

RESOLUTION NO. 2022 –329

**RESOLUTION OF THE TOWNSHIP COMMITTEE
OF THE TOWNSHIP OF BARNEGAT, COUNTY OF
OCEAN, STATE OF NEW JERSEY, AUTHORIZING
PAYMENT FROM DEVELOPER ESCROW
ACCOUNT AFTER PROTEST TO MARK MADISON
LLC IN ACCORDANCE WITH THE WATER
FACILITIES AGREEMENT**

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, (hereinafter the “Township”) previously entered June 5, 2006 Water Facilities Agreement and amendments thereto; and

WHEREAS, the Agreement provides that as developer’s who benefit from water and sewer improvements constructed by Mark Madison, LLC and its related entities participate in a cost sharing arrangement to properly reimburse Mark Madison, LLC pursuant to the provisions of the Municipal Land Use Law N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, on September 7, 2021, Mercer Management and Development Inc., the developer of a project known as Compass Point, posted payment pursuant to the terms of the agreement in the amount of \$195,699.63 for 212 units for the project and \$10,401.67 for the clubhouse. Said escrow payments were posted under protest in accordance with the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-42; and

WHEREAS, a portion of those payments are paid as reimbursement to Mark Madison LLC and a portion is paid to the Township pursuant to the terms of the Water Facilities Agreement; and

WHEREAS, the amount due to Mark Madison LLC for the 212 units is \$127,277.69 and the amount due to the Township is \$68,421.94; and

WHEREAS, the disbursement pursuant to the clubhouse escrow payment is \$6,764.96 due to Mark Madison LLC and \$3,636.71 due to the Township; and

DASTI & ASSOCIATES

ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08731

WHEREAS, the Municipal Land Use Law provides that a developer can post payments under protest and has one year from the date of the posting of the payments to institute litigation to challenge the methodology used for the contribution; and

WHEREAS, one year has expired and the developer has not further challenged or filed litigation to challenge the posted escrow payments; and

NOW, THEREFORE, BE IT RESOLVED on this 1st day of November, 2022 by the Mayor and Township Committee of the Township of Barnegat, County of Ocean, and State of New Jersey as follows:

1. The Township hereby authorizes payment under the Water Facilities Agreement out of the developer escrow account posted by Mercer Management and Development Inc. as follows:

With regard to the Clubhouse

Mark Madison LLC	\$6,764.96
Township of Barnegat	\$3,636.71

With regard to the 212 Units

Mark Madison LLC	\$127,277.69
Township of Barnegat	\$ 68,421.94

2. The Township hereby authorizes and directs the Mayor, Township Clerk, Township Administrator, and any other Township Official to execute any and all necessary documents to implement the intent of this resolution.

3. A certified copy of this Resolution shall be forwarded by the Township Clerk to the following:

- a. Alfonso Cirulli, Mayor
- b. Martin Lisella, Township Administrator
- c. Thomas Lombarski, CFO

DASTI & ASSOCIATES

ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08731

- d. Christine Roessner, Finance Department
- e. Christopher J. Dasti, Esq., Township Attorney
- f. Kevin Price, Walters Development Co.
- g. Richard J. Hoff, Jr., Esq., Attorney for Mark Madison LLC
- h. Frank J. Petrino, Esq. Attorney for Mercer Mgmt. and Development

CERTIFICATION

I certify that the forgoing Resolution was duly adopted by the Township of Barnegat at a meeting held on November 1, 2022, a quorum being present and voting in the majority.

Donna M. Manno, RMC
Municipal Clerk

Prepared by:
DASTI & ASSOCIATES

DASTI & ASSOCIATES

ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08731