

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 09-176

RESOLUTION OF THE BOROUGH OF RED BANK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AUTHORIZING CERTAIN MATTERS IN CONNECTION WITH THE BOROUGH'S PARTICIPATION IN THE YEAR 2009 NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST FINANCING PROGRAM TO FINANCE THE COSTS OF WATER UTILITY IMPROVEMENTS IN AND FOR THE BOROUGH

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

WHEREAS, the Borough Council of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough") is on the date hereof introducing a bond ordinance amending Bond Ordinance number 2008-24, as amended by Bond Ordinance number 2009-4 (collectively, the "Ordinance"), which appropriates the aggregate amount of \$3,291,000 to provide for undertaking various capital improvements to Water utility system within the Borough (the "Project"); and

WHEREAS, the Ordinance also authorize the issuance of bonds or bond anticipation notes in the aggregate principal amount of \$3,160,000 to finance the costs of the Project; and

WHEREAS, to finance the costs of the Project, the Borough intends to issue General Obligation Water Utility Bonds in the aggregate principal amount not to exceed \$3,160,000 through its participation in the New Jersey Environmental Infrastructure Trust's 2009 New Jersey Recovery and Reinvestment Plan or Traditional financing program (the "Program"); and

WHEREAS, under the Program, the Borough is on the waiting list to receive approximately \$2,220,600 in principal forgiveness for the Project from monies to be received by the State under the federal American Recovery and Reinvestment Act of 2009 ("ARRA").

WHEREAS, the Borough's participation in the Program requires the authorization of certain matters and certain actions to be undertaken by Borough officials, officers and professionals, including but not limited to, the preparation and submission of an application to the Local Finance Board and the completion and submission of the "Financial Addendum Form" and "ARRA Form" (collectively, the "FAF") to the Program; and

WHEREAS, the Borough desires to conduct the private sale of its General Obligation Water Utility Bonds in an aggregate principal amount of \$3,160,000 to the Program to provide funds to finance the Project and desires to make application to the Local Finance Board (i) for the approvals required pursuant to the provisions of N.J.S.A. 58:11B-9(a), and (ii) for the approval of a nonconforming maturity schedule pursuant to N.J.S.A. 40A:2-26(e); and

WHEREAS, the Borough believes:

- (a) it is in the public interest to accomplish the Project;
- (b) said Project is for the health, welfare, convenience or betterment of the inhabitants of the Borough;
- (c) the amounts to be expended for said Project are not unreasonable or exorbitant;
- (d) the financing of the Project through the Program is an efficient and feasible means of providing services for the needs of the inhabitants of the Borough and will not create an undue financial burden to be placed upon the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Red Bank, in the County of Monmouth, State of New Jersey, as follows:

SECTION 1. The making of an application to the Local Finance Board (the "Application") is hereby approved to be undertaken by the Borough and its Bond Counsel, Wilentz, Goldman & Spitzer, P.A. (the "Bond Counsel"). Bond Counsel is hereby authorized and directed to submit the Application, *nunc pro tunc*, to the Local Finance Board and to represent the Borough in matters pertaining thereto.

SECTION 2. The Local Finance Board is hereby respectfully requested to consider such Application and to record its findings, recommendations, consents, endorsements and/or approvals as provided by applicable State law.

SECTION 3. The Borough Clerk or Deputy Borough Clerk is hereby directed to file a certified copy of this resolution with the Local Finance Board.

SECTION 4. The preparation of the FAF by Bond Counsel in consultation with the Borough's authorized representatives including, but not limited to, the Engineer and the Auditor, and its submission to the Program, are hereby ratified and approved.

SECTION 5. The Chief Financial Officer is hereby authorized and directed to determine all matters in connection with the Program not determined by this or a subsequent resolution, all in consultation with Bond Counsel, and the manual or facsimile signature of the Chief Financial Officer upon any documents shall be conclusive as to all such determinations. The Mayor, Business Administrator, Chief Financial Officer, Borough Clerk, Deputy Borough Clerk and any other Borough representatives, including but not limited to, Bond Counsel, Engineer, Attorney and Auditor, are each hereby authorized and directed to take such actions as are necessary to consummate the transactions contemplated by the Borough's participation in the Program, and any all such actions taken by the aforesaid Borough representatives and professionals heretofore are hereby ratified and confirmed, *nunc pro tunc*.

SECTION 6. This resolution shall take effect immediately.

Seconded by Mr. DuPont 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: June 22, 2009