

CITY OF BEACON
1 Municipal Plaza, Beacon, NY
Telephone (845) 838-5000 • <http://cityofbeacon.org/>

ENTITY DISCLOSURE FORM

(This form must accompany every land use application and every application for a building permit or certificate of occupancy submitted by any entity)

Disclosure of the names and addresses of all persons or entities owning any interest or controlling position of any Limited Liability Company, Partnership, Limited Partnership, Joint Venture, Corporation or other business entity (hereinafter referred to as the "Entity") filing a land-use application with the City is required pursuant to Section 223-62 of the City Code of the City of Beacon. If any Member of the Entity is not a natural person, then the names and addresses as well as all other information sought herein must be supplied about the non-natural person member of that Entity, including names, addresses and Formation filing documents. Applicants shall submit supplemental sheets for any additional information that does not fit within the below sections, identifying the Section being supplemented.

SECTION A. IF AFFIANT IS A PARTNERSHIP, JOINT VENTURE OR OTHER BUSINESS ENTITY, EXCEPT A CORPORATION:

Name of Entity 23-28 Creek Drive, LLC	Address of Entity 111 Creek Drive, Suite 102A, Beacon, NY 12508
Place where such business entity was created County of Dutchess, State of New York	Official Registrar's or Clerk's office where the document and papers creating entity were filed New York State Department of State – NYS DOS#5241271
Date such business entity or partnership was created November 28, 2017	Telephone Contact Information (917)622-0657

IF AFFIANT IS A CORPORATION:

Name of Entity	Telephone Contact Information
Principal Place of Business of Entity	Place and date of incorporation
Method of Incorporation	Official Place where the documents and papers of incorporation were filed

SECTION B. List all persons, officers, limited or general partners, directors, members, shareholders, managers, and any others with any interest in or with the above referenced Entity. List all persons to whom corporate stock has been pledged, mortgaged or encumbered and with whom any agreement has been made to pledge, mortgage or encumber said stock. Use a supplemental sheet to list additional persons.

Name	Resident Address	Resident Telephone Number	Nature and Extent of Interest
Rodney Weber	11 Creek Drive, Suite 102A, Beacon, NY 12508	(917) 622-0657	Managing Member

SECTION C. List all owners of record of the subject property or any part thereof.

Name	Residence or Business Address	Telephone Number	Date and Manner title was acquired	Date and place where the deed or document of conveyance was recorded or filed.
City of Beacon	One Municipal Plaza Beacon, NY 12508	845-838-5000	Deed	Dutchess County Clerk, Recorded in Liber 328 at page 447.

SECTION D. Is any owner, of record or otherwise, an officer, director, stockholder, agent or employee of any person listed in Section B-C?

_____ YES

___X___ NO

Name	Employer	Position

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SECTION H. If the applicant is a contract vendee, a duplicate original or photocopy of the full and complete contract of purchase, including all riders, modification and amendments thereto, shall be submitted with the application.

See attached Purchase and Sale Agreement.

SECTION I. Have the present owners entered into a contract for the sale of all or any part of the subject property and, if in the affirmative, please provide a duplicate original or photocopy of the fully and complete contract of sale, including all riders, modifications and amendments thereto.

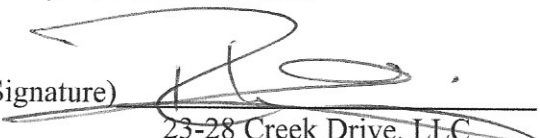
 X YES NO

See attached Purchase and Sale Agreement.

I, RODNEY WEBER, being first duly sworn, according to law, deposes and says that I am the managing member, an active and qualified member of 23-28 Creek Drive, LLC, a business duly authorized by law to do business in the State of New York, and that the statements made herein are true, accurate, and complete.

(Print) RODNEY WEBER

(Signature)


23-28 Creek Drive, LLC

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made as of the 11th day of April, 2018, by and between the CITY OF BEACON, a municipal corporation with its principal offices at One Municipal Plaza, Beacon, New York 12508 ("Seller" or "City"), and 23-28 CREEK DRIVE, LLC, a New York limited liability company with offices at 11 Creek Drive, Suite 102A, Beacon, New York 12508 ("Purchaser").

Purchaser agrees to purchase and Seller agrees to sell the property described below upon the following terms and conditions:

1) **PROPERTY DESCRIPTION.** The property which is the subject of this Agreement is the land, together with all buildings and improvements located thereon, commonly known as 23-28 Creek Drive, Beacon, New York and referred to as Parcel Grid Identification #130200-6054-37-037625, and as more particularly described in "Schedule A" annexed hereto and made a part hereof (the "Premises"), together with: (i) all of Seller's interest, if any, in and to any and all rights of ingress and egress to and from the Premises; (ii) all of Seller's interest, if any, in and to any and all easements or rights of way now or hereafter affecting or appurtenant to the Premises and any rights Seller has to use the same; (iii) intentionally omitted (iv) all right, title and interest of Seller, if any, in and to all strips and gores and alleys adjoining the Premises; and (v) all right, title and interest of Seller, if any, in and to any land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises, to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. The Premises, together with items (i) to (v) above are herein collectively called the "Property".

2) **PRICE: AMOUNT AND HOW IT WILL BE PAID.** The purchase price for the Property shall be One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) (the "Purchase Price"). Consideration for the purchase shall also include the items of work listed in Paragraphs 4, 7, 8, 9, 11, 12 and 17 of Schedule B. Upon Purchaser's execution of this Agreement, Purchaser shall submit a check for Fifteen Thousand and 00/100 Dollars (\$15,000.00) (the "Downpayment") made payable to "Keane & Beane, P.C., as escrow agent". At the time of Closing (as hereafter defined), Purchaser shall pay to Seller One Hundred Thirty Five Thousand and 00/100 Dollars (\$135,000.00) by cash, certified or official bank check or wire transfer(s) of immediately available funds.

3) **CLOSING DATE:** The settlement of the obligations of Seller and Purchaser to each other under this Agreement, including transfer of title and payment of the Purchase Price (the "Closing"), shall be completed at the offices of Keane & Beane, P.C., 200 Westage Business Ctr., Ste. 120, Fishkill, New York, or at such other place as mutually agreed to between Seller and Purchaser, at 10:00 A.M. on the date set forth in Schedule B – Terms and Conditions of Sale in Section I, Paragraph 16 (the "Closing Date").

4) **PERMITTED EXCEPTIONS.** The Property is sold and shall be conveyed subject to the following (collectively, the "Permitted Exceptions");

(a) Zoning and subdivision laws and regulations, and landmark, historic, or wetlands designation, provided that they are not violated by the existing buildings and improvements erected on the Property or their use;

(b) Real estate taxes that are a lien, but are not yet due and payable provided Purchaser shall have no liability for any real estate taxes assessed against the Property for any period prior to Purchaser's acquisition of the Property;

(c) Any and all state of facts, easements and legends shown on any filed map or which an accurate survey of the Property would disclose, provided the same do not render title to the Property unmarketable and/or uninsurable at standard title rates or premiums.

(d) Any and all recorded covenants, restrictions, easements, reservations, limitations, burdens, conditions and rights-of-way encumbering the Property, provided the same (i) do not render title to the Property unmarketable and/or uninsurable at standard title rates or premiums, (ii) are not violated by existing improvements and/or current uses of the Property, (iii) do not contain any outstanding options, rights of first refusal, or purchase rights, or require any affirmative acts or monetary payments (including any mortgages filed against the Property), and (iv) do not contain any provision whereby a future violation will result in a forfeiture or reversion of title.

(e) De minimis (one foot or less) encroachments of retaining walls, hedges and fences, and de minimis variations (one foot or less) between record lines and retaining walls, hedges and fences; and

(f) Terms and Conditions of Sale annexed hereto as Schedule "B" and made a part hereof.

5) **PURCHASER'S POSSESSION OF PROPERTY.** (a) Purchaser shall have sole and exclusive possession of the Property from and after the Closing Date.

(b) Prior to Closing, Seller grants to Purchaser and the adjacent property owner, Weber Projects III, LLC ("Adjacent Owner") a revocable license agreement for the Property solely for the purpose of (i) the Adjacent Owner to store manufactured building materials being used in connection with construction by Adjacent Owner of the building located at 9 Creek Drive, (ii) Adjacent Owner to exclusively store soil excavated from 9 Creek Drive to be used for construction of the park required by paragraph 3 of Schedule B, and (iii) use of the office space within the building on the Property for office type use. Neither the Adjacent Owner nor the

Purchaser shall access or use the garage on the Property and shall not store anywhere on the Property, any gravel or the like or any liquids or hazardous materials. Should either party terminate this Agreement, within seventy-two (72) hours, Purchaser and Adjacent Owner shall vacate the Property, remove all of its personal property and restore the Property to its prior condition. Purchaser and Adjacent Owner agree to indemnify, defend and hold Seller harmless from any claims arising out of the grant of the revocable license agreement.

6) **DOWNPAYMENT IN ESCROW.** (a) Seller's attorney ("Escrowee") shall hold the Downpayment in escrow in a segregated bank account at Sterling National Bank, located at 40 Church Street, White Plains, New York 10601, until Closing or the termination of this Agreement, whichever occurs sooner, and shall pay over or apply the Downpayment in accordance with the terms of this paragraph. Escrowee shall hold the Downpayment in an interest-bearing account for the benefit of the parties. If interest is held for the benefit of the parties, it shall be paid to the party entitled to the Downpayment and the party receiving the interest shall pay any income taxes thereon. If interest is not held for the benefit of the parties, the Downpayment shall be placed in an IOLA account or as otherwise permitted or required by law. The Taxpayer Identification Numbers of the parties shall be furnished to Escrowee within five business days upon request. At Closing, the Downpayment shall be paid by Escrowee to Seller. If for any reason Closing does not occur and either party gives Notice (as defined in paragraph 28) to Escrowee demanding payment of the Downpayment, Escrowee shall give prompt Notice to the other party of such demand. If Escrowee does not receive Notice of objection from such other party to the proposed payment within 10 business days after the giving of such Notice, Escrowee is hereby authorized and directed to make such payment. If Escrowee does receive such Notice of objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by Notice from the parties to this Agreement or a final, non-appealable judgment, order or decree of a court. However, Escrowee shall have the right at any time to deposit the Downpayment and the Interest thereon with the clerk of a court in the county in which the Property is located and shall give Notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this paragraph, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that Escrowee is acting solely as a stakeholder at their request and for their convenience and that Escrowee shall not be liable to either party for any act or omission on its part unless taken or suffered in bad faith or in willful disregard of this Agreement or involving gross negligence on the part of Escrowee. Seller and Purchaser jointly and severally (with right of contribution) agree to defend (by attorneys selected by Escrowee), indemnify and hold Escrowee harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith or in willful disregard of this Agreement or involving gross negligence on the part of Escrowee.

(c) Escrowee may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it

(including any member of its firm) and shall be fully protected in so acting or refraining from acting upon the advice of such counsel.

(d) Escrowee acknowledges receipt of the Downpayment by check subject to collection and Escrowee's agreement to the provisions of this paragraph by signing in the place indicated on the signature page of this Agreement.

(e) Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of provisions of this paragraph by signing in the place indicated on the signature page of this Agreement.

(f) The party whose attorney is Escrowee shall be liable for loss of the Downpayment.

7) **CONDITIONS TO CLOSING:** This Agreement and Purchaser's obligation to purchase the Property are expressly subject to and conditioned upon the fulfillment of the following conditions precedent:

(a) The delivery by Seller to Purchaser of a Quit Claim Deed, in a form reasonably acceptable to the Title Company (as herein defined), duly executed and acknowledged in proper form for recording so as to convey fee simple title to the Property.

(b) The delivery by Seller to Purchaser of evidence reasonably satisfactory to Purchaser and Purchaser's title insurance company that Seller has the legal power, right and authority to consummate the sale and conveyance of the Property to the Purchaser.

(c) The delivery by Seller to Purchaser of the Property and all buildings and improvements comprising a part thereof in the condition stated in Section IV of Schedule B, together with all keys in the possession of the Seller to locks located on the Property.

(d) The delivery by Seller to Purchaser of a certificate stating that all of Seller's representations and warranties made in this Agreement remain true and correct as of the date of Closing.

(e) The delivery by Seller of Seller's executed counterparts of: (i) the New York State Department of Taxation and Finance Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax (Form TP-584), (ii) the State of New York State Board of Real Property Services Real Property Transfer Report (Form RP-5217), and (iii) any other real estate transfer tax documents required in connection with the transfer contemplated herein.

(f) The delivery by Seller of a signed and acknowledged title affidavit in a form reasonably acceptable to Purchaser's Title Company (as hereinafter defined).

(g) The delivery by Purchaser to Seller of the cash, certified or official bank check(s) or wire transfer(s) required hereunder in the payment of the Purchase Price payable at the Closing.

8) **INSURABLE TITLE/OBJECTIONS TO TITLE.** (a) Seller shall give and Purchaser shall accept any such fee simple title as any reputable title company selected by Purchaser and reasonably acceptable to Seller ("Title Company") will be willing to approve and insure at standard title rates or premiums, in the amount of the Purchase Price, in accordance with the standard form of ALTA policy approved by the New York State Insurance Department ("Title Commitment"), subject only to the aforementioned Permitted Exceptions.

(b) Provided that this Agreement is not terminated in accordance with the provisions of paragraph 12A (g) below, Purchaser agrees that no later than ten (10) days following the expiration of the Environmental Due Diligence Period (as hereinafter defined), Purchaser shall request from the Title Company a title report and commitment for an owner's title insurance policy (the "Title Report") and a survey of the Property (the "Survey"). Seller's counsel shall be given copies of the Title Report, Survey, searches and amendments thereto within three (3) business days from the date on which Purchaser receives copies of the same. Purchaser agrees that, prior to the date which is twenty (20) days following Purchaser's receipt of the Title Report and/or the Survey (the "Title Objection Date"), it will notify Seller's counsel in writing in what respects, if any, Purchaser deems Seller's title not to be that required by this Agreement as of the date of such notice (i.e. title defects other than Permitted Exceptions) or state of facts shown on the Survey which are objectionable. In the event Purchaser fails to deliver such notice prior to the Title Objection Date, Purchaser shall be deemed to have waived its right to object any matters disclosed in the Title Report. Purchaser further agrees that, prior to the date which is fourteen (14) days after the date of receiving any updates or revisions to the Title Report or Survey (the "Amended Title Objection Date"), it will notify Seller's counsel in writing in what respects, if any, Purchaser deems Seller's title not to be that required by this Agreement as of the date of such notice or state of facts shown on the Survey which are objectionable. In the event Purchaser fails to deliver such notice prior to the Amended Title Objection Date, Purchaser shall be deemed to have waived its right to object to the same.

(c) Seller shall be obligated to discharge the following Title Objections provided such objections were notified to Seller's counsel in the manner set forth in Paragraph 8(b): (i) any Title Objection that constitutes a mortgage encumbering the Property; (ii) any Title Objection that constitutes a mechanic's lien of record; and (c) any Title Objection that can be cured solely by the payment of a liquidated sum of money not to exceed \$3,000.00 in the aggregate. If Seller is unable by the date set forth herein for Closing to arrange for the Title Company to agree to omit from the Title Report any Title Objections, then Seller may adjourn the Closing for a reasonable period of time not in excess of sixty (60) days in order to attempt to do so. Except as set forth above, in no event, however, shall Seller be required to bring any action or institute any proceeding, or otherwise to incur any costs or expenses, in order to arrange for the Title Company to agree to omit any Title Objections or otherwise to cause title to the Property to be in accordance with the terms of this Agreement on the date set forth herein for Closing, except as set forth in Paragraph 8 (d) below. If the Title Company shall not have agreed to omit any Title Objections by the date set forth herein for Closing and shall not have agreed to provide a Title Commitment, then Purchaser may elect to the following: (i) if the Title Objection can be satisfied solely with the payment of a liquidated sum of money not to exceed \$3,000.00 in the aggregate, Purchaser shall have the right, but not the obligation, to pay such sums to remove the Title Objection and offset such amounts against the Purchase Price; (ii) consummate the

transaction contemplated hereby without regard to such Title Objections (in which event, the Purchase Price shall not be adjusted because of such Title Objections and such Title Objections shall become Permitted Exceptions); or (iii) terminate this Agreement by written notice delivered to Seller, such termination shall be effective as of the giving of such notice and Purchaser shall be entitled to the return of the Downpayment with any accrued interest thereon, if any, and, thereafter, neither party shall have any further obligations to the other hereunder, except as expressly provided to the contrary herein.

(d) If the Title Report discloses judgments, bankruptcies or other returns against persons or entities having names the same as, or similar to, that of Seller, Seller shall deliver to Purchaser an affidavit showing that such judgments, bankruptcies or other returns are not against Seller.

(e) Unpaid taxes, assessments, water charges and sewer rents, together with the interest and penalties thereon to a date not less than two (2) days following the date scheduled for Closing, and any other liens and encumbrances which Seller is obligated to pay and discharge, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, may be paid out of the proceeds of the monies payable at the Closing if Seller delivers to Purchaser at least two (2) business days prior to the date scheduled for Closing official bills for such taxes, assessments, water charges, sewer rents, interest and penalties and instruments in recordable form sufficient to discharge any other liens and encumbrances of record.

9) **PLANS/SURVEYS/APPRAISALS/REPORTS.** Within ten (10) days of the date of this Agreement, to the extent in Seller's actual possession, Seller agrees to provide Purchaser with copies of any and all plans, surveys, appraisals and reports regarding the Property.

10) **RECORDING COSTS, MORTGAGE TAX, TRANSFER TAX AND CLOSING ADJUSTMENTS.** Purchaser will pay for continuation of all tax and title searches to and including the date of Closing, and, pursuant to New York State Tax Law §1405 for any real property transfer taxes. Purchaser will pay for recording the deed and mortgage recording tax, if any. Rent payments, if any, fuel oil on the Property, if any, water charges, if any, sewer charges, if any, or assessments, if any, and current taxes, if any, computed on a fiscal year basis, excluding any delinquent items, interest and penalties, will be prorated and adjusted between Seller and Purchaser as of the Closing Date.

11) **RISK OF LOSS.** Risk of loss or damage to the Property by fire or other casualty until Closing shall be assumed by Seller. If material damage to the Property by fire or such other casualty occurs prior to Closing, Purchaser may terminate this Agreement without any further liability to Seller and Seller shall refund the Downpayment to Purchaser within five (5) business days of such termination.

12) **CONDITION OF PROPERTY.** If Purchaser does not terminate this Agreement pursuant to Paragraph 12A (g) below, Purchaser acknowledges and represents that Purchaser is fully aware of the physical condition and state of repair of the Property and of all other property

included in this sale, including the environmental conditions of the Property, based on Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this Agreement based solely upon such inspection and investigation and not upon any information, data, statements or representations, written or oral, as to the physical condition, state of repair, use, cost of operation or any other matter related to the Property or the other property included in the sale, given or made by Seller or its representatives unless expressly stated in this Agreement, and shall accept the same "as is" in their present condition and state of repair and environmental condition, subject to reasonable use, wear, tear and natural deterioration between the date hereof and the date of Closing, without any reduction in the purchase price or claim of any kind for any change in such condition by reason thereof subsequent to the date of this Agreement. Purchaser and its authorized representatives shall have the right, at reasonable times and upon reasonable written notice to Seller, to inspect the Property prior to Closing.

12A) ENVIRONMENTAL DUE DILIGENCE. Subject to the terms and conditions of this Paragraph 12A, Purchaser, and its agents, contractors, and representatives, shall have the privilege, opportunity and right during a period commencing on the date that a fully executed copy of this Agreement is delivered to the Purchaser's attorney and expiring at 5:00 p.m. on the date which is six (6) weeks thereafter (the "Environmental Due Diligence Period"), of entering upon the Property, subject to Paragraph 12A (c) below, in order to inspect, examine, study, test, and perform all environmental due diligence investigation, studies, tests, and analysis that Purchaser deems prudent and advisable (collectively, the "Environmental Studies"). Purchaser shall be responsible for all costs incurred during the Environmental Due Diligence Period and prior to Closing. The Environmental Studies under this Paragraph 12A may include a Phase I environmental audit of the Property and a Phase II study of the Property. Seller agrees to cooperate with Purchaser in all reasonable ways in connection with Purchaser's environmental investigation of the Property including, without limitation, furnishing to Purchaser any and all documents and reports relating to the environmental condition of the Property, as Purchaser may reasonably request to the extent in Seller's custody or control.

(a) Purchaser shall inform Seller's designated representative at least two (2) business days prior to any planned access of the Property for the purpose of conducting Environmental Studies. Such notice ("Access Notice"), which shall be in writing, shall identify the specific persons and entities planning to access the Property and the specific activities that each such person or entity plans to perform thereon.

(b) If the Closing does not occur for any reason, Purchaser agrees to promptly return to Seller any reports or other materials furnished by Seller and any copies thereof made by Purchaser or its agents or representatives.

(c) Purchaser and its agents or representatives hereby agree to keep confidential any information regarding the Property obtained in the course of conducting the Environmental Studies and agrees further not to disclose any such information to any other person or entity, without Seller's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed.

(d) Purchaser and/or its agents and representatives or contractors performing any of the Environmental Studies, shall maintain during the Environmental Due Diligence Period

comprehensive general liability insurance and contractor's pollution liability insurance in the amount of no less than \$1,000,000 per occurrence and Seller shall be named an additional insured thereon. Purchaser shall provide to Seller prior to entry on the Property a certificate of insurance evidencing such insurance coverage.

(e) Purchaser does and shall hereby indemnify and hold harmless Seller, its agents, successors and assigns, against all losses, liabilities, obligations, claims, damages, penalties, fines, actual costs and expenses (including, without limitation, attorneys' and consultants' fees) and costs of litigation, suits, judgments, liens, and encumbrances, including third party claims, arising from the acts or omissions of Purchaser, its agents, employees, contractors/subcontractors, licensees, invitees and/or representatives, or any or all of them, under this Paragraph 12A, whenever made or incurred, and this indemnity shall survive Closing, or any other termination of this Agreement.

(f) Purchaser shall, at its sole cost and expense, promptly, after all Environmental Studies are conducted, repair any damage caused to the Property and/or Seller's personal property by reason of the Environmental Studies and restore the Property to its condition immediately prior to such damage.

(g) Purchaser agrees to provide to Seller upon Seller's written request therefor, copies of all environmental reports, audits, sampling data, analytical data and other documents, reports or correspondence resulting from the Environmental Studies, specifically including any Phase II environmental report.

(h) Purchaser shall be responsible at its sole cost for any recognized environmental condition related to the Property (and not the Buildings) set forth in the Environmental Studies that costs Fifty Thousand (\$50,000.00) Dollars or less. In the event that the results of the Environmental Studies establish there are recognized environmental conditions related to the Property (and not the Buildings) which require remediation costs that two (2) qualified environmental consultants provide written estimates will exceed Fifty Thousand (\$50,000) Dollars, Purchaser in Purchaser's sole and absolute discretion, shall have the right to terminate this Agreement, on or before the last day of the Environmental Due Diligence Period, by giving written notice ("Purchaser's Notice") to Seller, which Purchaser's Notice Seller must receive on or before 5:00 P.M. on the last day of the Environmental Due Diligence Period, whereupon this Agreement shall be deemed terminated and thereafter neither party shall have any further rights, obligations or liabilities hereunder, except that the Downpayment and any interest earned thereon shall be promptly refunded to Purchaser. Purchaser's failure to give to Seller on or before 5:00 P.M. on the last day of the Environmental Due Diligence Period (time being of the essence) written notice of its election to terminate this Agreement under the terms of this Paragraph 12A, shall be deemed a waiver by Purchaser of its right to terminate under this Paragraph 12A. Notwithstanding anything in this Agreement to the contrary, Purchaser's Notice pursuant to this Paragraph 12A may be given by Purchaser or Purchaser's counsel by email to Seller's counsel at: nward-willis@kblaw.com at or prior to 5:00 P.M. on the last day of the Environmental Due Diligence Period. Seller acknowledges that Purchaser has offered two separate conceptual development plans and uses for the Property, designated as Option A ("Option A") and Option B ("Option B"), as both set forth on Page 12 in Purchaser's RFP Response (as defined in Schedule B). Seller acknowledges that in the event that the selection of

Option B either reduces or eliminates the need for any required remediation at the Property, Purchaser will select and move forward with Option B.

13) SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

Seller represents, warrants and covenants to Purchaser, based on the actual knowledge of Seller as of the date hereof and as of the date of Closing, as follows:

(a) Requisite Action. Seller is the sole owner of the Property and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this Agreement. Without limiting the generality of the foregoing, Seller has obtained all requisite municipal authorization necessary to enter into this Agreement and to consummate the transactions contemplated hereunder.

(b) Validity. This Agreement and all documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of and enforceable against Seller in accordance with their terms, except to the extent that enforceability thereof may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of contracts and creditor's rights generally and to general principles of equity.

(c) Conflicts. Neither the execution and delivery of this Agreement and documents referenced herein, nor the incurrence of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor referenced herein, conflict with or result in the material breach of any terms, conditions or provisions of or constitute a default under, any bond, note or other evidence of indebtedness or any contract or lease to which Seller is a party.

(d) Leases. There are no leases with respect to the Property.

(e) Service Contracts. To Seller's actual knowledge, there are no service contracts in respect of the Property.

(f) The Seller is not liable, or bound in any matter, by express or implied warranties, guarantees, promises, statements or representations pertaining to the Property, the condition thereof or any other matter whatsoever, made or furnished by any real estate broker, agent, employee, servant or other person representing or purporting to represent Seller, unless such warranties, guaranties, promises, statements or representations are expressly or specifically set forth herein.

Seller shall fully disclose to Purchaser, promptly upon Seller's becoming aware of its occurrence and at least two (2) business days prior to Closing, any change in facts or circumstances of which Seller becomes aware prior to the Closing that may affect the representations and warranties set forth above.

14) DEFAULTS AND REMEDIES. If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Downpayment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the

Downpayment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty. If Seller defaults hereunder, Purchaser may either (i) terminate this Agreement by written notice to Seller, in which event the Downpayment and accrued interest thereon, if any, shall be promptly returned to Purchaser, or (ii) commence an action for specific performance of Seller's obligations under this Agreement.

15) **RESPONSIBILITY OF PERSONS UNDER THIS CONTRACT; ASSIGNABILITY.** If more than one person signs this Agreement as Purchaser, each person shall be responsible for keeping the promises made by Purchaser in this Agreement. This Agreement may not be assigned by Purchaser and any purported assignment of this Agreement by Purchaser shall be void ab initio. Notwithstanding the foregoing, this Purchase and Sale Agreement may be assigned by Purchaser with the prior written consent of Seller in each instance to an entity in which Rodney Weber shall own no less than 51% of the stock or membership interests in such entity. Any permitted assignment hereunder shall be by written instrument, signed by the assignee, which provides for the assumption by the assignee of all of Purchaser's obligations hereunder, provided that Purchaser shall nonetheless remain fully responsible to Seller for the due performance of all of Purchaser's obligations hereunder.

16) **ENTIRE AGREEMENT.** This Agreement when signed by both Purchaser and Seller will be the record of the complete Agreement between the Purchaser and Seller concerning the purchase and sale of the Property. No verbal agreements or promises will be binding.

17) **FURTHER DOCUMENTS.** Each party to this Agreement agrees to execute, acknowledge and deliver or cause to be delivered, such other deeds, assignments, affidavits, certificates and other instruments and documents as may be reasonably necessary and required by the other party from time to time to confirm and carry out the intent and purpose of this Agreement and the performance of each party's obligations under the terms of this Agreement, in such form as shall be reasonably satisfactory to counsel for both parties.

18) **HEADINGS.** Headings in this Agreement are for convenience of reference only and in no way define, limit or describe the scope of this Agreement and shall not be used to interpret or construe this Agreement or any of its provisions.

19) **NO THIRD PARTY BENEFICIARIES.** This Agreement is intended for the exclusive benefit of the parties hereto and shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

20) **INTEGRATION.** All prior understandings, agreements, representations and warranties, oral or written, between Purchaser and Seller are merged in this Agreement which Agreement completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this Agreement.

21) **INTERPRETATION.** This Agreement shall be interpreted and construed according to its fair meaning and neither for nor against any party hereto irrespective of which party caused the same to be drafted. Each of the parties acknowledges that it has been or has had the opportunity to be represented by an attorney in connection with the preparation

and execution of this Agreement.

22) **GOVERNING LAW; VENUE.** This Agreement shall be interpreted, construed and enforced in accordance with and governed by the internal laws of the State of New York without reference to the principles of conflicts of laws. Each party hereby irrevocably consents to the exclusive jurisdiction of the courts of the County of Dutchess and State of New York for all purposes in connection with any action, suit or proceeding which arises out of or relates to this Agreement. To the fullest extent it may effectively do so under applicable law, each party hereby irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection which it may now or hereafter have to the laying of the venue of any such action, suit or proceeding brought in any such court and any claim that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

23) **AMENDMENTS.** This Agreement may not be modified or amended, nor may any of its provisions be waived except by an agreement in writing signed by the party against whom enforcement of any such modification, amendment, or waiver is sought, and then such modification, amendment, or waiver shall be effective only in the specific instance and for the specific purpose for which given.

24) **FURTHER ASSURANCES.** Each party hereto shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other party in order to carry out the intent and purpose of this Agreement. This paragraph shall survive the Closing under this Agreement.

25) **SUCCESSORS AND ASSIGNS.** Subject to the terms and conditions hereof, the covenants, agreements, terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective distributees, legal representatives, successors and assigns.

26) **COUNTERPARTS.** This Agreement may be executed by the parties individually in several separate counterparts, each of which shall be deemed an original, and all of the said counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement is intended to be enforceable when executed and delivered by facsimile or by e-mail.

27) **SEVERABILITY.** If any term, covenant or condition of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the extent permitted by the law.

28) **NOTICES.** Any notice given hereunder shall be in writing and shall be served in person, via facsimile (subject to printout of confirmation of receipt), via email, by nationally recognized overnight express delivery service, or by United States certified mail, with postage prepaid, properly addressed and directed to a party's attorney at the following address:

If to Seller:

Nicholas M. Ward-Willis, Esq.
Keane & Beane, P.C.
445 Hamilton Avenue, Suite 1500
White Plains, New York 10601
Telephone: (914) 946-4777
Facsimile: (914) 946-6868
Email: nward-willis@kblaw.com

If to Purchaser:

Taylor M. Palmer, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
Telephone: (914) 761-1300
Facsimile: (914) 761-5372
Email: tpalmer@cuddyfeder.com

29) **BROKER.** Seller and Purchaser each represent and warrant to the other that it has not dealt with any real estate broker in connection with this sale. Seller and Purchaser shall indemnify and defend each other against any costs, claims and expenses, including reasonable attorneys' fees, arising out of the breach of their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or, if Closing does not occur, the termination of this Agreement.

30) Purchaser and Seller expressly authorize their respective attorneys to act on their behalf and bind the respective parties to any stipulations as to extensions, adjournments or changes in any time periods in this Agreement, including, but not limited to, the Closing Date.

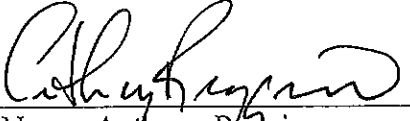
31) Neither this Agreement nor a memorandum thereof may be recorded by Purchaser. Breach of this provision by Purchaser shall constitute a default hereunder.


32) See Terms and Conditions of Sale, attached hereto as Schedule "B" and made a part hereof.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the parties hereto has caused its duly authorized representative to execute this Agreement as of the date first above set forth.

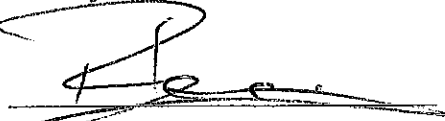
CITY OF BEACON 23-28 CREEK DRIVE, LLC

By: 
Name: Anthony Ruggiero
Title: City Administrator

By: 
Name: Rodney Weber
Title: Member/Manager


ADJACENT OWNER (paragraph 5)

Weber Projects III, LLC

By: 
Name:
Title:

ESCROWEE:

Keane & Beane, P.C.

By: 
Nicholas M. Ward-Willis, Esq.