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DEVAL L. PATRICK
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2009 NOV 31 AM 9:27
 SECRETARY OF STATE

By His Excellency

DEVAL L. PATRICK
 GOVERNOR

EXECUTIVE ORDER NO. 516

**PROVIDING FOR THE ALLOCATION OF VOLUME CAP
 FOR QUALIFIED ENERGY CONSERVATION BONDS**

WHEREAS, Section 54D of the Internal Revenue Code of 1986, as amended (the "Code") authorizes state and local governments to issue bonds ("Qualified Energy Conservation Bonds") to finance one or more qualified conservation purposes as defined in Section 54D(f) of the Code ("Qualified Conservation Purposes");

WHEREAS, Qualified Energy Conservation Bonds can be a significant resource to the Commonwealth to reduce energy consumption, implement green community programs and fund research and development to promote energy efficiency;

WHEREAS, Section 54D of the Code imposes a national qualified energy conservation bond limitation ("Qualified Energy Conservation Bond Volume Cap") on the issuance of Qualified Energy Conservation Bonds which is allocated among the states and among counties or large municipalities within the states having populations of 100,000 or more, and

Indian tribal governments (each a “Large Local Government”) based on population in accordance with Section 54D of the Code and Notice No. 2009-29 published by the Internal Revenue Service on April 20, 2009 (the “Notice”);

WHEREAS, the Notice allocated the Qualified Energy Conservation Bond Volume Cap among the states and further directed each state to allocate an applicable portion of their allocations to Large Local Governments within the state;

WHEREAS, under Section 54D (e) (3) of the Code, any allocation to a state or Large Local Government shall be allocated in turn by the state or Large Local Government to issuers within the state in a manner that results in the use of not less than 70 percent of the allocation to such state or Large Local Government to designate bonds that are not private activity bonds;

WHEREAS, Section 54D (e) (2) (B) of the Code and the Notice provide that any Large Local Government that has received an allocation of Qualified Energy Conservation Bond Volume Cap may reallocate any unused portion of its Qualified Energy Conservation Bond Volume Cap back to the Commonwealth and upon such reallocation the Commonwealth is authorized to allocate such Qualified Energy Conservation Bond Volume Cap to other eligible issuers;

WHEREAS, the Commonwealth and its cities, towns and districts have been authorized by general and special laws heretofore enacted to issue bonds to finance projects and purposes which may constitute Qualified Conservation Purposes; and

WHEREAS, the Massachusetts Development Finance Agency (“MassDevelopment”) is authorized to issue bonds pursuant to Chapter 23G of the General Laws to finance projects which may constitute Qualified Conservation Purposes;

NOW, THEREFORE, I, Deval Patrick, Governor of the Commonwealth, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, do hereby certify and determine as follows:

1. The Commonwealth’s portion of Qualified Energy Conservation Bond Volume Cap allocated to it by the Notice is hereby assigned to the Executive Office for Administration and Finance (“A&F”). In accordance

with Section 54D (e) of the Code and the Notice, A&F shall allocate a portion of such Energy Conservation Bond Volume Cap to each Large Local Government in the Commonwealth and shall allocate the remaining portion to MassDevelopment or to such other qualified issuers in the Commonwealth as A&F shall determine for application to Qualified Conservation Purposes.

2. Notwithstanding the foregoing provisions of this order, if the governing body of any Large Local Government shall have been abolished by the General Court, any Qualified Energy Conservation Bond Volume Cap allocable to such Large Local Government shall be retained by the Commonwealth or shall be allocated by A&F, in consultation with the Executive Office for Energy and Environmental Affairs (“EOEEA”), to MassDevelopment or to such other qualified issuers in the Commonwealth as A&F shall determine for application to Qualified Conservation Purposes within the jurisdiction of such Large Local Government. All allocations of Qualified Energy Conservation Bond Volume Cap by A&F shall be consistent with and pursuant to Section 54D of the Code, the Notice and this Executive Order.

3. Each allocation of Qualified Energy Conservation Bond Volume Cap made by A&F shall be in writing, shall be made for specific Qualified Conservation Purposes and shall specify the date on or before which the Qualified Energy Conservation Bonds to which such reallocated Qualified Energy Conservation Bond Volume Cap pertains shall be issued in order for the allocation to be effective. Allocations may be made subject to those conditions A&F and reporting requirements, upon consultation with EOEEA, deems appropriate and consistent with Section 54D of the Code, the Notice and this Executive Order.

4. The Secretary of A&F or the Secretary’s designee is authorized to make all representations, file all documents and take all other actions in the name and behalf of A&F as may be required for compliance with Section 54D of the Code, the Notice and to implement this order. In the event that responsibilities under this Executive Order are assigned to MassDevelopment or to any other issuer of Qualified Energy Conservation Bonds, appropriate procedures for designations shall be made by the Secretary of A&F. All designations made pursuant to this section shall be evidenced in writing.

5. A&F and EOEEA shall make reasonably available to the public

information as to the amount of the Qualified Energy Conservation Bond Volume Cap allocated to the Commonwealth and to any Large Local Government that has not yet been applied to Qualified Conservation Purposes and the expiration dates for all reallocations by A&F, and shall confirm, upon request, an allocation of the Qualified Energy Conservation Bond Volume Cap to a particular Qualified Conservation Purpose, and the duration thereof.

6. Prior to making any allocations of Qualified Energy Conservation Bond Volume Cap, A&F or EOEEA shall adopt guidelines governing the allocation and application of Qualified Energy Conservation Bond Volume Cap by the Commonwealth, including, without limitation, guidelines designed to ensure compliance with Section 54D (e) (3) of the Code, which requires that any allocation of Qualified Energy Conservation Bond Volume Cap to a state or Large Local Government be allocated by such state or Large Local Government in a manner that results in not less than 70% of the allocation to such state or Large Local Government being used to designate bonds which are not private activity bonds.

7. This order shall be effective as of the date hereof.



Given at the Executive Chamber in Boston this 30th day of November in the year two thousand and nine, and of the Independence of the United States of America two hundred and thirty-four.

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

Deval Patrick
Governor
The Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin", written over a horizontal line.

William Francis Galvin
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS