

**RESOLUTION GRANTING SPENDING PLAN WAIVER REQUEST OF THE
BOROUGH OF FORT LEE FOR THE USE OF AFFORDABLE HOUSING
TRUST FUNDS FOR THE ACTION MOTORS SITE**

COAH DOCKET # 10-2205

WHEREAS, on November 1, 1996 the Borough of Fort Lee (Borough or Fort Lee) received a Judgment of Compliance from the Superior Court of New Jersey approving the Borough's second round affordable housing plan; and

WHEREAS, the Court's order provided the Borough a six year period of repose, which was further extended by the Court on February 21, 2003 until one year after the Council on Affordable Housing (COAH) adopted third round regulations, provided the Borough of Fort Lee submitted a third round housing plan within that extension period; and

WHEREAS, on December 18, 2008 the Borough submitted a revised third round Housing Element and Fair Share Plan to COAH pursuant to the revised third round rules; and

WHEREAS, simultaneously with the submission of the revised third round Housing Element and Fair Share Plan, the Borough filed a revised third round Petition for Third Round Substantive Certification with COAH; and

WHEREAS, the Borough maintains an Affordable Housing Trust Fund (AHTF); and

WHEREAS, the AHTF as of December 31, 2008 had a balance of \$3,898,192; and

WHEREAS, the AHTF balance includes \$2,925,000 in developer funds as a payment in lieu of construction of affordable units from the Redevelopment Area-5 project which was never completed; and

WHEREAS, Fort Lee's proposed spending plan anticipates receipt of an additional \$2,502,278 in development fees through the third round, which is anticipated to fund numerous affordable housing projects in Fort Lee's Fair Share Plan; and

WHEREAS, the Borough of Fort Lee seeks a spending plan waiver to utilize the \$2,925,000 in lieu of construction funds, and an additional \$75,000 in housing trust funds towards an inclusionary project located at Block 4355, Lots 17, 18 and 19, known as the Action Motors Site; and

WHEREAS, Daibes Enterprises, Inc. (Daibes), a real estate developer, is the contract purchaser of the Action Motors Site; and

WHEREAS, on November 19, 2009 Fort Lee and Daibes through a related entity 65 Main Street Associates, LLC, entered into a Developer's Agreement to construct a total of 140 units on the Action Motors Site; and

WHEREAS, 90 units to be built on the Action Motors Site will be low and moderate rental affordable housing in compliance with UHAC standards, created to satisfy the outstanding obligation under the second round compliance plan; and

WHEREAS, the Borough under the Developer's Agreement with Diabes, also reserves a purchase option to acquire restrictive covenants on some or all of the remaining 50 units for further affordable rental housing; and

WHEREAS, the Action Motors Site will be rezoned by the Borough of Fort Lee as R-7B, a redevelopment of an underdeveloped area in the Borough; and

WHEREAS, COAH received no opposition or other reply pertaining to this motion; and

WHEREAS, a COAH Council Task force met on March 30, 2010 and reviewed the motion for a waiver from the spending plan requirements under N.J.A.C. 5:97-8.1(d) and recommends that the waiver be granted allowing the expenditure of \$3,000,000 from the AHTF for the development of the Action Motors Site; and

WHEREAS, the Council finds that the waiver fosters the production of affordable housing; granting the waiver fosters the intent of, if not the letter of, the Council's rules, and the proposed creation of 90 units of low and moderate rental affordable housing adds to and creates a mix of housing options within the Borough of Fort Lee; and

WHEREAS, the Council finds that the proposed Action Motors Site project shall be included in any Re-Petition for Substantive Certification for the third round.

NOW THEREFORE BE IT RESOLVED that the Council grants the Borough of Fort Lee a spending plan waiver for the expenditure of \$3,000,000 from the Borough's Affordable Housing Trust Fund for the development of the Action Motors Site, located at Block 4355, Lots 17, 18 and 19.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on April 21, 2010

A handwritten signature in cursive script that reads "Renee Reiss". The signature is written in black ink and is positioned above the printed name and title.

Renee Reiss
Council Secretary