

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 10-259

A RESOLUTION AUTHORIZING SPECIAL EMERGENCY NOTES IN AN AMOUNT NOT TO EXCEED \$750,000 TO FUND CONTRACTUALLY REQUIRED SEVERANCE LIABILITIES RESULTING FROM THE RETIREMENT OF BOROUGH EMPLOYEES

Ms. Lee offered the following resolution and moved for its adoption:

WHEREAS, the Borough Council of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough"), finally adopted an ordinance on November 22, 2010 (the "Ordinance") authorizing special emergency appropriations pursuant to N.J.S.A. 40A:4-53, in an aggregate amount not to exceed \$750,000 to meet certain expenses incurred, or to be incurred, to fund contractually required severance liabilities resulting from the retirement of Borough employees (the "Project"); and

WHEREAS, N.J.S.A. 40A:4-53 provides that it shall be lawful to make such appropriations specifically for the purposes of the Project and N.J.S.A. 40A:4-55 allows "special emergency notes" (the "Notes") to be issued to finance the costs of such Project, which payment for such Notes shall be provided for in the succeeding annual budgets by the inclusion of an appropriation of at least one-fifth (1/5) of the amount of such Notes; and

WHEREAS, the Borough now seeks to authorize the issuance of Notes in an amount not to exceed \$750,000.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (by not less than two-thirds (2/3) of all the members of the governing body affirmatively concurring) as follows:

1. Pursuant to the Ordinance, special emergency appropriations have been made for the Project in an amount not to exceed \$750,000.

2. Special emergency notes (the "Notes"), in an amount not to exceed \$750,000, are hereby authorized, pursuant to N.J.S.A. 40A:4-55, to be issued to finance the special emergency appropriation to fund the costs of the Project.

3. Such Notes may be renewed from time to time, but shall not be issued for a period to exceed one year. At least 1/5 of all such Notes, and the renewals thereof, shall mature and be paid in each year so that all Notes and renewals shall have matured and be paid no later than the last day of the fifth year following the date of this resolution.

4. Such Notes shall be executed by the Mayor and the Chief Financial Officer of the Borough and the official seal shall be thereunto affixed and attested to by the Clerk of the Borough.

5. All Notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. It is hereby delegated to the Chief Financial Officer of the Borough the authority to determine all matters in connection with the Notes issued, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. The Chief Financial Officer is also hereby authorized to sell part or all of the Notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this resolution is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the Notes so sold, the price obtained and the name of the purchaser.

6. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Internal Revenue Code of 1986 (the "Code") of the interest on the Notes issued under this resolution.

7. (a) The Borough reasonably expects to reimburse the expenditures toward the costs of the Project described in this resolution incurred and paid for by the Borough prior to the issuance of the Notes authorized by this resolution with the proceeds of such Notes. No funds from sources other than the Notes have been or are reasonably expected to be reserved or allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "controlled group" as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to expenditures of the Borough to be reimbursed.

8. One (1) certified copy of this resolution will be filed with the Director of the Division of Local Government Services pursuant to N.J.S.A. 40A:4-53.

9. This resolution shall take effect immediately.

Seconded by Ms. Horgan and adopted on roll call by the following vote:

| | Yes | No | Abstain | Absent |
|--------------|-------|-----|---------|--------|
| Ms. Lewis | (x) | () | () | () |
| Mr. Zipprich | (x) | () | () | () |
| Mr. DuPont | () | () | () | (x) |
| Ms. Horgan | (x) | () | () | () |
| Ms. Lee | (x) | () | () | () |
| Mr. Murphy | (x) | () | () | () |

Dated: December 8, 2010

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on December 8, 2010.

Pamela Borghi, Municipal Clerk