

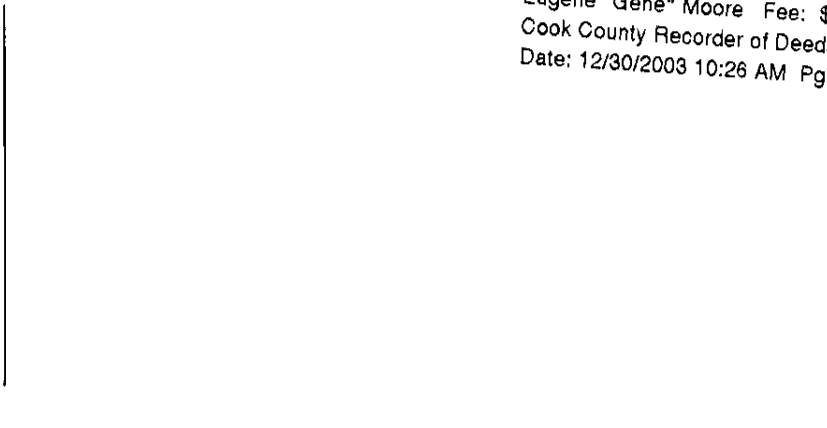


Doc#: 0336433130
Eugene "Gene" Moore Fee: \$72.00
Cook County Recorder of Deeds
Date: 12/30/2003 10:26 AM Pg: 1 of 25

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8101970 D2 MS

Property of Cook County Clerk's Office



Space Above This Line For Recorder's Use

SPECIAL WARRANTY DEED

THIS IS A DEED dated December 12, 2003, effective December 15, 2003, by Equilon Enterprises LLC, a Delaware limited liability company, having an office at 12700 Northborough, Houston, Texas 77067 ("Grantor") to Interra Petrosites (Series Oak Lawn), L.L.C., a series of Interra Petrosites, L.L.C., a Delaware limited liability company, with an address of 541 N. Fairbanks Ct., Suite 1890, Chicago, Illinois 60611 ("Grantee").

GRANTOR, for good and valuable consideration received, hereby grants and conveys to Grantee the following described Premises situated at 9701 S. Cicero, Oak Lawn, Illinois;

See attached Exhibit "A" for legal description

together with all rights, privileges and appurtenances thereto and all buildings and land improvements thereon;

TO HAVE AND TO HOLD the Premises unto Grantee and Grantee's heirs, administrators, executors, successors and assigns forever, but

SUBJECT to the following:

Encroachments, protrusions, easements, changes in street lines, rights-of-way, and other matters that would be revealed by a current on-the-ground survey and inspection of the Premises;

Recorded agreements, easements, rights-of-way, covenants, conditions and restrictions as the same may be of present force and effect;

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Zoning regulations, ordinances, building restrictions, regulations and any violations thereof;

The lien for real property taxes and any liens for special assessments, which in each case as of the date hereof are not delinquent or yet due and payable; and

The Petroleum Restrictive Covenant set forth in Exhibit B attached hereto and made a part hereof.

Grantee covenants, as part of the consideration for this conveyance, as follows:

(a) no basement will be constructed on the Premises, (b) no potable water well will be installed or maintained on the Premises, (c) if and to the extent necessary, as determined by Grantor in Grantor's sole discretion, an asphalt or concrete barrier will be maintained on the Premises to prevent access to the native soils and the use of the Premises will be restricted to commercial/industrial purposes only, (d) all soil or groundwater removed or excavated from, or disturbed on, the Premises will be handled and disposed of in accordance with all applicable environmental laws, statutes, rules and regulations, (e) all worker safety requirements for handling petroleum contaminated soil or groundwater will be observed (f) Grantor is authorized by Grantee to record against the Premises such No Further Remediation letters or similar documents (collectively "NFR Letters") as may be issued by the Illinois Environmental Protection Agency or other government agency having jurisdiction over the Premises, and Grantee shall execute all documents and take all action as required of Grantee for the issuance and recording of such NFR Letters against the Premises; provided, however, such NFR Letters do not contain any restrictions, conditions or limitations on the Premises other than those (i) provided for, or allowed to be imposed by Grantor, in this Deed, (ii) permitted in that certain Offer to Purchase Premises dated July 18, 2003 between Equilon Enterprises LLC, seller, and Interra Equities, LLC, purchaser ("Agreement"), or (iii) otherwise applicable to the Premises, and (g) except as may be otherwise specifically provided to the contrary in the Agreement, Grantee shall comply, at solely Grantee's expense, with all of the terms and conditions of such NFR Letters, including but not limited to the responsibility for and cost of handling and disposal of contaminated soil or groundwater on the Premises.

Except as may be otherwise specifically provided in the Agreement, from and after the date of this deed, Grantee releases Equilon, Shell Oil

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Company and Texaco Inc., and their parent, subsidiary, related and affiliated corporations, joint ventures and other entities of and from all claims, demands, liability, damages, actions and causes of action whatsoever, whether or not now or heretofore known, suspected or claimed, in respect to or arising out of the condition of the Premises, including but not limited to the environmental condition of the Premises, and any obligation to perform or pay for any remediation or other action required in respect to the environmental condition of the Premises.

The foregoing covenants, conditions, restrictions and agreements shall run with the land, shall bind Grantee's heirs, administrators, executors, successors and assigns, and shall inure to the benefit of Grantor's successors and assigns. Grantor's waiver of any breach of the foregoing covenants, restrictions and agreements shall not constitute a waiver of the covenants or restrictions nor of any subsequent breach hereof.

SUBJECT to the foregoing, Grantor covenants with Grantee that Grantor will warrant and defend title to the Premises against the lawful claim of all persons claiming by, through or under Grantor, but not otherwise.

Permanent Index Number (PIN): 24-10-124-001-0000; 24-10-124-002-0000;
24-10-124-003-0000

EXECUTED by Grantor as of the date first herein specified.

WITNESS:

EOUILON ENTERPRISES LLC

Debbie Szostek
Debbie Szostek

By: Charles T. Badrick
Charles T. Badrick
Attorney-in-Fact

Judith L. Reyna
Judith L. Reyna

Village of Oak Lawn	Real Estate Transfer Tax	\$500	Village of Oak Lawn	Real Estate Transfer Tax	\$500
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STATE OF TEXAS)
)
) SS
COUNTY OF HARRIS)

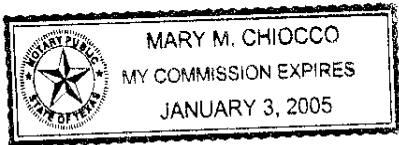
Village of Oak Lawn	Real Estate Transfer Tax	\$500	Village of Oak Lawn	Real Estate Transfer Tax	\$300
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The within and foregoing instrument was acknowledged before me on 12/12, 2003 by Charles T. Badrick, Attorney-in-Fact, for Equilon Enterprises LLC, a Delaware

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limited liability company, on behalf of the company.

WITNESS my hand and official seal



Mary M. Chiocco

Notary's Signature

Prepared by:

Joseph A. Girardi
Henderson & Lyman
Suite 240
175 W. Jackson
Chicago, IL 60604

Mail Subsequent Tax Statements to:

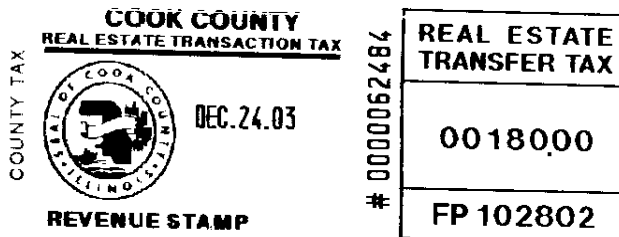
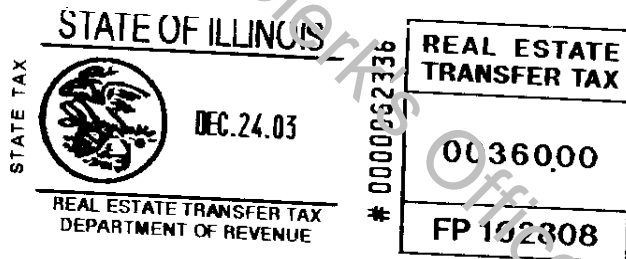
Interra Equities, LLC

541 N. Fairbanks Ct., Suite 1010
Chicago, IL 60611

When Recorded Mail to:

Keith Ross, Esq.

2 N. LaSalle St., 13th Flr
Chicago, IL 60602

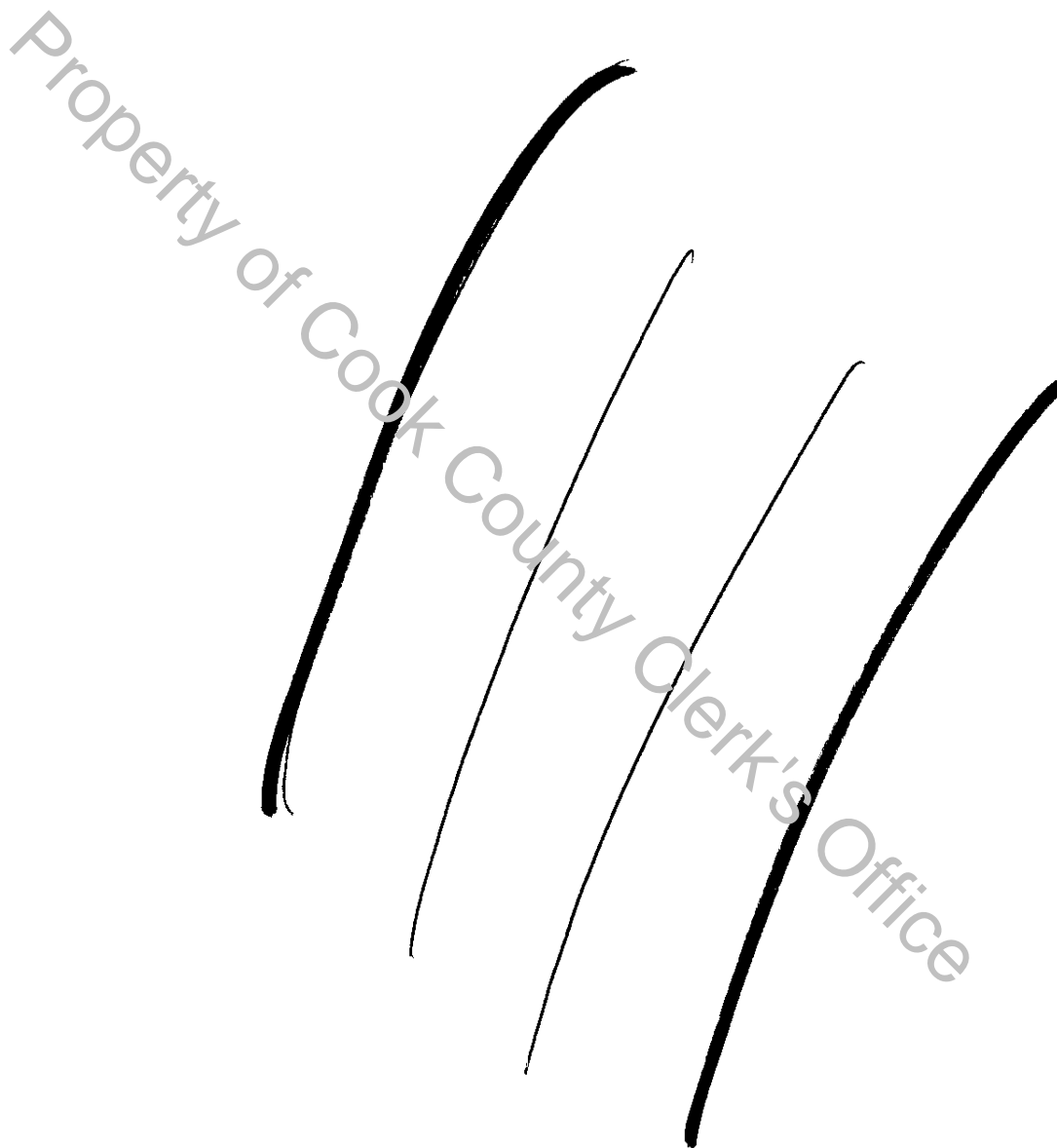


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EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

LOTS 22, 23 AND 24 IN PARAMOUNTS FIRST ADDITION TO HOLLYWOOD GARDENS, A SUBDIVISION OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.



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EXHIBIT B

PETROLEUM RESTRICTIVE COVENANT

This Petroleum Restrictive Covenant is attached to and made a part of the Special Warranty Deed ("Deed") for the Premises between Grantor and Grantee. Grantor and Grantee agree as follows:

Additional consideration furnished by Grantee, as an inducement to Grantor to enter into the Agreement, as defined in the Deed, and sell the Premises at a reduced purchase price, is Grantee's covenant and agreement that during the period of ten (10) years after the date of recording of the Deed, no motor vehicle fuels whatsoever, including but not limited to petroleum products, shall be advertised, stored, sold or distributed on the Premises, or any part thereof (the "Restrictive Covenant"). The term "motor vehicle fuels" shall not include lubricants, additives, solvents, cleaners, or anti-freeze. The Restrictive Covenant shall expire automatically at the end of such ten (10) year term without need for filing a release, or other action by Grantor or Grantee. Grantee hereby acknowledges that the terms, conditions and duration of the Restrictive Covenant are fair and reasonable. Grantor hereby agrees that, in the event the Restrictive Covenant is violated, Grantor (i) may elect to enforce the Restrictive Covenant by an action in equity to obtain an injunction against any violation of the Restrictive Covenant; and (ii) may pursue any other remedy available at law or in equity for any breach of the Restrictive Covenant.

The Premises and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and conveyed subject to the Restrictive Covenant. The Restrictive Covenant shall run with the land, and pass with each and every portion of the Premises, and shall apply to and bind the respective successors in interest thereof. The Restrictive Covenant is imposed upon the entire Premises.

In addition to the foregoing, in the event of any violation of the Restrictive Covenant, Grantor has the right, but not the obligation, to elect at any time during the ten (10) year term of the Restrictive Covenant to purchase the Premises pursuant to the terms of the Purchase and Sale Agreement, the form of which is attached to the Deed as Exhibit B-1. Upon Grantor's election to purchase the Premises, Grantor shall prepare, and fill in any blank spaces in, the Purchase and Sale Agreement. Upon Grantor's request, Grantee shall, within ten (10) days of such request, execute the Purchase and Sale Agreement as prepared by Grantor and deliver to Grantor and into an escrow to be established pursuant thereto. Such Purchase and Sale Agreement shall serve as escrow instructions, along with such other supplemental escrow instructions as may be required, which shall also be executed and delivered by Grantor and Grantee. The right to purchase the Premises may be exercised by Grantor or by any successor to Grantor's

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interest to whom the right to elect to purchase the Premises has been expressly assigned.

All purchasers, lessees, and possessors of all or any portion of the Premises shall be deemed by their purchase, leasing, or possession of the Premises to have agreed to the foregoing. Grantee's acceptance of the Deed to the Premises evidences Grantee's acceptance of and agreement to the Restrictive Covenant, and Grantee acknowledges that Grantee has received adequate and sufficient consideration for Grantee's acceptance of and agreement to the Restrictive Covenant. Any failure to enforce or waiver of any breach of the Restrictive Covenant shall not constitute a waiver of the Restrictive Covenant or of any subsequent breach thereof or any remedy that may be exercised for breach thereof. The exercise of any remedy for any breach of the Restrictive Covenant shall not preclude the exercise of any other remedy for any breach of the Restrictive Covenant.

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Tax Parcel _____

EXHIBIT B-1

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

THIS IS A PURCHASE AND SALE AGREEMENT ("Agreement") dated _____, 20__, between _____, a _____ (herein called "SELLER," whether one or more), and **EQUILON ENTERPRISES LLC**, a Delaware limited liability company (herein called "EQUILON").

This Agreement is being entered into in connection with the following recitals:

A. SELLER is the owner of the Property, as hereinafter defined.

B. EQUILON has exercised its option to purchase the Property as set forth in the Deed pursuant to which the Property was conveyed by Equilon, such exercise resulting from a breach of the Restrictive Covenant set forth in such Deed (hereinafter said Restrictive Covenant is referred to as the "Restrictive Covenant") and this Agreement is being entered into pursuant to the terms of that option.

NOW, THEREFORE, in consideration of the Property and the mutual promises herein contained, Equilon and SELLER hereby agree as follows:

1. **PROPERTY.** Subject to the terms and provisions of this Agreement, SELLER shall sell and convey to Equilon or Equilon's nominee, and Equilon shall purchase from SELLER, the following described land located at 9701 S. Cicero, Oak Lawn, Illinois, said land being further described on Exhibit B-2, attached hereto and made a part hereof, with the exact legal description to be determined by survey, together with all easements, rights and appurtenances thereto, all buildings and improvements and equipment and personal property now or hereafter located thereon, and all of SELLER's right, title and interest in all public ways adjoining the same (herein, with the land, collectively called "Property").

2. **DETERMINATION OF PURCHASE PRICE AND ARBITRATION.**

2A. **Purchase Price.** The purchase price for the Property shall be the fair market value of the Property as hereinafter determined ("Purchase Price").

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2B. **Arbitration of Disputes.** THE FAIR MARKET VALUE OF THE PREMISES SHALL BE DETERMINED AS FOLLOWS:

- (i) EQUILON AND SELLER SHALL MEET AND ATTEMPT TO REACH AN AGREEMENT AS TO THE "FAIR MARKET VALUE" WITHIN 15 DAYS OF EQUILON'S NOTICE OF INTENT TO CONSIDER EXERCISING ITS RIGHT TO PURCHASE;
- (ii) SHOULD EQUILON AND SELLER FAIL TO REACH SUCH AGREEMENT WITHIN SUCH 15-DAY PERIOD, FAIR MARKET VALUE SHALL BE DETERMINED BY APPRAISAL. EQUILON AND SELLER SHALL EACH SELECT AN UNBIASED QUALIFIED APPRAISER WHO IS A MEMBER OF THE AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS (MAI). THE 2 APPRAISERS SHALL DETERMINE FAIR MARKET VALUE.
- (iii) SHOULD THE 2 APPRAISERS BE UNABLE TO AGREE UPON THE FAIR MARKET VALUE OR SHOULD EITHER EQUILON OR SELLER DISAGREE WITH THE RESULTS OF SUCH APPRAISAL, THE 2 APPRAISERS SHALL SELECT A THIRD APPRAISER, QUALIFIED AS ABOVE. THE THIRD APPRAISER SO SELECTED SHALL DETERMINE THE FAIR MARKET VALUE OF THE PROPERTY BY SELECTING THE APPRAISAL OF THE OTHER TWO APPRAISERS WHICH THE THIRD APPRAISER BELIEVES TO BE THE APPRAISAL THAT IS THE CLOSEST IN AMOUNT TO THE FAIR MARKET VALUE OF THE PROPERTY, AND THE WRITTEN OPINION OF THE THIRD APPRAISER SHALL BE FINAL AND BINDING UPON THE PARTIES HERETO. IN THE EVENT THAT THE APPRAISERS CANNOT AGREE UPON THE THIRD APPRAISER, EITHER PARTY HERETO MAY PETITION A COURT HAVING JURISDICTION TO SELECT SUCH APPRAISER;
- (iv) FOR THE PURPOSES OF THIS AGREEMENT, THE FAIR MARKET VALUE OF THE PROPERTY, AS ESTABLISHED BY INSTRUCTIONS TO THE APPRAISER(S), SHALL BE BASED UPON THE VALUE OF THE PROPERTY AS OF THE DATE OF EXERCISE BY EQUILON OF ITS OPTION TO PURCHASE THE PROPERTY AND SHALL BE BASED

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UPON THE THEN CURRENT USE OF THE PROPERTY AND NOT THE PROPERTY'S HIGHEST AND BEST USE. THE APPRAISER(S) SHALL ALSO CONSIDER THE AGE OF ANY IMPROVEMENTS ON THE PREMISES AND THEIR MAJOR COMPONENTS IN DETERMINING THE FAIR MARKET VALUE. SUCH APPRAISALS OF FAIR MARKET VALUE SHALL NOT INCLUDE THE CAPITALIZED INCOME FROM ANY LEASE AGREEMENT; AND

- (v) ALL APPRAISAL COSTS SHALL BE SHARED EQUALLY BY EQUILON AND SELLER.

NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY STATE LAW AND YOU ARE WAIVING ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE WAIVING YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CODE OF CIVIL PROCEDURE FOR THE STATE WHEREIN THE DISPUTE ARISES. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

EQUILON'S INITIALS

SELLER'S INITIALS

2C. **Failure to Arbitrate.** IF EQUILON AND SELLER SHOULD BE UNABLE TO REACH AN AGREEMENT AS TO THE FAIR MARKET VALUE OF THE PROPERTY AND, IN THE EVENT THAT FOR ANY REASON THE FAIR MARKET VALUE OF THE PROPERTY SHALL NOT BE DETERMINED BY APPRAISAL AS SET FORTH ABOVE, THEN THE FAIR MARKET VALUE OF THE PROPERTY SHALL BE DETERMINED BY A COURT OF COMPETENT JURISDICTION, WITH THE PREVAILING PARTY PAYING ALL COURT COSTS AND REASONABLE ATTORNEYS' FEES.

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3. **ESCROW.** This sale and purchase shall be completed through an escrow ("Escrow") to be opened with Chicago Title Insurance Company, 171 N. Clark, Chicago, IL 60601, or such other party as may be designated by EQUILON ("Escrow Agent") and shall close no later than the later of: a) sixty (60) days after the date of this Purchase and Sale Agreement first set forth above, or b) fifteen (15) days after the date on which the Purchase Price is determined as set forth above (the "Outside Closing Date"). EQUILON and SELLER will deliver a fully executed original of this Agreement to Escrow Agent, and this Agreement will serve as Escrow Agent's escrow instructions, with such supplements thereto as Escrow Agent may reasonably require to be executed by EQUILON and SELLER. SELLER shall, prior to the Closing Date (as defined below), deliver to Escrow Agent a fully executed and acknowledged recordable Deed in the form of Exhibit B-3 to this Agreement and otherwise in form and substance satisfactory to EQUILON which will convey the Property to EQUILON or to EQUILON's nominee in fee simple upon closing. On or before the Closing Date, EQUILON shall deposit the Purchase Price with Escrow Agent. The date on which the Deed records in accordance with this Agreement is referred to in this Agreement as the "Closing Date." The Closing Date shall be a date designated by EQUILON in writing by a notice to SELLER, and the date so designated shall be on or before the Outside Closing Date, subject to such extension of the Closing Date and/or the Outside Closing Date as may be allowed under the provisions of this Agreement.

4. **INVESTIGATION OF PROPERTY.** During the period of this Agreement, EQUILON, its agents or contractors, shall have the right to enter upon the Property for the purpose of conducting a topographical and ALTA survey, an environmental site assessment, and for such other surveys and inspections as EQUILON may elect to conduct, including but not limited to investigation of the availability of utilities and access to and from public rights of-way. The environmental site assessment may include, but is not limited to, subsurface soil and water tests, as well as the testing of any underground storage tanks and related equipment upon the Property. EQUILON, its agents or contractors, shall also have the right to make inquiries of governmental agencies concerning potentially Hazardous Substances, as defined below in Section 22.1, on the Property and compliance by SELLER with all Environmental Laws, as defined below in Section 22.2, without any liability on the part of EQUILON, its agents or contractors, to SELLER as a result thereof. Based on the results of any such investigation, EQUILON may, at its sole and absolute discretion, withdraw from this transaction.

5. **CONDITION OF TITLE.** EQUILON shall obtain a preliminary title report ("Title Report") on the Property for the issuance of an ALTA Extended Coverage Owner's Policy of Title Insurance from Chicago Title Insurance Company ("Title Company"). If the Title Report, or any supplement thereto, reveals any title exception, encumbrance or condition which is unacceptable to EQUILON, EQUILON shall give notice thereof to SELLER, and SELLER shall have ten (10) days after receipt of such

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notice in which (a) to cure same to EQUILON's satisfaction and furnish a later report showing the defect removed, or (b) if such exception or encumbrance can be cured solely by payment of money, to arrange to EQUILON's satisfaction for the full payment and release of such exception or encumbrance out of SELLER's proceeds at closing. SELLER hereby agrees within the aforesaid period to arrange to EQUILON's satisfaction for the full payment and release of any exception to title for any lien or encumbrance for any monetary obligation or debt or any encumbrance created, suffered or assumed on the Property at any time following the recordation of the Deed referred to in the recitals to this Agreement. SELLER hereby agrees to take reasonable efforts to cure any other unacceptable exception, encumbrance, or condition within the aforesaid period. If SELLER is unable or unwilling to cure any unacceptable exception, encumbrance or condition within the aforesaid period, EQUILON may withdraw from this transaction in accordance with the provisions of Section 8 of this Agreement. If, at closing, SELLER is unable to deliver title to the Property in the same condition as accepted by EQUILON in accordance with the terms hereof, then EQUILON may elect either (a) to accept title to the Property subject to any disapproved exception, encumbrance, or condition without waiving any claim EQUILON may have against SELLER for any breach of this Agreement or (b) to withdraw from this transaction in accordance with the provisions of Section 8 hereof. EQUILON may extend the Closing Date and, if necessary, the Outside Closing Date, up to sixty (60) days to afford SELLER additional time within which to cure any unacceptable exception, encumbrance, or condition.

6. CONDEMNATION AND DAMAGE TO IMPROVEMENTS.

6.1 **Condemnation.** In the event SELLER or EQUILON becomes aware that the Property or any part thereof is or will become the subject of a condemnation proceeding, whether for public or quasi-public use, such party shall immediately give notice to the other and Escrow Agent of such proceeding. Upon the giving or receipt of such notice, EQUILON shall have the option, by giving notice to SELLER and Escrow Agent: (a) to permit SELLER to negotiate with the condemning authority and receive the condemnation award, in which event EQUILON shall take title to the remaining Property in accordance with the terms and conditions of this Agreement and the Purchase Price hereunder shall be reduced by the greater of (1) the amount received or receivable by SELLER as compensation for that portion of the Property so taken, or (2) the percentage derived upon dividing the total square footage of the Property by the square footage of that portion of the Property being taken; (b) to take title in accordance with the terms and conditions of this Agreement and negotiate with the condemning authority for the condemnation award and receive the benefits thereof; or (c) to withdraw from this transaction in accordance with Section 8 of this Agreement.

6.2 **Damage to Improvements.** SELLER shall bear all risk of loss or damage to the Property occurring prior to the close of Escrow. In the event that any

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improvements on the Property are damaged by any cause, SELLER shall diligently proceed to repair such damage prior to the Closing Date. In the event that in EQUILON's judgment such damage cannot be repaired prior to the Closing Date, EQUILON may elect to (a) extend the Closing Date and, if necessary, the Outside Closing Date, until SELLER has completed such repairs, (b) proceed to close Escrow and obtain from SELLER an assignment of all insurance proceeds related to such damages, or (c) to withdraw from this transaction in accordance with Section 8 of this Agreement.

7. CLOSING.

7.1 **Closing.** SELLER, at its sole cost and expense, will deliver the following to EQUILON through Escrow and the delivery of the following shall be conditions to the close of Escrow and the payment of the Purchase Price by EQUILON:

- (a) A Warranty Deed in the form of Exhibit B-3 to this Agreement and in form and substance satisfactory to EQUILON fully executed and acknowledged by SELLER, conveying the Property to EQUILON or its nominee, subject only to the encumbrances permitted by EQUILON. At EQUILON's election, the description used in the Warranty Deed shall conform to the previously mentioned survey of the Property.
- (b) An ALTA Extended Coverage Owner's Policy of Title Insurance issued by the Title Company with such endorsements as EQUILON may reasonably require, insuring EQUILON for the full purchase price, that title to the Property is vested in fee simple in EQUILON or its nominee, subject only to those exceptions which EQUILON agrees to accept in accordance with the provisions of Section 5 hereof, and to current property taxes not in default. SELLER agrees to execute a standard Parties in Possession Affidavit.
- (c) Certificate meeting the requirements of 26 U.S.C. Section 1445 Non-Foreign Affidavit, executed and sworn to by SELLER, confirming to EQUILON's satisfaction that no withholding of sale proceeds is required under the Internal Revenue Code, such certificate to be delivered to Escrow Agent no less than ten (10) days prior to the Closing Date for review and approval by EQUILON.

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- (d) Such other instruments as are customarily executed to effectuate the conveyance of property similar to the Property, with the effect that, after closing, EQUILON will have succeeded to all of the rights, title, and interests of SELLER related to the Property and SELLER will no longer have any rights, titles, or interests in and to the Property.

EQUILON's written approval of the affidavits and instruments required by this Section 7.1 shall be a condition to the close of Escrow. If Escrow Agent does not receive the affidavits or documents as are required above, EQUILON may comply with, or instruct Escrow Agent to comply with, the withholding requirements set forth in Section 1445 of the Internal Revenue Code and regulations thereunder, or any similar law containing such requirements.

7.2 **Payment of Purchase Price.** At closing, EQUILON will deliver cash to SELLER through Escrow in the amount of the Purchase Price of the Property, less (a) any sums chargeable to SELLER under this Agreement, (b) any sums withheld for payment to taxing or other authorities in accordance with the foregoing Section 7.1, and (c) the amount of any liens and encumbrances subject to which EQUILON elects to accept title.

7.3 **Closing Costs.** SELLER shall pay any and all escrow charges, title insurance premiums, recording fees, documentary taxes imposed on the deed, and real estate transfer taxes or fees. Ad valorem and similar taxes and assessments, as well as items of revenue relating to the Property, shall be prorated between SELLER and EQUILON as of the Closing Date. If the actual amounts to be prorated are not known at closing, the prorations shall be computed on the basis of the best evidence then available; and when actual figures are available, a cash settlement shall be made between SELLER and EQUILON. All installments of assessments due before the Closing Date and all installments of assessments which have been imposed but shall not become due until after closing shall be considered due at closing and a lien on the Property, and shall be paid by SELLER at closing.

7.4 **Possession.** On the Closing Date, SELLER shall deliver possession of the Property to EQUILON free and clear of all tenancies of every kind and parties in possession, with all parts of the Property in substantially the same condition as on the date of this Agreement.

8. **WITHDRAWAL.** If any one or more of the conditions specified for the closing under this Agreement have not been fulfilled by the Closing Date, or if, at any time, EQUILON shall have the right under any provision hereof or under applicable law to withdraw from this transaction, EQUILON may, at any time thereafter, at its option and without prejudice to any other rights or remedies it may have against

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SELLER, withdraw from this transaction and be released of all liability hereunder, by giving written notice to SELLER and Escrow Agent. Any election by EQUILON to withdraw from this transaction shall not release SELLER from any liability for any breach of this Agreement or the Restrictive Covenant, and EQUILON shall retain all of its rights and remedies with respect to any breach of the Restrictive Covenant.

9. **REPRESENTATIONS AND WARRANTIES OF SELLER.** SELLER hereby makes the following representations and warranties to EQUILON, as of the date hereof and as of the Closing Date, which representations and warranties shall survive the close of Escrow hereunder:

- (a) SELLER has good and marketable title in fee simple to the Property and there are no parties in possession of all or any portion of the Property, as the case may be, as lessees, tenants at sufferance, licensees, or trespassers;
- (b) SELLER has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property or any part thereof;
- (c) all work, labor, services and materials furnished to or in connection with the Property, and any improvements constructed thereon, have been discharged by SELLER so that no mechanics', materialmen's or other lien may be filed against the Property or such improvements;
- (d) no Hazardous Substances have been produced, stored, disposed of or discharged (1) on the Property, or any portion thereof, (2) into any water body on the Property, or (3) into any ground water supplies under the Property;
- (e) the Property is in compliance with all Environmental Laws, and SELLER has not received notice from any governmental agency or authority that the Property is not in compliance with the Environmental Laws;
- (f) all taxes on the Property for all relevant years prior to the year of closing have been paid in full, and there are no penalties or delinquency charges owing;

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- (g) that all improvements, equipment, and machinery on the Property are in good condition, free of defects, and in good working order and condition and will be maintained by SELLER in good condition and in good working order and condition until the Closing Date;
- (h) all laws, ordinances, rules and regulations including, but not limited to, those relating to zoning, building, fire, health and safety or any governmental or any agency, body or subdivision thereof bearing on the construction, operation, ownership or use of the Property have been complied with by SELLER;
- (i) that the person executing this Agreement on behalf of SELLER is authorized and directed to execute this Agreement on behalf of SELLER, and to execute such other instruments, documents and agreements as SELLER may require in connection with this transaction; and
- (j) neither this Agreement nor any other documents furnished to EQUILON by SELLER in connection with the Property contains any untrue statement of a material fact nor omits a material fact necessary in order to make a statement contained herein or therein not misleading.

If any of the foregoing representations and warranties are not true as of the Closing Date, EQUILON may (a) elect to proceed to require that close of Escrow occur and retain all rights and remedies against Seller for such breach, or (b) withdraw from this transaction in accordance with the provisions of Section 8 hereof.

10. **INDEMNITY AND AGREEMENT TO DEFEND.** SELLER shall and does hereby indemnify and hold EQUILON, its members, directors, officers, employees and agents harmless from and against any loss or expense (including attorney's fees and costs of litigation) incurred as a result of any claim, action, demand, judgment or suit caused or alleged to have been caused by or happening in connection with (a) the Property prior to the Closing Date, whether in tort, in contract or otherwise, including, but not limited to, fines, fees or sanctions asserted by or on behalf of any person or governmental authority arising from or in connection with SELLER's (or SELLER's predecessors-in-interest excluding EQUILON) use or misuse, handling or mishandling, storage, spillage, discharge, seepage into water bodies or ground supplies, or release

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into the atmosphere of any Hazardous Substance or (b) any breach of this Agreement, including any breach of any representation or warranty. At EQUILON's election, SELLER shall conduct the defense of any such litigation at its sole cost and expense, using counsel approved by EQUILON, and SELLER shall neither offer nor accept any settlement thereof without EQUILON's prior written consent, which approval and/or consent, shall not be unreasonably withheld.

11. **DEFAULT**. If the sale and purchase contemplated by this Agreement is not consummated because of SELLER's default or breach of this Agreement, EQUILON shall have all remedies allowed by law or equity, including, but not limited to: (a) withdrawing from this transaction in accordance with the provisions of Section 8 hereof, (b) seeking and obtaining specific performance of this Agreement; and (c) pursuing all other rights or remedies available at law or in equity including an action for damages. Upon SELLER's default or breach of this Agreement, EQUILON shall have the right in its sole and absolute discretion, to extend the Closing Date and, if necessary, the Outside Closing Date as many times as EQUILON may elect without waiving the other rights or remedies provided for in this Section 11.

12. **ASSIGNMENT**. EQUILON may at any time assign this Agreement, but shall not be relieved thereby of any of its obligations hereunder. This Agreement shall inure to the benefit of EQUILON's successors and assigns. SELLER may not assign this Agreement.

13. **NOTICES**. Any notice hereunder must be in writing and shall be deemed effective when given by personal delivery, via air courier, or when deposited in the United States mail registered or certified with return receipt requested, postage or charges prepaid, and addressed to the party for whom intended at such party's address set forth below, or at such other address as such party may have substituted therefor by proper notice to the other.

SELLER's address for notice:

EQUILON's address for notice: **EQUILON ENTERPRISES LLC**
 12700 Northborough, Ste. 100
 Attn: Real Estate Administration
 Houston, Texas 77067

14. **EXECUTION**. This Agreement shall not be binding on EQUILON unless and until it is signed on EQUILON's behalf by a duly authorized representative of EQUILON and duly delivered to SELLER.

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15. **CAPTIONS.** The captions in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope or intent of this Agreement nor in any way affect this Agreement.

16. **INTERPRETATION.** Each of the parties hereby waives any provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party that drafted the contract, agreement or instrument. Words of any gender in this Agreement shall be held to include any other gender and words in the singular number shall be held to include the plural when the sense so requires.

17. **GOVERNING LAW.** This Agreement shall be governed by and construed according to the laws of the State of Illinois, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Illinois.

18. **LITIGATION.** In the event of litigation with respect to this Agreement, the prevailing party shall be entitled to recover its costs and such expenses and fees (including reasonable attorney's fees) as shall be fixed by the Court.

19. **TIME OF ESSENCE.** Time is of the essence of this Agreement.

20. **FURTHER ASSURANCES.** The parties hereto agree to execute any and all other further documents, including any additional or supplemental escrow instructions, reasonably necessary to consummate the transaction contemplated by this Agreement.

21. **SECTION 1031 TAX-DEFERRED EXCHANGE.** SELLER and EQUILON agree that either party may, at the closing, assign to a credit worthy assignee all of its rights and duties as purchaser under this Agreement so that it may acquire the Property from its assignee under this Section 21 pursuant to a tax-deferred exchange of real estate within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended. SELLER and EQUILON agree that the parties will execute such agreements and other documents as may be necessary, in the opinion of the parties to complete and otherwise effectuate such tax-deferred exchange in accordance with Section 1031. In the event either party elects to acquire the subject property pursuant to a Section 1031 tax-deferred exchange, the parties agree to report the transaction contemplated thereby consistently on their respective income tax returns to reflect the treatment of the transaction as a Section 1031 exchange. The parties agree to execute any and all documents, instruments, deeds and escrow instructions as may be necessary or desirable, in the sole and absolute discretion of the parties, to effectuate a Section 1031 exchange, at no additional cost to the other party.

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22. **DEFINITIONS.** For the purposes of this Agreement, each of the following terms shall have the meaning herein assigned to such term which may, as the context requires, be expressed or applied in the singular or plural form thereof:

22.1 **Environmental Laws.** The term "Environmental Laws" means and includes, without limitation, any federal, state or local law, statute, regulation or ordinance pertaining to health, industrial hygiene or the environmental or ecological conditions, on, under or about the Property, including, without limitation, each of the following: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. sec. 9601, et seq.; the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), 42 U.S.C. sec. 6901, et seq.; the Clean Air Act, as amended, 42 U.S.C. sec. 7401, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. sec. 2601, et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. sec. 11001, et seq.; the National Environmental Policy Act of 1975, 42 U.S.C. sec. 4321, the Rivers and Harbours Act of 1899, 33 U.S.C. 401, et seq.; the Endangered Species Act of 1973, as amended, 16 U.S.C. sec. 1531, et seq.; the Migratory Bird Treaty Act, 16 U.S.C. sec. 703-12; the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. sec. 651, et seq.; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. sec. 300(f), et seq.; the Federal Hazardous Materials Transportation Act, 49 U.S.C. sec. 1801, et seq.; the rules, regulations and ordinances of the U.S. Environmental Protection Agency, and all other agencies, boards, commissions and other governmental bodies and officers having jurisdiction over the Property or the use or operation thereof.

22.2 **Hazardous Substance.** The term "Hazardous Substance" means:

- (a) petroleum, petroleum by-products, total petroleum hydrocarbons, petroleum derivatives and any and all other hydrocarbons;
- (b) those substances that are or become included within the definitions of "hazardous substances," "hazardous material," "toxic substances" or "solid waste" in any of CERCLA, RCRA, the Clean Air Act and the Hazardous Materials Transportation Act (49 U.S.C.A. sec. 1801, et seq.) and in regulations promulgated pursuant thereto;
- (c) those substances that are or become listed in the U.S. Department of Transportation Table or amendments thereto (49 CFR sec. 172.101 (1988)) or by the U.S. Environmental Protection Agency (or any successor agency) as hazardous substances;

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- (d) those other substances, materials and wastes that are or become regulated under any applicable federal, state or local law, regulation or ordinance, or by any federal, state or local governmental agency, board, commission or other governmental body, or that are or become classified as hazardous or toxic by any such law, regulation or ordinance; and
- (e) any material, waste or substance that is any of the following: asbestos, polychlorinated biphenyls, designated or listed as a "hazardous substance" pursuant to Sec. 1321(14) of the Clean Water Act, explosive or radioactive.

23. **COUNTERPARTS.** This agreement may be executed in counterparts, each of which shall have the force and effect of an original.

24. **SURVIVAL OF CLOSING; JOINT AND SEVERAL.** All of the terms, provisions, representations, and warranties set forth in this Agreement shall survive the close of Escrow hereunder. If the SELLER hereunder is composed of two or more parties, whether persons or entities, their liability under this Agreement shall be joint and several.

EXECUTED by SELLER and EQUILON as of the date first herein specified.

EQUILON ENTERPRISES LLC

By: _____

Name: _____

Title: _____

Business I.D. # _____

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SELLER

By: _____

Name: _____

Title: _____

Business I.D. # _____

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EXHIBIT B-2

Legal Description of the Property

LOTS 22, 23 AND 24 IN PARAMOUNTS FIRST ADDITION TO HOLLYWOOD GARDENS, A SUBDIVISION OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

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Legal Description Rider

LOTS 22, 23 AND 24 IN PARAMOUNTS FIRST ADDITION TO HOLLYWOOD GARDENS, A SUBDIVISION OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office