

**MAYOR AND COUNCIL  
BOROUGH OF DEMAREST  
WORK SESSION AGENDA  
December 9, 2024  
7:30 PM**

The notice requirements of the Open Public Meetings Act of the State of New Jersey, P.L. 1975, Chapter 231, have been satisfied by the inclusion of the date, time and place of this meeting in the annual schedule of meetings of this Governing Body. Such schedule of meetings is posted at Borough Hall, on the Borough website and was published in the Record and Star Ledger and was filed in the office of the Borough Clerk.

**Pledge of Allegiance**

Mayor Bernstein, Council President Slowikowski, Councilmember Collins, Councilmember Fox, Councilmember Jiang, Councilmember Marks, Councilmember Reiss

**Roll Call:**

Present:

Absent:

Also Present:

Mayor Bernstein asks for a motion to suspend the regular order of business to present Community Service Awards to the Demarest Volunteer Fire Department, DAA Volunteer Don Morgan, and Recreation Commission Trustees.

A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_

Roll Call:

**Community Service Awards Presentation:**

Mayor Bernstein presents certificates of appreciation for recognition of Outstanding Community Service in 2024 to the following Borough volunteers:

**Volunteer Fire Department Members:**

Chief John Mcloughlin  
Assistant Chief Carl Pavlik  
Captain John Young  
Lieutenant Matthew Carey  
Lieutenant Matthew Mayer

Firefighter:  
Anthony Barbieri  
Jeffery Bellusci

Alfred Bolduc  
Michael Ceccon  
Brian Groschel  
Damien Hunter  
John Iovino  
Eric Mareello  
Jonathan Matics  
Sean McFadden  
Michael Morrison  
Travis Morrison  
Richard Motta  
Kyle Pavlik  
Kevin Peter  
Timothy Slattery  
Robert Teunisen

Auxillary Firefighter Alex Teunisen

Junior Firefighters Liam Carey, Skye Lee

Leigh Barker, Recreation Commission Chair  
Vanessa McAndrews, Recreation Commission Halloween  
Brandis Bukzin, Recreation Commission, Demarest Day  
Alli Deutsch, Recreation Commission, Summer Camp  
Punit Munda, Recreation Commission Men's Basketball  
Stacie Findanis, Recreation Commission Holiday Tree Lighting  
Dakota Griffin, Demarest Day

Don Morgan, Demarest Athletic Association

**ORDINANCE (INTRODUCTION):**

**ORDINANCE 1152-24** AN ORDINANCE ESTABLISHING A JOINT PLANNING BOARD AND AMENDING CHAPTER 27 ENTITLED "LAND USE PROCEDURES"

Mayor Bernstein asks for a motion to introduce on first reading by title Ordinance No. 1152 -24 and it published in the Bergen Record with notice of Public Hearing to be held on December 23, 2024.

A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_

**Roll Call:**

**ORDINANCE PUBLIC HEARING (ADOPTION):**

**ORDINANCE 1150-24 AN ORDINANCE AMENDING AND MODIFYING ARTICLE IV PERSONNEL REGULATIONS, §40-23 OF THE DEMAREST BOROUGH CODE**

Mayor Bernstein asks for a motion to open the public hearing on Ordinance # 1150-24

A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_

Roll Call:

Mayor Bernstein asks if anyone wishes to be heard concerning adoption of this ordinance.

Speaker(s):

Mayor Bernstein asks for a motion to close the Public Hearing on this ordinance and that it be adopted with notice of final passage to be published in the Bergen Record.

A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_

**Roll Call:**

**Work Session Discussion Items:**

Engineer's Report

**Consent Agenda**

Mayor Bernstein asks if any member would like to have any resolution removed from the consent agenda and voted on separately.

Mayor Bernstein asks if any member would like to abstain from voting on any resolution on the consent agenda.

Mayor Bernstein asks for a motion to accept the consent agenda (with any abstentions noted)

**Consent Agenda:**

|                       |  |
|-----------------------|--|
| Resolution No. 203-24 | Authorizing Budget Transfers                               |
| Resolution No. 204-24 | Authorizing Engineering Services for Dam Inspection        |
| Resolution No. 205-24 | Return of Escrow   |
| Resolution No. 206-24 | Authorizing MOA with PBA Local 350                         |
| Resolution No. 207-24 | Authorizing MOA with Teamsters Local 125                   |
| Resolution No. 208-24 | Bills List   |
| Resolution No. 209-24 | Authorizing Execution of Lease Agreement with TASOC        |
| Resolution No. 210-24 | Soil Moving – 242 Hardenburgh                              |
| Resolution No. 211-24 | Authorizing Payment #5 Covino & Sons (Pine Terr. Drainage) |
| Resolution No. 212-24 | Authorizing Bergen County Police Academy Training          |

A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_

**Roll Call:**

**Minutes for Approval:**

November 25, 2024 Regular Meeting

A motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_

**Roll Call:**

**Meeting Open to the Public**

**Closed Session - Resolution No. 2024-011**

Legal Update on Affordable Housing

**Adjournment**

**BOROUGH OF DEMAREST  
STATE OF NEW JERSEY  
ORDINANCE NO. 1152-24  
AN ORDINANCE ESTABLISHING A  
A JOINT PLANNING BOARD AND AMENDING  
CHAPTER 27 ENTITLED "LAND USE PROCEDURES" OF  
THE REVISED GENERAL ORDINANCES OF DEMAREST,  
COUNTY OF BERGEN  
AND STATE OF NEW JERSEY**

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**BE IT ORDAINED** by the Mayor and Council of the Borough of Demarest that Chapter 27 entitled "Land Use Procedures" of the Ordinances of the Borough of Demarest is hereby amended so as to consolidate all powers, duties, authority and jurisdiction of the Board of Adjustment of the Borough of Demarest with those of the Planning Board of the Borough of Demarest and granting the same to the latter pursuant to and in accordance with N.J.S.A. 40:55D-45 in order that it act as the sole municipal land use board of the Borough and further amending and supplementing related provisions of the code to effectuate the said transition and that those portions of the aforesaid set forth below are hereby amended as follows and that portions of the Ordinance not set forth below shall remain unchanged:

**WHEREAS**, N.J.S.A. 40:55D-25(c) authorizes municipalities having a population of 15,000 or less to establish by Ordinance, a single nine-member Planning Board to exercise all the powers of the Planning Board and Board of Adjustment; and

**WHEREAS**, the Mayor and Council find that the Borough of Demarest has a population of less than 15,000, and that the adoption of an Ordinance establishing a joint planning and zoning board of adjustment, Joint Planning Board, is in the best interest of the Borough;

**NOW, THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Demarest in the County of Bergen and State of New Jersey as follows:

**Section 1.** The Code of the Borough of Demarest is hereby amended by repealing Ordinance 547 dated December 6, 1982 and amending Section 27 in its entirety as follows:

## Chapter 27

### LAND USE PROCEDURES

#### ARTICLE I

##### Joint Planning Board

- § 27-1. Establishment; membership.
- § 27-2. Terms.
- § 27-3. Vacancies.
- § 27-4. Organization.
- § 27-5. Joint Planning Board Attorney.
- § 27-6. Experts and staff.
- § 27-7. General powers and duties.
- § 27-8. Time limitations.
- § 27-9. Applications; procedure for filing.
- § 27-10. Citizens Advisory Committee.
- § 27-11. Environmental Commission.

#### ARTICLE III

##### Violations and Penalties

- § 27-27. Violations and penalties.
- § 27-28. Continuing violations.
- § 27-29. Cumulative remedies.

#### ARTICLE II

##### Administrative Provisions

- § 27-12. Compensation; membership on other boards; terms.
- § 27-13. Conflicts of interest.
- § 27-14. Removal from Board.
- § 27-15. Administration; meetings; hearings.
- § 27-16. Minutes.
- § 27-17. Hearings.
- § 27-18. Notice requirements for hearing.
- § 27-19. List of property owners furnished.
- § 27-20. Decisions.
- § 27-21. Publication of decision.
- § 27-22. Payment of taxes.
- § 27-23. Appeals and applications.
- § 27-24. Appeals Time for decision.
- § 27-25. Stay of proceedings; exception.
- § 27-26. Variance Application Checklist

ARTICLE I  
Joint Planning Board

**§ 27-1. Establishment; membership.**

A. There is hereby established pursuant to the Municipal Land Use Law, as amended and supplemented, a Joint Planning Board, consisting of the following Four classes:

- (1) Class I: the Mayor.
- (2) Class II: one of the officials of the municipality other than a member of the governing body, to be appointed by the Mayor, provided that, if there is an Environmental Commission, the member of such Commission who is also a member of the Joint Planning Board, as required by N.J.S.A.
- (3) Class III: a member of the governing body to be appointed by it.
- (4) Class IV: six other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Joint Planning Board as required by N.J.S.A. 40:55A-1 shall be a Class IV Joint Planning Board member unless there are among the Class IV or alternate members of the Joint Planning Board both a member of the Joint Planning Board and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Joint Planning Board.

B. Alternate members. There shall be four alternate members to the Joint Planning Board who shall be appointed by the appointing authority for Class IV members and who shall meet the qualifications of Class IV members. The term of office of each of the alternate members shall be for two years, except that the initial term of such alternate members shall be one year and two years, as designated by the appointing authority. The Mayor shall designate the alternate members as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4." Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

C. Nothing in this chapter shall be construed to affect the term of any of the present Joint Planning Board members, all of whom shall continue in office until completion of the term for which they were appointed.

**§ 27-2. Terms.**

The term of the member composing Class I shall correspond with his official tenure. The term of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or a Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The term of all Class IV members first appointed pursuant to this chapter shall be so determined that, to the greatest practicable extent, the expiration of such term shall be evenly distributed over the first four years after their appointment as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four years, and further provided that nothing herein shall affect the term of any present member of

the Joint Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

**§ 27-3. Vacancies.**

If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

**§ 27-4. Organization.**

The Joint Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary, who may be either a member of the Joint Planning Board or a municipal employee designated by it.

**§ 27-5. Joint Planning Board Attorney.**

There is hereby created the office of Joint Planning Board Attorney. The Joint Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Joint Planning Board Attorney, who shall be an attorney other than the Municipal Attorney. The Joint Planning Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

**§ 27-6. Experts and staff.**

The Joint Planning Board may employ or contract for the services of experts and other staff and services as it may deem necessary. The Joint Planning Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

**§ 27-7. General powers and duties.**

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties:

- A. To make and adopt and from time to time amend a Master Plan for the physical development of the municipality, including any areas outside its boundaries, which in the Board's judgment bear essential relation to the planning of the municipality, in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. To administer the provisions of Chapter 153, Subdivision and Site Plan Review, of the Borough of Demarest in accordance with the provisions of said ordinance and the Municipal Land Use Law, as amended and supplemented.
- C. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- D. To assemble data on a continuing basis as part of a continuous planning process.
- E. To annually prepare a program of municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the governing body.
- F. To consider and make report and recommendations to the governing body within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also pass upon other matters specifically referred to the Joint Planning Board by the governing body, pursuant to the provisions of N.J.S.A. 40:55D-26b.

- G. To grant variances, exceptions to and interpretations of the zoning ordinances and to hear use applications. Whenever relief is requested pursuant to this subsection, notice of hearing on the application for development shall include reference to the request for variance or direction for issuance of a permit, as the case may be.
- H. Where an applicant applies to the Joint Planning Board for a subsection d variance, under N.J.S. 40:55D-25c, Class I and Class III members may not participate in the consideration of such an application. Removal of the Class I and Class III members reduces a nine-member board to seven voting members, allowing it to function as all other boards of adjustment. This reduction in voting membership preserves the statutory scheme of N.J.S. 40:55D-70 requiring the affirmative vote of five members of the statutory seven-member board to grant a d variance.
- I. To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

**§ 27-8. Time limitations.**

- A. To administer the provisions of Chapter 153, Subdivision Minor subdivision approval. Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Joint Planning Board or within such further time as may be consented to by the applicant.
- B. Preliminary major subdivision approval. Upon submission of a complete application for a subdivision of 10 or fewer lots, the Joint Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the applicant. Upon submission of a complete application for a subdivision of more than 10 lots, the Joint Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Joint Planning Board shall be deemed to have granted preliminary approval for the subdivision.
- C. Preliminary site plan approval. Upon submission of a complete application for preliminary site plan approval, the Joint Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the applicant. If the application is for a site plan which involves more than 10 acres of land and more than 10 dwelling units, notwithstanding the previous sentence, the Joint Planning Board shall grant or deny preliminary approval within 95 days of the date of submission or within such further time as may be consented to by the applicant.
- D. Final minor subdivision approval and final site plan approval. Application for final major subdivision approval or final site plan approval shall be granted or denied within 45 days of submission of a complete application or within such further time as may be consented to by the applicant.

**§ 27-9. Applications; procedure for filing.**

Applications for development within the jurisdiction of the Joint Planning Board pursuant to the Municipal Land Use Law, as amended and supplemented, shall be filed with the Secretary of the Joint Planning Board. The applicant shall file at least 14 days before the date of the monthly meeting of the Board, as appropriate, six copies of a sketch plat; six copies of applications for minor subdivision approval; six copies of applications for major subdivision approval or six copies of an application for site plan review or planned

development. At the time of filing the application but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provisions of this chapter or any rule of the Joint Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Joint Planning Board. The Secretary of the Joint Planning Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

**§ 27-10. Citizens Advisory Committee.**

The Mayor may appoint one or more persons as a Citizens Advisory Committee to assist or collaborate with the Joint Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

**§ 27-11. Environmental Commission.**

Whenever the Environmental Commission has prepared and submitted to the Joint Planning Board an index of the natural resources of the municipality, the Joint Planning Board shall make available to the Environmental Commission an informational copy of every application for development and related documents to the Joint Planning Board. Failure of the Joint Planning Board to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

**ARTICLE II  
Administrative Provisions**

**§ 27-12 Compensation; membership on other boards; terms.**

All members of the Joint Planning Board shall serve without compensation, and the members of Class IV shall hold no other municipal office, except that one of such members may be a member of the Board of Education and one of such members may be a member of the Environmental Commission.

**§ 27-13. Conflicts of interest.**

No member of the Joint Planning Board shall act on any matter in which he has either directly or indirectly a personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the municipal agency on the hearing of such matter nor participate in any discussion or decision relating thereto.

**§27-14 - Removal from Board.**

Any member of the Joint Planning Board, except the Class I member, may be removed by the governing body for cause, after a public hearing, if he or she requests the same.

**§ 27-15. Administration; meetings; hearings.**

- A. The Joint Planning Board shall adopt and may amend reasonable rules and regulations not inconsistent with state law or any applicable Borough ordinance for the administration of its functions, powers and duties. Copies of all such rules and regulations and any amendments thereto shall be filed in the office of the Borough Clerk and shall be made available to any person upon request and payment of the fee for such copy.
- B. The Joint Planning Board shall, by its rules, fix the time and place for holding its regular meetings. Regular meetings shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development or appeals to process. Special meetings of the Joint Planning Board may be held at the call of the Chairmen or at the request of any two members. Such meetings shall be held

on notice to the members of the Board and the public in accord with state law. All regular meetings and special meetings shall be open to the public, and minutes of such meetings shall be kept and thereafter be made available for public inspection during normal business hours at the office of the Borough Clerk.

- C. The Joint Planning Board shall hold a hearing on each application for development or adoption, revision or amendment of the Master Plan, each application and appeal to come before it. The Joint Planning Board shall make rules governing such hearings. Any maps and documents for which approval is sought at such hearings shall be on file and available for public inspection during normal business hours at the office of the Borough Clerk at least 10 days before the date of the hearing. The Board shall provide for the verbatim recording of all proceedings at such hearings by either stenographic, mechanical or electronic means and shall furnish a transcript or duplicate recording in lieu thereof on request of any interested party at such party's expense upon payment of the fee hereinafter set forth.

#### **§ 27-16. Minutes.**

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Municipal Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

#### **§ 27-17. Hearings.**

- A. Rules. The Joint Planning Board shall make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of the Municipal Land Use Law<sup>5</sup> or of this chapter.
- B. Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the County and Municipal Investigations Law (N.J.S.A. 2A:67A-1 et seq.) shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitation as to time and number of witnesses.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The municipal agency shall not be required to permit any interested party to listen to its recording, but the municipal agency shall furnish a transcript, or duplicate recording in lieu thereof, on request, to an interested party at his expense. The municipal agency in furnishing a transcript shall not charge more than the maximum permitted by N.J.S.A. 2B:7-4. Each transcript shall be certified in writing by the transcriber to be accurate. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

#### **§ 27-18. Notice requirements for hearing.**

Whenever a hearing is required on an application for development pursuant to the Municipal Land Use Law, as amended and supplemented, or pursuant to the determination of the municipal agency in question, the application shall give notice thereof as follows:

- A. Public notice shall be given by publication in the official newspaper of the municipality at least 10 days prior to the date of the hearing.
- B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within 200 feet in all directions of the property which is the subject of such hearing, and whether located within or without the municipality in which applicant's land is located. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on said current tax duplicate. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
- C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service by certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to the Municipal Land Use Law to the owners of land in such adjoining municipality which is located within 200 feet of the subject premises.
- D. Notice shall be given by personal service or certified mail to the Bergen County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within 200 feet of a municipal boundary.
- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to the Municipal Land Use Law, as amended and supplemented.
- G. All notices hereinabove specified shall be given at least 10 days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development.
- H. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- I. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.
- J. Notice requirements shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice to a condominium association, horizontal property regime, community trust or homeowner's association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or home owners on account of such common elements or areas.

**§ 27-19. List of property owners furnished.**

Upon the written request of an applicant, the Tax Assessor shall, within seven days, make and certify a list from the current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to § 27-28 of this chapter. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name or \$10, whichever is greater, may be charged for such list.

**§ 27-20. Decisions.**

- A. Each decision on any application for development shall be set forth in writing as a resolution of the Board, which shall include findings of fact and legal conclusions based thereon.
- B. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Municipal Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.
- C. Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application.
- D. The municipal agency may provide such written decision and findings and conclusions either on the date of the meeting at which the municipal agency takes to grant or deny approval or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of memorialization setting forth the decision and the findings and conclusions of the municipal agency thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.
- E. The adoption of a resolution of memorialization pursuant to this section shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the municipal agency who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the municipal agency, and not to be an action of the municipal agency, except that the failure to adopt such resolution within the forty-five-day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.
- F. Whenever a resolution of memorialization is adopted in accordance with this section, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filings and publications required by law.

**§ 27-21. Publication of decision.**

A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the Secretary of the Joint Planning Board with separate charge to the applicant. Said notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

**§ 27-22. Payment of taxes.**

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Joint Planning Board shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such

application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by the Board shall be conditioned upon either prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

**§27-23. - Appeals and applications.**

Appeals to the Joint Planning Board may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the Zoning Ordinance or Official Map. Such appeals shall be taken within 20 days of said decision by filing a notice of appeal with the officer from whom the appeal is taken, specifying the grounds of such appeal. Said officer shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

**§27-24. – Appeals Time for decision.**

The Joint Planning Board shall render a decision not later than 120 days after the date an appeal is taken from the decision of an administrative officer or of the submission of a complete application for development to the Board.

**§27-25. - Stay of proceedings; exception.**

An appeal to the Joint Planning Board shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the officer from whose action the appeal is taken certifies to the Board, after the notice of appeal is filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Superior Court.

**§27-26. – Variance Application Checklist**

This checklist is for use by the borough to determine application completeness when an applicant submits an application for a variance.

**GENERAL REQUIREMENTS**

- One Original and 15 copies of all fully execute application forms.\*
  - One Original signed and sealed set of plans and 15 copies.\*
  - One original current (within 9 months) signed and sealed survey and 15 copies.\*
  - Digital copies of all plans.
  - Sixteen copies of the Zoning Officer Denial form.\*
  - Payment in full (with separate checks) of all application fees and escrow deposits with W9.
  - One certificate from the Tax Collector stating all taxes are paid and up to date
  - One certification of applicant (must be notarized)
  - One owners affidavit (must be notarized)
- \* Additional copies may be required.

**ALL SUBMITTED PLANS MUST INCLUDE**

- List of requested variances and waivers from any requirements, together with a statement of reasons why same should be granted (if applicable).
- A general description of the proposed development and a brief assessment of its effect on the site, adjacent properties and the neighborhood. Including but not limited to effects upon the natural environment, land use patterns, traffic and circulation, visual factors, utilities, and drainage.
- Zoning district in which parcel is located complete with all zone criteria.
- Title block containing name of applicant and owner, preparer, block and lot numbers and date prepared.

- Scale of map both written and graphic.
- North arrow.
- Location of existing buildings and structures, including fences and retaining walls.
- All existing and proposed impervious surfaces are to be shown.
- All existing and proposed easements or rights-of-way.
- Landscape plan and lighting plan.
- Proposed stormwater management measures (if applicable).
- Existing and proposed contours to determine the natural drainage of the land.

**ARTICLE III**  
**Violations and Penalties**

**§ 27-27. Violations and penalties.**

Any owner, lessee or other person, or persons, who permits, takes part or assists in any violation of any provision of this chapter shall, upon conviction, for each and every violation thereof, be subject to a fine of not more than \$200 or be subject to imprisonment for a period not exceeding 90 days, or both, in the discretion of the Magistrate before whom such conviction shall be had.

**§ 27-28. Continuing violations.**

When such violation shall continue for more than one day, each day of the continuation of said offense shall be considered as a separate violation of this chapter.

**§ 27-29. Cumulative remedies.**

No provision of this article shall be construed to prevent the Borough of Demarest from taking injunctive proceedings in the Superior Court of New Jersey, or to any other court, for the proper enforcement of this chapter and the prevention of continuance of violations of the same.

**Section 2. Repealer.** All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

**Section 3. Savings and Construction.** This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Code.

**Section 4. Codification.** This ordinance shall be codified as amendments to the chapters set forth herein.

**Section 5. Effective Date.** This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:

\_\_\_\_\_  
Julie Falkenstern, Acting Municipal Clerk

\_\_\_\_\_  
Brian Bernstein, Mayor

Introduced: \_\_\_\_\_  
2nd Reading: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**BOROUGH OF DEMAREST  
COUNTY OF BERGEN**

**ORDINANCE 1150-2024**

---

**ORDINANCE AMENDING AND MODIFYING ARTICLE IV PERSONNEL  
REGULATIONS, §40-23 OF THE DEMAREST BOROUGH CODE**

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**Section 1. Purpose & Authority.** The purpose of this ordinance is to modify and amend §40-23 pursuant to N.J.S.A. 40:48-1, and 40:49-2.

**Section 2. Amendments.** (amendments are highlighted, deletions strikethrough).

§40-23

Appointment of a patrolman to the Police Department is for a probationary period of up to 12 months after he has completed training. The probationary period may be terminated at any time, or extended, in the sole discretion of the Police Chief or his designee if the conduct or capacity of the probationer has not been satisfactory as determined by the Police Chief or his designee. Continuation in the service is dependent upon the conduct of the appointee and his fitness to perform his duties. At the termination of the probationary period, or any extended probationary period, if the conduct or capacity of the probationer has not been satisfactory, he/she shall be notified in writing that he/she will not receive absolute appointment, and his/her services shall be terminated by the Police Chief without a trial.

**Section 3. Repealer.** All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

**Section 4. Savings and Construction.** This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Demarest Borough Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Borough Code.

**Section 5. Codification.** This ordinance shall be codified as amendments to the chapters set forth herein.

This ordinance shall be codified as amendments

**Section 6. Effective Date.** This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:

\_\_\_\_\_  
Acting Municipal Clerk

\_\_\_\_\_  
Mayor Brian Bernstein

Introduced: November 25, 2024

2<sup>nd</sup> Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

**Resolution of the Demarest Governing Body**

**Resolution No. 203-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: RESOLUTION TO Authorizing the Transfer of 2024 Budget Appropriations**

WHEREAS, N.J.S.A. 40A:4-58 provides that should it become necessary, during the last two months of the fiscal year to expend for any of the purposes specified in the budget an amount in excess of the respective sums appropriated over and above the amount deemed to be necessary to fulfill the purpose of such appropriation, the Borough Council may by resolution setting forth the facts (adopted by not less than 2/3 vote of the full membership thereof) transfer the amount of such excess of those appropriations deemed to be insufficient.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Demarest that the following transfers in the 2024 Budget Appropriations are authorized:

| <b>Account</b>        | <b>Account#</b>                 | <b>transfer out</b> | <b>transfer In</b> |
|-----------------------|---------------------------------|---------------------|--------------------|
| 4-01-2010-20-120-2022 | MUNICIPAL CLERK O/E             |                     | \$ 467.00          |
| 4-01-2010-20-121-2023 | ELECTIONS O/E                   |                     | \$ 688.00          |
| 4-01-2010-20-130-2028 | FINANCIAL ADMIN O/E             |                     | \$ 6,224.00        |
| 4-01-2010-20-130-2059 | FINANCIAL ADMIN O/E             |                     | \$ 855.00          |
| 4-01-2010-20-135-2020 | AUDIT O/E                       |                     | \$ 22,545.00       |
| 4-01-2010-20-145-2030 | REVENUE ADMIN O/E               |                     | \$ 271.00          |
| 4-01-2010-20-165-2020 | ENGINEERING EXPENSE O/E         |                     | \$ 11,890.00       |
| 4-01-2010-21-180-2027 | PLANNING BOARD O/E              |                     | \$ 33.00           |
| 4-01-2010-21-185-2027 | ZONING BOARD O/E                |                     | \$ 545.00          |
| 4-01-2010-22-195-2030 | CONSTR. CODE O/E                |                     | \$ 871.00          |
| 4-01-2010-22-195-2059 | CONSTR. CODE O/E                |                     | \$ 5,980.00        |
| 4-01-2010-23-210-2090 | INSURANCE O/E                   |                     | \$ 126,108.00      |
| 4-01-2010-23-215-2191 | INSURANCE O/E                   |                     | \$ 18,595.00       |
| 4-01-2010-23-220-2092 | GROUP INSURANCE PLAN EMPLOY O/E |                     | \$ 5,541.00        |
| 4-01-2010-25-240-2030 | POLICE DEPT O/E                 |                     | \$ 7,092.00        |
| 4-01-2010-25-240-2043 | POLICE DEPT O/E                 |                     | \$ 14,492.00       |
| 4-01-2010-25-240-2045 | POLICE DEPT O/E                 |                     | \$ 830.00          |
| 4-01-2010-25-240-2057 | POLICE DEPT O/E                 |                     | \$ 146.00          |

|                       |                                |               |               |
|-----------------------|--------------------------------|---------------|---------------|
| 4-01-2010-25-240-2059 | POLICE DEPT O/E                |               | \$ 681.00     |
| 4-01-2010-25-265-2042 | FIRE DEPT O/E                  |               | \$ 1,364.00   |
| 4-01-2010-25-268-2058 | FIRE PREVENTION O/E            |               | \$ 1,794.00   |
| 4-01-2010-26-300-2030 | STREETS & ROADS O/E            |               | \$ 511.00     |
| 4-01-2010-26-300-2058 | STREETS & ROADS O/E            |               | \$ 510.00     |
| 4-01-2010-26-310-2030 | PUBLIC BUILDINGS & GROUNDS O/E |               | \$ 1,789.00   |
| 4-01-2010-26-510-2000 | STORM WATER MGMT               |               | \$ 1,050.00   |
| 4-01-2010-27-330-2020 | BOARD OF HEALTH O/E            |               | \$ 6,068.00   |
| 4-01-2010-30-420-2020 | CELEBRATION OF PUBLIC EVENTS   |               | \$ 490.00     |
| 4-01-2010-31-440-2077 | TELEPHONE EXPENSE              |               | \$ 3,539.00   |
| 4-01-2010-31-445-2072 | PUBLIC UTILITIES/WATER         |               | \$ 2,276.00   |
| 4-01-2010-31-457-2078 | FLOW CHARGES CRESSKILL         |               | \$ 111.00     |
| 4-01-2010-20-120-2021 | MUNICIPAL CLERK O/E            | \$ 578.00     |               |
| 4-01-2010-20-120-2036 | MUNICIPAL CLERK O/E            | \$ 2,026.00   |               |
| 4-01-2010-20-120-2078 | MUNICIPAL CLERK O/E            | \$ 13,849.00  |               |
| 4-01-2010-20-130-2042 | FINANCIAL ADMIN O/E            | \$ 271.00     |               |
| 4-01-2010-20-130-2060 | FINANCIAL ADMIN O/E            | \$ 24,626.00  |               |
| 4-01-2010-20-155-2021 | LEGAL EXPENSE O/E              | \$ 22,545.00  |               |
| 4-01-2010-23-215-2090 | INSURANCE O/E                  | \$ 126,108.00 |               |
| 4-01-2010-25-240-2058 | POLICE O/E                     | \$ 11,100.00  |               |
| 4-01-2010-25-260-2077 | AMBULANCE O/E                  | \$ 1,364.00   |               |
| 4-01-2010-26-290-2031 | STREETS AND ROADS O/E          | \$ 5,926.00   |               |
| 4-01-2010-26-290-2038 | STREETS AND ROADS O/E          | \$ 12,377.00  |               |
| 4-01-2010-26-290-2058 | STREETS AND ROADS O/E          | \$ 15,018.00  |               |
| 4-01-2010-26-290-2999 | STREETS AND ROADS O/E          | \$ 6,068.00   |               |
| 4-01-2010-27-330-2021 | BOARD OF HEALTH O/E            | \$ 1,500.00   |               |
| 4-01-2010-26-315-2025 | BOROUGH MECHANIC O/E           |               | \$ 2,088.59   |
| 4-01-2010-25-260-2030 | AMBULANCE O/E                  | \$ 2,088.59   |               |
| 4-01-2010-28-370-2066 | RECREATION O/E                 |               | \$ 19,616.75  |
| 4-01-2881-00-0000-000 | DUE TO/FROM REC TRUST          | \$ 19,616.75  |               |
| C-04-2150-55-106-5001 | AMBULANCE EQUIPMENT            |               | \$ 29,710.00  |
| 4-01-2010-25-240-2051 | POLICE O/E                     | \$ 29,710.00  |               |
|                       |                                |               |               |
| TOTALS                |                                | \$ 294,771.34 | \$ 294,771.34 |

APPROVED:

\_\_\_\_\_  
Mayor Brian Bernstein

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024

\_\_\_\_\_  
Julie Falkenstern, Acting Borough Clerk

**Resolution of the Demarest Governing Body**

**Resolution No. 204-24  
December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: RESOLUTION AUTHORIZING ENGINEERING SERVICES FOR DAM INSPECTION**

=====

**WHEREAS**, the Borough of Demarest has a need for engineering services related to the required periodic inspection of the Davies Arboretum Dam; and

**WHEREAS**, the Borough received a proposal dated November 18, 2024 from Colliers Engineering & Design to provide those services, attached, for the sum of \$8,500.00; and

**WHEREAS**, the appointment and the contract are exempted from the competitive bidding requirements of the Local Public Contracts Law, (NJSA 40A:11-1 et. Seq.) as "Professional Services", pursuant to NJSA 40A:11-5(1)(a); and

**WHEREAS**, the vendor is the currently appointed 2024 Borough Engineer for the Borough of Demarest and the Mayor and Council awarded said 2024 contract pursuant to the provisions of NJSA 19:44A-20.5; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available in account 01-2010-20-165-2020;

**NOW THEREFORE, BE IT RESOLVED**, by the Borough of Demarest that the Borough Administrator is authorized to execute the agreement to authorize Colliers Engineering & Design to perform the work described herein not to exceed \$8,500.00, a copy of which is annexed to this Resolution.

**APPROVED:**

\_\_\_\_\_  
Mayor Brian Bernstein

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024

\_\_\_\_\_  
Julie Falkenstern, Acting Borough Clerk

## Client Authorization Form

**Date:** November 18, 2024  
**Client:** Julie Falkenstern, Administrator  
**Project Name:** Davies Arboretum Dam Inspection  
**Task Name:** Inspection & Report  
**Project No.:** DEB0071P

We request your review and authorization of services as outlined below in order to proceed:

**Services requested by:** Borough of Demarest

**Description of service contract scope:**

Colliers Engineering & Design, Inc. (CED) proposes to provide the following service(s):

- Complete an Inspection Report, Visual Inspection Checklist and Operation & Maintenance (O&M) Manual for the Davies Arboretum Dam.
- Perform a *Regular Inspection* of the dam based on the "Guidelines for Inspection of Existing Dams" by the New Jersey Department of Environmental Protection.
- The previous report will be used as reference.
- Exclusions:
  - Structural Analysis
  - Subsurface Investigation
  - Topographic Survey
  - Hydrologic/Hydraulic Analysis
  - Permitting

**The Business Terms and Conditions of the original contract shall still apply.**

Services outlined above shall be invoiced:

**Per diem/hourly**

**Lump sum**

**Payment terms are NET30 of receipt of invoice.**

**Estimated Budget = \$ 8,500.00**

**Fee = \$** \_\_\_\_\_

I (we) hereby authorize the services to proceed as outlined above:

Client Authorization Form prepared by:

Nick Chelius

\_\_\_\_\_  
Signer's Name (Print)

\_\_\_\_\_  
Project Manager's Name (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Project Manager's Signature

\_\_\_\_\_  
11/18/2024

Please sign the form where indicated & email or mail to Colliers Engineering & Design for our records.

**Resolution of the Demarest Governing Body**

**Resolution No. 205-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: RESOLUTION AUTHORIZING ACTION TO RELEASE ESCROW**

=====

**WHEREAS**, the following applicant(s) posted escrow monies with the Borough for payment to Borough professionals in conjunction with development; and

**WHEREAS**, Borough Professionals have determined that all required improvements have been satisfactorily completed and all fees due for services rendered have been received;

| <u><b>Applicant</b></u>          | <u><b>Address</b></u>                                   | <u><b>Account</b></u>                    | <u><b>Amount</b></u>     |
|----------------------------------|---|--|--------------------------|
| Raymond Greiche<br>36 Forest LLC | 62 Central Ave.<br>3 Canterbury Ct.<br>Alpine, NJ 07620 | 13-8000-00-8224-11                       | \$720.00                 |
| Yao-Tian Zhang                   | 6 Van Horn St.  | 13-6000-00-6223-07<br>13-6000-00-6224-13 | \$4,600.00<br>\$1,600.00 |

**NOW THEREFORE, BE IT RESOLVED**, that the Chief Financial Officer is and hereby authorized to return the balance of escrow monies to the applicant(s).

**APPROVED:**

\_\_\_\_\_  
Mayor Brian Bernstein

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024

\_\_\_\_\_  
Julie Falkenstern, Acting Borough Clerk

**Resolution of the Demarest Governing Body**

**Resolution No. 206-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: RESOLUTION AUTHORIZING EXECUTION OF MEMORANDUM OF AGREEMENT BETWEEN THE BOROUGH OF DEMAREST AND THE POLICE BENEVOLENT ASSOCIATION LOCAL 350 (DEMAREST UNIT)**

---

**WHEREAS**, the Borough of Demarest and The Police Benevolent Association Local 350 (Demarest Unit) (the “PBA”) are parties to a collective bargaining agreement effective January 1, 2021 through December 31, 2024 (the “Agreement”); and

**WHEREAS**, the Borough and the PBA have negotiated in good faith the terms of a new collective bargaining agreement for the period January 1, 2025 through December 31, 2028; and

**WHEREAS**, a Memorandum of Agreement setting forth the agreed upon terms for a new collective bargaining agreement is annexed hereto; and

**WHEREAS**, upon execution of the Memorandum of Agreement, it is anticipated that a formal Collective Bargaining Agreement will be drafted and executed between the parties setting forth all of the terms of the parties agreement; and

**WHEREAS**, it is in the best interest of the Borough to authorize the execution of a Memorandum of Agreement between the Borough and PBA in substantially the same form and substance as the attached Agreement, subject only to language changes (but not substantive terms of employment) as agreed upon by the Borough Attorney and the PBA legal counsel.

**NOW THEREFORE, BE IT RESOLVED**, by the Borough of Demarest that the Borough Administrator is hereby authorized the execute a Memorandum of Agreement between the Borough of Demarest and The Police Benevolent Association in substantially the same form and substance as the attached Agreement, subject only to language changes (but not substantive terms of employment) as agreed upon by the Borough Attorney and the PBA legal counsel.

**APPROVED:**

---

**Brian Bernstein, Mayor**

**CERTIFICATION OF CFO**

I, Peter Suh, do hereby certify the availability of funds for the expenditure referenced herein.

---

Peter Suh, CFO

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024.

---

Julie Falkenstern, Acting Borough Clerk

**Resolution of the Demarest Governing Body**

**Resolution No. 207-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: RESOLUTION, AUTHORIZING EXECUTION OF MEMORANDUM OF AGREEMENT BETWEEN THE BOROUGH OF DEMAREST AND THE TEAMSTERS UNION LOCAL 125**

---

**WHEREAS**, the Borough of Demarest and The Teamsters Union Local 125 are parties to a collective bargaining agreement effective January 1, 2020 through December 31, 2023 (the “Agreement”); and

**WHEREAS**, the Agreement was extended for a term of one year without execution of a successor agreement; and

**WHEREAS**, the Borough and the Teamsters Union Local 125 have negotiated in good faith the terms of a new collective bargaining agreement for the period January 1, 2025 through December 31, 2028; and

**WHEREAS**, a Memorandum of Agreement setting forth the agreed upon terms for a new collective bargaining agreement is annexed hereto; and

**WHEREAS**, upon execution of the Memorandum of Agreement, it is anticipated that a formal Collective Bargaining Agreement will be drafted and executed between the parties setting forth all of the terms of the parties agreement; and

**WHEREAS**, it is in the best interest of the Borough to authorize the execution of a Memorandum of Agreement between the Borough and Teamsters Union local 125 in substantially the same form and substance as the attached Agreement, subject only to language changes (but not substantive terms of employment) as agreed upon by the Borough Attorney and the Teamsters Union Local 125 business agent.

**NOW THEREFORE, BE IT RESOLVED**, by the Borough of Demarest that the Borough Administrator is hereby authorized the execute a Memorandum of Agreement between the Borough of Demarest and Teamsters Union Local 125 in substantially the same form and substance as the attached Agreement, subject only to language changes (but not substantive terms of employment) as agreed upon by the Borough Attorney and the Teamsters Union Local 125 business agent.

**APPROVED:**

---

**Brian Bernstein, Mayor**

**CERTIFICATION OF CFO**

I, Peter Suh, do hereby certify the availability of funds for the expenditure referenced herein.

---

Peter Suh, CFO

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024.

---

Julie Falkenstern, Acting Borough Clerk

**Resolution of the Demarest Governing Body**

**Resolution No. 208-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: PAYMENT OF BILLS**

---

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Demarest that the following bills in the sum of \$ 203,612.78 on bill list dated December 5, 2024 have been approved and authorized for payment and the that the Mayor, Borough Clerk and Borough Treasurer are hereby authorized to issue warrants in payment of same.

**APPROVED:**

\_\_\_\_\_  
**Brian Bernstein, Mayor**

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024.

\_\_\_\_\_  
Julie Falkenstern, Acting Borough Clerk



| Vendor # | Name                          | PO #     | PO Date  | Description                   | Status    | Amount           | Void Amount | Contract | PO Type |
|----------|-------------------------------|----------|----------|-------------------------------|-----------|------------------|-------------|----------|---------|
| CROSS010 | CROSSING GUARD SERVICES LLC   |          |          |                               | Continued |                  |             |          |         |
|          |                               | 24-01755 | 12/05/24 | I#1218 NVRHS Nov 2024         | Open      | 2,462.96         | 0.00        |          |         |
|          |                               |          |          |                               |           | <u>17,240.72</u> |             |          |         |
| DARYL005 | DARYL FOX                     |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01701 | 11/26/24 | atlantic city reimbursements  | Open      | 640.43           | 0.00        |          |         |
| DELSPO05 | DEL'S PEST ARREST INC         |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01714 | 12/03/24 | november service              | Open      | 300.00           | 0.00        |          |         |
| DEMAR005 | DEMAREST AMBULANCE CORP.      |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01704 | 11/26/24 | fox salary donation           | Open      | 1,000.00         | 0.00        |          |         |
| DEMAR025 | DEMAREST FIRE ASSOCIATION     |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01705 | 11/26/24 | fox salary donation           | Open      | 1,000.00         | 0.00        |          |         |
|          |                               | 24-01707 | 11/26/24 | installation dinner           | Open      | 12,000.00        | 0.00        |          |         |
|          |                               |          |          |                               |           | <u>13,000.00</u> |             |          |         |
| DEMAR020 | DEMAREST FREE PUBLIC LIBRARY  |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01706 | 11/26/24 | fox salary donation           | Open      | 1,000.00         | 0.00        |          |         |
| DOORW005 | DOOR WORKS, INC               |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01702 | 11/26/24 | door repair                   | Open      | 455.00           | 0.00        |          |         |
| DRAGE005 | DRAGER SAFETY DIAGNOSTICS INC |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01527 | 10/22/24 | cert solution                 | Open      | 156.00           | 0.00        |          |         |
| EMERS005 | EMERSON FENCE INC             |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01316 | 09/19/24 | fence repair                  | Open      | 1,134.00         | 0.00        |          |         |
| GANNE005 | GANNETT MEDIA CORP            |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01729 | 12/03/24 | november postings             | Open      | 776.80           | 0.00        |          |         |
| GFOAO005 | GFOA OF NJ                    |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01720 | 12/03/24 | 2024 membership dues          | Open      | 100.00           | 0.00        |          |         |
| HARRI005 | HARRINGTON PK. BOE            |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01743 | 12/04/24 | town share of maint/repair    | Open      | 1,578.00         | 0.00        |          |         |
| IMPAC005 | IMPAC FLEET                   |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01756 | 12/05/24 | I#SQLIM-1022334 Nov 2024 Fuel | Open      | 9,310.02         | 0.00        |          |         |
| INTER035 | INTER CITY TIRE               |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01712 | 12/03/24 | 4 trailer tires               | Open      | 711.50           | 0.00        |          |         |
| LAWOF015 | LAW OFFICES OF MARK D. MADAIO |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01721 | 12/03/24 | meeting attendance            | Open      | 250.00           | 0.00        |          |         |
| LOGOM005 | LOGO MAT CENTRAL              |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01676 | 11/20/24 | 4' ROUND LOGO AREA RUG        | Open      | 393.30           | 0.00        |          |         |
| NFPA0005 | NFPA                          |          |          |                               |           |                  |             |          |         |
|          |                               | 24-01698 | 11/25/24 | Annual NFPA Membership        | Open      | 225.00           | 0.00        |          |         |

| Vendor # | Name                           | PO #     | PO Date  | Description                    | Status | Amount        | Void Amount | Contract | PO Type |
|----------|--------------------------------|----------|----------|--------------------------------|--------|---------------|-------------|----------|---------|
| NJDEP005 | NJ DEPT OF HEALTH              | 24-01727 | 12/03/24 | november dog license           | Open   | 2.40          | 0.00        |          |         |
| NJLM0005 | NJLM                           | 24-01718 | 12/03/24 | 2025 membership dues           | Open   | 612.00        | 0.00        |          |         |
| ONECA005 | ONE CALL CONCEPTS              | 24-01717 | 12/03/24 | november service               | Open   | 34.32         | 0.00        |          |         |
| OPTIM005 | OPTIMUM                        | 24-01752 | 12/05/24 | A#07802088748013 11/01-11/30   | Open   | 39.24         | 0.00        |          |         |
| PATRO005 | PATROL PC                      | 24-01325 | 09/20/24 | 2024 tahoe car upgrades        | Open   | 7,393.31      | 0.00        |          |         |
| PUBLI005 | PUBLIC SERVICE GAS & ELECTRIC  | 24-01757 | 12/05/24 | A#6532685801 10/15/24-11/13/24 | Open   | 32.70         | 0.00        |          |         |
|          |                                | 24-01758 | 12/05/24 | V# M00D02 Oct 2024 09/14-10/14 | Open   | 249.00        | 0.00        |          |         |
|          |                                | 24-01761 | 12/05/24 | A#7762427708 563 Piermont Rd   | Open   | 16.23         | 0.00        |          |         |
|          |                                |          |          |                                |        | <u>297.93</u> |             |          |         |
| QUADI010 | QUADIENT FINANCE USA, INC.     | 24-01719 | 12/03/24 | postage                        | Open   | 778.70        | 0.00        |          |         |
| RAYSL005 | RAY'S TREE SERVICE, LLC        | 24-01730 | 12/03/24 | quarterly fee (oct,nov,dec)    | Open   | 1,650.00      | 0.00        |          |         |
| SOMES005 | SOME'S UNIFORMS                | 24-00800 | 07/10/24 | armor package                  | Open   | 2,510.06      | 0.00        |          |         |
| STACI005 | STACIE FINDANIS                | 24-01747 | 12/04/24 | holiday reimbursement          | Open   | 356.11        | 0.00        |          |         |
| SUNSE005 | SUNSET HAND CAR WASH           | 24-01746 | 12/04/24 | november car wash              | Open   | 279.00        | 0.00        |          |         |
| TMOBI005 | T-MOBILE                       | 24-01749 | 12/05/24 | A#990625644 10/21/24-11/20/24  | Open   | 460.20        | 0.00        |          |         |
| TCTAO005 | T.C.T.A OF BERGEN COUNTY       | 24-01748 | 12/05/24 | 2024 Annual Holiday Mtg 12/11  | Open   | 150.00        | 0.00        |          |         |
| TRANS010 | TRANSUNION RISK AND ALTERNATIV | 24-01716 | 12/03/24 | november billing               | Open   | 120.00        | 0.00        |          |         |
|          |                                | 24-01724 | 12/03/24 | october billing                | Open   | 123.00        | 0.00        |          |         |
|          |                                |          |          |                                |        | <u>243.00</u> |             |          |         |
| TURN0010 | TURNOUT-UNIFORMS               | 24-01728 | 12/03/24 | v quintana uniform             | Open   | 878.91        | 0.00        |          |         |
| ULINE005 | ULINE SHIPPING SUPPLY          | 24-01726 | 12/03/24 | earplugs,cuffs,glasses         | Open   | 459.61        | 0.00        |          |         |

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| Vendor #               | Name                      | Status                         | Amount | Void Amount        | Contract   | PO Type            |      |
|------------------------|---------------------------|--------------------------------|--------|--------------------|------------|--------------------|------|
| PO #                   | PO Date                   | Description                    |        |                    |            |                    |      |
| VERAL005               | V.E. RALPH & SON, INC     |                                |        |                    |            |                    |      |
| 24-01479               | 10/10/24                  | supplies                       | Open   | 845.55             | 0.00       |                    |      |
| VERIZ030               | VERIZON (CALL FORWARDING) |                                |        |                    |            |                    |      |
| 24-01751               | 12/05/24                  | A#755939643000108 11/18-12/17  | Open   | 214.12             | 0.00       |                    |      |
| VERIZ010               | VERIZON WIRELESS          |                                |        |                    |            |                    |      |
| 24-01750               | 12/05/24                  | I#9978493563 10/11/24-11/10/24 | Open   | 420.23             | 0.00       |                    |      |
| VERME005               | VERMEER NA                |                                |        |                    |            |                    |      |
| 24-01548               | 10/29/24                  | brush chipper                  | Open   | 113,179.12         | 0.00       |                    |      |
| <hr/>                  |                           |                                |        |                    |            |                    |      |
| Total Purchase Orders: | 65                        | Total P.O. Line Items:         | 0      | Total List Amount: | 203,612.78 | Total Void Amount: | 0.00 |
| <hr/>                  |                           |                                |        |                    |            |                    |      |

| Totals by Year-Fund |      |              |               |           |            |
|---------------------|------|--------------|---------------|-----------|------------|
| Fund Description    | Fund | Budget Total | Revenue Total | G/L Total | Total      |
|                     | 4-01 | 70,403.95    | 0.00          | 0.00      | 70,403.95  |
|                     | 4-05 | 0.00         | 0.00          | 2.40      | 2.40       |
|                     | 4-06 | 0.00         | 0.00          | 1,650.00  | 1,650.00   |
|                     | 4-12 | 0.00         | 0.00          | 2,205.00  | 2,205.00   |
| Year Total:         |      | 70,403.95    | 0.00          | 3,857.40  | 74,261.35  |
|                     | C-04 | 124,082.43   | 0.00          | 0.00      | 124,082.43 |
|                     | T-13 | 5,269.00     | 0.00          | 0.00      | 5,269.00   |
| Total of All Funds: |      | 199,755.38   | 0.00          | 3,857.40  | 203,612.78 |

**Resolution of the Demarest Governing Body**

**Resolution No. 209-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: RESOLUTION AUTHORIZING EXECUTION OF LEASE AGREEMENT WITH ART SCHOOL AT OLD CHURCH FOR REAL PROPERTY LOCATED AT 561 PIERMONT ROAD, DEMAREST, NEW JERSEY**

=====

**WHEREAS**, the Borough of Demarest (the “Borough”) is the owner of real property located at 561 Piermont Road, Demarest, New Jersey (the “Property”); and

**WHEREAS**, the Art School at Old Church (the “Art School”) is a not-for-profit entity offering art classes and workshops including but not limited to showcasing an art gallery, ceramics, sculpture, painting drawing and photography; and

**WHEREAS**, prior to the Borough’s ownership of the Property, the Art School was a month-to-month tenant at the Property; and

**WHEREAS**, the Borough is desirous of entering into a Lease Agreement with Art School, a copy of which is annexed hereto; and

**WHEREAS**, the parties have negotiated a ten (10) year lease term whereby the Art School shall pay fixed rent in the amount of Forty-Two Thousand and 00/100ths (\$42,000.00) Dollars per annum payable

in equal monthly installments of Three Thousand Five Hundred and 00/100ths (\$3,500.00) Dollars per month for the term of the Lease; and

**WHEREAS**, the Lease further limits use of the Property for an art school and cultural center for arts including art gallery, ceramics, sculpture, painting, drawing, photography and diverse specialized workshops; and

**WHEREAS**, the Lease provides that the Art School shall be responsible for making any necessary repairs (including all required structural repairs/replacements including HVAC, electric, gas & plumbing, and landscaping (with the exception of lawn moving which shall be done by the Borough so long as it maintains a DPW service) at the Art School's sole cost and expense. It is further agreed that the Borough shall provide snow removal so long as the Borough maintains a DPW service; and

**WHEREAS**, it is the best interest of the Borough to authorize the execution of the Lease Agreement with the Art School.

**NOW THEREFORE, BE IT RESOLVED**, by the Borough of Demarest that the Borough Administrator is hereby authorized to execute the Lease Agreement annexed hereto.

**APPROVED:**

\_\_\_\_\_  
Brian Bernstein, Mayor

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024.

\_\_\_\_\_  
Julie Falkenstern, Acting Borough Clerk

## LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease"), made on this 1<sup>st</sup> day of December , 2024 (notwithstanding the actual date of execution), between **BOROUGH OF DEMAREST**, having an address at 118 Serpentine Road, Demarest, New Jersey 07627, (hereinafter referred to as "Landlord") and **ART SCHOOL AT OLD CHURCH**, a not-for-profit entity, having an address at 561 Piermont Road, Demarest New Jersey 07627 (hereinafter referred to as "Tenant").

### WITNESSETH:

1. **PREMISES**: Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the building comprised of approximately 4,700 square feet (the "Demised Premises" or "Premises") located at 561 Piermont Road, Demarest, New Jersey as described on Exhibit "A" annexed hereto (the "Property" upon the terms and conditions set forth in this Lease.

2. **TERM**: The Demised Premises are leased for a term of ten (10) years (the "Term") to commence on December 1, 2024 (the "Lease Commencement Date") and to expire on November 30, 2034 (the "Lease Expiration Date") subject to the Extension Option and Termination Option, as set forth below.

3. **RENT**: (a) During the Term, Tenant shall pay to Landlord fixed rent (the "Fixed Rent") for the Demised Premises as follows: (i) Fixed Rent for the Lease Term in the amount of Forty-Two Thousand and 00/100ths (\$42,000.00) Dollars per annum payable in equal monthly installments of Three Thousand Five Hundred and 00/100ths (\$3,500.00) Dollars per month on the first (1<sup>st</sup>) day of each month during the Term commencing on the Lease Commencement Date and through the Lease Expiration Date.

(b) Fixed Rent shall mean the fixed minimum annual rent above specified without any set-offs or deductions whatsoever and without any prior demand being required therefor.

(c) Simultaneously upon the execution of this Lease, Tenant shall pay to Landlord the sum of Three thousand, Five Hundred and 00/100ths (\$3,500.00) Dollars representing the Fixed Rent for the initial full month of the Term. All such Fixed Rent shall be payable in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Any and all payments on account of this Lease made by check shall be subject to collection thereon. Tenant shall pay Fixed Rent, and any additional rent and other payments as hereinafter provided, to Landlord at Tenant's above stated address, or at such other place as Landlord may designate by written notice to Tenant, without demand and without counterclaim, deduction or setoff.

4. USE AND OCCUPANCY. (a) Tenant shall use and occupy the Demised Premises for an art school and cultural center for arts including art gallery, ceramics, sculpture, painting, drawing, photography and diverse specialized workshops; ancillary uses and for no use other purpose without Landlord's consent. The Premises and/or Property shall not be used for any commercial purpose of whatsoever nature or for any purpose that might adversely affect its non-profit status. Tenant shall use the Demised Premises in a careful, lawful, safe and proper manner. Tenant shall have the non-exclusive right to use the parking areas at the Property on an equal basis with the use of 563 Piermont Rd., provided however, Tenant shall have the exclusive right to use the parking areas on one three day period (from 6 pm Friday afternoon to 4 pm Sunday (upon not less than 30 days' notice) for its pottery sale.

(b) Tenant agrees to indemnify and save harmless Landlord from and against (a) all claims of whatever nature against Landlord arising from any act, omission or negligence of Tenant, its contractors, licensees, agents, servants, employees, invitees or visitors, including any claims arising from any act, omission or negligence of Tenant, (b) all claims against Landlord arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring during the Term in or about the Demised Premises provided same is not caused by the omission or negligence of Landlord, (c) all claims against Landlord arising from any accident, injury or damage occurring outside of the Demised Premises but anywhere within or about the Building where such accident, injury or damage results or is claimed to have resulted from an act or omission of Tenant or Tenant's agents, employees, invitees or visitors, including any claims arising from any act, omission or negligence of Tenant, and (d) any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of Tenant to be fulfilled, kept, observed and performed. This indemnity and hold harmless agreement shall include indemnity from and against any and all liability, loss, fines, suits, demands, costs and expenses of any kind or nature incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof. In any event, there shall be absolutely no personal liability on the part of Landlord to Tenant with respect to any of the terms, covenants and conditions of this Lease and Tenant shall look solely to the equity of Landlord or any successor in interest to Landlord in the fee or leasehold estate of Landlord, as the case may be, for the satisfaction of each and every remedy of Tenant in the event of any breach by Landlord or by any successor in interest to Landlord of any of the terms, covenants and conditions of this Lease to be performed by Landlord. Such exculpation of personal liability is to be absolute and without any exception whatsoever.

5. NO PARTNERSHIP: Landlord shall in no event be construed, held or become in way or for any purpose a partner, associate of joint venturer or Tenant or any party associated with Tenant in the conduct of its business or otherwise.

6. PLACE OF PAYMENTS: All payments required to be paid required to be rendered by Tenant to Landlord shall be made payable and delivered to Landlord at the address set forth above, or wherever designated by Landlord in writing without any prior

demand for same, and without deduction, set-off or counterclaim.

7. CARE AND REPAIR OF PREMISES. Tenant shall commit no act of waste and shall take good care of the Premises and fixtures and appurtenances therein, and shall, in the use and occupancy of the Premises, and in the exercise of its control over the Premises, conform to all laws, orders and regulations of the federal, state, county and municipal governments or any agency or department thereof. Tenant shall make all necessary repairs, including all required structural repairs/replacements including HVAC, electric, gas & plumbing, and landscaping (with the exception of lawn mowing which shall be done by the Landlord for so long as it maintains a DPW service), to the Premises at Tenant's sole cost and expense to preserve the Premises in good condition and working order. All of Tenant's repairs shall be done in a good and workmanlike manner. All structural repairs/replacements shall be subject to the consent of Landlord, which shall not be unreasonably withheld, delayed or conditioned. All work shall be performed by contractor's approved by Landlord (which consent shall not be unreasonably withheld, delayed or conditioned) and who have provided a certificate of insurance evidencing liability coverage in such an amount and by such a carrier reasonably satisfactory to Landlord which name Landlord as an additional insured party. If Tenant shall fail to make such repairs as are necessary, Landlord shall have the right, but not the obligation, to make the necessary repairs and Tenant shall pay to Landlord, as additional rent, immediately upon demand, the costs therefor.

All alterations, additions and improvements made by Tenant to the Premises, which are so attached to the Premises that they cannot be removed without material injury to the Premises, shall become the property of Landlord upon installation. Not later than the last day of the term, Tenant shall, at Tenant's expense, (a) remove all Tenant's personal property and those improvements made by Tenant which have not become the property of Landlord, (b) repair all injury done by or in connection with the installation or removal of said property and improvements, and (c) surrender the Premises in as good condition as they were at the beginning of the term, reasonable wear and damage by fire, the elements, casualty, or other cause not due to the misuse or neglect or fault of or by Tenant. All other property of Tenant remaining on the Premises after the last day of the term of this Lease shall, at the election of Landlord, be conclusively deemed abandoned and may be removed and disposed of by Landlord without further notice or liability to Tenant, and Tenant shall reimburse Landlord for the cost of such removal. Landlord may but shall not be required to have any such property stored at Tenant's risk and expense. Any fixtures placed upon the Demised Premises shall be the property of Landlord. Tenant shall not mortgage, hypothecate, assign or otherwise permit a lien to attach to said fixtures. At Landlord's option, prior to vacating the Demised Premises at the expiration or earlier termination of this Lease, Tenant shall remove all telecommunication, telephone and computer cable, wiring and flooring and deliver the Demised Premises in broom clean condition.

Tenant shall also be responsible for maintaining the parking areas, keeping same free from debris. Notwithstanding, Landlord shall be responsible for snow removal for so long as it maintains a DPW service.

8. ALTERATIONS, ADDITIONS OR IMPROVEMENTS. (a) Tenant acknowledges that Landlord has no obligation to make any improvements to the Premises. Tenant has been occupying the Premises, is fully familiar with its condition and accepts the Premises in AS-IS/WHERE-IS condition. Tenant acknowledges that Landlord has made no representations or warranties of any nature whatsoever, including regarding the condition of the Premises including the condition of the HVAC, plumbing, electrical and other building systems.

(b) Tenant shall be solely responsible for all subsequent improvements to be made to the Premises subject to the approval of Landlord which shall not be unreasonably withheld, delayed or conditioned. Tenant shall provide Landlord with all documents reasonably required by Landlord, including construction drawings and plans, to enable Landlord to make its determination. Tenant shall be solely responsible for obtaining all construction permits and a Certificate of Occupancy from the Building Department or other appropriate agency of the Borough of Demarest in respect of any and all work required to be performed at the Premises provided however, Landlord shall reasonably cooperate with Tenant in obtaining same.

(c) Tenant shall not commence any work with respect to any proposed improvements without first delivering to the Landlord a policy or policies of liability and property damage insurance, naming Landlord as additional insured, in limits and with companies reasonably acceptable to Landlord, together with contractor's indemnification agreement.

9. ACTIVITIES INCREASING FIRE INSURANCE RATES. Tenant shall not do or suffer anything to be done on the Premises which will increase the rate of fire insurance on the Building.

10. COMPLIANCE WITH LAWS. Tenant shall, at its own cost and expense: (a) comply with all governmental laws, ordinances, orders and regulations affecting the Demised Premises now in force or which hereafter may be in force; (b) comply with and execute all rules, requirements and regulations of the Board of Fire Underwriters, Landlord's insurance companies and other organizations establishing insurance rates; (c) not suffer, permit, or commit any waste or nuisance; (d) not conduct any auction, distress, fire or bankruptcy sale; and (e) install fire extinguishers in accordance with insurance requirements.

11. ASSIGNMENT AND SUBLEASE.

(a) Tenant shall not assign the within Lease and attempted assignment without such consent shall be null and void ab initio.

(b) Tenant shall not permit the Demised Premises or any portion thereof to be

used or occupied by or sublet to others and any attempt to sublet all or any portion of the Premises shall be void ab initio.

12. DAMAGES TO BUILDING/WAIVER OF SUBROGATION.

(a) Conditions of Termination of Lease and Restoration. If the Building is damaged by fire or any other cause to such extent that the cost of restoration, as reasonably estimated by Landlord, will equal or exceed ten (10%) percent of the replacement value of the Building (exclusive of foundations) just prior to the occurrence of the damage, then Landlord may give Tenant a notice of election to terminate this Lease. If such casualty renders the Premises no longer reasonably usable for the purpose for which they are leased hereunder, then Tenant may, no later than the thirtieth (30<sup>th</sup>) day following the damage, give Landlord a notice of election to terminate this Lease and Tenant shall surrender possession of the Premises within a reasonable time thereafter and the Fixed Rent, and any additional rent, shall be apportioned as of the date of said surrender, and the Fixed Rent. If the cost of restoration as estimated by Landlord shall amount to less than ten (10%) percent of said replacement value of the Building, or if, despite the cost, Landlord does not elect to terminate this Lease, Landlord shall restore the Premises using insurance proceeds, with reasonable promptness, subject to force majeure, and Tenant shall have no right to terminate this Lease. Landlord need not restore fixtures and improvements installed and/or owned by Tenant.

(b) Waiver of Subrogation, Etc. Notwithstanding the provisions of this Paragraph of the Lease, in any event of loss or damage to the Premises and/or any contents, each party shall look first to any insurance in its favor before making any claim against the other party, and, to the extent possible without additional cost, each party shall obtain, for each policy of insurance, provisions permitting waiver of any claim against the other party for loss or damage within the scope of such insurance, and each party, to the extent permitted, for itself and its insurers waives all such insured claims against the other party.

13. EMINENT DOMAIN. This Section is not applicable as the Landlord is a governmental entity.

14. INSOLVENCY OF TENANT. Either (a) the appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or (b) a general assignment by Tenant for the benefit of creditors, or (c) any action taken or suffered by Tenant, voluntarily or involuntarily, under any insolvency or bankruptcy or reorganization act or law, shall constitute a default of this Lease by Tenant.

15. DEFAULT OF TENANT. Any of the following events shall be a default of Tenant: (a) Tenant's default in the payment on the due date of the Fixed Rent and/or additional rents and/or any other payment required of Tenant by this Lease, (b) Tenant's default in the performance of any of the other covenants of Tenant or conditions of this Lease, unless Tenant shall cure such default within fifteen (15) days after notice of such

default given by Landlord (or if any such default is of such nature that it cannot be completely cured within such period, then unless Tenant shall commence such curing within fifteen (15) days after notice of such default given by Landlord and shall thereafter proceed with reasonable due diligence and in good faith to cure such default and shall succeed in curing such default within a reasonable period of time, and provided that the existence of such default for more than fifteen (15) days does not, in Landlord's reasonable judgment, itself result in substantial damages to Landlord and place Landlord in risk of substantial damage by such additional time to cure such default); (c) insolvency of Tenant as set forth in Paragraph 14 of this Lease; (d) the sale or attempted sale by or under execution or other legal process of Tenant's leasehold interest hereunder and/or substantially all of Tenant's other assets; (e) the initiation of legal proceedings to effect, or resulting in, the seizure, sequestering or impounding of any of Tenant's goods or chattels used in, or incident to, the operation of the Premises by Tenant; (f) assignment by operation of law of Tenant's leasehold interest hereunder; (g) any attempt by Tenant to assign the within Lease or sublet the Demised Premises without the express prior written consent of Landlord; or (h) any act or omission of Tenant constituting an anticipatory breach or repudiation of this Lease.

16. LANDLORD'S REMEDIES ON DEFAULT OF TENANT. Upon any default of Tenant as set forth in this Lease, Landlord, at Landlord's sole option, may elect and enforce any one of the remedies hereinafter provided in this Paragraph; provided, however, that Landlord may, at Landlord's sole option, elect and enforce multiple remedies from among those remedies hereinafter provided to the extent such remedies are not inconsistent and are not legally mutually exclusive and to the extent Landlord, in Landlord's reasonable judgment, deem the enforcement of such multiple remedies necessary or appropriate to indemnify and make Landlord whole from any loss or damage as a result of the default or defaults of Tenant; and provided further that Landlord, at Landlord's sole discretion, may successively elect and enforce any number of the remedies hereinafter provided to the extent that Landlord, in Landlord's reasonable judgment, deems necessary or appropriate to indemnify and make Landlord whole from any loss or damage as a result of the default or defaults of Tenant:

(a) Termination and Tenant's Liabilities. Landlord shall have the right to terminate this Lease forthwith, and upon notice of such termination given by Landlord to Tenant in accordance with the notice provisions of this Lease, Tenant's right to possession, use and enjoyment of the Demised Premises shall cease, and Tenant shall immediately quit and surrender the Demised Premises to Landlord, but Tenant shall remain liable to Landlord as hereinafter provided. Upon such termination of this Lease, Landlord may at any time thereafter re-enter and resume possession of the Premises by any lawful means and remove Tenant and/or other occupants and their goods and chattels. In any case where Landlord has recovered possession of the Premises by reason of Tenant's default, Landlord may, at Landlord's option, occupy the Premises or cause the Premises to be redecorated, altered, divided, consolidated with other adjoining premises, or otherwise changed or prepared for reletting, and may relet the Premises or any portion thereof prepared for reletting, and may relet the Premises or any part thereof as agent of Tenant or otherwise, for a term or terms to expire prior to, at the same time as,

or subsequent to, the original expiration date of this Lease, at Landlord's sole option, and Landlord shall receive the rent therefor. Rent so received shall be applied first to the payment of such expenses as Landlord may have incurred in connection with the recovery of possession, redecorating, altering, dividing, consolidating with other adjoining premises, or otherwise changing or preparing for reletting, and the reletting, including brokerage and reasonable attorney's fees, and then to the payment of damages in amounts equal to the rent (basic and additional) and other payments required of Tenant hereunder and to the costs and expenses of performance of the other covenants of Tenant as herein provided. Tenant agrees, in any such case, whether or not Landlord has relet, to pay to Landlord, damages equal to the Basic and Additional Rent and other sums herein agreed to be paid by Tenant, less the net proceeds of the reletting, if any, as ascertained from time to time, and the same shall be payable by Tenant on the several rent days above specified. Tenant shall not be entitled to any surplus accruing as a result of any such reletting. In reletting the Premises as aforesaid, Landlord may grant rent concessions, in Landlord's sole judgment, and Tenant shall not be credited therewith. No such reletting shall constitute a surrender and acceptance or be deemed evidenced thereof. If Landlord elects, pursuant hereto, actually to occupy and use the Premises or any part thereof during any part of the balance of the term as originally fixed or since extended, there shall be allowed against Tenant's obligation for rent, other payments and damages as herein defined, during the period of Landlord's occupancy, the reasonable value of such occupancy, equal to in any event the basic and additional rent herein reserved. In no event shall such occupancy by Landlord be construed as a release of Tenant's liability hereunder.

(b) Specific Performance of Lease. Landlord shall have the right to enforce Tenant's specific performance of each and every covenant, condition and other provision of this Lease.

(d) Waiver of Right of Redemption. Tenant hereby waives all right of redemption to which Tenant or any person under Tenant might be entitled by any law now or hereafter in force.

(e) Other Remedies. Landlord's remedies hereunder are in addition to any remedy allowed by law or in equity including damages.

(f) Non-exclusivity. The remedies set forth above shall be non-exclusive and Landlord's election to enforce any remedy shall not be deemed a waiver of any other remedy Landlord may be entitled to hereunder or as allowed by law or in equity.

17. SUBORDINATION OF LEASE. This Lease shall be subject and subordinate to any underlying ground leases and to any first institutional mortgage which may now or hereafter affect the real property of which the Premises form a part, and also to all renewals, modifications, consolidations and replacements of said underlying leases and said first institutional mortgage. Although no instrument or act on the part of Tenant shall be necessary to effectuate such subordination, Tenant will, nevertheless, execute and deliver such further instruments confirming such subordination of this Lease as may be

desired by the holder of said first institutional mortgage or by any of Landlords under such underlying or ground leases. Tenant hereby appoints Landlord attorney-in-fact, irrevocably, to execute and deliver any such instrument for Tenant. If any underlying or ground lease to which this Lease is subject shall terminate, Tenant shall, on timely request, attorn to the owner of the reversion.

18. RIGHT TO CURE TENANT'S BREACH. If Tenant breaches any covenant or condition of this lease, Landlord may, on reasonable notice to Tenant (except that no notice need be given in case of emergency), cure such breach at the expense of Tenant and the reasonable amount of all expenses, including attorney's fees, incurred by Landlord in so doing (whether paid by Landlord or not) shall be deemed additional rent payable on demand.

19. CONSTRUCTION LIENS. Tenant shall, within fifteen (15) days after notice from Landlord, discharge or satisfy by bonding or otherwise any construction liens or other liens for equipment, material, labor or goods or services claimed to have been furnished to the Premises on Tenant's behalf.

20. RIGHT TO INSPECT AND REPAIR. Landlord may enter the Premises but shall not be obligated to do so (except as required by any specific provision of this Lease) at any reasonable time on reasonable notice to Tenant (except that no notice need be given in case of emergency) for the purpose of inspection or the making of such repairs, replacements or additions, in, to, on and about the Premises or the Building, as Landlord deems necessary or desirable. Tenant shall have no claims or cause of action against Landlord for interruption to Tenant's business, however occurring.

21. ELECTRICITY and UTILITIES. Tenant shall be responsible for all utilities delivered to and consumed at the Premises, including but not limited to, heat, water, gas, telephone and the like directly to the provider of such utility. All utility service shall be maintained in Tenant's name, delivered directly to Tenant and Tenant shall be responsible for any security or deposit required by the provider. Notwithstanding, Landlord shall be responsible for all garbage, trash & recycling pick-up through the DPW for so long as the Borough maintains a DPW service.

22. OPERATING COSTS. Tenant shall pay all operating costs incurred and repairs required for the Premises including but not limited to the following: fuel, utilities, electric, water, sewer, heating, ventilating and air conditioning, management fees, direct labor, fire and other insurance, data processing costs, interior and exterior landscaping and decoration, repairs, replacements and improvements which are necessary or appropriate for the continued operation of the Premises or are made in compliance with requirements of any federal, state or local law or governmental regulation, whether or not such law or regulation is valid or mandatory, and all other items properly constituting operating costs whether direct or indirect.

23. REAL ESTATE TAXES. The Demised Premises are owned by the Borough

of Demarest and are exempt from real estate taxes.

24. INTERRUPTION OF SERVICES OR USE. Interruption or curtailment of any service maintained in the Demised Premises, shall not entitle Tenant to any claim against Landlord or to any abatement in rent, and shall not constitute a constructive or partial eviction unless the interruption is the result of Landlord's gross negligence or willful act

25. TENANT'S ESTOPPEL. Tenant shall, if requested by Landlord on not less than seven (7) days' prior written notice, execute, acknowledge and deliver to Landlord a written statement certifying that the Lease is unmodified and in full force and effect, or that the Lease is in full force and effect as modified and listing the instruments of modification; the dates to which the rents and charges have been paid; and whether or not, to the best of Tenant's knowledge, Landlord is in default hereunder, and if so, specifying the nature of the default. It is intended that any such statement delivered pursuant to this Paragraph may be relied upon by a prospective mortgagee of Landlord's interest or assignee of any mortgage of Landlord's interest.

26. HOLDOVER TENANCY. If Tenant holds possession of the Premises after the term of this Lease, Tenant shall become a tenant from month to month under the provisions herein provided, but, at a monthly Fixed Rental of two hundred (200%) percent of the Fixed Rent for the last month of the lease term or any renewed or extended term, payable in advance on the first day of each month, and such tenancy shall continue until terminated by Landlord, or until Tenant shall have given to Landlord a written notice, at least sixty (60) days prior to the intended date of termination or intent to terminate such tenancy.

27. LANDLORD'S WORK. Tenant acknowledges that Landlord shall have no obligation to improve the Premises or the Property, or obtain a certificate of occupancy which, if required, shall be Tenant's sole responsibility. In addition, Tenant acknowledges that Landlord has made no representations or warranties with respect to the condition of the Premises except and otherwise specifically and expressly set forth in this Lease.

28. RIGHT TO SHOW PREMISES. Landlord may show the Premises to prospective lenders and to insurance representatives, on reasonable notice to Tenant, during business hours.

29. WAIVER OF TRIAL BY JURY. To the extent such waiver is permitted by law, the parties waive trial by jury in any action or proceeding brought in connection with this Lease or the Premises.

30. LATE CHARGE. Anything in this Lease to the contrary notwithstanding, at Landlord's option, Tenant shall pay a "Late Charge" of eight (8%) percent of any installment of fixed Rent or additional rent paid more than five (5) days after the due date thereof, to cover the extra expense involved in handling delinquent payments.

31. RECORDATION. Landlord and Tenant agree that this Lease, or a memorandum thereof, may not be recorded or filed in any public recording office, including the Bergen County Clerk's Office and any attempt to record this Lease or a memorandum thereof shall be an event of default.

32. QUIET ENJOYMENT. Landlord covenants that if, and so long as, Tenant pays the Fixed Rent, and any Additional Rent as herein provided, and performs the covenants hereof, Landlord shall do nothing to affect Tenant's right to peaceably and quietly have, hold and enjoy the Premises for the term herein provided, subject to the provisions of this Lease.

33. TENANT'S INSURANCE. Tenant covenants to provide on or before the Lease Commencement Date a comprehensive policy of general liability insurance, naming Landlord and its designees as additional named insureds, insuring Tenant and Landlord against any liability commonly insured against and occasioned by accident resulting from any act or omission on or about the Premises and any appurtenances thereto. Said policy is to be written by an insurance company licensed and qualified to do business in the State of New Jersey and reasonably satisfactory to Landlord. The policy shall have a limit of not less than \$1,000,000 in respect of any one person in respect of any one accident, and in respect of property damage together with an umbrella policy providing for up to \$1,000,000 dollars in liability coverage with a \$2,000,000 umbrella policy. Said limits shall be subject to periodic review and Landlord reserves the right to increase said coverage limits if, in the reasonable commercial opinion of Landlord, said coverage becomes inadequate and is less than commonly maintained by owners in similar buildings in the area. At least thirty (30) days prior to the expiration or cancellation date of any policy, Tenant shall deliver a renewal or replacement policy with proof of the payment of the premium therefor. All such policies shall name the Landlord as an additional insured party.

34. LANDLORD'S LIABILITY FOR LOSS OF PROPERTY. Landlord shall not be liable for any loss of property from any cause whatsoever, including, but not by way of limitation, theft or burglary from the Premises, and Tenant covenants and agrees to make no claim for any such loss at any time.

35. PERSONAL LIABILITY. Notwithstanding anything to the contrary provided in this Lease, it is specifically understood and agreed, such agreement being a primary consideration for the execution of this Lease by Landlord, that there shall be absolutely no personal liability on the part of Landlord, the Mayor, the members of the Council and its employees (for purposes of this paragraph, collectively referred to as "Landlord"), with respect to any of the terms, covenants and conditions of this Lease, and that Tenant shall look solely to the equity of Landlord for the satisfaction of each and every remedy of Tenant in the event of any breach by Landlord of any of the terms, covenants and conditions of this Lease to be performed by Landlord, such exculpation of liability to be absolute and without any exceptions whatsoever.

36. SECURITY DEPOSIT. Tenant shall not be obligated to deposit any.

security for the performance of its obligation under the Lease.

37. LANDLORD'S LIEN. INTENTIONALLY DELETED.

38. NOTICES. Any notice by either party to the other shall be in writing and shall be deemed to have been duly given only if delivered personally, or by Federal Express or similar national overnight courier, addressed to the Parties at the addresses set forth above. Notice shall be deemed to have been duly given, if delivered personally or by Federal Express or similar courier, on delivery thereof.

39. ATTORNEY'S FEES. In the event Landlord shall employ an attorney to enforce any of the conditions of this Lease, or to enforce Tenant's covenants hereunder, or any of Landlord's rights, remedies, privileges or options under this Lease, or at law or in equity, Landlord shall be entitled to reimbursement from Tenant of all costs and expenses incurred or paid by Landlord in so doing, including, but not by way of limitation, all attorney's fees and costs incurred or paid by Landlord at any time or times in connection therewith, whether the matter is settled privately, or by arbitration, or by legal action at the trial court level and at any and all appellate court levels.

40. FORCE MAJEURE. Neither Landlord nor Tenant shall be liable for the failure to perform its obligations, other than Tenant's obligation to pay Rent or Additional Rent, if the result of a Force Majeure. Force Majeure shall mean and include those situations beyond Landlord's control, including by way of example and not by way of limitation, acts of God; accidents; repairs; strikes; shortages of labor, supplies or materials; inclement weather; or where applicable, the passage of time while waiting for an adjustment of insurance proceeds, pandemics or any other national or statewide epidemic or health emergency. .

41. PARAGRAPH HEADINGS. The paragraph headings in this Lease and position of its provisions are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

42. APPLICABILITY TO HEIRS AND ASSIGNS. The provisions of this Lease shall apply to, bind and inure to the benefit of Landlord and Tenant, and their respective heirs, successors, legal representatives and assigns.

43. WAIVER. Tenant agrees that the failure of Landlord in one or more instances to insist upon strict performance or observance of one or more of the covenants or conditions hereunder, or in any other Lease, or to exercise any rights, remedies, privileges, or option provided by law or in equity or provided or reserved to Landlord in this Lease, or any other Lease, shall not operate or be construed as a relinquishment or waiver for the future of such covenant or condition or of the right to enforce the same or to exercise such right, remedy, privilege or option; but rather, the same shall continue in full force and effect. The receipt and acceptance by Landlord of Fixed Rents and/or additional rents and/or any other payments hereunder, or any part or portion thereof, shall not be a waiver of any other Fixed Rents and/or additional rents and/or any other payments

hereunder, or any part or portion thereof, and such receipt and acceptance by Landlord, though with knowledge on the part of Landlord of the breach of any covenant or conditions of this Lease, shall not be, or operate as, a waiver of such breach or a waiver of any right, remedy, privilege or option of Landlord arising hereunder or at law or in equity on account of such breach in the absence of such receipt or acceptance. No waiver by Landlord of any of the provisions of this Lease, or of any of Landlord's rights, remedies, privileges or options under this Lease, shall be deemed to have been made unless made by Landlord in writing. If Landlord shall consent to the assignment of this Lease or to a subletting of all or a portion of the Demised Premises, or if any such assignment or subletting may be made hereunder without Landlord's consent, no further assignment or subletting shall be made without the prior written consent of Landlord, unless otherwise expressly permitted elsewhere in this Lease (this provision with respect to an assignment or subletting without Landlord's consent shall not constitute a waiver, or any way lessen Landlord's rights and remedies with respect to an assignment or subletting made without Landlord's consent).

44. AMENDMENTS, MODIFICATIONS, ETC. No change, modification or termination of any of the terms, provisions, covenants, promises or conditions of this Lease agreement shall be effective unless made in writing and signed or initialed by all parties hereto, their successors or assigns.

45. GOVERNING LAW. This Lease agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of New Jersey and Landlord and Tenant acknowledge that they are subject to the jurisdiction of the courts of the State of New Jersey.

46. SEVERABILITY. If any paragraph, subparagraph or other provision of this Lease agreement, or application of such paragraph, subparagraph or provision, is held invalid, then the remainder of the Lease agreement, and the application of such paragraph, subparagraph or provision to persons, parties or circumstances other than those with respect to which it is held invalid, shall not be affected thereby. This Section shall not apply to any determination regarding Fixed Rent or additional rents and if same is held to be invalid, Landlord shall have the right to terminate this Agreement.

47. NO UNLAWFUL OCCUPANCY. Tenant shall not use or occupy, nor permit or suffer, the Demised Premises or any part thereof to be used or occupied for any unlawful purpose or extra-hazardous, nor in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations.

48. NO OTHER REPRESENTATIONS: No representations or promises shall be binding on the parties hereto except those representations and promises contained herein or in some future writing signed by the party making such representation(s) or promise(s).

49. ACCORD AND SATISFACTION: No payment by Tenant or receipt by Landlord of a lesser amount than the rent and additional charges payable hereunder shall be deemed to be other than a payment on account of the earliest stipulated Fixed Rent

and Additional Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment for rent or Additional Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent and additional rent or pursue any other remedy provided herein or by law.

50. MORTGAGEE'S NOTICE AND OPPORTUNITY TO CURE: Not applicable.

51. CORPORATE AUTHORITY: If Tenant is a corporation, Tenant represents and warrants that this Lease and the undersigned's execution of this Lease has been duly authorized and approved by the corporation's Board of Directors. The undersigned officers and representatives of the corporation executing this Lease on behalf of the corporation represent and warrant that they are officers of the corporation, and within fifteen (15) days of execution hereof, Tenant will provide Landlord with a corporate resolution confirming the aforesaid.

52. ENVIRONMENTAL/ISRA COMPLIANCE.

(a) Tenant shall not (either with or without negligence) cause or permit to be placed, held, generated, treated, located, disposed on, escape, disposal or release of any biologically or chemically active or other hazardous or toxic substances or materials upon the Demised Premises. Tenant shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought into the Demised Premises any such materials or substances except to use in the ordinary course of Tenant's business. Tenant shall obtain and will maintain all necessary approvals, permits, licenses, certificates or satisfactory clearance from all governmental authorities, utility companies or development-related entities, with respect to the Tenant's use of the Demised Premises and the Tenant's discharge of any chemicals, liquids and emissions, into the atmosphere, ground water or surface water, including but not limited to sewers or septic systems from the Demised Premises. Tenant shall promptly notify the other in writing of: (1) any governmental actions or (2) any claim made or threatened by any third party against Tenant, Landlord or the Premises relating to loss or injury resulting from any occurrence or condition on the Premises or any other real property that could require the removal from the Premises of any Hazardous Materials or cause any restrictions on the ownership, occupancy, transferability or use of the Demised Premises under Hazardous Materials Law. Landlord and Tenant shall cooperate with any governmental inquiry and shall comply with any governmental or judicial order which arises from any alleged, prohibited Activities or Conditions. Without limitation, hazardous substances and materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C., Section 6901 et seq., any applicable state or local laws and the regulations adopted under these acts. Tenant shall indemnify and hold Landlord harmless from any and all liability that may arise during the Term from the environmental condition of the

Premises.

(b) For purposes of this Paragraph, the term "hazardous materials" means any hazardous, toxic, flammable, or explosive substance, material, or waste which is or becomes regulated by any governmental authority except for cleaning and duplicating fluids provided they are kept in reasonable quantities for their use and are used in accordance with all applicable laws. The term "hazardous materials" includes, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C., Section 1317), (iv) defined as "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C., Section 6901 et seq., (v) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C., Section 9601 et seq., (vi) defined as a "hazardous waste" under the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E et seq., or (vii) defined as a "hazardous" or "toxic" substance in any law similar to or in any amendment of any of the foregoing laws.

(c) This paragraph shall survive the expiration or earlier termination of this Lease. Tenant's failure to abide by the terms of this paragraph shall be restrainable by injunction.

53. AMERICANS WITH DISABILITY ACT. Tenant shall be obligated to and shall have the sole responsibility of complying with all of the relevant terms, conditions and requirements of the Americans with Disability Act (the "ADA") to the extent the ADA is applicable to Tenant's use and occupancy of the Demised Premises. To the extent the provisions of the ADA mandate modifications to the Demised Premises, such modifications shall be made by Tenant at its sole cost and expense, but in coordination and consultation with Landlord. In the event Tenant shall fail to comply with the requirements of the ADA, Landlord may, but shall not be obligated, take such steps as may be necessary to comply with the ADA and Tenant shall pay Landlord, upon demand, the cost thereof which shall be deemed Additional Rent. Tenant shall indemnify and hold Landlord harmless from any and all claims and liability arising out Tenant's obligation to comply with ADA.

54. BROKER. Tenant represents to Landlord and Landlord represents to Tenant that no broker was engaged by either in connection with this Lease. Landlord and Tenant each agrees to indemnify and hold the other harmless from any and all claims of any broker arising out of or in connection with the negotiation of or the entering into this Lease to the extent inconsistent with the representations made herein.

55. ATTORNTMENT. Tenant shall in the event of the sale or assignment of Landlord's interest in the Premises, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, attorn to the purchaser or

foreclosing mortgagee or trustee and recognize such purchaser or foreclosing mortgagee or trustee as Landlord under this Lease.

56. OFAC. (a) Neither Landlord, nor to the best of Landlord's knowledge, any person or entity holding legal or beneficial interest whatsoever (whether directly or indirectly) in it or the real property, is named on any list of persons, entities and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury pursuant to Executive Order 13224-Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit or Support Terrorism, as in effect on the date hereof, or any similar list issued by OFAC or any other department or agency of the United States of America.

(b) Neither Tenant, nor to the best of Tenant's knowledge, any person or entity holding legal or beneficial interest whatsoever (whether directly or indirectly) in it or the real property, is named on any list of persons, entities and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury pursuant to Executive Order 13224-Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit or Support Terrorism, as in effect on the date hereof, or any similar list issued by OFAC or any other department or agency of the United States of America.

57. SIGNAGE. Tenant shall have the right to install and maintain signage, at Tenant's sole cost and expense, identifying Tenant subject to all proposed signs conforming with all applicable municipal ordinances and regulations.

58. RENEWAL OPTION:

(a) Tenant shall have the right to renew this Lease for all of the Demised Premises for a renewal term (the "Renewal Term") of ten (10) years as determined by Tenant. The Renewal Term shall commence on December 1, 2034 (the "Renewal Term Commencement Date") and shall terminate on November 30, 2044 (the "Renewal Term Expiration Date"). Tenant shall exercise the option described herein by giving Landlord written notice of such election to renew (the "Notice to Renew") not later than six (6) months prior to the Lease Expiration Date, and upon the giving of Notice to Renew this Lease shall thereupon be deemed renewed for the Renewal Term with the same force and effect as if the Renewal Term had originally been included in the term of this Lease. Time is of the essence with respect to Tenant's Notice to Renew. The right of the Tenant to renew this Lease shall be conditioned upon Tenant not being in default under the Lease and upon the Lease being in full and force and effect at the time of the exercise of such option and as of the Renewal Term Commencement Date.

(b) All of the terms, covenants and conditions of this Lease shall continue in full force and effect during the Renewal Term except that (i) Fixed Rent for the Renewal Term shall be Forty-Five Thousand Six Hundred and 00/100ths (\$45,600.00) Dollars per annum payable in equal monthly installments of Three Thousand Eight Hundred and 00/100ths (\$3,800.00) Dollars per month

(c) Tenant's right to exercise the Renewal Options set forth herein shall be deemed extinguished upon any event of default beyond the expiration of any applicable cure period or has not been waived by Landlord during the Term. Tenant shall have no right or option to renew this Lease except as set forth in this Section.

59. TERMINATION OPTIONS. Landlord and Tenant shall each have the right to terminate the Lease, for any reason whatsoever, at any time during the Term, on not less than two (2) year's notice (the "Notice to Terminate") to the other party. The Notice to Terminate shall set forth the date on which the Lease shall terminate and Tenant shall vacate the Premises on such date and deliver possession in the condition set forth elsewhere in this Lease.

60. NO OPTION. The submission of this Lease Agreement for examination does not constitute a reservation of, or option for, the premises, and this Lease Agreement becomes effective as a Lease Agreement only upon execution and delivery thereof by Landlord and Tenant.

SIGNATURES ARE ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have executed this Lease on the date first above written.

WITNESS:

LANDLORD:  
**BOROUGH OF DEMAREST**

\_\_\_\_\_  
Julie Falkenstern, Clerk

By: \_\_\_\_\_  
Brian Bernstein, Mayor

WITNESS:

TENANT:  
**ART SCHOOL AT OLD CHURCH,  
Not-for-profit entity**

\_\_\_\_\_

By: \_\_\_\_\_

EXHIBIT "A"

Description of Property comprising the Premises

**Resolution of the Demarest Governing Body**

**Resolution No. 210-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: RESOLUTION APPROVING SOIL MOVING PERMIT FOR 242 HARDENBURGH AVE.**

=====

**BE IT RESOLVED** by the Borough Council of the Borough of Demarest that the Soil Moving Application and Soil Erosion Control Plan for 242 Hardenburgh Ave. Block 81.01 Lot 1 prepared by Mark Martins, P.E., is hereby approved subject to the following conditions:

1. No topsoil shall be removed from the site.
2. The applicant shall indicate the location to which excess soil will be exported.
3. The applicant shall indicate the route of travel within the Borough.
4. The applicant shall provide for the cleaning of the streets used in the route of travel within the Borough.
5. The applicant shall provide the name of the person responsible for the soil movement.
6. The applicant shall be responsible for any damage done to Borough streets during the soil removal process.
7. The applicant shall deposit, with the Borough, escrow in the amount of \$3,341.70 for inspection services of the Borough Engineer.
8. The applicant shall provide a performance guarantee to the Borough in the amount of \$66,834.00

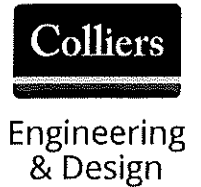
\_\_\_\_\_  
**Brian Bernstein, Mayor**

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024

\_\_\_\_\_  
**Julie Falkenstern, Acting Borough Clerk**

400 Valley Road Suite 304  
Mt. Arlington, NJ 07856  
Main: 877 627 3772



November 25, 2024

Dot Haight  
Building Department  
Borough of Demarest  
118 Serpentine Road  
Demarest, NJ 07627

242 Hardenburgh Ave  
Block 81.01, Lot 1  
Borough of Demarest, Bergen County, NJ  
Soil Moving Application Review #2  
Colliers Engineering & Design Project No. DEP0214

Dear Ms. Haight,

Pursuant to your request, our office has reviewed the following plans and other documents filed by the Applicant in support of a soil moving application in relation to the construction of a new dwelling, patio, walkway, driveway, retaining wall, drainage improvements, and other related appurtenances at the subject property:

- a) Site plans consisting of three (3) sheets, prepared and signed by Mark Martins, PE, dated June 10, 2024; Last revised August 30, 2024, **last revised October 24, 2024**
- b) Architectural Plans consisting of thirteen (13) sheets, prepared by Anthony L. Zampolin of Zampolin & Associates Architects, dated June 25, 2024, last revised July 25, 2024;
- c) Soil Moving Application for the subject property, signed and dated September 4, 2024.
- d) **Soil testing results prepared by Johnson Soils Company signed by Lisa V. Mahle-Greco, PE.**
- e) **Drainage calculations prepared and signed by Mark Martins, PE, dated June 3, 2024, last revised October 9, 2024**

After our review of these documents, we offer the following comments in this matter:

**General**

1. The Applicant/Owner in this matter is:

M&M Holdings III LLC  
242 Hardenburgh Ave  
Demarest, NJ 07627

The Applicant/Owner shall notify the Borough of Demarest Building Department of any changes to the above information.

2. The site is currently occupied by an existing dwelling which is to be demolished. The Applicant is proposing to construct a new dwelling, patio, walkway, macadam driveway, retaining wall, drainage improvements, and other related improvements on the property.
3. The project site is located in the Residence D Zone according to the Borough of Demarest Zoning Map, where the construction of a single-family dwelling is permitted.
4. The project site is a rectangular shaped parcel consisting of 12,100 SF. The property has frontage along Hardenburg Avenue, southwest of Merideth Road. The property is located in Zone X (Areas outside the 0.2% chance annual floodplain) according to the FIRM map.
5. According to the site plans, no variances were requested for the proposed construction. There are no pre-existing non-conformities noted in the zoning table. However, the Applicant is proposing a retaining wall on the side yard exceeding 2 feet. As per definition in ordinance #175-27 walls two-feet in height or greater are considered accessory structures. As per ordinance #175-19(B), accessory structures are only permitted in the rear yard.

**The retaining wall height has been reduced to below 2 feet. Comment addressed.**

6. We note there's an inconsistency on the site plan regarding the amount existing impervious coverage. The existing impervious coverage is shown as 2,833.6 SF under the impervious calculations on sheet 1 of the site plans. Note #11 on sheet 1 of the site plans states existing impervious coverage is 3,127 SF. The Applicant shall clearly indicate existing versus proposed improved lot coverage on the site plans in a side-by-side table format for comparison and eliminate any discrepancies related to existing coverages.

**The discrepancies have been addressed. Comment satisfied.**

#### **Site Plan**

7. The Applicant is proposing two (2) precast concrete drywells to collect and store stormwater runoff on the property from what appears to be the roof area of the proposed dwelling and additional area via surface inlets. We offer the following comments related to drainage design:
  - a. The Applicant provides the storage capacity of each of the two seepage pits, which is a total of 2,400 gallons (320 cubic feet) in a 12-foot by 12-foot crushed stone box. However, the Applicant does not provide supporting calculations for the proposed seepage pits. The Applicant shall revise the plan to include supporting design calculations for each proposed seepage pit and their capacity. The calculations should clearly indicate all tributary drainage areas for each independent seepage pit system.

**The applicant has provided the requested design calculations. The tributary drainage area appears to be equivalent to the net increase in coverage (2,406 SF). Comment addressed.**

- b. The Applicant shall be made aware that soil testing is required at the location of the proposed seepage pits. Soil testing should include the elevation of the Seasonal High-

Water Table (SHWT) and the percolation rate of the soil. It shall be confirmed that the bottom of the seepage pit is at least two (2) feet above the SHWT. It is suggested that soil testing be performed before installation of the seepage pits.

**Soil testing results have been provided. We take no exception.**

- c. The Applicant has provided an at-grade manhole cover for future maintenance in the seepage pit detail. We take no exception.
  - d. The Engineer shall be notified to inspect the seepage pit system prior to backfilling.
8. The Applicant has provided building height calculations on the plan indicating an average grade elevation of 70.24 and a roof midpoint elevation of 100.7. This equates to a total building height of 29.94 feet where a maximum of 30 feet is allowed.
9. The Applicant has indicated there are several new utility connections proposed (Sanitary, Gas, and Water). We offer the following comments:
- a. It will be the Applicants responsibility to obtain the necessary road opening permits related to this work.
  - b. Any sidewalk, curb, asphalt or any other infrastructure within the Borough ROW disturbed shall be restored to their original condition at the Applicant's expense.
10. We offer the following comments related to the proposed grading:
- a. Existing grades on site range from 67 in the southeast of the property to 76 in the northwestern corner. Stormwater flows generally from north to south under existing conditions.
  - b. The Applicant is proposing to regrade the rear yard by raising the grade by an average of 0.5 to 1 feet. Stormwater in the rear yard area will drain toward Hardenburg avenue into the two proposed seepage pits on the North and South side of the property. While we take no exception to the grading changes proposed, the Applicant shall be made aware that if adverse impacts to neighboring properties occur as a result of the proposed grading or other aspects of this development, it will be the Applicant's responsibility to remedy those issues at their own expense.
  - c. The Applicant is depicting minor regrading of the front of the property as part of this application. The changes appear to be minor in nature and maintain existing drainage patterns. We take no exception.
  - d. Grades should not be altered by more than one foot in areas within the drip line of any trees to remain.
11. The Applicant does not appear to designate any trees for removal. Review of the site plan appear to show multiple trees that may need to be removed in order to install the proposed improvements. The plan shall be revised to clearly indicate what trees and how many trees to be removed to install the proposed improvements. We defer to the Shade Tree Commission for final comment and approval of any removal and/or replacement trees.

**The tree removal and replacement schedule has been noted on the site plan. We defer to the Shade Tree Commission for final comments and approval of any removal and/or replacement trees.**

### **Soil Moving Application**

12. The site plans indicate a total fill of 85.7 CY, a total cut of 665.0 CY and a net export of 579.9 CY. If grading changes occur beyond what is presented on the plan, the Applicant shall revise the soil moving calculations to account for the proposed change in soil volume.

**Soil volume has been revised to total fill of 86.3CY and a total cut 672.6 CY. We take no exception.**

13. The Applicant will require a soil moving permit in accordance with Chapter 147 (§147-1) of the Borough Ordinance as the posted values of soil movement are greater than 250 cubic yards. As a result, the following provisions apply:

- a. As per Borough Ordinance Section 147-7, the Applicant shall move the soil, in accordance with the soil permit, under the supervision of the Building Inspector and Borough Engineer and shall pay a reasonable fee for such services in the amount determined by the Mayor and Council.
- b. As per Borough Ordinance Section 147-8, the owner of the premises or the person in charge of relocation of the soil, when permission has been duly granted, shall not take away the top layer of soil for a depth of eight inches, but such top layer of soil to a depth of eight inches shall be set aside for retention on the premises and shall be respread over the premises when the rest of the soil has been moved pursuant to levels of contour lines approved by the Mayor and Council of the Borough of Demarest.
- c. As per Borough Ordinance Section 147-9, no permission or soil permit shall be issued unless and until the Applicant therefore shall have filed with the Borough of Demarest a performance bond, in form, amount and surety acceptable to the Borough of Demarest, conditioned upon full and faithful performance of the soil's being moved in accordance with the provisions of the Borough's Soil Moving Ordinance and permission of the Mayor and Council granted pursuant hereto.
- d. **An engineer's cost estimate shall be submitted by the Applicant** to determine the performance guaranty to be submitted to the Borough. The cost estimate for bonding should include all cost associated with soil erosion and sediment control measures, seepage pit installation, drainage structures / piping, and soil moving (on-site and export).

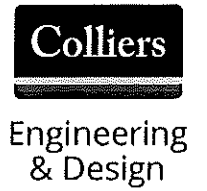
### Miscellaneous

14. The Applicant is responsible for procuring all applicable federal, state, and county approvals necessary to complete the proposed improvements.
15. If drainage issues arise during or after construction, the Applicant will be responsible for remedying any drainage issues caused by the proposed construction and/or demolition activities. In addition, water runoff directed to neighboring properties is prohibited. If stormwater runoff does adversely impact neighboring properties, the Applicant will be responsible for remedying that situation at no additional cost to the Borough.
16. Sediment shall be removed from the upstream face of the silt fence when it has reached a depth of  $\frac{1}{2}$  the silt fence height or when the silt fence is leaning or buckling from the collected sediment and debris. Silt fence shall be inspected daily for signs of deterioration and sediment removal. When damaged, the silt fence shall be repaired or replaced immediately. Soil erosion and sediment control measures, including silt fence, shall be installed prior to the start of construction.
17. The Applicant should place a silt fence downgrade on all areas where the existing ground disturbance will occur. In addition, the disturbed areas must be stabilized with seed and straw as soon as construction is completed. These recommendations/requirements are made to prevent sediment-laden water from entering municipal streets and neighboring properties.
18. The Applicant will inevitably mobilize construction equipment and/or will have deliveries of material from the Borough Right-of-Way, which could damage municipal infrastructure. Therefore, the Applicant will be responsible for any damages to the curb, sidewalk, drainage infrastructure, and/or pavement in the Borough's Right-of-Way.
19. A signed and sealed "As-Built" site plan should be submitted as a requirement for this office to "sign off" on the issuance of the Certificate of Occupancy (C.O.). The "As-Built" should accurately show site features, including grading, spot elevations, coverage quantities, etc.

Our office has reviewed the application, and based on the above, this office ***does recommend*** permits be issued at this time contingent on the following being addressed:

- **Prior to issuance of the permit the Applicant shall provide a cost estimate in accordance with comment 13d of this letter for review and provide the required bonds and fees.**
- **The Applicant shall obtain permission from Mayor and Council pursuant to Ordinance Chapter 147.**

Should you have any questions, you may contact me at (201) 775-1283.



Sincerely,

Colliers Engineering & Design

A handwritten signature in black ink, appearing to read "N. Chelius".

Nick Chelius, P.E.  
Borough Engineer

cc: Kevin Burnette, Construction Code Official (via e-mail)  
Mark Martins, Applicant's Engineer (via email)  
Robert Zampolin, Applicant's Architect (via email)  
M&M Holdings III LLC, Applicant (info@jbcmlc.com)

R:\Projects\A-D\DEP\DEP0214\Correspondence\OUT\241125\_nhc\_242 Hardenburgh Ave\_Soil Movement Review #2\_DEP0214.dacx



**Resolution of the Demarest Governing Body**

**Resolution No. 211-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: APPROVING PAYMENT #5 FOR COVINO & SONS CONSTRUCTION CO., INC. FOR PINE TERRACE DRAINAGE IMPROVEMENTS**

=====

**WHEREAS**, a contract was awarded to Covino & Sons Construction Co. for Pine Terrace Drainage Improvement; and

**WHEREAS**, the Borough Engineer has recommended that progress payment #5 to Covino & Sons Construction Co in the amount of three thousand, one hundred and thirty-nine dollars and thirty-two cents (\$3,139.32), as reasonable and contract compliant; and

**WHEREAS**, the Chief Financial Officer has determined sufficient funds are available to fulfill this proposal in the Capital Account.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Demarest, County of Bergen, State of New Jersey that the payment in the amount of three thousand, one hundred and thirty-nine dollars and thirty-two cents (\$3,139.32) of be remitted by the Chief Financial Officer to Covino & Sons Construction Co.

**APPROVED:**

\_\_\_\_\_  
**Brian Bernstein, Mayor**

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024.

\_\_\_\_\_  
Julie Falkenstern, Acting Borough Clerk

## Memorandum

To: Julie Falkenstern, Borough Administrator  
From: Nick Chelius, P.E.  
Date: December 9, 2024  
Subject: Pine Terrace Drainage Improvement Project  
Borough of Demarest, NJ  
Progress Payment #5 Final  
Project No.: DEB0047

---

Covino & Sons Construction Co., Inc., the Contractor for the above-referenced project, has requested payment on Invoice #5 in the amount of **\$3,139.32** for the release of retainage.

With reference to the above-captioned project, I hereby transmit Invoice #5 for approval by Resolution of the Mayor and Council. Attached please find the following:

- Progress Payment No. 5 Calculation Spreadsheet, dated 12/2/24, consisting of one (1) page and prepared by Colliers Engineering.
- Invoice #24-0612 from Covino & Sons Construction Co., Inc.
- Maintenance Bond # FP0026261M in the amount of \$23,544.90.

Our office has been monitoring said project and approve of quantities submitted. To date, all the work has been completed to the satisfaction of the Borough Engineer.

|   |                       |
|---|-----------------------|
| Original Contract Amount                | \$ 172,347.00         |
| Total Completed to Date                 | \$156,966.00          |
| Less Retainage (2%)                     | \$ (0.00)             |
| <u>Less Previous Payments</u>           | <u>\$(153,826.68)</u> |
| Amount due Progress Payment No. 5 Final | <b>\$ 3,139.32</b>    |

I hereby recommend the Mayor and Council approve Progress Payment No. 5 Final in the amount of **\$3,139.32** to Covino & Sons Construction Co., Inc.

NC/mt

Attachments

cc: Mayor & Council (via Borough Clerk)  
Peter Suh, CFO ([psuh@demarestnj.gov](mailto:psuh@demarestnj.gov))  
Genaro Covino ([covinosons@yahoo.com](mailto:covinosons@yahoo.com))

| DESCRIPTION                       | UNIT | QTY. | UNIT PRICE | CONTRACT AWARD VALUE | QTY THIS ESTIMATE | AMT THIS ESTIMATE | QTY PREV ESTIMATE |
|-----------------------------------|------|------|------------|----------------------|-------------------|-------------------|-------------------|
| SEDIMENT CONTROL                  | LS   | 1    | \$1.00     | \$ 1.00              | 0.00              | \$ -              | 1.00              |
| DIRECTORS                         | HOUR | 100  | \$180.00   | \$ 18,000.00         | 0.00              | \$ -              | 0.00              |
| MEASURES AND DEVICES              | LS   | 1    | \$5,000.00 | \$ 5,000.00          | 0.00              | \$ -              | 1.00              |
| MANHOLE PIT                       | LS   | 1    | \$5,000.00 | \$ 5,000.00          | 0.00              | \$ -              | 1.00              |
| MANHOLE PIT                       | CY   | 45   | \$1.00     | \$ 45.00             | 0.00              | \$ -              | 45.00             |
| PAVEMENT REPAIR                   | SY   | 275  | \$30.00    | \$ 8,250.00          | 0.00              | \$ -              | 320.00            |
| POLYETHYLENE PIPE                 | LF   | 740  | \$120.00   | \$ 88,800.00         | 0.00              | \$ -              | 750.00            |
| MANHOLE B                         | UNIT | 1    | \$6,000.00 | \$ 6,000.00          | 0.00              | \$ -              | 1.00              |
| MANHOLE INLET                     | UNIT | 1    | \$6,000.00 | \$ 6,000.00          | 0.00              | \$ -              | 1.00              |
| METER                             | UNIT | 4    | \$6,000.00 | \$ 24,000.00         | 0.00              | \$ -              | 4.00              |
| DRIVEWAY, 6" THICK                | SY   | 7    | \$5.00     | \$ 35.00             | 0.00              | \$ -              | 0.00              |
| DRIVEWAY                          | SY   | 4    | \$4.00     | \$ 16.00             | 0.00              | \$ -              | 30.00             |
| VERTICAL CURB                     | LF   | 420  | \$20.00    | \$ 8,400.00          | 0.00              | \$ -              | 360.00            |
| CURB (IF/WHERE)                   | LF   | 20   | \$20.00    | \$ 400.00            | 0.00              | \$ -              | 0.00              |
| SEWER LATERAL WITH NEW PIPE       | UNIT | 4    | \$100.00   | \$ 400.00            | 0.00              | \$ -              | 4.00              |
| SEWER LATERAL WITH NEW PIPE       | SY   | 200  | \$5.00     | \$ 1,000.00          | 0.00              | \$ -              | 200.00            |
| SEWER LATERAL WITH NEW PIPE       | SY   | 200  | \$5.00     | \$ 1,000.00          | 0.00              | \$ -              | 200.00            |
| LINE ITEM 13- 9" X18" CONCRETE    |      |      |            |                      |                   |                   |                   |
| CALCULATION ERROR IN PAYMENT #3 - |      |      |            |                      |                   |                   |                   |
| SE PAYMENT BY 80 LF               | LF   |      | \$20.00    |                      | 0.00              | \$ -              | 80.00             |
| <b>TOTAL BASE BID</b>             |      |      |            | <b>\$ 172,347.00</b> |                   | <b>\$ -</b>       |                   |

AWARDED CONTRACT  
CHANGE ORDER(S)  
ADJUSTED CONTRACT  
TOTAL COMPLETEI





**FIRST INDEMNITY OF AMERICA INSURANCE COMPANY**

**2740 Rt. 10 West, Suite 205  
Morris Plains, NJ 07950  
(973) 402-1200**

**MAINTENANCE BOND NO. FP0026261M**

The undersigned declare that we, Covino & Sons Construction Co., Inc., as Principal, and FIRST INDEMNITY OF AMERICA INSURANCE COMPANY, as Surety, are held and firmly bound unto Borough of Demarest as Owner, in the sum of Twenty-Three Thousand Five Hundred Forty-Four and 90/100 (\$23,544.90) DOLLARS, to be paid to the said Obligee only, to which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors.

The condition of this obligation is such that, Whereas, the Principal did on the 12th day of April, 2024 enter into a Contract with the Owner for the construction of Pine Terrace Drainage Improvements which said contract was completed and accepted on 7/29/2024.

Now, if the said Principal shall remedy without cost to the Owner any defects which may develop during a period of Two (2) Years from the date of completion and acceptance of the work performed under the contract, provided such defects, according to reasonable construction and engineering standards, are the result of defective or inferior materials or workmanship, then this obligation shall be void, otherwise, it shall be and remain in full force and effect. The Surety hereby stipulates and agrees that no modifications, deletions or additions in or to the terms of said contract, drawings or specifications therefore shall in no way affect its obligation on this bond.

IN WITNESS WHEREOF, the Principal and Surety have duly executed this bond under seal this 8th day of November, 2024.

ATTEST:

PRINCIPAL: Covino & Sons Construction Co., Inc.

By:

Address: 15-31 Eberlin Drive, Fair Lawn, NJ 07410

ATTEST:

FIRST INDEMNITY OF AMERICA INSURANCE COMPANY


  
Michael Slaff, Witness as to Surety  
Justine C. Barker, Attorney-in-Fact

# SURETY ACKNOWLEDGMENT

State of New Jersey

County of Morris

On this 8th day of November 2024, before me personally came Justine C. Barker to me known, who, being by me duly sworn, did depose and say that he/she is an attorney-in-fact of First Indemnity of America Insurance Company the corporation described in and which executed the within instrument; that he/she knows the corporate seal of said corporation; that the seal affixed to the within instrument is such corporate seal, and that he/she signed the said instrument and affixed the said seal as Attorney-in-Fact by authority of the Board of Directors of said corporation and by authority of this office under the Standing Resolution thereof.

  
Notary Public

LISA FAITH MCILVAINE  
Notary Public, State of New Jersey  
Comm. # 2427894  
My Commission Expires 12/14/2027

My commission expires

FIRST INDEMNITY OF AMERICA  
INSURANCE COMPANY

2740 Route 10 West, Suite 205 Morris Plains, N.J. 07950  
Telephone: (973) 402-1200

POWER OF ATTORNEY FOR BONDS AND UNDERTAKINGS

Know All Men By These Presents: That First Indemnity of America Insurance Company, a Corporation of the State of New Jersey does hereby appoint: David H. Page, Gregory A. Frankel, Larry J. Chasin, Lisa F. McIlvaine, Christina Van Lenten, Justine C. Barker, Darrin Errichiello, David H. Page, Jr., its true and lawful Attorneys-in-Fact: to make, execute, sign, acknowledge, affix the Company Seal to, deliver any and all surety bonds, undertakings, recognizances, and other contracts of indemnity and writings obligatory in the nature of a bond, for and on behalf of said Company and as an act and deed of said Company.

IN WITNESS WHEREOF, First Indemnity of America Insurance Company of the State of New Jersey has executed these presents this 25th day of November, 2019.



*Patrick J. Lynch*

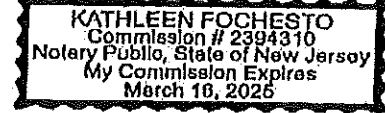
Patrick J. Lynch, President

STATE OF NEW JERSEY )  
COUNTY OF MORRIS ) ss:

On this 25th day of November, 2019, before me came the above named officer of First Indemnity of America Insurance Company of New Jersey, to me personally known to be the individual and officer described herein, and acknowledge that he executed the foregoing instrument and affixed the seal of said corporation thereto by authority of this office.



*Kathleen Fochesto*



CERTIFICATE

Excerpts of Resolutions (Article V, Paragraph 5, of the By-Laws of said Company) adopted by the Board of Directors of the First Indemnity of America Insurance Company of the State of New Jersey, November 25, 2019.

RESOLVED, on November 25, 2019, that the President, or any one of the Vice Presidents specially authorized to do so by the Board of Directors, or by the Executive Committee, shall have power to appoint Attorneys-in-Fact as the business of the company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and release and assignment of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require and to affix the Seal of the Company thereto.

FURTHER RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating to the Power of Attorney by facsimile and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking, recognizances or other contract of indemnity of writing obligatory in the nature thereof.

I, Jane E. Lynch, Secretary of First Indemnity of America Insurance Company of New Jersey, do hereby certify that the foregoing excerpts of the Resolution adopted by the Board of Directors of the Corporation and the Powers of Attorney issued pursuant thereto, are true and correct and that both the Resolution and the Powers of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have herewith set my hand and affixed the seal of said Corporation this 8th day of November, 2024.



*Jane E. Lynch*  
Jane E. Lynch, Secretary

**FIRST INDEMNITY OF AMERICA INSURANCE COMPANY**  
**2740 Route 10 West, Suite 205, Morris Plains, N.J. 07950**  
**STATEMENT OF FINANCIAL CONDITION AS OF DECEMBER 31, 2023**

**Assets:**

|  |               |
|--|---------------|
| Bonds  | \$ 13,948,551 |
| Preferred & Common Stocks                            | 6,760,615     |
| Mortgage Loans                                       | 97,104        |
| Real Estate  | 1,354,308     |
| Cash and Short Term Investments                      | 5,432,614     |
| Investment Income Due and Accrued                    | 144,555       |
| Premiums in the Course of Collection (under 90 days) | 907,137       |
| Reinsurance Recoverable on Loss and LAE Payments     | 112,171       |
| Deferred Tax Asset                                   | 593,605       |
| Other Assets   | <u>38,472</u> |

**Total Admitted Assets** \$ 29,389,132

**Liabilities and Surplus:**

|   |               |
|---|---------------|
| Reserve for Loss and Loss Adjustment Expenses | 6,610,281     |
| Other Expenses                                | 489,345       |
| Taxes Licenses and Fees                       | 51,509        |
| Federal Income Tax Payable                    | 438,252       |
| Unearned Premium                              | 2,979,370     |
| Amounts Withheld or Retained for Others       | 4,536,068     |
| Ceded Reinsurance Balances Payable            | 353,055       |
| Security Deposits                             | <u>12,600</u> |

**Total Liabilities** 15,470,480


**Capital & Surplus:**

|                                 |                  |
|---------------------------------|------------------|
| Common Stock, Paid Up           | 2,500,000        |
| Paid in and Contributed Surplus | 1,480,945        |
| Unassigned Surplus              | <u>9,937,707</u> |

**Surplus as Regards to Policyholders** 13,918,652

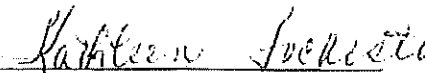
**Total Liabilities and Surplus** \$ 29,389,132

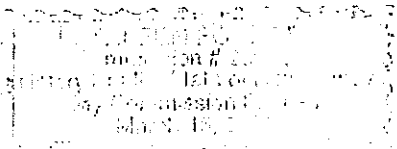
I, Glenn A. Runne, Chief Financial Officer of First Indemnity of America Insurance Company, do hereby certify that the foregoing statement is a correct exhibit of the assets and surplus of the said company, on the 31<sup>st</sup> day of December, 2023, according to the best information, knowledge, and belief.

  
 Glenn A. Runne  
 Chief Financial Officer

State of New Jersey)  
 County of Morris) SS:

Subscribed and sworn to, before me, a Notary Public of the State of New Jersey in the Township of Morris Plains, this 21<sup>st</sup> day of February, 2024.

  
 Kathleen Fochesto  
 My Commission Expires March 16, 2025



**Resolution of the Demarest Governing Body**

**Resolution No. 212-24**

**December 9, 2024**

| <b>Council Member</b> | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Abstain</b> | <b>Absent</b> |
|-----------------------|---------------|---------------|------------|-----------|----------------|---------------|
| <b>Jiang</b>          |               |               |            |           |                |               |
| <b>Fox</b>            |               |               |            |           |                |               |
| <b>Marks</b>          |               |               |            |           |                |               |
| <b>Slowikowski</b>    |               |               |            |           |                |               |
| <b>Reiss</b>          |               |               |            |           |                |               |
| <b>Collins</b>        |               |               |            |           |                |               |

**TITLE: AUTHORIZING CLASS ONE SPECIAL POLICE OFFICERS**

=====

**WHEREAS**, the Demarest Police Department wishes to sponsor individuals to receive training at the Bergen County Police Academy as Class One Specialists: and

**WHEREAS**, the following individuals have been identified by the Demarest PD and recommended for training at the Bergen County Police Academy as Class One Specialists; and

Matthew Carey and Ryan Smith

**WHEREAS**, the Demarest Police Department intends to offer Part Time Employment to these individuals to serve as Class One Special Police Officers upon successful completion on such training anticipated to be on or about June, 2025.

**NOW THEREFORE, BE IT RESOLVED**, by the Borough of Demarest that Matthew Carey and Ryan Smith be enrolled in the upcoming training class beginning on or about January 2025 with anticipated graduation on or about June 2025.

**APPROVED:**

\_\_\_\_\_  
**Brian Bernstein, Mayor**

**CERTIFICATION**

I, Julie Falkenstern, Acting Borough Clerk, of the Borough of Demarest, in the County of Bergen and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of the original resolution duly passed and adopted by the Governing Body at the meeting on December 9, 2024.

\_\_\_\_\_  
Julie Falkenstern, Acting Borough Clerk