

**Alameda County Law Library**

**125 12<sup>th</sup> Street**

**Oakland, CA 94607-4912**

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## Deeds – Adding or changing names on real estate

*Information to guide you through the process of changing the names of owners for property located in [Alameda County, CA](#)*

**This guide is intended as general information only. The Alameda County Law Library provides access to information sources to help people conduct their own legal research. The staff of the Alameda County Law Library are not practicing attorneys. If you are seeking professional legal advice on the law, you should consult with a lawyer licensed by the State Bar of California.**

**This guide will --**

- Introduce you to the basic types of documents used in these legal transactions.
- Provide location information for Alameda County government offices involved in the tracking of real estate ownership.

Nolo, a publisher of legal information for non-attorneys, has a comprehensive title, *Deeds for California Real Estate* by Mary Randolph. This title is available at the Alameda County Law Library (Self-Help KFC/170/R36/2010).

### Introduction: Some basic information on changing names on real estate

When the owner or owners want to make changes to the ownership of real estate, they must file (“record”) information about the change with the County Recorder's Office. The document is recorded in the County office where the property is located. This action will place the information into the official public record.

There is no simple, check-off box form for this procedure.

The current owner will need to create, and sign in front of a notary, a document that is in the legal format and includes the specific language required under California law to properly make the transfer in ownership rights. The language of the document will need

*Do you need an attorney?* Real estate transactions within Alameda County involve the transfer of ownership rights for costly assets. When making changes, especially for complicated transactions - multiple parties or for trust property - be sure to do your research or consult with a legal professional to insure you get the desired legal result with the transfer.

to vary depending on the owner's intentions. In addition to this legal document, there will also be other county agency forms to complete related to property taxes.

Transactions for property located in Alameda County must follow California law. Not all states use the same procedures or document names.

## Types of deeds

Most people are familiar with the name of the document most used for these transfers – a deed. A new deed needs to be recorded when:

- Adding a name to ownership of property, including when the owner legally changes his or her name.
- Removing an owner of property, such as when the property is sold, owners have divorced, or the owner is making a gift of property rights to another person.

California mainly uses two types of deeds –

- [GRANT DEED](#) ("grant" as in "give")
  - A grant deed is used when a current owner adds a name to the property title. The *grantor* makes a legal promise to a *grantee* that he or she is the current owner of the property and there are no hidden liens or mortgages on the property.
- [QUITCLAIM DEED](#) ("quit" as in give up, "quit a game.")
  - This type of deed is used when someone gives up (waives or disclaims) any ownership rights in favor of another person. This person who signs a quitclaim deed does not have to be on the current deed. A quitclaim deed is often used in divorces or in inheritance situations. The rights in the property may be potential rights. No other legal claims about the property are being made by this deed.

Other types of deeds are versions of these basic types of deeds but are customized for certain transactions:

- [INTERSPOUSAL DEED](#)
  - Interspousal deeds are used between spouses or registered domestic partners ("rdp") to change real estate to or from community property. Spouses/domestic partners can use grant deeds or quitclaim deeds to do the same things. When a deed is drafted with the name "interspousal deed" as its title, it is clear that the transaction intends to affect community property rights. Community property rights are only available to spouses or domestic partners.
- Personal representative's deed (sample available in *How to Probate an Estate in California*, Chapter 14, p. 300.)
  - A personal representative's deed (also called administrator's or executor's deed) is used during probate when the administrator of an

estate (and not the owner) is transferring the title to real property to another individual.

## Taxes

When you change the title on real estate, you will have to pay fees. You may have to pay a tax unless your transaction falls under a category that is exempt.

## Exemptions

There are two different types of exemptions related to taxes to be considered when adding or changing names on the title of real property.

The transfer may be exempt from:

**Documentary Transfer Tax** – if it qualifies under a California Revenue & Taxation Code section

Transactions Exempt from Transfer Tax under Revenue and Taxation Code  
<https://acgov.org/forms/auditor/TransactionsExemptfromXferTax.pdf>

And/or

**Reassessment** of the property's valuation for annual property taxes

if the transfer is between certain classes of family members **or** the transaction is one that does not trigger a reassessment, such as placing the property into a living trust. Recently passed Prop 19 has changed the rules for reassessment. [More information.](#)

## How to: Changing or adding names on Alameda County real estate

### A) You need to locate the current deed for the property.

You will need information that is available on the current deed.

#### Cannot find deed or not sure you have most current deed?

If you need a copy of the current deed, contact or visit the Alameda County Recorder's Office.

- Copies of deeds are not available off the internet.
- There is an online name index.
- Copies of the document itself must be obtained from the Recorder's Office Public Records Room.

- There is no index by property address at the Recorder's Office.

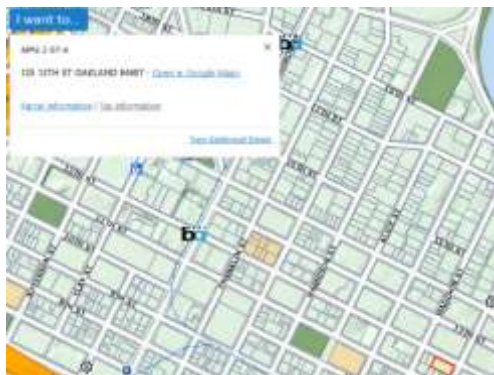
**How to find the information using the Recorder's records:**

Here is an online tutorial on how to search information available at the County Recorder's Office <http://multimedia.journalism.berkeley.edu/tutorials/recorders-office/>

**B) You will need to find the following information for the property.**

- Assessor's Parcel Number (also referred to as APN.)
- Legal description of property. This should be available from the current deed. The legal description for real property is the full description of the property as found on the current deed. This must match the current deed's legal description exactly.
- Legal names of all grantors and grantees, or all parties waiving rights (for quitclaim deed.)
- Documentary Transfer Tax amount or applicable Exemption Code.

If you are unsure who currently owns a piece of property, as can happen when a death, a sale, or divorce has occurred, start with the [Alameda County Assessor's Office](#) at Room 145, 1221 Oak Street, Oakland. The Assessor's Office information will tell you who last paid taxes on the property.



You will need to complete your title research by searching the public records database at the County Recorder's public records department. Any liens and other claims of ownership against the property may be discovered by searching these public ownership records.

The Assessor's Office is where you can also obtain the APN – Assessor Parcel Number – that will be required for the new deed. You can also locate the APN for a real estate parcel by using maps and an address here -

<https://www.acassessor.org/homeowners/assessment-resources/parcel-viewer/>

You will NOT find any ownership information on this internet database.

For more information, call (510) 272-3787.

**Legal description for properties.**

This is the full description of the property as found on the current deed. The description may contain language that refers to a map, a lot number, or surveyor data as part of the description. Description must exactly match the description on the current deed to avoid confusion over what property is being transfer.

Some descriptions are so long that you will need to copy the description and attach to the deed. Make a reference to the attachment on the deed itself.

**C) Decide what type of deed you need to accomplish the type of property rights transfer you want.**

California mainly uses two types of deeds – grant and quitclaim.

Type of deed	Purpose
<i>Grant deed</i>	Gift of property
	Sale of property
	Move property in or out of trust Update after name change
	Add another owner to the property
<i>Quitclaim</i>	Waiving or giving up rights in property
	Waiving inheritance rights
	With a divorce, to transfer property entirely into one spouse’s name

There are deeds with other names that are usually customized grant deeds. Consult an attorney or come to the Alameda County Law Library for further research.

**D) Confirm the full legal names of the individuals or organizations whose names will appear on the new deed.**

Confirm the full legal names of all grantors, grantees, or all parties waiving rights (for quitclaim deed.) No nicknames. No assumed names. No former names. Inconsistencies may cause problems in the future.

A “**grantor**” is the current owner of real estate – the only owner or one of many owners. A grantor can also be a trustee, partnership, corporation, or a LLC.

The “**grantee**” is the person or entity who is receiving the property rights from the grantor.

**NOTE:** If the grantor is staying on the title, you must also list the grantor’s name as one of the grantees. It is also best to include the marital status along with the name of any individual that appears on the deed.

Examples include -

*Fitzwilliam Darcy, a single man*  
*Edward Fairfax Rochester, a married man*  
*Frida Kahlo and Diego Rivera, wife and husband*

**Caution:** Once an owner adds an individual’s name to real estate, that owner, by him- or herself, cannot “undo” that action. The other individual will have permanent ownership rights in the property – including using the asset for a loan or creditors’ may place a lien on the property for the newly added owner’s debts.

*Adding a name to a deed can lead to new tax issues.*

*If you want a person to have the property after you die, you may want to consider a living trust or another type of legal document - Transfer on Death Deed. ACLL staff can help you locate information on this type of document.*

## D) How to take title

Under California law, when there will be more than one owner for the property, owners can legally “take title” in different ways. There are advantages and disadvantages to each form of title.

Below is a simplified guide:

Held as	Disposition	At death
<i>Joint tenant</i>	Any owner can give, sell, or mortgage his or her share without permission, the new owner is automatically a tenant in common	When one owner dies, other owners automatically get share, avoiding probate of property
<i>Tenant in common</i>	Any owner can give, sell, or mortgage their share without permission	When owner dies, can leave share to another person
<i>Community property (married or registered domestic partnership)</i>	“as community property” both must sign off on a gift, sale, or refinance	Can choose heirs, probably goes to probate
Community property “as community property with rights of survivorship”	– both spouses/rdps must sign off on a gift, sale, or refinance	Spouse/rdp gets share automatically

A married person can hold property separately – “as a married person as his/her separate property.”

“Tenants in common” is the default legal status for unmarried owners under California law.

“Community property” For married couples and registered domestic partners

You will be selecting one method for holding title.

For more detailed information on holding title under California law, see: *Deeds for California Real Estate*, Chapter 3 or Miller and Starr *California Real Estate*, Chapter 11 (4<sup>th</sup> ed.). (Available at ACLL in paper and on Westlaw.)

**E) Fill out the new deed. Do not sign until you are in front of a notary.  
Calculate fees to be paid.**

Using the information gathered during the prior steps, draft or fill out a deed template – online or paper. ACLL sells copies of grant and quitclaim deed templates.

Templates are also available online on ACLL’s website:

<https://lawlibrary.acgov.org/court-forms-transactional-forms/>

### **Fees**

You will have to calculate and pay recording fees. List of fees for Alameda County recordings can be found [HERE](#).

[Additional county and city fees](#) may apply to any transfer:

- Documentary Transfer Tax
- City Real Property Transfer Tax
- Survey Monument Fee
- Preliminary Change of Ownership Report (PCOR) Fee



When completing the deed using a template, you will see the “Documentary Transfer Tax” box. For each transfer of real estate ownership, the parties will have to pay the documentary transfer tax (county and city, if applicable), **or**, give details to explain why the transaction is exempt for this tax.

Documentary Transfer Tax: \$ _____ If exempt, enter R&T code: _____ Explanation: _____ _____ _____ Signature of Declarant or Agent determining tax
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Alameda County has information on exemptions available here:

<https://www.acgov.org/forms/auditor/TransactionsExemptfromXferTax.pdf>

“R&T” refers to the California Revue & Taxation Code section that allows for the exemption.

Declaration of Exemption from Gov’t Code § 27388.1 fee ___ Transfer is exempt from fee per GC § 27388.1(a)(2): _____ recorded concurrently “in connection with” transfer subject to Documentary Transfer Tax _____ recorded concurrently “in connection with” a transfer of residential dwelling to an owner-occupier ___ Transfer is exempt from fee per GC 27388.1(a)(1): _____ Fee cap of \$225.00 reached ___ Not related to real property
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As of January 1, 2018, there are fees collected under [California Government Code 27388.1](#) unless there is an exemption as provided by the code section.

**F) Fill out the Preliminary Change of Ownership Report (PCOR)**

When property changes owners, the County Assessor’s Office has a form that must be filed to update the tax records. You can submit this form when you go to record your deed at the Alameda County Clerk-Recorder’s Office. It is forwarded to the Assessor’s Office.

The Alameda County PCOR form can be downloaded [HERE](#).

**Change in ownership may cause reassessment**

The PCOR has detailed questions you will need to review and answer. The County Assessor’s office will review the transfer for property reassessment/taxation purposes including:



- The sale/purchase of property
- The transfer of property due to the death of the property owner, gift or inheritance
- The transfer of the beneficial use of the property equivalent to the value of the fee interest, such as a new lease for a 35-year term or longer

### **G) Record the deed. File the PCOR. Pay fees.**

Record the deed at the Alameda County Clerk-Recorder's Real Property Recording Office along with a [Preliminary Change of Ownership Report \(PCOR.\)](#)

### **H) File reassessment exclusion claim, if any, at the Assessor's Office.**

The transfer of title to real property may trigger a reassessment of the property's valuation for annual property taxes by the Assessor.

Information on reassessment is available at –

<https://www.acassessor.org/homeowners/about-property-assessment/change-in-ownership-reappraisal/>

The County Assessor's website has information on exclusions:

- parent/child and grandparent/grandchild transfer exclusion
- co-tenancy changes in ownership exclusion

Gifts, including waiving rights with a quitclaim deed, made to individuals who are not in the parent, child, grandparent or grandchild categories may trigger a reassessment of property value for tax purposes. Consult your tax professional.

If your transfer is exempt from the reassessment, you will need to file a claim form.

Information on exclusion claims and forms are available at –

<https://www.acassessor.org/forms-exemptions/>

### **Other information about taxes and fees.**

#### **County transfer tax**

Documentary Transfer Tax Act (R&T Code 11902-11934)

"R & T Code 11911. (a) The board of supervisors of any county or city and county, by an ordinance adopted pursuant to this part, may impose, on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the county shall be

granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100.00) a tax at the rate of fifty-five cents (\$0.55) for each five hundred dollars (\$500.00) or fractional part thereof."

### **City transfer tax**

Some of the cities in Alameda County impose their own city real property transfer tax.

To calculate the charges to be paid for any transfer, check the Clerk-Recorder's Office web page for tax information for the city where the property is located.

<https://www.acgov.org/auditor/clerk/transfertax.htm>

### **Exemption from transfer tax**

Some real estate transactions are exempt from the transfer tax.

Alameda County has information available here:

<https://www.acgov.org/forms/auditor/TransactionsExemptfromXferTax.pdf>

### **Other fees**

Check with the Alameda County's Clerk-Recorder for the fees that you may have to pay to complete this document recording.

<https://www.acgov.org/auditor/clerk/deeds.htm>

### **Internet sources for information about fees**

Information on Documentary Transfer Tax  
Transfer Taxes - Clerk-Recorder's Office - Alameda County (acgov.org)  
Documentary Transfer Tax Act (R&T Code 11902-11934)  
<https://acgov.org/auditor/clerk/transfertax.htm>

Transactions Exempt from Transfer Tax under Revenue and Taxation Code  
<https://acgov.org/forms/auditor/TransactionsExemptfromXferTax.pdf>

Information on Gov't Code § 27388.1 fee  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=27388.1](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=27388.1)

<https://www.acgov.org/forms/auditor/currentFeeSchedule.pdf>

## Other deed-related types of transactions

### After a name change

After a legal name change - such as marriage, divorce, gender change - deeds made in an old name should be updated in the public records.

Using a grant deed, the “old name” grants to the “new name” – “New name” who acquired title under the former name of “old name” hereby grants to “new name.”

More information is available in Nolo’s *How to Change Your Name in California*, Chapter 10.

### Moving real estate into or out of a living trust –

Information on how to transfer property to/from a revocable (living) trust can be found in Chapter 11, “Transferring Property to Your Trust” of Nolo’s *Make Your Own Living Trust* available at ACLL in paper and online through the EBSCO NOLO database. Library staff can help you locate this information.

## What happens to property after the owner dies? How ownership for real property is transferred after an owner dies (deed, affidavit, or court order)

The legal situation that exists when an owner of real estate dies, depends how the decedent owner held title. Property may transfer to:

- a surviving spouse or domestic partner
- surviving joint tenant
- living trust beneficiaries
- beneficiaries of a Transfer-on-Death Deed

or through a court order in formal Probate proceedings.

Discussion of all these different situations is beyond this guide. A good place to start your research is Nolo’s *How to Probate an Estate in California*, Chapter 8, “Transferring Title to Real Property.”

The authors include discussion of transfers outside of the probate system - such as to the surviving joint tenant and living trust beneficiaries. Certain transfers may be accomplished with filling an affidavit appropriate to the circumstances.

ACLL sells affidavit forms for death of a spouse and death of joint tenant. Check the language on the most current deed.

### **Change in Ownership Statement: Death of Real Property Owner – Form BOE 502-D**

If you are authorized to act on behalf of an estate, you should file a **Change in Ownership Statement Death of Real Property Owner** with a copy of the death certificate with the Assessor's Office within 150 days of the date of death. If the estate is probated, the statement should be completed and returned to the Assessor when the inventory and appraisal is filed with the court.

A link to a copy of the BOE 502-D can be found on the County Assessor's [web page](#). For further information, call (510) 272-3800.

### **More sources of information on deeds and title changes for real estate property**

Changes in legal title to ownership in real property can be complicated and may require research.

~ ACLL **can** provide templates or examples of forms as requested - \$0.20/per page. Staff has knowledge of legal resources to help you with your research.

~ ACLL staff **cannot** provide you with legal advice on how to complete a deed or other legal transactions.

~ACLL staff **cannot** sit with you and complete a deed or any other legal document.

~ The Alameda County Clerk-Recorder's Office **cannot** provide you with forms or legal advice.

~Registered legal document assistants can draft deeds but cannot provide legal advice as to what steps are the best to take for an individual's situations.

~ Only attorneys, who are members of the CA State Bar, can provide legal advice.

A historically useful resource for pro pers drafting deeds. Not currently updated.:

#### ***Nolo Deeds for California Real Estate***

ACLL Self-Help KFC 170 .Z9 R36

This title provides detail information for non-attorneys who want to do their own deed paperwork. Highly recommended by ACLL to help prevent costly errors and issues in the future.

Information covered includes:

- choosing the right kind of deed
- information and samples for completing the required forms
- filing them
- discussion on non-property issues -- legal, tax, estate. and community property

~ The attorneys at the Sacramento Civil Self-Help Center have developed a research guide that provides examples of language for grantors and grantee and form of titles. See pages 3 and 4 of "[Completing and Recording Deeds](#)" published by the Sacramento County Public Law Library.

~ Nolo.com "[Interspousal Transfers vs Quitclaim Deed](#)"

## CHECKLIST -

To complete a deed, you need to:

- Locate the current deed
- Organize information for the new deed
  - 1) The legal property description from the current deed (must be exact)
  - 2) Assessor's Parcel Number - "APN"
  - 3) Language/text for the type of deed you will be using (example - grant, quitclaim)
  - 4) Legal names of all the grantors and grantees
  - 5) Look on current deed to see how the property is held - community, joint, tenants in common - and decide how the new owner(s) will take title.
  - 6) Calculate amount of Documentary Transfer Tax or other fees or select the transfer tax exemption code you feel applies. Document this information on the deed.
- Complete the new deed
- Grantor signature needs to be notarized.
- Fill out Preliminary Change of Ownership Report (PCOR) form from the AC Assessor's Office
- Record deed and file PCOR
- Pay fees
- File Reassessment Exclusion Claim, if any, at the County Assessor's Office.
  - Proposition 19 has changed the rules for reassessment of real property for annual property taxation. [More information](#)
- Recorder's Office will return original copy of new deed to address as listed on top left of the deed document. Retain in safe place for future reference.



**Clerk/Recorder's Office is at 1106 Madison Street**

**Information on public records including property deeds**

**Alameda Co. Assessor's Office is at 1221 Oak Street**

**Property ownership & tax assessments**

**Rene C. Davidson AC Superior Courthouse**  
Entrance on 12th Street

**Alcopark parking garage**  
located on Jackson Street between 12th and 13th Streets

**Entrance on Jackson Street**





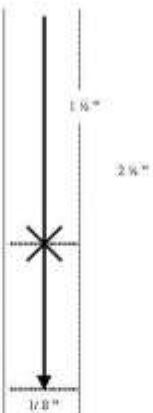

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Rev. 12/14

Recording Requested By  
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Space Above This Line For Recorder's Use Only

**NOTICE OF LAW ESTABLISHING FORMAT  
OF PRINTED FORMS INTENDED FOR RECORDATION**

Section 27361.6 of the Government Code provides the following:

"On all printed forms primarily intended to be used for recordation purposes there shall be a one-half-inch margin on the two vertical sides except in the space reserved for recording information. The top two and one-half (2 1/2) inches of the first page shall be reserved for recording information. The left-hand three and one-half (3 1/2) inches of such space is intended for use by the public to show the person requesting recordation and to whom the document should be returned. All instruments, papers, or notices presented for recordation should be on a quality of paper that will reproduce legibly by photographic or microphotographic processes."

The right-hand 5 inches of space reserved is used by the Recorder to centralize recording information such as document number, book and page number, fee and recording stamp.

The Standard heading on printed forms speeds processing by all agencies and produces a clearer public record. The 1/2-inch margin on the vertical sides provides space for recorder's memos, if necessary.

Printers are requested to:

1. Use the exact scale and location of wording as shown at the top of this page. This permits the document to be returned to the desired address in a window envelope.
2. Maintain 1/2-inch margins on the vertical sides and below the top 2 1/2 inches. Begin the title and text of the printed form below the top 2 1/2 inches and continue to the bottom of the page and on as many additional full pages as needed.
3. Make the printed form exactly 11 inches long and 8 1/2 inches wide to permit the use of folding and inserting machinery in returning the document.

Whenever the legal description (and special recitals if any) is too long for space available, use separate 8 1/2 x 11 sheet and attach to the first page.

Kindly contact this office should there be questions concerning the preparation or use of a printed form intended for recordation. Phone: (510) 272-6362.

STEVE MANNING, CLERK-RECORDER  
COUNTY OF ALAMEDA  
1106 Madison Street, 1st Floor  
Oakland, CA 94607

1/2"



1/2"



## Internet sources for deeds

Some reliable forms are available from a few free sources. These sources can be good when someone insists on a deed form that isn't easily found in California practice guides such as an interspousal deed, a trust transfer deed, or a corporation grant deed. All of these transfers can be accomplished using a grant or a quitclaim deed, but these traditional form titles are well known, can be useful because they are pre-formatted for specific situations, and people will demand them. They may need to be checked for the current notary language or to be sure they are valid in California:

Kinsey Law Offices: business and personal forms, self-help forms, civil litigation pleadings

[www.kinseylaw.com](http://www.kinseylaw.com) (click "Free Stuff")

Porter Law Group: construction forms, including liens

[porterlaw.com/forms.htm](http://porterlaw.com/forms.htm)

Real estate forms, including various deeds, promissory notes, etc.:

Fidelity National Title <http://www.norcalrealestate.com/CA-Forms-Docs>

North American Title <http://www.nat.com/Find-an-Office/Northern-California/Forms-Documents.aspx>

Old Republic Title

<https://www.ortconline.com/Web2/realestateprofessionals/Resources/California/Documents.aspx>

Title 365

<https://www.title365.com/ResourceCenter/FormsAndWorksheets>

RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

Order No.:

Escrow No.:

APN:

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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 )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, 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\_\_\_\_\_

FOR NOTARY STAMP