



**TOWNSHIP COMMITTEE  
TOWNSHIP OF MENDHAM**

**May 9, 2016 – 6:30 p.m. Executive Session  
7:30 p.m. Regular session**

**1. ROLL CALL:**

Mr. Baumann  
Mrs. Orban Brown  
Mrs. Thomas  
Mr. Tolley  
Mayor Cioppettini

**2. SALUTE TO THE FLAG:**

**3. STATEMENT OF ADEQUATE NOTICE:**

Adequate notice of this meeting of the Township Committee of the Township of Mendham was given as required by the Open Public Meetings Act as follows: Notice was given to the Daily Record, Observer Tribune and the Star Ledger on January 8, 2016. Notice was posted on the Bulletin Board in the Township Offices and Notice was filed with the Township Clerk.

**4. RESOLUTION 2016-57**

**AUTHORIZING DISCUSSION WITHOUT THE PRESENCE OF THE  
PUBLIC**

Motion to adopt, second, discussion, roll call vote

**5. EXECUTIVE SESSION**

Legal  
Contracts  
Personnel

**6. PRESENTATION**

K-8 Budget – Mr. Krieger

**7. ANNOUNCEMENTS**

**8. APPROVAL OF MINUTES**

April 11, 2016, regular, executive  
Motion to adopt, second, discussion, roll call vote

April 26, 2016, regular, executive  
Motion to adopt, second, discussion, roll call vote

**9. HEARING PERSONS PRESENT**

**10. NEW BUSINESS**

**ORDINANCES FOR FIRST READING**

**ORDINANCE 2016-9**

BOND ORDINANCE PROVIDING FOR UPGRADES TO MENDHAM SEWER EAST TREATMENT PLANT IN AND BY THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, APPROPRIATING \$2,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,500,000

BONDS OR NOTES OF THE TOWNSHIP TO FINANCE THE COST THEREOF.

Motion to adopt, discussion, roll call vote

This ordinance will be on for second reading and public hearing at the May 24, 2016 Township Committee meeting.

**11. RESOLUTIONS**

**RESOLUTIONS**

**RESOLUTION 2016-58**

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM SELF-EXAMINATION OF BUDGET

Motion to adopt, second, discussion, roll call vote

**BUDGET ADOPTION**

**RESOLUTION 2016-43**

INTRODUCTION OF THE 2016 MUNICIPAL BUDGET

Motion to adopt, second, public hearing, discussion, roll call vote

**RESOLUTION 2016-59**

AUTHORIZING REFUND OF OVERPAYMENT OF TAXES DUE TO NJ STATE TAX COURT JUDGMENT

Motion to adopt, second, discussion, roll call vote

**RESOLUTION 2016-60**

RESOLUTION AUTHORIZING MODIFICATION TO PROJECT SCOPE/LIMITS TO THE COLD HILL ROAD IMPROVEMENT PROJECT

Motion to adopt, second, discussion, roll call vote

**RESOLUTION 2016-61**

RESOLUTION AUTHORIZING THE MENDHAM TOWNSHIP TAX COLLECTOR TO PREPARE AND MAIL ESTIMATED TAX BILLS IN ACCORDANCE WITH P.L.1994, C.72

Motion to adopt, second, discussion, roll call vote

**RESOLUTION 2016-62**

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A DEVELOPER'S AGREEMENT BY AND BETWEEN THE TOWNSHIP OF MENDHAM AND AUBER RESOURCES

Motion to adopt, second, discussion, roll call vote

**RESOLUTION 2016-63**

**AUTHORIZING PAYMENT OF BILLS**

Motion to adopt, second, discussion, roll call vote

**12. DISCUSSION**

**13. HEARING PERSONS PRESENT**

**14. ADJOURN**

**RESOLUTION 2016-57**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF  
THE TOWNSHIP OF MENDHAM  
AUTHORIZING DISCUSSION WITHOUT  
THE PRESENCE OF THE PUBLIC**

**WHEREAS**, it is deemed appropriate that the Township Committee discuss the matters hereafter mentioned without the presence of the public, in accordance with the provisions of R.S. 10:412b, being section 7b of the Open Public Meetings Act;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Mendham, in the County of Morris, New Jersey, as follows:

Contracts  
Legal  
Personnel

Shall be discussed by the Township Committee without the presence of the public. It is anticipated that these matters can be disclosed to the public when further action is taken in connection with the discussion.

Adopted: May 9, 2016

Attest:

TOWNSHIP OF MENDHAM,  
COUNTY OF MORRIS

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

\_\_\_\_\_  
Frank Cioppettini  
Mayor

**CERTIFICATION**

I, Mary Beth Zichelli, Township Clerk of the Township of Mendham, in the County of Morris, New Jersey, do hereby certify the foregoing to be a true and correct copy of Resolution 2016-57 from the May 9, 2016 meeting of the Township Committee.

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

**ORDINANCE 9-2016  
THE TOWNSHIP OF MENDHAM  
IN THE COUNTY OF MORRIS, NEW JERSEY**

**BOND ORDINANCE PROVIDING FOR UPGRADES TO THE MENDHAM SEWER EAST TREATMENT PLANT IN AND BY THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, APPROPRIATING \$2,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,500,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE THE COST THEREOF**

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Township of Mendham, in the County of Morris, New Jersey (the "Township") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$2,500,000. No down payment is required pursuant to N.J.S.A. 40A:2-11(c) since the project authorized herein is an environmental infrastructure project being funded by a loan from the New Jersey Environmental Infrastructure Trust.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$2,500,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the conversion of the existing Mendham Sewer East Treatment Plant to a conventional biological treatment process and various other energy efficient upgrades, including the acquisition and installation of new pumps, blowers and motors, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 30 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the

Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$2,500,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$400,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable real property within

the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

INTRODUCED:

ADVERTISED:

PUBLIC HEARING

ADOPTED:

ADVERTISED:

ATTEST:

**TOWNSHIP OF MENDHAM  
IN THE COUNTY OF MORRIS**

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**Mary Beth Zichelli  
Township Clerk**

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**Frank Cioppettini  
Mayor**

## RESOLUTION 2016-58

### RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM SELF-EXAMINATION OF BUDGET

**WHEREAS**, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

**WHEREAS**, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

**WHEREAS**, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Township of Mendham has been declared eligible to participate in the program by the Division of Local government Services, and the Acting Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2016 budget year.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Township of Mendham that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Acting Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
  - a. Payment of interest and debt redemption charges
  - b. Deferred charges and statutory expenditures
  - c. Cash deficit of preceding year
  - d. Reserve for uncollected taxes
  - e. Other reserves and non-disbursement items
  - f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:

- a. All estimates of revenue are reasonable, accurate and correctly stated,  
b. Items of appropriation are properly set forth

c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

**BE IT FURTHER RESOLVED** that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

Adopted: May 9, 2016

Attest:

TOWNSHIP OF MENDHAM,  
COUNTY OF MORRIS

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

\_\_\_\_\_  
Frank Cioppettini  
Mayor

CERTIFICATION

I, Mary Beth Zichelli, Township Clerk of the Township of Mendham, in the County of Morris, New Jersey, do hereby certify the foregoing to be a true and correct copy of Resolution 2016-58 from the May 9, 2016 meeting of the Township Committee.

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk



2016-43

**RESOLUTION TO APPROVE BUDGET AND  
SET PUBLIC HEARING DATE (MAY 9, 2016)**

**MUNICIPAL BUDGET NOTICE**

**Municipal Budget of the Township of Mendham, County of Morris  
for the Fiscal Year 2016**

**BE IT RESOLVED**, that the following statements of revenues and appropriations shall constitute the Municipal Budget for the year 2016; and

**BE IT FURTHER RESOLVED**, that said Budget be published in the Observer Tribune in the issue of April 14, 2016.

The Governing Body of the Township of Mendham does hereby approve the following as the Budget for the year 2016:

RECORDED VOTE:    Ayes:                      Nays:  
                                Absent:  
                                Abstain:

Notice is hereby given that the Budget and Tax Resolution was approved by the Township Committee of the Township of Mendham, County of Morris, on April 11, 2016.

A Hearing on the Budget and Tax Resolution will be held at Town Hall on May 9, 2016 at 7:30 p.m. at which time and place objections to said Budget and Tax Resolution for the year 2016 may be presented by taxpayers or other interested parties.

Adopted: May 9, 2016

Attest:

TOWNSHIP OF MENDHAM  
COUNTY OF MORRIS

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

\_\_\_\_\_  
Frank Cioppettini  
Mayor

I, Marybeth Zichelli, Township Clerk of the Township of Mendham, County of Morris, State of New Jersey, hereby certify this to be a true copy of a resolution adopted by the Township Committee on May 9, 2016.

**Township of Mendham  
RESOLUTION 2016-59**

**AUTHORIZING REFUND OF OVERPAYMENT OF TAXES DUE TO NJ STATE TAX COURT  
JUDGMENT**

WHEREAS, the Tax Collector has certified to the Township of Mendham that a payment be refunded due to an overpayment of taxes by the property owner as a result of a NJ State Tax Court Judgment

WHEREAS, the Governing Body has reviewed said certification and approved the same.

NOW THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Mendham, being the Governing Body thereof that payment is refunded as follows:

Block & Lot & Qualifier	Refund to:	Amount
100 50 Apicella 21 Carriage Hill Drive	Michael Schneck Esq. c/o Denise Apicella Trustee 301 South Livingston Avenue Livingston, NJ 07039	\$3,319.14

ADOPTED: May 9, 2016  
ATTEST:

TOWNSHIP OF MENDHAM,  
IN THE COUNTY OF MORRIS

BY: \_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

\_\_\_\_\_  
Frank V. Cioppettini, Jr.  
Mayor

CERTIFICATION

I, Mary Beth Zichelli, Township Clerk of the Township of Mendham, in the County of Morris, New Jersey, do hereby certify the foregoing to be a true and correct copy of Resolution 2016-59 from the May 9, 2016 meeting of the Township Committee.

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

**Township of Mendham  
RESOLUTION 2016-60**

**AUTHORIZING MODIFICATION TO PROJECT SCOPE/LIMITS TO THE COLD HILL ROAD  
IMPROVEMENT PROJECT**

**WHEREAS**, the NJDOT has made certain funds available to the Township through the NJDOT Fiscal Year 2016 Municipal Aid Program for road improvements for the above referenced project;

**WHEREAS**, the Township has determined that the limits of the project will be reduced from the original scope of approximately 10,000 linear feet (Woodland Road to Tempe Wick Road) to approximately 5,000 linear feet (Woodland Road to Mountainside Road). The project will continue to consist of various improvements including, but not limited to, base repair, curbing, drainage inlet reset or replacement, milling, paving, traffic striping, and replacement of traffic signal loop detector.

**BE IT RESOLVED** that the Mendham Township Committee formally approves a modification in scope for the above referenced project as described above

**BE IT FURTHER RESOLVED** that the Mayor and Township Clerk are hereby authorized to sign the modification to project scope agreement

ADOPTED: May 9, 2016

ATTEST:

TOWNSHIP OF MENDHAM,  
IN THE COUNTY OF MORRIS

BY: \_\_\_\_\_

Mary Beth Zichelli

Township Clerk

\_\_\_\_\_  
Frank V. Cioppettini, Jr.

Mayor

CERTIFICATION

I, Mary Beth Zichelli, Township Clerk of the Township of Mendham, in the County of Morris, New Jersey, do hereby certify the foregoing to be a true and correct copy of Resolution 2016-60 from the May 9, 2016 meeting of the Township Committee.

\_\_\_\_\_  
Mary Beth Zichelli

Township Clerk

**RESOLUTION 2016-61**

**TOWNSHIP OF MENDHAM, COUNTY OF MORRIS**

**RESOLUTION AUTHORIZING THE MENDHAM TOWNSHIP  
TAX COLLECTOR TO PREPARE AND MAIL ESTIMATED  
TAX BILLS IN ACCORDANCE WITH P.L. 1994, c.72**

**WHEREAS**, the Township of Mendham introduced the budget on April 11, 2016 and the Morris County Board of Taxation is unable to certify Township of Mendham's tax rate at this time and the Mendham Township Tax Collector will be unable to mail the Township's final 2016 tax bills on a timely basis;

**WHEREAS**, the Mendham Township Tax Collector in consultation with the Mendham Township Chief Financial Officer has computed an estimated tax levy in accordance with N.J.S.A. 54: 4-66.3, and they have both signed a certification showing the tax levies for the previous year, the tax rates and the range of permitted estimated tax levies;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY** on this 9th day of May, 2016, as follows:

1. The Mendham Township Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the Township for the third installment of 2016 taxes at an estimated tax rate of 2.084.
2. The entire estimated tax levy for 2016 is hereby set at **\$39,097,192**
3. In accordance with law the third installment of 2016 taxes shall not be subject to interest until the later of August 10 or the twenty-fifth calendar day after the date the estimated tax bills were mailed. The estimated tax bills shall contain a notice specifying the date on which interest may begin to accrue.

ADOPTED: May 9, 2016

ATTEST:

BY: \_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

TOWNSHIP OF MENDHAM,  
IN THE COUNTY OF MORRIS

\_\_\_\_\_  
Frank V. Cioppettini, Jr.  
Mayor

CERTIFICATION

I, Mary Beth Zichelli, Township Clerk of the Township of Mendham, in the County of Morris, New Jersey, do hereby certify the foregoing to be a true and correct copy of Resolution 2016-61 from the May 9, 2016 meeting of the Township Committee.

**RESOLUTION 2016-62**

**TOWNSHIP OF MENDHAM, COUNTY OF MORRIS**

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION  
OF A DEVELOPER'S AGREEMENT BY AND BETWEEN THE  
TOWNSHIP OF MENDHAM AND AUBER RESOURCES**

**WHEREAS**, Auber Resources, Inc. ("Township") is a corporation of the State of New Jersey with an address at 14 Fairmount Avenue, Chatham, New Jersey 07928; and

**WHEREAS**, "Developer" proposes to construct certain improvements on the subject premises which are owned by Sisters of St. John the Baptist consisting of approximately 18.14 acres known and designated as Lot 17.03 in Block 100 (formerly designated as Block 144 Lot 24) on the Official Tax Map of the Township, and commonly known as 22 St. John's Drive; and

**WHEREAS**, on November 16, 2015, the Planning Board of the Township of Mendham granted preliminary and final major site plan approval to "Developer" for the Property subject to certain terms and conditions as set forth in the Resolution of approval; and

**WHEREAS**, "Developer" is interested in proceeding with the subdivision of the Property and compliance with all terms and conditions of the subdivision approval granted by the Planning Board of the Township of Mendham; and

**WHEREAS**, the parties desire to memorialize their understandings in connection with the aforementioned subdivision approval and satisfaction of all terms and conditions of such approval; and

**WHEREAS**, the aforementioned memorialization is set forth in the attached document entitled "Developer's Agreement."

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Mendham, in the County of Morris, State of New Jersey that:

1. Upon receipt of the "Developer's Agreement" executed by "Developer", in the form attached, the Township Committee hereby authorizes and directs the Mayor to execute the "Developer's Agreement" substantially in the form attached.
2. This Resolution shall take immediate effect.

Adopted: May 9, 2016

Attest:

TOWNSHIP OF MENDHAM, IN THE  
COUNTY OF MORRIS

\_\_\_\_\_  
Mary Beth Zichelli, Township Clerk

\_\_\_\_\_  
Frank Cioppettini  
Mayor

**DEVELOPERS**

**AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016 between the Township of Mendham, in the County of Morris, a Municipal Corporation of the State of New Jersey (hereinafter referred to as the “Township”), and Auber Resources, Inc., (hereinafter referred to as the “Developer”) whose address is 14 Fairmount Avenue, Chatham, New Jersey 07928.

**WITNESSETH**

**WHEREAS**, Developer proposes to construct certain improvements on the subject premises which are owned by Sisters of St. John the Baptist consisting of approximately 18.14 acres known and designated as Lot 17.03 in Block 100 (formerly designated as Block 144 Lot 24) on the Official Tax Map of the Township, and commonly known as 22 St. John’s Drive, (hereinafter the “premises” and or the “property” and

**WHEREAS**, Developer is the contract purchaser of the property; and

**WHEREAS**, the improvements include both new construction and rehabilitation of certain structures on the property to a luxury, age-restricted, residential development consisting of fifty-three (53) age restricted housing units to be known as “Hillandale”. The improvements shall also include those improvements referenced in certain Resolution adopted by the Mendham Township Planning Board dated

November 16, 2015 (the "Resolution") conferring preliminary and final major site plan approval with associated variances and waivers. The improvements are also set forth and described in a variety of documents including but not limited to the preliminary and final site plan documents entitled "Preliminary and Final Major Site Development Plans"; Preliminary and Final Major Site Development Plans, Demolition Plan"; and Preliminary and Final Major Site Development Plans, St. John's Drive Plan "A", prepared by Robert C. Moschello, P.E., dated April 30, 2015 with revisions and supplements through July 10, 2015 together with architectural drawings "Hillandale, Lot 17.03, Block 100, Township of Mendham" prepared by Edmund P. Klimek, KSS Architects dated July 10, 2015 with revisions through July 31, 2015 (the "Approved Plans") and such other improvements as may reasonably be required by the Township Engineer, all of the foregoing in accordance with the terms and conditions of the Resolution and the requirements of Township Ordinances; and

**WHEREAS**, the Developer is required to satisfy an affordable housing component of the development had has elected to satisfy the same through payment of a development fee:

**NOW, THEREFORE**, in consideration of and pursuant to the provisions of the land use ordinances of the Township and the Statutes of the State of New Jersey, and the mutual covenants and agreements herein contained, Developer and the Township do hereby agree with each other as follows.

**ARTICLE I.** Final development approval with associated variances and waivers has been granted subject to the terms and conditions of the Resolution, including conditions requiring the posting of suitable performance guarantees as hereinafter more particularly described.

**ARTICLE II.** Permits necessary to repair, stabilize and protect the existing mansion buildings may be issued upon proper application for the same and without other precondition. Asbestos abatement and demolition permits for the interior of the mansion buildings and for the demolition of all ancillary buildings may be issued upon proper application for the same and without other precondition. Building permits may be issued upon satisfaction of conditions A through JJJ of the Resolution with the exception of conditions K, L, DD, FF, MM, UU, BBB, QQQ, TTT and ZZZ. These latter conditions shall be met and satisfied prior to the issuance of the first certificate of occupancy or thereafter as otherwise may be required by the Resolution. Prior to the issuance of a building permit, the Developer shall make payment of one-half of the estimated development fee in accordance with the terms of Section 21-58.1d(1) of Mendham Township Ordinance No. 12-2014. All escrows for inspections are similarly preconditions for the issuance of building permits. All improvements shown on the Approved Plans must be installed and accepted by the Township Engineer, except that the Township Engineer may permit a certificate of occupancy to issue before installation of the road surface course and for shade trees where installation is prevented by winter weather conditions and performance guarantees acceptable to the

Township Engineer are in place. Required improvements shall include but not be limited to:

- (a) Streets, drives, driveways, curbing, sub-base and base course, sidewalks and curbing shall be installed in accordance with the type and standards approved;
- (b) All utilities, gas lines, telephone, electric, cable, underground wiring, water mains, valves and appurtenances, and waste water disposal systems in accordance with the type and standards approved;
- (c) Street signs;
- (d) All internal drives and driveways;
- (e) Site lights;
- (f) Soil erosion and sediment control measures;
- (g) All wetlands are delineated and protected by silt fence;
- (h) All conservation easement areas protected by snow or silt fence;
- (i) Tree preservation plan is followed;
- (j) Stormwater Management Controls, buffer areas, fences, etc., as shown on approved plans.

**ARTICLE III.** Prior to issuance of the first certificate of occupancy, if applicable, the Developer shall arrange to dedicate to the Township all necessary and appropriate easements for site distance, drainage, conservation, shade tree easements

for buffer areas, sanitary sewer easements, maintenance easements for storm water detention ponds, wetland and wetland conservation easements, all of which shall be submitted to the Township Engineer and Attorney for their review and approval prior to the recording of deeds providing for current and future installation and maintenance of utilities.

**ARTICLE IV.** The Developer shall, as a prerequisite to the issuance of the first building permit, be required to post a performance guaranty in amounts established by the Township Engineer in accordance with Township Ordinance to guarantee completion of all improvements required for the development. The foregoing performance guaranty shall be automatically renewed prior to its expiration dates unless otherwise released by the Township as provided herein and failure to renew performance guarantees before their expiration date shall subject the Developer to revocation of the approvals granted by the Board. Performance guarantees in the form of Letter of Credit shall not expire until released by the Township Committee and shall be approved by the Township Engineer and Attorney.

**ARTICLE V.** The performance and cash bonds as referred to in Article IV above shall remain in full force and effect until the work secured thereby is completed and the work included therein shall consist of, but not limited to the following, to the extent applicable to the project:

- (a) Wearing surface of the street, drives and driveways;
- (b) Shade trees, as required of the type approved by the Township;

- (c) Street signs conforming to the standards of the Township and State, including approval from the State as to their location where required;
- (d) Topsoil redistribution over the entire grass previously stripped and not used for streets, drives, driveways or structures;
- (e) Monuments or controls satisfactory to the Township Engineer;
- (f) Sidewalks, if any, to be concrete as approved by the Township Engineer;
- (g) Installation of all other improvements as set forth in the Developer's Utility and Improvement Plans approved by the Planning Board.
- (h) Township Engineer office must be notified two (2) days prior to start or restart of all above mentioned site work requesting inspection.
- (i) Developer shall be responsible for the installation of replacement trees as required by the Resolution.

**ARTICLE VI.** Developer shall have the right from time to time during construction of the project to apply to the Township for partial release of such performance guaranty if required under Article IV hereunder, commensurate with the value of improvements certified by the Developer's engineer to have been completed pursuant to **N.J.S.A. 40:55D-53**, and approved by the Township Engineer. No credit will be given for any un-inspected work at the time of bond reduction or partial release.

**ARTICLE VII.** Upon completion the improvements required herein, and prior to issuance of the first certificate of occupancy the Developer shall furnish to the Township Mylar "as built" plans or drawings prepared by a New Jersey licensed surveyor of the completed public improvements, if any, serving the project.

**ARTICLE VIII.** Developer agrees to adhere to the standards outlined in “soil erosion and Sediment Control Regulations” and to release and indemnify the Township and hold the Township and any of its officials harmless from any damage from storm water runoff onto any adjoining properties, resulting from Developer’s construction activities.

**ARTICLE IX.** Developer agrees to take all steps as may be reasonably necessary to protect persons and property, including roads both on and off the site, from injury or damage due to the conditions resulting from the development contemplated herein.

**ARTICLE X.** Developer grants to the Township and its agents the right of full and complete access to the construction site during the entire period of development for inspection and enforcement purposes except for those individual units for which a certificate of occupancy has been issued.

**ARTICLE XI.** The Developer agrees to deposit with the Township the appropriate inspection fees in accordance with the Land Development Ordinances of the Township, prior to the commencement of any site work.

**ARTICLE XII.** Even though they shall remain the sole responsibility of the Developer and ultimately the homeowner’s association, certificates of occupancy for individual units shall not be issued until “as built” drawings for storm and sanitary sewer, street and curb improvements located within the applicable phase of the development for such units have been certified by the Developer’s surveyor and

furnished to the Township. The sewer “as built” plan shall show off-set to permanent object or building corners for laterals, and their depth.

**ARTICLE XIII.** Any planting, seeding or landscaping as is required by the plans for the development of any phase shall not be required to be done during any period other than the natural planting season; providing, however, that appropriate performance guarantees shall be posted for any and all uncompleted landscaping work and temporary precautions as necessary shall be taken to prevent erosion washouts in areas where, because of development work, such erosion and washouts may occur; and further provided that any such planting, seeding or landscaping shall be completed during the next planting season.

**ARTICLE XIV.** The Developer agrees to indemnify and hold harmless the Township and all officials, employed or appointed, during the time of construction from any and all liability arising out of any claims made during or after construction as a result of the construction of the development thereon provided that such liability/claims are not the direct result of actions taken by the Township or its agents or officials.

**ARTICLE XV.** The Developer agrees to construct all the improvements in accordance with the approved plans and in accordance with the applicable ordinances of the Township.

**ARTICLE XVI.** The plans are referred to herein as those plans prepared by Robert C. Moschello, P.E., dated April 30, 2015 with revisions and supplements

through July 10, 2015 together with architectural drawings “Hillandale, Lot 17.03, Block 100, Township of Mendham” prepared by Edmund P. Klimek, KSS Architects dated July 10, 2015 with revisions through July 31, 2015 and such plans may be further amended as required by the Township Engineer consistent with the terms of the Resolution.

**ARTICLE XVII.** Responsibility for all maintenance of the streets, roads, drives and parking areas on the property, which shall include, but not be limited to, the responsibility for snow and ice removal during periods of inclement weather, shall remain with the Developer and ultimately the homeowner’s association. It is expressly understood and agreed that this shall not be construed to imply or infer that the Township is now or in the future obligating itself in any manner to accept such roadways, and the Developer agrees to indemnify and hold the Township harmless for any residents or the general public.

**ARTICLE XVIII.** The maintenance and ownership of roadways, common property and open space shall be by the homeowner’s association.

**ARTICLE XIX.** All drawings, maps and agreements approved by the Planning Board of the Township shall, following their approval, be incorporated by reference in this Agreement as though set forth fully at length herein.

**ARTICLE XX.** The Developer further agrees to:

- (a) Grant the Township through its agents and employees the right to enter upon the property to inspect work in progress whenever deemed necessary by the Township;
- (b) Prepare and record all necessary deeds and instruments dedicating any required easements to the Township;
- (c) Join in the inspection of the work in progress as deemed necessary by the Township and to immediately correct any hazardous or unsafe conditions as may be required by the Township;
- (d) Assume responsibility for all acts, maintenance and control in the project area until the developer's completion of all work covered by this Agreement and the Township's acceptance of same;
- (e) Obtain all required and necessary permits and certificates prior to any construction with the Developer being responsible for complying with all conditions of the permits;
- (f) Cause the construction of the aforesaid project and improvements covered by this Agreement to be approved by the Township and constructed at no cost to the Township;
- (g) Pay the Township for all reasonable and customary costs and professional fees incurred, including any fees for review of design or change in design, and as required pursuant to the provisions of this Agreement by maintaining an escrow account with the Township in

an amount as required by the Township, with payment as requested to be made by Developer within thirty (30) days of request of same;

- (h) To defend, indemnify, protect and save harmless the Township and its agents, servants or employees from and against any and all suits, claims, losses, demands or damages of whatsoever kind or nature (except as noted below), including, but not limited to, personal injury claims and contractual liability claims, arising out of or claimed to arise out of the performance of any services, actions or operation by Developer in connection with this Agreement or any breach of the Agreement by Developer but excluding liability/claims arising from the direct actions of the Township or its officials or agents. The Developer shall, at its own expense, appear, defend and pay all charges for attorneys and all costs and other expenses arising from such suit or claim or incurred in connection therewith; and, if any judgment shall be rendered against the Township in any such action the Developer shall at its own expense discharge the same;
- (i) The Developer shall cause the Developer and the Developer's contractors and their subcontractors to carry automobile liability insurance, worker's compensation insurance and general comprehensive liability insurance and to provide the Township, upon

request, with valid certificates of insurance as evidence of coverage thereof;

- (j) The Developer expressly understands and agrees that any insurance protection as required by this Agreement shall in no way limit the Developer's obligations assumed in this Agreement and shall not be construed to relieve the Developer of liability in excess of such coverage;
- (k) The Developer agrees to fully comply with all terms and conditions of the Resolution, and to construct the project as approved by the Planning Board of the Township of Mendham and the Township reserves the right to revoke the approval granted or take appropriate action in the event there is any deviation from or alteration to the plans unless prior written approval for any such deviation or alteration has been obtained from the Planning Board or its authorized representatives;
- (l) The Developer, prior to the issuance of certificates of any occupancy for individual units, shall pay the then applicable portion of the Development Fee for such unit in accordance with the terms of Section 21-58.1d(1) of Mendham Township Ordinance No. 1202014.

**ARTICLE XXI.** The Township agrees to:

- (a) Promptly inspect all work in progress upon request of the Developer for same;
- (b) To release performance bonds and security commensurate with the value of improvements certified by the Township's Engineer to have been completed.

**ARTICLE XXII.** In the event the Developer shall breach any of the terms and conditions of this Agreement, the Developer shall, upon the Township's request, immediately take all steps to correct such breach and if not remedied in a reasonably timely manner as determined by the Township, the Township reserves the right to stop all work on the project area by vehicles or pedestrians. Further, Township may elect upon notice to the Developer to perform or have performed corrective work and if deemed necessary may also perform or have performed the balance of the work remaining on the project in which event the Developer shall, at the option of the Township, either pay in advance to the Township the amount of costs the Township estimates it will incur in carrying out the actions authorized under this paragraph or reimburse the Township on demand in full for the costs actually incurred by the Township. Costs shall include, but not be limited to those for labor and materials of the contract price paid to an independent contractor together with any engineering fees, legal and administrative costs. In the event actual costs exceed the Township's estimate, the Developer shall reimburse the Township for the excess amount.

**ARTICLE XXIII.** The office of the Developer involved in this project is 14 Fairmount Avenue, Chatham, New Jersey 07928.

**ARTICLE XXIV.** This Agreement shall be binding upon and its provisions shall inure to the benefit of the representative successors and assigns of the parties hereto.

**ARTICLE XXV.** If any provisions of this Agreement shall be declared to be illegal or unconstitutional or otherwise defective in whole or in part, such determination shall not be deemed to void the entire Agreement if the remaining portions of the Agreement are of themselves effective, it being the intent that all of the provisions of the Agreement are separable and not necessarily dependant upon any other provisions of the Agreement.

**ARTICLE XXVI.** This Agreement shall be interpreted and construed in accordance with the laws of the State of New Jersey.

**ARTICLE XXVII.** Developer shall post a maintenance guarantee with the Township for a period of two (2) years after the final acceptance of improvements in an amount equal to fifteen (15%) percent of the costs of improvements. However, in the event that other governmental agencies or public utilities will automatically own the utilities to be installed or the improvements are covered by performance or maintenance guarantees to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such improvements or utilities. The form of such agreement shall be subject to the approval of the Township



**RESOLUTION 2016-63  
RESOLUTION OF THE TOWNSHIP COMMITTEE  
OF THE TOWNSHIP OF MENDHAM AUTHORIZING  
THE PAYMENT OF BILLS**

**BE IT RESOLVED**, by the Township Committee of the Township of Mendham, in the County of Morris, New Jersey, that the Chief Financial Officer be and hereby is authorized to pay current bills as attached hereto and made a part hereof, contingent upon the approval of the Finance Committee.

Adopted: May 9, 2016

Attest:

TOWNSHIP OF  
MENDHAM,  
COUNTY OF MORRIS

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk

\_\_\_\_\_  
Frank Cioppettini  
Mayor

CERTIFICATION

I, Mary Beth Zichelli, Township Clerk of the Township of Mendham, in the County of Morris, New Jersey, do hereby certify the foregoing to be a true and correct copy of Resolution 2016-63 from the May 9, 2016 meeting of the Township Committee.

\_\_\_\_\_  
Mary Beth Zichelli  
Township Clerk







Vendor # Name	PO # PO Date Description	Item Description	Amount	Contract PO Type	Charge Account	Acct Type Description	Stat/Chk	Enc Date	First Rcvd Date	Chk/Void Date	Invoice	1099 Excl
FIREHOOK FIRE HOOKS UNLIMITED INC	16-00304 02/12/16 RALSTON ENGINE	1 RALSTON ENGINE	1,147.50	C-04-55-998-010	B	Ralston Fire-Equipment Replacement	R	02/12/16	05/05/16	1190		N
	Vendor Total:		1,147.50									
GARDEN STATE LABORATORIES	16-00486 03/14/16 WATER TESTING BROOKSIDE BEACH	1 WATER TESTING BROOKSIDE BEACH	795.00	T-14-56-870-802	B	RESERVE - SELF SUSTAINING PROGRAMS	R	03/14/16	05/05/16		WATER TESTING	N
	Vendor Total:		795.00									
HEINY RUSS HEINEY	16-00683 04/20/16 MILEAGE - MARCH, 2016	1 MILEAGE - MARCH, 2016	209.52	6-01-22-195-150	B	Miscellaneous	R	04/20/16	05/05/16		MARCH 2016	N
	Vendor Total:		209.52									
	16-00742 05/04/16 MILEAGE - APRIL, 2016	1 MILEAGE - APRIL, 2016	239.22	6-01-22-195-150	B	Miscellaneous	R	05/04/16	05/06/16		APRIL 2016	N
	Vendor Total:		448.74									
HOOVER TRUCK CENTERS	16-00712 04/26/16 (M17) MISC PARTS	1 (M17) MISC PARTS	352.74	6-01-26-290-025	B	Vehicle Maintenance/Repairs	R	04/26/16	05/05/16		78355F	N
	Vendor Total:		352.74									
IMPERIAL COPY PRODUCTS INC	16-00672 04/18/16 MONTHLY MAINTENANCE FOR COPIER	1 MONTHLY MAINTENANCE FOR COPIER	42.51	6-01-43-490-026	B	Maintenance/Repairs	R	04/18/16	05/05/16		098499	N
	Vendor Total:		42.51									
JCP&L	16-00703 04/25/16 STREET LIGHTING - 3/23-4/20/16	1 STREET LIGHTING - 3/23-4/20/16	231.96	6-01-31-431-020	B	STREET LIGHTING - TMP. OE	R	04/27/16	05/05/16		STREET LIGHTING	N















Vendor # Name	PO # PO Date Description	Item Description	Amount	Contract PO Type	Charge Account	Acct Type Description	Stat/Chk	Enc Date	First Rcvd Date	Chk/Void Date	Invoice	1099 Excl
<b>WIRELESS</b>												
	16-00739	05/03/16 WIRELESS CHARGES - APRIL 2016										
		1 WIRELESS CHARGES - APRIL 2016	266.09		6-01-25-240-202	B MDT- Verizon	R	05/03/16	05/06/16		9764308992	N
		2 WIRELESS CHARGES - APRIL 2016	266.09		6-01-25-240-202	B MDT- Verizon	R	05/04/16	05/06/16		9764308992	N
		3 WIRELESS CHARGES - APRIL 2016	548.88		6-01-31-432-020	B TELEPHONE OE	R	05/04/16	05/06/16		9764308992	N
			1,081.06									
		<b>Vendor Total:</b>	<b>1,081.06</b>									
<b>WHITE WATER, INC</b>												
	16-00748	05/05/16 SEWER OPERATION - EAST										
		1 SEWER OPERATION - EAST	13,490.25		6-07-55-502-028	B Professional Services	R	05/06/16	05/06/16		70019074	N
		2 SEWER OPERATION - WEST	8,961.73		6-09-55-502-028	B Professional Services	R	05/06/16	05/06/16		70019075	N
			22,451.98									
		<b>Vendor Total:</b>	<b>22,451.98</b>									
<b>WEST MORRIS REGIONAL HIGH</b>												
	16-00705	04/25/16 MAY 2016 HS DISTRICT TAX										
		1 MAY 2016 HS DISTRICT TAX	822,936.00		6-01-55-900-002	B Regional School Taxes Payable	R	04/25/16	05/05/16		MAY 2016	N
			822,936.00									
		<b>Vendor Total:</b>	<b>822,936.00</b>									

Total Purchase Orders:	67	Total P.O. Line Items:	94	Total List Amount:	6,268,832.52	Total Void Amount:	0.00
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Totals by Year-Fund		Fund	Budget Rcvd	Budget Held	Budget Total	Revenue Total	G/L Total	Project Total	Total
Fund Description									
CURRENT FUND 2015 BUDGET	5-01	160.49	0.00	160.49	0.00	0.00	0.00	0.00	160.49
CURRENT FUND 2015 BUDGET	6-01	2,273,620.22	0.00	2,273,620.22	0.00	0.00	0.00	0.00	2,273,620.22
	6-07	13,490.25	0.00	13,490.25	0.00	0.00	0.00	0.00	13,490.25
	6-09	8,961.73	0.00	8,961.73	0.00	0.00	0.00	0.00	8,961.73
	6-26	0.00	0.00	0.00	0.00	0.00	0.00	1,798.05	1,798.05
Year Total:		2,296,072.20	0.00	2,296,072.20	0.00	0.00	0.00	1,798.05	2,297,870.25
GENERAL CAPITAL FUND	C-04	3,940,584.33	0.00	3,940,584.33	0.00	0.00	0.00	0.00	3,940,584.33
MENDHAM EAST SEWER CAPITAL	C-08	14,300.00	0.00	14,300.00	0.00	0.00	0.00	0.00	14,300.00
Year Total:		3,954,884.33	0.00	3,954,884.33	0.00	0.00	0.00	0.00	3,954,884.33
	G-02	4,839.51	0.00	4,839.51	0.00	0.00	0.00	0.00	4,839.51
	T-12	441.60	0.00	441.60	0.00	0.00	0.00	0.00	441.60
RECREATION COMM.	T-14	795.00	0.00	795.00	0.00	0.00	0.00	0.00	795.00
	T-20	9,841.34	0.00	9,841.34	0.00	0.00	0.00	0.00	9,841.34
Year Total:		11,077.94	0.00	11,077.94	0.00	0.00	0.00	0.00	11,077.94
Total of All Funds:		6,267,034.47	0.00	6,267,034.47	0.00	0.00	0.00	1,798.05	6,268,832.52

Project Description	Project No.	Rcvd Total	HeId Total	Project Total
DRIVEWAY -BEDROCK CONSTRUCTION	030633-8	500.00	0.00	500.00
PITNEY PROPERTY OPERATIONS	050010-0	3.05	0.00	3.05
BOH - MAYNARD	060439-9	960.00	0.00	960.00
MENDHAM TV25	MTV2500001	335.00	0.00	335.00
Total of All Projects:		<u>1,798.05</u>	<u>0.00</u>	<u>1,798.05</u>