



Doc#: 1127141040 Fee: \$48.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/28/2011 11:03 AM Pg: 1 of 7

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This Instrument Was Prepared By
And after recording, return to:

Michael Sanchez
Shannon, Martin, Finkelstein & Alvarado, P.C.
1001 McKinney St.
Suite 1100
Houston, Texas 77002

ACCESS AGREEMENT

This Access Agreement ("**Agreement**"), dated as of the 23rd day of September, 2011 ("**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 **RDK 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 and Buyer are parties to that certain Asset Purchase and Sale Agreement dated as of the 6th day of January, 2010, as amended by (i) Amendment No. 1 to the Asset Purchase and Sale Agreement by and between SOPUS and RDK and (ii) Amendment No. 2 to the Asset Purchase and Sale Agreement by and between SOPUS and RDK (the "**Purchase Agreement**"), pursuant to which Seller has agreed to transfer to Buyer and Buyer has agreed to accept from Seller, all of Seller's right, title and interest in and to the Assets, including without limitation the Purchased Premises described on **Exhibit A** hereto (the "**Premises**"); and

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

WHEREAS, Seller and Buyer executed an Access Agreement, dated as of January 6, 2010, recorded as Instrument No. 1001526285 in the Office of the Recorder of Cook County, Illinois (the "**Original Access Agreement**") which is being terminated by that certain Termination of Access Agreement of even date herewith by and between Seller and Buyer. This Agreement is executed to replace the Original Access Agreement.

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

Box 400 J. Fagan

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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.

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

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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 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 Purchase 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 Purchase 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 Purchase 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 Purchase 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.

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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 Purchase Agreement in connection with, and in reliance on, the other Party's execution of and agreement to perform under each of this Agreement, the Purchase Agreement and the Branding Agreement, which, in the case of the Branding Agreement, runs with and burdens the Purchased Premises.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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Property of Cook County Clerk's Office

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

"SELLER"

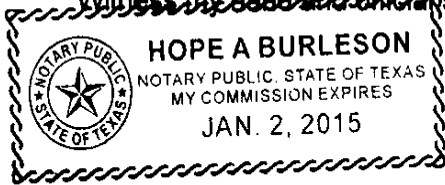
**EQUILON ENTERPRISES LLC
d/b/a Shell Oil Products US**

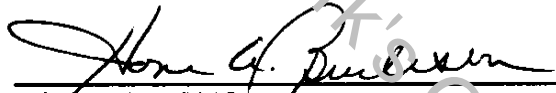
By: 
Name: Scott David
Title: Portfolio Manager

State of Texas §
 §
County of Harris §

The foregoing instrument was acknowledged before me this 31st day of August, 2011, by Scott David, who is the Portfolio Manager 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 PUBLIC

[Notary Seal]

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"BUYER"

RDK VENTURES LLC

By: Mac's Convenience Stores LLC, its Manager

By: 
Bruce Landini, Vice President Operations,
Midwest Region

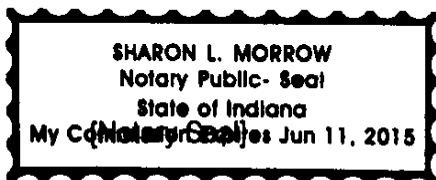
State of Indiana

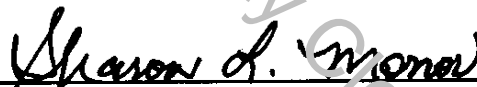
County of Bartholomew

§
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The foregoing instrument was acknowledged before me this 13th day of September 2011, by Bruce Landini, who is the Vice President Operations, Midwest Region of Mac's Convenience Stores LLC, a Delaware limited liability company, the Manager of RDK Ventures LLC, a Delaware limited liability company, on behalf of the limited liability company.

Witness my hand and official seal.




NOTARY PUBLIC

Parcel Identification No.: 03-22-307-016-0000 (Recording Legend)

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Exhibit A
Legal Description

(a1)

CC#137159

LOT 21 IN SMITH AND DAWSON COUNTRY CLUB ACRES, BEING AN OWNERS
DIVISION IN THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH,
RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS DOCUMENT
12004693, IN COOK COUNTY, ILLINOIS.

Parcel ID No. 03-22-307-016-0000
Address: 2 N. Elmhurst Rd., Prospect Heights, IL 60070-1559
137159/774

**COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____**