

## EXHIBIT B to NOTICE OF INVITATION TO BID – ESCROW AGREEMENT

THIS ESCROW AGREEMENT (Agreement) is made and entered into as of \_\_\_\_\_, 20\_\_, by and among Greenfield Environmental Multistate Trust LLC, a Delaware limited liability company, not individually but solely in its representative capacity as Trustee of the Multistate Environmental Response Trust (the Multistate Trust) with a mailing address c/o Greenfield Environmental Trust Group, Inc., 11 Flagg St., Unit #1, Cambridge, MA 02138, \_\_\_\_\_, a[n] [insert [State name] [corporation] [limited liability company] [other]] (the Bidder) with a mailing address of \_\_\_\_\_, and \_\_\_\_\_ (the Escrow Agent).

The Multistate Trust, the Bidder and Escrow Agent agree as follows:

1. Express Duties. This Agreement expressly and exclusively sets forth the duties of Escrow Agent with respect to any and all matters pertinent hereto, and no implied duties or obligations shall be read into this Agreement against Escrow Agent. There are no unwritten oral agreements between the parties. This Agreement constitutes the entire agreement between the Escrow Agent and the other parties hereto in connection with the subject matter of this escrow. The Escrow Agent shall have no duty to know or determine the performance or nonperformance of any provision of any agreement between or among the other parties hereto, and no other agreement shall be considered as adopted or binding, in whole or in part, upon the Escrow Agent notwithstanding that any such other agreement may be referred to herein or deposited with Escrow Agent or the Escrow Agent may have knowledge thereof, and Escrow Agent's rights and responsibilities shall be governed solely by this Agreement.

2. Depository. The Escrow Agent acts hereunder as a depository only and is not responsible or liable for the sufficiency, correctness, genuineness or validity of any instrument deposited hereunder or with respect to the form or execution of the same or the identity, authority or rights of any person executing or depositing the same. This Agreement shall not be deemed to create a fiduciary relationship between the parties hereto under state or federal law. The property delivered to Escrow Agent and that is the subject of this Agreement is described on ATTACHMENT 1 which is attached hereto and incorporated herein by reference. The property described on ATTACHMENT 1 is hereafter referred to as the “Escrow Property.”

Escrow Agent agrees to immediately notify the Multistate Trust by electronic mail and telephone of the amount of the Escrow Property and the date and time of Escrow Agent's receipt from Bidder of the Escrow Property and this Escrow Agreement signed by the Bidder. In the event that the Multistate Trust determines in its sole discretion that the Bidder's submission is timely and satisfies the requirements of the Notice of Invitation to Bid for Portion of Former Kerr-McGee Chemical Corp–Navassa Superfund Site and Adjacent Property in Navassa, North Carolina dated as of \_\_\_\_\_, 2023 (Invitation to Bid) pursuant to which the Escrow Property is being deposited with Escrow Agent, the Multistate Trust shall deliver to the Escrow Agent a counterpart version of the Escrow Agreement signed by the Multistate Trust. In the event the Multistate Trust determines in its sole discretion that Bidder's submission is not timely and/or does not satisfy the

requirements of the Invitation to Bid, the Multistate Trust shall so notify the Escrow Agent and Escrow Agent shall promptly refund the Escrow Property to the Bidder. Escrow Agent shall immediately forward by email to the Multistate Trust all emails, email attachments and other communications Escrow Agent from time to time receives from Bidder. Escrow Agent shall simultaneously transmit all such emails, attachments and communications to the following two email addresses: cw@g-etg.com, em@g-etg.com.

3. Notice. Other than as specifically set forth herein, the Escrow Agent shall not be required to take or be bound by any notice or to take any action unless the Escrow Agent is indemnified in a manner satisfactory to it against any expense or liability. Any notice, request for consent, report or other communication required or desired to be given by the Multistate Trust, the Bidder or the Escrow Agent to any other party to this Agreement shall be in writing and shall be deemed to have been given when delivered in person, by reliable overnight courier service or by electronic transmission to such party at the address noted on the signature page and notice so mailed or transmitted shall for all purposes hereof be as effective as though served upon such party in person at the time received. It shall be the responsibility of the Multistate Trust, the Bidder and the Escrow Agent to notify each other in writing of any name, address or facsimile number change.

4. Reliance. The Escrow Agent shall be protected in acting upon any notice, request, waiver, consent, receipt or other paper or document received from the Multistate Trust and/or the Bidder and believed by the Escrow Agent to be genuine and what it purports to be, including, but not limited to, items directing investment or non-investment of funds, items requesting or authorizing release, disbursement or retainage of the subject matter of this Agreement and items amending the terms of this Agreement. The Escrow Agent shall be under no duty or obligation to ascertain the identity, authority and/or rights of any person submitting instructions to the Escrow Agent in accordance with this Agreement.

5. Limitations of Liability. The Escrow Agent shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith or for any mistake of fact or law or for anything which the Escrow Agent may do or refrain from doing in connection herewith, including upon advice of counsel, except for its own willful misconduct or gross negligence. Escrow Agent may consult with legal counsel at the sole cost and expense of the Bidder in the event of any dispute or question as to the construction of any of the provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the advice of such counsel.

6. Adverse Claims. In the event of any disagreement between any of the parties to this Agreement, or between any of them and any other person, resulting in adverse claims or demands being made in connection with the matters covered by this Agreement, or in the event that Escrow Agent, in good faith, be in doubt as to what action it should take hereunder, Escrow Agent may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and in any such event, Escrow Agent shall not be or become liable in any way or to any person for its failure or refusal to act, and Escrow Agent shall be entitled to continue so to refrain from acting until (i) the rights of all interested parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (ii) all differences shall have been adjudged and all doubt resolved by agreement

among all of the interested persons, and Escrow Agent shall have been notified thereof in writing signed by all such persons. Notwithstanding the foregoing, Escrow Agent may in its discretion obey the order, judgment, decree or levy of any court, whether with or without jurisdiction, or of any agency of the United States or any political subdivision thereof, or of any agency of the State of North Carolina or of any political subdivision thereof, and Escrow Agent is hereby authorized in its sole discretion, to comply with and obey any such orders, judgments, decrees or levies. The rights of Escrow Agent under this Paragraph 6 are cumulative of all other rights which it may have by law or otherwise.

7. Authority for Agreement. Each party represents and warrants that it has full power and authority to enter into this Agreement and has taken all action necessary, corporate or otherwise, to carry out the transaction contemplated hereby so that when executed this Agreement constitutes a valid and binding obligation enforceable in accordance with its terms.

8. Escrow Property. No assignment, transfer, conveyance or hypothecation of any right, title or interest in and to the Escrow Property shall be binding upon the Escrow Agent unless written notice thereof shall be served upon the Escrow Agent and all fees, costs and expenses incident to such transfer of interest shall have been paid. The Bidder agrees for the benefit of the Multistate Trust that it shall not assign, transfer, convey or hypothecate any right, title or interest in and to the Escrow Property without the prior written consent of the Multistate Trust.

9. Terms of Agreement. The terms of this Agreement may be altered, amended, modified or revoked by writing only, signed by all of the parties hereto or their successors or assigns, and approved by the Escrow Agent, upon payment of all fees, costs and expenses incident hereto.

10. Compensation. In consideration for the Escrow Agent's agreement to perform the services set forth in this Agreement, the Bidder agrees to pay the fees and charges of the Escrow Agent as set forth in ATTACHMENT 2, each year in advance, upon the commencement of the escrow and thereafter on each anniversary date hereof without proration. The first payment shall be made by the Bidder simultaneously with its execution and submission of this Escrow Agreement to the Escrow Agent. All other fees charged as set forth in ATTACHMENT 2 shall be paid by the Bidder within fifteen (15) days of its receipt of an invoice from the Escrow Agent. In addition to the escrow fee agreed upon, the Bidder agrees to pay the Escrow Agent's costs and expenses including reasonable attorneys' fees in the event of any dispute or litigation threatened or commenced which requires the Escrow Agent in its opinion to refer such matter to its attorneys. Escrow Agent will incur no liability for any delay reasonably required to obtain such advice of counsel. The Multistate Trust reserves the right (but not the obligation) to pay any fees due Escrow Agent hereunder and to have a claim against Bidder for the non-payment thereof.

11. Indemnification. The Bidder agrees to indemnify and hold Escrow Agent, its affiliates and their directors, officers, employees, successors, assigns, attorneys and agents (each, an Indemnified Party) harmless from all losses, costs, claims, demands, actions, proceedings, judgments, court costs, payments, expenses, damages, penalties, counsel's fees, and all liabilities whatsoever suffered or incurred by any Indemnified Party or Escrow Agent as a result of anything which it may do or refrain from doing in connection with this Agreement or any litigation or cause of action arising from or in conjunction with this Agreement or involving the subject matter hereof or

Escrow Property or monies deposited hereunder or for any interest upon any such monies, including, without limitation, arising out of the negligence of Escrow Agent; provided that the foregoing indemnification shall not extend to the gross negligence or willful misconduct of Escrow Agent. This indemnity shall include, but not be limited to, all costs incurred in conjunction with any interpleader which the Escrow Agent may initiate relating to this Agreement.

12. Partial Releases of Escrow Property. In the event that the Multistate Trust notifies the Escrow Agent that the Bidder has been determined to be the Final Preferred Bidder by the Multistate Trust under the Invitation to Bid, then upon its receipt of such notice, the Escrow Agent is authorized by the Multistate Trust and the Bidder to release portions of the Escrow Property from time to time as directed pursuant to written instructions from the Multistate Trust in the form of ATTACHMENT 3.

13. Termination. This Agreement shall terminate when the Escrow Agent has released all Escrow Property from the Escrow Account in accordance with written instructions from the Multistate Trust. The Multistate Trust agrees for the benefit of the Bidder to provide such instructions to the Escrow Agent consistent with the provisions of the Invitation to Bid.

14. Resignation of Escrow Agent. The Escrow Agent may resign at any time by giving written notice by Certified Mail, Return Receipt Requested to all of the parties hereto to be effective thirty (30) days after such notice has been deposited into the U.S. Mail. If a successor Escrow Agent has not been appointed within thirty (30) days after such notice of resignation, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor Escrow Agent. Costs of such petition, including reasonable attorneys' fees, shall be borne by the Bidder or may be assessed by the resigning Escrow Agent against the Escrow Property. The Escrow Agent shall have no responsibility for the appointment of a successor Escrow Agent. The successor Escrow Agent shall execute and deliver to the Escrow Agent an instrument accepting such appointment, and the successor Escrow Agent shall, without further acts, be vested with all the estates, property rights, powers and duties of the predecessor Escrow Agent as if originally named as Escrow Agent herein. The Escrow Agent shall act in accordance with written instructions from the Multistate Trust as to the transfer of the Escrow Property to a successor Escrow Agent.

15. Applicable Law. Applicable laws shall inure to and be binding upon the parties and their respective successors, heirs and assigns. All representations, covenants and indemnification contained herein shall survive the termination of this Agreement.

A. This agreement shall be constructed and construed in accordance with the laws of the State of North Carolina.

B. Escrow Agent hereby notifies the other parties hereto that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (the Act), it is required to obtain, verify and record information that identifies the other parties hereto, which information includes the name and address of the other parties hereto and other information that will allow Escrow Agent to identify the other parties hereto in accordance with the Act.

C. The Bidder agrees to provide the Escrow Agent with its certified tax identification

number by furnishing an appropriate form W-9 (or Forms W-8, in the case of non-U.S. persons) and a completed and signed Business Client Profile Form (in the forms attached hereto as ATTACHMENT 4) simultaneously with this Escrow Agreement, and any other forms and documents that the Escrow Agent may reasonably request. The parties hereto understand that, if such tax reporting documentation is not so furnished to the Escrow Agent, the Escrow Agent shall be required by the Internal Revenue Code to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Agreement, and to immediately remit such withholding to the Internal Revenue Service. Any interest or income earned on the Escrow Property shall be reportable on Form 1099 by the Escrow Agent to tax identification number (Bidder to complete) in the name of the Bidder and such party agrees to provide Escrow Agent with a Form W-9 or W-8 as appropriate. Any interest or income earned on the Escrow Property shall be added to and become part of the Escrow Property.

15. Investments. The Escrow Agent and the Multistate Trust shall not be responsible or liable for any diminution of principal, interest, or penalty on any investments of the Escrow Property made pursuant to the terms of this Agreement. The Bidder agrees that the Escrow Property shall be invested in (Bidder to pick one and delete the other and/or to consult directly with Escrow Agent about other possible options):

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The Bidder shall contact the Escrow Agent directly by email for applicable wiring instructions.

16. Conflicts. If a conflict arises between any written instructions delivered to the Escrow Agent and the terms set forth herein, then the terms set forth in this Escrow Agreement shall rule.

17. Miscellaneous.

A. If any provision of this Agreement is illegal, inoperative or unenforceable, that shall not affect any other provision herein.

B. Escrow Agent shall make no disbursement, investment or other use of funds until and unless it has collected funds. Escrow Agent shall not be liable for collection items until the proceeds of the same in actual cash have been received.

C. Escrow Agent shall send monthly statements to the undersigned of all activity and transactions processed for the escrow account and the undersigned (except Escrow Agent) hereby agree to waive their right to receive trade confirmations as they occur.

18. Construction. Words used in the singular number may include the plural and the plural may include the singular. The paragraph headings appearing in this instrument have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the terms and conditions of this Agreement. Titles and headings in this Agreement are

intended for convenience or reference and shall not affect the interpretation of any of the provisions hereof. All facsimile signature(s) to this agreement is as valid and effective for all purposes as an original signature.

19. Force Majeure. Escrow Agent shall not be liable to the undersigned for any loss or damage arising out of any acts of God, strikes, equipment or transmission failure, war, terrorism, or any other act or circumstance beyond the reasonable control of Escrow Agent.

20. Counterparts. This Agreement may be executed in one or more counterparts in which event all of said counterparts shall be deemed to constitute one original of this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties.

*[Signatures on following page]*

IN WITNESS WHEREOF, the undersigned have hereto affixed their signatures and hereby adopt as a part of this Agreement ATTACHMENTS A, B, C and D hereto attached.

**MULTISTATE TRUST:**

Greenfield Environmental Multistate Trust LLC, not individually but solely in its representative capacity as Trustee of the Multistate Environmental Response Trust  
By: Greenfield Environmental Trust Group, Inc., Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BIDDER:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ESCROW AGENT:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTACHMENT 1 to EXHIBIT B – ESCROW AGREEMENT**

Escrow Property  
*[To be completed by Bidder]*

The Escrow Property consists of the Bidder's Bid Deposit under the Invitation to Bid. The Bid Deposit is equal to a minimum of two and a half percent (2.5%) of the full bid amount of the Bid (as the same may be renewed and updated pursuant to the bidding process described in the Invitation to Bid).

The Bidder's Bid is: \_\_\_\_\_ (Amount must equal or exceed \$ \_\_\_\_\_).

The Bidder's Bid Deposit being delivered to the Escrow Agent as the Escrow Property is:  
\$ \_\_\_\_\_ (Amount must be a minimum of 2.5 Percent (%) of the Bid).



**ATTACHMENT 2 to EXHIBIT B – ESCROW AGREEMENT**

Escrow Agent Fee Schedule

**ATTACHMENT 3 to EXHIBIT B – ESCROW AGREEMENT**

Disbursement Request # \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

Re: \_\_\_\_\_ as Escrow Agent for \_\_\_\_\_  
Account Number: \_\_\_\_\_

In accordance with the Escrow Agreement dated as of \_\_\_\_\_, 20\_\_ by and among Greenfield Environmental Multistate Trust LLC, Trustee of the Multistate Environmental Response Trust (the Multistate Trust), \_\_\_\_\_ (the Bidder) and \_\_\_\_\_ (the Escrow Agent), you are hereby authorized and directed to disburse \$ \_\_\_\_\_ on \_\_\_\_\_, 20\_\_ by [check] [federal funds wire transfer] to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MULTISTATE TRUST:**

Greenfield Environmental Multistate Trust LLC, not individually but solely in its representative capacity as Trustee of the Multistate Environmental Response Trust  
By: Greenfield Environmental Trust Group, Inc., Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BIDDER:** *[Signature required only if requested by Multistate Trust]*

\_\_\_\_\_

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

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

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

**ATTACHMENT 4 to EXHIBIT B – ESCROW AGREEMENT**

Form W-9 and Business Client Profile Form