

Recorded By and For the Benefit of,
And When Recorded Return to:

CITY OF LEMOORE
119 Fox Street
Lemoore, California 93245
ATTN: Nanci C.O. Lima, City Clerk

~~WE HEREBY CERTIFY~~ THAT THIS IS A FULL,
TRUE AND CORRECT COPY OF THE ORIGINAL
DOCUMENT AS THE SAME APPEARS IN THE
OFFICE OF THE COUNTY RECORDER OF
Kings COUNTY, STATE OF
CALIFORNIA, RECORDED ON 5-1-11
IN BOOK _____ OF OFFICIAL RECORDS
AT PAGE _____ SERIAL NO. 1120618
CHICAGO TITLE
BY [Signature]

(Space Above for Recorder's Use)

DOCUMENTARY TRANSFER TAX: EXEMPT PURSUANT
TO REV. & TAX. CODE SECTION 11922

**DISPOSITION AND DEVELOPMENT AGREEMENT
JOINT ESCROW INSTRUCTIONS
AND COVENANTS RUNNING WITH THE LAND**

The Lemoore Redevelopment Agency, a public body, corporate and politic ("Seller" or "Agency"), and Burrows & Castadio, Inc. ("Buyer", "Developer" or "B&C") (collectively, the "Parties") enter into this Disposition and Development Agreement Joint Escrow Instructions and Covenants Running with the Land ("Agreement") effective as of May 3, 2011 (the "Effective Date").

RECITALS

WHEREAS, Seller owns certain real property within the County of Kings, City of Lemoore, more particularly described on Exhibit "A" (the "Property") bearing a street address of 1280 S. 19th Avenue; and

WHEREAS, Buyer owns a fueling facility ("card lock") located at 1200 S. 19th Avenue which is directly adjacent to the Property; and

WHEREAS, Buyer's purchase of the Property will allow B&C to expand its petroleum products business ("business") through the combined use of the card lock and the Property; and

WHEREAS, Buyer desires to purchase the Property at fair market value for the expanded use and development of B&C's business operations, and Seller is willing to sell the Property to Developer, on the terms and conditions set forth in this Agreement.

TERMS, CONDITIONS & COVENANTS

NOW, THEREFORE, the Parties agree as follows:

1. **Purchase and Sale.** Seller agrees to sell the Property, as is, to Developer, and Developer agrees to purchase the Property from Seller, subject to the terms of this Agreement.
2. **Conditions Precedent.** Escrow closing and Developer's obligation to purchase the Property

are subject to the satisfaction of the conditions precedent described below. Each condition must be satisfied or Developer or Seller, who is the beneficiary of the condition precedent, must waive it in writing within the time provided. If no time is stated, then the condition must be satisfied within a reasonable time. If any condition is not timely satisfied, Developer or Seller may waive the condition, for which it is the beneficiary, and close escrow or it may terminate this Agreement by giving Seller or the Developer, as applicable, and the Title Company (defined below) 10 days written notice. After expiration of the 10 days, this Agreement and any escrow will terminate. In such event, the Title Company, described below, shall return any documents and money (except to the extent the deposit is non-refundable) deposited into escrow to the depositor, after deducting any escrow cancellation fee paid by the Agency, and the Buyer will have no further obligation to Seller.

- 2.1 **Developer's due diligence contingency.** Inasmuch as Buyer is purchasing the Property as is, the Agency grants a period of up to thirty (30) days from the Effective Date (the "Due Diligence Period") the right to the Buyer, or its agents, to conduct due diligence or feasibility studies at the Property. Buyer shall notify Agency upon 24 hours oral or written notice, to enter onto the Property and conduct tests or investigations, if all the following occur; (a) Developer conducts tests or investigations at its sole cost and expense; (b) the tests or investigations do not unreasonably interfere with Seller's possession; and (c) Developer indemnifies and holds Seller harmless from any costs or liability resulting from the tests or investigations and, if the escrow is canceled for a reason that is not the fault of Seller, for any damage to the Property resulting from conducting the tests or investigations. The Due Diligence Period shall be conducted during the escrow and may be shortened or waived by the Buyer in Buyer's discretion.
 - 2.2 **Completion of purchase agreement for improvements before close of escrow.** The Agency and Gary V. Burrows, Inc. ("Burrows") have entered into a separate agreement entitled "Purchase Agreement for Improvements" effective March 25, 2011 relating to 40 E Street. Buyer agrees that escrow as described in this Agreement shall not close until Burrows completes the obligations with regard to 40 E Street. Completion of the obligations with respect to 40 E Street shall be completed by Burrows within 180 days from the Effective Date of this Agreement.
 - 2.3 **Execution of the loan agreement.** The Loan Agreement shall have been executed by the Agency, City of Lemoore, and Burrows.
 - 2.4 **Exclusivity.** Seller agrees that it shall not consider any other potential buyer or use of the Property unless the Agreement is terminated.
3. **Purchase Price.** The total purchase price for the Property shall be \$75,000 ("Purchase Price") which approximates Sixteen Thousand, Two Hundred and Sixty-Nine Dollars (\$16,269) per acre for approximately 4.61 acres, payable in cash in lawful money of the United States of America. The Buyer shall pay the total Purchase Price into escrow, in cash, in time to meet the Title Company's requirements for close of escrow. The Purchase Price is the fair market value of the Property.

4. **Use and Development of the Property; Covenants Running with the Land.** (a) Developer has represented to Seller that the expanded use and development of the Property is for the purposes as described in Exhibit "B" (the "Project") incorporated herein by this reference. Seller has agreed to sell the Property to Developer on the basis of these representations and Developer is hereby obligated to own, operate and develop the Property and the Project in accordance therewith. The Project will be completed in two phases within the time period as set forth in Exhibit "B."

(b) Nothing herein shall relieve Developer of its obligations to (i) apply for such approvals as may be necessary under the Lemoore Municipal Code for said proposed uses of the Property and for the development of the Project, (ii) pay such fees and charges, including but not limited to development impact fees, as are normally charged by the City of Lemoore for such uses and for the development of the Project, and (iii) own, operate and maintain the Property and the Project continuously in a neat, clean, presentable and reasonably odor-free condition and in accordance with all applicable City, County, State and Federal rules, laws and policies. The Parties agree that the provisions, fees, and policies of the City of Lemoore and of the Lemoore Municipal Code, including but not limited to building codes, in effect on the date this Agreement is signed shall be those that shall apply to the Project.

(c) To avoid speculation in connection with the sale of the Property by Seller to Developer and Developer's subsequent use thereof, the parties agree that (i) Buyer shall build and complete the Project pursuant to Exhibit B, and (ii) unless approved in writing by the Seller upon a showing of good cause, the Developer shall not sell or contract to sell the Property until the Project is fully built and complete and a certificate of occupancy therefore has been issued by the City of Lemoore building official. Seller shall not unreasonably withhold or delay approval of a proposed sale of the Property. However, Seller may condition approval on receiving evidence, satisfactory to Seller, that the purchaser is qualified and capable to complete development of the Property as required by this Agreement, and on the purchaser expressly agreeing, in a form acceptable to Seller, to comply with all covenants, conditions and obligations of this Agreement.

(d) The obligations of this section 4, including Exhibit B, shall be covenants or conditions running with the land, the breach of which shall cause the fee title (the Property herein) to revert to the Agency as a right of reverter through a "Power of Termination" pursuant to sections 885.010 through 885.060 of the California Civil Code and shall be exercised and enforced as provided therein.

(e) The duties and rights and obligations of the parties under this paragraph 4 shall survive the close of escrow and shall bind their heirs, successors and assigns.

(f) Developer shall be responsible to build the Project, including all on site and offsite improvements, as may be necessary and convenient, or which may be required during the site plan review process, all at Developer's sole expense.

(g) The Developer shall comply with the California Environmental Quality Act ("CEQA") and all laws and regulations pertaining to the storage and use of hazardous

materials, including required permits, as defined under state and federal law. The Parties acknowledge that the Project meets the requirements of an in-fill development pursuant to section 15332 of the CEQA Guidelines.

5. **Seller's Warranties.** Seller represents and warrants that: (a) except for any easements of record as disclosed by a preliminary title report for the Property as a matter of public record, Seller owns the Property, free and clear of all liens, licenses, claims, encumbrances, easements, encroachments on the Property from adjacent properties, encroachments from the Property onto adjacent properties, and any rights of way, other than those disclosed by the public record; (b) Seller has no knowledge of any pending litigation involving the Property, (c) Seller has no knowledge of any violations of, or notices concerning defects or noncompliance with, any code, statute, regulation, ordinance, judicial order, or judicial holding concerning the Property; and (d) Seller has no knowledge of any person in lawful possession of the Property except the Agency. Seller makes no other warranties pertaining to the Property except those listed in this paragraph 5.
6. **Opening Escrow.** Within ten (10) business days after the Effective Date of this Agreement (defined above), the Parties will deposit this Agreement in escrow with Chicago Title Company ("Title Company"), 1460 West 7th Street, Hanford, CA 93230, Attn: Claudia Cornwall, Escrow Officer, phone (559) 584-3381, fax (559) 584-2978, Escrow No. 41006019-CCC (the "Escrow"). Deposit of this Agreement into escrow shall be deemed the opening date of escrow.
 - 6.1 **Agreement as joint escrow instructions.** This Agreement, when signed by both Parties and deposited with the Title Company will serve as the joint escrow instructions of the Parties. Developer and Seller agree to sign any other form instructions required by the Title Company to complete this transaction and close escrow.
 - 6.2 **Deposits into escrow.** Developer and Seller will deposit all instruments, documents, money, and other items with the Title Company that are (i) identified in this Agreement or (ii) required by the Title Company to effect the Closing on the date specified below. Seller will deposit a recordable grant deed after the Effective Date and before the closing. The grant deed will contain those covenants, conditions and restrictions required by the California Redevelopment Law.
 - 6.3 **Title.** Seller will convey title of the Property to Developer pursuant to the warranties in section 5. The Escrow Officer, through the Title Officer of the Title Company, shall issue a pro forma CLTA policy of title for review by the Parties. Based on a preliminary title report effective April 6, 2011 issued by Chicago Title Company (Title No. 11-41006019-JAH), Seller agrees that printed exceptions 8 and 9 relating to a purchase agreement between the City of Lemoore and Richard Gress and Carolyn Gress, may be removed as title exceptions. The City Manager, or his authorized designee, shall have the authority to execute any and all documents necessary so that these exceptions are not shown on the Policy of Title Insurance

issued to Buyer.

- 6.4 **Title and closing costs.** Seller will pay any costs of clearing and conveying title in the condition described in Section 6.3, above. Seller will pay the costs of a CLTA owner's title policy insuring Developer's title in the condition described in Section 6.3. Seller and Buyer will each pay one-half the escrow fees, and the costs to record the grant deed including all notary fees, transfer taxes, and deed preparation. Developer and Seller will pay any other costs according to the custom in Kings County. If Buyer desires an ALTA owner's policy of title, Buyer shall pay any difference between the CLTA and the ALTA policies.
- 6.5 **Closing.** The escrow will be considered closed ("Closing" or "Close" or the "Closing Date") on the date that the Title Company records the grant deed. Subject to the condition described in section 2.2 above for the "Closing Date", the escrow will be in condition to close when any conditions to close are satisfied or waived, the Title Company is prepared to issue the title policy described herein, and the Title Company is otherwise able to record the grant deed. If escrow does not close at that time, Seller may demand that escrow terminate, then Developer, within the 30 days, may either (a) deposit the purchase price into escrow, in which case the Title Company will Close escrow, or (b) agree to the demand, in which case the Title Company will terminate the escrow and return all funds, except for the non-refundable portion of the deposit, and all documents, less any escrow termination fee, and this Agreement will be of no further effect except as herein provided. In order to comply with section 2.2, the Escrow Officer shall not close escrow until a written acknowledgment is received from the Agency of satisfaction of the conditions described in 2.2. Notwithstanding any other provision of this Agreement, escrow shall close on or before 210 days after May 3, 2011 (the Effective Date) or the opening date of escrow, whichever is later.
- 6.6 **Disbursements.** At Closing, the Title Company shall disburse the Purchase Price, less Buyer's costs pursuant to section 6.4. Escrow Officer shall prepare an estimated closing statement to the Parties before Close.
- 6.7 **Prorations.** The Title Company will prorate the following between Seller and Developer as of the Closing Date, based on a 30-day month: real property taxes, if any, and special assessments, if any.
- 6.8 **Risk of loss re improvements.** Any loss or damage to the Property or any improvements on it before Closing is at Seller's risk. Following the Closing, Developer will be responsible for insuring all structures and personal property owned or used by Developer against loss or damage.
- 6.9 **Broker.** Seller has not engaged a broker or real estate agent for this transaction. Seller is unaware of any real estate broker or agent representing Buyer with regard to the Property. However, to the extent Buyer has engaged a broker or real estate agent

for this transaction, Buyer is solely responsible for any broker commission.

7. **Delivery of Possession.** Seller shall deliver possession at Closing.
8. **Compliance with Laws; Nondiscrimination in Employment and Nondiscrimination in Covenants.** Seller shall comply with the following as required by the Community Redevelopment Law (H&S 33000 et seq.):
 - 8.1 **Compliance with laws.** The Developer shall carry out the design, construction and operation of the Developer Improvements in conformity with all applicable laws, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., California Government Code Section 4450, et seq., California Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Section 51, et seq.
 - 8.2 **Nondiscrimination in employment.** Developer certifies and agrees that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all subcontractors, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000, et seq., the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621, et seq., the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b, et seq., 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, California Government Code Section 12900, et seq., the California Equal Pay Law, California Labor Code Section 1197.5, California Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., and all other anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended.
 - 8.3 **Nondiscrimination covenants.** Although Developer does not intend to relocate his business operations outside of the City of Lemoore, pursuant to, and in order to comply with, the statutory mandates and requirements of section 33436 of the Health & Safety Code, the Developer covenants by and for itself and any successors in interest to the Property that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the

selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases or vendees of the Property. The foregoing covenants shall run with the land.

The Developer shall refrain from restricting the rental, sale or lease of the Property on the basis of race, color, religion, sex, marital status, ancestry or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subleases, subtenants, or vendees in the premises herein leased.""

(3) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee

himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases or vendees of the premises."

9. **Miscellaneous Provisions.**

- 9.1 **Further assurances.** Each party will sign and deliver further documents and take any further actions required to complete the purchase and sale described herein.
- 9.2 **Notices.** All notices and other communications required or permitted under this Agreement shall be in writing and duly given on the date of service, if (a) served personally on the person to receive the notice; (b) delivered by depositing the notice or communication in the U. S. mail, postage prepaid, and addressed to the relevant party at the address set forth below; (c) by express or priority mail with proof of delivery; or (d) by facsimile which provides a transmission confirmation showing the date and time transmitted.

To Seller:
Lemoore Redevelopment Agency
119 Fox Street
Lemoore, CA 93245
FAX No. (559) 924-9003
Attn: Executive Director

To Developer:
Burrows & Castadio, Inc.
P.O. Box 546
Lemoore, CA 93245
FAX No. (559) 924-9316
Attn: Brian Castadio, President

- 9.3 **Entire agreement.** This Agreement is the entire agreement between the Parties regarding the purchase, sale and development of the Property, and supersedes all prior discussions, negotiations, commitments or understanding, written or oral. This Agreement supersedes any previous letter agreement relating to the Property. The Parties have entered into other agreements in addition to this Agreement which remain unaffected by the subject matter of this Agreement.
- 9.4 **Amendment or cancellation.** Developer and Seller may amend or cancel this Agreement only by mutual written consent of the Parties.
- 9.5 **Successors and assigns.** This Agreement is binding upon and shall inure to the benefit of each Party, and each Party's heirs, successors, assigns, transferees, agents,

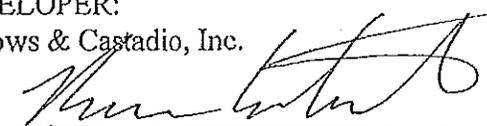
employees or representatives.

- 9.6 **Time of the essence.** Time is of the essence of each term in this Agreement.
- 9.7 **Governing law.** This Agreement and the legal relations between the parties shall be governed by and construed according to California law. Venue for the filing of any action to enforce or interpret this Agreement or any rights and duties hereunder shall be in Kings County, California.
- 9.8 **Headings.** The section headings in this Agreement are for convenience only. In the event there is any inconsistency between the headings and text of the Agreement, the provisions of the text shall govern.
- 9.9 **Waiver.** Any party's waiver of a breach of any provision herein will not be a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.
- 9.10 **Severability.** The provisions of this Agreement are severable. The invalidity or unenforceability of any provision in this Agreement will not affect the other provisions.
- 9.11 **Interpretation.** This Agreement is the result of the combined efforts of the Parties. If any provision of this Agreement is found to be ambiguous whether or not a defined term, the ambiguity will not be resolved by construing this Agreement in favor or against any Party, but by construing the terms according to their generally accepted meaning.
- 9.12 **Counterparts; copies of signatures.** This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument. Copies of signatures shall have the same force and effect as original signatures.
- 9.13 **Ratification.** The Agreement shall be enforceable upon execution by the Parties and ratification by the Agency subsequent to a public hearing duly noticed pursuant to California law.

DEVELOPER:

Burrows & Castadio, Inc.

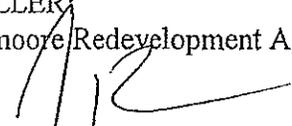
By


Brian Castadio, President/Secretary

SELLER:

Lemoore Redevelopment Agency

By


Jeff Britz, Executive Director

[ATTACH NOTARY ACKNOWLEDGMENT]

EXHIBIT "A"

THE PROPERTY

LEGAL DESCRIPTION

Section 15 Township 19 Range 20

Portion of SW $\frac{1}{4}$ of NW $\frac{1}{4}$ SEC 15/19/20.

Parcel 2 and Parcel 3 of Parcel Map 13-06 Recorded 08-11-92, in Volume 13, at Page 06, of Kings County Records, Map Ownership Document, Recorded 08-11-92, as Document Number 9214744.

APN 024-052-078 (2.01 Acre Parcel, approximately) and
APN 024-052-079 (2.60 Acre Parcel, approximately)

EXHIBIT "B"

THE PROJECT

The projects are to be completed by B&C as defined below and are collectively referred to as the "Project":

Phase 1 - 5 Years from the Effective Date (May 3, 2011)

1. Expand Burrows & Castadio, Inc. cardlock facility located at 1200 S. 19th Avenue by 20,000 sq. ft. to the south property line and landscape, approximately one (1) acre.
2. Rent excess property for truck parking to companies who would rather have trucks secured with fencing.
3. Add 4-5 new diesel fuel dispensers.

Phase 2 - 10 Years from the Effective Date (May 3, 2011)

1. Build 1,000,000 gallon diesel fuel tank and supporting containment on approximately one (1) acre.
2. Build two (2) large truck washing bays and four (4) smaller car washing bays on approximately one (1) acre.
3. Remainder of property will be developed to maintain drainage and onsite separator pond for storm drainage control.

Benefits of the Project

The anticipated benefits of the Project to the Lemoore Redevelopment Agency for the sale of two parcels totaling approximately 4.61 acres at 1280 S. 19th Avenue (the "Property") to Burrows & Castadio, Inc., are described as follows:

1. Complete relocation of Gary V. Burrows, Inc. operation to the Lemoore Industrial Park by December 13, 2013.
2. Elimination of potential life threatening safety hazards that exists at the current Gary V. Burrows, Inc. site at 416 N. Lemoore Avenue by relocating the flammable bulk petroleum products to the Property.
3. Expansion of adjoining cardlock fueling station owned by Burrows & Castadio, Inc.
4. Creation of approximately ten (10) new employment opportunities in the City of Lemoore.
5. Assessed value of 4.61 acres after completion of proposed development is estimated at \$2,500,000 by year 15 of this Agreement.

6. Generation of approximately 10-15 percent additional sales tax revenue to the City General Fund by the Project and the relocation benefits accruing to the Developer's business.
7. Alleviation of potential traffic hazards associated with fuel trucks crossing four lanes of traffic at current Gary V. Burrows, Inc. site.
8. Elimination of two blighted parcels in the Lemoore Industrial park.

Notary Acknowledgement for
Disposition and Development Agreement
Joint Escrow Instructions and Covenants Running with the Land

STATE OF CALIFORNIA)
) ss.
COUNTY OF KINGS)

On May 6, 2011, before me, Kristina L. Williams,
Notary Public, personally appeared **Brian Castadio**, who proved to me on the basis of
satisfactory evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized
capacity, and that by his signature on the instrument the person, or the entity upon
behalf of which the person 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 Kristina L. Williams (Seal)

Notary Acknowledgement for
Disposition and Development Agreement
Joint Escrow Instructions and Covenants Running with the Land

STATE OF CALIFORNIA)
) ss.
COUNTY OF KINGS)

On May 13, 2011, before me, B. Austin,
Notary Public, personally appeared **Jeff Britz**, who proved to me on the basis of
satisfactory evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized
capacity, and that by his signature on the instrument the person, or the entity upon
behalf of which the person 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  (Seal)

