

**BOROUGH OF RIVERDALE**

**RESOLUTION NO. 66 - 2008**

**RESOLUTION OF THE BOROUGH OF RIVERDALE, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT BETWEEN THE COUNCIL ON AFFORDABLE HOUSING (COAH), THE BOROUGH OF RIVERDALE, AND BANK OF AMERICA**

**WHEREAS**, a municipality may impose, collect and spend development fees and establish an affordable housing trust fund that includes, development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with Borough of Riverdale's affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq.; and

**WHEREAS**, COAH has not yet approved a spending plan for the Borough of Riverdale, the Borough of Riverdale acknowledges that no expenditure of development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with the Borough of Riverdale's affordable housing program in accordance with P.L.2008,

c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. may occur prior to COAH's approval of a spending plan; and

**WHEREAS**, P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. requires an interest-bearing housing trust fund to be established for the purpose of receiving collected development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with the Borough of Riverdale's affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. and provides that no money shall be expended from the housing trust fund unless the expenditure conforms to the Development Fee Ordinance, a spending plan approved by COAH and the conditions set out at N.J.A.C. 5:97-8.7-8.9; and

**WHEREAS**, P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. further require the Borough of Riverdale, within seven days of opening the trust fund account authorized by the ordinance, to enter into an escrow agreement with COAH pursuant to N.J.A.C. 5:97-8.2(a) to enable COAH to monitor disbursement of collected development fees; payments from developers in lieu of constructing affordable units on-site; developer-contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible; rental income from municipally operated units; repayments from

affordable housing program loans; recapture funds; proceeds from the sale of affordable units; and/or any other funds collected in connection with the Borough of Riverdale's affordable housing program in accordance with P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. and to direct the forfeiture of such funds after proper notice if their imposition, collection and/or expenditure are not in conformance with the terms of P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq., the conditions set out at N.J.A.C. 5:97-8.13(a), the spending plan approved by COAH, and P.L.2008, c.46 (C. 52:27D-329.1 et al); and

**WHEREAS**, P.L.2008, c.46 (C. 52:27D-329.1 et al) and the regulations of COAH at N.J.A.C. 5:97-8.1 et seq. further provides that if COAH determines that the imposition, collection, and/or expenditure of development fees are not in conformance with the terms of the approved Development Fee Ordinance, approved spending plan, and P.L.2008, c.46 (C. 52:27D-329.1 et al), COAH may, after a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., revoke a Development Fee Ordinance approval and direct the transfer of funds including future collection of non-residential development fees to the New Jersey Affordable Housing Trust Fund.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Riverdale, County of Morris and State of New Jersey, that the Borough Clerk is hereby authorized to execute an Escrow Agreement between the Council on Affordable Housing (COAH), the Borough of Riverdale, and Bank of America as set forth in the form attached hereto.

Adopted:

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Carol Talerico, Borough Clerk

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William Budesheim, Mayor