

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 13-102**

**RESOLUTION AUTHORIZING THE EXECUTION AND ENTRY
INTO A FINANCIAL AGREEMENT BETWEEN COUNT
BASIE THEATRE, INC. AND THE
BOROUGH OF RED BANK**

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

WHEREAS, Count Basie Theatre, Inc., owns one hundred percent (100%) of the stock of Trebles Corp., which is the owner of property designated on the tax records as Block 43, Lots 4.01 in the Borough of Red Bank (the "Property"); and

WHEREAS, Count Basie is exempt from local property taxes under N.J.S.A. 54:4-3.6 because Count Basie is charitable/not for profit organization that meets the statutory requirements for tax exempt status; and

WHEREAS, in lieu of the payment of property taxes, Count Basie has agreed make payment to the Borough of an annual charge in the amount of Ten Thousand Dollars (\$10,000) beginning in the tax year 2013 (subject to annual adjustments); and

WHEREAS, the Borough and Count Basie wish to memorialize the terms and conditions of these annual charges in lieu of taxes in a Financial Agreement in the form annexed hereto.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Red Bank hereby authorizes the Borough's entry into the proposed Financial Agreement with Count Basie Theatre, Inc.

BE IT FURTHER RESOLVED that the Mayor of the Borough of Red Bank is hereby authorized to execute the proposed Financial Agreement between Count Basie Theatre, Inc. and the Borough of Red Bank in the form annexed hereto and that Borough officials and employees are authorized to take all necessary actions in order to effectuate the terms and provisions of this Resolution and the Financial Agreement.

Seconded by Ms. Lee 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: April 24, 2013

I hereby certify the above to be a true copy of a resolution adopted by the Mayor and Council of the Borough of Red Bank, County of Monmouth, NJ at a meeting held on April 24, 2013.

Bonnie K. Thomas
Bonnie K. Thomas, Deputy Municipal Clerk

**FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF RED BANK
AND COUNT BASIE THEATRE**

AGREEMENT between the Borough of Red Bank, having its municipal offices at 90 Monmouth Street, Red Bank, New Jersey 07701 (hereinafter, "Borough") and the Count Basie Theatre, Inc., having its principal offices at, 99 Monmouth Street, Red Bank, New Jersey 07701 (hereinafter, "Count Basie") for real estate tax settlement for the following property located within the Borough of Red Bank:

- a. Block 43, Lot 4.01, also known as 95 Monmouth Street; and

W I T N E S S T H :

In consideration of the mutual covenants hereinafter contained and further good and valuable consideration, it is mutually covenanted and agreed as follows:

- a. Count Basie owns one hundred percent (100%) of the stock of Trebies Corp., which is the owner of property designated on the tax records as Block 43, Lots 4.01 in the Borough of Red Bank (the "Property").
 - b. It has been stipulated and agreed by Count Basie and the Borough that Count Basie is exempt from local property taxes under N.J.S.A. 54:4-3.6 because Count Basie meets the statutory requirements of that statute.
 - c. Whereas for the mutual covenants contained herein and other good and valuable consideration, the parties desire to formally memorialize their understanding as follows:
 - i. In lieu of taxes, Count Basie, its successors and assigns, shall make payment to the Borough of an annual charge, beginning with the tax year 2013, in the amount of Ten Thousand Dollars (\$10,000).
 - ii. The amount of this charge will be adjusted each year, up or down, by the percentage change in the Borough tax rate. Thus, if the Borough tax rate for 2014 increases by a rate of 2% over the prior year's rate, then the \$10,000 charge shall increase by 2%, or become \$10,200. Such adjustment, up or down, shall be made each year. The Tax Collector of the Borough will write to Count Basie each year after the Borough tax rate is struck and approved, which letter will set forth the change in the tax rate as well as the change in the charge.
 - iii. Count Basie shall pay the annual charge in equal quarterly payments, similar to regular taxpayers, with payments due on February 1, May 1, August 1 and November 1 of each year.
 - iv. In the event of a default on the part of Count Basie pursuant to its obligation to pay this charge, the Borough may terminate this agreement if the default is not remedied within 30 days of receipt of notice of the default of payment.
 - d. Count Basie represents and warrants that: (1) it is organized for charitable purposes that further the public's moral and mental improvement; (2) its property is actually and exclusively used to further the moral and mental improvement of society; (3) and its operations and use are not conducted for profit.
- If Count Basie relinquishes this status, it shall notify the Borough promptly in writing and, in such event, it is expressly agreed that the property shall then be reinstated for the usual and ordinary tax assessment by the Borough. The

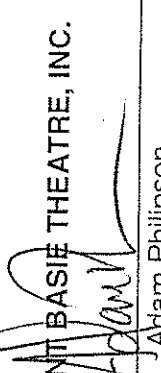
Borough reserves its right to make inquiry as to Count Basie's current status and its use of the subject property at any time pursuant to Title 54 of the New Jersey Statutes.

- e. Count Basie agrees to submit annually to the Borough, within 90 days after the close of its fiscal year concerning this property, its accountant's report of income and expense related to this property.
- f. Any notice required hereunder to be sent by either party to the other shall be sent by certified mail, return receipt requested, or by a nationally recognized overnight delivery service, addressed as follows:
 - i. When sent by the Borough to Count Basie, it shall be addressed to Count Basie Theatre, Inc., 99 Monmouth Street, Red Bank, New Jersey 07701, unless prior to giving such notice Count Basie shall have notified the Borough otherwise in writing of a new address;
 - ii. When sent by Count Basie to the Borough, it shall be addressed to the Tax Collector, Borough of Red Bank, 90 Monmouth Street, Red Bank, New Jersey 07701, unless prior to giving such notice the Borough shall have notified Count Basie otherwise in writing of a new address.
- g. Any change in the ownership of this property which, as determined by the Borough in its reasonable discretion, would materially affect the terms of this agreement, shall render this agreement voidable by the Mayor and Council of the Borough by resolution.
- h. This agreement shall remain in effect until such time that Property is no longer eligible for tax exempt status or until it is otherwise terminated pursuant to the terms hereof.
 - i. While this agreement is in effect and Count Basie is performing thereunder, the property shall be exempt from real estate taxes.

IN WITNESS WHEREOF, the parties have caused these presents to be

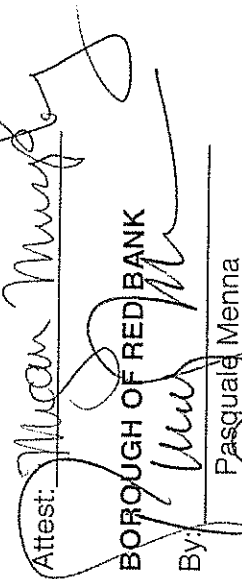
executed the date and year written below.

COUNT BASIE THEATRE, INC.

By: 
Adam Philipson
CEO

Attest:

BOROUGH OF RED BANK

By: 
Pasquale Menna
Mayor

Attest:


Pamela Borghi
Borough Clerk