

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 11-75

**RESOLUTION AUTHORIZING ACCEPTANCE OF REPLACEMENT PERFORMANCE
GUARANTEE REGARDING BROAD STREET REALTY ASSOCIATES, L.L.C., 2, 8 & 10
BROAD STREET, BLOCK 30.01, LOTS 21, 22 & 23**

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

WHEREAS, the Zoning Board of Adjustment of the Borough of Red Bank approved Application No. Z8939 submitted by Broad Street Realty Associates, L.L.C., (the "Developer") with respect to the property located at 2, 8 & 10 Broad Street, Block 30.01, Lots 21, 22 & 23 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 June 24, 2009, 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 \$2,000.00;
- b. The remaining Ninety Percent (90%) of the performance guarantee in the form of Irrevocable Standby Letter of Credit No. S193159 issued by First Tennessee Bank in the amount of \$18,000.00; and
- c. An inspection fee in the amount of \$850.00; and

WHEREAS, by Resolution No. 09-210 the Governing Body of the Borough of Red Bank authorized the acceptance of the aforementioned performance guarantees and inspection escrow;

WHEREAS, by Resolution No. Z 2011-8 the Red Bank Zoning Board of Adjustment granted the Developer an extension of the time frame within which it must secure its Certificate of Occupancy for the Project; and

WHEREAS, the performance guarantee of the Standby Letter of Credit No. S193159 issued by First Tennessee Bank in the amount of \$18,000.00 (the "Letter of Credit") previously posted by the Developer has expired; and

WHEREAS, the Developer has posted the following replacement performance guarantee for the expired Letter of Credit:

- a. Site Improvement Bond No. BMY 1752135 in the amount of \$18,000.00 issued by the Hanover Insurance Group (the "Site Improvement Bond"); and

WHEREAS, the Director of the Borough's Planning and Zoning Department has requested authorization to accept the aforementioned replacement performance guarantee 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 Site Improvement Bond posted by the Developer as a performance guarantee for the Developer's project; and

BE IT FURTHER RESOLVED that all other terms and conditions of Resolution No. 09-210 (unless modified herein) shall remain in full force and effect; and

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this resolution to The Broad Street Realty Associates, c/o Martin A. McGann, Esq. and to the Borough Engineer.

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

	Yes	No	Abstain	Absent
Ms. Lewis	(x)	()	()	()
Mr. Ziprich	(x)	()	()	()
Mr. DuPont	(x)	()	()	()
Ms. Horgan	()	()	()	(x)
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: March 30, 2011