ERDS Program if there is a change of County Recorder, and if the County wishes to withdraw its system certification.
8. The Assessor-Recorder is authorized to issue payments to CERTNA for the County's participation in the CERTNA ERDS based on the volume of documents recorded with the Clerk-Recorder for which an electronic recording fee (\$1.00) is collected. The CERTNA ERDS fee schedule used to calculate County's annual CERTNA ERDS fees is established annually by the CERTNA Board of Directors and County is to receive 90 days advance notice of any change in the CERTNA ERDS fees it pays to CERTNA to participate in the CERTNA ERDS.
9. The Assessor-Recorder is authorized to impose those fees described in Government Code Section 27397, subject to the limitations described in that code section.
10. This Resolution shall take effect upon its adoption.

THE FOREGOING RESOLUTION WAS DULY ADOPTED by the Board of Supervisors of the County of Lake, State of California, on the_____, 2020 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

CHAIR, Board of Supervisors

ATTEST: CAROL J HUCHINGSON
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM: ANITA L. GRANT
County Counsel

By: _____