

Seven Steps to a Proper Notarization

A Publication of the American Association of Notaries



American Association of Notaries

P.O. Box 630601, Houston, Texas 77263

Phone: 800-721-2663 • Fax: 800-721-2664

Website: www.usnotaries.com • Email: sales@usnotaries.com

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Introduction

This instructional booklet covers standards and procedures that are essential for the proper execution of a notarial act. This booklet is not intended to serve as a substitute for legal advice.

A notary public is a person of proven integrity appointed by his or her state authority to serve the public as an impartial witness in taking acknowledgements, administering oaths and affirmations, and performing other acts authorized by law.

Notaries play an essential role in the functioning of our legal and commercial systems. They hold a position of trust. The public relies upon notaries to ensure integrity in the execution and signing of business, personal, and legal documents. Properly notarized documents can help bind agreements, prevent disputes, and protect against fraud.

It is therefore important that a notary knows and understands notarial principles and exercises his or her duties with a certain standard of care, due diligence, good judgment, and professionalism.

The American Association of Notaries is dedicated to ensuring that notaries across the nation have a thorough understanding of their powers, duties, and responsibilities. For more information, please contact the AAN by calling (800) 721-2663 or visiting our website at www.usnotaries.com.

Steps Required for the Performance of Notarial Acts

To ensure a complete, secure, and lawful execution of every notarial act that you perform, follow the steps listed in this booklet. Consider these steps to be your notarization guide. Execute them in the same order every time you perform a notarial act.

STEP 1: Personal Appearance

A notary public must always require the signer to personally appear in his or her presence at the time of execution of the notarial act. "Personal appearance" means that the signer and notary public are in the same room close enough to be able to see each other, hear each other, and speak with each other.

This means that a notary public may not:

- 1) rely on the statement of another person that the signature on the document is that of the purported signer;
- 2) rely on the notary's own familiarity with the signature; or
- 3) perform a notarial act by telephone, email, teleconference, or any other telecommunication equipment.

In fact, notarizing a document in the absence of the signer completely defeats the purpose of notarization. If the signer is not physically in the notary's presence, the notary is unable to use his or her best judgment to determine if the signer:

- is competent to understand the content of the document that he or she is signing;
- is signing willingly and not under duress;
- is the person he or she claims to be;
- is alive or exists.

STEP 2: Visually Scan the Document

Although the notary is not responsible for the contents of the document, a notary should always visually scan the document presented for notarization to ensure that the document:

- 1) does not contain blank spaces or incomplete information and
- 2) contains a pre-printed notarial certificate or other instructions as to how the notary is to proceed with the notarization.

In addition, notaries who maintain notary journals should scan the document to collect and record certain information such as the document date, title, number of pages, the number of signers, and so forth.

STEP 3: Verify the Identity of the Signer

A notary public must exercise a strict standard of care to verify the identity of a signer when providing notarial services. In most states, a notary public may verify a signer's identity by any of the following three methods:

1 - Government-issued Identification Cards

Each state has different rules about the types of identification cards that may be accepted, and you should consult your state's authorities for a list of acceptable forms of identification. However, almost always the identification must be government-issued and contain the photograph of the holder. In most states, documents such as state driver's licenses, state passports, and "green" cards are acceptable. Some states also have provisions that allow foreign driver's licenses or passports to be used for notarization purposes. Most states require that the identification document be unexpired. However, you should consult with your own state's laws to ascertain this information.

2 - Personal Knowledge

Almost all states allow a notary to verify the identity of a signer through the notary's own personal knowledge of that person's identity. The notary should use his or her best judgment to determine if the individual is "personally known" to him or her. Would you recognize this person if you ran into him or her on the street? Could you accurately describe this individual? Do you know his or her full name? Most importantly, would you be willing to testify in a court of law as to the identity of the person?

"Personally known" means that you, the notary, have known the individual seeking the notarization for a considerable length of time. It does not mean a casual acquaintance known to you by a nickname or someone recently introduced to you. If a neighbor says, "This is my brother Bill," that is not sufficient for the purpose of establishing identity. If the signer is personally known to you, some states require that you indicate this fact in your notarial certificate. Check with your state's authorities to find out whether or not personal knowledge is an acceptable method of verifying a signer's identity for notarization purposes.

3 - Sworn Statement of a Credible Witness

On occasion, a notary may be asked to notarize a document for a client who is not personally known to the notary and who is unable to present a reliable form of identification. In such cases, notaries may rely on the testimony of an impartial person (called a "credible witness") to identify the signer. This requires that the signer produce a friend or other person who swears in the presence of the notary that the individual is the person named in the document requiring notarization.

When a notary is using this method of identification, some states require that he or she administer an oral oath to the credible witness regarding the identity of the signer. The following is a sample oath:

"Do you solemnly swear or affirm that you personally know this person as (name of person whose signature is to be notarized) , and that he/she is the person named in the document to be notarized (so help you God)?"

Other states require that an affidavit statement be completed and signed by the credible witness(es) as in the example below:

Example of a Certificate of Affidavit of Identity by a Credible Witness

On this ____ day of _____, (year), under penalties of perjury, I swear (affirm) that the person appearing before (name of notary) is personally known by me as (name of person whose signature is to be notarized) and is the same person who is named in the document to be notarized.

(Signature of Witness)

(Printed Name of Witness)

State of _____

County of _____

Sworn to (affirmed) and subscribed before me this ____ day of _____, (year),
by _____ (name of witness), who is personally known to me.

(Signature of Notary Public)

(NOTARY SEAL)

(Printed Name of Notary Public)

Notary Public, State of Florida

Each state's requirements regarding credible witnesses are different. Some states do not allow this form of identification at all; others allow it under strict circumstances; others require that the credible witness be personally known to the notary, or that the oaths of two credible witnesses be used to identify the signer. Therefore, you should review your state's notary laws and contact your state's authorities to determine when and how this method of identification may be used.

If a notary public is not able to establish the identity of a signer by any of the above referenced identification methods, he or she must decline to perform the notarial act.

The failure to verify the identity of a signer by satisfactory evidence may subject the notary to civil and criminal liability for malfeasance in office.

STEP 4: Perform the Verbal Ceremony of the Notarial Act

When notarizing a signature on a paper document, a notary is almost always required to perform one of two notarial acts: take an acknowledgment or administer an oath to the signer. We will discuss both notarial acts in detail below:

Acknowledgments

Documents that require a signer to take an acknowledgment are usually associated with real estate conveyances, mortgages, powers of attorney, or agreements. An acknowledgment is the declaration by the signer of a document that his or her signature is genuine and that he or she has executed the document voluntarily. In this instance, the document does not have to be signed in the notary's presence. A notarization can be completed regardless of whether the document was signed two days, two months, or two years ago, as long as the signer appears before you and acknowledges signing the instrument.

When taking an acknowledgment, the notary can ascertain from ordinary conversation with the signer that the individual is alert, competent, and seems to have an understanding of the document's content. You are not required to be a medical expert, but your best layman's determination of the signer's competency is necessary to ensure that the document is being signed voluntarily. You can make this determination by judging whether or not the signer appears to be intoxicated, coerced into signing, or unable to understand the document. If other individuals are in the room, you may want to ask them to leave so you can question the signer in private as to whether or not he or she is truly executing this document voluntarily and without coercion.

For a notarial act to be valid, the notary must perform the verbal part of the acknowledgment notarial act by asking the signer:

***“Do you acknowledge that you signed this document voluntarily
and for the purposes stated therein?”***

Once the person answers affirmatively, by nodding or by answering “Yes” or “I do,” you must complete the acknowledgment notarial certificate that is usually attached to the document or typed on a separate page. (See the certificate on the next page.)

Example of How to Complete an Acknowledgment Certificate

Write the county name where the notarization is taking place.

Write the actual date that the signer personally appeared before you and you completed the notarization, regardless of the document date.

State of Texas
County of Austin

This instrument was acknowledged before me on 1/1/2016
by Mary White

Notary Public
Notary Public Signature

Write the name of the person acknowledging that he or she voluntarily signed the document for the purposes stated therein.

Sign your name exactly as it appears on file with the Secretary of State and affix the official notary seal so that all the required elements of the notary seal appears legibly.



Oaths/Affirmations

Documents that typically require a signer to take an oath (or affirmation) include affidavits, declarations, applications, court-related documents, and other sworn statements. In this type of notarial act, the individual must actually sign the document in your presence as an indication that the signer has assumed the obligations of the oath. However, prior to this, you must administer an oath by asking the signer:

"Do you solemnly swear under penalty of perjury that the statements in this document are true and correct to the best of your knowledge?"

The signer will reply, "I do" or "Yes."

After the signer answers affirmatively (with "Yes" or "I do"), you should instruct the individual to sign in the appropriate space.

When administering an oath or affirmation, the notary must complete a notarial certificate called a jurat. A jurat notarial certificate differs from an acknowledgment certificate because it includes the words "sworn to (or affirmed) and subscribed before me." (See the certificate on the next page.)

Example of How to Complete a Jurat Notarial Certificate

Write the county name where the notarization is taking place.

State of Texas
County of Harris

Write the actual date that the signer personally appeared before you and you completed the notarization, regardless of the document date.

Sworn to and subscribed before me on the 10th day of July, 20 14, by Mary Roberts

Notary Public
Notary Public Signature

Sign your name exactly as it appears on file with the Secretary of State and affix the official notary seal so that all the required elements of the notary seal appear legibly.

Write the name of the person swearing to the truthfulness of the contents of the documents.



When a notary is administering an oath, most states do not require that the affiant (i.e. the person taking the oath) raise his or her right hand or place a hand on a Bible or other religious text. However, some states do require such formalities. You should consult your state's authorities for precise information on how oaths are to be administered.

Some people have religious convictions against taking an oath. In such cases, the notary may instead allow the signer to make an affirmation, meaning a promise made on one's own conscience without addressing a supreme being. Oaths and affirmations are equivalent in the eyes of the law. Making a false statement under either is a criminal offense called perjury.

If the signer objects to swearing, you may ask:

"Do you affirm under penalty of perjury that the statements in this document are true and correct to the best of your knowledge?"

The signer will reply "I do" or "Yes."

After the signer answers affirmatively (with "Yes" or "I do"), you should instruct the individual to sign in the appropriate space.

It is crucial that the notary public and signer are able to communicate with each other without any language barriers. If there are communication barriers, a notary should not proceed with the notarization. A notary public may not notarize a document for a signer who cannot directly acknowledge his signature or swear to the truthfulness of his statements in the notarial ceremony. In most states, a signer may not use an interpreter to communicate with the notary when the notarial act is performed. Encourage the signer to have his or her document notarized by a notary public who speaks the same language.

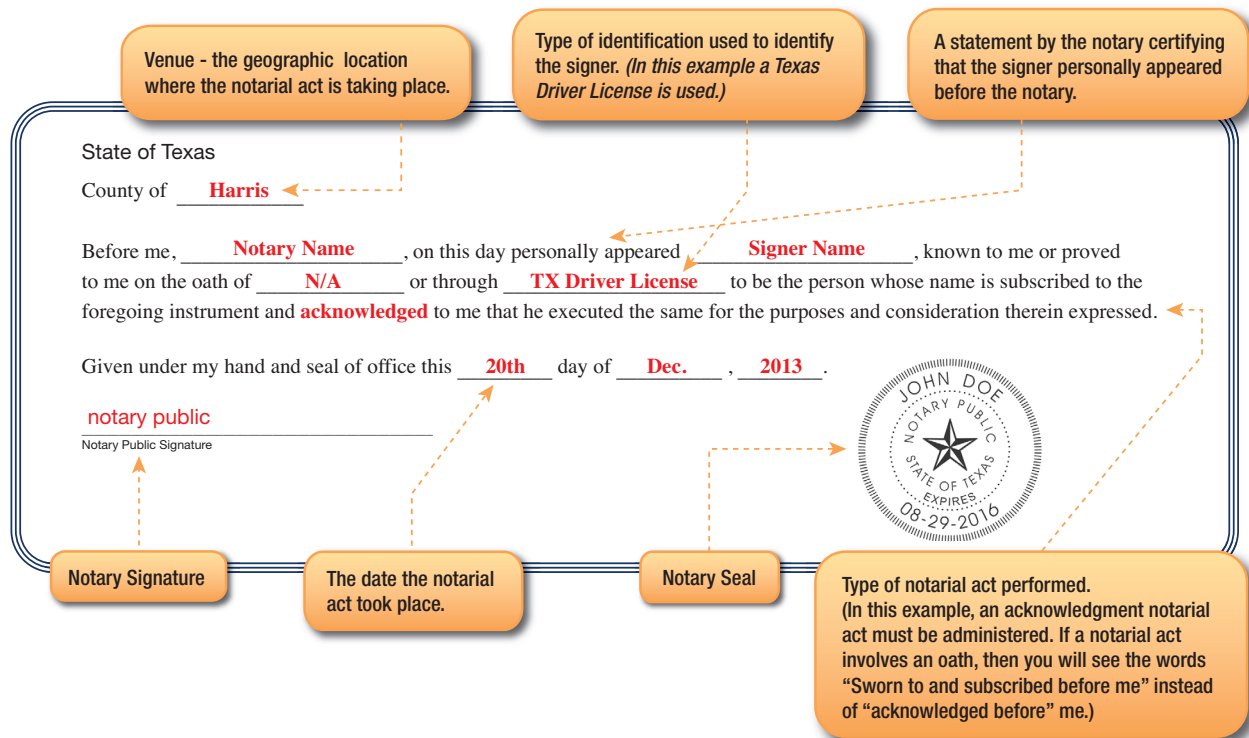
A signer must have personal knowledge of the facts he or she is swearing to or affirming. Because of this, a person who is representing another person or corporation cannot take an oath on behalf of someone else.

The verbal part of a notarial act is required, no exceptions. Courts frequently invalidate notarial acts if they find that the notary failed to administer an oath or affirmation verbally.

STEP 5: Complete the Notarial Certificate

When a notary performs a notarial act associated with a paper document, the notary must complete a notarial certificate.

Required Elements of a Notarial Certificate



A notarial certificate must include:

- 1) **THE VENUE** – the place where the notarization is performed, usually in the format of "State of _____, County of _____." The venue does not refer to the county where the notary resides, the county where the document is to be used, or the county where the signer resides. Rather, it refers to the actual county where you are located at the time you notarize the document.
- 2) **PERSONAL APPEARANCE** – a statement that the signer personally appeared, typically indicated by the words "before me."
- 3) **DATE** – the date that the signer personally appeared before you and you completed the notarization.
- 4) **TYPE OF ACT** – the type of notarial act performed, indicated by the words "acknowledged" or "sworn to."
- 5) **SIGNATURE AND SEAL** – the notary must sign his or her official signature exactly as it appears on file in the office of the commissioning authority and affix his or her official seal (if required by state law). These tasks cannot be delegated to the notary's clerk or other assistant. The notary must sign the certificate in permanent dark ink and affix the seal legibly in the signer's presence.

In addition, many states require that the notary indicate the type of identification used to identify the signer. Again, it is important that you consult your own state's laws to determine what your notarial certificate must include.

Missing Certificate

When presented with a document that does not include a notarial certificate, the notary may offer the signer the option of selecting a loose notarial certificate from the notary's inventory and may then attach it to the document after the notarial act is completed. If the signer refuses to select a certificate for the document, the notary may decline to perform the notarial act.

If the notary is not an attorney, it is considered an unauthorized practice of law to advise the signer which type of notarial certificate is required. However, a notary may work with the client so that the selection can be made without delving into the unauthorized practice of law. If the signer has trouble selecting a certificate, the notary may present an example of a jurat notarial certificate and explain that jurats are used with affidavits or sworn statements. While displaying a sample acknowledgment certificate for the signer to inspect, the notary can explain that acknowledgments are normally used when a signer needs to formally acknowledge his or her signature on deeds, contracts, powers of attorney, or other documents that do not need to be sworn under oath or affirmed.

The key in such situations is that notaries should not offer any guidance about the type of notarial certificate the signer must select.

STEP 6: Record the Notarial Act in a Journal

Many states require that notaries maintain a journal to record every notarial act performed. Even in states where a journal is not required by law, state authorities frequently recommend that the notary maintain a consistent, complete, and sequential record of every notarial act he or she performs. Journals are available for purchase from many office supply stores, as well as from the American Association of Notaries.

State laws differ as to exactly what information must be recorded in the notary journal. However, at the very least, the notary should record the date, type of act performed, a description of the document, the printed name of the signer, and the type of identification produced. The AAN

recommends that the notary request or require (depending on the state notary laws) that the signer sign the notary's journal. This will provide confirmation that the signer was in the notary's presence and signed the journal at the time of the notarization.

If state law does not require notaries to obtain a signature in their notary record books, a notary should not refuse to provide notary services for the signer based on that fact alone. However, the notary should indicate in the journal that the signer refused to sign.

The notary record book is the best defense from accusations of notary misconduct. It is advisable for a notary public to complete an entry in the notary record book prior to performing the notarial act. The notary record book must not be shared or used by another notary public. In some states, a notary's journal is a public record and the public has the right to inspect it. In other states, a notary's journal is considered confidential. In either case, a notary should exercise reasonable care to safeguard the journal from loss, destruction, or theft. Once a journal has been filled, it should be stored in a safe place.

When a notary leaves employment due to termination or resignation, the notary must not surrender his or her journal or seal to the employer, even if the employer paid for the materials and/or the notary's commission. The journal and seal are the exclusive property of the notary and the employer could be subject to criminal penalties for keeping these items. The AAN recommends that your journal be locked or secured in the same place as the notary seal. These materials should be placed in a location accessible only to the notary.

Every notary public must have his or her notary materials available when performing a notarial act. The entire notarial act, including the affixing of the notary's seal and the completion of the journal entry, should be completed in the presence of the signer.

When a notary resigns or otherwise no longer holds the office of notary public, some states require that the journal and/or seal be deposited with a local court clerk or the state's commissioning authority. Some states have no provisions for these items to be deposited. Check with your state's authorities to determine the proper method of disposal for these items.

STEP 7: Affix Your Signature and Notary Seal

The majority of states require that notaries authenticate their official acts with a seal of office. The type of seal authorized for use can vary by state. Some states require the notarial seal to be a rubber stamp, while others require the notarial seal to be an embosser that leaves a raised imprint on the page. Some states allow the notary to choose the type of seal, and others set requirements for the size, shape, or design of the seal. Check with your state's authorities for information on what the notarial seal should look like.

A notary public may not use his or her official seal for commercial purposes. A notary public may only use the seal to authenticate an official act.

Even though the use of a notary seal is optional in some states, a prudent notary authenticates an official act with a seal of office because certain documents require an official seal if they are to be filed or recorded in some states. Most states require that the seal be photographically reproducible when it is affixed to a document. Permanent ink must be used when using a rubber stamp type notary seal. Dark ink (black or blue) is strongly recommended, and a certain ink color may be required in some states. When using an embossed seal, the notary must be sure to darken the raised letters of the impression. The notary seal must be stamped on the document in a manner that clearly imprints the required elements of the notary seal so that it is legible when copied.

Some states require their notaries to notify the commissioning authority when notary seals are lost or stolen. It is important that a notary public always keep his or her notary record books and notary seals locked securely in a drawer or other safe place to prevent other individuals from using them fraudulently. The notary record book and notary seal must be under the exclusive control of the notary public. If you leave your employer, take your notary seal and notary record book with you. Deface and destroy the notary seal when the commission expires.

The American Association of Notaries sells notary stamps and seals in all states. Please contact the AAN by calling (800) 721-2663 or visiting our website at www.usnotaries.com.

Copy Certification

In some states, notaries have the authority to certify a copy of a document that is not a public record. Such a certification proves that the copy is a true copy of an original document.

Notaries must never certify copies of vital records (e.g., birth, marriage, or death certificates).

They may not certify copies of deeds, mortgages, or any other document that has been recorded with a county clerk, any local, state, or federal government agency, the Secretary of State, or any other such entity. Notaries cannot certify copies of immigration records, school transcripts, or any document for which certified copies can be obtained from some other official.

Examples of documents that can usually be certified by notaries include personal letters, bills of sale, contracts, and diplomas. Many states do not allow notaries to certify any documents at all. There are a few states that allow notaries to certify only certain types of documents. You must consult your state's laws before certifying a copy.

Also, please note that in some jurisdictions, this procedure is called a copy "attestation" as opposed to a "certification," although the terms themselves are often used interchangeably.

Example of a Certified Copy Notarial Certificate

State of _____

County of _____

On this _____ day of _____, 20____, I certify that the preceding or attached document, is a true, exact, complete and unaltered copy made by me of _____ (description of document), presented to me by the document's custodian, _____, and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are available from an official source other than a notary.

Signature of Notary Public

Printed name of notary: _____

My commission expires: _____

Other Notarial Acts

Different jurisdictions allow notaries to perform additional acts, such as civil marriages, making inventories of safe deposit boxes, and protesting negotiable instruments. You should consult your state laws regarding any other type of notarial act, as the authorized duties of notaries are not uniform across the nation (i.e. notaries in Maine may possess powers that notaries in Texas do not, and vice versa).

Legal Advice

A notary public must not provide any legal advice regarding the document being notarized unless the notary is a licensed attorney. A notary must never mislead the public, either orally or in writing, to believe that he or she has duties, rights, powers, or privileges that are not imputed to him or her by notary laws. The opinion of a non-attorney notary public may be mistaken as legal advice. If a notary public who is not an attorney provides legal services, he or she may be subject to penalties for the unauthorized practice of law. Do not provide assistance or advice regarding forms. Do not prepare or create legal documents. Do not give an opinion as to a person's legal rights, obligations, or liabilities regarding the document presented for notarization. When a signer inquires about his or her legal rights and obligations regarding the document being notarized, the notary must decline the notarization until the signer has had an opportunity to consult an attorney for legal advice.

Avoid assisting with immigration matters. Some states prohibit their notaries public from using the term "Notario Publico" or any equivalent non-English term in any business card, advertisement, notice, or sign. In Mexico and other Spanish-speaking countries, a "Notario Publico" is a trained attorney with special expertise who can give legal advice and prepare legal forms.

Disclaimer

The information contained in this notary public booklet is not intended to be an authoritative statement of law. No representation is made as to the accuracy or completeness of this publication. While every effort was made to ensure the accuracy and completeness of this publication, The American Association of Notaries (AAN) is not responsible for any errors or omissions that may occur in this booklet. The AAN does not certify the authenticity of the information contained herein that originated from third parties. The AAN shall under no circumstances be liable for any actions taken or omissions made from reliance on any information contained herein, whatever the source, or any other consequences from any such reliance. Notary law differs from jurisdiction to jurisdiction and may be interpreted or applied differently depending on your location or situation. By providing this booklet, we are not acting as your attorney. If you have legal questions regarding acts or conduct as a notary public, please consult an attorney, your state's statutes, or other appropriate legal resources.

Please contact the AAN by calling, emailing, visiting our website, or writing us for all of your notary needs.

We are eager to help you attain the level of professionalism that you desire in your career as a notary. For over two decades, we have provided notaries with errors and omissions insurance, notary record books, notary seals, notary supplies, notary surety bonds, online notary public training, notary application packages for becoming a notary public, and renewal packages to secure a subsequent appointment to the office of notary public.

For information regarding statutory requirements pertaining to your state notary laws, please visit our website, www.usnotaries.com, or contact your state's commissioning authority.

Sign up for membership with the AAN today to benefit from our expertise in notary issues and to enjoy affordable, quality notary products. We make it our business to serve you!

Notarial Certificate Samples

Check with your state's authorities for statutory notarial certificate requirements before using the notarial certificates samples below.

Ordinary Acknowledgment Certificate

State of _____

County of _____

Before me, _____ (*insert the name and character of the officer*), on this day personally appeared _____, known to me (*or proved to me on the oath*) _____ of _____ or through _____ (*description of identity card or other document*) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

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

Signature of Notary Public

My Commission Expires: _____

Short Form Acknowledgment

State of _____

County of _____

This instrument was acknowledged before me on _____ (date) by
_____ (name of person or persons acknowledging).

Signature of Notary Public

My Commission Expires: _____

For a Natural Person as Principal Acting by Attorney-in-fact

State of _____

County of _____

This instrument was acknowledged before me on _____ (date) by _____
(name of attorney-in-fact) as attorney-in-fact on behalf of _____
(name of principal).

Signature of Notary Public

My Commission Expires: _____

Acknowledgment for a Corporation

State of _____

County of _____

This instrument was acknowledged before me on _____ (date) by
_____ (name of officer), _____ (title of officer)
of _____ (name of corporation acknowledging), a _____
(state of incorporation) corporation, on behalf of said corporation.

Signature of Notary Public

My Commission Expires: _____

Jurat

State of _____

County of _____

Sworn to (or affirmed) and subscribed before me _____ (name of notary public)
on the _____ day of _____, 20____, by _____ (name of principal signer).

Signature of Notary Public

My Commission Expires: _____