

**MARYLAND HOUSE AND CHESAPEAKE HOUSE
LEASE AND CONCESSION AGREEMENT
MODIFICATION NO. 6 (DIESEL EXHAUST FLUID)
To
MARYLAND TRANSPORTATION AUTHORITY
CONTRACT NO. 60833436R
I-95 TRAVEL PLAZAS**

THIS MODIFICATION NO. 6 to Maryland Transportation Authority Contract No. 60833436R (the "Agreement") is effective as of January 16, 2014, by and between the Maryland Transportation Authority (hereinafter referred to as "MDTA") and Areas USA MDTP, LLC (hereinafter referred to as "Concessionaire").

WHEREAS, the MDTA, an agency of the State of Maryland, entered into an Agreement, effective March 19, 2012, for the redevelopment of the two Service Area Travel Plazas, the Maryland House located in Harford County and the Chesapeake House located in Cecil County on the John F. Kennedy Memorial Highway with Concessionaire;

WHEREAS, the Agreement defines "fuel" as an automotive fuel, including diesel, gasoline, or other sources used to power vehicles at the Fueling Facilities, including Gasoline, Diesel and, Alternative Fuels;

WHEREAS, Sunoco, Inc. is a subcontractor to Areas USA, MDTP, LLC and is responsible for the construction and operations of the new fueling and convenience store facilities at the Travel Plazas;

WHEREAS, as part of the capital investment for fueling facilities at the Maryland House and Chesapeake House, Sunoco is installing a diesel exhaust fluid ("DEF") offering at the high flow diesel truck lanes;

WHEREAS, DEF does not meet the definition of fuel within the Agreement;

WHEREAS, The Concessionaire and Sunoco, Inc. in order to be able to set a competitive price for DEF obtained at the Fuel Service Equipment, have requested that DEF sales from Fuel Service Equipment be treated as a new revenue source;

WHEREAS, The parties desire to modify the Agreement to calculate revenue payments for DEF sales from Fuel Service Equipment by the same method used for calculating revenue payments for diesel fuel; and

WHEREAS, on January 23, 2014, the MDTA Board unanimously approved this Contract Modification and delegated authority to the Executive Secretary to finalize and execute approval documents.

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I-95 Travel Plazas - Lease and Concession Agreement
Maryland Transportation Authority &
Areas USA MDTP, LLC

NOW, THEREFORE, the parties agree as follows:

- A. In accordance with the MDTA Board approval, the effective date of this modification is the opening of the new Maryland House Travel Plaza, January 16, 2014.
- B. The Agreement will be modified as indicated on Attachment A to modify portions of the Agreement including the following:
 - a. Agreement, Section 1.4 Definitions, page 9 to include the definition of diesel exhaust fluid;
 - b. Agreement, Section 1.4 Definitions, page 12 to indicate that DEF sales from Fuel Service Equipment is not Gross Revenue;
 - c. Agreement, Section 9.5 Fuel and Oil Operations, page 45 to modify the title to include DEF;
 - d. Agreement, Section 9.5.4 Prices of Fuel, page 45 to modify the provision to include DEF prices;
 - e. Agreement, Schedule 9.5 Fuel Prices Schedule to include DEF sales from Fuel Service Equipment; and
 - f. Agreement, Exhibit D Concessionaire's Payment Schedule to include DEF in the Diesel table so that the combined volume of Diesel and DEF gallons sold will be used when determining the tier and corresponding rate of payment to the MDTA.
- C. Both parties acknowledge that although DEF obtained at the fuel dispensers is not a fuel, it will be treated the same as a diesel fuel product with regards to pricing.
- D. Prices charged for DEF sales from Fuel Service Equipment will be set in accordance with the Agreement, Section 9.5.4, and the Schedule of Prices, Schedule 9.5, as amended in Attachment A.
- E. The monthly quantity of DEF sold from Fuel Service Equipment will be added to the monthly total of diesel fuel sold in order to determine the appropriate pricing tier and rate of payment to the MDTA in accordance with Exhibit D of the Lease and Concession Agreement.
- F. The terms and conditions of this Modification No. 6 constitute all of the additional rights and obligations of the parties. This Modification No. 6 does not serve to modify any other provisions of the Agreement which shall remain in full force and effect, unless expressly amended herein.

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IN WITNESS WHEREOF, the parties hereto have caused this Modification No. 6 to be executed in two original copies this 6th day of March, 2015.

Witness:

Tracy Edwards

MARYLAND TRANSPORTATION AUTHORITY

Bruce W. Gartner

Bruce W. Gartner
Executive Director

Date: 3/6/15

Attest:

Eduardo Uribe

AREAS USA MDTP, LLC

By: Eduardo Uribe

Printed Name: Eduardo Uribe

Title: Vice President

Date: 2/26/15

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:
this 4th day of March, 2015

Kimberly Hullend
Assistant Attorney General

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“Diesel” means fuel sold for use in diesel motor vehicles and diesel motor vehicle engines that is commonly or commercially known or sold as diesel fuel.

“Diesel Exhaust Fluid” or “DEF” means a urea-based chemical reactant designed specifically for use in modern diesel vehicles to reduce harmful exhaust emissions.

“Discharge” means release, threatened release, deposit, spillage, leakage, escape, uncontrolled loss, seepage or filtration.

“Effective Date” means the date from which the term of the Lease and Concession Agreement will begin to run once all parties have approved and executed the document including the OAG, MDTA Board and BPW. The term “Effective Date” means 12:01 a.m. on _____.

“Employees” means the Key Staff and all other employees supplied by or on behalf of any Subcontractor with respect to any portion of the Leased Premises.

“Environmental Laws” means all Governmental Rules now or hereafter in effect regulating, relating to, or imposing liability or standards of conduct concerning the environment; or to emissions, discharges, releases, or threatened releases of hazardous, toxic, or dangerous waste, pollutant, contaminant, substance, or material into the environment including into the ground, air, water, surface water, or groundwater or onto land; or relating to the manufacture, processing, distribution, use, re-use, treatment, storage, disposal, transport; or handling of hazardous, toxic, or dangerous waste, pollutant, contaminant, substance, or material; or otherwise relating to the protection of public health, public welfare, public safety or the environment (including protection of non-human forms of life, land, surface water, groundwater, and air), including the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. (“CERCLA”), as amended by the Superfund Amendment and Reauthorization Act of 1986; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (“RCRA”), as amended by the Solid and Hazardous Waste Amendments of 1984; the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.; the National Environmental Policy Act, 42 U.S.C. §4321 et seq.; the Occupational Safety and Health Act, 29 U.S.C. §651 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801 et seq.; the Hazardous Materials Transportation Uniform Safety Act; the Oil Pollution Act of 1990; the Endangered Species Act, 16 U.S.C. §1531 et seq.; the Federal Water Pollution Control Act, the Clean Water Act, 33 U.S.C. §1251 et seq.; the Clean Air Act, 42 U.S.C. §7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. §300f et seq.; the Migratory Bird Treaty Act, 16 U.S.C. §703 et seq.; and the Natural Resources Article and the Environmental Article of the Annotated Code of Maryland and implementing regulations; and any other federal or state environmental requirements in addition to these acts or other laws, together with all rules, regulations, codes, orders, decrees, and judicial decisions now or hereafter promulgated under any of the foregoing, all as amended and supplemented previously or in the future.

“EPA” means the U.S. Environmental Protection Agency or its successor.

“Equipment and Fixtures” means, collectively, Food and Beverage Equipment and Furnishings, HVAC, pumps, lights, mechanical and electrical wiring and equipment, plumbing, pumps, wells, boilers, hot water equipment, auxiliary generators, compressors, toilets, sinks, water fountains, security and surveillance equipment, closed circuit televisions and other such equipment affixed to the Leased Premises.

“Gross Revenue(s)” means the total amount in U.S. dollars of goods and services, whether for cash or on credit, whether or not payment is actually made, for food, beverages, services, gifts or merchandise certificates and all other receipts for business conducted at, in or about the Travel Plazas, of Concessionaire, its subtenants, sublessees, subconcessionaires, and any other person or entity authorized by the Concessionaire to conduct any type of business operation within any portion of the Leased Premises, and the amounts generated from sales, fees or receipts of any source whatsoever on the Leased Premises whether sold for consumption or use on or off the Leased Premises, including but not limited to, royalties and rebates provided to Concessionaire as a result of gross sales from Vending Machines and ATM fees. Gross Revenue shall also include the monetary value of any goods or services that are bartered. Gross Revenue shall not include:

- (a) all revenues and receipts from Fuel sales and DEF sales from Fuel Service Equipment;
- (b) intra-corporate transactions, rebates, and refunds to customers;
- (c) credits and refunds to customers for food and beverage items purchased at the Travel Plazas to the extent that any refund was actually granted, either in the form of cash or credit, and receipts in the form of refunds for or the value of merchandise, supplies or equipment returned to shippers, suppliers, or manufacturers;
- (d) amounts of any separately stated federal, state, municipal or other governmental excise (except federal manufacturer’s excise), use, sales, privilege or retailer’s occupation taxes now or hereafter imposed and required to be collected by the Concessionaire directly from patrons or customers or as part of the price for any goods, wares, merchandise, services or displays and required to be paid over in turn by the party or parties so collecting to any governmental agency, or other like taxes that may be enacted in the future;
- (e) rental payments from any Occupancy Tenant to the Concessionaire to the extent that all Gross Revenues from any Occupancy Tenant’s business is included in Gross Revenue;
- (f) charges paid to Concessionaire by its customers for the mailing of purchased items, but only to the extent of the actual mailing cost thereof;
- (g) merchandise, supplies or equipment exchanged or transferred between Travel Plazas or from or to other locations of business of the Concessionaire where such exchanges or transfers are not made for the purpose of avoiding a sale which would otherwise be made from or at said Travel Plaza;
- (h) the amount of any cash or quantity discounts received from sellers, suppliers, or manufacturers;
- (i) the amount of any discounts given to Concessionaire’s employees;
- (j) the amount of any gratuities paid or given by patrons or customers to employees of the Concessionaire; or
- (k) petroleum product royalties and rebates provided to Concessionaire.

Section 9.5 Fuel, Oil and DEF Operations

9.5.1 Availability

Fuel Service shall be provided at each Travel Plaza on a 24/7/365 basis, except (i) during the period of construction of the Initial Improvements on the Leased Premises, and (ii) the event of an emergency (including a Fuel spill or temporary failure of operation of the Fuel Service Equipment), force majeure, power-outage (not due to the failure of any emergency generator) or release or discharge of any Hazardous Materials and subject to any applicable Legal Requirements, each as may restrict MDTA or Concessionaire from operating on a 24/7/365 basis. Fuel Service shall at all times include a minimum of one grade of regular unleaded Gasoline commonly known as "Regular", one grade of mid-grade unleaded Gasoline commonly known as "Mid-Grade", and one grade of high-octane unleaded Gasoline commonly known as "Premium". In addition, Fuel Service shall include one grade of Diesel fuel at the Travel Plazas. All Gasoline and Diesel formulations shall be compliant with all Legal Requirements. If at any time during the Term, Legal Requirements or other factors should preclude a specific Gasoline or Diesel formulation from being sold at the Travel Plazas, MDTA shall have the right, upon written request from Concessionaire, to approve a change in the types of Gasoline required to be sold at the Travel Plazas.

9.5.2 Self Service and Assisted Fueling

Fuel Service shall be provided on a self service basis, provided that Concessionaire, at its election, may also provide full service at any of the Travel Plazas and shall, at no additional cost, at all times provide for "assisted fueling" Fuel Service at all Travel Plazas for patrons requesting or requiring such assistance and shall provide clear and conspicuous signage directing patrons as to how and where to receive "assisted fueling" Fuel Service. There shall be at all times an adequate supply of window washing equipment (including washer fluid), towels for checking oil levels, adequate supplies of items necessary for patrons to add their own motor oil to their automobiles and such other services and items as may be proposed by Concessionaire in accordance with the Performance Standards.

9.5.3 Air and Water

Air, air gauges and water shall be made available at all times free of charge to the public in accordance with the Performance Standards and applicable Legal Requirements.

9.5.4 Prices of Fuel and DEF

Prices charged at the Service Areas for Fuel and DEF obtained at the Fuel Service Equipment shall be determined in accordance with Schedule 9.5 attached hereof. Upon mutual agreement, Schedule 9.5 may, from time to time, be amended, altered, supplemented and/or replaced. MDTA and Concessionaire agree that Concessionaire may increase or decrease the prices per gallon for any grade of Gasoline and Diesel in accordance with Schedule 9.5 without MDTA's consent.

9.5.5 Pump Meter Readings and Tank Inventories

Concessionaire shall prepare and provide MDTA Pump Meter Readings and Tank Inventories or such other reports as the parties may mutually agree for each Travel Plaza. Concessionaire shall use commercially reasonable efforts to have all Pump Meter Readings and

Schedule 9.5

I-95 Travel Plazas Lease and Concession Agreement

FUEL AND DEF PRICES SCHEDULE

Fuel Price Surveys

The MDTA and Concessionaire will mutually identify and agree upon nearby comparable off-road locations for the purpose of conducting fuel price surveys, electronically or physically, with the frequencies identified below.

Gasoline: Fuel Price Surveys to be completed 3 (three) times per week, with retail posted prices up to 6 (six) cents per gallon (cpg) above survey average. Surveys typically will be performed on Mondays, Wednesdays and Fridays.

Diesel: Fuel Price Surveys to be completed 3 (three) times per week, with retail posted prices up to 2 (two) cents per gallon (cpg) above survey average. Surveys typically will be performed on Mondays, Wednesdays and Fridays.

Diesel Exhaust Fluid: DEF Price Surveys to be completed 3 (three) times per week, with retail posted prices up to 2 (two) cents per gallon (cpg) above survey average. Surveys typically will be performed on Mondays, Wednesdays and Fridays.

Exhibit D - Concessionaire's Payment Schedule

MDTA Rent Table: Primary Facilities at Maryland and Chesapeake House Travel Plazas

Sales ¹	Min Sales/Lease Year	Max Sales/Lease Year	%
TIER 1	\$ -	\$ 45,000,000	10%
TIER 2	\$ 45,000,001	\$ 52,000,000	11%
TIER 3	\$ 52,000,001	\$ 59,000,000	12%
TIER 4	\$ 59,000,001	\$ 66,000,000	13%
TIER 5	\$ 66,000,001	\$ 75,000,000	14%
TIER 6	\$ 75,000,001	Unlimited	15%

Notes:

1. If the sales decrease to a different tier, then the revenue payment will be equivalent to its appropriate tier rate
2. Once sales reach a particular tier level, revenue payments will be made in the percentage identified for that tier on all sales

MDTA Rent Table: C-Store & Fuel

Interim Period Rent: Sunoco shall provide a guaranteed flat rent, prorated for partial months, for 24 consecutive months after the first partial month. The monthly rent for each plaza is calculated by taking the last 12 months sales figures – September 2010 through August 2011 – and applying the proposed rents below:

Maryland House: \$73,540/mo or \$882,480/yr
Chesapeake House: \$32,730/mo or \$392,760/yr

MDTA Rent Table: Maryland House

Gasoline	Min Gallons/Lease Year	Max Gallons / Lease Year	Rate
TIER 1	-	15,000,000	7.00
TIER 2	15,000,001	17,000,000	8.00
TIER 3	17,000,001	19,000,000	9.00
TIER 4	19,000,001	21,000,000	10.00
TIER 5	21,000,001	Unlimited	11.00

MDTA Rent Table: Chesapeake House

Gasoline	Min Gallons/Lease Year	Max Gallons / Lease Year	Rate
TIER 1	-	8,500,000	5.00
TIER 2	8,500,001	10,500,000	6.00
TIER 3	10,500,001	12,500,000	7.00
TIER 4	12,500,001	14,500,000	8.00
TIER 5	14,500,001	Unlimited	9.00

Diesel & DEF	Min Gallons/Lease Year	Max Gallons / Lease Year	Rate
TIER 1	-	7,000,000	7.00
TIER 2	7,000,001	8,000,000	8.00
TIER 3	8,000,001	9,000,000	9.00
TIER 4	9,000,001	10,000,000	10.00
TIER 5	10,000,001	Unlimited	11.00

Diesel & DEF	Min Gallons/Lease Year	Max Gallons / Lease Year	Rate
TIER 1	-	6,000,000	5.00
TIER 2	6,000,001	7,000,000	6.00
TIER 3	7,000,001	8,000,000	7.00
TIER 4	8,000,001	9,000,000	8.00
TIER 5	9,000,001	Unlimited	9.00

C-Store & Fresh Food	Min Sales/Lease Year	Max Sales/Lease Year	Store %	Cigarette %
TIER 1	\$ -	\$ 6,000,000	9.0%	2.0%
TIER 2	\$ 6,000,001	\$ 7,000,000	9.5%	2.0%
TIER 3	\$ 7,000,001	\$ 8,000,000	10.0%	2.0%
TIER 4	\$ 8,000,001	\$ 9,000,000	10.5%	2.0%
TIER 5	\$ 9,000,001	Unlimited	11.0%	2.0%

C-Store & Fresh Food	Min Sales/Lease Year	Max Sales/Lease Year	Store %	Cigarette %
TIER 1	\$ -	\$ 5,000,000	9.0%	2.0%
TIER 2	\$ 5,000,001	\$ 6,000,000	9.5%	2.0%
TIER 3	\$ 6,000,001	\$ 7,000,000	10.0%	2.0%
TIER 4	\$ 7,000,001	\$ 8,000,000	10.5%	2.0%
TIER 5	\$ 8,000,001	Unlimited	11.0%	2.0%

Notes:

- 1.- If Fuel Stations are operated by Sunoco, then the gallons per Lease Year will be based on gallons sold. If the Fuel Stations are operated by a Franchisee, then the gallons per Lease Year will be based on gallons delivered by Sunoco to Franchisee per Lease Year.
2. Tiers 2-5 represent incremental rent paid within denoted tier
3. Fuel rates are shown as cents per gallon

In addition to all Revenue Payments proposed by Areas USA MDTP, LLC, Areas USA MDTP, LLC shall pay to the Maryland Transportation Authority, within one (1) year after executing the Lease and Concession Agreement, an additional onetime payment of **Three Million Dollars (\$3,000,000.00)**.