

RESOLUTION NO. 17-224

**A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF A REVISED
DEVELOPER'S AGREEMENT WITH COUNT BASIE THEATRE, INC.**

Councilwoman Horgan offered the following resolution and moved its approval:

WHEREAS, by Resolution No. Z-11598, the Zoning Board of Adjustment of the Borough of Red Bank (the "ZBA") granted Count Basie Theatre, Inc.'s application for site plan approval, "d"/height variance approval and bulk variance approval (collectively, "Approvals") to expand its existing theater; and

WHEREAS, the Approvals call for certain improvements and Count Basie Theatre, Inc. has agreed to construct these improvements as shown on the submissions and records comprising the Count Basie Theatre, Inc.'s approved ZBA application (the "Site Plan"); and

WHEREAS, Condition "e" of the ZBA's Resolution No. Z-11598 requires that Count Basie Theatre, Inc. enter into a Developer's Agreement with the Borough of Red Bank to ensure the proper, appropriate, and timely completion and maintenance of the improvements that are the subject of the Approvals and the Site Plan; and

WHEREAS, the Governing Body previously approved a form of Developer's Agreement in connection with this project by Resolution dated May 10, 2017, but thereafter, changes to the project were made and approved by the ZBA's latter Resolution No. Z-11770; and

WHEREAS, notwithstanding the passage of the prior Resolution on May 10, 2017, the originally authorized Developer's Agreement was never executed by the parties insofar as the ZBA was expected to consider latter Resolution No. Z-11770 thereafter; and

WHEREAS, the subject Developer's Agreement has now been modified to include the ZBA's approval of Resolution No. Z-11770 on July 20, 2017; and

WHEREAS, the Governing Body desires to authorize the execution of the Developer's Agreement attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey, that:

1. The Mayor is hereby authorized to execute, and the Clerk to attest to the execution of the Developer's Agreement with Count Basie Theatre, Inc., attached hereto as Exhibit A, which agreement was reviewed and approved by the Borough Attorney.
2. This resolution shall become effective immediately.
3. A certified copy of this resolution, together with a copy of the Developer's Agreement, shall be forwarded to the Borough of Red Bank Zoning Board of Adjustment and Count Basie Theatre, Inc.

Seconded by Councilman Yngstrom and approved on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Yngstrom	(X)	()	()	()
Councilman Zipprich	()	()	(X)	()
Councilwoman Horgan	(X)	()	()	()
Councilwoman Schwabenbauer	(X)	()	()	()
Councilman Taylor	(X)	()	()	()
Councilman Whelan	(X)	()	()	()

Dated: September 27, 2017

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 September 27, 2017.