

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is entered into by and between City of Trenton (the "Buyer"), and ASARCO Master Inc., a Delaware corporation (the "Seller") as of this ____ day of _____, 2009.

In consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Seller, the parties agree as follows:

1. SALE AND PURCHASE.

Seller agrees to sell, transfer, convey, and assign to Buyer, and Buyer agrees to purchase and accept from Seller, for the Purchase Price (as defined in Section 2.1 hereof), on and subject to the terms and conditions herein set forth, the following:

1.1 Real Property. That certain real property consisting of vacant land commonly known as 300 Enterprise Avenue, Trenton, New Jersey, and more particularly described on Exhibit A, attached hereto and incorporated herein by reference for all purposes (the "Real Property"), together with all rights-of-way, easements, rights of access and ingress and egress from such real property, including, without limitation, any oil, gas or other minerals (except to the extent such have been retained or reserved by prior grantors or owners) on, in and under the Real Property held by Seller. The exact legal description may vary from that on Exhibit A and the correct legal description based on the legal in the deed conveying the Real Property to Seller shall be inserted in place of the legal description on Exhibit A.

1.2 Improvements. All improvements and fixtures of any kind owned by Seller and attached to or used in connection with the ownership, maintenance, or operation of the Real Property or improvements located thereon (collectively, the "Improvements"), if any, together with all rights, title and interest appurtenant thereto.

1.3 Property. The terms Improvements and Real Property are herein collectively called the "Property". All of the Property shall be conveyed, assigned, and transferred to Buyer at the Closing (as defined in Section 8.1 hereof), with a quit claim deed as set forth in Section 8.1.2.

2. PURCHASE PRICE.

2.1 Purchase Price. The purchase price for the Property shall be \$1.00 (the "Purchase Price") and such other cash or other consideration offered by Buyer and accepted by Seller, and if there is an auction conducted pursuant to Section 12.0, as a condition of declaring Buyer the winning bidder, and shall be payable as follows:

At Closing, Buyer shall deliver to the Seller, in cash or funds immediately available, on or before the Closing Date the amount of the Purchase Price.

3. **TITLE REVIEW.** – Intentionally omitted

4. **CONFIDENTIALITY OF DOCUMENTARY INFORMATION.**

4.1 Confidential Information. Any information obtained by Buyer during its investigation of the Real Property will either be non-public, confidential or proprietary in nature, except as otherwise expressly required under any public disclosure laws or similar laws applicable to the disclosure of information regarding property acquisitions by Buyer (the "Confidential Information"). Except as specifically permitted in this Section 4.1 or as expressly required by applicable public disclosure laws or similar laws applicable to property acquisitions by Buyer, Buyer shall not disclose the Confidential Information. Provided that Buyer's affiliates and their respective partners, directors, officers, employees, attorneys, consultants, accountants, lenders and representatives (collectively, its "Representatives") have been informed of the confidential nature of the Confidential Information and agree to maintain its confidentiality, and except as otherwise required by applicable public disclosure or similar laws applicable to property acquisitions by Buyer, Buyer may disclose the Confidential Information to its Representatives, for purposes of Buyer's evaluation of the Property. The obligation of confidentiality provided in this Section 4.1 shall not apply to: (i) any information which later becomes part of the public domain other than by a breach of any confidentiality obligation hereunder; or (ii) any information which is common knowledge among the adjoining property owners, if any; or (iii) any information received from an unconnected third party who is not under an obligation of confidentiality, if any; or (iv) any information which is released with the prior written approval of Seller; or (v) any information regarding the purchase of the Property that Buyer is required to disclose under applicable public disclosure laws or that is the subject of any lawful subpoena or order from any court having jurisdiction over Buyer or the Property, provided, however, Buyer shall give Seller notice of any such disclosure required by applicable law, subpoena or order immediately upon Buyer's receipt thereof, and Seller shall have the right to contest or seek protection from any such disclosure, subpoena or order; or (vi) any information in the possession of Buyer or its Representatives prior to the date of disclosure of information by Seller and which was not previously obtained in confidence (either directly or indirectly) from Seller.

4.2 Prohibited Disclosure. Buyer warrants and represents that it will not disclose the Confidential Information to anyone other than as specifically permitted under Section 4.1. If Buyer discloses all or any part of the Confidential Information in violation of this Section 4.2 (a "Prohibited Disclosure"), such Prohibited Disclosure shall be a default under the terms of this Agreement. Seller and Buyer acknowledge and agree that Seller will incur damage from such disclosure and the actual amount of such damage to Seller would be difficult if not impossible to quantify. Seller and Buyer agree that Buyer shall pay Seller the amount of \$20,000 as liquidated damages for any disclosure of the Confidential Information other than as specifically permitted by Section 4.1.

4.3 Post Closing Disclosure. Notwithstanding any provision in this Agreement to the contrary, after the Closing Buyer shall be permitted to disclose the Confidential Information in the event the Property is sold to the Buyer.

5. SELLER'S REPRESENTATION AND WARRANTIES.

Seller represents and warrants to and covenants with Buyer that:

5.1 Entity Status. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and duly authorized to transact business in the state where the Property is located.

5.2 Authority. Except as provided in Section 12 below, Seller is authorized to enter into this Agreement and this Agreement is binding and enforceable against Seller in accordance with its terms, subject to the exception set forth in Section 12 below. The individual executing this Agreement on behalf of Seller is authorized and empowered to enter into this Agreement.

5.3 Survival. It is expressly agreed that the covenants, representations and warranties herein made by Seller shall not survive the Closing. Prior to the Closing, Seller shall disclose to Buyer in writing any information that comes to Seller's attention indicating that any of the above representations are materially untrue. If Buyer receives such a disclosure or otherwise becomes aware prior to Closing that any of the above representations are materially untrue, Buyer, at its option, shall have the right to terminate this Agreement and neither party shall have further obligation or liability to the other, but if Buyer fails to do so and proceeds to close this transaction notwithstanding such information, then Buyer shall be deemed to have waived such representation and Seller shall have no liability therefor.

6. BUYER REPRESENTATIONS AND WARRANTIES.

Buyer represents and warrants to and covenants with Seller that:

6.1 Authority. Buyer is authorized to enter into and perform this Agreement and this Agreement is binding and enforceable against Buyer in accordance with its terms. The individual executing this Agreement on behalf of Buyer is authorized and empowered to enter into this Agreement.

6.2 Entity Status. Buyer is a unit of local government. If Buyer is permitted to assign its interest in this Agreement pursuant to Section 10, the assignee shall be duly organized, validly existing and in good standing under the laws of the State of its formation or incorporation and duly authorized to transact business in the State where the Property is located.

6.3 AS IS, WHERE IS; Waiver. (a) Buyer is aware of the Property's history as an industrial facility. As an express condition to this Agreement, Buyer acknowledges that it shall be Buyer's sole responsibility to satisfy itself regarding: (i) ownership and title to the Property; (ii) the scope and extent of industrial activity on the Property; (iii) the extent of reclamation or remediation activity, if any, with respect thereto; and (iv) the impact of such operations on the suitability of the Property for Buyer's intended purposes or any other purpose. Seller expressly disclaims any and all representations and warranties with respect to the suitability of the Property for Buyer's

intended purposes. Buyer acknowledges and agrees that (y) it is purchasing the Property solely upon the basis of its own examination, inspection and investigation and not on the basis of any representation or warranty, express or implied, written or oral, made by Seller or its agents or employees which is not contained in this Agreement; and (z) Buyer is purchasing the Real Property in an "AS-IS, WHERE-IS" condition, with all faults and with no representation or warranty of any type or nature being made by Seller or any person on Seller's behalf, except as expressly otherwise provided in this Agreement. Without limiting the generality of the foregoing, Buyer acknowledges that Seller has not made and does not make any representation or warranty as to: (i) the value of the Property or any part thereof; (ii) the physical or environmental condition of the Real Property or any part thereof (including soils, geological conditions, the presence or absence of radioactive, petroleum-based, hazardous or toxic substances, and availability or quality of water); (iii) the sufficiency or suitability of the Property for Buyer's intended purposes or any purpose; (iv) the square footage, acreage or configuration of the Property or any portion thereof; (v) the sufficiency or completeness of any plans for the Property; (vi) zoning or land use controls affecting the Property; (vii) the state of repair, including, but limited to, the structural integrity of any Improvements; (viii) the compliance of any improvements on the Property or the compliance of any activities previously conducted thereon or therein with any federal, state or local laws, ordinances, regulations or requirements (including those relating to the sale of subdivided lands); (ix) the environmental status or condition of the Property; and (x) the extent to which the Property or Seller has complied with any permits or approvals. In particular, but without in any way limiting the foregoing, Buyer, on behalf of itself and any entity affiliated with, owned or controlled by Buyer, or a controlling member of Buyer ("Buyer Entities") hereby forever (i) releases Seller, its successors, assigns, employees, agents, representatives, past, present and future, their affiliates and subsidiaries, past present and future, and each of their officers, directors, and shareholders, past, present and future, ("Seller's Representatives") from any and all responsibility, liability, claims and damages arising from or related to the environmental condition of the Property and (ii) expressly agrees to indemnify, protect and defend Seller and Seller's Representatives and hold each of them harmless, from, any and all actions, causes of action, claims, demands, liabilities, damages, losses, costs, expenses (including reasonable consulting and attorneys' fees) or suits of any kind brought by any third party, including, but not limited to, the United States Environmental Protection Agency and the State of New Jersey arising from or relating to: (1) the investigation, removal and remediation of past, present or future releases or discharges or threatened releases and discharges of Hazardous Substances or contaminants on, at, under, about or emanating from the Property; (2) any other claims for or arising out of the presence of Hazardous Substances or contaminants on, at, under or about the Property, that have emanated, are emanating or may emanate from the Property or any property in the vicinity of the Property (including in the soil, air, sediments, structures and surface and subsurface water); and (3) any past, present or future violations by Seller or Seller Representatives of Environmental Laws regarding the Property. As used herein, the term "Environmental Law" shall mean, as amended and in effect from time to time, any federal, state or local statute, ordinance, rule, regulation, judicial decision, or the judgment or decree of a governmental authority, arbitrator or other private adjudicator by which Buyer or the Property is bound, pertaining to health,

industrial hygiene, public safety, occupational safety or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation & Liability Act of 1980 (42 U.S.C. § 9601- et seq.), the Resource, Conservation and Recovery Act of 1976 (42 U.S.C. § 6901- et seq.); the Toxic Substances Control Act (15 U.S.C. § 2601 - et seq.); the Clean Water Act (33 U.S.C. § 1251- et seq.); the Oil Pollution Act of 1990 (33 U.S.C. § 2701- et seq.); the Clean Air Act (42 U.S.C. §§ 7401- et seq.); the Hazardous Substance Transportation Act; the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. § 11001- et seq.); the Endangered Species Act of 1973 (16 U.S.C. § 1531- et seq.); the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701- et seq.); the Lead-Based Paint Exposure Reduction Act (15 U.S.C. § 2681- et seq.); the Safe Drinking Water Act Amendments of 1996 (42 U.S.C. § 300); the Solid Waste Disposal Act (42 U.S.C. § 6901- et seq.); the National Historic Preservation Act of 1966; the Water Resources Development Act (33 U.S.C. § 2201 et seq.); the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C.A. § 1401 et seq.); laws relating to mines and mine reclamation; and each of their state and local counterparts, and all rules, guidelines, and guidance documents promulgated or created pursuant to the foregoing. The term "Hazardous Substances" shall mean any substance, material, pollutant, contaminant, waste, or special waste, whether solid, liquid or gaseous, that is infectious, toxic, hazardous, explosive, corrosive, flammable or radioactive, which is defined, designated, listed, regulated or included in any Environmental Law, including, but not limited to, asbestos or asbestos-containing material, petroleum or petroleum additive substances, polychlorinated biphenyls, sewage, or waste tires. The provisions of this Section 6.3(a) shall survive Closing.

(b) Buyer shall enter into a Memorandum of Agreement ("MOA") with the State of New Jersey Department of Environmental Protection ("NJDEP") prior to the Closing, or if it has done so at an earlier date, an amended MOA, to perform a Remedial Investigation and Remedial Action of Hazardous Substances or contaminants on, at, under, or about the Property or that have emanated, are emanating or may emanate from the Property or any property in the vicinity of the Property (including in the soil, air, sediments, structures and surface and subsurface water) with NJDEP oversight in order to obtain a No Further Action letter for the Property, including but not limited to any and all areas of concern related to or arising from the Property or operations on the Property. Buyer shall include in the MOA or an amended MOA, conditions or terms to the extent required by NJDEP, in order for Seller to obtain satisfactory releases from NJDEP and to transfer the liability pursuant to Environmental Law from Seller to Buyer with regard to the Property. Buyer shall diligently pursue its obligation to obtain the No Further Action letter without delay and shall not terminate the MOA or engage in any act or omission that would cause NJDEP to terminate the MOA until a complete No Further Action letter is obtained that addresses to the satisfaction of NJDEP all Hazardous Substance or contaminants as set forth herein. Buyer acknowledges and agrees that this Section 6.3 of the Agreement is an essential term of the contract and that without it, Seller would not sell the Property to Buyer.

6.4 No Conflict. The execution, delivery, and performance by Buyer of this Agreement and any other instruments and documents to be executed and delivered in connection with this Agreement by Buyer do not, and will not, result in any violation of,

or conflict with, or constitute a default under, the provisions of any mortgage, deed of trust, indenture, lease, security agreement, or other instrument or agreement or any law, regulation, rule, requirement, agreement, restriction, order, writ, decree, or judgment to which Buyer or by which Buyer is bound or to which Buyer is subject.

7. TERMINATION AND REMEDIES.

In addition to the rights to terminate as set forth elsewhere in this Agreement the parties may terminate as follows:

7.1 Buyer Default. If Buyer fails to consummate the purchase of the Property pursuant to this Agreement for any reason other than termination pursuant to a right granted herein, then Seller shall have the right to (i) terminate this Agreement by giving written notice to the Buyer and neither party hereto shall have any further rights or obligations under this Agreement, subject only to survival of all indemnifications contained herein or (ii) enforce any and all remedies available to it at law or equity, including, but not limited to, the right of specific performance.

7.2 Seller Default. If, after obtaining Bankruptcy Court approval of the sale of the Property to Buyer, Seller fails to consummate the sale of the Property pursuant to this Agreement for any reason other than Buyer default, Buyer shall have, as its sole remedy hereunder, either (i) the right to terminate this Agreement by giving written notice to Seller and neither party hereto shall have any further rights or obligations under this Agreement; or (ii) the right to specific performance.

8. CLOSING AND PRORATIONS.

8.1 Closing; Closing Date. The closing (the "Closing") of the sale of the Property shall occur on a date agreeable to Buyer and Seller that is no later than five (5) business days following Bankruptcy Court approval of the transaction contemplated in this Agreement (the "Closing Date"). Closing shall occur at 10:00 a.m., local time, at the offices of the Buyer. At the Closing, the following mutually concurrent conditions to Closing shall occur:

8.1.1 Deliveries by Buyer. Buyer shall deliver or cause to be delivered to Seller:

(a) Immediately available cash funds, in the amount of the Purchase Price due at the Closing;

(b) A fully executed MOA or amended MOA;

(c) Any other items or documents referred to herein or affecting the conveyance and sale of the Property that may be reasonably requested by Seller or the Title Company or that may be necessary to carry out the purpose and intent of this Agreement.

8.1.2 Deliveries by Seller. Seller shall deliver or cause to be delivered to Buyer the following:

(a) A quit claim deed, fully executed and acknowledged by Seller, conveying to Buyer the Property;

(b) An affidavit under penalty of perjury, that Seller is not a "foreign person," as defined in The Foreign Investment in Real Property Tax Act (FIRPTA), IRC 1445 FIRPTA; and

(c) Any other items or documents referred to in herein or affecting the conveyance and sale of the Property that may be reasonably requested by Buyer or the Title Company or that may be necessary to carry out the purpose and intent of this Agreement.

8.2 Property Taxes. All normal and customarily prorated items, including without limitation, real estate and personal property taxes, shall be prorated as of the Closing Date, with Seller being charged and credited for all of same up to such date and Buyer being charged and credited for all of the same on and after such date. If the actual amounts to be prorated are not known as of the Closing Date, the prorations shall be made on the basis of the best evidence then available, and thereafter, when actual figures are received, a cash settlement will be made by and between Seller and Buyer. If any portion of the Real Property is not separately assessed as of the Closing, real estate taxes with respect to that portion shall be prorated as of the Closing based on the square footage of that portion relative to the square footage of all other real property that is assessed with that portion, except that any taxes attributable to improvements will be allocated to the land upon which the improvements are located. If Seller receives a tax bill for the Real Property and for other land still owned by Seller after the Closing and before the Real Property is reflected on the tax records as a separate tax parcel, Seller shall promptly forward the tax bill affecting the Real Property to Buyer, and Buyer will promptly deliver Buyer's share of the tax bill to Seller, and Seller shall cause the entire tax bill to be paid and shall submit reasonable proof of payment to Buyer at least five (5) days prior to delinquency. If Buyer fails to forward its share of any tax bill to Seller then Seller shall have the right (but not the obligation) to advance Buyer's share in order to fully satisfy the tax bill prior to delinquency and shall be entitled to immediate repayment of all amounts paid to or advanced to or on behalf of Buyer. If Seller fails to pay the tax bill prior to delinquency, then Buyer shall have the right (but not the obligation) to fully satisfy the entire tax bill and shall be entitled to immediate repayment of all amounts paid to or advanced to or on behalf of Seller. All amounts paid or advanced to or on behalf of either party pursuant to this Section shall bear interest from the date paid or advanced until repaid in full at the rate of 16% per annum. The provisions of this Section 8.2 shall survive the Closing.

8.3 Closing Costs. Seller will pay (i) the fees of Seller's counsel, and (ii) all charges specified to be paid by Seller under other provisions of this Agreement. Buyer shall pay all other fees, charges, and costs, including, but limited to, title policy

premiums, title policy endorsements, extended coverage title insurance, and survey, if any.

8.4 Possession of the Property. Upon completion of the Closing, Seller shall deliver to Buyer possession of the Property.

9. **NOTICES.**

All notices provided or permitted under this Agreement must be in writing and may be served by: (i) depositing same in the United States mail, addressed to the party to be notified, postage prepaid, and registered or certified with return receipt requested; (ii) delivering the same in person to such party; (iii) overnight delivery by a reputable carrier, such as Federal Express; or (iv) facsimile copy transmission, upon telephoning the recipient that a facsimile notice is forthcoming and receipt of a machine-generated confirmation of successful transmission. Notice given in accordance herewith shall be effective upon receipt (or rejection) at the address of the addressee. For purposes of notice, the addresses of the parties shall be follows:

If to Seller, to:

ASARCO Master Inc.
Attention: Jack Gracie
1150 N. 7th Avenue
Tucson, Arizona 85705
Telephone: (520) 798-7517
Telefax: (520) 798-7781
E-mail: jgracie@asarco.com

With a copy to:

ASARCO Master Inc.
Attention: Ruth Graham Kern
8222 South 48th Street, Suite 220
Phoenix, Arizona 85044
Telephone: (602) 977-6500
Telefax: (602) 977-6706
E-mail: rkern@asarco.com

If to Buyer, to:

City of Trenton
319 East State Street, City Hall
Trenton, New Jersey 08608-1866
Attn: Jerome C. Harris
Telephone: 609-989-3509
Telefax: 609-989-4243
E-mail: jharris@trentonnj.org

With copy to:

BRS Inc
10 Acpoan Place
Manasquan, NJ 08736
Attn: Leah Yasenchak
Telephone: (732) 292-2624
Telefax: (732) 782-0404
E-mail: leah@njbrownfield.com

Either party hereto may change its address for notice by giving five (5) days prior written notice thereof to the other party in accordance with the procedure for notices.

10. ASSIGNMENT.

This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns. This Agreement is for the sole benefit of Seller and Buyer, and no third party is intended to be a beneficiary of this Agreement. This Agreement may not be assigned to any party without the prior written consent of Seller, which may be given or withheld in Seller's sole and arbitrary discretion. Notwithstanding the foregoing, Buyer may assign its interest in this Agreement at Closing to an entity wholly owned by Buyer. In the event of an assignment, Buyer shall remain liable for the performance of all obligations hereunder. Any assignment or attempted assignment not in compliance with this paragraph shall be null and void and shall vest no rights in the purported assignee.

11. CASUALTY LOSS AND CONDEMNATION.

11.1 Casualty. If, prior to the Closing, the Property is substantially damaged by fire, flood or other casualty, Buyer may elect to (i) terminate this Agreement upon written notice to Seller, in which event the this Agreement shall be of no further force or effect or (ii) accept the Property in its damaged condition and accept an assignment of insurance proceeds. Provisions of any laws of the state in which the Real Property is situated to the contrary shall not apply.

11.2 Condemnation. If condemnation proceedings are commenced against all or any portion of the Real Property prior to closing, Buyer may: (i) terminate this Agreement within ten (10) days after Buyer is advised of the condemnation proceeding or (ii) appear and defend in the condemnation proceeding and any award in condemnation shall, at Buyer's election, become the property of Seller and the Purchase Price shall be reduced by the same amount or any award shall become the property of Buyer and the Purchase Price shall not be reduced.

12. BANKRUPTCY COURT APPROVAL.

Promptly after Seller has negotiated a final settlement agreement with NJDEP, Seller shall file in the Bankruptcy Court a motion seeking approval of the compromise and

settlement (the "Settlement Motion") of all matters with the State of New Jersey relating to the Property, including as a component of the settlement the sale of the Property to Buyer. Seller shall use commercially reasonable efforts to obtain an order approving the Settlement Motion as promptly after the Effective Date as commercially reasonable. Buyer understands that one or more third parties may provide a bid to purchase the Property under similar conditions as set forth in this Agreement or other terms. In that event, Seller, in its sole discretion, may elect to sell the Property to a third party or conduct an auction to select the highest and best offer for the Property, which selection would be made in the sole discretion of Seller, subject to Bankruptcy Court approval.

13. GOVERNING LAW AND CHOICE OF FORUM.

This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State where the Real Property is located, without regard to conflicts of law principles.

14. COMMISSIONS.

Seller and Buyer represent and warrant to one another that they have employed no real estate brokers in connection with the sale contemplated by this Agreement. Seller and Buyer release indemnify and hold one another harmless from and against any and all claims for commissions from any third parties employed in connection with the sale contemplated by this Agreement. This provision shall survive the Closing.

15. RECORDATION.

Seller and Buyer hereby acknowledge that neither this Agreement nor any memorandum or affidavit thereof shall be filed of public record, except for the filings in the Bankruptcy Court.

16. MISCELLANEOUS PROVISIONS.

16.1 Entire Agreement. This Agreement, together with the Exhibits hereto, constitute the entire agreement between Seller and Buyer, and supersedes all other agreements between the parties on the subject matter hereof. There are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the Property other than those herein set forth. No subsequent agreement shall be binding upon Seller or Buyer unless in writing and signed by both Seller and Buyer.

16.2 Headings. The headings, captions, numbering system, etc., are inserted only as a matter of convenience and may not be considered in interpreting the provisions of this Agreement.

16.3 Binding Effect. All of the provisions of this Agreement are hereby made binding upon the successors and assigns of all parties hereto.

16.4 Time Of Essence. Time is of the essence in regards to this Agreement.

16.5 Severability Of Provisions. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision of this Agreement, except for Section 12, shall be invalid or prohibited hereunder, such provision shall be ineffective to the extent of such prohibition or invalidation, which shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.

16.6 Counterparts. This Agreement may be executed by signing in counterparts of this instrument. The execution by all of the parties hereto by each signing a counterpart of this instrument shall constitute a valid execution and this instrument and all of its counterparts so executed shall be deemed for all purposes to be a single instrument.

16.7 Survival. Except as otherwise provided herein, all representations, warranties and covenants contained herein shall expire on the Closing Date.

16.8 Construction. As used in this Agreement, the masculine, feminine and neuter gender and the singular or plural shall each be construed to include the other whenever the context so requires. This Agreement shall be construed as a whole and in accordance with its fair meaning, without regard to any presumption or rule of construction causing this Agreement or any part of it to be construed against the party causing the Agreement to be written. The parties acknowledge that each has had a full and fair opportunity to review the Agreement and to have it reviewed by counsel, and each has participated in the negotiation of this Agreement. If any words or phrases in this Agreement have been stricken, whether or not replaced by other words or phrases, this Agreement shall be construed (if otherwise clear and unambiguous) as if the stricken matter never appeared and no inference shall be drawn from the former presence of the stricken matters in this Agreement or from the fact that such matters were stricken.

16.9 Business Day. All references to a period of "days" shall mean calendar days unless otherwise specifically set forth herein. If the final day of any period or any date of performance under this Agreement falls on a Saturday, Sunday, or legal holiday, then the final day of the period or the date of performance shall be extended to the next day that is not a Saturday, Sunday or legal holiday.

16.10 Attorneys' Fees. In the event of litigation involving this Agreement, the unsuccessful party shall pay to the prevailing party all costs of suit, including reasonable attorneys' fees, investigative fees, litigation expenses, and the fees of expert witnesses, with the attorneys' fees to be determined by the court and not a jury in any such litigation.

16.11 Waivers. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver. Either party may waive any provisions of this Agreement intended for its benefit; provided, however, such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.

16.12 Further Instruments. Each party, promptly upon the written request of the other shall execute (and have acknowledged, if appropriate) and deliver to the other or as may be otherwise reasonably designated, all additional instruments reasonably requested to evidence or give effect to this Agreement, whether the request is made before or after the Closing.

16.13 Modification Of Agreement. No modification of this Agreement shall be effective unless it is in writing and is signed by all parties.

16.14 Offer And Acceptance. If this Agreement is executed first by the Buyer and then delivered to Seller, it shall be construed as an offer by Buyer to purchase the Property on the terms and conditions herein. If executed first by Seller and then delivered to Buyer, it shall be construed as an offer by Seller to sell the Property on the terms and conditions herein. In either event, the offer made herein, unless sooner terminated or withdrawn by notice in writing by the party making such offer, shall automatically lapse and terminate at 5:00 p.m. local time, fourteen (14) days from the date received by the party receiving the offer, unless, prior to such time and date, the party receiving the offer has returned to the party making the offer at least one fully executed counterpart of this Agreement. Any modification of the original offer made herein shall constitute a counteroffer by the party initiating such modification.

16.15 WAIVER OF JURY TRIAL. BUYER AND SELLER BOTH WAIVE A TRIAL BY JURY OF ANY OR ALL ISSUES ARISING IN ANY ACTION OR PROCEEDING BETWEEN THE PARTIES HERETO OR THEIR SUCCESSORS, UNDER OR CONNECTED WITH THIS AGREEMENT, OR ANY OF ITS PROVISIONS.

16.16 BANKRUPTCY COURT JURISDICTION. BUYER AND SELLER AGREE THAT THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER ALL DISPUTES AND OTHER MATTERS RELATING TO (a) THE INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT AND ANY ANCILLARY DOCUMENTS EXECUTED PURSUANT HERETO, (b) THE PROPERTY, AND/OR (c) ANY OF THE SELLER'S OBLIGATIONS THAT MAY SURVIVE CLOSING, AND BUYER EXPRESSLY CONSENTS TO AND AGREES NOT TO CONTEST SUCH EXCLUSIVE JURISDICTION.

16.17 Effective Date. The Effective Date of this Agreement shall be the date that it is fully executed by Buyer and Seller.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Buyer and Seller have each executed this Agreement to be effective as provided in Section 16.17 herein.

BUYER:

SELLER:

City of Trenton

ASARCO Master Inc.

a Delaware Corporation

By: 

By: 

Name: Douglas H. Palmer

Name: Thomas L. Aldrich

Title: Mayor, City of Trenton

Title: VP Environmental Affairs

By: 

Name: Douglas E. McAllister

Title: Executive VP, Secretary and General Counsel

EXHIBIT A

REAL PROPERTY LEGAL DESCRIPTION

North Side of Enterprise Avenue

Block 23004 Lot 3 and Block 23101 Lot 3 (formerly 209D, Lot 1223 Block 210A 15)

South Side of enterprise Avenue

Block 23102 Lot 9 (formerly Block 210B, Lot 2)

4.65-acres, more or less, City of Trenton, County of Mercer, State of New Jersey