1st reading (4)
9-7-16

**SPONSORED BY:** Doyle
**SECONDED BY:** Russo

**CITY OF HOBOKEN**
**ORDINANCE NO.:** 16-535 Z-434

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF HOBOKEN, CHAPTER 68, ENTITLED "ALCOHOLIC BEVERAGES," SPECIFICALLY TO REMOVE § 68-7 THE "FIVE-HUNDRED-FOOT RULE."**

**WHEREAS,** the City has prohibited the granting of any request to transfer or establish any business with a plenary retail consumption license within a distance of 500 feet from any other premises then covered by a plenary retail consumption license; and

**WHEREAS,** based upon changes in the business environment, and the growth and redevelopment of the City, the City does not believe that it is in the best interest to continue this prohibition.

**NOW, THEREFORE, BE IT ORDAINED,** by the City Council of the City of Hoboken, County of Hudson, State of New Jersey, that the Code of the City of Hoboken is hereby amended by ~~removing~~ and adding language to § 68-7 as follows:

Section One:

~~A. No plenary retail consumption license, except renewals for the same licensed premises and transfers of license from person to person within the same premises, shall be granted or transfer made to other premises within a distance of 500 feet from any other premises then covered by a plenary retail consumption license. There shall be no exceptions to this restriction. Should a license held by a restaurant be transferred to another location for use as a tavern, the restriction promulgated herein shall apply.~~

~~B. No plenary retail distribution license, except renewals for the same premises and transfers from person to person, shall be granted or transfer made to other premises within a distance of 500 feet from any other premises then covered by a plenary distribution license.~~

~~C. Where the five-hundred-foot distance is referred to in this section, the same shall be measured by a distance from the center of the entrance door of an existing tavern to the center of the entrance door of a proposed licensed premises as measured by walking along the sidewalk from point to point without any diagonal crossing of streets. If it is necessary to cross a street, such steps are to be taken at the lawful crosswalks in a direct manner. The local license issuing authority may, in its discretion, grant a transfer of an existing license to the same licensee to other premises within 250 feet of the premises from which the transfer is made, notwithstanding that the premises to which the license is so transferred is within 500 feet of an existing plenary retail consumption licensed premises, and grant~~

~~transfer of such license free of such five-hundred-foot limitation herein fixed in the event of any licensed premises being taken by condemnation for any municipal, county, state or federal project; provided, nevertheless, that the new location to which the license is to be transferred under this exception shall not be located within a distance of 250 feet of a then-existing location licensed to do business under a like license as the one being transferred. Said two-hundred-fifty-foot distance shall be measured in the same manner as herein provided for the measuring of the five-hundred-foot distance. In the event that any transfer of a license should be allowed under this exception, then and in that event no license shall thereafter be transferred to the premises or any part thereof so vacated by such transfer, nor within a radius of 250 feet thereof; provided, however, that all other provisions of this chapter and applicable law relating thereto are complied with.~~

~~D. "Restaurant," as defined in this section, shall mean an establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of food for its customers and in which no other business, except such as is incidental to such establishment, is conducted and where such premises shall conform to local and state fire and health codes.~~

~~E. This section shall not apply to the Southern Redevelopment Area as defined in Ordinance R-116, passed at the third and final reading on March 15, 1995. However, in said area, the number of retail consumption licenses shall be limited to seven.~~

*The remainder of this chapter remains unchanged.*

**Section Two: Repeal of Inconsistent Provisions**

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect. This Ordinance shall also supersede any inconsistent provisions contained in any resolution or ordinance previously adopted by the Hoboken City Council.

**Section Three: Severability**

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section Four: Effective Date**

This Ordinance shall take effect upon passage and publication as provided by law.

**Section Five: Codification**

This Ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**Date of Introduction: August 3, 2016.**

Introduction:

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | ✓ | | | |
| Peter Cunningham | | ✓ | | |
| Michael DeFusco | | ✓ | | |
| James Doyle | ✓ | | | |
| Tiffanie Fisher | | ✓ | | |
| David Mello | ✓ | | | |
| Ruben Ramos Jr. | ✓ | | | |
| Michael Russo | ✓ | | | |
| President Giattino | ✓ | | | |

Final Reading:

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | | | | |
| Peter Cunningham | | | | |
| Michael DeFusco | | | | |
| James Doyle | | | | |
| Tiffanie Fisher | | | | |
| David Mello | | | | |
| Ruben Ramos Jr. | | | | |
| Michael Russo | | | | |
| President Giattino | | | | |

Approved as to Legal Form:

_____
, Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2016

_____
James Farina, City Clerk

Vetoed by the Mayor for the following reasons:

*-or-*

Approved by the Mayor
On the ___ day of _____, 2016

Dawn Zimmer, Mayor

1st reading
9-21-16
(3)

Sponsored by: Patti W. Cunningham

Seconded by: [illegible]

**City of Hoboken**
**Ordinance No.:** Z-938

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF HOBOKEN ADDING NEW CHAPTER ____ - BUILDING DEMOLITION**

**WHEREAS,** the City Council and Mayor of the City of Hoboken wish to safeguard the cultural and historic heritage of the City of Hoboken by preserving resources that reflect its architectural and historical past; and

**WHEREAS,** the City Council and Mayor of the City of Hoboken wish to encourage the continued use and adaptation of historical buildings and to prevent the unnecessary demolition of historical resources; and

**WHEREAS,** the City Council and Mayor of the City of Hoboken wish to ensure the safety and preservation of structures adjacent to structures that are proposed to be demolished.

Now **THEREFORE**, be it ordained by the City Council of the City of Hoboken, County of Hudson, State of New Jersey, as follows:

**SECTION ONE: ADOPTION**

The following shall be adopted and made a part of the Code of the City of Hoboken:

## Chapter ___ - BUILDING DEMOLITION

§___-1 Purpose.

The purpose of this chapter is to:

A. Safeguard the cultural and historical heritage of the City of Hoboken by preserving resources that reflect elements of its architectural and historical heritage;

B. Encourage the continued use and adaptation of historical buildings and to prevent the unnecessary demolition of historic resources; and

C. Ensure the safety and preservation of structures immediately adjacent to a structure proposed for demolition.

§___-2 Lands and structures to which this chapter applies.

This chapter shall apply to all properties located in Residential (R) Zones and the Central Business District (CBD) as identified on the Zoning Map of the City of Hoboken for the following applications:

A. All applications for demolition under the Uniform Construction Code (N.J.A.C. 5:23 et seq.) for structures that contain residential use and that share a property line with another building containing residential use; and/or

B. All applications for partial demolition of a structure under the Uniform Construction Code or Rehabilitation Subcode (N.J.A.C. 5:23-6) that include removal of or substantial deconstruction of the front façade. Substantial deconstruction of the front façade shall be defined as any alteration to the fenestration, entrance way, cornice, or material components of the façade which are visible from the

public right of way. If the front façade of a partial demolition is to be preserved and shall remain unaltered, the structure shall not be subject to historic preservation review, however, the applicant for such partial demolition shall nevertheless be required to provide an engineering report as set forth in section 4.b.(6) below, outlining the measures to be taken to stabilize and preserve the façade during partial demolition and rehabilitation, and any other structural evaluations deemed necessary by the Construction Code Official or City Engineer, to assure the safety and preservation of the immediately adjacent structures.

§___-3 Exemptions.

A. A structure, or portion thereof, to which this Chapter would otherwise apply, that is identified by the City Building Inspector as unsafe or unsound so as to pose an immediate danger to public health or safety shall be exempt from the procedures set forth in this chapter. Upon identification of such an unsafe structure, the City Building Inspector shall so notify the Mayor, City Council and Historic Preservation Commission of the need for imminent demolition and provide a brief summary of the perceived public hazard.

B. Nothing in this section shall be construed to limit in any way the power of the City of Hoboken to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is any provision of this Ordinance intended to limit the authority of the Construction Official under the State Uniform Construction Code Act, L. 1975, c. 217 (N.J.S.A. 52:27D-119 et seq.) or any rules or regulations adopted thereunder.

C. Any building or buildings, or parts thereof, that have come into a state of disrepair through neglect, lack of maintenance or use, fire, accident or other calamities or through any other act rendering the building or buildings, or parts thereof, in a state of disrepair to the extent that the building is unfit for human habitation or occupancy or use, shall be deemed inimical to the welfare of the residents of the City of Hoboken, and a Construction Official appointed pursuant to the provisions of L. 1942, c. 112 (N.J.S.A. 40:48-2.3 et seq.) may exercise his or her powers to repair or demolish the building or buildings, or parts thereof, pursuant to the provisions of Section 5 of L. 1992, c. 89 (N.J.S.A. 40:48-2.5(b)) and shall be exempt from the procedures set forth in this chapter. This subsection shall not apply to any building, buildings, or parts thereof which are found to have been deliberately neglected so as to avoid the requirements of this chapter.

§___-4 Permit procedure.

A. No person shall be issued a permit to demolish any building or partially demolish the front façade of any building or structure to which this Chapter applies unless said demolition or partial demolition is reviewed by the Historic Preservation Commission or approved by the Zoning Board of Adjustment or Planning Board.

B. An application for demolition shall include, at a minimum, the following:

(1) A map showing the location of the structure on its property with reference to neighboring properties;

(2) Photographs of all street façade elevations on that block frontage;

(3) A description of the subject structure, including the method and materials of construction, the condition, and an estimate of the cost of the proposed repairs or renovation;

(4) The reason for the proposed demolition and data supporting the reason, including, where applicable, data sufficient to establish any economic justification for demolition;

(5) A description of the proposed reuse of the property on which the subject structure is located;

(6) A report, prepared by a professional engineer licensed in the State of New Jersey, on the subject structure and the buildings immediately adjacent to the subject structure that includes, but is not limited to, an evaluation of the foundations, footings, façades, and other structural elements of each building, and recommendations for assuring the safety and stability of the adjoining structures and any portions of the subject building to be retained in the case of partial demolition; and

(7) Other documents specified by the checklist for a complete application.

C. Unless an applicant has otherwise applied for relief from the Zoning Board of Adjustment or the Planning Board for the proposed activities necessitating demolition or partial demolition, an application for demolition or partial demolition shall be submitted directly to the Historic Preservation Commission on the standard form available in the office of the Historic Preservation Commission. A complete application shall include the application form, the checklist, all documents set forth on the checklist, and the application and escrow fees. Within 10 business days of the submission, the Commission Secretary, in consultation with the Administrative Officer, shall either certify the application as complete and the applicant shall be so notified, or if the application is found to be incomplete shall provide written notice of the deficiency to the applicant.

D. After certification that an application is complete, the Historic Preservation Commission shall hold a public hearing on the application and, pursuant to the review criteria for an historical building or structure as set forth in §42-27A of the City of Hoboken municipal code, to the extent relevant to the application before it, shall issue its findings and decision within 60 days. Public notice shall be given by the applicant in accordance with the notice prevision set forth in §44-307 of the City of Hoboken municipal code.

E. If the Historic Preservation Commission concludes that the structure need not be preserved or fails to file its findings and recommendation within 60 days, the Construction Official may issue a demolition permit.

F. When demolition or partial demolition is proposed in conjunction with an application for development before the Zoning Board of Adjustment or Planning Board, the relevant reviewing board shall assume jurisdiction for approving demolition, and the time of decision for the approval shall be that of the associated application for development. The relevant reviewing board shall apply the same review criteria for demolition or partial demolition of an historical building or structure as set forth in §42-27A. of the City of Hoboken municipal code, to the extent relevant to the application before it. The relevant reviewing board may also, at its discretion, refer an application to the Historic Preservation Commission, pursuant to §44-304, for its recommendations.

G. If the Historic Preservation Commission concludes that the subject structure should be preserved and it files its findings and recommendation within the required 60 day period, the applicant may appeal the recommendation to the Zoning Board of Adjustment in accordance with the Municipal Land Use Law (N.J.S.J. 40-55D et seq.), and then to a court of competent jurisdiction as permitted under applicable laws.

H. The provisions of §42-27B-G shall not be construed to apply to an application for demolition covered by this chapter.

§___-5 Application fees and escrow deposits

A. Pursuant to N.J.S.A. 40:55D-53.1 and 40:55D-53.2, the City is further entitled to offset the costs of professional services engendered by a development application from escrow deposits.

(1) Escrow deposits shall be in addition to the application fees and shall be used by the Historic Preservation Commission, Planning Board or the Zoning Board of Adjustment to pay professionals for services rendered for review of applications for demolition, review and preparation of documents, inspection of premises, or other purposes under the provisions of the Municipal Land Use Law. Those application review and inspection charges shall be limited only to

professional charges for review of applications, review and preparation of documents, inspections of buildings proposed for demolition of any degree, adjacent structures as may be required, and the contextual surroundings of the building proposed for demolition, and review by outside consultants when an application is of a nature beyond the scope of expertise of the professionals normally utilized by the City. The only cost that shall be added to any such charges shall be actual out-of-pocket expenses of such professionals or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements. No applicant shall be charged, from escrow, for any municipal, clerical or administrative functions, overhead expenses, meeting room charges or any of the municipal costs and expenses except as provided for specifically by statute, nor shall a municipal professional add any such charge to his or her bill.

(2) The City shall be entitled to be reimbursed for the following: for the review of applications, both as to completeness and as to content; and for the review and preparation of documents, such as, but not limited to, drafting resolutions, developer's agreements and necessary correspondence with the applicant or applicant's professionals.

(3) If review costs exceed the escrow deposited, the applicant shall pay the additional amount within 15 days of the request for additional funds. Failure to remit the additional required deposit within the requested timeline shall render the application incomplete, and no further action or proceedings shall be taken by the Historic Preservation Commission, Planning Board or Zoning Board of Adjustment until after compliance. Where the review costs are less than the amount of the escrow deposit, the difference shall be returned to the applicant within 120 days of final disposition of the application.

(4) A schedule of fees and escrow deposits is hereby adopted by the governing body and attached hereto as Appendix A.

(5) An application shall be deemed to be incomplete until all application fees and escrow deposits are submitted. Fees and escrow shall be submitted as separate checks, payable to the City of Hoboken, in the amounts indicated on the fee schedule set forth in Appendix A. Where more than one fee category applies, the fee shall equal the combined total of fees required for each type of application.

**SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS**

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION THREE: SEVERABILITY**

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; is the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION FOUR: EFFECTIVE DATE**

This Ordinance shall take effect upon passage and publication as provided by law.

**SECTION FIVE: CODIFICATION**

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**Date of Introduction: September 21, 2016**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | ✓ | | | |
| Peter Cunningham | ✓ | | | |
| Michael Defusco | ✓ | | | |
| James Doyle | ✓ | | | |
| Tiffanie Fisher | ✓ | | | |
| David Mello | ✓ | | | |
| Ruben Ramos, Jr. | ✓ | | | |
| Michael Russo | ✓ | | | |
| President Jennifer Giattino | ✓ | | | |

**Date of Final Reading:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | | | | |
| Peter Cunningham | | | | |
| Michael Defusco | | | | |
| James Doyle | | | | |
| Tiffanie Fisher | | | | |
| David Mello | | | | |
| Ruben Ramos, Jr. | | | | |
| Michael Russo | | | | |
| President Jennifer Giattino | | | | |

Approved as to Legal Form:

_____
Brian Aloia, Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of _____Yeas to _____Nays
On the _____day of _____2016

_____
James Farina, City Clerk

_____

-or-

Approved by the Mayor
On the _____day of _____2016

_____
Dawn Zimmer, Mayor

Vetoed by the Mayor for the following reasons:

_____
_____
_____

1st reading ①
10-5-16

**INTRODUCED BY:** _____

**SECONDED BY:** _____

**CITY OF HOBOKEN**
**ORDINANCE NO. __** Z-424

**ORDINANCE OF THE CITY OF HOBOKEN, IN THE COUNTY OF HUDSON, NEW JERSEY APPROVING A LEASE AMENDMENT WITH COLUMBIAN ARMS, INC. AND A TRANSFER OF THE TAX EXEMPTION AGREEMENT**

**WHEREAS**, the City of Hoboken (the "**City**") entered into an agreement to enter into a lease (the "**Agreement to Lease**") on June 1, 1987 with Columbian Arms, Inc. (the "**Entity**") for the long-term lease by the City of the property located at 514-526 Madison Street and commonly known as Block 67, Lots 20, 21, 22, 23, 24, 25 and 25 on the tax map of the City as further described in Exhibit A attached hereto (the "**Property**") for the construction and operation of low income housing for the elderly and handicapped within the City; and

**WHEREAS**, the City and the Entity entered into an Agreement to Lease to permit the Entity to construct and operate a 67 unit low-income housing project for senior citizens (the "**Project**") under the Senior Citizens Housing Law of 1965, (N.J.S.A. 55:14I-1 *et seq.*)(the "**Senior Housing Law**"), on the Property; and

**WHEREAS**, the Entity constructed the Project under the supervision of and with funding from the United States Department of Housing and Urban Development ("**HUD**") pursuant to Section 202 of the Federal Housing Act of 1959, as amended ("**Section 202 Program**"), as contemplated under the Agreement to Lease and the Project is identified by HUD as No. NJ 39-T871-003/031-EH223; and

**WHEREAS**, pursuant to and in accordance with N.J.S.A. 40A12-14 and 15, the City entered into a Lease Agreement (the "**Lease**") dated May 31, 1989 with the Entity for the long-term lease by the City of the Property to the Entity for the Project; and

**WHEREAS**, the term of the Lease was for an initial period of fifty (50) years, with an option for renewal by the City for an additional twenty-five (25) year term; and

**WHEREAS**, the rental under the Lease is currently twenty-five thousand dollars ($25,000) per year (the "**Rent**") and was determined within the strictures of the Section 202 Program; and

**WHEREAS**, the Project is subject to certain restrictions, which among other things, require that one hundred percent (100%) of the individual units are required to be leased out to senior citizens whose income does not exceed sixty percent (60%) of HUD's area median income (the "**Affordability Restrictions**"); and

**WHEREAS**, on June 19, 1989, the City and the Entity entered into a Tax Exemption Agreement (the "**Tax Exemption Agreement**") exempting the Project from real estate taxation pursuant to the Senior Housing Law; and

**WHEREAS**, Columbian Arms Housing Partners, LP (or such other entity as designated by and affiliated with the Vitus Group, ~~LLC (the "**Purchaser**").~~which is a national affordable housing provider)(the "**Purchaser**"), entered into an agreement with the Entity for the Purchaser's acquisition of the Project; and

**WHEREAS**, upon its acquisition of the Project, the Purchaser will undertake capital improvements to the Project in the approximate amount of two million, six hundred eighty thousand dollars ($2,680,000) or approximately forty thousand dollars ($40,000) per unit (the "**Capital Improvements**"); and

**WHEREAS**, the Purchaser will finance its acquisition of the Project and the Capital Improvements by, among other sources, commercial financing, tax-exempt financing through the New Jersey Housing Mortgage and Finance Agency and by the syndication of low income housing tax credits ("**LIHTC and Other Financing**"); and

**WHEREAS**, as a condition of the LIHTC ~~financing~~and Other Financing, the Purchaser has requested that the City permit the transfer of the Tax Agreement from the Entity to the Purchaser and amend the Lease to extend the term of the Lease to seventy-five (75) years from the date of execution of such amendment (the "**Lease Amendment**"); and

**WHEREAS**, as part of the Lease Amendment, the Purchaser has agreed to increase the rent from the current annual payment of twenty-five thousand dollars ($25,000) to forty thousand dollars ($40,000) subject to annual increases ~~of~~equal to the greater of~~:~~ (~~1~~a) two and half percent (2.5%) of the applicable rent or (~~2~~b) the cost of living ~~increases~~adjustment announced for ~~each subsequent~~that year; and

**WHEREAS**, in addition, the Project will continue to be subject to the Affordability Restrictions for the extended term of the Lease Amendment serving the public need for low income housing for the elderly in the City ; and the ~~owner~~general partner of the Project will continue to be a non-profit entity; and

**WHEREAS**, the City has determined that it is in the public interest to permit the amendment of the Lease as provided for in the Lease Amendment, in order to preserve affordable housing for senior citizens within the community for decades.

**NOW THEREFORE, BE IT ORDAINED**, of the City of Hoboken, County of Hudson, State of New Jersey as follows:

**Section 1.** The foregoing recitals are incorporated herein as if set forth in full.

**Section 2.** The assignment of the Tax Exemption Agreement from the Entity to the Purchaser is hereby approved and the Mayor, in consultation with counsel to the City, is hereby authorized to execute and/or amend, modify or make such changes to the Tax Exemption Agreement necessary to effectuate the provisions of this Ordinance; provided that, such amendments, modifications or changes do not materially change the rights of the City to the

payment of the annual service charge for use by the City for any lawful purpose in the exercise of the City's sole discretion. All other provisions of the Tax Exemption Agreement shall remain in full force and effect without amendment.

**Section 3.** The Lease Amendment, substantially in the form attached hereto as ExhibitB, is hereby approved and the Mayor, in consultation with counsel to the City, is hereby authorized to execute and/or amend, modify or make such changes to the Lease Amendment as may be necessary to effectuate the provisions of this Ordinance.

**Section 4.** The Mayor, in consultation with counsel to the City, is hereby authorized to undertake any action, including the execution of any document, in order to effectuate the provisions of this Ordinance, including any document, instrument or certificate that may be requiredinconnectionwiththeLIHTCandOtherFinancing.

**Section 5.** This Ordinance shall take effect in accordance with the law.

**Introduction:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | ✓ | | | |
| Peter Cunningham | ✓ | | | |
| Michael DeFusco | ✓ | | | |
| James Doyle | ✓ | | | |
| Tiffanie Fisher | ✓ | | | |
| David Mello | ✓ | | | |
| Ruben Ramos, Jr. | ✓ | | | |
| Michael Russo | ✓ | | | |
| President Jennifer Giattino | ✓ | | | |

**Final Reading:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | | | | |
| Peter Cunningham | | | | |
| Michael DeFusco | | | | |
| James Doyle | | | | |
| Tiffanie Fisher | | | | |
| David Mello | | | | |
| Ruben Ramos, Jr. | | | | |
| Michael Russo | | | | |
| President Jennifer Giattino | | | | |

Approved as to Legal Form:

_____

Brian Aloia, Esq., Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2016

_____

James Farina, City Clerk

☐ Vetoed by the Mayor for the following reasons: _____

_____

_____

_____

_____

***-or-***

☐ Approved by the Mayor
On the ___ day of _____, 2016

_____

Dawn Zimmer, Mayor

Document comparison by Workshare Compare on Tuesday, October 04, 2016 3:10:54 PM

| **Input:** | |
|---|---|
| Document 1 ID | interwovenSite://MSBDMS14/iManage/618705/1 |
| Description | #618705v1<iManage> - Ordinance Approving Transfer of Tax Agreement & Lease Amendment |
| Document 2 ID | interwovenSite://MSBDMS14/iManage/618705/3 |
| Description | #618705v3<iManage> - Ordinance Approving Transfer of Tax Agreement & Lease Amendment |
| Rendering set | standard |

| **Legend:** | |
|---|---|
| Insertion | |
| ~~Deletion~~ | |
| ~~Movedfrom~~ | |
| Movedto | |
| Style change | |
| Format change | |
| ~~Moveddeletion~~ | |
| Inserted cell | |
| Deleted cell | |
| Moved cell | |
| Split/Merged cell | |
| Padding cell | |

| **Statistics:** | |
|---|---|
| | Count |
| Insertions | 17 |
| Deletions | 9 |
| Moved from | 0 |
| Moved to | 0 |
| Style change | 0 |
| Format changed | 0 |
| Total changes | 26 |

## AMENDMENT TO LEASE AGREEMENT

**THIS AMENDMENT TO LEASE AGREEMENT** (this "**Amendment to Lease Agreement**" or "**Agreement**") is made this _____day of _____, 2016, by and among the **CITY OF HOBOKEN, COUNTY OF HUDSON**, a municipal corporation of the State of New Jersey (the "**City**" or "**Lessor**"), having an office at 94 Washington Street, Hoboken, New Jersey 07030 and **COLUMBIAN ARMS, INC.**, a non-profit corporation of the State of New Jersey (the "**Lessee**"), having its principal office at 76 Bloomfield Avenue, Hoboken, New Jersey 07030 (collectively, the "**Parties**").

### WITNESSETH

**WHEREAS**, pursuant to an Agreement dated as of June 1, 1987, the City and the Lessee entered into an agreement, dated June 1, 1987 (the "**Agreement to Lease**") to enter into a lease permitting Lessee to construct and operate a 67 unit low-income housing project for senior citizens (the "**Project**") under the Senior Citizens Housing Law of 1965, N.J.S.A. 55:14I-1 *et seq*. (the "**Senior Housing Law**"), on the property commonly known as Block 67, Lots 20, 21, 22, 23, 24, 25, and 26 on the tax map of the City of Hoboken (the "**Premises**"); and

**WHEREAS**, the Lessee constructed the Project under the supervision of and with funding from the United States Department of Housing Urban Development ("**HUD**") pursuant to Section 202 of the Federal Housing Act of 1959, as amended (the "**Section 202 Program**") and the Project is identified by HUD as No. NJ 39-T871-003/031-EH223; and

**WHEREAS**, on May 31, 1989, the Parties entered into a lease agreement entitled, "*City of Hoboken to Columbian Arms, Inc. Lease Agreement*" (the "**Lease Agreement**") which was recorded June 1, 1989 in Deed Book 4294, Page 283 of the Hudson County Clerk's Office, a copy of which is attached as Exhibit A; and

**WHEREAS**, ~~[_____]~~ Columbian Arms Housing Partners, LP, (or such other entity as designated by and affiliated with the Vitus Group, which is a national affordable housing provider )(the "**Purchaser**") seeks to acquire the Project from the Lessee and undertake the financing of various capital improvements to the Premises through, among other sources, commercial financing, tax-exempt financing through the New Jersey Housing Mortgage and Finance Agency and by the syndication of low income housing tax credits ("**LIHTC and Other Financing**"); and

**WHEREAS**, as a condition for the Purchaser to acquire the Project and of the LIHTC ~~financing~~Other Financing, the Purchaser has requested that the Parties amend the Lease Agreement to extend the term of same to seventy-five (75) years from the date of execution of such amendment; and

**WHEREAS**, the Lessor and Lessee desire to enter into this Amendment to Lease Agreement in order to amend the Lease Agreement subject to the terms and conditions expressly set forth herein.

**NOW, THEREFORE**, the Parties acknowledge and agree that the Lease Agreement is hereby amended as follows:

1. Section 3 of the Lease Agreement, entitled "**Term of Lease**", is hereby deleted in its entirety and replaced with the following:

The term of this Lease shall be for seventy-five (75) years, commencing on the date of the execution of the Amendment to Lease Agreement, subject however to the Lessee's right to terminate this Lease as provided for herein below.

2. Section 4 of the Lease Agreement, entitled "**Rent**", is hereby deleted in its entirety and replaced with the following:

A. The Lessee covenants and agrees to pay to the Lessor during the term of this lease the annual sum of FORTY THOUSAND DOLLARS ($40,000) as the rent ("**Rent**") for the Demised Premises commencing on the date of the execution of the Amendment to Lease Agreement (the "**Commencement Date**"). Such amount shall be increased annually on the anniversary of this Amendment to Lease Agreement by the greater of (i) two and half percent (2.5%) of the then applicable Rent or (ii) the cost of living ~~increase~~adjustment announced for such year (the "**Increased Rent**"). As used herein, the term "Business Days" shall mean all days except Saturdays, Sundays, and days on which banks located in the State of New Jersey are required or permitted to be closed.

B. Rent and any Increased Rent shall be due and payable in equal monthly installments in advance on the first Business Day of each month after the Commencement Date until expiration of the Term.

C. All of the amounts payable by Lessee pursuant to this Lease, including without limitation, Rent and Increased Rent and all other costs, charges, sums and deposits payable by Lessee hereunder (collectively, "**Rental**") shall constitute rent under this Lease and shall be payable to Lessor or its designee at such address as Lessor shall from time to time direct in writing.

D. Lessee shall promptly pay the Rental as and when the same shall become due and payable without setoff, offset or deduction of any kind whatsoever and, in the event of Lessee's failure to pay same when due, Lessor shall have all of the rights and remedies provided for in this Lease or at law or in equity in the case of nonpayment of rent. If any Rental shall not be paid within ten (10) days after the same is due hereunder, such unpaid Rental shall bear interest at a rate which is four (4%) percent in excess of the

prime or base reference lending rate from time to time quoted institutional lenders from the date on which such Rental was originally due until the date when paid.

E. If any Rental shall become uncollectible, reduced or required to be refunded because of any law, ordinance, rule or regulation of any governmental authority, Lessee shall enter into such agreements and take such other steps as Lessor may reasonably request and as may be legally permissible to permit Lessor to collect the maximum Rental which from time to time during the continuance of such legal rent restriction may be legally permissible (but not in excess of the amounts reserved therefore under this Lease). Upon the termination of such legal rent restriction, whether during the Term or after the expiration date thereof, (i) Rental shall be payable in accordance with the amounts reserved herein for the periods following such termination and (ii) Lessee shall pay to Lessor, to the maximum extent legally permissible, an amount equal to the Rental that would have been paid pursuant to this Lease but for such legal rent restriction, less the Rental actually paid by Lessee during the period such legal rent restriction was in effect.

F. If Lessee shall hold over after the expiration of the Term, the Parties hereby agree that Lessee's occupancy of the Demised Premises after the expiration of the Term shall be upon all of the terms set forth in this Lease except Lessee shall pay as use and occupancy charge for the holdover period an amount equal to two times (2.0) the Rent payable immediately.

3. Section 17 of the Lease Agreement, entitled "**Option to Renew**", is hereby deleted in its entirety.

4. A new Section 30, entitled "**Affordability Restrictions**" is hereby inserted at the end of the Lease Agreement to read as follows:

For the entire term of this Lease, Lessee covenants that one hundred percent (100%) of the individual units comprising the Project shall be leased out to senior citizens (as defined by HUD) whose income does not exceed sixty percent (60%) of HUD's area median income (the "**Affordability Restrictions**") for each year. The Affordability Restrictions shall remain an obligation of the Lessee and any assignee or transferee of the Lessee regardless of the applicability of any federal or state subsidy, tax exemption or any financial or other assistance. The Affordability Restrictions shall be restated in a Memorandum of Lease to be recorded by the Lessee, at the Lessee's cost.

5. The Lessor hereby agrees and consents to the transfer or transfers of the Lease Agreement, as amended by this Agreement, to the Purchaser or a single-purpose affiliated entity

established for the sole purpose of undertaking the ~~LIHTC to make capital~~Project and the improvements ~~to the Project~~thereto as required by the LIHTC and Other Financing. The Lessee shall provide written notice to the Lessor of such transfer at least fifteen (15) days prior to the effectuation of such transfer. The Lessor may require the transferee to memorialize the transfer through the execution of a new Lease Agreement incorporating the same terms as provided in the Lease Agreement and this Agreement. No other transfers or assignments are approved by this Agreement~~.~~; provided however that if the single purpose entity described in this Section 5 is a limited partnership or limited liability company, transfers of limited partner interests or non-managing member interests in such entity (as the case may be) will not require the consent or approval of Lessor.

6. Until the expiration or termination of this Lease Agreement, the legal and beneficial title to all improvements situated on the Premises shall remain solely in Lessee, and Lessee alone shall be entitled to deduct all tax attributes of ownership from such improvements, including, without limitation, the right to claim depreciation or cost recovery deductions and the right to claim the housing tax credit described in Section 42 of the Internal Revenue code of 1986, as amended (the "Code") on Lessee's income tax returns for such improvements.

7. The Parties agree that the limited partners or investor members, as applicable, of Lessee shall have the right to cure any default under this Lease Agreement or cause the same to be remedied and Lessor shall accept such performance by or at the instance of such limited partner of Lessee as if the same had been made by Lessee subject to the terms and conditions of this subsection. Upon receipt of any notice of default under the Lease Agreement, the limited partners or investor members may issue written notice to the Lessor that such parties reserve the right to cure such default. Upon receipt of such notice, there shall be added to any grace period allowed by the terms of this Lease Agreement to Lessee for curing any default, an additional ten (10) days in the case of a monetary default and an additional thirty (30) days in the case of all other defaults, for such limited partner to cure the same beyond the time allowed to Lessee. The additional grace periods detailed above shall only apply to the limited partners or investor members and shall not be deemed to be additional grace periods available to Lessee.

8. A copy of any notice sent to Lessee under this lease shall be sent simultaneously to Boston Financial Investment Management, LP, 101 Arch Street, Boston, MA 02110.

~~6.~~9. Except as provided for herein, all other terms and conditions of the Lease Agreement are hereby ratified and confirmed and shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Parties hereto have duly executed this Amendment to Lease Agreement as of the day and year first above written by their duly authorized representatives.

Witness/Attest: **THE CITY OF HOBOKEN**, Lessor

_____ By: _____

Dawn Zimmer, Mayor

Witness/Attest: **COLUMBIAN ARMS, INC.,** Lessee

_____ By: _____

Exhibit A

City of Hoboken
to
Columbian Arms, Inc.
Lease Agreement
dated May 31, 1989

Document comparison by Workshare Compare on Tuesday, October 04, 2016 3:03:28 PM

| **Input:** | |
|---|---|
| Document 1 ID | interwovenSite://MSBDMS14/iManage/618570/1 |
| Description | #618570v1<iManage> - Amendment to Lease Agreement |
| Document 2 ID | interwovenSite://MSBDMS14/iManage/618570/3 |
| Description | #618570v3<iManage> - Hoboken/Columbian Arms: Amendment to Lease Agreement (MSB) |
| Rendering set | standard |

| **Legend:** | |
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| Insertion | |
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| Style change | |
| Format change | |
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| Inserted cell | |
| Deleted cell | |
| Moved cell | |
| Split/Merged cell | |
| Padding cell | |

| **Statistics:** | |
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| | Count |
| Insertions | 17 |
| Deletions | 7 |
| Moved from | 0 |
| Moved to | 0 |
| Style change | 0 |
| Format changed | 0 |
| Total changes | 24 |

003891

PREPARED BY:

FRED H. BADO

CITY OF HOBOKEN
TO
COLUMBIAN ARMS, INC.
LEASE AGREEMENT

THIS LEASE made and executed on this 31st day of MAY, 1989, by and between the City of Hoboken, County of Hudson, a Municipal Corporation of the State of New Jersey, herein referred to as "Lessor", and COLUMBIAN ARMS, INC., a nonprofit corporation organized and existing under the laws of the State of New Jersey, having its principal office located at 76 Bloomfield Street, New Jersey, hereinafter referred to as 'Lessee' pursuant to an Ordinance adopted on May 20, 1987 and an Agreement dated as of June 1, 1987 between the Lessor and Lessee.

Section 1. Demised Premises, Description and Use of Same.

The Lessor leases to the Lessee and the Lessee rents from the Lessor certain real property known as Block 67, Lots 20, 21, 22, 23, 24, 25 and 26 on the Official Assessment Map of the City of Hoboken, all lots being situated at 514-526 Madison Street, City of Hoboken and County of Hudson and more particularly described in the Schedule attached hereto as Exhibit "A" and made a part hereof (hereinafter sometimes referred to as the "Demised Premises"), for development thereon, subject to the zoning and other ordinances of the City of Hoboken, subject to easements and restrictions of record, provided the same will not prohibit the proposed construction on the premises, and as provided for herein below and further subject to the condition that the Lessee construct approximately 67 units of housing for the elderly and handicapped persons and families of low income as defined by the United States Department of Housing and Urban Development (hereinafter referred to as "HUD") under Section 8 of the National Housing Act and its Section 202 Housing Program for the Elderly and Handicapped (hereinafter referred to as "Section 202").

Section 2. Condition of Property.

The Lessee agrees to accept the Demised Premises in AS IS condition.

Section 3. Term of Lease.

The initial term of this Lease shall be for fifty (50) years, commencing on the date of the execution of this Lease, subject however to the Lessee's right to terminate this Lease as provided for herein below or to exercise its option to renew and continue this Lease as provided for herein below.

Section 4. Rent.

The Lessee shall pay to the Lessor annually the sum of TWENTY-FOUR THOUSAND ($24,000) DOLLARS as the rental for the Demised Premises for each and every year as provided for during the initial term of this Agreement. Rental for any renewal period shall be as negotiated and agreed upon between the parties at a subsequent date. The monthly rental payments shall be Two Thousand ($2,000) and shall be payable on the first day of each month commencing after the completion of construction on the first day of the month following the month in which HUD issues its Permission to Occupy.

Section 5. Warranties of Title and Quiet Enjoyment.

Lessor covenants that Lessor is seized of the real property in fee simple and has full right to make this Lease and that Lessee shall have quiet and peaceable possession of the Demised Premises during the term hereof.

Section 6. Encumbrance of Lessee's Leasehold Interest.

Lessee may encumber by mortgage or other proper instrument, its leasehold interest in the Demised Premises, together with all buildings and improvements placed by Lessee thereon, as security for a direct loan which Lessee may receive from HUD under Section 202. The execution of the above-described indebtedness or the foreclosure thereof or any sale thereunder, either by judicial proceedings or by virtue of any power reserved in such document reciting said indebtedness or advance by Lessee to holder of such indebtedness, or the exercising of any right, power or privilege reserved in said document of indebtedness shall not be held as violation of any of the terms or conditions hereof, or as an assumption by HUD of the obligations hereof. No such indebtedness, foreclosure, conveyance or exercise of right shall relieve Lessor from its liability hereunder.

Lessor and Lessee, so far as permitted by the laws of the State of New Jersey, agree that the provisions entitled "207 Lease Addendum FHA Form No. 2070", attached hereto as Exhibit "B", shall be incorporated and made a part hereof.

Section 7. Uses Prohibited.

Lessee shall not use, or permit the Demised Premises, or any part thereof, for any purpose or purposes other than the purpose or purposes for which the Demised Premises are hereby leased; and no use shall be made or permitted to be made of the Demised Premises, or acts done, which will interfere in any way with compliance of N.J.S.A. 40A:12-14 and 15 or will cause a cancellation of any insurance policy covering any building constructed upon the Demised Premises.



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Section 8. Waste and Nuisance Prohibited.

During the term of this Lease, Lessee shall comply with all applicable laws affecting the Demised Premises, the breach of which might result in any penalty on Lessor or forefeiture of Lessor's title to the Demised Premises. Lessee shall not commit, or suffer to be committed, any waste on the Demised Premises, or any nuisance.

Section 9. Abandonment of Premises.

Lessee shall not vacate or abandon the Premises at any time during the term hereof; if Lessee shall abandon, vacate or surrender the Demised Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Lessee unless on the premises shall be deemed to be abandoned, at the option of Lessor, subject to any liens any encumbrances held by HUD.

Section 10. Notices.

All notices, demands, or other writings in this Lease provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States Mail, registered and postage prepaid, and addressed as follows:

TO LESSOR: City Clerk
City Hall, Washington Street
Hoboken, New Jersey 07030

TO LESSEE: Columbian Arms, Inc.
76 Bloomfield Street
Hoboken, New Jersey 07030

The address to which any notice, demand or other writing may be given or made or sent to any party as above provided may be changed by written notice given by such party as above provided.

Section 11. Payment in Lieu of Taxes.

In addition to the rent provided for herein and as additional rent, the Lessee shall pay to the Lessor for the cost of municipal services to be provided to the housing facility to be erected by the Lessee payment in lieu of taxes on a yearly basis pursuant to a separate Tax Abatement Agreement between the Lessor and the Lessee.



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Section 12. Clearing of Demised Premises; Construction of Improvements.

On delivery of possession of the Demised Premises to the Lessee, the Lessee shall have the right to clear and remove any debris which then exists upon the Demised Premises in order to prepare said premises for the construction of the low- and moderate-income housing as referenced herein above. Additionally, the Lessee shall have the right to construct on the Demised Premises a building or buildings for units of housing for the elderly and handicapped persons and families of low income as defined by HUD's Section 202 Housing Program and as more particularly described in Section 1 herein above in accordance with any zoning approvals which may have been obtained and site plans which may have been approved by the Planning Board or the Zoning Board of Adjustment of the Lessor.

Section 13. Maintenance of Improvements

Lessee shall, throughout the term of this Lease, at its own cost, and without any expense to Lessor, keep and maintain the premises, including all buildings and improvements of every kind which may be a part thereof, and all appurtenances thereto, including sidewalks adjacent thereto, in good, sanitary, and neat order, condition and repair, and, except as specifically provided herein, restore and rehabilitate any improvements of any kind which may be destroyed or damaged by fire, casualty, or any other cause whatsoever. Lessor shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Demised Premises on any buildings or improvements thereon. Lessee shall also comply with and abide by all Federal, State, County, Municipal and other governmental statutes, ordinances, laws and regulations affecting the Demised Premises, the improvements thereon or any activity or condition on or in such premises.

Section 14. Utilities.

Lessee shall fully and promptly pay for all water, gas, heat, light, power, telephone service and other public utilities of every kind furnished to the premises throughout the term hereof and all other costs and expenses of every kind whatsoever of or in connection with the use, operation and maintenance of the premises and all activities conducted thereon and Lessor shall have no responsibility of any kind for any thereof.



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Section 15. Indemnification of Lessor.

Lessor shall not be liable for any loss, injury, death or damage to persons or property which at any time may be suffered or sustained by Lessee or by any person whosoever may at any time be using or occupying or visiting the Demised Premises or be in, on or about the same whether such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission or negligence of Lessee or of any occupant, subtenant, visitor or user of any portion of the premises or shall result from or be caused by any other matter or thing whether of the same kind as or of a different kind than the matters or things above set forth, and Lessee shall indemnify Lessor against all claims, liability, loss or damage whatsoever on account of any such loss, injury, death or damage. Lessee hereby waives all claims against Lessor for damages to the building and improvements that are now on or hereafter placed or built on the premises and to the property of Lessee in, on or about the premises and for injuries to persons or property in or about the premises from any cause arising at any time. The two preceding sentences shall not apply to loss, injury, death or damage arising by reason of the negligence or misconduct of Lessor, its agents or employees.

Section 16. Attorney's Fees.

If any action at law or in equity shall be brought to recover any rent under this Lease or for or on account of any breach of or to enforce or interpret any of the covenants, terms or conditions of this Lease or for the recovery of the possession of the Demised Premises the prevailing party shall be entitled to recover from the other party as part of the prevailing party's cost reasonable attorney's fees, the amount of which shall be fixed by the Court and shall be made a part of any Judgment or decree rendered.

Section 17. Option to Renew.

Lessor shall have the option to grant to Lessee the renewal of this Lease for a period of twenty-five (25) years at a rental amount to be negotiated upon Lessor's exercise of the option to renew and otherwise subject to and on all of the terms and conditions herein contained, except that there shall be no further option to renew the Lease, nor payments in lieu of taxes as computed in Section 11 herein.



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In the event that at the time of said renewal the Lessee's leasehold interest in the demised premises is encumbered by any mortgage held by HUD then the renewal rent shall remain as set forth herein until said mortgage is fully paid. This option shall be exercised by the giving to Lessee a written notice of the exercise thereof by Lessor on or before the anniversary date marking the beginning of the 50th year of the initial term.

Section 18. Redelivery of Premises.

Lessee shall pay the rent and all other sums required to be paid by Lessee hereunder in the amounts, at the times and in the manner herein provided and shall keep and perform all the terms and conditions hereof on its part to be kept and performed and at the expiration or sooner termination of this lease peaceably and quietly quit and surrender to Lessor the demised premise and all structures thereon in good order and condition subject to the other superior rights of the leasehold mortgagee, United States Department of Housing and Urban Development. In the event of the non-performance by Lessee of any of the covenants of Lessee undertaken herein, this lease may be terminated as herein provided.

Section 19. Disposition of Improvements on Termination of Lease.

On termination of this lease for any cause, Lessor shall become the owner of any building or improvements on the demised premises and if such building extends onto other property owned by the then Lessee hereunder, such Lessee shall convey to Lessor on such termination an undivided interest as tenant-in-common in all of the property covered by such buildings which bears the same proportion to the whole as the area of the demised premise bears to the total area covered by such building.

Section 20. Remedies Cumulative.

All remedies hereinbefore and hereafter conferred on Lessor shall be deemed cumulative and no one exclusive of the other or of any other remedy conferred by law.

Section 21. Insurance.

A. Liability Insurance: Lessee shall maintain in effect throughout the term of this Lease personal injury liability insurance covering the Demised Premises and its appurtenances in the amount of THREE HUNDRED THOUSAND ($300,000) DOLLARS for injury to or death of any one person and ONE MILLION ($1,000,000) DOLLARS for injury to or death of any number of persons in one



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occurrence and property damage liability insurance in the amount of FIVE HUNDRED THOUSAND ($500,000) DOLLARS. Such insurance shall specifically insure Lessee against all liability assumed by it hereunder as well as liability imposed by law and shall insure both Lessor and Lessee but shall be so endorsed as to create the same liability on the part of the insurer as though separate policies had been written for Lessor and Lessee.

B. Insurance Coverage of Premises: Lessee shall at all times during the term of this Lease and at Lessee's sole expense keep all improvements which are now or hereafter a part of the premises insured against loss or damage by fire and the extended coverage hazards for EIGHTY (80%) PERCENT of the full replacement value of such improvements, with loss payable to Lessor and Lessee as their interests may appear. Any loss adjustment shall require the written consent of both Lessor and Lessee.

C. Notice: Lessee shall provide to Lessor proof of the required coverage by mailing annually to Lessor certificates of insurance and making available to Lessor upon request by Lessor copies of all policies maintained by Lessee.

Section 22. Notice of Default.

Except as to the provision of Section 11, Lessee shall not be deemed to be in default hereunder in the payment of rent or the payment of any other moneys as herein required or in the furnishing of any bond or insurance policy when required herein unless Lessor shall first give to Lessee fourteen (14) days written notice of such default and Lessee fails to cure such default within such fourteen (14) days or if the default is of such a nature that it cannot be cured within fourteen (14) days or Lessee fails to commence to cure such default within such period of fourteen (14) days or fails thereafter to proceed to the curing of such default with all possible diligence.

Section 23. Lessor's Right to Perform.

In the event that Lessee by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed shall be in default thereunder and such failure shall continue for a period of thirty (30) days after written notice from Lessor specifying the nature of the act or thing to be done or performed, then Lessor may, but shall not be required to, do or perform or cause to be done or performed such act or thing (entering on the Demised Premises for such purposes, if Lessor shall so elect) and Lessor shall not be held liable or in any way responsible for any loss, inconvenience, annoyance or damage resulting to Lessee on account thereof, and Lessee shall

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repay to Lessor on demand the entire expense thereof, including compensation to the agents and employees of Lessor. Any act or thing done by Lessor pursuant to the provisions of this section shall not be construed as a waiver of any such default by Lessee, or as a waiver of any covenant, term or condition herein contained or the performance thereof or of any other right or remedy of Lessor hereunder or otherwise. All amounts payable by Lessee to Lessor under any of the provisions of this Lease, if not paid when the same become due as in this Lease provided, shall bear interest from the date they become due until paid at the same rate charged by the United States Treasury on its most recent sale of 30 year Bonds plus 100 basis points, compounded annually.

Section 24. Waiver.

The failure of Lessor to take action with respect to any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or subsequent breach of the same or any other term, covenant or condition therein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease other than the failure of Lessee to pay the particular rental so excepted regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

Section 25. Effect of Lessee's Holding Over.

Any holding over after the expiration of the term of this Lease, with consent of Lessor, shall be construed to be a tenancy from month-to-month, on the terms and conditions as shall be agreed upon between the Lessor and Lessee before the hold-over term commences.

Section 26. Parties Bound.

The covenants and conditions herein contained shall, subject to the provisions as to assignment, transfer and subletting apply to and bind the heirs, successors, executors, administrators and assigns of all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

Section 27. Applicable Law.

The terms of this Lease shall be governed by and construed in accordance with the laws of the State of New Jersey.



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Section 28. Validity of Lease.

The terms, conditions, covenants and provisions of this Lease shall be deemed to be severable. If any clause or provision contained herein shall be adjudged to be invalid or unenforceable by a Court of competent jurisdiction or by operation of applicable law, it shall not affect the validity of any other clause or provision herein, but such other clauses or provisions shall remain in full force and effect.

Section 29.

The provisions of this Lease and all rights of Landlord and any other parties or persons shall be subject to all rights of the Department of Housing and Urban Development under the Section 202 Senior Citizen program and to such federal rules and regulations now or hereafter established under or to implement that program and to the provisions of the "207 Lease Addendum" attached hereto and made a part of this Lease Agreement.

In the event of any inconsistency and/or conflict of terms or of substance as between the provisions, remedies and rights set forth in the Lease Agreement and those set forth in the Lease Addendum or set forth in the aforesaid federal rules and regulations, such inconsistency and/or conflict shall be resolved in accordance with the provisions, remedies and rights set forth in said Lease Addendum and said federal rules and regulations, said Lease Addendum and federal rules and regulations being deemed to supersede the terms and provisions of the Lease Agreement.

Section 30. Section Captions.

The captions appearing next to the section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

IN WITNESS WHEREOF, the parties hereunto have executed this Lease on the day and year first above written.

ATTEST:

James J. Farina, City Clerk

CITY OF HOBOKEN, Lessor

By: Patrick Pasculli

Patrick Pasculli, Mayor

ATTEST:

Fred M. Bado

FRED M. BADO

COLUMBIAN ARMS, INC., Lessee

By: James A. Gabriele

James A. Gabriele, President

ATTEST:

Fred M. Bado

FRED M. BADO

By: Maurice DeGennaro

Maurice DeGennaro, Chairman

8/53

# D E S C R I P T I O N

ALL that certain tract, lot and parcel of land situate in the City of Hoboken County of Hudson and State of New Jersey, being more particularly described as follows:

Being known and designated as Lots 21, 22, 23, 24, 25, 26 and 27, Block 67, as shown on a certain map entitled "Map of Property Situate at Hoboken belonging to The Estate of John G. Coster, dec'd", which map was filed in the Hudson County Register's Office August 6, 1962, as Filed Map No. 846.

Being also described as follows:

Beginning at a point in the westerly line of Madison Street, distant thereon 75.00 feet southerly from the intersection of the said westerly line of Madison Street and the southerly line of Sixth Street and from thence running:

1. South 13 degrees 04 minutes West, along said westerly line of Madison Street, 175.0 feet to a point; thence
2. North 76 degrees 56 minutes West, 100.0 feet to a point, thence
3. North 13 degrees 04 minutes East, 175.0 feet to a point, thence
4. South 76 degrees 56 minutes East, 100.0 feet to the said westerly line of Madison Street and the point and place of Beginning.

The above description is in accordance with survey, dated November 20, 1987, revised to September 12, 1989, made by Patrick L. Caulfield, Jr., Land Surveyor.

NOTE: Survey shows vacant land.

Being known as Lots 20, 21, 22, 23, 24, 25 and 26 in Block 67 on the Tax Map of the City of Hoboken.

Attachment to lease between City of Hoboken (Landlord) and Columbian Arms, Inc. (Tenant) covering premises located 514-526 Madison Street, Hoboken, N.J.

## 207 LEASE ADDENDUM

Notwithstanding any other provisions of this lease, if and so long as this leasehold is subject to a mortgage held by the Federal Housing Commissioner or given to the Commissioner in connection with a resale, or the demised premises are acquired and held by him because of a default under said mortgage:

1. The tenant is authorized to obtain a loan, the repayment of which is to be made to the Federal Housing Commissioner and secured by a mortgage on this leasehold estate. Tenant is further authorized to execute a mortgage on this leasehold and otherwise to comply with the requirements of the Federal Housing Commissioner for obtaining such mortgage loan.

2. The Federal Housing Commissioner, or his successors in office, or his assigns shall have the option, in the event that he or his successor in office, through the operation of his contract of mortgage insurance, shall acquire title to the leasehold interest, to purchase good and marketable fee title to the demised premises, free of all liens and encumbrances except such as may be waived or accepted by him or his successor in office, within twelve (12) months after so acquiring the leasehold interest, for the sum of Six Hundred Thousand ($600,000) Dollars payable in cash, or by Treasury check, provided all rents are paid to date of transfer of title, upon first giving sixty (60) days' written notice to the Landlord or other person or corporation who may then be the owner of the fee, and the owner of the fee shall thereupon execute and deliver to the Federal Housing Commissioner, or his successor in office, a deed of conveyance to the said demised premises, containing a covenant against the grantor's acts, but excepting therefrom such acts of the Tenant and those claiming by, through, or under the Tenant of the leasehold interest. Nothing in this option shall require the Landlord to pay any taxes or assessments which were due and payable by the Tenant.

3. If approved by the Federal Housing Commissioner, tenant may assign, transfer or sell his interest in the demised premises.

4.(a) Insurance policies shall be in an amount, and in such company or companies and in such form, and against such risks and hazards, as shall be approved by such mortgagee and/or the Federal Housing Commissioner.

(b) The Landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the Tenant to the mortgagee. The Landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the Tenant.

5.(a) If all or any part of the demised premises shall be taken by condemnation that portion of any award attributable to the improvements or damage to the improvements shall be paid to the mortgagee or otherwise disposed of as may be provided in the insured mortgage. Any portion of the award attributable solely to the taking of land shall be paid to the Landlord. After the date of taking the annual ground rent shall be reduced ratably by the proportion which the award paid to the Landlord bears to the total value of the land as established by the amount the Federal Housing Commissioner would be required to pay upon acquistion of the fee as set out in paragraph 2 of this addendum.

(b) In the event of a negotiated sale of all or a portion of demised premises in lieu of condemnation, the proceeds shall be distributed and ground rents reduced as provided in cases of condemnation, but the approval of the Commissioner and the mortgagee shall be required as to the amount and division of the payment to be received.

6. The Landlord agrees that, within ten (10) days after receipt of written request from Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any governmental or other body claiming jurisdiction in connection with any work which the Tenant may do hereunder, and will also join in any grants for easements for electric, telephone, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the demised premises or of any improvements that may be erected thereon; and if, at the expiration of such ten (10) days' period, the Landlord shall not have joined in any such application, or grants for easements, the Tenant shall have the right to execute such application and grants in the name of the Landlord, and, for that purpose, the Landlord hereby irrevocably appoints the Tenant as its Attorney-in-fact to execute such papers on behalf of the Landlord.

7. Nothing in this lease contained shall require the Tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord, or any income, excess profits or revenue tax, or any other tax, assessment, charge or levy upon the rent payable by the Tenant under this lease.

8. Upon any default under this lease which authorizes the cancellation thereof by the Landlord, Landlord shall give notice to the mortgagee and the Federal Housing Commissioner, and the mortgagee and the Federal Housing Commissioner, their successors and assigns, shall have the right within any time within six (6) months from the date of such notice to correct the default and reinstate the lease unless Landlord has first terminated the lease as provided herein.

   At any time after two (2) months from the date a notice of default is given to the mortgagee and the Comissioner, the Landlord may elect to terminate the lease and acquire possession of the demised premises. Upon acquiring possession of the demised premises Landlord shall notify Commissioner and mortgagee. Mortgagee and Commissioner shall have six (6) months from the date of such notice of acquisiton to elect to take a new lease on the demised premises. Such new lease shall have a term equal to the unexpired portion of the term of this lease and shall be on the same terms and conditions as contained in this lease, except that the mortgagee's and Commissioner's liability for ground rent shall not extend beyond their occupancy under such lease. The Landlord shall tender such new lease to the mortgagee or Commissioner within thirty (30) days after a request for such lease and shall deliver possesion of the demised premises immediately upon execution of the new lease. Upon executing a new lease the mortgagee or Commissioner shall pay to Landlord any unpaid ground rentals due or that would have become due under this lease to the date of the execution of the new lease, including any taxes which were liens on demised premises and which were paid by Landlord, less any net rentals or other income which Landlord may have received on account of this property since the date of default under this lease.

9. All notices, demands and requests which are required to be given by the Landlord, the tenant, the mortgagee or the Commissioner shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

10. This lease shall not be modified without the consent of the Federal Housing Commissioner.

11. The Federal Housing Commissioner, or his successor in office or his assigns shall have the right, ancillary to his right to foreclose on his mortgage on the leasehold interest, to cause the assignment of said leasehold interest to a tenant of his own choosing, provided, however, that any such tenant and his occupancy shall be of the same character as the current tenant and ocupancy.

12. Wherever the name "Federal Housing Commissioner" is used herein, said name shall be deemed to also refer to or mean the Department of Housing and Urban Development, as the case may require.

s/9

State of New Jersey, County of | ss.: Be it Remembered,
that on 19 , before me, the subscriber,

personally appeared

who, I am satisfied, the person named in and who executed the within Instrument, and thereupon acknowledged that signed, sealed and delivered the same as act and deed, for the uses and purposes therein expressed.

State of New Jersey, County of ESSEY | ss.: Be it Remembered,
that on MAY 31 19 90 , before me, the subscriber,
AN ATTORNEY AT LAW OF NEW JERSEY
personally appeared JAMES A. GABRIELE
who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the PRESIDENT ~~Secretary~~ of COLUMBIAN ARMS, INC. the Corporation named in the within Instrument; that MAURICE DE GENNARO is the CHAIRMAN President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said CHAIRMAN ~~President~~ as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his name thereto as attesting witness.

Sworn to and subscribed before me,
the date aforesaid.

Louis C. Meyer Jr. | James A. Gabriele
LOUIS C. MEYER, JR. | JAMES A. GABRIELE
ATTORNEY AT LAW OF NEW JERSEY

Prepared by:

46.00

Lessee

TO

Dated, , 19

Expires,

Rent, $

RECEIVED
1990 JUN -1 AM 11:29
HUDSON COUNTY
REGISTER OF DEEDS

BK4294PG297

10-5-16 (2)

SPONSOREDBY:Defusco MD
SECONDED BY: RB

CITY OF HOBOKEN
ORDINANCE NO. Z-440

**AN ORDINANCE TO AMEND AND SUPPLEMENT § 196-31 OF THE CODE OF THE CITY OF HOBOKEN ENTITLED "SIGNS AND SIGNAGE"**

**THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1:** The following additions and ~~deletions~~ shall be made to Hoboken City Code **§196-31(C)(2)(g)** to read as follows:

(g) Feather flags~~,~~ except when the property is a business establishment in a zone where commercial and retail are permitted uses, and exterior signage ordinarily allowable under this section is not permitted pursuant to landlord or condominium association prohibition, and the property has no more than two (2) street-facing windows, not inclusive of doorway or transom, with total display area totaling less than ten (10) square feet. In the situations where feather flags are permitted pursuant to this exception, said signs shall:

i. Be displayed only on the business premises; and,
ii. Be limited to one (1) per business; and,
iii. Pertain to the business on the premises; and,
iv. Be displayed only during hours of operation; and,
v. Be placed in a manner so as to ensure pedestrian safety; and,
vi. Not block, impede or in any other manner interfere with the pedestrian walkway; and,
vii. Not be more than twelve (12) feet long, or greater than thirty-six (36) inches in width; and,
viii. Not block any windows or doors; and,
ix. Be secured in a manner that prevents displacement from the wind.

L. Upon taking effect, the amended provisions of subsection C(2)(g) shall be retroactive to January 1, 2013.

**Section 2:** This ordinance shall be part of the General Code of the City of Hoboken as though codified and fully set forth therein.

**Section 3:** The City Clerk shall have this ordinance codified and incorporated in the official copies of the Hoboken code. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

**Section 4:** This ordinance shall take effect as provided by law.

**Date of Introduction: September 7, 2016**

**Introduction:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | ✓ | | | |
| Peter Cunningham | | ✓ | | |
| Michael DeFusco | ✓ | | | |
| James Doyle | ✓ | | | |
| Tiffanie Fisher | ✓ | | | |
| David Mello | ✓ | | | |
| Ruben Ramos, Jr. | ✓ | | | |
| Michael Russo | ✓ | | | |
| President Jennifer Giattino | | ✓ | | |

**Final Reading:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | | | | |
| Peter Cunningham | | | | |
| Michael DeFusco | | | | |
| James Doyle | | | | |
| Tiffanie Fisher | | | | |
| David Mello | | | | |
| Ruben Ramos, Jr. | | | | |
| Michael Russo | | | | |
| President Jennifer Giattino | | | | |

Approved as to Legal Form:

_____
Brian Aloia, Esq., Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2016

_____
James Farina, City Clerk

☐ Vetoed by the Mayor for the following reasons: _____

*-or-*

☐ Approved by the Mayor
On the ___ day of _____, 2016

_____
Dawn Zimmer, Mayor

10-5-16

INTRODUCED BY: _____
SECONDED BY: _____

**CITY OF HOBOKEN, NEW JERSEY**
**ORDINANCE NO. ____** Z-441

**BOND ORDINANCE AUTHORIZING SUPPLEMENTAL FUNDING FOR THE ACQUISITION OF CERTAIN REAL PROPERTY FOR OPEN SPACE PRESERVATION, THE CONSTRUCTION OF NORTHWEST RESILIENCY PARK (BASF) AND THE CONSTRUCTION OF STORMWATER MANAGEMENT AND FLOOD CONTROL SYSTEMS THEREON, IN AND FOR THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF $19,500,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO $19,500,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING**

**BE IT ORDAINED** by the City Council of the City of Hoboken, County of Hudson, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

**Section 1.** The purposes described in Section 7 hereof are hereby authorized as general improvements to be made or acquired by the City of Hoboken, County of Hudson, New Jersey ("City").

**Section 2.** It is hereby found, determined and declared as follows:

(a) the estimated amount to be raised by the City from all sources for the purposes stated in Section 7 hereof is $19,500,000; and

(b) the estimated amount of bonds or bond anticipation notes to be issued for the purposes stated in Section 7 hereof is $19,500,000.

**Section 3.** The sum of $19,500,000 to be raised by the issuance of bonds or bond anticipation notes is hereby appropriated for the purposes stated in this bond ordinance ("Bond Ordinance").

**Section 4.** The issuance of negotiable bonds of the City in an amount not to exceed $19,500,000 to finance the costs of the purposes described in Section 7 hereof is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law. All or a portion of the bonds authorized to be issued hereunder may evidence one or more loans from the

New Jersey Department of Environmental Protection and/or the New Jersey Environmental Infrastructure Trust, under an Application for Financial Assistance (Project No. S340635-06) submitted by the City to said entities.

**Section 5.** In order to temporarily finance the purposes described in Section 7 hereof, the issuance of bond anticipation notes of the City in an amount not to exceed $19,500,000, is hereby authorized. Pursuant to the Local Bond Law, the Chief Financial Officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this Bond Ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

**Section 6.** The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, N.J.S.A. 40A:2-20, shall not exceed the sum of $4,000,000.

**Section 7.** The improvements hereby authorized and the purposes for which said obligations are to be issued; the estimated costs of each said purpose; the amount of down payment for each said purpose; the maximum amount obligations to be issued for each said purpose and the period of usefulness of each said purpose within the limitations of the Local Bond Law are as follows:

| | Purpose/Improvement | Estimated Total Cost | Down Payment | Amount of Obligations | Period of Usefulness |
|---|---|---|---|---|---|
| A. | Supplemental Funding for the Acquisition of certain Real Property for Open Space Preservation in and for the City, designated on the Official Tax Map of the City as Block 103, Lots 7-26 and Block 107, Lot 1, and the Construction thereon of Northwest Resiliency Park (BASF) and a Stormwater Management and Flood Control System; together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto, all as more particularly described in the application (Project No. S340635-06) on file and available for inspection in the office of the City Administrator, as originally authorized by Bond Ordinance Z-370, finally adopted on September 16, 2015 | $19,500,000 | $0 | $19,500,000 | 30 years |

**Section 8.** Grants or other monies received from any governmental entity, if any, will be applied to the payment of, or repayment of obligations issued to finance, the costs of the purposes described in Section 7 above.

**Section 9.** The supplemental debt statement provided for in Section 10 of the Local Bond Law, N.J.S.A. 40A:2-10, was duly filed in the office of the Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of

Community Affairs of the State of New Jersey. The supplemental debt statement shows that the gross debt of the City, as defined in Section 43 of the Local Bond Law, N.J.S.A. 40A:2-43, is increased by this Bond Ordinance by $19,500,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

**Section 10.** The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance and, to the extent payment is not otherwise provided, the City shall levy ad valorem taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

**Section 11.** The applicable Capital Budget is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Clerk and available for inspection.

**Section 12.** The City hereby declares its intent to reimburse itself from the proceed of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code") for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the City prior to the issuance of such bonds or bond anticipation notes.

**Section 13.** The City hereby covenants as follows:

(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes is exempt from the gross income of the owners thereof for federal income taxation purposed, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such terms is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

**Section 14.** The improvements authorized hereby are not current expenses and are improvements that the City may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

**Section 15.** All ordinances, or parts of ordinances, inconsistent herewith are hereby

repealed to the extent of such inconsistency.

**Section 16.** In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

**Date of Introduction: October 5, 2016**

**Introduction:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | ✓ | | | |
| Peter Cunningham | ✓ | | | |
| Michael DeFusco | ✓ | | | |
| James Doyle | ✓ | | | |
| Tiffanie Fisher | ✓ | | | |
| David Mello | ✓ | | | |
| Ruben Ramos, Jr. | ✓ | | | |
| Michael Russo | ✓ | | | |
| President Jennifer Giattino | ✓ | | | |

**Final Reading:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | | | | |
| Peter Cunningham | | | | |
| Michael DeFusco | | | | |
| James Doyle | | | | |
| Tiffanie Fisher | | | | |
| David Mello | | | | |
| Ruben Ramos, Jr. | | | | |
| Michael Russo | | | | |
| President Jennifer Giattino | | | | |

Approved as to Legal Form:

_____
Brian Aloia, Esq., Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2016

_____
James Farina, City Clerk

☐ Vetoed by the Mayor for the following reasons: _____

_____

_____

_____

_____

*-or-*

☐ Approved by the Mayor
On the ___ day of _____, 2016

_____
Dawn Zimmer, Mayor

## Notice of Pending Bond Ordinance and Summary

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the City Council of the City of Hoboken, in the County of Hudson, State of New Jersey, on October 5, 2016. It will be further considered for final passage, after public hearing thereon, at a meeting of the City Council to be held at City Hall, 94 Washington Street, Hoboken, New Jersey on _____, 2016 at _____ o'clock __M. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the City Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: **BOND ORDINANCE AUTHORIZING SUPPLEMENTAL FUNDING FOR THE ACQUISITION OF CERTAIN REAL PROPERTY FOR OPEN SPACE PRESERVATION, THE CONSTRUCTION OF NORTHWEST RESILIENCY PARK (BASF) AND THE CONSTRUCTION OF STORMWATER MANAGEMENT AND FLOOD CONTROL SYSTEMS THEREON, IN AND FOR THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF $19,500,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO $19,500,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING**

| | Purpose/Improvement | Estimated Total Cost | Down Payment | Amount of Obligations | Period of Usefulness |
|---|---|---|---|---|---|
| A. | Supplemental Funding for the Acquisition of certain Real Property for Open Space Preservation in and for the City, designated on the Official Tax Map of the City as Block 103, Lots 7-26 and Block 107, Lot 1, and the Construction thereon of Northwest Resiliency Park (BASF) and a Stormwater Management and Flood Control System; together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto, all as more particularly described in the application (Project No. S340635-06) on file and available for inspection in the office of the City Administrator, as originally authorized by Bond Ordinance Z-370, finally adopted on September 16, 2015 | $19,500,000 | $0 | $19,500,000 | 30 years |

| | |
|---|---|
| Appropriation: | $19,500,000 |
| Bonds/Notes Authorized: | $19,500,000 |
| Grants (if any) Appropriated: | None |
| Section 20 Costs: | $4,000,000 |
| Useful Life: | 30.00 years |

JAMES J. FARINA, RMC, City Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

## Bond Ordinance Statements and Summary

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the City Council of the City of Hoboken, in the County of Hudson, State of New Jersey on _____, 2016 and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the City Clerk's office in the Municipal Building, 94 Washington Street, Hoboken, New Jersey, for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title: **BOND ORDINANCE AUTHORIZING SUPPLEMENTAL FUNDING FOR THE ACQUISITION OF CERTAIN REAL PROPERTY FOR OPEN SPACE PRESERVATION, THE CONSTRUCTION OF NORTHWEST RESILIENCY PARK (BASF) AND THE CONSTRUCTION OF STORMWATER MANAGEMENT AND FLOOD CONTROL SYSTEMS THEREON, IN AND FOR THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF $19,500,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO $19,500,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING**

| | Purpose/Improvement | Estimated Total Cost | Down Payment | Amount of Obligations | Period of Usefulness |
|---|---|---|---|---|---|
| A. | Supplemental Funding for the Acquisition of certain Real Property for Open Space Preservation in and for the City, designated on the Official Tax Map of the City as Block 103, Lots 7-26 and Block 107, Lot 1, and the Construction thereon of Northwest Resiliency Park (BASF) and a Stormwater Management and Flood Control System; together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto, all as more particularly described in the application (Project No. S340635-06) on file and available for inspection in the office of the City Administrator, as originally authorized by Bond Ordinance Z-370, finally adopted on September 16, 2015 | $19,500,000 | $0 | $19,500,000 | 30 years |

| | |
|---|---|
| Appropriation: | $19,500,000 |
| Bonds/Notes Authorized: | $19,500,000 |
| Grants (if any) Appropriated: | None |
| Section 20 Costs: | $4,000,000 |
| Useful Life: | 30.00 years |

JAMES J. FARINA, RMC, City Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

ress here to Email the SDS if not using Microsoft outlook when complete

# Department of Community Affairs
# Supplemental Debt Statement

0905 **0905 Hoboken City - County of Hudson** Prepared as of: **5-Oct-2016**

Budget Year Ending: **12/31/2016** *(Month-DD)* **2016** *(year)*


Name: George De Stefano
Title: CFO
Address: City of Hoboken
94 Washington Street
Hoboken NJ 07030

Phone: 201-420-2028
Fax: 201-420-2019
Email: gdestefano@hobokennj.gov
CFO Cert #: N0362


**George De Stefano, Being duly sworn, deposes and says: Deponent is the Chief Financial Officer of the 0905 Hoboken City - County of Hudson here and in the statement hereinafter mentioned called the local unit. The Supplemental Debt Statement annexed hereto and hereby made a part hereof is a true statement of the debt condition of the local unit as of the date therein stated and is computed as provided by the Local Bond Law of New Jersey.**

☑ By checking this box, I am swearing that the above statement is true. (The Email function will not work until you acknowledge the above statement as true)

| | Net Debt as per Annual Debt Statement | Decrease (Since December 31, last past) | Increase | Net Debt |
|---|---|---|---|---|
| **Bonds and Notes for School Purposes** | $ - | $ - | $ - | $ - |
| **Bonds and Notes for Self Liquidating Purposes** | $ - | $ - | $ - | $ - |
| **Other Bonds and Notes** | $ 133,794,851.86 | $ 5,595,128.72 | $ 21,765,500.00 | $ 149,965,223.14 |

Net Debt at the time of this statement is..... $ 149,965,223.14

The amounts and purposes separately itemized of the obligations about to be authorized, and any deductions which may be made on account of each such item are: (see Note "C" below)

| Bond Ordinance | Purposes | Amount | Deduction | Net |
|---|---|---|---|---|
| | Acquisition of Certain Real Property for Open Space Preservation | $ 19,500,000.00 | $ - | $ 19,500,000.00 |
| | Acqusisition of Real Property and the Preliminary Costs with Construction of Parking Facility | $ 2,650,000.00 | $ 2,650,000.00 | $ - |
| | | $ - | $ - | $ - |
| | | $ - | $ - | $ - |
| | | $ - | $ - | $ - |
| | | $ - | $ - | $ - |
| | | $ 22,150,000.00 | $ 2,650,000.00 | $ 19,500,000.00 |

The net debt of the local unit determined by the addition of the net debt amounts stated in items 2 and 3 above is: $ 169,465,223.14

Equalized valuation basis (the average of the equalized valuations of real estate, including improvements and the assessed valuation of class II railroad property of the local unit for the last 3 preceding years) as stated in the Annual Debt Statement or the revision therof last filed.

| | Year | | |
|---|---|---|---|
| (1) | 2013 | Equalized Valuation Real Property with Improvements plus assessed valuation of Class II RR Property | $ 11,097,012,867.00 |
| (2) | 2014 | Equalized Valuation Real Property with Improvements plus assessed valuation of Class II RR Property | $ 12,425,885,205.00 |
| (3) | 2015 | Equalized Valuation Real Property with Improvements plus assessed valuation of Class II RR Property | $ 13,251,581,393.00 |

Equalized Valuation Basis - Average of (1), (2) and (3)..... $ 12,258,159,821.67

Net Debt (Line 4 above) expressed as a percentage of such equalized valuation basis (Line 6 above) is: 1.382%

## NOTES

A If authorization of bonds or notes is permitted by an exception to the debt limit, specify the particular paragraph of NJSA 40A:2-7 or other section of law providing such exception.

B This form is also to be used in the bonding of separate (not Type I) school districts as required by NJSA 18A:24-16, and filed before the school district election. In such case pages 4, 5 and 6 should be completed to set forth the computation supporting any deduction in line 3 above.

C Only the account of bonds or notes about to be authorized should be entered. The amount of the "down payment" provided in the bond ordinance should not be included nor shown as a deduction.

ress here to Email the SDS if not using Microsoft outlook when complete

# Department of Community Affairs
# Supplemental Debt Statement

0905 **0905 Hoboken City - County of Hudson** Prepared as of: **5-Oct-2016**

Budget Year Ending: **12/31/2016** *(Month-DD)* **2016** *(year)*


Name: George De Stefano
Title: CFO
Address: City of Hoboken
94 Washington Street
Hoboken NJ 07030

Phone: 201-420-2028
Fax: 201-420-2019
Email: gdestefano@hobokennj.gov
CFO Cert #: N0362


**George De Stefano, Being duly sworn, deposes and says: Deponent is the Chief Financial Officer of the 0905 Hoboken City - County of Hudson here and in the statement hereinafter mentioned called the local unit. The Supplemental Debt Statement annexed hereto and hereby made a part hereof is a true statement of the debt condition of the local unit as of the date therein stated and is computed as provided by the Local Bond Law of New Jersey.**

☑ By checking this box, I am swearing that the above statement is true. (The Email function will not work until you acknowledge the above statement as true)

| | Net Debt as per Annual Debt Statement | Decrease (Since December 31, last past) | Increase | Net Debt |
|---|---|---|---|---|
| **Bonds and Notes for School Purposes** | $ - | $ - | $ - | $ - |
| **Bonds and Notes for Self Liquidating Purposes** | $ - | $ - | $ - | $ - |
| **Other Bonds and Notes** | $ 133,794,851.86 | $ 5,595,128.72 | $ 21,765,500.00 | $ 149,965,223.14 |

Net Debt at the time of this statement is..... $ 149,965,223.14

The amounts and purposes separately itemized of the obligations about to be authorized, and any deductions which may be made on account of each such item are: (see Note "C" below)

| Bond Ordinance | Purposes | Amount | Deduction | Net |
|---|---|---|---|---|
| | Acquisition of Certain Real Property for Open Space Preservation | $ 19,500,000.00 | $ - | $ 19,500,000.00 |
| | Acqusisition of Real Property and the Preliminary Costs with Construction of Parking Facility | $ 2,650,000.00 | $ 2,650,000.00 | $ - |
| | | $ - | $ - | $ - |
| | | $ - | $ - | $ - |
| | | $ - | $ - | $ - |
| | | $ - | $ - | $ - |
| | | $ 22,150,000.00 | $ 2,650,000.00 | $ 19,500,000.00 |

The net debt of the local unit determined by the addition of the net debt amounts stated in items 2 and 3 above is: $ 169,465,223.14

Equalized valuation basis (the average of the equalized valuations of real estate, including improvements and the assessed valuation of class II railroad property of the local unit for the last 3 preceding years) as stated in the Annual Debt Statement or the revision therof last filed.

| | Year | | |
|---|---|---|---|
| (1) | 2013 | Equalized Valuation Real Property with Improvements plus assessed valuation of Class II RR Property | $ 11,097,012,867.00 |
| (2) | 2014 | Equalized Valuation Real Property with Improvements plus assessed valuation of Class II RR Property | $ 12,425,885,205.00 |
| (3) | 2015 | Equalized Valuation Real Property with Improvements plus assessed valuation of Class II RR Property | $ 13,251,581,393.00 |

Equalized Valuation Basis - Average of (1), (2) and (3)..... $ 12,258,159,821.67

Net Debt (Line 4 above) expressed as a percentage of such equalized valuation basis (Line 6 above) is: 1.382%

## NOTES

A If authorization of bonds or notes is permitted by an exception to the debt limit, specify the particular paragraph of NJSA 40A:2-7 or other section of law providing such exception.

B This form is also to be used in the bonding of separate (not Type I) school districts as required by NJSA 18A:24-16, and filed before the school district election. In such case pages 4, 5 and 6 should be completed to set forth the computation supporting any deduction in line 3 above.

C Only the account of bonds or notes about to be authorized should be entered. The amount of the "down payment" provided in the bond ordinance should not be included nor shown as a deduction.

1st reading (4)
10-5-16

INTRODUCED BY: _____
SECONDED BY: _____

**CITY OF HOBOKEN, NEW JERSEY**

**ORDINANCE NO. _____** Z-442

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**BOND ORDINANCE AUTHORIZING SUPPLEMENTAL FUNDING FOR THE ACQUISITION OF REAL PROPERTY AND THE PRELIMINARY COSTS ASSOCIATED WITH THE CONSTRUCTION OF A PARKING FACILITY THEREON IN AND FOR THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF $2,650,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO $2,650,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING**

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**BE IT ORDAINED** by the City Council of the City of Hoboken, County of Hudson, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

**Section 1.** The purposes described in Section 7 hereof are hereby authorized as general improvements to be made or acquired by the City of Hoboken, County of Hudson, New Jersey ("City").

**Section 2.** It is hereby found, determined and declared as follows:

(a) the estimated amount to be raised by the City from all sources for the purposes stated in Section 7 hereof is $2,650,000; and

(b) the estimated amount of bonds or bond anticipation notes to be issued for the purposes stated in Section 7 hereof is $2,650,000.

**Section 3.** The sum of $2,650,000, to be raised by the issuance of bonds or bond anticipation notes is hereby appropriated for the purposes stated in this bond ordinance ("Bond Ordinance").

**Section 4.** The issuance of negotiable bonds of the City in an amount not to exceed $2,650,000 to finance the costs of the purposes described in Section 7 hereof is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law.

**Section 5.** In order to temporarily finance the purposes described in Section 7 hereof, the issuance of bond anticipation notes of the City in an amount not to exceed $2,650,000 is hereby authorized. Pursuant to the Local Bond Law, the Chief Financial Officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this Bond Ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

**Section 6.** The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, N.J.S.A. 40A:2-20, shall not exceed the sum of $650,000.

**Section 7.** The improvements hereby authorized and the purposes for which said obligations are to be issued; the estimated costs of each said purpose; the amount of down payment for each said purpose; the maximum amount obligations to be issued for each said purpose and the period of usefulness of each said purpose within the limitations of the Local Bond Law are as follows:

| | Purpose/Improvement | Estimated Total Cost | Down Payment | Amount of Obligations | Period of Usefulness |
|---|---|---|---|---|---|
| A. | Supplemental Funding for the Acquisition of certain Real Property designated on the Official Tax Map of the City as Block 113, Lot 1 and the Preliminary Costs Associated with the Construction of a Parking Facility thereon; together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto, all as more particularly described in the plans and specifications on file and available for inspection in the office of the City Administrator, as originally authorized by Bond Ordinance Z-372, finally adopted on September 16, 2015 | $2,650,000 | $0 | $2,650,000 | 30 years |

**Section 8.** Grants or other monies received from any governmental entity, if any, will be applied to the payment of, or repayment of obligations issued to finance, the costs of the purposes described in Section 7 above.

**Section 9.** The supplemental debt statement provided for in Section 10 of the Local Bond Law, N.J.S.A. 40A:2-10, was duly filed in the office of the Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. The supplemental debt statement shows that the gross debt of the City, as defined in Section 43 of the Local Bond Law, N.J.S.A. 40A:2-43, is increased by this Bond Ordinance by $2,650,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

**Section 10.** The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance, and to the extent payment is not otherwise provided, the City shall levy ad valorem taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

**Section 11.** The applicable Capital Budget of the City is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended applicable Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Clerk and available for inspection.

**Section 12.** The City hereby declares its intent to reimburse itself from the proceeds of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code"), for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the City prior to the issuance of such bonds or bond anticipation notes.

**Section 13.** The City hereby covenants as follows:

(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes authorized by the Bond Ordinance is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Ogden, Utah Service Center of the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

**Section 14.** The improvements authorized hereby are not current expenses and are improvements that the City may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

**Section 15.** All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 16.** In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

**Introduction:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | ✓ | | | |
| Peter Cunningham | ✓ | | | |
| Michael DeFusco | ✓ | | | |
| James Doyle | ✓ | | | |
| Tiffanie Fisher | ✓ | | | |
| David Mello | ✓ | | | |
| Ruben Ramos, Jr. | ✓ | | | |
| Michael Russo | ✓ | | | |
| President Jennifer Giattino | ✓ | | | |

**Final Reading:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | | | | |
| Peter Cunningham | | | | |
| Michael DeFusco | | | | |
| James Doyle | | | | |
| Tiffanie Fisher | | | | |
| David Mello | | | | |
| Ruben Ramos, Jr. | | | | |
| Michael Russo | | | | |
| President Jennifer Giattino | | | | |

Approved as to Legal Form:

_____
Brian Aloia, Esq., Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2016

_____
James Farina, City Clerk

Vetoed by the Mayor for the following reasons: _____

*-or-*

Approved by the Mayor
On the ___ day of _____, 2016

_____
Dawn Zimmer, Mayor

**Notice of Pending Bond Ordinance and Summary**

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the City Council of the City of Hoboken, in the County of Hudson, State of New Jersey, on October 5, 2016. It will be further considered for final passage, after public hearing thereon, at a meeting of the City Council to be held at City Hall, 94 Washington Street, Hoboken, New Jersey on _____, 2016 at _____ o'clock __M. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the City Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: **BOND ORDINANCE AUTHORIZING SUPPLEMENTAL FUNDING FOR THE ACQUISITION OF REAL PROPERTY AND THE PRELIMINARY COSTS ASSOCIATED WITH THE CONSTRUCTION OF A PARKING FACILITY THEREON IN AND FOR THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF $2,650,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO $2,650,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING**

| | Purpose/Improvement | Estimated Total Cost | Down Payment | Amount of Obligations | Period of Usefulness |
|---|---|---|---|---|---|
| A. | Supplemental Funding for the Acquisition of certain Real Property designated on the Official Tax Map of the City as Block 113, Lot 1 and the Preliminary Costs Associated with the Construction of a Parking Facility thereon; together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto, all as more particularly described in the plans and specifications on file and available for inspection in the office of the City Administrator, as originally authorized by Bond Ordinance Z-372, finally adopted on September 16, 2015 | $2,650,000 | $0 | $2,650,000 | 30 years |

| | |
|---|---|
| Appropriation: | $2,650,000 |
| Bonds/Notes Authorized: | $2,650,000 |
| Grants (if any) Appropriated: | N/A |
| Section 20 Costs: | $650,000 |
| Useful Life: | 30.00 years |

JAMES J. FARINA, RMC, City Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

## Bond Ordinance Statements and Summary

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the City Council of the City of Hoboken, in the County of Hudson, State of New Jersey on _____, 2016 and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the City Clerk's office in the Municipal Building, 94 Washington Street, Hoboken, New Jersey, for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title: **BOND ORDINANCE AUTHORIZING SUPPLEMENTAL FUNDING FOR THE ACQUISITION OF REAL PROPERTY AND THE PRELIMINARY COSTS ASSOCIATED WITH THE CONSTRUCTION OF A PARKING FACILITY THEREON IN AND FOR THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY; APPROPRIATING THE SUM OF $2,650,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF HOBOKEN, COUNTY OF HUDSON, NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO $2,650,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING**

| | Purpose/Improvement | Estimated Total Cost | Down Payment | Amount of Obligations | Period of Usefulness |
|---|---|---|---|---|---|
| A. | Supplemental Funding for the Acquisition of certain Real Property designated on the Official Tax Map of the City as Block 113, Lot 1 and the Preliminary Costs Associated with the Construction of a Parking Facility thereon; together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto, all as more particularly described in the plans and specifications on file and available for inspection in the office of the City Administrator, as originally authorized by Bond Ordinance Z-372, finally adopted on September 16, 2015 | $2,650,000 | $0 | $2,650,000 | 30 years |

| | |
|---|---|
| Appropriation: | $2,650,000 |
| Bonds/Notes Authorized: | $2,650,000 |
| Grants (if any) Appropriated: | N/A |
| Section 20 Costs: | $650,000 |
| Useful Life: | 30.00 years |

JAMES J. FARINA, RMC, City Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.

1st reading (5)
10-5-16

INTRODUCED BY: _____

SECONDED BY: _____

**CITY OF HOBOKEN**
**ORDINANCE NO. _____** Z-443

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF THE REAL PROPERTY CURRENTLY KNOWN AND DESCRIBED AS BLOCK 103, LOT 7; BLOCK 107, LOT 1; AND BLOCK 113, LOT 1 ON THE OFFICIAL TAX MAP OF THE CITY OF HOBOKEN ("THE PROPERTY") FOR PUBLIC OPEN SPACE AND PARK PURPOSES, AND/OR OTHER PUBLIC PURPOSES, INCLUDING, WITHOUT LIMITATION, THE INSTALLATION OF A SUBSURFACE STORMWATER MANAGEMENT AND FLOOD CONTROL FACILITY AND, ON BLOCK 113, LOT 1, A MUNICIPAL ABOVE-GROUND PARKING GARAGE AND FACILITY AND AUTHORIZING ALL ACTIONS NECESSARY TO IMPLEMENT AND EFFECT THE ACQUISITION OF THE PROPERTY.**

**WHEREAS,** N.J.S.A. 40A:12-5 and N.J.S.A. 20:3-1 et seq. authorize public entities to acquire real property or an interest in real property; and

**WHEREAS,** the City Council of the City of Hoboken ("Council" or "City") has deemed it necessary to acquire certain real property in the City currently known as Block 103, Lot7; Block 107, Lot ; and Block 113, Lot 1 on the Official Tax Map of the City (the "Property"); and

**WHEREAS,** the City Council adopted Ordinance No. Z-190 on June 20, 2012 authorizing the acquisition of the Property for public open space and park purposes by purchase or eminent domain, if necessary; and

**WHEREAS,** subsequent to the adoption of Ordinance No. Z-190, an offer to purchase the Property was made by the City to the owners of the Property; and

**WHEREAS,** the current owner of the Property is Cognis USA LLC ("Cognis"); and

**WHEREAS,** negotiations have ensued between the City and Cognis and have now resulted in an Agreement for the City to acquire the Property in consideration of the payment of THIRTY MILLION DOLLARS ($30,000,000.00); and

**WHEREAS,** there has been prepared a certain "Agreement of Purchase and Sale by and Between Cognis USA LLC, as Seller and City of Hoboken, as Buyer", dated as of September 2016 ("Purchase and Sale Agreement"), setting forth the rights, duties and obligations of the parties in connection with the purchase and sale of the Property; and

**WHEREAS,** the City desires to approve the terms and conditions of said Purchase and Sale Agreement, authorize its execution and authorize the acquisition of the Property,in accordance with the terms and conditions of said Purchase and Sale Agreement; and

**WHEREAS,** the City further desires to authorize the execution of additional related Agreements and documents, including, without limitation, appropriate related Escrow Agreements, Affidavits, Post-Closing Access Agreement, Closing Statements, and all other documents and Agreements necessary to effectuate the purposes of this Ordinance and the acquisition of the Property.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hoboken as follows:

**SECTION 1.** All the terms and conditions of a certain Purchase and Sale Agreement by and between Cognis USA LLC ("Cognis") as Seller and City of Hoboken ("City"), as Buyer, dated as of September, 2016, for the acquisition of certain real property in the City currently known as Block 103, Lot 7; Block 107, Lot 1; and Block 113, Lot 1 on the Official Tax Map of the City (the "Property"), in and for the consideration of THIRTY MILLION DOLLARS ($30,000,000.00) to be paid by the City to Cognis, be and the same are hereby approved, ratified and confirmed by the City, subject to any non-material minor and insubstantial changes that may be made in the final form of the Purchase and Sale Agreement and other attached documents, as approved by the Mayor on the advice of counsel and/or other professionals of the City, **PROVIDED, HOWEVER,** that the purchase price of THIRTY MILLION DOLLARS ($30,000,000.00) shall not be modified in any way.

**SECTION 2.** By virtue of the introduction and adoption of other Ordinances and this Ordinance and the taking of other actions, the City hereby authorizes the expenditure of the purchase price of THIRTY MILLION DOLLARS ($30,000,000.00) and the expenditure of the requisite costs and disbursements related to the consummation of the transaction of the acquisition of the Property.

**SECTION 3.** The Mayor and City Clerk, be and are hereby authorized to execute the Purchase and Sale Agreement approved hereunder and the Mayor and City Council, the Clerk of the City, and such other officials, consultants, agents, professionals and employees of the City as may be necessary and appropriate shall be, and are hereby authorized to pursue the implementation of the Purchase and Sale Agreement and to take of all steps necessary to effectuate and implement the Purchase and Sale Agreement and the ultimate acquisition of the Property, including, without limitation, the purchase of Title Insurance and Environmental Insurance as appropriate, and the execution of additional related Agreements and documents, including, without limitation, appropriate related Escrow Agreements, Affidavits, Post-Closing Access Agreement, Closing Statement, Internal Revenue Service and Code forms and all other documents and Agreements necessary to effectuate the purposes of this Ordinance and the acquisition of the Property.

**SECTION 4.** Subject to the terms and conditions of the Purchase and Sale Agreement, in conjunction with such acquisition, the City hereby reserves and shall reserve

any and all rights it has, or may have, or shall in the future have in connection with its acquisition and ownership of the Property.

**SECTION 5.** All Ordinances previously adopted in connection with this acquisition shall remain in full force and effect, except to the extent that the same are inconsistent with the terms and conditions of this Ordinance.

**SECTION 6.** All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 7.** If any section, paragraph, article, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply to the section, paragraph, article, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION 8.** This Ordinance shall take effect after approval and publication as required by law.

**Date of Introduction: October 5, 2016**

**Introduction:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | ✓ | | | |
| Peter Cunningham | ✓ | | | |
| Michael DeFusco | ✓ | | | |
| James Doyle | ✓ | | | |
| Tiffanie Fisher | ✓ | | | |
| David Mello | ✓ | | | |
| Ruben Ramos, Jr. | ✓ | | | |
| Michael Russo | ✓ | | | |
| President Jennifer Giattino | ✓ | | | |

**Final Reading:**

| Councilperson | Yea | Nay | Abstain/Present | Absent |
|---|---|---|---|---|
| Ravinder Bhalla | | | | |
| Peter Cunningham | | | | |
| Michael DeFusco | | | | |
| James Doyle | | | | |
| Tiffanie Fisher | | | | |
| David Mello | | | | |
| Ruben Ramos, Jr. | | | | |
| Michael Russo | | | | |
| President Jennifer Giattino | | | | |

Approved as to Legal Form:

_____

Brian Aloia, Esq., Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2016

_____

James Farina, City Clerk

Vetoed by the Mayor for the following reasons: _____

_____

_____

_____

_____

***-or-***

Approved by the Mayor
On the ___ day of _____, 2016

_____

Dawn Zimmer, Mayor

**NOTICE OF INTRODUCTION**
**CITY OF HOBOKEN, HUDSON COUNTY**
**ORDINANCE NO. ___**

**NOTICE IS HEREBY GIVEN,** that the foregoing Ordinance entitled "An Ordinance Authorizing the Acquisition of the Real Property Currently Known and Described as Block 103, Lot 7; Block 107, Lot 1; and Block 113, Lot 1 on the Official Tax Map of the City of Hoboken (The "Property") for Public Open Space and Park Purposes, and/or Other Public Purposes, Including, Without Limitation, the Installation of a Subsurface Stormwater Management and Flood Control Facility and, on Block 113, Lot 1, a Municipal Above-Ground Parking Garage and Facility and Authorizing All Actions Necessary to Implement and Effect the Acquisition of the Property", and was introduced, read by title and passed on the first reading at a meeting held on October 5, 2016. A Statement of Purpose of the Ordinance is contained below. The Council of the City of Hoboken will further consider the Ordinance for second reading and final passage thereof at their meeting to be held on _____, 2016 at _____ p.m., prevailing time, at City Hall, 94 Washington Street, Hoboken, New Jersey 07030, at which time and place a public hearing will be held thereon by the City Council and all parties in interest and citizens shall have an opportunity to be heard concerning said Ordinance.

**STATEMENT OF PURPOSE OF ORDINANCE**

The purpose of the above Ordinance is to authorize the acquisition of the real property known as Block 103, Lot 7; Block 107, Lot 1; and Block 113, Lot 1 on the Official Tax Map of the City of Hoboken for public open space and park purposes, and/or other public purposes, including, without limitation, the installation of a subsurface stormwater management and flood control facility and, on Block 113, Lot 1, a municipal above-ground parking garage and facility for the purchase price of THIRTY MILLION DOLLARS ($30,000,000.00). The Ordinance approves the terms and conditions of a Purchase and Sale Agreement, authorizes its execution by the Mayor and City Clerk and authorizes other employees, officials and professionals of the City to take all steps necessary to implement the acquisition of the Property. The Ordinance also authorizes the execution of ancillary related documents such as the Closing Statement, Affidavits, Post-Closing Access Agreement, Escrow Agreements, Internal Revenue Code forms and all the typical documents associated with an acquisition of property. It also authorizes non-material modifications in the final form of the Purchase and Sale Agreement and other attached documents, provided that the purchase price is not modified. The Ordinance authorizes the purchase of Title Insurance and Environmental Insurance as appropriate.

A copy of the full Ordinance is available to any member of the general public, without cost, at the Hoboken City Hall, 94 Washington Street, Hoboken, New Jersey at the Office of the City Clerk, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

*/s/* James J. Farina
James J. Farina, City Clerk

# CITY OF HOBOKEN

## Office of the Business Administrator

**DAWN ZIMMER**
**Mayor**

**QUENTIN WIEST**
**Business Administrator**

**STEPHEN D. MARKS, PP, AICP**
**Municipal Manager**

**MEMORANDUM**

| | |
|---|---|
| TO: | HON. DAWN ZIMMER, MAYOR<br>AND MEMBERS OF THE HOBOKEN CITY COUNCIL |
| FROM: | STEPHEN MARKS, MUNICIPAL MANAGER |
| COPY: | QUENTIN WIEST, BUSINESS ADMINISTRATOR |
| DATE: | SEPTEMBER 30, 2016 |
| RE: | ACQUISITION OF BASF SITE |

Please accept the following outline related to acquisition of the BASF site:

- The City has successfully negotiated a purchase price of $30 million for the BASF site. This comes out to approximately $5 million per acre, which is comparable with what the City paid for the Block 12 (Southwest Park) site.
- The BASF site is 6.107 acres in total (please see the attached land survey). The central tract (Block 107) is 4.27 acres, the equivalent of two city blocks. The southern "wing" (Block 103) is 1.148 acres. The northern "wing" (Block 113) is .689 acres.
- The City plans to construct a park on both the southern wing (Block 103) and central tract (Block 107). The park will be nearly 5.5 acres.
- The City plans to use the northern wing (Block 113) for a municipal parking facility.
- The pro-rated purchase price of the central tract (Block 107) and southern wing (Block 103) is $26,633,416.50.
- The pro-rated purchase price of the northern wing (Block 113) is $3,366,583.50.
- In September 2015, the City Council approved Bond Ordinance Z-370 which authorized $11,902,264 for purchase of the central tract (Block 107) and southern wing (Block 103). The $11.9 million figure was based upon a 2014 real estate appraisal.
- In September 2015, the City Council also passed ordinances Z-371 and Z-372. Z-371 authorized the acquisition of Block 113 for municipal parking purposes. Z-372 authorized the issuance of a Hoboken Parking Utility (HPU) bond for $1,610,000.
- On October 5, 2016 the administration recommends introduction of three ordinances to effectuate the acquisition of the BASF site: 1) an ordinance authorizing the issuance of a $19.5 million bond (NJEIT low interest loan) to be used toward acquisition of Block 103 and 107; 2) an ordinance authorizing issuance of a $2.5 million HPU bond to be used toward acquisition of Block 113; and, 3) an ordinance authorizing the mayor, or duly authorized representative, to sign the real estate contract/purchase agreement, make a $3 million deposit, and execute all documents necessary to transfer ownership of the property.

**94 Washington Street · Hoboken, NJ 07030-0485**
(201) 420-2059 · fax (201) 420-2096

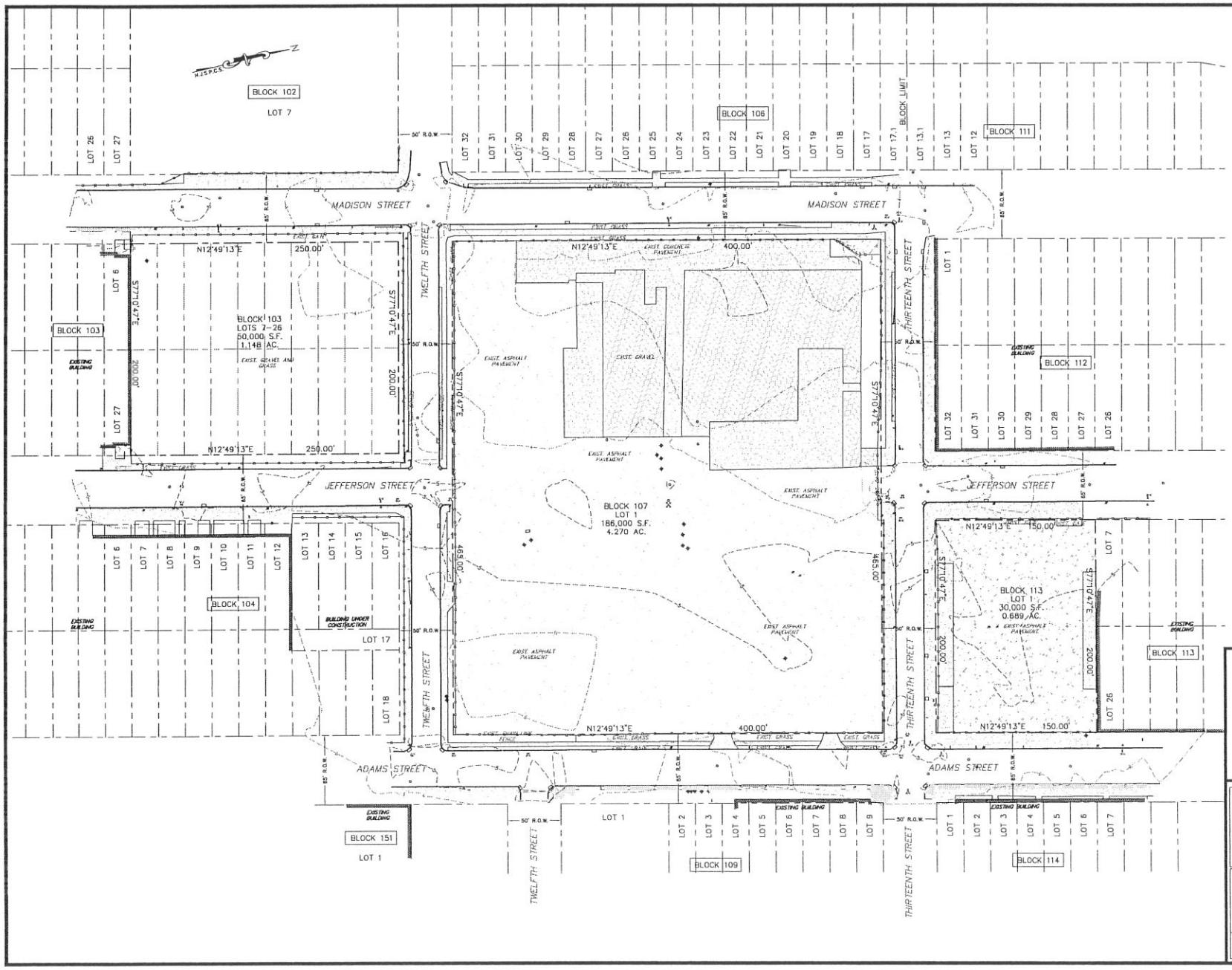
- The City plans to utilize the New Jersey Environmental Infrastructure Trust Fund (NJEIT) for a low interest loan for acquisition of the central tract (Block 107) and southern wing (Block 103), as well as permissible "soft costs." The NJEIT is New Jersey's State Revolving Loan (SRL) fund, which makes federal funding available for water infrastructure projects. The NJEIT is partnered with the NJ Department of Environmental Protection (NJDEP) to administer and finance New Jersey's Clean Water program.
- Because Hoboken has a combined sewer system which is no longer permitted by the US Environmental Protection Agency (USEPA), the City is eligible for 19% principal forgiveness on NJEIT low interest loans for "green infrastructure" projects which capture rain water before it enters the combined sewer system.
- As a further inducement, the NJEIT low interest loan program features 75% of its loans at 0% interest and 25% of its loans at market rate interest (about 0.5%).
- The NJEIT estimates that borrowers save about 45% on financing a 30 year bond versus conventional market financing.
- The NJEIT has also estimated that Hoboken will save approximately $10 million on this one loan due to the principal forgiveness and low interest incentives.
- In addition to the pro-rated purchase price of $26,633,416.50 for the central tract (Block 107) and southern wing (Block 103), the City is seeking $2,530,000 for planning, design, engineering, permitting and environmental investigation. The loan also includes $2,130,673.23 for NJDEP administrative fees and a contingency. The latter two figures are based upon a NJEIT/NJDEP formula.
- In addition to the pro-rated purchase price of $3,366,583.50 for the northern wing (Block 113), the bond ordinance contains approximately $650,000 in chapter 20 "soft costs" for planning, engineering and design of a municipal parking facility.

**Table 1.**

| Description | Blocks 103/107 | Block 113 | Total |
|---|---|---|---|
| Pro-rated Purchase Price | $26,633,416.50 | $3,366,583.50 | $30,000,000.00 |
| Ordinance Z-370 | $11,902,264.00 | | $11,902,264.00** |
| Ordinance Z-372 | | $1,610,000.00 | $1,610,000.00 |
| 10/5/16 Ordinance #1 | $19,500,000.00 | | $19,500,000.00** |
| 10/5/16 Ordinance #2 | | $2,500,000.00 | $2,500,000.00 |
| Engineering, Design, Permitting | $2,530,000.00* | $650,000.00* | |
| NJDEP Fees and Contingency | $2,130,673.23* | | |
| Total of Bond Ordinances | $31,402,264.00** | $4,110,000.00 | $35,512,264** |

***These figures are included within the bond ordinance amounts and are not separately added to avoid double counting.***

****Principal forgiveness has <u>not</u> been deducted from these figures. Nineteen percent principal forgiveness on $31,402,264 is approximately $5,966,430.16. When said principal forgiveness is applied, the pro-rated purchase price for Blocks 103 and 107 drops to $25,435,833.80.***




## GENERAL NOTES:

1. THIS PLAN REPRESENTS A SURVEY MADE ON THE GROUND.
2. A TITLE REPORT OR COMMITMENT WAS NOT PROVIDED OR USED IN THE PREPARATION OF THIS SURVEY.
3. IF THIS PLAN DOES NOT CONTAIN AN ORIGINAL SIGNATURE AND IMPRESSION SEAL OF THE UNDERSIGNED LICENSED LAND SURVEYOR IT IS NOT AN AUTHENTIC COPY AND MAY HAVE BEEN ALTERED.
4. R.O.W. LINES AND ADJOINING PROPERTY LINES SHOWN HEREON WERE TAKEN FROM THE TAX MAPS FOR THIS MUNICIPALITY.
5. THIS SURVEY IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, WRITTEN AND UNWRITTEN.
6. THIS SURVEY MAKES NO REPRESENTATION TO THE LOCATION OF ANY SUB-SURFACE UTILITIES OR STRUCTURES THAT WERE NOT VISIBLE AT THE TIME OF THIS SURVEY.
7. A WRITTEN WAIVER AND DIRECTION NOT TO SET CORNER MARKERS HAS BEEN OBTAINED FROM "THE ULTIMATE USER" PURSUANT TO P.L.2003, C.14 N.J.S.A. C45:8-36.3 AND N.J.A.C.13:40-5.1(D).
8. THIS LAND SURVEY IS PREPARED FOR THE BENEFIT OF THE PARTIES LISTED AND IS NOT PREPARED FOR OR CERTIFIED TO SUBSEQUENT PARTIES.
9. HORIZONTAL CONTROL FOR THIS PROJECT IS BASED ON NAD 1983 DATUM ESTABLISHED BY NETWORK RTK G.P.S. OBSERVATIONS.
10. VERTICAL CONTROL FOR THIS PROJECT IS BASED ON NAVD 1988 DATUM ESTABLISHED BY NETWORK RTK G.P.S. OBSERVATIONS.
11. TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED ON A SURVEY MADE ON THE GROUND BY ENGINEERING AND LAND PLANNING ASSOCIATES, INC. IN DECEMBER OF 2014.

## REFERENCES:

1. DEED BOOK 4854, PAGE 001.
2. DEED BOOK 4854, PAGE 003.
3. DEED BOOK 8329, PAGE 001.
4. DEED BOOK 7506, PAGE 273.
5. DEED BOOK 7506, PAGE 262.
6. DEED BOOK 7242, PAGE 083.
7. DEED BOOK 7892, PAGE 179.
8. DEED BOOK 7226, PAGE 334.
9. DEED BOOK 8942, PAGE 759.
10. DEED BOOK 8942, PAGE 768.
11. DEED BOOK 8958, PAGE 916.
12. DEED BOOK 8954, PAGE 909.
13. DEED BOOK 8937, PAGE 931.
14. DEED BOOK 8885, PAGE 558.
15. A MAP ENTITLED "FINAL MAJOR SUBDIVISION PLAT, BLOCK 103 DEVELOPMENT, LLC, 1101-1111 MADISON STREET, 1100-1110 JEFFERSON STREET, BLOCK 103, LOTS 1-8, 27-32", PREPARED BY LAPATIKA ASSOCIATES, INC., DATED 01/22/08, AND LAST REVISED 12/14/09, FILED IN THE HUDSON COUNTY CLERK'S OFFICE AS FILED MAP NO. 08-10.
16. A MAP ENTITLED "PRELIMINARY & FINAL MAJOR SUBDIVISION PLAT, ADAMS STREET DEVELOPMENT, LLC, 1100-1118 ADAMS STREET, 1120-1122 ADAMS STREET, 1121-1123 JEFFERSON STREET, BLOCK 104, LOTS 1-12, 22-33", PREPARED BY LAPATIKA ASSOCIATES, LLC, DATED 03/10/03, AND LAST REVISED 11/03/03, FILED IN THE HUDSON COUNTY CLERK'S OFFICE AS FILED MAP NO. 3948.

40 0 40 120

Scale 1" = 40 ft


Engineering & Land Planning Associates, Inc.

140 WEST MAIN STREET HIGH BRIDGE, NJ 08829
PH. 908-238-0544 FAX. 908-238-9572
A PROFESSIONAL ASSOCIATION
AUTHORIZATION CERT. 24GA28021500 EXP. 8/31/2016


# PLAN OF SURVEY

FOR
BLOCK 103 LOTS 7 - 26
BLOCK 107 LOT 1
BLOCK 113 LOT 1
LOCATED IN
CITY OF HOBOKEN HUDSON COUNTY
NEW JERSEY


ROBERT ENT, JR.
PROFESSIONAL LAND SURVEYOR

01/28/15
ROBERT ENT, JR.-N.J.P.L.S. GS43256 DATE


| | | | |
|---|---|---|---|
| SCALE: 1" = 40' | DRAWN BY: FRB | CHKD BY: RE, Jr | SHEET 1 of 1 |
| DATE: JAN. 2015 | JOB NO: 14311C | DWG FILE: HOBOKEN-BASF.DWG | |

**MUST SUBMIT IN DUPLICATE**
NC1645 – Affidavit of Consideration for Use by Seller
RTF-1 (Rev. 7/14/10) P7/10

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STATE OF NEW JERSEY

# AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, **P.L.** 1968, as amended through Chapter 33, **P.L.** 2006)(**N.J.S.A.** 46:15-5 et seq.)

**BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.**

TATE OF NEW JERSEY
:S. County Municipal Code

'OUNTY OF HUDSON 0905
1UNICIPALITY OF PROPERTY City of Hoboken
OCATION

**FOR RECORDER'S USE ONLY**
Consideration $_____
RTF paid by seller $_____
Date _____ By_____

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (*Instructions 3 and 4 attached*)

Deponent, _____, being duly sworn according to law upon their oath, deposes
(Name)
and says that he/she is the _____ in a deed dated _____ **(Grantor, Leg**
**Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)**
transferring real property identified as Block number _____ Lot number _____
located at _____ and annexed thereto.
(Street Address, Town)

(2) **CONSIDERATION$** _____ (*Instructions #1 and #5 on reverse side*) ☐no prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A is required.

(3A) **REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:** (*Instructions #5 and #7 on reverse side*)

**Total Assessed Valuation** **÷ Director's Ratio** **= Equalized Assessed Valuation**
$_____ ÷ _____% = $_____

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assesse value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE(*See Instruction #8 on reverse side*)
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by **C.** 49, **P.L.** 1968, as amended through **C.** 66, **P.L.** 2004, for the followir reason(s). Mere reference to exemption symbol is insufficient. Explain in detail. _____

(5) PARTIAL EXEMPTION FROM FEE (*Instruction #9 on reverse side*)
**NOTE**: All boxes below apply to grantor(s) only. **ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED**. Failure to do so will void claim for parti exemption. Deponent claims that this deed transaction is exempt from the State's portion of the Basic, Supplemental and General Purpose Fees, as applicable, imposed by **C.** 17( **P.L.** 1975, **C.** 113, **P.L.** 2004 and **C.** 66, **P.L.** 2004 for the following reason(s): _____

**A.SENIOR CITIZEN** (*Instruction #9 on reverse side for A or B*)
- ☐ Grantor(s) 62 years of age or over.*
- ☐ Owned and occupied by grantor(s) at time of sale.
- ☐ One- or two-family residential premises.
- ☐ Resident of the State of New Jersey.
- ☐ Owners as joint tenants must all qualify.

**B.BLIND PERSON** (*Instruction #9 on reverse side for A or B*)
- ☐ Grantor(s) legally blind.*
- ☐ Owned and occupied by grantor(s) at time of sale.
- ☐ One- or two-family residential premises
- ☐ Resident of State of New Jersey.
- ☐ Owners as joint tenants must all qualify.

* IN THE CASE OF HUSBAND AND WIFE OR STATUTORY PARTNER, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

**DISABLED PERSON** (*Instruction #9 on reverse side for A or B*)
- ☐ Grantor(s) permanently and totally disabled.*
  - ☐ Grantor(s) receiving disability payments.*
  - ☐ Grantor(s) not gainfully employed.*
- ☐ Owned and occupied by grantor(s) at time of sale.
  - ☐ One- or two-family residential premises
  - ☐ Resident of the State of New Jersey.
  - ☐ Owners as joint tenants must all qualify.

C. **LOW AND MODERATE INCOME HOUSING** (*Instruction #9 on reverse side*)
- ☐ Affordable according to HUD standards.
- ☐ Meets income requirements of region.
- ☐ Reserved for occupancy.
- ☐ Subject to resale controls.

(6) NEW CONSTRUCTION(*Instructions #2, #10 and #12 on reverse side*)
- ☐ Entirely new improvement.
- ☐ Not previously used for any purpose.
- ☐ Not previously occupied.
- ☐ "**New Construction**" printed clearly at top of first page of deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES(*Instructions #5, #12, #14 on reverse side*)
- ☐ No prior mortgage assumed or to which property is subject at time of sale.
- ☐ No contributions to capital by either grantor or grantee legal entity.
- ☐ No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce the County Clerk or Register of Deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, **P.L.** 1968, as amended through Chapter 33, **P.L.** 2006.

Subscribed and sworn to before me
this _____
day of _____

**SEE SIGNATURE AND NOTARY PAGES ATTACHED HERETO.**

_____
Grantor Name

_____
Notary Public

_____
Deponent Address

_____
Grantor Address at Time of Sale

XXX-XXX-
Last 3 digits in Grantor's Social Security Number

_____
Name/Company of Settlement Officer

'ounty recording officers shall forward one copy of each .ffidavit of Consideration for Use by Seller when ection 3A is completed to:

**FOR OFFICIAL USE ONLY**
Instrument Number _____ County _____
Deed Number _____ Book _____ Page _____
Deed Dated _____ Date Recorded _____

**State of New Jersey – Division of Taxation, P.O. Box 251, Trenton, NJ 08695-0251, Attention: Realty Transfer Fee Unit**

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without the prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at: **www.state.nj.us/treasury/taxation/lpt/localtax.htm**

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83586815.36

# AGREEMENT OF PURCHASE AND SALE

**BY AND BETWEEN**

**COGNIS USA LLC,**

**as Seller**

**AND**

**CITY OF HOBOKEN,**

**as Buyer**

Dated as of September ____, 2016

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# AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale ("**Agreement**") is made and entered into by and between Buyer and Seller.

## RECITALS

**A.** Defined terms are indicated by initial capital letters. Defined terms shall have the meanings set forth herein, whether or not such terms are used before or after the definitions are set forth.

**B.** Seller holds record title to the Property pursuant to Deed dated October 25, 2001 from Henkel Corporation which Deed was recorded in the Office of the County Register of Hudson County on October 29, 2001 in Deed Book 5888, page 308.

**C.** Buyer sought to acquire the Property by purchase or through eminent domain, and in furtherance thereof, Buyer adopted City of Hoboken Ordinance No. Z-190 authorizing Buyer to acquire the Property by purchase or eminent domain, if necessary.

**D.** Buyer and Seller entered into negotiations regarding the value of the Property.

**E.** Buyer desires to buy, and Seller desires to sell, the Property upon the terms and conditions set forth in this Agreement in lieu of Buyer's condemnation of the Property through eminent domain proceedings.

**F.** Buyer adopted City of Hoboken Ordinance No. _____ authorizing Buyer to enter into this Agreement, perform its obligations hereunder and pay the Purchase Price in connection with Buyer's purchase of the Property (the "**Authorizing Ordinance**").

**G.** Seller and Buyer acknowledge and agree that this Agreement is a full and final settlement agreement of any and all claims that could have been asserted by either party against the other only in an eminent domain proceeding in connection with the Property, it being understood that as part of said settlement, the parties shall, prior to and after Closing, have the rights set forth in this Agreement in accordance with the terms hereof.

**NOW, THEREFORE,** in consideration of the mutual terms, provisions, covenants and agreements set forth herein, as well as the sums to be paid by Buyer to Seller, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Buyer and Seller agree as follows:

## ARTICLE 1

## Basic Information

**1.1 Certain Basic Terms**. The following defined terms shall have the meanings set forth below:

**1.1.1** Access Agreement: Shall mean a duly executed Access Agreement in substantially the form of **Exhibit H** in order to allow Seller reasonable access for a reasonable period of time to the Land or any portion thereof post-Closing such that Seller may complete Seller's Remediation as set forth herein.

**1.1.1.A** Anticipated Action Plan: Shall mean the written plan and project schedule setting forth the activities to be undertaken upon the soils and groundwater upon, under, about and on the Land by Seller in connection with Seller's Remediation, through the issuance of a site-wide Soils RAO and a site-wide Groundwater RAO, attached hereto as **Exhibit M**, it being understood that the Anticipated Action Plan represents the measures that Seller currently anticipates to obtain the Soils RAO and/or Groundwater RAO, and that Seller may ultimately implement other measures to procure the Soils RAO and/or Groundwater RAO, subject to the approval of its LSRP. If Seller amends the Anticipated Action Plan in any material respect, Seller shall promptly give Buyer a copy of the revised Anticipated Action Plan, and Buyer shall have fourteen (14) days to review and comment on the revised Anticipated Action Plan, it being understood that Seller shall not be obligated to incorporate Buyer's comments to the revised Anticipated Action Plan, so long as the proposed activities set forth in the revised Anticipated Action Plan do not violate any applicable Environmental Laws. The parties acknowledge and agree that the Anticipated Action Plan does not constitute a Remedial Action Workplan pursuant to applicable Environmental Laws.

**1.1.2** Appeal Period: Shall mean the period of time specified by statute, court rule, regulation or other legal requirement within which an appeal may be taken by any party from the adoption of the Authorizing Ordinance or any resolution authorizing the Buyer's execution of, and performance under, this Agreement (or of any proposed settlement of any appeal with respect to the Authorizing Ordinance or any such resolution), and includes the period for filing an appeal to an appellate court after entry of a judgment or decision by a lower court or administrative agency.

**1.1.3** Area(s) of Concern: Shall mean any existing or former distinct location or environmental medium where any hazardous substance, hazardous waste, or pollutant, as defined by Environmental Laws, is known or suspected to have been discharged, generated, manufactured, refined, transported, stored, handled, treated, or disposed, or where any hazardous substance, hazardous waste, or pollutant has or may have migrated to or from the Property.

**1.1.4** Authorizing Ordinance: Shall have the meaning set forth in Section F of the Recitals to this Agreement.

**1.1.5** Bulk Sales Claim: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.6** Buyer: City of Hoboken, with an address at 94 Washington Street, Hoboken, New Jersey 07030..

**1.1.7** Buyer Indemnified Parties: Shall have the meaning set forth in Section 11.5(a) of this Agreement.

**1.1.8** Buyer's Contamination: Shall mean (i) any release or discharge of Hazardous Materials on, in, under or about the Property that first existed on, in under or about

the Property after the Closing Date and/or was caused by Buyer, its successors and assigns, or their respective agents, contractors or employees; and/or (ii) the discovery and/or exacerbation of any Hazardous Materials on, in, under, or about the Property by Buyer, its successors and assigns, or their respective agents, contractors or employees, as a result of the development, improvement or use of the Property, whether or not such Hazardous Materials, if any, existed on, in, under, or about the Property as of the Closing Date.

**1.1.9** Buyer's Remediation: Shall have the meaning set forth in Section 11.2(a) of this Agreement.

**1.1.10** Claim: Shall have the meaning set forth in Section 11.5(a) of this Agreement.

**1.1.11** Closing: Shall have the meaning set forth in Section 6.1 of this Agreement.

**1.1.12** Closing Date: The Closing Date shall be the later of (i) fifteen (15) days after the occurrence of the Closing Trigger, or (ii) December 20, 2016 provided, however, that the Closing Date shall not be later than December 28, 2016 (the "**Outside Closing Date**"), TIME BEING OF THE ESSENCE WITH RESPECT TO THE OUTSIDE CLOSING DATE, unless an appeal of the Authorizing Ordinance is filed within the Appeal Period, in which case the provisions of Section 2.2 shall apply.

**1.1.13** Closing Trigger: Shall mean Seller's delivery to Buyer of the Soils RAO.

**1.1.14** Deed: Shall have the meaning set forth in Section 6.2.1 of this Agreement.

**1.1.15** Deficiency: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.16** Division: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.17** Earnest Money: Shall mean the amount of Three Million Dollars ($3,000,000.00), which shall be deposited with Escrow Agent pursuant to Section 3.1 below.

**1.1.18** Effective Date: The date on which this Agreement is executed by the latter of Buyer or Seller, as indicated on the signature page of this Agreement.

**1.1.19** Engineering Controls: Shall mean a physical mechanism approved by an LSRP to contain or stabilize contamination or ensure the effectiveness of a remedial action at the Property, including, without limitation, a cap, cover, building, or fence, or other such physical access control, as further defined by applicable Environmental Laws.

**1.1.20** Environmental Disclosures: Shall mean, collectively, that certain environmental documentation including correspondence, reporting, memoranda, notes, data and

other such written materials which have been Bates Stamped as ENV00001 through ENV04673 as set forth on **Exhibit L**.

**1.1.21** Environmental Laws: Shall mean all applicable constitutions, treaties, statutes, laws (including the common law), rules, regulations, codes, policies, decrees, ordinances, standards, guidelines or guidance documents, authorizations, permits, approvals, decisions, injunctions, judgments, awards, and orders of, and all agreements with, federal, state, local, or other public authorities relating to air, water, groundwater, solid waste, Hazardous Materials, toxic substances, pollutants, or contaminants, to environmental protection, compliance, contamination, cleanup, or reporting, to disclosure of any release or threat of release to the environment of any Hazardous Materials, or to the safety of employees, workers, or other persons, including, without limitation, the public. Environmental Laws shall include, without limitation, the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. § 300f-300j *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1321 *et seq.*; the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* ("**CERCLA**"); the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* ("**RCRA**"); the Superfund Amendments and Reauthorization Act of 1986, Public Law No. 99-499 (signed into law on October 17, 1986) ("**SARA**"); the Clean Water Act, 33 U.S.C. § 1251 *et seq.* ("**Clean Water Act**"); the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §1801 *et seq.* ("**HMTA**"); the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 *et seq.* ("**TSCA**"); the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 *et seq.* ("**ISRA**"); the Site Remediation Reform Act, N.J.S.A. 58:1-C-1 *et. seq.* ("**SRRA**"); the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 *et seq.* ("**Spill Act**"); the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21, *et seq.* ("**USHSA**"); the Toxic Catastrophe Prevention Act N.J.S.A. 13:1K-19, *et seq.* ("**TCPA**"); the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1, *et seq.* ("**WCRKA**"); the Pollution Prevention Act, N.J.S.A. 13:1D-35, *et seq.* ("**PPA**"); the Air Pollution Control Act, N.J.S.A. 26:2C-1, *et seq.* ("**APCA**"); the Solid Waste Management Act, N.J.S.A. 13:1E-1, *et seq.* ("**SWMA**"); the Sanitary Landfill Closure and Contingency Fund Act, N.J.S.A. 13:1E-100, *et seq.* ("**SLCCFA**"); the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1, *et seq.* ("**SWUCA**"); the Water Pollution Control Act, N.J.S.A. 58:10A-1, *et seq.* ("**WPCA**"); the Pesticide Control Act, N.J.S.A. 13:1F-1, *et seq.* ("**PCA**"); Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58-10B *et seq.* ("**BCSRA**"); Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C ("**ARRCS**"); Remediation Standards Rules, N.J.A.C. 7:26D; and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E ("Technical Rules"), and all other laws concerning health, safety and the environment, as any of the same are from time to time amended, and the rules and regulations promulgated thereunder, and any judicial or administrative interpretation thereof, including any judicial or administrative orders or judgments, and all other applicable federal, state, local, and/or other constitutions, treaties, statutes, laws (including the common law), rules, regulations, codes, policies, decrees, ordinances, standards, guidelines or guidance documents, authorizations, approvals, permits, decisions, injunctions, judgments, awards, orders, and/or agreements regulating the generation, storage, containment, or disposal of any Hazardous Materials, including but not limited to those relating to lead paint; radon gas; asbestos; storage and disposal of oil, biological, chemical, radioactive, and hazardous wastes, substances, and materials; and underground and above-

ground oil storage tanks; and any amendments, modifications, or supplements of any of the foregoing.

**1.1.22** Equity Owners: Shall have the meaning set forth in Section 8.1.5 of this Agreement.

**1.1.23** Escrow Agent:

[_____]
[_____]
[_____]
Att: [_____]
Tel. [_____]
Fax: [_____]

**1.1.24** Escrow Agreement: Shall have the meaning set forth in Section 3.1 of this Agreement.

**1.1.25** Excepted Claim: Shall have the meaning set forth in Section 11.5(a) of this Agreement.

**1.1.26** Governmental Entity: Shall mean any entity or individual exercising executive, legislative, judicial, regulatory or administrative functions of government, including without limitation, the United States of America, the State of New Jersey, and their respective political subdivisions, having jurisdiction over the Property and/or over the operations conducted thereat.

**1.1.27** Government Requirement: Shall mean (i) action mandated or required by any Environmental Law or (ii) action taken in compliance with an order, directive, or requirement of a Governmental Entity.

**1.1.28** Groundwater RAO: Shall mean a site-wide Response Action Outcome covering the entirety of the Land for groundwater upon, under, and about the Land, and as further defined by applicable Environmental Laws, issued by Seller's LSRP with respect to ISRA Case Nos. E20010373, E20010439 and E20020350.

**1.1.29** Hazardous Materials: Shall mean any hazardous substance; hazardous waste; environmental, biological, chemical, and/or radioactive substance; oil; petroleum product; and any waste or substance, which, because of its quantitative concentration or chemical, biological, radioactive, flammable, explosive, putrescible, infectious, or other characteristics, constitutes a danger or hazard to public health, safety, or welfare or to the environment, including without limitation any waste oils, solvents, and chlorinated oils; toxic metals; explosives; reactive metals and compounds; radon gas; polychlorinated biphenyls (PCBs); lead paint; asbestos and any asbestos-containing materials; urea formaldehyde; chemical, biological, and radioactive wastes; and any other similar materials that are regulated by any Environmental Law.

**1.1.30** Institutional Controls: Shall mean a mechanism approved by an LSRP to provide notice of residual contamination and therefore the need to limit certain human activities at or near the Property in order to ensure the effectiveness of a remedial action, including,

without limitation, a deed notice, declaration of environmental restrictions, or classification exception area ("CEA"), as further defined by applicable Environmental Laws.

**1.1.31** Land: Shall collectively mean certain lands situated in the City of Hoboken, County of Hudson, State of New Jersey, identified as (a) Block 103, Lot 7, (b) Block 107, Lot 1, and (c) Block 113, Lot 1, being more particularly described in the property description attached hereto as **Exhibit A** and made a part hereof, and depicted on that Plan of Survey by Engineering & Land Planning Associates, Inc. dated January 28, 2015, attached hereto as **Exhibit A-1** and made a part hereof.

**1.1.32** Long Term Compliance Obligations: Shall mean compliance with the terms and conditions of any Remedial Action Permit(s), including, but not limited to, inspection, maintenance, reporting, and posting and maintenance of any required financial assurance for such Remedial Action Permit(s).

**1.1.33** LSRP: Shall mean an environmental consultant who is a Licensed Site Remediation Professional licensed by NJDEP pursuant to N.J.S.A. 58:10C-1 *et seq*. and other applicable Environmental Laws implementing regulations and guidance and any successor statutes, regulations and guidance thereto.

**1.1.34** Material Condemnation: Shall have the meaning set forth in Section 5.2 of this Agreement.

**1.1.35** Natural Resources Damages or NRD: Shall mean, as may be further defined by applicable Environmental Laws, the restoration necessary to restore injured resources and to compensate the citizens of the State of New Jersey for the injury to natural resources as the result of a discharge of Hazardous Materials.

**1.1.36** Intentionally omitted.

**1.1.37** NJDEP: Shall mean the New Jersey Department of Environmental Protection or its successor agency.

**1.1.38** Ordinance Defense Period: Shall have the meaning set forth in Section 2.2 of this Agreement.

**1.1.39** Permitted Exceptions: Shall have the meaning set forth in Section 4.2 of this Agreement.

**1.1.40** Permitted Additional Exceptions: Shall have the meaning set forth in Section 4.2 of this Agreement.

**1.1.41** Purchase Price: Shall mean the aggregate amount of Thirty Million Dollars ($30,000,000.00).

**1.1.42** Property: Shall collectively mean the Land, together with (i) all improvements located thereon, (ii) all easements, tenements, hereditaments and other appurtenants thereto, and (iii) any and all rights, title, and interest of Seller in and to all strips and

gores and any land lying in the bed of any street, road or alley, open or proposed, adjoining such Land.

**1.1.43** Reimbursement Amount: Shall have the meaning set forth in Section 9.1 of this Agreement.

**1.1.44** Remedial Action Permit(s) or RAP: Shall mean a permit issued by NJDEP relating to the inspection, monitoring, maintenance, financial assurance and reporting of Engineering Controls and Institutional Controls utilized in either Seller's Remediation or Buyer's Remediation and as further defined by applicable Environmental Laws.

**1.1.45** Intentionally Omitted.

**1.1.46** Residential Use: Shall mean and include any improvement, structure or dwelling used for living accommodations (single or multi-family occupancy, including, without limitation, detached housing, condominiums, apartment buildings, dormitories, and senior citizen housing); any day care facility (whether for infants, children, the infirm, or the elderly); any hospital, hospice, and nursing home facility; any school for individuals under the age of twenty-one (21); any prison; and any other similar or like use.

**1.1.47** Response Action Outcome: Shall mean a written determination by an LSRP that the Land (i.e. soils or groundwater, respectively) and any Area of Concern identified upon the Land was remediated in accordance with all applicable Environmental Law, as further defined by applicable Environmental Laws.

**1.1.48** Seller: Cognis USA LLC, a Delaware limited liability company, successor by conversion to Cognis Corporation, with an address at c/o BASF Corporation, 100 Park Avenue, Florham Park, New Jersey 07932.

**1.1.49** Seller Indemnified Parties: Shall have the meaning set forth in Section 11.2(f) of this Agreement.

**1.1.50** Intentionally omitted.

**1.1.51** Intentionally omitted.

**1.1.52** Seller's Remediation: Shall have the meaning set forth in Section 11.1(a) of this Agreement.

**1.1.53** Seller Removal Items: Shall have the meaning set forth in Section 4.2 of this Agreement.

**1.1.54** Soil Remedial Action Permit(s): Shall have the meaning set forth in Section 11.3(b)(i) of this Agreement.

**1.1.55** Soils RAO: Shall mean a site-wide Response Action Outcome covering the entirety of the Land for soils upon, under and on the Land, and as further defined by

applicable Environmental Laws, issued by Seller's LSRP with respect to ISRA Case Nos. E20010373, E20010439 and E20020350.

**1.1.56** TTD: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.57** Tax Escrow: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.58** Tax Escrow Agent: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.59** Tax Notification: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.60** Taxes: Shall have the meaning set forth in Section 12.17 of this Agreement.

**1.1.61** Title Commitment: Shall have the meaning set forth in Section 4.1 of this Agreement.

**1.1.62** Title Company: Landmark Title Agency, Inc.
79 Hudson Street, Suite 505
Hoboken, New Jersey 07030
Attn: Ms. Joan Bisesi
Tel. (201) 683-8300
Fax: (201) 683-4974

Or such other title company licensed to do business in the State of New Jersey selected at the sole discretion of the City.

**1.2 Closing Costs**. Closing costs shall be allocated and paid as follows:

| Cost | Responsible Party |
|---|---|
| Premium for Title Policy (as defined below) | Buyer |
| Premium for any upgrade of Title Policy for extended or additional coverage and any endorsements desired by Buyer, beyond those required for Seller to provide to Buyer clear and marketable title, subject to Permitted Exceptions, any inspection fee charged by the Title Company, tax certificates, municipal and utility lien certificates | Buyer |
| Costs of any survey of the Property and/or any revisions, modifications or recertification thereto | Buyer |
| Recording fees | Buyer |
| Any escrow fee charged by Escrow Agent for holding the Earnest Money or disbursing the Earnest Money or conducting the Closing | Buyer ½<br>Seller ½ |

**1.3 Notice Addresses:**

Buyer:

City of Hoboken
94 Washington Street
Hoboken, New Jersey 07030
Attn: Stephen Marks, Municipal Manager
Tel: (201) 239-6643
Fax: (201) 420-2096
Email: smarks@hobokennj.gov

with a copy to:

The Buzak Law Group, LLC
150 River Road, Suite N-4
Montville, New Jersey 07045
Attention: Edward J. Buzak, Esq.
Tel: (973) 335-0600
Fax: (973) 335-1145
Email: ejbuzak@buzaklawgroup.com

Seller:

Cognis USA LLC
c/o BASF Corporation
100 Park Avenue
Florham Park, New Jersey 07932
Attention: Charles Waltz
Telephone: (973) 245-6595
Email: charles.waltz@basf.com

with a copy to:

Cognis USA LLC
c/o BASF Corporation
100 Park Avenue
Florham Park, New Jersey 07932
Attention: Mary Kenny, Esq.
Telephone: (973) 245-5219
Email: mary.kenny@basf.com

and to:

Drinker Biddle & Reath LLP
600 Campus Drive

Florham Park, New Jersey 07932
Attention: Glenn S. Pantel, Esq.
Telephone: (973) 549-7020
Facsimile: (973) 360-9831
Email: glenn.pantel@dbr.com

## ARTICLE 2

## Property

**2.1 Purchase and Sale**. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property. Buyer hereby acknowledges that the fair market value of the Property exceeds the amount of the Purchase Price and that it intends to use the Property exclusively for public purposes. Buyer agrees that the Property shall not be developed or used for Residential Use at or below grade (i.e., on the ground floor or any subsurface levels). Buyer further agrees that the groundwater beneath the Property shall not be used for any purpose and no groundwater wells shall be drilled, constructed, or installed on the Property excepting any groundwater wells that may be required by a governmental authority having jurisdiction over the Property, or the LSRP of record for the Property, for the purpose of required environmental testing or monitoring.

**2.2 Authorizing Ordinance**. Buyer represents and warrants to Seller that Buyer duly adopted the Authorizing Ordinance on [_____], and Buyer caused notice of the adoption of the Authorizing Ordinance to be published in [_____] on [_____]. Buyer agrees that it shall be a condition precedent to Seller's obligation to close under this Agreement that the Authorizing Ordinance be in full force and effect, and that the Appeal Period with respect to the Authorizing Ordinance shall have expired without any appeal having been taken by a third party therefrom (or if such an appeal is taken, the appeal is finally and conclusively adjudicated, dismissed, settled, or otherwise resolved in favor of the Authorizing Ordinance). If an appeal is filed with respect to the Authorizing Ordinance, Buyer shall, at its sole cost and expense, use its best efforts to defend any such appeal. If any such appeal is not finally adjudicated, dismissed, settled, or otherwise resolved in favor of the Authorizing Ordinance within three (3) years after the date that such appeal is filed (the "**Ordinance Defense Period**"), Seller shall have the right to (i) terminate this Agreement by written notice to Buyer, whereupon the Deposit shall be returned to Buyer and neither party shall have any further rights or liability hereunder, or (ii) extend the Ordinance Defense Period for up to four (4) additional periods of one hundred eighty (180) days each, by written notice to Buyer.

2.3 Condemnation. Except as provided in Article 9, in consideration of this Agreement being the full and final settlement agreement of Buyer and Seller of any and all claims that either party could have asserted against the other in an eminent domain proceeding in connection with the Property, Buyer hereby waives the right to, and agrees that it shall not, institute any proceedings or negotiations which do or may result in Buyer's taking or acquisition by condemnation or eminent domain of the Property or any portion thereof during the term of this Agreement.

## ARTICLE 3

## Earnest Money

**3.1 Deposit and Investment of Earnest Money**. Contemporaneously with the execution by Buyer and delivery to Escrow Agent of this Agreement, Buyer shall deposit the Earnest Money with Escrow Agent, to be held in accordance with an escrow agreement entered into between Buyer, Seller, and Escrow Agent, which shall be substantially in the form attached hereto as **Exhibit C** (the "**Escrow Agreement**").

**3.2 Disposition of Earnest Money**. The Earnest Money and any interest accrued thereon shall be applied as a credit to the Purchase Price at Closing. Upon any termination of this Agreement in full, except a termination pursuant to Section 9.1, Escrow Agent shall immediately return the Earnest Money and any interest accrued thereon to Buyer, and except as expressly provided herein, this Agreement and all rights and obligations of the respective parties hereunder shall be null and void.

## ARTICLE 4

## Title

**4.1 Title Commitment**. Buyer has delivered to Seller, prior to the Effective Date, a current commitment for title insurance, number [_____], dated [_____] (the "**Title Commitment**") issued by the Title Company, in the amount of the Purchase Price and on a *ALTA 2006 Standard Form* commitment, with Buyer as the proposed insured.

**4.2 Condition of Title**. Seller shall deliver to Buyer at Closing clear and marketable title to the Property insurable at regular rates by the Title Company, free and clear of all liens, encumbrances and restrictions except Permitted Exceptions. The term "**Permitted Exceptions**" shall mean all exceptions set forth on **Exhibit B**. Seller agrees to remove the following title exceptions: property taxes and liens of an ascertainable amount created by, under or through Seller **[OTHER SELLER REMOVAL ITEMS TO BE ADDED AFTER REVIEW OF TITLE COMMITMENT]**, which liens Seller shall cause to be released at or prior to Closing (with Seller having the right to apply the Purchase Price or a portion thereof for such purpose) ("**Seller Removal Items**"), and Seller shall deliver the Property free and clear of any Seller Removal Items.

## ARTICLE 5

## Operations, Condemnation and Casualty

**5.1 New Contracts**. Seller will not enter into any contract that will be an obligation affecting the Property prior or subsequent to the Closing, except (i) contracts for performance of, or relating to, environmental remediation, and (ii) contracts entered into in the ordinary course of business that are terminable without cause and without the payment of any termination penalty on not more than thirty (30) days' prior notice, in which event Seller shall terminate such contracts prior to the Closing. Seller will terminate all existing service contracts with respect to

the Property as of the Closing. Nothing in this Section shall prevent Seller from entering into Contracts prior or subsequent to Closing which relate to the performance of Seller's obligations under this Agreement.

**5.2 Condemnation**. If, prior to Closing, proceedings in eminent domain are instituted by a governmental entity other than Buyer with respect to a portion of the Property Seller shall notify Buyer of the initiation of the eminent domain proceeding within thirty (30) days of being served with such complaint. If the successful conclusion of the eminent domain proceedings would result in a condemnation having a material adverse effect on Buyer's ability to use the Property for the development of a public park and Buyer's installation of a subsurface storm water management facility and, on Block 113, Lot 1, an above-ground parking garage (a "**Material Condemnation**"), Buyer may, at its option, by written notice to Seller given within thirty (30) days after Seller's notice to Buyer of such proceedings (and if necessary the Closing Date shall be automatically extended to give Buyer the full thirty (30) day period to make such election), either: (i) terminate this Agreement, in which case the Earnest Money and any interest accrued thereon shall be immediately returned to Buyer and the parties hereto shall have no further rights or obligations, other than those that by their terms survive the termination of this Agreement, or (ii) proceed under this Agreement to Closing. If Buyer does not give Seller written notice of its election within the time required above, then Buyer shall be deemed to have elected option (ii) above. If proceedings in eminent domain are instituted by a governmental entity other than Buyer prior to Closing that would not result in a Material Condemnation, Buyer shall be obligated to proceed under this Agreement to Closing. If Buyer elects or is obligated to proceed to Closing under this Section 5.2, then (y) if Seller shall have actually received part or all of a condemnation award with respect to such condemnation, all such amounts actually received by Seller shall be credited against the Purchase Price at Closing, and (z) if Seller shall not have received any condemnation award with respect to such condemnation prior to the Closing, Seller shall assign to Buyer its right to receive the proceeds (just compensation) from the condemning authority. In consideration of this Agreement being the full and final settlement agreement of Buyer and Seller of any and all claims that either party could have asserted against the other in an eminent domain proceeding in connection with the Property, Buyer hereby waives the right to, and agrees that it shall not, institute any proceedings or negotiations which do or may result in Buyer's taking or acquisition by condemnation or eminent domain of the Property or any portion thereof during the term of this Agreement, except as set forth in Section 9.1 and Section 9.2 below.

**5.3 Casualty**. Seller and Buyer hereby acknowledge that the Property is vacant land and there is no risk of any loss or damage to the Property by fire or other casualty before the delivery of the deed hereunder.

## ARTICLE 6

## Closing and Post-Closing

**6.1 Closing**. The consummation of the transaction contemplated herein ("**Closing**") shall occur on the Closing Date at the offices of Drinker Biddle & Reath LLP at 600 Campus Drive, Florham Park, New Jersey 07932 (or such other location as may be mutually agreed upon by Seller and Buyer). Seller and Buyer agree that TIME IS OF THE ESSENCE with respect to

the Outside Closing Date. Upon satisfaction or completion of all closing conditions and deliveries, the parties shall immediately deliver the closing documents to the appropriate parties and make disbursements according to the closing statements executed by Seller and Buyer.

**6.2 Seller's Deliveries**. On the Closing Date, Seller shall deliver the following:

**6.2.1** Deed. A Deed of Bargain and Sale with Covenant Against Grantor's Act conveying to Buyer all of Seller's rights, title and interest in the Property in proper statutory form for recordation in the form of **Exhibit D** attached hereto (the "**Deed**");

**6.2.2** Affidavit of Title. A duly executed Affidavit of Title in the form of **Exhibit E** attached hereto;

**6.2.3** Residency Certification. A duly executed Seller's Residency Certification (form GIT/REP-3);

**6.2.4** Affidavit of Consideration. A duly executed Affidavit of Consideration for use by Seller (form RTF-1);

**6.2.5** Intentionally omitted;

**6.2.6** Authority. Evidence of the existence, good standing, organization and authority of Seller and of the authority of the persons executing documents on behalf of Seller reasonably satisfactory to Buyer and the underwriter for the Title Policy, including an assistant's secretary's certificate evidencing authorization;

**6.2.7** Access Agreement. A duly executed Access Agreement in substantially the form of **Exhibit H;** and

**6.2.8** Additional Documents. Any additional documents that Buyer or Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement (provided, however, no such additional document shall expand any obligation, covenant, representation or warranty of Seller or result in any new or additional obligation, covenant, representation or warranty of Seller under this Agreement beyond those expressly set forth in this Agreement).

**6.3 Buyer's Deliveries**. On the Closing Date, Buyer shall deliver the following:

**6.3.1** Intentionally omitted;

**6.3.2** Intentionally omitted;

**6.3.3** Affidavit of Consideration. A duly executed Affidavit of Consideration for use by Buyer (form RTF-1);

**6.3.4** Access Agreement: A duly executed Access Agreement in the form of **Exhibit H**;

**6.3.5** Additional Documents. Any additional documents that Seller or Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement (provided, however, no such additional document shall expand any obligation, covenant, representation or warranty of Buyer or result in any new or additional obligation, covenant, representation or warranty of Buyer under this Agreement beyond those expressly set forth in this Agreement); and

**6.3.6** IRS Form 8283. A duly executed and acknowledged IRS Form 8283 in the form of **Exhibit K** annexed hereto.

**6.4 Closing Statements**. As of or prior to the Closing Date, Seller and Buyer shall execute closing statements consistent with this Agreement in form mutually acceptable to the Seller and the Buyer.

**6.5 Purchase Price**. On the Closing Date, Buyer shall deliver to Seller the Purchase Price, adjusted for any applicable prorations and credits, in immediate, same day U.S. federal funds wired for credit into Seller or its designee account and credited on the Closing Date. In the event that Seller or its designee is unable to receive funds on the Closing Date, then the closing statements and related prorations will be revised as necessary. The Earnest Money and any interest accrued thereon shall be credited toward the Purchase Price at Closing.

**6.6 Possession**. Seller shall deliver possession of the Property to Buyer upon Closing subject to the Permitted Exceptions.

**6.7 Delivery of Certain Documents**. At Closing, Seller shall deliver to Buyer all keys, access cards, codes and passwords, if any, relative to the Property.

## ARTICLE 7

## Prorations, Deposits, Commissions

**7.1 Prorations**. At Closing, the following items shall be adjusted and prorated as of 12:00 midnight on the day immediately preceding the Closing Date with all items of income and expense for the Property being borne by Seller up to (and including) the Closing Date and by Buyer from and after (but excluding) the Closing Date: real estate taxes and other costs and expenses customarily adjusted at closings for vacant land.

**7.2 Closing Costs**. Closing costs shall be allocated between Seller and Buyer in accordance with Section 1.2.

**7.3 Final Adjustment After Closing**. If final bills are not available or cannot be issued prior to Closing for any item being prorated under Section 7.1, then Buyer and Seller agree to allocate such items on a fair and equitable basis as soon as such bills are available, final adjustment to be made as soon as reasonably possible after the Closing. Payments in connection with the final adjustment shall be due within thirty (30) days of written notice. All such rights and obligations shall survive the Closing for a period of one (1) year.

**7.4 Commissions**. Seller and Buyer each represent and warrant to the other that no real estate brokerage commission is payable to any person or entity in connection with the transaction contemplated hereby, and each agrees to and does hereby indemnify and hold the other harmless from and against the payment of any commission to any other person or entity claiming by, through or under Seller or Buyer, as applicable. This indemnification shall extend to any and all claims, liabilities, costs, and expenses (including reasonable attorneys' fees and litigation costs) arising as a result of such claims and shall survive the Closing.

## ARTICLE 8

## Representations and Warranties

**8.1 Seller's Representations and Warranties**. Seller represents and warrants to Buyer that:

**8.1.1** Organization and Authority. Seller has been duly organized, validly exists, and is in good standing in the State of Delaware and is qualified to do business in the State of New Jersey. Seller has the full right and authority and has obtained, or will obtain, any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Seller at the Closing will be, duly authorized and executed by all required corporate actions and constitute, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

**8.1.2** Conflicts; Pending Actions. There is no agreement to which Seller is a party or, to the knowledge of Seller, that is binding on Seller which is in conflict with this Agreement. Additionally, as of the Effective Date, there is no action, lawsuit, claim, proceeding or penalty whatsoever pending or, to the best knowledge of Seller, threatened against Seller or relating to the Property, including with regard to the environmental condition of the Land and/or any Hazardous Materials which have been discharged upon or have migrated to or from the Land. Should the Seller become aware prior to Closing of any such action, lawsuit, claim, proceeding or penalty whatsoever pending or, to the best knowledge of Seller, threatened against Seller or relating to the Property, including with regard to the environmental condition of the Land and/or any Hazardous Materials which have been discharged upon or have migrated to or from the Land, Seller shall promptly notify Buyer in writing and Seller shall fully cooperate with Buyer in providing any additional information that may be requested by Buyer with regard to same.

**8.1.3** Agreements. Seller has not entered into any presently effective agreements regarding the sale, conveyance, transfer or disposition of the Property (except for the within Agreement). Seller has not granted to anyone and, to the best knowledge of Seller, no one possesses any option to purchase or right of first refusal to purchase the Property. Seller has not entered into any occupancy agreement, leases or the like with respect to the Property, and no one other than Seller has any right to use or occupy the Property.

**8.1.4** Environmental Disclosures. To the best of Seller's knowledge, there exist no documents other than the Environmental Disclosures that would reflect a material environmental condition of the Land.

**8.1.5** Equity Owners. Seller is owned, directly or indirectly, by BASF US Verwaltung GmbH and BASF Corporation (the "**Equity Owners**"). BASF US Verwaltung GmbH is a wholly-owned subsidiary of BASF Corporation.

**8.2 Buyer's Representations and Warranties**. Buyer represents and warrants to Seller that:

**8.2.1** Organization and Authority. Buyer has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Buyer at the Closing will be, duly authorized and properly executed by all required Buyer actions and constitute, or will constitute, as appropriate, the valid and binding obligation of Buyer, enforceable in accordance with their terms.

**8.2.2** Conflicts and Pending Action. There is no agreement to which Buyer is a party or to Buyer's knowledge binding on Buyer which is in conflict with this Agreement. There is no action or proceeding pending or, to Buyer's knowledge, threatened against Buyer which challenges or impairs Buyer's ability to execute or perform its obligations under this Agreement.

**8.2.3** Sufficient Funds. As of the Effective Date, Buyer possesses authorization to procure the requisite funds to close the purchase of the Property, and Buyer shall, on the Closing Date, possess the requisite funds, in an amount equal to the Purchase Price, necessary to close the purchase of the Property pursuant to this Agreement.

**8.3 Closing and Indemnity**. All of the representations and warranties that Buyer and Seller have made in this Agreement shall continue to be true and correct in all material respects as of the date of Closing as if they were made on the date of Closing, subject to the notice and cure periods set forth in Section 9.1 and Section 9.2 below. Each party shall indemnify and hold the other harmless from and against any and all liens, claims, causes of action, damages, liabilities and expenses (including reasonable attorneys' fees) to the extent arising out of the indemnifying party's breach of warranty or representation hereunder, provided that notice of the breach (with reasonable specificity) is given to the indemnifying party within six (6) months after the Closing and an action is commenced within one (1) year after the Closing.

## ARTICLE 9

## Default and Remedies

**9.1 Seller's Remedies**. If (i) any one or more of Buyer's representations or warranties are breached in any material respect or Buyer fails to perform its obligations pursuant to this Agreement at, prior to, or upon Closing for any reason except failure by Seller to perform hereunder, and in either case such breach or failure continues after written notice and expiration of thirty (30) days without cure, or (ii) Buyer is not ready, willing and able to close on a Closing Date for which time is of the essence; Seller shall be entitled, as its sole remedy, to terminate this Agreement and receive reimbursement for all of its out of pocket costs and expenses incurred with respect to the Property after the Buyer's adoption of City of Hoboken Ordinance No. Z-190 (i.e., June 20, 2012), including without limitation, legal, planning, appraisal, tax, consulting and

other professional fees (the "**Reimbursement Amount**"), not to exceed One Million and 00/100 Dollars ($1,000,000.00) in the aggregate. The Escrow Agent shall disburse the Earnest Money as follows: (y) the Reimbursement Amount shall be paid to the Seller, and (z) the balance of the Earnest Money and any interest accrued thereon shall be paid to the Buyer. Notwithstanding anything in this Section 9.1 to the contrary, in the event of Buyer's default or a termination of this Agreement pursuant to this Section 9.1, Seller shall have all remedies available at law or in equity in the event Buyer asserts any claims or right to the Property caused by Buyer that would otherwise delay or prevent Seller from having clear, indefeasible, and marketable title to the Property. In consideration of this Agreement being the full and final settlement agreement of Buyer and Seller of any and all claims that either party could have asserted against the other in an eminent domain proceeding in connection with the Property, if the Agreement terminates as a result of a default by Buyer, Buyer hereby waives the right to, and agrees that it shall not, institute any proceedings or negotiations which do or may result in Buyer's taking or acquisition by condemnation or eminent domain of the Property or any portion thereof for which it asserts that just compensation is less than the Purchase Price herein.

**9.2 Buyer's Remedies**. If (i) prior to or upon Closing any one or more of Seller's representations or warranties are breached in any material respect or Seller fails to perform its obligations pursuant to this Agreement at, prior to, or upon Closing for any reason except failure by Buyer to perform hereunder, and in either case such breach or failure continues after written notice and expiration of thirty (30) days without cure, or (ii) Seller is not ready, willing and able to close on a Closing Date for which time is of the essence, Buyer shall elect, as its sole remedy, to (a) terminate this Agreement by giving Seller written notice of such election prior to or at Closing, (b) pursue an action for specific performance, or (c) waive said failure or breach and proceed to Closing. Notwithstanding the foregoing, if the remedy of specific performance is not available due to the willful action of Seller in violation of this Agreement, then notwithstanding anything to the contrary contained in this Agreement, this Agreement shall be deemed terminated and of no further force and effect, neither party shall be bound by any acknowledgment, representation, or term contained herein, and Buyer shall have all rights and remedies available at law or in equity, including without limitation the right of eminent domain. In the event Buyer terminates (or is deemed to terminate) this Agreement pursuant to this Section 9.2, then the Escrow Agent shall return to Buyer the Earnest Money and all interest accrued thereon.

**9.3 Post-Closing Remedies**. If Closing is consummated, Seller shall have all remedies available at law or in equity in the event Buyer fails to perform its obligations under this Agreement which survive or accrue after the Closing, subject to the waivers, releases and indemnifications expressly set forth in this Agreement. If Closing is consummated, Buyer shall have all remedies available at law or in equity in the event Seller fails to perform its obligations under this Agreement which survive or accrue after the Closing, subject to the waivers, releases and indemnifications expressly set forth in this Agreement. This Section 9.3 shall survive the Closing.

## ARTICLE 10

## Disclaimers, Release and Indemnity

**10.1 Disclaimers By Seller**. Except for the express representations and warranties of Seller set forth in this Agreement, including, without limitation, those in Section 8.1, it is understood and agreed that Seller has not at any time made and is not now making, and specifically disclaims, any warranties or representations of any kind or character, express or implied, with respect to the Property.

**10.2 Sale "As Is, Where Is."** Subject to (i) the representations and warranties expressly contained in this Agreement, including without limitation, those in Section 8.1, or any other document delivered at Closing, including the Soils RAO; and (ii) the express obligations of Seller pursuant to this Agreement, including without limitation Article 11: (a) Buyer acknowledges and agrees that upon Closing, Seller shall sell and convey to Buyer, and Buyer shall accept the Property AS IS, WHERE IS, WITH ALL FAULTS" and specifically and expressly without any warranties, representation, or guarantees, either express or implied, of any kind, nature, or type whatsoever from or on behalf of the Seller; (b) Buyer has not relied and will not rely on, any express or implied warranties, guarantees, statements, representations, or information pertaining to the Property or relating thereto made or furnished by any real estate broker, representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing; (c) Buyer shall have the right to make an independent verification of the accuracy of any documents and information provided by Seller, at its own discretion; and (d) Seller is not liable or responsible for, or bound in any manner by, any express or implied representations, warranties, covenants, agreements, obligations, guarantees, statements, information, or inducements pertaining to the fitness and quality of the Property; or the suitability of the Property or any portion thereof for renovation or construction; or any other matter or thing whatsoever with respect thereto. Buyer and Seller acknowledge and agree that the Soils RAO and the Groundwater RAO shall be obtained by Seller for the benefit of both Buyer and Seller and that Buyer is expected to and shall be permitted to rely upon the validity of the Soils RAO upon Closing and thereafter, and that Buyer is expected to and shall be permitted to rely upon the validity of the Groundwater RAO after its issuance by Seller's LSRP. Buyer acknowledges and agrees that Buyer has conducted, or will conduct prior to Closing, such due diligence as Buyer determines is necessary in its sole discretion, and will accept the Property at Closing in the condition, and subject to the terms, set forth in this Agreement.

**10.3 Intentionally omitted**.

**10.4 Survival**. The terms and conditions of this Article 10 shall expressly survive the Closing, and shall not be merged with the provisions of any closing documents. Buyer acknowledges and agrees that the disclaimers and other agreements set forth herein are an integral part of this Agreement and that Seller would not have agreed to sell the Property to Buyer for the Purchase Price without the disclaimers and other agreements set forth above. Likewise, Seller acknowledges and agrees that Buyer would not have agreed to purchase the Property for the Purchase Price without the agreements set forth herein.

## ARTICLE 11

## Environmental

### 11.1 Seller's Remediation.

(a) Generally. Seller shall, at its own cost and expense, complete, or cause to be completed, in a diligent manner, the remediation necessary to obtain the Soils RAO and, after Closing, the Groundwater RAO in accordance with the Anticipated Action Plan, as same may be amended, which may include the use of (i) present Engineering Controls and Institutional Controls and (ii) future Engineering Controls and Institutional Controls in compliance with applicable Environmental Laws ("**Seller's Remediation**").

(b) Soils RAO. Prior to Closing, Seller shall cause the occurrence of the Closing Trigger.

(c) Groundwater RAO. Prior to or after Closing, Seller shall deliver to Buyer a Groundwater RAO. Prior to Closing, the parties shall enter into the Access Agreement in substantially the form attached hereto as **Exhibit H** in order to allow Seller reasonable access to the Property, as may be required, so that Seller may complete Seller's Remediation with regard to groundwater as set forth in the Anticipated Action Plan.

(d) Installation of Groundwater Monitoring Wells. In connection with Seller's Remediation, Seller agrees that all groundwater monitoring wells to be installed upon the Land shall be flush mounted and installed at locations that will not unreasonably interfere with the intended future use of the Land as a public park, a subsurface storm water management facility, and, on Block 113, Lot 1, an above-ground parking garage. Seller agrees to properly abandon any groundwater monitoring wells upon the Land related to Seller's Remediation after said groundwater monitoring wells are deemed no longer needed by Seller's LSRP and/or NJDEP. Buyer agrees, at its own cost and expense, to replace any groundwater monitoring well(s) that are damaged or destroyed by Buyer after the Closing or which are required to be moved as a result of Buyer's future use and development of the Land.

(e) Environmental Reporting. Seller agrees to promptly provide the Buyer with a copy of any future reports (which are not already identified on the list of Environmental Disclosures) submitted by Seller's LSRP to NJDEP related to the implementation of Seller's Remediation.

(f) Potential Reopener of RAO.

(i) In the event that NJDEP reopens any RAO or any portion thereof (which is issued by Seller's LSRP as evidence of the completion of Seller's Remediation) within three (3) years of such RAO's issuance for any reason other than Buyer's Contamination, Seller shall be responsible for any deficiency associated with NJDEP's audit of such RAO and shall promptly address said audit deficiencies by: (i) providing Buyer with a copy of NJDEP's audit letter; and (ii) diligently undertaking and paying for any additional tasks that may be required by NJDEP or an LSRP in order to re-issue the RAO or a corrected RAO, as applicable.

(ii) If NJDEP reopens any RAO or portion thereof after the three (3) year anniversary of the issuance of such RAO by Seller's LSRP for the reasons specified in N.J.S.A. 58:10C-25(b) or (c) (i.e., the New Jersey Site Remediation Professional Licensing Board conducts an investigation of Seller's LSRP or Seller's LSRP has had his license suspended or revoked), Seller shall be responsible for any deficiency associated with NJDEP's audit of such RAO and shall promptly address said audit deficiencies by: (A) promptly providing Buyer with a copy of NJDEP's audit letter; and (B) diligently undertaking and paying for any additional tasks that may be required by NJDEP or an LSRP in order to re-issue the RAO or a corrected RAO, as applicable.

(iii) If NJDEP reopens any RAO or portion thereof (y) at any time due to Buyer's Contamination; or (z) after the three (3) year anniversary of the issuance of such RAO by Seller's LSRP for any reason other than the reasons specified in N.J.S.A. 58:10C-25(b) or (c), Buyer shall be responsible for any deficiency associated with, or addressed in, NJDEP's audit of such RAO and shall promptly address said audit deficiencies by: (A) providing Seller with a copy of NJDEP's audit letter; and (B) diligently undertaking and paying for any additional tasks that may be required by NJDEP or an LSRP in order to re-issue the RAO or a corrected RAO, as applicable.

(iv) If addressing any audit deficiencies for which Seller is responsible under this Section 11.1(f) requires Seller to conduct any invasive activity upon the Property with regard to either soil or groundwater, then (A) Seller will give Buyer a proposed scope of work for such invasive activity, and Buyer shall have fourteen (14) days to review and comment on the proposed scope of work, it being understood that Seller shall not be obligated to incorporate Buyer's comments to the proposed scope of work so long as the proposed activities set forth in the proposed scope of work do not violate any applicable Environmental Laws; and (B) Seller shall have access to the Property in accordance with the terms and conditions of the Access Agreement, subject to such modifications as may be reasonably necessary to address Seller's proposed scope of work, and neither party shall unreasonably withhold or delay written approval of any such modifications. If Seller fails to promptly address any deficiency of any RAO for which Seller is responsible under this Section 11.1(f), then Buyer shall have the right to give Seller notice of such failure, demanding that Seller cure such failure. If Seller has not cured such failure within ninety (90) days after receipt of Buyer's notice, or with respect to a failure that cannot be cured within ninety (90) days, commenced in good faith to cure such failure within said ninety (90) day period, Buyer shall have the right, but not the obligation, to cure such failure, in which case Seller shall reimburse all fees and costs incurred by Buyer in connection with same within thirty (30) days after receipt of a written demand from Buyer.

(v) Buyer agrees that Buyer and its representatives and agents shall not take any action with NJDEP or any other Governmental Entity with the express purpose of initiating an audit of any RAO issued by Seller's LSRP by NJDEP. If Buyer and/or its representatives and agents take any action with NJDEP or any other Governmental Entity in violation of this Section 11.1(f)(v) and an audit is initiated following said action, Buyer shall be solely responsible for any and all costs associated with additional work, investigation and/or remediation that is required by responding to and addressing said audit.

11.2 **Buyer's Remediation**.

(a) Buyer's Remediation. After Closing, Buyer shall, subject to the provisions of this Agreement, at its sole cost and expense, be responsible for conducting any additional environmental investigation, remediation, excavation, or disposal of the Property required pursuant to Environmental Laws, including the use of Engineering Controls and Institutional Controls, as same shall be necessitated by Buyer's development, improvement or use of the Property, including without limitation, as a result of Buyer's Contamination ("**Buyer's Remediation**"); provided that neither Buyer's Remediation, nor any portion thereof, may be undertaken prior to Closing.

(b) Seller Not Responsible. Seller shall not have any responsibility to conduct, or for the cost to conduct, any environmental investigation, remediation, excavation or disposal related to Buyer's development, improvement or use of the Property, including without limitation, (i) as a result of Buyer's Contamination, (ii) the removal and disposal of the existing asphalt cap and fence, and (iii) the excavation and disposal of soil associated with any future improvements installed by Buyer at the Property.

(c) Intentionally omitted.

(d) Intentionally omitted.

(e) Buyer's RAO. Upon request by Seller, Buyer shall provide to Seller a copy of any Response Action Outcome for the Property issued by an LSRP as evidence of the completion of any Buyer's Remediation.

(f) Release and Indemnification. Except for the express obligations of Seller contained in this Agreement, including without limitation, this Article 11, Buyer hereby WAIVES (and by closing this transaction will be deemed to have waived) and FOREVER RELEASES AND DISCHARGES Seller from all responsibility and liability, including without limitation, liabilities under any Environmental Law regarding the environmental condition of the Property (including, without limitation, the presence in the soil, air, structures, and surface and subsurface waters of Hazardous Materials or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable, or subject to regulation and that may need to be specially treated, handled, and/or removed from the Property under current or future federal, state, and local laws, regulations, or guidelines), including without limitation, any Buyer's Contamination. Buyer acknowledges that Seller's only obligations with respect to the environmental condition of the Property are set forth in this Agreement, including without limitation, this Article 11. Buyer shall indemnify, defend and hold harmless Seller as well as its affiliates, members, indirect equity owners, including without limitation BASF Corporation, and their respective successors, assigns, officers and employees (collectively, "**Seller's Indemnified Parties**") from and against any claims, damages, actions, liens, suits, judgments, and reasonable attorney's and consultant's fees, directly or indirectly, to the extent arising from or related to (i) Buyer's failure to implement and complete any Buyer's Remediation pursuant to this Section 11.2; (ii) Buyer's failure to perform any obligation for which Buyer is responsible pursuant to Section 11.1(f); (iii) Buyer's failure to comply with the terms and conditions of the Soils Remedial Action Permit related to Seller's Remediation and/or any Remedial Action Permit(s) related to any Buyer's Remediation; (iv) Buyer's development, improvement or use of the Property; and/or (v) any Buyer's Contamination.

**11.3 Remedial Action Permit Responsibilities.**

(a) Seller's Remedial Action Permit. Prior to Closing, Seller shall, at its own cost and expense, be responsible for compliance with the terms and conditions of any Remedial Action Permit issued for the Land or any portion thereof.

(b) Transfer of Existing Remedial Action Permit(s).

(i) Soil Remedial Action Permit(s). At or after Closing, Seller shall, at its own cost and expense, submit the necessary documentation to NJDEP for modification of any existing soil Remedial Action Permit(s) related to Seller's Remediation (the "Soil Remedial Action Permit(s)"). Seller and Buyer shall execute and deliver the NJDEP's "Remedial Action Permit Transfer/Change of Ownership Application and Contact Information Changes" form at Closing, which form shall be completed in a manner consistent with this Agreement and reasonably acceptable to Seller and Buyer. Seller and Buyer agree to be co-permittees on any such Soil Remedial Action Permit(s), and Buyer agrees to be, and assumes full responsibility, as the entity with the "Primary Responsibility for Permit Compliance" on any Soil Remedial Action Permit(s) related to Seller's Remediation. From and after modification of the Soil Remedial Action Permits(s) related to Seller's Remediation, Buyer shall, at its own cost and expense, be responsible for all Long Term Compliance Obligations with respect to such Soil Remedial Action Permit(s). Buyer shall obtain any new soil Remedial Action Permit(s) that may be required in connection with any Buyer's Remediation, Buyer shall be responsible as the entity with the "Primary Responsibility for Permit Compliance" on any soil Remedial Action Permit(s) related to any such Buyer's Remediation, and Buyer shall, at its own cost and expense, be responsible for all Long Term Compliance Obligations with respect to such soil Remedial Action Permit(s).

(ii) Groundwater Remedial Action Permit(s). After Closing, Seller shall retain responsibility as the entity with the "Primary Responsibility for Permit Compliance" on any groundwater Remedial Action Permit(s) related to Seller's Remediation, and Seller shall, at its own cost and expense, be responsible for all Long Term Compliance Obligations with respect to such groundwater Remedial Action Permit(s). Buyer shall obtain any new groundwater Remedial Action Permit(s) that may be required in connection with any Buyer's Remediation, Buyer shall be responsible as the entity with the "Primary Responsibility for Permit Compliance" on any groundwater Remedial Action Permit(s) related to any such Buyer's Remediation, and Buyer shall, at its own cost and expense, be responsible for all Long Term Compliance Obligations with respect to such groundwater Remedial Action Permit(s).

(c) Cooperation. Buyer and Seller shall cooperate and use commercially reasonable efforts to obtain NJDEP's consent that Seller will not be considered a co-permittee under any modified or replacement Soil Remedial Action Permit(s) related to Seller's Remediation and/or any Soil or Groundwater Remedial Action Permit(s) related to Buyer's Remediation.

(d) Termination of Remedial Action Permit(s). Upon completion of Buyer's Remediation, Buyer and Seller shall cooperate and use commercially reasonable efforts to obtain the approval of NJDEP to terminate any Remedial Action Permit(s) related to Seller's Remediation at the Property, as may be applicable.

### 11.4 Cooperation between Seller and Buyer.

(a) Cooperation. Seller and Buyer agree to use commercially reasonable efforts to cooperate with each other and their respective LSRPs in the implementation of the provisions of Article 11 of this Agreement.

(b) Access. Buyer shall provide Seller with access to the Property after the Closing in order to allow Seller to undertake any necessary activities related to Seller's Remediation pursuant to the Access Agreement.

(c) Buyer's Replacement of Groundwater Monitoring Wells. Buyer agrees, at its own cost and expense, to pay for the cost of the replacement of any groundwater monitoring well(s) damaged, destroyed or required to be moved as a result of Buyer's future use and development of the Property, pursuant to reasonable design and location specifications as provided to Buyer by Seller.

(d) Seller's Abandonment of Groundwater Monitoring Wells. Seller agrees to properly abandon any groundwater monitoring wells at the Property related to Seller's Remediation after such wells are no longer deemed needed at the Property by Seller's LSRP and/or NJDEP.

### 11.5 Seller's Indemnification

(a) Indemnification. For a five (5) year period after the issuance of the Groundwater RAO, Seller shall indemnify, defend, and hold harmless the City of Hoboken, the governing body, and the Mayor, as well as the City's officers, agents, and employees and their respective successors and assigns (collectively, the "**Buyer Indemnified Parties**") from and against any claims, damages, actions, liens, suits, judgments, and reasonable attorney's and consultant's fees, directly or indirectly, to the extent arising from or related to (i) Seller's failure to implement and complete Seller's Remediation; and (ii) any Natural Resource Damages asserted by NJDEP or other Governmental Entity related to any Hazardous Materials originating at the Land prior to the Closing Date (collectively, the "**Claims**"); provided that nothing herein shall require the Seller to indemnify the Buyer's Indemnified Parties against Claims to the extent caused by or resulting from an Excepted Claim. An "**Excepted Claim**" shall be any claim caused by: (y) the acts, omissions, negligence or willful misconduct of the Buyer and/or the Buyer Indemnified Parties; and (z) any act or omission by the Buyer and/or the Buyer Indemnified Parties that exacerbates environmental conditions at the Property or otherwise increases the cost of Seller's Remediation.

(b) Defense of the Buyer and Buyer Indemnified Parties. In any situation where the Buyer Indemnified Parties are entitled to, and desire to be, defended and/or indemnified by the Seller pursuant to Section 11.5(a) above, the Buyer Indemnified Parties shall provide prompt notice of same to the Seller. Failure to provide prompt notice to the Seller, however, shall not relieve the Seller of any responsibility to defend and indemnify the Buyer Indemnified Parties, unless such failure to provide prompt notice materially impairs the Seller's ability to defend the Claim. Upon receipt of such notice, the Seller shall retain counsel reasonably acceptable to the Buyer Indemnified Parties and defend any such Claim on behalf of the Buyer Indemnified

Parties and shall be responsible for the payment of all fees, costs and expenses associated with the Claim. All of the Buyer Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, at their cost.

(c) Settlement or Judgment. The Buyer and Seller shall have the right to negotiate and consent to any settlement of a Claim; provided that neither party's consent shall be unreasonably withheld, conditioned or delayed with respect to a Claim for which Seller is indemnifying the Buyer. The Seller shall not be liable for any settlement of any such action effectuated without its consent, but if settled with the consent of the Seller or if there is a final judgment against the Seller or the Buyer Indemnified Parties in any such action, the Seller shall indemnify and hold harmless the Buyer Indemnified Parties from and against any loss or liability arising out of such settlement or judgment to the extent pertaining to a Claim (other than an Excepted Claim).

**11.6 Survival.**

(a) Survival. The terms and conditions of Article 11 of this Agreement shall expressly survive the Closing, and shall not be merged with the provisions of any closing documents.

(b) Acknowledgments. Buyer acknowledges and agrees that the disclaimers and other agreements set forth herein are an integral part of this Agreement and that Seller would not have agreed to sell the Property to Buyer for the Purchase Price without the disclaimers and other agreements set forth above. Likewise, Seller acknowledges and agrees that Buyer would not have agreed to purchase the Property for the Purchase Price without the agreements set forth herein.

(c) Access Agreement. In order to fully effectuate the terms and conditions of Article 11 of this Agreement, and to cause the terms and conditions of this Article 11 to run with title to the Property and be binding upon Seller, Buyer, and Buyer's successors and assigns, Seller and Buyer agree to execute and record at Closing an Access Agreement in substantially the form of **Exhibit H** annexed hereto (the "**Access Agreement**").

## ARTICLE 12

## Miscellaneous

**12.1 Parties Bound**. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto.

**12.2 Headings**. The article, section, subsection, paragraph and/or other headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

**12.3 Invalidity and Waiver**. If any portion of this Agreement is held invalid or inoperative, by a court or other Governmental Entity, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and, to the greatest extent legally possible, effect shall be given to the intent manifested by the parties in the portion held invalid or inoperative, provided that the intent and purpose of this Agreement can be accomplished. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future.

**12.4 Governing Law**. This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws of the State of New Jersey and the parties hereto hereby submit to the jurisdiction of the Superior Court of the State of New Jersey.

**12.5 Survival**. Except as expressly set forth herein, the provisions of this Agreement shall not survive Closing.

**12.6 Entirety and Amendments**. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings, verbal and written, relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

**12.7 Press Release**. Buyer and Seller shall agree on a mutually acceptable press release and other related publicity in connection with the execution of this Agreement.

**12.8 Notices**. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Section 1.3. Any such notices shall, unless otherwise provided herein, be given or served (i) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (ii) by overnight delivery using a nationally recognized overnight courier, or (iii) by facsimile or email, simultaneously with notice by methods (i) or (ii) above. Notice deposited in the mail in the manner hereinabove described shall be effective on the third (3rd) business day after such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified between the hours of 8:00 a.m. and 5:00 p.m. of any business day with delivery made after such hours to be deemed received the following business day. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Notices given by counsel to the Buyer shall be deemed given by Buyer and notices given by counsel to the Seller shall be deemed given by Seller.

**12.9 Counsel**. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement prior to its execution by the parties.

**12.10 Calculation of Time Periods**. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday in the State of New Jersey, in which event the period shall run until the end of the next day which is not a Saturday, Sunday,

or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. local time in the State of New Jersey.

**12.11 Execution in Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile or email counterparts of the signature pages, provided that executed originals thereof are forwarded to the other party on the same day by any of the delivery methods set forth in Section 12.8 other than facsimile.

**12.12 No Recordation**. There shall be no recordation of either this Agreement or any memorandum hereof, or any affidavit pertaining hereto, prior to Closing. Nothing herein shall be deemed to prevent Buyer from filing a Notice of Settlement.

**12.13 Further Assurances**. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either party at or after Closing, each party agrees to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby or to further perfect the conveyance, transfer and assignment of the Property to Buyer.

**12.14 Discharge of Obligations**. Except for those obligations which are herein specifically stated to survive Closing, the acceptance of the Deed by Buyer shall be deemed to be a full performance and discharge of every representation and warranty made by Seller herein and every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Agreement.

**12.15 No Third Party Beneficiary**. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Buyer, and their direct and indirect partners, shareholders, members, owners, subsidiaries or affiliates, officers and directors, employees, representatives or agents of the foregoing or any subsidiary, affiliate or controlling persons thereof, only, and are not for the benefit of any third party, and accordingly, except as set forth in Section 12.18 below, otherwise required by law, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

**12.16 Waiver of Right to Jury Trial**. Each party to this Agreement hereby expressly, voluntarily, knowingly and irrevocably waives any constitutional or other right each may have to a trial by jury in the event of a court litigation concerning any claim, demand, action or cause of action (a) arising under this Agreement, the parties' performance thereunder or any other instrument, document or agreement executed or delivered in connection therewith, or (b) in any way connected with or related or incidental to the dealings of the parties thereto or any of them with respect to any instruments, document or agreement related in any way whatsoever to the subject matter of this Agreement, and in each case, whether now existing or hereafter arising and whether sounding in tort or contract or otherwise. Any party to this Agreement may file an original counterpart or copy of this section with any court as written evidence of the consent of

the parties hereto to the waiver of their right to trial by jury. Each party represents that it has been represented by and consulted with counsel specifically with reference to this clause.

**12.17 Bulk Sales Law**. Buyer shall have the right to comply with N.J.S.A. 54:32B-22(c) and N.J.S.A. 54:50-38 and Seller shall cooperate in connection with such compliance. In furtherance thereof: (i) Seller shall prepare and deliver to Buyer the Asset Transfer Tax Declaration (the "**TTD**") in the then current form prescribed by the New Jersey Department of the Treasury, Division of Taxation (the "**Division**") (and such other forms as the Division may require), so that such form is received by Buyer not less than thirty (30) days prior to the Closing; and (ii) Buyer may deliver a Notification of Sale, Transfer, or Assignment in Bulk (Form C-9600) in the then current form prescribed by the Division (and such other forms as the Division may require), together with the completed TTD and a fully executed copy of the Agreement, (the "**Tax Notification**") to the Division by registered or certified mail or overnight delivery so that such Tax Notification is received by the Division not less than fifteen (15) days prior to Closing. Seller shall provide all information requested by Buyer to enable Buyer to complete the Tax Notification, as soon as practicable. If, at any time prior to Closing, the Division informs Buyer that a possible claim (the "**Bulk Sales Claim**") for taxes imposed or to be imposed on Seller, including any interest or penalties thereon, any cost or fees imposed by the Division related thereto and any tax on the gain from the sale of the Property (collectively, "**Taxes**"), exists and the amount thereof (the "**Deficiency**"), then Buyer and Seller shall close as scheduled and without delay, and Buyer shall withhold the portion of the Purchase Price equal to the amount of the Deficiency, which amount so withheld shall be placed in an escrow account (the "**Tax Escrow**"), which Tax Escrow shall be held and disbursed pursuant to an escrow agreement in the form annexed hereto as **Exhibit J**. In the event the amount of the Deficiency exceeds the Purchase Price, Seller shall, at Closing, fund into the Tax Escrow an amount which equals the difference between the Deficiency and the Purchase Price. The escrow agent shall be a title agent, title company, attorney or bank authorized to transact business in New Jersey selected by Buyer and reasonably acceptable to Buyer and Seller ("**Tax Escrow Agent**"). Notwithstanding anything to the contrary contained herein, Seller shall have the right to negotiate with the Division regarding the Bulk Sales Claim and the Deficiency; provided, however, that: (i) Buyer shall be entitled to comply with all instructions of the Division; and (ii) the Closing shall not be delayed as a result thereof. For the avoidance of doubt, Buyer shall not be liable for any Taxes, and Seller shall indemnify, defend, and hold Buyer harmless from any liability, damage or expense incurred in connection with any claim for any such Taxes, including, without limitation, any interest and penalties thereon and cost and fees imposed by the Division relating thereto. The indemnification provision contained in this Section 12.17 shall survive the termination of the Agreement and/or the Closing under the Agreement.

**12.18 Ownership of Seller; Guaranty**. Buyer agrees that the Equity Owners shall be entitled to enforce Seller's rights under this Agreement and shall be covered by any release or indemnity from Buyer to Seller under this Agreement, whether or not specifically named in the applicable provision. BASF Corporation hereby guaranties the performance of Seller's obligations under this Agreement including, without limitation, with regard to all of Seller's post-closing obligations, including Seller's Remediation.

**[SIGNATURE PAGE AND EXHIBITS FOLLOW]**

**SIGNATURE PAGE TO AGREEMENT OF PURCHASE AND SALE BY AND BETWEEN COGNIS USA LLC AND CITY OF HOBOKEN**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written below.

**SELLER:**

**Cognis USA LLC**
a Delaware limited liability company

By: _____
Name:
Title: , hereunto duly authorized
Date executed by Seller: _____, 2016

**BUYER:**

**City of Hoboken**

By: _____
Name:
Title: , hereunto duly authorized
Date executed by Buyer: _____, 2016

**GUARANTOR:**

**BASF Corporation**
By: _____
Name: _____
Title: , hereunto duly authorized
Date executed by Guarantor: _____, 2016

## EXHIBIT A

## LEGAL DESCRIPTION OF THE LAND

### TAX MAP BLOCK 103, LOT 7

BEGINNING at a point formed by the intersection of the easterly line of Madison Street with the southerly line of Twelfth Street and running thence:

(1) S 13° 04' W and along the easterly line of Madison Street a distance of 250.00 feet to a point, thence

(2) S 76° 56' E and parallel to Twelfth Street a distance of 200.00 feet to a point in the westerly line of Jefferson Street, thence

(3) N 13° 04' E and along the westerly line of Jefferson Street, a distance of 250.00 feet to a point in the southerly line of Twelfth Street, thence

(4) N 76° 56' W and along the southerly line of Twelfth Street a distance of 200.00 feet to a point in the easterly line of Madison Street, said point being the point or place of beginning.

CONTAINING 50,000 square feet.

SAID parcel being formerly designated as Block 103, Lots 7 to 26 on the Tax Map of the City of Hoboken.

### TAX MAP BLOCK 107, LOT 1

BEGINNING at a point formed by the intersection of the westerly line of Adams Street with the northerly line of Twelfth Street and running thence:

(1) N 13° 04' E and along the westerly line of Adams Street a distance of 400.00 feet to a point in the southerly line of Thirteenth Street, thence

(2) N 76° 56' W and along the southerly line of Thirteenth Street a distance of 465.00 feet to a point in the easterly line of Madison Street, thence

(3) S 13° 04' W and along the easterly line of Madison Street a distance of 400.00 feet to a point in the northerly line of Twelfth Street, thence

(4) S 76° 56' E and along the northerly line of Twelfth Street a distance of 465.00 feet to a point in the westerly line of Adams Street, said point being the point or place of beginning.

CONTAINING 186,000 square feet.

SAID parcel being formerly designated as Block 107, Lots 1 to 32 and Block 108, Lots 1 to 32 on the Tax Map of the City of Hoboken.

**TAX MAP BLOCK 113, LOT 1**

BEGINNING at a point formed by the intersection of the westerly line of Adams Street with the northerly line of Thirteenth Street and running thence:

(1) N 13° 04' E and along the westerly line of Adams Street a distance of 150.00 feet to a point, thence

(2) N 76° 56' W and parallel to Thirteenth Street a distance of 200.00 feet to a point in the easterly line of Jefferson Street, thence

(3) S 13° 04' W and along the easterly line of Jefferson Street a distance of 150.00 feet to a point in the northerly line of Thirteenth Street, thence

(4) S 76° 56' E and along the northerly line of Thirteenth Street a distance of 200.00 feet to a point in the westerly line of Adams Street, said point being the point or place of beginning.

CONTAINING 30,000 square feet.

SAID parcel being formerly designated as Block 113, Lots 1 to 6 and Lots 27 to 32 on the Tax Map of the City of Hoboken.

# EXHIBIT A-1

## SURVEY

# EXHIBIT B

## PERMITTED EXCEPTIONS

**[TO BE INSERTED AFTER REVIEW OF TITLE COMMITMENT.]**

## EXHIBIT C

## FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT dated as of the ___ day of _____, 20__ by and among **COGNIS USA LLC**, a limited liability company organized and existing under the laws of the State of Delaware, successor by conversion to Cognis Corporation ("Seller"), the **CITY OF HOBOKEN** ("Buyer"), and [_____], a [_____] organized and existing under the laws of the State of _____ (the "Escrow Agent").

**W I T N E S S E T H**

Seller holds record title to those certain parcels of land identified as (a) Block 103, Lot 7, (b) Block 107, Lot 1, and (c) Block 113, Lot 1, in the City of Hoboken, County of Hudson, State of New Jersey (the "Property"). Seller and Buyer have executed as of the date hereof an Agreement of Purchase and Sale (the "PSA"), providing for the purchase and sale of the Property.

Capitalized terms used but not otherwise defined herein shall have the respective meanings given them in the PSA. Notwithstanding the foregoing, it is expressly understood and agreed by the parties hereto that all references herein to the PSA are for the convenience of the parties hereto other than the Escrow Agent and the Escrow Agent shall have no obligation or duties toward any of the parties other than to fully comply with its responsibilities as Escrow Agent as described herein.

In consideration of the execution of this Escrow Agreement and the mutual covenants herein contained, the parties agree as follows:

1. Earnest Money. Contemporaneously with the execution by Buyer and delivery to Escrow Agent of the PSA, Buyer shall deliver to the Escrow Agent, and the Escrow Agent will acknowledge receipt of the amount of Three Million Dollars ($3,000,000.00) (collectively hereinafter referred to as the "Earnest Money"). The Earnest Money shall be held by Escrow Agent in accordance with this Agreement. As used herein, the term "Escrowed Sums" shall mean the amount of the initial Earnest Money hereunder, as increased by any interest earned thereon.

2. Disposition of Escrowed Sums. The Escrow Agent shall hold the Escrowed Sums in escrow until the Closing or earlier termination of this Agreement and shall disburse the Escrowed Sums in accordance with the terms of the PSA and this Agreement. If for any reason the Closing does not occur and either party makes a written demand upon the Escrow Agent for the Escrowed Sums, the Escrow Agent shall give written notice to the other party of such demand. If the Escrow Agent does not receive a written objection from the other party to a proposed release of the Escrowed Sums within five (5) business days after the giving of such notice, the Escrow Agent is hereby authorized to make such release. If the Escrow Agent does receive such written objection within such five (5) business day period, the provisions of Paragraph 3 below shall apply.

3. Objection to Disbursement. If Escrow Agent shall receive any objection to the release of any Escrowed Sums pursuant to Paragraph 2, then Escrow Agent shall continue to hold the disputed amount in escrow under the terms and conditions hereof, until the earlier of (a) receipt by Escrow Agent of joint instructions signed by Seller and Buyer regarding the release or disbursement of the disputed sums, or (b) receipt by Escrow Agent of a final, unappealable judgment, order or decree from a court of competent jurisdiction instructing Escrow Agent as to release and/or disbursement of the disputed sum.

4. Reliance; Duties. Escrow Agent may act in reliance on any writing or instrument or signature which it believes to be genuine, and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so.

5. Dispute. In the event of any dispute between the parties regarding the Escrowed Sums, Escrow Agent, at its option, may disregard all instructions received and either (i) hold the Escrowed Sums until the dispute is mutually resolved and Escrow Agent is advised of this fact in writing by both Seller and Buyer, or Escrow Agent is otherwise instructed by a final unappealable judgment of a court of competent jurisdiction, or (ii) deposit the Escrowed Sums into a court of competent jurisdiction (whereupon Escrow Agent shall be released and relieved of any and all liability and obligations hereunder from and after the date of such deposit).

6. Uncertainty. In the event Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive conflicting instructions, claims or demands from the parties hereto, or instructions which conflict with any of the provisions of this Agreement or the PSA, Escrow Agent shall be entitled (but not obligated) to refrain from taking any action other than to keep safely the Escrowed Sums until Escrow Agent shall be instructed otherwise in writing signed by both Seller and Buyer, or by final judgment of a court of competent jurisdiction.

7. Indemnity. Seller and Buyer shall jointly and severally hold Escrow Agent harmless against any loss, damage, liability or expense incurred by Escrow Agent, arising out of or in connection with its entering into this Agreement and the carrying out of its duties hereunder, including the reasonable costs and expenses of defending itself against any claim of liability or participating in any legal proceeding. Escrow Agent may consult with counsel of its choice, and shall have full and complete authorization and protection for any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

8. Resignation. Escrow Agent may resign at will and be discharged from its duties or obligations hereunder by giving notice in writing of such resignation specifying a date when such resignation shall take effect; provided, however, that (i) prior to the effective date of such resignation a substitute escrow agent is approved in writing by Seller and Buyer, which approval shall not be unreasonably withheld or delayed, or (ii) Escrow Agent shall deposit the Escrowed Sums with a court of competent jurisdiction. After such resignation, Escrow Agent shall have no further duties or liability hereunder.

9. Termination. Buyer and Seller, together, shall have the right to terminate the appointment of Escrow Agent hereunder by giving to it notice of such termination, specifying

the date upon which such termination shall take effect and designating a replacement Escrow Agent, who shall sign a counterpart of this Agreement. Upon demand of such successor Escrow Agent, the Escrowed Sums shall be turned over and delivered to such successor Escrow Agent, who shall thereupon be bound by all of the provisions hereof. Escrow Agent's agreements and obligations hereunder shall terminate and Escrow Agent shall be discharged from further duties and obligations hereunder upon final payment of the Escrowed Sums in accordance with the terms of this Agreement.

10. Continued Representation of a Party. Notwithstanding that Escrow Agent is acting as an escrow agent for the Escrowed Sums, and, further, notwithstanding any subsequent dispute which may arise between the parties related to this Agreement, the PSA, the Escrowed Sums or otherwise, if Escrow Agent is legal counsel to a party hereunder, each party agrees that Escrow Agent may continue to represent such party as legal counsel in connection with this Agreement, the PSA and the transactions contemplated hereby or thereby and/or with respect to any dispute or litigation arising out of the PSA or this Agreement.

11. Entire Agreement. This Agreement embodies the entire understanding and agreement of the parties to this Agreement concerning Escrow Agent's obligations, and supersedes all prior and contemporaneous agreements, understandings, negotiations, offers and expressions of intent, whether oral or written. None of the terms and conditions of this Agreement may be modified except by a writing, signed by Seller, Buyer and Escrow Agent. In the event of any inconsistency between this Agreement and the PSA, the terms of this Agreement shall control.

12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of Seller, Buyer and Escrow Agent and their respective successors in interest.

13. Notices. Any demand, notice or other communication required or permitted to be given hereunder shall be in writing, and shall be delivered personally, by recognized overnight national courier service (such as Federal Express) for next business day delivery, by telecopy or email (with a hard copy and a transmission confirmation sent by a recognized overnight national courier service), or by certified mail, return receipt requested, first-class postage prepaid to the parties at the addresses set forth below (or to such other addresses as the parties may specify by due notice to the other):

To Buyer:

City of Hoboken
94 Washington Street
Hoboken, New Jersey 07030
Attention: [_____]
Telephone: [_____]
Facsimile: [_____]
Email: [_____]

with copy which shall not constitute notice to:

The Buzak Law Group, LLC
150 River Road, Suite N-4
Montville, New Jersey 07045
Attention: Edward J. Buzak, Esq.
Telephone: (973) 335-0600
Facsimile: (973) 335-1145
Email: ejbuzak@buzaklawgroup.com

To Seller:

Cognis USA LLC
c/o BASF Corporation
100 Park Avenue
Florham Park, New Jersey 07932
Attention: Charles Waltz
Telephone: (973) 245-6595
Email: charles.waltz@basf.com

with copy to:

Cognis USA LLC
c/o BASF Corporation
100 Park Avenue
Florham Park, New Jersey 07932
Attention: Mary Kenny, Esq.
Telephone: (973) 245-5219
Email: mary.kenny@basf.com

with copy which shall not constitute notice to:

Drinker Biddle & Reath LLP
600 Campus Drive
Florham Park, New Jersey 07932
Attention: Glenn S. Pantel, Esq.
Telephone: (973) 549-7020
Facsimile: (973) 360-9831
Email: glenn.pantel@dbr.com

To Escrow Agent:

[_____]
[_____]
[_____]
Attention: [_____]
Telephone: [_____]
Facsimile: [_____]

Email: [_____]

Any notice delivered to a party's designated address by (a) personal delivery, (b) recognized overnight national courier service, or (c) certified mail, return receipt requested, shall be deemed to have been received by such party at the time the notice is delivered to such party. Any notice sent by fax to the party's designated fax number or email address shall be effective upon receipt, provided receipt occurs before 5:00 PM on a business day in the State of New Jersey. Confirmation by the courier delivering any notice given pursuant to this Paragraph 13 shall be conclusive evidence of receipt of such notice. Each party hereby agrees that it will not refuse or reject delivery of any notice given hereunder, that it will acknowledge, in writing, receipt of the same upon request by any other party and that any notice rejected or refused by it shall be deemed for all purposes of this Agreement to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service. Any notice given by an attorney for a party shall be effective for all purposes.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

15. Section Headings. The respective section and subsection headings contained in this Agreement are for convenience of reference only, and shall not be deemed to modify, limit, define or describe in any respect any of the provisions of this Agreement.

16. Execution in Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute a single Agreement.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties hereto have caused this Escrow Agreement to be duly executed and delivered as of the date first above written.

**Cognis USA LLC**

By: _____
Name:

**City of Hoboken**

By: _____
Name:
Title:

[_____]

By: _____
Name:
Title:

**EXHIBIT D**

**FORM OF DEED**

Record and Return to: Prepared by:

_____

**DEED**

This Deed is made on _____, 20__

**BETWEEN**

**COGNIS USA LLC**, a Delaware limited liability company, whose address is c/o BASF Corporation, 100 Park Avenue, Florham Park, New Jersey 07932, referred to as the **Grantor**,

**AND**

**THE CITY OF HOBOKEN**, a [_____], whose address is 94 Washington Street, Hoboken, New Jersey, referred to as the **Grantee**.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

**Transfer of Ownership.** The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of Thirty Million Dollars ($30,000,000.00). The Grantor acknowledges receipt of this money.

**Tax Map Reference.** (N.J.S.A. 46:15-2.1) City of Hoboken, Block No. 103, Lot No. 7; Block No. 107, Lot No. 1; and Block No. 113, Lot No. 1.
Account No. [___]

[ ] No property tax identification number is available on the date of this Deed. (Check box if applicable.)

**Property.** The property (the "**Property**") consists of the land and all the buildings and structures on the land in the City of Hoboken, County of Hudson and State of New Jersey. The description of the Property is:

**SEE SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF**

**Being a portion of the same premises** conveyed to Grantor by Deed dated October 25, 2001 from Henkel Corporation which Deed was recorded in the Office of the County Register of Hudson County on October 29, 2001 in Deed Book 5888, page 308.

**The Property is subject to** that certain Deed Notice dated June 19, 2015, recorded July 1, 2015, under Instrument No. 20150701010057160 of the Hudson County Register of Deeds of Hudson County, New Jersey and that certain Declaration of Environmental Restrictions dated October 21, 1996, recorded November 8, 1996, in the office of the Hudson County Register of Deeds of Hudson County, New Jersey in Book 5065, Page 26.

**Promises by Grantor.** The Grantor promises that the Grantor has done no act to encumber the Property, except for easements, covenants and restrictions of record. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the Property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

**Restrictive Covenants.** This Deed shall be subject to the following restrictive covenant, and by acceptance and recordation of this Deed Grantee hereby agrees that the Property conveyed by this Deed shall not be developed or used for Residential Use at or below grade (i.e. the ground floor or any subsurface levels). "**Residential Use**" as used herein shall mean and include any improvement, structure or dwelling used for living accommodations (single or multi-family occupancy, including, without limitation, detached housing, condominiums, apartment buildings, dormitories, and senior citizen housing); any day care facility (whether for infants, children, the infirm, or the elderly); any hospital, hospice, and nursing home facility; any school for individuals under the age of twenty-one (21); any prison; and any other similar or like use. This Deed shall be subject to the following restrictive covenant, and by acceptance and recordation of this Deed Grantee hereby agrees that the groundwater beneath the Property shall not be used for any purpose, and no groundwater wells shall be drilled, constructed, or installed on the Property excepting any groundwater wells that may be required by a governmental authority having jurisdiction over the Property, or the environmental consultant who is a Licensed Site Remediation Professional licensed by NJDEP pursuant to N.J.S.A. 58:10C-1 *et seq.* of record for the Property, for the purpose of required environmental testing, monitoring, or remediation. The foregoing restrictive covenants shall be covenants running with the Property conveyed by this Deed.

**Signatures.** The Grantor and the Grantee each sign this Deed as of the date at the top of the first page.

**[SIGNATURE PAGE FOLLOWS]**

**Grantor:**

**COGNIS USA LLC**

By: _____
[Name]
[Title]

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on [_____], 20__, [_____], [_____] of Cognis USA LLC personally came before me and stated to my satisfaction that this person:

(a) was the maker of the attached Deed;
(b) was authorized to and did execute this Deed as [_____] of Cognis USA LLC, the entity named in this Deed;
(c) this Deed was made for $[_____] as the full and actual consideration paid or to be paid for the transfer of title (such consideration is defined in N.J.S.A. 46:15-5); and
(d) this Deed was executed as the act of the entity.

_____

GIT/REP-3
(9-2015)

State of New Jersey

# SELLER'S RESIDENCY CERTIFICATION/EXEMPTION

(Please Print or Type)

Name(s)

Current Street Address

City, Town, Post Office Box | State | Zip Code

Block(s) | Lot(s) | Qualifier

Street Address

City, Town, Post Office Box | State | Zip Code

Seller's Percentage of Ownership | Total Consideration | Owner's Share of Consideration | Closing Date

1. ❑ Seller is a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to the New Jersey Gross Income Tax Act, will file a resident gross income tax return, and will pay any applicable taxes on any gain or income from the disposition of this property.
2. ❑ The real property sold or transferred is used exclusively as a principal residence as defined in 26 U.S. Code section 121.
3. ❑ Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ❑ Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ❑ Seller is not an individual, estate, or trust and is not required to make an estimated gross income tax payment.
6. ❑ The total consideration for the property is $1,000 or less so the seller is not required to make an estimated income tax payment.
7. ❑ The gain from the sale is not recognized for federal income tax purposes under 26 U.S. Code section 721, 1031, or 1033 (CIRCLE THE APPLICABLE SECTION). If the indicated section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale and report the recognized gain.
   ❑ Seller did not receive non-like kind property.
8. ❑ The real property is being transferred by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.
9. ❑ The real property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ❑ The deed is dated prior to August 1, 2004, and was not previously recorded.
11. ❑ The real property is being transferred under a relocation company transaction where a trustee of the relocation company buys the property from the seller and then sells the house to a third party buyer for the same price.
12. ❑ The real property is being transferred between spouses or incident to a divorce decree or property settlement agreement under 26 U.S. Code section 1041.
13. ❑ The property transferred is a cemetery plot.
14. ❑ The seller is not receiving net proceeds from the sale. Net proceeds from the sale means the net amount due to the seller on the settlement sheet.

The undersigned understandsthat this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein may be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ❑ I certify that a Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

Date | By: Signature

(Seller) Please indicate if Power of Attorney or Attorney in Fact

Date | Signature

{171033.DOCX.1}
83586815.36

**MUST SUBMIT IN DUPLICATE**
NC1645 – Affidavit of Consideration for Use by Seller
RTF-1 (Rev. 7/14/10) P7/10

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STATE OF NEW JERSEY

# AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 49, **P.L.** 1968, as amended through Chapter 33, **P.L.** 2006)(**N.J.S.A.** 46:15-5 et seq.)

**BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.**

STATE OF NEW JERSEY
} SS. County Municipal Code

COUNTY OF HUDSON _____0905_____
MUNICIPALITY OF PROPERTY LOCATION __City of Hoboken_____

**FOR RECORDER'S USE ONLY**
Consideration $_____
RTF paid by seller $_____
Date _____ By_____

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (*Instructions 3 and 4 attached*)

Deponent, _____, being duly sworn according to law upon their oath, deposes
(Name)
and says that he/she is the _____ in a deed dated _____ **(Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)**
transferring real property identified as Block number _____ Lot number _____
located at _____ and annexed thereto.
(Street Address, Town)

(2) **CONSIDERATIONS**_____ (*Instructions #1 and #5 on reverse side*) ☐no prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A is required.

(3A) **REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:** (*Instructions #5A and #7 on reverse side*)

| **Total Assessed Valuation** | **÷ Director's Ratio** | **= Equalized Assessed Valuation** |
|---|---|---|
| $_____ | ÷ _____% | = $_____ |

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE(*See Instruction #8 on reverse side*)
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by **C.** 49, **P.L.** 1968, as amended through **C.** 66, **P.L.** 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail. _____

(5) PARTIAL EXEMPTION FROM FEE (*Instruction #9 on reverse side*)
**NOTE**: All boxes below apply to grantor(s) only. **ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED**. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from the State's portion of the Basic, Supplemental and General Purpose Fees, as applicable, imposed by **C.** 176, **P.L.** 1975, **C.** 113, **P.L.** 2004 and **C.** 66, **P.L.** 2004 for the following reason(s): _____

**A.SENIOR CITIZEN** (*Instruction #9 on reverse side for A or B*)
- ☐ Grantor(s) 62 years of age or over.*
- ☐ Owned and occupied by grantor(s) at time of sale.
- ☐ One- or two-family residential premises.
- ☐ Resident of the State of New Jersey.
- ☐ Owners as joint tenants must all qualify.

**B.BLIND PERSON** (*Instruction #9 on reverse side for A or B*)
- ☐ Grantor(s) legally blind.*
- ☐ Owned and occupied by grantor(s) at time of sale.
- ☐ One- or two-family residential premises
- ☐ Resident of State of New Jersey.
- ☐ Owners as joint tenants must all qualify.

* IN THE CASE OF HUSBAND AND WIFE OR STATUTORY PARTNER, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

**DISABLED PERSON** (*Instruction #9 on reverse side for A or B*)
- ☐ Grantor(s) permanently and totally disabled.*
  - ☐ Grantor(s) receiving disability payments.*
  - ☐ Grantor(s) not gainfully employed.*
- ☐ Owned and occupied by grantor(s) at time of sale.
  - ☐ One- or two-family residential premises
  - ☐ Resident of the State of New Jersey.
  - ☐ Owners as joint tenants must all qualify.

C. **LOW AND MODERATE INCOME HOUSING** (*Instruction #9 on reverse side*)
- ☐ Affordable according to HUD standards.
- ☐ Meets income requirements of region.
- ☐ Reserved for occupancy.
- ☐ Subject to resale controls.

(6) NEW CONSTRUCTION(*Instructions #2, #10 and #12 on reverse side*)
- ☐ Entirely new improvement.
- ☐ Not previously used for any purpose.
- ☐ Not previously occupied.
- ☐ "**New Construction**" printed clearly at top of first page of deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES(*Instructions #5, #12, #14 on reverse side*)
- ☐ No prior mortgage assumed or to which property is subject at time of sale.
- ☐ No contributions to capital by either grantor or grantee legal entity.
- ☐ No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce the County Clerk or Register of Deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, **P.L.** 1968, as amended through Chapter 33, **P.L.** 2006.

Subscribed and sworn to before me
this _____
day of _____

**SEE SIGNATURE AND NOTARY PAGES ATTACHED HERETO.**

_____
Grantor Name

_____
Notary Public

_____
Deponent Address

_____
Grantor Address at Time of Sale

**XXX-XXX-**_____
Last 3 digits in Grantor's Social Security Number

_____
Name/Company of Settlement Officer

County recording officers shall forward one copy of each Affidavit of Consideration for Use by Seller when Section 3A is completed to:

**FOR OFFICIAL USE ONLY**
Instrument Number _____ County _____
Deed Number _____ Book _____ Page _____
Deed Dated _____ Date Recorded _____

**State of New Jersey – Division of Taxation, P.O. Box 251, Trenton, NJ 08695-0251, Attention: Realty Transfer Fee Unit**
The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without the prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at: **www.state.nj.us/treasury/taxation/lpt/localtax.htm**

**EXHIBIT E**

**FORM AFFIDAVIT OF TITLE**

STATE OF NEW JERSEY )
) ss.
COUNTY OF )

1. Title. I am a _____ of Cognis USA LLC, successor by conversion to Cognis Corporation (the "Company"). I am fully familiar with the business of the Company. I am a citizen of the United States and at least eighteen (18) years old. The statements contained in this Affidavit of Title are true to the best of my knowledge, information and belief.

2. Authority. The Company is the only owner of the property known and designated as (a) Block 103, Lot 7, (b) Block 107, Lot 1, and (c) Block 113, Lot 1 on the Official Tax Map of the City of Hoboken, County of Hudson, State of New Jersey, and described on Schedule 1 annexed hereto (the "Property"). The Property is today being conveyed by the Company to the **CITY OF HOBOKEN** ("Buyer"). This action, and the making of this Affidavit of Title, have been duly authorized. The Company is a duly organized and existing limited liability company of the State of Delaware and is qualified to do business in the State of New Jersey. The Company has not been dissolved. The Company is not restrained from doing business nor has any legal action been taken for that purpose.

3. Ownership and Possession. There are no tenants or other occupants on the Property. The Company has owned the Property since _____. Since then no one has questioned its ownership or right to possession. Except for its agreements with the Buyer, it has not signed any contracts which remain in effect to sell the Property to any third party, nor has it given anyone else any rights concerning the purchase of the Property.

4. Encumbrances. The Company is not aware that anyone has filed or intends to file a lien claim relating to the Property. No construction work has been performed on the Property for at least the past four (4) months. The Company has not allowed any interest to be created which affects the ownership of the Property. The Company does not owe any disability, unemployment, social security or alcoholic beverage taxes. No bankruptcy or insolvency proceedings have been started by or against the Company, nor has the Company ever been declared bankrupt.

5. Exceptions. The only exceptions to the statements contained in this Affidavit of Title are (i) the Permitted Exceptions set forth in the Agreement of Purchase and Sale pursuant to which this transaction is being consummated; and (ii) the exceptions set forth in Schedule B-2 of the title commitment no. _____ issued by _____, as agent for _____ (the "Title Company") and revised through today's date.

6. Reliance. The Company makes this Affidavit of Title in order to induce the Title Company to insure Buyer's title to Property. It is aware that the Title Company relies upon the statements made in this Affidavit of Title and their truthfulness.

Dated: _____, 20__.

**Cognis USA LLC**
a Delaware limited liability company

By:_____
Name:
Title:
Date executed by the Company: _____ __, 20__

Sworn and subscribed to
before me this ____ day of _____, 20__.

_____
Notary Public or Attorney at Law
State of New Jersey

# EXHIBIT F

## INTENTIONALLY OMITTED

# EXHIBIT G-1

**INTENTIONALLY OMITTED.**

# EXHIBIT G-2

**INTENTIONALLY OMITTED.**

# EXHIBIT H

## ACCESS AGREEMENT

**EXHIBIT I-1**

**TERMINATION OF EXISTING DEED NOTICE**

**[SUBJECT TO REVIEW BY EXCEL/DISCUSS INCLUDING TERMINATION OF EXISTING DEED NOTICE IN AGREED UPON ANTICIPATED ACTION PLAN]**

TERMINATION OF DEED NOTICE
FILED AT THE OFFICE OF THE REGISTER OF HUDSON COUNTY
IN DEED BOOK 9048, PAGES 33 THROUGH AND INCLUDING 98

AS TO

BLOCK 107, LOT 1 AND ALSO BLOCK 113, LOT 1, TAX MAP OF THE CITY OF HOBOKEN, HUDSON COUNTY

IN ACCORDANCE WITH N.J.S.A. 58:10B-13, THIS DOCUMENT IS TO BE RECORDED IN THE SAME MANNER AS DEEDS AND OTHER INTERESTS IN REAL PROPERTY.

Prepared by: _____
Mary T. Kenny, Esq.
BASF Corporation

Recorded by: _____
[*Signature, Officer of County Recording Office*]
[*Print name below signature*]

This Termination of Deed Notice is made as of _____day of _____, 2016 by BASF Corporation (hereinafter "BASF"), having an address at 100 Park Avenue, Florham Park, New Jersey 07932, and COGNIS USA LLC, a Delaware limited liability company, having an address c/o BASF Corporation, 100 Park Avenue, Florham Park, New Jersey 07932, successor by conversion to COGNIS CORPORATION (hereinafter collectively, with their successors and assigns, being referred to herein as "Owner" or "BASF Corporation").

1. DEED NOTICE RECORDED IN THE OFFICE OF THE REGISTER OF HUDSON COUNTY, AT BOOK 9048, PAGES 33-98. By way of a Deed Notice (hereinafter the "Deed Notice") dated June 19, 2015, BASF Corporation advised of: (a) the existence of soil

contamination in concentrations at the real property situated in the City of Hoboken and designated as Block 107, Lot 1 and Block 113, Lot 1 (hereinafter collectively, the "Property") on the Tax Map of the City of Hoboken that do not allow for the unrestricted use of the Property; (b) the existence of institutional and/or engineering controls selected as part of the remedial action for the Property; and (c) the continuing obligation of BASF Corporation, subsequent owners, and others to monitor and maintain those institutional and/or engineering controls. The Deed Notice was part of the remediation of contamination at the Property and was recorded in the Office of the Register of Hudson County on June 19, 2015 in Book 9048, Pages 33-98 by BASF Corporation and COGNIS USA LLC, the prior owner of the Property. Pursuant to Paragraph 8 of the Deed Notice, the Deed Notice was to remain in effect until such time as the Department approved the termination of the Deed Notice by executing a document expressly terminating the Deed Notice.

2. TRANSFER OF THE PROPERTY. By Deed dated [_____] and recorded in the Office of the Register of Hudson County on [_____], 2016 in Book [____], Pages [_____], COGNIS USA LLC transferred to the City of Hoboken ownership of Block 107, Lot 1 and Block 113, Lot 1, subject to the Deed Notice.

3. TERMINATION OF DEED NOTICE RECORDED IN THE OFFICE OF THE REGISTER OF HUDSON COUNTY AT BOOK 9048, PAGES 33-98 AS TO BLOCK 107, LOT 1 AND BLOCK 113, LOT 1. By way of letter dated [_____], 2016, BASF Corporation requested approval from the Department to terminate the Deed Notice to reflect that conditions of the Property that required the execution and recording of the Deed Notice on the Property have changed. The Department approved the request by way of letter dated [_____]. Accordingly, the Department hereby executes this Termination of Deed

Notice. Subject to the provisions of paragraph 5 below, the Department directs that the Deed Notice recorded in the Office of the Register of Hudson County in Book 9048, Pages 33-98 shall be terminated and discharged. A metes and bounds description of the Property and a scaled map showing the boundaries of the Property are attached hereto as **Exhibits A** and **B**, respectively.

4. EXECUTION OF NEW DEED NOTICE FOR BLOCK 107, LOT 1 and BLOCK 113, LOT 1. Although the Department has determined that a change in conditions warrants the termination of the Deed Notice as to Block 107, Lot 1 and Block 113, Lot 1, the Department also has determined that soil contamination remains on Block 107, Lot 1 and Block 113, Lot 1, in concentrations that do not allow for the unrestricted use of the Property. Thus, the approved remedial action includes a new Deed Notice for the Property. The new Deed Notice shall be executed by and recorded by the City of Hoboken.

5. EFFECTIVE DATE OF TERMINATION OF DEED NOTICE. This Termination of Deed Notice shall take effect on the date of this Termination of Deed Notice or the date the new Deed Notice for Block 107, Lot 1 and Block 113, Lot 1, is recorded in the Office of the Register of Hudson County, whichever is later, or, if this Termination of Deed Notice and the new Deed Notice are simultaneously recorded in the Office of the Register of Hudson County, on the date of such simultaneous recording.

6. **SIGNATURES IN WITNESS WHEREOF,** BASF Corporation, COGNIS USA LLC and the New Jersey Department of Environmental Protection have executed this Termination of Deed Notice, as of the date first written above.

| | |
|---|---|
| WITNESS: | **BASF CORPORATION** |
| _____ | By:_____ |
| [Signature] | Name:_____ |

Title:_____

_____
[Print Name]

STATE OF NEW JERSEY

COUNTY OF SS.:

I certify that on _____, 2016, [_____] personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) This person is the [_____] of BASF Corporation;

(b) This person is the attesting witness to the signing of this document by the proper officer who is the [_____] of BASF Corporation;

(c) This document was signed and delivered by the corporation as its voluntary act and was duly authorized; and

(d) This person signed this proof to attest to the truth of these facts.

_____
[Signature]

_____
[Print Name and Title of Attesting Witness]

_____
Notary Public of the State of New Jersey

_____
[Print Name]

WITNESS:

**COGNIS USA LLC**

_____
[Signature]

By:_____
Name:_____
Title:_____

_____
[Print Name]

STATE OF NEW JERSEY

COUNTY OF SS.:

I certify that on _____, 2016, [_____] personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) This person is the [_____] of COGNIS USA LLC;

(b) This person is the attesting witness to the signing of this document by the proper officer who is the [_____] of COGNIS USA LLC;

(c) This document was signed and delivered by the limited liability company as its voluntary act and was duly authorized; and

(d) This person signed this proof to attest to the truth of these facts.

_____
[Signature]

_____
[Print Name and Title of Attesting Witness]

_____
Notary Public of the State of New Jersey

_____
[Print Name]

WITNESS:

**NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

_____
[Signature]

By: _____
[Signature]

_____
[Print name and title]

_____
[Print name and title]

STATE OF NEW JERSEY

COUNTY OF MERCER SS.:

I certify that on _____, 2016, [_____], [_____] of the New Jersey Department of Environmental Protection personally came before me, and this person acknowledged under oath, to my satisfaction, that this person:

(a) Is [_____] and is authorized to execute this document on behalf of the New Jersey Department of Environmental Protection;

(b) Signed, sealed and delivered this document as his or her act and deed in his capacity as [_____] of the New Jersey Department of Environmental Protection; and

(c) This document was signed and delivered by the New Jersey Department of Environmental Protection as its voluntary act, duly authorized.

_____
Notary Public of the State of New Jersey

_____
[Print Name]

**RECORD AND RETURN TO:**

**Mary T. Kenny, Esq.**
**BASF Corporation**
**100 Park Avenue**
**Florham Park, New Jersey 07932**

EXHIBIT A

Metes and Bounds Description of the Property

EXHIBIT B

Scaled Tax Map of the Property and Institutional/Engineering Control Boundaries

**EXHIBIT I-2**

**FORM OF NEW DEED NOTICE**

**[TO BE PROVIDED.]**

**[SUBJECT TO REVIEW BY EXCEL/DISCUSS INCLUDING ESTABLISHMENT OF NEW DEED NOTICE IN AGREED UPON ANTICIPATED ACTION PLAN]**

## EXHIBIT J

## BULK SALES TAX ESCROW AGREEMENT

**THIS ESCROW AGREEMENT** (this "Agreement") is made as of the ___ day of _____, 20__ by and among [_____], a [_____], having an address at [_____] ("Escrow Agent"), **COGNIS USA LLC**, a Delaware limited liability company, successor by conversion to Cognis Corporation ("Seller") and the **CITY OF HOBOKEN** ("Buyer").

## PRELIMINARY STATEMENT

Seller and Buyer are parties to that certain Agreement of Purchase and Sale, dated _____, 20__ (the "Contract"), relating to certain real property known and located at (a) Block 103, Lot 7, (b) Block 107, Lot 1, and (c) Block 113, Lot 1, in the City of Hoboken, County of Hudson, State of New Jersey (the "Property").

Section 11.17 of the Contract provides that simultaneously with the conveyance of the Property to Buyer, Buyer shall post a Tax Escrow (as defined in the Contract) on Seller's behalf. This Agreement shall govern the terms of such escrow and the disbursement of amounts from such escrow.

Capitalized terms used in this Agreement, which are not defined in this Agreement, shall have the meanings given to such terms in the Contract.

**NOW, THEREFORE**, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Tax Escrow Funds. Simultaneously herewith, Buyer has deposited the sum of $[_____], which amount has been withheld from the Purchase Price, to be held by Escrow Agent as the Tax Escrow, in accordance with the provisions hereof. Escrow Agent shall hold the Escrowed Sums (as hereinafter defined) in an interest bearing trust account at [INSERT an FDIC insured banking institution authorized to do business in New Jersey, with offices located in New Jersey, which is acceptable to Seller and Buyer]. As used herein, the term "Escrowed Sums" shall mean the amount of the initial deposit hereunder, as increased by any interest earned thereon and as decreased by any sums which have been disbursed from escrow in accordance with the terms hereof.

2. Payment to Division of Taxation. Within five (5) days after receipt from the Division, Seller or Buyer, as the case may be, shall forward to Escrow Agent and the other party hereunder a copy of any written instructions of the Division regarding the disbursement of Escrowed Sums ("Disbursement Instructions"). No sooner than five (5) days after receipt, Escrow Agent shall disburse all or a portion of the Escrowed Sums in accordance with such Disbursements Instructions.

3. Release of Funds to Seller. Within five (5) days after receipt from the Division, Seller or Buyer, as the case may be, shall forward to Escrow Agent and the other party hereunder a copy of any written confirmation ("Release Authorization") from the Division that the Deficiency has been paid in full or that Seller has no further liability for the Deficiency. Upon receipt of such Release Authorization, Escrow Agent shall release to Seller any Escrowed Sums which remain in escrow (and which the Division has not required to be paid to the Division pursuant to any Disbursement Instructions or Release Authorization); provided, however, that Escrow Agent shall not release any Escrowed Sums to Seller until at least ten (10) days after Escrow Agent receives the Release Authorization, nor thereafter if Escrow Agent shall have received written notice of objection from Buyer within such ten (10) day period.

4. Objection to Disbursement. If Escrow Agent shall receive any objection from Buyer to the release of any Escrowed Sums to Seller pursuant to Paragraph 3, then Escrow Agent shall release any undisputed amount and shall continue to hold the disputed amount in escrow under the terms and conditions hereof, until the earlier of (a) receipt by Escrow Agent of joint instructions signed by Seller and Buyer regarding the release or disbursement of the disputed sums, or (b) receipt by Escrow Agent of a final, unappealable judgment, order or decree from a court of competent jurisdiction instructing Escrow Agent as to release and/or disbursement of the disputed sum.

5. Reliance; Duties. Escrow Agent may act in reliance on any writing or instrument or signature which it believes to be genuine, and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so.

6. Dispute. In the event of any dispute between the parties regarding the Escrowed Sums, Escrow Agent, at its option, may disregard all instructions received and either (i) hold the Escrowed Sums until the dispute is mutually resolved and Escrow Agent is advised of this fact in writing by both Seller and Buyer, or Escrow Agent is otherwise instructed by a final unappealable judgment of a court of competent jurisdiction, or (ii) deposit the Escrowed Sums into a court of competent jurisdiction (whereupon Escrow Agent shall be released and relieved of any and all liability and obligations hereunder from and after the date of such deposit).

7. Uncertainty. In the event Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive conflicting instructions, claims or demands from the parties hereto, or instructions which conflict with any of the provisions of this Agreement or the Contract, Escrow Agent shall be entitled (but not obligated) to refrain from taking any action other than to keep safely the Escrowed Sums until Escrow Agent shall be instructed otherwise in writing signed by both Seller and Buyer, or by final judgment of a court of competent jurisdiction.

8. Indemnity. Seller and Buyer shall jointly and severally hold Escrow Agent harmless against any loss, damage, liability or expense incurred by Escrow Agent, arising out of or in connection with its entering into this Agreement and the carrying out of its duties hereunder, including the reasonable costs and expenses of defending itself against any claim of liability or participating in any legal proceeding. Escrow Agent may consult with counsel of its choice, and

shall have full and complete authorization and protection for any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

9. Resignation. Escrow Agent may resign at will and be discharged from its duties or obligations hereunder by giving notice in writing of such resignation specifying a date when such resignation shall take effect; provided, however, that (i) prior to the effective date of such resignation a substitute escrow agent is approved in writing by Seller and Buyer, which approval shall not be unreasonably withheld or delayed, or (ii) Escrow Agent shall deposit the Escrowed Sums with a court of competent jurisdiction. After such resignation, Escrow Agent shall have no further duties or liability hereunder.

10. Termination. Buyer and Seller, together, shall have the right to terminate the appointment of Escrow Agent hereunder by giving to it notice of such termination, specifying the date upon which such termination shall take effect and designating a replacement Escrow Agent, who shall sign a counterpart of this Agreement. Upon demand of such successor Escrow Agent, the Escrowed Sums shall be turned over and delivered to such successor Escrow Agent, who shall thereupon be bound by all of the provisions hereof. Escrow Agent's agreements and obligations hereunder shall terminate and Escrow Agent shall be discharged from further duties and obligations hereunder upon final payment of the Escrowed Sums in accordance with the terms of this Agreement.

11. Continued Representation of a Party. Notwithstanding that Escrow Agent is acting as an escrow agent for the Escrowed Sums, and, further, notwithstanding any subsequent dispute which may arise between the parties related to this Agreement, the Contract, the Escrowed Sums or otherwise, if Escrow Agent is legal counsel to a party hereunder, each party agrees that Escrow Agent may continue to represent such party as legal counsel in connection with this Agreement, the Contract and the transactions contemplated hereby or thereby and/or with respect to any dispute or litigation arising out of the Contract or this Agreement.

12. Entire Agreement. This Agreement embodies the entire understanding and agreement of the parties to this Agreement concerning Escrow Agent's obligations, and supersedes all prior and contemporaneous agreements, understandings, negotiations, offers and expressions of intent, whether oral or written. None of the terms and conditions of this Agreement may be modified except by a writing, signed by Seller, Buyer and Escrow Agent. In the event of any inconsistency between this Agreement and the Contract, the terms of this Agreement shall control.

13. Binding Effect. This Agreement shall be binding upon and inure to the benefit of Seller, Buyer and Escrow Agent and their respective successors in interest.

14. Notices. Any demand, notice or other communication required or permitted to be given hereunder shall be in writing, and shall be delivered personally, by recognized overnight national courier service (such as Federal Express) for next business day delivery, by telecopy or email (with a hard copy and a transmission confirmation sent by a recognized overnight national courier service), or by certified mail, return receipt requested, first-class postage prepaid to the parties at the addresses set forth below (or to such other addresses as the parties may specify by due notice to the other):

To Buyer:

City of Hoboken
94 Washington Street
Hoboken, New Jersey 07030
Attention: [_____]
Telephone: [_____]
Facsimile: [_____]
Email: [_____]

with copy which shall not constitute notice to:

The Buzak Law Group, LLC
150 River Road, Suite N-4
Montville, New Jersey 07045
Attention: Edward J. Buzak, Esq.
Telephone: (973) 335-0600
Facsimile: (973) 335-1145
Email: ejbuzak@buzaklawgroup.com

To Seller:

Cognis USA LLC
c/o BASF Corporation
100 Park Avenue
Florham Park, New Jersey 07932
Attention: Charles Waltz
Telephone: (973) 245-6595
Email: charles.waltz@basf.com

with copy to:

Cognis USA LLC
c/o BASF Corporation
100 Park Avenue
Florham Park, New Jersey 07932
Attention: Mary Kenny, Esq.
Telephone: (973) 245-5219
Email: mary.kenny@basf.com

with copy which shall not constitute notice to:

Drinker Biddle & Reath LLP
600 Campus Drive
Florham Park, New Jersey 07932
Attention: Glenn S. Pantel, Esq.

Telephone: (973) 549-7020
Facsimile: (973) 360-9831
Email: glenn.pantel@dbr.com

To Escrow Agent:

[_____]
[_____]
[_____]
Attention: [_____]
Telephone: [_____]
Facsimile: [_____]
Email: [_____]

Any notice delivered to a party's designated address by (a) personal delivery, (b) recognized overnight national courier service, or (c) certified mail, return receipt requested, shall be deemed to have been received by such party at the time the notice is delivered to such party. Any notice sent by fax to the party's designated fax number or email address shall be effective upon receipt, provided receipt occurs before 5:00 PM on a business day in the State of New Jersey. Confirmation by the courier delivering any notice given pursuant to this Paragraph 14 shall be conclusive evidence of receipt of such notice. Each party hereby agrees that it will not refuse or reject delivery of any notice given hereunder, that it will acknowledge, in writing, receipt of the same upon request by any other party and that any notice rejected or refused by it shall be deemed for all purposes of this Agreement to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service. Any notice given by an attorney for a party shall be effective for all purposes.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

16. Section Headings. The respective section and subsection headings contained in this Agreement are for convenience of reference only, and shall not be deemed to modify, limit, define or describe in any respect any of the provisions of this Agreement.

17. Execution in Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute a single Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of this Agreement.

ESCROW AGENT:

[_____]

By: _____
Name:
Title:

SELLER:

**Cognis USA LLC**

By: _____
Name:
Title:

BUYER:

**City of Hoboken**

By: _____
Name:
Title:

**Exhibit K**

**IRS FORM 8283**

**[BASF TO PROVIDE COMPLETED FORM]**

# Exhibit L

## ENVIRONMENTAL DISCLOSURES

# Exhibit M

## ANTICIPATED ACTION PLAN

### Soil

Closure Reports

1. Submission of RIR/RAR and NJDEP forms by LSRP to NJDEP. Estimated October 2016
2. Submission of RAP application by LSRP to NJDEP. Estimated October 2016

Final Closure Tasks

1. NJDEP RAP approval. Estimated November 2016
2. LSRP issuance of RAO. Estimated November 2016

### Groundwater

Pre-Remedial Action Permit Application Evaluation

1. Finalize review of available third party off-site monitoring well information. Complete
2. Obtain access agreement with third party off-site monitoring well owner. Complete
3. Collection and assessment of water level measurements from third party off-site monitoring wells. Complete
4. Determine likely final RAP monitoring well network. Complete. See attached GW Monitoring map.
5. Additional off-site monitoring well installation. Complete
6. Selected monitoring well abandonment. Complete
7. Collection of final pre-RAP water levels and groundwater samples from selected new and existing wells. See attached GW Monitoring map for parameters. Scheduled for October 2016.

Closure Reports

1. Submission of RIR/RAR (including establishment of CEA for parameters listed on attached GW Monitoring map) and NJDEP forms by LSRP to NJDEP. Estimated February 2017*
2. Submission of RAP application by LSRP to NJDEP. Estimated February 2017*

Final Closure Tasks

1. NJDEP RAP approval. Estimated March-April 2017*
2. LSRP issuance of RAO. Estimated March-April 2017*

Post-Closure Tasks

1. As part of CEA, perform up to 8 quarters of groundwater monitoring (with first event occurring in October 2016). Current outside date for issuance of Groundwater RAO is December 31, 2018.

*Adjustments to schedule could occur based on results of October 2016 groundwater sampling.