

TOWNSHIP OF FREDON RESOLUTION 2024-40

**RESOLUTION AUTHORIZING RELEASE OF FUNDS FROM ESCROW
IN ACCORDANCE WITH OCTOBER 6, 2021 ADMINISTRATIVE
CONSENT ORDER WITH THE STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

WHEREAS, the Township of Fredon (“Township”) is party to an Administrative Consent Order (“ACO”), approved by the Township Committee on July 22, 2021, which resolved the matter entitled, NJDEP v. Gale & Kitson Fredon Golf, et al., bearing OAL Docket No. ECELU 05064-2009N (“OAL Proceeding”) involving wetlands and transition area encroachments and wetlands restoration work; and

WHEREAS, the ACO became final on October 6, 2021, following a 30-day public comment period, and memorialization of a modification letter dated October 6, 2021, pertaining to the purchase of mitigation bank credit; and

WHEREAS, in 2006, prior to the OAL Proceeding, the Township and the Planning Board of the Township of Fredon, now the Land Use Board, entered into an Escrow Agreement with the former developer and others to establish an escrow fund (the “Escrow Fund”) to pay for the completion of various wetlands restoration improvements to properties included in the ACO, which Escrow Fund is being held by Escrow Agent, Kevin Kelly, Esq. of Kelly & Ward, LLC, 94 Spring Street, Newton, New Jersey 07860; and

WHEREAS, on October 28, 2021, the Township approved Resolution 2021-65 authorizing the initial release of \$9,500.00 from the Escrow Fund to reimburse Kitson & Evergreen, LLC for the deposit it paid to Sierra Landscape Management, LLC for restoration work required under the ACO; and

WHEREAS, on November 8, 2021, the Township approved Resolution 2021-66 authorizing the release of \$24,529.38 from the Escrow Fund to pay for: (1) the purchase of wetlands mitigation credits required under the ACO from Evergreen Environmental (\$9,237.50); (2) the Wetland Restoration Plan, Completion Report, and related ecological services performed by Wander Ecological Consultants (\$4,000); and (3) the balance of work performed under the Sierra Landscape Management Restoration Work Contract by Sierra Landscape Management, LLC (\$11,291.88); and

WHEREAS, on December 8, 2022, the Township approved Resolution 2022-78 authorizing the release of \$800.00 from the Escrow Fund to pay Wander Ecological Consultants for the first of three annual monitoring reports required under paragraph 20 of the ACO; and

WHEREAS, on November 29, 2023, the Township approved Resolution 2023-78 authorizing the release of \$800.00 from the Escrow Fund to pay Wander Ecological Consultants for the second of three annual monitoring reports required under paragraph 20 of the ACO; and

WHEREAS, as part of its ongoing monitoring efforts, Wander Ecological Consultants conducted a site visit in October 2023 and observed a decrease in the survivorship of initial plantings compared with what it observed at the site in 2022; and

WHEREAS, as a result of its recent observations, Wander Ecological Consultants prepared a remediation plan entitled “Remediation Plan for Bear Brook Golf Club Mitigation Plantings 2024” (“2024 Remediation Plan”) which outlines recommended action items required to achieve satisfactory survivorship of the wetland mitigation plantings at the site; and

WHEREAS, pursuant to the ACO, on January 5, 2024, Kitson & Partners requested that \$600.00 be released from the Escrow Fund to pay Wander Ecological Consultants for the preparation of the 2024 Remediation Plan; and

WHEREAS, on January 5, 2024, the State of New Jersey, Department of Environmental Protection approved the release of \$600.00 from the Escrow Fund for this purpose; and

WHEREAS, pursuant to and in accordance with the ACO, the Township desires to authorize the release of funds in the amount and for the purpose described above.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Fredon, in the County of Sussex, and State of New Jersey hereby authorizes the release of \$600.00 from the Escrow Fund to pay Wander Ecological Consultants, 28 Warner Road, Newton, New Jersey, for preparation of the “Remediation Plan for Bear Brook Golf Club Mitigation Plantings 2024” outlining recommended action items required to achieve satisfactory survivorship of the wetland mitigation plantings at the subject site.

BE IT FURTHER RESOLVED that the Escrow Agent, Kevin Kelly, Esq. of Kelly & Ward, LLC is hereby authorized and directed to pay the amount set forth above in accordance herewith and as required under the ACO.

Moved By:

Seconded By:

VOTING

Township Committee Member	In Favor	Against	Abstain	Absent
Erin Corcella				
Glenn Deitz				
Carl Lazzaro				
Chris Nichols				
George Plock				

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Fredon Township Committee, in the County of Sussex, at a meeting thereof held March 13, 2024.

Suzanne Boland, RMC
Municipal Clerk