

MALDEN HOUSING AUTHORITY

Section 3 Policy and Procedures

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BACKGROUND

This Section 3 policy pertains to training, employment and contracting, opportunities arising in connection with the expenditure of Federal housing assistance and community development assistance that is used in conjunction with the following activities: Housing rehabilitation, Housing construction, Abatement of Lead Based Paint and Other public construction. The **Section 3 regulation is triggered by a need for new hires (whether individual employees, contractors or sub-contractors)** and every effort within the contractor's disposal must be made to the greatest extent feasible to offer all available opportunities to low and very low income residents.

This policy is developed for the Malden Housing Authority for the exclusive use of the agency, hereafter referred to as MHA, its contractors, sub-contractors, developers, sub-grantees, affiliates, instrumentalities related non-profits, partnering-local government entities and any other recipients of HUD funds in partnership with MHA. The funding type and program/grant names may change over the years however, the intent of this policy to encompass all Department of Housing and Urban Development (HUD) funding. All hiring and contracting must meet any conflicts of interest requirements set forth in federal, state or local laws, regulations or policies and comply with the internal MHA hiring protocol.

Section 3 of the Housing and Urban Development Act of 1968 and by the Housing and Community Development Act of 1992. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing (including public and Indian housing) and community Development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

Section 3 requirements apply to **all** projects and activities funded in whole or in part with covered funds and the **entire** project budget is then subject to Section 3.

PART I EFFORTS REQUIREMENTS

The regulation specifically calls for three (3) efforts to be met in the event of any newly created opportunities as a result of HUD specific funds in the normal course of expenditures. This means emergency procurements are exempt from Section 3. The efforts that must be met with verifiable documents that they were provided to:

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Low Income Persons (Also referred to as Section 3 Residents): A person whose household (including single persons) whose total household income that does not exceed 80% of the median income as determined by HUD in this Preference order for the project area:

1. Residents of HUD-assisted housing (Tier 1)
2. Residents at the site where the work is being performed (If Applicable Tier 1)
3. Residents of the city where the work is being performed (Tier 2)
4. Residents of the county where the work is being performed (Tier 2)

This order shall apply to employment opportunities and any contracting opportunities for businesses owned at 51% or greater by Section 3 residents.

All of these “**Efforts**” will be identified on the attached required forms and collectively shall be referred to as the Applicant’s, Sub-Recipient’s, Contractor’s or Sub-Contractor’s “**Section 3 Action Plan**”

| REQUIREMENTS <i>Applicable to all awards and contracts DESPITE AMOUNT</i> | APPLICABILITY | WHEN EXECUTED |
|---|--|--|
| <p>NOTICE – Extra or greater efforts must be undertaken to make the low and very low-income persons in the project area aware of the existence of the opportunity before it is filled with non-Section 3 persons or businesses. This means the notice MUST be given in multiple methods (See Parts IV and V below for a list of methods) and documentation saved for audit purposes.</p> <p>As an example, contractors, subcontractors and developers can not simply call their normal service providers and contractors for bids without including a host of notices to other low income people, groups and organizations locally and beyond before committing to any contracts or potential contracts.</p> <p>Remember to keep every document and record demonstrating your efforts for audit and verification. If there are no records verifying the efforts made, it will be assumed there were none.</p> | <p>This applies to all applicants and contracts using MHA funds that begins prior to the securing of the first contract service related to the proposed project including, professional services such as legal, architecture, engineering, consultants, etc.</p> | <p>Notice must be provided prior to the execution of any contracts via: publication, flyers, posters, social media, email, letters, web-postings and any other such method elected</p> |
| <p>ENCOURAGEMENT - Contractors, subcontractors, developers and sub-recipients must be able to document they did something to encourage low income people, the businesses they own and the businesses that substantially employ them to apply for their opportunities before filling them with non-Section 3 people or businesses. This includes activities such as hosting opportunity fairs for contracting and employment, informational sessions on how to achieve Preference in consideration or other verifiable methods designed to enhance participation by these groups.</p> <p>MHA requires that if a list of interested Section 3 persons and</p> | <p>These shall be in the form of: Opportunity Fairs, Meetings, Presentations, Inducements such as Transportation or Child Care Assistance, etc.</p> <p>The most important</p> | <p>This is executed only once tentative notice has been provided by MHA of a possible award.</p> <p>It’s important this be done early so the contracting phase can begin</p> |

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| contractors is developed during this phase. Contractors, subcontractors and developers may refer to those list if new opportunities open during the contract life after the initial efforts were under taken. However, in the event no such lists exists, the contractors, subcontractors and developers must repeat these efforts to the extent that new Section 3 person and business can be attracted and secured if qualified. There is no requirement to hire or contract any unqualified person or business. | action is the use of the attached forms when bidding and the mentioning of Preference often. | immediately after confirmation of award. |
| <p>FACILITATION - Contractors, subcontractors, developers and sub-recipients must be able to provide documentation in the form of actual signed agreements or commitments to contract and employment verification like payrolls or offers of employment that they facilitated in compliance with the actual award of contracts and/or employment based on what opportunity was available.</p> <p>You can't guarantee any contractors will elect Preference as a Section 3 Concern so awards can be made to these companies. Therefore, it's more important that everyone document the process of making people aware of the Preference by utilizing the attached forms consistently.</p> | Because there are various phases of contracting in a project, this step must be central to the award of contracts to Section 3 Businesses throughout the pre-development and execution phases. | This must be completed at every step in the contracting and employment phase from pre-application for funds into the pre-development of, and the life of the project. |

SECTION 3 BUSINESS CONCERN for PREFERENCE: AS DEFINED BY HUD, AN ENTITY:

- A. That is Fifty-one (51%) percent or more owned by Section 3 Residents or Resident Owned Business (ROB): A Business Concern owned or controlled by a Section 3 Resident who resides within the legal boundaries where the funds are expended. A ROB must meet these requirements: (a) at least 51% owned and operated by Section 3 residents, and (b) whose management and daily business operations are controlled by one or more such individuals.
- B. Whose permanent, full-time employees includes persons, at least 30 percent of whom are current Section 3 Residents, or were Section 3 Residents within three (3) years of the date of first employment with the Business; or provides a commitment to hire Section3 Residents in the project area in a number sufficient to meet this 30% rule.
- C. That provides evidence of a commitment to subcontract in excess of 25 percent of the total contract award amount (including any modifications) to Section 3 Business Concerns as defined in A or B. Example: If the Contract Amount is = \$1,000,000, the contractor must subcontract in excess of 25%, or at or above \$250,000.01, to a Section 3 Business Concern (s) as defined in A or B in this part.

PART II. ECONOMIC OPPORTUNITIES (*Efforts must be detailed on the Action Plan form*):

If a contractor or sub-contractor identifies a greater need than employment, they may recommend employing training opportunities. In such cases, a contractor or sub-contractor must provide training as described below equal to or exceeding 3% of the total contract award in order to be considered in compliance with this policy. Firms that will provide other economic opportunities will be responsible for soliciting and contracting a qualified firm/individual experienced in providing a Department of Labor or State Rehabilitation Services Agency Program Approved training curriculum consistent with Section 3 requirements of 135.11 in the area of Section 3 resident training in the following areas:

- Employment Readiness and Professional Development

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- Section 3 Small Business Concern Development Training
- Computer Literacy and Data Entry Skills Training
- Employment Skills Training (Any Viable Employment Field)
- Construction Trade Skills Apprenticeships or Training
- Other training curriculum approved by MHA

PART III. ADDITIONAL RESPONSIBILITIES:

- A) Conveying that the contract work is a Section 3 Covered Contract in any advertisement for bids and proposals by placing the following language in each advertisement/public notice and website: **“This project is covered under the requirements of Section 3 of the HUD Act of 1968.”**
- B) Reporting as required on its efforts regarding Section 3 implementation on the MHA prescribed mechanism or form.
- C) Refusing to award contracts to businesses or persons that have previously violated Section 3 requirements.
- D) Considering the respondents/applicants/bidders prior HUD Section 3 compliance history before awarding contracts. That information is captured on the attached Prior Compliance form.
- E) Posting all job sites funded by MHA with a location or phone number of whom and how to apply for any opportunities for employment, training or contracting. The sign should be no smaller than 24” x 24” in Black ink and specifically read:

“This project is covered under Section 3 of the HUD Act of 1968 which requires that any new hiring opportunities first be directed to low- and very low income persons in this community. Please contact (list the contact person name and number/email) for information on any employment, contracting and sub-contracting opportunities.”

- F) Know that each time you submit your Section 3 reports to MHA, you are certifying that you nor your contractors or sub-contractors circumvented the regulations for Section 3 by hiring any persons or businesses not covered under Section 3 from the time the contract(s) were awarded through the date of the report or project close-out. If any persons or businesses were hired that were not Section 3, you must provide evidence of the efforts made to attract and encourage Section 3 people and businesses to your opportunity before awarding same to non-Section 3 entities or persons.

PART IV. COMPLAINTS AND COMPLIANCE MONITORING:

This policy is governed by the 24 CFR Part 135 – Section 3 Regulation and any future changes thereto. Any Section 3 resident or business concern that feels that the Section 3 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the following internet address: <http://portal.hud.gov/hudportal/documents/huddoc?id=958.pdf>

COMPLIANCE MONITORING

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MHA will employ a direct employee or consultant skilled and equipped to manage the full compliance process including, staff and contractor/developer regulatory and implementation training, payroll and pay application review and monitoring for triggering hires and the reporting of all Section 3 activity in an on-going basis.

ALL OF THE FOLLOWING FORMS **MUST** BE EXECUTED AND RETURNED WITH YOUR APPLICATION/BID/RESPONSE FOR ANY MHA HUD COVERED FUNDS PROJECT OR ACTIVITY *OR YOUR RESPONSE WILL BE DETERMINED NON-RESPONSIVE AND NOT RESPONSIBLE AND SAME WILL NOT BE REVIEWED OR SCORED.*

Section 3 Clause

Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of Section 3 apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

I have read and understand these requirements of my Section 3 funded project.

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Signature/Title

Print Name

Date

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Name of Business _____ Address of Business _____

Type of Business (Check One): ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other

Contract Name/Solicitation #/Funding Round:

All firms and individuals intending to do business with MHA funds MUST complete and submit this Action Plan and submit it with the application/bid/response. **Any application/response that does not include this document (completed, signed, and notarized) will be considered non-responsive and not eligible for award/funding.** Complete this page if you are requesting Preference as a Section 3 Business Concern as defined on page 4 of the attached Policy or if you will not be hiring any individuals or sub-contractors. If you are not requesting Preference go to the next page.

IF CONTRACTOR DOES NOT ANTICIPATE TRIGGERING THE REGULATION, INITIAL BOTH BOXES.

☐ I do not anticipate hiring any new employees on this contract.

☐ I do not anticipate hiring any sub-contractors on this contract.

Do NOT check any other boxes or select any other options on this form!

I am Certifying as a Section 3 Concern and requesting Preference accordingly (Select only One Option):

51% Resident Owned (By electing this Preference I am Certifying as a Section 3 Residents as defined on page 2 of the attached DCA Section 3 Policy)

☐ A business claiming status as a Section 3 Resident-Owned Business Concern (ROB) entity

30% Employer of Section 3 Residents Currently or New Hires

Section 3 status, because at least 30% of the existing or newly hired workforce for this specific contract will be Section 3 residents throughout the entire contract period. If a Prime or General Contractor is electing this option, the 30% employment requirement will be for the entire project including all the sub-contractors employees. By selecting this option you are certifying for all low income employees and may be required to furnish proof if requested in the future. You must identify these persons on the required workforce list before the project begins.

I anticipate my total number of employees for this contract to be ____ and ____ will be qualified Section 3.

Check all methods you will employ to secure Section 3 Residents/Persons. Posting the position in community sources that are generally available to low income residents and the general public is a standard requirement. Check at least three (3) methods you will employ:

- ☐ The local community newspaper (Even if in non-English language)
- ☐ The most widely distributed newspaper
- ☐ Company or agency website
- ☐ The management office of the local housing authority/homeless service agency/local low income housing community
- ☐ Local Workforce Board
- ☐ Other locations as approved by RECIPIENT

Other:

25% Sub-Contracting

A business claiming Section 3 status by subcontracting 25% of the dollar award to qualified Section 3 Business:

Initial here to select this option _____

Provide a list of intended subcontract Section 3 business(es) with amount

Provide certification & all supporting documentation for each planned Section 3 Business Concern

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PRIOR COMPLIANCE CERTIFICATION

I am certifying that I have complied with the HUD Section 3 Regulations in my past contracts **when required** by the recipient, contractor by employing the following (*Complete all areas that apply*):

1. I was a Section 3 Resident-Owned Business (ROB). List the Contracts and HUD Funded Entity and Contact:

Initial here to select this option _____

2. I complied with Section 3 by employing at least 30% of my workforce. List the Contracts and HUD Funded Entity and Contact:

Initial here to select this option _____

3. I complied with Section 3 by subcontracting 25% of the total dollar award to a qualified Section 3 Business. List the Contracts and HUD Funded Entity and Contact:

Initial here to select this option _____

4. I complied with Section 3 on a previous HUD funded contract by doing these things and with these entities: Describe:

Initial here to select this option _____

5. I completed HUD Section 3 covered contracts in the past three years but was not required to meet compliance.

Initial the box of the corresponding reason below.

☐ I did not trigger the regulation by hiring any new employees on my Previous contract(s) in violation of the Section 3 regulation.

☐ I did not trigger the regulation by hiring any contractors on my previous contract(s) in violation of the Section 3 regulation.

ASSURANCE OF COMPLIANCE CERTIFICATION WITH THE HUD ACT OF 1968 (12 U.S.C. 1701 U)

Purpose: To ensure that regulations promulgated under 24 CFR Part 135 Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects and the Section 3 Plan and Policy of RECIPIENT, its sub-recipients and contractors to the greatest extent feasible is adhered to, and to serve as the 'assurance of compliance' certification and action plan as required in the bid documents, supplemental general conditions, and required forms for the contract for any HUD work funded by RECIPIENT.

Description of the project's work detail: The project work will be as listed in the final scope of work in the contract with RECIPIENT, its sub-recipients and contractors including any change orders.

Subcontractor(s): _____

Subcontractor(s): _____

Subcontractor(s): _____

Subcontractor(s): _____

Subcontractor(s): _____

Subcontractor(s): _____

Subcontractor(s): _____

Use an additional sheet if required

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Preliminary Statement for Work Force Needs: RECIPIENT intends to meet Section 3 compliance at the highest level and it is our intent to identify any short-term and long-term employment or contracting opportunities for qualified Section 3 persons and concerns during the course of your

contract funded by RECIPIENT via its sub-recipients and contractors. Please list the status of all planned employment position and opportunities for this contract. **Preference for all opportunities must be given to low and very low-income residents if they qualify. If awarded a contract, you are required to provide a list of your aggregate workforce on this project before starting. Any changes to that workforce during the project will constitute new hires. You are hereby notified that you must notify MHA or contractor (Respectively) overseeing your contract of any new hire opportunities that arise during the life of your contract. Anticipated workforce list may be provided on a separate sheet or in a different format.**

| <u>Category</u> | <u>Number of available project workforce Positions at the time of contract award</u> |
|-----------------|--|
|-----------------|--|

| | |
|---------|-------|
| Skilled | _____ |
|---------|-------|

| | |
|--------------------|-------|
| Semi Skilled Labor | _____ |
|--------------------|-------|

| | |
|-----------|-------|
| Trainee's | _____ |
|-----------|-------|

| | |
|----------|-------|
| Laborers | _____ |
|----------|-------|

The positions are filled by the _____ (Position title, name, email & phone #) of the Contractor.

Should the scope of work or duties of the contractor change to a degree requiring a modification of the work force needs, the contractor shall put forth a reasonable effort to fill vacant positions with the area low and very low-income residents.

I attest that the above information is true and correct.

Signature

Print Name

Title

Date

NOTARY REQUIRED

COMMONWEALTH OF MASSACHUSETTS): MIDDLESEX COUNTY):

I, the undersigned a Notary Public in and for said authority and in said State, hereby certify that, _____, whose named as _____ (Title) of _____ (Company) is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing conveyance, he/she, in his/her capability as _____ (Officer Title), and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

{SEAL}

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Optional Form Only: If MHA wants the signature of each low income person being considered Section 3 for its projects that are not their residents or voucher holders.

SECTION 3 RESIDENT SELF-CERTIFICATION FORM

FOR THE

MALDEN HOUSING AUTHORITY

630 Salem Street, Suite 1, Malden, MA 02148

This form is to be completed by:

1. All employees of a company if the company is claiming they meet the Section 3 low-income definition and the employer is claiming them as part of the company's full-time aggregate workforce.
2. All non-MHA residents or Section 8 Voucher Holders when seeking Section 3 Preference for any Employment, Training or Contracting opportunities
3. All Section 3 Residents/Contractors claiming 51% Resident Owned Business Preference in any MHA solicitation

THIS FORM MUST BE SIGNED AND NOTORIZED WITH BOTH PAGES RETURNED TO MHA.

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SECTION 3 SELF-CERTIFICATION AND SKILLS DATA FORM

The purpose of this form is to comply with HUD Section 3 administration and certification regulations.

Certification for Section 3 Residents or other Low-Income Persons Seeking Employment, Training or Contracting

I, _____, am a legal resident of the United States and meet the income eligibility and federal guidelines for a Section 3 Resident as defined on the next page.

My home address is: _____
Must be a Street address not a PO Box # Apt # City State Zip Home # Cell #

Graduated High School or GED (month/year) _____ Read & Speak English ☐ Yes ☐ No Graduated College, Trade, or Technical School ☐ Yes ☐ No

Check the Skills, Trades, and/or Professions you have been employed in or contracted to do for others:

- | | | | | | |
|--|--|--|-----------------------------------|---|---|
| <input type="checkbox"/> Drywall Hanging | <input type="checkbox"/> Drywall Finishing | <input type="checkbox"/> Interior Painting | <input type="checkbox"/> Framing | <input type="checkbox"/> Telephone Customer Service | <input type="checkbox"/> Personal Care Aide |
| <input type="checkbox"/> HVAC | <input type="checkbox"/> Electrical | <input type="checkbox"/> Interior Plumbing | <input type="checkbox"/> Siding | <input type="checkbox"/> Heavy Equipment Operator | <input type="checkbox"/> Metal/Steel Work |
| <input type="checkbox"/> Cabinet Hanging | <input type="checkbox"/> Door Replacement | <input type="checkbox"/> Trim/Carpentry | <input type="checkbox"/> Sales | <input type="checkbox"/> Concrete/Asphalt Work | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Data Entry | <input type="checkbox"/> Exterior Plumbing | <input type="checkbox"/> Exterior Framing | <input type="checkbox"/> Stucco | <input type="checkbox"/> Construction Cleaning | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Roofing | <input type="checkbox"/> Receptionist | <input type="checkbox"/> Landscaping | <input type="checkbox"/> Fencing | <input type="checkbox"/> Teaching/Training | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Welding | <input type="checkbox"/> Administrative | <input type="checkbox"/> CDL License | <input type="checkbox"/> Cleaning | <input type="checkbox"/> Window/Door Repl. | <input type="checkbox"/> Other _____ |

I am certifying as a Section 3: ☐ Person seeking Training or ☐ Person seeking employment

(Check all that apply): ☐ I am a public housing or section 8 Leaseholder ☐ I live in the service area of the Authority

My total annual household income is \$_____ There are a total of _____ people living in my household

The figures below represent low/very low-income families.

| 2014 Income Limits for the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area | | | | | | | | | | |
|--|---------------|-------------------------------|----------|----------|----------|-----------------|----------|----------|----------|----------|
| FY 2014 Income Limit Area | Median Income | FY 2013 Income Limit Category | 1 Person | 2 Person | 3 Person | 4 Person | 5 Person | 6 Person | 7 Person | 8 Person |
| Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area | \$94,100 | Low (80%) | \$47,450 | \$54,200 | \$61,000 | \$67,750 | \$73,200 | \$78,600 | \$84,050 | \$89,450 |
| | | Very Low (50%) Income Limits | \$32,950 | \$37,650 | \$42,350 | \$47,050 | \$50,850 | \$54,600 | \$58,350 | \$62,150 |

I certify that all of the information given above is true and correct. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual which may be grounds for termination of training, employment, or contracts that resulted from this certification. I attest under penalty of perjury that my total household income annually, based on my total household size as listed above is at or below the income amount for that specific size at the time of this document is being signed and notarized. I understand that proof of this statement may be requested in the future.

Signature _____

Date _____

NOTARY REQUIRED

COMMONWEALTH OF MASSACHUSETTS): MIDDLESEX COUNTY):

I, the undersigned a Notary Public in and for said authority and in said State, hereby certify that, _____, whose named as _____ (Title) of _____ (Company) is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing conveyance, he/she, in his/her capability as _____ (Officer Title), and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the _____ day of _____, 20____.

Notary Public _____

My Commission Expires: _____ {SEAL}