

THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT (“**Third Amendment**”), is made as of the ___ day of February, 2025 (“**Effective Date**”), by and between **SPRING BROOK ACRES, INC.**, a New Jersey corporation, with an address of 335 Union Avenue, Bloomingdale, New Jersey 07403 (hereafter “**Seller**”), and the **COUNTY OF PASSAIC**, a corporate body politic of the State of New Jersey, with an address of 401 Grand Street, Paterson, New Jersey 07505 (hereafter “**County**”) (individually, a “**Party**” and collectively, the “**Parties**”).

RECITALS

WHEREAS, the Parties entered into that certain Purchase and Sale Agreement (the “**PSA**”) dated June 29, 2022, for the County to purchase from Seller the property located at 335 Union Avenue, Bloomingdale, New Jersey, also known as Block 4086, Lots 2 and 2.01, on the tax map of the Borough of Bloomingdale, County of Passaic, New Jersey (the “**Property**”); and

WHEREAS, the PSA permitted the County to perform certain inspections and due diligence regarding the Property; and

WHEREAS, after performing a Phase I Environmental Assessment of the Property, certain environmental matters regarding the Property were raised by the County that required a Phase II Environmental Assessment for further evaluation (the “**Environmental Matters**”); and

WHEREAS, on October 6, 2022, the Parties entered into that certain First Amendment to Purchase and Sale Agreement (the “**First Amendment**”), extending the Due Diligence Period pursuant to Article 4 of the PSA, and further amending Article 6 of the PSA to delay the Property Closing to ensure that the County completes all Environmental Matters; and

WHEREAS, on or about December 29, 2022, the Parties entered into that certain Second Amendment to Purchase and Sale Agreement (the “**Second Amendment**”), extending the Due Diligence Period, and by extension the time to complete the Environmental Matters, until a scope of work is approved that is acceptable to the Parties and acceptable to Green Acres for grant purposes; and

WHEREAS, Boswell Engineering (“**Boswell**”), serving as Seller’s remediation manager, and Michael Heumiller (the “**County’s LSRP**”) of T&M Associates, serving as the County’s LSRP, have approved and provided the scope of work attached hereto and made a part hereof as Exhibit A (as it may be amended, the “**Scope of Work**”); and

WHEREAS, the Scope of Work has been reviewed and approved by the Parties, and has further been approved by Green Acres for grant purposes; and

WHEREAS, the Parties now desire to enter into this Third Amendment to establish an Environmental Escrow (as defined below) to pay for the remediation work provided for in the Scope of Work, subject to the terms herein, to further establish the process by which the Purchase Price will be paid to Seller, and to set a new date of Property Closing.

NOW, THEREFORE, for good and valuable consideration the receipt of which is acknowledged by the Parties, Seller and County hereby agree as follows:

1. **Recitals; Defined Terms**. All Recitals above are incorporated herein and made a part hereof. Capitalized terms not otherwise defined herein shall have the meanings set forth for such terms in the PSA, the First Amendment or the Second Amendment (collectively, the “**Agreement**”), as the case may be.

2. **Scope of Work**. The Parties acknowledge and agree that the Scope of Work is accepted and approved by the Parties, Boswell and the County’s LSRP to address the Environmental Matters as set forth in the Scope of Work and in accordance with the terms and conditions of this Third Amendment. The County represents and warrants that Green Acres has reviewed and approved for grant purposes the Scope of Work, and Article 5.2 of the PSA is therefore hereby deleted. The Parties have agreed to share in the costs of the remediation described in the Scope of Work in accordance with the terms and conditions of this Third Amendment and the Escrow Agreement attached hereto as Exhibit B and made a part hereof (the “**Escrow Agreement**”). At the Closing, the Parties and the Title Company, serving as the Escrow Agent under the Escrow Agreement (the “**Escrow Agent**”), shall sign and deliver the Escrow Agreement pursuant to Article 6 of the PSA, and each Party shall pay to the Escrow Agent the sum of Seven Hundred Fifty Dollars (\$750.00) toward the Escrow Agent’s escrow fee retainer of One Thousand Five Hundred Dollars (\$1,500.00).

3. **Due Diligence**. The Parties acknowledge and agree that the Due Diligence Period, as defined in Article 4.2(b) of the PSA and Paragraph 2 of the Second Amendment, has ended as of the Effective Date of this Third Amendment.

4. **Closing**. Article 6 of the PSA is hereby amended to provide that the date of the Property Closing shall occur at 11:00 a.m. (Eastern Time) on March 18, 2025, or such other date as the Parties may agree in writing, at the Passaic County Administration Building, 401 Grand Street, Paterson, New Jersey 07505, or in such other manner and location agreed to by the Parties. The Parties acknowledge and agree that in the event that either Party shall fail to close the transaction contemplated under the Agreement and this Third Amendment on or before the date of the Property Closing, then, at any time after such date, the other Party shall have the right and option, upon written notice to the County or Seller, as the case may be, to demand that the Closing occur within thirty (30) days of the date of such notice, TIME BEING OF THE ESSENCE.

5. **Purchase Price**. Article 2 of the PSA is amended to provide that the Purchase Price shall be paid in two (2) installments. The first installment shall be paid at the Closing in

the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00), provided that the sum of One Million Five Hundred Thousand (\$1,500,000.00) (the “**Escrow Funds**”) from such first installment shall be deposited into escrow pursuant to Paragraph 6 below. The second installment shall be paid to Seller within sixty (60) days of the earlier to occur of (a) the County’s receipt of Green Acres grants for the payment of the second installment, (b) the County’s receipt of notice from Green Acres that the County will not receive Green Acres grants for the payment of the second installment, (c) the issuance of an RAO pursuant to the Scope of Work, or (d) twenty-four (24) months have elapsed from the Closing, provided the failure to obtain an RAO within such period is due to the County’s actions or omissions after the Escrow Funds have been fully disbursed. Notwithstanding anything to the contrary in the Agreement, this Third Amendment or the Escrow Agreement, provided (i) Seller has fully complied with the terms of the Agreement, this Third Amendment and the Escrow Agreement, and (ii) one of the events set forth in subparagraphs (a), (b), (c) or (d) above has occurred, the County shall pay the second installment to Seller regardless of the County’s receipt of Green Acres grants for the purchase of the Property. The Parties will cooperate in good faith in the drafting of the Deed, the C-9600 Notification to the New Jersey Division of Taxation, and any other closing document or filing, in order to properly document and disclose that Seller will receive the Purchase Price in two (2) separate installments as set forth in this Paragraph 5. This Paragraph 5 shall survive the Closing.

6. Environmental Escrow. Pursuant to the terms and conditions of the Escrow Agreement, at the Closing, Seller shall deposit with the Escrow Agent the Escrow Funds in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) from Seller’s sale proceeds. Seller’s obligations with respect to the remediation of the Property pursuant to the Scope of Work, the Agreement, this Third Amendment and the Escrow Agreement shall be limited to the Escrow Funds, and, except for Seller’s obligations under the Escrow Agreement, Seller shall have no further liability or obligations to the County, NJDEP, Green Acres or the Escrow Agent after the Escrow Funds have been deposited with the Escrow Agent at the Closing. The County shall be solely responsible for any funds in excess of the Escrow Funds that may be required to complete the investigation and remediation of the Property, the issuance of the RAO and the approval and payment of any grant funding by Green Acres to the County. Notwithstanding anything to the contrary in the Agreement, this Third Amendment or the Escrow Agreement, the County shall be responsible for all fees and expenses charged by the County’s LSRP and T&M Associates in connection with the investigation and remediation of the Property, the issuance of the RAO and the approval and payment of any grant funding by Green Acres to the County, all of which fees and expenses shall be paid solely and directly by the County and not by Seller or the Escrow Agent from the Escrow Funds. This Paragraph 6 shall survive the Closing.

7. Environmental Compliance. After the Closing, Seller and the County shall jointly pursue the RAO pursuant to the Scope of Work, the Escrow Agreement and this Third Amendment. If the Escrow Funds are fully disbursed in accordance with the Escrow Agreement prior to the issuance of the RAO, the County thereafter shall diligently pursue and obtain the RAO at its sole cost and expense. At the Closing, the County shall become responsible to diligently pursue and obtain the RAO pursuant to the Scope of Work and to comply with all

Environmental Laws, rules and regulations associated with any Environmental Matters or Hazardous Materials at, on or under the Property. The County's LSRP shall remain the LSRP of record in accordance with SRRA. At the Closing, the County shall execute and submit to the NJDEP a Remedial Action Permit Transfer/Change of Property Ownership Application regarding the historic fill on the Property and pay any applicable NJDEP fees associated therewith. The County shall be named as the Co-Permittee on the Remedial Action Permit ("RAP") with the Primary Responsibility for RAP compliance. After the Closing, the County shall assume all responsibility to perform all necessary compliance obligations for the RAP and any deed notices that have been filed, including but not limited to, submittal of all necessary forms and reports, continued inspection, maintenance, repairs and submittal of the biennial certifications by the County LSRP, or his successors, along with any and all required financial assurance, payment of all costs and fees associated with compliance pursuant to existing and any future enacted NJDEP requirements and regulations associated with Environmental Matters or Hazardous Materials at, on or under the Property. This Paragraph 7 shall survive the Closing.

8. **Release of Seller.** The County acknowledges that it had the right to inspect the Property and has made its own independent evaluation of the Property. Effective upon the Closing and the payment of the Escrow Funds to the Escrow Agent from Seller's sale proceeds pursuant to Paragraph 6 above, the County releases and discharges Seller, all predecessors in title and occupancy, and each and all of their respective officers, directors, shareholders, partners, members, agents, representatives, employees, legal representatives, trustees, property managers, successors and assigns, (collectively and individually, the "**Releasees**"), of and from any and all claims and causes of action, waives the right to bring any claim and/or cause of action against any of the Releasees, covenants not to sue any of the Releasees for, assumes all liability and responsibility for, and agrees to, and shall, indemnify, defend with counsel reasonably satisfactory to the other and hold the Releasees harmless with respect to, the condition of the Property, including, without limitation, the environmental conditions at, on or under the Property, regardless of whether: (a) such condition resulted from any on-site or off-site activities of any one or more of the Releasees or any third party; (b) such condition migrated from or onto the Property; or (c) the claim or cause of action with respect to any such condition now exists or is hereafter created under common law, or now exists or is hereafter enacted pursuant to federal, state, county, regional and/or municipal law or regulation, including, without limitation, claims and causes of action under all applicable Environmental Laws. This Paragraph 8 shall survive the Closing.

9. **Full Force.** The Parties agree that except as modified by this Third Amendment, all provisions, covenants, addendums, terms and conditions set forth in the Agreement shall remain in full force and effect and are hereby ratified and confirmed in all respects. The Parties further agree that the covenants, amendments, terms and conditions contained in this Third Amendment shall bind and inure to the benefit of the Parties hereto and their respective successors and assigns.

10. **Miscellaneous.**

A. **Amendments.** No provision of this Third Amendment may be amended,

changed or waived orally, but only by an instrument in writing signed by the Parties hereto. This Third Amendment supersedes all prior and contemporaneous representations, agreements, and understandings, whether written or oral.

- B. **Interpretation.** Each Party acknowledges and agrees that it has participated, with the advice of counsel, in the preparation of this Third Amendment. No Party is entitled to any presumption with respect to the interpretation of any provision hereof or the resolution of any alleged ambiguity based on any claim that the other Party drafted or controlled the drafting of this Third Amendment.

- C. **Headings.** Any paragraph, Article or Article headings or captions contained in this Third Amendment shall be for reference purposes only and shall not affect the construction or interpretation of any provision in this Third Amendment.

- D. **Governing Law.** This Third Amendment shall be governed by New Jersey law without regard to its conflict of law principles and any dispute shall be venued in the Superior Court of New Jersey, Passaic County vicinage, unless otherwise agreed to by the Parties.

- E. **Jury Trial Waiver.** Seller and the County hereby waive their rights to a trial by jury in any action or proceeding concerning the breach or enforcement of this Third Amendment.

- F. **Severability.** If any term, covenant or condition of this Third Amendment or the application thereof to any person or circumstance is, to any extent, invalid, illegal, or unenforceable, the remainder of this Third Amendment, or the application of such term, covenant or condition to Parties or circumstances other than those to which it is held invalid, illegal, or unenforceable, is not affected thereby and each term, covenant, and condition of this Third Amendment remains valid and enforceable to the fullest extent permitted by law, but only if the essential terms and conditions of this Third Amendment for each Party remain valid, binding and enforceable.

- G. **Counterparts.** The Parties may execute this Third Amendment in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by email is as effective as executing and delivering this Third Amendment in the presence of the other Parties to this Third Amendment. This Third Amendment is effective upon delivery of

one executed counterpart from each Party to the other Parties. In proving this Third Amendment, a Party must produce or account only for the executed counterpart of the Party to be charged. Any Party delivering an executed counterpart of this Third Amendment by email shall also deliver a manually executed counterpart of this Third Amendment, but the failure to do so does not affect the validity, enforceability, or binding effect of this Third Amendment.

- H. **Waiver.** Each Party shall have the right, in its sole discretion, for any reason or for no reason, to waive any condition precedent or contingency contained in this Third Amendment for the benefit of said Party, provided that such waiver shall be in writing and if any such waiver occurs, this Third Amendment shall be interpreted and construed as if such condition precedent or contingency had never been a part of this Third Amendment, except to the extent that said condition precedent or contingency is stated in this Third Amendment to be also for the benefit of the other Party.
- I. **Authority to Execute.** The Parties executing this Third Amendment represent and warrant that they have full authority and/or have been duly authorized by their respective corporations to do so on behalf of such corporations.
- J. **Date of Third Amendment.** The date of this Third Amendment shall be the Effective Date.
- K. **Attorney Fees.** In the event any action or proceeding is commenced to obtain a declaration of rights hereunder, to enforce any provision hereof, or to seek rescission of this Third Amendment for default contemplated herein, whether legal or equitable, the prevailing Party in such action shall be entitled to recover its reasonable attorneys' fees in addition to all other relief to which it may be entitled therein. All indemnities provided for herein shall include, but without limitation, the obligation to pay costs of defense in the form of court costs and reasonable attorneys' fees.

(Signature page follows)

IN WITNESS WHEREOF, each Party has caused this Third Amendment to be executed as of the date set forth below and pending full ratification by the Passaic County Board of County Commissioners.

SPRING BROOK ACRES, INC.

By: Frances M. Moscato

Name: Frances M. Moscato

Title: President

Date: 2/25/2025

COUNTY OF PASSAIC

By: _____

Name: Pasquale Lepore

Title: Director, Board of County
Commissioners

Date:

Exhibit A

Scope of Work

February 18, 2025
Revised February 24, 2025

SCOPE OF WORK

Re: Remedial Action
Spring Brook Acres
335 Union Avenue
Block 4086, Lots 2 and 2.01
Borough of Bloomingdale
Passaic County, New Jersey
Our File No. PR-25-13427

INTRODUCTION

It is our understanding that T&M Associates, on behalf of Passaic County, completed a Preliminary Assessment (PA) identifying 26 environmental Areas of Concern (AOC) associated with the site. Based upon the field observations during a site reconnaissance survey, and review of available information obtained during the PA, T&M recommended further evaluation and/or investigation at 11 AOCs. No further investigation was previously recommended for the remaining 15 AOCs, as these AOCs were not suspected to contain contaminants above any applicable New Jersey Department of Environmental Protection (NJDEP) Soil Remediation Standard (SRS). Subsequent evaluation identified three (3) AOCs requiring contaminant delineation.

Subsequently, T&M completed further remedial investigation (RI) at the remaining AOCs and completed the horizontal and vertical delineation of the existing contamination. T&M recommended the following remediation in their Remedial Action Workplan (RAW):

- **AOC-1: Aboveground Storage Tank** - Excavation and off-site disposal of approximately 15-tons of petroleum contaminated soil.
- **AOC-4: Floor Drain at Small Barn** - Excavation and on-site relocation of approximately 150-tons of soil contaminated with polycyclic aromatic hydrocarbons (PAH) to the Former North Pond.
- **AOC-9B: Fill Material PCB Impacted Soil (Former North Pond)** - Excavation and off-site disposal of approximately 100-tons of polychlorinated biphenyl (PCB) contaminated soil.
- **AOC-9B: Fill Material Area to be Capped (Former North Pond)** - Import approximately 10,600-tons of certified clean fill and cap the PAH contamination at the Former North Pond.

Finally, it is our understanding that Michael Heumiller of T&M will remain as the site's LSRP and will ultimately be responsible for signing-off on all of the LSRP forms.



Task 1 – Administrative

Boswell will provide technical support for all the necessary NJDEP forms as required under the Licensed Site Remediation Program (LSRP) Program and T&M, the County's LSRP. This typically includes:

1. Confirmed Discharge Notification Form;
2. LSRP Retention Form;
3. Annual Remediation Fee (ARF) Reporting Form;
4. Authorization to Submit a Remedial Phase Report Through NJDEP Online Form;
5. Case Inventory Document (CID); and
6. Remedial Investigation Report Form (online).

This task also includes the typical administrative activities encountered with this type of project including coordination with the State, telephone conferences, meetings, etc.

As indicated earlier, Michael Heumiller will sign-off on all of the forms requiring an LSRP signature.

Task 2: Health & Safety Plan

Boswell will prepare the project's Health and Safety Plan (HASP). Due to the presence of contamination onsite, the Occupational Safety and Health Administration (OSHA) requires a HASP under the Code of Federal Regulations 29 CFR 1910.120. The HASP will detail the practices and procedures all workers must follow when working on site.

Task 3 – PCB Self-Implementation Plan

Since PCBs were encountered at AOC-9B it is necessary to prepare a Self-Implementation Plan (SIP) in accordance with United States Environmental Protection Agency (USEPA) regulations under the Federal government's Toxic Substance Control Act (TOSCA). The SIP will detail the means and methods for investigating and remediating the PCB contamination. Once complete, we will forward the SIP to the USEPA for review and approval. Please note that the remediation cannot begin until we receive the approval.

Task 4: Remedial Action – Field Services

Boswell will provide professional environmental oversight during the site remediation in accordance with the NJDEP's Technical Requirements and our HASP. Boswell's onsite inspection team possesses the requisite OSHA certifications including Hazardous Waste Site Operations (HAZWOPER), 8-Hour Annual Refresher and Site Supervisor training. This work includes part-time onsite contractor supervision and oversight.

This includes up to 364-hours of on-site field work including LSRP inspection.



Task 5: Disposal/Backfill Coordination

Under this task, Boswell will ensure that any contaminated material requiring disposal will be in accordance with all NJDEP and USEPA regulations. This includes coordinating with approved disposal facilities and the contractor, as well as performing facility checks to ensure compliance with Federal and State regulations. Compliance is especially important given the cradle-to-grave regulations when disposing contaminated materials, especially PCB contaminated soil. We will also coordinate with the contractor to ensure that certified clean fill is utilized in the site's backfilling in accordance with NJDEP regulations.

Task 6 – Remedial Action Report

Following completion of the site's remediation Boswell will support and prepare the necessary documentation for the preparation of a Remedial Action Report (RAR) by T&M that will include:

1. Detailed narrative of the work performed;
2. Photodocumentation;
3. Analytical result summary tables;
4. NJ Tier II Reduced Deliverables Laboratory Data Packages;
5. All disposal manifests, receipts, and bills of lading;
6. Certified clean fill receipts;
7. Discussion of all on-site observations and results;
8. Interpretation of analytical results;
9. Conclusions regarding adequacy of remediation;
10. Recommendations for additional RI/RA, if required; and.
11. Recommendation for a Response Action Outcome (RAO), if appropriate.

Task 7 – Deed Notice & Remedial Action Permit

To close out the case with the NJDEP it will be necessary to file a Deed Notice with the County. The Deed Notice will document those contaminants associated with historic fill are present on the property. Additionally, the Deed Notice will describe the practices and procedures for maintaining the proposed cap, performing the biennial inspections and the protocol for disturbing the cap, if necessary. Under this task Boswell will provide support to T&M, the County's LSRP for the preparation of the site's Deed Notice to include:

1. Completed Model Deed Notice Form;
2. Vicinity mapping;



3. Metes & bounds survey description (to be provided by the Client);
4. Property map;
5. Restricted Area Data Table;
6. Description of institutional and engineering controls; and,
7. Sample Annual Monitoring Report Form; and,
8. Remedial Action Permit-Soils (To be paid by the Client).

Please note that when completed, your attorney typically files the Deed Notice with the County.

A condition of the RAP will be Biennial Certifications performed by an LSRP. The certification requires the LSRP to perform a brief site inspection documenting that the site's engineering controls (i.e. cap - concrete, asphalt, landscaping, etc.) remain intact. Any significant breaches in the cap's integrity must be repaired before the LSRP can complete the certification. Once issued, the RAP will include the certification's due dates.

Task 8 – Soil Conservation District Certification

Since the proposed work will disturb greater than 5,000-square feet of soil, the project will require a Soil Erosion and Sediment Control Certification (SCD) from the Hudson-Essex-Passaic Soil Conservation District (HEPSCD). Boswell will provide all necessary plans and supporting calculations to obtain SCD approval and calculate the requisite review fees. Please note that the SCD's review fees will be based on final limits of disturbance.

Task 9 – Major Soil Moving Application

The project will involve importing and/or moving greater than 500-cubic yards of soil; therefore, we will prepare and submit a Major Soil Moving Application to the Borough of Bloomingdale. Boswell will also attend up to two (2) Planning Board meetings during the application process.

EXCLUSIONS

Services and costs not included in this proposal are summarized as follows:

1. Increases in scope of work;
2. NJDEP fees, permit costs, etc.;
3. Further contaminant delineation;
4. Investigation of currently unknown or unforeseen contamination sources that may be uncovered during the work;
5. Groundwater investigation or monitoring well installation; and,



6. Laboratory, environmental equipment rental, or remedial contractor costs.
7. Update Receptor Evaluation.
8. Public Notice.
9. Response Action Outcome (RAO).

Exhibit B

Escrow Agreement

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this “Agreement”), dated as of March ____, 2025, is made by and between **SPRING BROOK ACRES, INC.**, a New Jersey corporation (“Seller”), the **COUNTY OF PASSAIC**, a corporate body politic of the State of New Jersey (“County”), and **TWO RIVERS TITLE COMPANY, LLC**, a New Jersey limited liability company, (“Escrow Agent”) (individually, a “Party” and collectively, the “Parties”)

RECITALS

WHEREAS, pursuant to that certain Purchase and Sale Agreement dated June 29, 2022, as amended by that certain First Amendment to Purchase and Sale Agreement dated October 6, 2022, that certain Second Amendment to Purchase and Sale Agreement dated December 29, 2022, and that certain Third Amendment to Purchase and Sale Agreement dated February ____, 2025 (collectively, the “PSA”), Seller has, as of the date hereof, sold and the County has purchased the property located at 335 Union Avenue, Bloomingdale, New Jersey, also known as Block 4086, Lots 2 and 2.01, on the tax map of the Borough of Bloomingdale, County of Passaic, New Jersey (the “Property”); and

WHEREAS, pursuant to the terms and conditions of the PSA, the Parties have agreed to enter into and deliver this Agreement at the Closing in connection with the sharing of the costs associated with the environmental remediation of the Property.

NOW THEREFORE, in consideration of the premises and of the mutual conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Recitals; Certain Definitions**. Each of the foregoing recitals are incorporated herein and made a part hereof. Capitalized terms not otherwise defined herein shall have the meanings set forth for such terms in the PSA.
2. **Establishment of Escrow**. At the Closing, Seller paid to the Escrow Agent in escrow the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) (the “Escrow Funds”). By execution of this Agreement, the Escrow Agent acknowledges receipt of the Escrow Funds, which shall be deposited into an interest-bearing escrow account to be held and disbursed by the Escrow Agent in accordance with the terms and conditions of this Agreement. Neither Seller nor the County shall have any right to request a disbursement of any portion of the Escrow Funds except in strict accordance with this Agreement.
3. **Escrow Fee**. At the Closing, the sum of One Thousand Five Hundred Dollars (\$1,500.00) was paid to the Escrow Agent as a retainer for its escrow fees (the “Escrow Fee”). The County and Seller each paid Seven Hundred Fifty Dollars (\$750.00) at the Closing to establish the Escrow Fee. Any additional Escrow Fees charged by the Escrow Agent after the foregoing Escrow Fee retainer is applied shall be at the sole cost and expense of the County.
4. **Limitation of Seller’s Obligations**. Seller’s obligations with respect to the remediation of the Property pursuant to the Scope of Work, PSA and this Agreement shall be

limited to the Escrow Funds, and, except for Seller's obligations under this Agreement, Seller shall have no further liability or obligations to the County, NJDEP, Green Acres or the Escrow Agent after the Escrow Funds have been deposited with the Escrow Agent at the Closing. This Section 4 shall survive the Closing and the termination of this Agreement.

5. **Replenishment of Escrow Funds.** The County shall be solely responsible for any funds in excess of the Escrow Funds that may be required to complete the remediation of the Property pursuant to the Scope of Work, the PSA and this Agreement, the issuance of the RAO and the approval and payment of the grant funding by Green Acres to the County. The County shall replenish the Escrow Funds in the future to cover any such excess costs. In such event, within thirty (30) days of receipt of written notice from the Escrow Agent that the Escrow Funds have been exhausted, the County shall deposit with the Escrow Agent the necessary funds to cover such future costs, and in no event shall Seller be obligated to contribute to the replenishment of the Escrow Funds. This Section 5 shall survive the Closing and the termination of this Agreement.

6. **Disbursement of Escrow Funds.** The Escrow Funds (or such portion thereof) shall be disbursed to Seller's remediation manager, Boswell Engineering ("Boswell"), or to any contractor designated by Boswell that is engaged in the remediation of the Property ("Contractor"), from time to time, upon delivery by Boswell to the Escrow Agent of an invoice setting forth the work performed and the costs of such work. Boswell's fee for managing the remediation in a sum not to exceed One Hundred Thirty Thousand Dollars (\$130,000.00) shall be paid from the Escrow Funds as invoiced by Boswell. A copy of each invoice shall be simultaneously sent by Boswell to Seller and the County. Seller and the County shall have ten (10) business days from receipt of the invoice to object to same by written notice to the Escrow Agent. If either Seller or the County object to the invoice, the Escrow Agent shall withhold payment until such time as the Escrow Agent receives notice in writing from Seller and the County that the objection has been withdrawn or resolved. The Parties agree to work in good faith together to resolve any disputes regarding invoices. If neither Seller nor the County deliver a written objection to an invoice to the Escrow Agent within the same ten (10) business-day period provided herein, the Escrow Agent shall pay the invoice from the Escrow Funds. Notwithstanding anything to the contrary in the PSA or this Agreement, the County shall be responsible for all fees and expenses charged by the County's LSRP and T&M Associates in connection with the investigation and remediation of the Property, the issuance of the RAO and the approval and payment of the grant funding by Green Acres to the County pursuant to the PSA and this Agreement, all of which fees and expenses shall be paid solely and directly by the County and not by Seller or by the Escrow Agent from the Escrow Funds. This Section 6 shall survive the Closing and the termination of this Agreement.

7. **Return of Unused Escrow Funds.** If the cost of remediation of the Property pursuant to the PSA and this Agreement is ultimately less than the Escrow Funds, then the Escrow Agent shall return the unused portion of the Escrow Funds to Seller within ten (10) days after receipt of written authorization from Seller and the County. This Section 7 shall survive the Closing and the termination of this Agreement.

8. **Interest.** Escrow Agent shall retain one percent (1%) of the interest earned each month for reconciliation and disbursement services. The interest earned on the Escrow Funds shall be reinvested and become part of the Escrow Funds. The County shall be responsible for the

payment of all income tax due on such interest earned on the Escrow Funds, if applicable, and shall provide a W-9 Form to the Escrow Agent at the Closing.

9. **Escrow Agent.**

9.1 **General.** The Escrow Agent shall act as escrow agent and hold and disburse the Escrow Funds pursuant to the terms and conditions of this Agreement.

9.2 **Limited Duties.** The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. The Escrow Agent shall incur no liability whatsoever to the Parties except for its own willful misconduct or gross negligence in its capacity as escrow agent; provided, however, that the Escrow Agent shall not disburse any portion of the Escrow Funds except in strict accordance with this Agreement.

9.3 **Indemnification.** The Parties hereby jointly and severally agree to indemnify the Escrow Agent for, and to hold it harmless against, any loss, liability, damage or expense incurred without gross negligence or willful misconduct on the part of the Escrow Agent arising out of or in connection with its entering into and/or performing under this Agreement.

10. **Interpleader.** If any dispute shall arise between the Parties or any other persons resulting in adverse claims and demands being made for the Escrow Funds, the Escrow Agent shall have the right, on notice to the Parties, to deposit the Escrow Funds with a court of competent jurisdiction. Upon the taking by the Escrow Agent of such action, the Escrow Agent shall be released of and from all liability hereunder. In the event an interpleader action is required the Escrow Agent is authorized to pay reasonable legal fees not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) out of the Escrow Funds.

11. **Notices.** Any notices, communications or other deliveries required to be sent under this Agreement shall be delivered in accordance with Article 12.7 of the PSA. Notice to the Escrow Agent shall be delivered to the following address:

Matthew A. Cohen, Esq., CEO (mcohen@tworivertitle.com)
Susan Alderson (SAlderson@tworivertitle.com)
Two Rivers Title Company, LLC
40 NJ Rt 36
West Long Branch, NJ 07764

12. **Governing Law.** The validity, construction, interpretation and performance of this Agreement shall in all ways be governed and determined in accordance with the laws of the State of New Jersey (without regard to conflicts of law principles).

13. **Captions.** The captions used in this Agreement have been inserted only for purposes of convenience and the same shall not be construed or interpreted so as to limit or define the intent or the scope of any part of this Agreement.

14. **Counterparts.** This Agreement may be executed in counterparts by the Parties hereto, and by pdf. signature, and each shall be considered an original and all of which shall constitute one and the same agreement.

15. **Severability**. If any provision of this Agreement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this Agreement but shall be confined in its operation to the provision or provisions hereof directly involved in the controversy in which such judgment shall have been rendered, and this Agreement shall be construed as if such provision had never existed, unless such construction would operate as an undue hardship on the Parties or would constitute a substantial deviation from the general intent of the Parties as reflected in this Agreement.

16. **No Waiver**. The failure of a Party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. Any waiver must be in writing.

17. **Waiver of Jury Trial**. EACH PARTY HEREBY EXPRESSLY AND UNCONDITIONALLY WAIVES ANY AND EVERY RIGHT EITHER PARTY MAY HAVE TO A TRIAL BY JURY, IN ANY SUIT, ACTION OR PROCEEDING BROUGHT UNDER OR WITH RESPECT TO THIS AGREEMENT.

18. **No Modification**. Except as otherwise expressly set forth herein, nothing contained in this Agreement shall be deemed to amend or modify the PSA, including, without limitation, any rights, obligations or remedies the Parties may have thereunder.

19. **Date for Performance**. If the time period by which any right, notice, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, expires on a Saturday, Sunday or legal or bank holiday, then such time period will be automatically extended through the close of business on the next following business day

20. **Binding Effect**. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors, legal representatives and assigns.

[Signatures Begin on Following Page]

IN WITNESS WHEREOF, this Agreement has been executed, to be effective as of the date first above written.

SPRING BROOK ACRES, INC.

By: _____
Name: Frances M. Moscato
Title: President

WITNESS:

COUNTY OF PASSAIC

By: _____
Louis E. Imhof, III
Clerk to the Board

By: _____
Pasquale Lepore, Director
Board of County Commissioners

As to form and legality:

Nadege D. Allwaters, Esq.
County Counsel

TWO RIVERS TITLE COMPANY, LLC

By: _____
Name: Matthew A. Cohen, Esq.
Title: CEO