

**REAL ESTATE**

**PURCHASE AND SALE AGREEMENT**

**BY AND BETWEEN**

**THE CITY OF HOBOKEN, NEW JERSEY**

**AND**

**SHG HOBOKEN URBAN RENEWAL ASSOCIATES, LLC**

**FOR BLOCK 1, LOT 1**

**OF THE PUBLIC WORKS GARAGE SITE**

**REDEVELOPMENT AREA**

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**REAL ESTATE PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement (the “**Agreement**”) made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, (the “**Execution Date**”) by and between the **City of Hoboken**, a New Jersey municipal corporation, having offices located at 94 Washington Street, Hoboken, New Jersey 07030, (the “**Seller**”) and, **SHG Hoboken Urban Renewal Associates, LLC**, a New Jersey limited dividend limited liability company, having offices located at c/o The S. Hekemian Group, LLC, 45 Eisenhower Drive, Paramus, New Jersey 07652 (the “**Purchaser**”).

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

**WHEREAS**, Seller is the lessee of certain real property commonly known as the Public Works Garage site, and designated as Block 1, Lot 1 on the Office Tax Map of the City of Hoboken (the “**Premises**”) and holds a right to purchase same at or prior to the Closing contemplated herein and thereby have the rights of an owner to transfer title; and

**WHEREAS**, through a process prescribed by the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., Seller has designated the Premises for redevelopment and adopted a redevelopment plan to allow multifamily, commercial/retail and other non-residential uses of the Premises; and

**WHEREAS**, Seller solicited Selected Proposals for the purchase and redevelopment of the Premises through the public issuance of a Request for Proposals dated October 1, 2007 (the “**RFP**”), and has selected a proposal submitted by Purchaser (the “**Selected Proposal**”); and

**WHEREAS**, the Selected Proposal was an Alternative Proposal, as such term is defined in the RFP; and

**WHEREAS**, Purchaser desires to purchase and Seller desires to sell the Premises upon the terms and conditions requiring Purchaser to redevelop the Premises in accordance with the Selected Proposal, as set forth herein and in a contemporaneous Redeveloper’s Agreement executed between these two parties and referenced herein; and

**WHEREAS**, the parties hereto desire to set forth their mutual understandings and agreements with respect to the sale and purchase of the Premises.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained the sufficiency of which being hereby acknowledged, the parties hereto agree as follows:

**1. AGREEMENT TO SELL.** Seller hereby agrees to sell and Purchaser hereby agrees to purchase, free and clear of all encumbrances except for the Permitted Exceptions (as hereinafter defined), the real property premises situated in the City of Hoboken, County of Hudson and State of New Jersey known as:

Lot 1 in Block 1,

all as shown on the current tax map of the City of Hoboken (the “**Premises**”). The Premises are more specifically described in **Exhibit A** which is attached hereto and by this reference made a part hereof.

**2. PURCHASE PRICE.** The total purchase price for the Premises shall be Twenty Five Million Five Hundred Thousand Dollars (\$25,500,000) (the **“Purchase Price”**), payable as follows:

(a)	On the Execution Date, monies to be deposited in escrow as set forth in Section 3 hereof	\$ 2,550,000
(b)	At Closing, by wire transfer or by cashier’s or certified check of Purchaser drawn on a bank which is a member of the New York Clearing House Association	<u>\$ 22,950,000</u>
	Purchase Price	\$25,500,000

Any monies delivered by Purchaser pursuant to Section 2(a), together with any interest accrued thereon, shall be referred to as the **“Deposit Monies”** and shall be deposited in escrow as set forth in Section 3 herein. Upon the event of Closing, all Deposit Monies shall be applied toward the Purchase Price. Simultaneously herewith, Seller is returning to Purchaser its bid security letter of credit in the amount of \$2,550,000, together with written authorization to the issuer thereof to terminate same.

**3. DEPOSIT AND ESCROW AGENT.**

(a) The Deposit Monies paid by the Purchaser shall be held in escrow in an interest-bearing trust account of Ansell Zaro Grimm & Aaron, Seller’s Attorney (the **“Escrow Agent”**) with interest thereon to follow the deposit, which account shall be in a bank authorized to do business in the State of New Jersey as designated by Seller.

(b) In the event the Deposit Monies are to be returned to Purchaser pursuant to any of the terms of this Agreement, Seller shall promptly return any Deposit Monies paid to it pursuant to Section 2. In the event the Purchaser and Seller cannot agree on the disbursement of the Deposit Monies, the Escrow Agent may place the Deposit Monies and all accrued interest with the court, requesting the court to resolve the dispute.

**4. TITLE.**

(a) Seller covenants and agrees that the title to all portions of the Premises, which is to be conveyed at the time of Closing, shall be free and clear from all liens, encumbrances, leases and other rights or privileges to use or occupy the Premises, or any portion thereof, and title shall be good, marketable, and indefeasible with fee simple title valid of record, and insurable at standard rates by a title insurance company of Purchaser’s choice authorized to do business in the State of New Jersey, subject to the following exceptions which shall be deemed **“Permitted Exceptions”**:

(i) Laws, regulations or ordinances of federal, state, county or local entities or agencies having jurisdiction over the Premises, provided same do not prohibit or unreasonably interfere with the uses described in the Redeveloper’s Agreement between the parties (**“Purchaser’s Intended Uses”**).

(ii) Easements, covenants and restrictions of record as shown on Exhibit B hereof, provided the same (A) have not been violated, and (B) would not render title to the Premises unmarketable or unreasonably interfere with Purchaser’s Intended Uses.

(iii) Exceptions from coverage numbered 2 through 11 on Schedule B of the title policy hereto attached as Exhibit B.

(b) Seller agrees to use reasonable efforts to provide Purchaser with (i) any and all title searches, commitments and policies, and surveys for the Premises in possession of the Departments of Corporation Counsel and/or Community Development within ten (10) days of the Execution Date, and (ii) to the extent not previously delivered to Purchaser, without charge, all material documents excluding any documents covered by the attorney-client privilege, which are in the possession of the Departments of Corporation Counsel and/or Community Development relating to the condition of, or to Seller's ownership of, the Premises, or any and all documentation describing the mechanism with which title shall be reconveyed to Seller herein prior to Closing.

(c) Within thirty (30) days from the Execution Date, Purchaser shall procure an examination and report of title (the "**Title Report**") from a title insurance company of Purchaser's choice licensed to do business in the State of New Jersey (the "**Title Company**"). Purchaser shall notify Seller, in writing, of any title exceptions set forth in the Title Report or in any amendments thereto which are not Permitted Exceptions (a "**Purchaser's Objection**"). Seller shall then have a thirty (30) day period after such notice within which Seller shall be obligated to use all commercially reasonable efforts to clear or remove the non-Permitted Exceptions to the satisfaction of Purchaser and the Title Company.

(d) In the event Seller is unable, within thirty (30) days, to remove the non-Permitted Exceptions and deliver title as required in Section 4(a) above, Purchaser shall have the right either to accept such title as Seller is able to convey, without abatement of the Purchase Price, or to terminate this Agreement in which event the Escrow Agent shall, notwithstanding the provision for non-refundability, return all Deposit Monies and all accrued interest to Purchaser.

## **5. ENVIRONMENTAL OBLIGATIONS.**

(a) Seller conducted a Phase I inspection of the Premises in May of 2005 and a Site Investigation/ Remedial Investigation in June of 2006, which describe all environmental conditions known to the Purchaser at such time. The results of this inspection and these investigations have been disclosed to Purchaser (see Appendix I of the RFP), who has, during the RFP process been afforded an opportunity to conduct its own environmental investigation of the Premises.

(b) In connection with Seller's continuing environmental investigation and compliance with its obligations under this Section 5, and in accordance with an Access Agreement materially consistent with the form of agreement hereto attached as Exhibit C, Purchaser and/or its agents, contractors, engineers, attorneys, employees, invitees and representatives shall have the right, at reasonable times and upon reasonable notice to Seller, to have physical access to the Premises to conduct, at Purchaser's sole cost and expense, any and all studies, investigations and tests, including, but not limited to, environmental studies (i.e., soil and groundwater sampling), drainage studies, surveying studies, engineering studies, geo-technical studies, and physical inspections of the land, buildings and improvements located at the Premises (collectively, the "**Physical Inspections**"). Purchaser shall disclose its findings to Seller and the parties shall coordinate and assist each other in the completion of Seller's obligations under this Section 5.

(c) Before the Closing, Seller shall, at Seller's sole cost and expense, cause the Premises to be remediated to non-residential standards and/or obtain a Deed Notice or similar document (formerly known as Declaration of Environmental Restrictions (D.E.R.)) approved by the New Jersey Department of Environmental Protection ("**NJDEP**"), together with an associated site-wide No Further Action letter for soils and an approved Remedial Action Workplan for groundwater, which can include

the institution of a Classification Exception Area of indeterminate length (collectively, “**Seller’s Environmental Approvals**”). If same should be required by NJDEP, Purchaser shall cooperate with Seller with respect to the installation and maintenance of groundwater monitoring wells required for time periods after the Closing provided that same do not unreasonably interfere with the Project. A condition to Purchaser’s obligation to Close will be Seller’s remediation of the Premises to the level required by this Section 5(c). Furthermore, Purchaser shall have no duty to close and may terminate this Agreement if the NJDEP determines that, notwithstanding the foregoing and any and all commercially reasonable and diligent efforts that could be undertaken by Purchaser at its cost, the Premises cannot have a residential use materially consistent with that contemplated by the Redeveloper’s Agreement, including, without limitation, the right to construct not less than 240 residential units. To the extent that Seller’s Environmental Approvals require the construction of a “cap” or other similar engineering controls, and Seller desires Purchaser’s foundation or other paved surfaces to serve as such “cap”, Seller’s Environmental Approvals shall provide that the only remaining condition to receipt of a No Further Action letter from the NJDEP shall be the construction of Purchaser’s foundation and/or paved surfaces and recording of an NJDEP-approved Deed Notice. Seller shall be responsible for any costs incurred by Purchaser as a result of Seller’s use of Purchaser’s improvements to obtain Seller’s Environmental Approvals, but only to the extent that those costs are reasonably determined by Seller’s environmental consultants to be equivalent to costs that would otherwise be incurred by the Seller to meet its obligations under this Section 5(c). Seller shall also obtain, at its own cost and expense, from the Industrial Site Evaluation Element of the NJDEP (“**ISEE**”), provided that ISEE will issue such a determination, a non applicability determination stating that the sale of the Premises to Purchaser is not subject to the requirements of the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. (“**ISRA**”), or otherwise comply with the requirements of ISRA.

(d) Seller shall coordinate the satisfaction of its obligations pursuant to Section 5(c) and its receipt of Seller’s Environmental Approvals with Purchaser and its environmental consultant. Seller shall use reasonable efforts to provide Purchaser with any prospective submissions to the NJDEP at least ten (10) days prior to such submission for Purchaser’s review and comment, and Seller shall in good faith review and consider the incorporation of Purchaser’s comments. Seller shall notify Purchaser of any meetings or substantive phone calls with NJDEP or any other applicable governmental agency concerning Seller’s Environmental Approvals at least ten (10) business days prior to such meetings or phone calls, and if such notice is not possible or practicable, as soon as possible, and Purchaser shall have the right to attend and participate in such meetings or phone calls to the extent permitted by the applicable governmental agency or official.

(e) (i) Seller shall be solely responsible and liable for and shall fully protect, indemnify, defend, and hold harmless Purchaser, its officers, directors, members, agents, employees, representatives, affiliates, successors and assigns, from and against any and all causes of action, claims, charges, costs, damages, enforcement actions, directives, fines, injuries, judgments, liabilities, losses, penalties, and all costs and expenses incidental thereto, including, without limitation, reasonable attorneys fees, expert and consultant fees and laboratory costs, arising at law or in equity, of every kind or nature whatsoever, whether direct or indirect, known or unknown, which Purchaser may hereafter incur, become responsible for or pay out as a result of the Seller’s willful misconduct or negligent omissions in connection with the completion of its obligations pursuant to this Article 5.

(ii) Purchaser shall be solely responsible and liable for and shall fully protect, indemnify, defend, and hold harmless Seller, its elected officials, officers, directors, agents, employees, representatives, affiliates, successors and assigns, from and against any and all causes of action, claims, charges, costs, damages, enforcement actions, directives, fines, injuries, judgments, liabilities, losses, penalties, and all costs and expenses incidental thereto, including, without limitation, reasonable attorneys fees, expert and consultant fees and laboratory costs, arising at law or in equity, of every kind or nature

whatsoever, whether direct or indirect, known or unknown, which Seller, may hereafter incur, become responsible for or pay out as a result of Hazardous Substances located on, at or under the Premises resulting from Purchaser's use of the Premises after the Closing. This Section 5(e)(ii) shall survive the Closing.

## 6. CONDITIONS PRECEDENT TO CLOSING.

(a) The following shall be conditions precedent to Purchaser's obligation to consummate the purchase and sale transaction contemplated herein:

(i) Title Company, after performing a final "rundown" of title, will stand ready to issue at the Closing an ALTA Owner's Policy of Title Insurance on the standard form used in the State of New Jersey with liability in the full amount of the Purchase Price, subject only to the Permitted Exceptions (the "**Title Policy**") insuring Purchaser's interest in the Premises, dated as of the date of the Closing.

(ii) Seller's representations, warranties and covenants set forth in this Agreement shall be true and correct in all material respects as of the date of Closing;

(iii) Seller will have remediated, or caused to be remediated, the Premises to the level specified in Section 5(c) and received its Seller's Environmental Approvals.

(iv) No pending or threatened litigation, administrative proceedings, investigations, or other form of governmental enforcement actions or proceedings exist as of the Closing, which are related to, directed at, or otherwise affecting the use, operation, or occupancy of any portion of the Premises.

(v) The issuance of all necessary approvals (if any) from the New Jersey Department of Environmental Protection and the Planning Board (including site plan approval), and the good faith and diligent review of its application for such approvals, but not in any way limiting the Planning Board from exercising its legally-authorized discretion and any additional necessary approvals from Seller for the redevelopment of the Premises in accordance with the Selected Proposal, which Purchaser shall make a good faith and diligent effort to secure. (These approvals are exclusive of those described in Section 5(c) above, which remain the sole responsibility of Seller).

(vi) To the extent necessary for Project financing, the issuance of the following:

Hudson County Planning Board approval,  
Hudson-Essex & Passaic Soil Conservation District approval,  
NJDEP BSDW Safe Drinking Water Permit,  
NJDEP Treatment Works approval,

which Purchaser shall make a good faith and diligent effort to secure.

(vii) Amendment to the current Redevelopment Plan to permit the Selected Proposal.

(viii) Seller has executed, and is not in default or breach of, a Redeveloper's Agreement and a Financial Agreement (in forms materially consistent with Appendix G and Appendix H of the RFP).

(ix) Notwithstanding anything to the contrary in Section 4 above, Purchaser can extend the Closing Date for a period of up to six (6) months, but in no event beyond May 31, 2010, upon payment of a non-refundable extension fee of \$600,000 (to be prorated if extension is less than six (6) months), if:

(A) The potential of a riparian claim by the State of New Jersey to a portion of the Property exists (the "**Riparian Claim**");

(B) That Riparian Claim interferes with Purchaser's ability to secure financing to perform its obligations under this Agreement and/or its Redeveloper's Agreement with Seller; and

(C) Purchaser has and is diligently using its best efforts to clear title from such the Riparian Claim.

In connection with the foregoing, Seller shall cooperate with and assist Purchaser before and after the Closing with Purchaser's efforts to remove and/or settle the Riparian Claim in accordance with the terms and conditions set forth in that certain Cost Allocation and Cooperation Agreement attached hereto as Exhibit D.

(b) The conditions set forth in Section 6(a) above are solely for the benefit of Purchaser and, if not satisfied as of the Closing Date (as defined below), shall be subject to the remedies set forth in Section 15(b) below.

(c) The following shall be conditions precedent to Seller's obligation to consummate the purchase and sale transaction contemplated herein:

(i) Purchaser has executed, and is not in default or breach of, a Redeveloper's Agreement and a Financial Agreement (in forms materially consistent with Appendix G and Appendix H of the RFP).

(ii) No pending or threatened litigation, administrative proceedings, investigations, or other form of governmental enforcement actions or proceedings exist as of the Closing, which are related to, directed at, or otherwise affecting the use, operation, or occupancy of any portion of the Premises.

(d) The conditions set forth in Section 6(c) above are solely for the benefit of Seller and, if not satisfied as of the Closing Date (as defined below), shall be subject to the remedies set forth in Section 15(a) below.

## **7. CLOSING AND DELIVERY OF DOCUMENTS.**

(a) **Initial Closing Date.** Except as provided by Section 6(a)(viii) above or Section 7(b) below and subject to the satisfaction or waiver of the conditions set forth in Section 6 hereof, closing of title (the "**Closing**") shall take place on or before eighteen (18) months following ratification of this Agreement in accordance with Section 21 hereof (the "**Closing Date**"). Neither party shall be required to close title earlier than eighteen (18) months following ratification of this Agreement. The Closing will

take place at the offices of Purchaser's attorney or such other location as is designated by the parties hereto, and the parties shall cooperate in good faith in this regard.

(b) **Early/Extended Closing Date.** Seller shall have the option, exercisable in its sole discretion,

(i) to extend the Closing Date for up to an additional six (6) months, if, in its sole discretion, it determines that such an extension is necessary for the relocation of its Public Works garage operations. This option is exercisable in writing delivered to the Purchaser within seventy-five (75) days of the Closing Date. If this option is so exercised, the new Closing Date shall be as specified in said written notice.

(ii) to set a Closing Date as early as fourteen (14) months following ratification of this Agreement in accordance with Section 21 hereof. If all the conditions of Closing set forth in Section 6(a) above have been met and if Purchaser has removed and/or settled the Riparian Claim, this option is exercisable in writing delivered to the Purchaser within ninety (90) days of the newly proposed Closing Date. If this option is so exercised, the new Closing Date shall be as specified in said written notice unless Purchaser, within ten (10) days of its receipt of same, provides a written notice to Seller advising of any of the specified conditions that prevent this option from being properly exercised. As a condition of exercising this option, Seller shall keep Purchaser reasonably informed in writing of its progress regarding the following items:

- (A) Reacquisition of title from NWF Leasing;
- (B) Seller's Environmental Approvals;
- (C) Vacation/relocation of the Public Works Garage.

Seller shall furnish such written progress reports to Purchaser once a month for the first six (6) months following Notice of Ratification (as defined in Section 21 below), and then twice monthly (approximately every two (2) weeks) for each successive month until such option is exercised or expressly waived by Seller.

(c) At the Closing, Seller shall deliver, in a form reasonably satisfactory to Purchaser, the following documents:

(i) An executed and acknowledged Deed of Bargain and Sale with Covenant against Grantor's Acts, sufficient to convey to Purchaser the Premises, subject only to the Permitted Encumbrances and the restrictions set forth in Section 10 below. Acceptance of the Deed by Purchaser shall be deemed full and complete performance on the part of Seller hereunder, except as to matters expressly set forth herein or otherwise as surviving the delivery of the deed.

(ii) An appropriate non-foreign person affidavit pursuant to Section 1445 of the Internal Revenue Code, as amended.

(iii) A standard New Jersey Form of Affidavit of Title, duly executed by Seller.

(iv) Keys to all entrance doors to, and equipment and utilities rooms located in the Premises.

(v) Evidence of compliance with the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. (“**ISRA**”) if required by law and Seller’s Environmental Approvals.

(vi) Transfer tax documentation.

(vii) Any such other documents, available to Seller, as may be reasonably required by the Title Company, Purchaser’s lender or Purchaser, together with such other documents as are contemplated by this Agreement.

(d) At Closing, Purchaser shall deliver the following:

(i) The balance of the Purchase Price, as set forth in Section 2(b) above.

(ii) Such other documents that shall be reasonably required to consummate the transaction herein contemplated, including, but not limited to, the financing agreement required by the RFP and Redeveloper’s Agreement. In the event Purchaser obtains a survey of the Premises from a surveyor licensed in the State of New Jersey, Seller agrees to use a legal description in accordance with such survey, a copy of which shall be provided to Seller by Purchaser in advance of Closing.

(e) If, at the date of Closing, there may be any other liens or encumbrances which the Seller is obligated to pay and discharge, if applicable, including any and all transfer taxes that are imposed by law upon Seller, the Seller may use any portion of the balance of the Purchase Price to satisfy the same. If request is made within a reasonable time prior to the Closing, the Purchaser agrees to provide at the Closing separate cashier’s and/or certified checks and/or wire transfers, as requested, aggregating the amount of the balance of the Purchase Price, to facilitate the satisfaction of any such liens or encumbrances. The existence of any such taxes or other liens and encumbrances shall not be deemed objections to title if the Seller shall comply with the foregoing requirements.

**8. LRHL DEED RESTRICTIONS.** As required by N.J.S.A. 40A:12A-9, the Deed described in Section 7(c) above shall contain:

(a) a covenant running with the land requiring that the Purchaser (as the owner) shall construct only the uses established in the then current Redevelopment Plan;

(b) a provision requiring the Purchaser (as the redeveloper) to begin the building of the improvements (as evidenced by activities undertaken in accordance with a construction permit for the new structure) for those uses within a period of time which the Seller fixes as reasonable;

(c) a provision that the Purchaser (as redeveloper) shall be without power to sell, lease or otherwise transfer the Premises or redevelopment project, or any part thereof, without the written consent of the Seller, which consent shall not be unreasonably withheld, until such time as the required improvements are completed as evidenced by the issuance of a permanent certificate of occupancy (or a temporary certificate of occupancy with no material conditions to the issuance of a permanent certificate of occupancy—i.e., the completion of landscaping that cannot be currently completed due to season), or in the instance of an individual residential or commercial unit, as evidenced by the issuance of a temporary or permanent certificate of occupancy, provided, however, Purchaser as the redeveloper shall post a performance bond to secure the completion of any outstanding obligations of Purchaser required for the issuance of a permanent certificate of occupancy, said performance bond to be in a form reasonably satisfactory to counsel for Seller;

(d) a provision that upon completion of the required improvements, the conditions determined to exist at the time the area was determined to be in need of redevelopment shall be deemed to no longer exist, and the land and improvements thereon shall no longer be subject to eminent domain as a result of those determinations;

(e) any other covenants, provisions and continuing controls as may be deemed necessary to effectuate the purposes of the Local Redevelopment and Housing Act, N.J.S.A. 40A:12A-1 et seq.; and

(f) a statement that any of the aforesaid covenants, provisions and controls shall be deemed satisfied upon termination of the agreements and covenants entered into by the Purchaser (as redeveloper) to construct the improvements and to perform the redevelopment; provided however, that the rights of any third party acquired prior to termination of such agreements, including, but not limited to, any tax exemption or abatement granted pursuant to law, shall not be negatively affected by termination and satisfaction of the covenants.

**9. REPRESENTATIONS AND WARRANTIES OF SELLER.** Seller makes the following representations and warranties to Purchaser, which representation and warranties are true and correct as of the date of this Agreement, and shall be true and correct at and as of the Closing Date in all respects as though such representations and warranties were made both at and as of the date of this Agreement, and at and as of the Closing Date.

(a) Seller shall be the fee simple owner of the Premises, prior to Closing.

(b) Subject to the ratification of this Agreement (as described in Section 21 below), and further subject to any legal challenge or court order or determination thereunder, Seller has the full power and authority to enter into this Agreement and to execute and deliver this Agreement and to perform all duties and obligations imposed upon it hereunder. The person signing this Agreement and any other document required or delivered in connection with Seller's performance under this Agreement has or will be authorized to do so. The execution, delivery and performance contemplated by this Agreement shall not, and, at the date of the Closing, will not, result in a material breach of any of the terms or provisions of, or constitute a material default under any indenture, agreement, instrument, order, judgment or obligation to which Seller is a party (including, without limitation, that certain Lease Purchase Agreement between the City of Hoboken and NWF Leasing, Inc., executed June 29, 2006 (the "Lease Purchase Agreement") or by which the Premises, or any portion thereof, is bound, and do not, and, at the Closing, will not constitute a material violation of any law, order or regulation affecting Seller or the Premises. The Lease Purchase Agreement is in full force and effect and there are no existing defaults thereunder by any party thereto.

(c) There are no leases encumbering the Premises, other than as listed on Schedule 9 (c) ( the "**Leases**") further, (i) Seller is the sole owner of the lessor's interest in all Leases and Seller has not assigned any of its interest in any of the Leases, (ii) no Lease has been modified, or assigned or sublet by the tenant thereunder, in any respect, and (iii) no tenant has any option to purchase any interest therein, or, except as set forth on Schedule 9 (c).

(d) Seller shall, at all times prior to the Closing, keep any and all mortgages, deeds of trust and security interests encumbering the Premises current and not in default, and pay all real estate taxes and other public charges against the Premises, so as to avoid any foreclosure of Purchaser's rights under this Agreement on account thereof.

(e) Seller has no knowledge of any actions, suits, or proceedings pending or, threatened in writing against Seller with respect to the Premises or otherwise materially affecting any portion of the Premises, at law or in equity, or before or by any federal, state, municipal, or other governmental court, department, commission, board, bureau, agency, or instrumentality, except as follows below:

MDK Development, LLC et al. v. City of Hoboken and S. Hekemian Group, LLC; Docket No. HUD-L-475-08 (filed Jan. 28, 2008)

**10. REPRESENTATIONS AND WARRANTIES OF PURCHASER.** Purchaser makes the following representations to Seller, which representations and warranties are true and correct as of the date of this Agreement and shall be true and correct at and as of the Closing Date in all respects as though such representations and warranties were made both at and as of the date of this Agreement and at and as of the Closing Date:

(a) Purchaser has the full power and authority to purchase the Premises.

(b) The execution and delivery of this Agreement by Purchaser, and the consummation of the transaction contemplated hereby, upon execution, delivery and consummation hereof, will be duly authorized and approved by all requisite action of Purchaser. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby: (i) are in violation of Purchaser's operating agreement or related company organizational documents; (ii) constitute a breach of any evidence of indebtedness or agreement to which Purchaser is a party or by which Purchaser is bound; or (iii) conflict with or result in the breach or violation of any writ, injunction or decree of any court or governmental instrumentality applicable to Purchaser.

(c) This Agreement and the other documents to be executed pursuant hereto, upon execution and delivery thereof by Purchaser, have been or will be duly entered into by Purchaser, and constitute valid, legal and binding obligations of Purchaser.

**11. CONDITION OF PREMISES.** Except as otherwise specifically stated in this Agreement, Seller has specifically disclaimed any warranty, guaranty or representation, oral or written, past or present, of, as, to, or concerning: (i) the nature and condition of the Premises and the suitability of the Premises for any activity and/or use which Purchaser may elect to conduct thereon; (ii) the manner, construction, condition and state of repair or lack of repair of any improvements located thereon; and (iii) the compliance of the Premises with any laws, rules, ordinances or regulations of any governmental or quasi governmental body. Except for Seller's representations and warranties, the sale of the Premises, as provided herein, is made on an "AS IS, WHERE IS, WITH ALL FAULTS" basis, and Purchaser expressly acknowledges that, in consideration of the agreements of Seller herein, and except as otherwise expressly set forth in this Agreement, Seller makes NO WARRANTY, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OR REPRESENTATION OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PREMISES. PURCHASER ACKNOWLEDGES THAT PURCHASER IS PURCHASING THE PREMISES BASED ON PURCHASER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE ON ANY INFORMATION PROVIDED BY SELLER OR SELLER'S AGENTS OR CONTRACTORS, EXCEPT AS SET FORTH HEREIN. SELLER HAS MADE NO AGREEMENT TO ALTER, REPAIR OR IMPROVE ANY OF THE PREMISES, except as expressly provided herein.

**12. RISK OF LOSS; CERTIFICATE OF OCCUPANCY.** Consistent with Purchaser's Intended Use, the parties intend for any structure upon the Premises to be demolished by Purchaser

following the transfer of title. Accordingly, if, at any time, prior to the Closing Date, any portion of the Premises is destroyed or damaged as a result of fire or any other casualty (“**Casualty**”), it shall have no impact upon the terms and conditions under this Agreement and Seller shall be entitled to any insurance benefits pertaining to same. However, should any Casualty cause the release of a contaminant upon the Premises that is not remediated by Seller in accordance with Section 5(c) above, Seller shall be entitled to any insurance benefits pertaining to same, but Purchaser shall receive a credit against the Purchase Price in the amount of insurance benefits for the damage to the Premises caused by the Casualty less the cleanup costs incurred by Seller as a result of the Casualty. Except as required to meet its obligations set forth in Section 5(c), Seller shall have the right, but not the obligation, to repair any Casualty damage. Seller has no duty to provide any certificate of occupancy or other similar authorization under this Agreement for the existing structure.

**13. NO BROKER.** Seller and Purchaser mutually represent and warrant to each other that neither party shall be liable to pay a real estate commission to any broker. With regard to this section, the parties hereto agree to save each other harmless and indemnify each other from any losses, damages, judgments and costs, including legal fees, which a party may suffer if the other party breaches its obligations hereunder or if the representation of the other party contained herein proves untrue.

**14. CONDEMNATION.** If, prior to the Closing, any condemnation or eminent domain proceeding has been commenced by any governmental or quasi-governmental entity or any utility authority, company or other agency against all or any part of the Premises, Seller shall so notify Purchaser and shall provide Purchaser with all information concerning such proceedings. In the event there shall be a complete taking of the Premises, then the Agreement shall terminate and the Deposit Monies shall promptly be returned by the Escrow Agent to Purchaser. In the event there shall be a partial taking of the Premises, then Purchaser shall have the right to: (a) terminate this Agreement, or (b) proceed to Closing, as provided hereunder, in which case, any award in condemnation and for unpaid claims or rights in connection with such condemnation shall be assigned to Purchaser at Closing, or if paid to Seller prior to Closing, credited to Purchaser against the Purchase Price at Closing. If Purchaser does not terminate this Agreement, Seller: (x) shall not adjust or settle any condemnation proceedings without the prior written approval of Purchaser, which approval shall not be unreasonably withheld; (y) shall keep Purchaser fully advised as to the status of the proceedings; and (z) shall allow Purchaser to participate in all proceedings.

**15. REMEDIES FOR BREACH OR DEFAULT.**

(a) In the event that Purchaser is in breach or default of this Agreement, and same remains uncured for a period of ten (10) days following notice thereof from Seller or such longer period of time as is reasonably necessary in order for Purchaser to cure such breach or default not to exceed an additional forty-five (45) day period. Seller may, at its option, (i) terminate this Agreement and retain as liquidated damages (and not as a penalty) the Deposit Monies, which amount the parties agree is a reasonable forecast of just compensation for the harm that would be caused by such a breach or default (such harm being incapable or very difficult of accurate estimation), or (ii) sue for specific performance.

(b) In the event that Seller is in breach or default of this Agreement, and same remains uncured for a period of ten (10) days following notice thereof from Purchaser, Purchaser shall have the right to either:

(i) purchase the Premises pursuant to this Agreement for the Purchase Price (and thereby waive the condition precedent, breach or default),

(ii) terminate this Agreement by written notice delivered to Seller on or before the Closing Date, and thereafter have the Deposit Monies, together with any accrued

interest, and the City Fee (as defined in the Redevelopment Agreement) immediately returned to it, and all of the obligations of the respective parties hereunder shall terminate including without limitation, that Seller shall have no liability to Purchaser for any expenses or other costs of any kind, including professional fees, surveys, due diligence expenses or other activities related to the subject purchase and/or redevelopment of the Premises (all or same hereafter collectively designated "Other Costs"); or

(iii) compel specific performance of this Agreement against Seller;

provided, however, that in no event may Purchaser seek monetary damages from Seller.

(c) If Purchaser or Seller initiates a lawsuit under this Section 15, the prevailing party shall be entitled to court costs and reasonable attorneys' fees.

(d) Except as otherwise provided herein, the rights and remedies set forth in this Section 15 shall be the sole and exclusive rights and remedies of either party against the other without further recourse.

**16. NOTICES.** All notices, demands, payments or communications hereunder shall be sent by registered or certified mail, postage prepaid, return receipt requested, personal delivery of Federal Express or other overnight delivery service, to the following addresses:

IF TO SELLER: At the address set forth on page 1

WITH A COPY TO: Steven W. Kleinman, Corporation Counsel  
City of Hoboken  
94 Washington Street  
Hoboken, NJ 07030

Gordon N. Litwin, Esq.  
Ansell Zaro Grimm & Aaron  
60 Park Place, Suite 1114  
Newark, NJ 07102

IF TO PURCHASER: At the address set forth on page 1

WITH COPIES TO: Louis P. Rago, Esq.  
DeCotiis, FitzPatrick, Cole & Wisler, LLP  
500 Frank W. Burr Boulevard, Suite 31  
Teaneck, NJ 07666

**17. ENTIRE AGREEMENT.** This Agreement, together with the Redeveloper's Agreement, constitute the entire agreement between the parties hereto with respect to the matters set forth herein. No amendment or modification hereof shall have any force or effect unless in writing and executed by all parties.

**18. BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, their heirs, executors, administrators, successors and assigns.

**19. GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State of New Jersey.

**20. VENUE.** The venue of any suit brought under this Agreement shall be in Hudson County, New Jersey.

**21. RATIFICATION BY RESOLUTION.**

(a) The parties' obligations to complete the transactions contemplated by this Agreement are subject to, and conditioned upon, the City Council of the City of Hoboken ("**City Council**") passing a resolution ("**Resolution**") in the ordinary course of its business ratifying and approving this Agreement. Seller shall, within ten (10) business days from the Execution Date, submit the Resolution to the Council for its information and future consideration. Seller shall, within five (5) business days from passage of the Resolution, notify Purchaser thereof in writing ("**Notice of Ratification**"), such notice being conclusive for purposes of this Agreement that Seller has satisfied this condition.

(b) In the event Seller shall fail to deliver the Notice of Ratification to Purchaser within one hundred eighty (180) days from the Execution Date, this Agreement shall automatically terminate, the Escrow Agent shall promptly refund the Deposit Monies, together with accrued interest, if any, to Purchaser along with the City Fee but no Other Costs, and neither party shall have any further rights or remedies against the other, except those that expressly survive the termination of this Agreement.

(c) The parties agree that Seller shall not submit the Resolution to the Council for its consideration unless and until the Redevelopment Plan has been amended through the statutorily prescribed public process to allow for the construction of the Project as described in the Selected Proposal. The parties further agree that the one hundred eighty (180) day period may be extended as the parties deem appropriate.

(d) Notwithstanding the above, Seller shall not be considered in breach of, or in default of its obligations set forth in this Section 21, because of a delay in the performance of such obligations due to any litigation challenging any act or approval by the Seller with regard to this redevelopment Project or process, including any such litigation pending as of the Execution Date , , and such litigation enjoins the taking of such actions or proceeding under the terms of such approval by Seller ("**Litigation**"). In the event of Litigation, the time or times for performance of the Seller shall be extended for the period of the Litigation; provided that Seller shall first have notified Purchaser, in writing, of the delay and of the cause(s) thereof within thirty (30) days after the commencement of the delay.

**22. HEADINGS.** The article headings contained in this Agreement are for reference purposes only for the convenience of the parties. They shall not be deemed to constitute a part of this Agreement nor shall they alter or supersede the contents of the Sections themselves.

**23. SURVIVAL.** Whenever the context of this Agreement allows, expressly provides, or reasonably implies a continuing obligation, such continuing obligation shall survive the Closing and delivery of the Deed and shall not merge therein.

**IN WITNESS WHEREOF**, the undersigned have set their hands and seals the day and

year first above written.

ATTEST:

**CITY OF HOBOKEN,**  
a New Jersey municipal corporation, (“**Seller**”)

\_\_\_\_\_

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

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

Dated: \_\_\_\_\_

WITNESS/ATTEST:

**SHG HOBOKEN URBAN RENEWAL  
ASSOCIATES, LLC,**  
a New Jersey limited dividend limited liability  
company, (“**Purchaser**”)

\_\_\_\_\_

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

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

Dated: \_\_\_\_\_

The undersigned, being the record title owner of the Premises pursuant to that certain Lease Purchase Agreement dated June 29, 2006, hereby consents and agrees to the foregoing Purchase and Sale Agreement and the transactions contemplated thereby, subject to the terms and conditions of the Lease Purchase Agreement.

**NWF LEASING, INC.**

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

[Printed Name], [Title]

Dated: \_\_\_\_\_

Exhibit A

*Description of the Premises*

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

FOR INFORMATION ONLY: Being known as Lot 1 in Block 1 on the Current Tax Assessment Map of the above municipality.

FOR INFORMATION ONLY: BEING commonly known as 56-66 Park Ave, Hoboken, NJ

Metes & Bound Description:

BEGINNING at a point in the intersection formed by the easterly line of Willow Street with the northerly line of Observer Highway and from said point running; thence

- (1) South 76 degrees 56 minutes 00 seconds east 201.34 by survey feet along the northerly of Observer Highway to the point formed by the intersection of the westerly line of Park Avenue and the northerly line of Observer Highway to a point; thence
- (2) North 13 degrees 04 minutes 00 seconds east 158.00 feet along the westerly line of Park Avenue to a point; thence
- (3) North 76 degrees 56 minutes 00 seconds west, 100.00 feet to a point; thence
- (4) North 13 degrees 04 minutes 00 seconds east 81.83 feet to a point, thence
- (5) South 76 degrees 56 minutes 00 seconds east 19.61 feet to a point; thence
- (6) North 01 degrees 38 minutes 16 seconds east, 35.88 feet to a point; thence
- (7) North 76 degrees 56 minutes 00 seconds west 12.50 feet to a point; thence
- (8) North 13 degrees 04 minutes 00 seconds east 50.00 feet to a point; thence
- (9) North 76 degrees 56 minutes 00 seconds west 100.00 feet to a point on the easterly line of Willow Street; thence
- (10) South 13 degrees 04 minutes 00 seconds west 222.17 feet along the easterly line of Willow Street to the point; thence
- (11) North 76 degrees 56 minutes 00 seconds west, 1.34 feet to a point, thence
- (12) South 13 degrees 04 minutes 00 seconds west 102.83 feet along the easterly line of Willow Street to the point and place of BEGINNING.

Exhibit B

Title

**COMMONWEALTH LAND TITLE INSURANCE CO.**

**OWNERS POLICY OF TITLE INSURANCE**

**SCHEDULE A**

**Amount of Insurance:** \$8,670,000.00

**Policy No.:** A60-024046

**Premium:** Basic Rate

**File Number:** 1473

**Date of Policy:** August 01, 2005

1. Name of Insured: Hudson County Improvement Authority
2. The estate or interest in the land which is covered by this Policy is:

Fee Simple

3. Title to the estate or interest in the land is vested in: Hudson County Improvement Authority by deed from City of Hoboken, dated 06/29/2005 and recorded 08/01/2005, in Book 7628 of Deeds, Page 158 in the Clerk's Office of the County of Hudson.
4. The land referred to in this Policy is situated in the County of Hudson, State of New Jersey, and is identified as follows:

**SIE DESCRIPTION SHEET ATTACHED.**

**POLICY DOES NOT INSURE ACREAGE OR QUANTITY OF LAND.**

**ISSUED BY:**

**A.M. Title Agency, Inc.  
2182 Morris Ave. Union, NJ 07083  
Telephone: (908) 964-3434  
Fax: (908) 964-6664**

**ORIGINAL**

Schedule A  
Form 1141-4

## DESCRIPTION RIDER

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

FOR INFORMATION ONLY: Being known as Lot 1 in Block 1 on the Current Tax Assessment Map of the above municipality.

FOR INFORMATION ONLY: BEING commonly known as 56-66 Park Ave, Hoboken, NJ

Metes & Bound Description:

BEGINNING at a point in the intersection formed by the easterly line of Willow Street with the northerly line of Observer Highway and from said point running; thence

- (1) South 76 degrees 56 minutes 00 seconds east 201.34 by survey feet along the northerly of Observer Highway to the point formed by the intersection of the westerly line of Park Avenue and the northerly line of Observer Highway to a point; thence
- (2) North 13 degrees 04 minutes 00 seconds east 158.00 feet along the westerly line of Park Avenue to a point; thence
- (3) North 76 degrees 56 minutes 00 seconds west, 100.00 feet to a point; thence
- (4) North 13 degrees 04 minutes 00 seconds east 81.83 feet to a point, thence
- (5) South 76 degrees 56 minutes 00 seconds east 19.61 feet to a point; thence
- (6) North 01 degrees 38 minutes 16 seconds east, 35.88 feet to a point; thence
- (7) North 76 degrees 56 minutes 00 seconds west 12.50 feet to a point; thence
- (8) North 13 degrees 04 minutes 00 seconds east 50.00 feet to a point; thence
- (9) North 76 degrees 56 minutes 00 seconds west 100.00 feet to a point on the easterly line of Willow Street; thence
- (10) South 13 degrees 04 minutes 00 seconds west 222.17 feet along the easterly line of Willow Street to the point; thence
- (11) North 76 degrees 56 minutes 00 seconds west, 1.34 feet to a point, thence
- (12) South 13 degrees 04 minutes 00 seconds west 102.83 feet along the easterly line of Willow Street to the point and place of BEGINNING.

**COMMONWEALTH LAND TITLE INSURANCE CO.**

**SCHEDULE B**

**EXCEPTIONS FROM COVERAGE**

**Policy Number A60-0240467**

**File Number 14735**

This policy does not insure against loss or damage and the Company will not pay costs, attorneys fees or expenses) which arise by reason of:

1. Unrecorded easements, discrepancies or conflicts in boundary lines, shortage in area and encroachments which an accurate survey would disclose.
2. Rights or claims of parties other than Insured in actual possession of any or all of the property.
3. Unfiled mechanics' or materialmen's liens.
4. Any unpaid taxes and other municipal liens, if any, plus any assessments not yet due and payable. (taxes are paid to and including the EXEMPT) Liability for additional assessments pursuant to R.S. 54:4-63.1 et. seq. Subsequent taxes not yet due and payable. Subject to the lien of unpaid water and sewer charges, if any.
5. Subject to subsurface conditions/encroachments not revealed by public record.
6. Subject to rights of utility companies servicing the premises.
7. Subject to Terms, Conditions Easements as set forth in Deed Book 5065 page 164 & Deed Book 1925 page 451.
8. Subject to Terms, Conditions Restrictions as set forth in Deed Book 466 Page 350; Deed Book 468 page 172; Deed Book 472 page 229; Deed Book 508 page 195; Deed Book 813 page 580; Deed Book 1261 page 635.
9. Subject to Riparian Map in Book 693 page 2172.
10. Possible rights, title and interest of the State of New Jersey in fee in and to so much of the premises in question as is now or was formerly affected by the ebb & flow of the tide.
11. All lands owned by the municipality for recreation conservation are subject to GREEN ACRES restrictions and regulations.

**ORIGINAL**

Schedule B  
Form 1141-5

COMMONWEALTH LAND TITLE INSURANCE CO.

SCHEDULE B

EXCEPTIONS FROM COVERAGE

Policy Number A60-0240467

File Number 14735

Continued:

12. Subject to mortgage recorded 01/11/71 in Mortgage Book 2851 page 1114.  
Policy insures against collection of same.
13. Mortgage made by Hudson County Improvement Authority, to North Fork Bank, dated 06/29/2005 recorded 08/01/2005 in the Hudson County Clerk/Register's Office in Mortgage Book 13166, Page 152 in the amount of \$8,637,416.98.  
Assignment of Leases and Reverts recorded 08/01/05 in Book 13166 page 186.
14. Subject to Subordination, Non-Disturbance and Attornment Agreement recorded 08/01/05 in Book 554 page 103.

COUNTERSIGNED:

*Ada Morell*

Authorizer Signature

ORIGINAL

Schedule B  
Form 1141-5

COMMONWEALTH LAND TITLE INSURANCE CO.

SURVEY ENDORSEMENT

File No. A.M. 14735

Attached to and forming a part of Policy No. A60-0240467

Exception No. 1 is removed. Unless an exception is taken in Schedule B, the policy insures against loss arising from easements, encroachments, overlaps and boundary line disputes. The following matters shown on a survey made by Area Surveying and Engineering dated 7/15/05 are added to Schedule B:

-planter over line; chain link fence on & over line; bldg. on line.

This policy does not insure against errors or inaccuracies in the survey with respect to matters which do not affect title.

This endorsement is made a part of the policy and is subject to all the terms and provisions thereof and any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

IN WITNESS WHEREOF, COMMONWEALTH LAND TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on this day of August 01, 2005.

Countersigned:

Ada Morell  
Authorized Officer or Agent

**Exhibit C**

**Access Agreement**

**ACCESS AGREEMENT**

This Access Agreement (the "Agreement") is made as of February 28, 2008, between **THE S.HEKEMIAN GROUP, LLC** ("SHG") having an address at 45 Eisenhower Drive, Paramus, New Jersey 07652 and **THE CITY OF HOBOKEN** ("Hoboken") having an address at 94 Washington Street, Hoboken, New Jersey 07030.

**WITNESSETH:**

WHEREAS, Hoboken is the occupant and seller of property located at 256 Observer Highway, Hoboken, Hudson County, New Jersey and designated as Block 1, Lot 1 on the official (the "Property"); and

WHEREAS, SHG has been conditionally selected by Hoboken to purchase and redevelop the Property; and

WHEREAS, it is necessary for SHG and its designated consultants to perform environmental due diligence activities, including, without limitation, preliminary environmental investigations (collectively, the "Work") on the Property in connection with SHG's potential acquisition of the Property from Hoboken.

NOW, THEREFORE, in consideration of the conditions stated herein, the parties agree as follows:

1. **Grant of Access.** Subject to the terms hereof, Hoboken hereby grants SHG and its consultants, including, without limitation, H2M Associates, Inc. and L2A Land Design, LLC, the right to enter upon the Property for the purpose of performing the Work.

2. **Approval/Coordination.** Prior to accessing the Property for the first time, a consultant of SHG shall be furnished, to redevelopment counsel for Hoboken, (i) a certificate of insurance in conformance with the requirements set forth in Section 4 below, and (ii) a copy of

this Agreement with the endorsement form (hereto attached as Exhibit B) executed by an authorized representative of the consultant. Provided these documents are determined by redevelopment counsel to be in order, the consultant may then coordinate access with the below designated representative of Hoboken, but in no event provide fewer than two (2) business days' telephonic notice of its desire to obtain access to the Property. All Work shall be performed during normal business hours or such other time as Hoboken and SHG may agree. SHG and its consultants shall perform all Work in such a manner so as to minimize the impact on the Property and any disruption to the operations of the Public Works Garage located thereon.

a. Redevelopment Counsel. For purposes of this Section 2, redevelopment counsel for Hoboken is:

Gordon N. Litwin, Esq.  
Ansell Zaro Grimm & Aaron  
60 Park Place, Suite 1114  
Newark, New Jersey 07102  
Phone: 973-642-1801  
Fax: 973-642-0310

b. Hoboken Representative. For purposes of this Section 2, the designated representative of Hoboken is:

Joseph Peluso, Director  
Environmental Services  
City of Hoboken  
94 Washington Street  
Hoboken, NJ 07030  
Phone: 201-420-2189

3. **Performance of Work.** All Work performed at the Property by or on behalf of SHG, including without limitation the environmental investigation activities, shall, once begun, be completed with reasonable diligence and paid for in full by SHG, free and clear of all liens and encumbrances, and shall be performed in accordance with all applicable statutes, ordinances,

rules, regulations, orders and requirements of any governmental authority, including without limitation environmental laws.

4. **Insurance/Indemnity/Waiver of Liability.** SHG shall require its consultants to maintain liability and worker's compensation insurance at levels in accordance with the certificates of insurance attached hereto as Exhibit A for their performance of the Work on the Property. SHG shall further require its consultants to furnish insurance certificates for such policies naming Hoboken, its officials, employees and agents as additional insured on all policies (except Worker's Compensation) and requiring 30 days' written notice of cancellation. SHG and its principals will indemnify and hold Hoboken, its officials, employees and agents harmless from any and all claims, expenses or liabilities arising from the consultant's performance of the Work on the Property. SHG and its consultants further agree to release and discharge Hoboken, its officials, employees and agents from and against any and all liability for any losses, damages or injuries arising from the access provided hereunder or the Work to the extent such loss, damage or injury results from Hoboken's gross negligence or willful misconduct.

5. **Intrusive Testing and Restoration.** SHG and its consultants shall not engage in intrusive testing without Hoboken's reasonable consent and shall, in connection with any Work, comply with requirements of all existing laws. To the extent any intrusive work is performed, SHG and its consultants shall restore the Property to its condition prior to the performance of the testing in a timely manner. SHG and its consultants shall dispose of any investigation derived waste(s) generated by their Work at the Property at their sole cost and expense in accordance with applicable laws and shall be responsible to locate, and repair any damage to, any underground utilities or subsurface structures on the Property.

6. **Provision of Materials.** At the request of Hoboken, SHG shall provide Hoboken with copies of written reports resulting from the performance of the Work to the extent not subject to confidentiality restrictions or the attorney-client privilege.

7. **Governing Law.** This Agreement shall be governed by the laws of the State of New Jersey without giving effect to the conflict of laws principles thereof.

8. **Duration.** This Agreement shall expire 180 days from the date first written above, unless terminated by the City upon written notice for good cause.

This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

THE S. HEKEMIAN GROUP, LLC

By:   
Douglas M. Cohen  
General Counsel

THE CITY OF HOBOKEN

By:   
David Roberts  
MAYOR

EXHIBIT A

Insurance Certificate

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>		OP ID CH HOLZH-1	DATE (MM/DD/YYYY) 01/31/08
<b>PRODUCER</b> ACRC/MARSH 701 Market St., Ste. 1100 St. Louis MO 63101 Phone: 800-338-1391 Fax: 888-621-3173		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> HOLZNACHER, MCLENDON, & MURRELL, P.C. H2M ASSOCIATES, INC. H2M LABS, INC. 575 BROAD HOLLOW RD. NERVILLE NY 11747		<b>INSURERS AFFORDING COVERAGE</b> INSURER A: Hartford Insurance Company INSURER B: INSURER C: INSURER D: INSURER E:	<b>NAIC #</b> 22357

**COVERAGES**  
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L TR	INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CROSS LIABILITY GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PRO. SECT. <input type="checkbox"/> LOG	84UUGNQ9100	11/01/07	11/01/08	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADY BLDNG \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	84UEQPH6437	11/01/07	11/01/08	COVERED SINGLE LIMIT (EA ACCIDENT) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AOG \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AOG \$
A		EXCESS UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	84XHGXT8428	11/01/07	11/01/08	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	84WBQFP0193	11/01/07	11/01/08	<input checked="" type="checkbox"/> REG. STAT. TORY LIMITS <input type="checkbox"/> OTHER EL. EACH ACCIDENT \$ 100,000 EL. DISEASE - EA EMPLOYEE \$ 100,000 EL. DISEASE - POLICY LIMIT \$ 500,000
A		VALUABLE PAPERS	84UUGNQ9100	11/01/07	11/01/08	BLANKET LIMIT \$ 361,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 PHASE I ENVIRONMENTAL SITE ASSESSMENT AND ISRA PRELIMINARY ASSESSMENT BLOCK 1, LOT 1 HOBOKEN, NJ. THE S. HEKEMIAN GROUP IS INCLUDED AS ADDITIONAL INSURED ON ALL POLICIES EXCEPT W/C. WAIVER OF SUBROGATION INCLUDED IN FAVOR OF ADDITIONAL INSURED AND/OR CERTIFICATE HOLDER.

<b>CERTIFICATE HOLDER</b>  THE S. HEKEMIAN GROUP ATTN: DOUGLAS COHEN 45 BISHNOWER DRIVE PARAMUS NY 07652	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>Alfred A. Patrylo</i>
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# ACORD CERTIFICATE OF LIABILITY INSURANCE

DP ID: AE H2MG01N DATE: 02/12/08

<b>PRODUCER</b> Singer Nelson Charlmers P O Box 16 1086 Teaneck Road, 5th Floor Teaneck NJ 07666-0016 Phone: 201-937-1100		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> Holenaghey, McLandon & Murrell, P.C. H2M Associates, Inc. H2M Labs, Inc. Attn: Gary Loshch 578 Broad Hollow Road Melville NY 11747-5076		<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
		INSURER A Liberty Insurance Underwriters	
		INSURER B	
		INSURER C	
		INSURER D	
		INSURER E	

**COVERAGES**  
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS	TYPE OF INSURANCE	POLICY NUMBER	COVERAGE PERIOD DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	<b>GENERAL LIABILITY</b>				EACH OCCURRENCE	\$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGES TO RENTED PREMISES (EA OCCURRENCE)	\$
	<input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				MED EXP (Per one person)	\$
	<input type="checkbox"/> GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> YEAR <input type="checkbox"/> LOC				PERSONAL & ADJ INJURY	\$
	<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (EA accident)	\$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY	EA ACC \$
					AGG	\$
						\$
	<b>EXCESS/UMBRELLA LIABILITY</b>				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
	<b>WORKERS COMPENSATION AND EMPLOYERS LIABILITY</b>				VEHICULAR ACCIDENT - POLICY LIMIT	\$
	<input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED				EL EACH ACCIDENT	\$
	<input type="checkbox"/> If yes, describe under SPECIAL PROVISIONS below				EL DISEASE - EA EMPLOYEE	\$
	<input type="checkbox"/> OTHER				EL DISEASE - POLICY LIMIT	\$
<b>A Professional Liability</b>	AEE197003-0107	03/15/07	03/15/08	2,000,000	Each Claim	
				2,000,000	Annual Aggr	

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 Re: Phase I Environmental Site Assessment and ISRA Preliminary Assessment Block 1, Lot 1- Hoboken, NJ. The S. Hekemian Group, LLC is included as an Additional Insured as respects to Pollution Liability only.

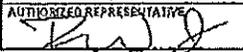
<b>CERTIFICATE HOLDER</b>  The S. Hekemian Group, LLC Attn: Douglas Cohen, Esq. 45 Eisenhower Drive Paramus NJ 07652	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE: 
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EXHIBIT B

Endorsement of Consultant

\_\_\_\_\_, a consultant to The S. Hekemian Group, LLC and/or SHG Hoboken Urban Renewal Associates, LLC, with regard to environmental due diligence activities upon 256 Observer Highway, Hoboken New Jersey (Block 1, Lot 1), hereby endorses, acknowledges and agrees to the terms and provisions of the attached Access Agreement by and between The S.Hekemian Group, LLC and the City of Hoboken.

Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
Name of Consultant

By:

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

Title:

**Exhibit D**

**Cost Allocation and Cooperation Agreement**

**COST ALLOCATION AND COOPERATION AGREEMENT**

This Agreement (the "Agreement") made this 14<sup>th</sup> day of May, 2008, by and between the City of Hoboken, a New Jersey municipal corporation, having offices located at 94 Washington Street, Hoboken, New Jersey 07030, (the "Seller") and, SHG Hoboken Urban Renewal Associates, LLC, a New Jersey limited dividend limited liability company, having offices located at c/o The S.Hekemian Group, LLC, 45 Eisenhower Drive, Paramus, New Jersey 07652 (the "Purchaser").

**WITNESSETH:**

**WHEREAS**, Seller is the owner of certain real property commonly known as the Public Works Garage site, and designated as Block 1, Lot 1 on the Office Tax Map of the City of Hoboken (the "Premises"); and

**WHEREAS**, Purchaser desires to purchase and Seller desires to sell the Premises pursuant to a Purchase and Sale Agreement between Seller and Purchaser ( the "PSA") and in accordance with the terms of a contemporaneous Redeveloper's Agreement to be executed by the parties (the "Redeveloper's Agreement"); and

**WHEREAS**, the Premises is currently subject to a potential claim of ownership by the State of New Jersey to those portions of the Premises that are now or were formerly flowed by the tide (the "Tidelands Claim"); and

**WHEREAS**, subject to the terms of the PSA, the Redeveloper's Agreement and this Agreement, the Purchaser and Seller desire to dispose of the Tidelands Claim; and

**WHEREAS**, Purchaser agrees, at its sole cost and expense, to take all actions necessary to lease, and acquire the claimed portion of the Premises, and/or otherwise dispose of the Tidelands Claim; and

**WHEREAS**, until such time as title to the Premises passes to the Purchaser, and subject to Purchaser's foregoing monetary obligations, Seller shall undertake all reasonable administrative actions requested by the Purchaser in order to allow Purchaser to file any necessary applications to the Bureau of Tidelands Management (the "Bureau"), the New Jersey State Tidelands Resource Council or to any other applicable regulatory agency with jurisdiction in order to lease and acquire the claimed portion of the Premises and/or otherwise dispose of the Tidelands Claim, including by seeking a Statement of No Interest from the State; and

**WHEREAS**, the parties hereto desire to set forth their mutual understandings and agreements with respect to the disposal of the Tidelands Claim;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained the sufficiency of which being hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The above recitals shall be incorporated herein and made a part hereof.
2. **Cost of Disposal of State's Tidelands Claim.** Subject to the terms of the PSA and of the Redeveloper's Agreement, Purchaser shall be responsible for all costs and expenses to be incurred (including the costs of applications, professionals, and conveyance costs) to lease and acquire the claimed portion of the Premises and/or otherwise dispose of the Tidelands Claim, including by seeking a Statement of No Interest from the State (collectively, "Tidelands Approvals").

3. Responsibility for Preparation of Materials and Applications.

(a) Purchaser shall be responsible for the preparation of any materials, applications or conveyance documents required with respect to any Tidelands Approvals.

(b) Purchaser shall coordinate the satisfaction of its obligations pursuant to Section 3(a) with Seller. Purchaser shall use reasonable efforts to provide Seller with any prospective submissions to the Bureau or the Council at least ten (10) days prior to such submission for Purchaser's review and comment, and Purchaser shall in good faith review and consider the incorporation of Seller's comments. Purchaser shall notify Seller of any meetings or substantive phone calls with the Council or the Bureau or any other applicable governmental agency concerning the activities contemplated hereunder at least ten (10) business days prior to such meetings or phone calls, and if such notice is not possible or practicable, as soon as possible, and Seller shall have the right to attend and participate in such meetings or phone calls to the extent permitted by the applicable governmental agency or official.

4. Cooperation by Seller.

(a) Seller and all agencies and subdivisions of Seller shall cooperate with Purchaser with respect to the provision of information as well as the preparation of and the filing of any required, necessary or appropriate applications to the Bureau, the Council or to any other regulatory agency for any Tidelands Approvals.

(b) At Purchaser's request, Seller and/or all agencies and subdivisions of Seller shall act as the identified applicant for any application to the Bureau, the Council or to any other regulatory agency for any Tidelands Approvals. Where such request is made, Seller shall have a right to review and approve of any and all submissions made in its name, which approval shall not be unreasonably withheld.

5. Title to Premises. As set forth in the recitals, Purchaser desires to purchase and Seller desires to sell the Premises pursuant to the PSA.

(a) At Closing. At the closing of title in accordance with the PSA, Seller shall assign to Purchaser any and all rights or interest to any Tidelands Approvals or pending applications for any Tidelands Approvals made in furtherance of this Agreement and shall have no further obligations under this Agreement.

(b) Termination of PSA; Reversion of Premises under Redeveloper's Agreement. If, for any reason, the PSA is terminated, or ownership of the Premises reverts to Seller in accordance with the provisions of the Redeveloper's Agreement, Purchaser shall, at Seller's election, either (i) assign to Seller any and all rights or interest to any Tidelands Approvals or pending applications for Tidelands Approvals made in furtherance of this Agreement, or (ii) formally withdraw any such applications. Thereafter, this Agreement shall terminate and neither party shall have any further obligations hereunder.

6. Notices. All notices, demands, payments or communications hereunder shall be sent by registered or certified mail, postage prepaid, return receipt requested, personal delivery of Federal Express or other overnight delivery service, to the following addresses:

IF TO SELLER: At the address set forth above

WITH A COPY TO: Steven W. Kleinman, Corporation Counsel  
City of Hoboken

94 Washington Street  
Hoboken, NJ 07030

John M. Scagnelli, Esq.  
Scarinci & Hollenbeck, LLC  
1100 Valley Brook Avenue, P.O. Box 790  
Lyndhurst, NJ 07071

IF TO PURCHASER: At the address set forth above

WITH COPIES TO: Louis P. Rago, Esq.  
DeCotiis, FitzPatrick, Cole & Wisler, LLP  
500 Frank W. Burr Boulevard, Suite 31  
Teaneck, NJ 07666

7. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the matters set forth herein. No amendment or modification hereof shall have any force or effect unless in writing and executed by all parties.

8. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, their heirs, executors, administrators, successors and assigns.

9. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of New Jersey.

10. **Venue.** The venue of any suit brought under this Agreement shall be in Hudson County, New Jersey.

11. **Headings.** The article headings contained in this Agreement are for reference purposes only for the convenience of the parties. They shall not be deemed to constitute a part of this Agreement nor shall they alter or supersede the contents of the Sections themselves.

12. **Survival.** Whenever the context of this Agreement allows, expressly provides, or reasonably implies a continuing obligation, such continuing obligation shall survive the Closing and delivery of the Deed and shall not merge therein.

IN WITNESS WHEREOF, the undersigned have set their hands and seals the day and year first above written.

ATTEST:

CITY OF HOBOKEN,  
a New Jersey municipal corporation, ("Seller")

By: 

Title: Mayor

WITNESS/ATTEST:



Douglas M. Cohen  
Attorney at Law of New Jersey

SHG HOBOKEN URBAN RENEWAL  
ASSOCIATES, LLC,  
a New Jersey limited dividend limited liability  
company, ("Purchaser")

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

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