

## WWTP ESCROW AGREEMENT

(Wastewater Facilities)

THIS WWTP ESCROW AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_ day of February, 2021 (the "Effective Date"), by and among TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "Seller"), a Massachusetts municipal corporation having an address of 41 Cochituate Road, Wayland, MA 01778, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company having its business address c/o Wood Partners, 91 Hartwell Avenue, Lexington, MA 02421, Attn: Jim Lambert (hereinafter "Buyer"), and FIRST AMERICAN TITLE INSURANCE COMPANY (hereinafter referred to as "Escrow Agent").

### RECITALS:

A. Concurrently with the execution of this Agreement, Seller has conveyed to Buyer that certain property commonly known as 490 Boston Post Road in the Town of Wayland, Middlesex County, Commonwealth of Massachusetts, shown as "Lot A", "Lot C", and "Lot E" (the "Buyer's Property") on that certain plan entitled "ANR Subdivision Plan Assessors Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road Wayland, Massachusetts" prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South Registry of Deeds (the "Registry") as Plan No. 260 of 2017 (the "ANR Plan"). The acquisition of the Buyer's Property was consummated pursuant to a Land Disposition Agreement for the Sale and Redevelopment of Land between Seller and Buyer dated as of July 28, 2017 (as amended from time to time, most recently by a Twelfth Amendment dated on or about the date hereof (the "Twelfth Amendment"), the "LDA").

B. Pursuant to the Twelfth Amendment, at closing under the LDA, Seller and Buyer agreed to enter into an Infrastructure Development Agreement (the "Development Agreement") and this Agreement to among other things, address and secure Seller's obligations to (i) timely design permit and construct the Seller's WWTP Improvements (as defined in the Development Agreement), and (ii) compensate or reimburse Buyer for Buyer's WWTP Damages sustained on account of (A) Seller's failure to remain on schedule in performing such work, (B) Seller otherwise triggering a "Seller Event of Default" under the Development Agreement, and/or (C) a Buyer's O/M Failure Event.

C. In order to secure the aforesaid obligations of Seller and provide Buyer with recourse when and if it is entitled to pursue Buyer's WWTP Damages pursuant to the Development Agreement, Seller is depositing with Escrow Agent simultaneously with the execution and delivery hereof the sum of **[\$2,548,909.56][TO BE CONFIRMED BY FINAL CLOSING STATEMENT]** (the "WWTP Escrow Amount").

D. This Agreement is the WWTP Escrow Agreement referred to in the LDA and the Development Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Recitals; Capitalized Terms. The above Recitals are true and correct and are incorporated herein by reference. Capitalized terms which are not otherwise defined herein shall have the meanings assigned thereto in the Development Agreement. Additionally, the following capitalized terms used in this Agreement have the respective meanings assigned to them below:

"Buyer's Increased Project Costs Requisition" shall mean a disbursement request for Buyer's Increased Project Costs in the form attached hereto as Exhibit A and incorporated herein by reference.

“Buyer’s Project Delay LD Requisition” shall mean a disbursement request for Buyer’s Project Delay Liquidated Damages in the form attached hereto as Exhibit C and incorporated herein by reference.

“Buyer’s Self-Contained WWTP Work Costs Requisition” shall mean a disbursement request for Buyer’s Self-Contained WWTP Work Costs which exceed the Buyer’s Self-Contained WWTP Work Costs Requisition Threshold in the form attached hereto as Exhibit D and incorporated herein by reference.

“Buyer’s WWTP Damages Requisition” shall mean, as applicable based on the nature of the Buyer’s WWTP Damages which are the subject of a particular request for disbursement of the WWTP Escrow Funds pursuant to Section 4(a) below, any one of a Buyer’s Increased Project Costs Requisition, Buyer’s Project Delay LD Requisition, Buyer’s Self-Contained WWTP Work Costs Requisition and/or Buyer’s WWTP Self-Help Requisition.

“Buyer’s WWTP Self-Help Requisition” shall mean a disbursement request to compensate Buyer for Buyer’s WWTP Self-Help Costs incurred on account of Buyer exercising the Self-Help Remedy (as defined in Section 5.2(d) of the Development Agreement) in the form attached hereto as Exhibit E and incorporated herein by reference.

“Objection Notice” shall mean each of a Seller Objection Notice and Buyer Objection Notice, as applicable.

“Seller’s WWTP Escrow Release Requisition” shall mean a disbursement request for a Release Amount in the form attached hereto as Exhibit F and incorporated herein by reference.

2. Appointment and Acceptance of Escrow Agent. By execution of this Agreement, Seller and Buyer hereby appoint and engage Escrow Agent, and Escrow Agent hereby accepts such appointment and engagement, to serve as Escrow Agent and to perform the duties set forth herein, subject to the terms and conditions of this Agreement.

3. WWTP Escrow Funds. Seller agrees to deliver to Escrow Agent at Closing the sum of the WWTP Escrow Amount, which shall be held and distributed by Escrow Agent subject to the conditions set forth herein. The monies held by Escrow Agent pursuant to this Agreement from time to time are sometimes referred to as the “WWTP Escrow Funds”. At such time(s) as Buyer deposits the Final On-Site WWTP Escrow Funds pursuant to Section 4(c)(ii) of the Twelfth Amendment (including any amounts determined through the dispute resolution process concerning the Final On-Site WWTP Estimate referenced therein and Section 5(d) hereof), such funds shall become part of the WWTP Escrow Funds for all purposes under this Agreement and the Development Agreement.

4. Disbursement of the WWTP Escrow Funds. The WWTP Escrow Funds shall be released to, and upon the following:

(a) Disbursement to Buyer. The WWTP Escrow Funds shall be disbursed to Buyer, in whole or in part, at any time and from time to time, in accordance with the following procedures:

(i) Buyer’s WWTP Damages Requisitions; Seller Objection Notices. Buyer may, from time to time and in accordance with applicable terms of the Development Agreement, submit to Escrow Agent and Seller a written request for disbursement of the WWTP Escrow Funds in the form of a Buyer’s WWTP Damages Requisition for the payment of Buyer’s WWTP Damages actually incurred or sustained by Buyer pursuant to the terms of the Development Agreement. Buyer shall provide to Seller and Escrow Agent copies of any and all supporting documentation (if

any) contemplated by the applicable Buyer's WWTP Damages Requisition form attached hereto (such supporting documentation, along with any supporting documentation contemplated by Exhibit H attached hereto in connection with a Seller's WWTP Escrow Release Requisition made pursuant to Section 4(b) below, as applicable, "Supporting Documentation"). Seller shall have ten (10) business days after receipt of a Buyer's WWTP Damages Requisition to object to any Buyer's WWTP Damages Requisition by written notice to Escrow Agent and Buyer in substantially the form of Exhibit G attached hereto (a "Seller Objection Notice"); *provided, however*, that Seller acknowledges and agrees that Seller shall only have the right to object to a particular Buyer's WWTP Damages Requisition (i) if the requisition does not contain sufficient Supporting Documentation (it being acknowledged by Seller that its objection right under this clause (i) is limited only to the existence (or lack thereof) of the Supporting Documentation), or (ii) Seller, in good faith, reasonably believes that the Buyer's WWTP Damages Requisition (or the Buyer's WWTP Damages that are the subject to the Buyer's WWTP Damages Requisition) are inaccurate, erroneous, or not consistent with the terms and provisions of the Development Agreement, or (iii) if Seller in good faith disputes the allegation of the occurrence (or the extent of the occurrence) of a Seller Event of Default or Buyer's Project Delay, if alleged in Buyer's WWTP Damages Requisition. If a Seller Objection Notice is not received by Escrow Agent within such 10-business day period, then Escrow Agent shall disburse promptly the portion of the WWTP Escrow Funds requested in accordance with Buyer's payment instructions contained in the Buyer's WWTP Damages Requisition. If, however, Seller timely serves a Seller Objection Notice to Escrow Agent and Buyer with respect to a Buyer's WWTP Damages Requisition, then Section 5 hereof shall apply.

(ii) Escrow Agent Review. Escrow Agent shall not be required to review any documentation provided in connection with any Buyer's WWTP Damages Requisition provided hereunder. Escrow Agent shall rely only on the objection of Seller or absence of objection. In fact, Escrow Agent shall not withhold a disbursement based on a belief that the disbursement requested is incomplete.

(iii) Joint Disbursement Instructions. If Seller and Buyer jointly submit a Buyer's WWTP Damages Requisition, Escrow Agent shall disburse the requested amounts promptly from the WWTP Escrow Funds pursuant to the directions set forth in such joint Buyer's WWTP Damages Requisition.

(b) Disbursement to Seller. The WWTP Escrow Funds (or applicable portions thereof) shall be disbursed to Seller in accordance with the following procedures:

(i) Seller's WWTP Escrow Release Requisitions; Buyer Objection Notices. Upon achievement of an applicable Seller's WWTP Work Milestone, but subject to the terms of Section 2(c) of the Development Agreement, Seller may submit to Escrow Agent and Buyer a Seller's WWTP Escrow Release Requisition for disbursement to Seller of the applicable Release Amount pursuant to the terms of the Development Agreement. Seller shall provide to Buyer and Escrow Agent copies of any and all Supporting Documentation contemplated by the applicable Seller's WWTP Escrow Release Requisition. Buyer shall have ten (10) business days after receipt of a Seller's WWTP Escrow Release Requisition to object to any Seller's WWTP Escrow Release Requisition by written notice to Escrow Agent and Seller in substantially the form of Exhibit H attached hereto (a "Buyer Objection Notice"). Buyer shall only have the right to object to a particular Seller's WWTP Escrow Release Requisition (i) if the requisition does not contain the applicable Supporting Documentation (it being acknowledged by Buyer that its objection right under this clause (i) is limited only to the existence (or lack thereof) of the Supporting Documentation), or (ii) Buyer, in good faith, reasonably believes that Seller's WWTP Escrow

Release Requisition is inaccurate, erroneous, and/or not consistent with the terms and provisions of the Development Agreement. If a Buyer Objection Notice is not received by Escrow Agent within such ten (10) business day period, then Escrow Agent shall disburse promptly the portion of the WWTP Escrow Funds requested in accordance with Seller's payment instructions contained in the Seller's WWTP Escrow Release Requisition. If, however, Buyer timely serves a Buyer Objection Notice to Escrow Agent and Seller with respect to a Seller's WWTP Escrow Release Requisition, then Section 5 hereof shall apply. For the avoidance of doubt, and notwithstanding anything in this Agreement to the contrary, Escrow Agent shall release to Seller, and Buyer shall not have the right to interpose any objection or dispute with respect to the release of, the Building Permit Fee from escrow, upon Escrow Agent's receipt of a Seller's WWTP Escrow Release Requisition for such Building Permit Fee on or after June 24, 2021.

(ii) Escrow Agent Review. Escrow Agent shall not be required to review any documentation provided in connection with any Seller's WWTP Escrow Release Requisition provided hereunder. Escrow Agent shall rely only on the objection of Buyer or absence of objection. In fact, Escrow Agent shall not withhold a disbursement based on a belief that the disbursement requested is incomplete.

(iii) Joint Disbursement Instructions. If Seller and Buyer jointly submit a Seller's WWTP Escrow Release Requisition, Escrow Agent shall disburse the requested amounts promptly from the WWTP Escrow Funds pursuant to the directions set forth in such joint Seller's WWTP Escrow Release Requisition.

(iv) Final Disbursement. The remaining portion of the WWTP Escrow Funds, if any, that has not been disbursed to Buyer and is not the subject of a pending claim for disbursement to Buyer pursuant to Section 4(a) above shall be released by Escrow Agent to Seller within two (2) business days after the expiration of the Escrow Period.

5. Objection Notice Procedure; Expedited Dispute Resolution. If either party provides an Objection Notice in accordance with Section 4 above (such objecting party being referred to for the purposes of this Section 5 as the "Objecting Party," and each party receiving the objection being referred to for the purposes of this Section 5 as the "Non-Objecting Party"), then the following shall apply:

(a) Escrow Agent shall not disburse the portion of the WWTP Escrow Funds in dispute until either (i) Seller and Buyer (or their respective counsel) jointly instruct Escrow Agent to disburse funds in accordance with the applicable request for disbursement from the Non-Objecting Party, or (ii) the dispute has been resolved (including pursuant to the terms of Section 5(c) below).

(b) Seller and Buyer shall direct Escrow Agent to disburse any portion of the proposed disbursement as to which no objection is made. For example, if Buyer requests in a Buyer's WWTP Damages Requisition that \$50,000 be disbursed to Buyer, but Seller claims in a Seller Objection Notice that Buyer is only entitled to \$40,000, then Escrow Agent shall disburse \$40,000 to Buyer pursuant to the instructions set forth in the Buyer's WWTP Damages Requisition (without prejudice to the rights of Buyer as to the remaining unfunded WWTP Escrow Funds), and the remaining \$10,000 shall be subject to Section 5(a) above.

(c) In the event the Parties cannot resolve a dispute over a particular disbursement hereunder within ten (10) business days after delivery of an Objection Notice (as evidenced by a joint instruction to the Escrow Agent to disburse or hold the applicable WWTP Escrow Funds as instructed by Seller and Buyer), either Seller or Buyer shall thereafter have the right, in lieu of pursuing recourse through the courts,

to assert that a “Disbursement Dispute” exists on the terms hereof, in which case the following provisions shall apply:

(1) If Seller or Buyer asserts that a Disbursement Dispute has arisen, such asserting party shall give prompt written notice thereof to the other party, the Escrow Agent and to the Disbursement Dispute Arbitrator (defined in subsection (4) below). The Disbursement Dispute Arbitrator shall, no later than five (5) business days after receipt of such notice, hold a preliminary, informal mediation meeting with both Buyer and Seller in an attempt to mediate such Disbursement Dispute. The Disbursement Dispute Arbitrator shall be instructed to give due regard to the language of this Agreement, the LDA, and the Development Agreement when determining the merits of the applicable Objection Notice which is the subject of a Disbursement Dispute. If such Disbursement Dispute shall not be resolved at that mediation meeting, the Disbursement Dispute Arbitrator shall, at such informal mediation meeting, establish a date, not earlier than ten (10) business days after such informal mediation meeting nor later than thirty (30) days after such informal mediation meeting, for a hearing (a “Hearing”) to be held in accordance with this Agreement to resolve such Disbursement Dispute. Notwithstanding the foregoing, upon the existence of a prior commitment on the part of the Disbursement Dispute Arbitrator, or upon reasonable cause shown by Buyer or Seller (or both), the Disbursement Dispute Arbitrator may make a reasonable extension to one or both time periods set forth in this Section 5(c).

(2) Buyer and Seller shall have the right to make one (1) written submission to the Disbursement Dispute Arbitrator prior to the Hearing. Such submission shall be received by the Disbursement Dispute Arbitrator and the other party not later than two (2) Business days prior to the Hearing date. Buyer and Seller hereby agree that all Hearings shall have a mutually agreeable scope of discovery and exchange of information reasonably necessary for the parties to evaluate and resolve the Disbursement Dispute. The Hearing shall be conducted by the Disbursement Dispute Arbitrator. It is the intention of the parties hereto that the Hearing shall be conducted in an informal and expeditious manner. No transcript or recording shall be made. Buyer and Seller shall have the opportunity to make a brief statement and to present documentary and other support for its position, which may include the testimony of not more than two (2) individuals, one (1) of whom may be outside experts. There shall be no presumption in favor of either party’s position.

(3) The Disbursement Dispute Arbitrator shall render a decision, in writing, as to any Disbursement Dispute not later than five (5) business days following the conclusion of the Hearing regarding such Disbursement Dispute (the “DD Decision”) and shall provide a brief written basis for its decision not later than five (5) business days after the issuance of the DD Decision. The Disbursement Dispute Arbitrator may not award any other or different relief. The DD Decision shall be final and binding on Seller and Buyer for all purposes and may be entered in any court of competent jurisdiction. Seller and Buyer hereby authorize and direct Escrow Agent to disburse (or hold) the WWTP Escrow Funds which are the subject of a particular Disbursement Dispute in accordance with the DD Decision.

(4) Following the Closing, Buyer and Seller hereby agree to work expeditiously to engage Wally McDonough of ELK Consulting Services LLC as the Disbursement Dispute Arbitrator with regard to all Disbursement Disputes that may arise. If for any reason, within thirty (30) days after Closing, (a) such individual shall be unwilling or unable to act as Disbursement Dispute Arbitrator and the parties cannot agree on a replacement or (b) the parties are unable to agree on the engagement terms of the Disbursement Dispute Arbitrator, and the parties, within forty-five (45) days after the Closing, are unable to agree on a mutually acceptable Disbursement Dispute Arbitrator as an alternative to Mr. McDonough, then any party may ask the AAA Boston, Massachusetts office to select a substitute with such qualifications and experience who will act as Disbursement Dispute Arbitrator. The actual party designated pursuant to this Section 5(c) shall be the “Disbursement Dispute Arbitrator”. The fees and costs of the Disbursement

Dispute Arbitrator and the AAA shall be borne by the non-prevailing party in the applicable Disbursement Dispute at issue.

(d) In addition to its role adjudicating Disbursement Disputes, the Disbursement Dispute Arbitrator shall also act in accordance with the rules and procedures set forth in this Section 5 with respect to any dispute between Seller and Buyer regarding the Final On-Site WWTP Estimate, as more particularly described in Section 4(c)(ii) of the Twelfth Amendment

6. Dispute and Litigation Generally. If prior to the delivery of all or any part of the WWTP Escrow Funds described herein, Seller or Buyer shall have brought a suit to enjoin said delivery or for declaratory judgment with respect to an alleged breach and have served Escrow Agent with a summons making it a party to such action (provided that neither party shall be entitled to bring such a suit with respect to WWTP Escrow Funds that are the subject of a Disbursement Dispute pursuant to Section 5(c) above, in which case the terms of Section 5(c) shall govern the treatment of the applicable WWTP Escrow Funds upon the resolution of such Disbursement Dispute), Escrow Agent shall have the right in its sole discretion to either retain the money until the court directs the proper disposition thereof, or to deposit the same with the court. Further, if prior to the delivery of the WWTP Escrow Funds, Escrow Agent has been notified in writing by Seller or Buyer that a dispute exists with respect to the disposition of the WWTP Escrow Funds, then Escrow Agent shall retain such funds until the dispute is resolved. If Seller and Buyer do not notify Escrow Agent in writing within ten (10) business days from the notice of such dispute that such dispute has been resolved, then the Escrow Agent may file a bill of interpleader and deposit the WWTP Escrow Funds with the court; *provided, however*, if Escrow Agent shall have received notice of a Disbursement Dispute with respect to such dispute pursuant to Section 5(c) above, Escrow Agent shall hold and disburse the WWTP Escrow Funds which are the subject of such dispute in accordance with said Section 5(c). Seller and Buyer shall be jointly and severally liable to Escrow Agent for all reasonable expenses of any such suit for injunctive relief, declaratory judgment, or interpleader, including but not limited to reasonable attorneys' fees and costs. As between Seller and Buyer, such expenses shall be the responsibility of the non-prevailing party, excluding the Escrow Agent. The parties agree that if Escrow Agent is made a party to any litigation under this Agreement (other than a suit against Escrow Agent for willful neglect, intentional misconduct or breach of trust), upon the deposit by Escrow Agent of the WWTP Escrow Funds in the registry of the court, it shall be dropped from the litigation as a party and both parties shall agree that Escrow Agent has, in so doing, fully discharged its obligations under this Agreement and this Agreement shall be terminated as to Escrow Agent. In the event of any litigation between the Seller and Buyer to enforce any provision and right hereunder, the unsuccessful party to such litigation covenants and agrees to pay the successful party therein all costs and expenses, expressly including, but not limited to, reasonable attorneys' fees actually incurred therein by such successful party (including through any appeal), which costs, expenses and reasonable attorneys' fees shall be included in and as a part of any judgment rendered in such litigation.

7. Liability of Escrow Agent. Escrow Agent shall not be liable for the failure of any of the conditions of this escrow, or for damages caused or omission done in good faith, or for any claim or loss, claimed or suffered by any party hereto by the exercise of Escrow Agent's discretion, or for any reason whatsoever, except for intentional misconduct or willful neglect or breach of trust. Escrow Agent shall not be deemed to have notice or knowledge of any fact hereunder unless written notice thereof has been given to it pursuant to Section 10 below. Further, Escrow Agent shall not incur liability to any party for damages, losses or expenses, except for such arising out of its intentional misconduct or willful neglect or breach of trust. Seller's federal taxpayer identification (FEIN) number is 046001341 for purposes of tax reporting requirements.

8. Miscellaneous.

(a) Escrow Agent may act in reliance upon any instruction or signature reasonably believed by it to be genuine and may assume that any person purporting to give any writing, notice, instruction or direction in accordance with the provisions hereof has been duly authorized to do so.

(b) Escrow Agent may consult with and obtain advice from legal counsel, auditors and other experts in connection with this Agreement or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in good faith in accordance with the written opinions and instructions of such counsel, auditors or other experts rendered within the areas of their respective expertise.

(c) Escrow Agent may execute any of its powers or responsibilities hereunder and exercise any rights hereunder either directly or by or through its agents or attorneys.

9. Investment of Escrow Funds. Escrow Agent shall invest the WWTP Escrow Funds in an interest-bearing account maintained by Escrow Agent in a bank or savings and loan association, or in some other financial institution or brokerage house, that is FDIC insured. Interest, dividends, capital gains and other earnings (collectively "Earnings") on the WWTP Escrow Funds shall be added to and become a part of the WWTP Escrow Funds. Seller shall be responsible for all income taxes, if any, imposed upon the Earnings.

10. Notices. Wherever in this Agreement it shall be required or permitted that notice, request, consent, or demand be given by any party to this Agreement to or on the other (hereafter collectively "Notice" for the purpose of this paragraph), such Notice shall not be deemed to have been duly given unless in writing, and either personally delivered, mailed by certified mail, return receipt requested, e-mail of a letter in "pdf" format (with Request for Delivery Receipt (or similar function) activated) or sent via commonly accepted overnight delivery service as follows:

Buyer: c/o Wood Partners  
91 Hartwell Avenue  
Lexington, MA 02421  
Attn: Jim Lambert, Director  
Email: [Jim.Lambert@woodpartners.com](mailto:Jim.Lambert@woodpartners.com)

With copies to: c/o Wood Partners  
636 W. Yale Street  
Orlando, Florida 32804  
Attention: Sean Reynolds  
Telephone: (407) 982-2517  
E-mail: sean.reynolds@woodpartners.com

And

Alston & Bird LLP  
One Atlantic Center  
1201 W. Peachtree Street  
Atlanta, Georgia 30309  
Attention: Drew Allen  
Telephone: (404) 881-4522  
E-mail: drew.allen@alston.com

SELLER:

Louise L.E. Miller, J.D.  
Town Administrator  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

With copies to:

Katharine Lord Klein  
KP | LAW  
101 Arch Street, 12<sup>TH</sup> Floor  
Boston, MA 02110  
Telephone: (617) 654 1834  
Email: [kklein@k-plaw.com](mailto:kklein@k-plaw.com)

And

David L. Wiener  
Anderson & Kreiger LLP  
50 Milk Street, 21<sup>st</sup> floor  
Boston, MA 02109  
Telephone: (617) 621-6570  
Email: [dwiener@andersonkreiger.com](mailto:dwiener@andersonkreiger.com)

Escrow Agent:

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhlir  
Email: [juhlir@firstam.com](mailto:juhlir@firstam.com)

Counsel for the parties set forth herein may deliver notice on behalf of the parties.

All Notices shall be deemed delivered only upon actual delivery at the address (or e-mail address) set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day shall be regarded as delivered on the next business day. Saturdays, Sundays and legal holidays of the United States government shall not be regarded as business days.

If any time for giving Notice or other time period contained in this Agreement would otherwise expire on a non-business day, the Notice period or time period shall be extended to the next succeeding business day. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in address or addresses by written Notice in accordance herewith to the parties and addressees set forth herein.

11. Severability. The invalidity or unenforceability of a specific provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

12. Modification. No additions, alterations or variations to the terms of this Agreement shall be valid nor can the provisions or the terms of this Agreement be waived by either party unless such additions, alterations, variations or waivers are expressly set forth in writing and signed by the parties hereto.



13. Waiver. The failure of any party hereto in one or more instances to insist upon strict performance or observance of one or more of the covenants or conditions hereof, or to exercise any remedy, privilege, or option herein conferred upon or served to such party, shall not operate and not be construed as a relinquishment or waiver for the future of such covenant or condition of or the right to enforce the same or to exercise such privilege, option, or remedy, but the same shall continue in full force and effect.

14. Venue and Applicable Law. In the event that legal action is instituted under, or to enforce any provision of, this agreement, the parties hereto submit themselves to the jurisdiction of the courts of the Commonwealth of Massachusetts, and, notwithstanding the place of residence of any of them or the place of execution of this instrument, such litigation shall be brought in Middlesex County, Massachusetts. This Agreement shall be controlled, construed and interpreted according to the laws of the Commonwealth of Massachusetts, without regard to the conflict of laws rules of such State.

15. Persons Bound; Permitted Assignments. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. This Agreement shall not be assigned by Seller, Escrow Agent or Buyer without the written consent of the other parties to this Agreement; *provided, however*, that Seller or Buyer may assign this Agreement in connection with an assignment permitted under the Development Agreement (including any permitted collateral assignments in connection with Buyer's financing of the Buyer's Project as set forth therein).

16. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters contained herein, and supersedes all previous agreements or representations, either verbal or written heretofore in effect between the parties made with respect to the matters contained herein.

17. Term/Termination. The "Escrow Period" for the purposes hereof shall mean the period commencing on the Effective Date and continuing until the date which is the earlier to occur of (i) the five (5) year anniversary of the Effective Date, provided that if Buyer has delivered a Buyer's WWTP Damages Requisition or Seller has delivered a Seller's WWTP Escrow Release Requisition prior to such anniversary, the Escrow Period shall continue until payment is made on such requisition and/or any disputes surrounding such requisition are resolved pursuant to this Agreement; (ii) full disbursement of the WWTP Escrow Funds in accordance with the provisions of this Agreement; and (iii) Buyer providing notice to Escrow Agent and Seller that Seller's WWTP Improvements are completed and all applicable Buyer's WWTP Damages (if any) have been accounted for and paid. Upon expiration of the Escrow Period, this Agreement will terminate and be of no further force and effect.

18. Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all such counterparts shall constitute one instrument. Signatures to this Agreement transmitted by e-mail or .pdf file shall be valid and effective to bind the party so signing.

19. WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SELLER AND BUYER ENTERING INTO THIS AGREEMENT.

[Signatures appear on following page]

IN WITNESS WHEREOF, Seller, Buyer and Escrow Agent have entered into this Agreement on the Effective Date.

**BUYER:**

**ALTA RIVER'S EDGE, LLC,**  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

[signatures continue on following page]

**SELLER:**

**TOWN OF WAYLAND,**  
By its Board of Selectmen

---

Cherry C. Karlson, Chair

---

David V. Watkins

---

Thomas J. Fay

---

Mary M. Antes

---

Lea T. Anderson

[signatures continue on following page]

**ESCROW AGENT:**

**FIRST AMERICAN TITLE INSURANCE  
COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S INCREASED PROJECT COSTS REQUISITION**

**BUYER'S INCREASED PROJECT COSTS REQUISITION**

REQUISITION NOTICE #[\_\_\_]

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhlir  
Email: juhli@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's Increased Project Costs on account of the Seller Event of Default [ENCLOSE SUPPORTING DOCUMENTATION];
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for Buyer's Increased Project Costs on account of such Seller Event of Default; and

- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer's Increased Project Costs pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT B**

Reserved

**EXHIBIT C**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S PROJECT DELAY LD REQUISITION**

**BUYER'S PROJECT DELAY LD REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: juhler@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) claims a period of \_\_\_ days of Buyer's Project Delay on account of the Seller Event of Default, based on the updated Buyer's Construction Schedule enclosed with this Buyer's Project Delay LD Requisition [ENCLOSE UPDATED BUYER'S CONSTRUCTION SCHEDULE]; and
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for Buyer's Project Delay Liquidated Damages on account of the Buyer's Project Delay.



This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware  
limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited  
liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited  
liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT D**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S SELF-CONTAINED WWTP WORK COSTS REQUISITION**

**BUYER'S SELF-CONTAINED WWTP WORK COSTS REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: juhler@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a [Seller Event of Default][Buyer O/M Failure Event] exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT OR BUYER O/M FAILURE EVENT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's Self-Contained WWTP Work Costs on account of the [Seller Event of Default] [Buyer O/M Failure Event] which exceed the Buyer's Self-Contained WWTP Work Costs Requisition Threshold [ENCLOSE SUPPORTING DOCUMENTATION];
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for Buyer's Self-Contained WWTP Work Costs on

account of such [Seller Event of Default][Buyer O/M Failure Event] which exceed the Buyer's Self-Contained WWTP Work Costs Requisition Threshold; and

- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer's Self-Contained WWTP Work Costs which exceed the Buyer's Self-Contained WWTP Work Costs Requisition Threshold pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT E**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S WWTP SELF-HELP REQUISITION**

**BUYER'S WWTP SELF-HELP REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: juhler@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's WWTP Self-Help Costs incurred in connection with Buyer's exercise of the Self-Help Remedy pursuant to Section 5.2(d) of the Development Agreement [ENCLOSE SUPPORTING DOCUMENTATION];
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for such Buyer's WWTP Self-Help Costs; and

- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer's WWTP Self-Help Costs pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT F**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF SELLER'S WWTP ESCROW RELEASE REQUISITION**

**SELLER'S WWTP ESCROW RELEASE REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: [juhler@firstam.com](mailto:juhler@firstam.com)

Alta River's Edge, LLC  
91 Hartwell Avenue  
Lexington, MA 02421  
Attn: Jim Lambert, Director  
Email: [Jim.Lambert@woodpartners.com](mailto:Jim.Lambert@woodpartners.com)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Buyer and Escrow Agent:

Pursuant to Section 2(c) of the Development Agreement and Section 4(b) of the Escrow Agreement, Seller hereby:

- (i) encloses the Seller's WWTP Work Milestone Achievement Evidence relating to the following Seller's WWTP Work Milestone(s) (the "**Applicable Seller Milestone**"): [SELLER TO INSERT APPLICABLE MILESTONE(S) FROM DEVELOPMENT AGREEMENT AND ENCLOSE EVIDENCE OF MILESTONE ACHIEVEMENT];
- (ii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds, which is the Release Amount(s) for the Applicable Seller Milestone(s) as provided in Section 2(c) of the Development Agreement; and
- (iii) certifies to Buyer and Escrow Agent that the Disbursement Amount constitutes the correct Release Amount pursuant to the terms of the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

TOWN OF WAYLAND

By: \_\_\_\_\_

Name:

Title: Town Administrator

**EXHIBIT G**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF SELLER OBJECTION NOTICE**

[Date]

[INSERT CONTACT INFO FOR BUYER AND TITLE COMPANY FROM ESCROW AGREEMENT]

Dear Buyer and Escrow Agent:

Reference is made to that certain WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the “**Escrow Agreement**”) by and among First American Title Insurance Company (“**Escrow Agent**”), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “**Seller**”), a Massachusetts municipal corporation, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company (“**Buyer**”). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

We have received and reviewed the Buyer’s WWTP Damages Requisition, dated \_\_\_\_\_ (the “**Subject Buyer’s WWTP Damages Requisition**”), submitted by Buyer under the Escrow Agreement. We hereby take the following action:

- Object to the disbursement in the amount of \$ \_\_\_\_\_ requested by Buyer in the Subject Buyer’s WWTP Damages Requisition, Seller hereby certifying that it is entitled to object to such amount pursuant to the Development Agreement and Escrow Agreement based on the following:  
\_\_\_\_\_.
- Approve disbursement of \$ \_\_\_\_\_ of the amount requested in the Subject Buyer’s WWTP Damages Requisition and object to disbursement of the remaining \$ \_\_\_\_\_ so requested, Seller hereby certifying that it is entitled to object to such amount pursuant to the Development Agreement and Escrow Agreement based on the following: \_\_\_\_\_..

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

TOWN OF WAYLAND

By: \_\_\_\_\_

Name:

Title: Town Administrator



**EXHIBIT H**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYTER OBJECTION NOTICE**

[Date]

[INSERT CONTACT INFO FOR SELLER AND TITLE COMPANY FROM ESCROW AGREEMENT]

Dear Seller and Escrow Agent:

Reference is made to that certain WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

We have received and reviewed the Seller's WWTP Escrow Release Requisition, dated \_\_\_\_\_ (the "**Subject Seller's WWTP Escrow Release Requisition**"), submitted by Seller under the Escrow Agreement. We hereby take the following action:

- Object to the disbursement in the amount of \$ \_\_\_\_\_ requested by Seller in the Subject Seller's WWTP Escrow Release Requisition based on the following facts:  
\_\_\_\_\_.
- Approve disbursement of \$ \_\_\_\_\_ of the amount requested in the Subject Seller's WWTP Escrow Release Requisition and object to disbursement of the remaining \$ \_\_\_\_\_ so requested.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

[signature on following page]

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware  
limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited  
liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited  
liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]