

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 08-197

**RESOLUTION AUTHORIZING ACCEPTANCE OF PERFORMANCE GUARANTEES AND
INSPECTION ESCROW REGARDING
FOOD PROPERTIES, INC., 56 NEWMAN SPRINGS ROAD,
BLOCK 97.01, LOT 44**

Mr. DuPont offered the following resolution and moved its adoption:

WHEREAS, pursuant to Resolution No. 2008-06, the Zoning Board of Adjustment of the Borough of Red Bank approved Application No. Z7955 submitted by Food Properties, Inc., (the “Developer”) with respect to the property located at 56 Newman Springs Road, Block 97.01, Lot 44 on the tax map of the Borough of Red Bank (the “Project Premises”); and

WHEREAS, the aforesaid Zoning Board of Adjustment Resolution required the Developer to comply with the Planning and Development Regulations of the Borough Red Bank, with respect to the Developer’s posting of performance guarantees and escrow payments to pay for inspections by the Borough Engineer; and

WHEREAS, by letter dated July 10, 2008, the Borough Engineer provided an estimate of the necessary performance guarantees and other fees required for the proposed development of the Project Premises in accordance with §25-7.1 of the Borough of Red Bank’s Planning and Development Regulations; and

WHEREAS, the Developer has posted the following performance guarantees and other required fees as recommended by the Borough Engineer:

- a. Ten Percent (10%) of the performance guarantee in the form of cash in the amount of \$19,524.00;
- b. The remaining Ninety Percent (90%) of the performance guarantee in the form of Performance Surety Bond No. 587721S issued by Developers Surety and Indemnity Company in the amount of \$175,716.00; and
- c. An inspection fee in the amount of \$8,140.00; and

WHEREAS, the Director of the Borough’s Planning and Zoning Department has requested authorization to accept the aforementioned performance guarantees, and the inspection escrow fee on behalf of the Borough; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank that it does hereby authorize and direct the Director of the Borough’s Planning and Zoning Department to accept the aforementioned funds posted by the Developer as the performance guarantee and inspection escrow, respectively, for the Developer’s project;

BE IT FURTHER RESOLVED that acceptance of these performance guarantees and inspection escrow are contingent upon the Developer’s execution of a Developer’s Agreement with the Borough;

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to sign a Developer’s Agreement, subject to the Borough Attorney’s review and approval;

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this resolution to Food Properties, Inc., c/o Gelu Graff, 853, Hwy. 35, Middletown, New Jersey 07748 and to the Borough Engineer.

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

	Yes	No	Abstain	Absent
Ms. Cangemi	(x)	()	()	()
Mr. Giannell	(x)	()	()	()
Mr. DuPont	(x)	()	()	()
Ms. Horgan	(x)	()	()	()
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: September 22, 2008