

THE SKYWAY LOFTS LAND TRUST AGREEMENT

THIS LAND TRUST AGREEMENT, dated June 9, 2022, is entered into between **PINELLAS COUNTY, FLORIDA** (the “County”), as Beneficiary, under **THE SKYWAY LOFTS LAND TRUST AGREEMENT**, which designation shall include all successor beneficiaries, and **HOUSING FINANCE AUTHORITY OF PINELLAS COUNTY, FLORIDA** (the “Authority” or “Trustee”), which designation shall include all successors in interest to any trustee or trustees.

WITNESSETH:

WHEREAS, this Land Trust Agreement is entered into in furtherance of the Community Housing Program adopted by the Board of County Commissioners of Pinellas County, Florida, and Resolution No. 2007-04 of the Authority which authorizes the use of land trusts for affordable housing projects, and a certain Interlocal Agreement between the County and Authority, dated May 11, 2021; and

WHEREAS, the real property, including all improvements located thereon, underlying this Land Trust Agreement consists of real property located in Pinellas County, Florida (the “Property”). A legal description of the Property is attached hereto and incorporated herein as Exhibit “A”; and

WHEREAS, the County authorized creation of this Land Trust Agreement and acceptance of title to the Property, pursuant to which the Property will be utilized for the development of affordable housing units in furtherance of the Community Housing Program; and

WHEREAS, when the Trustee has taken title to the Property, or to any other property conveyed to the Trustee as Trustee under this Agreement, the Trustee will hold the title in trust for the uses and purposes, and subject to the terms and conditions, as hereinafter set forth; and

WHEREAS, it is the intent of the Trustee to take title to the Property in accordance with the provisions of Section 689.071 (2021), *Florida Statutes*; and

WHEREAS, the Trust created by this instrument shall be known for all purposes as PINELLAS COUNTY LAND ASSEMBLY TRUST – SKYWAY LOFTS, DATED June 9, 2022.

NOW, THEREFORE, in consideration of the mutual promises herein contained the parties agree as follows:

1. Property. Title to the Property shall be conveyed to the Trustee in accordance with, and the rights of the parties shall be governed, to the extent applicable, by the provisions of Section 689.071 (2021) *Florida Statutes*. The Trustee agrees to accept the deed to the Property and to cause such deed to be recorded in the Public Records of Pinellas County, Florida, and to hold title to the Property for the uses and purposes herein stated. The Trustee may not dedicate or cause any other property to be conveyed to the Trustee under this Agreement unless the Beneficiary consents thereto in writing. Should other property subsequently be conveyed to and held by the Trustee pursuant to

this Trust Agreement, the term "Property" as used herein shall mean and refer to all property, including real property, the title to which is held by the Trustee pursuant to this Trust Agreement.

2. Names, Addresses and Interests of Beneficiaries:

(a) The following is the Beneficiary of this Trust, and as such shall be entitled to all of the earnings, avails and proceeds of the trust property according to the percentage interest set forth opposite its name:

NAME OF BENEFICIARY	INTEREST IN TRUST
Pinellas County 315 Court Street Clearwater, Florida 33755	100%

(b) The interest of the Beneficiary shall consist of the following rights:

- (1) Power to direct the Trustee to deal with title to the Property, which power shall include, but is not limited to, directions to the Trustee to execute deeds, leases, mortgages, promissory notes and all other instruments relating to the Property.
- (2) Right to receive the earnings, avails and proceeds from leases and other uses and from mortgages, sales and other dispositions of the Property.
- (3) Such other rights as set forth in this Agreement.

Such rights and powers, as well as the interest of the Beneficiary under this Agreement, shall be personal property. The Beneficiary shall not have any right, title or interest in or to any portion of the legal or equitable title to the Property.

3. Interest, Powers and Duties of Trustee.

(a) The Trustee shall have the authority to hold the legal title to all of the Property, and shall have the power to manage and control the Property as the absolute owner thereof, and the Trustee is hereby given full power to do all things and perform all acts which are necessary and proper for the protection of the Property and for the interest of the Beneficiary in the Property, subject to the restrictions, terms, and conditions set forth in this Agreement. If applicable, the Property may be entitled to the affordable housing property exception provided by Chapter 196.1978, Florida Statutes.

(b) Without prejudice to the general powers conferred on the Trustee hereunder, it is hereby declared that the Trustee, subject to the restrictions, terms and conditions set forth in this Agreement, shall have the following powers:

- (1) To accept conveyance of real property, to assume, or modify or forgive mortgages upon the Property.

(2) To sell at public auction or private sale, to barter, to exchange, or to dispose of otherwise, any part, or the whole of the Property and to secure payment upon any loan or loans by mortgage.

(3) To issue notes or bonds and to secure the payment of the same by mortgaging the whole or any part of the Property.

(4) To rent or lease the whole or any part of the Property.

(5) To repair, alter, tear down, add to, or erect any building or buildings upon the Property; to fill, grade, drain, improve, and otherwise develop the Property; to carry on, operate, or manage any building, park model homes, manufactured housing, or other affordable housing units.

(6) To make, execute, acknowledge, and deliver all deeds, releases, mortgages, leases, contracts, agreements, instruments, and other obligations of whatsoever nature relating to the Property, and generally to have full power to do all things and perform all acts necessary to make the instruments proper and legal.

(7) To collect rents, notes, obligations, dividends, and all other payments that may be due and payable relating to the Property; to deposit the proceeds thereof, as well as any other moneys from whatsoever source they may be derived, in any suitable bank or depository, and to draw the same from time to time for the purposes provided herein and pursuant to the Interlocal Agreement between the parties related to the Trustee's administration of the County's affordable housing programs.

(8) To pay all lawful taxes and assessments.

(9) To pay expenses and satisfy liabilities of the Property.

(10) To employ such officers, brokers, engineers, architects, carpenters, contractors, agents, counsel, advisors, and such other persons as may be necessary.

(11) To enter into land use restriction agreements or other regulatory agreements as requested by the Beneficiary.

(12) To institute or defend all suits and legal proceedings relating to the Property in any court of law of equity, or before any other bodies or tribunals; to compromise claims or suits, and to submit the same to arbitration when such course is necessary or proper.

(c) Duties of Trustee. It shall be the duty of the Trustee in addition to the other duties herein imposed herein:

(1) To keep a careful and complete record of all the beneficial interests in the Property.

(2) To keep careful and accurate books showing receipts and disbursements, and such other items as the Beneficiary hereunder may require.

(3) To keep books open to the inspection of the Beneficiary.

(4) To furnish the Beneficiary as requested a careful, accurate, written report of the financial standing of the Trustee, and such other information concerning the affairs of the Trustee as the Beneficiary shall request.

(5) To sell the Property and distribute the proceeds therefrom to the Beneficiary.

(6) To disburse available funds to the Beneficiary when so directed by the Beneficiary.

(7) To adhere to commercially reasonable and customary procedures for the acquisition, disposition, and administration of all trust property, except to the extent otherwise specifically directed by the Beneficiary in writing.

4. Objects and Purposes of Trust. This Trust is established in furtherance of the Community Housing Program established by the Board of County Commissioners of Pinellas County, Florida to make affordable housing available and therein delegated to the Trustee the responsibility to administer the Community Housing Program, including the acquisition of real property for affordable housing. The objects and purposes of this Trust shall be to hold title to the Property until its sale, or other disposition or liquidation, or until the expiration of this Trust Agreement. The Trustee shall not manage or operate the Property nor undertake any other activity not strictly necessary to the attainment of the foregoing objects and purposes; nor shall the Trustee transact business of any kind with respect to the Property within the meaning of Chapter 609 of the *Florida Statutes*, or any other law; nor shall this Agreement be deemed to be, or create or evidence the existence of a corporation, *de facto* or *de jure*, or a Massachusetts Trust, or any other type of business trust, or an association in the nature of a corporation, or a co-partnership or joint venture by or between the Trustee and the Beneficiary, or by or between the Beneficiaries, if there be more than one.

5. Compensation of Trustee. The Trustee shall be reimbursed for all of Trustee's services and Trustee-incurred expenses related to the administration of this Agreement not to exceed Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) annually. Reimbursable fees and expenses include, but are not limited to, those associated with land acquisition, whether successful or ultimately unsuccessful for reasons beyond the control of the Trustee, fees and expenses associated with purchasing and holding the trust property for future development, fees and expenses related to future land lease closings, costs related to the ongoing operation of the program, and reasonable attorney, consultant, and other such third-party costs.

Land lease payments may be used to fund an operational reserve in the amount of Fifteen Thousand and 00/100 Dollars (\$15,000.00), which shall be used for reimbursement of all Trustee service fees and incurred expenses unrelated to the initial land or subsequent ground lease closing, but rather attributable to ongoing operation of Pinellas County's Land Assembly Program. Said reserve funds are not property-specific and may be used to reimburse eligible costs incurred by the Trustee in carrying out its duties related to any property acquired pursuant to the Land Assembly Program. These duties include engaging legal counsel to address issues related to ownership and acquisition of real property. The Trustee shall not use any funds from the reserve

without prior written approval of the County. All other land lease payment proceeds above the amounts needed to maintain the operational reserve shall be transferred to the County on a quarterly schedule.

The County's Director of Housing and Community Development may approve all reimbursable fees and expenses on behalf of the County in an amount not to exceed Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) annually. The reimbursement of Trustee service fees and expenses shall be evidenced by invoices and other appropriate documentation. Expenditures beyond said amount may only be approved by the County pursuant to the delegated authority outlined in Section 2-62 of the Pinellas County Code.

6. Protection of Third Parties Dealing with Trustee. In accordance with Section 689.071(4), no party dealing with the Trustee in relation to the Property in any manner whatsoever, and (without limiting the foregoing) no party to whom the Property or any part of it or any interest in it shall be conveyed, contracted or sold, leased or mortgaged by the Trustee, shall be obliged (A) to see to the application of any purchase money, rent, or money borrowed or otherwise advanced on the Property; (B) to see that the terms of this Trust Agreement have been complied with; (C) to inquire into the authority, necessity or expediency of any act of the Trustee; or (D) be privileged to inquire into any of the terms of this Trust Agreement. Every deed, mortgage, lease or other instrument executed by the Trustee in relation to the Property shall be conclusive evidence in favor of every person claiming any right, title or interest under the Trust (A) that at the time of its delivery, the Trust created under this Agreement was in full force and effect; (B) that the instrument was executed in accordance with the terms and conditions of this Agreement and all its amendments, if any, and is binding upon all Beneficiaries under it; (C) that the Trustee was duly authorized and empowered to execute and deliver each such instrument; (D) if a conveyance has been made to a successor or successors in trust, that the successor or successors have been appointed properly and are vested fully with all the title, estate, rights, powers, duties and obligations of its, his or their predecessor in trust.

7. Trust Agreement Not Be Recorded. This Agreement shall not be placed on record in Pinellas County or elsewhere, but if it is so recorded, then the recording shall not be considered as notice of the rights of any person under this Agreement derogatory to the title or powers of the Trustee.

8. Beneficiary Cannot Bind Trustee or Other Beneficiary. No Beneficiary shall have the authority to contract for or in the name of the Trustee or any other Beneficiary, or to bind the Trustee or any other Beneficiary personally.

9. Forbidding Use of Name of Trustee for Publicity. The name of the Trustee shall not be used by the Beneficiary in connection with any advertising or other publicity whatsoever without the written consent of the Trustee.

10. Insurance. The Trustee, during the term of this Agreement, shall have the right to maintain and purchase insurance either in the name of the Trustee or showing the Trustee as an additional insured thereunder with such insurance to protect the Trustee against public liability and to protect the Trustee against such other hazards or liabilities, and in such amounts, as the Beneficiary may agree. All such insurance shall be written on insurance companies reasonably acceptable to the Beneficiary. At the

request of the Trustee, these policies of insurance shall be delivered to the Trustee or, in lieu thereof, certificates reflecting such coverage shall be delivered to the Trustee.

11. Removal of Trustee/Termination of Agreement. The Beneficiary shall have the power to remove the Trustee from its office or appoint a successor to succeed the Trustee at any time by delivering written notice to the Trustee as provided in Section 17. Such removal shall be effective immediately upon delivery by the Beneficiary to the Trustee. This Agreement may be terminated at any time by the Beneficiary, and within thirty (30) days of written notice of termination of this Agreement delivered by the Beneficiary to the Trustee, the Trustee shall execute any and all documents necessary to vest fee simple marketable title to any and all Property in the Beneficiary.

12. Trustee Responsibility to Make Advances or Incur or Pay Expenses. Subject to approval by the Beneficiary, the Trustee shall make advances and incur or pay expenses on account of this Agreement or the Property. The Trustee shall have the right, but not the duty, to employ and consult with attorneys regarding this Agreement and the Property, and any and all costs and expenses incurred by the Trustee by virtue of such employment and consultation shall be deemed to be an advance or expense made or incurred by the Trustee under this paragraph to be paid from the assets of this Trust. Any other monies expended by the Trustee under any other provision of this Agreement shall also be deemed to be an advance made by the Trustee under this paragraph 12 payable from the assets of this Trust.

13. Trustee Responsibility with Respect to Legal Proceedings. The Trustee shall be under no duty to take any action, to pay any money or to incur any expenses in regard to any legal proceeding involving this Agreement or the Property unless agreed to by the Beneficiary. If the Trustee is served with process or notice of legal proceedings or of any other matters concerning this Agreement or the Property, the Trustee shall forward the process or notice to the Beneficiary to obtain the Beneficiary's direction regarding the same. In such case, the Beneficiary may defend such action in the name of the Trustee with counsel reasonably acceptable to the Trustee and Beneficiary provided, however, the Trustee may at any time resign as trustee under this Agreement.

14. Resignation of Trustee. The Trustee may resign at any time by giving written notice of such intention to resign to the Beneficiary. The resignation shall become effective after the Trustee executes any and all documents satisfactory to the Beneficiary for the purpose of conveying to any successor trustee all existing rights of Trustee under this Agreement and title to the Property provided, however, that in all events such resignation shall become effective no later than ninety (90) days after notice of resignation has been delivered to the Beneficiary.

15. Amendment of Trust Agreement. This Agreement contains the entire understanding between the parties and may be amended, revoked or terminated only by a written agreement signed by the Trustee and the Beneficiary.

16. Florida Law Governs. This Agreement shall be construed in accordance with the Laws of the State of Florida. Venue shall be in Pinellas County, Florida, or nearest location having proper jurisdiction.

17. Notices. Any notice required to be given by the terms of this Agreement or by any applicable law by either party shall be in writing and shall be either hand

delivered or sent by certified or registered mail, return receipt requested, or by recognized overnight delivery service. Each written notice shall be addressed as follows:

If to Beneficiary: Pinellas County, Florida
315 Court Street
Clearwater, Florida 33755

If to Trustee: Housing Finance Authority of Pinellas County, Florida
26750 US Highway 19 North, Suite # 110
Clearwater, Florida 33761
Attention: Executive Director

Either party may, by subsequent written notice, designate a different address for receiving notice.

18. Certified Copies Satisfactory Evidence. Copies of this Agreement or any amendment to it certified by the Trustee to be true and correct, shall be satisfactory evidence of such Agreement for all purposes.

19. Successors Bound by this Agreement. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon any successor trustee under it, as well as upon the personal representatives, administrators, heirs, assigns and all other successors in interest of the Beneficiary. Every successor trustee shall become fully vested with all the title, estate, rights, powers, trusts and shall be subject to the duties and obligations of its predecessor under this Agreement. The term Trustee shall thereafter mean and refer to such successor trustee.

20. Term. The initial term of this Agreement shall be for a period of Ninety-Nine (99) years from the date of this Agreement, unless otherwise extend or sooner terminated as otherwise provided in this Agreement or an amendment hereto. Upon expiration of this Agreement the Trustee shall convey the Property to the Beneficiary.

21. Trustee Acts Only on Written Authorization. It is agreed by the parties hereto that the Trustee will deal with the Property including cash or other assets of any kind that may become subject to this Agreement only when authorized and directed to do so in writing by the Beneficiary through the Beneficiary's County Administrator or designee. On the written direction of the Beneficiary, the Trustee shall execute deeds for, or mortgages or trust deeds (which may include a waiver of the right of redemption from sale under an order or decree of foreclosure) or execute leases all in regard to the Property or otherwise deal with the title to the Property including cash or other assets subject to this Agreement, provided, however, that in regard to all documents to be executed by the Trustee, such documents shall be prepared by the Beneficiary and furnished to the Trustee with written direction by the Beneficiary to execute and redeliver to the Beneficiary or to any third person or persons. The Trustee shall not under any circumstances be obligated to execute any instrument which may, in the opinion of the Trustee, result in personal liability to the Trustee and rather than executing any instruments under this paragraph, the Trustee may resign as Trustee under this Agreement as provided in paragraph 14 and, in the event the Trustee so resigns, the Trustee shall be under no duty to execute any instruments other than instruments provided in paragraph 14 regarding conveyance of title to the Property. The Trustee

shall not be required to inquire into the propriety of any written direction by the Beneficiary or the authority of the person signing such direction. To the extent the Trustee follows any written direction received from the Beneficiary, including, but not limited to, the execution by the Trustee in accordance with the written direction of the Beneficiary of any deed or other instrument relating to the Property and delivery of such deed or other instrument in accordance with such written instructions, the Trustee shall only be liable for claims, demands, liabilities, and obligations which may occur by virtue of the Trustee's negligent administration of the Beneficiary's written instructions. This provision nor any other provision in this Agreement shall not be construed as an indemnification for the acts or omissions of third parties, independent contractors, or third party agents of either party. This provision nor any other provision in this Agreement shall also not be construed as a waiver of the County's sovereign immunity or further limitation thereof beyond §768.28, Florida Statutes. Due to statutory and constitutional budgetary constraints, this provision shall expressly exclude attorney's fees.

22. Trustee Not Individually Liable. The Trustee shall have no individual liability or obligation whatsoever arising from its ownership of or holding legal title to the Property, or with respect to any act done or contract entered into or indebtedness incurred by it in dealing with the Property or in otherwise acting under this Trust Agreement upon the direction of the Beneficiary except only so far as the Property and any trust funds in the actual possession of the Trustee shall be applicable to the payment and discharge of such liability or obligation. By way of illustration and not by way of limitation, the Trustee shall be under no duty whatsoever to execute or enter into any instrument or agreement which does not contain language acceptable to the Trustee providing that the Trustee shall have no personal liability whatsoever and that the liability of the Trustee shall be limited solely to any property that the Trustee holds under this Trust Agreement.

23. Disclosure of Interests. The Trustee may, with the prior written consent of the Beneficiary, disclose to any person the existence of this Trust Agreement or the Beneficiary for whom the Trustee holds title to the Property.

24. Trustee Not Required to Give Warranty. The Trustee shall not be required to execute any instrument containing covenants of warranty.

25. Multiple Beneficiaries. In the event that the term "Beneficiary" as used in this Agreement includes more than one beneficiary, then, in that event, all persons included in the term "Beneficiary" shall be jointly and severally liable for obligations of the Beneficiary under this Agreement.

26. No Third-Party Beneficiary. This Agreement is solely for the benefit of the parties hereto and no person or persons not a part to this Trust Agreement shall have any rights or privileges under this Trust Agreement either as a third-party beneficiary or otherwise.

27. Revocation and Amendment. The Beneficiary may, at any time, by written instrument delivered to the Trustee revoke, or with the consent of the Trustee, amend this Trust Agreement. In the case of revocation, the Trustee shall convey title to the Property in accordance with the procedures set forth in paragraph 11 of this Trust Agreement and, in the case of amendment, the Beneficiary shall furnish to the Trustee

the written form of such amendment as executed by the Beneficiary. Upon the execution of such amendment by the Trustee, such amendment shall be considered to be an amendment to this Trust Agreement.

28. Authority of Beneficiary. The Beneficiary represents that it has full power and authority to enter into and to be bound by this Trust Agreement.

29. Assignment of Beneficial Interest. The Beneficiary may assign any or all of its interest as Beneficiary under this Trust Agreement as follows:

(A) The notarized original or executed duplicate of an assignment subscribed in the presence of two witnesses is delivered to the Trustee; and

(B) The assignee of any beneficial interest agrees in writing to be bound by all the duties and obligations of the Beneficiary under this Trust Agreement.

Upon an assignment as set forth in subparagraphs (a) and (b) hereof, the Beneficiary so assigning its interest under this Trust Agreement shall have no further liability or obligation under this Agreement except for matters occurring prior to the acceptance by the Trustee of such Assignment. Every assignment of any beneficial interest, the original or duplicates of which shall not have been delivered to and accepted by the Trustee in writing, shall be wholly ineffective as to the Trustee and all subsequent assignees or purchasers without notice.

30. Inquiries. Written inquiries, legal and other notices, tax statements and all other documents and writings received by the Trustee and relating to this Trust Agreement or the Property shall be sent and forwarded within a reasonable time after receipt by the Trustee to the Beneficiary.

31. Non-appropriation. In the event funds are not budgeted and appropriated by the County or the Authority in any fiscal year for purposes described herein, then the County or the Authority, as applicable, shall notify the other party of such occurrence, and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the County or the Authority, and in the event of termination, all property currently being held pursuant hereto shall be transferred to the County.

32. Miscellaneous. The captions for the paragraphs contained herein are solely for the convenience of the parties and do not, in themselves, have any legal significance. Time is of the essence of this Trust Agreement. In this Trust Agreement, the plural includes the singular and, vice versa, and masculine, feminine and neuter pronouns and the words "Trustee" and "Beneficiary" shall each include all genders. This Trust Agreement constitutes the complete agreement between the parties hereto and there are no representations, agreement or understandings other than as set forth herein.

33. Regulatory Agreements/Land Use Restriction Agreements. The Trustee is hereby authorized by the Beneficiary to enter into Regulatory Agreements or Land Use Restriction Agreements with such set-aside restrictions for units dedicated to affordable housing that meet the objectives of the Community Housing Program. Such instruments shall be separately recorded and considered covenants running with the land independent of the terms and conditions of this Trust Agreement.

IN WITNESS WHEREOF, the Trustee and Beneficiary have executed this Agreement the day and year first written above.

BENEFICIARY:

PINELLAS COUNTY, FLORIDA

Barry Burton

By: _____

Print Name: Barry Burton

Title: County Administrator

Witnesses as to Beneficiary
(Please print names under signatures)

By: Della Klug

Print Name: Della Klug

By: s/Sandy Shields

Print Name: Sandy Shields

STATE OF FLORIDA
COUNTY OF PINELLAS

APPROVED AS TO FORM
By: Anne M. Morris
Office of the County Attorney

The foregoing instrument was acknowledged before me this 27th day of May, 2022, by means of physical presence or online notarization, by Barry Burton, as **County Administrator** of Pinellas County, Florida, who is personally known to me or () has produced _____ as identification on behalf of the County.

Notary Signature: _____

Jo Alejandra Lugo

(Notary Seal)

Notary Name: _____

Jo Alejandra Lugo
(Please print name)



TRUSTEE:

HOUSING FINANCE AUTHORITY
OF PINELLAS COUNTY, FLORIDA

Witnesses as to Trustee

(Please print names under signatures)

By: Kathryn Driver

Print Name: Kathryn Driver

By: [Signature]

Print Name: Lolita Stone

By: [Signature]

Name: Steven Beal

Title: Chairperson

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 9th day of June, 2022, by means of physical presence or online notarization, by Steven Beal, as **Chairperson** of Housing Finance Authority of Pinellas County, Florida, who () is personally known to me or () has produced _____ as identification on behalf of the Authority.

Notary Signature: [Signature]

(Notary Seal)

Notary Name: Q. Lolita Stone
(Please print name)



Q. Lolita Stone
Comm.: HH 134030
My Commission Expires:
May 25, 2025

EXHIBIT "A"

Legal Description

The land referred to herein below is situated in the County of PINELLAS, State of Florida, and described as follows:

PARCEL 1:

Lot 19, Block A, ENGELKE SUBDIVISION, according to the plat thereof, as recorded in Plat Book 26, Page 50, Public Records of Pinellas County, Florida.

and

PARCEL 2:

Lots 1 and the West 50 feet of Lot 2, Block B, ENGELKE SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 26, Page 50, Public Records of Pinellas County, Florida, less that portion of Lot 1 conveyed to the City of St. Petersburg, Florida in Official Records Book 1636, Page 25 and in Official Records Book 1654, Page 3, Public Records of Pinellas County, Florida.