

**RECORDED AT THE REQUEST OF AND
WHEN RECORDED, RETURN TO:**

**Clerk of Town of Los Gatos
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030**

Assessor's Parcel Nos. 529-24-003, -032 and -001

Exempt from payment of fees pursuant to Government Code section 27383

LANDSCAPE MAINTENANCE AGREEMENT

THIS LANDSCAPE MAINTENANCE AGREEMENT (the "Agreement"), dated _____, 2026, is executed by the TOWN OF LOS GATOS, a municipal corporation (the "Town"), with an address of c/o Parks and Public Works Department, 41 Miles Avenue, Los Gatos, California 95030, and SUMMERHILL 50 LGSR LLC, a California limited liability company ("Developer") with reference to the following facts:

- A. Developer is the owner of real property identified as Lots 1-28 and Parcels A-I on the subdivision map entitled "Tract 10657" filed on _____, 2026, in Book __ of Maps at Page __ in the records of Santa Clara County, California (including any amendments, certificates of correction or lot-line adjustments thereto, the "Map"). Developer is constructing 155 townhomes commonly referred to as "Solana" (the "Development").
- B. The Landscape Improvements (as defined below) have been or will be constructed within the public rights of way ("ROW" or "ROWS") adjacent to Solana along Los Gatos-Saratoga Road. These Landscape Improvements are designated in the Site Plan attached as **Exhibit A**.
- C. Pursuant to the conditions of approval relevant to this Development, the Developer is to be responsible for maintaining the landscaping and irrigation within the ROW in the portions of Los Gatos-Saratoga Road abutting the Development. The purpose of this Agreement is to set forth the rights and obligations of Developer and the Town (and any transferees) with respect to the maintenance of said Landscape Improvements.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1
Definitions

Unless the context indicates otherwise, the following terms shall have the following definitions:

- 1.1 1.1 Agreement. This Landscape Maintenance Agreement and any modifications thereto.
- 1.2 1.2 Development. The meaning given to such term in Recital A hereof.
- 1.3 1.3 Landscape Improvements. The landscaping and other improvements situated within the public ROW along Los Gatos-Saratoga Road adjacent to the Development and any utilities and

equipment, including irrigation systems, that provide irrigation to the landscaping therein, and any orchard trees, other trees, shrubs, foliage, groundcover and other landscaping. The Landscape Improvements do not include any areas of right of way maintained by the State of California or any utility lines and equipment, including signal monitoring devices, that provide utility service to any property outside the ROW.

1.4 1.4 Maintain, Maintained, Maintaining or Maintenance. Unless expressly stated otherwise, “maintain”, “maintained”, “maintaining” or “maintenance” as used in this Agreement includes inspection, cleaning, maintenance, repair, upgrades and/or replacement.

1.5 1.5 Map. The meaning given to such term in Recital A hereof.

1.6 1.6 Person. Any individual, corporation, partnership, limited liability company, trust or other legal entity.

1.7 1.7 Town. The Town of Los Gatos, California.

ARTICLE 2 Grant of Easements

The ROW shown on **Exhibit A** is subject to a nonexclusive easement as the servient tenement in favor of the Development as the dominant tenement for access to install and maintain the Landscaping Improvements and utilities that provide utility service to the Landscape Improvements, including electricity and water. The easement is appurtenant to the dominant tenement and any conveyance of any portion of the dominant tenement, whether voluntary or involuntary, automatically conveys the easement appurtenant thereto regardless of whether the instrument of conveyance describes the easement, subject to the provisions of **Section 4.2**. The right to install utility fixtures and equipment includes the right to tie into and use existing fixtures and equipment that serve the dominant tenement as long as the local governmental agency(ies) approve of such use.

ARTICLE 3 Maintenance, Repair and Insurance

3.1 3.1 Maintenance. The Developer shall maintain the Landscape Improvements in good condition and repair at all times, reasonable wear and tear excepted, subject to **Section 3.2** below. If the maintenance of the Landscape Improvements will materially interfere with or temporarily suspend the ability to use a ROW, the Developer shall give the Town as much prior notice as is reasonable under the circumstances and no fewer than fifteen (15) calendar days, except in the case of an emergency. The Developer shall use all reasonable efforts to complete the work as soon as possible and to minimize any interference in the use of the ROW. Developer’s maintenance and other obligations under this Agreement exclude those areas of right of way maintained by the State of California pursuant the unrecorded Freeway Maintenance Agreement dated February 24, 1958 between the State of California and the Town.

3.2 3.2 Utility Repair or Replacement. If the Developer must repair any Landscape Improvements located within a ROW, it shall provide notice to the Town as is reasonable under the circumstances and no less than fifteen (15) calendar days’ prior notice, except in the case of an emergency, describe the work that must be done, and the impact on the use of the ROW during the period in which the work is being performed. Except in an emergency situation in which immediate work must be performed to prevent injury to any Person or material damage to any property, no work shall commence until the following conditions are satisfied: (1) the work is performed by contractors duly licensed in the State of California; (2) the work is performed in compliance with all applicable laws and ordinances, including permits required; and (3) liability insurance with policy limits no less than \$500,000 is provided insuring the Developer and the Town against any liability arising out of the work. The work, once commenced, shall be diligently pursued until completion in order to minimize any interruption or interference with the use of the ROW.

On completion of the work, the Developer immediately shall repair the ROW to the condition it was in immediately preceding the work. The Developer shall defend, indemnify and hold the Town harmless against any claims, demands, liabilities, causes of action, judgments and costs, including reasonable attorneys' fees, resulting from the Developer's work.

3.3 Failure to Maintain. If the Developer fails to maintain the Landscape Improvements in good condition and repair, reasonable wear and tear excepted, the Town may notify the Developer of the need for maintenance, which notice shall contain an itemized description of the required maintenance (the "Repair Demand"). If the Developer fails to take appropriate action to commence the maintenance described in the Repair Demand within thirty (30) days of receipt of the Repair Demand, the Town may have the appropriate maintenance performed. The cost shall be allocated pursuant to **Section 3.8** and, if applicable, the Developer shall reimburse the Town for its share of the cost on receipt of written demand. If the Developer fails to tender the payment within thirty (30) days after the receipt of the written demand, the Town shall be entitled to recover the reasonable costs of collection, including reasonable attorneys' fees, a late charge not exceeding 10% of the delinquent payment, and interest on the delinquent payment at 10% per annum or the maximum rate authorized by law, whichever is greater, commencing thirty (30) days after the payment due date. The Town may bring an action in any court of competent jurisdiction to collect the amount due.

3.4 Emergency Repairs. Notwithstanding anything herein to the contrary, either party may make such emergency repairs as that party, in the exercise of its reasonable business judgment, considers necessary in order to render the Town Property or the Development safe for its intended use (the "Repairing Party). The Repairing Party immediately shall notify the the "Non-Repairing Party" in writing of the reason for the cost of the repairs, together with appropriate supporting documentation (such as invoices) evidencing the costs spent on the repairs (the "Repair Notice"). On receipt of the Repair Notice, the Non-Repairing Party shall reimburse the Repairing Party for the Non-Repairing Party's share of the cost, if applicable pursuant to **Section 3.8**. If, within thirty (30) days after the receipt of the written demand, the Non-Repairing Party fails to tender payment, the Repairing Party shall be entitled to recover the reasonable costs of collection, including reasonable attorneys' fees, a late charge not exceeding 10% of the delinquent payment, and interest on the delinquent payment at 10% per annum or the maximum rate authorized by law, whichever is greater, commencing thirty (30) days after the payment due date. The Repairing Party may bring an action in any court of competent jurisdiction to collect the amount due.

3.5 Insurance. Developer shall supply proof of General Liability (GL) insurance and Automobile Liability (AL) insurance from an insurance company licensed to do business in the state of California and having a financial rating in Best's Insurance Guide of not less than AA. Both the GL and AL insurance will provide "occurrence" coverage against liabilities for death, personal injury or property damage arising out of or in any way connected with Developers installation and maintenance of the Landscape Improvements. Both the GL and AL insurance will be in the minimum amount of \$1,000,000.00 combined single limit, and will name the Town and the Town officers, employees, agents, and registered volunteers as additional insured under the coverage afforded. Such insurance will be primary and noncontributing with respect to any other insurance available to the Town and will include a severability of interest (cross-liability) clause.

Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

In addition to these policies, Developer shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Developer shall ensure that all subcontractors employed by Developer provide the required Workers' Compensation insurance for their respective employees.

A copy of the policy or a certificate of insurance along with an additional endorsement naming the Town as an Additional Insured must be filed in the Town Clerks Office . The Additional Insured Endorsement, effective for ongoing and completed operations, must be approved by the Town.

3.6 Indemnification. Developer hereby agrees to protect, defend, indemnify, and hold the Town free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by the Town arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the Town) and without limitation by enumeration, all other claims or demands of every character, arising out of or in connection with, or alleged to arise out of or be connected with, the installation, design, Maintenance or condition of the Landscape Improvements, except for any claims, actions, losses, liabilities and costs proximately caused by the negligence or willful misconduct of the Town. Developer agrees to investigate, handle, respond to, provide defense for and defend with counsel acceptable to Town any such claims, demand, or suit at the sole expense of the Developer. Developer also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against Developer or the Town or to enlarge in any way the Developer's liability, but is intended solely to provide for indemnification of Town from liability for damages or injuries to third persons or property arising from Developer's performance pursuant to this Agreement. If any judgment is rendered against Town for any injury, death, or damage relating to work performed or completed pursuant to this Agreement, Developer shall, at its own expense, satisfy and discharge any judgment. As used above, the term "Town" means the Town of Los Gatos, its officers, agents, employees, and volunteers.

3.7 Transfer of Responsibility. This Agreement shall serve as the signed statement by the Developer accepting responsibility for maintenance of the Landscape Improvements as set forth in this Agreement until the responsibility is legally transferred to another entity, including a developer, property owners association or similar entity. Prior to transferring maintenance responsibility of the Landscape Improvements to another developer or property owners association, the Developer shall provide written notice of the Agreement to the transferee and provide the Town a copy of such notice.

3.8 Maintenance Costs. The Developer shall be responsible for the costs to maintain the Landscape Improvements, provided that if the Town or any Person acting under the authority of a party damages any Landscape Improvement, the responsible party shall pay all costs to repair or replace the damaged Landscape Improvement.

ARTICLE 4 Miscellaneous

4.1 Term of Agreement. This Agreement shall be effective in perpetuity unless terminated by operation of law or agreement of the parties.

4.2 Transfer. This Agreement shall run with the land and shall be binding upon all heirs, successors, and assigns of the parties. The Developer further agrees whenever any part of the Development is held, sold, conveyed or transferred, it shall be subject to this Agreement, which shall apply to, bind and be obligatory to all present and subsequent owners of the Development (or any portion thereof). Notwithstanding the foregoing, while individual owners of residential condominiums or lots upon which commercial, retail, office or other uses are constructed (that are located within the Development) benefit from the maintenance of the Landscape Improvements, they shall have none of the maintenance and amendment rights and obligations described in this Agreement, which rights and obligations shall remain with the Developer or its assigns as described in this **Section 4.2**.

Additionally, notwithstanding any provision of this Agreement to the contrary, if and when an owners association (an "Association") commences maintenance of the Landscape Improvements that are the Developer's responsibility to maintain as set forth herein, Developer shall automatically be released of all

of its obligations and responsibilities under this Agreement that accrue or arise after the date that the Association assumes such maintenance.

4.3 4.3 Notice. Each party covenants to provide the other party with a current address for purposes of receiving notices. Any notice or demand permitted or required herein shall be conclusively considered received by a party when personally delivered to the owner, or seventy-two (72) hours after the notice has been deposited in the United States mail, certified or a return receipt requested, postage-prepaid, and addressed to such address as that the party has provided the other party for purposes of receiving notice hereunder. If no address has been provided, notice shall be considered received ninety-six (96) hours after notice is posted in a conspicuous place on the party's property and a copy mailed to the last known address of the party.

The initial addresses for notice are as follows:

Developer: SummerHill 50 LGSR LLC
6101 Bollinger Canyon Road, Suite 425
San Ramon, CA 94583
Attention: Kevin Ebrahimi

Town: Town of Los Gatos

Attention: _____

Notwithstanding the prescribed method of delivery set forth above, actual receipt of written notice shall constitute notice given in accordance with this Agreement on the date received, unless receipt is deemed earlier in accordance with delivery made under one of the prescribed methods.

4.4 4.4 Mortgagee Protection. No breach of this Agreement shall defeat or render invalid the lien of any deed of trust or mortgage recorded against all or any portion of the Development. Except where the Lender has received prior written notice of Developer's default hereunder and an opportunity to cure such default, in accordance with and pursuant to this Agreement, no lender taking title to all or any portion of the Development through foreclosure or deed in-lieu of foreclosure shall be liable for any defaults or monetary obligations of Developer arising prior to acquisition of possession of such property by such lender. The foreclosing lender shall have the right to find a substitute developer to assume the obligations of Developer, which substitute shall be considered for approval by Town pursuant to this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed. Town agrees to provide any lender who has recorded a deed of trust or mortgage against all or any portion of the Development of which Town has been given notice (each, a "Lender") with written notice of any default relating to Developer and/or the Development given by Town to Developer. Town agrees that, notwithstanding anything to the contrary contained in this Agreement, Lender shall have an additional sixty (60) days from the date Lender receives notice of a default to cure any such default, provided that Lender shall not have any obligation to cure any such default.

If a Lender or an affiliate of such Lender succeeds to the interest of Developer through foreclosure or deed in-lieu of foreclosure, then the time periods for performance of Developer's obligations set forth in this Agreement (if any) shall be extended for a period of time reasonable under the circumstances to permit such Lender or such affiliate to perform Developer's obligations under this agreement.

Copies of notices of default sent to Developer shall also be sent to Lender at:

Wells Fargo Bank, National Association
401 B Street, Suite 100
San Diego, CA 92101
Attn: John Wickenhiser
Loan No.: 0000101863

Copies to:

Wells Fargo Bank, National Association
600 South 4th Street, 10th Floor
Minneapolis, MN 55415
Attn: Agency CRE creloanservicingoperations@wellsfargo.com
Loan No.: 0000101863

and

Wells Fargo Bank, National Association
10 S. Wacker Drive, 20th Floor
Chicago, IL 60606
Attn: Gloria Juarez
Loan No.: 0000101863

4.5 4.5 Attorneys' Fees. If any action is commenced regarding the rights or duties of the parties hereto, the prevailing party in such action shall be entitled to recover the costs of such action and reasonable attorneys' fees.

4.6 4.6 Recordation; Covenants Running with the Land and Equitable Servitudes. This Agreement shall be recorded in the records of Santa Clara County, California. The rights and duties described herein shall constitute covenants running with the land and equitable servitudes that benefit and bind the Development and the ROWs and each owner and successive owner thereto. Owners of any property bound by this Agreement shall be liable for any defaults under this Agreement only during the period the owner held an ownership interest in the property and shall not be liable for any defaults committed by any predecessor or successor owner unless assumed in writing.

4.7 4.7 Amendments. This Agreement may be amended from time to time by written agreement by the Developer and the Town.

4.8 4.8 Effective Date. This Agreement shall be effective as of the date this document is recorded in the records of Santa Clara County, California.

DEVELOPER:

SUMMERHILL 50 LGSR LLC,
a California limited liability company

By: SummerHill LGL Venture LLC,
a Delaware limited liability company,
its Sole Member

By: SummerHill LGL Venture Manager LLC,
a Delaware limited liability company,
its Managing Member

By: SummerHill Homes LLC,
a California limited liability company
Its Manager

By: _____
Its: _____

By: _____
Its: _____

TOWN:

TOWN OF LOS GATOS,
a municipal corporation

By: _____
Its _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

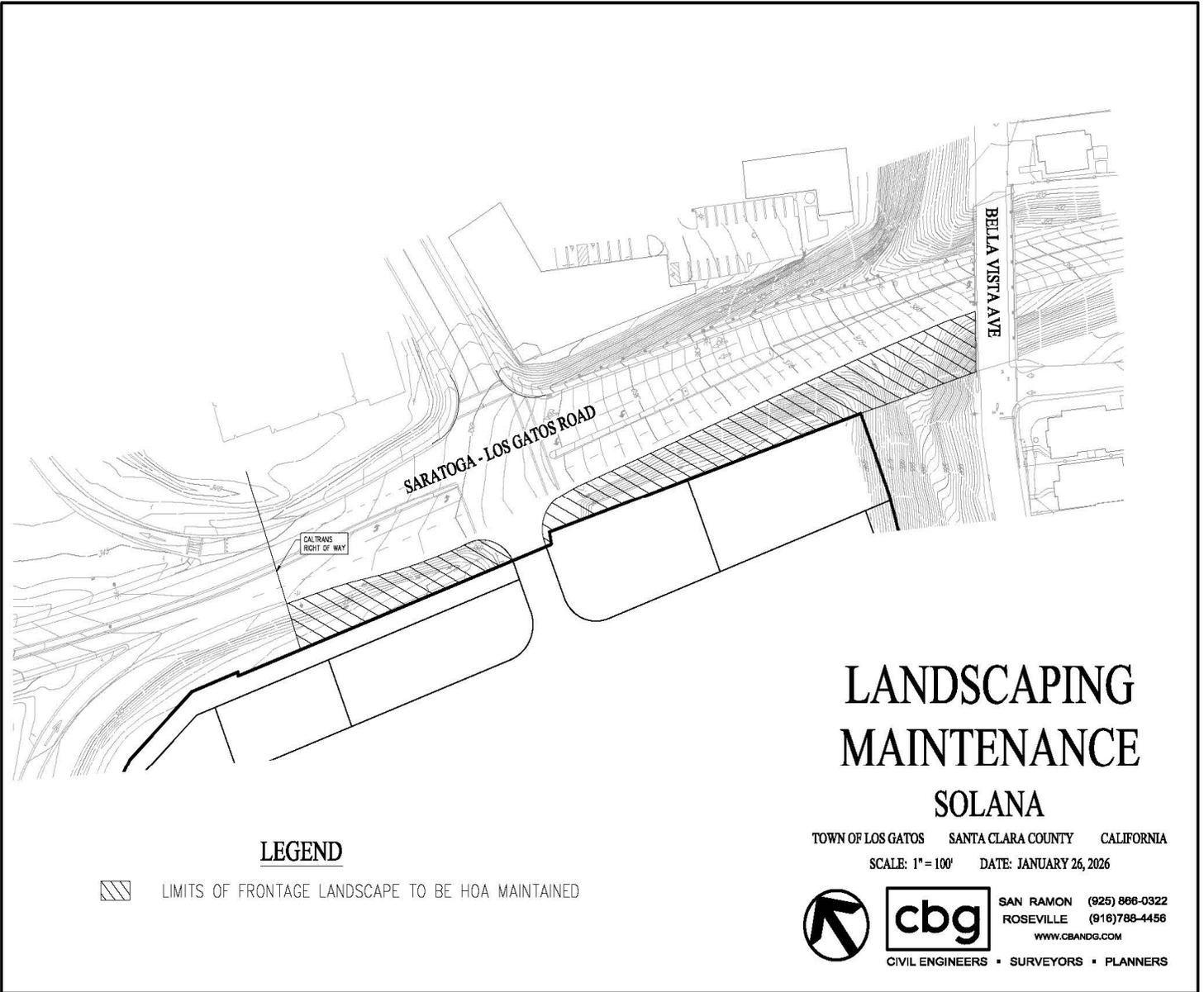
On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A – Site Plan



LEGEND

 LIMITS OF FRONTAGE LANDSCAPE TO BE HOA MAINTAINED

**LANDSCAPING
MAINTENANCE
SOLANA**

TOWN OF LOS GATOS SANTA CLARA COUNTY CALIFORNIA

SCALE: 1" = 100' DATE: JANUARY 26, 2026



cbg

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SUBORDINATION

The undersigned, the beneficiary under the Construction Deed of Trust recorded on October 15, 2025, as Document No. 25884752 in the records of Santa Clara County, California, executed by SummerHill 50 LGSR LLC, a California limited liability company, as Trustor (the "Deed of Trust"), hereby subordinates the Deed of Trust to the foregoing Landscape Maintenance Agreement ("Agreement") so that for all purposes the Agreement shall be deemed executed and recorded prior to the execution and recordation of the Deed of Trust.

This Subordination is made without affecting the liability of Trustor for payment of the indebtedness secured by the Deed of Trust.

BENEFICIARY:

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent

By: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____