

## **SALE AND PURCHASE CONTRACT**

THIS SALE AND PURCHASE CONTRACT ("Contract") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between CAR WASH REAL ESTATE, INC., an Illinois corporation ("Seller") and THE VILLAGE OF ORLAND PARK, COOK AND WILL COUNTIES, ILLINOIS ("Purchaser").

### **RECITALS:**

A. Seller is the owner of the real property consisting of a vacant car wash building and site containing approximately 16,450 square feet (and identified by PIN Nos. 27-09-215-008, -009 and -024), commonly known as 9605-09 West 143<sup>rd</sup> Street, Orland Park, Illinois, as more particularly described on the legal description attached hereto as Exhibit A (the "Real Estate").

B. Seller agrees to sell and Purchaser agrees to purchase the Real Estate on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of each party to the other contained herein, the parties hereto do hereby mutually covenant and agree as follows:

### **ARTICLE 1** **SUBJECT PROPERTY**

The Real Estate and appurtenances thereto owned by the Seller are referred to as the "Subject Property." Also included in the Subject Property, to the extent not hereinbefore set forth, is all Seller's interest, if any, in and to the following:

1.1 The tenements, hereditaments, privileges, and appurtenances in any way belonging or appertaining to the Real Estate, including, without limitation, all mineral, oil, gas and other hydrocarbon substances on and under the Real Estate and all development, air and water rights relating to the Real Estate.

1.2 The land, if any, lying in the bed of any street, road, or avenue, open or proposed, at the foot of, adjoining or below the Real Estate to the center line of such street, road or avenue, and in and to any strips and gores adjoining the Real Estate.

1.3 All easements, if any, and all permits, licenses and rights, whether or not of record, appurtenant to the Real Estate and the use of all strips and rights-of-way (including public and private vehicular and pedestrian rights-of-way), if any, abutting, adjacent, contiguous to or adjoining the Real Estate.

**ARTICLE 2**  
**PURCHASE AND SALE; PURCHASE PRICE**

2.1 A. Subject to the terms and conditions contained herein, Seller agrees to sell the Subject Property to Purchaser, and Purchaser agrees to purchase the Subject Property from Seller.

B. The purchase price ("Purchase Price") for the Subject Property shall be FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$450,000.00).

C. Seller shall deposit, as earnest money, the sum of TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) with the escrow to be established with the Title Company as set forth in Section 6.2 hereof.

D. The Purchase Price, plus or minus prorations, less the earnest money deposited, shall be payable in cash or by wire transfer at the Closing (as hereinafter defined).

**ARTICLE 3**  
**REVIEW OF SUBJECT PROPERTY**

3.1 Within seven (7) business days after the Acceptance Date, Seller shall deliver to, or make available to, Purchaser complete, legible copies (including all exhibits) of the following:

A. The most recent survey of the Real Estate in Seller's possession, if any.

B. All written reports and any other documents in Seller's possession relating to the soil and environmental condition of the Subject Property, if any.

C. The most recent title commitment relating to the Real Estate which is in Seller's possession, if any.

D. Any and all other documents related to the Subject Property, if any.

3.2 Purchaser and Seller and their respective officers, employees, agents, attorneys, architects, engineers and consultants shall cooperate with each other to facilitate the consummation of this transaction on or before the Closing Date.

**ARTICLE 4**  
**TITLE**

4.1 Not less than 30 days prior to the Closing Date (as defined in Section 6.1), Purchaser shall obtain, at Purchaser's expense, a commitment from Chicago Title Insurance Company (the "Title Company") and underlying title documents to issue to Purchaser or its designee at Closing an ALTA Owner's Title Policy in the amount of the Purchase Price, naming Purchaser as proposed insured ("Title Commitment"), which Title Commitment (i) shall obligate the Title Company to insure good and marketable fee simple title to the Real Estate, (ii) shall show that title to the Real Estate is subject only to real estate taxes not yet due and payable. Purchaser shall provide written notice of any other matters which are unacceptable to Purchaser in its sole

discretion within fourteen (14) days of receipt of the Title Commitment and any item to which Purchaser shall not object shall be deemed a "Permitted Exception." At Closing, Purchaser shall cause the Title Company to issue the Title Policy to Purchaser, with full extended coverage over all general exceptions, a survey endorsement, a restrictions endorsement and such other endorsements reasonably required by Purchaser.

4.2 Purchaser, at its option, shall obtain, at Purchaser's expense, an ALTA survey, dated no earlier than six (6) months from the Closing Date, prepared by an Illinois registered/licensed surveyor, certified to Purchaser, and containing such information and detail as are sufficient to obtain extended title insurance over survey exceptions, of the Real Estate acceptable to Purchaser in Purchaser's sole discretion (the "Survey").

4.3 If the aforesaid title insurance commitment issued by the Title Company or the Survey shows that title or Survey is not in the condition required by Section 4.1 or Section 4.2 hereof, Seller, at Seller's option, shall have until the expiration of the Review Period referenced in Section 5.2, below, in which to remedy the defects of title or Survey shown thereon or, if approved by Purchaser and its counsel, to obtain title insurance, at Purchaser's sole cost and expense from the Title Company insuring over and against such defects and to provide evidence satisfactory to Purchaser thereof. If Seller fails to remedy such defects or obtain such title insurance prior to the expiration of the Review Period, Purchaser shall have the option, exercisable prior to the termination of the Review Period (a) to accept the status of title subject to such title defects, and to proceed with this Contract, or (b) to give written notice to Seller of Purchaser's election to terminate this Contract.

## ARTICLE 5 CONDITIONS PRECEDENT TO CLOSING

5.1 Purchaser's obligation to consummate this Contract and the Closing is subject to satisfaction of all of the conditions set forth in this Article 5. Purchaser may waive any or all of such conditions in whole or in part, but any such waiver shall be effective only if made in writing.

5.2 Purchaser shall have thirty (30) days from the Acceptance Date (the "Review Period") to pursue its examination of Real Estate including, but not limited to, conducting feasibility studies such as environmental, soil reports and studies (collectively, the "Feasibility Studies"). Seller shall cooperate with Purchaser in these matters where reasonably required. Seller will allow Purchaser access to the Subject Property during the Review Period to perform customary inspections and "due diligence" concerning the Subject Property, including review of the materials identified below. During the Review Period, upon reasonable notice to Seller, Purchaser shall have reasonable access to the Subject Property and shall be entitled to make such inspections, tests, copies and verifications as it shall deem reasonably necessary. Purchaser shall fully indemnify Seller from all loss, liability, cost and expense arising in connection with any inspection or test of the Subject Property performed by or for Purchaser and any mechanics' liens which may be claimed on account thereof.

In order to facilitate Purchaser's inspections, Seller will provide the following to Purchaser within seven (7) business days after the Acceptance Date, to the extent such information and materials are in Seller's possession or control or readily available to Seller:

all studies and reports in the possession of Seller relating to the physical condition of the Subject Property, including (without limitation) any studies or reports pertaining to the environmental condition of the Subject Property (the "Review Materials").

5.3 If Purchaser determines, in Purchaser's sole judgment, that the results of the Feasibility Studies are unsatisfactory, or Purchaser determines the Real Estate is not suitable for any reason in its sole discretion, Purchaser may, at its option, terminate this Contract by written notice to Seller prior to the end of the Review Period, whereupon this Contract shall become null and void and of no further force or effect and the parties hereto shall have no further obligations to one another.

5.4 Purchaser agrees to indemnify Seller from and against any and all expense, cost or liability, including attorney's fees, arising from any Feasibility Studies, tests and/or inspections of the Subject Property conducted by Purchaser or Purchaser's agents.

## ARTICLE 6 CLOSING

6.1 Provided all conditions precedent set forth in Article 5 have been satisfied, the consummation of the transaction contemplated hereunder (hereinafter referred to as "Closing") shall take place at the office of the Title Company on April 30, 2009 (the "Closing Date"), or such other date as is mutually agreeable to the parties.

6.2 The closing and disbursement of funds of the transaction contemplated hereunder shall take place simultaneously in an escrow with the Title Company pursuant to a written escrow agreement among the attorneys for Purchaser and Seller, and Escrowee, containing terms and conditions consistent with the terms and conditions of this Contract (which shall in all events be controlling) and mutually reasonably satisfactory to Purchaser and Seller. The cost of any escrow services provided by Escrowee shall be paid in accordance with Section 9.1.

## ARTICLE 7 SELLER'S REPRESENTATIONS AND WARRANTIES

7.1 Seller represents and warrants to Purchaser that as of the date of this Contract and as of the Closing Date:

A. Existence and Authority. Seller is the corporate entity holding title to the Subject Property duly existing under the laws of the State of Illinois, has the necessary authority, power and capacity to execute all necessary directions to convey the Property and to enter into this Contract and the documents and transactions contemplated herein and to carry out the obligations of this Contract and the documents and transactions contemplated herein. Seller has good right, full power and absolute authority to direct the sale, assignment and transfer the Property to Purchaser in the manner contemplated herein. Seller has taken all necessary or desirable actions, steps and other proceedings to approve or authorize, validly and effectively, the entering into, and the execution, delivery and performance of, this Contract and the sale and transfer of the Property by Seller to Purchaser. This Contract is a legal, valid and binding obligation of the Seller, enforceable against it in accordance with its terms subject to: (i) bankruptcy, insolvency, moratorium, reorganization and other laws

relating to or affecting the enforcement of creditors' rights generally; and (ii) the fact that equitable remedies, including the remedies of specific performance and injunction, may only be granted in the discretion of a court.

**B. Contracts.** Seller has not entered into any material management, maintenance, service, supply, insurance or other contracts that affect any portion of any property comprising the Subject Property or its operation and that will be binding upon Purchaser after the Closing.

**C. Due Diligence Items.** To the current actual knowledge of Seller, after due inquiry, the information set forth in the Review Materials provided by Seller is accurate and complete in all material respects (as of the respective dates thereof).

**D. Notices of Violations.** Except as disclosed to Purchaser in writing prior to the expiration of the Review Period, as part of the Review Materials or otherwise, Seller has not received written notice from any governmental authority of any violations of law (including any Environmental Laws, defined below) at or affecting the Subject Property that have not been cured prior to the Acceptance Date.

**E. Litigation.** Neither the Seller nor the Subject Property is a party in any pending litigation, legal proceeding or investigation which would either materially and adversely affect Seller's performance under this Contract or have a material adverse effect on the Subject Property after the Close of Escrow, and to current actual knowledge of Seller no such litigation, legal proceeding or investigation has been threatened against Seller or the Subject Property.

**F. Environmental Matters.**

(i) From the date hereof to the date the Purchaser obtains possession of the Subject Property as defined in this Contract, the Seller agrees (i) to operate, maintain and manage the Subject Property (including the groundwater thereunder) in the ordinary course of business; (ii) that the Subject Property (including the groundwater thereunder) will comply in all respects, and will remain in compliance, with all applicable federal, state, regional, county and local laws, statutes, rules, regulations or ordinances concerning public health, safety or the environment, and all Environmental Laws (as defined below); and (iii) to maintain existing insurance on the Subject Property.

(ii) Seller has no knowledge of: (i) the presence of any Hazardous Materials (as defined below) on, under or in the Subject Property (including the groundwater thereunder); (ii) any Release (which means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the indoor or outdoor environment or discarding of barrels, drums, containers, tanks and other receptacles containing or previously containing any hazardous Material) or threatened Release of Hazardous Materials that have occurred or are presently occurring on or onto the Subject Property (including the groundwater thereunder); or (iii) any spills or disposal of Hazardous Materials that have occurred or are occurring off the Subject Property (including the groundwater thereunder) as a result of any construction on or operation and use of the Subject Property (including the groundwater thereunder).

(iii) To the best knowledge and belief of the Seller, the Subject Property has never been used (and from the date hereof to the date Purchaser obtains possession of the Subject Property) will not be used as a landfill, open dump or a waste dump, or for any activities involving, directly or indirectly, the use, generation, treatment, storage or disposal of any hazardous or toxic chemical material substance or waste. The Subject Property (including the groundwater thereunder) does not contain underground storage tanks or Hazardous Materials, and the Seller has received no notice of nor to Seller's best knowledge does the Subject Property (including the groundwater thereunder) violate any Environmental Laws. For purposes of this Contract, the phrase "Environmental Laws" shall mean any federal, state, county or local law, statute, ordinance, order, decree, rule or regulation relating to releases, discharges, emissions or disposals to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use, handling, storage or disposal of polychlorinated biphenyls, asbestos or urea formaldehyde, to the treatment, storage, disposal or management of Hazardous Materials. For the purposes of this Contract, the phrase "Hazardous Materials" shall mean each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under Environmental Laws or the release of which is regulated under Environmental Laws.

(iv) The Seller has received no notice of and to the best of Seller's knowledge and belief the Subject Property (including the groundwater thereunder) does not violate any law, regulation or contract applicable to the Subject Property (including the groundwater thereunder) or its use. With respect to the Subject Property (including the groundwater thereunder), if the Seller shall (i) receive notice that any violation of any federal, state, county or local Environmental, health or safety law or regulation may have been committed or is about to be committed with respect to the Subject Property (including the groundwater thereunder), (ii) receive notice that any administrative or judicial complaint or order has been filed or is about to be filed alleging violations of any federal, state, county or local Environmental law or regulation or requiring Seller to take any action in connection with the release of any Hazardous Materials into the environment, (iii) receive any notice from a federal, state, county or local governmental agency or private party alleging that the Seller may be liable or responsible for costs associated with a response to or cleanup of a release of any Hazardous Materials into the environment or any damages caused thereby, (iv) receive any notice that the Seller is subject to federal, state, county or local investigation evaluating whether any remedial action is needed to respond to the release of any hazardous or toxic waste, substance or constituent, or other Hazardous Materials into the environment, or (v) receive any notice that the Subject Property or assets of the Seller are subject to a lien in favor of any governmental entity for any liability under the federal, state, county or local Environmental Laws or regulations or damages arising from or costs incurred by such governmental entity in response to a release of a hazardous or toxic waste, substance or constituent, or other Hazardous Materials into the environment, then the Seller shall promptly provide the Purchaser with a copy of such notice, and in no event later than seven (7) days from the Seller's receipt thereof.

(v) There are no proceedings pending or, to the best knowledge and belief of the

Seller, threatened against or affecting the Seller in any court or before any governmental authority or arbitration board or tribunal which, if adversely determined, would materially and adversely affect the Subject Property. The Seller is not in default with respect to any order of any court or governmental authority or arbitration board or tribunal, which default would materially and adversely affect the Subject Property.

(vi) When used in this Contract, the expression "to the best knowledge and belief of Seller," or words to that effect, is deemed to mean that the Seller is not aware of any thing, matter or the like that is contrary, negates, diminishes or vitiates that which such term precedes.

7.2 All representations and warranties of Purchaser contained in this Contract shall be true and correct as of the date made and as of the Close of Escrow with the same effect as though such representations and warranties were made at and as of the Close of Escrow.

## ARTICLE 8 CLOSING DOCUMENTS

8.1 Prior to or at the Closing, Seller shall execute and/or deliver, or cause to be delivered, to Purchaser and/or, where applicable, the Title Company, the following:

- A. The Owner's Policy of Title Insurance in form and content required by Sections 4.1 and 4.2.
- B. A duly executed and acknowledged Corporate Warranty Deed conveying to Purchaser, good and marketable fee simple title to the Real Estate and all easements and other rights appurtenant thereto, subject only to the Permitted Exceptions.
- C. "No Lien" affidavits.
- D. Possession of the Subject Property.
- E. A certificate of non-foreign status of Seller, pursuant to Sections 897 and 1445 of the Internal Revenue Code of 1986, as amended, and any rules, regulations and orders which may be promulgated thereunder.
- F. Affidavit of title in customary form.
- G. All other documents reasonably required by the Title Company or Purchaser's counsel.

8.2 At the Closing, Purchaser will deliver to Seller and/or, where applicable, the Title Company, the Purchase Price in accordance with Section 2.1 hereof and such other assignments and other documents and instruments as are required to transfer Seller's interest in the Subject Property to Purchaser.

8.3 At the Closing, Seller and Purchaser shall jointly deliver:

- A. Closing statements.
- B. State and county transfer tax declarations, if any.
- C. All other documents reasonably required by the Title Company, Seller's and/or Purchaser's counsel.

## ARTICLE 9 CLOSING ADJUSTMENTS

9.1 Except as otherwise set forth hereinafter, if this Contract is consummated, the following items shall be paid, prorated, or adjusted as of the close of business on the day prior to the Closing Date ("Proration Date") in the manner hereinafter set forth:

- A. Purchaser shall be responsible for and pay the escrow fees, if any, and the owner's title insurance policy with extended coverage. Seller shall be solely responsible for all costs incurred to repay any liens, record any releases or, at Seller's election, any endorsements to the Title Policy, to cause the Title Company to insure over any exception to the Title Policy, and Seller's attorneys' fees and expenses incurred in connection with this transaction.
- B. Purchaser shall be responsible for and pay the cost of recording the Corporate Warranty Deed and the entire escrow fee.
- C. Purchaser shall be responsible for any state and county transfer, documentary, and stamp taxes on the sale contemplated hereunder.
- D. Seller shall be fully responsible for the payment and/or satisfaction of all outstanding real estate taxes and special assessments due and unpaid at the time of Closing. In addition, Seller shall, at Closing, credit Purchaser with prorated share of real estate taxes for the calendar year of Closing, prorated to the Closing Date based on 105% of the last ascertainable taxes with an agreement to re-prorate such real estate taxes upon receipt of the final real estate tax bill for the year of Closing.
- E. Seller and Purchaser shall each pay their respective legal fees and expenses and the cost of performance of each of its respective obligations hereunder (except if specifically provided to the contrary herein).
- F. All other items which are customarily prorated in transactions similar to the transaction contemplated hereby and which were not heretofore dealt with in this Article 9, will be prorated as of the Proration Date.

9.2 All adjustments made pursuant to Article 9, shall be paid in cash or as a credit against the cash portion of the Purchase Price at Closing and all prorations shall be made at the Closing.

**ARTICLE 10**  
**DEFAULTS**

10.1 In the event of the default by Purchaser to consummate this Contract on the Closing Date, and such default is not cured within fifteen (15) days from the date of Seller's written notice to Purchaser, Seller may terminate its obligations under this Contract by further written notice thereof to Purchaser, and the earnest money deposited by Purchaser as provided herein shall be paid over to Seller as Seller's sole and exclusive remedy.

10.2 In the event this transaction fails to close for any reason whatsoever, other than Purchaser's default, Purchaser, at its option, may: (a) terminate its obligations under this Contract by written notice thereof to Seller; or (b) specifically enforce the terms and conditions of this Contract against Seller.

**ARTICLE 11**  
**CONDEMNATION**

11.1 In the event that prior to the Closing Date written notice shall be received by Seller of any action, suit, or proceeding to condemn or take all or any material part of the Real Estate under the powers of eminent domain by any other entity or condemning authority other than Purchaser, Purchaser shall have the right to terminate its obligations under this Contract within twenty (20) days after receiving from Seller written notice of such condemnation or taking, in which event, Seller shall retain the Deposits (and all interest accrued thereon).

11.2 In the case of condemnation, if Purchaser shall not elect to terminate its obligations under this Contract pursuant to Section 11.1, Purchaser shall receive an absolute assignment on the Closing Date of the entire proceeds of such condemnation award, and the Purchase Price shall be the full amount provided in Section 2.1.

11.3 Seller and Purchaser agree and acknowledge that this transaction and the purchase price have been negotiated under the threat of condemnation. The parties agree and acknowledge that Purchaser has the authority to acquire the Subject Property by eminent domain and absent this Sale and Purchase Contract, Purchaser would have filed an eminent domain proceeding to acquire the Subject Property.

**ARTICLE 12**  
**BROKER**

12.1 Each party represents that no person, corporation, or partnership acting as real estate broker, finder or real estate agent brought about this Contract.

**ARTICLE 13**  
**MISCELLANEOUS**

13.1 All notices to be given hereunder shall be personally delivered or sent by express or overnight mail or courier, or by certified or registered mail, return receipt requested, with postage prepaid, to the parties at the following addresses (or to such other or further addresses as the parties

may hereafter designate by like notice similarly sent):

To Seller: Car Wash Real Estate, Inc.

Attn: \_\_\_\_\_

with copy to: William E. Ryan, Esq.  
Ryan and Ryan  
33 N. Dearborn Street – Suite 1530  
Chicago, Illinois 60602  
Fax No. (312) 236-2556

To Purchaser: Village of Orland Park  
14700 S. Ravinia Avenue  
Orland Park, Illinois 60462  
Attn: Paul Grimes, Village Manager

with copy to: E. Kenneth Friker, Esq.  
Klein, Thorpe and Jenkins, Ltd.  
15010 S. Ravinia – Suite 10  
Orland Park, Illinois 60462  
Fax No. (708) 349-1506

All notices sent by express or overnight mail shall be deemed effectively given on the business day next following the date of such mailing. All notices personally delivered shall be deemed effectively given on the date of such delivery. Notwithstanding anything to the contrary herein, if any notice to be given hereunder is sent by facsimile to either Seller's attorney or Purchaser's attorney, as identified above, and said notice is also sent to the parties in the manner required by this paragraph within twenty-four (24) hours after the time of such facsimile transmission, then said notice shall be deemed effectively given on the date and time of confirmation of such facsimile transmission.

13.2 This Contract, and the Exhibits attached hereto, embody the entire agreement between the parties in connection with this transaction. There are no oral or parol agreements, representations or inducements existing between the parties relating to this transaction which are not expressly set forth herein and covered hereby. This Contract may not be modified except by a written agreement signed by all of the parties.

13.3 Each covenant, condition, warranty, indemnification and representation set forth herein shall survive the Closing.

13.4 No written waiver by any party at any time of any breach of any provision of this Contract shall be deemed a waiver of a breach of any other provision herein, or a consent to any subsequent breach of the same or any other provision. If any action by any party shall require the

consent or approval of another party, such consent or approval of such action on any one occasion shall not be deemed a consent to or approval of such action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion.

13.5 The captions, sections, numbers and article numbers appearing in this Contract are inserted only as a matter of convenience and do not define, limit, construe or describe the scope or intent of such sections or articles of this Contract or in any way affect this Contract.

13.6 All parties hereto agree that time is of the essence in this transaction and that this Contract may be executed in counterparts and shall be governed by and interpreted in accordance with the laws of the State of Illinois.

13.7 If any action or proceeding is commenced by either party to enforce their rights under this Contract or to collect damages as a result of the breach of any of the provisions of this Contract, the prevailing party in such action or proceeding, including any, bankruptcy, insolvency or appellate proceedings, shall be entitled to recover from the losing party, all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and court costs, in addition to any other relief awarded by the court.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

**SELLER:**

**CAR WASH REAL ESTATE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**DATE OF SELLER'S ACCEPTANCE:** \_\_\_\_\_, 2009

**PURCHASER:**

**VILLAGE OF ORLAND PARK,  
COOK AND WILL COUNTIES, ILLINOIS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**DATE OF PURCHASER'S ACCEPTANCE:** \_\_\_\_\_, 2009.

**Exhibit A**

**LEGAL DESCRIPTION OF REAL ESTATE**