

Community Preservation Committee
55 Main Street
Westford, Massachusetts 01886
TEL (978) 692-5524 FAX (978) 399-2558

Westford Community Preservation Funding Application

Project Submission Form

Basic Project Information:

Submission Date: February 2, 2007

Project Name: Affordable Housing Trust Fund FY 08

CPA funds requested: \$1,000,000 (ONE MILLION DOLLARS)

Applicant:

Name: AHTF

Address: 55 Main Street

Phone Mail: _____

Email _____

Sponsoring board/committee(s): AHTF

Additional responsible parties – i.e. Property owner, consultant (if applicable) N/A _____

Project manager/contact person: Dan Burke, AHTF Chair

Purpose: (please select all that apply)

- Open Space
- Affordable Housing
- Historic Preservation
- Recreation

Project location/address:

Assessor information: (map/block/lot id) as applicable: N/A

Ownership/care and custody information: N/A

Deed restrictions required:

- Conservation
- Housing
- Historic Preservation

Budget:

Complete budget (attach as necessary) N/A

Percent of total budget requested from Community Preservation funds: N/A

Other funding sources (committed/applied/planned): N/A

Anticipated annual income/expenses: N/A

Recurring expenses (i.e. Maintenance): N/A

Taxpayer impact:

Timeline:

Proposed Start Date: N/A _____

Proposed Completion Date: N/A _____

Endorsement by applicable boards/commissions/community groups:

- Affordable Housing Committee and/or Housing Authority
- Cemetery Commission
- Conservation Commission
- Historic Commission
- Parks and Recreation Commission
- Planning Board
- Water Commission
- Other

Project Description and Goals:

Please describe project. In proposal, please include how this project impacts Westford's citizens and addresses Westford's current and/or future needs? How does this project preserve Westford's character and meet its preservation goals? Why should this project be funded this year? (Use as many additional pages as necessary)

The requested funding will be deposited into the Housing Trust Fund, which traditionally will be used for the following specific purposes:

1. to build and retain affordable units;
2. to buy down market rate units for affordable housing purposes (see Appendix 5 for the report on the use of buy down funds in Town, 2005-2007);
3. to rehabilitate or restore land for the construction of affordable housing (similar to the site-work paid for by the Town at the Coakley Residences);
4. re-use of existing buildings or construction of new buildings on previously developed sites (similar to the funding provided by the Town in the creation and purchase of affordable units at Brookside Mill);
5. to preserve existing affordable housing stock, especially when existing stock is resold and the town cannot find a qualified buyer in reasonable time.
6. to augment the pre-development funds for potential projects at Edwards and Boston Road parcels (town-owned land) and the proposed partnership with Habitat For Humanity on the Williams Avenue parcel.

The importance of and need for affordable housing project in preserving the character of Westford and enhancing the production of affordable housing is recognized directly and indirectly in numerous

Town plans and other documents including the Westford Affordable Housing Action Plan (March 2004), the Stony Brook Master Plan (2001), the Town of Westford Commonwealth Application 2005 and Executive Order 418 Housing Certification submissions of 2003 and 2004.

Housing Needs:

Westford has grown dramatically over the past twenty years, but nearly all of its new housing meets the needs of only a relatively small segment of the population, namely higher income families with children. The teenagers (10-19 years old) living in Westford, empty-nested parents, town staff and seniors with limited income have few housing options for remaining a part of this community. The Housing Trust fund will allow the Town to address this need in ways which recognize the truly unique circumstances and challenges of the Westford Community.

Indirect Benefits:

Preservation and construction of affordable units will also increase Westford's ability to meet the Executive Order 418 Housing Certification and the Commonwealth Capital Program requirements. Certification in both programs is an absolute requirement to qualify Westford for state grants, such as the recently approved \$500,000 water grant for East Boston Camps.

Project-Related benefits:

The AHTF will contribute towards helping Westford meet its goal of producing approximately 70 affordable units in the next 10 years.

Numerous affordable ownership units have been developed under Chapter 40B and sold through a lottery system in the past years in Westford. All of these units have a deed restriction and resale formula to keep them permanently affordable when they are resold in future years. The AHTF will play a significant role in preserving the community's interest in the already created affordable units (see Section 4 for examples).

Other Activities /Goals of the AHTF that benefit the Town:

Development of a centralized resource for creation of additional affordable housing units: The AHTF recognizes that the affordable housing shortage in Westford is one that cannot be addressed in a piece-meal fashion. Rather, we have come to the conclusion that, in addition to the specific "preservation" objectives outlined in sections b) through e) below, our Board must take a more active role in promoting development of affordable housing in Town. This role can include the following, all of which require funding:

- a. **Coordination and Leveraging:** Coordinating public resources in a more targeted manner, and attracting

greater private and non-profit investment to affordable housing development.

- b. **Information Sharing:** Pooling technical resources and information across departments to improve and increase the development and implementation of housing policies and programs
- c. **Technical Assistance:** Providing technical assistance to local organizations interested in affordable housing provision.
- d. **Community Participation and Leadership:** Promoting community involvement, information gathering and sharing, and strengthened leadership to address Westford's housing needs. This role may also include working with private and/or non-profit developers to consider the AHTF's role, as well as that of all interested parties, in the development of available land.

If this application is submitted outside of the usual funding cycle, please explain why.

N/A

List of Attachments: (including but not limited to photos, plans, maps, quotes, costs, estimates, letters of endorsement)

1. 2005 ATM vote establishing the AHTF
2. 2007 ATM vote expanding the powers of the AHTF
3. Declaration of Trust
4. Examples of how the funds can be applied
5. Examples of buy-downs in Town (2005-2007)

Applicant Signatures/Date

Daniel Burke, Trustee

Daniel Burke, Chair, AHTF

February 2, 2007

Date

For Community Preservation Committee Use Only

Date received: _____

Copies distributed on: _____

Is sufficient data/detail provided? _____

Is timeliness an issue? _____

Is additional information required? _____

Project interview date: _____

Public hearing date: _____

Committee vote:

Yes _____

No _____

Abstain _____

Date _____

Recommendation from Committee:

Recommended for Town Meeting consideration:

Spring _____

Fall _____

Special _____

Year _____

Appendix 1: 2005 ATM vote authorizing the AHTF

2005 ANNUAL TOWN MEETING

May 7, 2005

Establishing an Affordable Housing Trust Fund

ARTICLE 27: ESTABLISHING AN AFFORDABLE HOUSING TRUST FUND / Board of Selectmen

It was voted that the Town accept the provisions of Massachusetts General Laws Chapter 44 Section 55C allowing for the establishment of a municipal affordable housing trust fund and, pursuant to said statute, to establish the Westford Affordable Housing Trust Fund for the purposes of providing for the creation and preservation of affordable housing in Westford for the benefit of low and moderate income households; and to establish a five (5) member board of trustees, one of whom shall be a member of the Board of Selectmen who shall serve as the representative of the Board of Selectmen-the chief executive of the Town, and the remainder to be appointed by the Board of Selectmen; the trustees shall serve for a term of two (2) years, except that two of the initial trustee appointments shall be for a term of one (1) year.

The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in Massachusetts General Laws Chapter 44, §55C, shall be the following, except that the purchase, sale, lease, exchange, transfer or conveyance of any interest in real property shall be subject to the approval of the Board of Selectmen, and except that the incurring of any debt, borrowing of money, granting of mortgage or the pledging of trust assets shall be subject to the approval of Town Meeting by a two-thirds majority vote:

(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;

(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 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, such as accountants, appraisers and lawyers 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 incomes 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 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 board 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) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, 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 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; and

(16) to extend the time for payment of any obligation to the trust.

As set forth in the statute:

Appendix 2: 2007 ATM vote expanding powers of the AHTF

ARTICLE 17: Affordable Housing Trust Fund Powers and Trust Document/ *Affordable Housing Trust Fund*

Proposed amendment - new wording:

That the Town amend the authority and powers of the Affordable Housing Trust as set forth by vote taken under Article 27 of the May 7, 2005 Annual Town Meeting by now authorizing the Affordable Housing Trust, solely through a two-thirds vote of its Trustees, to purchase, sell, lease, exchange, transfer or convey any of its interests in real property and to, in an amount not to exceed eighty per cent (80%) of the total value of the Trust's assets, incur debt, borrow money, grant mortgages or pledge trust assets; provided, however, that in no event shall any debt incurred by vote of the Trustees of the Affordable Housing Trust constitute a pledge of the faith or credit of the Town, and further that any debt incurred by vote of the Trustees of the Affordable Housing Trust shall contain a statement to the effect that the holder of any such debt shall have no recourse to the Town in any way, shape or form for the repayment of such debt.

Appendix 3: Declaration of Trust



2008 00045372
BK: 20420 Pg: 290 Page: 1 of 6
Recorded: 08/21/2008 09:25 AM

DECLARATION OF TRUST TOWN OF WESTFORD AFFORDABLE HOUSING TRUST

Declaration of Trust made as of this 21st day of July, 2006 by
Daniel Burke, Diane Holmes, Chris Rameo,
Elaine Mickerson, Robert Waskiewicz

Commonwealth of Massachusetts hereinafter called the Trustees, pursuant to the provisions of G.L. c. 44 Section 55C, hereby acknowledge and agree for themselves and their successors in trust to hold the same together with such other property and funds as may be added thereto, for the purposes hereof in trust nevertheless for the benefit of all of the Inhabitants of the Town of Westford in the manner and under the terms and conditions set forth herein.

ARTICLE FIRST: Name of the Trust

The trust shall be called the "Town of Westford Affordable Housing Trust Fund".

ARTICLE SECOND: Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Westford for the benefit of low and moderate income households.

ARTICLE THIRD: Tenure of Trustees

There shall be a Board of Trustees consisting of five Trustees who shall be appointed by the Board of Selectmen. One of the Trustees shall be a member of the Board of Selectmen. Only persons who are residents of the Town of Westford 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 Board of Selectmen. 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 shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is 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 shall mean the Trustee or Trustees for the time being hereunder.

ENV

- (7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for the 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 board 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) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;
- (12) to make distributions or divisions of principal in kind;
- (13) to comprise, 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 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; and
- (16) to extend the time for payment of any obligation to the trust.

ARTICLE SIXTH: Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust.

ARTICLE FOURTH: Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. Chapter 39, Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

ARTICLE FIFTH: Powers of Trustees

The Powers of the board, all of which shall be carried on in furtherance of the purposes set forth in Massachusetts General Laws Chapter 44, §55C, shall be the following, except that: (a) any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property is subject to a two-thirds (2/3rds) vote of the Trustees; (b) the Trustees may incur debt, borrow money, grant mortgages and pledge trust assets only in an amount not to exceed eighty percent (80%) of the total value of the Trust's assets; and (c) any debt incurred by the Trust shall not constitute a pledge of the full faith and credit of the Town of Westford and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Westford with an acknowledgement of said statement by the holder:

- (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;
- (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 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, such as accountants, appraisers and lawyers 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;

General revenues appropriated into the trust become trust property and these funds need not be further appropriated to be expended except as set forth in Article Fifth herein. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within one year of the date they were appropriated into the trust, remain trust property.

ARTICLE SEVENTH: Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder, unless otherwise provided, and 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.

ARTICLE EIGHTH: 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 a public employer and the Trustees are public employees for the purposes of G.L. Chapter 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. Chapter 268A.

ARTICLE NINTH: Taxes

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

ARTICLE TENTH: 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.

ARTICLE ELEVENTH: Governmental Body

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. Chapter 39.

ARTICLE TWELFTH: Board of the Town

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

ARTICLE THIRTEENTH: Duration of the Trust

This Trust shall be of indefinite 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 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 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 FOURTEENTH

The Board of Selectmen may authorize the Trustees to execute, deliver, and record with the Registry of Deeds any documents required for any conveyance authorized hereunder.

ARTICLE FIFTEENTH: Titles

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

Witness the execution under seal this 21st day of July, 2006


Robert Waskiewicz, Trustee


Christopher Romeo, Trustee


Daniel Burke, Trustee


Diane Holmes, Trustee



Elaine Nickerson, Trustee

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 21 day of July, 2006, before me, the undersigned Notary Public, personally appeared Robert Deskevitz, Christopher Romeo, Daniel Burke, Diane Holmes, Elaine Nickerson, Trustee, who proved to me through satisfactory evidence of identification, which was personally known / license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as Trustee on behalf of the Affordable Housing Trust Fund Trust.

Patricia L. Dubey
Notary Public
My commission expires: 10-12-2012

 PATRICIA L. DUBEY
Notary Public
Commonwealth of Massachusetts
My Commission Expires
October 12, 2012

END OF DOCUMENT

Richard P. Howe Jr.

Appendix 4: Examples of how the requested funds could be applied.

- b) Preservation of existing units. There are three options that may allow the Town to preserve existing affordable units created through zoning and comprehensive permits. Firstly, owners of deed restricted affordable units have the right to sell their units at market value if an income eligible buyer cannot be found. If a seller cannot find a buyer the Town can exercise its option to purchase the unit at the deed restricted value within 90 days of receiving notice from the seller. In essence this would prevent the affordable unit from being released from the affordable housing inventory and sold as a market rate home. In order to preserve the affordable unit, the AHTF would buy the unit and sell it to an eligible buyer. The funds used to buy the unit would be reimbursed to the AHTF at the eventual sale.

The following example illustrates this scenario:

Purchase Price of Unit by AHTF	\$157,000
Selling Price of Unit by AHTF (say at 6 months)	\$157,000
Opportunity cost	\$1,962.*

*Opportunity Cost calculation formula:

$$157,000 \times .025 \text{ (interest lost on the \$)} = \$3,925 / 12 = \$327. \text{ per month}$$

$$\$327 \times 6 \text{ months} = \$1,962$$

Another scenario is when a seller cannot find a buyer and the Town inadvertently fails to exercise its option to purchase the unit at the deed restricted value within the 90 day period. The Town can opt to buy the unit at the market rate and then re-certify the unit as affordable.

Thirdly, the AHTF could step in to purchase a deed restricted affordable unit in the event of a conversion from a rental project to a condominium form of ownership. In such cases, the Town's rights of first refusal are defined in the regulatory agreement or project decision of approval.

- c) Down payment Assistance for First Time Income Eligible Homebuyer: In this scenario, the AHTF would provide an interim loan as gap financing to an income eligible household who is purchasing an affordable unit but is unable to pay for closing costs and/or mortgage down-payment. The AHTF would provide \$5,000 to \$10,000 to the Income Eligible Homebuyer. It is anticipated that such a loan program would be a 0%, non-amortizing loan, forgivable after, say, five (5) years provided the borrower maintains the property as their primary residence for a period of, say, not less than five (5) years. The AHTF will prepare the specific regulations as to the operation of such a loan program. The deed restriction that keeps the house as "affordable in perpetuity" would remain intact.
- d) Gap financing for Special needs housing: A similar loan program could be utilized in assisting a provider in the purchase

of special needs housing. Such a program would include documents that would allow for recovery if the home was sold by the provider after several years of use as a special needs home. The loan amounts in this case could be limited to an amount not to exceed \$25,000.

- e) Preservation and rehabilitation of current stock of housing in Westford: This scenario pertains to market rate single or multifamily housing that becomes available in Westford at reasonably low prices. For example, a house in moderately poor condition may be on sale for \$160,000. The AHTF could negotiate a deal for \$150,000. Further, the AHTF may require an additional \$75,000 to rehabilitate the property. The AHTF could seek, say, \$25,000 from the already town allocated buy-down funds. Assuming the AHTF is able to sell the now rehabilitated and deed restricted unit for say \$200,000 (which would go back into the trust fund), such a program would have allowed the Town to create an affordable unit at a cost of only \$25,000.

Appendix 5: Examples of buy downs 2005-2007

“Buy-Down” Expenditures 2005-2007 Using CPA Funds

Fiscal	Town	DHCD			
Year	Amount	Amount	Unit	Project	Address
2005	\$21,500	\$21,500	D5	Haystack Estates	10 Groton Rd.
2006	\$10,171	N/A	30-1	Villages @ Stone Ridge	9 Gate Crest Rd.
2007	\$10,000	\$10,000	A5	Haystack Estates	10 Groton Rd.
	\$10,000	\$10,000	B2	Haystack Estates	10 Groton Rd.
	\$40,000	\$30,000	D4	Haystack Estates	10 Groton Rd.
Total:	\$91,671	\$71,500			

Therefore, \$21,500 was spent in FY 2005, \$10,171 in FY 2006 and \$60,000 in FY 2007 from this account, leaving a current balance of \$8,329. The Town contribution to the buy down funds for the preservation of the 5 affordable units leveraged a total of \$71, 500 from the state.