



Doc#: 1127241100 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 09/29/2011 12:33 PM Pg: 1 of 10

After Recording, Return To:

RDK Ventures LLC
Address: c/o Sharon Morrow
P.O. Box 347
4080 W. Jonathan Moore Pike
Columbus, Indiana 47201

This Instrument Was Prepared By:

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

8850645 D-1 JF

SPECIAL WARRANTY DEED

This Special Warranty Deed, dated to be effective 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, with offices located at 700 Milam Street, Office 2069A, Houston, Texas 77002 ("**Grantor**") and **RDK Ventures LLC**, a Delaware limited liability company, with offices located at P.O. Box 347, 4080 W. Jonathan Moore Pike, Columbus, Indiana 47201 ("**Grantee**").

WITNESSETH:

For and in consideration of the sum of Ten Dollars (\$10.00) and the mutual covenants and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby GRANT, BARGAIN and SELL unto Grantee, its successors and assigns forever the premises more particularly described in **Exhibit A** attached hereto and made a part hereof (the "**Premises**"), together with any buildings, fixtures and improvements owned by Grantor and located thereon.

Together with all right, title and interest, if any, of Grantor in and to any streets and roads abutting the Premises to the center lines thereof, plus all the estate and rights of Grantor in and to any easements, rights, privileges, appurtenances, strips and gores and all other hereditaments appurtenant to the Premises;

This conveyance is made by Grantor and accepted by Grantee SUBJECT TO all reservations, exceptions, restrictions, easements, encumbrances, rights of way, applicable zoning regulations, other matters of record affecting the same and set forth on **Exhibit B**, to the extent that the same are currently valid and enforceable against the Premises.

TO HAVE AND TO HOLD the Premises unto Grantee, its successors and assigns in fee simple forever; but:

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

Cost Center: # 137013 (Equilon)/ 6771 (RDK)
Address: 1605 Des Plaines River Road, Des Plaines, Illinois

REAL ESTATE TRANSFER TAX
NO. 52704 733.00
NOV 16 05 DES PLAINES
9-22 CITY OF DES PLAINES

Box 400 J. Fagan

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1. From and after the Effective Date until December 31, 2029 ("**Termination Date**"), if gasoline or branded diesel is stored, advertised or sold at or from the Premises, the gasoline or branded diesel stored, advertised or sold shall be sold under the "Shell" trademark ("**Brand Covenant**"), all as more fully set forth in that certain Branding and Product Purchase Commitment Agreement dated as of the Effective Date, by and between Grantor and Grantee ("**Branding Agreement**"). The Brand Covenant shall expire automatically on the Termination Date without need for filing a release, or other action of either Grantor or Grantee. The Premises and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and conveyed subject to the Brand Covenant. Grantor and Grantee intend and agree that the Brand Covenant and the remedies for breach thereof, as provided in the Branding Agreement, shall be covenants running with the land. The benefits of the Brand Covenant shall inure to the benefit of Grantor, its successors and assigns as the operator or supplier (directly or indirectly) of retail operations in the State of Illinois. The burdens of the Brand Covenant shall apply to the entire Premises, shall pass with each and every portion of the Premises, and shall apply to and bind Grantee and Grantee's respective successors, assigns, transferees and subsequent owners in interest of the Premises.

2. Until the Termination Date, Grantor retains a right of first refusal to purchase the Premises, pursuant to the terms of the Branding Agreement ("**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 C**.

3. Grantee has granted a right of access to Grantor pursuant to the terms of an Access Agreement dated as of the Effective Date, which is being recorded on the same day as this instrument.

4. Grantee covenants and agrees that (a) it shall not install any well or other tank, pump or related equipment for the storage of potable water at the Premises; and (b) it shall not improve or use the Premises for residential purposes (including multi-family residential uses), or for any hospital, school, elder care or day care center or for a park or playground.

5. Grantor and Grantee intend and agree that each of the covenants set forth in paragraphs 1, 2 and 4, above, shall be covenants running with the land. The benefits of the covenants set forth in paragraphs 1, 2 and 4 shall inure to the benefit of Grantor, its successors and assigns. The burdens of the covenants shall apply to the entire Premises, shall pass with each and every portion of the Premises, and shall apply to and bind Grantee and Grantee's respective successors, assigns, transferees and subsequent owners in interest of the Premises. Grantee agrees to include the foregoing restrictions, covenants and conditions, including but not limited to the Brand Covenant, in any conveyance or assignment of the Premises to a successor grantee.

6. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, GRANTEE ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT GRANTEE HAS BEEN GIVEN THE OPPORTUNITY TO MAKE FULL AND COMPLETE INSPECTIONS OF THE PREMISES TO GRANTEE'S SATISFACTION PRIOR TO THE DATE HEREOF AND THAT, AS OF THE DATE HEREOF, GRANTEE IS RELYING SOLELY ON GRANTEE'S OWN INVESTIGATIONS OF THE PREMISES AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY GRANTOR, OR ANY AGENT, REPRESENTATIVE OR OTHER PARTY ACTING, OR PURPORTING TO ACT, ON BEHALF OF GRANTOR. IT IS THE UNDERSTANDING AND INTENTION OF THE PARTIES THAT EXCEPT AS EXPRESSLY SET

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FORTH IN THE PURCHASE AGREEMENT, THE SALE OF THE PREMISES FROM GRANTOR TO GRANTEE IS MADE ON A STRICT AS IS, WHERE IS BASIS AND WITH ALL FAULTS. GRANTEE ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE PURCHASE AGREEMENT, GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, ORAL OR WRITTEN, RELATING TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR PRESENT OR FUTURE CONDITION OF THE ASSETS, INCLUDING WITHOUT LIMITATION THE PREMISES, (B) THE COMPLIANCE OF, OR BY, THE PREMISES WITH ANY LAWS OF ANY APPLICABLE GOVERNMENTAL ENTITY, (C) THE LIABILITY, MERCHANTABILITY, MARKETABILITY, OR PROFITABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF THE PREMISES, INCLUDING WITHOUT LIMITATION THE ASSETS THEREON, OR (D) ANY OTHER MATTER WITH RESPECT TO THE ASSETS. GRANTEE REPRESENTS TO GRANTOR THAT GRANTEE IS RELYING, HAS RELIED AND SHALL IN THE FUTURE RELY SOLELY UPON ITS OWN INVESTIGATIONS, INSPECTIONS AND STUDIES OF THE PREMISES, AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY GRANTOR, GRANTOR'S AGENTS OR CONTRACTORS OR OTHERWISE GENERATED FROM THIRD PARTY SOURCES. GRANTOR SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENT, REPRESENTATION OR INFORMATION PERTAINING TO THE PREMISES OR THE OPERATION THEREOF FURNISHED BY ANY PARTY PURPORTING TO ACT ON BEHALF OF GRANTOR, INCLUDING, WITHOUT LIMITATION, ANY AGENT, BROKER OR SALESPERSON. GRANTEE ACKNOWLEDGES THAT THE PURCHASE PRICE HAS BEEN SPECIFICALLY NEGOTIATED AND ADJUSTED TO TAKE INTO ACCOUNT THE AS-IS NATURE OF THIS SALE AND THE DISCLAIMERS AND WAIVER OF REPRESENTATIONS AND WARRANTIES AS STATED HEREIN.

Grantee hereby acknowledges that the terms, conditions and duration of the foregoing restrictions, covenants, and conditions are fair and reasonable. Grantee hereby agrees that, in the event the foregoing restrictions, covenants or conditions are violated, Grantor, and/or any successor-in-interest to Grantor, (i) may elect to enforce the foregoing restrictions, covenants and conditions by an action in equity to obtain an injunction against any violation of the foregoing restrictions, covenants, and conditions; and (ii) may pursue any other remedy available at law or in equity for any breach of the foregoing restrictions, covenants, or conditions.

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 restrictions, covenants, and conditions. Grantee's acceptance of the deed to the Premises evidences Grantee's acceptance of, and agreement to, the foregoing restrictions, covenants, and conditions, and Grantee acknowledges that Grantee has received adequate and sufficient consideration for Grantee's acceptance of and agreement to the foregoing restrictions, covenants, and conditions. Any failure to enforce any breach of the foregoing restrictions, covenants, and conditions shall not constitute a waiver of the foregoing restrictions, covenants, and conditions, or of any subsequent breach thereof, or any remedy that may be exercised for breach thereof. Any waiver of any breach of the foregoing restrictions, covenants, and conditions shall not constitute a waiver of any subsequent breach thereof, or of any remedy that may be exercised for breach thereof. The exercise of any remedy for any breach of the foregoing restrictions, covenants, and conditions shall not preclude the exercise of any other remedy for any breach of the foregoing restrictions, covenants, and conditions.

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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.


HOUSTON\2324355.6

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

Property of Cook County Clerk's Office

COOK COUNTY
REAL ESTATE TRANSACTION TAX

COUNTY TAX



SEP.29.11


REVENUE STAMP

0200005163

REAL ESTATE TRANSFER TAX
00367.00
FP 103042

STATE OF ILLINOIS

STATE TAX



SEP.29.11

REAL ESTATE TRANSFER TAX
 DEPARTMENT OF REVENUE

0000005329

REAL ESTATE TRANSFER TAX
00734.00
FP 103037


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AGREED AND ACCEPTED:

"GRANTEE"

RDK VENTURES LLC

By: Mac's Convenience Stores LLC, its Manager

By: 

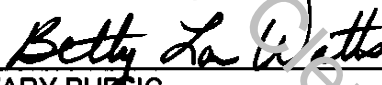
Bruce Landini, Vice President Operations,
Midwest Region

STATE OF INDIANA)
) SS.
COUNTY OF BARTHOLOMEW)

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

Witness my hand and official seal.

"OFFICIAL SEAL"
Betty Lou Watts
Notary Public, State of Indiana
My Commission Expires: 11/27/2015
[Notary Seal]



NOTARY PUBLIC

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Exhibit A Continued

77-3

NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN COOK COUNTY ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY LINE OF DES PLAINES RIVER ROAD, WITH A LINE PARALLEL TO AND 127 FEET SOUTH OF THE NORTH LINE OF SECTION 28; THENCE ALONG THE NORTHEASTERLY RIGHT OF WAY LINE NORTH 19° 07' 18" WEST, A DISTANCE OF 128.24 FEET; THENCE NORTH 11° 49' 02" EAST, A DISTANCE OF 13.95 FEET; THENCE NORTH 26° 42' 27" EAST, A DISTANCE OF 31.50 FEET TO THE POINT OF THE SOUTHERLY RIGHT OF WAY LINE OF OAXTON STREET; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE 68° 12' 08" EAST, A DISTANCE OF 102.53 FEET; THENCE NORTH 74° 45' 09" EAST, A DISTANCE OF 16/63 FEET; THENCE SOUTH 15° 14' 51" EAST, A DISTANCE OF 212.26 FEET TO A POINT 127 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID SECTION 28; THENCE NORTH 89° 46' 15" WEST, A DISTANCE OF 142.54 FEET TO THE POINT OF BEGINNING, CONTAINING 26,182 SQUARE FEET OR 0.60 ACRES, MORE OR LESS.

Tax Parcel ID No(s): 09-21-314-002-0000, 09-28-107-011-0000
Address: 1605 Des Plaines, Des Plaines, IL 60018-2205
137013/6771

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Exhibit B Permitted Encumbrances

CC# 137013
1605 DES PLAINES
DES PLAINES, IL

1. The lien for real property taxes for the year 2011, and any liens for special assessments which as of the date hereof, are not due or payable.
2. Easement in favor of Central Telephone Company of Illinois and the Commonwealth Edison Company, and their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the land and other property, together with the right of access to said equipment, and the provisions relating thereto contained in the grant recorded October 3, 1968, as Document No. 20635019, affecting the south 5 feet of the land (affects parcel 1).
3. Reservation contained in Limited Warranty Deed from Shell Oil Company to Equilon Enterprises LLC, recorded July 13, 1998 as Document Number 98599314 that Grantor expressly saves, retains, reserves and excepts from their conveyance unto themselves and their successors and assigns, all right, title and interest, if any, 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 but only to the extent any of the foregoing is in its natural state and natural location and not subject to the dominion and control of any person, and upon 30 days prior written notice to Grantee, the right to explore for, develop, and produce same, as well as the right to lease such portion of the property hereby reserved for such purposes and all mineral and royalty rights whatsoever in, on, under and pertaining to the property; but Grantor, its successors and assigns, shall have no right to use, or right of ingress to or egress from any part of the surface of the property for exploration and producing purposes, except with respect to current activities at and any existing contractual or leasehold rights granted to third parties, any additional activities which have been consented to in writing by Grantee, whose consent shall not be unreasonably withheld. Except as set forth in the preceding sentence, any oil and gas drilling operations shall be conducted by means of wells, the surface locations of which are on other lands and which may be drilled into and bottomed in or under the property. Grantor shall exercise its rights under the foregoing mineral, oil and gas reservation so as not to disturb any improvements, installations, petroleum or other products contained in such improvements or installations, or surface activities on the property. Grantor is to receive and retain all bonuses, rentals and royalties payable under any such mineral, oil, and gas lease or leases. Grantor may assign, transfer, sell or convey such oil, gas, and mineral reservation to any person, corporation, partnership or other entity.
4. The following matters, as disclosed by survey prepared by Sherrill Associates, Inc. dated February 20, 2008, last revised November 23, 2009, and designated as Job Number 09-05-034:118:
 - a. Rights of the public or quasi public utilities as disclosed by overhead wires.

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EXHIBIT C

Right of First Refusal

Until December 31, 2029, if at any time Grantee (i) receives an acceptable bona fide offer to purchase or lease from a ready, willing, and able purchaser or lessee which Grantee 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 right, title and interest in and to the Premises ("**Offer**"), Grantee shall provide written notice to Grantor, specifying the name and address of the proposed grantee or lessee and the price and complete terms of the Offer, accompanied by Grantee'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**").

If the Offer received by Grantee or Grantee's own bona fide Offer relates to more than one Premises, Grantor must elect to purchase or lease (as applicable) all of the Premises that are the subject of the Offer. For the avoidance of doubt, the Right of First Refusal extends only to the Premises even if the Offer giving rise to the Right of First Refusal involves a combination of the Premises and other real property owned or leased by Grantee which is not the Premises.

Grantor shall provide written notice to Grantee of Grantor's election to exercise its Right of First Refusal within 30 days after Grantor receives Grantee's written notice of the Offer. If Grantor does not timely exercise its Right of First Refusal with respect to the Premises, Grantee shall be free to sell, lease or otherwise transfer the Premises in accordance with the transaction described in Grantee's notice. If such transaction is not consummated as described in the Grantee's notice, this Right of First Refusal shall thereafter apply to the Premises.

Within 20 days after the date of the notice provided to Grantee of Grantor's election to exercise its Right of First Refusal, Grantor shall designate a title company and provide written notice to Grantee of the same. Grantee shall deposit with the title company a recordable special warranty deed comparable to the Special Warranty Deed to which this Exhibit relates or a lease containing terms consistent with the Offer described in Grantee's notice and acceptable to Grantor. Grantor shall deposit with the title company any earnest money required by the Offer. Promptly thereafter, Grantee shall (or Grantor may), at Grantor's expense, order from the title company a report on title to (or leasehold interest in) the Premises and a commitment for an owner's or lessee's (as applicable) policy of title insurance. Upon written notice from Grantor to Grantee and the title company that title is acceptable, the title company shall deliver to Grantor the deed or lease executed by Grantee, 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 be paid by Grantor), as such allocation of costs, fees and expenses may be set forth in the Offer, less any earnest money. Thereafter, the title company shall deliver to Grantee 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 be paid by Grantee 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 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

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encumbrance that represents a liquidated amount or sum of money. No objection shall be made to any encumbrance that was set forth as a permitted encumbrance for such Premises in the deed from Grantor to Grantee. In no case shall Grantee be required to convey any interest in the Premises greater than the interest it is vested in. If Grantee is unable to cure the title to Grantor's satisfaction, Grantor may elect not to purchase the Premises, in which case the title company shall return the deed (or assignment of lease) to Grantee, and the earnest money to Grantor. If Grantor elects to not exercise its Right of First Refusal for any reason, Grantee may sell the Premises under the terms described in the notice of the Offer provided to Grantor. Any proposed sale of the Premises under different terms than those described in such notice of the Offer is subject to the Right of First Refusal provisions described herein.

This Right of First Refusal shall not apply to (i) Grantee's sale (in a sale-leaseback transaction) of a Premises to an affiliate of Grantee or to a Third-Party, provided, as part of such transaction Grantee concurrently leases back and operates such Premises from the affiliate or Third-Party or (ii) any sale or lease of a Premises to an Affiliate of Grantee.