

**TOWNSHIP OF WARREN  
RESOLUTION 2019-145  
APPROVING AFFORDABLE HOUSING SPENDING PLAN**

**WHEREAS**, on July 7, 2015, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the Township of Warren (“Township”) filed a Declaratory Judgment Complaint in the Somerset County Superior Court, Law Division, (the “Declaratory Judgment Action”) seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mt. Laurel doctrine”; and

**WHEREAS**, a Settlement Agreement (the “Settlement Agreement”) by and among the Township of Warren; Fair Share Housing Center; K. Hovnanian North Jersey Acquisitions, LLC; Premier Development; Chase Partners Warren, LLC and 284 King George Road LLC; American Properties at Mount Bethel Road, LLC; and North Hill Developers, Inc. was executed as of October 10, 2018; and

**WHEREAS**, a Fairness Hearing was held before Hon. Thomas C. Miller on December 4, 2018, at which time the Settlement Agreement was approved; and

**WHEREAS**, the approval of the Settlement Agreement was memorialized by an Order entered by the Court on December 18, 2018 (the “Court Order”); and

**WHEREAS**, the Settlement Agreement and Court Order require the adoption of a Spending Plan; and

**WHEREAS**, a Spending Plan (the “Spending Plan”) entitled “Warren Township Development Fee Spending Plan” dated December 19, 2008, last revised April 2019 was prepared by John Chadwick IV, P.P.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Committee of the Township of Warren, in the County of Somerset, State of New Jersey, that the Township Committee does hereby approve and adopt the Spending Plan substantially in the form annexed to this Resolution as Schedule A.

INTRODUCED	SECONDED	COMMITTEE	AYE	NAY	ABSTAIN	ABSENT
	x	LAZO	X			
		MAZIARZ	X			
x		SORDILLO	X			
		MARION	X			
		DINARDO	X			

CERTIFICATION

I, Cathy Reese, Township Clerk of the Township of Warren, in the County of Somerset, New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution adopted at a meeting of the Township Committee held on June 13, 2019.



Cathy Reese, RMC  
Township Clerk

# WARREN TOWNSHIP

## DEVELOPMENT FEE SPENDING PLAN

Prepared for the  
Warren Township  
Committee

By

*John T. Chadwick IV, P.P.  
3176 Route 27, Suite 1A  
Kendall Park, NJ 08824*

December 19, 2008

September 10, 2009

June 12, 2012

May 17, 2019

This report was signed and sealed in accordance with NJSA45:14A-12

**TOWNSHIP COMMITTEE**

GARY DINARDO, MAYOR

MICK MARION, DEPUTY MAYOR

VICTOR SORDILLO

CAROLANN GARAFOLA

GEORGE LAZO

MARK KRANE, TOWNSHIP ADMINISTRATOR

JEFFREY LEHRER, ESQ., TOWNSHIP ATTORNEY

CATHY REESE, TOWNSHIP CLERK

## INTRODUCTION

Warren Township has received a Court-approved settlement agreement of its Housing Element and Fair Share plan ("HEFSP") that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and the Fair Housing Act (N.J.S.A. 52:27D-301). The original development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on March 1992, and adopted by the Township on March 12, 1992. The ordinance and amendments establish the Warren Township affordable housing trust fund for which this spending plan is prepared.

As of December 31, 2018, Warren Township has collected \$9,972,725 (including interest), and expended \$7,536,310. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust funds with Fulton Bank of New Jersey and the Peapack Gladstone Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

Appendix tables I and II show annual deposits, interest and disbursements for the years 1994 through April 10, 2019. These amounts are the basis of the 2019-2025 Spending Plan.

Warren Township first petitioned COAH for substantive certification on March 3, 1985 and received prior approval to maintain an affordable housing trust fund on March 4, 1992. The most recent COAH approval of the Township Spending Plan is September 6, 1995. This plan is submitted as a part of the Court-approved Settlement Agreement dated October 12, 2018.

## 1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of third round substantive certification, Warren Township considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers as follows:

**The Township does not anticipate any future PIL revenues from future projects.**

(c) Other funding sources:

**Repayment of rehabilitation loans are anticipated to be collected. Over the period 1994-2018 a total of \$52,302 has been collected.**

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate:

**Current rate is approximately 1.0% (see following table)**

SOURCE OF FUNDS	PROJECTED REVENUES-HOUSING TRUST FUND 2018 THROUGH 2025 (in thousands)								
	1994- 2018	2019	2020	2021	2022	2023	2024	2025	Total
(a) Development fees:									
1. Approved Development	9171.8	0							9171.8
2. Development Pending Approval		20							20
3. Projected Development		40	60	60	60	60	60	60	400
(b) Payments in Lieu of Construction*									
(c) Other Funds (Specify source(s))									
(d) Interest	800.9	30	25	20	15	10	5	5	910.9
<b>Total</b>	<b>9972.7</b>	<b>90</b>	<b>85</b>	<b>80</b>	<b>75</b>	<b>70</b>	<b>65</b>	<b>65</b>	<b>10502.7</b>

Warren Township projects a total of \$510,000 (including interest) in revenue to be collected between January 1, 2019 and December 31, 2025. All interest earned on the account shall accrue to the account, to be used only for the purposes of affordable housing.

\* A single project (Warren Crossing fronting Dubois Road) paid an in lieu payment. This is a redevelopment site and construction is 90% completed. All funds are included in 1994-2018 sum.

## 2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Warren Township:

### (a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Warren Township's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7) and as authorized and approved by Settlement Agreement of October 12, 2018.

### (b) Distribution of development fee revenues:

The Township distributes funds in accordance with standard procedures. The Township has been granted Dedication by Rider authority.

### 3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)**

Warren Township has dedicated by ordinance 12-10 \$200,000 to rehabilitation. A balance of approximately \$141,486 remains. In addition, the Township has dedicated approximately \$7,000,000 to be paid over 30 years for extension of controls of rental housing for the Whispering Hills rental development.

**Rehabilitation program: \$200,000**

**New construction project(s):** No new Township sponsored projects requiring funding are contemplated.

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**

Projected minimum affordability assistance requirement:

1	Actual development fees 1994-2018		\$9,171,808
2	Actual interest earned 1994-2018	+	\$800,917
3	Development fees projected 2019-2025	+	\$400,000
4	Interest projected 2019-2025	+	\$110,000
5	Less housing activity expenditures 1994-2018*	-	\$7,536,310
6		-	
7	<b>Total</b>	=	<b>\$ 2,946,415</b>
8	30 percent requirement projected 2019-2025	x 0.30 =	
9	Less affordability assistance expenditures through 2025	-	\$0
10	<b>PROJECTED MINIMUM Affordability Assistance Requirement 2019-2025</b>	=	<b>\$250,000*</b>
11	<b>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 2019-2025</b>	÷ 3 =	<b>\$83,333.</b>

\*The Township has contracted for 30 years to maintain affordability through extension of expiring controls for the Whispering Hills 60 unit affordable rental development. Due to this unique situation, the Township has proposed \$250,000 as a reasonable affordability assistance minimum through 2025. The Township has the right to move funds between affordability assistance programs as it deems appropriate without returning to the Court.

(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

Warren Township projects that \$102,000 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

The Township will spend funds for activities set forth in N.J.A.C. 5:97-8.9. The Township anticipates the majority of funds will go to licensed engineers, architects, land planners, construction supervision and legal services in connection with Township partnered, sponsored affordable housing projects and infrastructure expansion to support affordable housing projects.

#### 4. EXPENDITURE SCHEDULE

Warren Township intends to use affordable housing trust fund revenues for the maintenance of affordability (rental assistance), as well as the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Program <i>[Individually list programs &amp; projects e.g. Rehab, Accessory Apartments, for-sale &amp; rental municipally sponsored, etc].</i>	Number of Units Projected	Funds Expended and/or Dedicated	PROJECTED EXPENDITURE SCHEDULE 2019 -2025 (In Thousands)								
			2019-2025	2019	2020	2021	2022	2023	2024	2025	Total
Rehabilitation/ Units Assigned	15	105	15	15	15	15	15	15	15	105	
Extension of Controls*	60	1400	200	200	200	200	200	200	200	1400	
				Note: extension of controls is contracted through 2044 at \$200,000 annually							
Total Programs	75	1505	215	215	215	215	215	215	215	1505	
Affordability Assistance		250	36	36	36	36	36	36	36	250	
Administration		102	15	15	15	15	15	15	15	102	
Total		1760	251	251	251	251	251	251	251	1760	

Note: figures are rounded to nearest \$1,000

#### 5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of Warren Township will adopt a resolution of intent agreeing to fund any shortfall of funds required for implementing affordable housing programs. In the event that a shortfall of anticipated revenues occurs, Warren Township intends to bond for shortfall.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to fund eligible projects and programs post 2025.

#### 6. BARRIER FREE ESCROW

Warren Township has adopted a barrier free option within its Affordable Housing Ordinances pursuant to UHAC and uniform construction code requirements.

**SUMMARY**

Warren Township intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and its Settlement Agreement and consistent with the housing programs outlined in the Housing Element and Fair Share Plan dated January 17, 2019 adopted by the Planning Board of Warren Township.

Warren Township had a balance of \$3,586,367 as of December 31, 2018 and anticipates an additional \$510,000 (Development fee and interest) in revenues before the expiration of the 3<sup>rd</sup> Round Judgment of Repose on November 2025. The allocation of funds for the period January 1, 2019 through December 31, 2025 is shown in projected expenditure table. Further, the Township has obligated funds at \$200,000 per year through January 1, 2047 for extension of expiring controls. Any shortfall of funds will be offset by bonding against future Development Fee revenues. The municipality will dedicate any excess funds toward implementation of its HEFSP.

<b>SPENDING PLAN SUMMARY</b>	
Balance as of December 31, 2018	\$3,586,367
<b>PROJECTED REVENUE 2019-2025</b>	
Development fees	+ \$400,000
Payments in lieu of construction	+ \$0
Other funds	+ \$0
Interest	+ \$110,000
<b>TOTAL REVENUE</b>	<b>= \$4,096,367</b>
<b>EXPENDITURES</b>	
Funds used for Rehabilitation	- \$105,000
Funds used for New Construction	
1.	-
2.	-
3.	-
4.	-
5.	- \$
6.	- \$
7.	- \$
8.	- \$
9.	- \$
10.	- \$
Extension of controls*	- \$1,400,000
Affordability Assistance	\$153,000
Administration	- \$102,000
Excess Funds for Additional Housing Activity	\$
1.	- \$0
2.	- \$
3.	- \$
<b>*TOTAL PROJECTED EXPENDITURES</b>	<b>= \$1,760,000</b>
<b>REMAINING BALANCE</b>	<b>= \$2,336,367</b>

\* Township has obligated funding extension of control payments to January 1, 2044. Total balance is obligated.

**APPENDICES**



# APPENDIX TABLE II

## Affordable Housing Developer Fees Trust Consolidated Spreadsheet of Affordable Housing Trust Funds

	2012	2013	2014	2015	2016	2017	2018	2019**	2020	2021	2022	2023	2024	Totals
Beginning Balance	5,270,361.30	3,892,585.66	3,933,124.01	3,763,013.42	3,697,811.76	3,632,698.57	3,523,318.51							\$5,270,361.30
Plus:														
Developer Deposits	351,277.00	273,387.00	207,089.00	197,515.00	257,710.00	383,558.41	487,802.92							2,198,338.33
Interest	9,128.95	8,302.49	7,972.68	4,709.25	3,939.45	4,350.71	21,436.05							59,776.59
Total Receipts														<u>2,258,115.92</u>
Less:														
Rehab Ordinance 12-10	200,000.00													200,000.00
Transfers	398,172.68	41,081.14	165,068.41	1,201.13	128,864.64	357,187.18	196,190.02							1,201.13
Admin costs/Disbursements	1,200,000.00	200,000.00	200,000.00	200,000.00	200,000.00	150,000.00	250,000.00							1,340,765.78
Cashbob - Ext of Affordability Cntr's														2,400,000.00
Total Disbursements														<u>3,941,856.89</u>
Fee	9.00	70.00	43.87											122.87
Ending Bank Balance	\$3,692,555.66	\$3,933,124.01	\$3,763,013.42	\$3,697,811.76	\$3,632,698.57	\$3,523,318.51	\$3,566,367.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,566,367.46

\*Future Costs are Not Shown

1994-2011	2012 - 2018	TOTAL
Receipts	Appendix I	Appendix II
Interest	6,973,469.01	2,198,339.33
less:	741,140.42	800,917.01
Expenditures	3,584,322.88	7,536,309.57