

**LANCASTER AFFORDABLE HOUSING TRUST FUND
DECLARATION OF TRUST**

THIS DECLARATION OF TRUST (this “Declaration”) is executed as of this ____ day of _____, 2021, by _____, hereinafter called the “Trustees,” pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 55C.

WHEREAS, pursuant to the vote taken under Article 12 of the June 22, 2020 Annual Town Meeting , the Town of Lancaster (the “Town”) authorized the establishment of a local municipal affordable housing trust known as the “Lancaster Affordable Housing Trust Fund” pursuant to the provisions of G.L. c.44, §55C, and adopted a Bylaw for that purpose (the “Bylaw”); and

WHEREAS, it is the intention of the Trustees to establish a comprehensive trust in accordance with the provisions of G.L. c.44, §55C.

NOW, THEREFORE, in consideration of the agreements contained in this Trust, and the requirements of G.L. c.44, §55C, the Trustees hereby acknowledge and agree for themselves and their successors to hold any property and funds as may be received by the Trustees under this Trust for the purposes hereof in trust for the benefit of all of the Inhabitants of the Town of Lancaster, in the manner and under the terms and conditions set forth herein.

ARTICLE I Establishment of Trust

Pursuant to the authority of G.L. c.44, §55C, there is hereby created a local municipal affordable housing trust fund to be known as the “Lancaster Affordable Housing Trust Fund” (the “Trust”).

ARTICLE II Purpose of Trust

The purpose of the Trust shall be to provide for the preservation and creation of affordable and community housing in the Town of Lancaster for the benefit of low and moderate income households and for the funding of community housing as defined in and in accordance with the provisions of the Community Preservation Act, G.L. c. 44B (“Chapter 44B”).

ARTICLE III Appointment and Tenure of Trustees

1. There shall be a Board of Trustees of the Lancaster Affordable Housing Trust (the “Board”) consisting of one ex officio non-voting member and five (5) voting members. The Town Administrator or his/her designee shall serve as the ex officio member. The voting trustees shall include a member of the Board of Selectmen (chosen by the Board of Selectmen) and four (4) members appointed by the Board of Selectmen. All Trustees must be residents of the Town of Lancaster.

2. The Board of Selectmen shall appoint the Trustees for terms not to exceed two (2) years, (except if a person is appointed as a representative of a board or committee, in which case

his or her term shall terminate upon the sooner vacating of the underlying office), provided, however, that the term of three (3) of the initial Trustee appointments shall be one year, to allow for staggered terms.

3. Trustees may be re-appointed at the discretion of the Board of Selectmen for succeeding terms, with no limits on the number of terms that a Trustee can serve. Vacancies shall be filled by the Board of Selectmen for the remainder of the unexpired term, notice of which shall be filed with the Town Clerk. The title to the Trust estate shall thereupon and without necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. The Trustees shall annually elect a Trustee to serve as Chair.

4. Any member of the Board of Trustees may be removed by a vote of the Board of Selectmen for cause after the opportunity of a properly noticed public hearing. The term "cause" shall include, but not be limited to, each of the following: violation of any local, state, or federal law; incapacity to perform the duties of a Trustee; acts of a Trustee, that in the opinion of the Board of Selectmen, are negligent or detrimental to the Town or the Trust; or four (4) consecutive absences from Board of Trustees meetings. Any Trustee may resign by filing with the Town Clerk written notice thereof.

ARTICLE IV Declaration of Trust; Certificates

The Trustees are hereby authorized to execute certificates in accordance with G.L. c.184, §35 for the Lancaster Affordable Housing Trust Fund, to be recorded with the Worcester District Registry of Deeds and filed the Worcester Registry District of the Land Court, as applicable.

ARTICLE V Powers of Trustees

The powers of the Board of Trustees, all of which shall be carried out in accordance with and in furtherance of the provisions of M.G.L. Chapter 44, Section 55C, and inclusive of any future amendments to that section, shall include the following:

1. To accept and receive real property, personal property or money, by gift, grant, contribution, devise, or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with provisions of any bylaw or any general or special law or any other source, including money from Chapter 44B; provided, however, that any such money received from Chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said Chapter 44B are reported to the Community Preservation Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;

2. To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

3. To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Board deems advisable notwithstanding the length of any such lease or contract;

4. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements, and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;

5. To employ advisors and agents, including but not limited to consultants, accountants, appraisers and lawyers, and full-time or part-time staff, and to contract for administrative and support goods and services, as the Board deems necessary;

6. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;

7. To apportion receipts and charges between income and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation, depletion or otherwise;

8. To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation, and any other corporation, person or entity;

9. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;

10. To carry property for accounting purposes other than acquisition date values;

11. With Town Meeting approval, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral;

12. To make distributions or divisions of principal in kind;

13. To compromise, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of G.L. c. 44, §55C, to continue to hold the same for such period of time as the Board may deem appropriate.

14. To manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;

15. To hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate;

16. To extend the time for payment of any obligation to the Trust; and

17. To exercise such additional powers consistent with the Bylaw and G.L. c. 44, §55C, as they may be amended from time to time.

ARTICLE VI. Quorum; Acts of Trustees

Three (3) voting Trustees shall constitute a quorum, and an affirmative vote of three Trustees shall be required to approve any motion. An affirmative vote of three (3) voting Trustees is required to exercise any or all of the powers of the Trustees hereunder, unless otherwise provided, and three (3) voting Trustees may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate. Any borrowing by the Trust shall require prior approval of the Lancaster Town Meeting.

ARTICLE VII Funds paid to the Trust

Notwithstanding any general or special law to the contrary, all monies paid to the Trust in accordance with any zoning Bylaw, exaction fee, or private contributions shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of the fiscal year, whether or not expended by the Board of Trustees within one year of the date they were appropriated into the Trust, remain Trust property.

ARTICLE VIII Meetings of Trustees

Meetings of the Board of Trustees shall be held on a regular basis. Special meetings may be called by the Chairperson or two Trustees. Notice of any meeting of the Trust shall be filed with the Town Clerk and posted in accordance with the Open Meeting Law, G.L. Minutes of all meetings shall be kept in accordance with the provisions of the Open Meeting Law. While a majority of the full Board of Trustees shall constitute a quorum for the transaction of any business, less than a quorum may, subject to the requirements of the Open Meeting Law, require that the meeting be continued to a time, date, and place certain.

ARTICLE IX Custodian of Funds

The Town of Lancaster's Treasurer/Collector shall be the custodian of the Trust's funds and

shall maintain separate accounts and records for said funds. The Treasurer/Collector shall invest the Trust's funds in the manner authorized by law. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust Fund. In accordance with G.L. c.44, §55C, the books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. Upon receipt of the audit by the Board of Trustees, the Board shall provide a copy forthwith to the Board of Selectmen.

ARTICLE X Liability of Trust

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town. The Trust is a public employer and the members of the Board are public employees for the purposes of G.L. c.268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of General Laws Chapter 268A.

ARTICLE XI Taxes

The Trust is exempt from G.L. c.59 and G.L. c.62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth of Massachusetts or any political subdivision thereof.

ARTICLE XII Governmental Body

The Trust is a governmental body for purposes of the Open Meeting Law, G.L. c. 30A, §§18 through 25.

ARTICLE XIII Board of Town

The Trust is a board of the Town of Lancaster for the purposes of G.L. c.30B and G.L. c.40, §15A, but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said G.L. c.30B.

ARTICLE XIV Compensation of Trustees

The Trustees shall not receive a salary, stipend, bonus or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of Lancaster. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.

ARTICLE XV Amendments

This Declaration of Trust may be amended from time to time, except as to those provisions specifically required under M.G.L. Chapter 44, Section 55C, by an instrument in writing signed by a majority of the Trustees and approved at a meeting called for that purpose, and provided that such amendments shall conform to the Bylaw, as it may be amended from time to time by a vote

of the Lancaster Town Meeting. A certificate of amendment shall be recorded and/or filed with the Worcester District Registry of Deeds and the Worcester Registry District of the Land Court, as applicable (the “Registry”).

ARTICLE XVI Duration of Trust

This Trust shall continue so long as authorized under the laws of the Commonwealth of Massachusetts, or until terminated by a majority vote of the Town Meeting in accordance with G.L. c.4, §4B, whichever first occurs. The Trust shall record and/or file an instrument of termination together with a certified copy of the Town Meeting vote, as applicable. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof to the Town of Lancaster. The powers of the Trustees shall continue until the affairs of the Trust are concluded. Once the Lancaster Town Meeting has voted to terminate the Trust, the Board of Selectmen shall have the power to approve all financial transactions made on behalf of the Trust.

ARTICLE XVII Annual Report

The Trustees shall prepare an annual report describing the activities of the Trust on a calendar year basis. The annual report shall be submitted to the Lancaster Board of Selectmen by February 12th of each year. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Trustees of the Lancaster Affordable Housing Trust Fund have hereunto set their hands and seals on the day and year first hereinabove set forth.

LANCASTER AFFORDABLE HOUSING TRUST FUND,
By its Board of Trustees

Jay M. Moody, Trustee

Victoria Petracca, Trustee

Carolyn Read, Trustee

Frank Streeter, Trustee

Debra Williams, Trustee

Marilyn Largey, Trustee Ex-Officio

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared the above-named _____, who proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose as Trustee of the Lancaster Affordable Housing Trust Fund.

Notary Public
My commission expires: