

Resolution of the Demarest Governing Body

Resolution No. 170-25

September 29, 2025

Council Member	Motion	Second	Yes	No	Abstain	Absent
Slowikowski	✓		✓			
Collins			✓			
Fox						✓
Jiang			✓			
Marks		✓	✓			
Reiss			✓			

TITLE: RESOLUTION AUTHORIZING AN ESCROW FUNDING AGREEMENT WITH 232 COUNTY ROAD, LLC

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WHEREAS, 232 County Road, LLC, the contract purchaser of the Property, and the Borough of Demarest desire to enter into an Escrow Agreement to fund the costs and expenses in connection with exploring the proposed redevelopment of the Property; and

WHEREAS, 232 County Road, LLC, is the “Proposed Developer” of 232 County Road, Block 65, Lot 5, (“the Property”) on the official tax map of the Borough of Demarest; and

WHEREAS, the Proposed Developer proposes to redevelop the Property by: (1) razing the existing structures on the Property; (2) building a new inclusionary multi-family dwelling consisting of townhouses and flats; (3) providing on-site parking for all the proposed units (collectively the “Project”); and

WHEREAS, the Proposed Developer seeks input from the Borough’s Affordable Housing Committee, Borough Affordable Housing Counsel, the Borough Engineer, the Borough Planner and other professionals to propose to the Borough Council and/or the Joint planning Board the inclusion of the Project in the Borough’s Housing Plan (the “Housing Plan”); and

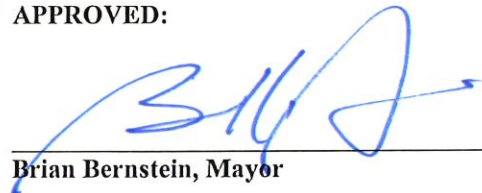
WHEREAS, as an inducement to the Borough to consider studying and reviewing the Project and, as a precondition thereto, the Developer has agreed to deposit with the Borough the initial amount of Two Thousand Five Hundred (\$2,500.00) Dollars (the “Escrow Deposit”), to be deposited in an escrow account and disbursed in accordance with the provision of this Escrow Agreement to defray certain costs incurred by or on behalf of the Borough arising out of the activities described above; and

WHEREAS, the Borough, by entering into the Escrow Agreement, does not provide any assurance of a particular result, the intent being only to defray the costs and expenses of exploring the potential for the proposed development of the Property.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Demarest that the Escrow Agreement attached and submitted by 232 County Road, LLC (“Proposed Developer”) for the “Project” is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute said Escrow Agreement on behalf of the Borough of Demarest

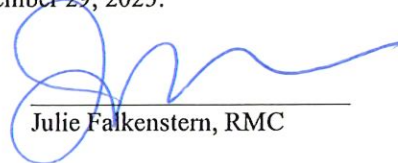
APPROVED:



Brian Bernstein, Mayor

CERTIFICATION

I, Julie Falkenstern, Registered Municipal 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 September 29, 2025.



Julie Falkenstern, RMC

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") is made as of the ____ day of August 2025 by and between **232 County Road, LLC** (the "**Proposed Developer**"), with an address of c/o Capizzi Law Offices, 205 Fairview Avenue, Westwood New Jersey 07675, New Jersey 07020 and **THE BOROUGH OF DEMAREST**, a body corporate and politic of the State of New Jersey, (the "**Borough**"), with an address at Municipal Building, 118 Serpentine Road, Demarest, New Jersey 07627.

RECITALS

WHEREAS, the Proposed Developer is the Contract Purchaser of certain property designated as Block 65, Lot 5 on the Official Tax Map of the Borough and more commonly known by the street addresses of 232 County Road (collectively, the "**Property**"); and

WHEREAS, the Proposed Developer proposes to redevelop the Property by: (1) razing the existing structures on the Property; (2) building a new multi-family dwelling consisting of townhouses and flats; (3) providing on-site parking for all the proposed units (collectively the "**Project**"); and

WHEREAS, the Property is located in the R-B zone district of the Demarest Land Development Regulations ("**LDR**"); and

WHEREAS, the Proposed Developer seeks the Municipal Council of the Borough of Demarest (the "**Borough Council**") and/or the Joint Planning Board of the Borough of Demarest (the "**JPB**") include the Project in the Borough's Housing Plan (the "**Housing Plan**") pursuant to the Fair Housing Act, specifically N.J.S.A. 52:27D-310 and/or a redevelopment plan (the "**Redevelopment Plan**") pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the "**Redevelopment Law**") to allow the development of the Project on the Property; and

WHEREAS, as an inducement to the Borough and JPB to consider studying and adopting an Amended Housing Plan and/or Redevelopment Plan and engage in such negotiations over the Escrow Agreement, and as a precondition thereto, the Proposed Developer has agreed to deposit with the Borough the initial amount of **TWO THOUSAND FIVE HUNDRED and 00/100 (\$2,500.00) DOLLARS** (the "**Escrow Deposit**"), to be deposited in an escrow account and disbursed in accordance with the provisions of this Escrow Agreement to defray certain costs incurred by or on behalf of the Borough and JPB arising out of the activities described above and in connection with the preparation of the Escrow Agreement.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. **Escrow Deposit.** The initial Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Borough, including any applications for land use approvals that may be needed to implement the Project, should the Project move forward. Additions to the Escrow Deposit may subsequently become necessary to cover all reimbursable expenses incurred by the Borough pursuant to the terms of this Escrow Agreement.

2. **Scope of Reimbursable Services.** (a) The Borough shall be entitled to be reimbursed for all professional charges incurred in connection with the activities described in the Recitals, and the negotiation and preparation of the Escrow Agreement; the preparation and review of all related documents and materials, including but not limited to correspondence, meetings and all communications (including by telephone and e-mail) with the Proposed Developer, its professionals, Borough staff or retained professional(s) in the negotiation and preparation of revised zoning ordinance and/or any amendments to the Housing Element and Fair Share Plan and subsequent actions taken for approval by the Dispute Resolution Program and/or the Superior Court and related documents or materials (collectively, the "Reimbursable Activities"). **Reimbursement may include charges incurred in connection with Reimbursable Activities prior to the date of this Escrow Agreement and is not contingent upon the outcome of the negotiations or execution of an Agreement.**

(b) Properly reimbursable professional charges shall be reasonable and necessary and shall relate to Reimbursable Activities performed by outside consultants and professionals.

3. **Deposit and Administration of Escrow Funds.** The Escrow Deposit and all additions thereto shall be held by the Borough in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State of New Jersey, in a segregated, non-interest-bearing account referenced to this Escrow Agreement.

4. **Payments from the Escrow Funds.** (a) The Borough shall use such funds to pay reimbursable professional charges and the charges for special meetings, if applicable.

(b) Professional charges paid out of the escrow account shall include professional charges in connection with the Reimbursable Activities. The Proposed Redeveloper shall not be charged for any costs and expenses not associated with the Reimbursable Activities. The only costs that shall be added for payment from the escrow in addition to the Reimbursable Activities shall be actual out-of-pocket expenses of such professionals or outside consultants, including normal and typical expenses incurred in connection with such Reimbursable Activities.

(c) Each payment for professional services charged to the escrow account shall be pursuant to a voucher from the professional, identifying the personnel performing the Reimbursable Activities, each date the services were performed, the hours spent in not greater than one-quarter (1/4) hour increments, the hourly rate, and specifying properly reimbursable expenses. All professionals shall submit the required vouchers or statements to the Borough on a periodic basis in accordance with the schedule and procedures established by the Borough. The professional shall simultaneously send an informational copy of each voucher or statement submitted to the Borough to the Proposed Developer, c/o Matthew Capizzi, Esq., 205 Fairview

Avenue, Westwood, New Jersey 07675; *provided*, that each such informational voucher or statement may be redacted if and as necessary to prevent disclosure of privileged or otherwise confidential matters.

5. Accounting and Additional Deposits. Upon the termination of negotiations, the submission of a development application to the JPB, or as reasonably requested by the Proposed Developer, the Borough shall prepare and send to the Proposed Developer a statement which shall include an accounting of funds listing all deposits, disbursements and the cumulative balance of the escrow account. If at any time the balance in the escrow account is less than **ONE THOUSAND FIVE HUNDRED and 00/100 (\$1,500.00) DOLLARS**, or if the escrow account otherwise contains insufficient funds, in the absolute sole discretion of the Borough to enable the Borough to continue with the negotiations or document preparation, the Borough shall provide the Proposed Redeveloper with a notice of the insufficient escrow deposit balance. The Proposed Redeveloper shall deposit to the escrow account additional funds such that the total amount on deposit shall be not less than **ONE THOUSAND FIVE HUNDRED and 00/100 (\$1,500.00) DOLLARS**, such deposit to be made within five (5) business days of the Borough's notice, failing which the Borough may unilaterally cease work without liability to the Proposed Redeveloper.

6. Close Out Procedures. Upon termination of negotiations an application to the JPB, or upon the submission of an application to the JPB, and unless otherwise provided in the Agreement, the Proposed Developer shall send written notice by certified mail to the Borough, the Borough Attorney and to the relevant municipal professional(s), requesting that the remaining balance of the Escrow Deposit be refunded, or otherwise applied as agreed to pursuant to the terms an executed Developer Agreement. After receipt of such notice, the professional(s) shall render a final bill to the Borough within sixty (60) days, and if so requested shall send an informational copy simultaneously to the Proposed Developer. Within sixty (60) days of receipt of the final bill(s) the Borough shall pay all outstanding bills and render a written final accounting to the Proposed Developer detailing the uses to which the escrow funds were put. The Proposed Developer will not be responsible for any additional charges once the remaining balance of the Escrow Deposit is refunded. If a Developer Agreement is executed and the Proposed Developer so requests, the Borough agrees to apply any balance remaining in the Escrow Deposit towards the funding of any escrow deposits that may be required to be posted pursuant to the terms of the executed Developer Agreement.

7. Disputed Charges. (a) The Proposed Developer may dispute the propriety or reasonableness of professional charges paid out of the Escrow Deposit by written notice to the Borough. A copy of such notice shall be sent simultaneously to the professional(s) whose charges or estimated costs are the subject of the dispute. Such written notice of a disputed charge shall be given within forty-five (45) days from the Proposed Developer's receipt of the informational copy of the professional's voucher, except that if the professional has not supplied the Proposed Developer with an informational copy of the voucher, then the Proposed Developer shall send notice within sixty (60) days from receipt of the first statement of activity against the escrow account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute the Proposed Developer's acceptance of the charge and a waiver by the Proposed Developer of all objections to the charge and to payment thereof out of the escrow account.

(b) During the pendency of a dispute the Borough may continue to pay undisputed charges out of the escrow account. If a dispute over a charge is resolved in the Proposed Developer's favor after having been paid, the Borough shall reimburse the escrow account in the amount determined to be properly disputed.

(c) If the parties cannot resolve the dispute between themselves, then the procedures under N.J.S.A. 40:55D-53.2a shall control.

8. Governing Law. This Escrow Agreement shall be governed, construed and enforced according to the laws of the State of New Jersey, without regard to its conflicts of laws principles. Any action hereunder shall be brought exclusively in a court of the State of New Jersey sitting in Bergen County, New Jersey, and the Proposed Developer hereby waives all objections to such venue and hereby waives any rights to a jury trial, if applicable.

9. Successors and Assigns. This Escrow Agreement shall be binding upon, and inure to the benefit of, the parties hereto and upon each party's successors and assigns.

10. Entire Agreement; No Modification Unless in Writing. This Escrow Agreement contains the entire agreement of the parties relative to the subject matter hereof. Any amendment hereto or modification or variation hereof shall be ineffective unless in writing signed by each of the parties hereto.

11. Effective Date. This Escrow Agreement shall not become effective unless and until the initial Escrow Deposit is made.

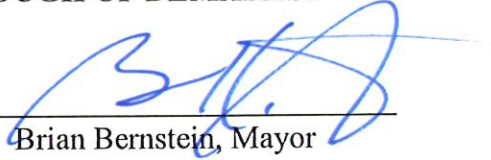
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IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

Witness or Attest:



BOROUGH OF DEMAREST

By: 

Brian Bernstein, Mayor

Witness or Attest:

232 County Road, LLC

By: _____
Russ Luppino, Member

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

Witness or Attest:

BOROUGH OF DEMAREST

By: _____
Brian Bernstein, Mayor

Witness or Attest:

232 County Development, LLC

Karissa Vittorio

By: 

Michael Feinstein, Member