

BOROUGH OF RED BANK, NEW JERSEY

RESOLUTION 14-308

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY, NEW JERSEY, AUTHORIZING AND APPROVING THE BOROUGH OF RED BANK'S PARTICIPATION IN THE MUNICIPALITIES CONTINUING DISCLOSURE COOPERATION INITIATIVE OF THE SECURITIES AND EXCHANGE COMMISSION; AND AUTHORIZING AND APPROVING CERTAIN ACTIONS IN CONNECTION WITH THE FOREGOING

Councilman DuPont offered the following resolution and moved its adoption:

WHEREAS, the Borough of Red Bank, County of Monmouth, New Jersey ("Borough") has previously issued to the public various series of bonds and bond anticipation notes (collectively, the "Obligations"), including Obligations issued by the Borough in the past five (5) years; and

WHEREAS, in connection with the issuance of certain of such Obligations, the Borough agreed, pursuant to Rule 15c2-12 ("Rule") of the Securities and Exchange Commission ("SEC"), to provide certain continuing disclosure information regarding the Borough on an annual basis to the former Nationally Recognized Municipal Securities Information Repositories (pre-2009) and to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system (2009-present) (otherwise known as "EMMA"), including, but not limited to, audited financial statements, certain financial information and operating data, certain notices of ratings changes and certain other events; and

WHEREAS, the SEC has recently focused its attention on what it believes is a widespread failure of local government issuers across the nation to meet their continuing disclosure obligations and, in particular, possible misrepresentations made by such local government issuers in the official statements utilized to sell municipal securities regarding past compliance with those continuing disclosure obligations; and

WHEREAS, in an effort to remedy these perceived issues, the SEC has implemented the Municipalities Continuing Disclosure Cooperation Initiative ("MCDC Initiative"), a program currently scheduled to end for issuers at 12:00 a.m. on December 1, 2014, which encourages issuers of municipal securities, including the Borough, to self-report possible material misstatements or omissions made in the past five (5) years in an official statement or statements regarding compliance with prior continuing disclosure obligations; and

WHEREAS, by participating in the MCDC Initiative, issuers agree, among other things, to accept certain non-monetary penalties in lieu of unknown, and, by all accounts, hefty monetary and non-monetary penalties that the SEC has threatened on issuers that do not participate in the MCDC Initiative, should the SEC determine that an issuer has made material misstatements in an official statement or statement regarding compliance with prior continuing disclosure obligations; and

WHEREAS, in particular, by participating in the MCDC Initiative, issuers agree to accept the following penalties, if imposed by the SEC: (i) compliance with a cease and desist order in which the issuer neither admits nor denies the findings of the SEC; (ii) implementation of policies, procedures and training regarding continuing disclosure obligations; (iii) compliance with all existing continuing disclosure undertakings; (iv) cooperation with any further SEC investigation; (v) disclosure of settlement terms in any final official statement issued within five

years of the date of institution of the proceedings; and (vi) production to the SEC of a compliance certificate regarding the applicable undertakings on the one year anniversary of the proceedings; and

WHEREAS, on July 23, 2014 the New Jersey Department of Community Affairs, Division of Local Government Services ("DLGS"), issued Local Finance Notice 2014-9 ("Notice") warning local government officials of possible consequences for failing to identify past noncompliance with continuing disclosure requirements and encouraging such issuers to determine whether to take advantage of the MCDC Initiative; and

WHEREAS, as part of the Notice, the DLGS strongly recommended that local government officials proactively take steps to self-identify their own levels of compliance with their continuing disclosure undertakings and to consult with their public finance professionals in order to determine whether it would be advisable to participate in the MCDC Initiative; and

WHEREAS, based upon the directive of the Notice and in order to fully analyze whether it would be necessary or advisable for the Borough to participate in the MCDC Initiative, the Borough previously engaged the services of Phoenix Advisors, LLC, as disclosure specialist, in order to undertake a disclosure review on behalf of the Borough which: (i) summarized the results of the Borough's prior compliance with its secondary market continuing disclosure obligations; and (ii) compared those results to the statements made by the Borough in the last five (5) years in its official statement or statements regarding past compliance with continuing disclosure obligations ("Disclosure Review"); and

WHEREAS, based on the results of the Disclosure Review, and weighing heavily the known non-monetary penalties that may come through the Borough's participation in the MCDC Initiative versus the unknown, and, by all accounts, hefty monetary and non-monetary penalties the SEC has threatened on issuers that do not self-report, the Borough Council of the Borough of Red Bank, County of Monmouth, New Jersey is now desirous of authorizing and approving the Borough's participation in the MCDC Initiative and of delegating to the Chief Financial Officer, in consultation with the Phoenix Advisors, LLC, the disclosure specialist, the Borough's solicitor, bond counsel, auditor and other finance professionals, the authority to prepare and submit all documentation required to enter the Borough's bond and note issues into the MCDC Initiative, as deemed necessary or required.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, NEW JERSEY, AS FOLLOWS:

Section 1. The Borough hereby ratifies and confirms the undertaking and completion of the Disclosure Review by Phoenix Advisors, LLC.

Section 2. After consultation with the Borough's disclosure specialist, Phoenix Advisors, LLC and discussion with the Borough's solicitor, bond counsel, auditor, and other finance professionals, the Disclosure Review has revealed that the Borough may have made materially inaccurate statements in its bond and note official statement or statements relating to prior compliance with continuing disclosure obligations pursuant to the Rule in connection with its Obligations issued during the prior five (5) year period, and, as such, the Borough hereby authorizes and approves its participation in the MCDC Initiative.

Section 3. The Chief Financial Officer is hereby authorized to execute and deliver any and all documents and instruments, including, but not limited to, the Municipalities Continuing Disclosure Cooperation Initiative Questionnaire for Self-Reporting Entities contained in the MCDC Initiative, and to do and cause to be done any and all acts and things necessary or

proper for participating in the MCDC Initiative and all related transactions contemplated by this Resolution.

Section 4. Any action taken by the Chief Financial Officer, or any other official, officer or employee of the Borough, with respect to the Disclosure Review, the engagement of a disclosure specialist and participation in the MCDC Initiative is hereby ratified and confirmed.

Section 5. This Resolution shall take effect immediately upon adoption.

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

	Yes	No	Abstain	Absent
Councilman Murphy	(x)	()	()	()
Councilwoman Burnham	(x)	()	()	()
Councilwoman Horgan	(x)	()	()	()
Councilwoman Lewis	(x)	()	()	()
Councilman Zipprich	(x)	()	()	()
Councilman DuPont	(x)	()	()	()

Dated: November 24, 2014