

Fueling Station Development Agreement

This Fueling Station Development Agreement (this “Agreement”) is between HLD Fueling, LLC, an Oklahoma limited liability company, (“Developer”); and The City of Oklahoma City, a municipal corporation, (“The City”), effective as of the date of the last of the Parties to execute it (the “Effective Date”). Developer and The City are the “Parties” and each a “Party.” The Alliance for Economic Development of Oklahoma City (“Alliance”) is a member of the Developer.

Recitals

A. The City desires to promote and assist economic development and community development projects, which involve substantial investments and support elimination of blight and depreciating conditions throughout Oklahoma City, and toward that effort, adopted the Amended and Restated Northeast Renaissance Redevelopment Project Plan, a project plan as defined under the Oklahoma Local Development Act, 62 O.S. § 850, *et seq.*

B. Pursuant to the Amended and Restated Northeast Renaissance Project Plan (“Project Plan”), The City designated the Oklahoma City Economic Development Trust (“OCEDT”) as the entity to carry out the Project Plan and its objectives.

C. The primary purposes of that Project Plan are to benefit a major portion of “northeast” Oklahoma City by, among other things, supporting public and private redevelopment to include residential and service-oriented retail development by redeveloping vacant, abandoned, dilapidated, underutilized, and blighted properties in that area.

D. Developer (and/or its affiliates) previously identified land then owned by The City in northeast Oklahoma City and generally located at the N.E. 36th Street and Lincoln Boulevard in Oklahoma City, Oklahoma which was developed in furtherance of the Project Plan, as set out in the May 18, 2020 Master Development Agreement (as amended) between 36th & Lincoln, LLC, and HLD Grocery, LLC (each entities related to Developer) and The City. That development (the “Shopping Center”) is now comprised of a Homeland Grocery Store, The City’s Wellness Center, and common areas, including a parking lot.

E. The Shopping Center (including the Fueling Station Land as defined below) is subject to the following agreements: (1) the May 11, 2020 Economic Development Agreement between 36th & Lincoln, LLC and HLD Grocery, LLC (both Oklahoma limited liability companies) as Developer and Covenantor, and The City of Oklahoma City and the Oklahoma City Economic Development Trust as the Covenantees, as previously amended; and (2) the February 25, 2025 Amended and Restated Operation and Easement Agreement between 36th & Lincoln, LLC, HLD Grocery, LLC, and HLD Fueling, LLC, collectively as Developer, and The City of Oklahoma City and the Oklahoma City Public Property Authority, (the “OEA”), which will be recorded in the records of the Oklahoma County Clerk and which amends that certain September 29, 2020 Operation and Easement Agreement (the “Original OEA”) entered into between 36th & 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 36th & Lincoln, LLC, HLD Grocery, 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 36th & Lincoln, LLC.

F. The City now owns a parcel of land (the “Fueling Station Land”) within the Shopping Center on which Developer proposes to construct a new Homeland fueling station (the “Fueling Station”). The Fueling Station Land and the proposed development on it are depicted on the site plan (the “Site Plan”) attached as Exhibit A. The Fueling Station Land is more particularly described on Exhibit B. Developer has secured agreements with HAC, INC., a Kansas corporation, (“HAC”) for its operation and occupancy of the Fueling Station pursuant to a long-term lease.

G. In furtherance of those purposes, the Parties desire to enter into this Agreement.

Agreement

1. Defined Terms. This Agreement contains many defined terms, all of which are capitalized. Where each definition is inserted in this Agreement, the defined term is underlined for ease of reference.

2. The Development Scope Defined. This Agreement contemplates the following, all as further set out in this Agreement:

- Developer’s ownership of the Fueling Station Land (which is designated on the Site Plan) for the Fueling Station;
- a commitment for the management and funding of construction of the Fueling Station by Developer.

3. Participation of Developer. The City and Developer agree and understand that Developer is contracted to serve in the capacity of master developer for the development of the Fueling Station Land as set out in this Agreement for the Fueling Station.

4. Term. The term of this Agreement (the “Term”) will commence on the Effective Date and unless earlier terminated by the mutual agreement of the Parties, will continue until Developer’s completion of the Fueling Station and turn-over of it to HAC pursuant to the HAC Lease as set out in this Agreement, such completion date to be documented and agreed to by the Parties.

5. Acquisition of and Title to the Fueling Station Land. The City has title to the Fueling Station Land. As part of the development of the Fueling Station, Developer has completed the Site Plan and will complete any necessary lot splits to divide the Fueling Station Land from adjoining land such that it will be a separate parcel, as generally depicted on the Site Plan. As set out in Section 6, The City agrees to convey the Fueling Station Land to Developer in exchange for the consideration provided herein.

6. The Fueling Station Land: Closing, Construction, and Lease.

6.1 Conveyance of the Fueling Land. At a time and place to be mutually-agreed to by the

parties, The City will execute a Quitclaim Deed in the form attached as Exhibit C, whereby The City will convey the Fueling Station Land to Developer in exchange for Developer paying to The City Eighty-five Thousand Dollars (\$85,000). The sale price represents the fair market value of the Fueling Station Land, determined by an appraiser mutually agreed upon by the City Manager and Developer. As set out in Recital E, the Parties are contemporaneously executing an amendment to the Original OEA to replace the Site Plan of the Shopping Center to show the Fueling Station Land. Developer will pay the fee to have the Quitclaim Deed recorded with the Oklahoma County Clerk. Ad valorem taxes and utility costs will be prorated to the date that the Quitclaim Deed is so recorded.

6.2 Development and Construction of the Fueling Station. Developer agrees to develop and construct the Fueling Station. Developer will coordinate, pay for, and secure completion of the construction of the Fueling Station in coordination with HAC, to HAC's specifications, and pursuant to a schedule mutually agreeable to The City, Developer, and HAC. Developer will keep The City apprised of the status of such construction and the expected date of completion and readiness for turn-over to HAC for occupancy.

6.3 HAC Lease. Developer and HAC have executed a long-term lease for HAC's occupancy of the Fueling Station for retail fuel sales, which lease will be effective upon Developer's completion of the Fueling Station and turn-over of it to HAC pursuant to such lease.

7. 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 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 Agreement; 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 Persons other than the Affected Party's personnel, and weather conditions that actually prevent the Affected Party's performance under this Agreement 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 Agreement due to a Force Majeure Event, that Party (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 the other Party 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 the other Party 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 Agreement 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 Agreement. This Section does not require the Affected Party to settle a strike or labor dispute except in accordance with applicable law.

8. Assignment and Binding Effect. Developer may not sell, convey, transfer, or assign all or

any portion of its interest in this Agreement, in whole or in part, by assignment or operation of law, and may not assign any of its rights or delegate any of its obligations under this Agreement without The City's consent, to be given or withheld in its sole discretion. To the extent that there are successors or assigns permitted under this Section, this Agreement will be binding on and benefit the Parties and their respective successors and assigns.

9. Indemnification and Insurance.

9.1 Indemnification. Developer will fully defend, indemnify, release, and completely hold harmless The City and OCEDT from and against any and all claims, losses, damages, demands, causes of action, suits, judgments, and liabilities of every kind and character, litigation, court costs, expert fees, reasonable attorneys' fees, and any other associated costs of defense or resolution incurred by or asserted against The City that arise by reason of: (1) any injury to or death of any person or any damage to property during the Development Services; (2) any failure by Developer to perform Developer's obligations under this Agreement; or (3) any other occurrence on the Property during the Development Services, unless caused by The City's sole negligence or willful misconduct. In the event of concurrent negligence of Developer and The City, such negligence will be apportioned comparatively in accordance with applicable law.

9.2 Insurance. Throughout the Term, Developer will acquire and maintain a policy of commercial general liability insurance, which policy will: (1) cover its indemnification obligations set out in this Section; (2) be placed with an insurance company licensed to do business in the State of Oklahoma; (3) provide for coverage limits of not less than One Million Dollars (\$1,000,000.00) per occurrence with respect to personal injury and death, and not less than One Million Dollars (\$1,000,000.00) per occurrence with respect to property damage; and (4) name The City and OCEDT as additional insured. Developer will provide The City with a certificate of insurance evidencing such coverage prior to commencement of construction of the Fueling Station.

10. Enforcement. A default under this Agreement will occur if either Party (the "Defaulting Party") materially defaults in the performance of any of the terms, conditions or covenants in this Agreement to be performed by it and if: (1) such Party does not remedy that default within 30 calendar days after Notice by the 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 the Non-Defaulting Party (each an "Event of Default"). If an Event of Default occurs, the 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) the Non-Defaulting Party deems reasonably necessary to perform such obligations. In that event, the Defaulting Party must reimburse the Non-Defaulting Party, upon demand, for all costs reasonably incurred by the Non-Defaulting Party to remedy such default. Notwithstanding the foregoing, the Parties agree that a breach of this Agreement will not entitle either Party to terminate this Agreement.

11. Notices. All notices and other communications required, permitted or contemplated by this Agreement (“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. Either Party may change its contact information by notifying the other Party as required by this Section. Notwithstanding the foregoing, Notices advising the other Party of a breach of this Agreement 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 Developer 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

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
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, 3rd Floor
Oklahoma City, OK 73102
Phone Number: 405-297-2345
Email Address: citymanager@okc.gov

with a copy to:

City of Oklahoma City
Attn: City Clerk
200 North Walker Avenue, 2nd Floor
Oklahoma City, OK 73102
Phone Number: 405-297-2391
Email Address: cityclerk@okc.gov

with a copy to its attorneys:

Municipal Counselors
200 North Walker Avenue, 4th Floor
Oklahoma City, Oklahoma 73102
Phone Number: 405-297-2685
Amy Douglas: Amy.Douglas@okc.gov
Laura McDevitt: Laura.McDevitt@okc.gov

12. Miscellaneous Provisions.

12.1 Relationship of the Parties. The relationship between the Parties is that of independent contractors and extends only and is limited to the rights and obligations of the Parties under this Agreement. This Agreement does not create and will not be construed as creating an agency, partnership, joint venture, or employment relationship between the Parties.

12.2 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 Agreement. Any Claim arising directly or indirectly from or relating to this Agreement 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.

12.3 Entire Agreement; Modification. This Agreement, 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 Agreement. This Agreement may not be supplemented or modified except in a written agreement properly executed by the Parties. All Exhibits and documents referenced in this Agreement are incorporated into this Agreement by reference and are an integral part of this Agreement.

12.4 Waiver. The terms of this Agreement may be waived only by a written document executed and delivered by the waiving Party to the other Party. No course of dealing between the Parties, delay in the exercise of any rights under this Agreement, or failure to object to any action or omission constitutes a waiver of any terms of this Agreement. A waiver of any term of this Agreement will not constitute a continuing waiver of that term.

12.5 Severability. If any provision of this Agreement is determined to be to any extent invalid, illegal, or unenforceable, it will be deemed stricken from this Agreement. All other provisions of this Agreement 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.

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

12.7 Attorneys' Fees. In the event either Party to this Agreement is compelled to file suit to enforce the terms of this Agreement, 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.

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

12.9 Further Assurances. The Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and their intentions.

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

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement and affixed their seals as of the date and year first above written.

[Remainder of page intentionally left blank – Signature Pages and Exhibits follow]

Signature Page – Fueling Station Development Agreement

ATTEST:

Amy K Simpson
City Clerk



THE CITY OF OKLAHOMA CITY

David Holt
MAYOR

Reviewed for form and legality:

Amy Douglas
Assistant Municipal Counselor

Date Executed by the City: 2-25-2025

HLD FUELING, LLC,
an Oklahoma limited liability company

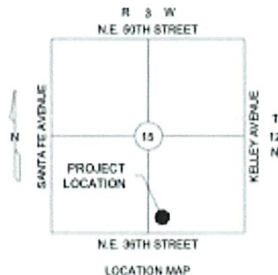
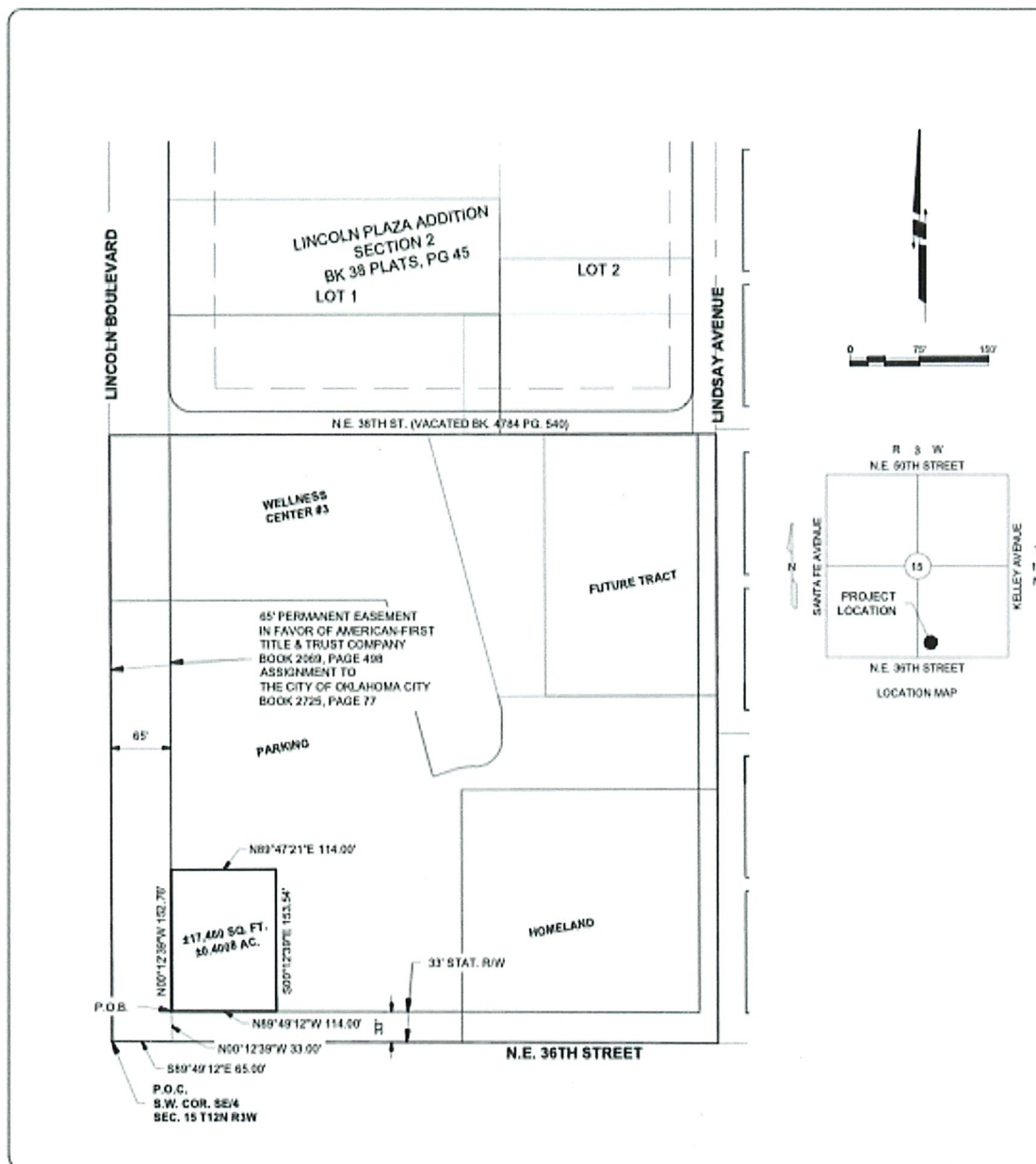
By its Member
The Alliance for Economic Development of Oklahoma City, Inc.,
an Oklahoma not-for-profit corporation

Kenton Tsoodle
Kenton Tsoodle, President

Date Executed: 2/11/25

Exhibit A to Fueling Station Development Agreement

**Depiction of the Fueling Station Land
Site Plan follows**



ACAD FILE: H:\433705\433705.dwg 12/9/2024 2:45 PM, Eason Drenner
XREFS LOADED: 433705.dwg 433705.dwg 433705.dwg

Copyright © 2024 Johnson & Associates

Proj. No.: 4433705
Date: 12-9-24
Scale: 1"=150'

NE 36th & LINCOLN
OKLAHOMA CITY, OKLAHOMA COUNTY, OKLAHOMA
GAS STATION



Johnson & Associates
1 E. Sheridan Ave., Suite 200
Oklahoma City, OK 73104
(405) 441-0011 FAX (405) 441-0018 www.ja-inc.com
Certificate of Authorization #1434 Exp. Date: 05-30-2025
• ENGINEERS • SURVEYORS • PLANNERS •

Exhibit B to Fueling Station Development Agreement

Legal Description of the Fueling Station Land

LEGAL DESCRIPTION

N.E. 36th & Lincoln Gas Station
December 9, 2024

A tract of land being a part of the Southeast Quarter (SE/4) of Section Fifteen (15), Township Twelve (12) North, Range Three (3) West of the Indian Meridian, Oklahoma City, Oklahoma County, Oklahoma, being more particularly described as follows:

Commencing at the Southwest (SW) Corner of said Southeast Quarter (SE/4);

THENCE South 89°49'12" East, along and with the South line of said Southeast Quarter (SE/4), a distance of 65.00 feet;

THENCE North 00°12'39" West, departing said South line, a distance of 33.00 feet to a point on the East Right-of-Way line of Lincoln Boulevard and the North Right-of-Way line of N.E. 36th Street, said point being the POINT OF BEGINNING;

THENCE continuing North 00°12'39" West, along and with the East Right-of-Way line of Lincoln Boulevard, a distance of 152.76 feet;

THENCE North 89°47'21" East, a distance of 114.00 feet;

THENCE South 00°12'39" East, a distance of 153.54 feet to a point on the North Right-of- Way line of N.E. 36th Street;

THENCE North 89°49'12" West, along and with the North Right-of-Way line of N.E. 36th Street, a distance of 114.00 feet to the POINT OF BEGINNING.

Containing 17,460 square feet or 0.4008 acres, more or less.

Basis of Bearing: Grid North as established by state plane datum (Oklahoma State Plane North Zone NAD83)

**Exhibit C to Fueling Station Development Agreement
Form of Quitclaim Deed**

Return and Mail Tax Statements to:

The City of Oklahoma City
Attn: City Clerk
200 N. Walker, 2nd Floor
Oklahoma City, OK 73102

Quitclaim Deed

This Quitclaim Deed is granted by the City of Oklahoma City, a municipal corporation (“Grantor”) to HLD Fueling, LLC, an Oklahoma limited liability company (“Grantee”).

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby quitclaims, grants, bargains, sells, and conveys to Grantee the land in Oklahoma County, Oklahoma described on Attachment A (the “Parcel”), together with all the improvements and appurtenances on the premises, subject to easements, rights-of-way, and restrictive covenants of record, and reserving to Grantor any interest in and to oil, gas, coal, metallic ores, and other minerals not previously reserved or conveyed of record.

To have and to hold the Parcel to Grantee, its successors and assigns, forever.

[Signature Page and Attachment A to follow]

NO DOCUMENTARY STAMPS NECESSARY BY AUTHORITY OF 68 O.S. § 3202(11).

[Signature Page to be inserted]

Attachment A – Quitclaim Deed

A tract of land being a part of the Southeast Quarter (SE/4) of Section Fifteen (15), Township Twelve (12) North, Range Three (3) West of the Indian Meridian, Oklahoma City, Oklahoma County, Oklahoma, being more particularly described as follows:

Commencing at the Southwest (SW) Corner of said Southeast Quarter (SE/4);

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THENCE North 00°12'39" West, departing said South line, a distance of 33.00 feet to a point on the East Right-of-Way line of Lincoln Boulevard and the North Right-of-Way line of N.E. 36th Street, said point being the POINT OF BEGINNING;

THENCE continuing North 00°12'39" West, along and with the East Right-of-Way line of Lincoln Boulevard, a distance of 152.76 feet;

THENCE North 89°47'21" East, a distance of 114.00 feet;

THENCE South 00°12'39" East, a distance of 153.54 feet to a point on the North Right-of- Way line of N.E. 36th Street;

THENCE North 89°49'12" West, along and with the North Right-of-Way line of N.E. 36th Street, a distance of 114.00 feet to the POINT OF BEGINNING.

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Basis of Bearing: Grid North as established by state plane datum (Oklahoma State Plane North Zone NAD83)