

RESOLUTION NO. 2022-330

**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 AFTER PROTEST IN ACCORDANCE WITH
THE OFF TRACT REIMBURSEMENT
AGREEMENT DATED SEPTEMBER 21, 2015**

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, (hereinafter the “Township”) previously entered into an Off Tract Reimbursement Agreement with Mark Madison LLC dated September 21, 2015; 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 development known as Compass Point, posted payment pursuant to the terms of the Reimbursement Agreement in the amount of \$343,589.74 for 212 units for the project and \$12,889.39 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, 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

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

WHEREAS, pursuant to Municipal Land Use Law, the Township is now obligated to disburse the posted monies to Mark Madison LLC in accordance with the Reimbursement Agreement dated September 21, 2015 in the amount of \$343,589.74 representing escrow payments for 212 units and \$12,889.39 representing the escrow payment for the clubhouse; 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 Off Tract Reimbursement Agreement out of the developer escrow account to Mark Madison LLC in the amount of \$343,589.74 representing the escrow posted by Mercer Management and Development Inc.'s escrow payment for 212 units for the Compass Point development and \$12,889.39 representing escrow payment for the clubhouse at Compass Point.

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
- d. Christine Roessner, Finance Department

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- 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

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