

# UNOFFICIAL COPY



Doc#: 1032831064 Fee: \$56.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 11/24/2010 12:50 PM Pg: 1 of 11

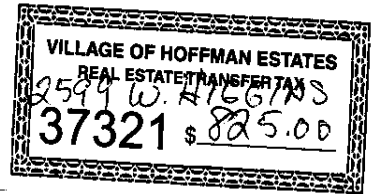
8426163  
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This instrument prepared by:

Beverly Klug  
as Agent for **EQUILON ENTERPRISES LLC**  
Shell Retail Real Estate  
P. O. Box 4393  
Houston, TX 77210

When recorded, return Deed and  
Tax Statements to:

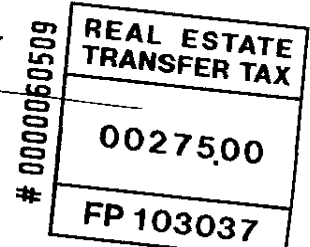
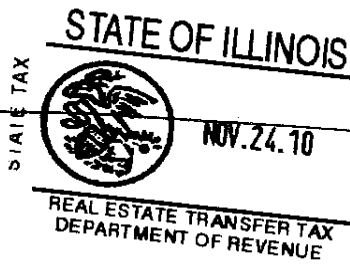
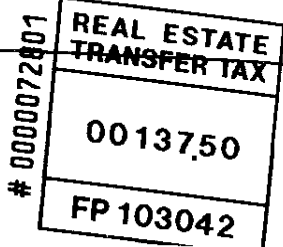
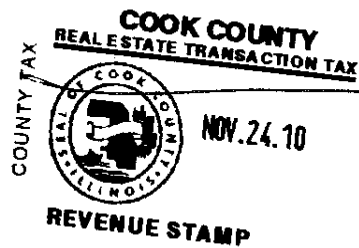
B & R GENERAL CONSTRUCTION AND DEVELOPMENT, INC.  
400 W. Higgins Rd.  
Park Ridge, IL 60068



## SPECIAL WARRANTY DEED WITH BRAND COVENANT

THIS IS A DEED dated October 15, 2010, effective November 22, 2010, by **EQUILON ENTERPRISES LLC**, a Delaware limited liability company, with offices at P. O. Box 4393, Houston, Texas 77210, herein called "GRANTOR") to **B & R GENERAL CONSTRUCTION AND DEVELOPMENT, INC.**, an Illinois corporation, with an address of 400 W. Higgins Road, Park Ridge, IL 60068 (herein called "GRANTEE").

GRANTOR, for good and valuable consideration received, hereby grants and conveys to Grantee the following described real property commonly known 2599 W. Higgins Road, in the City of Hoffman Estates, County of Cook, State of Illinois (hereinafter "Premises");



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See attached Exhibit A for description

LESS AND EXCEPT: All right, title and interest in and to any oil, gas and other minerals (including without limitation, helium, lignite, sulfur, phosphate and other solid, liquid and gaseous substances), regardless of the nature thereof and whether similar or dissimilar, and the right to explore for, develop and produce same, as well as the right to lease such portion of the Premises herein conveyed for such purposes, and all mineral and royalty rights whatsoever in, on or under and pertaining to the Premises but without the right to use, or right of any ingress to or egress from the surface of the Premises herein conveyed for exploration or producing purposes, all of said interests having been saved, retained, reserved and excepted in a previous conveyance of the Premises;

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

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

SUBJECT to the following:

- a) 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.
- b) Recorded leases, agreements, easements, rights-of-way, covenants, conditions and restrictions as the same may be of present force and effect.
- c) Zoning regulations, ordinances, building restrictions, regulations and any violations thereof.
- d) The lien for real property taxes for the current year, and any liens for special assessments which, as of the date hereof, are not due and payable.

GRANTEE covenants, as part of consideration for this conveyance, that (a) there will be no basement on the Premises, (b) no potable drinking water well will be installed on the Premises, (c) no residential use (including nursing home or assisted living facility) on the Premises, (d) no school, day care or child care facility on the Premises, (e) an asphalt or concrete cap will be maintained on the Premises to prevent access to the native soils, (f) all soil or groundwater removed from the Premises will be disposed of in accordance with all applicable environmental laws, statutes, rules and regulations, (g) Grantor may hereafter record against the Premises such No Further Remediation letters or similar documents (collectively "NFR Letters") issued by the Illinois Environmental Protection Agency or other governmental agency having jurisdiction over the Premises,

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and Grantee shall execute all documents and take all action necessary for the issuance and recording of such NFR Letters; provided, however, such NFR Letters do not contain any restrictions or limitations on the Premises greater than the restrictions contained in this deed or any restrictions otherwise applicable to the Premises, and (h) Grantor shall comply with all of the terms and conditions of such NFR Letters. This covenant 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.

IN ADDITION TO THE FOREGOING, Grantor grants the Property to Grantee subject to the following covenants and restrictions.

- (i) Subject to Paragraph (iii) below, for (twenty) 20 years from the date of closing ("Brand Covenant Period") Grantee agrees that if the Premises is used for the sale of motor fuel, the motor fuel must be purchased from Grantor, or Grantor's successor or assigns, ("Brand Covenant") and the station must be operated pursuant to the terms and conditions of the Shell brand supply agreement ("Supply Agreement"), or its replacement. The Brand Covenant shall expire on the twentieth (20<sup>th</sup>) anniversary of the Effective Date ("Termination Date").
- (ii) Grantee shall use, improve, lease, sell, encumber or transfer the Premises subject to the Brand Covenant. Grantee may not assign its rights or obligations under the Brand Covenant without the prior written consent of Grantor. The Brand Covenant runs with the land or leasehold interest, as applicable, will appear as a recorded item in the property records of the Premises, and is for the benefit of, and binds, the successors in interest and assigns of Grantee. Grantor's failure to enforce any breach of the Brand Covenant is not a waiver of the Brand Covenant or of any subsequent breach thereof. All purchasers, lessees, and possessors of all or any portion of the Premises and their respective heirs, successors, assigns will be deemed by their purchase, lease, or possession to be in accord with, and shall agree to the terms of, the Brand Covenant.
- (iii) Grantee will be excused from complying with the Brand Covenant if Grantor elects to do a market withdrawal in accordance with the Petroleum Marketing Practices Act from a geographic area that includes the Premises.
- (iv) If Grantee fails to comply with the Brand Covenant for any reason whatsoever, Grantor may pursue any and all actions to enforce the terms of the Brand Covenant and pursue any and all remedies available at law or in equity.
- (v) Until the Termination Date, Grantor and its successors and assigns retain a right of first refusal to purchase the Premises ("Right of First Refusal"). The Right of First Refusal shall expire automatically on the Termination Date, without need for filing a release, or other action of either Grantor or Grantee. The terms of the Right of First Refusal are set forth on Exhibit B.

Each of the foregoing covenants and restrictions shall run with the Premises, and pass with each and every portion of the Premises, and shall apply to and bind the respective successors in interest thereof.

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


Permanent Tax Identification Number: 07-07-100-012-0000.

**(SIGNATURE BLOCKS ON FOLLOWING PAGES)**

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EQUILON ENTERPRISES LLC

By:   
Name: Gary J. Raguda  
Title: NA Real Estate Manager  
Date: October 15, 2010  
Tax I.D. #: 52-2074528

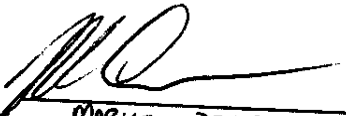
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**AGREED AND ACCEPTED:**

GRANTEE

**B & R GENERAL CONSTRUCTION AND DEVELOPMENT, INC.**

By:   
Name: MARIO DJURIC  
Title: VICE PRES.  
Date: 11-17-13

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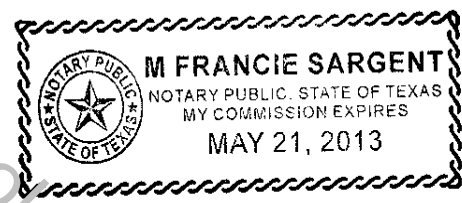
State of Texas            )  
                                  )  
County of Harris        ) §

The within and foregoing instrument was acknowledged before me this 15<sup>th</sup> day of October, 2010, by GARY J. RAGUSA who is the NA REAL ESTATE MANAGER of EQUILON ENTERPRISES LLC, a Delaware limited liability company, on behalf of the company.

Witness my hand and official seal.

M. Francie Sargent  
NOTARY PUBLIC

My commission expires:



PROPERTY OF COOK COUNTY CLERK'S OFFICE

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State of Illinois )  
County of DuPage ) §

The within and foregoing instrument was acknowledged before me this 17<sup>th</sup> day of November, 2010, by Marko Djuric who is the Vice President of **B & R GENERAL CONSTRUCTION AND DEVELOPMENT, INC.**, an Illinois corporation, on behalf of the corporation.

Witness my hand and official seal.

Lisa Sherron  
NOTARY PUBLIC

My commission expires:



Property of Cook County Clerk's Office



**UNOFFICIAL COPY****EXHIBIT A****DESCRIPTION OF PREMISES**

Physical Address: 2599 W. Higgins Road, in the City of Hoffman Estates, County of Cook, State of Illinois

TRACT 113 NOW DESCRIBED AS:

THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 50.0 FEET EAST (AS MEASURED AT RIGHT ANGLES THERETO) FROM THE WEST LINE OF SAID FRACTIONAL NORTHWEST 1/4, SAID POINT OF BEGINNING LYING 404.24 FEET SOUTH FROM THE NORTH LINE OF SAID NORTHWEST FRACTIONAL QUARTER AND BEING THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF BARRINGTON ROAD AND THE SOUTHWESTERLY RIGHT OF WAY LINE OF HIGGINS ROAD (ROUTE NO.72); THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF SAID HIGGINS ROAD, 94.36 FEET TO A POINT OF CURVATURE IN SAID LINE; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 9968.18 FEET A DISTANCE OF 160.64 FEET; THENCE SOUTHWESTERLY, A DISTANCE OF 99.56 FEET TO A POINT ON A LINE DRAWN 150.0 FEET EAST OF AND AT RIGHT ANGLES TO THE EAST RIGHT OF WAY LINE OF BARRINGTON ROAD AT A POINT LYING 240.0 FEET SOUTH FROM THE POINT OF BEGINNING; THENCE WEST 150.0 FEET ON SAID LINE DRAWN AT RIGHT ANGLES TO THE SAID EAST RIGHT OF WAY LINE OF BARRINGTON ROAD TO SAID POINT LYING 240.0 FEET SOUTH FROM THE POINT OF BEGINNING; THENCE NORTH ON SAID EAST RIGHT OF WAY LINE OF BARRINGTON ROAD, A DISTANCE OF 240.0 FEET TO THE POINT OF BEGINNING, ALL IN SCHAUMBURG TOWNSHIP, IN COOK COUNTY, ILLINOIS.

(EXCEPT THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST FRACTIONAL QUARTER OF SECTION 7; THENCE ON AN ASSUMED BEARING OF SOUTH 00 DEGREES 12 MINUTES 38 SECONDS EAST ALONG THE WEST LINE OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 7, AFORESAID, 123.213 METERS (404.24 FEET); THENCE NORTH 89 DEGREES 47 MINUTES 22 SECONDS EAST, 15.240 METERS (50.00 FEET) TO THE EAST RIGHT OF WAY LINE OF BARRINGTON ROAD (SAID POINT BEING THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF BARRINGTON ROAD AND THE SOUTHWESTERLY RIGHT OF WAY LINE OF HIGGINS ROAD) AND FOR A POINT OF BEGINNING; THENCE SOUTH 52 DEGREES 42 MINUTES 56 SECONDS EAST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE OF HIGGINS ROAD, A DISTANCE OF 23.165 METERS (76.00 FEET); THENCE SOUTH 55 DEGREES 05 MINUTES 54 SECONDS WEST, 10.861 METERS (35.63 FEET); THENCE SOUTH 00 DEGREES 12 MINUTES 38 SECONDS EAST, 52.869 METERS (173.45 FEET) TO THE GRANTOR'S SOUTH LINE; THENCE SOUTH 89 DEGREES 47 MINUTES 22 SECONDS WEST ALONG SAID GRANTOR'S SOUTH LINE, 9.449 METERS (31.00 FEET) TO THE EAST RIGHT OF WAY LINE OF BARRINGTON ROAD AFORESAID; THENCE NORTH 00 DEGREES 12 MINUTES 38 SECONDS WEST ALONG SAID EAST RIGHT OF WAY LINE OF BARRINGTON ROAD, 73.151 METERS (240.00 FEET) TO THE POINT OF BEGINNING).

Permanent Tax Identification Number: 07-07-100-012-0000

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## EXHIBIT B To Special Warranty Deed Right of First Refusal

- (a) If at any time during the Brand Covenant Period, Grantee or the Premises Owner (as hereinafter defined) (i) receives an acceptable bona fide offer to purchase or lease from a ready, willing, and able purchaser or lessee which Grantee or the Premises Owner desires to accept, or (ii) makes a bona fide offer to sell, lease or otherwise transfer to such a purchaser or lessee, all of Grantee's or the Premises Owner's right, title and interest in and to the Premises ("**Offer**"), Grantee or the Premises Owner shall provide written notice to Grantor, specifying the name and address of the buyer or lessee and the price and complete terms of the Offer, accompanied by Grantee's or the Premises Owner's affidavit that the proposed sale or lease transaction described in the Offer is in good faith. Grantor will then have the prior option to purchase or lease the Premises at the price and on the terms of the Offer, but subject to the terms provided below ("**Right of First Refusal**"). As used herein, "**Premises Owner**" means any person owning the Premises, provided, however, that in the case of any leased Premises, the term Premises Owner shall not include any person who is a grantor or lessor of such leased Premises, unless such person is an affiliate of the Grantee or any affiliate of any owner of the Grantee.
- (b) Grantor shall provide written notice to Grantee or the Premises Owner, as applicable, of Grantor's election to exercise its Right of First Refusal within 60 days after Grantor receives such person's written notice of the Offer. Within 20 days after the date of the notice provided to such of Grantor's election to exercise its Right of First Refusal, Grantor shall designate a title company and provide written notice to such person of the same. Such person shall deposit with the title company a recordable special warranty deed or lease, as applicable, to Grantor, in form satisfactory to Grantor, for the applicable Premises. Grantor shall deposit with the title company any earnest money required by the Offer. Promptly thereafter, such person shall (or Grantor may), at Grantor's expense, order from the title company a report on title to (or leasehold interest in) the applicable Premises and a commitment for an owner's or lessee's (as applicable) policy of title insurance. Upon written notice from Grantor to such person and the title company that title is acceptable, the title company shall deliver to Grantor the deed or lease executed by such person, together with the owner's or lessee's (as applicable) policy of title insurance, against payment by Grantor of the purchase price (which shall include payment of any costs, fees, expenses, documentary, transfer and like taxes required to paid by Grantor), less any earnest money, as such allocation of costs, fees and expenses may be set forth in the Offer. Thereafter, the title company shall deliver to such person the purchase price required by the Offer less the amount of any liens accepted by Grantor and less the amount of any and all costs, fees, expenses, documentary, transfer and like taxes required to paid by such person as set forth in the Offer. Taxes and rent will be prorated as of the date of delivery of the deed (or the assignment of lease, as applicable) from the title company to the Grantor. Upon receipt from Grantor of written notice that the title is not acceptable, Grantee or the Premises Owner, as applicable, shall use commercially reasonable efforts to cure such title objections by the closing, including, without limitation, insuring against or providing a bond or suitable escrow for, any lien or other encumbrance that represents a liquidated amount or sum of money. If such person is unable to cure the title to Grantor's satisfaction, Grantor may elect not to purchase the applicable Premises, in which case the title company shall return the deed (or assignment of lease) to such person, and the

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earnest money to Grantor. If Grantor elects to not exercise its Right of First Refusal for any reason, Grantee or the Premises Owner, as applicable, may sell the Premises under the terms described in the notice of the Offer provided to Grantor, provided, that such sale is concluded within ninety (90) days of Grantor's election to not exercise its Right of First Refusal, otherwise the Premises shall again be subject to the Right of First Refusal provisions described herein. Any proposed sale of any Premises under different terms than those described in such notice of the Offer is subject to the Right of First Refusal provisions described herein.

(c) The Right of First Refusal is not limited by any other rights Grantor has under the Supply Agreement or elsewhere, if any, to acquire the Premises. The Right of First Refusal runs with the land or leasehold interest, inures to the benefit of, and binds the respective successors in interest and assigns thereof.

(d) The Right of First Refusal shall not apply to any lease or sublease by Grantee to any Third-Party or other person operating at the Premises, provided, Grantee retains ownership and control of, and full contractual and regulatory responsibility for, the UST System throughout the term of the lease or sublease with such Third-Party or person.

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