

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 18-280**

**RESOLUTION RETAINING MICHAEL D. FITZGERALD, ESQ.
TO REPRESENT THE BOROUGH OF RED BANK IN A CLASS ACTION LAWSUIT
AGAINST LEXIS NEXIS UNDER A CONTINGENT FEE ARRANGEMENT**

Councilman Zipprich offered the following resolution and moved its approval:

WHEREAS, the Borough of Red Bank (the "Borough") has been made aware of a class action lawsuit, arising from potential violations of the False Claim Act, on behalf of certain municipalities that contracted with Lexis Nexis for the processing of New Jersey Motor Vehicle accident reports (the "Class Action"); and

WHEREAS, the Borough is a potential plaintiff in the Class Action; and

WHEREAS, the Borough has been offered representation by Michael D. Fitzgerald, Esq., who is prosecuting the Class Action against Lexis Nexis; and

WHEREAS, the representation offered to the Borough by Michael D. Fitzgerald, Esq. is on a contingent-fee basis, whereby the Borough shall not be responsible or have any obligation to pay any legal fees or reimbursements in connection with the representation; and

WHEREAS, pursuant to N.J.S.A. 40A:11-1 *et seq.*, the Borough desires to retain Michael D. Fitzgerald, Esq. under the terms of a non-fair and open contract to represent the Borough in the Class Action; and

WHEREAS, the value of the services to be provided by Michael D. Fitzgerald, Esq. under his contingent-fee arrangement may exceed \$17,500.00; and

WHEREAS, Michael D. Fitzgerald, Esq. shall be required to complete and submit a Business Entity Disclosure Certification which certifies that Michael D. Fitzgerald, Esq. has not made any reportable contributions to a political or candidate committee in the Borough of Red Bank in the previous one year, and that the contract will prohibit Michael D. Fitzgerald, Esq. from making any reportable contributions during the term of the contract; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(i), requires the public advertisement of notice with respect to contracts for professional services awarded without competitive bids;

NOW THEREFORE, BE IT RESOLVED, that the Mayor & Council of the Borough of Red Bank hereby authorizes the Mayor and Borough Clerk to enter into a contract with Michael D. Fitzgerald, Esq. in accordance with the foregoing parameters and the following terms:

1. The law firm of Michael D. Fitzgerald, Esq. shall represent the Borough in the Class Action.
2. The Mayor and Borough Clerk, on behalf of the Borough, are hereby authorized and directed to execute the contract, attached hereto Exhibit A, with Michael D. Fitzgerald, Esq. for the prosecution of the Class Action.
3. No appropriation of funds is required at this time.
4. The contract is awarded without competitive bidding as a professional service under the provisions of N.J.S.A. 40A:11-5(1)(a)(i).
5. That a notice in accordance with this Resolution and the New Jersey Local Public Contracts Law shall be published at least one time in the Borough's official newspaper.
6. That a certified copy of this Resolution shall be provided to the Mayor, Borough CFO, Borough Tax Assessor, and Michael D. Fitzgerald, Esq.

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

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

Dated: November 28, 2018

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 November 28, 2018.

Pamela Borghi

Pamela Borghi, Municipal Clerk