

**JOINT POWERS AGREEMENT BETWEEN THE
COUNTIES OF KERN AND SAN BERNARDINO CREATING THE CALIFORNIA
ELECTRONIC RECORDING TRANSACTION NETWORK AUTHORITY**

THIS AGREEMENT (the "Agreement"), dated as of July 1, 2007, by and among the COUNTY OF KERN and the COUNTY OF SAN BERNARDINO, all of which are bodies politic in the State of California.

WITNESSETH:

WHEREAS, Assembly Bill 578 (Stats. 2004, Ch. 621, Sec. 2), known as the Electronic Recording Delivery Act of 2004, set forth at Title 3, Division 2, Part 3, Chapter 6, Article 6 of the California Government Code (Sections 27390 et seq.) authorizes California County Recorders to accept digitized and certain digital documents for recordation pursuant to the provisions thereof and regulations being developed by the California Department of Justice; and

WHEREAS, certain electronic recording systems now in use by the parties to this Agreement were developed independently and are not interoperable; and

WHEREAS, the parties to this Agreement now wish to standardize the electronic recordation of documents across multiple counties by creating a single umbrella agency that will develop and maintain an electronic recording network as requested by the parties;

NOW THEREFORE, the Counties above mentioned, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

SECTION 1. Purpose.

Each party to this Agreement has the power to accept digitized and certain digital documents for recordation. Under the authority of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California commencing with Section 6500, the parties desire, by joint exercise of their common power, to create and constitute a new public entity separate and distinct from each of the parties to be known as the "California Electronic Recording Transaction Network Authority." This new entity will serve as a unifying umbrella agency to coordinate the service desires of the parties and enable certain lead counties to jointly develop, implement, and support an AB 578 compliant system to be known as the California Electronic Recording Transaction Network, hereinafter referred to as "CERTN," allowing for the electronic recording of documents by multiple counties using variable back-end systems.

SECTION 2. Term.

This Agreement shall become effective as of the date written above and shall continue in full force and effect until terminated by all parties. Any party may withdraw from the Agreement as provided in Section 11 below.

SECTION 3. Authority.

A. Creation of Authority.

Pursuant to Section 6503.5 of the Government Code, there is hereby created a public entity to be known as the "California Electronic Recording Transaction Network Authority, " hereinafter referred to as "CERTNA," and said Authority shall be a public entity separate and apart from the counties which are a part of this agreement.

B. Governing Board.

The Authority shall be administered by a governing board initially consisting of two members, each serving in their individual capacities as members of the governing board. The County Recorder or comparable officer from each of the initial two participating counties shall upon approval of this Agreement be deemed the appointee of the Board of Supervisors of each participating county. Each said officer shall appoint an alternate to service in his or her absence. Such governing board shall be called the "Board of Directors of the California Electronic Recording Transaction Network Joint Powers Authority" and is referred to herein as the "Board." All voting power shall reside in the Board.

C. Meetings of Governing Board.

(1) Regular meetings.

The Board of the Authority shall provide for its regular meetings; provided, however, that it shall hold at least one (1) regular meeting each year. The date, hour and place shall be fixed by the Board.

(1.1) In the event that neither a board member nor an alternate is available for a scheduled meeting, a substitute may be appointed by the jurisdiction by providing a letter of documentation from a representative with signatory power prior to convening the meeting.

(2) Ralph M. Brown Act.

All meetings of the Board of the Authority, including without limitation regular, adjourned regular, and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of Government Code).

(3) Minutes.

The secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, and special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to the Counties.

(4) Quorum.

A majority of the Board of the Authority shall constitute a quorum for the transaction of business.

D. Officers

The Board shall select a chairman, a vice chairman, a secretary, and such other officers as the Board deems necessary. The Board shall determine the terms of office for each officer of the CERTNA. The secretary need not be a member of the Board.

E. Treasurer, Controller and Legal Counsel.

The initial treasurer and controller of the Authority shall each be the Treasurer and Auditor/Controller, respectively, of a County, as designated by the Board. The Treasurer shall be depository and have custody of all money of the Authority from whatever sources, and the Auditor/Controller shall draw all warrants to pay demands against the Authority approved by the Board. The attorney for the Authority shall be selected by the Board. The public officers or persons who have charge of, handle or have access to any property of the Authority shall file an official bond, which may be issued by the County designated by the Board through a self-insurance program, in an amount determined by the Governing Board. The Board may, at any time, designate a certified public accountant or Authority employee to be the depository and have custody of all money of the Authority, from whatever source, in lieu of designating the County Treasurer. The Board may also designate an Authority employee to carry out the controller function for the Authority.

F. Functions.

The Authority shall perform the following functions:

- 1) Manage the development of a CERTN system that is AB 578 compliant, utilize guidance from nationally recognized standard setting bodies, and adhere to applicable Federal and State laws.
- 2) Support vendor specific connections to county back end users;
- 3) Provide basic submitter capability for front-end applications;
- 4) Implement and support the CERTN system;
- 5) Publish interoperability standards allowing for open interaction with CERTN.
- 6) Market to counties and authorized submitters;
- 7) Manage the CERTN system for client counties;

- 8) Encourage the widespread adoption of the CERTN system;
- 9) Provide a mechanism for additional counties to join as CERTN clients on a fee basis; and
- 10) Perform such other functions as are required to accomplish the purpose of this Agreement.

SECTION 4. Powers.

The Authority shall have the powers common to the Counties to own, maintain and operate an electronic recordation system; and, in the exercise of the powers under this Agreement, CERTNA is authorized in its own name to:

- A) Employ agents and employees;
- B) Make and enter into contracts;
- C) Acquire, convey, construct, manage, maintain or operate any buildings, works or improvements;
- D) Acquire and convey real and personal property;
- E) Incur debts, liabilities and obligations, provided however, the debts, liabilities and obligations incurred by CERTNA shall not be, nor shall they be deemed to be debts, liabilities and obligations of any party;
- F) Accept contributions, grants or loans from any public agency, or the United States or any department, instrumentality or agency thereof, for the purpose of financing the planning, acquisition, development, maintenance or operation of the CERTN;
- G) Invest money in the treasury in the same manner and upon the same conditions as other local entities in accordance with the California Government Code;
- H) Sue and be sued; and
- I) Perform all other acts reasonable and necessary to carry out the purpose of this Agreement.

Such powers are subject to the restrictions upon the manner of exercising such powers as are imposed upon the parties to this Agreement.

SECTION 5. Liability of Parties

Each party to this Agreement, whether individually or collectively, does not assume, nor shall a party be deemed to assume liability for:

- A) Any act of CERTNA or for any act of CERTNA's agents or employees;
- B) The payment of wages, benefits or other compensation to officers, agents or employees of CERTNA; or
- C) The payment of workers' compensation or indemnity to agents or employees of CERTNA for injury or illness arising out of the performance of this Agreement.

SECTION 6. Finance

- A) Fiscal Year.

The fiscal year of CERTNA shall be the twelve (12) month period from July 1st to, and including, the following June 30th.

- B) Annual Budget.

The Board shall hold a public hearing and adopt an annual budget. The adoption of the annual budget shall require a majority vote of the Board.

- C) Funding.
 - 1) Initial funding shall be advanced by member jurisdictions, with the intent that said initial funding will be reimbursed from net operating revenue as available.
 - 2) Ongoing funding shall be primarily from fees collected from participating counties, which may be proceeds from fees authorized to be charged by Government Code section 27397, or other sources as each said county may determine.

SECTION 7. By-Laws, Rules and Amendments Thereto.

The Board of the Authority shall adopt such by-laws as deemed necessary and may from time to time adopt such rules and regulations for the conduct of its meetings and affairs as may be required. This Agreement may be amended at any time by the written consent of all parties to it. Any by-laws, rules and regulations adopted by the Board may be amended at any time by a majority vote of the Board.

SECTION 8. Treasurer.

The Treasurer of the Authority shall:

- A) Receive and receipt for all money of CERTNA and place it in the treasury so designated to the credit of CERTNA;
- B) Be responsible upon his or her official bond, which may be issued by the County designated by the Board through a self-insurance program, for the safekeeping and disbursement of all CERTNA money held by him or her;
- C) Disburse, when due, out of CERTNA funds, all sums payable on outstanding CERTNA bonds and coupons;
- D) Pay any other sums due from CERTNA from the entity's funds or any portion thereof, upon warrants of the CERTNA controller designated herein;
- E) Invest funds in accordance with Section 4(g) of this Agreement.

SECTION 9. Controller.

The Controller of the Authority shall:

- A) Issue checks to pay demands against CERTNA which have been approved by the Program Director or other person designated by the Board;
- B) Be responsible on his or her official bond, which may be issued by the County designated by the Board through a self-insurance program, for his or her approval of disbursement of CERTNA money;
- C) Keep and maintain records and books of accounts on the basis of the uniform classification of accounts adopted by the State Controller. The books of accounts shall include records of assets, liabilities and of contributions made by each party; and
- D) Cause to be made an annual audit of the accounts and records of CERTNA as prescribed in California Government Code Sections 6505 and 26909.

SECTION 10. Program Director.

The Board may select and employ a Program Director for the Authority. The Program Director shall carry out the policies and directives of the Board. The Program Director shall serve at the pleasure of the Board. The Program Director's responsibilities include but are not limited to:

- A) Oversee and participate in the development of requirements and design of the CERTN system.

- B) Serve as liaison with the Office of the California Attorney General and client counties to ensure that all standards are being met.
- C) Present a completed design for the CERTN system to the Board for approval.
- D) Develop RFP(s) for system development vendor(s).
- E) Present RFP(s) to the Board for approval and release.
- F) Manage vendor selection process.
- G) Present recommended vendor(s) and alternates to the Board for approval.
- H) Negotiate and finalize contract(s) with selected vendor(s).
- I) Present contract(s) to the Board for approval.
- J) Manage vendor(s) to project plan ensuring completion of project based on deliverables and predefined milestones.
- K) Manage development and publication of system interoperability standards and request feedback from industry partners.
- L) Work with vendors and client counties in the acceptance and implementation of standards to ensure a sending and receiving capability for each client.
- M) Manage selection of server hosting facilities based on security, disaster survivability, and business continuity requirements.
- N) Manage installation, testing, and final acceptance of operational system.
- O) Work with client counties to achieve certification of system.
- P) Develop ongoing system management procedures and policies.
- Q) Manage ongoing system operations and support capabilities.
- R) Develop and manage process for system upgrades, enhancements, and client support.

SECTION 11. Termination - Withdrawal of Party.

A party may withdraw from this Agreement as of the first day of July of any year following six months notice to the other parties by resolution of intent to withdraw

adopted by the legislative body of the party; provided, however, that CERTNA assets directly attributable to the accumulated capital contribution of the withdrawing party shall remain with the system for use by CERTNA without compensation to the withdrawing party, until the termination of this agreement and the distribution of assets to all parties in winding up; and provided further that the withdrawing party shall remain liable for and shall pay its proportional share of any indebtedness incurred while the withdrawing party is a party.

SECTION 12. Winding Up.

If this Agreement is terminated, all property and equipment owned by CERTNA shall be distributed to the parties. Distribution to each party shall be made in the same proportion as that reflected in the parties' accumulated capital contribution accounts as shown in the Controller's books of account. Cash may be distributed in lieu of property or equipment.

If the parties cannot agree as to the valuation of the property or to the manner of its distribution, the distribution or valuation shall be made by a neutral person appointed by the Board.

This Agreement shall not terminate until all property has been distributed in accordance with this Section 12.

SECTION 13. Additional Parties.

Additional counties may be added to this Agreement upon such terms and conditions as may be imposed by the Board and upon such entity executing this Joint Powers Agreement.

SECTION 14. Amendments.

This Agreement may be amended by written amendment unanimously approved by the parties, except that parties may be added in accordance with the provisions of Section 13.

SECTION 15. Cooperation of Parties.

The parties recognize that it is essential to cooperate fully concerning the functions of the Authority and the creation and maintenance of the CERTN system. In connection with this Agreement, the parties agree to provide any data, information, and documentation reasonably necessary to the performance of this Agreement.

SECTION 16. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties.

SECTION 17. Severability.

Should any part, term, portion or provision of this Agreement be finally decided to be in conflict with any law of the United States or of the State of California, or otherwise unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter in the first instance.

SECTION 18. Legal Adequacy.

Each party to this Agreement acknowledges and agrees that this Agreement has been reviewed by each party's respective legal counsel for legal adequacy.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested to by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

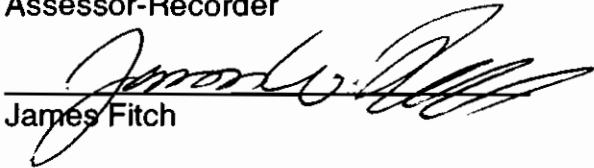
THE COUNTY OF KERN :



Don Maben, Chairman
Board of Supervisors

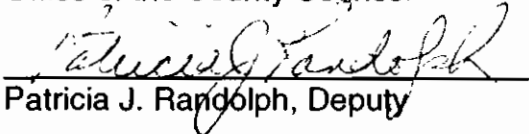
Dated: JUL 24 2007

APPROVED AS TO CONTENT:
Assessor-Recorder



James Fitch

APPROVED AS TO FORM:
Office of the County Counsel



Patricia J. Randolph, Deputy

COUNTY OF SAN BERNARDINO

Paul Biane

Paul Biane, Chairman, Board of Supervisors

Dated: JUL 17 2007

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Dera M. ...
Clerk of the Board of Supervisors
of the County of San Bernardino

By *[Signature]*



**AMENDMENT NO. 1 TO THE JOINT POWERS AGREEMENT
CREATING THE CALIFORNIA ELECTRONIC RECORDING
TRANSACTION NETWORK AUTHORITY**

This Amendment No. 1 is made as of January 14, 2010, by and among the COUNTY OF FRESNO, the COUNTY OF KERN, the COUNTY OF SAN BERNARDINO, the COUNTY OF SAN JOAQUIN, the COUNTY OF SANTA CLARA, and the COUNTY OF SANTA CRUZ (the "parties"), all of which are bodies politic in the State of California, to the Joint Powers Agreement Between The Counties Of Kern And San Bernardino Creating The California Electronic Recording Transaction Network Authority (the "Agreement").

W I T N E S S E T H:

WHEREAS, the parties have entered into the Agreement which created a new public entity known as the California Electronic Recording Transaction Network Authority (referred to as "CERTNA"); and

WHEREAS, the original purpose of CERTNA was to enable certain lead counties to jointly develop, implement and support an AB 578 compliant system; and

WHEREAS, the parties desire to expand the powers of CERTNA to enable it to develop, implement and support a Government Code section 27279 compliant system, as well as engage in any and all other activities that are permissible under applicable law.

NOW, THEREFORE, the parties, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

AMENDMENT SECTION 1.

Section 1 of the Agreement is amended to read as follows:

Each party to this Agreement has the power to accept digitized and certain digital documents for recordation. Under the authority of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California commencing with Section 6500, the parties desire, by joint exercise of their common power, to create and constitute a new public entity separate and distinct from each of the parties to be known as the "California Electronic Recording Transaction Network

Authority." This new entity will serve as a unifying umbrella agency to coordinate the service desires of the parties and enable certain lead counties to jointly develop, implement, and support an AB 578 compliant system as well as a Government Code section 27279 compliant system to be known as the California Electronic Recording Transaction Network, hereinafter referred to as "CERTN," allowing for the electronic recording of documents by multiple counties using variable back-end systems. In addition, CERTNA shall have the power to engage in any and all other activities that are permissible under applicable law.

AMENDMENT SECTION 2.

Section 3 F 1) of the Agreement is amended to read as follows:

(a) Manage the development of a CERTN system that is AB 578 compliant, utilize guidance from nationally recognized standard setting bodies, and adhere to applicable Federal and State laws; (b) Upon approval of the CERTNA Board, manage the development of a CERTN system that is Government Code Section 27279 compliant; and (c) Upon approval of the CERTNA Board, engage in any and all other activities that are permissible under applicable law.

AMENDMENT SECTION 3.

Section 10 title, introduction and paragraphs A) and B) of the Agreement are amended to read as follows:

SECTION 10. Executive Director.

The Board may select and employ an Executive Director for the Authority. The Executive Director shall carry out the policies and directives of the Board. The Executive Director shall serve at the pleasure of the Board. The Executive Director's responsibilities include but are not limited to:

- A) Oversee and participate in the development of requirements and design of the AB 578 and the Government Code Section 27279 CERTN systems and any and all other activities that are approved by the Board.
- B) Serve as liaison with the Office of the California Attorney General and client counties to ensure that all applicable standards are being met.

AMENDMENT SECTION 4.

This amendment shall be effective upon the execution by all parties to this amendment. This amendment may be signed in counterparts.

AMENDMENT SECTION 5.

All other terms and conditions shall remain the same.