

**TOWNSHIP OF FREDON RESOLUTION 2021-66**

**RESOLUTION AUTHORIZING RELEASE OF ADDITIONAL 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; 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**, on October 28, 2021, the Township approved Resolution 2021-65 authorizing an initial release of funds from the 2006 Escrow Fund (“Escrow Fund”) established for the completion of various restoration improvements to certain properties described in the ACO, and which is being held by Escrow Agent, Kevin Kelly, Esq. of Kelly & Ward, LLC, 94 Spring Street, Newton, New Jersey 07860; and

**WHEREAS**, pursuant to the ACO, on October 21, 2021, Kitson & Partners requested that an additional sum of \$9,237.50 be released from the Escrow Fund for the purchase of wetlands mitigation credits required under the ACO from Evergreen Environmental (“Evergreen”), having a business address at 425 Darby Paoli Road, Wayne, Pennsylvania 19087; and

**WHEREAS**, Evergreen is the owner of the Evergreen Close Brook Mitigation Bank which was the lowest bidder among the four mitigation banks serving Watershed Management Area 1 where the subject properties are located; and

**WHEREAS**, on October 27, 2021, the State of New Jersey, Department of Environmental Protection (“NJDEP”) approved the release of \$9,237.50 from the Escrow Fund to pay Evergreen as requested by Kitson & Partners, LLC; and

**WHEREAS**, on October 26, 2021, Kitson & Partners requested that an additional sum of \$4,000.00 be released from the Escrow Fund to pay for the Wetland Restoration Plan, Completion Report, and related ecological services performed by Wander Ecological Consultants (“Wander”), having a business address at 28 Warner Road, Newton, New Jersey 07860; and

**WHEREAS**, on October 27, 2021, the NJDEP approved the release of \$4,000.00 from the Escrow Fund to pay Wander as requested by Kitson & Partners, LLC; and

**WHEREAS**, on October 27, 2021, Kitson & Partners requested that an additional sum of \$11,291.88 be released from the Escrow Fund to pay for the balance of work performed under the Sierra Landscape Management Restoration Work Contract by Sierra Landscape Management, LLC (“Sierra”), having a business address at 901 Five Points Ln., Newton, New Jersey 07860; and

**WHEREAS**, on November 3, 2021, the NJDEP approved the release of \$11,291.88 from the Escrow Fund to pay Sierra as requested by Kitson & Partners, LLC; and

**WHEREAS**, paragraph 28 of the ACO states that “[u]pon written approval by counsel for the [NJDEP] (by letter or e-mail within five (5) business days of receipt of the invoice), the Township and Land Use Board shall authorize the release of, and the Escrow Agent shall pay, such amount from the Escrow Fund to the applicable vendor as identified in the invoice submitted by Respondent within twenty (20) calendar days of the date of receipt of the invoice by the Township attorney;” and

**WHEREAS**, pursuant to and in accordance with the ACO, the Township desires to authorize the release of funds as 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 funds from the Escrow Fund to pay for services required under the ACO as follows:

1. The sum of \$9,237.50 shall be released from the Escrow Fund to pay for the purchase of wetlands mitigation credits required under the ACO from Evergreen Environmental, having a business address at 425 Darby Paoli Road, Wayne, Pennsylvania 19087.

2. The sum of \$4,000.00 shall be released from the Escrow Fund to pay for the Wetland Restoration Plan, Completion Report, and related ecological services performed by Wander Ecological Consultants, having a business address at 28 Warner Road, Newton, New Jersey 07860

3. The sum of \$11,291.88 shall be released from the Escrow Fund to pay for the balance of work performed under the Sierra Landscape Management Restoration Work Contract by Sierra Landscape Management, LLC, having a business address at 901 Five Points Ln., Newton, New Jersey 07860

**BE IT FURTHER RESOLVED** that the Escrow Agent, Kevin Kelly, Esq. of Kelly & Ward, LLC is hereby authorized and directed to pay the amounts 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
Glenn Deitz				
Carl Lazzaro				
Guy Masi				
John Richardson				
John P. Flora				

**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 November 8, 2021.

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Suzanne Boland, RMC  
Municipal Clerk