

**THE CITY OF OKLAHOMA CITY**

OFFICE OF CITY CLERK  
MUNICIPAL BUILDING  
200 NORTH WALKER AVE.  
OKLAHOMA CITY, OKLAHOMA 73102

ETO #1109

**Amended and Restated Operation and Easement Agreement**

This Amended and Restated Operation and Easement Agreement (this “OEA”) is between 36<sup>th</sup> & Lincoln, LLC, an Oklahoma limited liability company, and HLD Grocery, LLC, an Oklahoma limited liability company, (collectively, “Developer”); HLD Fueling, LLC, an Oklahoma limited liability company, (“Fueling Station Developer”); The City of Oklahoma City, a municipal corporation (“The City”); and the Oklahoma City Public Property Authority, a public trust, (“Trust”) (collectively the “Parties” and each a “Party”), effective as of the 25<sup>th</sup> day of February, 2025 (the “Effective Date”).

**Recitals**

A. This Amended and Restated Operation and Easement Agreement is entered into to amend and restate that certain September 29, 2020 Operation and Easement Agreement entered into between 36<sup>th</sup> & Lincoln, LLC, The City, and the Trust, recorded at Book 14566, Page 1289 of the records of the Oklahoma County Clerk, as amended by that certain October 27, 2020 Amendment No 1 to the Operation and Easement Agreement entered into by 36<sup>th</sup> & Lincoln, LLC, The City, and the Trust, recorded at Book 14566, Page 1318 of the records of the Oklahoma County Clerk, adding HLD Grocery, LLC, an Oklahoma limited liability company, as a Party and as Developer with 36<sup>th</sup> & Lincoln, LLC. The “Original OEA” as referred to herein is the September 29, 2020 Operation and Easement Agreement as amended by Amendment No. 1 to Operation and Easement Agreement dated October 27, 2020.

B. The City and Developer entered into that certain May 18, 2020 Master Development Agreement related to the redevelopment of land in northeast Oklahoma City, depicted and owned as set out in the Site Plan attached as Exhibit A to the Original OEA, and developed and are now operating it as a retail and business complex (the “Center”).

C. The Site Plan attached hereto as Exhibit A (the “Site Plan”) shows the current configuration of the property and replaces the Site Plan attached to the Original OEA.

D. The City owns the tract depicted as the Parking Improvements on the Site Plan, which is comprised of a parking lot and related landscaping and other improvements (the “Parking Improvements”).

E. The City also owns the tract depicted as the “Wellness Center Tract” on the Site Plan on which The City constructed and now operates and maintains a Wellness Center.

F. The City also owns the tract depicted as the “Undeveloped Tract” on the Site Plan, a site that has not yet been developed.

G. HLD Grocery, LLC owns the tract depicted as the “Grocery Store Tract” on the Site Plan on which Developer constructed and maintains a full-service Homeland grocery store which is now leased to HAC, INC. for its operation and occupancy as a grocery store. Such lease is subject to this OEA.

H. Fueling Station Developer will purchase the tract depicted as the “Fueling Station Tract” on the Site Plan on which it will construct and maintain a Fueling Station (the “Fueling Station”) which will be leased to HAC, INC. for its operation and occupancy as a fueling station. Such lease is subject to this OEA.

I. Trust is responsible for the duties and obligations contained herein concerning The City’s owned Tract described as “Parking Improvements,” including but not limited all financial obligations associated with the Parking Improvements; and

J. In order to effectuate the common use and operation of their respective Tracts, the Parties desire to enter into certain covenants and agreements, and to grant to each other certain reciprocal easements, in, to, over, and across their respective Tracts.

K. In furtherance of those purposes, the Parties desire to enter into this OEA.

### **Agreement**

**1. Defined Terms.** This OEA contains many defined terms, all of which are capitalized. Where each definition is inserted in this OEA, the defined term is underlined for ease of reference. In addition, the following terms have the following meanings:

“Approving Party” means the representative designated by the Developer, Fueling Station Developer, and Trust respectively to make certain decisions and/or give certain approvals pursuant to the terms of this OEA. There will be one Approving Party representing Developer, Fueling Station Developer, and one Approving Party representing Trust. The City will not have an Approving Party. Each Approving Party will have absolute discretion to make the decisions and to give the approvals expressly designated to be made and given on behalf of the Party it represents.

“Building” means any permanently enclosed structure placed, constructed or located on a Tract, including all appurtenances such as stairs leading to or from a door, transformers, trash containers or compactors, canopies, supports, loading docks, truck ramps, and other outward extensions of such structure.

“Building Area” means the limited areas of the Center within which Buildings may be constructed, placed or located. Building Areas are designated on the Site Plan.



“Constant Dollars” means the value of the U.S. dollar, as adjusted from time to time. An adjustment will occur on the 1st day of June of the sixth full calendar year following the Effective Date, and thereafter at five-year intervals. Constant Dollars will be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The “Base Index Number” will be the level of the Index for the year this OEA commences. The “Current Index Number” will be the level of the Index for the year preceding the adjustment year. The “Index” will be the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor for U.S. City Average, All Items (1982-84=100), or any successor index thereto. If publication of the Index is discontinued or if the basis of calculating the Index is materially changed, the Approving Parties will substitute comparable statistics as computed by an agency of the United States Government or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result which would have been achieved by the Index.

“Governmental Authorities” means any federal, state, county, city or local governmental or quasi-governmental authority, entity or body (or any departmental agency thereof) exercising jurisdiction over a particular subject matter.

“Governmental Requirements” means all applicable laws, statutes, ordinances, codes, rules, regulations, orders, and applicable judicial decisions or decrees, as presently existing and hereafter amended, of Governmental Authorities.

“Occupants” (and each an “Occupant”) means the third parties from time to time entitled to the use and occupancy of all or any portion of a Tract under an ownership right or under any lease, sublease, license, concession or other similar agreement, including HAC, INC. during the term of its leases of the Grocery Store Tract and the Fueling Station Tract.

“Operator” means the entity responsible to maintain and operate the Parking Improvements. The Operator will serve in such capacity until resigning upon 60 calendar days’ Notice to the Approving Parties or until the Operator is removed by the Approving Parties. Developer is the Operator.

“Permittees” (and each a “Permittee”) means all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended development, use, and occupancy of the Center. Persons engaged in civic, public, charitable or political activities within the Center, including the following activities will not be considered Permittees: (1) exhibiting any placard, sign or notice; (2) distributing any circular, handbill, placard or booklet; (3) soliciting memberships or contributions for private, civic, public, charitable

or political purposes; (4) parading, picketing or demonstrating; and (5) failing to follow regulations established by the Parties relating to the use and operation of the Center.

“Utility Lines” means those facilities and systems for the transmission of utility services, including the drainage and storage of surface water. “Common Utility Lines” means those Utility Lines that are installed to provide the applicable service to all Tracts. “Separate Utility Lines” (and each a “Separate Utility Line”) means those Utility Lines that are installed to provide the applicable service to either Developer’s Tract(s), Fueling Station Developer’s Tract or The City’s Tract(s). The portion of a Utility Line extending between a Common Utility Line and a Building will be a Separate Utility Line. Utility Lines may only provide service necessary for the development or operation of the Center.

**2. Term and Termination.** The term of this OEA (the “Term”) will commence on the Effective Date and unless earlier terminated by mutual agreement of the Parties, will continue in full force and effect until 11:59 pm on December 31, 2035. However, the Easements that are specified in this OEA as perpetual or as continuing beyond the Term will continue in full force and effect thereafter. Upon the termination of this OEA, all rights and privileges derived from and all duties and obligations created and imposed by this OEA, except as relate to the Easements, will terminate and have no further force or effect. Notwithstanding the foregoing, the termination of this OEA will not limit or affect any remedy at law or in equity that one Party may have against another Party or the Operator with respect to any liability or obligation arising or to be performed under this OEA prior to the date of such termination.

### **3. Easements.**

**3.1 The Parking Easement.** During the Term, The City grants and conveys to Developer, Fueling Station Developer, and Trust for their use and for the use of Permittees, in common with others entitled to such use, a non-exclusive, perpetual easement (the “Parking Improvements Easement”) for the passage and parking of vehicles and for the passage and accommodation of pedestrians over and across the Parking Improvements. The Parking Improvements Easement is appurtenant to and for the benefit of the Wellness Center Tract, the Grocery Store Tract, the Fueling Station Tract, and the Undeveloped Tract and is binding on, enforceable against, and burdens the Parking Improvements. Such easement rights are subject to the following reservations:

1. The City reserves the right at any time and from time to time to exclude and restrain any individual who is not a Permittee from using the Parking Improvements.

2. The City reserves the right to temporarily erect or place barriers in and around areas on the Parking Improvements for repairs to ensure the safety of people and the protection of property.



### **3.2 The Ingress-Egress Easement.**

**A. In General.** During the Term, Developer, Fueling Station Developer, and The City each grant and convey to all Parties for use and the use of Permittees, in common with others entitled to such use, subject to the reservations set out in subsection 3.1 titled *The Parking Easement* of this Section, a non-exclusive, perpetual easement (the “Ingress-Egress Easement”) for the passage and accommodation of pedestrians and vehicles (but not for parking purposes) upon, over, and across that portion of the Parking Improvements designated on the Site Plan as the Access Drives, which will be approximately 30 feet wide (curb to curb) and contain two lanes, one in each direction. However, under no circumstances shall the Access Drives be used by semi-trucks or such larger vehicles with three or more axels. The Ingress-Egress Easement is appurtenant to and for the benefit of the Wellness Center Tract, the Grocery Store Tract, the Fueling Station Tract, and the Undeveloped Tract and is binding on, enforceable against, and burdens the Parking Improvements. During the Term, the Operator will maintain the Access Drives as set out in this OEA. The Access Drives may not be relocated without Developer’s and Fueling Station Developer’s consent, which consent will not be unreasonably withheld.

**B. After OEA Termination.** Upon termination of this OEA, Trust or The City may, at its expense, relocate portions of the Access Drives provided that the relocated portion remains reasonably direct and ties into and connects with the other portions of the Access Drives. Notice of such relocation must be provided to all Parties at least 30 calendar days prior to such relocation. Further, upon such termination, Trust or The City must maintain the Access Drives in a safe, clean, and good state of repair and condition, at its sole cost and expense.

**3.3 The Utility Lines Easement.** Developer, Fueling Station Developer, and The City each grant and convey to all Parties a non-exclusive, perpetual easement (the “Utility Lines Easement”) in, to, over, under, along, and across those portions of each Tract (exclusive of any portion located within Building Areas) reasonably necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, and removal of the Utility Lines serving its Tract(s). The initial location of each Utility Line Easement will be subject to the prior written approval from the Public Works Director on behalf of The City and the Approving Party on behalf of the Developer or Fueling Station Developer as applicable, if either of such Party’s Tract is to be burdened. Utility Lines Easements may be no wider than necessary to reasonably satisfy the requirements of the applicable utility company or five feet on each side of the centerline if such an easement is granted by a Party, in which case the Party granted such easement will provide all other Parties an as-built survey of the Utility Line. All Utility Lines must be underground except: (1) ground-mounted electrical transformers that are necessary during periods of construction, reconstruction, repair or temporary service; (2) as may be required by Governmental Authorities; (3) as may be required by the provider of utility service; and (4) fire hydrants. At least 30 calendar days prior to utilizing the Utility Lines Easement, the Party intending to do so must provide all other Parties with a written statement: (1) describing the need for such easement; (2) identifying



the proposed location of the Utility Line; (3) describing the nature of the service to be provided; and (4) stating the anticipated commencement and completion dates for the work. Prior to commencing any work on a Party's Tract, including any emergency work, the Party intending to do such work must provide all other Parties evidence of insurance coverage as required by this OEA.

**3.4 The Stormwater Drainage Easement.** The City grants and conveys to Developer and Fueling Station Developer for its use and for the use of its Permittees, in common with others entitled to such use, a non-exclusive, perpetual easement (the "Stormwater Easement") to discharge surface storm water drainage and runoff from the Developer's Tract(s) and the Fueling Station Tract respectively over, upon, and across the Parking Improvements. The grades and the surface water drainage and retention system for the Center will be initially constructed in strict conformance with the plans and specifications approved by Developer or Fueling Station Developer, as applicable, and the Public Works Director for The City. The Parties may not alter or permit to be altered the surface of their Tract(s) or the drainage and retention system if that alteration would materially increase the flow of surface water onto an adjacent Tract(s), either within the aggregate or by directing the flow of surface water to a limited area. All surface water collection, retention, and distribution facilities are Common Utility Lines.

### **3.5 The Construction, Maintenance, and Reconstruction Easement.**

**A. Easement regarding Encroachments.** In order to accommodate any Building improvements that are inadvertently constructed beyond a Tract's boundary line, Developer, Fueling Station Developer, and The City each grant to the other, an easement (the "Construction Easement"), not to exceed a maximum lateral distance of six inches, in, to, over, under, and across that portion of the its Tract adjacent to such common boundary line for the maintenance and replacement of such encroaching Building improvements.

**B. Easement regarding Construction.** If a constructing Party (the "Constructing Party") determines that it is necessary to place underground piers, footings, and/or foundations ("Subsurface Construction Elements") across the boundary line of its Tract, the Constructing Party must advise the Party owning the adjacent Tract (the "Adjacent Party") of the Constructing Party's construction requirements and must provide plans and specifications relating thereto to the Adjacent Party, including proposed construction techniques for the Subsurface Construction Elements. As part of the Construction Easement, such Adjacent Party also grants and conveys to such Constructing Party for the benefit of its Tracts an easement, not to exceed a maximum lateral distance of five feet, in, to, under, and across that portion of the Adjacent Party's Tract not occupied by any then-existing structure, for the installation, maintenance, and replacement of such Subsurface Construction Elements. However, the Constructing Party may not use such easement if the Adjacent Party is able to provide the Constructing Party a reasonable alternative construction method for the placement of the Subsurface Construction Elements entirely on the Constructing



Party's Tract(s). Any damage caused by the Constructing Party to the Parking Lot Improvements or any structures, buildings, property belonging to another Party ("Damaged Party") shall reimburse the Damaged Party for all such costs and fees associated with returning the damaged property to its original condition.

**C. The Construction Easement in General.** The Construction Easement is appurtenant to and for the benefit of each Developer's, Fueling Station Developer's, and The City's Tracts, and is binding on, enforceable against and burden the other Party's Tracts. However, nothing in this OEA diminishes or waives the right of Developer, Fueling Station Developer or The City to recover damages resulting from the other Party's failure to construct a Building within its Tract or within the easement area limits set out in this Section. The Construction Easement will: (1) continue in effect for the Term and thereafter for so long as the Building utilizing the easement area exists (including a reasonable period to permit reconstruction or replacement of such Building if it is destroyed, damaged or demolished); and (2) include the reasonable right of access necessary to exercise and enjoy the rights set out in this OEA. With respect to Buildings constructed along a common boundary line between Tracts, nothing in this OEA will be deemed to create or establish a "common" or "party" wall to be shared with the adjacent Building or the right for a Building to receive support from or apply pressure to the adjacent Building.

**3.7 The Sign Easement.** Developer, Fueling Station Developer, and The City each grant and convey to all Parties a perpetual, non-exclusive easement (the "Sign Easement") for the construction, reconstruction, replacement, operation, maintenance, and repair of Signs ("Signs" and each a "Sign"), including the right and privilege to place thereon or affix thereto identification panels ("Identification Panels" and each an "Identification Panel") over, under, upon, and across that portion of each of their Tracts as identified on the Site Plan (the "Sign Areas" and each a "Sign Area"), together with reasonable access over, under, upon, through, and across their Tracts to install, replace, maintain, repair, and operate a Separate Utility Line to provide such Signs and Identification Panels with electrical power. The Sign Easement is appurtenant to and for the benefit of Developer's, Fueling Station Developer's, and The City's Tracts and is binding on, enforceable against, and burdens the Developer's, Fueling Station Developer's, and City's Tract(s). The Parties may release the Sign Easement as to their Tract(s), and upon such release must remove its Identification Panels and will thereafter have no further rights, duties or responsibilities with respect to the applicable Sign Area and/or the Sign on it. All Signs and Identification Panels must be maintained as set out in the subsection 8.4 titled *Use of Signs*. Upon termination of this OEA, each Party will maintain the Signs on their respective Tract(s) and all Identification Panels then owned by that Party.

**3.8 Restrictions on Easements.** The Parties may not grant any easement for the benefit of any property that is not within the Center except for easements granted or dedicated to Governmental Authorities or to public utility companies.



#### **4. Construction of Buildings.**

**4.1 In General.** Buildings may be located only within the Building Areas designated on the Site Plan and must be constructed in compliance with the PUD Approval, as defined in Section 14. The Parties acknowledge that there is a no-build area, as designated on the Site Plan, on which no construction of buildings or structures may ever take place. Each Party agrees that all construction activities performed or authorized by it within the Center will be performed in compliance with all Governmental Requirements. All construction will utilize new materials and will be performed in a good, safe, workman-like manner. Further, each Party conducting any construction activities (the “Constructing Party”) agrees that any construction activities performed or authorized by it will not: (1) unreasonably interfere with construction work being performed on any other part of the Center; (2) unreasonably interfere with the use, occupancy or enjoyment of any part of the remainder of the Center by any Party or its Permittees; or (3) cause any Building located on another Tract to be in violation of any Governmental Requirements.

**4.2 Temporary Staging and Storage.** In connection with any construction, reconstruction, repair or maintenance on its Tract, each Constructing Party reserves the right, at its expense, to create a temporary staging and/or storage area (“Temporary Work Area”) on its Tract at such location as will not unreasonably interfere with access between such Tract and the other areas of the Center. Prior to the commencement of any work that requires the establishment of a Temporary Work Area on its Tract, the Constructing Party will give at least 30 calendar days’ Notice to Developer’s Approving Party, Fueling Station Developer’s Approving Party, and the Public Works Director of The City, for their approval, of the proposed location of such Temporary Work Area. If substantial work is to be performed, the Constructing Party will, at the request of the Developer’s Approving Party, Fueling Station Developer’s Approving Party, or the Public Works Director, fence Temporary Work Area. If such persons do not approve the proposed location of the Temporary Work Area, the Constructing Party will modify the proposed location to satisfy the reasonable requirements of such persons. All storage of materials and the parking of construction vehicles, including vehicles of workers, must occur only on the Constructing Party’s Tract, and all laborers, suppliers, contractors and others connected with such construction activities must use only the access points located upon the Constructing Party’s Tract. Upon completion of such work, the Constructing Party will, at its expense, restore any damage to the Parking Improvements to a condition equal to or better than that existing prior to commencement of such work.

**4.3 Temporary Access and Use License for Construction.** The City grants and conveys to Developer and Fueling Station Developer for its use and for the use of its Permittees, and to Developer’s and Fueling Station Developer’s contractors, materialmen, and laborers, a temporary license for access and use over and across the Parking Improvements as may be reasonably necessary for the Constructing Party to construct and maintain improvements upon its Tracts. Such license will be in effect only during such periods of time when actual construction or maintenance



is being performed. Further, the use of such license may not unreasonably interfere with the use and operation of the Parking Improvements by any other Party or its Permittees. Before using such license, the Constructing Party must first provide The City with a written statement describing the need for such license and identifying the area of use. Each Constructing Party physically using a portion of the Parking Improvements in connection with the construction or maintenance of the Constructing Party's Tract must: (1) furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by this OEA; (2) promptly pay all costs and expenses associated with such work; (3) diligently complete such work as quickly as possible; and (4) promptly clean the area, and restore and repair the affected portion of the Parking Improvements to a condition that is equal to or better than the condition that existed prior to the commencement of such work. Notwithstanding the foregoing, if a dispute exists between the contractors, laborers, suppliers and others connected with such construction activities, The City will have the right to prohibit the contractors, laborers, suppliers and/or others from using the Parking Improvements.

## **5. Maintenance and Repair of the Parking Improvements.**

**5.1 The Operator's Obligations.** The Operator must maintain the Parking Improvements, or cause them to be maintained, in a slightly, safe condition and good state of repair. The landscaped areas of the Parking Improvements must be kept mowed, well maintained, and litter-free. The Parking Improvements must be operated and maintained in compliance with all applicable Governmental Requirements and this OEA. All Parking Improvements must be repaired or replaced with materials at least equal to the quality of the materials existing as of the Effective Date. Such operation, maintenance, and repair obligation includes:

**1. Drive and Parking Improvements.** Maintaining all paved surfaces and curbs within the Parking Improvements in a smooth and evenly covered condition, including replacement of base, skin patch, resurfacing and, when necessary to restripe the Parking Improvements, resealing.

**2. Debris and Refuse.** Periodically removing papers, debris, filth, refuse, ice, and snow to the extent necessary to keep the Parking Improvements in a first-class, clean and orderly condition. Trash and/or garbage removal from a Party's Buildings is not a Parking Improvements Maintenance Cost.

**3. Directional Signs and Markers.** Maintaining, cleaning, and replacing any appropriate directional, stop or handicapped parking signs or markers; restriping parking lots and drive lanes as necessary to maintain parking space designation and traffic direction; and keeping clearly marked fire lanes, loading zones, "no parking" areas, and pedestrian crosswalks.

**4. Lighting.** Maintaining, cleaning, and replacing Parking Improvements lighting facilities, including light standards, wires, conduits, lamps, ballasts, lenses, time clocks, and circuit breakers illuminating the Parking Improvements. However, exterior Building lighting fixtures, including any lighting fixtures associated with a canopy or other architectural feature forming a part of such Building, are considered a part of such Building, and the maintenance and replacement of such fixtures and the cost of illumination, will be the obligation of the Party upon whose Tract such fixtures are located.

**5. Landscaping.** Maintaining and replacing all landscape plantings, trees, and shrubs in an attractive and thriving condition, trimmed and weed-free; maintaining and replacing landscape planters, excluding those adjacent to exterior walls of Buildings; providing water for landscape irrigation through a properly maintained system, including performing any modifications to such system to satisfy governmental water allocation or emergency requirements. If any Party or an Occupant requires "special" landscaping (e.g. flowers, shrubs, trees, and the like) beyond the standard landscaping requirements for the remainder of the Center, or if landscaping additions/modifications are required as a result of a Building addition, expansion or remodel, the cost of installation, replacement, and maintenance of such special or required landscaping will be borne solely by such Party or Occupant and will not be included in Parking Improvements Maintenance Costs.

**6. Obstructions.** Keeping the Parking Improvements free from any obstructions, however, those caused by the sale or display of merchandise shall be obligation of Developer and Fueling Station Developer as applicable, or its Permittee.

**7. Sidewalks.** Maintaining, clearing, and replacing sidewalks, excluding those adjacent and contiguous to Buildings located within the Center. Sidewalks must be cleared and kept clear of ice and snow.

**8. Supervisory Personnel.** Providing professional supervisory personnel for the Parking Improvements, if reasonably required.

The Operator may hire companies affiliated with it to perform the maintenance and operation of the Parking Improvements, but only if the rates charged by such companies are competitive with those of other companies furnishing similar services in Oklahoma City. Developer, Fueling Station Developer, and The City each grant to the Operator, its agents, contractors, and employees, a license to enter upon such Party's Tracts to discharge the Operator's duties to operate, maintain, and repair the Parking Improvements.

Notwithstanding anything contained in this OEA to the contrary, each Party must operate, maintain, and repair, at its sole cost and expense, in a clean, sightly, and safe condition, the following items (if any) located on its Tracts: (1) any exterior shipping/receiving dock area; (2)



any truck ramp; (3) any recycling center or similarly designated area for the collection of items intended for recycling; (4) any sidewalk adjacent to its Building(s), and (5) any refuse, compactor or dumpster area.

**5.2 Parking Improvements Maintenance Costs.** The Operator may expend only such funds as are reasonably necessary for the operation and maintenance of the Parking Improvements, including premiums for insurance required and the performance of other obligations imposed on the Operator pursuant to this OEA, and the Operator must promptly pay such costs (the "Parking Improvements Maintenance Costs") when incurred. Within 30 calendar days following the commencement of such maintenance and operation, the Operator must provide the all Approving Parties an estimated budget for the balance of the current calendar year containing the information required by subsection 5.4 titled *The Parking Improvements Budget*, and Developer, Fueling Station Developer, and Trust agree to pay its share of Parking Improvements Maintenance Costs incurred for the balance of such year, plus the Administration Fee, in accordance with subsection 5.5 titled *Emergency Repairs to the Parking Improvements*. Parking Improvements Maintenance Costs do not include:

1. Any late charges or fees.
2. Any cost, fee, fine, penalty or similar charge arising out of or resulting from any violation by the Operator or anyone else relating to the Center.
3. Any charge for electricity for Building accent lighting.
4. The cost of water for irrigating the landscaping on all Tracts other than the Parking Improvements.
5. Any costs for promotional, marketing, seasonal or holiday events of any type (including costs of promotional equipment, banners, decorations, and lighting).
6. Any costs to clean up or repair the Parking Improvements resulting from any promotional, marketing, seasonal or holiday activities; and any construction, maintenance or replacement of a Party's Building(s).
7. Any costs resulting from or arising out of the repair or replacement of items covered by warranties or guaranties, including site improvements, signs, trees, plants or other landscaping.
8. Real property taxes and assessments on the Parking Improvements.

9. The Operator's profit, administrative, and overhead costs including: (1) office space, equipment and utilities; (2) legal, accounting, and administrative service; (3) personnel who are not permanently located at the Center; and (4) premiums relating to bonding over mechanic's liens.

10. Any fee or charge relating to the management and supervision of the operation of the Parking Improvements, or any part of it, paid to a third party, commercial management company or similar provider.

11. Entertainment, transportation, meals, or lodging of anyone.

**5.3 The Administration Fee.** In lieu of the Operator's profit, administrative, and overhead costs, the Operator will be permitted to charge an amount ("Administration Fee") computed by multiplying the Parking Improvements Maintenance Costs (exclusive of insurance premiums, the portion of single purpose expenditures that exceed \$25,000, and utility charges) by eight percent (8%). If any of the Operator's personnel at the Center perform services, functions or tasks in addition to Parking Improvements duties, the cost of such personnel will be equitably allocated according to time spent performing such duties.

**5.4 The Parking Improvements Budget.** At least 90 calendar days prior to the beginning of each calendar year during the Term, the Operator will submit to the Approving Parties an estimated budget ("Budget") for the Parking Improvements Maintenance Costs and the Administration Fee for operating and maintaining the Parking Improvements for the ensuing calendar year. The Budget will be in a form and content reasonably acceptable to the Approving Parties and will identify separate cost estimates for at least the categories specified elsewhere in this subsection, plus: (1) the premiums for Commercial General Liability Insurance covering the Parking Improvements as required by this OEA, provided that such premiums may not exceed the current filed Insurance Services Offices (ISO) rate for premises operations, adjusted by the increased limits factor, and if a blanket policy is utilized by the Operator, there must be a reasonable allocation of premium between such covered locations, taking into account the amount of Parking Improvements and ISO rates applicable to each location; (2) rental or purchase of equipment and supplies used in maintaining or repairing the Parking Improvements; (3) depreciation or trade-in allowance applicable to items purchased for Parking Improvements purposes; (4) maintenance of Sign(s) as set out in subsection 8.4 titled *Use of Signs*; (5) maintenance of Common Utility Line(s) as set out in the subsection titled 6.2 titled *Common Utility Lines*; and (6) the Administration Fee.

If an item of maintenance or replacement is to be accomplished in phases over a period of calendar years during the Term, such as resurfacing of the Parking Improvements, the Budget must: (1) separately identify the cost attributable to the applicable calendar year; (2) identify the



portion of the Parking Improvements affected; and (3) state the anticipated cost and timing of such phased work during succeeding calendar years.

If an Approving Party disapproves the proposed Budget, that Approving Party must consult with the other Approving Party and the Operator to establish a final approved Budget.

**5.5 Emergency Repairs to the Parking Improvements.** Notwithstanding the foregoing, the Operator may make emergency repairs to the Parking Improvements to prevent injury or damage to people or property. In that case, the Operator must advise all Parties of such emergency condition as soon as reasonably possible, including the corrective measures taken and the cost thereof. If the cost of the emergency action exceeds \$10,000.00 in Constant Dollars, the Operator must submit a supplemental billing to Developer's Approving Party, Fueling Station Developer's Approving Party, and Trust's Approving Party, together with evidence supporting such cost. Developer, Fueling Station Developer, and Trust agree to each pay its share of that cost within 30 calendar days after receipt of such billing. If the cost limitation set forth above is not exceeded, such costs will be included as part of the Parking Improvements Maintenance Costs for that year.

**5.6 Allocation and Payment of Parking Improvements Maintenance Costs and the Administration Fee.** The Parking Improvements Maintenance Costs and the Administration Fee will be allocated Fifty percent (50%) to the Trust and Fifty percent (50%) to the Developer and Fueling Station Developer collectively, and Trust will pay to the Operator in equal monthly payments, in advance, its share of the Parking Improvements Maintenance Costs and the Administration Fee based either upon the amount in the approved Budget or, if a Budget is not then approved, the lesser of the amount in the unapproved Budget or the monthly payment established for that Party for the prior year. Within 60 calendar days after the end of each calendar year, the Operator will provide Developer, Fueling Station Developer, and Trust with a statement certified by an authorized third party, together with supporting invoices and other materials (collectively, the "Reconciliation"), setting forth the actual Parking Improvements Maintenance Costs paid by the Operator for the operation and maintenance of the Parking Improvements, the Administration Fee, and the share of the aggregate thereof that is attributable to each Party. The cost of such statement will be included in the Parking Improvement Maintenance Costs. The Reconciliation must separately identify the cost categories specified in this subsection and must be in a form reasonably acceptable to the Approving Parties. If the amount paid by either Developer, Fueling Station Developer or Trust for such calendar year exceeds the share allocable to such Party, the Operator must refund the excess to such Party at the time the Reconciliation is delivered. Likewise, if the amount paid by Developer, Fueling Station Developer or Trust for such calendar year is less than the share allocable to such Party at the time such Reconciliation, then such Party must pay the balance of such Party's share to the Operator within thirty calendar days after receipt of such Reconciliation, less any amounts disputed in writing. If the Operator does not refund amounts shown by the Reconciliation to be owed a Party, such Party may offset the refund owed, plus Interest, against payments for Parking Improvements Maintenance Costs and



Administration Fee due for any future period. Notwithstanding anything contained in this OEA to the contrary, if during a calendar year the Operator resigns or is replaced, the replacement the Operator will be responsible for the Reconciliation adjustments, including any reimbursement due to a Party for such calendar year. All revenue received from the Tesla Supercharger Agreement have been in the past and shall be in the future credited toward the Parking Improvement Maintenance Costs.

**5.7 Damage to the Parking Improvements.** Subject to subsection 6.2 titled *Common Utility Lines*, if any portion of the Parking Improvements is damaged or destroyed during the Term by any cause whatsoever except by one of the other Parties to this Agreement, whether insured or uninsured, other than damage caused by ordinary use or wear and tear, Trust must repair or restore such Parking Improvements at its sole cost and expense with all due diligence. However, Trust will not be required to expend more than \$250,000 in Constant Dollars in excess of insurance proceeds that may be available (or that would have been available but for Trusts' election of deductibles or self-insurance, which amount Trust will be responsible to contribute) for such repair or restoration.

**5.8 Changes to the Parking Improvements.** The Parties may not make changes to the Parking Improvements without the approval of Public Works Director of The City. It is understood the Public Works Director will not unreasonably withhold its approval of a Parties request to make, at its own expense, any insignificant change, modification or alteration in the portion of the Parking Improvements adjacent to its Tract(s), including the installation of convenience facilities such as mailboxes, public telephones, cart corrals, benches, bike racks, directional and/or parking information signs, provided that: (1) the accessibility of such Parking Improvements for pedestrian and vehicular traffic (as it relates to the remainder of the Center) is not unreasonably restricted or hindered, and all parking stalls and rows and vehicular traffic lanes remain generally as shown on the Site Plan; (2) no more than two percent (2%) of the parking spaces depicted on the Site Plan are eliminated; (3) such work is done in compliance with all Governmental Requirements and will not result in The City or Trust or the Operator being in violation of any Governmental Requirements; (4) changes may not be made in the access points between the Parking Improvements and the adjacent public streets; (5) at least 30 calendar days prior to making any such change, modification or alteration, the Party desiring to do such work delivers to the Public Works Director of The City copies of the plans for that work; and (6) such work is not to occur during the period beginning October 15 of each year and ending January 31 of the following year.

## **6. Maintenance and Repair of Utility Lines.**

**6.1 Separate Utility Lines.** Any Party electing to install a Separate Utility Line must obtain all necessary permits and approvals and pay all costs and expenses with respect to the initial construction and all subsequent maintenance, relocation or abandonment of the Separate Utility Line, all of which work must be done in compliance with all Governmental Requirements, as



quickly as reasonably possible, and after normal business hours if possible. The Separate Utility Line must be maintained in a safe, clean, and good state of repair and condition. Except in the case of a maintenance emergency, the Party having installed a Separate Utility Line must provide the other Party with at least 15 calendar days' Notice before commencement of any work related to the Separate Utility Line.

**6.2 Common Utility Lines.** Once constructed, the Operator will maintain, replace, and/or relocate each Utility Line used in common by the Parties (each a "Common Utility Line") in a safe, clean and good state of repair and condition, and in compliance with all Governmental Requirements, as quickly as possible and after normal business hours whenever possible. The cost thereof will be included in Parking Improvements Maintenance Costs.

**6.3 Moving Utility Lines.** Any Party may relocate a Utility Line(s) on its Tract(s) upon 30 calendar days' Notice to all other Parties, provided that such relocation: (1) may not be commenced during the period beginning October 15 of each year and ending January 31 of the following year (except in the case of an emergency and provided the Party performing such work does not unreasonably interfere with the use, occupancy or enjoyment of the remainder of the any other Tract(s)); (2) will not interfere with or diminish the utility service to the any other Party during its regular business hours and provided that if an electrical line/computer line is being relocated, the Parties will coordinate such interruption to eliminate any detrimental effects; (3) will not reduce or unreasonably impair the usefulness or function of such Utility Line; (4) will be performed without cost or expense to any other Party; will be completed using materials and design standards that equal or exceed those originally used; and (5) will have been approved by the provider of such utility service and applicable Governmental Authorities. Documentation of the relocated Utility Line, including the furnishing of an "as-built" survey to all other Parties, will be at the relocating Party's expense and must be accomplished as soon as possible following completion of such relocation.

## **7. Maintenance of Buildings.**

**7.1 In General.** After completion of construction, each Party covenants and agrees to maintain and keep the exterior portion of the Buildings located on its Tracts in first-class condition and state of repair, in compliance with all Governmental Requirements, and in compliance with this OEA.

**7.2 Trash.** Each Party must store all trash and garbage on its Tracts in adequate containers, to locate such containers so that they are not readily visible from the Parking Improvements, and to arrange for regular removal of such trash or garbage.

**7.3 Damage to Buildings.** If any Buildings within the Center are damaged by fire or other casualty (whether insured or not), the Party upon whose Tract such Building is located must,

subject to Governmental Requirements or insurance adjustment delays, immediately remove the debris resulting from such casualty and provide a sightly barrier. Further, within a reasonable time thereafter, such Party must: (1) repair or restore the Building to a complete unit, such repair or restoration to be performed in accordance with all provisions of this OEA; or (2) erect a new Building in such location, such construction to be performed in accordance with this OEA; or (3) demolish the damaged portion or the balance of such Building and restore the cleared area to either a hard surface condition or landscaped condition, in which event such area will be Parking Improvements until a replacement building is erected. Such Party will have the option to choose which of the foregoing alternatives to perform, but such Party will be obligated to perform one of such alternatives. Such Party must give Notice to the other Party of the option chosen within 90 calendar days from the date of such casualty.

## **8. Operation and Use of the Center.**

### **8.1 Permitted and Prohibited Uses; Hazardous Materials.**

**A. Permitted Uses.** The Center may only be used for a Wellness Center, retail sales, business offices, or other permitted commercial purposes.

**B. Prohibited Uses.** The Center may not be used for any use that is inconsistent with operation of a first-class retail and business center. Without limiting the generality of the foregoing, the following uses are prohibited:

1. Any use that emits an obnoxious odor, noise or sound that could be heard or smelled outside of any Building within the Center.
2. An operation primarily used as a storage warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation.
3. Any "second hand" store, "surplus" store or pawn shop.
4. Any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition will not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance.
5. Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition will not be applicable to garbage compactors located near the rear of any Building.
6. Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation.



7. Any central laundry, dry cleaning plant or laundromat; provided, however, this prohibition will not be applicable to nominal supportive facilities for on-site service oriented to pickup and delivery by the ultimate consumer as such may be found in retail Centers in Oklahoma City.

8. Any automobile, truck, trailer or recreational vehicle sales, leasing, display or body shop repair operation.

9. Any bowling alley or skating rink.

10. Any movie theater or live performance theater.

11. Any hotel, motel, short or long-term residential use, including: single family dwellings, townhouses, condominiums, other multi-family units, and other forms of living quarters, sleeping apartments or lodging rooms.

12. Any veterinary hospital or animal raising or boarding facility.

13. Any mortuary or funeral home.

14. Any establishment selling or exhibiting pornographic materials or that sells drug-related paraphernalia or that exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff and/or any massage parlors or similar establishments.

15. Any bar, tavern, restaurant or other establishment whose reasonably projected annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds thirty percent (30%) of the gross revenues of such business.

16. Any health spa, fitness center or workout facility, other than the Wellness Center.

17. Any flea market, amusement or video arcade, pool or billiard hall, car wash or dance hall.

18. Any gambling facility or operation, including off-track or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices or bingo hall. Notwithstanding the foregoing, this prohibition will not be applicable to government-sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by an Occupant.

**C. Hazardous Materials.** The Parties may not use or permit the use of Hazardous Materials on, about, under or in its Tract(s), or the balance of the Center, except in the ordinary course of its usual business operations conducted on its Tract(s), and any such use must at all times be in compliance with all applicable Environmental Laws. "Hazardous Materials" means petroleum products and fractions thereof; asbestos; asbestos containing materials; urea formaldehyde; polychlorinated biphenyls; radioactive materials; and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials, substances, and wastes listed or identified in, or regulated by, any Environmental Law. "Environmental Laws" means all federal, state, county, municipal, local, and other statutes, laws, ordinances, and regulations that relate to or deal with human health or the environment, all as may be amended from time to time.

**8.2 Use of the Parking Improvements.** No merchandise, equipment or services, including vending machines, promotional devices, and similar items, may be displayed, offered for sale or lease, or stored within the Parking Improvements. Such prohibition does not apply to: (1) the storage of shopping carts or the installation of an "ATM" banking facility; (2) the seasonal display and sale of bedding plants on the sidewalk in front of any Building; (3) temporary Center promotions, except that no promotional activities are allowed in the Parking Improvements without the prior written approval of the Approving Parties; (4) any recycling center required by law, the location of which is subject to the approval of the Approving Parties.

### **8.3 Use of Lighting.**

**A. In General.** After completion of the lighting system on each Party's Tract(s), each Party covenants and agrees to keep its Tract(s) fully illuminated from dusk to at least 10:30 pm unless the Approving Parties agree upon a different time. Each Party further agrees to keep any exterior Building security lights on from dusk until dawn. During the Term, each Party grants an irrevocable license to the other Parties for the purpose of permitting the lighting from one Tract to incidentally shine on the adjoining Tract(s).

**B. Requests for Additional Lighting.** The Parties acknowledge that Occupants within the Center may be open for business at different hours, and that a Party may wish to have the lights on another Tract be illuminated before or after the required time period. Accordingly, a Party ("Requesting Party") will have the right, at any time, to require the Party that controls the lighting on such Tract ("Requested Party") to keep the lights it controls operating as stipulated by the Requesting Party, provided that the Requesting Party sends Notice to all Parties of such request not less than 30 calendar days in advance. The Requesting Party will state the period during that it wishes such lights to be kept operating and will pay to the Requested Party a prepayment as follows: (1) if the period is less than 30 calendar days, the prepayment will be one hundred percent (100%) of the reasonable cost for such additional operation (including electrical power, bulbs, and manpower), as estimated by the Requested Party; and (2) if the period is 30 calendar days or longer, the prepayment will be one hundred percent (100%) of the reasonable cost for such additional



operation (including electrical power, bulbs, and manpower) for 30 calendar days, as estimated by the Requested Party, and the Requesting Party will renew such prepayment at the end of each 30-day period.

If the Requesting Party believes that the estimated prepayment established by the Requested Party is greater than one hundred percent (100%) of such additional operation, the Parties will attempt to agree upon the cost of such additional operation. If they are unable to do so, the amount the Requesting Party is obligated to pay will be estimated by the electrical utility company furnishing such power, or if the electrical utility company elects not to do so, by a reputable electrical engineer. If the Requesting Party fails to pay the estimated amount or renew a prepayment as required, the Requested Party will have the right to discontinue such additional lighting and to exercise any other remedies set out in this OEA. Any such request for additional lighting may be withdrawn or terminated at any time by Notice from the Requesting Party, and a new request or requests for changed hours of additional operation may be made from time to time.

#### **8.4 Use of Signs.**

**A. In General.** Freestanding signs are not permitted within the Center except those constructed in the Sign Areas designated on the Site Plan. Only one Sign may be located in each Sign Area. If a Sign Area is no longer available for use because of condemnation or Governmental Requirements, a replacement Sign Area will be approved by the Approving Parties, subject to the consent of the Party owning the Tract to be burdened by the replacement Sign Area, which consent may not be unreasonably withheld. Each Party shall bear the cost of its own sign including all costs for power/electricity for such sign.

**B. Temporary Signage.** The Parties may place temporary signs on their respective Tracts identifying contractors working on a construction job on the Tract and leasing information. Parties doing so must operate, maintain, and repair such signs in a clean, sightly, and safe condition.

**C. No Other Signs Permitted.** Except Signs provided for in this Section, no other form of exterior expressions, including pennants, pictures, notices, flags, writings, lettering, designs or graphics may be placed on or attached to the exterior of any Building.

**8.5 No Obligation to Operate.** This OEA is not intended to, and does not, create or impose any obligation on a Party to operate, continuously operate, or cause to be operated a business or any particular business at the Center or on any Tract.

## 9. Insurance.

**9.1 Operator's Insurance.** The Operator must obtain and at all times during the Term maintain insurance policies ("Operator's Policies") of the types and with the minimum limits in Constant Dollars as set out on Exhibit B, Operator's Insurance Requirements. Operator's Policies must:

1. be issued by solvent and reputable insurance companies that are authorized or eligible to do business in the State of Oklahoma and that have at least an AM Best Rating of A-;
2. to the extent allowed by applicable Governmental Authorities, name the Parties as additional insureds (except for workers' compensation and employer's liability);
3. to the extent allowed by applicable Governmental Authority, waive all rights of subrogation by the Operator and its insurers, against the Parties and their insurers;
4. be primary to and receive no contribution from any other insurance or self-insurance program maintained by, on behalf of, or benefitting the Operator; and
5. require 30 business days' prior Notice to each of the Parties before Operator's Policies are cancelled, allowed to lapse or materially changed.

The Operator must provide copies of Operator's Policies to each of the Parties upon request. On or before the Effective Date, the Operator must deliver to each Party an industry-standard certificate(s) of insurance evidencing the insurance in effect at that time. Further, annually on the anniversary date of the Effective Date, at each renewal in Operator's Policies, and whenever otherwise requested by any Party, the Operator must deliver to the all Parties certificates of insurance stating that Operator's Policies are in effect.

**9.3 Insurance Required for Construction.** Prior to a Party other than the City or the Operator commencing any construction activities within the Center, the Party or the Operator commencing such construction (the "Constructing Party") must obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages in Constant Dollars as set out on Exhibit C, Insurance Required for Construction. If the construction activities involve the use of another Party's Tract(s), the Constructing Party must cause: (1) the owner of such other Tract to be an additional insured on each policy; (2) with respect to the work on such other Tract(s), such coverage must extend for three years following final completion of work; and (3) require 30 business days' prior Notice to all other Parties before the policies are cancelled, allowed to lapse or materially changed. If any of the insurance policies are cancelled, expire or the amount or coverage thereof is reduced below the level required, the Constructing Party must immediately stop all work on and use of the other Tract



until either the required insurance is reinstated, or replacement insurance is obtained, and evidence thereof is given to the owner of such other Tract. Further, effective upon the commencement of construction of any Building on its Tract and so long as such Building exists, that Party must carry, or cause to be carried, property insurance with "Special Form" coverage, in the amount of one hundred percent (100%) of full replacement cost thereof (excluding footings, foundations and excavations). It is understood that the requirements in this subsection do not apply to The City.

## **10. Indemnification.**

### **10.1 Definitions.**

A. "Claims" and each a "Claim" means all claims, losses, damages, demands, causes of action, suits, judgments, Liens, and liabilities of every kind and character, including all expenses of medical services and medical evaluation, litigation, court costs, expert fees, and reasonable attorneys' fees, and any other associated costs of defense or resolution.

B. "Fueling Station Developer Group" means each of: (1) HLD Fueling, LLC; (2) the Alliance for Economic Development of Oklahoma City, Inc., an Oklahoma not-for-profit corporation and a member of HLD Fueling, LLC; (3) TR Partners, LLC, a Wisconsin limited liability company and a member of HLD Fueling; (4) Northeast Equity Investment Group, LLC, an Oklahoma limited liability company and a member of HLD Fueling; (5) the respective beneficiaries and affiliates of (1) through (4); (6) the successors and assigns of (1) through (5); and (7) the officers, directors, employees, agents, contractors, consultants, and vendors of (1) through (6) (excluding members of Operator Group and The City Group); and (7) the Occupants of the Grocery Store Tract, and the Fueling Station Tract.

C. "Operator Group" means: (1) Operator; (2) its parents, subsidiaries, and affiliates (if any); (3) the heirs and devisees (if any), successors, and assigns of (1) and (2); and (4) the officers, directors, employees, agents, invitees, contractors, consultants, vendors, subconsultants, and all other persons for whom (1), (2), or (3) are legally responsible in performance of the Services.

D. "The City Group" means each of: (1) The City; (2) its beneficiaries and affiliates; (3) the successors and assigns of (1) through (2); and (4) the officers, directors, employees, agents, contractors, consultants, vendors, and insurers of (1) through (3) (excluding members of Operator Group, Developer Group, and Fueling Station Developer Group); (5) The Oklahoma City Public Property Authority, and (6) the Occupants of the Wellness Center Tract.

**10.2 Operator's Indemnification Obligation.** To the extent allowed by Governmental Authorities, the Operator agrees to defend, protect, indemnify, release, and hold harmless each Party and each member of The City Group from and against all Claims asserted or incurred in connection with or arising out of Operator Group's performance of or failure to perform its duties



or obligations under this OEA except to the extent any such Claim is a result of the negligence or willful misconduct of the Party to be indemnified.

**10.3 Fueling Station Developer's Indemnification Obligation.** Fueling Station Developer Group will indemnify, release, and hold harmless each member of The City Group from and against any and all Claims incurred by or asserted against such member of The City Group to the extent such Claims are caused by: (1) Fueling Station Developer Group's negligence or willful misconduct in the construction on the Fueling Station Tract, its operation on the Fueling Station Track including any legally required hazardous material remediation, and its obligations under this OEA; (2) Fueling Station Developer Group's negligent operations at or around any property of a Party; and (3) any injury to, illness or death of any individual member of Fueling Station Developer Group or injury, illness or death to any person caused by Fueling Station Developer's negligence or willful misconduct. Nothing in this OEA will cause Fueling Station Developer Group to assume liability for or indemnity any member of The City Group for Claims to the extent caused by the negligence or willful misconduct of such member of The City Group or any person for whom Fueling Station Developer Group is not legally liable.

**11. Right to Audit.** Within three years after the date of receipt of a Reconciliation, each Party will have the right to audit the Operator's books and records pertaining to the operation and maintenance of the Parking Improvements for the calendar year covered by such Reconciliation. A Party must notify the Operator of such Party's intent to audit at least 15 calendar days prior to the designated audit date. If such audit discloses any error in the determination of the Parking Improvements Maintenance Costs, the Administration Fee or any allocation thereof to a particular Tract, the auditing Party will provide the Operator with a copy of the audit. An appropriate adjustment must be made as soon as reasonably possible. The cost of any audit will be assumed by the auditing Party unless such Party is entitled to a refund in excess of three percent (3%) of the amount calculated by the Operator as such Party's share for the applicable calendar year, in which case the Operator must pay the cost of such audit. If the Operator does not respond to the results of an audit within 90 calendar days after receipt of the audit, the auditing Party will have the right to offset the refund claimed, plus Interest, from the date the Operator receives the audit, plus costs of the audit if appropriate, against subsequent payments due the Operator. However, the Operator will retain the right to dispute the results of such audit for a period of 18 months following receipt of such audit.

**12. Liens.** Each Party will prevent the filing of mechanics and materialmen's liens ("Liens" and each a "Lien") as a result of its actions. If such a lien is recorded against the Tract of one Party as a result of services performed or materials furnished for the use of another Party, the Party permitting or causing the Lien to be so recorded will cause the Lien to be discharged within 15 calendar days after the entry of a final judgment (after all appeals) for its foreclosure. Notwithstanding the foregoing, upon request of the Party whose Tract is subject to such Lien, the Party permitting or causing such lien to be recorded must promptly cause such lien to be released and discharged of record by paying the indebtedness that gave rise to the Lien or by posting bond



or other security pursuant to applicable law. Notwithstanding the foregoing, the Party permitting or causing the Lien may contest its validity as allowed by law provided it does so with reasonable diligence. If such contest is determined adversely (allowing for appeal to the highest appellate court), such Party must promptly take necessary action to release the Lien of record. The Party permitting or causing such lien agrees to defend, protect, indemnify and hold harmless the owner of the Tract(s) from and against all claims and demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from such lien.

**13. Taxes and Assessments.** Each owner of the Tracts will pay, or cause to be paid prior to delinquency, all taxes and assessments with respect to its Tract(s) and the Building(s), and other improvements located thereon, and any personal property owned or leased by it within the Center. If such taxes or assessments or any part thereof may be paid in installments, each Party may pay each such installment as and when the same becomes due and payable. Nothing contained in this OEA will prevent any owner from contesting, at its sole cost and expense, any taxes and assessments with respect to its Tract(s) in any manner, so long as such contest is maintained with reasonable diligence and in good faith and pursuant to Oklahoma law. At the time such contest is concluded (allowing for appeal to the highest appellate court), if it is not successful and such tax or assessment has not already been paid, the contesting owner will promptly pay all taxes and assessments determined to be owing, together with all interest, penalties, and costs thereon.

**14. Planned Unit Development.** Each Party will comply with the Planned Unit Development PUD-1740 dated November 19, 2019 and the 2025 Simplified Planned Unit Development SPUD-1700 (collectively, the "PUD Approval"), as it relates to the Tract(s) and the Building(s) and other improvements located thereon. No application for amendment, modification or termination of the PUD Approval may be made by any Party without the consent of Developer's Approving Party, Fueling Station Developer's Approving Party or the City Manager or his designee.

**15. Enforcement.** A default under this OEA will occur if any Party (the "Defaulting Party") materially defaults in the performance of any of the terms, conditions or covenants in this OEA to be performed by it and if: (1) such Party does not remedy that default within 30 calendar days after Notice any other Party (the "Non-Defaulting Party") is given; or (2) the default is of such a character as to require more than 30 calendar days to remedy and the Defaulting Party does not commence to cure and correct the default within the 30-day period and thereafter does not prosecute such corrective action diligently and without interruption to complete cure within 90 calendar days following the original Notice by a Non-Defaulting Party (each an "Event of Default").

If an Event of Default occurs, a Non-Defaulting Party will have the right within 90 calendar days after the occurrence of the Event of Default, in its sole and exclusive remedies, to either: (1) initiate and thereafter prosecute an action in equity for the specific performance of any covenants



or obligations to be performed by the Defaulting Party; or (2) upon ten calendar days' additional notice, perform the Defaulting Party's obligations and select and engage any and all professional(s) a Non-Defaulting Party deems reasonably necessary to perform such obligations. In effectuating such cure, a Non-Defaulting will have the right to enter onto the Tract of the Defaulting Party (but not into any Building) to perform any necessary work to cure the default. The Defaulting Party must reimburse any Non-Defaulting Party, upon demand, for all costs reasonably incurred by a Non-Defaulting Party to remedy such default. All costs, expenses, and Interest incurred by a Non-Defaulting Party will constitute a lien against the Defaulting Party's Tract(s). Each Party is responsible for the defaults of its Occupants. Notwithstanding the foregoing, the Parties agree that a breach of this OEA will not entitle any Party to terminate this OEA.

**16. Interest.** Any time a Party, other than The City or Trust, does not pay any sum payable under this OEA to another Party within five business days of the due date, such delinquent Party must pay interest on such amount from the due date to and including the date such payment is received by the Party entitled thereto, at the lesser of: (1) the highest rate permitted by law to be either paid on such type of obligation by the Party obligated to make such payment or charged by the Party to whom such payment is due, whichever is less; or (2) the Prime Rate, plus three percent (3%). As used in this OEA, "Prime Rate" means the rate of interest published from time to time as the "Prime Rate" in the Wall Street Journal under the heading "Money Rates." However: (1) if more than one such rate is published therein, the Prime Rate will be the highest such rate; and (2) if such rate is no longer published in the Wall Street Journal or is otherwise unavailable, the Prime Rate will be a substantially comparable index of short term loan interest rates charged by U.S. banks to corporate borrowers selected by the Approving Parties.

**17. Exculpation.** No member, official or employee of a Party will be personally liable to any other Party, or any successor in interest of a Party, if of any default or breach or for any amount that may become due to another Party or its successor on any obligations under this OEA. Each Party agrees to look solely to the interest within the Center of a defaulting Party for recovery of damages for any breach of this OEA; provided, however, the foregoing will not in any way impair, limit or prejudice the right of a Party: (1) to recover from another Party all damages and costs on account of, or in connection with, casualty insurance or condemnation proceeds that are not applied or used in accordance with this OEA; (2) to recover from another Party all damages and costs arising out of or in connection with, or on account of, a breach by such Party of its obligations under this OEA regarding Hazardous Materials and Environmental Laws; (3) to recover from another Party all damages and costs arising out of or in connection with, or on account of, a breach by such Party of its obligations as to insurance required by this OEA; (4) to recover from a Party all damages and costs arising out of or in connection with, or on account of, the failure by such Party to pay when due any tax, assessment or lien as required by this OEA; (5) to recover from another Party all damages and costs as a result of any fraud or misrepresentation by such Party in connection with any term, covenant or condition in this OEA; and (6) to pursue equitable relief in connection with any term, covenant or condition of this OEA, including a proceeding for



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temporary restraining order, preliminary injunction, permanent injunction or specific performance, and recover all costs, including Interest, relating to such enforcement action.

**18. Estoppel Certificates.** Each Party and the Operator (if any) agree that upon written request of any Party (which may not be more frequent than three times during any calendar year) will provide within 30 calendar days after receipt of such request to such Party or its prospective mortgagee or successor, an estoppel certificate stating to the best of the issuer's knowledge as of such date:

**A.** Whether it knows of any default under this OEA by the requesting Party, and if there are known defaults, specifying the nature of such defaults in reasonable detail.

**B.** Whether this OEA has been assigned, modified or amended in any way by it and if so, stating the nature of such assignment, modification or amendment in reasonable detail.

**C.** Whether this OEA is in full force and effect.

Such estoppel certificate will act to estop the issuer from asserting a claim or defense against a bona fide encumbrancer or purchaser for value to the extent that such claim or defense is based upon facts known to the issuer as of the date of the estoppel certificate that are contrary to the facts contained in this OEA, and such bona fide purchaser or encumbrancer has acted in reasonable reliance upon such estoppel certificate without knowledge of facts to the contrary. The issuance of an estoppel certificate will in no event subject the issuer to any liability for the negligent or inadvertent failure of the issuer to disclose correct or relevant information, nor will such issuance be construed to waive any rights of the issuer to perform an audit or obtain an adjustment with respect to Parking Improvements Maintenance Costs for any year it is entitled to do so, or to challenge acts committed by other Parties for which approval by the Approving Parties and the City Manager or his designee was required but not sought or obtained.

## **19. Approval Rights.**

**19.1 Sole Judgment.** Except as otherwise provided in this OEA, with respect to any matter as to which a Party has specifically been granted an approval right under this OEA, nothing contained in this OEA will limit the right of a Party to exercise its business judgment, to act in a subjective manner, or to act in its sole discretion or sole judgment, whether or not "objectively" reasonable under the circumstances. Any such decision will not be deemed inconsistent with any covenant of good faith and fair dealing that may be implied by law to be part of this OEA. The Parties intend by this OEA to set forth their entire understanding with respect to the terms, covenants, conditions and standards pursuant to which their obligations are to be judged and their performance measured.

**19.2 Approval Process.** Unless provision is made for a specific time period in this OEA, each response to a request for an approval or consent required to be considered pursuant to this OEA will be given by the Party to whom directed within 30 calendar days after receipt thereof. Each disapproval will be in writing and, subject to subsection 19.1 titled *Sole Judgment* of this Section, the reasons for disapproval must be clearly stated. Notwithstanding anything in this OEA to the contrary, the provisions of this subsection do not apply in any manner or fashion to any request that requires an amendment to this OEA, such requests being governed solely by the provisions of subsection 24.8 titled *Amendment*. If approval is requested, unanimous approval must be given.

**20. Condemnation.** If any portion of the Center is condemned, or conveyed under threat of condemnation, the award will be paid to the owner of the Tract(s) or the improvements taken, and the other Party or Parties agree to waive and release any right to recover any value attributable to the property interest so taken. Notwithstanding the foregoing, if the taking includes: (1) improvements belonging to more than one Party, including Utility Lines or Signs, the portion of the award allocable thereto will be used to relocate, replace or restore such jointly-owned improvements to a useful condition; and (2) easement rights that are intended to extend beyond the Term, the portion of the award allocable to each such easement right will be paid to the respective grantees thereof. In addition to the foregoing, if a separate claim can be filed for the taking of any other property interest existing pursuant to this OEA that does not reduce or diminish the amount paid to the Party owning the Tract or the improvement taken, the owner of such other property interest will have the right to seek an award for such taking. Except to the extent easements or licenses burden the land taken, no easement or license set forth in this OEA will expire or terminate based solely upon such taking.

## **21. Conveyances of Tracts; Binding Effect.**

**21.1 Conveyances and Notices of Conveyances.** Developer, Fueling Station Developer, and/or The City may convey and transfer its fee interest in its Tracts. A Party transferring all or any portion of its fee interest in a Tract must give Notice to all other Parties and the Operator of such transfer, such Notice to include: (1) the name and address of the new Party; (2) a copy of the legal description of the portion of the Tract transferred by such Party; and (3) if the new Party is the designated Approving Party. Each Party will be liable for the performance of all covenants, obligations, and undertakings applicable to the Tract(s) or portion thereof owned by it that accrue during the period of such ownership, and such liability will continue with respect to any portion of the Tract transferred by such Party until the Notice of transfer is given. Until such Notice of transfer is given, the transferring Party will be the transferee's agent for purposes of this OEA. Once the Notice of transfer is given, the transferring Party will be released from all obligations pertaining to the Tract(s) or portion thereof transferred arising subsequent to the notice of transfer.



**21.2 Binding Effect.** The terms of this OEA and all easements granted in it will constitute covenants running with the land and will bind the Tracts in the Center and inure to the benefit of and be binding upon the Parties. This OEA is not intended to supersede, modify, amend or otherwise change the provisions of any prior instrument affecting the land burdened hereby.

**22. Force Majeure Events.** “Force Majeure Event” means an unforeseen occurrence that: (1) occurs after the Effective Date; (2) is not within the reasonable control of the party affected (the “Affected Party”); (3) is not caused by the negligence or fault of the Affected Party; (4) is not the result of any failure of the Affected Party to perform any of its obligations under this OEA; and (5) could not have been prevented, overcome, or mitigated by the Affected Party’s exercise of due care or foresight. Force Majeure Events include natural disasters, significant damage caused by fire or other casualty, national or regional strikes by third parties other than the Affected Party’s personnel, and weather conditions that actually prevent the Affected Party’s performance under this OEA for more time than could have been reasonably anticipated. If any Party is unable, in whole or in part, to perform its obligations under this OEA due to a Force Majeure Event, the Affected Party will be excused from its performance, but only to the extent and for the period of time that it is affected by the Force Majeure Event, provided it complies with the requirements in this Section. The Affected Party must Notify all other Parties of the Force Majeure Event as soon as reasonably possible, but not later than three business days after the commencement of the event, specifying all relevant facts related to the Force Majeure Event including its estimated duration, the probable impact on the Affected Party’s performance, and the Affected Party’s recovery plan. Further, the Affected Party must: (1) keep all Parties reasonably informed of all recovery efforts; (2) as soon as possible and to the maximum extent possible, remedy the Force Majeure Event and mitigate all consequences of it; and (3) fulfill all its obligations under this OEA that are not directly affected by the Force Majeure Event. The burden of proof as to whether a Force Majeure Event has occurred and the associated relief will be on the Affected Party. A Force Majeure Event does not excuse the payment of monies when due or the fulfillment of indemnification or insurance obligations under this OEA. This Section does not require the Affected Party to settle a strike or labor dispute except in accordance with applicable Governmental Requirements.

**23. Notices.** All notices and other communications required, permitted or contemplated by this OEA (“Notices” and each a “Notice”) must be in writing, signed by the party giving the Notice, and sent using the contact information below. Notices must be sent by: (1) hand-delivery in return for a receipt; (2) United States mail with postage prepaid; (3) nationally recognized overnight courier service; or (4) email, so long as the intended recipient acknowledges by email or other writing as having received the Notice (with an automatic “read receipt” not constituting acknowledgment). A Notice is effective on the earlier of: (1) the date of actual delivery; or (2) for mailed Notices (without a return receipt), three business days after the date of mailing. However, if the receipt of Notice is refused, the Notice is effective upon attempted delivery. Any Party may change its contact information by notifying all other Parties as required by this Section. Notwithstanding the foregoing, Notices advising the other Parties of a breach of this OEA must be

sent by: (1) hand-delivery in return for a receipt; (2) certified United States mail, return receipt requested with postage prepaid; or (3) nationally recognized overnight courier service. Such Notices are effective on the date of actual delivery. However, if receipt of the Notice is refused, the Notice is effective upon attempted delivery.

Notices to 36th & Lincoln will be addressed as follows:

36th & Lincoln, LLC  
Attn: Kenton Tsoodle, Member  
105 North Hudson Avenue, Suite 101  
Oklahoma City, Oklahoma 73102  
Email Address: [Kenton.tsoodle@theallianceokc.org](mailto:Kenton.tsoodle@theallianceokc.org)  
with a copy to its attorneys:

Williams, Box, Forshee & Bullard  
John Michael Williams  
Carla Sharpe  
522 Colcord Drive  
Oklahoma City, Oklahoma 73102-2202  
Email Addresses:  
[williams@wbflaw.com](mailto:williams@wbflaw.com)  
[csharpe@wbflaw.com](mailto:csharpe@wbflaw.com)

Notices to HLD Grocery, LLC will be addressed as follows:

HLD Grocery, LLC  
Attn: Kenton Tsoodle  
105 North Hudson Avenue, Suite 101  
Oklahoma City, Oklahoma 73102  
Email Address: [Kenton.tsoodle@theallianceokc.org](mailto:Kenton.tsoodle@theallianceokc.org)

with a copy to its attorneys:

Williams, Box, Forshee & Bullard  
John Michael Williams  
Carla Sharpe  
522 Colcord Drive  
Oklahoma City, Oklahoma 73102-2202  
Email Addresses:  
[williams@wbflaw.com](mailto:williams@wbflaw.com)  
[csharpe@wbflaw.com](mailto:csharpe@wbflaw.com)



Notices to HLD Fueling, LLC will be addressed as follows:

HLD Fueling LLC  
Attn: Kenton Tsoodle  
105 North Hudson Avenue, Suite 101  
Oklahoma City, Oklahoma 73102  
Email Address: [Kenton.tsoodle@theallianceokc.org](mailto:Kenton.tsoodle@theallianceokc.org)

with a copy to its attorneys:

Williams, Box, Forshee & Bullard  
John Michael Williams  
Carla Sharpe  
522 Colcord Drive  
Oklahoma City, Oklahoma 73102-2202  
Email Addresses:  
[williams@wbfbllaw.com](mailto:williams@wbfbllaw.com)  
[csharpe@wbfbllaw.com](mailto:csharpe@wbfbllaw.com)

Notices to The City will be addressed as follows:

City of Oklahoma City  
Attn: Attn: Craig Freeman, City Manager  
200 North Walker Avenue, 3<sup>rd</sup> Floor  
Oklahoma City, Oklahoma 73102  
Phone Number: 405-297-2345  
with a copy to:

City of Oklahoma City  
Attn: City Clerk  
200 North Walker Avenue, 2<sup>nd</sup> Floor  
Oklahoma City, Oklahoma 73102  
Phone Number: 405-297-2391  
with a copy to its attorneys:

Amy Douglas  
Laura McDevitt  
Deputy and Assistant Municipal Counselors

200 North Walker Avenue, 4<sup>th</sup> Floor  
Oklahoma City, Oklahoma 73102  
Phone Number: 405-297-2685  
Email Addresses:

Notices to Trust will be addressed as follows:

Craig Freeman, General Manager  
200 North Walker Avenue, 3<sup>rd</sup> Floor  
Oklahoma City, Oklahoma 73102

Amy Douglas  
Laura McDevitt  
Deputy and Assistant Municipal Counselors  
200 North Walker Avenue, 4<sup>th</sup> Floor  
Oklahoma City, Oklahoma 73102  
Phone Number: 405-297-2685  
Email Addresses: [laura.mcdevitt@okc.gov](mailto:laura.mcdevitt@okc.gov); [amy.douglas@okc.gov](mailto:amy.douglas@okc.gov)

## **24. Miscellaneous Provisions.**

**24.1 Time of the Essence.** Time is of the essence of this OEA.

**24.2 No Public Dedication.** Nothing in this OEA will be deemed to be a gift or dedication of any portion of the Center or of any Tract or portion of Tract to the general public, or for any public use or purposes whatsoever. Except as set out in this OEA, no right, privileges or immunities of any Party will inure to the benefit of any third party, nor will any third party be deemed to be a beneficiary of this OEA.

**24.3 Interpretation.** The Parties intend for this OEA to be read as a whole such that the requirements in one part and not mentioned in another will be executed to the same extent and purpose as though required by all. The misplacement, addition, or omission of a word or character will not change the intent of any part from that set out in this OEA as a whole. The titles and headings in this OEA are for convenience of reference only and do not constitute a part of it or affect its interpretation. The Exhibits attached to this OEA and documents referenced in it will be construed with and as an integral part of this OEA to the same extent as if such had been set out in this OEA. The use of the words “including,” “include,” and “included” is intended to imply that the list or words following it are illustrative and not exclusive.

**24.4 Relationship of the Parties.** This OEA does not create and will not be construed as creating an agency, partnership, joint venture or employment relationship between the Parties.



Each Party will be considered a separate owner, and no Party will have the right to act as an agent for another Party, unless expressly authorized to do so in this OEA or by separate written instrument signed by the Party to be charged.

**24.5 Choice of Law; Jurisdiction and Venue.** The laws of the State of Oklahoma (excluding its conflict of laws rules that would apply the laws of another jurisdiction) exclusively apply to this OEA. Any Claim arising directly or indirectly from or relating to this OEA must be filed and maintained exclusively in a court of competent jurisdiction in the state or federal courts located in Oklahoma County, Oklahoma. The Parties submit to that jurisdiction and venue for all purposes.

**24.6 Entire Agreement.** This OEA, including its Exhibits and documents delivered by its terms and incorporated in it, constitutes the entire agreement between the Parties pertaining to its subject matter. All prior and contemporaneous written or oral agreements and communications between the Parties are superseded by this OEA.

**24.7 Amendment.** This OEA may be amended by, and only by, a written agreement signed by the Parties.

**24.8 Severability.** If any provision of this OEA is determined to be to any extent invalid, illegal, or unenforceable, it will be deemed stricken from this OEA. All other provisions of this OEA will remain in full force and effect. The stricken provision will then be deemed replaced with one that is valid and enforceable and that comes closest to expressing the Parties' original intent.

**24.9 No Presumption as to Drafter.** In the construction and interpretation of this OEA, the rule that a document is to be construed most strictly against the Party who prepared it does not apply because all Parties participated in its preparation.

**24.10 Attorneys' Fees.** If any Party to this OEA is compelled to file suit to enforce the terms of this OEA, the Party prevailing in such litigation, in addition to all other relief granted by the court, will be entitled to the payment by the losing party of all expenses, court costs, and reasonable attorneys' fees incurred by the prevailing party in such litigation.

**24.11 Counterparts.** This OEA may be signed in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument.

**24.12 Authority.** Each Party represents and warrants to the other that: (1) it has full authority and power to enter into and perform its obligations under this OEA; (2) the person executing this OEA is fully empowered to do so; and (3) no consent or authorization is necessary from any third party.

[Balance of Page Intentionally Left Blank – Signature Page and Exhibits follow.]



Signature Pages to Amended and Restated Operation and Easement Agreement

ATTEST:

Amy K. Simpson  
City Clerk



THE CITY OF OKLAHOMA CITY

David Holt  
MAYOR

Date Executed: 2-25-2025

REVIEWED for form and legality.

[Signature]  
Deputy or Assistant Municipal  
Counselor

Acknowledgement

State of Oklahoma           )  
  ) SS  
County of Oklahoma        )

This instrument was acknowledged before me on February 25, 2025, by David Holt, as Mayor, and Frances Kersey as City Clerk, of The City of Oklahoma City, a municipal corporation.

David R. Wrights III  
Notary Public

My commission expires: 1/24/29  
My commission number: 13000797  
[Seal]

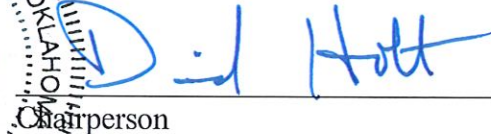


**Signature Pages to Amended and Restated Operation and Easement Agreement –  
continued**

**OKLAHOMA CITY PUBLIC  
PROPERTY AUTHORITY**

ATTEST:

  
Secretary

  
Chairperson


**REVIEWED** for form and legality

  
Deputy or Assistant Municipal  
Counselor

**Acknowledgement**

State of Oklahoma            )  
  ) SS  
County of Oklahoma        )

This instrument was acknowledged before me on February 25, 2025, by David Holt as Chairperson of the Oklahoma City Public Property Authority, a public trust.

  
Notary Public  
My commission expires: 1/24/29  
My commission number: 13000797  
[Seal]

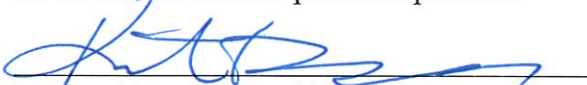




**Signature Pages to Amended and Restated Operation and Easement Agreement –  
continued**

**36<sup>th</sup> & Lincoln, LLC,**  
an Oklahoma limited liability company

By its Member  
The Alliance for Economic Development of Oklahoma City, Inc.,  
an Oklahoma not-for-profit corporation

  
Kenton Tsoodle, President

**Acknowledgement**

**State of Oklahoma**           )  
  ) SS  
**County of Oklahoma**       )

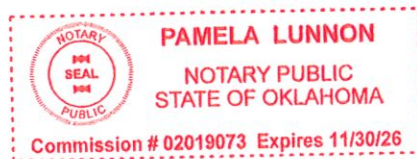
This instrument was acknowledged before me on February 11<sup>th</sup>, 2025, by Kenton Tsoodle as President of The Alliance for Economic Development of Oklahoma City, Inc., an Oklahoma not-for-profit corporation, and member of 36<sup>th</sup> & Lincoln, LLC, an Oklahoma limited liability company.

  
Notary Public

My commission expires: 11-30-26

My commission number: 02019073

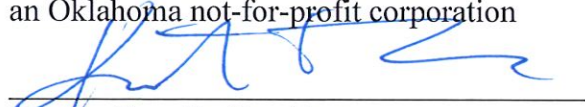
[Seal]



**Signature Pages to Amended and Restated Operation and Easement Agreement –  
continued**

**HLD Grocery, LLC,**  
an Oklahoma limited liability company

By its Member  
The Alliance for Economic Development of Oklahoma City, Inc.,  
an Oklahoma not-for-profit corporation



Kenton Tsoodle, President

**Acknowledgement**

State of Oklahoma            )  
  ) SS  
County of Oklahoma        )

This instrument was acknowledged before me on February 11<sup>th</sup>, 2025, by Kenton Tsoodle as President of The Alliance for Economic Development of Oklahoma City, Inc., an Oklahoma not-for-profit corporation, and member of HLD Grocery, LLC, an Oklahoma limited liability company.

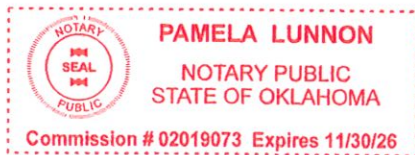


Notary Public

My commission expires: 11-30-26

My commission number: 02019073

[Seal]

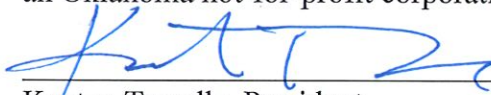




**Signature Pages to Amended and Restated Operation and Easement Agreement –  
continued**

**HLD Fueling, LLC,**  
an Oklahoma limited liability company

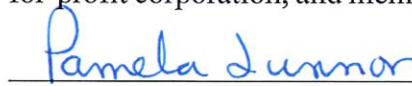
By its Member  
The Alliance for Economic Development of Oklahoma City, Inc.,  
an Oklahoma not-for-profit corporation

  
\_\_\_\_\_  
Kenton Tsoodle, President

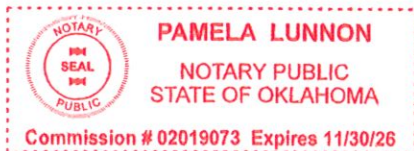
**Acknowledgement**

State of Oklahoma            )  
  ) SS  
County of Oklahoma        )

This instrument was acknowledged before me on February 11<sup>th</sup>, 2025, by Kenton Tsoodle as President of The Alliance for Economic Development of Oklahoma City, Inc., an Oklahoma not-for-profit corporation, and member of HLD Fueling, LLC, an Oklahoma limited liability company.

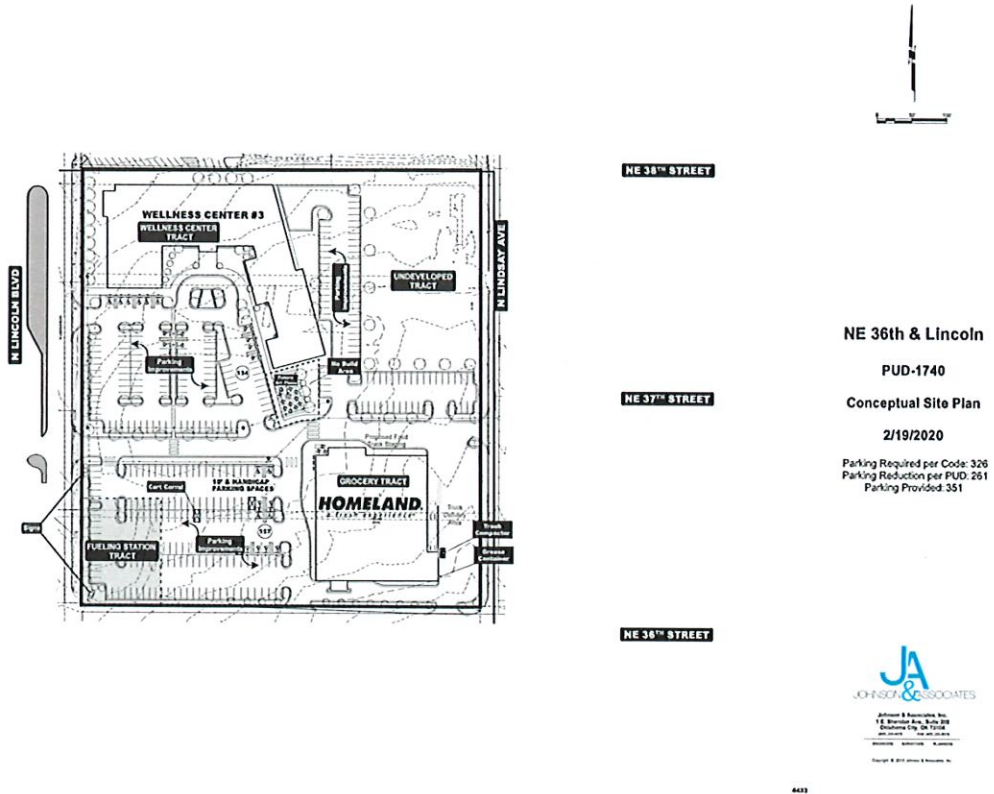
  
\_\_\_\_\_  
Notary Public

My commission expires: 11-30-26  
My commission number: 02019073  
[Seal]



# Exhibit A to Amended and Restated Operation and Easement Agreement

## Site Plan





## **Exhibit B to Amended and Restated Operation and Easement Agreement**

### **Operator's Insurance Requirements**

- Workers' compensation to meet the statutory requirements of applicable law.
- Comprehensive general liability insurance covering the Parking Improvements with a combined single limit of liability of One Million Dollars (\$1,000,000.00) for bodily injury, personal injury and property damage, arising out of any one occurrence.
- Automobile liability insurance covering owned, hired, and non-owned vehicles used by Operator Group, with bodily injury limits and property damage limits of \$1,000,000 per occurrence and \$1,000,000 in the aggregate.
- Employer's liability insurance in the amount of \$1,000,000 for each accident for bodily injury, \$1,000,000 policy limit for bodily injury by disease and \$1,000,000 each employee for bodily injury by disease.

## **Exhibit C to Amended and Restated Operation and Easement Agreement**

### **Insurance Requirements for Construction**

- Workers' compensation to meet the statutory requirements of applicable law.
- Comprehensive general liability insurance covering all operations by or on behalf of the Constructing Party's contractor, which will include the following coverages: (1) Premises and Operations; (2) Products and Completed Operations; (3) Contractual Liability, insuring the indemnity obligations assumed by contractor; (4) Broad Form Property Damage (including completed operations); (5) Explosion, Collapse, and Underground Hazards; and (6) Personal Injury Liability, with the following minimum limits of liability: (1) \$1,000,000 each occurrence (for bodily injury and property damage); (2) \$1,000,000 for personal injury liability; (3) \$1,000,000 aggregate for Products and Completed Operations; and (4) \$1,000,000 general aggregate applying separately to the Center.
- Automobile liability insurance covering owned, hired, and non-owned vehicles used by the Constructing Party and its contractor, with bodily injury limits and property damage limits of \$1,000,000 per occurrence and \$1,000,000 in the aggregate.
- Employer's liability insurance in the amount of \$1,000,000 for each accident for bodily injury, \$1,000,000 policy limit for bodily injury by disease and \$1,000,000 each employee for bodily injury by disease.