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Doc#: 1001526279 Fee: \$46.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/15/2010 03:21 PM Pg: 1 of 6

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7-11 9609258
This Instrument Was Prepared By
And after recording, return to:

Michael Sanchez
Shannon, Martin, Finkelstein & Alvarado, P.C.
2400 Two Houston Center
909 Fannin Street
Houston, Texas 77010

ACCESS AGREEMENT

This Access Agreement ("**Agreement**"), dated as of the 10th day of January, 2010 ("**Effective Date**"), is by and between Equilon Enterprises LLC, a Delaware limited liability company d/b/a Shell Oil Products US ("**Seller**"), with offices located at 700 Milam Street; Office 2069A, Houston, Texas 77002 and EDK Ventures LLC, a Delaware limited liability company ("**Buyer**") with offices located at P.O. Box 347, 4080 W. Jonathan Moore Pike, Columbus, Indiana, 47201.

RECITALS

WHEREAS, Seller, Buyer and Mac's Convenience Stores LLC, a Delaware limited liability company, are parties to that certain Contribution Agreement dated as of the 10th day of January, 2010 (the "**Contribution Agreement**"), pursuant to which Seller has agreed to transfer and contribute to Buyer and Buyer has agreed to accept from Seller, all of Seller's right, title and interest in and to the Contributed Assets, including without limitation the Contributed Property described on Exhibit A hereto (the "**Premises**"); and

WHEREAS, in accordance with the Contribution Agreement, Seller may require access to the Premises in connection with certain post-closing activities contemplated or required by the terms of the Contribution Agreement;

NOW, THEREFORE, in exchange for the mutual promises and considerations stated herein and in the Contribution Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

ARTICLE 1. DEFINITIONS AND PROCEDURES

1.1 Definitions and Procedures. Unless defined in this Agreement or the context shall otherwise require, terms used and not defined herein shall have the meanings set forth in **Schedule A** hereto, and unless otherwise provided in this Agreement, all rules as to usage and procedural conventions set forth in **Schedule B** shall govern this Agreement.

Box 400 Fagan

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ARTICLE 2. GRANT OF LICENSE

2.1 Grant of License. (a) Buyer, as owner or tenant of the Premises, hereby grants, subject to the limitations of any leasehold agreement in respect of a Leased Premises, a nonexclusive irrevocable license from the date of this Agreement to Seller, its employees, authorized agents and contractors, to enter the Premises to perform any and all post Closing activities contemplated by Section 4.6 (*UST System Matters*), Section 9.7 (*Future Conveyances/ Leases*), Section 9.9 (*Post Closing Arrangements Relating to Purchased Premises*), Article 12 (*Environmental Indemnification*) and Article 13 (*Cooperation and Performance of Environmental Remediation and Indemnification*) of the Purchase Agreement, which activities include, but are not limited to, tank removal, closure or upgrade activities, remediation activities, and engineering or environmental studies, tests, surveys, appraisals or inspections.

(b) This Agreement is intended and shall be construed only as a temporary license and is not intended to be a grant of an easement or any other interest in the Premises.

ARTICLE 3. COVENANTS

3.1 Assignment, Successor and Assigns. In the event Buyer's interest in the Premises is conveyed, transferred, leased or in any way assigned in whole or in part to any other person or entity, whether by contract, operation of law or otherwise, prior to the termination hereof, Buyer shall (a) obtain in writing and record a right to access for Seller, and its employees, authorized agents and contractors over such Premises, with such right of access to be (i) in the same form as this Agreement, (ii) binding on any transferee and its successors or assigns, and (iii) recorded with, or the contents thereof contained in, the deed or lease transferring the Premises; and (b) make any such future conveyance of the Premises expressly subject to all of the terms and conditions of Section 9.7 (*Future Conveyances/Leases*) of the Purchase Agreement.

ARTICLE 4. TERMINATION

4.1 Termination. This Agreement shall automatically terminate, without any further action of either Seller or Buyer, upon the later to occur of (a) termination of Seller's rights and obligations under Section 4.6 of the Purchase Agreement (*UST System Matters*) or (b) termination of Seller's obligation, if any, to indemnify Buyer or perform Remediation pursuant to Article 12 (*Environmental Indemnification*) and/or Article 13 (*Cooperation and Performance of Environmental Remediation and Indemnification*) of the Purchase Agreement. Notwithstanding this Section 4.1, this Agreement shall immediately terminate in the event Buyer (x) no longer has the right to occupy the Premises under a lease or other similar estate in land creating an interest in the real property constituting the Premises, or (y) sells, transfers or conveys the Premises to any Third Party.

ARTICLE 5. INDEMNIFICATION; LIMITATIONS

5.1 Indemnification. This Agreement is delivered pursuant to the Purchase Agreement and is subject to the provisions, including, without limitation, provisions relating to

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indemnification by Seller and by Buyer, and the limitations in respect of such indemnification set forth therein.

ARTICLE 6. MISCELLANEOUS

6.1 **Dispute Resolution.** All disputes between Seller and Buyer arising out of, relating to, or in connection with this Agreement, including, without limitation, any Claim or question relating to this Agreement's negotiation, performance, non-performance, interpretation or termination or the relationship between Seller and Buyer contemplated or established by this Agreement, shall be referred to and finally resolved pursuant to the dispute resolution provisions of **Schedule B** of the Contribution Agreement. This Section 6.1 shall survive indefinitely.

6.2 **Notice.** Any notice, consent, request, report, demand, or other document required to be given to one Party by the other shall be in writing and be delivered to or mailed to the receiving Party at its address and in the manner set forth in the Contribution Agreement.

6.3 **Environmental Investigation and Remediation.** **Buyer agrees that Seller is under no obligation to Buyer to remedy or respond to any Environmental Condition at the Premises for which Seller is not responsible under the Contribution Agreement. Seller and Buyer agree that no provision of this Agreement shall expand Seller's obligations to respond to Environmental Conditions not specifically identified in the Contribution Agreement and shall not be construed to be an admission of liability, wrongdoing or violation of any Law by Seller or Buyer or their predecessors, successors or permitted assigns.**

6.4 **Governing Law.** This Agreement shall be construed in accordance with the internal laws of the State of Illinois, excluding any conflict of law principles that would direct application of the laws of another jurisdiction.

6.5 **Waiver.** No waiver by any party of any breach of the covenants and/or agreements set forth herein, or any rights or remedies provided hereunder and no course of dealing shall be deemed a continuing waiver of the same or any other breach, right or remedy, unless such waiver is in writing and is signed by the party sought to be bound. The failure of a party to exercise any right or remedy shall not be deemed a waiver of such right or remedy in the future.

6.6 **Collective Transaction.** Seller and Buyer acknowledge that this Agreement has been entered into and Seller and Buyer have agreed to perform post-Closing obligations under the Contribution Agreement in connection with, and in reliance on, the other party's execution of and agreement to perform under each of this Agreement, the Contribution Agreement and the Branding Agreement, which, in the case of the Branding Agreement, runs with and burdens the Contributed Properties.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

"SELLER"

**EQUILON ENTERPRISES LLC
d/b/a Shell Oil Products US**



By: _____
Name: **David N. Burrow, Mgr.**
Title: **Portfolio & Alliances US**

State of Texas §
 §
County of Harris §

The foregoing instrument was acknowledged before me this 5th day of January, 2010, by DAVID N. BURROW, who is the Manager Portfolio Alliances US of Equilon Enterprises LLC, a Delaware limited liability company d/b/a Shell Oil Products US, on behalf of the limited liability company.

Witness my hand and official seal.



[Notary Seal]

Kim A. Humbarger
NOTARY PUBLIC

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"BUYER"

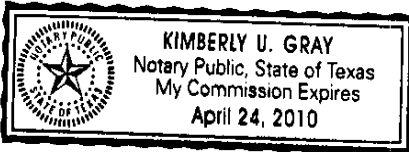
RDK VENTURES LLC

By: *Darrell J. Davis*
Darrell J. Davis, President

State of Texas §
 §
County of Harris §

The foregoing instrument was acknowledged before me this 5th day of January, 2010, by Darrell J. Davis, who is the President of RDK Ventures LLC, a Delaware limited liability company, on behalf of the limited liability company.

Witness my hand and official seal.



[Notary Seal]

Kimberly U. Gray
NOTARY PUBLIC

Parcel Identification No.: _____ (Recording Legend)

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Exhibit A

Legal Description

(25)

Cc#136955

PARCEL 1:

LOTS 71 TO 73, INCLUSIVE IN ALBERT WISNER'S SUBDIVISION OF BLOCKS 1 AND 2 OF THE WEST 1/2 OF OUTLOT 7 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 74 IN ALBERT WISNER'S SUBDIVISION OF BLOCKS 1 AND 2 OF THE WEST 1/2 OF OUTLOT 7 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 75 AND THE WEST 1.00 FOOT OF LOT 76 IN ALBERT WISNER'S SUBDIVISION OF BLOCKS 1 AND 2 OF THE WEST 1/2 OF OUTLOT 7 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 76 (EXCEPT THE WEST 1.00 FOOT THEREOF) AND THE WEST 1.00 FOOT OF LOT 77 IN ALBERT WISNER'S SUBDIVISION OF BLOCKS 1 AND 2 OF THE WEST 1/2 OF OUTLOT 7 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Tax Parcel ID No(s). 14-29-227-022-0000; 14-29-227-023-0000; 14-29-227-024-0000; and 14-29-227-025-0000

Address: 1160 (1169) W. Diversey Parkway, Chicago, IL 60614-1319
136955/6737