

Attachment “A”

Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING AGREEMENT
BETWEEN OWNER COUNTIES AND PARTICIPANTS
FOR THE USE OF THE SECURE GOVERNMENT TO GOVERNMENT (G2G)
PORTAL**

THIS MEMORANDUM OF UNDERSTANDING (“MOU” or “Agreement”), made and entered into on, _____, is between the counties of Los Angeles, Orange, Riverside, and San Diego that own the Statewide Electronic Courier Universal Recording Environment (“SECURE”) with the Orange County Clerk-Recorder acting on their behalf as the Lead County (collectively “Owners”), participating counties and Tulare County Resource Management Agency the submitting party (“Government Agency”), recording electronically through the SECURE G2G Portal. The Owners, Participating Counties and Government Agency are collectively referred to as the “Parties.”

WHEREAS, California Government Code Section 27279(b) states “the recorder of any county may, in lieu of written paper, accept for recording digitized images, digital images, or both, of a recordable instrument, paper, or notice if the requester and addressee for delivery of the recorded images are the same and can be readily identified as a local or state government entity, or an agency, branch or instrumentality of the federal government.”

WHEREAS, the Counties of Orange, Los Angeles, Riverside and San Diego are the Owners of the SECURE G2G Portal and a County that uses the SECURE system, but is not an Owner, is considered a Participating County; and

WHEREAS, the SECURE G2G Portal functions as a separate portal under the same security framework as the existing SECURE system; and

WHEREAS, the Counties of Orange, Los Angeles, Riverside and San Diego entered into an agreement to share the ownership and ongoing maintenance of a multi-county Government to Government electronic recording portal; and

WHEREAS, Orange County is the “Lead County” in supporting this SECURE G2G Portal and is responsible for executing any agreements with participants with the approval of the other Owners.

NOW THEREFORE, the Parties, for and in consideration of the mutual promises and agreements herein continued, do agree to the following:

1. Definitions

Owners: The owners of the SECURE G2G Portal consisting of Los Angeles, Orange, Riverside and San Diego Counties.

Participating County(ies): Any non-owner county that is part of the SECURE System and uses the SECURE G2G Portal to electronically receive and return documents for recording.

SECURE G2G Portal: Refers to the SECURE Government to Government Portal.

Government Agency: The Agency or Department under this Agreement that submits package(s) of documents electronically to an Owner or Participating County using the SECURE G2G Portal for the purpose of electronically recording.

Operational Issues: Issues regarding the business rules that dictate what can be recorded by an individual Owner county or Participating County.

Technical Issues: Issues regarding how the SECURE G2G Portal electronically receives and returns recordable documents.

Infrastructure: The non-software components used to electronically receive and return recordable documents through the SECURE G2G Portal.

Department Representative: The contact person within the Owner or Participating County tasked with supervising the scanning personnel used for the act of electronic recording.

SECURE: The Statewide Electronic Courier Universal Recording Environment (SECURE) used by multiple participating counties to electronically receive and return documents for recording.

Government to Government: The act of a county recorder recording a document for a government entity through the SECURE G2G Portal.

2. Purpose

The purpose of this Memorandum of Understanding (MOU) is to define the requirements, rules and policies needed for Parties to share in the use of the SECURE G2G Portal to electronically record documents in a secure electronic recording environment.

3. Term

This Agreement shall become effective upon the signature of the Parties and shall expire five (5) years thereafter unless terminated in writing by either party in accordance with this Agreement.

4. Fees and Cost:

Government Agency is exempt from fees for SECURE G2G Portal system use, maintenance and technical support. Government Agency may be held responsible to pay any other applicable fees, taxes, and other charges, however denominated, for the recordation of documents. Startup costs may include reimbursements for setup and tokens if applicable.

5. Eligibility

Established government agencies at the local, state or federal level, as defined below, will be allowed to submit legal documents for electronic recording through the SECURE G2G

Portal pursuant to California Government Code section 27279(b), which states in part “the recorder of any county may, in lieu of written paper, accept for recording digitized images, digital images, or both, of a recordable instrument, paper, or notice if the requester and addressee for delivery of the recorded images are the same and can be readily identified as a local or state government entity, or an agency, branch or instrumentality of the federal government.”

6. SECURE G2G Portal Recording Requirements

SECURE G2G Portal recording requirements and specifications are generally set forth in Attachment A and Attachment B, incorporated herein by reference, to this Agreement.

- 6.1 Government Agency shall comply with any and all requirements and specifications.
- 6.2 Government Agency understands that the requirements and specifications may change from time to time.
- 6.3 Government Agency understands that the requirements and specifications set forth in the attachments could be specific to individual Owner or Participating Counties.
- 6.4 Government Agency acknowledges that the recording requirements and specifications contained in the attachments may not be exhaustive of the recording requirements for the individual Owners and Participating Counties.
- 6.5 Owners will provide written notice to the Government Agency within a reasonable period of time if there are any changes to the requirements or specifications.
- 6.6 Attachment A – Provides the technical specifications including submission methods, communication protocol, security framework and imaging standards.
- 6.7 Attachment B – Contains the processing schedules, hours of operation, policies, sample document types and authority, technical service contact and security incident contact information for electronic recording with each individual Owner or Participating County.

7. Government Agency Acknowledgments and Responsibilities

- 7.1 Government Agency must supply all electronic recording equipment, i.e., computer, monitor, scanner, printer, an internet connection and a token from the Lead County, if applicable.
- 7.2 The electronic documents or records shall be considered the “original” record of the transaction in substitution for, and with the same intended effect as, paper documents or records. In the case that such documents or records bear a digital or electronic signature, those signatures shall have the same effect as paper documents or records bearing handwritten signatures.
- 7.3 Government Agency is responsible for the accuracy, completeness and content of documents submitted for Government to Government recording.

- 7.4 Government Agency shall immediately notify Lead County of any security incident, including but not limited to attempts at or actual unauthorized access which could compromise or otherwise adversely affect SECURE's data systems.
- 7.5 Government Agency shall ensure that all security measures and credentials implemented are protected. Government Agency assumes all responsibility for documents submitted through unique credentials provided to Government Agency for the purposes of engaging in Government to Government recording.
- 7.6 Government Agency is responsible for receiving and verifying receipt of documents recorded to ensure that the source of the receipt is the county where the document was to be recorded.
- 7.7 Government Agency shall address all Operational Issues related to the electronic recording process with the individual Owner or Participating Counties.
- 7.8 Government Agency shall notify the Lead County of all problems involving Technical Issues. Government Agency shall work in good faith with the Lead County to resolve any Technical Issues. Resolution of Technical Issues may require Government Agency to provide onsite access to Lead County.
- 7.9 Government Agency shall comply with each county's individual recording requirements. Government Agency's submission of a document via the SECURE G2G Portal for transmission to a particular county for recording does not guarantee the document will be recorded by that individual County. Each Owner or Participating County may have its own specific requirements for the recordation of documents including, but not limited to, document types authorized for recording and payment methods. Documents not meeting a county's specific requirements for recording may be rejected by the respective county.
- 7.10 Following the electronic recordation of a document, Government Agency agrees to deliver the original document and/or notify the real party in interest.

8. Lead County Responsibilities

- 8.1 Lead County shall conduct ongoing monitoring of the SECURE G2G Portal in an effort to protect the integrity of the transmission process.
- 8.2 Lead County shall test and maintain the SECURE G2G Portal software and hardware.
- 8.3 If the SECURE G2G Portal experiences delays or power failures that interfere with the normal course of business, the Lead County will work with the individual Participating County and Government Agency until the problem has been remedied.
- 8.4 Lead County will coordinate the SECURE G2G Portal administration, training, policy creation, access control and establishment of contracts required for Government Agency to submit to Participating Counties.

8.5 Lead County shall facilitate all communication between Government Agency and Participating Counties.

9. SECURE G2G Portal Review

Government Agency's right to submit documents under this Agreement is subject to Owners review and acceptance of Government Agency's standards and procedures. Such approval will not be unreasonably withheld by Owners. This review is to confirm that all requirements of this Agreement are met.

10. General Recording Requirements

Submission, acceptance, recording and rejection of any document must comply with all applicable federal, state and local laws. County specific recording requirements are generally set forth in Attachment B.

11. Suspension

Lead County may suspend Government Agency's submission of documents to the SECURE G2G Portal, restrict access, or deny access to Government Agency and any of Government Agency's individual staff members at any time in its sole discretion as it deems necessary.

Notice of suspension will be immediately provided to Government Agency by Lead County on behalf of Owners. Government Agency may resume submission upon satisfactory resolution of the reason for suspension after notification from the Lead County. Whether a matter is resolved is determined solely by the SECURE Owners.

The following is a non-exhaustive list of reasons for suspension:

11.1 To protect the public interest.

11.2 To protect the integrity of public records.

11.3 To protect real property owners from financial harm.

11.4 To prevent fraud.

11.5 For Government Agency's violation of, or to prevent the violation of, any federal, state, or local law.

11.6 For Government Agency's failure to notify Lead County of modifications which could compromise or otherwise adversely affect SECURE's data systems.

11.7 For Government Agency's default of any provision of this Agreement.

12. Limitation of Liability

Owners and Participating Counties shall be held harmless from and not incur any liability for any damages whatsoever caused either directly or indirectly for:

- 12.1 Information electronically transmitted by the Government Agency.
- 12.2 Any breach of security, fraud or deceit resulting from electronic recording.
- 12.3 Damages resulting from software, hardware, or other equipment failure.
- 12.4 Delays or power failures that interfere with the normal course of electronic recording.
- 12.5 Restricting or terminating Government Agency's ability to electronically record documents.
- 12.6 Claims, disputes or legal actions concerning an electronic transaction, including, but not limited to, the accuracy, completeness or content of documents submitted for recording.
- 12.7 Government Agency, Owners and Participating Counties shall not be liable to each other for:
 - 12.7.1 Any special, incidental, exemplary or consequential damages arising from or as a result of any delay, omission or error in the electronic recording transmission or receipt.
 - 12.7.2 Any failure to perform processing of the transactions and documents where such failure is beyond the party's reasonable control (including, without limitation, any mechanical, electronic or communications failure, which prevents the parties from transmitting or receiving the electronic recording transactions).
 - 12.7.3 Except for payment and indemnity obligations hereunder, any cessation, interruption or delay in the performance of an obligation hereunder due to earthquake, flood, fire, storm, natural disaster, act of God, war, armed conflict, terrorist action, labor strike, lockout boycott, provided that the party relying upon this paragraph: (a) shall have given the other party written notice thereof promptly and, in any event within five (5) days of discovery thereof and, (b) shall take all reasonable steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based in the event the force majeure event described in this paragraph extends for a period in excess of 3 days.

13. Indemnification

- 13.1 Owners and Participating Counties shall not be liable for, and Government Agency shall defend and indemnify Parties against, any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including

attorneys' fees and court costs (hereinafter collectively referred to as "Claim" or "Claims"), related to this Agreement and arising either directly or indirectly from any act, error, omission or negligence of Government Agency or its contractors, licensees, agents, servants or employees, including, without limitation, Claims caused by the concurrent negligent act, error or omission, whether active or passive, of Owners. Government Agency shall have no obligation, however, to defend or indemnify Owners from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of Owners.

- 13.2 In the event of fraud that arises directly or indirectly from Government Agency's submission of a document through the SECURE G2G Portal for electronic recording that impacts the value of or title to real estate, Government Agency shall defend and indemnify the Owners (as defined in section 13.1, above) against any Claims (as defined in section 13.1, above) for any Government to Government electronic recording transaction in which the Government Agency engages.

14. Termination

- 14.1 Either party may terminate this Agreement for any reason by providing 30 calendar days written notice of termination.
- 14.2 Owners may terminate this Agreement immediately if Government Agency is in default of any of the terms of this Agreement.
- 14.3 Notwithstanding any other provision of this Agreement, the Owners may terminate this Agreement immediately at any time in its sole discretion it deems necessary. The following is a non-exhaustive list of reasons for termination:
- 14.3.1 To protect the public interest.
- 14.3.2 To protect the integrity of public records.
- 14.3.3 To protect real property owners from financial harm.
- 14.3.4 To prevent fraud.
- 14.3.5 For Government Agency's violation of, or to prevent the violation of, any federal, state or local law.
- 14.3.6 The indemnification and limitation of liability provisions of this Agreement shall survive any termination of this Agreement.

15. Dispute Resolution

Owners and Government Agency will attempt, in good faith, to resolve any controversy or claim arising out of or relating to Government to Government electronic recording through either negotiation or mediation prior to initiating litigation.

16. Governing Laws and Venue

This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

17. Amendment

Any amendments or modifications to this Agreement shall be in writing duly executed by each party's authorized official, which shall become effective at a time mutually agreed upon by the Parties. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or Agreement not incorporated herein shall be binding on either party.

18. Assignment

This Agreement shall not be assigned by a party, either in whole or in part, without prior written consent of other party. Any assignment or purported assignment of this Agreement by a party without the prior written consent of the other party will be deemed void and of no force or effect.

19. Entire Agreement

This Agreement contains the entire and complete understanding of the Parties and supersedes any and all other agreements, oral or written, with respect to the terms under this Agreement.

20. Parties in Interest

None of the provisions of this Agreement or any other document relating hereto provides any rights or remedies to any person other than the Parties hereto and the Participating Counties and their respective successors, transferees, assumers and assigns, if any.

21. Privileged and Confidential Information

The Government Agency agrees that all personal information, which is considered privileged and confidential under state law contained within the documents submitted for recording will not be released by the Government Agency to any individual or other legal entity who would not otherwise have authorized access to such information. Any release of information by the Government Agency to any unauthorized individual or other legal entity may result in the Owners terminating this Agreement.

22. Waiver

No waiver of the breach of any of the covenants, agreements, restrictions, or conditions of this Agreement by Owners shall be construed to be a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. No delay or omission of Owners, in exercising any right, power or remedy herein provided in the event of default shall be construed as a waiver thereof or acquiescence therein, or be construed as a waiver of a variation of any of the terms of this Agreement.

23. Severability

If any term or portion of this Agreement is held to be invalid, illegal, void or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

24. Sections and Attachments

All sections and attachments referred to herein are attached hereto and incorporated by reference.

25. Headings

The Agreement captions, clause, section and attachment headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the construction or interpretation of any term or provision hereof.

26. Notice

Any notice pursuant to this Agreement shall be in writing and deemed given when delivered personally, sent by facsimile or deposited in United States mail, postage-prepaid, to the Parties listed below. For reporting a security incident, the Government Agency shall call the Lead County specified below. All notices, billings, or other communications provided for this agreement shall be sent to the respective Counties as provided in this paragraph.

27. Government Agency

Notices for the Government Agency will be sent to the Representative according to the Information listed below.

27.1 Government Agency Department Head (please print):

Name: Reed Schenke

Title: Director

Telephone #: (559) 624-7000

Fax #: (559) 730-2653

Email Address: RSchenke@co.tulare.ca.us

Street Address (location of equipment/software):

5961 South Mooney Boulevard, Visalia, CA 93277

City, State and Zip Code

27.2 Government Agency Representative:

Name: Russell Kashiwa

Title: Planning Technician II

Telephone#: (559) 624-7110

Email Address: Rkashiwa@co.tulare.ca.us

27.3 Lead County:

Orange County Clerk-Recorder
Attn: SECURE G2G Coordinator
12 Civic Center Plaza, Room 101,
Santa Ana, CA 92701
Fax: (714) 834-5808

28. Signatures in Counterparts:

This MOU may be executed in counterparts by the parties. This MOU is in effect as to any signatory party upon execution and, for purposes of enforcement, true copies of signatures shall be deemed to be original signatures.

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IN WITNESS WHEREOF, the parties hereto have caused this MOU 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.

OWNERS

THE COUNTY OF ORANGE FOR ITSELF AND FOR OWNERS:

Approved By: Hugh Nguyen

Signature: _____

Title: Orange County Clerk-Recorder

Dated: _____

GOVERNMENT AGENCY

DEPARTMENT OF (Government Agency): Tulare County Resource Management Agency

Approved By: Reed Schenke _____

Signature: _____

Title: Director _____

Dated: _____

Attachment A - Technical Specifications

1. **Submission Methods**

SECURE G2G Portal User Interface (UI) – government agencies who will be scanning paper or uploading image files directly into the SECURE G2G Portal must use a token for authentication. Government agencies will receive recording confirmation via the UI. The UI allows user to upload a pre-scanned 300 DPI TIFF Group IV image or use a browser scanner TWAIN plugin.

SECURE G2G Portal Web API (API) – government agencies that directly connect to the API must adhere to the XSD standard. The XML files that are uploaded must include Base64 encoded 300 DPI TIFF Group IV image files. This process does not require a user to be involved in the transfer; it is an automatic process that will be programmed by the submitter in conjunction with the County. Agencies will receive recorded information via XML return package.

2. **Communications Protocol**

HTTPS is required for the submission of instruments.

3. **Security Framework**

The required security framework is provided for in the SECURE G2G Portal software. The SECURE G2G Portal software shall use a minimum of 128 bit file and image encryption. Industry standard Secure Sockets Layer (SSL) and user login with password that is encrypted shall be employed. User passwords are controlled by the Government Agency and at a minimum changed at 90 day intervals to reduce security exposure.

a) Endpoint Security (Authentication Token) - Government Agencies will require one token for each agency staff member that will be utilizing the UI. For use of the token to submit documents through the SECURE G2G Portal for recording electronically, please refer to the SECURE G2G Portal User Manual.

b) Computers and User Accounts

Government agency computer(s) connected to the SECURE G2G Portal will have system and application logging enabled with a retention period of 3 months. Lead County may request reports of user access and transaction activity.

Computers on which documents originate shall have: (1) all critical operating system patches applied within one month from when the patch first becomes available; (2) a hardware firewall installed and maintained; (3) up to date virus scan software that shall check for definition updates twenty-four hours; (4) screen lock must be configured for activation after 10 minutes of inactivity; and, (5) complex passwords, as per Microsoft password complexity requirements.

Shared user accounts may not be issued. At no time shall more than one person be authorized access to the SECURE G2G Portal using a single SECURE G2G Portal user

account (user account) or set of identity credentials. Each person shall be uniquely identified. If a user's status changes, so that access to the SECURE G2G Portal is no longer required, the user's account and identity credentials shall be disabled and revoked, but not deleted from the system. User accounts and identity credentials are non-transferable.

4. Imaging Standards

The following imaging standards shall be complied with:

- Documents must be scanned or uploaded at 300 DPI TIFF Group IV image or use a browser scanner TWAIN plugin.
- Documents will be scanned in portrait mode.
- All pages, including attachments, must be numbered sequentially.
- Documents must be scanned to original size.
- Document details, such as margins, font size and other similar requirements, must meet all applicable state statute as set out in, Government Code Section 27361 et seq.