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BK 8316 PG 339

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RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
08/15/2023 01:12:16 PM  
FEE: \$0.00 Pgs: 15  
DEP eCASH REC'D FOR: COTTONWOOD TITLE  
INSURANCE AGENCY, INC.

140316-KAP

WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
4501 South 2700 West  
P.O. Box 148420  
Salt Lake City, UT 84114-8420

## **UDOT** Utah Department of Transportation Right of Entry and Occupancy Agreement

Project No: S-0108(36)6 Parcel No.(s): 189, 189:E, 189:PUE

Pin No: 15680 Job/Proj No: 72699 Project Location: SR-108; 300 North to 1800 North  
County of Property: DAVIS Tax ID / Sidwell No: 14-381-0001  
Property Address: 1962 W 1800 North CLINTON UT, 84015  
Owner's Address: 1681 1/2 Los Altos Rd, San Diego, CA, 92109  
Owner's Home Phone: Owner's Work Phone: (619)980-8118  
Owner / Grantor (s): Baydays, L.L.C., a California limited liability company; Walgreen Co., an Illinois corporation  
Grantee: Utah Department of Transportation (UDOT)/The Department

### **Acquiring Entity: Utah Department of Transportation (UDOT)**

### **For the Subject Property described in the attached Exhibit A.**

This Right of Entry and Occupancy Agreement ("Agreement") is entered between Baydays, L.L.C., a California limited liability company ("Landlord"), Walgreen Co. ("Tenant" and collectively with Landlord, the "Property Owners") and Utah Department of Transportation (UDOT).

Property Owners hereby grant to UDOT, its contractors, permittees, and assigns, including but not limited to, utilities and their contractors, the right to occupy and commence construction or other necessary activity on the property sought to be acquired/occupied with this Agreement, and to do whatever construction, relocation of utilities, and other work as may be required in furtherance of the state transportation project, located on the property described in attached Exhibit A (the "Subject Property"). This Agreement is made in anticipation of a possible condemnation action by UDOT and is intended to provide for the entry and occupancy of the Subject Property pending further negotiations or the filing and pursuit of condemnation proceedings and possible alternative informal proceedings as provided for in this Agreement. Property Owners understand that, by executing this Agreement, Property Owners have waived and abandoned all defenses to the acquisition of the property.

The sum of \$590,600.00 (the "Deposit") will be paid into escrow, a non-interest bearing account, at a title company for the benefit of Property Owners as consideration for entering into this Agreement. UDOT will be responsible for the expenses of the escrow account. This amount paid into escrow shall be deducted from a final settlement, award of arbitration, or other determination of just compensation in an eminent domain action should one be pursued to acquire the property that is determined to be necessary for the project. The amount paid will be for the purposes of this Agreement only, and will not be admissible as evidence in any subsequent process used to establish the value of the property or the amount of compensation that may be due to the Property Owners. Property taxes will be the responsibility of the Property Owners until transfer of the deed(s) to UDOT.

The parties to this Agreement understand that a title report may indicate that other third parties may have a claim to part of the proceeds being paid by UDOT to the Property Owners under this Agreement. UDOT will have the right to approve the release of the Deposit from Escrow to Property Owners and to require a conveyance of the subject property from the Property Owners to UDOT prior to the release. It is not the intent of the Agreement to properly assess potential third-party claims. In the event it is later determined that part of the Deposit should properly be paid to other third parties, then UDOT will have the right to require that the third parties participate in the release of the Deposit or the Deposit will be applied to any remaining liens. In the event that UDOT desires to obtain title insurance in connection with the release of the deposit, UDOT will pay the premiums for the title coverage.

This Agreement is granted without prejudice to the rights of the Property Owners, pending any settlement, to contest the amount of compensation to be paid the Property Owners for the property described in Exhibit A. If

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Owner's Home Phone: Owner's Work Phone: (619)980-8118

Owner / Grantor (s): Baydays, L.L.C., a California limited liability company; Walgreen Co., an Illinois corporation

Grantee: Utah Department of Transportation (UDOT)/The Department

a satisfactory settlement can not be agreed upon, UDOT will, upon notice from the Property Owners that the amount of compensation offered and/or other proposed settlement terms are not acceptable, or at its own election, proceed to commence and diligently prosecute a condemnation proceeding in the appropriate court for a judicial determination of such compensation. If requested to do so by the Property Owners, UDOT will, prior to commencing a condemnation proceeding, enter into a mediation or arbitration procedure provided for in the Utah Code Annotated 78B-6-522 and 13-43-204 through the Office of the Property Rights Ombudsman.

If the Property Owners use the property for a residence, business, or farming operation and is required to move as a result of UDOT's acquisition of the property, the Property Owners may be entitled to relocation assistance and/or payments as a displaced person. The relocation assistance and payment are available as a matter of right and subject to federal and state law if the Property Owners are displaced by the acquisition of this property and are not conditional upon the Property Owners signing this Right of Entry and Occupancy Agreement.

The effective date of the Right Of Entry and Occupancy Agreement shall be the date this Agreement is executed by the Property Owners, as shown below, and that date shall be the date of value for fair market valuation purposes in the context of settlement negotiations, arbitration, or an eminent domain proceeding, should one be necessary, unless the Property Owners have been previously served with a summons in regard to this property acquisition or the parties have otherwise agreed in writing to a different date for purposes of valuation. It is understood that, according to state law, any additional compensation that is ordered to be paid to the Property Owners for the acquisition of the property will include interest at an annual rate of 8 % on any additional compensation that is determined to be payable to the Property Owners over and above that paid with this Agreement, calculated from the date of entry upon the property.

#### Additional Terms:

UDOT will require in its construction contract that its contractor(s) notify the Property Owner a minimum of one week prior to commencing work in front of or on/adjacent to abutting property.

UDOT will require in its construction contract that its contractor(s) maintain safe vehicular access to the property located at 1962 W 1800 North, Clinton, UT and will maintain at least one two way temporary graded vehicular access for the property. Temporary property access signing will be provided by UDOT or its contractor during construction.

The parties acknowledge that the Property Owners are being offered compensation for the following cost-to-cure items, which are the responsibility of the Property Owners to repair: temporary sprinkling system, reconfigure/reinstall sprinkler areas, landscaping, relocate lights/poles, restripe parking stalls, stripe new parking stalls, install new advertising sign, relocate existing advertising sign. UDOT will require in its construction contract with its contractor(s) that its contractor(s) restore any other damage that may be caused by its contractor(s) within the temporary construction easement portion of the Subject Property to a condition similar to or equal to the condition that existed before construction began.

UDOT shall indemnify, defend and hold Owner and Tenant harmless from and against any and other third party loss, claim, damage, liability or injury to property or person (but not lost business that is caused by the construction that is part of this project) that are caused by the negligent acts or omissions of UDOT, its employees, agents, or contractors concerning construction of its project. Nothing in this contract (including these Additional Terms) shall be considered to or construed as a waiver of any defense or limit of liability otherwise available under the Utah Governmental Immunity Act and all other applicable law, and UDOT expressly reserves all privileges, immunities, and other rights granted by the Utah Governmental Immunity Act and all other applicable law.

Project No: S-0108(36)6 Parcel No.(s): 189, 189:E, 189:PUE

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Grantee: Utah Department of Transportation (UDOT)/The Department

Notwithstanding anything in this Agreement to the contrary, (a) UDOT accepts the condition of the Subject Property as is, where is, with all faults; (b) without any obligation to conduct due diligence, Property Owners have disclosed all known hazardous materials, if any, to UDOT and make no further representations or warranties of any kind, either express or implied, with respect to the Subject Property or the condition thereof; and (c) the rights granted by Property Owners are subject to all matters of record and applicable laws to which the Property is subject, and to any state of facts which a new survey or physical inspection of the Property might disclose, except that Property Owners agree not to create any financial encumbrances on the Subject Property after signing this Agreement, and acknowledge that any final settlement will require a partial reconveyance of the existing Deed of Trust that currently encumbers the Subject Property from the final settlement proceeds.

**Exhibits: Exhibit A (Parcels 189, 189:E, and 189:PUE)**

*[Signatures and Acknowledgments to Follow Immediately]*

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Grantee: Utah Department of Transportation (UDOT)/The Department

SIGNATURE PAGE  
TO  
UTAH DEPARTMENT OF TRANSPORTATION  
RIGHT OF ENTRY AND OCCUPANCY AGREEMENT

DATED this 18th day of July, 2023

Signature: [Signature]  
Print Name: Richard N. Steiner

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

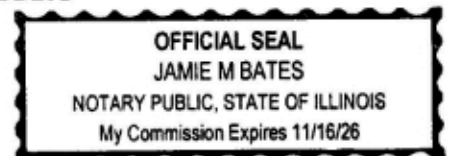
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF ILLINOIS  
County of Lake

On the 18th day of July, 2023, personally appeared before me

Richard N. Steiner, its Delegatee of Walgreen Co. the signer(s) of the Agreement set forth above,  
who duly acknowledged to me that they executed the same.

Jamie M Bates  
NOTARY PUBLIC



DATED this 8th day of August, 2023

Signature: [Signature]  
Print Name: Charles A. Stornament

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

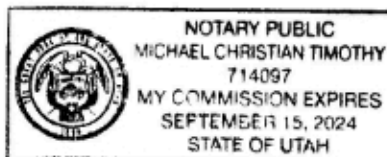
Signature: Utah Department of Transportation, Director, Right of Way  
Print Name: \_\_\_\_\_

STATE OF UTAH  
County of Salt Lake

On the 8th day of August, 2023, personally appeared before me

Charles A. Stornament the signer(s) of the Agreement set forth above,  
who duly acknowledged to me that they executed the same.

[Signature]  
NOTARY PUBLIC



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Grantee: Utah Department of Transportation (UDOT)/The Department

SIGNATURE PAGE  
TO  
UTAH DEPARTMENT OF TRANSPORTATION  
RIGHT OF ENTRY AND OCCUPANCY AGREEMENT

DATED this 28<sup>th</sup> day of June, 2023

Signature: Baydays, LLC  
Print Name: \_\_\_\_\_

Signature: by: Michael Copley (manager)  
Print Name: Michael Copley

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF UTAH  
County of \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, personally appeared before me

ATTACHED  
\_\_\_\_\_ the signer(s) of the Agreement set forth above,  
who duly acknowledged to me that they executed the same.

NOTARY PUBLIC

DATED this 8<sup>th</sup> day of August, 2023

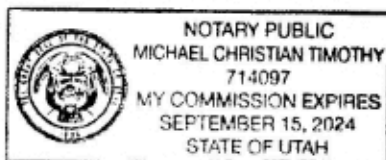
Signature: Charles A. Stormont  
Print Name: Charles A. Stormont  
Signature: Utah Department of Transportation, Director, Right of Way  
Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF UTAH  
County of Salt Lake

On the 8 day of August, 2023, personally appeared before me

Charles A. Stormont the signer(s) of the Agreement set forth above,  
who duly acknowledged to me that they executed the same.



NOTARY PUBLIC

## ACKNOWLEDGMENT

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 SAN DIEGO

On 06/28/2023 before me, PETER NGUYEN NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared MICHAEL COPLEY  
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.

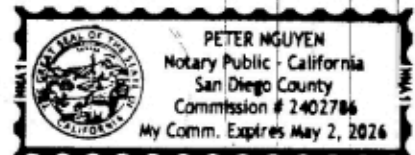
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



## Exhibit A

189 Warranty Deed

189:E Temporary Easement

189:PUE Public Utility Easement

WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
Right of Way, Fourth Floor  
Box 148420  
Salt Lake City, Utah 84114-8420

**Warranty Deed**  
(LIMITED LIABILITY COMPANY)  
Davis County

Tax ID No. 14-381-0001  
Pin No. 15680  
Project No. S-0108(36)6  
Parcel No. 0108:189

Baydays, L.L.C., a California limited liability company, Grantor, hereby CONVEYS AND WARRANTS to the UTAH DEPARTMENT OF TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114, for the sum of TEN (\$10.00) Dollars, and other good and valuable consideration, the following described parcel of land in Davis County, State of Utah, to-wit:

A parcel of land in fee, being part of an entire tract of property, situate in Lot 1 of Pioneer Square Subdivision according to the official plat thereof in the office of the Davis County Recorder, recorded as Entry No. 1992115 in Book 3554 at Page 508, also situate in the SW1/4 NW1/4 of Section 27, T.5N., R.2W., S.L.B.&M., for the construction of improvements incident to SR-108, 300 North to 1800 North, known as project number S-0108(36)6. The boundaries of said parcel of land are described as follows:

Beginning a point on the westerly boundary line of said Lot 1, which point is on the existing easterly right of way line of said SR-108, which point is 57.03 feet N.00°07'29"E. along the section line and 55.00 feet N.89°59'58"E. from the West Quarter Corner of said Section 27; and running thence along the westerly boundary line of said Lot 1 coincident with said existing easterly right of way line of said SR-108 N.00°07'29"E. 233.97 feet (*234.00 feet per plat*), more or less, to a point on the northerly boundary line of said Lot 1; thence along said northerly boundary line of said Lot 1 N.89°59'17"E. 5.50 feet to a point which is 58.50 feet perpendicularly distant easterly from the SR-108 control line of said project, at Engineer Station 291+32.04; thence S.00°07'29"W. 134.79 feet to a point which is 58.50 feet radially distant easterly from said SR-108 control line of said project, at Engineer Station 289+97.11; thence S.89°52'31"E. 3.00 feet to a point which is 61.48 feet radially distant easterly from said SR-108 control line of said project, at Engineer Station 289+97.11; thence



Pin No. 15680  
Project No. S-0108(36)6  
Parcel No. 0108:189

S.00°07'29"W. 24.22 feet to a point which is 61.38 feet radially distant easterly from said SR-108 control line of said project, at Engineer Station 289+72.67; thence N.89°52'31"W. 4.89 feet to a point which is 56.50 feet radially distant easterly from said SR-108 control line of said project, at Engineer Station 289+72.67; thence S.00°19'20"E. 33.08 feet to a point which is 56.50 feet perpendicularly distant easterly from said SR-108 control line of said project, at Engineer Station 289+39.50; thence S.46°18'50"E. 49.53 feet to a point which is 61.50 feet perpendicularly distant northerly from SR-37 control line of said project, at Engineer Station 15+98.43; thence S.89°59'58"E. 268.25 feet, more or less, to a point on the easterly boundary line of said Lot 1, which point is 61.50 feet perpendicularly distant northerly from said SR-37 control line of said project, at Engineer Station 18+66.68; thence along the easterly boundary line of said Lot 1 S.00°07'29"W. 22.70 feet to the southeast corner of said Lot 1, which said corner is on the existing northerly right of way line of said SR-37; thence the following two (2) courses along the southerly boundary line of said Lot 1 coincident with said existing northerly right of way line of said SR-37 (1) S.89°59'58"W. 292.97 feet (*S.89°59'17"W. 293.00 feet per plat* ); (2) N.44°56'37"W. 21.23 feet (*21.19 per plat*), more or less, to the point of beginning as shown on the official map of said project on file at the office of the Utah Department of Transportation. The above described parcel of land contains 8,696 square feet or 0.200 acre in area, more or less.

(Note: Rotate above bearings 00°19'50" clockwise to equal NAD83 project bearings.)

Pin No. 15680  
Project No. S-0108(36)6  
Parcel No. 0108:189

STATE OF	)	<u>Baydays, L.L.C.</u>
	) ss.	<u>a California limited liability company</u>
COUNTY OF	)	<u>Signature</u>
		<u>Print Name and Title</u>

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me personally appeared \_\_\_\_\_, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me being duly sworn/affirmed, did say that he/she is the \_\_\_\_\_ of Baydays, L.L.C., a California limited liability company and that said document was signed by him/her on behalf of said Baydays, L.L.C., a California limited liability company by Authority of its \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
Right of Way, Fourth Floor  
Box 148420  
Salt Lake City, Utah 84114-8420

**Temporary Easement**  
(LIMITED LIABILITY COMPANY)  
Davis County

Tax ID No. 14-381-0001  
Pin No. 15680  
Project No. S-0108(36)6  
Parcel No. 0108:189:E

Baydays, L.L.C., a California limited liability company, Grantor, hereby GRANTS AND CONVEYS to the UTAH DEPARTMENT OF TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114, for the sum of TEN (\$10.00) Dollars, and other good and valuable consideration, the following described easement in Davis County, State of Utah, to-wit:

A temporary easement, upon part of an entire tract of property, situate in Lot 1 of Pioneer Square Subdivision according to the official plat thereof in the office of the Davis County Recorder, recorded as Entry No. 1992115 in Book 3554 at Page 508, also situate in the SW1/4 NW1/4 of Section 27, T.5N., R.2W., S.L.B.&M., to facilitate the construction of improvements incident to SR-108, 300 North to 1800 North, known as project number S-0108(36)6. This easement shall commence upon the beginning of actual construction on the property and shall continue only until project construction on the property is complete, or for three years, whichever first occurs. The easement shall be non-exclusive such that the Grantor may use the property at any time in a manner which does not interfere with construction activities.

Beginning at a point on the project easterly right of way line, which point is 98.90 feet N.00°07'29"E. along the section line and 58.86 feet N.89°59'15"E. from the West Quarter Corner of said Section 27, which point is also 56.50 feet perpendicularly distant easterly from the SR-108 control line of said project, at Engineer Station 289+39.50; and running thence the following five (5) courses along said project easterly right of way line: (1) N.00°19'20"W. 33.08 feet; (2) S.89°52'31"E. 4.89 feet; (3) N.00°07'29"E. 24.22 feet; (4) N.89°52'31"W. 3.00 feet; (5) N.00°07'29"E. 134.79 feet, more or less, to a point on the northerly boundary line of said Lot 1; thence along said northerly boundary line of said

Pin No. 15680  
Project No. S-0108(36)6  
Parcel No. 0108:189:E

Lot 1 N.89°59'17"E. 10.00 feet; thence S.00°07'29"W. 52.06 feet; thence S.89°52'31"E. 9.50 feet; thence S.00°07'29"W. 24.00 feet; thence N.89°52'31"W. 6.50 feet; thence S.00°07'29"W. 116.18 feet; thence S.46°18'50"E. 22.52 feet; thence S.89°59'58"E. 162.96 feet; thence N.00°00'02"E. 35.00 feet; thence S.89°59'58"E. 26.50 feet; thence N.00°00'02"E. 5.00 feet; thence S.89°59'58"E. 51.50 feet; thence S.00°00'02"W. 45.00 feet; thence S.89°59'58"E. 32.21 feet, more or less, to a point on the easterly boundary line of said Lot 1; thence along said easterly boundary line of said Lot 1 S.00°07'29"W. 13.50 feet, more or less to said project northerly right of way line of SR-37; thence the following two (2) courses along said project northerly right of way line of said SR-37: (1) N.89°59'58"W. 268.25 feet; (2) N.46°18'50"W. 49.53 feet, more or less, to the point of beginning. The above described easement contains 10,679 square feet or 0.245 acre in area, more or less.

(Note: Rotate above bearings 00°19'50" clockwise to equal NAD83 project bearings.)



WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
Right of Way, Fourth Floor  
Box 148420  
Salt Lake City, Utah 84114-8420

**Public Utility Easement**  
(LIMITED LIABILITY COMPANY)  
Davis County

Tax ID No. 14-381-0001  
Pin No. 15680  
Project No. S-0108(36)6  
Parcel No. 0108:189:PUE

Baydays, L.L.C., a California limited liability company, the undersigned, hereby DEDICATES a Public Utility Easement for the use and installation of public utility facilities as provided in the Utah Code Section 54-3-27 (the "PUE Statute"). The Easement is non-exclusive and may be used by all public utilities according to the terms of the PUE Statute.

A public utility easement, upon part of an entire tract of property, situate in Lot 1 of Pioneer Square Subdivision according to the official plat thereof in the office of the Davis County Recorder, recorded as Entry No. 1992115 in Book 3554 at Page 508, also situate in the SW1/4 NW1/4 of Section 27, T.5N., R.2W., S.L.B.&M., in Davis County, Utah.

Beginning at a point on the project easterly right of way line, which point is 98.91 feet N.00°07'29"E. along the section line and 58.86 feet N.89°59'58"E. from the West Quarter Corner of said Section 27, which point is also 56.50 feet perpendicularly distant easterly from the SR-108 control line of said project, at Engineer Station 289+39.50; and running thence the following five (5) courses along said project easterly right of way line: (1) N.00°19'20"W. 33.08 feet; (2) S.89°52'31"E. 4.89 feet; (3) N.00°07'29"E. 24.22 feet; (4) N.89°52'31"W. 3.00 feet; (5) N.00°07'29"E. 134.79 feet, more or less, to a point on the northerly boundary line of said Lot 1; thence along said northerly boundary line of said Lot 1 N.89°59'17"E. 10.00 feet; thence S.00°07'29"W. 124.81 feet; thence S.89°52'31"E. 3.00 feet; thence S.00°07'29"W. 44.22 feet; thence N.89°52'31"W. 4.81 feet; thence S.00°19'20"E. 18.76 feet; thence S.46°18'50"E. 41.28 feet; thence S.89°59'58"E. 228.56 feet; thence N.00°00'02"E. 3.50 feet; thence S.89°59'58"E. 35.70 feet, more or less, to a point on the easterly boundary line of said Lot 1; thence along said easterly boundary line of said

Pin No. 15680  
Project No. S-0108(36)6  
Parcel No. 0108:189:PUE

Lot 1 S.00°07'29"W. 13.50 feet, more or less to said project northerly right of way line of SR-37; thence the following two (2) courses along said project northerly right of way line of said SR-37: (1) N.89°59'58"W. 268.25 feet; (2) N.46°18'50"W. 49.53 feet, more or less, to the point of beginning. The above described easement contains 5,220 square feet or 0.120 acre in area, more or less, of which 868 square feet, or 0.020 acre is now occupied by the existing public utility easement. Balance is 4,352 square feet, or 0.100 acre.

(Note: Rotate above bearings 00°19'50" clockwise to equal NAD83 project bearings.)

		<u>Baydays, L.L.C.</u>
		a California limited liability company
STATE OF	)	
	) ss.	
COUNTY OF	)	<u>Signature</u>
		<u>Print Name and Title</u>

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me personally appeared \_\_\_\_\_, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me being duly sworn/affirmed, did say that he/she is the \_\_\_\_\_ of Baydays, L.L.C., a California limited liability company and that said document was signed by him/her on behalf of said Baydays, L.L.C., a California limited liability company by Authority of its \_\_\_\_\_.

\_\_\_\_\_  
Notary Public