

Middlesex South Registry of Deeds

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Recording Information

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Middlesex South Registry of Deeds
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Cambridge, MA 02141
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**DECLARATION OF TRUST
TOWN OF SHERBORN
AFFORDABLE HOUSING TRUST FUND**

This Declaration of Trust is hereby made as of August 26, 2021 by the Town of Sherborn ("Town" or "Sherborn"), acting by and through its Select Board, pursuant to the provisions of M.G.L. c. 44, § 55C accepted by the Town by the vote under Article 15 of the April 23, 2019 Annual Town Meeting and as authorized to vote under Article 17 of the August 15, 2020 Annual Town Meeting, adding Chapter 31 to the Town of Sherborn General Bylaws, to hold such other property and funds as may be added thereto, for the purposes hereof in trust nevertheless for the benefit of all the inhabitants of the Town of Sherborn, in the manner and under the terms and conditions set forth herein.

ARTICLE FIRST - Name of the Trust

The trust shall be called the "Sherborn Affordable Housing Trust" (hereafter referred to as the "Trust") A Certificate of Trust for this Trust shall be recorded with the Middlesex South District Registry of Deeds and the Registry District of the Land Court in accordance with M.G.L. c. 184, §35.

ARTICLE SECOND - Purposes

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Sherborn for the benefit of low- and moderate-income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase, or otherwise real property, personal property, or money, both tangible and intangible, of every sort and description; to use such property, both real and personal, and money in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property and money held by the Trust and earnings thereof shall be used exclusively for the preservation and creation in the Town of Sherborn of affordable housing for the purposes for which this Trust was formed.

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contribution 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 any fiscal year, whether or not expended by the Trustees within one year of the date they were appropriated into the Trust, remain Trust property set forth in M.G.L. c. 44, §55C.

ARTICLE THIRD - Board of Trustees; Tenure of Trustees

The Board of Trustees shall consist of either five or seven members who shall be appointed by the Select Board for two-year terms. The Board of Trustees shall consist of one Select Board member and one

member nominated to the Board of Trustees from each of the two following boards and committees: Planning Board and the Land Acquisition Committee. Such appointed members shall be representatives of their respective boards and shall continue serving both at the pleasure of the Select Board as well as their respective boards. Apart from the three Trustees who are the Select Board, Planning Board and Land Acquisition Committee representatives, the remaining Trustees will be members at large. Only persons who are residents of the Town of Sherborn shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years, except that two of the initial trustee appointments shall be for a term of one year and may be re-appointed at the discretion of the Select Board. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor Trustee shall be appointed by the Select Board to fill such vacancy. In each case, the said appointment and acceptance in writing by the Trustee so appointed shall be filed with the Town Clerk. Upon the appointment of any succeeding Trustee and the filing of such appointment, the title to the Trust estate shall thereupon and without the necessity of any conveyance, be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to "the Trustee(s)" shall mean the Trustee or Trustees for the time being hereunder. The initial Trustees shall be:

Name	Board/Committee/At Large	Term expiration
George Morrill	Select Board	July 2022
Addie Mae Weiss	Planning Board	July 2022
Frank Jenkins	Land Acquisition Committee	July 2023
Brian Blue	At Large	July 2023
Kurt Stiegel	At Large	July 2023

ARTICLE FOURTH – Powers of Trustees

The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of M.G.L. c. 44, § 55C as outlined below, except that the Trustees shall have no ability to purchase any interest in real or personal property; to borrow money; to mortgage or pledge Trust assets; or to sell, lease, exchange, transfer or convey any interest in personal, mixed, or real property without prior approval of the Select Board:

1. to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the Trust in connection with provisions of any zoning ordinance or by-law or any other ordinance or by-law or any General Law or Special Act of the Commonwealth or any other source;
2. to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income, taking account of safety, liquidity and yield. All officers who control the investment of such funds shall invest them in accordance with M.G.L. c. 44, § 54..

3. to sell, lease, exchange, transfer or convey any personal, mixed, or real property held by the Trust 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 Trustees deem 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 and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engages for the accomplishment of the purposes of the Trust;
5. to employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;
6. to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
7. to apportion receipts and charges between incomes and principal as the Trustees deem 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 or person;
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 Trustees may deem necessary and appropriate;
10. to carry property for accounting purposes other than acquisition date values;
11. to borrow money on such terms and conditions and from such sources as the Trustees deems advisable, to mortgage and pledge Trust assets as collateral;
12. to make distributions or divisions of principal in kind;
13. to compromise, attribute, 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 this act, to continue to hold the same for such period of time as the Trustees may deem appropriate, subject to prior approval by the Select Board;

14. to manage or improve real property; and to abandon any property which the Trustees 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 Trust may deem appropriate; and
16. to extend the time for payment of any obligation to the Trust.

ARTICLE FIFTH -- Meetings of the Trustees

The Trust shall meet at least quarterly at such time and such place as the Trustees shall determine. Special meetings may be called by the Chairperson or by any two (2) Trustees. Notice of any meeting of the Trust shall be filed with the Town Clerk and posted in accordance with the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25 and 940 CMR 29.00. A quorum of the Board of Trustees shall be a simple majority of the number of authorized Trustees.

The Trustees shall annually elect one Trustee who shall not be a member of the Select Board to serve as Chairperson. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust. Chairpersons of the sub-committees may be selected by the member of the sub-committees.

If any Trustee is absent from five consecutive regularly scheduled meetings of the Trust, except in the case of illness, his/her position shall be deemed vacant and shall be filled with a new appointment as set forth above.

ARTICLE SIXTH - Acts of Trustees

A simple majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. The Trustees shall not delegate the authority to amend or terminate the Trust and no such delegation shall be effective. 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.

ARTICLE SEVENTH - Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein.

The trust is exempt from M.G.L. c. 59 and M.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 or any political subdivision thereof.

The trust is a board of the town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.

The Trust is a public employer and the Trustees are public employees for the purposes of for purposes of M.G.L. c. 258 (the Massachusetts Tort Claims Act) and M.G.L. c. 268A (the Conflict of Interest Law).

The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of MGL c. 268A.

No Trustee shall be liable for the acts, negligence or defaults of any other Trustee or any employee, agent, or representative of the Trustees selected with reasonable care, nor for errors in judgement, nor mistakes or law or fact made in good faith nor in reliance in good faith on advice of counsel nor for other acts or omissions in good faith.

ARTICLE EIGHTH - Custodian of Funds

The Town Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. The Trust shall be audited as part of the Town audit.

As custodian of the Trust funds, the Town Treasurer shall invest the funds in the manner authorized by M.G.L. c. 44, § 55A, (Liability of Depositor for Losses Due to Bankruptcy); M.G.L. c. 44, § 55B (Investment of Public Funds) and M.G.L. c. 44, §55C (Public Funds on Deposit; Limitations; Investments.)

Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

Expenditures by the Trust shall be processed through the warrant but shall be controlled by the provisions of M.G.L. Chapter 44, §55C. As custodian, the Treasurer shall issue checks as directed by the Trustees.

ARTICLE NINTH - Duration of the Trust

The Trust shall be of infinite duration, until terminated in accordance with applicable law. 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 Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE TENTH - Amendments

This Declaration of Trust may be amended from time by the Select Board, except as to those provisions specifically required under M.G.L. c. 44, § 55C, by an instrument in writing signed by a majority of the Select Board and approved at a duly noticed meeting called for that purpose, provided that in each case, a certificate of amendment has been recorded with the Middlesex South District Registry of Deeds and Registry District of the Land Court.

ARTICLE ELEVENTH – Authority shown by Record to be Conclusive; Certificate as to Facts

Every contract, deed, mortgage, lease and other instrument executed by a majority of the Trustees as appears from instruments or certificates recorded with the Middlesex South District Registry of Deeds and Registry District of the Land Court to be Trustees hereunder shall be conclusive evidence in favor of any person relying thereon or claiming thereunder, that at the time of the delivery thereof, this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees pursuant to Article Sixth hereof. Instruments of amendment pursuant to Article Tenth and an instrument of termination pursuant to Article Ninth hereof shall be conclusive only if it appears that the amendments or termination have been executed by all of the Trustees. Any person dealing with the Trust property or Trustees may always rely on a certificate signed by any person appearing from instruments or certificates so recorded to be Trustee hereunder as to the identity of the then-current Trustees or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or in any manner germane to the affairs of the Trust.

ARTICLE TWELFTH - Titles

The titles to various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or language of any such Article.

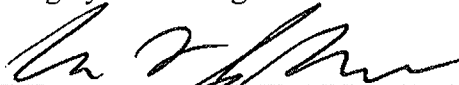
ARTICLE THIRTEENTH – Severability

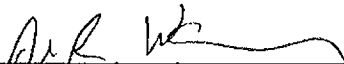
If any section or clause of this Trust is held invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected thereby.

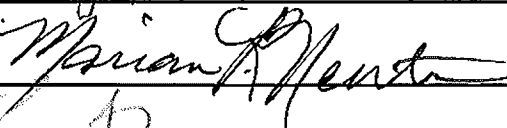
**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURES ON FOLLOWING PAGES**

Witness the execution under seal this 26th day of August 2021.

TOWN OF SHERBORN,
Acting by and through its Select Board


Eric Johnson, Chair


Jeff Waldron, Vice Chair


Marian Neutra, Clerk


Paul DeRensis



George Morrill

COMMONWEALTH OF MASSACHUSETTS

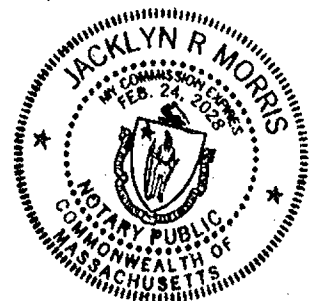
County of Middlesex

September 29, 2021

On this 29th day of September, 2021, before me, the undersigned Notary Public, personally appeared JEFF WALDRON Select Board Member, Town of Sherborn, who proved to me through satisfactory evidence of identification which was Massachusetts driver's License, to be the person whose name is signed on to the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as Select Board Member, Town of Sherborn.


Notary Public

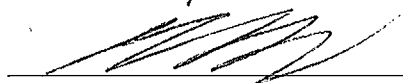
My commission expires: February 24, 2028



ACCEPTANCE BY TRUSTEE

The following, **George Morrill**, hereby accepts appointment as Trustee of the Town of Sherborn Affordable Housing Trust.

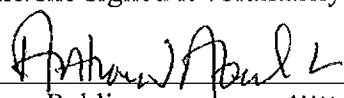
Executed as a sealed instrument this 7th day of OCTOBER, 2021.



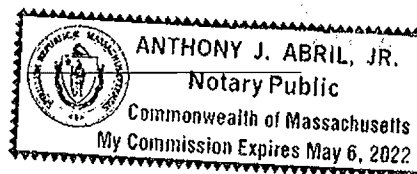
COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 7th day of OCTOBER, 2021, before me, the undersigned Notary Public, personally appeared **George Morrill**, who proved to me through satisfactory evidence of identification which was Massachusetts driver's License, to be the person whose name is signed on to the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



Notary Public
My commission expires:



ACCEPTANCE BY TRUSTEE

The following, **Frank Jenkins**, hereby accepts appointment as Trustee of the Town of Sherborn Affordable Housing Trust.

Executed as a sealed instrument this 29th day of September 2021.

Frank C Jenkins

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

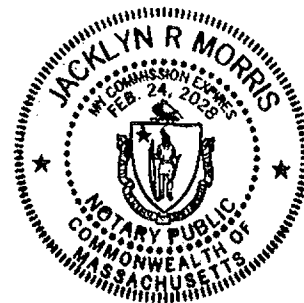
On this 29th day of September 2021, before me, the undersigned Notary Public, personally appeared **Frank Jenkins**, who proved to me through satisfactory evidence of identification which was Massachusetts driver's License, to be the person whose name is signed on to the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Jacklyn R. Morris

Notary Public

My commission expires:

February 24, 2028



ACCEPTANCE BY TRUSTEE

The following, **Addie Mae Weiss**, hereby accepts appointment as Trustee of the Town of Sherborn Affordable Housing Trust.

Executed as a sealed instrument this 27th day of September, 2021.

Addie Mae Weiss

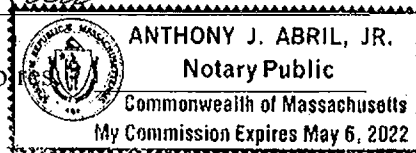
COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 27th day of September, 2021, before me, the undersigned Notary Public, personally appeared **Addie Mae Weiss**, who proved to me through satisfactory evidence of identification which was Massachusetts driver's License, to be the person whose name is signed on to the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Anthony J. Abril, Jr.

Notary Public
My commission expires



ACCEPTANCE BY TRUSTEE

The following, **Brian Blue**, hereby accepts appointment as Trustee of the Town of Sherborn Affordable Housing Trust.

Executed as a sealed instrument this 30th day of September, 2021.

Brian Blue

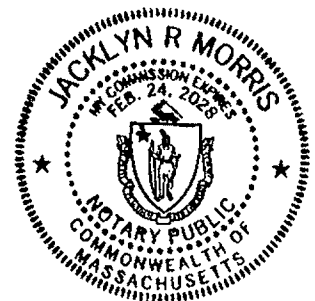
COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 30th day of September, 2021, before me, the undersigned Notary Public, personally appeared **Brian Blue**, who proved to me through satisfactory evidence of identification which was Massachusetts driver's License, to be the person whose name is signed on to the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Jacklyn R Morris
Notary Public

My commission expires: February 24, 2028



ACCEPTANCE BY TRUSTEE

The following, **Kurt Stiegel**, hereby accepts appointment as Trustee of the Town of Sherborn Affordable Housing Trust.

Executed as a sealed instrument this 27th day of September, 2021.

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 27th day of September, 2021, before me, the undersigned Notary Public, personally appeared **Kurt Stiegel**, who proved to me through satisfactory evidence of identification which was Massachusetts driver's License, to be the person whose name is signed on to the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public

My commission expires:

01/13/24

Robert A. Fatini

