

AMENDMENT TO PURCHASE AND SALE AGREEMENT TOWNSHIP OF WEST ORANGE

This Amendment made this 24th day of September, 2024 (the “Effective Date”) by and between the Township of West Orange (the “Township” or “Buyer”), a body corporate and politic of the State of New Jersey, having its address at 66 Main Street, West Orange, New Jersey 07052; and Prism Green Associates IV, LLC; Prism Green Urban Renewal, LLC; GP 55 Lakeside, LLC; GP Ashland Urban Renewal, LLC; GP 177 Main, LLC (collectively “Prism” or “Seller”) having its address at 310 Kingsland Street, Nutley, NJ 07110, and individually referred to as a “Party” and collectively the “Parties.”

1. BACKGROUND

1.1 The Parties executed a Purchase and Sale Agreement dated February 28, 2022 (the “PSA”) regarding certain real property described therein (the “Property”) resulting in a transfer of the Property by deed delivered on February 28, 2022 (the “Closing”).

1.2 Since the Closing, certain remediation activities at the Property as contemplated in Article XIII of the PSA have commenced.

1.3 The Parties have reached agreement that given the current status of remediation, the continued remediation of the Property would be completed as provided for herein.

2. Article 13 is therefore revised and replaced as follows:

XIII, ENVIRONMENTAL PROVISIONS

13.1 Presence of Contamination.

(a) *As of the Closing, Seller represented the following to the best of Seller's knowledge and belief, that other than as set forth in the Environmental Documents: (i) the Property is in compliance with all applicable local, federal and state statutes or regulations, ordinances, permits, orders, and directives regarding pollutants, contaminants, hazardous waste, materials and/or substances (hereinafter collectively referred to as "contamination") and/or solid waste; (ii) there is no pending or contemplated proceeding or administrative action arising out of the environmental condition of the Property; and (iii) the Property has never been remediated.*

(b) *Seller(s) further represented and represents (s) that: (i) it has not discharged any hazardous substances or waste on the Property; (ii) it has no knowledge of any discharge of hazardous substances or waste on the Property other than as set forth in the Environmental Documents; (iii) it did not deposit or cause to be deposited solid waste on the Property; (iv) it has no knowledge of the presence of solid waste on or buried in the Property; and (v) the Property does not require remediation except as noted in the Environmental*

Documents. The foregoing notwithstanding, the Parties acknowledge the existence of the Stockpiled Soil as defined in Section 13.5(f).

(c) Buyer acknowledges that: (i) the Property has known environmental contamination and hazardous substances requiring remediation which exist at, on, under and/or from the Property; (ii) the Property is undergoing remediation work in accordance with the requirements adopted by the New Jersey Department of Environmental Protection (“NJDEP”), including requirements and timeframes contained in the ISRA, as defined in Section 13.5 below, and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 (“the Spill Act”); and (iii) additional remediation at the Property will be needed.

13.2 Buyer acknowledges that the Purchase Price together with the Environmental Escrow provided for in Section 13.9 reflected the Property’s present known environmental condition. The Purchase Price together with the Environmental Escrow included a deduction, offset, and credit for any remediation costs. The Purchase Price did not reflect any deduction, offset, and credit for the Stockpiled Soils as defined hereinafter.

13.3 The Parties’ intent is that, pursuant to N.J.S.A. 58:10-23.11g.d(4), the Township is not liable for the cleanup and removal costs of any discharge which occurred or began prior to ownership by the Township, or for any fees, penalties and/or enforcement actions relating to alleged non-compliance with ISRA, as defined in Section 13.5 below, or other applicable law prior to the Closing.

13.4 As between the Parties, and subject to the Environmental Escrow and the use of same as provided for herein, the Township shall be responsible, as required by applicable law, for the actual costs of all remediation of the Property.

13.5 ISRA Compliance.

(a) The Parties acknowledge that the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. (“ISRA”) had previously been triggered with regard to the Property and that there are three (3) open ISRA cases, Case Nos. 20020198, 200700415, and 20070213, and that ISRA was triggered by the sale of the Property to Buyer. NJDEP has assigned Program Interest No. 027166 for the remediation of the Property (collectively, the “ISRA Cases”).

(b) Prior to the Closing a General Information Notice (“GIN”) was filed with the NJDEP and Seller’s LSRP issued a Remediation Certification.

(c) The Township negotiated with the NJDEP to receive an adjustment of certain remedial timeframes applicable to Seller, which extension was previously denied and would otherwise be unavailable to Seller, on the condition that the Township’s LSRP be permitted to remediate the Property upon closing, notwithstanding the Remediation Certification language. Prior to Closing, the Township submitted to the NJDEP: 1) an Exemption from Spill Act Liability Certification Form, and 2) a Remedial Timeframe Notification Form with an Extension Request (“Extension Request”) to extend the Remedial Investigation Report timeframe, along with a cover

letter memorializing the Township's discussions with the NJDEP and NJDEP granted the Extension Request.

(d) The remediation shall be conducted through the issuance of a site-wide Response Action Outcome (as that term is defined at N.J.S.A. 58:10B-1 et seq.) to close the ISRA Cases.

13.6 Remediation After Closing.

(a) The Township will cause the remediation of the Property to be completed as provided for in Paragraph 13.5(d) and shall be the "Person Responsible for Conducting the Remediation" as that term is defined at . N.J.S.A. 58:10B-1, et seq.

(b) Provided that the remediation is completed as provided for in Paragraph 13.5(d), there are no limitations or restrictions on the manner by which the Property is remediated.

(c) The Township will cause any needed Remediation Funding Source or any needed Financial Assurance to be funded.

(d) Releases and Indemnifications.

(i) "Seller Related Parties" shall mean Seller and any agent, advisor, representative, affiliate, employee, director, officer, partner, member, beneficiary, investor, servant, shareholder, trustee or other person or entity (each, a "Person") acting on Seller's behalf or otherwise related to or affiliated with Seller.

(ii) "Township Related Parties" shall mean the Township Related Parties and any agent, advisor, representative, affiliate, employee, director, officer, partner, member, beneficiary, investor, servant, shareholder, trustee or other person or entity (each, a "Person") acting on the Township's behalf or otherwise related to or affiliated with the Township (including subsequent purchasers of the Property with whom the Township executes a redevelopment agreement for the Property).

(iii) "Claims" shall mean all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements).

(iv) Seller shall indemnify and hold the Township Related Parties harmless; Seller on its behalf and on behalf of the Seller Related Parties forever RELEASE, REMISE, WAIVE AND FOREVER DISCHARGE the Township Related Parties from Claims to the extent relating to: (A) Seller's remediation of the Property prior to Closing; and (B) enforcement actions, fines, assessments, or penalties relating to actions, inactions or alleged non-compliance prior to the Closing, except to the extent such claims are the result of new discharges on the Property after the Closing or actions or inactions by the Township, the Township's contractors, agents, designees, assignees or successor in title.

(v) The Township shall indemnify and hold the Seller Related Parties harmless; the Township on its behalf and on behalf of the Township Related Parties RELEASE, REMISE, WAIVE AND FOREVER DISCHARGE the Seller Related Parties from Claims relating to: (A) the manner by which the remediation of the Property is conducted after Closing; and (B) fines, assessments, or penalties relating to actions after the Closing, except to the extent such claims are the result of discharges on the Property prior to the Closing or actions or inactions by the Seller Related Parties, including the exacerbation of existing contamination during the Township's remediation of the Property.

(vi) (e) Seller and the Township shall execute the Memoranda of Settlement appended hereto as Exhibit 13.6 to be recorded.

(f) Stockpiled Soils. Upon information and belief, Seller contended that certain soils, identified on Exhibit 11 attached hereto, are currently staged on the Property and were excavated by the Seller from public rights-of-way in connection with the installation of certain utility lines, but the Parties have not confirmed that this excavation accounts for the full volume of soil or other materials staged on the Property (the "Stockpiled Soils"). At Closing, a Soil Characterization Workplan escrow account was funded from the sale proceeds in the amount of Five Hundred Thousand (\$500,000.00) Dollars and established with the law firm of Sills Cummis & Gross, PC., in its Attorney Trust Account to be held in accordance with this Agreement (the "Hazardous Soils Disposal Escrow"). The resolution of the Stockpiled Soils was achieved, and the remainder of the Hazardous Soils Disposal Escrow was released to Sellers. The Seller shall have no further responsibility for the Stockpiled Soils which the Township will cause to be addressed at no cost to Sellers.

13.7 Deleted.

13.8 PRCR Transfer.

The Township shall within sixty (60) days of this Amendment identify the Party Responsible for Conducting the Remediation (the "PRCR Transferee").

13.9 Environmental Escrow Account.

(a) At the Closing, an environmental escrow account was funded by Prism and held with Wilentz Goldman & Spitzer in the amount of \$951,045 (the "Environmental Escrow").

(b) Within fifteen (15) days of the execution of this Amendment, the amount of \$301,045 and any accrued interest shall be released to Seller leaving \$650,000 remaining in the Environmental Escrow (the "Remediation Escrow Release") and the remainder of the Environmental Escrow will be within the control of the Township to be used in the sole discretion of the Township.

(c) *Following the Remediation Escrow Release, Seller shall have no claims to the Environmental Escrow.*

(d) *Deleted.*

(e) *Deleted.*

13.10 Seller and the Seller Related Parties, shall reasonably cooperate with the Township and its professionals as to any environmental issues and do hereby specifically authorize and direct all of the Seller's professionals, employees or agents, including but not limited to, the Seller's environmental consultants, and any LSRPs having had authority over the Property, to cooperate with the Township as to any and all environmental issues. Seller's cooperation shall also include, but not be limited to, providing the Township with copies of all correspondence, reports and documents that reflect the environmental condition of the Property, including but not limited to documents reflecting any environmental investigations and/or remediation of the Property, and shall supplement the Environmental Due Diligence Materials with any such documents created after execution of this Agreement before and after Closing.

13.11 This Agreement will not in any way affect the jurisdiction of the NJDEP over the Property or the rights and obligations of any third parties over whom the Parties do not exercise control.

13.12 This Article XIII shall survive Closing.

3. All other provisions of the PSA not altered or modified herein shall remain as written.

4. Counterparts. This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[SIGNATURE PAGES FOLLOW]

ATTEST:

TOWNSHIP OF WEST ORANGE

By: _____

Name: Susan McCartney

Title: Mayor

Date: September 24, 2024

Prism Green Associates IV, LLC, Seller

By: _____

Name: _____

Title: _____

Date: September ___, 2024

Prism Green Urban Renewal, LLC, Seller

By: _____

Name: _____

Title: _____

Date: September ___, 2024

GP 55 Lakeside, LLC, Seller

By: _____

Name: _____

Title: _____

Date: September __, 2024

GP Ashland Urban Renewal, LLC, Seller

By: _____

Name: _____

Title: _____

Date: September __, 2024

GP 177 Main, LLC, Seller

By: _____

Name: _____

Title: _____

Date: September __, 2024