



Maryland
Transportation
Authority

I-95 Travel Plazas Public/Private Partnership

Request for Proposals

**Lease and Concession Agreement
Maryland House & Chesapeake House**

Contract Number: 60833436R

June 27, 2011

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1.0 EXECUTIVE SUMMARY

1.1 OVERVIEW

The Maryland Transportation Authority (MDTA) is seeking a partnership through the execution of a Lease and Concession Agreement with a private entity to undertake the redevelopment and long-term operation of its two travel plazas on I-95, the Maryland House at mile post 82 in Harford County and the Chesapeake House at mile post 97 in Cecil County (Travel Plazas). These facilities were built in 1963 and 1975, respectively, and are reaching the end of their useful lives. Their age and high level of use is clearly showing.

The Travel Plazas provide an important first impression to the millions of motorists traveling in and through the State of Maryland. With their prime locations along the most heavily traveled interstate on the East Coast, the Travel Plazas have been part of the travel experience for generations of travelers, and today serve more than 5 million patrons a year from all over the world.

MDTA is committed to assuring that the redevelopment of the Travel Plazas results in the highest level of architectural quality and customer satisfaction, and believes that entering into a concession under which a private entity designs, builds, finances, operates and maintains the Travel Plazas is the optimal approach to do so. The successful Proposer (hereinafter called the “Concessionaire”) will be that team that best defines a customer-centric approach to the facilities’ designs and operations, one that brings past successes to bear for the future benefit of MDTA’s patrons, one that can capture the blend of history, culture and geography that makes Maryland unique.

1.2 CURRENT OPERATIONS

The food and beverage facilities are currently operated by HMS Host Family Restaurants, Inc. under a contract that expires in November 2011. The MDTA is the owner and lessor of the facilities. There are two services stations at each Travel Plaza operated under two contracts, one with Hammco, Inc. for the Exxon stations, and one with Ocean Petroleum, Inc. for the Sunoco

stations. All three of the contracts will be extended as needed through a Gap Agreement to allow for the transition to the new concessionaire, which is expected to occur in September 2012.

1.3 THE PROPOSED PUBLIC PRIVATE PARTNERSHIP

The MDTA will lease and enter into a concession agreement for the Travel Plazas with its partner for 35 years, during which time the partner will be fully responsible for all of the financial obligations of redeveloping and then maintaining and operating the facilities.

In pursuing this partnership, the MDTA has three specific goals which will guide both the criteria used to select its partner under this solicitation and to measure the success of the venture itself. They are:

- Obtain new or like-new facilities to replace the current Chesapeake and Maryland Houses using a public private partnership.
- Ensure that the facility design and operation will provide a positive customer experience.
- Provide a fair return to the State, and provide for transfer of the facilities in satisfactory condition at the end of the term.

It is important that the facilities' architectural forms convey themes central to those embodied in Maryland's cultural and physical geography, that they are designed to a minimum of LEED silver standards, and that they are maintained at the level typical of high-end retailing and dining destinations. Of course, the Travel Plazas must provide such essential services as fueling, rest room facilities, vehicle parking, take out and seated food services, a convenience store, land line telephones, wireless internet, and traveler's and tourism information. But most importantly, they should form the background for great vacation memories of the next generations of Maryland residents and visitors, and be a safe haven and comfortable rest stop for millions of motorists.

2.0 SOLICITATION PROCESS & DUE DILIGENCE

2.1 PROPOSER REGISTRATION

For purposes of this Request for Proposal (RFP), “Proposer” shall mean the lead firm, joint venture or partnership holding the equity position on the “Proposer Team”, which may also include non-equity contractors, subcontractors, advisors and lenders.

In order to participate in this solicitation, including receiving access to the data room and participating in on-site investigations, it is necessary for potential proposer teams to register with the Maryland Transportation Authority (MDTA) on the project website and for each member of the team desiring access to sign a Confidentiality Agreement. The Confidentiality Agreement and full instructions are available for download from the public portion of www.I95MDTravelPlazas.com.

2.1.1 Data Room

MDTA has gathered and placed in an electronic Data Room (www.I95MDTravelPlazas.com) a number of documents for Proposers to review while conducting their due diligence, including this RFP and all of its Appendices.

Based on information submitted on the Registration Forms, MDTA will send each Proposer a user name and password, along with instructions for accessing the Data Room. Each Proposer is expected to review all of the documents in the Data Room before submitting a Proposal.

2.1.2 On-Site Investigation. Limits of Reliance

If an on-site investigation is desired by a Proposer, then a request should be submitted to the MDTA’s designated point of contact. *See* Section 2.1.4. By submitting a Proposal, the Proposer acknowledges that its right to rely on the MDTA-furnished information in the preparation of its Proposal is subject to the limitations specified in the Project Documents (Project Documents include this RFP, any supplements and addenda, the Lease and Concession Agreement, and any other documents required to be executed by either party at Closing) and that it is responsible for undertaking such further verifications and inquiries as appropriate to properly address such limitations. Reference documents provided in the Data Room are not Project Documents; the

MDTA makes no representations or guarantees as to, and shall not be responsible for, the accuracy, completeness, or pertinence of reference documents and, in addition, shall not be responsible for the conclusions to be drawn there from. The reference documents are made available to the Proposer for the purpose of providing such information as is in the possession of the MDTA, whether or not such information may be accurate, complete, pertinent, or of any value. The submittal of a Proposal shall be considered prima facie evidence that the Proposer has made such examination.

2.1.3 Proposer Conference

MDTA will hold a Proposer Conference to discuss issues related to the RFP on July 20, 2011 at 10 am EDT. Should questions be raised at the conference that requires clarification or additional information from the MDTA, the MDTA will issue an addendum to the RFP. No verbal communication at that conference or at any subsequent meetings will be considered to be part of the Project Documents. The Proposer Conference will be held at:

Holiday Inn Chesapeake House
www.holiday-inn.com/aberdeenmd
410-272-8100 phone
410-272-1714 fax
1007 Beards Hill Rd
Aberdeen, MD 21001

2.1.4 Requests for Additional Information

Proposers may ask for additional information using the email account that MDTA has established for this Project: MDTravelPlazas@I95mdtravelplazas.com. They may also contact MDTA's point of contact, listed below, for process and procedural questions.

George Fish
Maryland Transportation Authority
2310 Broening Highway, Suite 195
Baltimore, MD 21224
Office phone: (410) 537-5693
gfish@mdta.state.md.us

2.1.5 Costs; Liability; Security

Proposers are responsible for all costs they incur, directly or indirectly, in connection with the I-95 Travel Plazas Public/Private Partnership Project. MDTA is not responsible for any of the Proposers' costs. The Proposer is hereby notified that the MDTA may terminate this solicitation at its own discretion, at any time, and will not be responsible for any of the Proposer's costs.

2.2 CONFIDENTIALITY AND PUBLIC INFORMATION

Proposers are reminded that MDTA is conducting this I-95 Travel Plazas Public/Private Partnership Project with the full intention of maintaining the confidentiality of Proposals and information provided to MDTA until the conclusion of negotiations and the execution of the Lease and Concession Agreement. During the solicitation process, documents, communications and information exchanged between MDTA and a Proposer will not be made available to other Proposers. Proposers are required to adhere to the terms of the Confidentiality Agreement that provides access to the Data Room. Breach of the Confidentiality Agreement will be grounds for rejection of a Proposal at any time during the process at MDTA's discretion.

Proposers are reminded, however, that all documents they submit to MDTA are considered "public records" as defined by the Maryland Public Information Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland (MPIA) and could possibly become subject to disclosure under certain circumstances as described in the MPIA. Proposers should give specific attention to the identification of those portions of their Proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under provisions of the MPIA.

2.3 RESTRICTIONS ON PARTICIPATION

The State Ethics Commission ("Ethics Commission") administers the provisions of the Maryland Public Ethics Law, including Section 15-508 of the State Government Article of the Annotated Code of Maryland that contains various restrictions on participating in procurements. No firm that is ineligible for State contracts thereunder may participate as a member of the Proposer's team. Any questions regarding eligibility should be directed to the Ethics Commission.

Except as may be otherwise provided under Section 15-508 of the State Government Article, any Person that has or will receive monetary compensation as a consultant or subconsultant under a contract with the MDTA to develop the concept plan, or has been retained to review the MDTA's proposed plans for this RFP, or any Person that is the employer of an individual that has been so retained, may not submit a Proposal in response to this RFP and will not be considered a responsible Proposer. Any Proposal received from such a Person will be rejected.

The list of firms that are ineligible to participate on Proposer teams include the following:

Abramoff, Neuberger and Linder, LLP	Nossaman LLP
Gannett Fleming, Inc. (and all subsidiaries)	Public Financial Management, Inc.
Jacobs Engineering Group Inc. (and all subsidiaries)	Remline Corporation
Johnson, Mirmiran & Thompson (and all subsidiaries)	Rummel, Klepper & Kahl, LLP
KCI Technologies, Inc. (and all subsidiaries)	Transtech Engineering Consultants, Inc.
Laurene Mahon Consultant	Bregman, Berbert, Schwartz & Gilday, LLC
McKennon, Shelton and Henn, LLP	

The MDTA makes no representation regarding the accuracy, completeness, or currency of this list.

2.3.1 Maryland Public Ethics Law

Maryland law provides specific provisions concerning ethics and involvement of certain individuals and entities in State Contracts. Maryland Code Annotated, State Government Article, Title 15, the "Public Ethics Law" applies to this RFP and subsequent Lease and Concession Agreement and shall be adhered to by all Proposers. These include, but are not limited to provisions addressing former state officials and employees subsequent involvement in State contracts, contractors' participation in the creation of a solicitation being precluded from submitting a proposal, as well as financial disclosures.

In order to provide the most comprehensive information to Proposers, please be aware that the following firms were identified in the first issued RFP, dated March 25, 2010, as being precluded from submitting a proposal.

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- | | |
|---|---|
| A) A. Morton Thomas and Associates, Inc.; | I) Nossaman LLP; |
| B) AB Consultants, Inc.; | J) Parsons Brinckerhoff (and All Subsidiaries); |
| C) Abramoff, Neuberger and Linder, LLP; | K) PFM Group; |
| D) E2CR; | L) Remline Corporation; |
| E) Gannett Fleming; | M) Rubeling and Associates; |
| F) Johnson, Mirmiran & Thompson (and All Subsidiaries); | N) Sabra, Wang & Associates, Inc.; and |
| G) KCI Technologies, Inc. (and All Subsidiaries); | O) T. Y. Lin International |
| H) Mckennon, Shelton and Henn, LLP; | P) STV, Inc. |

MDTA makes no representations as to whether the above referenced entities have a current conflict under the Public Ethics Law with the newly issued RFP dated June 27, 2011. If the Proposer has any questions concerning interpretation and application of the Public Ethics Law including questions that may impact the formation of Proposer's team, please contact the State Ethics Commission.

2.4 CERTAIN LAWS APPLICABLE TO MDTA

By submitting a Proposal, the Proposer agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations. In addition, there are laws and regulations that are specifically applicable to MDTA and the Travel Plazas that Proposer should understand when preparing its Proposal.

2.4.1 Governing Law Concerning Powers of MDTA

The MDTA, established under Title 4 of the Transportation Article, Annotated Code of Maryland, is an independent agency of the State, that acts on behalf of the Maryland Department of Transportation with regard to the supervision, financing, construction, operation, and maintenance and repair of transportation facilities projects or any other projects authorized under that title. The MDTA has the authority to enter into a Lease and Concession Agreement

resulting from this I-95 Travel Plazas Public/Private Partnership Project subject to prior notification to the Maryland General Assembly and prior approval of the Maryland Board of Public Works.

2.4.2 Law Governing Fuel Service Facilities at the I-95 Travel Plazas

Section 4-404 of the Transportation Article of the Annotated Code of Maryland applies to the fuel service stations at the I-95 Travel Plazas. Effective October 1, 2011, the limitation that one supplier, distributor, or retailer of motor fuel may not have the right to market fuel identified by its trademark, trade name, or brand at more than one half of the total number of fuel service stations on I-95 will no longer apply to the Travel Plazas. Also effective October 1, 2011, in accordance with the 2011 amendments to § 4-404 of the Transportation Article, MDTA may require the fuel service stations located at the Travel Plazas to sell a blend of fuel that is at least 5% biodiesel fuel or other biofuel approved by the U.S. Environmental Protection Agency (EPA) as a fuel or fuel additive or approved under the EPA Renewable Fuels Standard 2 Program.

2.4.3 Regulations Governing Conduct at the I-95 Travel Plazas

The MDTA has promulgated regulations that specifically apply to public use of the I-95 Travel Plazas. Although the Code of Maryland Regulations (COMAR) 11.07.11 applies to the conduct of members of the public who use the Travel Plazas, Proposers should be cognizant of the limitations set forth within those regulations when preparing their Proposal.

2.5 EVALUATION AND SELECTION PROCESS

2.5.1 Selection Process and Schedule

Responses to this RFP will be evaluated by a committee (“The Evaluation Committee”), which will be made up of individuals selected by MDTA. The Evaluation Committee will review all timely Proposals deemed to be conforming and responsive, and evaluate the written responses according to the evaluation criteria described below in Section 2.4.3. The Evaluation Committee may hold interviews and negotiations individually with Proposers, and may also request Best and Final Offers (BAFO), as it sees fit. It shall make a recommendation of selection to the MDTA Board for its action.

The MDTA reserves the right to reject all Proposals and cancel, at its sole discretion, this RFP.

2.5.2 Review Process for Conforming and Responsive Proposals

Proposals shall be considered conforming and responsive provided the Proposal is submitted within the allowed time period and contains all requested information as specified and in the manner proscribed in Section 6 of this RFP.

In making its evaluation and selection, MDTA will rely on information submitted by the Proposers in their Proposal.

At any time during this solicitation, MDTA may contact one or more Proposers for clarifications or additional information. MDTA, at its sole discretion, reserves the right to negotiate with Proposers prior to the submittals of a Best and Final Offer, if requested.

If requested to submit a BAFO, Proposers should consider any issues or concerns raised by the MDTA during any negotiations. Proposers may make changes to their original offers when submitting a BAFO. MDTA will then determine which Proposal, if any, best helps MDTA achieve its goals as described in this RFP. MDTA in its sole discretion may resume negotiations and/or ask for revised BAFOs, before making its final decision.

2.5.3 Evaluation Criteria

Proposals submitted shall be evaluated adjectivally on their ability to achieve the following Goals:

2.5.3.1 *Obtain new or like-new facilities to replace the current Chesapeake and Maryland Houses using a public private partnership.*

- Sufficient financial strength to provide all financing required to support the design, construction, operation and maintenance of the Travel Plazas.
- Prior experience of the Proposer and its Team in similar ventures.
- Construction schedule and committed undertakings.
- Approaches to redeveloping the Travel Plazas with the least amount of customer disruption.
- Overall concept for the Travel Plazas, including appearance, concepts, vendors, site layout, sustainability, environmental footprint.

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- Understanding of the role of MDTA; prior experience in public private partnerships.
 - Acceptance of the proposed contract terms as delineated in the Lease and Concession Agreement.

2.5.3.2 *Ensure that the facility design and operation will provide a positive customer experience.*

- Quality, functionality and appeal of the proposed design concept and its reflection of the State's unique history, culture and geography.
- Adherence of the design concept and facility layouts with all requirements in the RFP, particularly with regards to LEED and State sustainability objectives.
- Innovation related to architectural, engineering or other aspects of the Travel Plazas.
- Prior safety records of the Contractor and Designer.
- Construction period: The experience of the proposed Contract Manager, Project Manager, Responsible Architect, Design Manager and Construction Manager in projects of a similar nature.
- Operating Period: The experience of the proposed Contract Manager, and the resident facility manager(s) of the two Travel Plazas.
- Quality of the operating performance standards proposed; past experience in meeting similar standards.
- Staffing plan that demonstrates the ability of the Proposer to meet the level of operations and maintenance required.
- Variety of retail and commercial services, proven stability and experience of the concepts and other tenants providing services at the Travel Plazas.
- Proposed customer service feedback approach and marketing strategy.
- The extent to which the Proposal outlines clear strategies for dealing with growth in patronage and customer demand for new products and services.

2.5.3.3 *Provide a fair return to the State, and provide for transfer of the facilities in satisfactory condition at the end of the term.*

- The structure and amount of payment committed to MDTA through the Lease and Concession Agreement.

- Overall lifecycle approach to the construction, operations and maintenance of the Travel Plazas.
- Robustness of the Asset Management Plan.
- Provisions to accommodate growth in patronage and changes in customer requirements, especially in fuel services.
- Experience in long-term facility management, including environmental and safety records.

2.6 IMPORTANT DATES

MAJOR STEPS	PROJECTED DATE
Proposal advertised	June 27, 2011
Proposer Conference	July 20, 2011
Proposals Due	November 10, 2011
MDTA Board Approval	December 22, 2011
Board of Public Works Approval	January 2012
Effective Date	January 2012
Transfer of Operation	September 16, 2012

Transfer of Operations is defined as that date designated by the MDTA, approximately nine (9) months after execution of the Lease and Concession Agreement, when the possession of the Travel Plazas is delivered to the Concessionaire and the current concession Contracts expire. The Concessionaire is expected to assume day to day operations as of this date.

2.7 EQUAL EMPLOYMENT OPPORTUNITY/ NON-DISCRIMINATION

The Proposer shall not discriminate in any manner against a prospective contractor or subcontractor because of the race, color, religion, age, sex, marital status, national origin, ancestry, or disability of its principals or employees. In furtherance of this requirement, the Proposer will be required to comply with all applicable federal and State laws pertaining to non-discrimination. A provision regarding non-discrimination similar to that contained above shall be included in the Proposer's contracts and it shall require that its contractors include the

provision in all subcontracts.

Because the Lease and Concession agreement resulting from this RFP will be a revenue-producing lease and contract for provision of goods and services to the traveling public, as described in COMAR 21.01.03.03B.(1)(d)(i) & (ii), it will not be subject to the Maryland General Procurement Law found in Division II of the State Finance and Procurement (SF&P) Article, Annotated Code of Maryland. For this reason Minority Business Enterprise (MBE) goals and other provisions of SF&P Title 14, Subtitle 3 are inapplicable. Subject to that limitation, MDTA encourages the Proposer to maximize opportunities for minority and women-owned business participation in contracts in connection with the Lease and Concession Agreement. The Proposer is expected to have or to develop a program or practice that will provide all businesses, including minority and women-owned businesses, and small businesses, an equal opportunity to bid for work to be performed in connection with the Lease and Concession Agreement.

3.0 MARYLAND TRANSPORTATION AUTHORITY

Since 1971, the Maryland Transportation Authority has been responsible for constructing, managing, operating and improving the State's toll facilities, as well as for financing new revenue-producing transportation projects. The MDTA's eight toll facilities - two turnpikes, two tunnels and four bridges - help keep traffic moving in Maryland. All of the MDTA's projects and services are funded through tolls paid by the customers who use the agency's facilities.

Creating EZ passage throughout Maryland is the Vision of the Authority. In support of this Vision, the MDTA will be financial stewards of its dedicated revenue sources to provide vital transportation links that move people and promote commerce in Maryland by:

- Creating and maintaining a transportation network of highways, bridges, and tunnels where safety and efficiency are priorities;
- Operating and securing our facilities with innovative technologies; and
- Financing transportation facilities that offer convenient choices to travelers.

The Maryland Transportation Authority is a group of citizens appointed by the Governor with the advice and consent of the Maryland State Senate. Each member serves a term of four years and may serve a maximum of three terms. This group serves as MDTA's policy-setting, decision-making and governing body.

Maryland's Secretary of Transportation, Ms. Beverley K. Swaim-Staley, serves as the MDTA's Chairman. Ms. Swaim-Staley was appointed by the Governor in September 2009 after serving the Department in several capacities including Deputy Secretary and Chief Financial Officer.

The Executive Secretary is the Chief Executive Officer for the MDTA and oversees the day-to-day operations of the agency. Mr. Randolph P. Brown is currently serving as the Acting Executive Secretary. Mr. Brown joined the agency in 2000 and was most recently serving as its Deputy Executive Secretary.

The MDTA is currently engaged in a significant design-build highway project – the Intercounty

Connector (ICC). The ICC is a new six-lane toll highway that connects I-370 in eastern Montgomery County to the I-95/US 1 corridor in northwestern Prince George's County. ICC tolls will be collected at highway speeds using *E-ZPass*[®] technology as vehicles pass under tolling structures. The ICC will be a variably priced toll facility, with higher tolls during peak-travel times and reduced tolls when traffic volumes are lower.

The successful completion of the ICC is the result of a partnership between the MDTA, that will own and operate the facility, and the Maryland State Highway Administration, that is managing design and construction of the \$2.5 billion project. The project is both on-time and on-budget. The initial 6-mile segment of the roadway was opened to service in February 2011. The final 10-mile segment is scheduled to open in early 2012.

The MDTA has also been party to an award-winning public-private partnership transaction involving the Port of Baltimore's Seagirt Marine Terminal. The transaction, which included a \$245 million financing, won the 2010 infrastructure "Deal of the Year" award from two publications, *Infrastructure Investor* and *Project Finance*.

The total investment and revenue from this agreement to the State of Maryland has the potential to reach more than \$1.3 billion over the life of the agreement, including the construction of a new 50-foot berth that is expected to result in increased business opportunities and larger vessels that will be able to dock at the Port. Under the agreement, the MDTA received an immediate payment of \$140 million for the sale of the Seagirt Marine Terminal to the Maryland Port Administration. These funds are being used to pay for needed system preservation of its roads, tunnels, and bridge facilities.

4.0 MARYLAND AND CHESAPEAKE TRAVEL PLAZAS

4.1 PHYSICAL DESCRIPTION

The two Travel Plazas are currently some of the nation's busiest, with five million visitors a year and food and beverage gross revenues of \$30-35 million annually. Fuel sales exceeded 20 million gallons in 2010.

Both are located in the center median of the 50- mile stretch of toll highway owned and operated by MDTA named the John F. Kennedy Memorial Highway (JFK). The JFK is part of the Interstate Highway System and is designated as I-95; it runs from the northern Baltimore City line and ends at the Delaware State line. The Maryland House, originally built in 1962 and expanded in 1990, is the larger and older of the two, located near the City of Aberdeen in Harford County, and sits on a 49 acre parcel. The Chesapeake House, built in 1975, occupies 59 acres just north of the Susquehanna River in Cecil County. Access and egress to and from both Travel Plazas is available only from I-95 with no secondary access available to either Travel Plaza. No physical changes to the ramps to and from I-95 are anticipated with the redevelopment of the Plazas.

Several studies have concluded that both Plazas were in need of replacement, as renovation of the existing facilities would likely not solve many of their physical and service problems. Many of the issues cited by the studies were related to actual location of the buildings on the site and the inadequacy of current parking spaces and locations, as well as to the conditions of the buildings themselves. These reports are available in the Data Room, along with numerous other studies and engineering assessments of the Plazas.

Both Travel Plazas have had operating fueling stations since their inception, and both show evidence of existing soil contamination from underground tanks. Removal of the old tanks and cleanup of the soils is a mandatory part of the redevelopment as outlined in Appendix B, but the Proposer will not be required to assume the quantity risk. Extensive ground studies and remediation plans are contained in the Data Room.

Both Travel Plazas are served by municipal sewer and water, with supporting water towers nearby to each to boost and stabilize available water pressure. As part of the redevelopment of both Plazas, the Proposer will be required to perform certain utility work and to paint the existing water towers, but will not be required to assume any ongoing obligations related to either. The Scope of Work in Appendix B details that work.

4.2 SERVICES CURRENTLY PROVIDED

For millions of visitors a year, the Travel Plazas offer a welcome stop along the highway. The Plazas were rated “better or equal” as compared to other travel plazas by 96% of respondents in an October 2003 study. Currently, the full-service Plazas offer a variety of food offerings, as well as fuel, restroom facilities, retail stores, automated teller machines and comprehensive travel and tourism information. Parking for cars, recreational vehicles (RV), trucks and buses and other amenities such as pet walking areas are essential parts of the Plazas. The comfort, safety and security of customers are a driving force behind MDTA’s desire to redevelop the facilities into a 21st century destination. Continuing to provide essential services during the redevelopment is critical.

4.3 BASIC STATISTICS

There are documents detailing the sales of the gasoline and diesel and the history of gross receipts under the current operations available in the Data Room.

5.0 REQUIRED DETAILS OF THE PROPOSAL

Section 5.0 of the RFP defines the requirements of the Proposal. It includes requirements related to the Proposer's approach to the design and construction of the Travel Plazas, the life cycle and asset management of the plazas through the life of the Lease and Concession Agreement, the approach to operations and maintenance, and the financial offer. The submission requirements for the Proposer are summarized in Section 6.0 of this RFP.

5.1 GENERAL CONDITIONS

The following describes elements that shall be incorporated in the work.

5.1.1 MDTA Involvement

The structure of a Public Private Partnership presumes that MDTA will remain involved in the Travel Plazas throughout the period of the Lease and Concession Agreement. MDTA recognizes the Concessionaire is responsible for the design, construction, financing, operations, and maintenance of the Travel Plazas. However, since the Travel Plazas are an integral part of the State's transportation network, and are an important facilities to the motoring public using the State's transportation network, it is essential for the Concessionaire and the MDTA to form a working partnership for their mutual benefit. The MDTA shall designate an individual at the time of the execution of the Lease and Concession Agreement as the Authorized Representative of the MDTA. The Concessionaire shall designate a Contract Manager with whom the MDTA Authorized Representative will interact during all phases of design, construction and operation.

This role of the MDTA Authorized Representative is not to provide or assume responsibility for construction inspections or quality, but to monitor the quality control process and the work of the Concessionaire from the beginning of design and construction through the completion of the second Travel Plaza, and during the period of the Lease and Concession Agreement to determine whether it complies with the RFP and project schedule. It is recognized that continued interaction and sharing of ideas is in the best interest of the Concessionaire, the MDTA, and the patrons who will use the Travel Plazas.

The MDTA Authorized Representative will have the following responsibilities:

1. Review the Concessionaire's proposed schedule throughout the project.
2. Review the Concessionaire's design-build design documents for compliance with the MDTA requirements.
3. Oversee the Concessionaire's quality control program.
4. Review payment applications from the Concessionaire on work to be reimbursed to the Concessionaire.
5. Review construction progress and adherence to the schedule (and any recovery schedules).
6. Review and approve design changes. During the design phase, changes may prompt negotiated modifications to the schedule, scope, or cost of the project. During the construction phase, changes to the design are to be approved by the MDTA Authorized Representative.
7. Negotiate and approve substitutions or changes to the work.
8. Report to MDTA Executive Secretary periodically on the progress of the work.
9. Ensure the design/build final project closeout documentation is complete.
10. Review and approve the Concessionaire's Operational Capability and issue a statement of Operational Capability.
11. Review conformance with Performance Standards and the terms of the Lease and Concession Agreement.
12. Make recommends to MDTA Executive Secretary to issue notices to cure deficiencies when such standards or requirements of the Lease are not met.
13. Schedule meetings as required with the Concessionaire and the Concessionaire's Team.

5.1.2 Contract Manager

The Proposer is to identify the Contract Manager who will be the primary lead upon execution of the Lease and Concession Agreement. The Contract Manager shall serve as the designated lead and the interface with the MDTA Authorized Representative. The MDTA shall consider the Contract Manager as the designated person who is authorized to act on behalf of the Concessionaire. The MDTA reserves the right to interview and approve the Contract Manager.

5.1.3 Transition Plan

The Proposer is to provide a Transition Plan detailing the information required below. The Proposer shall describe the approach to transitioning the operation of the Travel Plazas from the existing service provider to it. The Transition Plan should demonstrate the Proposer's approach to the orderly transfer of operating and maintenance responsibilities and customer services including but not limited to the provision of fuel, food and access to parking, rest rooms, telephones and other services currently available to the public. The Proposer's Transition Plan should include a register of potential risks which would result in a disruption of services or other adverse impacts including safety to the customers and proposed mitigation strategies for each risk identified.

It is anticipated that there will be approximately nine (9) months between the effective date of the Lease and Concession Agreement and transfer of operation of the Travel Plazas. The Proposer is to include an action plan that highlights how this period of time will be used to prepare for the takeover and minimize the period of time the first Travel Plaza will be under construction.

The Proposer is also to provide the approach to transitioning from having both Travel Plazas operational to having one Plaza out of service during the period the facility is under construction. The Proposer is to describe the approach taken to address the loss of capacity and the ability to accommodate the overflow at the other Plaza, describing the risks associated with closing the facility and how they would be mitigated.

The Proposer should also provide a proposed approach on how it will use the period between the closing of the first plaza and the re-opening of that plaza to prepare for the closing of the other plaza. The Proposer is to demonstrate how this period of time will be used to streamline the period in which the second Plaza will be out of service.

The Proposer is to highlight strategies and means for providing continuous and comprehensive communication and outreach to the motoring public using I-95 and customers who use the Travel Plazas, and describe how the Proposer would communicate closures and provide regular updates

so that the motoring public understands the reason for the closures, the benefits to be realized, and the timeframe for re-opening facilities. The public communication strategies must include plans to communicate contingency plans in the event that conditions require alternatives to the Travel Plazas.

5.1.4 Sustainability

Sustainability is a major goal of Governor O'Malley and the State of Maryland. MDTA is fully supportive of the State's role in fostering and supporting a more prosperous and sustainable future. Proposals should consider, and include where feasible, policies, procedures, techniques and strategies to support Maryland's sustainability efforts. Proposers should include sustainability in their approach to the demolition, design, construction, retail sales and operation and maintenance of the Travel Plazas. Proposers should highlight in their Proposals, in not more than three (3) pages, strategies to maximize energy efficiency, minimize peak electricity demand, reduce greenhouse gas emissions, use of stormwater design techniques to mimic natural hydrology by reducing impervious cover (see LEED Reference Guide for Green Building and Construction--2009 Edition), use renewable energy sources, including wind energy, provide for electric vehicle infrastructure for the traveling public, purchase electric and hybrid vehicles for employee use, and implement recycling programs. Proposers may have additional approaches to sustainability that should be highlighted in the Proposal.

5.1.5 Local Employment

Proposers are to discuss opportunities to maximize the recruitment of locally based residents and to work with local educational institutions to advertise and promote employment and career opportunities with the entities included in the Proposer's Team. The Proposer should describe how it and its tenants will reach out to the local community to increase the ability to attract local residents, including ideas such as job fairs, and advertising in local newspapers.

5.1.6 Leased Premises

The sites are as shown in Section 6 – Lease Line Exhibits of the Reference Documents (found in the Data Room) which will be utilized in creating Exhibit A of the Lease and Concession Agreement. The Successful Proposer will be responsible for completing the survey needed to

identify the Leased Premises which will be the portion of the sites that the Successful Proposer intends to lease. The survey will be utilized in creating Exhibit B to the Lease and Concession Agreement.

The Successful Proposer should be aware that the MDTA intends to widen I-95 in the vicinity of the Travel Plazas as part of the Section 200 and 400 I-95 Improvements. This work, construction of an additional 12 foot travel lane, is not currently funded and there are no immediate plans to proceed with the widening. It is the intent of the MDTA to design the widening in a manner that is not intended to impact the Concessionaire's use of the Travel Plazas. The future widening, designed and constructed by MDTA, will be at no cost to the Concessionaire.

5.2 DESIGN AND CONSTRUCTION OF THE TRAVEL PLAZAS

5.2.1 General Approach and Concepts

MDTA is interested in assuring that the replacement of the Travel Plazas is undertaken with the patron in mind, and that the experience of using the Travel Plazas leaves a positive impression on patrons and motorists. The facilities' architectural forms should convey themes central to those embodied in Maryland's history, cultural and physical geography, that are designed to a minimum of LEED silver standards, and that are maintained at a level typical of Class A commercial property. The Travel Plazas must provide such essential services as fueling, rest room facilities, vehicle parking, take out and seated food services, a convenience store, land line telephones, wireless internet, and traveler's and tourism information. The provision of amenities and services provided at the Travel Plazas are expected to be fully compliant with all applicable policies, procedures, laws, regulations, and codes applicable to this project.

The Proposal is to include conceptual designs of the Travel Plazas, including the layout of the overall facility, and the conceptual design of building exteriors and interiors. The Proposal is to provide sufficient detail of the Travel Plazas and the interior and exterior features to allow the MDTA to evaluate the innovative approach to the overall design and the unique features of the interior and exterior surfaces that convey and satisfy the goals of the project. The conceptual layout must include all the features and amenities required of the Travel Plazas, including, but not limited to parking, fueling lanes, buildings, restrooms, retail and commercial spaces, and all other public and non-public areas required to properly meeting the requirements of this RFP.

The MDTA is interested in the Proposer's approach to expansion and the maximization of customer services should increased capacity be required. Proposers are requested to provide innovative ideas on how to maximize capacity during peak usage periods. The Proposer is also requested to consider innovative approaches in design that allows for temporary increased customer capacity to meet periods of extraordinary demand. The required elements and construction performance specifications for the Travel Plazas are contained in Appendices A and B of this RFP.

5.2.1.1 A cooperative relationship shall be established between the MDTA and the Concessionaire, its subcontractors and suppliers for the conduct of work in this project. The relationship will be structured to draw on the strengths of each organization through open communication, teamwork and cooperative action to identify and achieve reciprocal goals. The objectives are effective and efficient project performance, mutual resolution of conflicts at the lowest responsible management level, completion on schedule, and in conformance with the Project Documents and the terms of the Lease and Concession Agreement. This relationship will not change the legal relationship of the parties to the Lease and Concession Agreement nor relieve any party from any terms of this Agreement.

5.2.2 Conceptual Building Plans for All New Buildings or Reconfigured Buildings

The Proposal shall include conceptual building plans, interior and exterior renditions, and other conceptual drawings that help to clearly demonstrate the engineering and architectural approach proposed for these facilities. This information should be developed in a manner that easily conveys the concepts to stakeholders, decision makers, and other interested parties. An aerial photo may be used to provide the existing conditions and it may be over-drafted to clearly identify the major features of the proposed new construction. Potential future construction such as additional parking may be indicated on the site plan as well. The MDTA may use the information provided by the successful Proposer as a way of demonstrating the future design of the Travel Plazas until such time that the Concessionaire develops more detailed information. The following sections define the specific submissions to be included in this RFP.

5.2.2.1 The floor plans must show the major dimensions of the rooms which would include the labeling of each room, hallway, mechanical rooms, and etc. Loading docks, dry storage, and freezer/cold storage must also be labeled. Public and private entrances must be indicated. All restrooms must include a fixture count broken down by type. Additional data that might be used to better understand the Proposal should be included on the building plans.

5.2.2.2 Color- rendered exterior elevations of all buildings must be provided.

5.2.2.3 The elevation views must show all sides of the buildings and indicate all major features. The features must be labeled in a manner that clearly indicates and describes the type of materials that are featured on the renderings. The types of materials or brand including the level of quality must either be shown or listed on a separate table that indicates the materials and equipment.

5.2.2.4 Color-rendered interior elevations of all buildings must be provided.

5.2.2.5 The interior elevations must show major features of the interior finishes such as floor coverings and walls. Like the exterior renderings the features and materials must be labeled or listed in detail on a separate sheet.

5.2.2.6 A description of how the Proposer is planning to meet LEED silver compliance must be included with a listing of the features and designs that will combine to give the desired results.

5.2.3 Design/Build Experience

5.2.3.1 Organizational Information

The Proposer is to provide a complete organization chart of the Team, describing the roles and responsibilities of each party and identifying the parties who are Key Staff.

5.2.3.2 Design Build Organization Personnel Chart

A design/build organization chart highlighting Key Staff is to be provided. The Proposal is to include resumes for all Key Staff each of whom should have experience with a minimum of two projects of a similar nature and scope. Two references are to be provided for each Key Staff person. Key Design/Build Staff must include the Project Manager, Design Manager, Lead Architect, Lead Engineer, Project Safety Manager, Superintendent for the Project, and Environmental Manager.

5.2.3.3 Project Descriptions and References for Parties to the RFP

The Proposer Team must provide up to three (3) project descriptions of projects where they are or were in the prime role for a project that included the design, build, operation, maintenance and financing of a public facility. The Proposal shall also include up to three (3) project descriptions where the lead construction company (or Contractor) has undertaken the prime role in a design/build project. Each project description should identify the ultimate owner of the asset. The project descriptions shall include the scope of the project, the contract value at bid and the final contract value, the construction completion date as proposed in the contractors bid, the actual date of completion, and the OSHA safety record at the job site. Please ensure that the projects submitted are relevant to this project. References for all of the above requested projects shall be provided including an address and telephone number for each reference.

The Proposal shall include up to three (3) project descriptions where the lead design engineer has undertaken designs similar in nature to the project.

The Proposal shall include up to three (3) project descriptions where the lead architect has undertaken designs similar in nature to the project.

5.2.4 Approach to Design and Construction

The Proposer is to include a written description of its overall approach to the design and construction of the Travel Plazas. The Proposer is to describe methods for minimizing construction time, maximizing cost effectiveness, and avoiding delays that would result in the inconvenience to patrons and failure to meet the schedule proposed. The Proposer must describe its approach to assuring quality and promoting safety. The Proposer should include unique techniques or approaches used on other design/build projects that have resulted in the completion of the projects on time, on budget, and with a high level of satisfaction from the ultimate Owner.

5.3 LIFE CYCLE ASSET MANAGEMENT AND FACILITY EXPANSION

The Proposer is expected to provide Travel Plazas that provide the highest level of customer satisfaction over the 35-year Lease term, and as such must consider how to deal with growth in its submittal. In describing its approach to life cycle cost and facility growth, the Proposer should convey how it will sustain the Travel Plazas as a modern, efficient and customer friendly facilities.

The Proposal should also address both growth in overall demand and the changing needs of customers, particularly for fuel services, and propose strategies for how the Proposer would increase capacity and meet growth and market demands over the length of the Lease.

As the Concessionaire will be required to maintain the Travel Plazas in a state of good repair, the Proposal must describe strategies to assure that sufficient financial resources will be available to meet the annual replacement needs of the facilities. The Proposer is to describe its approach to Asset Management on up to three (3) facilities where they are responsible for assuring the continued state of good repair of the facility. The Proposer is to provide a reference for a facility where it is or has been responsible for maintaining the state of good repair. The reference for a facility must be within the past five (5) years.

5.4 OPERATIONS AND MAINTENANCE

5.4.1 Overview

The MDTA Travel Plazas provide a first and last impression for many patrons who are traveling through the State. It is essential that the Proposer recognize the impact the Travel Plazas have on the public's impressions regarding Maryland. It is essential that the Proposer adhere to a high standard in operating the Travel Plazas and promote a safe, secure and hospitable experience for all customers and workers who are employed at these locations. High quality operation means a Travel Plaza that is recognized for its cleanliness, state of good repair, interesting and well maintained exteriors, responsive and respectful customer service, and the provision of goods and services that are diversified to meet the different needs and expectations of a multi-generational, multi-cultural, and diverse economic population. Similar to what was required in the design and construction of the Travel Plazas, the operation should adhere to a minimum of LEED silver standards. The operation and maintenance of the Travel Plazas should be maintained at a level typical of Class A commercial property.

The Proposer is to base its operating plan on its own analysis of demand at the Travel Plazas, and should demonstrate in its submittal how it will meet these various levels of demands particularly during summer weekends and holidays when a high volume of traffic can be anticipated.

The overall Travel Plazas, encompassing the fueling pumps, fueling lanes, the Travel Plaza building areas, and all areas that are accessible to the public, must remain open and in operation twenty-four (24) hours per day, seven (7) days per week, unless the Proposer's operating plan details certain closures for the safety and security of customers and employees.

The Proposer is requested to consider innovative approaches and strategies to properly plan for potential future demands placed on the Travel Plazas through growth and to also consider approaches to maximizing operational capacity when customer demands exceed normal peak periods of travel. Normal peak periods of travel are defined to mean summer weekends. Further, the Proposer shall include strategies for meeting extraordinary demands that may occur

from time to time due to circumstances such as severe weather conditions that result in motorists and employees being stranded at the Travel Plazas.

5.4.2 Services and Patron Amenities

The Proposer is expected to provide a high level of services and amenities to the patrons of the Travel Plazas. Because of the diversity of the individuals who are expected to use the facilities, the Proposer's plan should be considerate of individuals who may have physical limitations, dietary restrictions, or other limitations or needs based on lifestyles and customs, as well as being fully compliant with the ADA and other statutory requirements.

5.4.2.1 Food Service and Accommodations

The restaurant facilities provided shall meet the needs of the traveling public, and include both take-out and seated dining. The Proposer shall provide for a variety of food concepts, and shall identify the concepts in its Proposal. The Proposer is encouraged to support local Maryland restaurant or food suppliers who offer food choices that are grown in Maryland or reflect foods traditionally associated with the State. At least one food service, other than vending machines, is to be open 24 hours, seven days a week.

5.4.2.2 Seating Capacity

Sufficient seating shall be provided to accommodate anticipated needs during normal peak periods of travel. The Proposer should also include outdoor seating for patrons.

5.4.2.3 Communication within Seating Areas

The indoor seating area shall include a device to provide verbal and visual communications such as TV's to patrons and free wireless internet access.

5.4.2.4 Restrooms

Sufficient restroom facilities shall be provided to meet the needs of visitors and employees. Besides common rest room areas, the Proposer shall provide for sufficient family restrooms and sanitary locations for baby care.

5.4.2.5 Fuel Facilities

Full fuel services shall be provided for at the Travel Plazas. The Proposer is to provide sufficient fueling capacity to avoid excessive delays, and shall operate the facilities in such a manner as to avoid any backups into travel lanes. The Proposer is to provide both gasoline and diesel fuel and to include provisions for biodiesel and other alternative fuels as the market demand for such becomes better known. The Proposer is to comply with Section 4-404 of the Transportation Article of the Annotated Code of Maryland; 2011 amendments by SB 961 include provisions concerning use and selling of biofuels at the Travel Plazas, which would become effective October 1, 2011. Fueling facilities shall also include free air and water for vehicles.

5.4.2.6 Tourism and Visitor Center

The Tourism and Visitor Center shall be staffed by individuals knowledgeable of Maryland geography and tourism markets. The Tourism and Visitor Center must be open 10 hours per day Monday through Thursday and 12 hours per day Friday through Sunday. The Proposer is to provide space for local tourism brochures at no cost. A minimum of 500 square feet shall be provided unless the Proposer incorporates an alternative approach that requires less square footage but achieves the same objective.

5.4.2.7 Regulation of Activities

The conduct of members of the public who use of the Travel Plazas are regulated by COMAR 11.07.11; the Proposer should be cognizant of the limitations set forth within these regulations when preparing its Proposal.

5.4.3 Management Approach

The Proposer is to describe the overall management approach taken to promote a clean, well maintained, safe and secure facility. The Proposer is to describe its approach to maintenance, employee training, safety, state of good repair, and customer relations. The Proposer is to provide information on where similar strategies have been deployed, over what period, and provide measurable indicators of how successful such approaches have been in similar locations where the Proposer is responsible for operations and maintenance. The Proposer should demonstrate the understanding that this will be a partnership with the MDTA and the motorists

who rely on the Travel Plazas to make their travels safe and enjoyable. Specific performance standards incorporating Key Performance Indicators and reporting procedures shall be provided in response to the below sections.

5.4.4 Operations and Maintenance Experience

The Proposer shall describe its approach to Operations and Maintenance and must provide up to three (3) project descriptions for facilities where it is directly responsible for Operations and Maintenance, describing its role and the strategies used to achieve similar objectives that are included in this RFP.

The individual designated as the Contract Manager for the Travel Plazas shall be identified and a resume and references provided. One reference must be from a similar project the individual worked on in the past five years. The Resident Facility Managers (on-site) being proposed for the Maryland House and the Chesapeake House must also be identified, and resumes and references provided.

5.4.5 Operations and Maintenance Plan

The Proposer must submit a written Operations and Maintenance Plan describing its approach to all items required in Section 5.4 of the RFP. It should include a level of frequency for the measurement of each performance standard identified in Section 5.4. Additional performance standards that the Proposer considers important may also be included.

The Operations and Maintenance Plan shall include, but not be limited to:

5.4.5.1 Maintenance and Custodial Plan

The Proposer's submission shall include a plan that defines its approach and the performance standards and the process for developing operating procedures for cleaning the entire Plaza, including the cleaning of restrooms, all other areas accessible to the public, including areas leased or allocated for retail, commercial and/or other public purposes; and non-public areas employees use, including work areas and employee rest/break locations/rooms. The plan shall

include the standards that will be maintained for all rest rooms and areas available to the public, and how those standards will be met.

5.4.5.2 Grounds Maintenance Plan

The Proposer's submission shall include a plan that defines performance standards, overall approach and the plan for developing standard operating procedures for the cleaning and maintaining of the entire Travel Plaza grounds consistent with what would be expected for Class A commercial property. The plan shall include the standards and operating procedures for litter removal, trash collection, and the removal of any other debris that diminishes the cleanliness or appearance of the facility. The plan should articulate the frequency of grounds cleaning and trash collection.

5.4.5.3 Landscape Maintenance Plan

The Proposer's submission shall include a plan that defines performance standards, overall approach and the plan for developing standard operating procedures for maintaining plantings, shrubs, trees and all other aspects of the landscape within the confines of the Travel Plaza areas. The landscape plan should describe the frequency of landscape maintenance, including an approach for removing or replacing any portion of the landscape that has died or been damaged and the nature/characteristics of the supplies that will be used to maintain landscape. Innovative groundwater systems and sustainability measures should be highlighted.

5.4.5.4 Snow and Ice Removal Plan

The Proposer's submission is to include a plan that defines the performance standards, overall approach and the plan for developing the standard operating procedures for meeting those standards for the removal of snow and ice on ramps, roads, sidewalks, fueling service lanes, parking steps and all other areas where customers or employees may travel by vehicle or by foot. MDTA will be responsible for snow removal on the ramps entering and exiting the sites.

5.4.5.5 Emergency Maintenance and Repairs Plan

The Proposer's submission shall include a plan that defines the performance standards, overall approach and the plan for developing standard asset management procedures for implementing

an Emergency maintenance and repair plan for repairs to all aspects of the Travel Plaza that may compromise the safety of people, the environment, and the services to customers including access to rest rooms, food, communications and fuel.

5.4.5.6 Site Employment and Resource Allocation Plan

The Proposer's submission shall include a Site Employment and Resource Allocation Plan that defines performance standards, policies, and procedures covering all individuals whose permanent location is one of the Travel Plazas. In developing the plan, the Proposer is to define key management positions and the role and responsibility of each manager. The plan should also include staffing levels and a general work hours' roster. In developing the plan, the Proposer should include all employees assigned to the Travel Plazas regardless of whether the individual is employed by the Proposer, a Proposer's Team member, or by an entity other than the Proposer or a Proposer's Team member. As required in Section 5.1.5, Proposers are to discuss opportunities to maximize the recruitment of locally based residents. The Proposer should describe how it will reach out to the local community to increase the ability to attract local residents, including ideas such as job fairs, and advertising in local newspapers.

The plan must include descriptions of policies, procedures and other management techniques for recruiting, screening and training all individuals working on a permanent basis at the Travel Plazas. The plan should clearly demonstrate the Proposer's approach to recruiting individuals who display a "customer first" perspective and an approach to maximizing safety and security by screening individuals who work at the Travel Plaza. Proposed training programs to promote excellence in service, delivery, and customer relations, and additional training programs and techniques to promote employee careers and stability in the workforce is to be described. The plan should describe concepts deployed by the Proposer's Team that have promoted a customer friendly, safe and stable work environment. The Proposer should augment its plan with the results of customer surveys and information from other locations where the Proposer's Team provides or provided operations and maintenance services that confirm its ability to achieve a high level of customer and employee satisfaction.

A copy of a standard sublease or subtenant agreement, if applicable, should be included in the Proposal, with provisions related to background checks, recruitment, and training highlighted, if applicable.

5.4.5.7 Safety and Security Plan

The Proposer is to describe its approach to safety and security, describing methods and strategies for maximizing the safety and security of customers and employees and citing examples where such strategies have been deployed at similar facilities and the results they have had on safety and security.

5.4.5.8 Retail and Commercial Providers

List and describe each service provider; the service and the primary food and merchandise to be provided; and the proposed hours of operation for each retail and commercial provider.

5.4.6 Environmental Best Practices

The Proposer's submission is to describe how it will maximize environmental best practices and promote sustainability in the operation and maintenance of the facilities. The successful Proposer will be required to develop, maintain, and utilize a compliance-focused environmental management system to address Travel Plaza operations that impact the environment.

5.5 FINANCIAL REQUIREMENTS OF THE PROPOSER

5.5.1 Financial Capability

Proposers should address the following areas with respect to financial capability:

5.5.1.1 Financial Statements

Proposer must demonstrate its financial capability to finance the reconstruction of the Travel Plazas and to operate and maintain the facility for the life of the Lease and Concession Agreement, including funding all required capital investments. To demonstrate sufficient financial capability, the Proposer must provide the following information:

- 5.5.1.1.1 Overview of individual firm's financial structures;
- 5.5.1.1.2 Details of any credit rating applicable to individual firms;
- 5.5.1.1.3 Details of any material off-balance sheet liabilities for each firm.

5.5.1.2 Additional Information

5.5.1.2.1 For a Proposer that includes public companies, the Proposer must provide audited financial statements for all firms it comprises, as well as for the proposed design-build contractor and guarantors (if any) for the three (3) most recent fiscal years, as well as published interim accounts that relate to periods subsequent to the most recent audited accounts. If any entity for which financial statements are required is a joint venture, financial statements must be provided for each member. If audited financial statements are not available for an entity, the Proposal must provide unaudited financial statements that are certified as true, correct and complete by the senior financial officer of the entity along with an explanation as to why audited financials are not available. In either case, each Proposer must also provide details of any material events that may affect the each firm's financial standing since the last financial statements provided.

5.5.1.2.2 For any submitting entity that does not have independent financial statements, the Proposal must include a statement signed by an authorized representative of the entity explaining

why financial statements are not available and providing sufficient and timely financial information for a third party to determine that it has the financial resources to successfully execute a project of this nature and scope. Sufficiency of such alternate materials will be at the sole discretion of the MDTA; a letter or affidavit without financial information will not be sufficient.

5.5.1.3 Ability to Raise Financing

The Proposer must provide specific evidence of its ability to raise financing for a project of this nature and scope, either by providing detail of the Proposer's experience in the past ten (10) years of raising and/or providing financing for major infrastructure projects under frameworks similar to this Lease and Concession Agreement or by providing a signed statement by a corporate or fund officer confirming that it has sufficient capital on-hand to fund the capital requirements.

5.5.2 Financial Offer

As part of their Proposal, Proposers must submit a Financial Offer that addresses all responsibilities required under the full term of the Lease and Concession Agreement, which must include all of the following:

5.5.2.1 The capital costs for items addressed in the Design-Build Requirements, as shown in Form F (Design-Build Capital Costs).

5.5.2.2 The annual capital maintenance costs required to maintain the facility in a state of good repair. This information shall be presented in year of cost dollars (Form G).

5.5.2.3 The annual operations and maintenance costs consistent with the commitment to operate and maintain the facility. This information shall be presented in year of cost dollars (Form G).

5.5.2.4 Annual **revenue** payments, based on a percentage of gross sales revenues for food, beverages and other non-fuel items and on quantities of gasoline and fuel product, structured to

increase over time to reflect the overall profitability of the Lease. This information shall be presented in an acceptable format to show the breakdown for the revenue payments for each year of the Term. The final accepted form of this document provided by the Successful Proposer will become Exhibit D of the Lease and Concession Agreement.

5.5.2.5 The Financial Offer shall also include a written narrative addressing the following:

- Detailing the Financial Offer strategy;
- Citing either lender's commitments evidencing the ability to achieve financial closing within 30 days after BPW approval or committing sufficient internal funds for the funding of all capital obligations.
- Describing the benefits to MDTA of the offered structure.

5.5.3 Financial Assumptions

Proposer is required to submit the assumptions that were used in preparing the Financial Offer. These assumptions will be used for purposes of evaluating the Proposals. These should include:

- Assumed closing date
- Development timeline
- Timeline on periodic revenue payments
- Financing costs including
 - Average cost of financing
 - Discount rates for average cost of capital
 - Discount rates used to calculate the net present value of the financial offer
 - Construction loans, term loans, bridges loans, etc with relative interest rates and loan sizes
- Indicative expected Travel Plaza revenues over the term of the lease in nominal year dollars
- Cost escalation parameters by type
- Costs nominal broken down into:
 - Periodic revenue payments

- Cost associated with design, construction, purchasing equipment and other start-up costs for the Travel Plazas including all requirements addressed in the Design-Build Requirements
 - Annual Capital Maintenance costs of Travel Plazas over the life of the Lease
 - Routine operations and maintenance of the Travel Plazas including all requirements addressed in the O&M Requirements
 - Anticipated cost of goods sold (this should include the rents paid by tenants to the Concessionaire).
- Calculation of anticipated return
 - Rate of inflation for operating costs

5.5.4 Proof of Bonding Capacity

The Proposer shall include in its Proposal a surety letter attesting that the Proposer or its Contractor has sufficient bonding capacity to secure the bonds required for this project.

6.0 INSTRUCTIONS TO PROPOSERS

A draft Lease and Concession Agreement is provided as part of Addendum No. 2 dated, September 9, 2011. Proposers may submit their “top 10” comments on the Lease and Concession Agreement as part of their responses; should a Proposer have no comments, it should so indicate in its response. Proposers’ comments will be considered in the evaluation process.

The Lease and Concession Agreement will include various exhibits, schedules and attachments which will be provided by either MDTA or the Concessionaire.

Table of Exhibits

Exhibit A	Description of Maryland House and Chesapeake House Sites (<i>Provided by the MDTA – Currently Section 6 of the Reference Documents</i>)
Exhibit B	Leased Premises Description including a survey of the Leased Premises (<i>To be provided by the Concessionaire before the Effective Date</i>)
Exhibit C-1	Form of Construction Payment Bond (<i>Form to be provided by MDTA; bond to be provided by Concessionaire after the Effective Date</i>)
Exhibit C-2	Form of Construction Performance Bond (<i>Form to be provided by MDTA; bond to be provided by the Concessionaire after the Effective Date</i>)
Exhibit D	Concessionaire’s Payment Schedule (<i>To be provided by the Concessionaire as part of the Proposal requirement in Section 5.5.2.4</i>)
Exhibit E	Performance Standards (to be viewed in conjunction with Schedule 2.5) (<i>To be provided by the Concessionaire as part of the Proposal requirement in Section 5.4.3</i>)
Exhibit F	Transition Plans (<i>To be provided by the Concessionaire as part of the Proposal requirement in Section 5.1.3</i>)
Exhibit G-1	Construction Budget (<i>To be provided by the Concessionaire as part of the Proposal requirement in Section 5.5.2.1(Form F)</i>)
Exhibit G-2	Reinvestment Budget (<i>To be provided by the Concessionaire as part of the Proposal requirement in Section 5.5.2.2(Form G)</i>)

- Exhibit H Operations and Maintenance Plan *(To be provided by the Concessionaire as part of the Proposal requirement in Section 5.4.5)*
- Exhibit I Subcontractor Recognition Agreement *(Form to be provided by the MDTA)*
- Exhibit J Lease and Concession Agreement Affidavit *(Form to be provided by the MDTA)*

Table of Schedules

- Schedule 1 Organizational Chart *(To be provided by the Concessionaire)*
- Schedule 2.5 Key Performance Indicators (to be viewed in conjunction with Exhibit E)
(To be provided by the Concessionaire)
- Schedule 4.1 Management Chart *(To be provided by the Concessionaire)*
- Schedule 9.5 Fuel Prices Schedule *(To be provided by the Concessionaire)*
- Schedule 9.19 Hours of Operation – Food and Beverage Service at the Primary Service Facilities
(To be provided by the Concessionaire)

Appendix 1 – Construction Provisions

Attachments

- Attachment A Concessionaire's Conceptual Design Plans *(To be provided by the Concessionaire)*
- Attachment B Construction Schedule *(To be provided by the Concessionaire)*
- Attachment C Mandatory Work Schedule *(To be provided by the Concessionaire)*
- Attachment D Form of General Contractor Recognition Agreement *(To be provided by MDTA)*
- Attachment E UST Systems Replacement Schedule *(To be provided by the Concessionaire)*
- Attachment F Concessionaire's Reinvestment Plan *(To be provided by the Concessionaire)*

6.1 CONFORMING AND RESPONSIVE PROPOSALS

Proposals shall be considered conforming and responsive provided the Proposal is submitted within the allowed time period and contains all information, including completed forms as specified in the RFP. As indicated in Section 2.1, all Proposers must register with the MDTA

and sign a Confidentiality Agreement in order to access the Data Room and fully participate in this solicitation.

6.2 EVALUATION CRITERIA

Proposers will be evaluated for their ability to assist the MDTA in achieving its Goals for this solicitation. Detailed criteria can be found in Section 2 of this RFP.

6.3 SUBMISSION REQUIREMENTS

6.3.1 Proposal Due Date

The completed Proposal shall be delivered as required in Section 2.5 by 2:00 PM EDT November 10, 2011. LATE PROPOSALS WILL NOT BE CONSIDERED.

6.3.2 Proposal Content

Proposers must be responsive to submission requirements of the RFP. In addition to the information required, Proposers are allowed to submit additional information to further explain the overall approach to this RFP. The information and forms contained in this RFP must be fully completed for a Proposal to be considered conforming and responsive. Any failure to provide all the information and all completed forms in the format specified is a deficiency that may result

in the MDTA's rejection of the Proposal. No substantive change shall be made to the **mandatory Proposal Forms A through D and I. Proposal Forms E through G may be modified to suit the Proposal.** The following information must be included in the Proposal:

Proposal Requirements

ITEM	DESCRIPTION	RFP REFERENCE
TECHNICAL PROPOSAL:		
Proposal Affidavit	MDTA mandatory form	Form A
Commitment to Assign Identified Resources to Project	MDTA mandatory form	Form B
Non-Collusion Affidavit	MDTA mandatory form	Form C
Opinion of Counsel	MDTA mandatory form	Form D
Ethics Affidavit	MDTA mandatory form	Form I
Transition Plan	Up to 15 pages addressing transitioning issues and public communication	5.1.3
Sustainability Approach	Up to 3 pages addressing approach to including sustainability in the redevelopment and O&M of the Travel Plazas	5.1.4
Local Employment	Approach to maximizing use of local residents for employment	5.1.5
D/B Organization Information	Proposer Team organization chart	5.2.3.1
Design/Build Organization Information	Staff organization chart for the key D/B staff, 2-page resumes and 2 references each	5.2.3.2
Project Descriptions and References:		
Proposer	Up to 3 Project descriptions with references	5.2.3.3

ITEM	DESCRIPTION	RFP REFERENCE
<u>Design/Build:</u>		
Construction Contractor	Up to 3 project descriptions with references	5.2.3.3
Lead Design Engineer	Up to 3 project descriptions with references	5.2.3.3
Lead Architect	Up to 3 project descriptions with references	5.2.3.3
<u>O&M:</u>		
Proposer	Up to 3 project descriptions with references	5.4.4
Project Schedule	Identify Milestone Dates	Form E
Conceptual Site Plans and Expansion Ideas for the Travel Plazas	Drawings to show intent of construction	5.2.2
Contract Manager	Up to 2 page resume including at least 2 similar projects	5.1.2 & 5.4.4
Resident Facility Managers	Up to 2 page resume including at least 2 similar projects	5.4.4
Approach to Design and Construction	Up to 5 page written description	5.2.4
Operations and Maintenance Plan	List up to 30 pages describing approach including:	5.4.5
	Maintenance and Custodial Plan	5.4.5.1
	Grounds Maintenance Plan	5.4.5.2
	Landscape Maintenance Plan	5.4.5.3

ITEM	DESCRIPTION	RFP REFERENCE
	Snow and Ice removal Plan	5.4.5.4
	Emergency Maintenance and Repairs Plan	5.4.5.5
	Site Employment and Resource Allocation Plan	5.4.5.6
	Safety and Security Plan	5.4.5.7
	Listing of anticipated retail and food service providers	5.4.5.8
Life Cycle Asset Management and Facility Expansion	Up to 3 page description of approach to Asset Management, replacement, expansion and upgrades	5.3
Environmental Best Practices/Sustainability	Up to 2 page description of approach on how to maximize environmental best practices and sustainability in O&M	5.4.6
Lease and Concession Agreement	Top 10 comments on Lease and Concession Agreement	6.0
FINANCIAL PROPOSAL:		
Audited Financial Statements	For public companies for the last 3 years	5.5.1.2.1
Demonstration of Financial Resources	For Non-Public Companies that don't have independent financial statements	5.5.1.2.2
Ability to Raise Financing	Demonstrate ability and track record in raising or providing financing	5.5.1.3
Design/Build Capital Cost	Form F	5.5.2.1
Annual Cost - Year of Cost Dollars	Form G	5.5.2.2 5.5.2.3
Annual Revenue Payments	Format to be Submitted by Proposer	5.5.2.4

ITEM	DESCRIPTION	RFP REFERENCE
Financial Offer Strategy	Up to 3 page written narrative	5.5.2.5
Financial Assumptions	Identify assumptions used in preparing Financial Offer	5.5.3
Additional Removal of Petroleum- Impacted Soils	Cost per cubic yard for any additional Petroleum- Impacted Soils removed over 10,000 cy	B.1.2.7.4

6.4 GENERAL SUBMITTAL REQUIREMENTS

6.4.1 Proposal Packaging

The Proposal shall be enclosed in two sealed packages, with all financial information contained only in the Financial Proposal. No financial information shall be in the **Technical Proposal**. Each package shall be clearly marked with the name of the Proposer and the words “I-95 Travel Plazas – Technical Proposal”, and “I-95 Travel Plazas-Financial Proposal”.

6.4.2 Destination

The Proposal shall be sent or delivered to:

George Fish
Maryland Transportation Authority
2310 Broening Highway, Suite 195
Baltimore, MD 21224

When sent by United States Postal Service (USPS) or private carrier (such as Federal Express or United Parcel Service), the sealed containers shall be sent in accordance with this RFP to the MDTA at the address of and in care of the official specified in this section in whose office the containers are to be received, and shall be received by such official no later than the time specified in the RFP. In the alternative, a Proposal may be hand-delivered by the Proposer prior to the specified time on the Proposal Due Date to this official.

6.4.3 Signatures

The Proposal Affidavit shall be signed by the Proposer and by all joint venture members or general partners of the Proposer, if it is a joint venture or partnership.

6.4.4 Number of Copies

- One (1) original and **twenty (20)** copies of the sealed Technical Proposal shall be provided;
- One (1) original and ten (10) copies of the sealed Financial Proposal shall be provided;
- Two formatted discs, one for the Technical Proposal and the other for the Financial Proposal, shall be provided.

6.4.5 Currency

The financial information shall be priced in U.S. currency only.

6.4.6 Modifications, Withdrawals, Late Submittals and Validity Period

6.4.6.1 Modifications

A Proposer may modify its Proposal, or a portion thereof, in writing prior to the specified time for submittal of Proposals. The modification shall conform in all respects to the requirements for submission of a Proposal. Modifications shall be clearly delineated as such on the face of the document to prevent confusion with the original Proposal and shall specifically state that the modification supersedes the previous Proposal, or a portion thereof, and all previous modifications, if any. If multiple modifications are submitted, they shall be sequentially numbered so that the MDTA can accurately identify the final Proposal. The modification must contain complete Proposal sections, complete pages, or complete forms. No telegraphic, facsimile, or other electronically transmitted modifications will be permitted.

6.4.6.2 Withdrawal

A Proposer may withdraw its Proposal only by a written and signed request that is received by the MDTA prior to the specified time for submittal of Proposals. Following withdrawal of its Proposal, the Proposer may submit a new Proposal, provided that it is received prior to the specified time for submittal of Proposals.

Proposal, the Proposer may submit a new Proposal, provided that it is received prior to the specified time for submittal of Proposals.

6.4.6.3 Late Submittals

The MDTA will not consider any late Proposals or late requests to modify or withdraw Proposals. Proposals and/or modification or withdrawal requests received after the Proposal Due Date will be returned to the Proposer. Each Proposer is solely responsible for assuring that the MDTA receives its Proposal and any requests to modify or withdraw a Proposal in accordance with the requirements in this RFP.

6.4.6.4 Proposal Validity Period

The Proposer agrees that its Proposal will remain valid for two hundred forty (240) days following the Proposal Due Date. After such period, the Proposals will cease to be valid unless the Proposer(s) and the MDTA agree in writing to extend the period of validity. Additionally, the validity period of the Proposal or BAFO received from the Proposer receiving the Notice of Apparent Award automatically extends for an additional period of one hundred eighty (180) days. Notwithstanding the foregoing, all Proposals shall be irrevocable until final administrative and/or judicial disposition of a protest or other challenge to any aspect of this RFP, including without limitation the selection process and award decision.

6.4.7 No Public Opening

There will be no public opening of Proposals. After the Proposal Due Date, all Proposals will be opened in the presence of two or more of the MDTA's employees and reviewed for completeness. A register of Proposals will be prepared that identifies each Proposer.

Neither the identity of any Proposer nor the register of Proposals will be publicly disclosed until after an award of the Lease and Concession Agreement is approved by the Authority Board.

FORM A
PROPOSAL AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or

performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

-
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
 - (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
 - (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or
 - (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):
-
-
-

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of

each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Contract Administrator and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and

covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____
(print name of Authorized Representative and Affiant)

(signature of Authorized Representative and Affiant)

END OF FORM A

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FORM B

COMMITMENT TO ASSIGN IDENTIFIED RESOURCES TO PROJECT

Proposer's Name:

Understanding the Authority's concern that the personnel resources specifically represented and listed in this Proposal are actually assigned to the Contract (if awarded to this Proposer) and are not also committed to other Projects, _____ (Name of Proposer) commits that the personnel resources shown in the Proposal will be available to the extent within this Proposer's control. If awarded the Contract, staff will be available full or part time, whichever is required to meet the Contract requirements, and that the key staff personnel will be committed to the Project to fulfill the responsibilities as described in the Contract. During the execution of the Contract, all changes in key staff personnel will be with personnel of equal credentials, experience, and capability and will only occur after written agreement from the Authority.

In making this commitment, we include the following reservations: (If made without reservation, enter "NONE").

Signed: _____

Printed Name: _____

Title: _____

Date: _____

(To be executed by the Proposer's designated Project Principal)

END OF FORM B

FORM C

NON-COLLUSION AFFIDAVIT

STATE OF _____

COUNTY OF _____

Each of the undersigned, being first duly sworn, deposes and says that _____ is the _____ of and _____ is the _____ of _____, which entity(ies) are the _____ of, _____ the entity making the foregoing Proposal, that the Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation; that the Proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the Financial Proposal or any component of the Financial Proposal, of the Proposer or any other Proposer, or to fix any overhead, profit or cost element included in determining the Financial Proposal, or of that of any other Proposer, or to secure any advantage against the Authority of anyone interested in the proposed Contract; that all statements contained in the Proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted its Financial Proposal or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, Proposal depository or any member or agent thereof to effectuate a collusive or sham Proposal.

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Public in and for)

) SS

said County and State)

.....

[Seal] My commission expires: _____

[Duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed on behalf of all general partners or joint venture members of the Proposer.]

END OF FORM C

FORM D
OPINION OF COUNSEL

[Letterhead of Independent Law Firm or In-house Counsel]

Maryland Transportation Authority (the "Authority")

Attn: _____

Re: Request for Proposals ("RFP")

_____ Project

Project No. _____ ("Contract")

To Whom It May Concern:

[Describe relationship to Proposer and its joint venture members, general partners, and any other entities whose approval is required in order to authorize delivery of the Proposal.] This letter is provided to you pursuant to Section 6.3.2 to the Instructions to Proposers contained in the RFP.

In giving this opinion, we have examined _____. We have also considered such questions of law and we have examined such documents and instruments and certificates of public officials and individuals who participated in the procurement process as we have deemed necessary or advisable.

In making this response we have assumed that all items submitted to us or reviewed by us are genuine, accurate and complete, and if not originals, are true and correct copies of originals, and that all signatures on such items are genuine.

Subject to the foregoing, we are of the opinion that:

1. [opinion regarding formation and existence of Proposer and each of its joint venture members and general partners];
2. [opinion that the Proposer has power and is duly authorized to execute and deliver the Proposal and Design-Build, Operate, Maintain, and Finance Contract];
3. [opinion that the Proposal has been duly and validly executed and delivered and constitutes a legal, valid and binding obligation of the Proposer and its joint venture members/general partners to enter into the Contract if awarded] [updated opinion will state that the Contract has been duly and validly executed and delivered]; and
4. [opinion that all required approvals have been obtained with respect to execution and delivery of the Proposal and Contract; and that the Proposal and Contract do not conflict with any agreements to which Proposer or its joint venture members/general partners are a party or with any orders, judgments or decrees by which Proposer or its joint venture members/general partners are bound].

END OF FORM D

FORM E
PROPOSER'S SCHEDULE

Complete the schedule forms or provide the requested information in a suitable format for both the Maryland and Chesapeake Plazas. The Proposer has the option of closing either of the Plazas first and in the schedule below please indicates the name of Plaza #1 and Plaza #2. The beginning of work shall be based on an official NTP from MDTA. All times shall be listed in calendar days. The times of review by the MDTA that are required must be reasonable and indicated in the schedule. Known restrictions in the progress of the project are indicated below.

Schedule for Plaza # 1 _____

<u>Activity</u>	<u>Time from NTP Cumulative</u>
Submission of definitive design plans	_____
Approval of definitive plans by MDTA (Max.60 days)	_____
Submission of Final design	_____
Approval of final plans by MDTA (Max. 30 days)	_____
Permits obtained for the start of work	_____
Approval for the closure of Plaza #1	_____
Start of construction	_____
Completion of construction	_____
Commissioning/working Test period/Obtain Operational Capability	_____
Plaza # 1 Successful Operation	_____
Closure of Plaza #2	_____

Schedule for Plaza #2 _____

<u>Activity</u>	<u>Date from NTP Cumulative</u>
Submission of definitive design plans	_____
Approval of definitive plans by MDTA (Max. 60 days)	_____
Submission of Final design	_____
Approval of final plans by MDTA (Max. 30 days)	_____
Permits obtained for the start of work	_____
Approval for the closure of Plaza #2	_____
Start of construction	_____
Completion of construction	_____
Commissioning/working Test period/Obtain Operational Capability	_____
Successful Operation of Plaza #2	<u>September 16, 2014</u>

END OF FORM E

FORM F

DESIGN/ BUILD CAPITAL COST

CHESAPEAKE TRAVEL PLAZA

ITEM DESCRIPTION	AMOUNT	AMOUNT
Buildings & Equipment		
Travel Plaza Main Building & equipment		
Fuel Service Station & equipment		
Subtotal Buildings & Equipment		
Site Work		
Demolition		
Site Work Earth Work Land and Hardscaping		
Parking/ Paving and Sidewalks		
Plaza Sign and Lighting		
Subtotal Site Work		
Mandatory Work		
Existing UST Related Removal of Contaminated Soil Clean-up and Removal		
I-95 Signage		
Water Tower Paint/Repairs		
Other Off Site Utilities		
Subtotal Mandatory Work		
TOTAL		

FORM F

DESIGN/ BUILD CAPITAL COST

MARYLAND TRAVEL PLAZA

ITEM DESCRIPTION	AMOUNT	AMOUNT
Buildings & Equipment		
Travel Plaza Main Building & equipment		
Fuel Service Station & equipment		
Subtotal Buildings & Equipment		
Site Work		
Demolition		
Site Work Earth Work Land and Hardscaping		
Parking/ Paving and Sidewalks		
Plaza Sign and Lighting		
Subtotal Site Work		
Mandatory Work		
Existing UST Related Removal of Contaminated Soil Clean-up and Removal		
I-95 Signage		
Water Tower Paint/Repairs		
Other Off Site Utilities		
Subtotal Mandatory Work		
TOTAL		

SUMMARY BREAKDOWN

SUMMARY BREAKDOWN	BREAKDOWN AMOUNT
Chesapeake House	
Maryland House	
GRAND TOTAL	

END OF FORM F

FORM G

ANNUAL COSTS – YEAR OF COSTS DOLLARS

a. Maryland House

Operating Year	Operations and Maintenance Costs	Capital Maintenance Costs	All Other Costs Excluding Depreciation	Total
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
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32				
33				
34				
35				
TOTALS				

FORM G

ANNUAL COSTS – YEAR OF COSTS DOLLARS

b. Chesapeake House

Operating Year	Operations and Maintenance Costs	Capital Maintenance Costs	All Other Costs Excluding Depreciation	Total
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
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29				
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32				
33				
34				
35				
TOTALS				

END OF FORM G

FORM H
ANNUAL RENT PAYMENTS

Year	Percent of Gross Revenue Payment
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
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26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
TOTAL	

FORM I**MARYLAND PUBLIC ETHICS LAW AFFIDAVIT****AUTHORIZED REPRESENTATIVE****I HEREBY AFFIRM THAT:**

I am the (title) _____ and the duly authorized representative of _____ (the "Proposer") and that I possess the legal authority to make this Affidavit on behalf of myself and the Proposer for which I am acting.

I FURTHER AFFIRM THAT:

I am aware of, and the above Proposer will comply with, the provisions of Title 15 of the State Government Article of the Annotated Code of Maryland, which prohibits former officials or employees of the State of Maryland from assisting or representing a party, other than the State, in a case, contract, or other specific matter for compensation if the matter involved State government and the former official or employee participated significantly in the matter as an official or employee. In addition, Title 15 prohibits a party that employs an individual or person who assisted the State in the drafting of specifications, an invitation for bids, a request for proposals, or the selection or award process for an invitation for bids or request for proposals from submitting a bid or proposal or from assisting or representing another person, directly or indirectly, from submitting a bid or proposal. I further affirm that I understand and the above Proposer will comply with any and all other applicable requirements or obligations of the Public Ethics Law under Title 15 of the State Government Article.

ACKNOWLEDGEMENT:

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Maryland Transportation Authority and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above Proposer with respect to this Affidavit; the resulting Lease and Concession Agreement; and any Other Affidavits comprising the Proposal or part of the Lease and Concession Agreement.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____
(Authorized Representative and Affiant)

MARYLAND TRANSPORTATION AUTHORITY

I-95 TRAVEL PLAZAS PUBLIC PRIVATE PARTNERSHIP

The following summarizes certain key terms MDTA intends to include in the Lease and Concession Agreement but does not purport to present actual language to be used in that document.

1. Owner/Lessor:

The Maryland Transportation Authority (MDTA) owns all of the land and improvements on the Premises described below. As Lessor, MDTA will retain ownership of the real property during the term of the public private partnership. Upon expiration or earlier termination of the Lease and Concession Agreement, the Concessionaire will be required to surrender the Premises to MDTA in good repair and working condition with at least 5 years of useful life remaining for the buildings.

2. Premises:

The Maryland House at I-95 mile post 82 in Harford County; the Chesapeake House at I-95 mile post 97 in Cecil County, also called the Travel Plazas.

3. Goals of the MDTA:

The MDTA desires to a.) Obtain new or like-new facilities to replace the current Chesapeake and Maryland Houses through a public private partnership; b.) Ensure a positive customer experience at the Travel Plazas; c.) Provide a fair return to MDTA, and provide for transfer of the facilities back to it in satisfactory condition at Lease termination.

4. Obligations of the Concessionaire:

The Concessionaire will be required to finance, design, construct, operate and maintain the Premises, including their fueling stations and food concessions, according to the terms in the Request for Proposals dated June 27, 2011 (the RFP) and the Proposal from the Concessionaire, to the extent accepted by the MDTA (the Proposal).

5. Term:

The term of the Lease and Concession Agreement will run from the Effective Date for a period of 35 years.

6. Financial Expectations:

The Concessionaire will be required to a.) Provide all funding and financing for the reconstruction of the Premises and the Mandatory Site and Utility Work (together, the Work) to be completed no later than September 15, 2014; b.) Bear the full costs of operating and maintaining the Premises for the term of the Lease and Concession Agreement; c.) Pay an annual rent to the MDTA for the term of the Lease and Concession Agreement based on gross sales revenues and gasoline and fuel products quantities, and structured to increase over time in proportion to the overall profitability of the Lease and Concession Agreement.

7. AS-IS Building Condition:

All buildings at the Travel Plazas are being offered "AS IS" without representation or warranty on the part of the MDTA. Except as expressly provided below, the Concessionaire shall be responsible for any and all cleanup of hazardous materials (including, but not limited to, asbestos, mold, and lead-based paint) necessary for its demolition and/or remodeling and reconstruction of the Travel Plazas.

8. Permitted Encumbrances:

The Concessionaire may enter into a leasehold mortgage for the Premises under such terms as may be acceptable to MDTA. The Lease and Concession Agreement will provide that the fee interests of the MDTA in the Travel Plazas will not be subordinated to any debt, lien or encumbrance other than utility, access or other easements approved by the MDTA. The Lease and Concession Agreement shall contain provisions acceptable to the MDTA relating to permitted institutional leasehold financings.

9. Insurances and Bonds:

The Concessionaire will be responsible to provide or cause to be provided 100 percent payment and performance bonds for the construction of the Work, provide builders' all risk insurance coverage during the construction, carry typical property and casualty insurance on the Premises at limits and deductibles set by the MDTA, and provide business interruption insurance as agreed. All policies and bonds shall name the MDTA as an additional insured and as the Owner of the Premises.

10. Design Build Requirements:

The Concessionaire will a.) Be responsible to perform all Work necessary to replace or fully rehabilitate all of the structures and site elements at both Travel Plazas, including design, permitting, financing, provision of utilities, construction, construction supervision, environmental compliance, safety and security, maintenance of traffic, and the Mandatory Site and Utility work; b.) Retain a Designer and Contractor licensed to do business in Maryland to perform all Work; c) Provide or arrange for the Contractor to provide the required bonds and insurances, each naming the MDTA as an additional insured or beneficiary, as appropriate. d.) Coordinate with the MDTA throughout the design and construction periods, as set forth in the RFP.

11. Covenants Related to Capital Construction:

The Concessionaire shall ensure that the Work is completed within the schedule it has set forth in its response to the RFP, that the Work is suitable for the purposes intended, that structures are rated a minimum of LEED silver, and that it has provided a sufficiently robust asset management plan to maintain the Premises in like-new condition over the lease term.

12. Facility Requirements:

Each Premise shall include an appropriate number of restaurant concepts for its size, as well as properly sized seating areas and restrooms. Food service and rest rooms shall be provided 24 hours a day, 7 days a week. Each Premise shall offer a convenience store and other retail stores as proposed in the response to the RFP, as well as space for a visitor

center. Each shall have state-of-the-art emergency communications and back-up power systems.

Each Travel Plaza shall have a minimum of one fueling station capable of handling the anticipated traffic at the plaza with a minimum of patron delay and without interfering with through traffic on I-95. Fuel service facilities shall be developed and maintained throughout the lease term in accordance with industry best practices as described by the American Petroleum Institute. All newly installed underground fuel tanks and lines shall be owned by the Concessionaire, which shall be fully responsible for their maintenance, contamination, cleanup and removal at the end of the Lease term. Each Travel Plaza shall provide a minimum number of free truck parking spots; truck parking spots providing driver amenities for a fee may be developed at the Concessionaire's discretion.

13. Site Requirements:

The Concessionaire will be expected to develop the Premises in an aesthetically pleasing manner, using appropriate hardscape and landscape materials so as to minimize the negative environmental effects on air, soil, and water on the site and nearby. Stormwater runoff must be minimized and treated as required by State laws and regulations; adherence to applicable LEED credits is strongly encouraged. All paved surfaces shall be kept free of ice, snow and debris and maintained in a state of good repair; they may be inspected annually by the MDTA.

14. Operating Standards:

The performance standards proposed by the Concessionaire shall become part of the Lease and Concession Agreement, and the Concessionaire shall be obligated at all times to be compliant, as measured by the Key Performance Indicators contained and defined therein. The Concessionaire shall operate the Premises in a highly efficient and attractive manner, and shall require similar standards to its own in all subleases. The MDTA will be notified monthly of any Key Performance Indicators that have fallen below the agreed-upon level during the prior month, and of the Concessionaire's action to remedy the deficiency. The Concessionaire's failure to bring the Premises and services back to

acceptable operating standards within a reasonable period of time will be treated as a Default under the Lease and Concession Agreement. The Concessionaire's repeated failure to maintain a safe, sanitary and fully functioning facility, or to enforce operating standards governing its subleases and subcontractors, will be cause to terminate the Lease and Concession Agreement.

The conduct of the public on the Travel Plazas Premises is regulated by COMAR 11.07.11.

15. Prices:

The Concessionaire will agree that the prices charged by it for food, fuel, merchandise and services sold or rendered shall be reasonable taking account of its location. The Concessionaire will propose for the Authority's approval a method to set fuel product prices which achieves reasonable costs to patrons.

16. MDTA Approvals:

MDTA will have the right to approve major changes in the physical configuration of the Premises including the overall site design, and in selection of concepts, fuel operators, and in key personnel.

17. Maintenance Standards and Capital Replacement:

The Concessionaire will repair and replace, as needed, all building and site elements, as well as all equipment that formed part of the Work, according to the schedules provided in its response to the RFP. The MDTA may periodically require the Concessionaire to contract with a licensed structural engineering firm to conduct a survey of condition, and may require adjustments to the Concessionaire's Capital Replacement Plan accordingly. It shall be the sole duty of the Concessionaire to maintain the Premises in a state of good repair. Failure to do so will constitute a breach of the Lease and Concession Agreement.

18. Environmental Standards and Compliance:

The Concessionaire and its subcontractors will not be liable for pre-existing environmental conditions on or under the Premises, except for those pre-existing

conditions the Concessionaire or its subcontractors may be liable for due to their previous use, activities, ownership, or operation of all or a part of the Premises or those which the Concessionaire has exacerbated during the course of its development, construction and operation of the Premises. Nothing in the Lease and Concession Agreement shall constitute a waiver or release of the MDTA from such liability for pre-existing conditions. If during construction the Concessionaire discovers any previously undisclosed hazardous material or evidence of environmental contamination, it must promptly notify the MDTA and take all necessary actions to avoid further contamination. The MDTA will initially bear the costs of investigation, oversight and cleanup. If upon subsequent investigation the Concessionaire is found to have been responsible for the condition, it will reimburse the MDTA for all of its associated costs.

The MDTA will use reasonable efforts to assist the Concessionaire in obtaining any environmental permits or approvals required for the construction, but will not be responsible for any costs associated with obtaining them.

The Concessionaire shall comply, and shall cause its contractors, lessees and agents to comply, with all federal, state and local laws associated with the development, construction, operation and maintenance of the Premises.

19. Emergency Situations:

The Concessionaire is required to maintain normal operations at the Premises at all times in order to serve the traveling public, and is required to take all reasonable steps necessary to mitigate the effects of any emergency that might cause disruption of service at its own cost. Should it fail to do so in a timely fashion, the MDTA may step in to provide corrective action, and the Concessionaire will reimburse the MDTA for all its costs incurred.

20. Payments to the MDTA:

The Concessionaire will be required to remit to the MDTA monthly Rent (as proposed in its response to the RFP) in arrears, by the 10th of the month. Any additional amounts due

must be paid within 10 days of receipt of an invoice from the MDTA. Late payments will be charged interest at a percentage rate set by the MDTA. The Monthly Revenue Report supporting the amounts paid shall accompany such payment.

21. Taxes and Fees:

The MDTA holds a statutory exemption from state and local taxes for property it owns and controls. Historically the private operator of the Travel Plazas has not been subject to certain taxes and fees, including property taxes. The Concessionaire may, as determined by the Maryland Department of Assessments and Taxation, be entitled to maintain that exemption over the life of the public-private partnership. Due to the long term nature of public-private partnership, the final terms of the lease will need to be reviewed by state and local governmental agencies for tax considerations. Similar to other public-private partnerships in Maryland, these state-owned assets will continue to serve their original public purposes.

If Concessionaire wishes at any time to dispute the lawfulness, applicability or amount of any taxes, it must do so with the governmental agency imposing the tax.

22. Design-Build Permitting

The Concessionaire shall give the MDTA's Authorized Representative (see RFP Section 5.1.1) all notices necessary and incidental to review and verify prosecution of work and compliance with applicable codes. The Concessionaire is covered under the MDTA's exclusion as a State entity performing self inspections and will not have to procure building permits, licenses and government approvals from Harford and Cecil Counties with regards to typical building construction permits. The Concessionaire is still required to comply with all laws, codes, rules, ordinances, restrictions, and regulations of the federal, State, regional or any local Governmental Body and judicial or administrative orders which affect this Project ("Governmental Rules") in performance of the work.

23. Concessionaire Defaults:

Events of default by the Concessionaire will include the following:

-
- Failure to begin design and construction Work promptly or thereafter to prosecute the work diligently pursuant to an agreed upon schedule.
 - An abandonment of the Project.
 - Failure to achieve final completion of the Work by September 15, 2014.
 - Failure to maintain Operating Standards and/or failure to fully implement an acceptable remedial plan designed to rectify the existing Key Performance Indicator deficiencies.
 - Failure to make any payment due to the MDTA when due.
 - False or misleading representations and warranties in the Project Documents.
 - Failure to maintain required insurance, bonds, guarantees, letters of credit, or other performance security.
 - A prohibited assignment or change in control.
 - Suspension or debarment of any managing member, general partner or controlling investor of the Concessionaire or the Prime Contractor from bidding, proposing or contracting with any federal or State department or agency.
 - Any other breach or failure to perform a covenant or obligation under the Lease.
 - Insolvency or bankruptcy events with respect to the Concessionaire or its debts.

24. Remedies for Concessionaire Defaults:

The MDTA may exercise various remedies:

- Right to terminate in the event of a material, uncured or incurable default.
- Right to appoint a receiver.
- Right to enter and take control of the Premises to restore service and reopen and continue operations for the benefit of the Concessionaire and the public.
- Certain step-in rights to ensure implementation of and compliance with safety standards.

- Right to recover damages, including liquidated damages for delay, for failure to meet Operating Standards and for accumulated failures in Key Performance Indicators, as well as for uncured breaches and failures to perform any required actions.
- Right to make demand upon, draw on, and enforce and collect any bonds, letters of credit, guaranty, or other performance security available to the MDTA with respect to the Concessionaire's Default.
- Right to declare an ongoing default and demand assurances of future performance in the form of a remedial plan.
- All other legal or equitable remedies.

25. Termination for Convenience:

The MDTA will have the right to terminate the Lease and Concession Agreement at its convenience, in whole but not in part, at any time upon notice to the Concessionaire which will specify the effective termination date. In the event of such termination, the Concessionaire will be entitled to compensation equal to the greater of the fair market value of the concession or outstanding third party Project Debt.

26. Dispute Resolution:

General

Because the Lease and Concession Agreement is a revenue-producing lease and contract for provision of goods and services to the traveling public as described in COMAR 21.01.03.03.B.(1)(d)(i) & (ii), it is not subject to the Maryland General Procurement Law in Division II, State Finance and Procurement Article. Any disputes arising under it will therefore not be adjudicated by the Maryland State Board of Contract Appeals. The laws of Maryland shall govern the resolution of any issue arising in connection with the Lease and Concession Agreement, including all questions concerning the validity thereof; the capacity of the Parties to enter therein; any modification or amendment thereto; and the

rights and obligations of the Parties, without regard to principles of conflicts of laws. Further, Maryland law prohibits the use of binding arbitration by State agencies.

On-Site Field Disputes

MDTA intends to conduct routine inspections, as necessary, to ensure compliance with all applicable Governmental Rules and the Concessionaire's Proposal. The design/build contract shall contain provisions establishing a cooperative inspection and review process between the MDTA, the Concessionaire, and the Contractor.

27. Assignment:

The Concessionaire may not assign this Lease and Concession Agreement in whole or in part without the consent of the MDTA and the concurrence of the Maryland Board of Public Works.

28. Indemnification

The Concessionaire will be required to assume all risks incident to, or in connection with, its activities including the design, build, operation, maintenance, and financing of the Travel Plazas under the Lease and Concession Agreement. It will be solely responsible for all damages, contract claims, injuries to persons, property, or the environment, and any and all claims in any way connected with or arising out of or relating to the Lease and Concession Agreement. The Concessionaire will be required to indemnify, defend, and hold harmless the State of Maryland and MDTA, their authorized officers, agents, employees and representatives from and against any and all claims, suits, losses or damages for injuries (including death) to persons, or damage (including destruction) to property or the environment, of whatever kind or nature.

29. Nondiscrimination

The Concessionaire shall not discriminate in any manner against a prospective contractor or subcontractor because of the race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap of its principals or employees. In furtherance of this requirement, the Concessionaire will be required to comply with all applicable federal and State laws pertaining to non-discrimination; and include a provision similar to that contained above in this subsection in any contract in connection with this Lease and Concession Agreement, and require contractors to require the same of subcontractors. As described in 23 above, concerning Dispute Resolution, this Lease and Concession Agreement is not subject to the General Procurement Law including the Minority Business Enterprise (MBE) goals under Title 14, Subtitle 3 of the State Finance and Procurement Article, Annotated Code of Maryland. Subject to those limitations, MDTA encourages the Concessionaire to provide maximum practicable opportunities to MBEs to participate in performing on contracts in connection with this Lease and Concession Agreement.

The Concessionaire is expected to establish a new or implement an existing program that will provide all enterprises, including MBEs and small businesses (SBRs), an equal opportunity to bid for work to be performed in connection with the Lease and Concession Agreement, including implementing an outreach program to inform MBEs and SBRs timely of contracting and subcontracting opportunities starting during design and extending through operations.

8.0 REFERENCE DOCUMENTS

Reference Data for this RFP includes historical information, past records, customer spending, lease line exhibits, maintenance responsibility, utilities, systems and existing engineering data of the present Travel Plazas. This data is provided in the Data Room (www.I95MDTravelPlazas.com) as reference to the existing operations and to provide context for the future of the Plazas. Proposers must register to gain access to this information.

Appendix A

A.1. PERFORMANCE SPECIFICATION

A.1.1 General

These Design Requirements and Performance Specifications establish basic design, construction and performance requirements to be used in the design and construction of the I-95 Travel Plazas Public/Private Partnership Project (the “Project”). The term Design/Build means for the purpose of this RFP, the design and construction of the Travel Plazas. The Design Requirements provide direction on certain aspects of Design/Build applicable throughout the Project and the requirements to be followed for the Design/Build in the event a Project element or component is not covered by a Performance Specification.

The Performance Specifications include both broad Design/Build parameters and performance parameters. They are generally in the form of recognized standards, under which components and elements of the Project are to be designed.

A.1.1.1 General Obligations of the Concessionaire

The Concessionaire, in addition to performing all other requirements of the Project Documents, shall furnish all services, provide all materials, and undertake all efforts necessary or appropriate (excluding only those services, materials, and efforts which the Project Documents specify will be undertaken by the MDTA or other Persons):

A.1.1.1.1 To design and construct the Project and maintain it during construction in accordance with the requirements of the Project Documents, the Baseline Progress Schedule, all applicable Legal Requirements, all Governmental Approvals, the Quality Plan (including the Design Quality Control Plan and the Construction Quality Control Plan), and the Safety Plan; in accordance with ISO 9000 compliance, assist the MDTA with public information and all other applicable safety, environmental, licensing and other requirements, taking into account the limits of the Project property and other physical limits resulting from constraints affecting the Project, so as to achieve Milestone completion and Operational Capability by the deadlines specified in the Lease; and otherwise to do everything required by and in accordance with the Project Documents. Operational Capability means demonstrated proof that all the functions and services

required for the Travel Plaza to be fully operational and available to the public, consistent with the Lease and Concession Agreement and the Concessionaire's Proposal.

A.1.1.1.2 Comply with all conditions imposed by and undertake all actions required by and all actions necessary to maintain in full force and effect all Governmental Approvals, including implementation of all environmental mitigation measures required, except to the extent that such responsibility is expressly assigned in the Project Documents to the MDTA or another Person;

A.1.1.1.3 Provide such assistance as is reasonably requested by the MDTA in dealing with any Governmental Body and in prosecuting and defending environmental lawsuits in any and all matters relating to the Project, which may include providing information and reports regarding the Project, executing declarations, and attending meetings and hearings, but which shall in no event be deemed to require the Concessionaire to provide design or legal services;

A.1.1.1.4 Comply with, and ensure that all Subcontractors comply with, all applicable Legal Requirements, including compliance with environmental laws; and requirements regarding contaminated or hazardous materials management;

A.1.1.1.5 Perform construction inspection, sampling, testing and all other activities in accordance with the Project Documents, Design Quality Control Plan, and Construction Quality Control Plan;

A.1.1.1.6 Concessionaire shall appoint a Quality Manager who will be responsible for managing the Concessionaire's quality program and be responsible to the MDTA for acts and omissions of the Concessionaires employees, agents, officers, and subcontractors and other entities, as though all such Persons were directly employed by the Concessionaire.

A.1.2 Project-Specific Design/Build Parameters

Project-specific Design/Build parameters are included under their appropriate and respective Performance Specifications. Project-specific Design/Build parameters may include, but are not limited to, Design/Build parameters specific to the Project such as design life, number of lanes

and lane widths, landscape architecture, environmental analyses, vehicle circulation, and interior/exterior building design and construction criteria.

A.1.3 Design/Build Requirements of the Primary Service Facilities, Convenience Stores and Fueling Facilities

A.1.3.1 The Concessionaire may choose to demolish all or a portion of the existing facilities including appropriate utility connections.

A.1.3.1.1 Salvaged and Replaced Materials

The Concessionaire should salvage and reset the following:

- Memorial monuments, two at the Chesapeake House and one at the Maryland House.
- Historical Markers (signs) at the Maryland House; and
- The murals on second floor walls of the Maryland House Primary Service Facility, which shall be removed and given to MDTA in accordance with the MDTA Mural Conservation Plan, which will be later developed, but to be provided to the Concessionaire. The removal and temporary storage and transfer shall be by a qualified art archivist in order to protect the murals for storage and to prevent damage.

A.1.3.2 The Travel Plazas, Convenience Stores and Fueling Facilities shall be designed and constructed to:

A.1.3.2.1 Be in accordance with a thematic heritage concept. The MDTA requires that each Building on the Sites have an architectural form that conveys themes central to those embodied in Maryland's cultural and physical geography and that incorporates the environment and character of the State of Maryland.

A.1.3.2.2 Establish the appropriate size of the Travel Plaza facilities based on travel projections, efficiencies, restaurant concepts, fueling facilities and all components of the Travel Plazas. The Concessionaire is responsible for determining the actual size and location of all buildings and other facilities, based on current and future demands. Restroom facilities, appropriately sized, shall be included to satisfy the demand. The Concessionaire can propose

specific operational approaches that may impact square-footage requirements. Approaches and their respective square footages must be fully described with a description of benefits to the MDTA as well as the impact on capital and operating costs.

A.1.3.2.3 Be of a scale that is inviting and not imposing or intimidating.

A.1.3.2.4 Serve various types of clientele, including those traveling for leisure, business, commuting, and commercial freight hauling in trucks, automobiles, RVs, and buses.

A.1.3.2.5 Be pedestrian friendly and void of vehicular and mechanical clutter.

A.1.3.2.6 Be in accordance with the requirements of this specification, including performance requirements, standards and references, design and construction criteria, and required submittals for all structures on the Sites.

A.1.3.2.7 Comply with applicable codes and the criteria specified or indicated and approved by the MDTA for any non-combustible structural system. Structural drawings and calculations shall be furnished by a structural engineer licensed in the State of Maryland.

A.1.3.2.8 Provide site lighting including lighting on all entrance and exit ramps. Pedestrian lighting shall be furnished for all parking and consistent with the minimal performance specifications. Lighting shall be constructed at designated areas as per the Concessionaire's design. The fixtures shall be consistent in material, color, style, and finish with the designed Site furnishings. A site lighting plan shall be submitted for approval by MDTA.

A.1.3.2.9 Provide a minimum of one (1) telephone at both the Primary Service Facility Buildings and the Convenience Store/Fueling stations at each Site.

A.1.3.2.9 Provide pet walking areas at each of the Plazas. The areas shall provide receptacles for disposable clean up bags and trash, ground cover designed to require minimal maintenance, self-serve fresh water faucets for pets, signing requiring users to keep pets on a leash at all times and to clean up after pets, and lighting for night time use.

A.1.4 Primary Service Facility

A.1.4.1 The Concessionaire shall design and construct a Primary Service Facility at each Site. Primary Service Facility at each Site shall contain restroom facilities, food service facilities, indoor and outdoor seating, retail space, a Visitors Center, administrative offices, and maintenance facilities.

A.1.4.2 Visitors Center space must be located on the main level at both the Maryland House and the Chesapeake House Primary Service Facility locations. A minimum of 500 square feet shall be provided unless the Concessionaire incorporates an alternative approach that requires less square footage but achieves the same objective. Wall space shall be provided to hang photographs of the Governor, Lieutenant Governor, MDTA Board members and Chairman. Photos will be supplied by MDTA. The Visitor Center features shall enhance the superior experience and integrity expected throughout these facilities.

A.1.4.3 Restroom facilities shall be designed and constructed to meet a peak demand during a typical summer weekend. Restroom facilities should be designed to accommodate the cleaning and maintenance required for a 24/7 operation.

A.1.5 Convenience Store/Fueling Station

At each Site, a Convenience Store/Fueling Station shall be designed and constructed. At a minimum, the Convenience Store shall constitute a retail business with a primary emphasis placed on providing the public with a convenient location to quickly purchase a wide variety of consumable products (predominantly food and gasoline) and services.

A.1.6 Reference Documents

Reference Documents have been provided to the Proposer for informational purposes and are available in the Data Room. The Proposer shall be responsible for acquiring its own information relating to design, procurement, fabrication, testing, and/or inspection related to this Project as identified in the RFP Section 2.1.2 On-Site Investigation, Limits of Reliance.

A.1.7 Design Codes and Manuals

In addition to other requirements listed in regarding Sustainability and Energy Performance, the Concessionaire shall comply with applicable and currently effective engineering and construction codes and standards, including those of the various federal, state, and local jurisdictions. The codes and standards establish quality parameters and type of workmanship, materials, and methods for testing and reporting. The Concessionaire is responsible for developing the drawings and specifications, and to construct the Travel Plazas to meet or exceed all applicable code requirements and regulations impacting the Project whether or not it is so defined in the Project Documents.

If codes, standards, and/or manuals are specified herein for the design and construction of an element of the Project, then the Concessionaire shall use the latest approved version of the publication.

Project-specific design and construction parameters are included under their appropriate and respective Performance Specifications. Project-specific design and construction parameters may include, but are not limited to, design and construction parameters specific to the Project, such as, design life, forecasted traffic volumes, number of lanes and lane widths, vehicle circulation, and building design.

A.1.8 Standards and References

The Concessionaire shall conduct the market analyses, design the Project, secure the necessary permits and authorizations, and implement the requirements in accordance with all applicable laws, codes, rules, ordinances, restrictions, and regulations of the federal, State, regional or any local Governmental Body and judicial or administrative orders which affect this Project (“Governmental Rules”) and the relevant requirements of the standards listed herein, unless otherwise stipulated. Standards specifically cited in the body of this specification that exceed the requirements of Governmental Rules or State and federal standards shall take precedence over all others.

A.1.8 TABLE 1

Item #	Issuing Agency &/or Title	
1	AASHTO	Roadside Design Guide, (most recent edition)
2	ADA	Accessibility Guidelines
3	ANSI	A300 Tree Care Operations
4	ANSI Z60.1	American Standard for Nursery Stock
5	ASHRAE	American Society of Refrigeration, Air-Conditioning Engineers, Ventilation and Energy
6	AWWA	American Water Works Association
7	CFR	Code of Federal Regulations
8	COMAR	Code of Maryland Regulations
9	CPTED	Crime Prevention through Environmental Design
10	DOI/MHT	Section 106 of the National Historical Preservation Act
11	FHWA	Federal Highway Administration
12	IBC	International Building Code, 2006.
13	ICC	International Energy Conservation Code, 2006.
14	IEEE	Wireless Communication
15	IEEE	Institute of Electrical and Electronics Engineers Standards
16	IESNA	Illuminating Engineering Society of North America. – 2000
17	IFC	International Fire Code, 2006.
18	IMC	International Mechanical Code
19	MDSHA	Maryland Department of Transportation, State Highway Administration
20	MDTA	Standard Sign Book
21	NECA	1-2000 Standard Practice for Good Workmanship in Electrical Contracting
22	NEMA	National Electrical Manufacturers Association Standards
23	NFPA	National Fire Protection Code
24	NSF	National Sanitation Foundation
25	OSHA	Code of Federal Regulations (“CFR”): 29 CFR 1926
26	OSHA 29 CFR	1926 “Safety and Health Regulations for Construction” (Construction Industry Standards)
27	UL	Underwriters Laboratories Standards
28	USACE	Clean Water Act (“Section 404 Permit”)
29	USDOT	Department of Transportation Act (49 U.S.C. § 303)

A.1.9 Design and Construction Review Process

The Concessionaire shall complete all Work necessary to achieve Operational Capability within the deadlines specified in the proposal.

A.1.9.1 General Provisions

A.1.9.1.1 The Project Documents establish the minimum standards of quality and define requirements that the design and construction must satisfy.

During the design process, the Concessionaire shall develop Project Specifications and Design Plans based on the Project Documents that are applicable to the specific materials, products, equipment, procedures, and methods that the Concessionaire intends to use.

A.1.9.1.2 The Work shall be performed in accordance with the details as shown on the approved Design Plans prepared by the Concessionaire and those working plans prepared by the Concessionaire. It shall be solely the Concessionaire's responsibility to provide working plans (those plans prepared by the Concessionaire to supplement Design Plans and to specify additional details and procedures for construction of the Project) of such a nature as to develop a finished product in accordance with Design Plans, Project Specifications, and the requirements of the Project Documents.

A.1.9.1.3 The Concessionaire shall organize and format Design and As-Built Plans per the Maryland State Highway Administration's ("MDSHA") CADD Manual and Drafting Standards.

A.1.9.2 Design Reviews

Except as mutually agreed upon between the Concessionaire and the MDTA, all design reviews will be conducted in the meeting space provided by the Concessionaire in Maryland. The Concessionaire shall invite the MDTA to participate in Definitive and Final Design reviews. The Concessionaire shall address and resolve comments in consultation with the MDTA.

A.1.9.2.1 The design review of Definitive Design shall be the first design review after award of the Contract and is intended to verify that the design concepts proposed by the Concessionaire meet the requirements of the Project Documents.

The Definitive Design review shall verify the following:

- The design concepts are defined as consistent with the accepted requirements of the Project Documents;
- The design concepts (submitted with proposal) are substantiated and justified by adequate site investigation and analysis;
- The specific standards applicable to the proposed concepts are identified and appropriate;
- The proposed design concepts are constructible;
- The availability of required materials/equipment;
- The design meets Project quality requirements; and
- Required procedures in the Design Quality Control Plan have been followed.

If the Definitive Design is amended and approved by the MDTA subsequent to the Definitive Design review, the Concessionaire shall re-check and re-certify the design as an additional Definitive Design review.

A.1.9.2.2 The Concessionaire shall schedule and conduct a Final Design review when the Design Plans and Project Specifications for a design unit are 100% complete. The Concessionaire shall specifically bring to the attention of the MDTA any changes to information presented at previous design reviews. The Concessionaire shall present the Final Design for review, comment, and approval by the MDTA. If the MDTA believes any part of the plans or specifications do not meet the intent of the RFP and the previous approved submittal then the MDTA will, in writing, inform the Concessionaire of the points in question. The Concessionaire shall change or add as required by comments. If the Concessionaire disputes any of the comments then the two parties must discuss and resolve in writing before final approval of the plans. With full resolution and submittal of the 100% plans and specifications, the MDTA will issue, in writing, an approval to begin construction in accordance with the final approved submittal.

A.1.9.2.3 The Concessionaire shall submit the As-Built Plans for each design unit prior to requesting Operation Capability.

A.1.9.2.4 The MDTA may conduct additional reviews as considered necessary to ensure a continued and uniform consistency in the quality and effective incorporation of revisions to designs. The Concessionaire may also initiate reviews with the MDTA necessary to facilitate early release of designs for construction.

A.1.9.3 Construction Reviews

All work shall be completed on the Travel Plazas using approved plans and specifications or as directed through non-conformance reports by the Designer of Record through the Quality Manager provided by the Concessionaire.

Generally all work on the Travel Plazas shall be controlled by the Quality Manager provided by the Concessionaire. The Concessionaire is responsible for all acts of its subcontractors and for the correct quality of the completed product.

The MDTA Authorized Representative will be allowed full access to the work site to observe and view records that indicate the compliance with the plans and specifications as well as the quality control records. This is in full accordance with Section 5.1 of this RFP and is meant to allow the MDTA to have a presence on the site and on off site work that is being completed for the Project. This does not replace or supplement the Concessionaire's requirement to administer and control the work but shall allow the MDTA the right to have a representative to observe and gather information required by Lease and Concession Agreement.

A.1.10 Operational Capability

The Concessionaire shall develop a formal checklist, in consultation with the MDTA, which will be used to help assess whether the Travel Plaza is ready to achieve Operational Capability. Upon due notice from the Concessionaire requesting inspection for purposes of determining Operational Capability, the MDTA's Authorized Representative shall make an inspection and review quality and other documentation. If at such inspection and review, all Work provided for and contemplated by the Project Documents is found completed, including final cleanup and provision of As-Built Plans, the MDTA shall issue a statement of Operational Capability.

If at such inspection, the MDTA Authorized Representative determines that additional Work remains to be completed prior to Operational Capability, the Concessionaire shall complete or correct the outstanding items and request re-inspection. This process is repeated until all Work is completed, corrected and approved. If upon re-inspection the MDTA's Authorized Representative determines that all Work required for Operational Capability has been fully performed, the MDTA shall provide a statement of Operational Capability.

As a condition to Operational Capability of one of the Travel Plazas, whether it is the Chesapeake House or the Maryland House, the facility must be in Successful Operation two weeks before the other facility may be shut down for redevelopment. Successful Operation means the full operational performance of the Travel Plaza, including the provision of all retail and commercial activities including fueling, and public availability to all areas of the Travel Plaza to be used by the public, including but not limited to parking, restrooms, and public areas for eating.

A.2 ENVIRONMENTAL PERFORMANCE SPECIFICATION

A.2.1 General Environmental Philosophy

The MDTA considers the protection of environmental resources of paramount importance. The MDTA is committed to avoiding and minimizing the impact to the natural, community, and cultural resources to the extent practical and feasible. The Concessionaire shall adopt this commitment and shall design the Project in an environmentally sensitive manner, continually exploring efforts to avoid and minimize impacts throughout the preparation of final design plans and project implementation. The design and permitting processes shall follow the hierarchy of avoidance, minimization, and mitigation in accordance with the 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 air, 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 (“Environmental Laws”).

A.2.1.1 Concessionaire’s Responsibilities

The Concessionaire shall conduct all environmental analyses, comply with all applicable Governmental Rules and shall acquire all environmental permits, authorizations, and approvals necessary to construct the Project, including, but not limited to Section 106 of the National Historic Preservation Act, Sections 401 and 404 of the Clean Water Act, and the Maryland Forest Conservation Act and in accordance with all applicable criteria and standards cited herein and in accordance with the Environmental Performance Specification. The Concessionaire shall also be responsible to secure and comply with all permit conditions throughout the design and construction of the Project. As such, the Concessionaire shall provide an Environmental Manager (“EM”) who shall be responsible for all environmental design and construction issues required for the Project.

A.2.2 Environmental Compliance and Pollution Prevention

The Concessionaire will be responsible to comply with the Environmental Laws associated with the development, operation, and maintenance of the Travel Plazas. Performance will be measured based on benchmark levels established at the commencement of the Lease for environmental contamination at the Travel Plazas. The Concessionaire's responsibilities include: identifying, remedying, packaging, manifesting, reporting, record keeping, handling, transporting and legally disposing of all hazardous and nonhazardous liquid or solid wastes generated by their operation of the Travel Plazas. This section of the Environmental Best Practices/Sustainability Plan (Section 5.4.6) must address the Proposer's approach to managing environmental compliance and proposed measures to prevent pollution from occurring.

A.3 SITE TRAFFIC OPERATIONS PERFORMANCE SPECIFICATION

A.3.1 General

The Concessionaire shall design and construct traffic entry, exit, and circulation patterns, parking facilities and pedestrian walkways in which motorcycles, passenger cars, buses, recreational vehicles, trucks, and pedestrians (“Modes of Travel”) will be able to safely and efficiently circulate throughout the Travel Plazas.

A.3.2 Performance Requirements

Design Site traffic operations to meet the following performance requirements:

A.3.2.1 The quantity and size of the parking spaces for high turnover use by passenger cars, busses, trucks and RV’s shall be determined based on a demand analysis conducted by the Concessionaire and approved by the MDTA. The Concessionaire shall show the breakdown and design criteria for parking for all vehicle modes. The number of truck parking spaces shall be approximately the same as the existing number of spaces provided at the Travel Plazas for trucks. Currently there are 56 truck spaces located at the Maryland House and 98 spaces at the Chesapeake House.

A.3.2.2 Pedestrian and vehicular circulation patterns shall work collectively to form an efficient network that allows travelers to safely access on-site facilities.

A.3.2.3 The number of crossing/conflict points between different modes of travel or different vehicle types shall be minimized.

A.3.2.4 Circulation design shall take into consideration the MDTA restrictions at the Restricted Use Area as shown in Reference Documents.

A.3.2.5 The signing and pavement marking shall effectively, clearly, and safely warn, guide, and regulate motorists and pedestrians when entering, exiting, and traveling within the Travel Plazas. Overhead signs shall be placed at key decision points within the Travel Plazas.

A.3.2.6 The parking area design shall be integrated with the design of the entire Site. The balanced design shall include open spaces, drainage, landscaping, and safe and barrier-free pedestrian circulation along with the required parking accommodations in accordance with all applicable Governmental Rules.

A.3.2.7 Provide safe, accessible, and effective circulation of pedestrian traffic that will enhance the quality of the overall customer environment.

A.4 TEMPORARY TRAFFIC CONTROL PERFORMANCE SPECIFICATION

A.4.1 General

The Concessionaire shall design and provide Temporary Traffic Control (“TTC”) to achieve the safe and efficient movement of vehicles and pedestrians through work zones while also protecting workers and equipment along I-95 and within the Travel Plazas.

The Concessionaire is responsible for obtaining lane/shoulder closure and other permits from all affected agencies that require permits for work on their right of way in accordance with all applicable Governmental Rules.

A.4.1.1 When closing a Travel Plaza, the Concessionaire is at a minimum to:

A.4.1.1.1 Use Portable Changeable Message Signs (“PCMS”) and adequate-sized static signs along I-95 to adequately inform motorist of Travel Plaza closures and the availability of the open Travel Plaza. Use of PCMS and static signs shall be in accordance with MDSHA Temporary Traffic Control Standards and the Maryland Manual on Uniformed Traffic Control Devices (“MUTCD”); and

A.4.1.1.2 Provide modifications to all existing signing on I-95 at the closed Travel Plaza. It is important that conflicting messages on I-95 be avoided.

A.5. INFORMATION TECHNOLOGY PERFORMANCE SPECIFICATION

A.5.1 General

The Concessionaire shall design, construct, implement, and operate the Travel Plaza Information Technology (IT) elements in accordance with the requirements of this specification, including Performance Requirements, Standards, warranties, design and construction criteria, and required submittals.

A.5.1.1 Primary Service Facilities and the Buildings

Each Primary Service Facility should provide state-of-the-art Internet Technology (“IT”) features. The buildings’ infrastructure should be “technology friendly”. These features should include but not be limited to wireless Internet access, various payment methods for services, secure access for restricted/private areas, video surveillance, cable/satellite feeds, and access to I-95 roadway traffic and weather conditions (available from the Maryland State Highway Administration’s Office of CHART). The buildings on the Sites should have easy access to any wiring or equipment rooms. These rooms should be able to accommodate any and all technological needs of the building as well as being flexible to accept any future technology developments. Buildings should be pre-wired or be able to be wired to accept any number of technology developments. The design should be flexible enough to accept future technology needs without demolition of walls, etc. The Concessionaire is encouraged to recommend additional technology features that would be beneficial to MDTA and its customers.

A 5.1.2 Emergency Service Responders

The Concessionaire shall work with local Emergency Service Responders for both Travel Plazas to ensure adequate radio communications for local emergency services are available in all areas of the Site.

A 5.1.3 Security Surveillance

Security at the Travel Plazas is of paramount importance. Surveillance cameras shall be installed by the Concessionaire so that outside areas and internal patron areas are covered by cameras.

The video images shall be stored for a period of 30 days. The security surveillance element shall be addressed in the Proposer's Safety and Security Plan as required under Section 5.4.5.7.

A.5.1.3 Public Wireless Internet Connectivity

The Internet shall be available to patrons and staff via IEEE 802.11G specifications or the latest specification ratified by IEEE for wireless connectivity. The system shall be updated over the term of the Lease and Concession Agreement as technology improves. Internet access shall be available 24 hours a day 7 days a week, except during periodic maintenance.

A.6 ELECTRICAL SYSTEMS PERFORMANCE SPECIFICATION

A.6.1 Electrical Distribution System

The electrical distribution system shall be designed to provide a cost-effective reliable system. The electrical service and main distribution shall be sized to the connected load in accordance with the NEC.

A.6.2 Engine-Generator System

A.6.2.1 A system of engine-generators, generator paralleling switchgear and automatic transfer switches shall be designed in accordance with NFPA 110. Due to the life safety requirements, this system shall be classified in accordance with NFPA 1.

A.6.2.2 For redundancy and reliability of the Travel Plazas' power systems, a system shall be included in the design of the restaurant and fuel facilities at both Travel Plazas to ensure the traveling public can still utilize the services of the restaurant and fuel facilities during local power failures.

A.7 DEMOLITION PERFORMANCE SPECIFICATION

A.7.1 General

The Concessionaire may choose to demolish, all or a portion of the existing facilities including appropriate utility connections.

All property with the exception of the salvaged and materials as specified, shall become the property of the Concessionaire after notice to proceed. The Concessionaire shall demolish, remove from the site and dispose of all remaining materials in accordance with all applicable Governmental Rules.

A.7.2 Removal of universal waste

The work covered by this section includes the furnishing of all materials and equipment and the performing of all labor for identification, stockpiling, sampling/testing, and removal of universal wastes including, but not limited to, PCB-containing lighting ballasts, associated mercury-containing lamps (fluorescent tubes), mercury-containing thermostats or thermometers, and batteries (nickel cadmium batteries, in particular) in compliance with all regulations and guidelines.

The Concessionaire shall be responsible for identifying universal wastes, verifying quantities, and removing them in accordance with all applicable Governmental Rules.

The scope of work generally includes compliance with regulations of the U.S. Environmental Protection Agency (“EPA”), Maryland Department of the Environment (“MDE”), and U.S. Department of Transportation (“DOT”) during the demolition of existing structures, which contains universal wastes. Metal components are to be removed and separated for recycling.

A.7.3 Blasting

The Concessionaire shall not use blasting as a technique to demolish or excavate any portion of the work either on site or off site.

A.8 ASBESTOS REMOVAL AND DISPOSAL

A.8.1 General

Removal and disposal of all asbestos includes the furnishing of all materials and equipment and the performance of all labor for the proper and safe removal, handling, and disposal of friable and non-friable Asbestos Containing Materials (“ACM”) in compliance with all applicable Governmental Rules and Environmental Laws. All suspect ACM shall be considered to be ACM unless analytical test results indicate otherwise. The Concessionaire shall notify the MDTA if hazardous building materials that were not identified during the survey are encountered during the removal process.

A.8.2 Prior to Demolition

Prior to demolition of buildings or structures, the Concessionaire shall remove all Regulated Asbestos Containing Materials (“RACM”) within the building to be demolished. ACM information is provided in Reference Documents that are within the Data Room for the Proposer for informational purposes only as identified in the RFP Section 2.1.2, On-Site Investigation, Limits of Reliance.

A.8.3 Regulated Asbestos Containing Materials

RACM includes all friable ACM, all Category I non-friable ACM that would be subjected to sanding, grinding, cutting, or abrading during demolition if left in place, and all Category II non-friable ACM that would be made friable during abatement. In the event that the Proposer elects to remove non-regulated ACM, such as nonfriable ACM that would not be subjected to sanding, grinding or cutting, the removal shall be done according to all provisions of this section and treated as though the material were RACM.

A.8.3.1 Field surveying for quantification of ACM shall be the responsibility of the Concessionaire and shall be conducted in accordance with applicable Governmental Rules.

A.8.4 Submittals

In addition to any documentation or reports submitted to a regulatory governmental entity as required by applicable Governmental Rules, the Concessionaire will be required to submit to the MDTA all requested testing results, reports, disposal records, etc. After award of the Lease and Concession Agreement, the MDTA and the Concessionaire will develop a comprehensive list of required submittals and a procedure for completing these submissions.

A.9 LEAD-BASED PAINT REMOVAL AND DISPOSAL

A.9.1 General

All lead based testing removal transportation and disposal shall be in accordance with CFR Part 1926.62, and all applicable Governmental Rules and Environmental Laws. This includes all work under this proposal, whether it is on or off Site (including water towers).

A.9.1.1 The work covered by this section includes the furnishing of all materials and equipment and the performing of all labor for identification, stockpiling, sampling, and disposal of components coated with lead-based paint (“LBP”) in compliance with all applicable Governmental Rules and Environmental Laws as herein specified or as directed by the MDTA.

A.9.1.2 All painted items on both the interior and exterior of the buildings, including water towers, are to be considered LBP unless they were previously documented as not being LBP or unless additional testing by the Proposer determines the paint to not be LBP.

A.9.1.3 Field surveying for quantification of LBP shall be the responsibility of the Concessionaire and shall be conducted in accordance with applicable Governmental Rules. The Concessionaire shall notify the MDTA if hazardous building materials that were not identified during the survey are encountered during the removal process.

A.9.2 Submittals

In addition to any documentation or reports submitted to a regulatory governmental entity as required by applicable Governmental Rules, the Concessionaire will be required to submit to the MDTA all requested testing results, reports, disposal records, etc. After award of the Lease and Concession Agreement, the MDTA and the Concessionaire will develop a comprehensive list of required submittals and a procedure for completing these submissions.

A.10 UNDERGROUND STORAGE TANK INSTALLATION PERFORMANCE SPECIFICATION

A.10.1 General

At a minimum, the Concessionaire shall design, construct, operate, and certify the facility to comply with all applicable Governmental Rules

A.10.1.1 Summary of Scope of Work and Existing Conditions

This section includes installation of USTs, wells, and standard ancillary equipment associated with new retail fueling systems at each facility in accordance with all applicable Governmental Rules, permissions and permits required by MDE, and any additional MDTA requirements.

A.10.1.2 General Scope of Work include:

- (1) Installation of new underground storage tank systems; and
- (2) Installation and sampling of compliance groundwater monitoring wells.

A.10.2 Performance Requirements

A.10.2.1 Submittals

In addition to any documentation or reports submitted to regulatory governmental entity as required by applicable Governmental Rules, the Concessionaire will be required to submit to the MDTA all requested testing results, reports, disposal records, etc. After award of the Contract, the MDTA and the Concessionaire will develop a comprehensive list of required submittals and a procedure for completing these submissions.

A.10.2.2 Installation of new UST Systems

The Concessionaire may install new UST systems in any location approved by applicable regulatory agencies except:

- (1) The Concessionaire shall not install any USTs within 100 feet of the existing tank field, piping, or dispensers at the Maryland House southern station (Exxon); and
- (2) The Concessionaire shall collect soil samples for laboratory analysis from each individual newly excavated UST tank field to establish a baseline to measure soil conditions over the term of the Lease and Concession Agreement.

A.10.2.3 Tank Field Observation Well and Compliance Groundwater Monitoring Well Installation and Sampling

A.10.2.3.1 The Concessionaire shall comply with all applicable MDE requirements regarding the installation of monitoring pipes (defined as “tank field observation wells”) within the tank field backfill material of new UST systems. If UST tank field contains four to six tanks, six (6) tank field observation wells shall be installed at locations approved by MDE and the MDTA. If UST tank field contains seven or more tanks, eight (8) tank field observation wells shall be installed at locations approved by MDE and the MDTA.

A.10.2.3.2 To provide for periodic groundwater monitoring over the term of the Lease and Concession Agreement, the Concessionaire shall install monitoring wells outside the new UST system excavation (defined as “compliance groundwater monitoring wells”). All well installations shall be performed by a Maryland-licensed driller in accordance with all Governmental Rules and under the supervision of a qualified and adequately trained environmental professional.

A.10.3 Groundwater Monitoring Wells

A.10.3.1 If the UST tank field contains four to six tanks, a minimum of four (4) compliance groundwater monitoring wells shall be installed in the vicinity of the UST field at locations approved by MDE and the MDTA.

A.10.3.2 If the UST tank field contains seven or more tanks, minimum of six (6) compliance groundwater monitoring wells shall be installed in the vicinity of the UST field at locations approved by MDE and the MDTA.

A.10.3.3 If the length of product supply piping from the tank field to the dispenser island exceeds 50 feet, one (1) compliance groundwater monitoring well shall be installed adjacent to the piping run between 5 and 10 feet from the edge of the piping excavation at a location approved by MDE and the MDTA. One additional compliance groundwater monitoring well

shall be installed for every 50 feet of product supply line piping in excess of 75 feet. All well locations shall be approved by MDE and the MDTA.

A.10.3.4 One compliance groundwater monitoring well shall be installed in the vicinity of each dispenser island at a location approved by MDE and the MDTA.

A.10.3.5 The Concessionaire shall comply with all applicable MDE requirements regarding sampling of tank field observation wells and compliance groundwater monitoring wells. All sampling shall be performed by a qualified and adequately trained environmental professional. All groundwater samples shall be analyzed for the full standard suite of volatile organic compounds plus ethanol and fuel oxygenates by EPA Method 8260B, gasoline range total petroleum hydrocarbons by EPA Method 8015, and diesel range total petroleum hydrocarbons by EPA Method 8015.

A.10.4 Transfer of Ownership of Existing USTs

The Concessionaire shall:

A.10.4.1 Prior to the Transfer of Operations, submit registration forms and proof of insurance to MDE as required in COMAR 26.10 to transfer ownership of all known existing USTs currently in use at both Travel Plazas from the MDTA to the Concessionaire's ownership.

A.10.4.2 Prior to the Transfer of Operations, all UST systems shall be inspected by an MDE-certified third party inspector hired by the Concessionaire and approved by the MDTA prior to the inspections. Inspections shall be performed in accordance with the requirements of 26.10.03.10. Inspection reports shall be submitted to the MDTA no more than seven days after the inspection is completed.

A.10.4.3 Following receipt of the inspection reports, MDTA shall make repairs as needed to bring all UST systems into compliance pursuant to the inspection reports' findings within the time period required by COMAR 26.10.

A. 10.4.4 Concessionaire shall be responsible for any and all releases of fuel to the environment that occur while the Concessionaire is operating the systems. Responsibility includes financial responsibility, remediation responsibility, and regulatory compliance responsibility in accordance with COMAR 26.10.

A.10.4.5 The MDTA shall continue to sample and monitor its groundwater monitoring wells at each operating service station facility periodically to document groundwater conditions while the Concessionaire operates the existing UST systems.

A.10.4.6 At any time during the Concessionaire's operation of an existing UST system, the MDTA shall have the right to perform a partial or complete UST system compliance inspection according to the requirements of COMAR 26.10.03.10. The MDTA shall provide an Inspection Report to the Concessionaire within seven days of the inspection. The Concessionaire shall make repairs as needed to bring the UST system into compliance with COMAR 26.10 within 45 days of receipt of the Inspection Report. The Inspection Report and receipts, invoices or other sufficient evidence of repairs made shall be kept onsite.

A.10.5 Additional MDTA Requirements

A.10.5.1 Sampling Event #1: Each compliance groundwater monitoring well shall be sampled no sooner than two (2) weeks following installation and development and a minimum of sixty (60) days prior to placing fuel in the UST system. Each tank field observation well that contains a minimum of three feet of water shall also be sampled.

A.10.5.2 Sampling Event #2: Each compliance groundwater monitoring well, and tank field observation well containing a minimum of three feet of water, shall be re-sampled no sooner than forty-five (45) days following Sampling Event #1 and a minimum of fifteen (15) days prior to placing fuel in the new UST system.

A.10.5.3 Sampling Event #3: Each compliance groundwater monitoring well and tank field observation well containing a minimum of three feet of water shall be re-sampled within thirty (30) days after the new UST system has been installed and filled with fuel.

A.10.5.4 Annual Sampling Events and Annual Reporting: The Concessionaire shall conduct an annual groundwater sampling event. Each compliance groundwater monitoring well and tank field observation well containing a minimum of three feet of water shall be sampled during the annual event. The Concessionaire shall prepare an “Annual Compliance Groundwater Monitoring Well Report” each year for submittal to MDE, with two copies to the MDTA. The Report shall meet requirements of the MDE MEAT document for periodic site monitoring and appropriately document all well sampling methods and results.

A.10.5.5 Results from Sampling Events #1 and #2 will be used to establish baseline groundwater conditions prior to filling the new tanks and lines with fuel. In the event of a suspected release, baseline groundwater data and any other relevant data shall be compared to post-release groundwater data. If post-release groundwater data exceed baseline and other relevant groundwater data, the Concessionaire shall be responsible for all investigation and remediation costs resulting from regulatory requirements.

A.10.5.6 The Concessionaire shall prepare a Compliance Groundwater Monitoring Well Installation and Sampling Report for submittal to MDE with two copies to the MDTA. The report shall meet requirements of the MDE MEAT document for Site assessment activities and appropriately document all well installation and groundwater sampling methods and results associated with Sampling Events #1, #2, and #3. The Report shall be submitted to MDE no later than 30 days following Sampling Event #3.

Appendix B

B.1 UNDERGROUND STORAGE TANK REMOVAL AND MANAGEMENT PERFORMANCE SPECIFICATION

B.1.1 Summary of Scope of Work and Existing Conditions

This section includes complete removal (not closure-in-place and/or change-in-service) of all known existing underground storage tanks (“USTs”), dispensers, islands, electrical conduits, fill port and vent piping, product transfer lines, hold-down pads and related incidentals associated with retail fueling and facility operations at the Maryland House and Chesapeake House Travel Plaza facilities.

B.1.1.1 General Scope of Work includes:

B.1.1.1.1 Removal of all existing USTs and all tank field observation wells (monitoring pipes) associated with the tank fields currently known to the MDTA.

B.1.1.1.2 Removal of all USTs discovered during excavation, demolition, or construction.

B.1.1.1.3 Removal of existing remediation system at the Maryland House Exxon facility, if within the Concessionaire’s limit of disturbance.

B.1.1.1.4 Abandonment of all existing groundwater monitoring wells and groundwater recovery wells that may be damaged or destroyed by Site redevelopment activities.

B.1.1.1.5 Installation of replacement groundwater monitoring wells.

B.1.1.1.6 Installation of six multilevel wells.

B.1.1.1.7 Disposal of all waste material generated from UST removal and groundwater monitoring well installation activities.

B.1.1.2 Site Background and Site Specific Requirements:

B.1.1.2.1 Each of the four gasoline fueling stations have, or have had, active MDE case numbers with the Maryland Department of the Environment (MDE) Oil Control Program associated with petroleum releases. Available historical site data and file documents for each facility, including an Environmental Site Summary, are included in Reference Documents for informational purposes. As of April 2011, open MDE case numbers exist for the Chesapeake House Exxon and Maryland House Exxon fueling stations.

B.1.1.2.2 The MDTA will continue to perform MDE-required monitoring, assessment, and/or remediation activities associated with the two open cases until a “Final Closure Letter” is received from MDE.

B.1.1.2.3 A Restricted Use Area has been identified by the MDTA as depicted in Exhibit A located in Section 8 of the Reference Documents. The Concessionaire’s development of the Restricted Use Area is limited by the following conditions:

1. The Concessionaire shall not construct buildings or facilities within the Restricted Use Area without the express written consent of the MDTA.
2. The Concessionaire may locate paved parking and parking lot circulation aisles within the Area’s limits;
3. The MDTA shall have the right to the use of the Restricted Use Area for the purpose of performing remediation activities as may be required by MDE, or as the MDTA may initiate with MDE’s approval;
4. The MDTA’s use of the Restricted Use Area for construction of remedial measures, as needed, may extend for several consecutive months, and may include installation of groundwater wells, a temporary building or trailer housing remediation equipment and other ancillary equipment. Following construction of remedial measures and to the extent reasonably possible, the MDTA will restore the surface of the Restricted Use Area to the pre-construction condition;
5. The MDTA shall have intermittent access as needed to the Restricted Use Area in order to operate, maintain, and monitor the progress of any remediation measures constructed or installed, and to deconstruct and remove them at the end of the remediation.

Intermittent access shall be conducted so as to minimize disruption of public services in the Restricted Use Area.

B.1.2 Performance Requirements

B.1.2.1 Submittals

In addition to any documentation or reports submitted to regulatory governmental entity as required by applicable Governmental Rules, the Concessionaire will be required to submit to the MDTA all requested testing results, reports, disposal records, etc. After award of the Agreement, the MDTA and the Concessionaire will develop a comprehensive list of required submittals and a procedure for completing these submissions.

B.1.2.2 Close-out Submittals

Project Record Documents: Record actual locations of all items removed during Site redevelopment and demolition activities including, but not limited to structures, dispensers, USTs, underground piping, above-ground and underground utilities, groundwater monitoring wells and remediation systems.

B.1.2.3 Qualifications

Persons hired by the Concessionaire to implement this Section shall meet the following qualifications:

B.1.2.3.1 Tank Removal Company:

Company specializing in performing work of this section with minimum of ten (10) years documented experience including all required MDE certifications.

B.1.2.3.2 Removal, Testing, and Inspection Site Supervisor:

Individual specializing in performing tank removal work of this section with minimum of five (5) years documented experience including all required MDE certifications.

B.1.2.3.3 Drilling Company specializing in performing work of this section with minimum of ten (10) years documented experience and all applicable Maryland licensing requirements.

B.1.2.3.4 Environmental professional with specific experience related to regulatory requirements, environmental assessment, and remediation associated with petroleum hydrocarbon impacted projects.

B.1.2.4 Coordination

The Concessionaire shall:

B.1.2.4.1 Coordinate work with the MDTA's Environmental Manager for tank removal.

B.1.2.4.2 Coordinate with MDE all tank removal, tank installation, groundwater monitoring well abandonment, and groundwater monitoring well installation.

B.1.2.5 Well Abandonment

All existing groundwater monitoring wells and groundwater recovery wells that may be damaged or destroyed by Site redevelopment activities shall be abandoned. When abandoning wells, the Concessionaire shall prepare Well Abandonment Reports for each of the four facilities: Reports shall include description of well abandonment activities, photographs of wells pre- and post-abandonment, Site map indicating current Site structures and former well locations, survey coordinates of all abandoned wells, copy of driller's well abandonment reports, and documentation that well abandonment reports were submitted to all required recipients. Draft reports shall be submitted to the MDTA for review and approval. The Concessionaire shall make any revisions required by the MDTA, and provide two copies of the final version of the report to the MDTA (hard copy and electronic copy). The MDTA shall submit the report to MDE.

B.1.2.6 Remediation System

If the remediation system shed, buried piping, or any recovery wells are located within the limits of disturbance, the Concessionaire shall take the following actions:

B.1.2.6.1 Concessionaire shall abandon all recovery wells in accordance with requirements of the RFP.

B.1.2.6.2 Remove all pumps from the recovery wells and associated subsurface air and water lines.

B.1.2.6.3 Safely and carefully remove all equipment associated with the remediation system that is located inside and outside the shed.

B.1.2.6.4 Remove the remediation system shed for off-site disposal.

B.1.2.6.5 Transport all equipment to an MDTA facility to be named later for storage.

B.1.2.6.6 In the event that MDE requires continuous groundwater containment or other interim treatment during redevelopment construction, the MDTA may submit a scope of work and request for proposal to the Concessionaire to implement continuous groundwater containment. If an agreement cannot be reached to the MDTA's satisfaction on scope and price, the MDTA shall reserve the right to hire a contractor to implement groundwater containment during the Concessionaires' redevelopment activities and the Concessionaire shall cooperate with the MDTA's contractor in order to allow the MDTA to fully comply with MDE's requirements.

B.1.2.7 Excavation

When excavating under this Section, the Concessionaire shall:

B.1.2.7.1 Prior to mobilization, submit a written "Excavated Soil Testing and Management Plan" ("Plan") for MDTA approval. MDTA shall review the Plan and provide written approval or rejection of the Plan. If rejection is indicated, specific deficiencies shall be provided by MDTA. The final destination of all excavated soils and all excavated existing backfill material associated with this section shall be either:

1. Off-site disposal at a permitted soil disposal facility, or
2. Approved use onsite pursuant to the Plan.

The Plan shall include all appropriate details regarding management of the excavated soils including the methods by which the Concessionaire will determine whether excavated soil and excavated existing backfill materials are acceptable for onsite use, how approved soil/existing backfill material will be reused onsite, etc. Following MDTA approval and prior to mobilization for UST system excavation, the Concessionaire shall submit the Plan to MDE for approval. The Concessionaire shall not mobilize until written approval is received from MDTA and MDE.

B.1.2.7.2 Excavated Soil Standards: The maximum concentration in excavated soil and excavated existing backfill materials for acceptable use onsite for benzene, toluene, ethylbenzene, xylenes, and MTBE shall be the Protection of Groundwater soil standards found in MDE's Cleanup Standards for Soil and Groundwater document. The maximum concentration for TPH-GRO and TPH-DRO shall be the Residential Cleanup standard in MDE's Cleanup Standards for Soil and Groundwater document.

B.1.2.7.3 All existing backfill material surrounding, above, and beneath the USTs, piping, and dispensers shall be excavated to expose the adjacent soil for observation or soil sampling by the Concessionaire, MDE inspectors, or MDTA's Authorized Representative. If concrete pads and/or concrete 'deadman' exist beneath the USTs, they shall be excavated and removed for observation of soils beneath the pads. The MDTA has estimated the minimum total volume of excavated material associated with the removal of USTs, product supply piping and dispensers to be 7340 CY. Assumptions for this estimate are summarized in the "Estimated Soil Removal Volume Summary for MDTA Maryland House and for MDTA Chesapeake House" documents found in Section 8 of the Reference Documents. The Concessionaire shall remove all fluids from the excavations sufficiently to allow for observation of the bottom of the excavations and to allow for over-excavation, if performed. The Concessionaire shall perform over-excavation at the field direction of either MDE or MDTA's inspector to the satisfaction of either party up to the limits of the excavation equipment. Excavation equipment shall be capable of excavating to 24 feet below ground surface to allow for over-excavation in the tank fields, if required.

B.1.2.7.4 The Concessionaire shall remove and transport off-site all excavated petroleum-impacted soil and material that exceed the regulatory standards. If the excavated petroleum

impacted material that must be transported off site for disposal at a permitted facility exceeds a combined total at both sites of 10,000 cubic yards, the MDTA shall pay the additional loading, transportation, disposal costs and replacement backfill. The Proposer shall submit a cost per cubic yard as part of their proposal for “Additional Removal of Petroleum- Impacted Soils” for any additional removed over the 10,000 cubic yard total. The payment for additional removal will be deducted from the monthly **revenue** payments. The 10,000 cubic yard total is a sum total of all impacted soil and excavated backfill materials removed for off-site disposal from both Travel Plazas combined without any limitations regarding the percentage of the total from each individual Travel Plaza. It includes contingencies for over-excavated soil, impacted existing backfill material discovered during removal of used oil USTs, oil/water separators, and heating oil USTs, and for petroleum-impacted soil discovered anywhere else onsite. The MDTA reserves the right to direct the Concessionaire to excavate impacted soils beyond the limits of what has been deemed acceptable by regulatory officials if the MDTA believes it is in their best interest to do so.

B.1.2.7.5 Petroleum-Impacted Soil Disposal Facility: Prior to mobilization for UST excavation, the Concessionaire shall submit the Facility or Facilities proposed for petroleum-impacted soil disposal for approval by the MDTA. The MDTA shall have the right to reject any disposal facility at its discretion and shall provide either approval or rejection in writing to the Concessionaire within twenty one calendar days.

B.1.2.8 Replacement Groundwater Monitoring Well Installation

B.1.2.8.1 The MDTA reserves the right to replace any or all groundwater monitoring wells and groundwater recovery wells that have been abandoned by the Concessionaire at the Maryland House and Chesapeake House Sunoco Stations. The Concessionaire shall replace up to eleven (11) groundwater monitoring wells and up to six (6) groundwater recovery wells at the Maryland House Exxon Station if well abandonment is required. The Concessionaire shall replace up to five (5) groundwater monitoring wells at the Chesapeake House Exxon Station if well abandonment is required. The well locations for each Exxon Station are provided in the Environmental Site Summaries in the Reference Documents.

B.1.2.8.2 Prepare Well Installation Report in accordance with Maryland Environmental Assessment Technology (MEAT) guidelines and submit to the MDTA. The report shall include description of well installation activities, Site map showing new groundwater monitoring well locations, copies of well permits, boring log prepared using Unified Soil Classification System and well construction log for each new replacement groundwater monitoring well. A draft copy of the report shall be submitted to the MDTA for review, comment, and acceptance. The Concessionaire shall make any revisions required by the MDTA and provide a final version of the report to the MDTA (hard copy and electronic copy). The MDTA will submit reports to MDE. A separate report shall be prepared for each of the four former service stations.

B.1.2.9 Installation and Development of Multilevel Wells

B.1.2.9.1 The Concessionaire shall install six (6) multilevel groundwater monitoring wells at the locations shown in Exhibit B (refer to Section 8 of the Reference Documents). The well identifications shall be MLW-13, MLW-14, MLW-15, MLW-16, MLW-17 and MLW-18 as shown in Exhibit B as located in Section 8 of the Reference Documents. Each well shall be installed 100 feet apart from the nearest well(s) +/- 5 feet. Alternate locations may be proposed by the Concessionaire if the Concessionaire's site layout design causes a conflict with one or more well locations.

B.1.2.9.2 The Concessionaire is expected to mobilize for well installation within 60 days after receiving a written request from the MDTA to proceed specifically for installation of the multilevel wells. The MDTA's written request shall provide the name and contact information for the MDTA's Authorized Representative assigned to oversee well installation activities. All work scheduling shall be preapproved by the MDTA in advance.

B.1.2.9.3 The drilling company's driller shall be a Maryland-licensed driller and shall be certified to install the multilevel well if certification is required by the multilevel well manufacturer.

B.1.2.9.4 Each multilevel well shall be installed in a single borehole 120 feet deep.

B.1.2.9.5 Prior to well installation in the drilled borehole for each well, the Concessionaire shall collect continuous cores from 5 feet below ground surface to 120 feet below ground surface. A licensed professional geologist shall log the cores pursuant to the USCS; special attention shall be made to identify fractures on the boring log including description of fracture size and orientation. Coring methods may include split spoon sampling, rock coring, coring using sonic drilling methods. Other coring methods may be proposed by the Concessionaire but must be approved by the MDTA in advance. A detailed boring log shall be submitted for each borehole.

B.1.2.9.6 All drill cuttings shall be containerized during drilling activities in a deliberate manner to minimize or eliminate cuttings from impacting surface soil or surface water.

B.1.2.9.7 Drill cuttings shall be characterized for contaminants by the Concessionaire and transported and disposed off-site at a licensed disposal facility within 30 days of drilling. Documentation of proper disposal shall be provided to the MDTA within 30 days of disposal.

B.1.2.9.8 Each multilevel well shall be installed to permit discrete monitoring of six different vertical intervals (i.e. monitoring zones).

B.1.2.9.9 The exact vertical location and interval for each monitoring zone shall be determined in the field in consultation with the Inspector and MDE. Monitoring zone filter pack shall conform to specifications provided by the multilevel well manufacturer. Bentonite or grout shall be used to seal the annular borehole space between vertical sampling zones in accordance with the manufacturer's instructions. A detailed Well Construction Diagram shall be submitted for each multilevel well.

B.1.2.9.10 After installation completion, each sampling zone shall be developed in accordance with the manufacture's instructions until water pumped from the zone by the Concessionaire attains a turbidity less than 25 NTUs.

B.1.2.9.11 After completion of development, each multilevel well shall be tested by the Concessionaire to verify that short circuiting is not occurring. The MDTA's Authorized Representative shall be present 100% of the time during testing activities. Testing shall consist of pumping each monitoring zone while simultaneously monitoring the water level in the other zones to determine whether the water level is stable or changing during the pumping. "Simultaneously monitoring" may include measuring the depth to water in the other monitoring zones using a single water level meter.

B.1.2.9.12 The MDTA's Authorized Representative shall certify in writing to the Concessionaire that each multilevel well was tested and verified to be properly installed. If testing results indicate short circuiting is potentially occurring, the Concessionaire may be required to repair the well or replace the well at the discretion of the MDTA.

B.1.2.9.13 Each multilevel well shall be completed with a flush mount 12-inch diameter steel well vault completion at ground surface. An 18-inch by 18-inch by 4-inch thick concrete pad shall be constructed around the steel well vault to protect it. The elevation of the well vault lid shall be at least three inches above the surrounding surface soils upon completion. A length of 4-inch diameter PVC pipe shall be used to create a wellhead with the multilevel well inside of the pipe so that a standard expandable well plug cap shall be used to prevent surface water from infiltrating the multilevel well. The inner floor of the well vault shall be concrete. An alternate well completion design may be proposed by the Concessionaire but must be approved by the MDTA.

B.1.2.9.14 The Concessionaire shall allow access to the multilevel wells by the MDTA or its agents for the duration of the Lease and Concession Agreement so that the wells can be monitored and maintained.

B.1.2.10 Field Quality Control

B.1.2.10.1 The Concessionaire shall visually inspect the Sites for possible soil and groundwater contamination.

B.1.2.10.2 The Concessionaire shall utilize a qualified environmental professional to monitor Site conditions at all times when performing work in areas where petroleum hydrocarbon impact may be present. The qualified environmental professional shall utilize a properly calibrated photo-ionization detector to obtain field screening readings of materials excavated from areas of potential petroleum hydrocarbon impact. Documentation of all field readings shall include date, time, location, reading result, and description of type of material tested. Field screening records shall be maintained for review as requested by MDE and the MDTA. At a minimum, a qualified environmental professional shall be on-site to perform field screening, sampling, and/or environmental documentation associated with the following activities:

1. UST system removal including tanks, lines, and dispensers;
2. Well Abandonment;
3. Well Installation;
4. Groundwater Sampling; and
5. Excavation performed in areas of suspected hydrocarbon impact.

B.2 SIGNING ON I-95 PERFORMANCE SPECIFICATION

B.2.1 General

The Concessionaire shall design and place signing that effectively, clearly and safely warns, guides, and regulates motorists on I-95. The following work will be required to be performed concurrently with redevelopment and prior to Operational Capability. All design and construction shall be in accordance with the requirements of this specification, including standards and references, and performance requirements.

B.2.2 General Scope of Work

B.2.2.1 Remove existing signs and foundations 1 foot below ground. In the Reference Documents, a signing plan is included showing the location of the new signs and structures required to be installed on I-95.

B.2.2.2 Install the signs as shown on the plans with the necessary supports or foundations as required. The supports and foundations should be designed to the latest standards. Sign Ground Mount-01 (GM-01) as shown on Plan Sheet SN-2.01 is installed and does not need to be replaced. The existing logo signs on GM-01 will need to be replaced by the Concessionaire with new generic logo signs. The signs are designed to accommodate six logo signs. The generic signs shall be:

Sign Number	D9-7	Gas
Sign Number	D9-8	Food
Sign Number	D9-10	Info
Sign Number	D9-11	Diesel Fuel
Sign Number	D9-16	Truck Parking
Sign Number	D-1	Telephone

B.3 ELEVATED POTABLE WATER TANK PAINTING AND REPAIRS

B.3.1 General

The Concessionaire will be required to paint the existing water towers during the redevelopment of the Travel Plazas. The following work will be required to be performed concurrently with redevelopment and prior to Operational Capability. All design and construction shall be in accordance with the requirements of this specification, including standards and references, and performance requirements.

Paint removal from the Maryland House and Chesapeake House tank is regulated by EPA and OSHA requirements and must be performed in a way that protects human health and the surrounding environment. Performance Specifications, Lead-Based Paint Removal and Disposal shall be followed.

The Concessionaire shall be fully responsible for the protection of its employees and those of any subcontractor personnel from overexposure to lead and chromium and to prevent the lead and chromium from entering the environment.

B.3.1.1 Standards and References

Design and construction of the structure, electrical/mechanical systems, and coating systems shall be in accordance with all applicable Governmental Rules and the relevant requirements of the Standards. The Concessionaire shall obtain clarification for any unresolved or perceived ambiguity prior to proceeding with any design and or construction.

B.3.2 Performance Requirements

B.3.2.1 Coating and Lining of Tanks

The Concessionaire shall completely remove and replace all coatings and linings on both tanks; interior (wet), interior (dry), exterior, and piping located within the valve pits. The exterior piping and valving shall be replaced. All coatings/linings will be applied in accordance with the manufacturer's instructions.

 Coating/Lining Systems

Exterior Coatings	Approved coatings for the tank exterior shall be AWWA D102-03 Outside Coating System No. 5 Modified to a minimum 9.0 mils, total system of 9.0 – 15.0 mils
Interior (Linings) (Wet)	Approved linings for the tank interior (wet) shall be AWWA D102-03 inside Coating System No. 1 (minimum AWWA DFT 8.0 mils)
Interior (Dry) and Piping	Same as Interior (Wet)

B.3.2.2 Temporary Water Supply System

All coating materials shall be supplied by the same manufacturer. Final coating shall match the existing color scheme.

The Concessionaire is required to design, provide, and operate a temporary water supply system that maintains required flows and pressures to each Travel Plaza and, in the case of the Chesapeake House, to a portion of the Town of North East's distribution system while the tanks are offline. All work for the Chesapeake House shall be coordinated with the Town of North East. All temporary system attributes shall be as required by the Town of North East. This may include, but is not limited to, temporary potable water tanks, booster pumps, emergency power, and a control system.

B.3.2.3 Containment System

The Concessionaire shall design a containment system that meets the requirements of SSPC Class 1A, or as defined in the SSPC-Guide 6, "Guide for Containing Debris Generated During Paint Removal Operation". If the ground serves as the base of the containment, then the ground shall be covered with impermeable materials.

B.3.2.3.1 Visible emissions shall be determined in accordance with SSPC Guide 6, Section 5.5.1, Method - Visible Emissions. Visible emissions shall not exceed Level 1, which limits

emissions to a cumulative duration of no more than one (1) percent of the work day. SSPC TU-7 provides guidance on performing visible emissions.

B.3.2.3.2 The Concessionaire shall not contaminate the soil. This includes the soil where land-based activities may occur. The Concessionaire shall take pre-job soil samples and post-job samples for lead analysis to be performed by an ELPAT-accredited laboratory in accordance with EPA Method 3050 or the laboratory's accredited procedure. Any clean-up procedures that are required and the associated costs that are a result of contamination of the soil as determined by the differences in the content of the pre- and post-job samples shall be the responsibility of the Concessionaire.

B.3.2.3.3 The Concessionaire shall comply with all the requirements of 40 CFR Parts 216 to 265, and COMAR 26.16, COMAR 26.13 for on site handling of debris.

B.3.2.3.4 The Concessionaire shall be responsible for waste characterization, disposing of hazardous waste, including preparation of manifests and arranging for transport by a certified waste hauler to a permitted facility.

B.3.2.3.5 All records are to be included in the Concessionaire's Tank Maintenance Record.

B.3.3 Safety

B.3.3.1 The Concessionaire shall make the following safety modifications and necessary repairs as well as any deemed necessary by the Concessionaire:

1. Tank vent screens shall be replaced with stainless steel or other type of corrosion-resistant material screens.

B.3.3.2 The safety-climb devices currently installed on the interior ladders (wet and dry) of the Chesapeake service area tank shall be replaced. Stainless steel shall be used on the interior wet surfaces while equal or other corrosion-resistant materials may be used for the Interior dry ladder. These devices shall be installed after all painting operations have been completed on

both interior surfaces (wet and dry). All related hardware (climbing devices/attachments) shall be provided to the MDTA.

B.3.3.3 Safety-climb devices shall be installed on the interior ladders (wet and dry) of the Maryland House Service Area tank. The Interior Wet device shall be stainless steel while the Interior dry may be identical or other corrosion-resistant material. These devices shall be installed after all painting operations have been completed on both interior surfaces (wet and dry). All related hardware (climbing devices/attachments) shall be provided to the MDTA.

B.3.3.5 The Concessionaire is to comply with all applicable Governmental Rules, including but not limited to: 29 CFR 1926, "Construction Industry Standards", COMAR 09.12.20, Occupational Safety and Health, 29 CFR 1926.62 with Maryland Amendments, and 29 CFR 1910.120, "Hazardous Waste Operations and Emergency Response".

B.4 UTILITIES SYSTEMS CONSTRUCTION

B.4.1 General

The Concessionaire shall design and construct the Utility systems to accommodate the proposed Travel Plazas. All design and construction shall be in accordance with the requirements of this specification and all applicable Governmental Rules. These include but are not limited to performance requirements, standards and references, design and construction criteria, and required submittals.

B.4.2 Standards and References

Design and construction of the Utility Systems shall be in accordance with all applicable Governmental Rules and the relevant requirements of the Standards/Codes

B.4.3 Performance Requirements

Water Service Performance: Design, furnish, install, and test a water distribution system of sufficient scope, size and capacity to provide peak daily flow to accommodate facilities proposed. This includes obtaining all required permits. The water service shall include the peak daily flow and any additional water capacity required for fire fighting.

Sewer Service Performance: Design, furnish, install, and test the sewer collection system of sufficient scope, size and capacity to provide peak daily flow capacity to accommodate facilities proposed.

B.4.4 Design and Construction Criteria

The environmental features, on Site or beyond the lease line boundary, that are disturbed shall be returned to their preconstruction conditions once Work stated in the Project Documents is completed.

B.4.4.1 Potable Water Service

Potable water will be supplied by an incoming service line connected to the municipal water main.

The Maryland House currently connects into the City of Aberdeen's water system via a metering vault located at the intersection of I-95 and Route 22. The MDTA owns approximately 2.75 miles of water main from the meter vault to the existing Maryland House booster station. The City of Aberdeen is unable to allocate additional water capacity to the redevelopment of the Travel Plaza. Due to this the MDTA has negotiated with Harford County to have the County become the MDTA's potable water supplier.

The Concessionaire shall design and construct a waterline for connecting the Maryland House Travel Plaza to Harford County's water distribution system located on Burnt Hill Trail. The Concessionaire shall keep the water main from the City of Aberdeen open during construction to provide a source of water to the Site until the new water main from Harford County is constructed. After the new water main is constructed the Concessionaire shall abandon the existing water main from the City of Aberdeen.

The new connection will require a new booster station, capable of meeting the flows required by the Concessionaire's design and a water main from Burnt Hill Trail to the Travel Plaza's existing, onsite booster station. The proposed booster station shall be designed to be architecturally pleasing and be constructed with a brick veneer and the roof shall be constructed with 25 year 3 tab shingles.

The MDTA has obtained the required easements for the proposed booster station and water main from the property owners. The Concessionaire is responsible for the design, construction and permitting of the proposed facilities. Future operation and maintenance outside of the lease area will be the responsibility of MDTA.

The Chesapeake House connects into the Town of North East's water system via a metering vault located off Red Toad Road (North of Chesapeake House Travel Plaza). The MDTA owns the water main from this connection point to the Travel Plaza. A portion of the Town of North East utilizes the MDTA's water storage tank for flow and pressure. During the rehabilitation of the water tank the Concessionaire is responsible for maintaining flow and pressure to the Town's

distribution system. Drawings and plans of the existing facilities are included in the Reference Documents.

The Concessionaire shall design the facility so that its average daily flow remains under the agreed purchase capacity or develop design alternatives or additional water sources. This can include low flow fixtures, water reuse or additional water sources. This average daily flow shall include all facilities and any flow required for irrigation purposes.

The MDTA's water lines serving each Travel Plaza must be sized to handle the peak daily demand at each proposed facility.

B.4.4.2 Sanitary Sewer

Sanitary wastewater from the facility will be collected on Site and conveyed by gravity to the county collection system. The Concessionaire shall replace the sanitary wastewater system in accordance with the following configuration:

The Maryland House connects into the Harford County sewer system via a metering manhole located on the MDTA's property just before the sewer main passes under Northbound I-95. The County owns the metering manhole and the sewer main after this manhole.

The Chesapeake House ties into the Cecil County sewer system after it crosses under Northbound I-95 via an 18" sleeve. The County is proposing to replace and relocate the 8" gravity main that services the Chesapeake House to allow for easier maintenance. As part of this work Cecil County also designed a new open channel pre-treatment facility with a mechanical bar screen, washer/compactor and bypass. There will also be a new flow meter constructed in order to monitor the flow from the Chesapeake House.

The Concessionaire will be required to furnish and install the open channel pre-treatment facility. This has been designed by the County and plans are included in the Reference Documents. The pre-treatment facility will require a power feed and water line for operations. This work will be

included in the redevelopment of the Travel Plaza. The future maintenance of the pre-treatment facility will be the responsibility of Cecil County. The water line will be maintained by MDTA.



Maryland
Transportation
Authority

**I-95 Travel Plazas
Public/Private Partnership**

**Maryland House & Chesapeake House
Lease and Concession Agreement**

Between

Maryland Transportation Authority

&

Contract Number: 60833436R

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I-95 TRAVEL PLAZAS
LEASE AND CONCESSION AGREEMENT

THIS LEASE AND CONCESSION AGREEMENT (hereinafter referred to as “Lease and Concession Agreement”) made and entered into this _____ day of _____ by and between the Maryland Transportation Authority (hereinafter referred to as “MDTA”), an agency of the State of Maryland, with principal place of business located at 2310 Broening Highway, Suite 150, Baltimore, Maryland 21224 and _____ whose principal place of business is located at _____

_____ duly authorized to conduct business in the State of Maryland, (hereinafter called the “Concessionaire”), hereby agree as follows:

WHEREAS, title to the two travel plazas on I-95, commonly known as the Maryland House, which is located at mile post 82 in Harford County and the Chesapeake House, which is located at mile post 97 in Cecil County (the “Travel Plazas”) is held in the name of the State of Maryland to the use of the State Roads Commission and the MDTA is the successor to the State Roads Commission, pursuant to Section 4-209 of the Transportation Article of the Annotated Code of Maryland; and

WHEREAS, pursuant to Sections 4-101, 4-201, 4-204, 4-205, 4-209, and 4-404 of the Transportation Article of the Annotated Code of Maryland all power, authority, obligations, functions, duties and discretion relating to the financing, operation, maintenance, and repair of certain transportation projects are vested exclusively in the MDTA; and

WHEREAS, on June 27, 2011, the MDTA issued a Request for Proposals “I-95 Travel Plazas Public/Private Partnership”, Contract Number 60833436R (together with all schedules, exhibits, amendments, and written answers thereto, the “RFP”) as amended, for the financing, design, construction, operation and maintenance of the MDTA’s Travel Plazas; and

WHEREAS, the Maryland House and the Chesapeake House are as described in Exhibit A, (the “Sites”); and

WHEREAS, the RFP sought proposers who would perform significant site redevelopment and infrastructure improvements including constructing or reconstructing new or like-new buildings, as well as operating and managing all fuel, food and other traveler related retail services, including convenience stores, visitor centers, and gift stores;

WHEREAS, the MDTA desires that the Concessionaire provide new or like-new facilities to replace or restore the current Travel Plazas, ensure a positive customer experience at the Travel Plazas, and provide a fair return to MDTA providing for transfer of the Travel Plazas and Leased Premises back to MDTA in satisfactory condition at termination of this Lease and Concession Agreement; and

WHEREAS, pursuant to the RFP Concessionaire submitted a Proposal, and based upon the Proposal and supporting documentation and other information submitted by Concessionaire, MDTA selected the Proposal; and

WHEREAS, Concessionaire represents and warrants to MDTA that Concessionaire is qualified to conduct the business and meet the obligations hereinafter stated, and that its undersigned officer is authorized to execute this Lease and Concession Agreement on behalf of the Concessionaire; and

WHEREAS, MDTA and Concessionaire now desire to execute and deliver this Lease and Concession Agreement in order to confirm their mutual understandings and agreements with respect thereto.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the MDTA hereby leases to the Concessionaire and the Concessionaire hereby leases from the MDTA that portion of the Sites for the Term as identified in Exhibit B (“Leased Premises”), subject to any and all unrecorded agreements, easements, encumbrances, by any Person or by the State of Maryland Roads Commission, State Highway Administration and/or Maryland Transportation Authority pertaining to the sections of the JFK Memorial Highway and the ground lying between the north and south bound lanes commonly known as “The Maryland House” and “The Chesapeake House” and subject to and in accordance with the covenants, terms and conditions hereinafter provided:

ARTICLE I
Preliminary Matters

Section 1.1 Incorporation of Recitals; Effectiveness

(a) The recitals to this Lease and Concession Agreement are hereby incorporated into the body of this Lease and Concession Agreement as an integral part hereof.

(b) This Lease and Concession Agreement will not be effective until all necessary approvals have been obtained, including the OAG, the MDTA Board, and the BPW.

Section 1.2 Incorporation of Appendices; Exhibits and Schedules

The Appendices identified below and their Attachments and Exhibits and Schedules identified in the preceding Table of Exhibits and Table of Schedules, respectively, comprise a substantive part of this Lease and Concession Agreement and are hereby incorporated by reference:

- Appendix 1 Construction Provisions
- Appendix 2 Environmental Provisions
- Appendix 3 Financing Provisions

Section 1.3 Incorporation of Documents

This Lease and Concession Agreement consists of the following, which are incorporated by reference:

- (a) This executed Lease and Concession Agreement, including Appendices and their Attachments, Exhibits and Schedules as identified in Section 1.2, the Table of Exhibits, and the Table of Schedules;
- (b) The Concessionaire's Proposal, including all documents incorporated therein by reference (the "Proposal");
- (c) The RFP dated June 27, 2011, including any supplements and addenda;
- (d) The Concessionaire's various Plans required in accordance with the RFP and this Lease and Concession Agreement, to the extent accepted by the MDTA; and
- (e) Any other documents required to be executed by either party at Closing.

These documents are sometimes referred to as the "Project Documents". The Lease and Concession Agreement shall also include Modifications to any of the above Project Documents.

Section 1.4 Definitions

In addition to the other initial capitalized terms defined in this Lease and Concession Agreement, the following terms when used in this Lease and Concession Agreement shall have the following meanings:

"24/7/365" means 24 hours a day, seven days a week, 365 days a year or 366 days if a leap year.

"Acknowledgement" means a sworn statement that accompanies the required submission to MDTA and signed by an authorized representative of the Concessionaire that states: "I certify that I have conducted a thorough examination and assessment of the information submitted, including a review of the relevant data, documents and electronically generated reports, and inquiry of those individuals responsible for the day-to-day oversight of the Travel Plazas, the Subcontractors, and those persons responsible for tabulating and assembling the information. Based upon such assessment, I further certify that such information is true, accurate and complete, to the best of my knowledge, information and belief formed after reasonable inquiry."

"ADA" means the Americans with Disabilities Act of 1990, Public Law 101-336, as amended from time to time.

"Additional Payment" means all amounts (in addition to the Monthly Payments), liabilities and obligations that Concessionaire is required to pay to MDTA under and pursuant to this Lease and Concession Agreement including all interest, administrative fees and fines.

"Additional Work" means work which was not required or provided for in the original Contract.

"Affiliate" (of a designated entity) means:

(a) Any Person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the designated entity or any of the members, partners or shareholders holding a controlling equity interest in the designated entity; and

(b) Any Person for which the controlling equity interest in such Person is held by:

(i) The designated entity;

(ii) Any of the designated entity's members, partners, or controlling shareholders; or

(iii) Any Affiliate of the designated entity under (b)(i) of this definition.

For purposes of this definition the term "control" means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship or otherwise.

"Agent" means a person or entity authorized to act on behalf of, and under the control of, another in dealing with third parties; as used in the Project Documents, the term "Agent" shall include, the agents, contractors, Subcontractors, employees, and licensees of the Concessionaire, any Occupancy Tenant, or any subconcessionaires.

"Alternative Fuel" means any now existing or hereafter created means or sources of power for motorized vehicles for public or private transportation, including electricity, natural gas, compressed natural gas, liquefied petroleum (propane), methanol, denatured ethanol, E-85, other alcohols, coal derived liquid fuels, hydrogen, fuels (other than alcohol) derived from biological materials, any fuel determined to be substantially not petroleum and yielding substantial energy security benefits and substantial environmental benefits, any of the foregoing that is mixed with gasoline, diesel or other fuels.

"Attorney General's Office" or "OAG" means the Office of the Attorney General, State of Maryland or any successor.

"Automated Teller Machine" or "ATM" means machines or devices through which financial transactions can be made, including cash withdrawals, deposits, transfers, bill payments and the like.

"Automatic Vending Equipment" means all machines and equipment that dispense or otherwise are used in connection with the dispensing of food, beverages, games, entertainment, and other items in an automated manner. Automatic Vending Equipment shall not include public telephones or lottery ticket machines.

"Automatic Vending Items" means any items or services sold or furnished from Automatic Vending Equipment.

"Automotive Products" means automotive supplies and accessories related to or typically offered at Fuel Service operations (e.g. motor oil, windshield wipers, windshield wiper fluid, anti-freeze, road maps and the like) of the type similar to the Travel Plazas.

“Award” means the entire amount of the award made or the consideration paid or payable in connection with a Taking.

“Bankruptcy” shall be deemed, for any Person, to have occurred when (a) that such Person (i) applies for or consents to the appointment of a receiver or trustee, or the liquidation of such Person or of all or a substantial portion of its assets, (ii) files a voluntary petition in bankruptcy or admits in writing its inability to pay its debts as the same become due, (iii) makes an assignment for the benefit of its creditors, (iv) files a petition or an answer seeking a reorganization or an arrangement with its creditors or seeks to take advantage of any insolvency law, (v) performs any other act of bankruptcy, or (vi) files an answer admitting the material allegations of a petition filed against such Person in any bankruptcy, reorganization or insolvency proceedings; or (b) that an order, judgment, or decree is entered by any court having jurisdiction adjudicating such Person as bankrupt or insolvent, approving a petition seeking such a reorganization, or appointing a receiver, trustee, or liquidator of such Person or all or a substantial part of its assets and such order, judgment, or decree is not stayed or dismissed within sixty (60) days from the entry thereof; or (c) that there is otherwise commenced with respect to such Person, or any of its assets, any proceeding under bankruptcy, reorganization, arrangement, insolvency, readjustment, receivership, or similar Legal Requirements, and such proceeding is not discharged, stayed, or dismissed within sixty (60) days from the entry thereof.

“Bankruptcy Code” means the U.S. Federal Bankruptcy Code (Title 11 of the United States Code), as amended.

“Bonds” means, collectively, the Construction Bonds furnished in accordance with the terms of Section 8.9 hereof.

“BPW” means the Board of Public Works of the State of Maryland.

“Business Day” means Monday through Friday, excluding federal and State holidays or another day that is a State Day Off.

“Capital Commitment” means the respective obligations of [NAMES OF EQUITY OWNERS]_____ to contribute, in cash, equity to Concessionaire pursuant to those certain subscription agreements dated as of the date hereof by and between Concessionaire and each of _____, and any payment obligations assumed by any Collateral Assignee or Permitted Transferees.

“Capital Improvements” means the addition of a permanent structural improvement or the restoration of some aspect of a property that will either enhance the property’s overall value or increase its useful life.

“Capital Investment” means the total initial funding invested in the Project by the Concessionaire.

“Change Order” means a written order signed by the responsible MDTA Authorized Representative, directing the Concessionaire to make changes which the changes clause of the

Lease and Concession Agreement authorizes MDTA's Authorized Representative to order with or without the consent of Concessionaire.

"Chesapeake House" means the Travel Plaza located on I-95 in Cecil County, Maryland, at mile post 97.

"Claims" means lawsuits, claims, actions, demands, interests, remedies, investigations and proceedings pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

"Collateral Assignee" means the holder or beneficiary of a Collateral Assignment.

"Community Outreach" means the obligation of Concessionaire, in connection with the construction and implementation of the Improvements and the operation of the Travel Plazas, to develop an outreach plan subject to MDTA review and approval that will be implemented by Concessionaire after this Lease and Concession Agreement is executed by the parties hereto, to solicit municipal and community concerns for consideration in developing the Improvements Plan.

"Community Outreach Plan" means a plan for Community Outreach prepared by Concessionaire in accordance with Section 2.6 of this Lease and Concession Agreement.

"Community Outreach Schedule" means summaries provided by Concessionaire as to the anticipated time frame to undertake Community Outreach.

"Complete" or "Completion" (or any variation thereof) means, with respect to any Improvements, substantial completion, including all work to complete the basic building structure, all Major Subcontractors tenant build outs, and other work related to such Improvements, and that each of the following shall have occurred: (a) such Improvements have been completed in accordance with this Lease and Concession Agreement, except for minor or insubstantial details of construction or finishing touch-up or post-balance, mechanical adjustments ("Punch List Items"), and shall have been inspected and approved by the appropriate authorities and obtained all required Governmental Approvals; (b) all fees, costs and expenses incurred in connection therewith have been paid in full with no mechanics', labor, materialmen's or other similar lien claims or such unpaid amounts existing unless such are bonded and are being challenged in good faith; (c) MDTA has received reasonably acceptable evidence that all required Governmental Approvals have been obtained, complied with or satisfied; (d) MDTA has issued a statement of Operational Capability for such Initial Improvements; and (e) the Asbestos Certification as identified in Appendix 1, Construction has been delivered to MDTA.

"Concessionaire" means the legal entity that has entered into this Lease and Concession Agreement with the MDTA.

"Concessionaire Representative" means Persons designated by Concessionaire to act on behalf of Concessionaire in performing the obligations of Concessionaire under this Lease and Concession Agreement; provided that Concessionaire shall designate a new Concessionaire Representative upon a showing by MDTA that the Concessionaire Representative should be

removed for cause. As used herein, the term “cause” shall mean Concessionaire Representative’s demonstrated and persistent failure to respond and communicate with MDTA and attend and participate in business review meetings required by Section 2.5.1.

“Concessionaire’s Interest” means all right, title, interest and estate, of Concessionaire in, to, under or derived from the Lease and Concession Agreement including Concessionaire’s interest in this Lease and Concession Agreement and related leasehold interest in the Leased Premises.

“Construction Bonds” means payment and performance bonds provided by Concessionaire for all construction work relative to the Initial Improvements substantially in the forms attached hereto as Exhibit C -1 and Exhibit C-2, each in the face principal amount equal to the applicable sum under the applicable contract securing payment and performance in connection with such construction of the Initial Improvements each and all naming Concessionaire and MDTA as a dual-obligees.

“Construction Budget” means the initial construction budget attached hereto as Exhibit G-1, as the same may be supplemented and amended in accordance with this Lease and Concession Agreement.

“Construction Subcontractors” means the subcontractors (other than the General Contractor) engaged by the General Contractor to design, engineer, develop, repair, construct and equip the Initial Improvements.

“Consumer Price Index” or “CPI” means the U.S. Consumer Price Index City Average for all Urban Consumers (also known as "CPI-U"), as promulgated by the Bureau of Labor Statistics of the United States Department of Labor (the "Bureau"). In the event that CPI is not reported on a monthly basis, CPI shall be determined by reference to the CPI as most recently reported as of the applicable date in question. For purposes of this Lease and Concession Agreement, the base reference period shall be 1982 -1984 equals 100 unless and until such base period changes, provided that the same base reference period must be used to calculate the percentage increase for any single period. If CPI ceases to incorporate a significant number of items, or if a substantial change is made in the method of establishing the CPI, CPI shall be adjusted to the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that CPI (or a successor or substitute index) is no longer published by the Bureau, a comparable index published by another reliable governmental or independent provider of econometric information reasonably selected by MDTA shall be used in lieu of CPI.

“Containers” means all Refuse and Recyclables containers located on the Leased Premises.

“Control” means (a) the legal or beneficial ownership of fifty percent (50%) or more (or, if a company’s stock or other ownership interests are publicly traded, then ten percent (10%) or more) of the voting stock, limited liability company membership interests, partnership interests, capital, or profits of the Person in question; or (b) the possession, directly or indirectly, of the right or ability, whether or not exercised, to direct or cause the direction of the management and policies of the Person in question, whether through the ownership of voting stock, limited liability company membership interests, partnership interests, capital or profits, or by contract or otherwise. A Person shall be deemed to control another Person if such Persons are under

common control. Two (2) or more Persons shall be under common control if fifty percent (50%) or more of the capital, voting, or profits interests in each Person are held by a single Person or a single group of two (2) or more Persons.

“Convenience Store” or “C-Store” means a store constituting a Fuel station or a retail business with primary emphasis placed on providing the public with a convenient location to purchase quickly a wide variety of consumable products (predominantly prepackaged snacks, drinks, sundries, and automotive related products) as more particularly described in Section 9.7.

“Convenience Store Items” or “C-Store Items” means food and merchandise customarily found at stores at off-road service areas of similar size and geographic location to the Travel Plazas as more particularly described in Section 9.7.

“Costs” means all liabilities, penalties, fines, damages, losses, settlements, orders, decrees, liens, debts, charges, executions, interest, costs and expenses, including but not limited to, attorneys’ and other professionals’ fees, and court costs.

“CPI Factor” means, for any period of one month or more, a calculation made by dividing the CPI for the last month in the applicable period by the CPI for the month preceding the first month in such period. Any amounts that are subject to adjustment by the CPI Factor shall be so adjusted.

“Default” means any fact or circumstance that with the giving of notice or the passage of time would constitute an Event of Default.

“Default Rate” means a rate equal to the greater of (a) ten percent (10%) per annum or (b) two percent (2%) above the so called “prime rate” from time to time announced by Bank of America (or its successor), but in no event more than the maximum rate permitted by applicable law.

“Department” means the Maryland Department of Transportation, also known as “MDOT”, or its successor.

“Designer” means the Principal Participant, specialized Subcontractor, or in-house designer that has primary responsibility for design services for the Project and is employed by the Concessionaire.

“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.

“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.

“Equity Interest” means all or any part of any equity or other ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest, or other interest of an ownership or equity nature) in Concessionaire including any direct or indirect ownership by any of the Equity Owners (or any of their permitted successors, transferees or assigns) in Concessionaire.

“Equity Owner” means any owner of any Equity Interest.

“Event of Default” means any event constituting a Default which has the meaning set forth in Section 14.1.

“Execution” means the approval of the Lease and Concession Agreement by the BPW, and the Executive Secretary of the MDTA upon approval of the MDTA Board. The date of the Lease and Concession Agreement Execution is the date when all signatures from the Executive Secretary and BPW have been obtained and are on the Lease and Concession Agreement.

“Executive Secretary” means the chief executive of the MDTA staff.

“Existing Service Provider(s)” means, with respect to Food and Beverage Services at the Primary Service Facility, HMS Host Family Restaurants, Inc., and with respect to the Fueling Facilities, Ocean Petroleum, LLC and Hammco, Inc.

“Fee Estate” means the fee estate in the Site retained by the MDTA under the Lease and Concession Agreement or the right, title, and interest of the MDTA under the Lease and Concession Agreement, as the context may require.

“Food and Beverage Equipment” means any and all Furnishings, fixtures, machines, and/or equipment used in connection with the temporary and/or permanent storage, preparation, cooking, serving, cleaning, holding, consumption and/or warehousing of Food and Beverage Service at the Travel Plazas, and any other uses at the Leased Premises. “Food and Beverage Equipment” shall include all equipment used in connection with the storage, preparation, cooking, serving, cleaning, holding, consumption and/or warehousing of Food and Beverage Service as of the Transfer of Operations. Food and Beverage Equipment shall not include Automatic Vending Equipment.

“Food and Beverage Items” means any and all food, beverage and other items available for sale to the public at the Travel Plazas, whether prepared fresh on site or prepackaged, including all concept food and beverage items available for sale to the public at the Primary Service Facilities as approved in advance by the MDTA. Food and Beverage Items shall not include Automatic Vending Items, tobacco products, chewing gum, or over-the-counter medications.

“Franchise” means a business operating under a privilege granted to make or market a good or service under a patented process or trademarked name; said business may be operated by the Concessionaire or its Agents.

“Fuel” means automotive fuel, including diesel, gasoline, or other sources used to power vehicles at the Fueling Facilities, including Gasoline, Diesel and, Alternative Fuels. “Fuel” may also mean a blend of fuel that is at least 5% biodiesel fuel or other biofuel approved by the EPA as a fuel or fuel additive or approved under the EPA Renewable Fuel Standard 2 Program.

“Fuel Service” means the provision, service or sale of Fuel at the Fueling Facilities.

“Fuel Service Equipment” means any and all furnishings, fixtures, machines and/or equipment used in connection with the temporary and/or permanent storage, monitoring and delivery of Fuel, fueling and the servicing and repairing of Fuel Service Equipment at the Fueling Facilities, including canopies, dispensers, fuel pumps, fuel storage tanks (including USTs and UST Systems), fuel delivery systems, pipes, vaults, vents, fire and other safety systems and any

equipment to monitor or protect against a Discharge of Fuel; and all additions thereto and alterations, modifications and replacements thereof.

“Fuel Service Provider” means a Person authorized by Concessionaire to provide Fuel Service at one or more Travel Plaza.

“Fueling Facilities” means the gasoline service fueling stations at each Travel Plaza and the accompanying C-Store. The “Fueling Facilities” have also been identified as a “Convenience Store/Fueling Station”.

“Furnishings” means items of interior decor and furniture in the Travel Plazas including, but not limited to, chairs, tables, draperies, wall coverings, floor coverings, artifacts and decorations.

“GAAP” means generally accepted accounting principles consistently applied.

“General Contractor” means a Person hired by the Concessionaire to perform work at one or more Travel Plaza.

“Governmental Approval” means any approval, authorization, certification, consent, exemption, filing, lease, license, permit, notice, registration or ruling, required under the authority of any Governmental Authority or pursuant to any Legal Requirement.

“Governmental Authority” means each and every governmental agency, authority, bureau, department, quasi-governmental body, or other entity or instrumentality having or claiming jurisdiction over the Leased Premises (or any activity this Lease and Concession Agreement allows), including the United States Government, the State government and its subdivisions, any municipality, and all other applicable governmental agencies, quasi-governmental, judicial, public, statutory instrumentality, administrative agency, body, entity, authorities, and subdivisions thereof.

“Governmental Rules” means all applicable laws, codes, rules, ordinances, restrictions, regulations, orders, directives, guidelines, standards, general permits, individual permits, judgments, injunctions of the federal, State, regional or any local Governmental Authority, judicial or administrative orders and requirements of common law, whether now in force or as amended and/or enacted in the future concerning this Project.

“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;
- (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.

No deduction shall be made from Gross Revenues by reason of any credit loss sustained or financing discount that may be applicable by reason of the acceptance or use of credit or debit cards, by reason of any other credit arrangements or by reason of dishonored checks. If any charge customarily made by Concessionaire for products authorized to be sold pursuant to the terms and conditions of the Lease and Concession Agreement or other operations or businesses is not assessed, charged or collected, for any reason then the amount of Concessionaire's customary charge therefore shall nevertheless be included in determining Gross Revenues. Concessionaire's Gross Revenues shall be computed and audited in accordance with the provisions of this Lease and Concession Agreement. In the event of any conflict between the provisions of this Lease and Concession Agreement and GAAP or generally accepted auditing standards, the provisions of this Lease and Concession Agreement shall control to the extent its provisions are higher standards, and the provisions of the Lease and Concession Agreement shall not be limited by such GAAP or audit standards per the provisions of this Lease and Concession

Agreement. Gross Revenues shall not include the sale (but will include the redemption) of gift certificates.

Notwithstanding any contrary provision contained herein, Gross Revenues shall not include revenues or other consideration paid or payable with respect to the use or exercise of any Reserved Rights.

“Hazardous Material” means any and all substance, product, waste, pollutant, contaminant, hazardous or toxic waste, or other material of any nature whatsoever that might pose a hazard to health, safety or the environment, the removal of which may be required or the manufacture, use, maintenance or handling of which is regulated, restricted, prohibited or penalized by any Environmental Law, as amended, or any other Legal Requirements or any substance that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, or any substance containing Gasoline, Diesel or other petroleum hydrocarbons, petroleum products or petroleum by-products. “Hazardous Material” includes the following:

- (a) Any substance, product, waste, pollutant, contaminant, or other material of any nature whatsoever that exceeds maximum allowable concentrations for elemental metals, organic compounds or inorganic compounds, as defined by any Environmental Law;
- (b) Any substance, product, waste, pollutant, contaminant, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to any Environmental Law;
- (c) Any substance, product, waste, pollutant, contaminant, or other material of any nature whatsoever which may give rise to liability under clause (a) or (b) or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, or strict liability or under any reported decisions of a state or federal court;
- (d) Any petroleum hydrocarbons excluding the minimum amounts and excluding petroleum hydrocarbon products contained within regularly operated motor vehicles; and
- (e) Any hazardous building materials including asbestos or asbestos-containing materials, lead, or PCBs in structures and/or other improvements on or in the Leased Premises or in subsurface artifacts (other than mineral asbestos naturally occurring in the ground). The term “Hazardous Materials” includes Hazardous Waste and contaminated materials.

“Hazardous Waste” means hazardous waste as defined in C.F.R. Title 40 – Protection of Environment Part 261 – Identification and Listing of Hazardous Waste, as amended.

“I-95” means that certain right of way, highway, and related appurtenances on and within certain real estate now controlled by the MDTA in the State of Maryland known as Interstate-95 or the JFK Memorial Highway.

“Improvements” means all buildings, structures, facilities, utilities, sewers, drains, walkways, signs and landscaping, underground fuel storage tanks, lines and associated equipment, Fueling

Facilities, Fuel canopies, parking lots, C-Stores, and any other improvements that the Concessionaire may be obligated to construct or maintain pursuant to the Lease and Concession Agreement, together with all building equipment, fixtures, appliances, and apparatus appropriate to the use, maintenance, and operation of all such buildings, structures, improvements and all additions thereto, and alterations, modifications and replacements thereof. Without limiting the generality of the foregoing, “Improvements” shall include all improvements located on the Leased Premises as of the Notice to Proceed and all Work (including demolition of any existing improvements) related to the construction, reconstruction and alteration of all buildings and other structures and Improvements on the Leased Premises. Improvements shall also include any exterior or interior alterations, construction, reconstruction, expansion or other changes to the Leased Premises and any additional or ancillary uses to be included as part of the services, including the Mandatory Work, Initial Improvements and Reinvestments.

“Indebtedness” means, for any Person, all obligations for borrowed money or deferred purchase price of property, individually or in the aggregate, contingent or otherwise, of such Person, or to which such Person is subject, directly or indirectly, including all: (a) liabilities secured by any lien on or security interest in such Person’s property; (b) obligations created or arising under any conditional sale or other title retention agreement or arrangement or any sale and leaseback; and (c) guaranties, endorsements (except on items deposited for collection in the ordinary course of business) and all other direct or indirect contingent obligations for borrowed money or performance of any obligation or to maintain the solvency (or other financial condition) of another Person.

“Indemnified Parties” includes the MDTA, the Department, the State and their respective successors, assigns, officeholders, officers, directors, agents, representatives, consultants, and employees. In the event that any Utility Agreement includes indemnification requirements, the term Indemnified Parties shall include the utility owner that is a party to that agreement, subject to the condition that inclusion of the utility owner in this defined term shall not be deemed to expand the utility owner’s rights to indemnity as set forth in the Utility Agreement.

“Initial Improvements” means the initial demolition, construction and renovation work to be completed by or at the direction of Concessionaire on the Leased Premises as generally described in the Conceptual Design Plans and as to be more particularly described in the Improvements Plan which shall be submitted to the MDTA as revised from time to time.

“Key Performance Indicators” means elements or aspects of the Services that are developed pursuant to Section 2.5.

“Key Staff” means members of the Concessionaire’s team which includes the Contract Manager, Project Manager, Design Manager, Lead Architect, Project Safety Manager, Superintendent for the Project, Environmental Manager, Construction Manager, Landscape Architect and other Persons identified within the Schedules submitted by Concessionaire.

“Landscape Architect” means an individual that is registered as a Landscape Architect in the State Maryland and has a working knowledge and experience with the implementation process of context-sensitive design/solutions and LEED principles; is familiar with native vegetation of the

mid-Atlantic region; is familiar with the requirements of the Maryland Forest Conservation Act and ADA guidelines; and is familiar with stormwater management/ bio-retention planting.

“Lease and Concession Agreement” means this agreement, including its exhibits, schedules and appendices and any amendments hereof and supplements hereto permitted hereunder.

“Lease Year” means (a) with respect to the period commencing on the Transfer of Operations the period from the Transfer of Operations through December 31, 2012, (b) for any period after December 31, 2012, the twelve (12) month period from January 1 to December 31 and (iii) in any year wherein this Lease and Concession Agreement is Terminated or the Term of this Lease and Concession Agreement otherwise expires, the period from January 1 to the date of Termination or expiration.

“Leased Premises” means that portion of the Sites that the Concessionaire leases from the MDTA, as identified in Exhibit B, for the Term of the Lease and Concession Agreement.

“Leasehold Estate” means the interest in the Leased Premises granted to the Concessionaire under the Lease and Concession Agreement or the right, title, and interest of the Concessionaire under the Lease and Concession Agreement, as the context may require.

“LEED” means Leadership in Energy and Environmental Design Green Building Rating System, a third-party certification program for the design, construction, and operation of high performance sustainable buildings, introduced by the United States Green Building Council.

“Legal Requirement” means all applicable Governmental Rules, including, federal state and local laws, codes (including but not limited to building, health, fire and safety), ordinances, rules, regulations, judgments, decrees, directives, guidelines, standards, general permits, individual permits, licenses, policy requirements, orders, and decrees of any Governmental Authority or otherwise having the force of law, judgments, injunctions, requirements of common law, whether now in force or as amended and/or enacted in the future or issued or decided in the case of judgments, injunctions and common law. Nothing contained in this Lease and Concession Agreement is intended nor shall be construed as a grant of or consent to jurisdiction to any Governmental Authority that would not otherwise have jurisdiction of or over any Person or property of MDTA or any Subcontractor.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, lien (statutory or otherwise), notice of contract, preference, priority, security interest, chattel mortgage or other charge or encumbrance of any kind, any levy under execution or attachment, any easement, right of way or other encumbrance on title to real property and any lease, license or sublease having substantially the same effect as any of the foregoing.

“Major Subcontractors” means those Persons employed by Concessionaire to perform work or provide services at one or more Travel Plaza. Major Subcontractors include branded concepts providing services at one or more of the Travel Plazas even if wholly owned by Concessionaire.

“Mandatory Work” means that additional work that MDTA requires on the Sites, as identified in the RFP which are to be completed in accordance with the terms and conditions specified in the Lease and Concession Agreement.

“Maryland House” means the Travel Plaza located on I-95 in Harford County, Maryland, at mile post 82.

“Maryland Transportation Authority” or “MDTA” has the meaning set forth in the preamble to this Lease and Concession Agreement and is the Project contracting agency or its successor.

“MDE” means the Maryland Department of the Environment or its successor.

“MDOT” means the Maryland Department of Transportation or its successor.

“MDTA’s Authorized Representative” means one or more Persons designated by the MDTA Executive Secretary from time to time to inspect the use, operation, maintenance and construction on the Lease Premises and who is properly identifiable as a Person acting in any such capacity and is carrying proper identification. Each such representative’s authority to act on behalf of the MDTA shall be subject to any limitations set forth in the designation. MDTA’s Authorized Representative may also conduct Oversight of the Project.

“MDTA Board” means the group of citizens appointed by the Governor with the advice and consent of the State Senate that serves as MDTA’s policy-setting, decision-making and governing body pursuant to Transportation Article of the Annotated Code of Maryland, Title 4 Subtitle 2. Maryland’s Secretary of Transportation presides as the MDTA’s chair.

“Modification” means any written alteration in any provision of the Project Documents, whether accomplished in accordance with a Lease and Concession Agreement provision, or by mutual action of the parties to the Lease and Concession Agreement. The term “Modification” means Change Orders, Additional Work orders, supplemental agreements, or Lease and Concession Agreement amendments.

“Monthly Payment” or “Revenue Payment” means the amount to be paid by the Concessionaire each month to the MDTA as identified in the Concessionaire’s Payment Schedule attached hereto as Exhibit D and identified in Article VII.

“Notice to Proceed” or “NTP” means a written notice from the MDTA to the Concessionaire specifying the conditions for and date which the Concessionaire shall begin the prosecution of the Work or such portion of the Work as is designated in the notice.

“Occupancy Tenant” means any Person occupying or having the right to occupy any part of the Leased Premises under a sublease with the Concessionaire.

“Operating Statement” means a current, detailed statement of Gross Revenues and gallons of Fuel sold, in a form and substance reasonably acceptable to MDTA.

“Operational Capability” means demonstrated proof that all the functions and services required for the Travel Plazas to be fully operational and available to the public, consistent with the Lease and Concession Agreement and the Concessionaire’s Proposal.

“Organizational Chart” means the organizational chart attached hereto as Schedule 1 reflecting the direct or, to the extent applicable, the direct and indirect ownership of the Equity Interest by each Equity Owner. To the extent permitted under this Lease and Concession Agreement, if ownership of any Equity Interest changes, the “Organizational Chart” means an updated organizational chart incorporating such change in ownership. The preceding sentence does not waive any Transfer restrictions in this Lease and Concession Agreement.

“Oversight” means actions by the MDTA to satisfy itself that the Concessionaire is designing, constructing, operating, maintaining, and managing the Work in accordance with the Lease and Concession Agreement. It includes actions identified in the Lease and Concession Agreement by the terms Quality Assurance (“QA”), accept/acceptance, inspect/inspection, audit, ensure, certify, confirm, review, verify or terms of similar import. MDTA comments as a result of Oversight are conveyed to the Concessionaire through consultation and written comment. Neither the activity of Oversight nor the lack of consultation and written comment on the part of the MDTA shall be construed to relieve the Concessionaire and its organization from the responsibility and costs for meeting all requirements within the Lease and Concession Agreement and Legal Requirements. MDTA’s Authorized Representative may conduct Oversight of the Project

“Performance Standards” means the Performance Standards attached hereto as Exhibit E and as the same may be supplemented, revised and amended from time to time in accordance with Section 2.5 of this Lease and Concession Agreement.

“Permitted Transfer” means, provided that no Event of Default has occurred and is continuing, a Transfer of any Equity Interest or assignment of all of Concessionaire’s rights under and pursuant to this Lease and Concession Agreement to a Permitted Transferee.

“Permitted Transferee” means a Person, approved by the MDTA, to whom a conveyance of the Concessionaire’s leasehold interest in the Leased Premises is made, pursuant to Article XI of this Lease and Concession Agreement.

“Permitted Use” means the retail sale of automotive and truck motor Fuels, oils, and related products and supplies, pre-packaged (including dispensed and packaged), Food and Beverage Service, Automatic Vending, retail, advertising, marketing, technology, and other retail merchandise and services only, all of which are subject to the provisions of the Lease and Concession Agreement, and for no other use or purpose, and at all times subject to the Reserved Rights.

“Person” means an individual or a corporation, partnership, business trust, limited liability company, limited liability partnership, trust, sole proprietorship, joint stock company, joint venture, unincorporated association, union, committee, club, or other organization or legal entity.

“Plans and Specifications” means plans for any Improvements, including drawings specifications, details and manuals, submitted to and approved by MDTA.

“POS Terminal” means any device, equipment, or other instrumentality that, among other things, records amounts of sales, supplies receipts and generates or maintains records of transactions, which shall include cash registers.

“Preventive Maintenance Plan” means the Concessionaire’s plan for routine and periodic maintenance of Travel Plaza assets to facilitate efficient, safe, and reliable asset operation to best maximize asset life and includes procedures for continuing operations during planned and unplanned outages during asset servicing. The Preventive Maintenance Plan shall list required maintenance activities, future dates the maintenance is to be performed, the Person or entity responsible for performing the maintenance, and shall include a dated record of actual maintenance activities performed.

“Price Sweep” means a survey of prices for similar products (including all food and merchandise to be sold, whether sold over the counter, through vending machines or otherwise) offered at off-road locations. The MDTA and the Concessionaire will mutually identify and agree upon nearby comparable off-road locations and the number of surveys for particular items. In the event exact concepts are not available for comparison, the MDTA and the Concessionaire will mutually identify a like concept to be used to conduct a substitute Price Sweep.

“Primary Service Facility” means the main building of the Travel Plaza which provides food and beverage sales, retail sales, public space, a welcome center and/or tourist information center, and public restrooms.

“Principal Participant” means any of the following entities, (a) the Concessionaire; (b) any general partners or joint venture members of the Concessionaire; and/or (c) any Persons holding (directly or indirectly) a 15% or greater interest in the Concessionaire.

“Proceeds” means the amount of any insurance proceeds received on account of any casualty.

“Prohibited Person” means any Person (a) listed on the United States Office of Foreign Asset Control Specially Designated Nationals (Terrorist) and Blocked Persons List (or any similar list maintained by the United States government); (b) otherwise identified on any then existing publicly-available list as being debarred, disqualified, suspended (voluntarily or otherwise), prohibited from bidding on State or Federal projects or otherwise prohibited from doing business with the State or the United States government, including the excluded parties list system maintained by the General Administration Services or a successor list or agency; (c) a substantial portion of whose business is, directly or indirectly, the provision of gambling or gaming activities; or (d) who is involved directly or indirectly with organized crime.

“Project” means Improvements to be designed, constructed, operated, maintained, and financed by Concessionaire and all other work products to be provided by the Concessionaire in accordance with the Lease and Concession Agreement.

“Project Manager” means a member of the Concessionaire’s key design-build staff who is the on-site Concessionaire Representative and single point of contact for all aspects of the Work during the design and construction phase.

“Project Specifications” means those specifications developed by the Concessionaire to define and control the specific requirements, conditions, means, and methods to be used on the Project. Project Specifications will be based on the Lease and Concession Agreement requirements, including specifications designated as standards in the Performance Standards and Standard Specifications, and shall provide finished products that meet or exceed the quality requirements of the Lease and Concession Agreement.

“Proposal” means the written proposal dated _____, and submitted on _____ by Concessionaire in response to MDTA’s RFP Contract No. 60833436R, including any and all supporting documents, plans, drawings, and other materials delivered on _____.

“Pump Meter Readings” means the Fuel Service Provider's “D/R Gasoline Variance Report” for each Travel Plaza reflecting gallons of Fuel sold at each Fueling Facility, Fuel deliveries for each Travel Plaza and weekly “Tank Inventory” reconciliation for each Fueling Facility by storage tank which will be compiled and provided by the Fuel Service Provider.

“Qualified Buyer” means any Person that (a) is a pension fund, foundation, university or college, endowment fund, insurance company, financial institution authorized to do business in the United States or any state thereof, investment firm or fund (including any real estate firm, fund or developer) or any other Person whose business activity includes food service (including restaurant companies), concession and concession management, or retail and wholesale fuel delivery and service and (b) has experience with investing in, owning or operating businesses, companies, entities or other organizations that provide food or fuel services, run concessions or provide concession management, provide retail or wholesale fuel sale, delivery or service, operate retail sales, own, operate or manage infrastructure assets or properties, or provide property or facilities management. In any event, MDTA reserves to itself the right to determine in its reasonable judgment whether a Proposed Transferee is a Qualified Buyer as addressed in Article XI.

“Recyclables” (or variation thereof) means recyclable solid waste arising out of the construction, renovation, occupancy, operation, and maintenance of the Travel Plazas or the Leased Premises as mandated by the State.

“Reference Documents” means those documents provided by the MDTA for informational purposes only, as limited in the RFP Section 2.1.2, On-Site Investigation, Limits of Reliance.

“Refuse” means unwanted or discarded materials, debris and other waste materials (other than Recyclables or Hazardous Materials) arising out of the construction, renovation, occupancy, operation, and maintenance of the Facilities.

“Reinvestment(s)” means all capital investments in the Leased Premises to be made by Concessionaire, other than the Mandatory Work, the Initial Improvements and required maintenance, repair and replacements.

“Reinvestment Budget” means the Reinvestments Concessionaire intends to make throughout the Term attached hereto as Exhibit G-2, as the same may be supplemented and amended in accordance with this Lease and Concession Agreement.

“Reserved Rights” has the meaning set forth in Article V.

“Restoration” means the repair, restoration or rebuilding of any or all of the Travel Plazas after any damage thereto or destruction thereof, with such alterations or additions thereto as are made by and at the sole cost and expense of the Concessionaire in accordance with the Lease and Concession Agreement, together with any temporary repairs or Improvements made to protect the Leased Premises pending the completion of such Work.

“Restoration Funds” means the net insurance proceeds actually deposited with or otherwise made available to Concessionaire with respect to any casualty event affecting any of the Travel Plazas or the Leased Premises.

“Restricted Use Area” means the site of past environmental contamination at the Maryland House, as determined by the MDTA, designated for limited use by the Concessionaire as described in the Lease and Concession Agreement.

“Retail Sales” means sales of any and all items, including Automatic Vending Items, tobacco products, chewing gum, and over-the-counter medications, at the Travel Plazas, that are not Food and Beverage Items or Fuel. See Article VII.

“Request for Proposals” or “RFP” has the meaning set forth in the recitals to this Lease and Concession Agreement.

“Revenue Payment” means an amount to be paid by the Concessionaire to the MDTA as identified in the Concessionaire’s Payment Schedule attached hereto as Exhibit D and identified in Article VII.

“Roadways” means I-95 and the entrance and exit ramps thereto.

“Safety and Security Plan” means the Concessionaire’s plan to address site and workplace security and safety which shall include monitoring of security and procedures and supplies to address workplace safety.

“Senior Management” means all Facilities Operations Managers and all management employees and personnel of Concessionaire assigned to the Travel Plazas and responsible for the following positions or duties: (a) corporate, district, and regional management personnel; and (b) corporate marketing and financial liaison personnel. As used herein, the term “Corporate” means any Person(s) employed directly by Concessionaire located at Concessionaire’s corporate headquarters or reporting directly to corporate headquarters’ personnel.

“Site” has the meaning set forth in the recitals to this Lease and Concession Agreement.

“Small Wares” means and includes all small articles used in connection with the storage, preparation, cooking, serving, holding and/or washing areas of Food and Beverage Service at the Travel Plazas (whether or not disposable) including, but not limited to dining room accessories, utensils, pans, plates, glassware, cups, napkins, cooking and serving utensils and tabletop small wares components. Small Wares shall not include Food and Beverage Equipment.

“State” means the State of Maryland acting through its authorized representative.

“State Day Off” means any day or part of a day in which the departments and agencies of the State of Maryland are required or authorized to be closed, including any State-mandated furlough days or temporary service reduction days.

“State Indemnified Parties” means the State and its officers, representatives, agents, servants, employees, successors and assigns.

“State Parties” means collectively, the State of Maryland, the Department, MDTA or their respective agents, employees, officers, and representatives or their successors.

“State Representatives” means Persons designated by the State to act on behalf of the State in enforcing the Legal Requirements of the State with respect to this Lease and Concession Agreement or the Leased Premises.

“Subcontract” means any agreement entered into by the Concessionaire with a Subcontractor (at any tier) for any part of the Work in connection with, and under the terms of, the Lease and Concession Agreement.

“Subcontractor” means any Person with whom the Concessionaire has entered into any Subcontract and any other Person with whom any Subcontractor has further subcontracted any part of the Work, at any tier. Suppliers and materialmen are excluded from the term “Subcontractor”. The term does not include any employee with an employment contract, or any employee organization with a collective bargaining agreement.

“Taking” means any exercise of the power of eminent domain, or any agreement in lieu of condemnation between MDTA, Concessionaire and a condemning authority for a conveyance to such authority.

“Taking Date” means the date that title to all or any portion of the Leased Premises shall vest in a condemning authority pursuant to a Taking.

“Tank Inventories” means a report prepared by Concessionaire for MDTA at the end of each calendar month specifying the gallonage of Gasoline and Diesel or other Alternative Fuels (as may be provided by Concessionaire or a Subcontractor) in each UST at each Fueling Facility as of the end of such month.

“Term” means the time duration beginning with the Effective Date continuing for a period of 35 years in which the Concessionaire is to finance, design, build, operate and maintain the Leased Premises in accordance with the Lease and Concession Agreement.

“Termination” means an end to this Lease and Concession Agreement prior to the expiration of the Term pursuant to the terms of this Lease and Concession Agreement.

“Transfer” means:

(a) with respect to the Leasehold Estate or any interest therein, any action or attempt to assign, sublet, convey, or encumber (including the grant of a Collateral Assignment) or transfer ownership or right, title, interest, or estate in the Leasehold Estate, either voluntarily or by operation of law; or

(b) with respect to any Person, any action or attempt to transfer, sell, pledge, encumber, or otherwise dispose of, however denominated, in any single transaction or cumulatively through a series of related or unrelated transactions (or with the intention of circumventing any prohibition on Transfers) while the Lease and Concession Agreement is in effect, control of such Person, through any or all of the following actions, so that, as the result thereof, one or more Persons who are not in control of the Person in question as of the Effective Date acquire such control:

- (i) the transfer, sale, pledge, encumbrance or other disposition of stock or interests in the Person in question existing as of the Effective Date;
- (ii) the creation of new stock or interests in the Person in question;
- (iii) the surrender or liquidation of stock or interests in the Person in question;
- (iv) the merger, consolidation, amalgamation or business combination of the Person, in circumstances where the Person is not the surviving corporation, or sale of substantially all of the assets of the entity; or
- (v) any other transfer, sale, pledge, encumbrance, or other disposition, in any single transaction or cumulatively, while this Lease and Concession Agreement is in effect.

(c) If any subsequent change of ownership or control of an Affiliate to whom the Leased Premises were transferred causes such Transferee to cease to be an Affiliate of the immediate transferor, then the last event or circumstance which causes such Person to cease to be an Affiliate of the immediate transferor shall be deemed to be a Transfer of the Leased Premises and such Transfer shall not in any event or circumstance be treated as a Transfer permitted under this Lease and Concession Agreement, unless such Transfer is itself permitted by the provisions of Article XI. In addition, any series of related transactions shall be treated as a single transaction for the purposes of determining whether the last person to whom the Leased Premises is transferred remains an Affiliate of the initial transferee in such series of transactions. Unless the Transferee is a Qualified Buyer, MDTA may refuse to permit the Transfer provided that if the Transferee is a Collateral Assignee the Transferee shall confirm to MDTA’s satisfaction that a Qualified Buyer will operate the Travel Plazas.

(d) Transfer shall not mean transfers of shares of the Person or its direct or indirect parent pursuant to an initial or “follow on” public offering on the New York Stock Exchange, NASDAQ, London Stock Exchange or comparable securities exchange and the purchase and

sale of shares of the same as a publicly traded company; provided that the purchaser of securities in any such transaction (other than any underwriter of a public offering) is not one entity or group of entities acting in concert.

“Transfer of Operations” means that date designated by MDTA after execution of this Lease and Concession Agreement when the possession of the Travel Plazas is delivered to the Concessionaire and the current contracts with the Existing Service Providers expire and Concessionaire assumes day-to-day operations.

“Transition Plan” means the Concessionaire’s plan to seamlessly take over operation of the Travel Plazas from the Existing Service Providers at the beginning of the Term and the Concessionaire’s plan and responsibilities to seamlessly turn over at the end of the Term the operation of each Travel Plaza facility to the successive operator of each Travel Plaza.

“Travel Plaza(s)” means one or more of the MDTA’s travel service areas on the Leased Premises, the Maryland House and Chesapeake House located along I-95 covered by this Lease and Concession Agreement including, the Primary Service Facility, Fueling Facilities, Convenience Store, outside kiosks and sales areas, parking areas, internal roadways, and outside seating.

“Unavoidable Delay” means delay in performing any obligation under this Lease and Concession Agreement (except payment of money) arising from or on account of any cause whatsoever beyond an obligor’s reasonable control (excluding delay caused by disputes between Concessionaire and the General Contractor and disputes between the General Contractor and any Construction Subcontractor), despite such obligor’s reasonably diligent efforts, including industry-wide strikes or other union activities (but only to the extent such actions affect similar premises at that time and do not result from an act or omission of the obligor), civil disturbance, future order of or delay caused by or ordered by any Governmental Authority claiming jurisdiction (including delays in processing, issuance or release of necessary Governmental Approvals), act of any public enemy, war, riot, sabotage, blockade, embargo, lightning, earthquake, fire, storm, hurricane, tornado, flood, washout, explosion or other force majeure events. Unavoidable Delay shall exclude delay caused by the obligor’s financial condition, illiquidity, or insolvency.

“UST” or “Underground Storage Tank” shall have the same meaning as set forth in applicable Environmental Laws.

“UST System” shall have the same meaning as set forth in applicable Environmental Laws.

“Work” means all of the administrative, financing, design, engineering, utility support services, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, operations, maintenance, documentation, and other duties and services to be furnished and provided by the Concessionaire as required by the Lease and Concession Agreement, except for those efforts which the Lease and Concession Agreement specify will be performed by the MDTA or other Persons. In certain cases the term is also used to mean the products of the Work.

Section 1.5 Certain Usages and Gender

The terms “include” and “including” shall be construed as if followed by the phrase “without limitation”. All terms contained herein shall be construed, whenever the context of this Lease and Concession Agreement so requires, so that the singular number shall include the plural, and the plural the singular, and the use of any gender shall include all genders.

Section 1.6 Controlling Authority

Provisions of this Lease and Concession Agreement provide for specific items of work and identify standards that are to be adhered to when performing the Work. If a conflict arises between Governmental Rules, terms of this Lease and Concession Agreement and terms of the RFP, first and foremost, Governmental Rules must be adhered to; however if a requirement of the RFP or this Lease and Concession Agreement is more stringent than a Governmental Rule, the more stringent requirement controls.

ARTICLE II **License, Lease & Administration**

Section 2.1 Scope of Work

A general description of the Scope of Work is set forth in the RFP. The Concessionaire shall ensure that all Work is performed as enumerated in the Lease and Concession Agreement. Except as expressly provided in the Lease and Concession Agreement as the responsibility of others, the Concessionaire shall perform all financing, design, construction, operation, maintenance, and capital replacement services and provide all material, equipment, tools and labor necessary to perform the Work as described herein and as reasonably inferred from the Lease and Concession Agreement in accordance with the terms specified in this Lease and Concession Agreement. The MDTA reserves the right, at any time during the progress of the Work, to alter the Scope of Work, or omit any portion of the Work as it may deem reasonably necessary for the public interest.

Section 2.2 Leased Premises

The MDTA leases the Leased Premises to Concessionaire and Concessionaire hereby leases the Leased Premises from the MDTA for the purposes of financing, designing, constructing, operating, and maintaining the Leased Premises for the Term of the Lease and Concession Agreement, in accordance with the terms of this Lease and Concession Agreement, and for no other purpose or use.

Section 2.3 Permitted and Prohibited Uses

2.3.1 General

MDTA grants to Concessionaire for the Term the exclusive right to occupy, use, operate, and manage the Travel Plazas and the Leased Premises for the Permitted Use subject to the terms and conditions of this Lease and Concession Agreement and for no other uses or purposes.

2.3.2 Specific Permitted Use

The Concessionaire's use and operation of the Travel Plazas and use of the Leased Premises shall be consistent with the Plans approved by the MDTA. The Concessionaire shall not change a Permitted Use without the MDTA's prior written approval.

2.3.3 C-Stores

The Concessionaire shall use the Leased Premises only for the Permitted Uses, subject to the provisions of the Lease and Concession Agreement, and for no other use or purpose. C-Stores shall be permitted to sell everything normally sold at off-road C-stores, that is approved by the MDTA, and that is not a Prohibited Use. Cigarettes may be sold only from behind the counter in a C-Store. Cigarette advertising, including price advertising, is prohibited in any part of the Travel Plazas except that price information can be posted behind the C-Store counter viewable by customers at the counter only.

2.3.4 Prohibited Uses

The Concessionaire is subject to restricted uses as specified throughout the Lease and Concession Agreement, including, but not limited to the Restricted Use Area (as identified in the RFP, Appendix B.1, "Underground Storage Tank Removal and Management Performance Specification" and shown in the Reference Documents). The Concessionaire shall not use or occupy or knowingly permit the Leased Premises to be used or occupied for any of the following uses or purposes (collectively, "Prohibited Uses"):

- (a) Any unlawful or illegal business, use, or purposes;
- (b) Any business, use or purpose deemed disreputable, disruptive or a direct risk to the physical security of people or property using the Leased Premises or considered extra hazardous unless insurance, satisfactory to the MDTA, covering any such hazard is provided for the benefit of the MDTA and the Concessionaire;
- (c) Any business which is noxious or offensive because of the emission of noise, smoke, dust, or odors;
- (d) In any manner to constitute a nuisance of any kind;
- (e) Any bar, lounge or tavern, or other establishment that sells alcoholic beverages;
- (f) Any use or purpose in violation of this Lease and Concession Agreement or any Governmental Rules;
- (g) Any use that undermines, or otherwise harms in any way, the name, reputation, or mission of the MDTA or implies an endorsement of, or association with, any organization, product, or service that MDTA is unwilling to provide;
- (h) Any use that promotes products that the MDTA reasonably believes to be of a commercial sexual nature, such as the publication, manufacture, sale, distribution, or promotion of pornography, prostitution, massage parlors, escort services, topless or nude performances, adult bookstores, or other similar activities;

- (i) Any use that discriminates based on race, color, marital status, sex, sexual orientation, religion, ancestry, creed, national or ethnic origin, age, disability, or status as a disabled or war veteran;
- (j) A check-cashing store, a pawnshop, a bail bondsman, or a tattoo shop;
- (k) Sale or use of firearms or other products, substances, or materials intended for use as weapons;
- (l) As a probation or penal office or facility;
- (m) Gambling (other than the sale of Maryland State lottery tickets or other Maryland State-sponsored games); or
- (n) Any other use that is restricted by the MDTA in its sole discretion other than a Permitted Use.

Section 2.4 General Administration

This Lease and Concession Agreement will be administered by the Concessionaire's designee and MDTA's Authorized Representative. Subject to the provisions of this Lease and Concession Agreement, including the provisions of Article X with respect to the access to Records, any MDTA Authorized Representatives and any of the State's Representatives shall have free and open access to the Leased Premises at any time. The authority of contract oversight will rest with MDTA's Authorized Representative; provided, however, MDTA's Authorized Representative will be assisted by staff that may make daily inspections of the Travel Plazas or Leased Premises and perform other functions pertaining to the administration of this Lease and Concession Agreement, subject to the terms and conditions of the Lease and Concession Agreement including the provisions of Article X with respect to the access to Records.

Section 2.5 Administration; Performance Standards – Key Performance Indicators

2.5.1 Business Review Meetings

MDTA's Authorized Representative and the Concessionaire Representative shall meet not less frequently than (a) once each quarter during the initial two (2) year period following the Effective Date, and (b) quarterly each Lease Year thereafter, unless otherwise agreed to by the MDTA, to review the Key Performance Indicators, see Schedule 2.5, and in particular to evaluate whether Key Performance Indicators ensure that the Travel Plazas (i) provide a positive customer experience and continue to meet the needs of the traveling public and (ii) are operated in a first class and excellent manner in keeping with the goals of the MDTA. In addition, the meetings identified in 2.5.1(b) are to evaluate and, to the extent required, modify the Performance Standards, see Exhibit E, to the extent necessary to ensure restroom cleanliness, public area cleanliness, litter and debris removal, snow and ice removal, and preventative maintenance programs continue to support the Key Performance Indicators; provided that the Key Performance Indicators and the Performance Standards shall not be modified without the mutual agreement of each of the Concessionaire Representative and MDTA's Authorized Representative and only in writing. Business review topics may also include economic and financial data, tourism industry, marketing, capital expenditure planning and asset life cycle

management review. Concessionaire shall organize the Business Review Meetings which includes setting and circulating a draft agenda with input and approval by MDTA.

2.5.2 Modification of Performance Standards

(a) MDTA's Authorized Representative and the Concessionaire Representative shall meet in accordance with Section 2.5.1 to assess, evaluate and discuss whether the Performance Standards achieve the desired objectives of the respective parties. If necessary, the parties shall modify the Performance Standards to the extent necessary based on such review; provided that the Performance Standards may not be modified without the mutual agreement of each of the Concessionaire and MDTA and only in writing.

(b) In the initial sixty (60) day period following the adoption of any new Performance Standard or modification of any existing Performance Standard as provided in Section 2.5.1, Concessionaire shall operate and maintain the Travel Plazas and Leased Premises pursuant to the Performance Standards including any new or modified Performance Standards to test the effectiveness and efficiency of the new or modified Performance Standards. Accordingly, any points deducted pursuant to the new or modified Performance Standards during such sixty (60) day evaluation period shall not count in determining an Event of Default pursuant to Section 14.1 or in the assessment of fines or penalties as may be set forth in the Performance Standards. Prior to the expiration of such sixty (60) day period, MDTA's Authorized Representative and the Concessionaire Representative shall meet to assess, evaluate and discuss whether such new or modified Performance Standards achieve the desired objectives of the respective parties. The parties shall further modify the new or modified Performance Standards to the extent necessary based on such review; provided that the Performance Standards shall not be modified without the mutual agreement of each of the Concessionaire Representative and the MDTA's Authorized Representative.

(c) Any disputes regarding proposed modifications to the Performance Standards or the Key Performance Indicators shall be submitted to the MDTA in accordance with Article XVI provided that unless and until the Performance Standards are so modified in writing the then-existing Performance Standards shall remain in effect.

2.5.3 Schedule Review Meetings

Prior to Completion of the Initial Improvements, MDTA and Concessionaire shall meet not less frequently than weekly at such time and place as the parties may mutually agree to review the construction related schedules and any modifications or updates to such schedules and progress of the construction and redevelopment of the Travel Plazas or Leased Premises.

2.5.4 Approvals and Consents by MDTA

All provisions in this Lease and Concession Agreement requiring or allowing for consents or approvals by or on behalf of MDTA are intended to be solely for the benefit of MDTA. Except as provided in this Lease and Concession Agreement, any consent or approval provided by MDTA hereunder with respect to the Improvements, Subcontractors or any other matters or items as to which such consent or approval is required is not intended to and shall not be construed to constitute representation or warranty by MDTA as to the quality, sufficiency or

compliance with Legal Requirements of any such Improvement, Subcontractor or any such other matter or item.

2.5.5 Costs of Services

Subject to the Rights of the Concessionaire in Article XII, Concessionaire shall be solely responsible for payment of all costs and expenses relative to the performance under the Lease and Concession Agreement, regardless of whether any particular provisions hereof expressly so specify, and shall assume the responsibility to perform each and every undertaking, task and activity to construct, redevelop, operate, manage, and maintain the Leased Premises as provided in this Lease and Concession Agreement.

Section 2.6 Transition from Existing Service Providers and Community Outreach

(a) The plans attached hereto as Exhibit F (as they may be so amended or supplemented from time to time, the “Transition Plans”), and by this definition made a part hereof, and by this reference made a part hereof set forth the Concessionaire’s preliminary plans for the orderly transition of services at the Fueling Facilities and at the Primary Service Facilities at the Travel Plazas from the Existing Service Providers to the Concessionaire. The Transition Plans shall include an outline of potential risks that may result from a disruption of services or other adverse impacts including safety to customers and proposed mitigation strategies for each risk identified. The Transition Plans shall include details regarding the transition from having both Travel Plazas operational to having one Travel Plaza out of service during the period of construction. The Transition Plans shall describe how Concessionaire will address such loss of capacity and the ability to handle the overflow at the other Travel Plaza. Concessionaire shall not materially amend or modify the Transition Plans without MDTA’s prior written consent. MDTA will use diligent efforts to approve or disapprove any such requested amendment or modification following its receipt of such request in writing from Concessionaire. MDTA shall not unreasonably withhold its consent to any such requested amendment or modification, provided, however, that MDTA shall have the right to withhold approval of any such requested amendment or modification for which Concessionaire does not provide adequate justification and supporting data in connection with the written request. Concessionaire shall promptly implement any approved amendments or modifications. Any agreements that Concessionaire enters into with any of the Existing Service Providers shall reasonably conform to the Transition Plans, as the same may be amended in accordance with this Section.

(b) Concessionaire shall develop the Community Outreach Plan and pursue Community Outreach with MDTA and the affected municipalities and communities in accordance with the Community Outreach Schedule, as the same may be amended from time to time as the Construction Schedule is revised in accordance with this Lease and Concession Agreement. Concessionaire’s Plan shall at a minimum contain provisions for the creation and maintenance of a website and other pertinent social media to provide information to the public and affected municipalities and communities regarding the Construction Schedule.

Section 2.7 Title to Property

(a) Subject to the provisions of this Lease and Concession Agreement and except as otherwise provided in subsection (b) below, for all real property at each Travel Plaza, including

all land, buildings, structures, and Improvements situated thereon, together with all building materials purchased for inclusion therein, except the Fuel Service Equipment and, to the extent contemplated by and pursuant to the terms and conditions of Appendix 1, Section 5.2, all Plans and Specifications, are and will at all times during and after the Term, be owned absolutely by MDTA without further act or deed on the part of any Person. To avoid doubt, this Lease and Concession Agreement grants to Concessionaire the exclusive right to use, operate, and manage the Leased Premises for the Permitted Use and, except as otherwise provided in subsection (b), shall not be interpreted to convey to or allow to exist in favor of any Subcontractor any further rights with respect to, or any title, estate or other interest in and to, any of the aforesaid property. In furtherance of, but without limiting the foregoing, Concessionaire hereby conveys, assigns, transfers and sets over to MDTA, and covenants and agrees to require each Subcontractor pursuant to each Subcontract to convey, assign, transfer and set over to MDTA, any and all such right, title, estate or interest in any such property that is to be owned by MDTA pursuant to the terms of this Lease and Concession Agreement.

(b) All machinery, equipment, furniture now or hereafter located at or affixed to the Leased Premises or otherwise used or usable in connection therewith, all Equipment and Fixtures, Fuel Service Equipment, all contract rights, general intangibles and other tangible and intangible property or rights used on or at the Leased Premises is and shall remain the property of Concessionaire or the appropriate Subcontractor at all times during the Term. At the expiration of the Term all such property permanently affixed to the buildings, structures and Improvements on the Leased Premises and, except as provided in subsection (c) below, all Equipment and Fixtures of Concessionaire and all Equipment and Fixtures each Subcontractor permanently affixed to the buildings, structures and Improvements on the Leased Premises shall be owned by MDTA except for the Fuel Service Equipment, together with all warranties related thereto (other than, for the avoidance of doubt, any information technology systems and any software and related intellectual property related thereto).

(c) Notwithstanding anything to the contrary, Concessionaire and each applicable Subcontractor shall retain ownership of and be entitled to remove (i) Equipment and Fixtures on which there is trade dress or trademarked or proprietary information and/or symbols, or is otherwise subject to trade secret protection regardless of whether the same are generally visible to consumers on the Leased Premises, (ii) all brand name signage panels located on fixtures, and (iii) certain minor Equipment and Fixtures or expendables for which ownership and removal has been approved by MDTA, in writing. MDTA agrees, upon the request of Concessionaire, to execute and deliver such documents and instruments as Concessionaire shall reasonably request to evidence or confirm Concessionaire's or each applicable Subcontractor's ownership interest in any such Equipment and Fixtures or portions thereof.

ARTICLE III **Leased Space and Improvements**

Section 3.1 "As-Is" Condition

(a) The MDTA makes no representation or warranty as to the physical and legal condition of the Leased Premises. The Concessionaire agrees to accept possession of the Leased

(b) The execution and delivery of this Lease and Concession Agreement by Concessionaire and its performance hereunder (i) has been duly authorized by all requisite action, (ii) will not require any Governmental Approval on the part of the Concessionaire and (iii) will not violate any provision of Governmental Rules or any orders of any court or any indenture, agreement or other instrument to which Concessionaire is a party or by which Concessionaire is bound, or be in conflict with, result in a breach of, or constitute a default thereunder or lien on any property of Concessionaire.

(c) This Lease and Concession Agreement constitutes the legal, valid and binding obligation of Concessionaire and is enforceable against Concessionaire with all its terms.

(d) All documents, information and materials provided to MDTA by or on behalf of Concessionaire (including the Proposal) were on the date provided, to the Concessionaire's knowledge, true and correct in all material respects.

(e) There is no action, suit or proceeding involving Concessionaire or, to the Concessionaire's knowledge, any of the Equity Owners and to the Concessionaire's knowledge, no events or circumstances exist that could, individually or collectively, reasonably be expected to materially adversely affect its or any of the Equity Owners respective businesses, operations, assets, properties, or financial stability, or the ability of Concessionaire to perform fully its obligations under and as contemplated by this Lease and Concession Agreement.

(f) There is no claim, action, suit, arbitration, mediation or proceeding at law or in equity or before or by any Governmental Authority pending against Concessionaire, or to the Concessionaire's knowledge, against any of the Equity Owners that could reasonably be expected to have a material adverse effect (i) on the transactions contemplated by this Lease and Concession Agreement; (ii) the validity or enforceability of this Lease and Concession Agreement; or (iii) the Concessionaire's ability to perform fully the services as contemplated by this Lease and Concession Agreement.

(g) The Organizational Chart attached hereto as Schedule 1, detailing the ownership of all of the Equity Interest is true, accurate and complete.

(h) The management chart attached hereto as Schedule 4.1 setting forth Senior Management and the initial Key Staff is true and accurate in all material respects as of the date hereof.

(i) This Lease and Concession Agreement has been entered into by Concessionaire without fraud or collusion by Concessionaire.

(j) This Lease and Concession Agreement has been entered into by Concessionaire following its own independent investigation, examination and due diligence with respect to the subject matter hereof without any representation or warranty (whether express or implied, in fact or in law) by or on behalf of MDTA except as otherwise specifically provided herein; provided that Concessionaire has not conducted any on-site environmental investigation, but is not relying on MDTA with respect to any facts or circumstances that might be uncovered by such investigation.

(k) Neither the Concessionaire nor, to the Concessionaire's knowledge on the date hereof, any of the Equity Owners nor any of their respective Affiliates has bribed or attempted to bribe any officer, agent or employee of MDTA or the State in connection with the Proposal or execution of this Lease and Concession Agreement or paid or agreed to pay any finder's fees,

success fees, kickbacks or similar consideration to any Person in connection with the Proposal or execution of this Lease and Concession Agreement. To Concessionaire's knowledge, its Proposal and this Lease and Concession Agreement do not constitute a conflict of interest or breach of ethics under Maryland Law. The Proposal was not made in connection or concert with any other Person known to Concessionaire to be a Proposer (as defined in the RFP).

(l) Neither the Concessionaire nor, to the Concessionaire's knowledge, any of the Equity Owners has employed or retained any Person, other than bona fide employees, advisors, and consultants working solely for Concessionaire or the Equity Owners to solicit or secure this Lease and Concession Agreement, nor has Concessionaire paid or agreed to pay any Person any fee, commission, percentage, brokerage fee, finder's fee, success fee, gift, kickback or any other consideration contingent upon or resulting from the execution of this Lease and Concession Agreement.

(m) Concessionaire has filed all federal, state and local tax returns which it is required to file, if any. Concessionaire has paid or caused to be paid to the respective taxing authorities all taxes as shown on such returns or on any assessments received by it to the extent that such taxes have become due, or has filed a sales tax security bond with respect to the same. Concessionaire knows of no proposed material tax assessment against Concessionaire, and Concessionaire is not obligated by any other agreement, tax treaty, instrument or otherwise to contribute to the payment of taxes owed by any other Person. All material tax liabilities are adequately provided for or reserved against on the books of Concessionaire.

(n) Concessionaire has (i) paid all applicable workers' compensation assessments concerning all previous work done by Concessionaire in the State, if any; (ii) paid all applicable unemployment compensation contributions concerning all previous work done in the State, if any; and (iii) has not been cited for non-compliance with or violations of the Occupational Safety and Health Administration (OSHA) regulations.

(o) The initial Construction Budget and Reinvestment Budget attached hereto as Exhibit G-1 and Exhibit G-2 respectively set forth Concessionaire's reasonable good faith estimate of all of the costs necessary to Complete the Initial Improvements as described in the Proposal (as the same have been modified since the date of the Proposal) and its reasonable good faith estimate (as adjusted for inflation), for the budget for the Reinvestments during the Term as described in the Proposal (as the same have been modified since the date of the Proposal) and the sources of capital to fund all such costs.

(p) To Concessionaire's knowledge, no funds invested by Concessionaire in the Mandatory Work, the Initial Improvements, the Reinvestments or in performing any of the other services on behalf of Concessionaire constitute the proceeds of any violation of a Legal Requirement.

(q) Concessionaire warrants that neither it nor any of its officers, directors, agents, affiliates, or employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government.

Section 4.2 Certain Representations of MDTA

MDTA hereby represents to Concessionaire as follows:

(a) MDTA is a state agency organized under Transportation Article, Title 4, Annotated Code of Maryland and has full power and authority to execute and deliver this Lease and Concession Agreement and perform any and all of its obligations hereunder.

(b) The execution and delivery of this Lease and Concession Agreement by MDTA and its performance hereunder (i) has been duly authorized by all requisite action, including that of BPW, MDTA Board, the OAG and any other required Governmental Authority, and (ii) will not violate any provision of any Legal Requirement or any agreement by which MDTA is bound.

(c) This Lease and Concession Agreement constitutes the legal, valid and binding obligations of MDTA and is enforceable against MDTA in accordance with its terms subject to Section 13.14.

(d) MDTA has good, valid, marketable, and sufficient title to the Leased Premises.

(e) Except as addressed in Appendix 2, Article IV, there is no action, suit or proceeding at law or in equity, or before or by any Governmental Authority pending, against MDTA or against or with respect to any Travel Plaza that could reasonably be expected to have a material adverse effect on (i) the transactions contemplated by this Lease and Concession Agreement; (ii) the validity or enforceability of this Lease and Concession Agreement; or (iii) MDTA's ability to perform its obligations under and pursuant to this Lease and Concession Agreement.

(f) MDTA provided to Concessionaire, the same information that MDTA received from the Existing Service Providers and upon which MDTA relied to accept corresponding payments from the Existing Service Providers. Nothing contained herein shall be construed as a warranty or guaranty of present or future revenues of Fuel, Automatic Vending, C-Store or Food and Beverage sales volumes or any other business activity.

(g) MDTA makes no representations, warranties or guarantees concerning the traffic volumes experienced at the Travel Plazas currently or in the future or potential impacts such traffic volumes may have on revenue generated at the Travel Plazas currently or in the future.

ARTICLE V

Reserved Rights of MDTA

Section 5.1 General

(a) MDTA hereby reserves for itself, its representatives, tenants, licensees and others claiming by or through MDTA and shall at all times during the Term retain the following rights identified in this Article (the "Reserved Rights"): (i) the right to use or to allow any Person to use and access the Leased Premises for any purpose or use that does not interfere or compete with the Permitted Use; (ii) the right to name or otherwise identify the Travel Plazas or any portion thereof from time to time; (iii) the right to enter into arrangements for any and all sponsorships of the Travel Plazas; (v) the right to carry out all environmental remedial activity of MDTA or its

contractors if any; (vi) the right to enter upon the Leased Premises and carry out any action to verify Concessionaire's compliance with any obligation it may have under this Lease and Concession Agreement including boring or sampling to investigate Environmental Conditions; and (vii) any other power, authority, interest, privilege, license, franchise or other right, thing or activity of any kind or nature now known or later developed, provided that in each case the use or exercise of the same does not interfere with or compete with the Permitted Use or more than minimally reduce the available area of the Leased Premises or part thereof, including reducing outside seating areas, pet areas, parking spaces, truck parking, fueling areas and traffic areas or modifying or impeding traffic flow within the Leased Premises; provided that the Reserved Rights shall include and nothing herein shall prohibit MDTA from taking any action or measure or making any alteration to the Leased Premises that MDTA deems necessary to investigate matters relating to, or to protect, public health, safety and welfare on the Leased Premises.

(b) MDTA and its representatives, tenants, licensees and others claiming by and through MDTA, in connection with the use or exercise of a Reserved Right shall have all necessary access rights and may keep and store at appropriate locations on the Leased Premises all necessary materials, tools, supplies, equipment and vehicles in a reasonably neat and orderly fashion so as not to interfere with the Permitted Use as set forth in Section 8.2. To the extent practicable, MDTA shall provide reasonable advance notice to Concessionaire of any such exercise of Reserved Rights.

(c) The reservation of any Reserved Rights shall not be deemed to (i) impose any obligation on MDTA to do so; (ii) render MDTA liable to Concessionaire or any other Person for the failure to do so; or (iii) relieve Concessionaire of any obligations under this Lease and Concession Agreement.

Section 5.2 Rules and Regulations

MDTA reserves the right to adopt, from time to time, policies, rules and regulations regarding the Travel Plazas or the Leased Premises and regarding notification procedures. MDTA shall negotiate in good faith with Concessionaire should such change impact operations at the Travel Plazas. Concessionaire agrees to promptly, fully and faithfully comply with all such policies, rules and regulations and require all Concessionaire's agents, employees, subconcessionaires, partners, Equity Owners, contractors, licensees and invitees to promptly, fully and faithfully comply with the same. Such policies, rules and regulations shall be enforceable by MDTA in the same manner and with like effect as though such policies, rules and regulations were set forth in full herein, and a default in such compliance shall conclusively be deemed an Event of Default in the terms and conditions of this Lease and Concession Agreement. MDTA reserves the right to modify or amend such policies, rules and regulations which, in MDTA's reasonable judgment, are necessary for the safety, reputation, care or cleanliness of the Travel Plazas or any part thereof and for preservation of good order therein. Unless imminent danger or peril to persons or property dictates otherwise, copies of such policies, rules and regulations and any amendments or modifications thereof will be sent to Concessionaire at least thirty (30) days before the date they are to become effective. Concessionaire shall be responsible to cause Concessionaire's agents, employees, subconcessionaires, partners, Equity Owners, contractors, licensees and invitees promptly, fully and faithfully to observe all such amendments or modifications or new policies, rules and

regulations. In addition to its compliance with all policies, rules and regulations, Concessionaire shall ensure that at all times its activities conducted within the Leased Premises are not a Prohibited Use. Concessionaire shall indemnify and hold harmless MDTA from any damages or expenses to Concessionaire or its agents, employees, subconcessionaires, partners, Equity Owners, contractors, licensees and invitees that result from MDTA's compliance with any Governmental Rules.

Section 5.3 Reserved Rights Not Considered Gross Revenues

All revenue generated or received as a result of the exercise or use of any Reserved Rights shall inure solely to the benefit of MDTA and/or the State and shall not constitute or be considered in the calculation of Gross Revenues.

Section 5.4 MDTA Access and Inspection

MDTA and its representatives shall be entitled, at all reasonable hours, to enter and examine the Leased Premises for any and all purposes including, without limitation, (a) enforcement and verification of Concessionaire's compliance with this Lease and Concession Agreement and with all pertinent Governmental Rules (including, without limitation, Environmental Laws), the state of maintenance and repair of the Leased Premises by Concessionaire (including Improvements, Equipment, Concessionaire Contamination, and for such other purposes as may reasonably be determined by MDTA in connection with protection of the Leased Premises and the environment); (b) to provide general tours of the Leased Premises; and (c) in connection with any maintenance, operation, repairs to contamination and utility systems on the Leased Premises, including without limitation, electrical, stormwater and sewer. MDTA shall give reasonable prior notice thereof to Concessionaire (except in the event of an emergency in the opinion of MDTA acting reasonably). Subject to MDTA's reasonable cooperation with Concessionaire and except in the event of an emergency in the opinion of MDTA acting reasonably, MDTA's exercise of its rights in this Section 5.4 shall not unreasonably interfere with Permitted Use and shall be subject to Concessionaire's reasonable security and safety procedures for the Leased Premises. Concessionaire shall provide to MDTA prior written notice of all such procedures. The failure of MDTA to notify Concessionaire of any necessary maintenance or repair shall not relieve Concessionaire of its obligation to so maintain and repair. The right to inspect reserved to MDTA hereunder shall impose no obligation on MDTA to make inspections to ascertain the condition of the Leased Premises, and shall impose no liability upon MDTA for failure to make such inspections or for failure to discover any defect in the condition of the Leased Premises.

ARTICLE VI **Term**

Section 6.1 Term

The term of this Lease and Concession Agreement shall commence on 12:00 a.m. on the Effective Date and shall end at 11:59 p.m. on _____ [35 years later] _____ (the "Term").

ARTICLE VII
Payments to MDTA

Section 7.1 Monthly Payments

(a) Concessionaire shall pay to MDTA, or as directed by MDTA, Monthly Payments as provided for in Concessionaire's Payment Schedule, Exhibit D. If Concessionaire subcontracts any of its obligations under this Lease and Concession Agreement as may be permitted by MDTA under this Lease and Concession Agreement, Monthly Payments shall continue to be computed on the basis of Gross Revenues, the number of gallons of Fuel sold and other revenue generated by the operation of the Travel Plazas, and, except as otherwise provided in the definition of Gross Revenues, shall not be based upon commissions paid by any such Subcontractor to Concessionaire. Monthly Payments shall be paid in accordance with Section 7.2. MDTA shall have no obligation to send to Concessionaire any invoice for Monthly Payments, provided, however, that if MDTA elects in its sole discretion to send any such invoice to Concessionaire, same shall not (i) require or obligate MDTA to send to Concessionaire any such invoice at any subsequent time or (ii) change or extend the following due date for the payments of the Monthly Payments.

(b) The Concessionaire shall pay to the MDTA, on a monthly basis, Revenue Payments for each Travel Plaza in accordance with Concessionaire's Payment Schedule, Exhibit D.

Section 7.2 Payments/Late Charges

(a) Payment of the Monthly Payment due under this Lease and Concession Agreement shall be made to the MDTA no later than the twentieth (20th) calendar day of the month during the Term following the month for which Gross Revenues are collected and calculated, and for which Fuel is sold. Additional Payment shall be payable twenty (20) days after demand by the MDTA. All Revenue Payments must be paid by Automated Clearing House ("ACH"), wire transfer of current funds, bank cashier's check or other acceptable method, in U.S. Dollars, payable to the Maryland Transportation Authority, and be mailed or delivered to (unless otherwise specified by the MDTA):

Maryland Transportation Authority
Chief Financial Officer-Accounts Receivable Department
2400 Broening Highway, Suite 115
Baltimore MD 21224

or pursuant to wiring instructions provided by the MDTA.

(b) Each payment of Revenue Payment shall be made promptly when due and payable, without demand, and without any deduction, setoff, offset or recoupment whatsoever. By the twentieth (20th) day of each month, Concessionaire shall submit in such form as the MDTA may require an operating statement for the Travel Plaza in question for the preceding calendar month prepared in accordance with GAAP consistently applied and certified by the Chief Financial Officer of Concessionaire or any other officer of Concessionaire who has been

duly authorized to certify such statements. Such statements shall be accompanied by calculations showing the determination of such amount in reasonable detail and such other documentation necessary to verify such calculations as the MDTA may reasonably request.

(c) If the Concessionaire should fail to pay Revenue Payments when due and payable, the Concessionaire shall pay to the MDTA as Additional Revenue Payment, a late payment fee on the amount due payable at the Default Rate for each day that the payment is late and as applicable, interest on such amount.

Section 7.3 Gross Revenue

(a) The Concessionaire shall not enter into any agreements, including, but not limited to, a master lease or sublease of all or any portion of the Leased Premises, or other similar arrangement, the purpose or effect of which is to reduce the Gross Revenues, revenues and receipts from Fuel, or other revenues or receipts, and therefore the Revenue Payment that the MDTA would otherwise be entitled to receive under this Article VII and the remaining provisions of this Lease and Concession Agreement, without the consent of the MDTA, in its sole and absolute discretion. The Concessionaire further covenants to use all commercially reasonable efforts to collect Gross Revenues, all revenues and receipts from Fuel sales, and all other revenues and receipts generated at the Leased Premises in a timely manner and not to unreasonably delay or defer the due date or the collection thereof with the intent of decreasing or deferring to another Lease Year the Revenue Payment due in any Lease Year.

(b) In no event shall the payments to the MDTA be less than the Revenue Payment identified in Concessionaire's Payment Schedule, Exhibit D.

Section 7.4 Net Lease

This Agreement is a "net lease" and, accordingly, anything in this Lease and Concession Agreement to the contrary notwithstanding, the MDTA shall receive the Revenue Payment and all other payments to be made by the Concessionaire hereunder free from any charges, assessments, impositions, expenses or deductions of any and every kind or nature whatsoever. The Concessionaire's obligation to pay Revenue Payment under this Lease and Concession Agreement shall not be affected by reason of any prohibition, limitation or prevention of the Concessionaire's use, occupancy or enjoyment of the Leased Premises. The parties intend that the obligations of the Concessionaire under this Lease and Concession Agreement shall be separate and independent covenants of the Concessionaire which are not conditioned upon the MDTA fulfilling any obligations hereunder.

Section 7.5 Reporting

Within ninety (90) days following the end of each Lease Year during the Term, Concessionaire shall provide MDTA with certified statements of Gross Revenues, monthly sales reports, the number of gallons of Fuel sold for such Lease Year in form and substance reasonably satisfactory to MDTA together with an Acknowledgement thereto. All such certified statements shall be audited by an independent certified public accountant hired and paid by Concessionaire. The audits shall be performed in accordance with generally accepted auditing standards. Upon

written request from MDTA to Concessionaire, Concessionaire shall provide information on those items excluded under the definition of Gross Revenues if, but only if, Concessionaire maintains records on such items. While it is the intent of MDTA to rely on information provided by Concessionaire, (i) MDTA, either directly or through its agents, shall have the right, subject to the provisions of Article X to independently audit books, accounts and records pertaining to this Lease and Concession Agreement of Concessionaire or any Subcontractor and (ii) Concessionaire will authorize the independent certified public accountant to allow MDTA to review the working papers of the independent certified public accountant pertaining to this Concession Agreement. Subject to manifest error and Article X, (A) if any audit by Concessionaire's independent certified public accountant for any calendar month or in the aggregate for any Lease Year indicates that the Monthly Payment paid to MDTA for such calendar month shall be less than that actually owed by Concessionaire to MDTA, Concessionaire shall pay to MDTA the amount of the difference between the amount paid and the amount actually owed to MDTA, together with interest at the legal rate from the original due date therefor until paid in full, and (B) if any audit by Concessionaire's independent certified public accountant shall indicate that the Monthly Payment paid by Concessionaire for such calendar month or in the aggregate for any Lease Year shall be more than that actually owed by Concessionaire to MDTA, MDTA shall provide Concessionaire with a credit for such amount against the next Monthly Payment(s) (or refund such amount if the Term has ended and Concessionaire has no further obligations to MDTA).

ARTICLE VIII

General Covenants of Concessionaire

Section 8.1 Operation of Travel Plazas

Concessionaire shall operate the Travel Plazas in compliance with this Lease and Concession Agreement and the Performance Standards. Concessionaire shall use commercially reasonable efforts to maximize the number of gallons of Fuel sold and the Gross Revenues.

Section 8.2 Permitted Use

During the Term, the Leased Premises and the Improvements shall be used and occupied by Concessionaire only for the Permitted Use and for no other uses or purposes, without the prior written consent of MDTA, in its sole discretion; provided that Concessionaire shall have the exclusive right during the Term to use the Leased Premises and the Improvements for the Permitted Use.

Section 8.3 Repairs, Alterations and Improvements

Except for work contemplated by the Initial Improvements or in connection with Reinvestment or Restoration pursuant to Appendix 1, Construction Provisions hereof, Concessionaire may not demolish the Travel Plazas or any portion thereof, nor make any structural or subsurface repairs (other than ordinary and routine maintenance, changes, alterations or additions thereof or thereto, including remodeling or updating of any concept by any Major Subcontractor), without obtaining on each occasion the prior written approval of

MDTA. All such demolition, repairs, changes, alterations or additions (if required to be approved by MDTA) shall (a) be completed in accordance with detailed plans and specifications prepared in accordance with the applicable provisions of Appendix 1, Construction Provisions and approved by MDTA, (b) be made only following the issuance of a NTP therefor by MDTA, (c) be performed in a good and workman-like manner using components and materials and construction of their respective kind for the purposes intended and in accordance with all applicable Legal Requirements of grade consistent with similar projects, (d) be made only by Subcontractors, (e) be made at Concessionaire's sole expense, (f) be performed with as minimal inconvenience as possible to the motoring public, and (g) become part of the Travel Plazas. Promptly following the completion of such demolition, repairs, changes, alterations or additions approved by MDTA, Concessionaire shall provide to MDTA a certificate from Concessionaire and a licensed engineer, architect or landscape architect (as applicable) reasonably acceptable to MDTA, in form and substance reasonably acceptable to MDTA, to the effect that all such work has been completed in accordance with all applicable Legal Requirements, the Concessionaire's Construction Drawings and the NTP therefore.

Section 8.4 Maintain Existence

Concessionaire shall preserve and maintain its existence, rights and privileges in the jurisdiction of its organization and qualify and remain qualified in each jurisdiction in which such qualification is necessary in view of its business and operations.

Section 8.5 Licenses, Permits, Taxes and Fees

(a) It shall be the sole responsibility (including financial responsibility) of Concessionaire to obtain and maintain and comply with, at its sole cost and expense, any and all applicable permits, certifications, licenses and Governmental Approvals in connection with the use, nonuse, construction, maintenance, use, operation and occupation of the Leased Premises and/or the Improvements, including those necessary for water, sewer, storm drainage and septic systems and any and all other approvals needed or necessary from any Governmental Authority and such other permits and/or approvals as Concessionaire reasonably deems necessary and/or required to enable Concessionaire to construct, operate and maintain the Leased Premises; provided that MDTA shall cooperate, at no cost to MDTA, in obtaining all such Governmental Approvals as provided in Appendix 1, Construction Provisions.

(b) Concessionaire shall timely pay all taxes, payments in lieu of taxes, and fees imposed with respect to the use and occupancy of the Leased Premises and the performance of its obligations and duties under this Lease and Concession Agreement, including, without limitation, any documentary or other transfer or sales taxes, property or possessory interest taxes, and any business taxes imposed with respect to the obligations and duties under this Lease and Concession Agreement. MDTA reserves the right, without being obligated to do so, to pay the amount of any such taxes not timely paid by Concessionaire, and thereafter, upon demand from MDTA that Concessionaire reimburse MDTA therefore, to require said sum to be due and payable by Concessionaire to MDTA as Additional Payment. If Concessionaire wishes at any time to dispute the lawfulness, applicability or amount of any taxes, it must do so with the governmental agency imposing the tax. MDTA hereby notifies Concessionaire that the interest transferred to Concessionaire pursuant to this Lease and Concession Agreement may be subject

to property or possessory interest taxes and Concessionaire may be subject to payment of property or possessory interest taxes levied on such interest.

Section 8.6 Compliance with Legal Requirements

During the Term, Concessionaire shall comply with, conform to, and obey any and all applicable Legal Requirements which in any way affect or relate to the Permitted Uses and the Leased Premises, including (a) the use, nonuse, construction, maintenance, operation or occupation of the Leased Premises, (b) Fuel Service, (c) the storage, preparation, cooking, serving, holding and warehousing of Food and Beverage Items, Automatic Vending Items, and C-Store Items; (d) all matters relating to Employees of Concessionaire, and (e) all applicable Legal Requirements. Concessionaire shall be responsible for the failure of any Subcontractor to comply with, conform to, and obey any and all applicable Legal Requirements pursuant hereto. Without limiting the generality of the foregoing, from and after the Effective Date, Concessionaire shall provide all applicable health, safety and environmental safeguards for operations of the Travel Plazas, including the Fuel Service and Food and Beverage Service that are required pursuant to applicable Legal Requirements to protect the health, safety and welfare of the public, employees, MDTA and its employees and any MDTA Representatives and any of the State's Representatives in accordance with all applicable Legal Requirements. Concessionaire shall bear the sole risk of all present or future Legal Requirements affecting the Leased Premises and the Permitted Use and MDTA shall not be liable for (nor suffer any reduction in any payments due to MDTA hereunder on account of) the enactment or enforcement of any Legal Requirement.

Section 8.7 Notice of Violations

Concessionaire shall provide MDTA with copies of any violations, citations, suits, regulatory proceedings, or prosecutions, received by or commenced against Concessionaire or any Subcontractor in connection with the performance of its obligations under or pursuant to this Lease and Concession Agreement sent, instituted or delivered by or in connection with any Governmental Authority or other third party, within ten (10) days of Concessionaire becoming actually aware of any such claims.

Section 8.8 No Interference with or Danger to Roadways

Concessionaire shall maintain and control the Leased Premises in such a manner that neither Concessionaire nor any Subcontractor shall adversely interfere with the activities of MDTA at the Leased Premises (including the exercise of any Reserved Rights) or on the Roadways, or intentionally impede or endanger the safe and orderly flow of traffic in and along the Roadways. Promptly as informed by the police of jurisdiction, Concessionaire agrees to cease and desist from usages or practices or from the causing of or the maintenance of a condition represented by MDTA to constitute a hindrance or danger to such safe and orderly flow of traffic on the Roadways.

Section 8.9 Bonding Requirements

8.9.1 Bond Requirements

(a) The Bonds shall be issued and executed by a surety authorized to transact business in Maryland. Written evidence of how any excess suretyship has been placed by the surety signing the Bonds must accompany the Bonds. If the surety on the Bonds is declared bankrupt or becomes insolvent, or loses its right to transact business in the State of Maryland, or the Bonds are terminated or said surety elects not to renew the Bonds due to no fault of Concessionaire, Concessionaire shall immediately substitute other Construction Bonds, as applicable, and surety, subject to the requirements set forth in this Section. At any time, but in any event, at least sixty (60) days (or such other longer period as may be required pursuant to applicable Legal Requirements) prior to the expiration of the Construction Bonds, Concessionaire may seek MDTA's consent to switch issuers of the Construction Bonds, provided that the prospective issuer and required Bonds shall comply with this Section and no Event of Default shall then exist.

(b) Concessionaire shall require the attorney in fact who executes the required Bonds on behalf of the applicable surety to affix thereto a certified and current copy of his/her power of attorney indicating the monetary limit of such power. Concessionaire shall notify MDTA in writing of all material, non-confidential communications with the Surety involving claims against the Bonds.

8.9.2 Construction Bonds

(a) Initial Improvements & Mandatory Work. On or prior to the commencement of any construction work with respect to any Initial Improvements and Immediate Repairs at any Travel Plaza, Concessionaire shall provide Payment and Performance Bonds ("Construction Bonds") for such work at such Travel Plaza in an amount equal to the contract sum under the applicable contract. Acceptable security for Construction Bonds includes bonds in the form of Exhibits C-1 and C-2, underwritten by a surety company authorized to do business in Maryland; a bond provided by an individual surety that meets the requirements of Code of Maryland Regulations 21.06.07; a bank certified check, bank's cashier's check, bank treasurer's check, or trust account; pledge of securities backed by the full faith and credit of the United States government or bonds issued by the State; an irrevocable letter of credit in a form satisfactory to the OAG and issued by a financial institution approved by the State Treasurer or bond in a form otherwise satisfactory to the State and OAG and underwritten by a surety company authorized to do business in the State. All such bonds shall have as obligees the Concessionaire, the State of Maryland, and MDTA.

(b) Reinvestments and other Improvements. On or prior to the commencement of any construction work with respect to any Reinvestments and other Improvements at any Travel Plaza, Concessionaire shall provide Payment and Performance Bonds ("Construction Bonds") for such work at such Travel Plaza in an amount equal to the contract sum under the applicable contract. For all work over \$_____, Concessionaire shall provide Construction Bonds. Acceptable security for Construction Bonds includes bonds in the form of Exhibits C-1 and C-2, underwritten by a surety company authorized to do business in Maryland; a bond provided by an individual surety that meets the requirements of Code of Maryland Regulations 21.06.07; a bank certified check, bank's cashier's check, bank treasurer's check, or trust account; pledge of securities backed by the full faith and credit of the United States government or bonds issued by the State; an irrevocable letter of credit in a form satisfactory to the OAG and issued by a financial institution approved by the State Treasurer or bond in a form otherwise satisfactory to

the State and OAG and underwritten by a surety company authorized to do business in the State. All such bonds shall have as obligees the Concessionaire, the State of Maryland, and MDTA.

Section 8.10 Payment to Construction Subcontractors

Concessionaire shall pay for all work performed on the Leased Premises with respect to the Initial Improvements as set forth in the applicable Improvements Plan. Concessionaire shall make timely payments to Subcontractors.

Section 8.11 Explosives, Flammable Liquids, Smoke, Odors, Etc.

Except as allowed pursuant to the Permitted Use, Concessionaire shall not use or keep or permit to be kept within the Leased Premises any materials or substances of a flammable or explosive nature except in accordance with Legal Requirements.

Section 8.12 No Liability of MDTA

Concessionaire agrees that MDTA shall not be responsible or liable to the General Contractor or any of the Subcontractors for any loss or damage that may be occasioned by or through the acts or omissions of Persons traveling along the Roadways or occupying or visiting the Leased Premises. MDTA shall not be liable for any loss or damage to Persons or property resulting from any accident, theft, vandalism or other occurrence on the Leased Premises.

Section 8.13 Damage, Nuisance, Etc.

Except as otherwise provided pursuant to this Lease and Concession Agreement, Concessionaire shall not, either with or without negligence, injure, overload, deface, damage or otherwise cause physical damage to the Roadways, any of MDTA's property, the Travel Plazas, the Leased Premises, or any part or component of any of the foregoing.

Section 8.14 Continuation of Services During Unavoidable Delays

In the event of an Unavoidable Delay affecting Concessionaire's ability to pursue completion of any portion of the Improvements, Concessionaire shall remain obligated to continue work on all other portions of the Improvements and delivery of all Services that are not affected by such Unavoidable Delay.

ARTICLE IX

Specific Covenants and Provisions Relating to Operations and Maintenance

Section 9.1 General

Concessionaire shall develop an Operations and Maintenance Plan in the form of Exhibit H as may be so amended or supplemented from time to time. The Operations and Maintenance Plan broadly encompasses the specific operations and maintenance functions that Concessionaire

is required to perform throughout the Term of the Lease and Concession Agreement. Some plans that comprise the Operations and Maintenance Plan include the Maintenance Custodial Plan, Grounds Maintenance Plan, Landscape Plan, Snow and Ice Removal Plan, Emergency Maintenance and Repairs Plan, Site Employment and Resource Allocation Plan, Safety and Security Plan, and Retail and Commercial Providers.

Section 9.2 Retail Sales Rights

Commencing on the Transfer of Operations, Concessionaire shall have the exclusive right to (i) provide the Fuel Service and C-Stores at the Travel Plazas and the Food and Beverage Service and automatic vending at the Travel Plazas, (ii) sell and provide Fuel at the Travel Plazas and Food and Beverage Items, Automatic Vending Items, C-Store Items and Automotive Products at the Travel Plazas except as may be prohibited by Section 9.10; (iii) and sell at the Travel Plazas food, beverage, Fuel, motor oil, automotive products, gifts, candy, snacks, magazines, books, health and beauty aids, sundries, first aid products, tobacco products, sunglasses, electronics, travel aids, and all other products or services sold at roadway travel plazas, restaurants, and convenience stores except as may be prohibited by Section 9.10 or otherwise prohibited by this Lease and Concession Agreement.

Section 9.3 Performance Standards

Concessionaire shall, throughout the Term, at its sole cost and expense, operate and maintain the Travel Plazas and Leased Premises in accordance with the terms and provisions of this Lease and Concession Agreement and the Performance Standards as identified in Exhibit E. The MDTA's Authorized Representative shall at any and all times be entitled to enter and inspect the Travel Plazas and the entire property perimeter of the Leased Premises, to ensure compliance by Concessionaire with the provisions of this Lease and Concession Agreement and of the Performance Standards.

Section 9.4 Maintenance Standards

9.4.1 General

Concessionaire shall, at its sole cost and expense, maintain the Travel Plazas and the Leased Premises in a clean and sanitary condition in accordance with the Performance Standards, the other Sections of this Article IX and applicable Legal Requirements and conduct, at its sole cost and expense, in a good and workmanlike manner, including all maintenance (preventative and recurring), repair or replacement operations that may be required to the interior and exterior premises of the Travel Plazas in accordance with this Article IX to the extent provided for therein. Without limiting the foregoing, Concessionaire shall also require all Subcontractors to follow all maintenance standards set forth in their franchise requirements or require them to adopt maintenance standards consistent with the requirements of this Lease and Concession Agreement.

9.4.2 Annual Maintenance Escrow Account

Concessionaire shall pay or cause to be paid into an escrow account an amount not less than one hundred percent (100%) of one year's budgeted costs necessary to complete the

scheduled maintenance identified in the Preventive Maintenance Plan, as identified in Section 9.39, as well as any other additional maintenance scheduled for the next Lease Year for each Travel Plaza. If there is a dispute with respect to the existence of an Event of Default or Termination of this Lease and Concession Agreement, during such period of dispute Concessionaire shall continue all necessary funding of the escrow account and disbursements for completed work, regardless of whether an alleged default or Event of Default shall then exist. The escrow agreement shall provide that upon an Event of Default and Termination of this Lease and Concession Agreement, MDTA will be granted rights to direct payment from the escrow account for the benefit of Subcontractors for work to be completed as well as for any work needed to be completed on any Travel Plazas at the time of the Termination of this Lease and Concession Agreement following such Termination. Pursuant to the escrow agreement, reports of escrow activity will be provided to MDTA. The escrow agreement will specifically restrict payment out of the escrow account such that amounts distributed therefrom will be used to pay applicable Subcontractors for work performed at the Travel Plazas in the applicable Operations and Maintenance Plan and for no other purpose other than distribution of any remaining balance to Concessionaire, if any, upon expiration of the Term of this Lease and Concession Agreement.

Section 9.5 Fuel and Oil 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

Prices charged at the Service Areas for Fuel 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 Tank Inventories prepared in generally accepted electronic formats and displays to facilitate MDTA's ability to use and analyze the information contained therein. All such information shall be provided electronically to MDTA in summary form within five (5) Business Days of the end of any month. All print-outs shall be clear and legible. The Fuel delivery summary component of the Pump Meter Readings shall include only those Fuel deliveries which are made in the actual period of time occurring between official pump meter readings.

9.5.6 Emergencies and Fuel Shortages

In the event of emergency, Fuel shortage, or regulations or restrictions of Governmental Authorities that may or in fact do affect Fuel Service operations as contemplated by this Lease and Concession Agreement, Concessionaire covenants and agrees to reasonably cooperate with MDTA and to assist in any commercially reasonable manner in serving the motoring public as may be deemed necessary by MDTA in its sole discretion.

9.5.7 Alternative Fuel Technology

(a) Upon the development and availability of technology for the delivery of Alternative Fuel and products for distribution on a large scale basis, Alternative Fuel technologies and products shall be incorporated into each of the Travel Plazas. At a mutually agreeable time, these technologies and products shall be introduced at each of the Travel Plazas, at the direction of the State or MDTA subject to the restrictions provided herein and provided that Concessionaire shall have no obligation to provide such Alternative Fuels to the extent the same are not technically and/or commercially practicable. Prior to the sale of any such Alternative Fuels, MDTA and Concessionaire shall agree in good faith in writing upon the price of such Alternative Fuels and the methodology for reviewing and adjusting prices of same during the Term. Prior to the sale of any such Alternative Fuels, MDTA and Concessionaire shall agree in good faith in writing upon the methodology to calculate Additional Payments.

(b) Notwithstanding anything to the contrary contained herein, in the event that Concessionaire believes in good faith that the sale of any such Alternative Fuels is not

technically and/or commercially practicable, then, promptly following receipt of MDTA's notice regarding the sale of such fuels, Concessionaire shall so notify MDTA in writing (which notice shall include a reasonably detailed basis for Concessionaire's position). The parties agree to meet to discuss same in good faith following receipt of Concessionaire's notice in order to achieve a resolution of this issue.

(c) MDTA may require the fuel service stations located at the Travel Plazas to sell a blend of fuel that is at least 5% biodiesel fuel or other biofuel approved by the EPA as a fuel or fuel additive or approved under the EPA Renewable Fuels Standard 2 Program.

Section 9.6 Food and Beverage Menus and Pricing at Travel Plazas

Concessionaire covenants and agrees that the prices for the sale of Food and Beverage Items at the Travel Plazas shall be reasonably priced within similar locations. If MDTA deems the prices charged for the sale of Food and Beverage Items at the Travel Plazas to not be reasonably priced, then MDTA will request that Concessionaire perform a Price Sweep at Concessionaire's sole cost and expense to provide justification for the prices charged for Food and Beverage Items at the Travel Plazas. Any disputes regarding prices charged shall be resolved under Article XVI.

Section 9.7 C-Stores

Concessionaire shall construct, operate and maintain C-Stores at the Travel Plazas consistent with the Improvements Plan and the Performance Standards. All C-Store Items shall be reasonably competitively priced against similar products sold at other similar convenience store operations in the area. If MDTA deems the prices charged for the sale of C-Store Items at the Travel Plazas to not be reasonably priced, then MDTA will request that Concessionaire perform a Price Sweep at Concessionaire's sole cost and expense to provide justification for the prices charged for C-Store Items at the Travel Plazas. Any disputes regarding prices charged shall be resolved under Article XVI.

Section 9.8 Quality

Concessionaire and Subcontractors shall sell only Food and Beverage Items, Automatic Vending Items and the C-Store Items at the Travel Plazas that comply with all applicable Performance Standards and with all applicable Legal Requirements.

Section 9.9 Sale of Maryland Products

Concessionaire shall use commercially reasonable efforts to purchase, sell and feature local, Maryland produced products (excluding ingredients for other products) such as those produced by Maryland artisans, made or homegrown in Maryland, or Maryland logoed products promoting the State, its attractions or sports teams, as such products may be commercially viable. If such products are not commercially viable at the Travel Plazas, Concessionaire may substitute other products.

Section 9.10 Prohibited Items to Be Sold

Notwithstanding anything contained in Section 9.2 to the contrary, Concessionaire shall not sell or allow the sale or consumption of any intoxicating or alcoholic beverages or any fermented ale, wine, liquor or spirits in any part of the Travel Plazas. None of the following may be sold at any of the Travel Plazas: (a) adult magazines, (b) sex toys, (c) fireworks, (d) illegal drugs, (e) rolling papers, (f) bongos or other drug paraphernalia, (g) weapons of any kind; (h) any products or services considered similar to the items listed in clauses (a) through (g) of this Section 9.10 or (i) any product or service prohibited by any applicable Legal Requirement.

Section 9.11 Smoking

Concessionaire shall not allow smoking or consumption of tobacco of any kind (including cigarettes, cigars, pipes or smokeless tobacco) at any time inside the Primary Service Facility, Fueling Facilities or any other facilities, in close proximity to any Fuel Service Equipment, or in any other location or in proximity to certain locations where smoking or consumption of tobacco of any kind is prohibited under applicable Legal Requirements.

Section 9.12 Sales Data

During the Term and subject to the following sentence, Concessionaire shall provide to MDTA all sales data from Concessionaire or such Subcontractors, as the case may be, that sell Food and Beverage Items, Fuel, C-Store Items and any other item comprising Gross Revenues that is sold or provided to the public at the Travel Plazas with an accompanying Acknowledgement. The sales data provided shall be in a form acceptable to MDTA in its reasonable discretion and will provide aggregate sales of all Fuel, Food and Beverage Items, C-Store Items, and other items sold at the Travel Plazas, respectively. From and after the Transfer of Operations, Concessionaire shall provide reporting of, Sales Data. Each and every customer, upon request, making a purchase or return at any of the Travel Plazas shall be given a detailed printed receipt describing the transaction and the store location date and time, except with regards to seasonal stands and pop-up establishments, to the extent they are unable to provide POS Terminal receipts. From time to time during the Term upon MDTA's reasonable request, Concessionaire, at its sole cost and expense, shall perform such reasonable compliance audits and other tests to determine the accuracy and completeness of the Subcontractors' sales data. All such data shall be collected daily and MDTA shall have rights of access to such data 24/7/365. Paper copies of all sales data shall be accessible to MDTA upon request. MDTA shall be permitted to audit all receipts and sales data upon reasonable prior notice, during normal business hours and at such times as shall not unreasonably interfere with Concessionaire or any Subcontractors' business and operations. In each Subcontract agreement, all Subcontractors shall be required to provide any and all data, receipts, records, books and papers pertaining to sales and revenues and deliveries at MDTA's request in whatever form it is captured and maintained, including data captured on any of the POS Terminals.

Section 9.13 Automatic Teller Machines

Concessionaire shall furnish and install, or cause to be furnished and installed as promptly as practicable at least one (1) ATM at each Travel Plaza facility. Concessionaire shall furnish to MDTA, prior to the installation of any ATM, a schedule of customer fees associated

with ATM service, detailed information regarding the ATM service provider. All ATMs must be installed and operated in full compliance with all applicable Legal Requirements. Concessionaire shall, at its sole cost and expense, maintain all ATMs in good operating condition and repair.

Section 9.14 Public Telephone Service

(a) Concessionaire shall contract to provide public telephone service at all Travel Plazas. At least one (1) telephone at each facility shall be accessible to the hearing and visually impaired - telephone typewriter, teletypewriter or text phone / telecommunications device for the deaf (TTY/TDD) to the extent required by applicable Legal Requirements. The quantity and location of public telephones at each Travel Plaza shall be determined by Concessionaire subject to the approval of MDTA. Notwithstanding the foregoing, Concessionaire may submit a written request to MDTA for approval to eliminate public telephone service. Any such request must be accompanied by a detailed proposal for the implementation of an emergency communication methodology accessible to the motoring public that provides immediate communication with police, fire and other emergency services. MDTA will use diligent efforts to approve or disapprove any such request within sixty (60) Business Days following its receipt of such from Concessionaire. Concessionaire shall promptly implement any approved request.

(b) If public telephone service is no longer available, Concessionaire shall provide to the public, at no cost to MDTA, a wireless phone option for emergency phone calls.

Section 9.15 Wireless Internet Service

Following Completion of the Initial Improvements on Leased Premises, Concessionaire shall provide wireless internet service to the public at all Travel Plazas throughout the Term. There shall be no cost to the public in connection with its use of a wireless internet service.

Section 9.16 Advertising

Concessionaire, at its sole cost and expense, shall use commercially reasonable efforts to actively market, promote, advertise and publicize its business operations at the Travel Plazas pursuant to a detailed marketing plan reasonably approved in advance by MDTA, as such plan may exist from time to time during the Term. Such plan shall set forth all of Concessionaire's intended marketing, promotional and advertisement activities with respect to the Travel Plazas for the applicable time period in question. MDTA shall approve or disapprove any plan within thirty (30) Business Days following its receipt of same prepared in accordance with the provisions hereof by Concessionaire; provided that Concessionaire shall be authorized to act on any such plan if the same is not disapproved within such thirty (30) Business Day period unless other Governmental Approvals are required by Legal Requirements. MDTA's approval of such plan shall not be unreasonably withheld. Following any disapproval by MDTA, Concessionaire and MDTA agree to cooperate with one another to address and resolve MDTA's concerns as soon as reasonably possible. Such plan (once approved by MDTA) shall be updated by Concessionaire as Concessionaire deems necessary or appropriate with MDTA's reasonable prior written approval. Such plan (once so approved) only may be amended, modified, supplemented and/or replaced with MDTA's prior written consent. No Subcontractor shall market, advertise, promote or publicize its business operations specifically at the Travel Plazas

except in accordance with the approved marketing plan. Without limiting the generality of the foregoing, Concessionaire may not under any circumstance advertise any service, product or concept at a given Travel Plaza that is not permitted and available at such Travel Plaza. Concessionaire shall not use the trademarks, symbols or trade name or names of MDTA, the State or any agency of the State, directly or indirectly, in connection with any commercial production, promotion, service or publication, without the prior written approval of MDTA and the State. Nothing in this paragraph requires MDTA to review and approve a marketing or advertising campaign that is not specific to the Travel Plazas. Any promotion (including discounts and coupons) offered by any Subcontractor in Maryland shall be accepted at the Travel Plazas by such Subcontractor.

Section 9.17 Truck Parking

Following Completion of the Initial Improvements on the Leased Premises, Concessionaire agrees to use reasonable efforts to keep trucks away from the front of the Travel Plazas and confine truck parking to the designated Truck Parking Areas that are designated on the Improvements Plan or as otherwise agreed to by MDTA; provided that reasonable efforts shall include notifying the police with jurisdiction of any violation of such requirements and the posting of conspicuous “No Truck Parking” signs in such restricted areas and conspicuous “Truck Parking Permitted” signs in Truck Parking Areas.

Section 9.18 Safety

Concessionaire and Subcontractors shall be fully and solely responsible for the safety and security of all patrons and Employees on the Leased Premises. Concessionaire (a) shall notify the appropriate state or local officials and MDTA’s Authorized Representative of any incidents involving breaches of the safety and security on the Leased Premises or to employees or the public, (b) prior to the beginning of construction of the Initial Improvements on the Leased Premises, shall operate the existing security cameras on the interior and exterior of all Travel Plazas, and (c) as part of the Initial Improvements on the Leased Premises, (i) shall install and operate security cameras on the interior and exterior of all Travel Plazas, and (ii) shall install lighting consistent with Legal Requirements on the interior and exterior of all Travel Plazas. Concessionaire covenants and agrees that certain plans incorporated in the Operations and Maintenance Plan, Exhibit H and by this reference made a part hereof, include and set forth Concessionaire’s course of action for the safety and security of all patrons and Employees on the Leased Premises as approved by MDTA. Concessionaire shall comply with said Safety and Security Plan throughout the Term (as may be so updated, amended or modified, the “Safety and Security Plan”). Concessionaire shall, at its sole cost and expense, and with the prior approval of MDTA, be fully responsible for revising, updating, and improving the Safety and Security Plan from time to time to reflect advancements in safety and security devices and techniques, and to prevent the reoccurrence of incidents reported in incident reports. Following Completion of the Initial Improvements on the Leased Premises, to the fullest extent possible under applicable Legal Requirements, Concessionaire shall install and maintain video surveillance equipment that is accessible online by MDTA. Following Completion of the Initial Improvements on the Leased Premises, Concessionaire shall maintain digital archives of surveillance recordings for not less than ten (10) Business Days for all Travel Plazas.

Section 9.19 Hours of Operation and Service

Except during the construction of the Initial Improvements, the Travel Plazas including the Fueling Facilities shall be open, operational and available to patrons on a 24/7/365 basis, except to the extent of an emergency, power outage (not due to the failure of any emergency generator), or discharge of any Hazardous Material, and subject to any applicable Legal Requirements that may restrict Concessionaire from operating on a 24/7/365 basis. Subject to the preceding sentence and except during the construction of the Initial Improvements, Fuel Service, C-Stores, ATMs, wireless internet service and restroom facilities shall be fully operational and available for patrons use on a 24/7/365 basis. Initial hours of operation for the other Food and Beverage Service at each Primary Service Facility, as approved by MDTA, are set forth in Schedule 9.19 attached hereto. Concessionaire shall not shut down or stop service at any Travel Plaza without the consent or approval of MDTA in its reasonable discretion provided that notwithstanding anything in this Section 9.19 to the contrary, Concessionaire shall not be required to provide any of the services set forth herein provided by a licensee or franchisee of any Subcontractor if, and to the extent that, Concessionaire or such Subcontractor is using commercially reasonable efforts, subject to applicable Legal Requirements, to replace any such licensee or franchisee required to provide such service or any Subcontractor is using diligent efforts to remodel or update any furniture, fixtures or equipment used to provide such service. In the event of any approved partial shutdown of any Travel Plaza, Concessionaire shall provide the services at that Travel Plaza to the public on an emergency basis to the greatest extent practicable.

Section 9.20 Equipment and Fixtures

9.20.1 Cataloging

Concessionaire shall provide and maintain, or shall require the pertinent Subcontractor to, provide and maintain or cause, (a) prior to the beginning of construction of the Initial Improvements on the Leased Premises, all Equipment and Fixtures and Fuel Service Equipment in their current operating condition subject to normal wear and tear, and (b) following Completion of the Initial Improvements on the Leased Premises, all Equipment and Fixtures and Fuel Service Equipment in good operating condition and repair at such Person's sole cost and expense throughout the Term. As soon as practicable following the Transfer of Operations, MDTA and Concessionaire shall, subject to the rights of the Existing Service Providers, visit the Leased Premises and jointly catalog all Fixtures and Equipment and Fuel Service Equipment.

9.20.2 General Provisions

The following provisions shall apply with respect to the acquisition, installation, condition and maintenance of the Fuel Service Equipment, Food and Beverage Equipment, Small Wares and Furnishings and Fixtures and Equipment:

9.20.2.1 *Fuel Service Equipment*

After completion of the Initial Improvements and the Immediate Repairs, as the case may be, all Fuel Service Equipment purchased and installed or used by Concessionaire on the Leased Premises shall be of a type and class described in the Improvements Plan and the submissions contemplated by Appendix 1, Section

3.4 of this Lease and Concession Agreement. During the Term, Concessionaire shall, or shall cause the pertinent Subcontractor to, in each case at such Person's sole cost and expense, adhere to all Legal Requirements and all maintenance and testing suggested by pertinent manufacturers for all Fuel Service Equipment and, (a) prior to the beginning of construction of the Initial Improvements on the Leased Premises, shall maintain in their current operating condition and appearance subject to normal wear and tear, and (b) following Completion of the Initial Improvements on the Leased Premises, shall adhere to the Preventative Maintenance Program. Concessionaire shall provide to MDTA copies of all tests and reports undertaken by Concessionaire or the pertinent Subcontractor, as the case may be, with respect to the Fuel Service Equipment. Upon the expiration or Termination of the Term, Concessionaire shall, at its cost and expense, deliver the Fuel Service Equipment to MDTA in good working order, condition and repair pursuant to the requirements of this Lease and Concession Agreement, normal wear and tear excepted and except as provided in Section 18.6.

9.20.2.2 *Food and Beverage Equipment, Small Wares and Furnishings*

All Food and Beverage Equipment, Small Wares and Furnishings existing at the Travel Plazas as of the Transfer of Operations shall be the responsibility of Concessionaire to maintain, repair and remove in accordance with the Schedule for the Initial Improvements. The cost of maintenance, repair and removal shall be at the sole cost and expense of Concessionaire. All Food and Beverage Equipment, Small Wares and Furnishings purchased and installed or used by Concessionaire in the Travel Plazas shall be of a quality necessary to provide the scope of services required under this Lease and Concession Agreement and adhere to the Performance Standards. Following completion of the Initial Improvements on the Leased Premises, (a) all Food and Beverage Equipment, Small Wares and Furnishings shall be new and of quality material and construction necessary to adhere to the Performance Standards and industry standard, (b) the Food and Beverage Equipment, Small Wares and Furnishings shall be of such quality, design, and finish as will be consistent with the general decor of the Travel Plazas, and (c) Concessionaire shall provide MDTA with such documentary and other information regarding the type and quality of Food and Beverage Equipment, Small Wares and Furnishings as MDTA may reasonably request. During the Term, Concessionaire shall be responsible for any and all maintenance, repair and replacement of the Food and Beverage Equipment, Small Wares and Furnishings. Concessionaire shall adhere to all maintenance suggested by pertinent manufacturers for all Food and Beverage Equipment, Small Wares and Furnishings and, (i) prior to the beginning of construction of the Initial Improvements on the Leased Premises, shall maintain in their current operating condition and appearance subject to normal wear and tear, and (ii) following Completion of the Initial Improvements on the Leased Premises, shall adhere to the Preventative Maintenance Program. Concessionaire agrees to test the operation of the Food and Beverage Equipment not less frequently than as required by applicable Legal Requirements and best industry practices in effect from time to time. Concessionaire shall provide to MDTA copies of all tests and

reports undertaken by Concessionaire with respect to the Food and Beverage Equipment.

9.20.2.3 *Reports and Inspections*

On or before the date that is ninety (90) days prior to the expiration or Termination (only to the extent Concessionaire shall have received at least one-hundred eighty (180) days advance notice of the Termination date) of the Term, Concessionaire, at its sole cost and expense, shall provide to MDTA a copy of reports prepared by an independent third party reasonably acceptable to MDTA describing in detail the condition of all Fuel Service Equipment and Food and Beverage Equipment and the repairs and replacements that are needed to cause the Fuel Service Equipment and Food and Beverage Equipment to be in good working order, condition and repair, normal wear and tear excepted. Such reports shall be subject to the reasonable approval of MDTA and shall be based on inspections performed in the presence of MDTA and the MDTA's environmental consultants, if MDTA so elects. Such inspections shall occur no earlier than the date that is one hundred twenty (120) days prior to the expiration of the Term. All of the repairs reasonably recommended in the reports and all replacements required pursuant to applicable Legal Requirements with respect to the Fuel Service Equipment and as shown in the reports shall be performed by Concessionaire, at its sole cost and expense, prior to expiration of the Term. Thereafter, Concessionaire shall provide evidence reasonably acceptable to MDTA that verifies the completion of all such repairs and replacements promptly following the completion of the same. Upon expiration of the Term or Termination, Concessionaire shall deliver the Small Wares and Furnishings and Equipment and Fixtures owned by the Concessionaire to MDTA in good working order, condition and repair, pursuant to the requirements of this Lease and Concession Agreement, normal wear and tear excepted. In addition, Concessionaire, if so requested by MDTA at least thirty (30) days prior to the expiration or Termination (only to the extent Concessionaire shall have received at least ninety (90) days advance notice of the Termination date) of the Term, shall remove and dispose of any Equipment and Fixtures owned by Concessionaire or any Subcontractor and designated by MDTA in writing so to be removed, at Concessionaire's sole cost and expense.

9.20.2.4 *Replacement and Removal*

If, within forty-five (45) days following expiration of the Term or Termination, MDTA finds that Equipment and Fixtures are not in good working order, condition and repair, normal wear and tear excepted as contemplated by Subsection 9.20.2.3, Concessionaire shall repair or replace the Equipment and Fixtures at its sole cost and expense, within thirty (30) days following MDTA's request. In addition, if MDTA so requests, not later than sixty (60) days following the expiration of the Term or Termination, Concessionaire shall remove and dispose of any Equipment and Fixtures owned by Concessionaire or any Subcontractor and designated by MDTA in writing so to be removed, at Concessionaire's sole cost and expense. If, following MDTA's request,

Concessionaire shall fail to remove such Equipment and Fixtures within ten (10) days following receipt of such request from MDTA, then MDTA may remove and dispose of such Equipment and Fixtures in such manner as MDTA sees fit, at Concessionaire's sole cost and expense. Concessionaire shall have reasonable access to the Leased Premises following expiration of the Term or Termination to remove any such Equipment pursuant to this Section. This Subsection 9.20.2.4 shall survive the expiration or Termination of this Lease and Concession Agreement.

9.20.2.5 *Utilities or Otherwise Connected to Utilities*

The installation or removal of utilities described in Section 9.22 and Equipment and Fixtures physically mounted to a structure or otherwise connected to a utility system (i.e., electrical, mechanical, plumbing, etc.) shall be performed under the supervision of MDTA, unless MDTA agrees in writing that such installation or removal may occur without such supervision.

9.20.2.6 *Damage*

Concessionaire shall repair, at its sole cost and expense, any and all damage to the Leased Premises caused by the installation, removal or repair of any Equipment and Fixtures owned by Concessionaire or a Subcontractor pursuant to this Section. This Subsection 9.20.2.6 shall survive the expiration or Termination of this Lease and Concession Agreement.

9.20.3 Equipment and Fixtures

In the event Concessionaire installs any Equipment and Fixtures (other than those that can be removed without injury to the Leased Premises or as delineated otherwise in this Section 9.20) such Equipment and Fixtures shall, upon request of MDTA, be removed promptly by Concessionaire at its expense and the Leased Premises restored to their original condition upon the expiration or earlier termination of this Lease and Concession Agreement. If Concessionaire is not so instructed to remove said Equipment and Fixtures or does not remove the same on its own initiative, then the Equipment and Fixtures are the property of MDTA in accordance with Section 2.7.

Section 9.21 Lighting of Service Areas

Concessionaire, at its sole cost and expense, shall (a) prior to Completion of the Initial Improvements on the Leased Premises, maintain, operate and repair the exterior lighting for the Travel Plazas, including all walkways, ramps, parking areas and driveways, and (b) as part of the Completion of the Initial Improvements and throughout the Term, Concessionaire, at its sole cost and expense, shall install, maintain, operate, repair, replace and renew exterior lighting for the Travel Plazas, including all walkways, ramps, parking areas and driveways in accordance with the Performance Standards. Concessionaire shall provide for such lighting of the Travel Plazas as aforesaid on a 24/7/365 basis.

Section 9.22 Utilities

9.22.1 General

Concessionaire shall make all arrangements with Governmental Authorities and public utilities, provide and pay directly (and assume all risk of service interruptions) for all utilities and like services (including installation, maintenance, use and servicing), including water, sewerage, oil, natural gas, propane, electric, internet, cable and telephone, used on the Leased Premises, and all deposits or bonds in connection therewith. All such utilities, including sewerage usage and disposal costs and metered costs associated with water and fire hydrant usage, shall be billed directly to and paid directly by Concessionaire. If Concessionaire fails to pay any utilities when due, then MDTA, in addition to its other rights and remedies contained in this Lease and Concession Agreement on account of such failure, shall be authorized (but not required) to pay such amounts, and Concessionaire shall pay all amounts advanced by MDTA therefor, as Additional Payment, together with a late payment at the Default Rate and any interest at the legal rate that may be due on such amount until paid in full, upon demand by MDTA. All utilities shall be maintained in accordance with the Performance Standards.

9.22.2 Potable Water Towers

Without limiting the generality of the foregoing Subsection 9.22.1, MDTA shall be responsible for the maintenance, use and repair of all potable water towers, pumps and connections to and from public water supplies, and, in connection with and following Completion of the Initial Improvements. The Concessionaire shall be responsible for constructing, as necessary, pumps, connections and other infrastructure necessary to maintain sufficient water supplies at sufficient pressure levels at each of the Travel Plazas. Concessionaire shall also be responsible for testing water quality and pressure as may be required by applicable Legal Requirements. Concessionaire's obligations under this Subsection shall, in all instances, be performed in accordance with applicable Legal Requirements and in a good and workmanlike manner, at Concessionaire's sole cost and expense. Concessionaire shall be solely responsible for payment for any and all fees, charges, impositions and other amounts that may be assessed relative to the existence, use and maintenance of such water systems, and shall make all necessary arrangements to have such charges billed directly to Concessionaire.

9.22.3 Subsurface Sewage Disposal Systems

Without limiting the generality of Subsection 9.22.1, Concessionaire shall be responsible for the maintenance, restoring, cleaning, pump-out, and repair, and, in connection with and following Completion of the Initial Improvements on the Leased Premises, construction, replacement and potential expansion as may be needed for the continued operation of the Travel Plazas of any subsurface sewage disposal systems servicing the Travel Plazas, including, as necessary, establishing connection between such systems. Concessionaire shall be responsible for the installation, operation, maintenance, repair, and replacement of all interior and exterior sewage disposal piping, up to and including the point of public tie-in, establishing any new public tie-in piping, and required servicing of interior and exterior grease traps. Concessionaire shall also be responsible for all actions necessary to comply with Legal Requirements applicable to such sewage disposal systems. Concessionaire's obligations under this Subsection shall, in all instances, be performed in accordance with the Performance Standards and applicable Legal Requirements and in a good and workmanlike manner, at Concessionaire's sole cost and expense. Concessionaire shall be solely responsible for payment for any and all fees, charges,

impositions and other amounts that may be assessed relative to the existence, use and maintenance of such sewerage systems, and shall make all necessary arrangements to have such charges billed directly to Concessionaire.

9.22.4 Water Lines and Fire Hydrant Usage

Without limiting the generality of the foregoing Subsection 9.22.1, Concessionaire shall be responsible for maintenance and repair of all interior and exterior water lines on the Leased Premises. Concessionaire shall be responsible for the replacement, annual maintenance, inspection, testing and painting of all fire hydrants in accordance with applicable Legal Requirements and the codes and standards of the National Fire Protection Association. Concessionaire's obligations under this Section shall, in all instances, be performed in accordance with applicable Legal Requirements and in a good and workmanlike manner, at Concessionaire's sole cost and expense.

Section 9.23 Damage of Physical Property

Concessionaire shall inspect frequently the interior and exterior premises of the Travel Plazas for damage as well as any damage to the Leased Premises. Concessionaire shall report promptly to MDTA any damage or destruction to the interior or exterior premises of the Travel Plazas which does or reasonably may materially impact the proper condition or operation of the Travel Plazas, including damage to Fuel Service Equipment, Food and Beverage Equipment, doors and windows, lighting features, restroom facilities, fences, signage, and any vandalism. Concessionaire shall use commercially reasonable efforts to secure sufficient information concerning the identity of the individual or vehicle responsible for causing such damage and destruction, and shall promptly transmit, via telephone or in writing, all such information to the police of jurisdiction. Concessionaire shall promptly repair, at its sole cost and expense, any and all damage or destruction discovered on the Leased Premises in a good and workmanlike manner, whether or not costs to repair such damage or destruction may be recovered from the offending party. Notwithstanding the foregoing, Concessionaire may, at its sole cost and expense, seek to recover such costs from the offending party.

Section 9.24 Travel Plaza Facilities and Employment Matters

9.24.1 Chesapeake House and Maryland House Facilities Manual

Concessionaire shall develop an "Organizational and Facilities Manual" for common areas of each Travel Plaza to govern the operation of the Travel Plaza, which shall be developed within ninety (90) days after the Effective Date and submitted to MDTA for reasonable review and comment. Each manual shall include training initiatives and a code of conduct for the common areas of the Travel Plaza and method for enforcing the code of conduct. Concessionaire shall be responsible for each Subcontractor's compliance with the applicable Organizational and Facilities Manual for either the Chesapeake House or Maryland House Travel Plaza. MDTA shall have the right to request, and Concessionaire agrees to make, reasonable changes to said Organizational and Facilities Manual from time to time to address issues, concerns, and requirements of MDTA with respect to the Travel Plazas.

9.24.2 Travel Plaza Operations Manager and Senior Management

Concessionaire shall furnish all necessary qualified supervision for the performance of all operations at the Travel Plazas, including the Fuel Service at the Fueling Facilities and Food and Beverage Service, and agrees to assign to these operations a Travel Plaza Operations Manager, whose name and 24 hour contact information Concessionaire shall provide to MDTA. The Travel Plaza Operations Manager designated by the Concessionaire shall be approved by MDTA. A member of Senior Management shall be available during all hours of operation. In the event of any change in the Travel Plaza Operations Manager, Concessionaire shall furnish a replacement Travel Plaza Operations Manager who is trained to perform and discharge his or her responsibilities hereunder, under the Performance Standards and Legal Requirements and subject to MDTA's approval.

9.24.3 On-Site Managers

Each of the Travel Plazas shall have an On-Site Manager 24/7/365 who at all times meets the requirements set forth in the definition thereof. MDTA shall be provided with 24 hour contact information for each On-Site Manager. All such On-Site Managers shall be able to communicate effectively. In the event of any change in any of the On-Site Managers, Concessionaire shall furnish a replacement On-Site Manager who is trained to perform and discharge his or her responsibilities hereunder, under the Performance Standards and Legal Requirements.

9.24.4 Employees

(a) Concessionaire shall, or shall cause each pertinent Subcontractor to, select, employ, train, furnish and deploy Employees who are trained and courteous to the traveling public and MDTA. Whenever possible, Concessionaire shall use commercially reasonable efforts to hire its personnel from within the State and shall give due consideration to the employees of the Existing Service Providers at the Travel Plazas. Concessionaire covenants and agrees to staff the Travel Plazas to meet the requirements of the Performance Standards.

(b) Concessionaire shall provide and maintain uniforms for all Employees at all Travel Plazas. Type, color, style and dress code of uniforms shall be consistent with the Performance Standards. Concessionaire shall ensure that Concessionaire's Employees are attired in neat and clean uniforms at all times while Concessionaire's Employees are on the Travel Plazas for employment purposes. All Employees with direct customer contact at any of the Travel Plazas shall be able to communicate effectively with patrons.

9.24.5 General Provisions Regarding Employees

All Employees shall be deemed employees of Concessionaire or the pertinent Subcontractor, as the case may be, and will not for any purpose be or be deemed or considered to be employees of MDTA, anything contained herein to the contrary notwithstanding. Concessionaire and applicable Subcontractors will be responsible for the actions of their respective Employees and overall compliance with applicable Legal Requirements with respect to their respective Employees, including all applicable laws regarding wages and hours worked. In addition, upon reasonable request, Concessionaire shall (a) document in writing its good faith efforts regarding compliance with Concessionaire's obligations under this Subsection, (b) provide the number of Concessionaire's entry level Employees' hours to be devoted to formal employee training during the first two (2) weeks of employment and monthly/annually

thereafter, and (c) provide a written description of recruiting techniques and sources of non-management labor. MDTA shall have the right to notify Concessionaire of any misconduct.

Section 9.25 Training and Employee Performance

Concessionaire shall be responsible for periodic training classes for all Employees regarding hygiene, ethics and the provision of the services and compliance with this Lease and Concession Agreement and the Performance Standards throughout the Term. Concessionaire shall provide MDTA with reasonable prior notice of the scope and content of, and schedule for, such training classes conducted by Concessionaire, and shall allow MDTA to attend and have reasonable input on the content of such training programs. Such training, in general, shall consist of customer service and positional skills training including serving techniques. Without limiting the generality of the foregoing, Concessionaire shall ensure (or cause the applicable Subcontractor to ensure) that the On-Site Manager and Senior Management are properly trained in all applicable management and supervisory operational procedures and standards, including quality and cost controls; customer relations; marketing techniques; merchandising; inventory control/reconciliation; labor relations; supervision of sanitation and housekeeping; accounting and cash control procedures; operation of fire extinguishing equipment; applicable Environmental Laws and procedures for day-to-day operations and emergency responses; and all emergency protocols, including State notification requirements. Concessionaire shall require that each Subcontractor train each Food and Beverage Service employee in the operation of fire extinguishing equipment, alarm systems and all emergency protocols and Concessionaire shall annually provide refresher courses to all Employees on the operation of fire extinguishers, alarms and emergency protocols. Concessionaire shall require that the Fuel Service provider ensure that all Fuel Service employees are properly trained in all applicable Fuel Service operational procedures and standards including retail Fuel standards; monitoring of self service operations; standards of full service operations; handicap patron fueling and “assisted fueling” requirements; spill containment and reporting; tank inventory protocols and procedures; operation of fire extinguishing equipment; and all emergency protocols including State notification requirements.

Section 9.26 Housekeeping

Concessionaire shall maintain the interior and exterior premises of the Travel Plazas in a neat, clean and sanitary condition and litter free condition 24/7/365, in accordance with the Performance Standards. The housekeeping and sanitation duties required of Concessionaire include: (a) cleaning all Food and Beverage Equipment, Small Wares and Furnishings, including related appurtenances, such as floor drains and grease traps and reservoirs; (b) cleaning of Fuel Service Equipment; (c) sweeping, mopping, cleaning and periodic scrubbing of all floor surfaces, whether exposed or under counters, tables or Equipment and Fixtures; (d) complete washing and cleaning of all tiled wall surfaces and other surfaces of walls, partitions, doors; (e) cleaning of all glass surfaces of windows and doors; (f) removal of dust and dirt from window sills, cabinet tops, lighting fixtures, ceilings, trim and other areas where dust and dirt may accumulate; and (g) any and all work necessary to maintain the kitchen, restaurant area and restroom facilities; in each case, in accordance with this Lease and Concession Agreement and the Performance Standards. MDTA’s Authorized Representative shall, at any and all times, be entitled to enter and inspect the Travel Plazas to ensure compliance of Concessionaire with the provisions of this Section. If, as a result of the failure to adhere to this Section 9.26, in the discretion of MDTA’s

Authorized Representative, MDTA, following written notice to Concessionaire, may require Concessionaire to utilize a professional cleaning service contractor (“Service Contractor”) to maintain the Travel Plazas in accordance with the provisions of this Section. Costs incurred in connection with such Service Contractor shall be the sole responsibility of Concessionaire and shall be promptly paid to or at the direction of MDTA upon demand.

Section 9.27 Restroom Facilities

Except during construction of the Initial Improvements, restrooms shall be open, operational and available to patrons at each Travel Plaza, free of charge on a 24/7/365 basis. Concessionaire shall, at its sole cost and expense, maintain all restrooms in a neat, clean, sanitary and litter-free condition 24/7/365, in accordance with the Performance Standards.

Section 9.28 Litter; Garbage and Refuse; Recycling

(a) Concessionaire shall, at its sole cost and expense, maintain all of the interior and exterior portions of the Leased Premises in a neat, clean, sanitary and litter-free condition, in accordance with the Performance Standards. Concessionaire shall provide, at its sole cost and expense, Containers for Refuse and Recyclables throughout the interior and exterior premises of all of the Travel Plazas, including parking areas, grass areas, rear perimeter areas, Fuel Service areas, Food and Beverage Service areas, C-Stores, Restrooms, on a 24/7/365 basis and as more particularly set forth in the Performance Standards. Concessionaire shall, at its sole cost and expense, collect and remove the Refuse and Recyclables from the Containers and shall temporarily dispose of the same in the appropriate dumpsters and compactors located at the Facilities, respectively. Concessionaire shall be responsible, at its sole cost and expense, to furnish Refuse and Recyclables dumpsters and compactors on the Leased Premises.

(b) Concessionaire shall use commercially reasonable efforts to achieve waste reduction at the Travel Plazas through Recycling. The Concessionaire shall participate in applicable State of Maryland recycling plans, and is subject to all applicable Governmental Rules pertaining to recycling and shall make arrangement for the collection and disposal of recyclable materials.

Section 9.29 Refuse Removal

Concessionaire shall, at its sole cost and expense, arrange for the permanent removal and disposal of all Refuse and Recyclables from the Leased Premises, where only Recyclables need to be permanently removed and disposed of. The schedule for and provider of such permanent removal and disposal services shall be determined by Concessionaire. Permanent removal and disposal services shall be conducted in accordance with all Legal Requirements, including specific requirements for State-owned properties, using covered equipment so as to prevent Refuse and Recyclable spill out. Concessionaire shall not burn any trash on the Leased Premises or at or on any other property of MDTA.

Section 9.30 Pest Control

Concessionaire shall develop and implement, at its sole cost and expense, an integrated pest management plan for the Travel Plazas in accordance with the Performance Standards. Pest management services and chemicals shall be clearly documented in a manner satisfactory to MDTA, in its reasonable discretion. Such records and documents shall be kept in a log on site at each Travel Plaza at all times, which shall be available for inspection by MDTA's Authorized Representative upon reasonable request. Copies of the same shall be provided to MDTA, upon request.

Section 9.31 Snow and Ice Control

Concessionaire shall be responsible, at its sole cost and expense, for snow and ice control and removal of the Leased Premises in accordance with the Performance Standards. Without limiting the scope of Concessionaire's obligations under this Section, MDTA shall be responsible for all snow and ice control in the deceleration and acceleration lanes and ramps leading into and out of the Travel Plazas onto I-95. In the event of snow or ice, MDTA maintenance forces will undertake promptly such snow and ice control and removal on the deceleration and acceleration lanes leading into and out of the Travel Plazas as can be accomplished with truck-mounted snow plows. There shall be mutual cooperation and coordination between Concessionaire and MDTA maintenance forces with respect to the border line between the Roadways and deceleration and acceleration lanes leading into and out of the Travel Plazas.

Section 9.32 Outdoor Operations

All outdoor operations listed below must be conducted in accordance with the Performance Standards.

9.32.1 Outside Seating

For each of the Travel Plazas, Concessionaire shall provide for outside seating as set forth in the Improvements Plans and provide for maintenance, repair and replacement as set forth in the Performance Standards.

9.32.2 Pet Exercise Area

At each of the Travel Plazas, Concessionaire shall provide for a grassy area as shown on the Improvements Plans for customers to exercise their pets safely. Concessionaire also agrees to provide easily accessible pet waste clean-up supplies for customer use, provided that Concessionaire shall be and remain primarily responsible for pet waste clean-up.

9.32.3 Landscaping/Lawn Mowing

Concessionaire shall maintain landscaping and provide lawn care services so that grass and lawn areas are seasonably maintained in a neat and attractive manner. Concessionaire shall maintain all grass and lawn areas in a healthy condition with varieties of grass acceptable to MDTA, which shall be maintained in accordance with the Performance Standards. Such landscaping and lawn care services shall include watering, fertilization, grub and other pest control, mowing, edging, weed whacking, pruning, maintenance of trees, shrubbery and other plantings, including replacement of dead or dying plantings, collection and disposal of clippings

and pruned branches, and such other landscaping and lawn care services as would be provided at an attractive public destination point and as more particularly described in the Performance Standards.

Section 9.33 Public Address System

Following Completion of the Initial Improvements, Concessionaire shall install, maintain, repair, replace as necessary, and operate a public address system at each Travel Plaza, which accesses all areas of the building (including restrooms) and immediate outdoor areas.

Section 9.34 Signage

(a) Promptly following the Effective Date, Concessionaire shall implement signage at the Travel Plazas and on the Leased Premises in accordance with Concessionaire's signage plan. Concessionaire shall install, at its sole cost and expense, signage at the Travel Plazas in accordance with its signage plan.

(b) At all times, all signage on the Leased Premises shall comply with the requirements of Governmental Rules, any applicable federal highway Legal Requirements, and be reasonably satisfactory to MDTA. Without limiting the preceding sentence or any other approval rights of MDTA, all signage shall be approved by MDTA in writing. MDTA expressly reserves the right to erect, remove, or change directional or informational signage on the Roadways and other highways as it deems necessary or desirable, in its reasonable discretion, for the convenience and safety of the motoring public. MDTA may install, or may require Concessionaire to install, in both instances at the sole cost and expense of Concessionaire, directional signage directed by Governmental Authorities designed to direct vehicular traffic within the Leased Premises. Any additional signage shall be constructed and maintained only with the prior written approval of MDTA. Concessionaire shall maintain all signs installed by Concessionaire pursuant to this Section in good working order, condition and repair, subject to normal wear and tear. Concessionaire shall be solely responsible for the construction, maintenance, repair and replacement of all such signs, and for paying for all costs and expenses incurred in connection therewith.

Section 9.35 Tourist Information

At all times throughout the Term, Concessionaire shall provide adequate, secure space for the Welcome Centers at the Travel Plazas. As part of the Initial Improvements, Concessionaire shall construct the Welcome Centers in accordance with the Improvements Plan and applicable provisions of Appendix 1, Construction Provisions of this Lease and Concession Agreement. Concessionaire shall, at its sole cost and expense provide secure space for and accommodation of a tourist information center and associated storage areas at the Travel Plazas, including all tourism brochure racks and other equipment, furnishings and fixtures as required in connection with the operation of the Welcome Centers. Concessionaire shall maintain the Welcome Centers in a neat, clean, sanitary and litter-free condition, in accordance with the Performance Standards. Following Completion of the Initial Improvements and if requested by MDTA, Concessionaire shall promptly furnish, at its sole cost and expense, adequate and secure space for tourism brochure racks for tourism and traveler information publications at the Travel Plazas.

Concessionaire shall operate and maintain the Welcome Centers in the Travel Plazas providing sufficient staff for the operation that are knowledgeable of Maryland geography and tourism markets. The Welcome Centers shall be in operation ten hours per day Monday through Thursday and twelve hours per day Friday through Sunday throughout the Term.

Section 9.36 Patron's Suggestions and Comments

(a) A key component of the promotional campaign and Concessionaire's obligations throughout the Term is to invite and timely address suggestions and complaints from patrons of the Travel Plazas, this shall be identified in the Concessionaire's Customer Service Plan. Accordingly, Concessionaire shall develop, implement and operate, within six (6) months of the Effective Date, and at its sole cost and expense, a two-part program (the "Customer Satisfaction Monitoring System") for the receipt of patron's suggestions and complaints comprised of a comment box system (with pens and paper) and/or an e-mail system that allows patrons to submit suggestions or complaints directly to Concessionaire via e-mail with copies of the submitted emails and Concessionaire's responses thereto being automatically sent to MDTA's Authorized Representative.

(b) In the immediate vicinity of each comment box Concessionaire shall prominently display the e-mail address by which suggestions or complaints may be made to Concessionaire regarding the Travel Plazas and information and directions regarding use of the e-mail system. Concessionaire, at its sole cost and expense, shall be fully responsible for all operations, maintenance and repair of the comment boxes and e-mail system throughout the Term. In the event that the e-mail system is out-of-order, it shall be serviced by the appropriate maintenance personnel within twenty-four (24) hours after notice of any inoperative condition. Concessionaire shall timely respond to any patron suggestions or complaints received by Concessionaire, with copies forwarded to MDTA. Concessionaire agrees to periodically review all such comments with MDTA and to use commercially reasonable efforts to address all such reasonable complaints. MDTA agrees to provide Concessionaire with notice of any and all suggestions and complaints that it may receive from patrons respecting the Travel Plazas. All such suggestions and complaints forwarded by MDTA to Concessionaire shall be investigated and resolved by Concessionaire as provided in this Section. MDTA hereby expressly reserves the right to conduct surveys and interviews of patrons of the Travel Plazas for the purpose of obtaining operational and statistical data.

Section 9.37 Temporary Reduction or Cessation of Operations

(a) Either Concessionaire or MDTA may request, by written notice to other, a temporary reduction or cessation of operations at one, more or part of the Travel Plazas at any time during the Term if such reduction or cessation is necessary for the purpose of performing major construction, renovation, expansion or modification of the building or other areas of the Leased Premises or major maintenance or repair work on the Leased Premises. In addition, MDTA may request a temporary reduction or cessation of operations at one, more or part of the Travel Plazas for any other purpose when it considers such reduction or cessation to be in the best interest of the State or the public.

(b) The party requesting temporary reduction or cessation of operation shall provide the other party with at least thirty (30) days advance written notice of any planned construction, renovation, expansion or modification work that will result in the temporary reduction or cessation of operation, and shall provide the other party as much advance written notice as is possible under the circumstances of any major maintenance or repair work that will result in the temporary reduction or cessation of operations. The party receiving the request shall use diligent efforts to review and approve the request promptly upon receipt thereof, such approval not to be unreasonably withheld, conditioned or delayed. If said reduction or cessation is at the request of MDTA and continues for more than forty-eight (48) hours, the Monthly Payment shall be reduced pro rata based upon a ratio of Gross Revenues and/or the number of gallons of Fuel sold generated by such Travel Plaza so reduced or ceased to the other Travel Plaza over the previous twelve (12) month period. MDTA covenants that it shall endeavor to prevent any reduction or cessation of operations at any of the Travel Plazas and to minimize any inconvenience to Concessionaire through the Term.

Section 9.38 Inoperable Travel Plaza

In the event one, more or part of the Travel Plazas shall be rendered totally inoperable by Unavoidable Delay, Concessionaire shall specifically notify MDTA as soon as possible (but no later than one (1) hour absent extraordinary circumstances) of such Travel Plaza being rendered totally inoperable or at least seven (7) days in advance of the Unavoidable Delay if Concessionaire reasonably anticipates such a delay. If such Unavoidable Delay exceeds seven (7) consecutive days, a prorated adjustment or reduction of the Monthly Revenue Payment, and the number of gallons of Fuel sold, at the inoperable Travel Plaza to the other Travel Plaza over the previous twelve (12) month period shall be made for the period of such Unavoidable Delay. If such a proration is to be made by Concessionaire, Concessionaire shall provide notice to MDTA together with an explanation of the Unavoidable Delay, which justification may be subject to further verification by MDTA. MDTA in its sole discretion, shall have the right to dispute any such requested adjustment or reduction for which adequate justification and supporting data is not provided in connection with the written request or is disputed by MDTA in its sole discretion. Concessionaire and MDTA expressly acknowledge and agree that the decision whether or not to restore any Travel Plaza rendered partially or totally inoperable by Unavoidable Delay shall rest entirely with MDTA, in its sole discretion.

Section 9.39 Preventive Maintenance Program

(a) Concessionaire shall implement a program of preventive maintenance in order to keep the buildings, structures and Improvements and all Equipment and Fixtures and Fuel Service Equipment on the Leased Premises in the following conditions: (i) prior to the beginning of construction of the Initial Improvements, in their current operating condition and appearance subject to normal wear and tear, and (ii) following Completion of the Initial Improvements, in good repair and working order and appearance, subject to normal wear and tear.

(b) Following Completion of the Initial Improvements, Concessionaire shall track the life cycles of all Capital Improvements and accurately budget repairs and capital replacements. Upon Operational Capability Completion and acceptance of the construction of the Initial Improvements at each Travel Plaza, Concessionaire shall submit to MDTA a plan for preventive

maintenance that shall provide for the periodic examination and repair of all buildings, including roofs, gutters and windows, site work drainage, Fuel Service Equipment, and all maintenance and repair work contemplated by Section 9.4, and all major Equipment and Fixtures by qualified personnel. Concessionaire shall submit said plan (the “Preventive Maintenance Plan”) to MDTA promptly following Completion of the Initial Improvements.

(c) The Preventive Maintenance Plan shall include but not be limited to a schedule of all building roofs, gutters, HVAC, pumps, compressors, motors, alarm systems, emergency generator(s) and other major building, structural, mechanical and electrical equipment requiring periodic maintenance or operational checks. These maintenance and operational checks will be performed according to applicable Legal Requirements and any manufacturer specifications and shall also be subject to MDTA’s review and approval. Both MDTA and Concessionaire must mutually approve any material changes to the Preventive Maintenance Plan, such approvals are not to be unreasonably withheld or delayed. Concessionaire shall update the Preventive Maintenance Plan upon completion and acceptance of the Reinvestments. Concessionaire shall keep maintenance records and make them available for MDTA’s inspection, as required. When capital replacement of any item is required, Concessionaire shall replace such item with new equipment of a quality equal or superior to the original equipment and shall bear the entire replacement cost thereof.

Section 9.40 Lottery Ticket Sales

The Concessionaire shall provide for the State of Maryland lottery sales at each Travel Plaza. The location of the equipment and any signs and promotional materials shall be subject to the MDTA’s approval. No other sales of lottery tickets or other games shall be permitted without the express written consent of the MDTA.

Section 9.41 Emergency Plan

The Concessionaire shall submit an Emergency Plan for the Travel Plazas that addresses a variety of potential emergencies, including biological, chemical, explosive, nuclear or radiological attacks, fire, flood, snowstorm, hurricane, tornado, product contamination, medical emergencies, hostage situations, etc. At a minimum, the Emergency Plan must include a crisis communications strategy, a means for ensuring customer safety and comfort, a means for reporting emergencies, a description of employee responsibilities during emergencies, a list of evacuation procedures and emergency escape routes, a description of procedures for employees to follow who must temporarily assist with critical facility operations prior to evacuation, a narrative of rescue and medical duties for employees, an explanation of recommended training and drills, and a business continuity approach. The Emergency Plan will be subject to the review and approval of the MDTA. The MDTA reserves the right to revise the Emergency Plan from time to time, as may be necessary or desirable, to coincide with the MDTA’s I-95 Emergency Plan.

Section 9.42 Automated External Defibrillators

The Concessionaire shall provide at least one automated external defibrillator at each Primary Service Facility and one at each C-Store for emergency use.

ARTICLE X
Records and Audits

Section 10.1 Maintenance and Audit of Records

Concessionaire shall maintain, and shall require its Subcontractors to maintain, accurate and complete records, books of account and other documents that delineate the nature and extent of MDTA's, Concessionaire's and, in the case of each Subcontractor, the applicable Subcontractor's performance hereunder (collectively, "Records") at Concessionaire's address provided in Section 18.1 hereof or such other location as is approved in writing in advance by MDTA. The Records shall include accounts, data, contracts and records pertaining to this Lease and Concession Agreement and the construction, operation and maintenance of the Travel Plazas, including as to the amount and type of Gross Revenues, Equipment and Fixtures and Fuel Service Equipment installed and removed from the Leased Premises, gallons of Fuel sold, Pump Meter Readings, Subcontracts and amendments thereto, construction, repair and replacement records and correspondence and communications with MDTA. Upon request from MDTA, Concessionaire shall make available to MDTA, Concessionaire's payroll records. All Records shall be maintained in accordance with good business practices and otherwise in a manner reasonably acceptable to MDTA. Concessionaire shall keep and preserve or cause to be kept and preserved all of its Records until three (3) years after the later of (a) Concessionaire having made all payments due under this Concession Agreement or (b) the expiration or earlier Termination of this Lease and Concession Agreement (the "Retention Period"); provided, however, that any Records which relate to (i) appeals for disputes arising out of or related to this Lease Concession Agreement, (ii) litigation of claims arising out of or related to this Lease and Concession Agreement, or (iii) revenues under this Lease and Concession Agreement to which exceptions have been taken by MDTA or MDTA's Authorized Representatives, shall be preserved and retained by Concessionaire until such appeals, litigation or exceptions have been fully and finally resolved. MDTA agrees that Concessionaire may retain Records at an off-site storage facility, so long as Records can be obtained by Concessionaire within three (3) Business Days following written request by MDTA. At reasonable times and upon reasonable prior notice, Concessionaire shall, and shall require its Subcontractors in their Subcontracts to, permit MDTA access to its or its Subcontractor's place of business related to the performance of this Lease and Concession Agreement or any Subcontract and to inspect and to copy and audit the Records throughout the Retention Period, at such times and as often as may be requested; provided that such inspection shall be during normal business hours and in a manner so as to not unreasonably interfere with the business and operations of Concessionaire or any Subcontractors. Any such inspection or audit by MDTA shall be for the sole benefit and protection of MDTA and MDTA shall have no obligation to disclose the results thereof to Concessionaire or any Subcontractor or to any third party, except for any agency, branch or instrumentality of the State or as otherwise may be required pursuant to any Legal Requirements.

Section 10.2 Operating Statements and Audits; Fixed-Coverage Certification

(a) Within twenty (20) days after the end of each month, Concessionaire shall provide a current Operating Statement for the most recently completed month and Lease Year-to-date accompanied by an Acknowledgement.

(b) As soon as available but not later than ninety (90) days after the end of each Lease Year, Concessionaire shall provide an Acknowledgement as to its compliance with Appendix 3, Financing Provisions Section 2.1(a)(iii).

(c) Within ten (10) days after Concessionaire's receipt thereof, Concessionaire shall provide true and complete copies of the results of any investigations or audits of the Gross Revenues or gallons of Fuel sold by any Major Subcontractors conducted by or at the direction of Concessionaire.

(d) Concessionaire shall provide to MDTA such further information and documentation, to the extent maintained by Concessionaire, regarding the utilization of the Travel Plazas by the traveling public as MDTA may reasonably request from time to time.

ARTICLE XI

Assignments and Equity Transfers

Section 11.1 General

Except for Permitted Transfers, Subcontracts pursuant to Article XII, or as otherwise permitted by Appendix 3 hereof, Concessionaire shall have no right to Transfer this Lease and Concession Agreement, or Transfer any of its rights under and pursuant to this Lease and Concession Agreement, to subcontract, sell, convey, assign, sublease, mortgage, dispose, lease, license, franchise or enter into any other contractual arrangement with respect to any rights or obligations under or with respect to this Lease and Concession Agreement. Any Transfer, subcontract, lease, license, franchise or other contractual arrangement made in violation of this Lease and Concession Agreement shall be *void ab initio*, and be of no force or effect. This Lease and Concession Agreement is personal to Concessionaire. Any direct or indirect Transfer of all or substantially all of the ownership interests of Concessionaire that does not result in a change in the direct management, operations, control or policy of Concessionaire, whether directly or indirectly, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise, shall not be deemed to be a Transfer and shall not be subject to the requirements of this Article.

Section 11.2 Transfers and Entity Matters

Except for Permitted Transfers or as otherwise permitted by Appendix 3 hereof, Concessionaire shall not, without the prior written consent of MDTA (a) merge, consolidate or reorganize with or into, or sell all or substantially all of its assets to, another Person; (b) make or permit any Person (whether or not within Concessionaire's control) to make any Transfer of any Equity Interest or (c) except for Subcontracts pursuant to Article XII, Transfer any right title or interest in or to any property or assets of Concessionaire, including this Lease and Concession Agreement, the Subcontracts, Gross Revenues or revenues generated by gallons of Fuel sold (collectively, "Prohibited Transfers"). MDTA's prior written consent may be withheld if, in MDTA's sole and exclusive judgment, such consent will result in any material adverse financial impact or security detriment to the Leased Premises or any material adverse effect upon any

economic benefit flowing to the State as the result of this Lease and Concession Agreement. In connection with any Transfer of this Lease and Concession Agreement pursuant to a Permitted Transfer, and as condition thereto, the transferee or assignee shall enter into an assignment agreement with MDTA pursuant to which such transferee or assignee assumes and agrees to perform the obligations of Concessionaire, which shall be in a form and substance reasonably acceptable to MDTA. No Permitted Transfer shall occur if an Event of Default shall have occurred and is continuing. Any Transfer made in violation of this Lease and Concession Agreement shall be null and *void ab initio* and of no force and effect.

Section 11.3 Notice and Approval

(a) Not later than thirty (30) days prior to the date of a contemplated Transfer of an Equity Interest or of any rights pursuant to this Lease and Concession Agreement, Concessionaire shall deliver written notice to MDTA identifying the proposed assignee or transferee (the “Proposed Transferee”) and information about such Proposed Transferee to inform MDTA as to the business, experience and background of such Proposed Transferee, including whether such Proposed Transferee is a Qualified Buyer and whether if concurrent with, as part of or related to such Transfer there will be a change in Senior Management of Concessionaire (or its successor as a result of such Transfer) and confirming that to the knowledge of Concessionaire that the Proposed Transferee is not a Prohibited Person, provided that such notice is not required with respect to a Transfer permitted by Articles XII or Appendix 3. Concessionaire shall provide to MDTA a substantive description of the capitalization of the Proposed Transferee and the terms of the proposed Transfer. Concessionaire shall also deliver to MDTA an Affidavit in the form identified in Section 17.6 hereto executed by the Proposed Transferee. Concessionaire shall provide to MDTA such information necessary to obtain MDTA Approval to the extent that MDTA Approval is sought or required with respect to a Qualified Buyer. Within thirty (30) days after Concessionaire delivers all of the information, disclosures and certificates described in this Section 11.3 and, to the extent that MDTA’s Approval is required and sought with respect to a Qualified Buyer, MDTA shall provide to Concessionaire, a written statement that in the case of a Transfer that is subject to MDTA’s Approval, whether MDTA approves such Transfer or, if a Proposed Transferee is a purported Qualified Buyer, whether MDTA concurs that such Proposed Transferee is a Qualified Buyer and whether to the knowledge of MDTA, said Person is a Prohibited Person.

(b) MDTA shall determine whether any Proposed Transferee is a Qualified Buyer and whether it will approve any Transfer upon reasonable application of the following factors:

- (i) whether such proposed Transfer or assignment would result in a violation of applicable Legal Requirements;
- (ii) whether such Person is a Prohibited Person;
- (iii) the financial strength of the Proposed Transferee or assignee and operating partners;
- (iv) the existence of recent and relevant negative past experience by the State with the Proposed Transferee or assignee; and
- (v) whether such proposed transferee(s) or assignee(s) (together with the Equity Owners retaining Equity Interests and Senior Management) is capable of performing the

obligations and covenants of Concessionaire under this Lease and Concession Agreement, which, if concurrent with, as part of or related to such Transfer, Concessionaire or the Equity Owners will make one or more material changes to the Senior Management of Concessionaire (or its successor as a result of such Transfer), such determination pursuant to clause (v) shall be based upon:

(A) the proposed new Senior Management's (including any then members of Senior Management retained) qualifications and experience to timely perform Concessionaire's obligations hereunder;

(B) the background and reputation of (including the absence of criminal or material civil or regulatory claims or actions against), and the State's past experience with respect to, any new member of Senior Management; and

(C) whether the proposed new members of Senior Management are in compliance with the State's laws and MDTA's rules, regulations and adopted written policies regarding organizational conflicts of interest.

Section 11.4 Ownership

If any Equity Owner or any member of Senior Management of Concessionaire becomes a Prohibited Person pursuant to clauses (b), (c), or (d) of the definition of the term "Prohibited Person", Concessionaire shall promptly upon learning of such Person becoming a Prohibited Person, take such action as to cause such Person to no longer have control with respect to any management or operational decisions of Concessionaire, including removing such Equity Owner (or its representatives) or such member of Senior Management from any management or board positions with Concessionaire, until such time as such Person is no longer a Prohibited Person. If any Equity Owner becomes a Prohibited Person pursuant to clause (a) of the definition of the term "Prohibited Person", Concessionaire shall take such action as to cause the Equity Interest of such Equity Owner to be purchased or otherwise obtained by Concessionaire. If any member of Senior Management of Concessionaire becomes a Prohibited Person pursuant to clause (a) of the definition of the term "Prohibited Person", Concessionaire shall take such action as to terminate the employment of such Person.

Section 11.5 Right of First Refusal

(a) In the event that Concessionaire or the Equity Owner(s) of Concessionaire shall receive a bona fide offer from a non-affiliated third party (the "Offeror") to purchase all, but not less than all, of the equity or assets of Concessionaire or any of Concessionaire's right, title and interest in operating under this Lease and Concession Agreement (excluding any conveyance to a Collateral Assignee pursuant to Appendix 3) (the "Offer"), which offer Concessionaire wishes to entertain, MDTA may elect to acquire such stock or assets by matching the Offer in accordance with the terms of this Section 11.5.

(b) Concessionaire shall provide MDTA with written notice of the Offer describing in reasonable detail all terms and conditions, including price, of the Offer. MDTA shall have a one-time exclusive right, but not the obligation, for a period of sixty (60) days following receipt of such notice to match the Offer on substantially identical terms and conditions of the Offer, including price (the "Matching Offer"), which election shall be communicated in writing within

such sixty (60) day period. In the event of such election, MDTA may thereafter, at its option, assign its right to close a Matching Offer, and shall have an additional ninety (90) days to close and complete the transactions contemplated by the Matching Offer. At the time of the notice of the election, MDTA shall simultaneously notify Concessionaire whether or not MDTA will approve the proposed assignment to Concessionaire's assignee pursuant to this Article in the event the right of first refusal transaction does not close within the time specified.

(c) In the event that MDTA does not make a Matching Offer or does not close and complete the transactions contemplated by the Matching Offer within the time periods specified in this Section 11.5, MDTA shall be deemed to have not elected to exercise the rights under this Section and all rights granted to MDTA under this Section shall immediately terminate.

Section 11.6 State's Permitted Transfers

Nothing contained in this Article or elsewhere in this Lease and Concession Agreement shall prevent or impair MDTA or the State from transferring or assigning the Leased Premises, this Lease and Concession Agreement or any of its rights or obligations hereunder to another agency, political subdivision, or other authority of the State, or to a private entity (provided said latter event any property tax imposition arising therefrom shall be subject to payment or reimbursement by said Transferee) whether now existing or hereafter created. In the event of such an assignment or transfer by MDTA of its interest in the Leased Premises and in this Lease and Concession Agreement, MDTA shall thereupon be released and discharged from all covenants and obligations of MDTA thereafter accruing from and after the assumption of such covenants and obligations by the assignee or transferee of MDTA or the State.

ARTICLE XII **Subcontracts**

Section 12.1 Subcontracting

Concessionaire may maintain Subcontracts with Major Subcontractors as provided in this Article XII. Concessionaire shall not add or replace any Major Subcontractor (or permit any Major Subcontractor to assign or transfer any Major Subcontractor's Subcontract) without MDTA's prior written consent and approval in accordance with this Section 12.1. Concessionaire will only engage Subcontractors who are fully experienced to perform the services required by this Lease and Concession Agreement and properly qualified, licensed, certified, equipped and insured to perform the services required therein. In connection with any request for approval of the replacement of any Major Subcontractor (or assignment or transfer of any such Major Subcontractor's Subcontract) required pursuant to the immediately preceding sentence of this Section 12.1, Concessionaire shall provide MDTA with prior written notice of the proposed replacement, assignee or transferee, together with (a) the name and address of the proposed Major Subcontractor, (b) evidence satisfactory to MDTA of the good character, experience and qualifications of the proposed Major Subcontractor, (c) evidence satisfactory to MDTA that the proposed Major Subcontractor is authorized to transact business in the State and that it is in good standing in the State, (d) a detailed overview of the business experience and capabilities of the proposed Major Subcontractor, (e) a plan to transition seamlessly in the

replacement Major Subcontractor, and (f) an overview of the material terms of the proposed Subcontract.

12.1.1 MDTA Rights and Obligations

MDTA shall endeavor to approve or disapprove the proposed new Major Subcontractor within thirty (30) Business Days following its receipt of such written notice and accompanying documentation. MDTA's consent to any such proposed new Major Subcontractor (including any assignee or transferee of any Major Subcontractor) shall not be unreasonably withheld, provided, however, that MDTA shall have the right to withhold approval of any such requested new Major Subcontractor (including any assignee or transferee of any Major Subcontractor) for which adequate justification and supporting documentation is not provided in connection with the written request. With respect to any consent or approval required pursuant to this Section 12.1, MDTA's review, consent and approval shall be limited to and based upon the items listed in clauses (a) through (d) of the proceeding Section and shall not be based upon or take into consideration any financial or other obligation (contingent or otherwise) between Concessionaire and such proposed new Major Subcontractor (including any assignee or transferee of any Major Subcontractor) nor shall any payment be required (except as provided in Section 12.4) to be made by Concessionaire to or for the benefit of MDTA or the State, nor shall any adjustment be made to the Monthly Payments.

12.1.2 Major Subcontractor Limitations

Notwithstanding any provision of this Section 12.1 to the contrary, any Major Subcontractor may, without the consent or approval of MDTA, subcontract, franchise or license any Subcontract for any Major Subcontractor to any of its franchisees or licensees or assign or transfer any interest in any Subcontract to any Affiliate of any Major Subcontractor, provided such Major Subcontractor remains at all times liable for such franchisee's or licensee's operations or performance under or pursuant to such Subcontract.

12.1.3 Concessionaire's Right to Subcontract

Except as provided above with respect to Major Subcontractors, Concessionaire may subcontract for the provision of any service or the sale of any product pursuant to this Lease and Concession Agreement without the consent or approval of MDTA and the same shall be a Subcontractor within the meaning of this Concession Agreement.

12.1.4 Prohibited Persons

In no event will any Subcontractor be permitted to be a Prohibited Person or be permitted to assign, franchise or license its rights under a Subcontract to a Prohibited Person of the type described in clauses (a), (b), or (c) of the definition of "Prohibited Person" or known by Concessionaire to be a Prohibited Person pursuant to clause (d) of the definition of "Prohibited Person".

12.1.5 Design-Build and Construction

Concurrent with the execution and delivery of this Lease and Concession Agreement, Concessionaire has executed and delivered a Design and Build Construction Agreement with General Contractor. Concessionaire shall not add or replace General Contractor without

MDTA's prior written consent and approval. MDTA shall endeavor to approve or disapprove any replacement for the General Contractor within thirty (30) Business Days following its receipt of a request from Concessionaire. MDTA's consent to any such proposed new General Contractor (including any assignee or transferee of any General Contractor) shall not be unreasonably withheld. With respect to any consent or approval required pursuant to this Subsection 12.1.5, MDTA's approval shall not require any payment be required (except as provided in Section 12.4) to be made by Concessionaire to or for the benefit of MDTA or the State, nor shall any adjustment be made to the Monthly Payments.

Section 12.2 Subcontract Terms and Subcontractor Recognition Agreement

(a) Concurrent with the execution and delivery of this Lease and Concession Agreement, Concessionaire has delivered true and complete copies of the Subcontracts with each Major Subcontractor and the Fuel Service Provider(s). Within three (3) Business Days after execution and delivery thereof, Concessionaire shall provide MDTA true and complete copies of the Subcontract with each of the other Major Subcontractors. MDTA shall have the right to review, during normal business hours copies of any Subcontract.

(b) Subject to the provisions of Subsection 12.1.2 above, Concessionaire shall require all Subcontractors with Subcontracts providing all janitorial, custodial and maintenance work and all Major Subcontractors enter into a Subcontractor Recognition Agreement, in substantially the same form, as Exhibit I. All subcontracts shall provide that MDTA is a third party beneficiary thereof.

Section 12.3 Concessionaire Liable

Notwithstanding anything to the contrary contained in this Article, following any such Subcontract referred to in this Article, Concessionaire shall remain fully liable for, and shall not be released from, all obligations owed to MDTA under this Lease and Concession Agreement. Notwithstanding anything to the contrary contained herein, no act or omission of MDTA hereunder (including any consent by MDTA) shall be deemed a waiver by MDTA of any provision hereof in any other or subsequent occasion or context.

Section 12.4 MDTA's Costs

All reasonable third party costs and expenses incurred by MDTA in connection with any request by Concessionaire under this Article XII or the exercise by Concessionaire of its rights under this Article XII shall be paid for by Concessionaire upon demand therefor on the date in which the next Monthly Payment is due.

ARTICLE XIII **Insurance; Taking; Disbursement of Proceeds**

Section 13.1 Insurance Requirements

At all times during the Term, Concessionaire shall, at its sole cost and expense, obtain and maintain in full force and effect, for the benefit of MDTA and Concessionaire, the types and amounts of insurance, insurance policies or bonds set forth below against all risks, on and subject to the terms of this Article XIII:

13.1.1 Commercial General Liability Insurance

Commercial general liability insurance including coverage against claims for bodily injury, death, or property damage, occurring on, in, or about the Leased Premises and the business operated by the Concessionaire and any Subcontractors or their respective Agents, concessionaires, or licensees of the Concessionaire, or otherwise occurring as a result of any work and the use and occupancy of the Leased Premises with such types of coverage and minimum coverage amounts as may be reasonably requested by MDTA from time to time, but in no event in an amount not less than two million dollars (\$2,000,000.00). Such coverage shall be written on an occurrence basis and include the following:

- (a) Products and Completed operations coverage;
- (b) Contractual Liability covering this Lease and Concession Agreement, subject to the terms of the applicable policy;
- (c) Personal Injury Coverage;
- (d) Independent Contractors;
- (e) Premises and Operations;
- (f) Broad Form Property Damage;
- (g) Fire Legal Liability; and
- (h) Employees as additional insureds.

13.1.2 Comprehensive Automobile Liability

Automobile Liability Insurance covering owned, non-owned and hired vehicles in accordance with all applicable Legal Requirements, including the automobile insurance laws of the State of Maryland and other states where Concessionaire maintains its principal place of business. The limit shall not be less than one million dollars (\$1,000,000) per occurrence for damages arising out of bodily injury, death or property destruction. Such coverage shall be written on an occurrence basis.

13.1.3 Workers' Compensation Insurance

Workers' compensation insurance covering all persons employed by the Concessionaire, the Occupancy Tenants or their Agents with respect to which claims for death or bodily injury could be asserted, complying with the laws of the State.

13.1.4 Umbrella Liability

Umbrella Liability Insurance that shall provide excess coverage over the primary commercial general liability, employer's liability and automobile liability coverages as set forth in Sections 13.1.1 and 13.1.2 above. Such coverage shall be no less broad than such primary

coverages and shall be written on an occurrence basis with limits of not less than thirteen million dollars (\$13,000,000.00) per occurrence and in the aggregate (or in such increased limits from time to time as are customary for similar projects) for bodily injury and property damage.

13.1.5 Builders Risk and Casualty Insurance

(a) During the period of any construction, Concessionaire shall maintain a completed value “all risk” Builder’s Risk form or “Course of Construction” insurance policy in non-reporting form in an amount not less than 100% of the replacement cost of any such construction.

(b) Concessionaire also shall maintain, or require the General Contractor to maintain, or, at all other times, require its Subcontractors to maintain, replacement cost property coverage and equipment breakdown coverage (also known as boiler and machinery coverage) insuring the personal property and fixtures in or comprising the Improvements (including the Fuel Service Equipment, Food and Beverage Equipment, all HVAC equipment, and all generators and mechanical equipment). Each insurance policy of the type described in this Section 13.1.5 shall contain a replacement cost endorsement and either an agreed amount endorsement (to avoid the operation of any coinsurance provisions) or a waiver of any co-insurance provisions, all subject to MDTA’s approval; likewise, any deductible under the foregoing policies shall be subject to the prior written approval of MDTA, providing that none of such approvals shall be unreasonably withheld, conditioned or delayed.

(c) MDTA shall be named as a loss payee under all insurance maintained under this Section 13.1.5.

(d) The failure of the parties to agree on what is customarily insured against by owners of comparable buildings or the replacement cost of any Improvements, fixtures or personal property or any other matter which is the subject of this Section 13.1.5, shall not relieve the Concessionaire (and/or its General Contractor or Subcontractors, as applicable) of its and/or their obligations to maintain insurance hereunder. Subject to that condition, the parties also agree that, in the event any dispute shall arise as to the types or amounts of coverage that are required to be maintained hereunder, they shall maintain insurance with at least the same coverages and at least at the policy amounts as were in effect immediately prior to such dispute, until such dispute is resolved. Either party may subject any such dispute for resolution under Article XVI.

(e) Notwithstanding anything herein contained to the contrary, the Concessionaire (and/or its General Contractor or Subcontractors, as applicable) shall at all times provide agreed amount property coverage with a waiver of coinsurance. In the event that any change occurs in co-insurance requirements applicable to any locations by statute or by an insurance service organization recognized by the State of Maryland, or any similar body, the policies furnished by the Concessionaire (and/or its General Contractor or Subcontractors, as applicable) shall comply with such changes.

13.1.6 Flood Insurance

If, at any time during the Term it is determined that all or a portion of the Improvements are located within an area designated as a Special Flood Hazard Area, Concessionaire shall

maintain flood insurance with respect to such Improvements continuously during the Term in an amount equal to the full insurable value of such Improvements.

13.1.7 Terrorism Risk Insurance

To the extent commercially available, Concessionaire shall maintain Terrorism Risk Insurance during the Term covering property and liability in such amount as is reasonably satisfactory to MDTA for uncertified and certified (as specified under the Terrorism Risk Insurance Program Reauthorization Act, as amended.) acts of terrorism.

13.1.8 Errors and Omissions

To the extent that Concessionaire, the General Contractor and any Subcontractors and/or any of the Concessionaire Representatives provide any architectural, engineering or design services under or in connection with this Lease and Concession Agreement and/or at or with regard to the Leased Premises, each person and entity providing such services shall be duly licensed and maintain Errors and Omissions coverage at such party's sole cost and expense, in an amount not less than five million dollars (\$5,000,000) per occurrence. In the case of any engineer, architect or other design professional, each such policy must be kept in effect for a period of seven (7) years after Completion of the project on or for which any such services are rendered; otherwise the professional involved shall maintain such coverage for a period for at least three (3) years following completion of its work hereunder; provided however, in no case shall any such party be required to purchase an Errors and Omissions policy for a period longer than ten (10) years. If coverage is procured by any professional on a claims made basis, the retroactive date must be the date of the professional's commencement of any work under or pursuant to this Lease and Concession Agreement or the project to which it relates, whichever is earlier.

13.1.9 Pollution Liability Insurance

(a) Site Pollution. Concessionaire shall maintain pollution liability insurance written on an occurrence form basis and having coverage for any one occurrence or claim of not less than five million dollars (\$5,000,000) individually for each Travel Plaza and an annual aggregate limit of five million dollars (\$5,000,000) individually for each Travel Plaza. If the policy is written on a "claims made" form, the Concessionaire shall continue such coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for three years from the Termination Date. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date of the commencement of any construction. Coverage shall provide 1st party clean up and 3rd party body injury and property damage as needed.

(b) Storage Tank Liability. Concessionaire shall maintain and carry the AST/UST coverage written on an occurrence form basis and having coverage for any one occurrence or claim of not less than five million dollars (\$5,000,000) individually for each Travel Plaza and an annual aggregate limit of five million dollars (\$5,000,000) individually for each Travel Plaza. To the extent the Site Pollution policy addresses and covers the exposures for the fuel storage tanks the Site Pollution policy may share the limit for the combined coverage of ten million dollars (\$10,000,000) individually for each Travel Plaza. If the policy is written on a "claims

made” form, the Concessionaire shall continue such coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for three years from the Termination Date. The retroactive date or “prior acts inclusion date” of any such “claims made” policy must be no later than the date of the commencement of any construction. Coverage shall provide 1st party clean up and 3rd party body injury and property damage as needed.

13.1.10 Other

(a) Concessionaire shall maintain such other insurance and in such amounts as operators of similar facilities to the Travel Plazas carry and maintain on such facilities from time to time during the Term. Such additional and/or other insurance with respect to the Improvements located at the Leased Premises shall be the same in terms of the scope, limits, and terms of coverage as at the time is customarily carried by prudent owners or tenants with respect to improvements similar in character, location and use and occupancy to the Improvements located at the Leased Premises.

(b) The insurance to be provided by the Concessionaire pursuant to this Section 13.1 shall be subject to the MDTA’s approval except for any greater or different requirements mandated by Governmental Rules. The MDTA shall have the right to obtain, at its own expense, a periodic reevaluation of the scope, limits, and terms of insurance coverage required to be carried by the Concessionaire, its occupancy tenants, Subcontractors and their respective Agents, pursuant to the provisions of this Section 13.1, but not more often than once every three (3) years.

Section 13.2 Insurance Underwriting and Other Requirements

13.2.1 Insurer

(a) Each insurance policy required under this Article shall be issued by an insurer of recognized responsibility licensed to issue the policy in the State, having a general policy holder’s rating of not less than A- and a financial rating of X (ten) or better as rated in the most current “Best’s Key Rating Guide” or any successor publication or, if there is no successor publication, a comparable rating by another nationally recognized insurance rating publication or rating organization, such as Standard and Poor’s or Moody’s, which rates insurance companies. Should the carrier’s rating fall below these specified ratings, the Concessionaire agrees, within thirty (30) days, to secure insurance in accordance with this Section 13.2 from a substitute carrier meeting the requirements of this Section.

(b) In the event any insuring company is not domiciled within the United States of America, the policy shall include a United States service of suit clause providing any actions against the insurer by the named insured or the State Parties shall be conducted within the jurisdiction of the United States of America.

13.2.2 Insureds

Each liability insurance policy shall name the MDTA, the Department, and the State as additional insureds. Each property insurance policy shall name the MDTA as the owner of the Fee Estate, as its interests may appear.

13.2.3 Cancellation; Invalidated

Each policy of insurance maintained pursuant to this Lease and Concession Agreement shall be written to provide at least those coverages provided under standard forms therefore and as have been approved by the State. Each such policy shall not be subject to cancellation unless notice is given to the State, in the manner set forth in this Lease and Concession Agreement for providing official notice to the State, at least thirty (30) days prior to the date of cancellation, except ten (10) days for non-payment of premium. All insurance certificates required to be provided to the State hereunder shall evidence the insurers' agreement to the foregoing on the face thereof. Such insurance, as to the interest of the MDTA, shall not be invalidated by any act or neglect of the State, the MDTA, or their respective agents, employees, officers, representatives, and members (the State, the MDTA and such other Persons are sometimes referred to collectively as the "State Parties") the Concessionaire or any other named insured, additional insured or loss payee, by any foreclosure or any other proceedings relating to the Leased Premises, by any change in the title to or ownership of the Leased Premises, nor by use or occupation of the Leased Premises for purposes more hazardous than are permitted by such policy.

13.2.4 Primary

Every insurance policy maintained pursuant to this Lease and Concession Agreement shall be primary and without right or provision of contribution as to any other insurance (including self insurance) carried by the MDTA or any other Person.

13.2.5 Evidence

(a) At least twenty (20) days prior to the Transfer of Operations and not later than ten (10) days prior to the renewal date of any such insurance, the Concessionaire shall deliver to the MDTA insurance certificates evidencing such insurance, together with "additional insured" and "loss payee" endorsements, as applicable, together with the required coverage the MDTA may request and required by this Lease and Concession Agreement. At least thirty (30) days before any required insurance policy expires, the Concessionaire shall deliver to the MDTA certificates of insurance showing the effectiveness of the insurance required by this Lease and Concession Agreement, together with a new certificate of insurance showing the effectiveness of a replacement policy. Within forty-five (45) days after the MDTA's written request from time to time, the Concessionaire shall deliver or cause to be delivered to the MDTA an original or signed duplicate of any insurance policy required under this Lease and Concession Agreement and a Certificate stating that the insurance is in compliance with the applicable provisions of this Lease and Concession Agreement.

(b) Approval of any insurance by MDTA shall not be a representation of the solvency of any insurer or the sufficiency of any amount of insurance. In addition to and not in lieu of the foregoing, Concessionaire shall provide to MDTA, within five (5) Business Days following MDTA's written request for same, complete copies of the aforesaid binders or insurance policies, as the case may be. In providing such policies Concessionaire may redact provisions of the policy it considers proprietary.

13.2.6 Occurrence Based

All insurance required hereunder shall be written “occurrence” (as opposed to “claims made”) basis, except for errors and omissions insurance and pollution liability insurance, which may be maintained on a “claims made” basis as provided in Subsections 13.1.8 and 13.1.9 above.

13.2.7 Duration

Except as otherwise provided in Article XIII, all products and completed operations coverage required to be maintained by the Concessionaire and its General Contractor or Subcontractors shall continue to be maintained for at least three (3) years following final acceptance of their work.

13.2.8 Additional Insurance

Nothing herein shall preclude any Insuring Party from procuring and maintaining, at such party's sole cost and expense, such additional insurance coverage as such party deems desirable or appropriate.

Section 13.3 Blanket Insurance

Nothing in this Lease and Concession Agreement shall prevent the insurance of the kind and in the amount provided for in this Article XIII from being issued under a blanket insurance policy or policies which cover other properties as well as the Leased Premises, provided such “blanket” policy or policies otherwise complies with the provision of this Article XIII. If any insurance is carried under a blanket policy, such policy shall separately identify the Leased Premises and insure the Leased Premises for the value required by this Lease and Concession Agreement.

Section 13.4 Adjustment

Except as otherwise required by Subsection 13.1.5, on the fifth (5th) anniversary of the Effective Date and every fifth (5th) anniversary thereafter, Concessionaire shall cause the insurance coverage described in Section 13.1 to be adjusted such that the insurance coverage for the policies described in Section 13.1 will be in amounts as would be customarily maintained by reasonably prudent operators of facilities comparable to the Travel Plazas, provided that no reductions in coverage shall be permitted without the prior written consent of MDTA, which consent shall not be unreasonably withheld or delayed.

Section 13.5 Subcontractors

Concessionaire shall either include all Subcontractors as insured under the policies of insurance required hereunder, or, except in the event of an emergency or other unusual or special condition where it is prudent not to do so, require such Subcontractors to procure and maintain, the insurance types and at levels that are commercially reasonable given such Subcontractor's activities on the Leased Premises. Any such insurance by any Subcontractor with respect to the Leased Premises or personal property on the Leased Premises shall include an endorsement waiving the insurer's rights of subrogation against the MDTA and the State and any of its officers, agents and employees. Any such 1st party policies of Subcontractor's liability insurance shall name the State and its officers, agents and employees as an additional insured and MDTA

as a loss payee, as applicable, and shall deliver to MDTA certificates evidencing such insurance, together with “additional insured” and “loss payee” endorsements.

Section 13.6 Insurance by MDTA

In the event Concessionaire fails to provide, maintain, keep in force or deliver or furnish to MDTA the insurance required by this Lease and Concession Agreement or evidence of the renewal thereof, MDTA, in addition to its other rights and remedies contained in this Lease and Concession Agreement on account of such failure, shall be authorized (but not required) to procure such insurance, and Concessionaire shall pay all amounts advanced by MDTA therefor, as Additional Payment, together with the late payment at the Default Rate and any interest at the legal rate that may be due on such amount until paid in full, upon demand by MDTA. MDTA shall not be responsible for nor incur any liability for the insolvency of the insurer or other failure of the insurer to perform, even though MDTA has caused the insurance to be placed with such insurer pursuant to this Section.

Section 13.7 Waiver of Subrogation

Any liability or casualty insurance set forth in Section 13.1 above carried by Concessionaire with respect to the Leased Premises or personal property on the Leased Premises shall include an endorsement denying to the insurer rights of subrogation against the MDTA and the State Parties.

Section 13.8 Maintaining the Insurance; Payment of Deductibles, Etc.

The Concessionaire shall not nor shall it permit General Contractor or any Subcontractor to take any action that would invalidate, in whole or in part, the insurance required to be maintained under Section 13.1. If Concessionaire, General Contractor or any Subcontractor takes any action that could or does invalidate such coverage, then Concessionaire shall promptly use commercially reasonable efforts to eliminate that condition or circumstance. The Concessionaire and its Subcontractors shall be fully and solely responsible for and thus shall pay any and all costs and expenses as a result of any and all coverage deductibles under any policy(ies) of insurance maintained by them. Concessionaire and its Subcontractors shall assume and pay all costs and billings for premiums and audit charges earned and payable under all insurance that is required of it under Section 13.1. Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all claims for damages, even if groundless.

Section 13.9 Use of Business Loss Insurance

The Concessionaire shall use the proceeds of any business loss insurance then in effect to pay (when and as due and payable) the Monthly Payments and debt service and operating expenses, real estate taxes and insurance premiums, and any other costs relating to the Leased Premises, accruing before such Restoration is completed. Any balance of such proceeds remaining after such payments are made shall, upon Operational Capability of the Restoration, be paid in the following order:

- (a) To the MDTA to cure any Event of Default, and

- (b) The remaining balance to the Concessionaire or as the Concessionaire may direct.

Section 13.10 No Limitation as to Concessionaire Liabilities.

Any insurance coverage and limits that Concessionaire furnishes shall in no way limit the Concessionaire's liabilities and responsibilities specified within this Lease and Concession Agreement or under applicable Legal Requirements.

Section 13.11 No Contribution by MDTA

Any insurance or self-insurance programs that MDTA or the State may maintain may be in excess of any and all other insurance that the Concessionaire, the General Contractor and all Subcontractors must or may maintain and MDTA or the State shall not contribute to any insurance maintained by any such parties under or with respect to the Leased Premises or this Lease and Concession Agreement, or any of their activities at the same, whatsoever.

Section 13.12 No Waiver

The failure of MDTA, at any time or from time to time, to enforce the provisions of this Article concerning insurance coverage shall not constitute a waiver of those provisions nor in any respect reduce any obligation of Concessionaire to indemnify, defend and hold harmless the State Indemnified Parties pursuant to this Lease and Concession Agreement. This Section 13.12 shall survive the expiration or Termination of this Lease and Concession Agreement.

Section 13.13 No Release

Neither the expiration or Termination of this Lease and Concession Agreement, nor anything in this Lease and Concession Agreement, shall relieve Concessionaire, the General Contractor or any Subcontractors from (a) any obligations relating to insurance claims based on actions or events occurring prior to the expiration or Termination of this Lease and Concession Agreement, or (b) any liability it has or may have to the State or MDTA should any of them have failed, during the Term, to maintain any insurance required by or under this Article. In addition, the expiration or Termination of this Lease and Concession Agreement shall not (x) abrogate the terms and conditions on and subject to which any insurance is, has been or was to be maintained by Concessionaire, General Contractor or any Subcontractors hereunder during the Term or any other period (including, but not limited to, Concessionaire's obligations to pay deductibles in connection with any claims), or (y) affect the parties' respective rights to the proceeds of any insurance which is subject to this Article.

Section 13.14 Sovereign Immunity

Nothing contained in this Lease and Concession Agreement shall be deemed to constitute a waiver of any immunity to which the MDTA or any of the State Parties may be entitled under Governmental Rules, as amended and in effect from time to time. The State Parties waive their sovereign immunity only to the extent set forth in, Title 12 of the State Government Article of the Annotated Code of Maryland, as amended.

Section 13.15 Eminent Domain

13.15.1 Eminent Domain Right to Participate; Award

With respect to any Taking, Concessionaire, in cooperation with MDTA, shall have the right to participate in negotiations, or any proceeding or agreement related to a Taking to protect their respective interests. The Award shall be paid to MDTA, and applied as provided herein.

13.15.2 Termination of Agreement; Concessionaire Claim

If one or more entire Travel Plazas shall be taken or rendered wholly inoperable by a Taking, the Term and all right, title and interest of Concessionaire hereunder as to such Travel Plaza shall terminate on the Taking Date. In that event, the Monthly Payments and other charges to be paid to MDTA as to any such Travel Plazas shall terminate as of the Taking Date. As to any such Taking, Concessionaire shall have the right to claim from the condemning authority such compensation as may be properly awarded recoverable by Concessionaire in Concessionaire's own right, if any, by reason of any such Taking. Further, Concessionaire shall have the right to recover and MDTA shall be obligated to pay to Concessionaire that portion of the proceeds from any such Taking paid to MDTA properly allocated to the Travel Plazas and Improvements based on the valuation of Concessionaire's continued interest in the Leased Premises in accordance with Section 2.7 through the balance of the Term provided pursuant to Section 6.1.

Section 13.16 Repair of Casualty Damage

13.16.1 Assumption of the Risk

The Concessionaire hereby assumes all risk of damage to or destruction of the Leased Premises. The Concessionaire or its designee, at the Concessionaire's cost and expense, shall appear in any proceeding or other action, and shall promptly and with all due diligence, negotiate, accept, and prosecute any claim for any Insurance Proceeds payable under any insurance policy maintained by or on behalf of the Concessionaire ("Insurance Proceeds"); provided, however, the MDTA shall have the right to participate in such proceedings.

13.16.2 Obligation to Restore

In the event that all or any portion of the Leased Premises shall be destroyed or damaged during the Term in whole or in part by fire or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable), ordinary or extraordinary, foreseen or unforeseen, this Lease and Concession Agreement shall not terminate, Monthly Payments shall not be abated, nor shall the respective rights or obligations of MDTA and Concessionaire be affected in any way, and Concessionaire shall: (a) give MDTA notice thereof promptly after Concessionaire receives actual notice of such casualty; and (b) proceed diligently to repair, restore or rebuild the same to the condition existing prior to the happening of such fire or other casualty at Concessionaire's sole cost and expense (any such activity being a "Restoration"). All Restoration shall be conducted in a good and workmanlike manner and in accordance with all applicable Legal Requirements and the applicable provisions of this Lease and Concession Agreement.

13.16.3 Rights of MDTA

If (a) Concessionaire shall fail or neglect to commence the diligent Restoration of the Leased Premises or the portion thereof so damaged or destroyed, (b) having so commenced such Restoration, Concessionaire shall fail to diligently complete the same in accordance with the terms of this Lease and Concession Agreement or (c) prior to the completion of any such Restoration by Concessionaire, this Lease and Concession Agreement shall expire or be Terminated in accordance with the terms of this Lease and Concession Agreement, MDTA may, but shall not be required to, complete such Restoration and shall have use of all Restoration Funds. In any case where this Lease and Concession Agreement shall expire or be Terminated prior to the completion of the Restoration, Concessionaire shall (i) account to MDTA for all amounts spent in connection with any Restoration which was undertaken, and (ii) pay over to MDTA, within 30 days after demand therefor, the remainder, if any, of the Restoration Funds received by Concessionaire and not otherwise utilized for such Restoration prior to such expiration or Termination.

13.16.4 Payment and Performance Bonds

If Concessionaire obtains payment or performance bonds related to a Restoration, Concessionaire shall name MDTA and Concessionaire and any Collateral Assignee, as identified in Appendix 3, Financing Provisions, as their interests may appear, as additional obligees, and shall deliver copies of any such bonds to MDTA promptly upon obtaining them.

Section 13.17 No Third Party Beneficiaries

No contractor, mechanic, materialman, laborer, or any other Person whatsoever, other than MDTA and Concessionaire, shall have any interest in or rights to the Restoration Funds held by MDTA. MDTA and Concessionaire may, by mutual agreement, at any time provide for a different disposition of the Restoration Funds than that provided for in this Lease and Concession Agreement, without the necessity of obtaining the consent of any contractor, mechanic, materialman, laborer or any other Person whatsoever.

Section 13.18 Waiver of Right of Recovery

If the Concessionaire or any Agent (the “Insured Party”) is paid any proceeds under any policy of property insurance naming the Insured Party as an insured, on account of any loss, damage, or liability, then the Insured Party hereby releases (or shall be required to release) the State Parties, to the extent of the amount of such proceeds, plus any deductible, co-insurance or self-insured retention, or the amount of such proceeds, which would have been paid if the required insurance was in effect, from any and all liability for such loss, damage, or liability, notwithstanding that such loss, damage or liability may arise out of the negligent or tortious act or omission of the State Parties. A waiver of right of recovery clause stating that the insurance policy shall not be negated by such waiver shall be included in the insurance policies of the Insured Party.

Section 13.19 Indemnification of State Parties

(a) The Concessionaire shall indemnify, protect, defend and hold harmless the State Parties from and against any and all suits, actions, liabilities, claims, demands, damages, losses, expenses and costs of every kind and description to which the State may be subjected by reason of injury to or death of persons or by reason of injury or damage to, or destruction of property of any person, firm or corporation occasioned wholly or in part by any negligent act or omission of Concessionaire or its officers, agents or employees, contractors, subcontractors, invitees, subconcessionaires or licensees, in any manner due to, arising from or connected with the occupation or use of the Leased Premises by Concessionaire, unless caused by the negligence or willful misconduct of the State or its agents, representatives, or contractors, regardless of whether such suits, actions, liabilities, claims, demands, damages, losses, expenses and costs be against or sustained by the State or be against or sustained by others to whom the State may become liable.

(b) MDTA has certain rights regarding tolls including the right to periodically adjust toll rates, impose new tolls and to alter the method of toll collection. Concessionaire shall indemnify and hold harmless MDTA from any damages or expenses to Concessionaire or its agents, employees, subconcessionaires, partners, Equity Owners, contractors, licensees, or invitees that result from MDTA's toll collection, including loss of business.

(c) The provisions of this Section shall survive the expiration or earlier termination of this Lease and Concession Agreement.

Section 13.20 Increase in Risk

The Concessionaire shall not do or permit to be done any act or thing as a result of which either any policy of insurance of any kind covering any or all of the Leased Premises may become void or suspended, or the insurance risk under any such policy would (in the opinion of the insurer thereunder) be made greater, unless the additional risk is insured.

ARTICLE XIV **Event of Default; Remedies**

Section 14.1 Definition of Event of Default

The following events shall constitute an "Event of Default":

(a) Any failure by Concessionaire to make any monetary payment or satisfy any monetary obligations of any nature hereunder when due and such failure shall continue for ten (10) days after notice to Concessionaire from MDTA.

(b) Concessionaire's failure to perform or observe in any material respect any other provision, covenant, condition or non-monetary obligation under this Lease and Concession Agreement if such failure is not cured within thirty (30) days after MDTA had given written notice thereof to Concessionaire (which notice shall describe in reasonable detail the event or circumstances giving rise to such Event of Default and reference the applicable Section or Sections of this Lease and Concession Agreement asserted as being breached), except that if

such default, is not reasonably susceptible to cure within such thirty (30) day period (including the replacement by any Subcontractor of any franchisee or licensee of such Subcontractor), such cure period may be extended for such additional time as may be reasonably necessary to effect such cure, provided that Concessionaire (or the applicable Subcontractor with respect to replacement of a licensee or franchisee necessary to effect such cure) promptly commences such cure using diligent efforts within such thirty (30) day period and thereafter diligently and continuously pursues such cure to completion.

(c) The occurrence of the Concessionaire breaching obligations, as defined in the Performance Standards for a period of ninety (90) days and such default continues un-remedied for a period of thirty (30) days following written notice thereof from MDTA.

(d) Concessionaire shall breach any of the provisions of any Articles XI, XII, or Appendix 3, Financing Provisions, Article II hereof, and such breach continues un-remedied for thirty (30) days following notice thereof from MDTA to Concessionaire (which notice shall describe in reasonable detail the event or circumstances allegedly causing such Event of Default and reference the applicable Section or Sections of this Lease and Concession Agreement asserted as being breached), except that if such default is not reasonably susceptible to cure within such thirty (30) day period, such cure period may be extended for such additional time as may be reasonably necessary to effect such cure, provided that Concessionaire promptly commences such cure using diligent efforts within such thirty (30) day period and thereafter diligently and continuously pursues such cure to completion.

(e) Any representation or warranty made by Concessionaire in this Lease and Concession Agreement or in any certificate or document executed and delivered by Concessionaire on the date hereof in connection with this Lease and Concession Agreement shall be untrue in any material respect on the date hereof or the Effective Date, as applicable.

(f) Concessionaire shall breach Appendix 1, Construction Provisions, Section 5.4.

(g) Concessionaire (i) shall apply for, consent to or permit or become the subject of the appointment of a receiver, custodian, trustee or liquidator for it or any of its property or assets, admit in writing its inability to pay its debts as they mature, make a general assignment for the benefit of its creditors, be adjudicated bankrupt or insolvent or take any other similar action for the benefit or protection of its creditors; or (ii) shall file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, rearrangement, dissolution, liquidation or other similar debtor relief law or statute; or (iii) shall be dissolved, liquidated, terminated or merged; or (iv) shall have a trustee, receiver, liquidator or custodian shall be appointed for it or for any of its property or assets and shall not be discharged within one hundred twenty (120) days after the date of such appointment; or (v) shall have a petition in involuntary bankruptcy or similar proceedings is filed against it and such petition is not dismissed within one hundred twenty (120) days after the date of its filing.

(h) Prior to the Outside Completion Date, as identified in Appendix 1, Section 5.4, any Equity Owner then owning a majority of the Equity Interests, shall be the subject of any of the proceedings described in subsection (g) above and if as a result thereof such Equity Owner

(or, if applicable, the trustee or receiver) rejects, refuses to pay or is relieved from meeting its payment obligations under and pursuant to such Equity Owner's Capital Commitment and such payment obligations are not assumed by the other Equity Owners.

(i) If a Lien has been made against all or any part of the Leased Premises or any interest therein as a result of any encumbrance created, incurred, assumed or suffered to exist by Concessionaire or any Person claiming through it, and such Lien has not been vacated, removed or stayed by court order, bonding or otherwise within sixty (60) days after Concessionaire becomes aware of such Lien.

Section 14.2 MDTA Remedies

Upon the occurrence of an Event of Default and subject to Appendix 3, Financing Provisions MDTA may exercise any one or all of the following remedies, cumulatively, successively or alternatively:

14.2.1 Terminate Agreement

MDTA may, at MDTA's election, upon written notice to Concessionaire, terminate this Lease and Concession Agreement, and, this Lease and Concession Agreement shall come to an end on the date specified therein as fully and completely as if such date were the date herein originally fixed for expiration of the Term. Upon receipt of written notice of Termination from MDTA, Concessionaire shall cease operations at the Travel Plazas and undertake the Transition Actions with respect to the Travel Plazas. Concessionaire shall make all Monthly Payments and Additional Payments up to the time of Termination. Concessionaire shall not be entitled to receive and MDTA shall not be obligated to tender any payment for anticipated or actual lost profits by Concessionaire.

14.2.2 Payment

If an Event of Default is by reason of the failure to pay any monies, MDTA may (without obligation to do so) make payment on behalf of Concessionaire of such monies, and any amount so paid by MDTA shall be payable by Concessionaire to MDTA within three (3) Business Days after demand therefor.

14.2.3 MDTA Cure

MDTA may cure an Event of Default (but this shall not obligate MDTA to cure or attempt to cure an Event of Default or, after having commenced to cure or attempted to cure an Event of Default, to continue to do so); provided, however, that (a) MDTA shall not incur any liability to Concessionaire for any act or omission of MDTA or any other Person in the course of remedying or attempting to remedy any Event of Default and (b) MDTA's cure of any Concessionaire Default shall not affect MDTA's rights against Concessionaire by reason of the Concessionaire's Default.

14.2.4 Bonds

Without waiving such Event of Default, MDTA may, at its sole option but without any obligation so to do, make demand upon or seek payment under any of the Bonds in accordance with the terms thereof.

14.2.5 New Lease and Concession Agreement

MDTA (a) may execute a new agreement for the operation and maintenance of the Travel Plazas and Leased Premises, or any part or parts thereof, with one or more Persons in place of Concessionaire, on such terms and conditions as MDTA may determine in its discretion and may grant concessions to the extent that MDTA considers advisable and necessary to execute the same and (b) may make such alterations and repairs on the Leased Premises as MDTA in its sole judgment considers advisable and necessary for the purpose of executing a new agreement; and the making of such alterations, repairs and decorations shall not operate or be construed to release Concessionaire from liability hereunder as aforesaid.

14.2.6 Receivership

Upon application therefor, obtain the appointment of a receiver to operate the Travel Plazas.

14.2.7 Other Remedies

MDTA may pursue such other legal or equitable remedies and exercise such other rights, powers and remedies as may be available to MDTA in its sole and absolute discretion.

Section 14.3 Right to Terminate

Except as set forth in Section 14.2.1, MDTA shall have no right, authority or remedy to terminate this Lease and Concession Agreement, to limit or restrict Concessionaire's ability or right to perform the Permitted Use or otherwise Terminate this Lease and Concession Agreement prior to the expiration of the Term as provided in Section 6.1, whether at law and/or in equity.

Section 14.4 Remedies Cumulative

Except as provided in Section 14.3, the specific remedies to which MDTA may resort under this Lease and Concession Agreement, and all other rights and remedies of MDTA now or hereafter existing by agreement, at law and/or in equity, are cumulative, and any two or more may be exercised at the same time. Nothing in this Lease and Concession Agreement shall limit the right of MDTA to prove and obtain in proceedings for bankruptcy or insolvency an amount equal to the maximum allowed by any law in effect at the time. In addition to other remedies provided in this Lease and Concession Agreement, MDTA shall be entitled, to the extent permitted by this Lease and Concession Agreement or by applicable law, to injunctive relief, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease and Concession Agreement, as to any other remedy allowed to MDTA in this Lease and Concession Agreement and/or at law or in equity it being acknowledged that damages may be an inadequate remedy. Forbearance by MDTA to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such Event of Default.

Section 14.5 MDTA's Costs

If an Event of Default shall occur and not be cured within the cure periods set forth in Section 14.1 and MDTA employs attorneys or consultants in connection with the interpretation or enforcement of this Lease and Concession Agreement or any provision hereof or the exercise of any of its rights or remedies hereunder as a result thereof, then Concessionaire shall reimburse MDTA for all reasonable attorneys', consultants and expert witness fees, and all other reasonable expenses incurred by MDTA as a result therefrom.

Section 14.6 Fines and Penalties

All such fine amounts set forth in the Performance Standards on the date hereof shall be adjusted on each of the fifth, tenth, fifteenth, twentieth, twenty-fifth, and thirtieth anniversaries of this Lease and Concession Agreement by the CPI Factor wherein the first month for each such period shall be the month immediately preceding the Effective Date and the last month for such period shall be the calendar month immediately preceding such applicable anniversary.

ARTICLE XV **Expiration or Termination; Transition**

Section 15.1 Survival of Certain Provisions

Upon Termination or expiration of this Lease and Concession Agreement, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party; provided, however, that the following provisions shall survive the Termination or expiration of this Lease and Concession Agreement except as otherwise provided herein: (a) any and all indemnity and payment and Remediation obligations of Concessionaire arising hereunder and under applicable Legal Requirements, (b) MDTA's remedies following an Event of Default and Concessionaire's remedies following a breach by MDTA, (c) the provisions of this Article XV and (d) any other provisions hereof which expressly provide that such provision survives the expiration or earlier Termination of this Lease and Concession Agreement.

Section 15.2 Vacating Upon Expiration or Termination

Concessionaire shall peaceably vacate the Leased Premises at the expiration of the Term or Termination of this Lease and Concession Agreement. Concessionaire shall be fully and solely responsible for complying with any and all applicable Legal Requirements relating to the closing of its operations at the Travel Plazas and otherwise with respect to Employees. Without limiting the generality of the foregoing, Concessionaire shall timely provide all required notices and information required under applicable Legal Requirements to Employees and Concessionaire shall be and remain solely responsible for all salary, benefits, fines and penalties owed on account of any compliance or non-compliance by Concessionaire with such Legal Requirements. In addition, at the expiration of the Term or Termination of this Lease and Concession Agreement, Concessionaire shall terminate or assign all of its contractual agreements with vendors providing goods and/or services to the Travel Plazas (including all Subcontracts) and shall be solely responsible for all amounts owed under or on account of such agreements up to

the time of termination or assignment (including any early termination penalties). No such failure by Concessionaire to comply with any of its obligations under this Section shall extend the Term hereof. Without limiting the foregoing, Concessionaire hereby makes such termination or assignment effective as of such expiration or Termination.

Section 15.3 Transition to New Person

In connection with any transition in operation of the Permitted Use from Concessionaire to a new Person or Persons, Concessionaire shall, both prior to and for a period of one (1) year following Termination or expiration of the Term, cooperate reasonably with such new operator and MDTA to ensure an orderly transition of comparable services at the Travel Plazas by such new operator, at no cost or expense to Concessionaire. Such cooperation (where applicable) shall include each of the following:

(a) Concessionaire shall provide MDTA and such new operator with access to the Leased Premises at reasonable times upon reasonable advance notice.

(b) Concessionaire, together with MDTA and new operator, shall jointly catalogue all Fixtures and Equipment and Fuel Service Equipment. If MDTA desires to purchase any item owned by Concessionaire or any Subcontractor, MDTA shall have a right of first refusal on such purchase. If Concessionaire does not remove any item(s) for which ownership and removal has been approved by MDTA within ten (10) days from Termination or expiration of this Lease and Concession Agreement, such item(s) shall be deemed to have been abandoned, and either may be retained by MDTA as its sole property (without the execution of any further instrument and without payment of any money or other consideration therefor) or may be disposed of in such manner as MDTA may see fit. Upon the request of MDTA, Concessionaire agrees, and agrees to require any Subcontractor, to execute and deliver such documents and instruments as MDTA shall reasonably request to evidence or confirm MDTA's ownership interest (as set forth herein) in any portion or all of the Improvements or Fixtures and Equipment affixed to the Improvements.

(c) Concessionaire shall furnish to MDTA or new operator a list of those Employees that are involved in providing the services required by this Lease and Concession Agreement, including their job titles and length of employment with Concessionaire and salaries, waive any contractual arrangement, including noncompetition agreements, made with such employees to the extent practicable and not prohibited by law, and allow MDTA and/or such new operator to interview such employees for new employment positions (without any obligation on their part to hire same for any position).

(d) Concessionaire shall either terminate or assign all of its contractual agreements with vendors providing goods and/or services to the Travel Plazas (including all Subcontracts). If such agreements are terminated, Concessionaire shall furnish to MDTA or new operator the names, telephone numbers and account numbers of all vendors providing goods and/or services to the Travel Plazas (including utilities, cleaning, garbage disposal and the like).

(e) In the event that Concessionaire shall fail to cooperate with MDTA or such new operator as aforesaid, then MDTA shall so notify Concessionaire in writing (which notice shall

include a reasonably detailed explanation of MDTA's basis for Concessionaire's non-compliance). In the event that Concessionaire shall fail to cure such non-compliance within thirty (30) days following receipt of such notice, Concessionaire shall pay to MDTA upon demand, as Additional Payment, all of MDTA's damages, costs and expenses arising from such breach; provided that nothing herein shall obligate Concessionaire to incur any cost or expense with respect to the cooperation set forth in this Section 15.3.

ARTICLE XVI **Dispute Resolution**

Section 16.1 General

If a dispute arises under any Section of this Lease and Concession Agreement which specifically contemplates submission of a dispute under this Article XVI, it is the intention of the parties to make a good faith effort to resolve any such dispute (a "Dispute") according to the procedures set forth in this Article. Statements made by representatives of the parties during informal dispute resolution, including executive negotiations and non-binding mediation procedures in Sections 16.2 and 16.3.2 shall be considered part of settlement negotiations and shall not be admissible in evidence in any litigation proceeding without the mutual consent of both parties.

Section 16.2 Executive Negotiations

Upon written notice from either party of a Dispute, which notice shall provide a reasonable description of such Disputed item, specifying the estimated amount thereof in Dispute, if applicable, and setting forth, in reasonable detail, the basis for such Dispute, each of Concessionaire and MDTA shall immediately designate one of its executives or representatives (other than MDTA's Authorized Representative and the Concessionaire Representative) and empower that executive with any necessary authority to resolve the Dispute. Concessionaire shall provide written notice of its Dispute within thirty (30) days after the basis for the dispute is known or should have been known. The designated executives shall promptly begin discussions in an effort to agree upon a resolution of the Dispute. If the executives do not agree upon a resolution of the Dispute within fifteen (15) Business Days of the referral to them (the "Deadlock"), either party may elect to abandon negotiations. If a Dispute cannot be resolved pursuant to the procedures outlined in this paragraph, the parties agree to proceed with such Dispute pursuant to Section 16.3 below.

Section 16.3 Dispute Procedures Subsequent to Executive Negotiations

16.3.1 Governing Law

Subject to the Concessionaire's obligations under Section 16.3.3, any action or proceeding arising under or relating to the Lease and Concession Agreement shall be brought in the courts of the State of Maryland in accordance with Section 18.30 and said courts shall have exclusive judicial jurisdiction with respect to such actions and proceedings.

16.3.2 Non-binding Mediation

If the designated executives are unable to reach an agreement regarding the Dispute within the time specified above, either the Concessionaire or MDTA may make written request within fifteen (15) Business Days to submit the Deadlock to non-binding mediation (the "Mediation"). The Mediation shall take place at such location in the State of Maryland as the parties shall agree or, in the absence of such agreement, as determined by the Mediator. The Mediation shall be conducted before a single mediator to be agreed upon by Concessionaire and MDTA. If Concessionaire and MDTA cannot agree on the mediator, each of Concessionaire and MDTA shall select a mediator and such mediators shall together unanimously select a neutral mediator who will conduct the mediation. Each of Concessionaire and MDTA shall bear the fees and expenses of its mediator, and the fees and expenses of the final mediator shall be borne one-half by MDTA and one-half by Concessionaire. The decision of the mediator shall be non-binding on Concessionaire and MDTA.

16.3.3 Agency Decision

(a) Except as otherwise provided in this Lease and Concession Agreement, all Disputes arising under, or as a result of a breach of, this Lease and Concession Agreement that are not resolved by executive negotiation or through Mediation shall be decided in writing by the Executive Secretary under this Section 16.3.3.

(b) Unless a lesser period is prescribed by law or by this Lease and Concession Agreement, if neither party seeks Mediation, the Concessionaire shall file a Dispute with the Executive Secretary within thirty (30) days after reaching a Deadlock. The written complaint shall contain:

- (i) An explanation of the dispute, including the decision on which the dispute is based, and an explanation of the bases upon which the Concessionaire disagrees with the decision;
- (ii) The amount in dispute;
- (iii) The facts, including the provisions of the Lease and Concession Agreement and Project Documents, on which the Concessionaire's contentions regarding the dispute are based;
- (iv) All pertinent data and correspondence on which the Concessionaire relies to support its contentions regarding the dispute; and
- (v) An affirmation by a senior official, officer, or general partner or joint venturer of the Concessionaire or a Subcontractor, if applicable, that to the best of the Person's knowledge and belief, the dispute is filed in good faith, the supporting data are accurate and complete, and that the Person believes that the requested amount accurately reflects the amount for which the MDTA is liable.

(c) Upon receipt of the written complaint, subject to any required review by the MDTA, the Executive Secretary shall decide the Dispute and shall furnish a written decision to the Concessionaire.

16.3.4 Appeal of Agency Decision

(a) Thereafter, but no later than thirty (30) days after receipt of the Executive Secretary's decision, the Concessionaire may seek appropriate legal or equitable relief. Pending judicial resolution or resolution by another tribunal with jurisdiction of the dispute, the Concessionaire shall proceed diligently with performance of the Lease and Concession Agreement in accordance with the Executive Secretary's decision.

(b) This Article prescribes the Concessionaire's administrative remedies, which are to be exhausted prior to filing a claim in court, with respect to claims and disputes, unless otherwise provided by Governmental Rules.

Section 16.4 MDTA Action

Notwithstanding any other provision of this Lease and Concession Agreement and without resort to the remedy prescribed in Section 16.3, the MDTA may institute an action or proceeding in the courts of the State of Maryland with respect to any matter arising under or relating to the Lease and Concession Agreement.

ARTICLE XVII **Statutory, Regulatory, and Executive Order Provisions**

Section 17.1 Statutory Authority

The statutory authority for this Lease and Concession Agreement is Annotated Code of Maryland, Transportation Article §§ 4-101, 4-201, 4-204(a), 4-205, 4-209, and 4-404.

Section 17.2 Certificate of Incorporation

In the event that any successor or assign of the Concessionaire is a corporation, partnership or limited liability company, such Concessionaire shall, to the extent required by applicable law, certify that it is a domestic or foreign corporation which is registered or qualified in accordance with the Corporations and Associations Article of the Annotated Code of Maryland and is in good standing and has filed all of its annual reports with the State of Maryland Department of Assessments and Taxation. Such Concessionaire shall further certify that such Concessionaire has paid all taxes due to the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury and the State of Maryland Department of Labor, Licensing and Regulation and has paid all withholding taxes due to the State of Maryland. Such Concessionaire shall further agree to remain in good standing in the State of Maryland for the duration of the Term of this Lease and Concession Agreement.

Section 17.3 No Contingent Fees

The Concessionaire warrants that it has not employed or retained any person, partnership, corporation or other entity, other than a bona fide employee or agent working for the Concessionaire, to solicit or secure this Lease and Concession Agreement, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Lease and Concession Agreement.

Section 17.4 Non-Recourse to State

Neither the State of Maryland nor any unit or constituent institution of the State of Maryland shall be in any way liable for or subject to any indebtedness or contractual obligation of the Concessionaire.

Section 17.5 Non-Hiring of Employees

No official or employee of the State of Maryland, as defined under State Government Article § 15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Lease and Concession Agreement, shall during the pendency and Term of this Lease and Concession Agreement and while serving as an official or employee of the State become or be an employee of the Concessionaire or any entity that is a subcontractor on this Lease and Concession Agreement.

Section 17.6 Contract Affidavit

The Concessionaire hereby makes the affirmations set forth in the Lease and Concession Agreement Affidavit attached hereto as Exhibit J. The Concessionaire shall execute and deliver to the MDTA the Affidavit on the date of execution of this Lease and Concession Agreement by the Concessionaire.

Section 17.7 No Liability for Officials and Others

The Concessionaire agrees, notwithstanding any provision of this Lease and Concession Agreement to the contrary, and notwithstanding any right arising from, in connection with or incidental to, the payment or performance by the MDTA of any provision of this Lease and Concession Agreement or any breach thereof, no person signing this Lease and Concession Agreement, no director or trustee of, and no other officer, agent, official, representative, member, partner, trustee, employee or other Person acting by or on behalf of the State or the MDTA, shall have any personal or individual liability for the performance of any covenant, term or condition of this Lease and Concession Agreement, or any breach thereof.

Section 17.8 Nondiscrimination

17.8.1 General

(a) The Concessionaire shall not discriminate in any manner against a prospective contractor or subcontractor because of the race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap of its principals or employees. In furtherance of this requirement, the Concessionaire shall:

- (i) Comply with all applicable federal and State laws pertaining to non-discrimination; and
- (ii) Include a provision similar to that contained above in this subsection in any contract in connection with this Lease and Concession Agreement, and require contractors to require the same of subcontractors;

(b) When permitted or required by law, the MDTA encourages the use of minority businesses for contracting and subcontracting opportunities. Subject to applicable law, it is the policy of the MDTA that minority business enterprises (“MBEs”) have the maximum practicable opportunity to participate in performing on contracts in connection with this Lease and Concession Agreement. The MDTA may not require compliance with the State’s MBE goals under applicable law; however, to the extent that any corresponding program enacted by affected Governmental Authorities is applicable to the Lease and Concession Agreement or any portion thereof, the Concessionaire shall comply with those requirements. It is expected that the Concessionaire will desire to promote and will undertake efforts to reach out to MBEs to maximize MBE participation in contracts.

(c) Consistent with the provisions of subsections (a) and (b) above, the Concessionaire shall:

- (i) Establish a new or implement an existing program that will provide all enterprises, including MBEs and small businesses (“SBRs”), an equal opportunity to bid for work to be performed in connection with the Lease and Concession Agreement, including implementing an outreach program to inform MBEs and SBRs timely of contracting and subcontracting opportunities;
- (ii) Identify and advertise in local publications potential contracting and subcontracting opportunities that are available in connection with work to be performed in connection with the Lease and Concession Agreement;
- (iii) To the extent practicable, provide bonding, financing and technical assistance to SBRs performing work in connection with the Lease and Concession Agreement; and
- (iv) If the State develops a program to include requirements for contract participation for MBEs or SBRs applicable that would have been applicable to this Lease and Concession Agreement if developed prior to the Transfer of Operations, modify the Lease and Concession Agreement to include provisions consistent with all applicable requirements, with any costs associated with the Concessionaire’s participation in the program to be paid by the Concessionaire.

17.8.2 Commercial Nondiscrimination

(a) As a condition of entering into this agreement, the Concessionaire represents and warrants that it will comply with the State’s Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, the Concessionaire may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Concessionaire retaliate against any person for reporting instances of such discrimination. The Concessionaire shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities,

provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. The Concessionaire understands and agrees that a material violation of this clause shall be considered a material breach of this Lease and Concession Agreement and may result in termination of this Lease and Concession Agreement, disqualification of the Concessionaire from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

(b) As a condition of entering into this Lease and Concession Agreement, upon the request of the Maryland Commission on Human Relations, and only after the filing of a complaint against the Concessionaire under Title 19 of the State Finance and Procurement Article, as amended from time to time, the Concessionaire agrees to: provide to the State within 60 days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Concessionaire has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by the Concessionaire on each subcontract or supply contract. The Concessionaire further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, to provide any documents relevant to any investigation that is requested by the State. The Concessionaire understands and agrees that violation of this clause shall be considered a material breach of this Lease and Concession Agreement and may result in termination, disqualification by the State from participating in State contracts, and other sanctions.

Section 17.9 Public Ethics Law

Concessionaire shall be bound by and comply with, the provisions of Title 15 of the State Government Article of the Annotated Code of Maryland, which prohibits former officials or employees of the State of Maryland from assisting or representing a party, other than the State, in a case, contract, or other specific matter for compensation if the matter involved State government and the former official or employee participated significantly in the matter as an official or employee. In addition, Title 15 prohibits a party that employs an individual or person who assisted the State in the drafting of specifications, an invitation for bids, a request for proposals, or the selection or award process for an invitation for bids or request for proposals from submitting a bid or proposal or from assisting or representing another person, directly or indirectly, from submitting a bid or proposal. Concessionaire shall comply with any and all other applicable requirements or obligations of the Public Ethics Law under Title 15 of the State Government Article.

Section 17.10 Financial Disclosure

Concessionaire shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other

agreements reached \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

Section 17.11 Political Contribution Disclosure

Concessionaire shall comply with Election Law Article Sections 14-101-14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases or other agreements with the State, a county, or an incorporated municipality, or their agencies during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (a) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (b) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on (i) February 5, to cover the 6-month period ending January 31; and (ii) August 5, to cover the 6-month period ending July 31.

Section 17.12 Compliance with Laws

Concessionaire shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Lease and Concession Agreement. Concessionaire shall obtain, at its expense, all licenses, permits, insurance, and Governmental Approvals, if any, necessary to the performance of its obligations under this Lease and Concession Agreement.

Section 17.13 Patent Indemnity

Concessionaire shall indemnify, protect and save harmless the State, its officers, agents and employees from all claims growing out of any patent or copyright infringements or claims thereof pertaining to any design, drawings, specifications or other patentable or copyrights items used by Concessionaire.

Section 17.14 Compliance with the Americans with Disabilities Act (ADA)

Concessionaire shall comply with the ADA, 42 USC Section 12101 *et seq.* and applicable regulations. To the extent required by the ADA, Concessionaire's facilities, services and programs shall be accessible to persons with disabilities. Concessionaire shall bear sole responsibility for assuring that its activities under this Lease and Concession Agreement conform to the ADA. Concessionaire shall indemnify and hold the State harmless in any administrative proceeding or other action brought pursuant to the ADA for all damages, attorney fees, litigation expenses and costs, if such action or proceeding arises from the acts of Concessionaire, Concessionaire's employees, agents or subcontractors.

Section 17.15 Compliance with the Maryland Public Information Act (MPIA)

Concessionaire acknowledges that all documents submitted to State or MDTA under the requirements of this Lease and Concession Agreement are considered “public records” under the Maryland Public Information Act, State Government Article, Title 10, Subtitle 6, of the Annotated Code of Maryland, (MPIA) and could possibly be subject to disclosure under the MPIA. Concessionaire should specifically identify portions of documents submitted to the State or MDTA as confidential, proprietary or trade secrets and provide justification why such documents, upon request, should not be disclosed under the MPIA.

ARTICLE XVIII
General Provisions

Section 18.1 Notices

(a) The MDTA Authorized Representative identified below will serve as the main point of contact for the Concessionaire, and must receive all Notices as set forth below at the following address. All notices must also be sent via e-mail to the MDTA’s Authorized Representative at the e-mail address below:

Name: _____
Address: Maryland Transportation Authority

E-mail address: [@mdta.state.md.us](mailto:_____@mdta.state.md.us)

(b) The following information is the contact information for the Concessionaire’s General Manager. The Concessionaire’s General Manager will serve as the main point of contact for the State. All notices must be sent to the Concessionaire’s General Manager at the following address:

Name: _____
Address: _____
Telephone number: _____
Fax number: _____
E-mail address: _____

(c) The parties may designate in writing from time to time, throughout the Term, other individuals and addresses to serve as the main Point of Contact.

(d) Any Notice shall be in writing; and shall be sent by:

- (i) Certified or registered mail in the United States, postage prepaid, return receipt requested;
 - (ii) By Federal Express or another national courier service; or
 - (iii) Upon having been given by hand or other actual delivery, if such party's receipt thereof is acknowledged by a signed delivery receipt; in each case to the address of such party set forth herein below or to such other address in the United States as such party may designate from time to time to each other party hereto.
- e) Any Notice sent by the method described in:
- (i) (d)(i) above shall be effective two (2) days after mailing;
 - (ii) (d)(ii) above shall be effective on the next Business Day after having been sent; and
 - (iii) (d)(iii) above shall be effective upon delivery.

(f) The MDTA and the Concessionaire may also each designate up to two (2) additional Persons to receive Notices. The MDTA shall make reasonable efforts to provide Notices to all Persons designated by the Concessionaire. However, from time to time, the MDTA shall not be in default of its obligations under this Lease and Concession Agreement in the event of a failure to provide Notice to any such Persons, and any Notice given to the Concessionaire shall not be rendered ineffective in the event any other Person does not receive a copy of a Notice.

(g) Concessionaire shall accept service of process with respect to any such claim when delivered by certified mail return receipt requested or by personal service via Federal Express or another national courier service addressed to Concessionaire at its above-stated address or to its resident agent established by registration with the Maryland Department of Assessments and Taxation.

Section 18.2 Waiver; Remedies

No party hereto shall have waived the exercise of any right that it holds hereunder, unless such waiver is made expressly and in writing and, without limiting the generality of the foregoing, no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise. No such waiver made in any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right. Without limiting the generality of the foregoing, no action taken or not taken by the MDTA under this Section or any other provision of this Lease and Concession Agreement, including, but not limited to, the MDTA's acceptance of the payment of Monthly Payments after the occurrence of any Event of Default, shall operate as a waiver of any right to be paid a late charge, or interest, or of any other right or remedy which the MDTA would otherwise have against the Concessionaire on account of such Event of Default under this Lease and Concession Agreement or applicable law (the Concessionaire hereby acknowledging that, in the interest of maintaining good relations between the MDTA and the Concessionaire, there may be instances

in which the MDTA chooses not immediately to exercise some or all of its rights on the occurrence of an Event of Default).

Section 18.3 Tolls

The Concessionaire, its Subcontractors, Occupancy Tenants and their respective Agents and employees, will not be entitled to toll-free passage on any MDTA facilities in connection with the design, construction, operation, or maintenance of the Travel Plazas.

Section 18.4 Quiet Enjoyment

The MDTA hereby warrants specially that the Concessionaire will have quiet and peaceful possession of the Leased Premises during the Term from the MDTA or from any Person claiming by, through or under the MDTA, so long as all of the Concessionaire's obligations hereunder are timely performed; subject however, to all of the other terms and provisions of this Lease and Concession Agreement and the Project Documents, and subject to the Permitted Encumbrances.

Section 18.5 Telecommunications Tower

A telecommunications tower is present on the Site of the Chesapeake House Travel Plaza. This tower is not part of the Leased Premises, and it will remain under the ownership and control of the MDTA or of third parties under separate agreement with the MDTA. The Concessionaire shall have no rights to the tower or to any revenue therefrom. The MDTA will have the right along with the owners of the cell tower to ingress and egress on the property to perform maintenance and inspection of this tower at all times.

Section 18.6 Fuel Service Equipment Sale and/or Removal

(a) The Concessionaire shall have the right prior to the expiration of the Term or any extension thereof, to offer to sell and convey the Fuel Service Equipment owned by the Concessionaire or any Occupancy Tenant to the MDTA or any third party designated by the MDTA upon such terms and conditions as the parties may mutually agree. If no agreement can be reached, then upon the expiration or earlier termination of the Term, the Concessionaire shall remove the underground fuel storage tank systems and associated distribution systems owned by the Concessionaire or any Occupancy Tenant or others in accordance with applicable Environmental Laws and include, without limitation, surface restoration, sub-surface restoration to include soil and/or groundwater, and compaction of excavation materials caused by tank systems removal.

(b) No later than one year prior to the expiration of this Lease and Concession Agreement or any extension thereof, or within one hundred twenty (120) days of its early termination of the Term, the Concessionaire shall make an irrevocable decision and inform the MDTA of its decision to either sell or remove its underground fuel storage tank systems and associated distribution systems and cause the sale or removal to occur on or before the Termination Date. If the Concessionaire elects to remove the underground storage tank systems and all associated appurtenances, it shall submit a closure report(s) to the MDE. The

Concessionaire shall remain responsible for any site investigations, site characterizations, and/or corrective actions directed by any regulatory agency or body that are associated with any contaminated soil and/or ground encountered during removal of the underground storage tank systems and associated appurtenances which resulted from the Concessionaire and/or any Occupancy Tenant's operation of the underground storage tank systems and/or dispensing systems. The Concessionaire shall be responsible for remediating soil and groundwater to then current industry standards for similar fuel facilities or to Governmental Rules, whichever is stricter, before the Termination Date.

(c) The provisions of this Section 18.6 shall survive the expiration or earlier termination of the Lease and Concession Agreement.

Section 18.7 Signs/Advertisements

The parties acknowledge that the placement of any advertising on the exterior walls of the buildings and outside the buildings at the Travel Plazas may be subject to the requirements of the Lease and Concession Agreement, as well as Governmental Rules, and the parties agree to abide by any and all such Governmental Rules, requirements and procedures.

Section 18.8 Complete Understanding

This Lease and Concession Agreement represents the complete understanding between the parties hereto as to the subject matter hereof, and the rights and obligations of the parties hereto as to the same, and supersedes all prior negotiations, representations, guaranties, warranties, promises, statements, or agreements, either written or oral, between the parties hereto as to the same. No inducements, representations, understandings or agreements have been made or relied upon in the making of this Lease and Concession Agreement, except those specifically set forth in this Lease and Concession Agreement. Neither party hereto has any right to rely on any other prior or contemporaneous representation made by anyone concerning this Lease and Concession Agreement that is not set forth herein. In the event of any conflict between the provisions of this Lease and Concession Agreement or other Reference or Project Documents the provisions of this Lease and Concession Agreement shall control.

Section 18.9 Independent Contractor

The relationship of the Concessionaire to the State is that of an independent contractor, and said Concessionaire, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistently with such status, that it will neither hold itself out as nor claim to be an officer or employee of the State or the MDTA by reason hereof, and that it will not, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the State or the MDTA, including workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Section 18.10 Time of the Essence; Force Majeure

(a) Time shall be of the essence under this Lease and Concession Agreement, except that whenever the last day for the exercise of any right or the discharge of any obligation hereunder falls on a Saturday, Sunday or statutory federal or State holiday, the party having such right or obligation shall have until 5:00 p.m. Eastern Time on the next succeeding day which is not a Saturday, Sunday or statutory holiday to exercise such right or discharge such obligation.

(b) Notwithstanding the provisions of the immediately preceding paragraph of this Section and except as may otherwise be provided in the Lease and Concession Agreement, delays caused by or resulting from a Force Majeure Event shall not be counted in determining the time when the performance of such act must be completed, whether such time is designated by a date or fixed time, a fixed period of time or “a reasonable time,” unless it is expressly stated that such date, time, or period may not be extended due to a Force Majeure Event. Except as otherwise provided in the Lease and Concession Agreement, the Concessionaire shall be entitled to a one-day extension for every one day of delay due to a Force Majeure Event. For a Force Majeure Event impacting the Concessionaire’s ability to fulfill its obligations under this Lease and Concession Agreement, the Concessionaire must notify the MDTA within ten (10) days following the Concessionaire obtaining actual knowledge, or the time that Concessionaire should have had knowledge, using reasonable diligence, of the Force Majeure Event as a prerequisite to consideration of relief there from; and the Concessionaire shall use all commercially reasonable efforts and all due diligence to effect the required performance as a condition of continued relief due to a Force Majeure Event. Force Majeure Event means any event beyond the reasonable control of the Concessionaire or MDTA, as the case may be, that delays or interrupts the performance of the obligations or covenants of the Concessionaire or MDTA respectively, hereunder, including an intervening act of God or public enemy, war, act of terror, invasion, armed conflict, act of foreign enemy, blockade, revolution, sabotage, civil commotions, interference by civil or military authorities, earthquake, riot or other public disorder, epidemic, quarantine restriction, governmental embargo, nuclear or other explosion, radioactive or chemical contamination or ionizing radiation, fire, tornado, tides, hurricane or other natural disaster; but only if such event is not (i) the result of an exercise of eminent domain, and (ii) the result of (A) the negligence or misconduct of the Concessionaire or MDTA, as the case may be, or their respective representatives, (B) any act or omission by the Concessionaire or MDTA, as the case may be, or their respective representatives in breach of the provisions of this Lease and Concession Agreement, or (C) lack or insufficiency of funds or failure to make payment of monies or provide required security on the part of the Concessionaire or the MDTA, as the case may be.

Section 18.11 Severability

No determination by any court, governmental or administrative body or agency, or otherwise that any provision of this Lease and Concession Agreement or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of any other such provision, or such provision in any circumstance not controlled by such determination. Each such provision shall remain valid and enforceable to the fullest extent allowed by, and shall be construed, wherever possible, as being consistent with applicable law.

Section 18.12 Disclaimer of Partnership Status

Nothing in this Lease and Concession Agreement shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

Section 18.13 Brokerage Commissions

The Concessionaire and the MDTA each hereby represent and warrant to the other that it has not dealt with any real estate broker, agent or finder, and there is no commission, charge or other compensation due on account thereof in connection with this Lease and Concession Agreement. The Concessionaire shall indemnify, defend and hold harmless the State and the MDTA in the event any claim is made against the MDTA and/or the State for a broker's commission or other finder's fee due to the acts of the Concessionaire or its Agents or Affiliates.

Section 18.14 Limitation of Liability of the MDTA

The liability of the MDTA to the Concessionaire under this Lease and Concession Agreement, if any, shall be limited to the maximum provided and permitted by law.

Section 18.15 No Merger

The parties expressly agree that absent the express written Lease and Concession Agreement of the MDTA and the Concessionaire, the Fee Estate and the Leasehold Estate shall not merge during the Term regardless of whether the same person is the owner of both estates.

Section 18.16 Joint and Several Liability

Whenever the Concessionaire is two (2) or more Persons, each and all of such Persons shall be jointly and severally liable for the Concessionaire's obligations under this Lease and Concession Agreement.

Section 18.17 Effect of Termination

The effect of the expiration or earlier termination of this Lease and Concession Agreement will be to discharge both the MDTA and the Concessionaire from future performance of this Lease and Agreement, but not from their rights and obligations existing on the Termination Date and obligations that, by the terms of this Lease and Concession Agreement, survive such termination. Monthly Payments shall be apportioned as of the Termination Date, provided such apportionment shall not negate the MDTA's rights or remedies to the extent provided for elsewhere in this Lease and Concession Agreement, at law or in equity, if this Lease and Concession Agreement is terminated due to an Event of Default.

Section 18.18 Termination for Convenience

The MDTA shall have the right to terminate this Lease and Concession Agreement at its convenience, in whole but not in part, at any time whenever the MDTA shall determine that such termination is in the best interest of the State. MDTA shall use its best efforts to provide as much prior written notice to the Concessionaire as possible, which notice shall specify the

effective termination date. In the event of such termination, the MDTA shall pay all reasonable costs associated with this Lease and Concession Agreement that Concessionaire has incurred up to the date of termination and all reasonable costs associated with termination of the Lease and Concession Agreement, and shall provide compensation to Concessionaire in an amount equal to the greater of the fair market value of the concession or the outstanding third party debt.

Section 18.19 Press Releases

Press releases by the Concessionaire or its Agents pertaining to the Leased Premises or the Travel Plazas prior to completion of Construction of any Improvements and prior to Operational Capability, initial occupancy, or containing any reference to the State or the MDTA, shall not be issued without prior written approval of the MDTA. In addition, the Concessionaire shall make reasonable efforts to obtain the MDTA's prior approval of any press releases containing information or statements that could reasonably be anticipated to reflect negatively on the MDTA or the Travel Plazas.

Section 18.20 Successors in Interest

Except as expressly provided herein, each and every provision of this Lease and Concession Agreement, and the covenants and conditions herein contained, shall inure to the benefit of the MDTA, and its successors and assigns, and shall inure to the benefit of and be binding upon the Concessionaire, and its permitted successors and assigns.

Section 18.21 Covenants Run with Land

All of the terms, covenants, conditions, agreements, rights, privileges, obligations, duties, specifications and recitals contained in this Lease and Concession Agreement shall be construed as covenants running with the land, and as extending to, inuring to the benefit of, and, except as specifically provided otherwise in this Lease and Concession Agreement, as binding upon the MDTA and Concessionaire and their successors and permitted assigns to the same extent as if such successors and assigns were named as original parties to this Lease and Concession Agreement, all to the end that this Lease and Concession Agreement shall bind the owner and holder of any interest whatsoever in or to the Fee Estate, the Leasehold Estate and the Improvements.

Section 18.22 Commercial Purposes

The parties stipulate that the Leased Premises is being leased exclusively for business, commercial, manufacturing, mercantile or industrial purposes as described in Section 8-110(a) of the Real Property Article of the Annotated Code of Maryland, and therefore pursuant to such Section 8-110(a), the provisions of Section 8-110(b) of such Article (or any successor statute) pertaining to the redemption of the reversionary interest in applicable leases shall not apply to this Lease and Concession Agreement.

Section 18.23 Counterparts

This Lease and Concession Agreement may be comprised of several identical counterparts and may be fully executed by the parties in separate counterparts. Each such counterpart is deemed to be an original, but all such counterparts together must constitute but one and the same Lease and Concession Agreement.

Section 18.24 Amendments

Any amendment to this Lease and Concession Agreement shall be in writing and shall be signed by the parties to this Lease and Concession Agreement.

Section 18.25 Recordation

The party recording this Lease and Concession Agreement or any memorandum of lease shall be responsible for payment of any recordation and transfer taxes due upon recording. Upon request of any party to this Lease and Concession Agreement the other party shall execute and deliver a memorandum of this Lease and Concession Agreement in recordable form.

Section 18.26 Survival

Any and all provisions set forth in this Lease and Concession Agreement that, by its or their nature, would reasonably be expected to be performed after the expiration or termination of this Lease and Concession Agreement survive and are enforceable after the expiration or termination. Any and all liabilities, actual or contingent that have arisen in connection with this Lease and Concession Agreement, survive any expiration or termination of this Lease and Concession Agreement. Any express statement of survival contained in any section must not be construed to affect the survival of any other section, which must be determined under this Section.

Section 18.27 Headings

All headings and captions appearing in this Lease and Concession Agreement have been inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Lease and Concession Agreement or any provision thereof.

Section 18.28 No Third Party Beneficiaries – Generally

Except for MDTA, the Department and the State, the parties agree that it is their specific intent that no broker or any other person shall be a party to, or a third party beneficiary of, this Lease and Concession Agreement established hereunder; and further that the consent of a broker or other person shall not be necessary to any agreement, amendment, or document with respect to the transaction contemplated by this Lease and Concession Agreement, except as required by applicable law. The parties agree that except as otherwise expressly stated elsewhere in this Lease and Concession Agreement, the requirements of this Lease and Concession Agreement are for the sole benefit of the parties, and no other person or entity shall have or acquire any claim against the MDTA or Concessionaire by virtue of any term of this Lease and Concession Agreement or by virtue of any party's failure to comply with its obligations to any other party.

under this Lease and Concession Agreement. Furthermore, nothing in this Lease and Concession Agreement shall be construed as creating any duties to third parties or to the general public.

Section 18.29 Waiver of Jury Trial; Counterclaim

MDTA and Concessionaire hereby mutually waive any and all rights which either may have to request a jury trial in any action, proceeding, or counterclaim (except for those involving personal injury or property damage) arising out of this Lease and Concession Agreement or Concessionaire's use or occupancy of or right to use or occupy the Leased Premises. Concessionaire further agrees that in the event MDTA commences any summary proceeding for non-payment of any amount due to MDTA or possession of the Leased Premises, Concessionaire will not interpose and hereby waives all right to interpose any counterclaim of whatever nature in any such proceeding. Concessionaire further waives any right to remove said summary proceeding to any other court or to consolidate said summary proceeding with any other action, whether brought prior to subsequent to the summary proceeding.

Section 18.30 Choice of Law and Venue

(a) This Lease and Concession Agreement was made and entered into in Maryland, and under the laws of Maryland.

(b) The laws of Maryland shall govern the resolution of any issue arising in connection with this Lease and Concession Agreement, including all questions concerning the validity thereof; the capacity of the Parties to enter therein; any modification or amendment thereto; and the rights and obligations of the Parties hereunder and thereunder, without regard to principles of conflicts of laws, except to the extent that United States federal law otherwise applies.

(c) Concessionaire consents to venue and jurisdiction in the courts of the State of Maryland, or the U.S. District Court for the District of Maryland, with respect to any claim that MDTA may have against Concessionaire arising from any matter relating to this Lease and Concession Agreement, and Concessionaire waives any defense of forum non conveniens. Disputes arising from or relating to this Lease and Concession Agreement shall be determined by a competent State court in the State of Maryland, unless a Maryland court lacks jurisdiction over the action, in which case the matter shall be submitted to the U.S. District Court for the District of Maryland, assuming it has jurisdiction. These courts, and the courts with jurisdiction to review the decisions of said courts, shall be the only courts with any authority to determine any such dispute.

SIGNATURE PAGE

IN WITNESS WHEREOF, this Lease and Concession Agreement has been executed by and on behalf of the undersigned or by their duly authorized representatives as of the day and year first above written.

WITNESS:

CONCESSIONAIRE:

By: _____
Signature

Print Name

Title

MDTA:

WITNESS:

MARYLAND TRANSPORTATION AUTHORITY

By: _____
Signature

Print Name

Title

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Assistant Attorney General

STATE OF MARYLAND

CITY/COUNTY OF _____, To WIT:

I HEREBY CERTIFY that on this day of _____, 20__, before me, a Notary Public for the State aforesaid, personally appeared _____, known to me or satisfactorily proven to me to be the person set forth herein, who acknowledged himself to be the _____ of the Maryland Transportation Authority and that holding such capacity, being authorized to do so, executed the foregoing instrument for the purposes contained therein.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:_____

STATE OF MARYLAND

CITY/COUNTY OF _____, To WIT:

I HEREBY CERTIFY that on this day of _____, 20__, before me, a Notary Public for the State aforesaid, personally appeared _____, known to me or satisfactorily proven to me to be the person set forth herein, who acknowledged himself to be the _____ of the _____ (“Concessionaire”) and that holding such capacity, being authorized to do so, executed the foregoing instrument for the purposes contained therein.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:_____

Approved by the Board of Public Works of the State of Maryland at a meeting held on the _____ day of _____, 20__, as Item No. _____ and _____ (Maryland Transportation Authority).

STATE OF MARYLAND
BOARD OF PUBLIC WORKS

Martin O'Malley, Governor

Sheila McDonald, Executive Secretary

Nancy K. Kopp, Treasurer

Peter Franchot, Comptroller

[Notaries begin on next page]

Approved by the Board of Public Works of the State of Maryland at a meeting held on the _____ day of _____, 20__, as Item No. _____ and _____ (Maryland Transportation Authority).

STATE OF MARYLAND

COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY that on this day of _____, 20__, before me, a Notary Public for the State aforesaid, personally appeared **MARTIN O'MALLEY**, known to me or satisfactorily proven to me to be the person set forth herein, who acknowledged himself to be the Governor of the State of Maryland and that holding such capacity, being authorized to do so, executed the foregoing instrument for the purposes contained therein.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

STATE OF MARYLAND

COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY that on this day of _____, 20__, before me, a Notary Public for the State aforesaid, personally appeared **NANCY K. KOPP**, known to me or satisfactorily proven to me to be the person set forth herein, who acknowledged herself to be the Treasurer of the State of Maryland and that holding such capacity, being authorized to do so, executed the foregoing instrument for the purposes contained therein.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

Approved by the Board of Public Works of the State of Maryland at a meeting held on the _____ day of _____, 20__, as Item No. _____ and _____ (Maryland Transportation Authority).

STATE OF MARYLAND

COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY that on this day of _____, 20__, before me, a Notary Public for the State aforesaid, personally appeared **PETER FRANCHOT**, known to me or satisfactorily proven to me to be the person set forth herein, who acknowledged himself to be the Comptroller of the State of Maryland and that holding such capacity, being authorized to do so, executed the foregoing instrument for the purposes contained therein.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

Exhibit C-1

I-95 Travel Plazas Lease and Concession Agreement

CONSTRUCTION PAYMENT BOND

Principal *Business Address of Principal*

Surety

Obligee

a corporation of the State of _____
and authorized to do business in the State of
Maryland

STATE OF MARYLAND
By and through the following Administration
Maryland Transportation Authority

OR
an individual surety qualified in accordance with
State Finance and Procurement Article, § 13-207
or 17-104, Annotated Code of Maryland

Penal Sum of Bond (express in words and figures)

()

Date of Contract
_____, 20__

Description of Contract

Contract Number: 60833436R

Date Bond Executed
_____, 20__

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, being authorized to do business in Maryland, and having business address as shown above, are held and firmly bound unto the Obligee named above, for the use and benefit of claimants as hereinafter defined, in the Penal Sum of this Payment Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal,

for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as the “Contract”.

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials furnished, supplied and reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following conditions:

1. A claimant is defined to be any and all of those persons supplying labor and materials (including lessors of the equipment to the extent of the fair market value thereof) to the Principal or its subcontractors and subcontractors in the prosecution of the work provided for in the Contract, entitled to the protection provided by Section 9-113 of the Real Property Article of the Annotated Code of Maryland, as from time to time amended.

2. The above named Principal and Surety hereby jointly and severally agree with the Obligees that every claimant as herein defined, who has not been in full pay, pursuant to and when in compliance with the provisions of the aforesaid Section 9-113, sue on this Bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant and have execution thereon. The Obligees shall not be liable for the payment of any costs or expenses of any such suit.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Payment Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Payment Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Payment Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of:
Witness

Individual Principal

(Name)

_____ as to _____ (SEAL)

In Presence of:
Witness

Co-Partnership Principal

_____ (SEAL)

(Name of Co-Partnership)

_____ as to By: _____ (SEAL)

_____ as to _____ (SEAL)

_____ as to _____ (SEAL)

Attest:

Corporate Principal

Corporate Secretary

(Name of Corporation)

By: _____
President

AFFIX
CORPORATE
SEAL

SURETY

Name of Surety: _____

Business Address: _____

Attest:

_____ By: _____ **AFFIX
CORPORATE
SEAL**
Signature
Title: _____

Bonding Agent's Name _____

Agent's Address _____

Approved as to form and legal
sufficiency this _____ day of

_____, 20____

Assistant Attorney General

Exhibit C-2

I-95 Travel Plazas Lease and Concession Agreement

CONSTRUCTION PERFORMANCE BOND

Principal

Business Address of Principal

Surety

Obligee

a corporation of the State of _____
and authorized to do business in the State of
Maryland

STATE OF MARYLAND
By and through the following Administration
Maryland Transportation Authority

OR
an individual surety qualified in accordance with
State Finance and Procurement Article, § 13-207
or 17-104, Annotated Code of Maryland

Penal Sum of Bond (express in words and figures)

Date of Contract

(\$ _____)

_____, 20____

Description of Contract

Date Bond Executed

Contract Number: 60833436R

_____, 20____

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or

actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State of Maryland, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred as the “Contract”.

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW, THEREFORE, during the original term of said Contract, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Contract; and
2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

Whenever Principal shall be declared by the Administration to be in default under the Contract, the Surety may, within fifteen (15) days after notice of default from the Administration, notify the Administration of its election to either promptly proceed to remedy the default or promptly proceed to complete the contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Administration thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of:
Witness

Individual Principal

(Name)

_____ as to _____ (SEAL)

In Presence of:
Witness

Co-Partnership Principal

_____ (SEAL)

(Name of Co-Partnership)

_____ as to By: _____ (SEAL)

_____ as to _____ (SEAL)

_____ as to _____ (SEAL)

Attest:

Corporate Principal

Corporate Secretary

(Name of Corporation)

By: _____
President

AFFIX
CORPORATE
SEAL

SURETY

Name of Surety: _____

Business Address: _____

Attest:

Signature

By: _____

Title: _____

AFFIX
CORPORATE
SEAL

Bonding Agent's Name _____

Agent's Address _____

Approved as to form and legal
sufficiency this _____ day of

_____, 20____

Assistant Attorney General

Exhibit I

I-95 Travel Plazas Lease and Concession Agreement

**SUBCONTRACTOR
RECOGNITION AGREEMENT**

THIS RECOGNITION AGREEMENT (this "Agreement") is dated as of the ____ day of _____, 20____ by and between [Identify Name of Contractor], a [Identify State of Incorporation and Type of Business Entity] ("Subcontractor"), [Identify Name of Concessionaire the State in which Incorporated and Type of Business Entity] ("Concessionaire"), and the Maryland Transportation Authority an agency of the State of Maryland (hereinafter referred to as "MDTA"), pursuant to the statutory authority of Sections 4-101, 4-201, 4-204(a), 4-205, and 4-209 of the Transportation Article of the Annotated Code of Maryland.

WITNESSETH:

WHEREAS, title to the two travel plazas on I-95, commonly known as the Maryland House, which is located at mile post 82 in Harford County and the Chesapeake House, which is located at mile post 97 in Cecil County (the "Travel Plazas") is held in the name of the State of Maryland to the use of the State Roads Commission and the MDTA is the successor to the State Roads Commission, pursuant to Section 4-209 of the Transportation Article of the Annotated Code of Maryland; and

WHEREAS, on June 27, 2011, the MDTA issued a Request for Proposals "I-95 Travel Plazas Public/Private Partnership", Contract Number 60833436R (together with all schedules, exhibits, amendments, and written answers thereto, the "RFP") as amended, for the financing, design, construction, operation and maintenance of the MDTA's Travel Plazas; and

WHEREAS, in response to the RFP, [Identify Name of Successful Proposer and the state in which it is incorporated] ("Concessionaire") submitted a proposal for the performance of such services (the "Proposal"), and based upon the Proposal and supporting documentation and other information submitted by Concessionaire, MDTA selected the Proposal; and

WHEREAS, MDTA and Concessionaire have executed and delivered that certain Lease and Concession Agreement dated as of this same date (the "Lease and Concession Agreement"), pursuant to which Concessionaire shall, among other things, redevelop, operate and maintain the Travel Plazas in accordance with the terms thereof; and

WHEREAS, in accordance with terms of Article XII of the Lease and Concession Agreement, Concessionaire has hired Subcontractor to provide services at the Travel Plazas, and Concessionaire and Subcontractor have entered into that certain [Subcontract Agreement], dated as of the ____ day of _____, 20____ (the "Subcontract"), in order to confirm their mutual understandings and agreements with respect for the provision of such services; and

WHEREAS, pursuant to Section 12.2 of the Lease and Concession Agreement, it is a condition to the effectiveness of the Subcontract that Subcontractor enter into this Agreement with MDTA, and Subcontractor has expressly agreed to do so pursuant to Section ____ of the Subcontract; and

MDTA, Concessionaire and Subcontractor now desire to execute and deliver this Agreement in order to recognize and confirm the effectiveness of the Subcontract and to set forth their respective rights and obligations with respect thereto.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration the sufficiency of which is hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Incorporation of Recitals: Definitions. The recitals to this Agreement are hereby incorporated into the body of this Agreement as an integral part hereof. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Lease and Concession Agreement.

2. Recognition of the Lease and Concession Agreement. Subcontractor acknowledges that MDTA and Concessionaire have entered into the Lease and Concession Agreement which, subject to the terms and conditions of Section 1.1(b) thereof, will not be effective unless and until executed by each of the OAG, the MDTA Board, and the BPW. Subcontractor acknowledges and agrees that it has received a true and complete copy of the Lease and Concession Agreement in connection with its execution of the Subcontract. Subcontractor agrees to cooperate fully with Concessionaire in connection with Concessionaire's performance of its obligations under the Lease and Concession Agreement. Subcontractor specifically acknowledges Concessionaire's design and construction obligations to MDTA and assumes towards Concessionaire all such duties as Concessionaire by the Lease and Concession Agreement has to MDTA thereunder.

3. Recognition of Subcontract. (a) MDTA recognizes that Concessionaire and Subcontractor have entered into the Subcontract. Provided that: (i) the Subcontract is then in full force and effect, and (ii) Subcontractor is not then in material default under the Subcontract beyond any applicable grace or cure periods provided in the Subcontract, the Subcontract shall not be terminated by the occurrence of a Termination of the Lease and Concession Agreement; rather (A) the Subcontract shall continue in full force and effect, (B) MDTA shall recognize and accept the Subcontract and the Subcontractor as the subcontractor thereunder and be bound to Subcontractor under all terms and conditions of the Subcontract, (C) MDTA shall be entitled, following such Termination of the Lease and Concession Agreement (or if such Termination is disputed lawfully and in good faith by Concessionaire, then upon a Final Decision (as hereinafter defined) declaring the termination of the Lease and Concession Agreement valid) to exercise step-in rights and directly enforce the Subcontract against Subcontractor in accordance with its terms without any necessity for a consent or approval from Concessionaire, and (D) following such Termination of the Lease and Concession Agreement (or if such Termination is disputed lawfully and in good faith by Concessionaire, then upon a Final Decision (as hereinafter defined)

declaring the termination of the Lease and Concession Agreement valid), the Subcontract shall continue in full force and effect as a direct contract, in accordance with its terms (except as provided in this Agreement) between MDTA and Subcontractor. As used herein, “Final Decision” means a decision from a court of competent jurisdiction as to which the appeal period has expired with no appeal having been taken.

(b) If (i) the Concessionaire shall be the debtor or other subject of any bankruptcy or insolvency action of any kind, including but not limited to, a bankruptcy filing under 11 U.S.C. §§ 101 et seq., an action involving the appointment of a receiver, custodian, trustee or liquidator for it or any of its property or assets, make a general assignment for the benefit of its creditors, be adjudicated bankrupt or insolvent or take any other similar action for the benefit or protection of its creditors, take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, rearrangement, dissolution, liquidation or other similar debtor relief law or statute, or shall be dissolved, liquidated, terminated or merged; (ii) the Subcontract is thereafter rejected, disaffirmed, cancelled or terminated pursuant to a Final Decision or on any other final, non appealable basis, whether pursuant to any bankruptcy law or any other governing federal or state statute, regulation, rule, code, order, directive, guideline, license, standard, judgment, injunction or requirement of common law, whether now in force or as amended or enacted in the future or issued or decided in the case of judgments, injunctions and common law; (iii) the Subcontract would have been in full force and effect had it not been so rejected, disaffirmed, terminated or cancelled; (iv) Subcontractor is not then in material default under the Subcontract beyond any applicable grace or cure periods provided in the Subcontract; and (v) the Lease and Concession Agreement has been Terminated, then MDTA agrees to enter into a new agreement with the Subcontractor, or, if permitted, to require the Replacement Concessionaire to enter into a new agreement with the Subcontractor, for the remainder of the original stated term in the Subcontract and upon all of the covenants, agreements terms, provisions, and limitations of the Subcontract (as may be amended herein) (the “New Agreement”), effective as of the date of such rejection or disaffirmation, but only on the subject to the Subcontractor paying or causing to be paid to MDTA, at the time of the execution and delivery of the New Agreement, any amounts due and owing to MDTA which, at the time of execution and delivery thereof, would have been past due or due and payable in accordance with the provisions of the Subcontract but for such rejection.

4. Attornment. Following Termination of the Lease and Concession Agreement (or if such Termination is disputed lawfully and in good faith by Concessionaire, then upon a Final Decision declaring the termination of the Lease and Concession Agreement valid), upon Subcontractor’s receipt of notice from MDTA that Concessionaire has been or will be replaced by MDTA with one or more Persons designated by MDTA to act as a replacement for Concessionaire (MDTA or any such Person being collectively, referred to herein as a “Replacement Concessionaire”), Subcontractor will, subject to the provisions of Section 3 of this Agreement, attorn to and recognize any such Replacement Concessionaire as a substitute for Concessionaire under the Subcontract, without any necessity for a consent or approval from Concessionaire. Subcontractor’s attornment to and recognition of any such Replacement Concessionaire shall be effective and self-operative following Termination immediately upon Subcontractor’s receipt of such notice without the execution or delivery of any further

instrument. Upon any such Replacement Concessionaire's request, Subcontractor will execute and deliver to such Replacement Concessionaire and MDTA an instrument reasonably acceptable to Subcontractor acknowledging Subcontractor's attornment to and recognition of such Replacement Concessionaire. Upon the receipt by Subcontractor of the notice contemplated by this Section, the Subcontract shall continue in full force and effect as a direct contract in accordance with its terms (except as provided in this Agreement) between the Replacement Concessionaire and Subcontractor.

5. Replacement Concessionaire. Replacement Concessionaire will assume and be bound, as the concessionaire, to Subcontractor under all covenants and conditions of the Subcontract for the remainder of the term of the Subcontract and any renewal or extension thereof provided for under the terms of the Subcontract, except that Subcontractor agrees no Replacement Concessionaire:

(a) will be liable for any representation or warranty of, or any act, omission, or breach by Concessionaire under the Subcontract which occurs prior to the date that Concessionaire has been replaced by Replacement Concessionaire;

(b) will be subject to any right of set-off or defense in the Subcontract that Subcontractor may have against Concessionaire under or with respect to the Subcontract; or

(c) will be bound by any provisions that purport to change or would have the effect of amending the Subcontract upon attornment to and assumption by MDTA or a Replacement Concessionaire;

The foregoing shall not limit Subcontractor's right to exercise against Replacement Concessionaire any offset rights otherwise expressly set forth in the Subcontract to the extent available to Subcontractor because of events first occurring after the date of attornment. The foregoing shall not limit Subcontractor's right to exercise any rights, at law or in equity, against Concessionaire.

6. Payments to MDTA. If, following Termination of the Lease and Concession Agreement (of if such Termination is disputed lawfully and in good faith by Concessionaire, then upon a Final Decision declaring the termination of the Lease and Concession Agreement valid), MDTA sends written notice to Subcontractor instructing Subcontractor to pay amounts due under the Subcontract to MDTA or in accordance with MDTA's written direction (the "Payment Notice"), Subcontractor agrees that it shall pay such amounts due under the Subcontract directly to MDTA without any necessity for a consent or approval from Concessionaire. Subcontractor's compliance with the Payment Notice shall not be deemed to violate the Subcontract. Subcontractor shall be entitled to full credit under the Subcontract for any payments paid to MDTA pursuant to the Payment Notice to the same extent as if such payments were paid directly to the Concessionaire.

7. No Exercise of Lease and Concession Agreement Remedies against Subcontractor. So long as (i) the Subcontract has not expired or otherwise been terminated by Concessionaire and (ii) there is no existing material default under or breach of the Subcontract by Subcontractor that has continued beyond applicable cure periods, MDTA shall not name or join Subcontractor as a defendant in any exercise of MDTA’s rights and remedies arising upon an Event of Default (as defined in the Lease and Concession Agreement) under the Lease and Concession Agreement unless applicable law requires Subcontractor to be made a party thereto as a condition to proceeding against Concessionaire or prosecuting such rights and remedies. In the latter case, MDTA may join Subcontractor as a defendant in such action only for such purpose and not to terminate the Subcontract or otherwise diminish or interfere with Subcontractor’s rights under the Subcontract or this Agreement in such action.

8. Estoppel Certificates and Other Information. Whenever reasonably requested by MDTA (but not more often than once per year), Concessionaire and Subcontractor, from time to time, shall severally execute and deliver to MDTA, within fifteen (15) Business Days of such request, and without charge to MDTA, an estoppel certificate in a form reasonably acceptable to Concessionaire and Subcontractor setting forth information MDTA may reasonably require to confirm that the Subcontract is and remains in full force and effect. Upon exercise of MDTA’s rights under clause (C) of Section 3 above, Subcontractor shall also provide to MDTA or any Replacement Concessionaire upon MDTA’s reasonable request therefore copies of the Subcontract and all amendments thereto and supplements thereof.

9. Notices. Any notice required or permitted to be given by any party under the terms of this Agreement shall be in writing and deemed to have been duly given only when mailed postage prepaid by certified or registered mail, with return receipt requested, or by recognized overnight delivery service, addressed to the party to which the notice is to be given at the address set forth below, or at any other address specified in a notice given by such party to the others:

If to MDTA:

Maryland Transportation Authority

Attention: _____

E-mail: _____

With a copy to:

If to Subcontractor:

With a copy to:

If to Concessionaire:

With a copy to:

10. Waiver. Concessionaire hereby waives any claim or cause of action against Subcontractor arising out of or relating to Sections 3, 4 and 6 of this Agreement, in reliance on a written notice from MDTA to Subcontractor.

11. Reservation of Immunities. Without limiting the application of Section 15 hereof, MDTA reserves all immunities and defenses arising out of its sovereign status, including under the Constitution of the State of Maryland and the Eleventh Amendment of the United States Constitution, and no waiver of any such immunities or defenses shall be implied or otherwise deemed to exist by reason of recognizing the Subcontract or by entering into this Agreement or by any express or implied provisions hereof, or by any actions or omissions to act by any State Parties, whether taken pursuant to the Agreement.

12. Public Records. Any information required to be submitted to MDTA, or requested by MDTA of Subcontractor, pursuant to the Lease and Concession Agreement or this Agreement that Subcontractor considers confidential, financial information given in confidence, intellectual property or trade secret or Subcontractor otherwise considers to be exempt from disclosure pursuant to the Maryland Public Information Act, State Government Article, Title 10,

Subtitle 6, of the Annotated Code of Maryland, (MPIA) shall be labeled as such on submission by Subcontractor to the State, unless such earlier claims were already adjudicated as such, accompanied with an explanation justifying exemption from release consistent with the MPIA. Should the Subcontractor's asserted exemption be challenged by any Person, the final administrative authority to release or exempt any or all material so identified rests with the administrative body or court of jurisdiction. In the event such information is requested from MDTA under the MPIA, MDTA shall notify Subcontractor of such request and permit Subcontractor five (5) Business Days to respond, defend or otherwise prevent the release of the information. Subcontractor hereby indemnifies MDTA and each of its officers, employees and agents from all costs, damages and expenses incurred in connection with refusing to disclose any material which Subcontractor has designated as a trade secret.

13. No Derogation of Police Powers. Nothing in any of the Lease and Concession Agreement or the Subcontract shall be in derogation of the valid exercise of the police powers of the State of Maryland.

14. Consent to Jurisdiction. Subcontractor irrevocably consents with respect to any claims or remedies at law or in equity, arising out of or in connection with the Lease and Concession Agreement, this Agreement and/or Subcontract to the venue and jurisdiction in the courts of the State of Maryland, or the U.S. District Court for the District of Maryland (except as otherwise required by law or the Agreement) and irrevocably waives any objections that it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise, providing, that nothing herein shall be construed to waive any of the State's immunities.

15. Claims Against the State. Subcontractor expressly acknowledges and agrees that the sole and exclusive means for the presentation of any claim against the State and MDTA arising from, or in connection with the Agreement shall be brought by Subcontractor in accordance with the laws of Maryland and that Subcontractor further agrees not to initiate legal proceedings against the State or MDTA in any state or federal court unless authorized pursuant to the laws of Maryland.

16. Miscellaneous.

(a) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

(b) If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

(c) This Agreement shall bind and inure to the benefit of the respective heirs, assigns, personal representatives and successors of the parties hereto, including any Replacement Concessionaire.

(d) No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

(e) Each party shall take such action and deliver such instruments to the other party, in addition to the actions and instruments specifically provided for herein, as may reasonably be requested or required to effectuate the purposes or provisions of this Agreement.

(f) This Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Maryland.

(g) The undersigned signatory for Subcontractor hereby represents and warrants that he/she has full and complete authority to execute this Agreement on behalf of Subcontractor. The undersigned signatory for Concessionaire hereby represents and warrants that it has full and complete authority to execute this Agreement on behalf of Concessionaire. This representation and warranty is made for the purpose of inducing MDTA to execute this Agreement.

(h) This Agreement constitutes full compliance with, any provisions in the Lease and Concession Agreement and Subcontract requiring delivery of a recognition agreement by Concessionaire and Subcontractor, respectively.

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

WITNESS

GENERAL CONTRACTOR:

[NAME]

By: _____

Name:

Title:

WITNESS:

OWNER:

MARYLAND TRANSPORTATION AUTHORITY

By: _____

Name:

Title:

Witness:

Concessionaire:

[NAME]

By: _____

Name:

Title:

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

Assistant Attorney General

Exhibit J

I-95 Travel Plazas Lease and Concession Agreement

LEASE AND CONCESSION AGREEMENT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — domestic or foreign;
- (2) Limited Liability Company — domestic or foreign;
- (3) Partnership — domestic or foreign;
- (4) Statutory Trust — domestic or foreign;
- (5) Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID
Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____
Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 20____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

I-95 Travel Plazas
Maryland House & Chesapeake House

Lease and Concession Agreement
Between

Maryland Transportation Authority

&

Appendix 1
Construction Provisions

Contract No. 60833436R

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ARTICLE I
Construction Preliminary Matters

Section 1.1 Scope of Appendix 1

The Construction Provisions of this Appendix 1 of the Lease and Concession Agreement is in addition to the performance specifications and Mandatory Work identified in Appendices A and B of the RFP.

Section 1.2 Controlling Authority

Provisions within the Appendices of the RFP provide for specific items of work and identify standards that are to be adhered to when performing the Work. If a conflict arises between Governmental Rules, terms of this Lease and Concession Agreement and terms of the RFP, first and foremost, Governmental Rules must be adhered to; however if a requirement of the RFP or this Lease and Concession Agreement is more stringent than a Governmental Rule, the more stringent requirement controls.

Section 1.3 Construction Provision Definitions

“As-Built Plans” means final drawings and specifications furnished by the Concessionaire documenting the details and dimensions of the completed Work and any Concessionaire Improvements completed during the Term.

“Asbestos Certification” means, with respect to any Improvements, a notarized certification to MDTA by Concessionaire and/or a Subcontractor signed by a Maryland licensed architect or engineer, to the effect that no asbestos-containing materials have been used in the Work.

“Baseline Progress Schedule” means the time-scaled, schedule, including revisions thereto, which has been provided by the Concessionaire in accordance with the Project Documents and which MDTA’s Authorized Representative has acknowledged in writing conforms to the Lease and Concession Agreement requirements, and updates thereto accepted by MDTA’s Authorized Representative. The Baseline Progress Schedule represents the Concessionaire’s plans for performing the Work and shows the Concessionaire’s Work Breakdown Structure (“WBS”) for designing, constructing, and completing the Project.

“Capital Expenditure” means an expenditure made for assets with useful lives of more than one year including all renovation, modernization, and expansion (additions or new construction), including, but not limited to, changes in connection with a new viable business operation with its own branding identity and particular product. The term “Capital Expenditure” also includes replacement of individual items of plant (defined as the total facilities available for production or service) and equipment that have an aggregate acquisition cost of twenty-five thousand dollars (\$25,000.00) or more, and an estimated useful life of two years or more. General repairs to the Leased Premises costing less than twenty-five thousand dollars (\$25,000.00) per repair shall not constitute a Capital Expenditure.

“Conceptual Design Plans” means the plans and project description and narrative that set forth the general scope and content of the Initial Improvements, preliminary floor plans for each of the Travel Plazas, interior and exterior materials lists which have been approved by MDTA, which are attached hereto as Attachment A.

“Construction QC Manager” means the individual in the Concessionaire’s organization, employed by the QC Engineer, responsible for construction QC under the overall direction of the Project Quality Manager.

“Construction Quality Control Plan” means a portion of the Quality Plan, so designated, that sets out the Concessionaire’s means of complying with its obligations in relation to construction QC.

“Construction Schedule” means the construction schedule provided by Concessionaire as to the anticipated time frame for the construction of the Initial Improvements as well as progress benchmarks that are to occur at specified points in time that is approved by MDTA, a copy of which is attached hereto as Attachment B. The term “Construction Schedule” shall also mean and include any and all updates, changes, supplements and replacements thereof pursuant to Appendix 1, Section 4.2.

“Design Documents” means maps, Design Plans, Project Specifications, reports, calculations, records, submittals, and other specified documents prepared by the Concessionaire and/or Designer in the course of performing Project engineering and design Work.

“Design Manager” means the individual in the Concessionaire’s organization who is responsible for the design efforts.

“Design Plans” means drawings prepared by the Designer showing the location, character, dimensions, and details of the Work to be completed.

“Design Requirements” means those specifications contained in the Lease and Concession Agreement that specify the minimum acceptable technical standards and define the limits within which the design of the Project shall be developed and conducted.

“Design Review Plan and Schedule” means the portion of the Design Quality Control Plan that sets forth the procedures to be used for design reviews, the anticipated design packages, and the schedule for the reviews.

“Design QC Manager” means the individual in the Concessionaire’s organization, employed by the Designer or a firm on the design team, who is responsible for design QC under the overall direction of the Project Quality Manager.

“Design Quality Control Plan” means the Concessionaire’s document, a portion of the Quality Manual, so designated, that sets out the Concessionaire’s means of complying with its obligations in relation to design QC.

“Environmental Conditions” means the presence of one or more Hazardous Materials in the Environmental Media that require Remedial action under applicable Environmental Laws and/or that may give rise to claims and/or liabilities to third parties, including Governmental Authorities. Environmental Conditions shall include the presence of any Hazardous Material in Environmental Media at or above any applicable default criterion in Governmental Rules.

“Environmental Media” means soil, land, surface or subsurface strata, surface strata, surface waters, ponds, streams, groundwater, bedrock, drinking water supply, stream sediments, atmosphere, air, vegetation and any other environmental medium or natural resource.

“Independent Assurance” or “IA” means activities that are an unbiased and independent evaluation of all the sampling and testing procedures, equipment calibration, and qualifications of personnel (Concessionaire’s, MDTA’s or referee laboratory) used in the Acceptance Program, including the Concessionaire’s QC. The Independent Assurance (“IA”) agent for the Project will be designated by the MDTA.

“Milestone” means a defined step toward the completion of Work.

“Permitting Schedule” means spreadsheet summaries provided by Concessionaire as to the anticipated time frame to obtain all necessary licenses, permits and Governmental Approvals necessary to develop, construct and operate the Initial Improvements.

“Quality Assurance” or “QA” means all planned and systematic Oversight actions by the MDTA necessary to provide confidence that the Concessionaire is performing QC in accordance with the Quality Plan and associated QC Plans and that all Work complies with the requirements of the Lease and Concession Agreement and that all materials incorporated in the Work, all equipment, and all elements of the Work will perform satisfactorily for the purpose intended. QA actions include monitoring and verification of design through auditing, spot-checking, and participation in the review of the Design Plans and Working Plans. QA actions also include monitoring and verification of construction activities, manufacturing/process facilities and equipment, on-site equipment and QC documentation through auditing, spot inspections, and reconciliation of material acceptance and rejection based on QC testing and verification sampling and testing at production sites as well as at the Project Site. Quality Assurance also includes Independent Assurance, consultation and submission of written comments by the MDTA, and documentation of QA activities.

“Quality Assurance Program” means the overall quality program and associated activities including MDTA QA, Concessionaire QC, the Lease and Concession Agreement’s quality requirements, and the Concessionaire’s Quality Plan.

“Quality Control” or “QC” means the total of all activities performed by the Concessionaire, Designer, Subcontractors, producers, or manufacturers to ensure that the Work meets the Lease and Concession Agreement requirements. For design this includes procedures for design quality, checking, and design review, including reviews for constructability, and review and approval of

Working Plans. For construction this includes procedures for materials handling and construction quality; inspection, sampling, testing and acceptance/rejection of materials, plants, production, and construction; material certifications; calibration and maintenance of equipment; production process control; and monitoring of environmental compliance. Quality Control also includes documentation of all QC design and construction efforts.

“Quality Control Engineering Firm” or “QC Engineer” means an engineering/testing firm, within the Concessionaire’s organization, but independent of the Concessionaire’s construction management organization, with responsibility for administering, managing, and conducting the construction QC inspection; sampling, and testing specified in the Lease and Concession Agreement and the Concessionaire’s Quality Plan and Construction Quality Control Plan. The QC Engineer may not be owned in any part or controlled by the Concessionaire, any Principal Participant, or by any construction Subcontractor. The Designer or a firm associated with or subsidiary to the Designer may serve as the QC Engineer, unless the Designer is a Principal Participant or construction Subcontractor or is an Affiliate of any Principal Participant or construction Subcontractor.

“Quality Manager” means the individual in the Concessionaire’s organization with overall responsibility for development and management of the Concessionaire’s Quality Plan and responsible for the overall Quality program of the Concessionaire, including the quality of management, design, and construction. The Quality Manager may be an employee of a consultant firm, not the QC Engineer or Designer, and shall act under the authority of the Concessionaire’s corporate management.

“Quality Plan” means the Concessionaire’s plan for implementing the Concessionaire’s overall quality program and associated activities, including the Concessionaire’s QC and procedures to assure and document quality of design and construction activities through reviews, inspections, testing, internal communications, and necessary interfaces with the MDTA.

“Responsible Architect” means an architect, employed by the Designer or design Subcontractor who is currently licensed as such in the State of Maryland, and who is in direct charge of the design.

“Responsible Engineer” means an engineer, employed by the Designer or design Subcontractor, who is currently licensed as such in the State of Maryland, and who is in direct charge of the design.

“Work Breakdown Structure” or “WBS” means the components of the Project so designated by the Concessionaire in its Proposal, representing a hierarchical grouping of related tasks and activities that begins with the highest level activities and is broken down into individual, manageable tasks and components under a common parent. A Work Breakdown Structure may be a major contract element or series of interrelated elements.

ARTICLE II

General Construction Responsibilities and Work

Section 2.1 Concessionaire’s Work and Responsibilities

Except as contemplated by Article IX of the Lease and Concession Agreement, Concessionaire will undertake no work on or improvements to the Leased Premises, including the Immediate Repairs, Initial Improvements, Reinvestments or Restoration without the prior written authorization of MDTA as set forth in this Appendix 1, Article II of the Lease and Concession Agreement except for routine maintenance or emergency repairs. MDTA shall not be required to make any expenditure of any kind whatsoever in connection with this Lease and Concession Agreement or the Leased Premises or to make any repairs to maintain the Leased Premises or the Improvements at the Travel Plazas or conduct any Restoration, except as otherwise may be expressly provided in this Lease and Concession Agreement or other applicable agreement.

Section 2.2 Mandatory Work

2.2.1 General

Concessionaire shall, at Concessionaire’s sole cost and expense, make or cause to be made the Mandatory Work in accordance with the Mandatory Work plans and as identified in the RFP and such Mandatory Work shall commence and be completed in accordance with the schedule set forth for Mandatory Work in Attachment C. Without limiting the foregoing, replacement of all USTs and components of the UST System shall be completed by Concessionaire in accordance with the time schedule for the Mandatory Work and as contained in the Mandatory Work plan for UST removal. Time is of the essence for purposes of completing the Mandatory Work. For each calendar day that any Mandatory Work is not completed in accordance with this Lease and Concession Agreement, the Mandatory Work plans (subject in all cases to an Unavoidable Delay), and in accordance with Concessionaire’s Construction Schedule, which shall include the benchmark dates for Completion of the Mandatory Work, MDTA shall impose and Concessionaire shall pay a monthly per diem sum of liquidated damages, which shall be set as _____. Concessionaire hereby acknowledges and agrees that such liquidated damages are not a penalty but a reasonable estimate of the damages caused by such delay. Failure to complete any Mandatory Work shall be a separate and distinct occurrence with the occurrence subject to culmination.

2.2.2 Excavation

The Concessionaire shall remove and transport off-site all excavated petroleum-impacted soil and material that exceed the regulatory standards. If the excavated petroleum impacted material that must be transported off site for disposal at a permitted facility exceeds a combined total at the Leased Premises of 10,000 cubic yards, the MDTA shall pay the additional loading, transportation, disposal costs and replacement backfill. The MDTA shall pay _____per cubic yard for “Additional Removal of Petroleum- Impacted Soils” for any soil removed over the 10,000 cubic yard total. This payment for additional removal will be deducted from the monthly revenue payments. The 10,000 cubic yard total is a sum total of all impacted soil and excavated

backfill materials removed for off-site disposal from the Leased Premises. The MDTA reserves the right to direct the Concessionaire to excavate impacted soils beyond the limits of what has been deemed acceptable by regulatory officials if the MDTA believes it is in its best interest to do so.

Section 2.3 MDTA's Authorized Representative(s)

2.3.1 Right to Employ

MDTA shall have the right, at its cost and expense, to engage on its behalf one or more engineers, architects, builders or other construction specialists, environmental advisors, scientists, accountants, and attorneys to act as an advisor to MDTA in connection with the construction of the Improvements.

2.3.2 Functions

The functions of any MDTA Authorized Representative may include (a) a physical on-site review of the Leased Premises including the right to inspect and conduct materials testing, (b) review and analysis of the Improvements and any and all other work to be done in connection with the Leased Premises, (c) review and analysis of Environmental Conditions, (d) review and analysis of financial and legal matters, including warranties, insurance, books and records, and other data and documents determined relevant by MDTA related to the construction of the Improvements, (e) building and fire code related testing, and (f) quality control.

2.3.3 No Liability

Neither MDTA nor any of MDTA's Authorized Representatives shall have liability to Concessionaire, General Contractor, any Construction Subcontractor or any Subcontractor on account of: (a) services performed by MDTA's Authorized Representative; (b) any failure or neglect by MDTA's Authorized Representative to properly perform services; or (c) any approval or disapproval of work, construction documents, plans and specifications, or other matters by MDTA's Authorized Representative. Concessionaire shall have no rights under or relating to any agreement, report, or similar document prepared by any MDTA's Authorized Representative for MDTA.

Section 2.4 Subcontracts

In addition to the provision of Subsection 12.1.5 of the Lease and Concession Agreement, Concessionaire, General Contractor and MDTA have executed and delivered a recognition agreement, substantially in the form of Attachment D, with respect to such construction agreement.

Section 2.5 LEED Buildings

The Leadership in Energy and Environmental Design ("LEED") Green Building Rating System is a voluntary national standard, introduced by the United States Green Building Council ("USGBC"), for developing high-performance, sustainable buildings. Concessionaire shall

obtain and maintain a minimum of LEED Silver certification for the planning, design, construction, and operation of the Travel Plazas under the most current LEED standards. Concessionaire shall be solely responsible for costs attributed to obtaining the LEED Silver certification including project registration, design documentation for submittal to the USGBC, and building commissioning agent costs.

Section 2.6 UST Systems

Concessionaire shall replace all USTs and UST Systems throughout the Term of this Concession Agreement. To the extent any UST and UST System is not replaced during the Initial Improvements, Concessionaire shall replace all USTs and UST Systems substantially in accordance with Attachment E. Thereafter, Concessionaire shall replace all UST Systems in accordance with all Legal Requirements on time when due.

Section 2.7 Preservation and Restoration of Property

The Concessionaire shall not enter upon public or private property (outside of the Leased Premises) for any purpose without obtaining permission and it shall be responsible for the preservation of all public and private property, trees, monuments, signs, and markers and fences thereon, and shall use every precaution necessary to prevent damage or injury thereto. All MDTA signs and markers that are affected by the Work shall be carefully removed when grading operations begin and delivered to the MDTA's Authorized Representative. The Concessionaire shall take suitable precaution to prevent damage to underground or overhead public utility structures; shall protect carefully from disturbances or damages all land monuments and property markers and shall take such actions in accordance with all applicable Governmental Rules.

Section 2.8 Quality Control.

2.8.1 General Concessionaire Responsibilities

(a) The Work shall be performed in accordance with the details as shown on the Design Plans, Project Specifications, and Working Plans prepared by the Concessionaire, subject to the MDTA's consultation and written comment. It shall be the Concessionaire's sole responsibility to provide Design Plans, Project Specifications, and Working Plans of such a nature to develop a finished product in accordance with the requirements of the Project Documents and the Concessionaire's Design Quality Control Plan. Review of the Concessionaire's Design Plans, Project Specifications, and/or Working Plans by the MDTA shall not relieve the Concessionaire of the responsibility for the satisfactory completion of the Work. Design Plans, Project Specifications, and Working Plans shall be subject to the MDTA's consultation and written comments before beginning construction covered by the Plans, and shall not be thereafter amended or altered without the prior approval of the Concessionaire's Designer and subsequent consultation and written comment by the MDTA.

(b) The Concessionaire shall perform the following:

(i) Manage the design and design Quality Control ("QC") of the Work;

- (ii) Coordinate with and obtain necessary approvals from, but not limited to, authorities having jurisdiction for temporary road diversions and detours, shutdowns, and Utility Relocations; and
- (iii) Ensure that the Designer properly checks the designs of the Project and that the Design QC Manager certifies Quality Control procedures in accordance with the Project Documents and Design Quality Control Plan. The procedures for checking the design of permanent components also apply to design of major temporary components and construction sequences that affect the permanent components of the Project.

2.8.2 Concessionaire's Designer

(a) The Concessionaire shall appoint a suitably qualified and experienced Designer to undertake the design of the permanent components and the major temporary components of the Project. The Designer shall determine the following:

- (i) Effects of all loading requirements;
- (ii) Dimensions of all elements;
- (iii) Sub-soil interaction to support the loads from above;
- (iv) Durability and maintainability requirements;
- (v) Details of required Quality Assurance and/or Quality Control procedures, monitoring, and controls; and
- (vi) Effects of hydrology and design flows as appropriate.

(b) Design will be considered complete upon reaching Operational Capability following submittal and review of the As-Built Plans.

2.8.3 Concessionaire's Design Manager

(a) The Concessionaire shall designate and assign a Design Manager to manage all Work performed by the Concessionaire's Designer. The Design Manager shall actively manage the design Work including the design review process and shall manage design support during construction, design changes, and completion of As-Built Plans.

(b) The Design Manager shall conduct an assessment and evaluation of design such that the Design Manager can certify to the Concessionaire and to the MDTA that the design satisfies the requirements of the Project Documents, including, without limitation, the following requirements:

- (i) Accuracy;
- (ii) Adequacy;
- (iii) Conformance to standards of practice;
- (iv) Compliance with codes and standards;

- (v) Cost effectiveness;
- (vi) Quality; and
- (vii) Fitness for purpose and/or function as specified and/or implied in the Project Documents.

(c) The Design Manager shall include such written certification for all Work being subjected to a design review. The Design Manager's activities shall include, at a minimum, assessment and evaluation of the following: design reports; analytical approach; drawing details; Project Specifications for conformity to requirements of the Project Documents; design and Working Plans; major temporary components' effect on permanent components; field design changes; design approvals for materials and procedures; and As-Built Plans for conformity with the Design requirements of the Project Documents, and Design Quality Control Plan.

2.8.4 Responsible Engineer/Architect

The Designer shall designate and assign a Responsible Engineer/Architect for each Concessionaire-designated design unit. The Responsible Engineer/Architect(s) shall sign and seal design reports, Design and Working Plans, and Project Specifications for the assigned design unit(s). Responsible Engineers/Architects shall be Maryland-licensed Professional Engineers/Architects. The Responsible Engineer/Architect shall attend all design reviews for assigned design unit(s).

2.8.5 Design QC Manager

(a) The Concessionaire shall assign a Design QC Manager. The Design QC Manager shall report to the Concessionaire's Quality Manager and shall be a Person who is independent from the production of the design. The Design QC Manager shall be responsible for providing QC in accordance with the Design Quality Control Plan for all Work conducted by the Designer. The Design QC Manager shall be actively involved throughout the design process as well as thereafter to manage design QC related to design support during construction, design changes, and completion of As-Built Plans. The Concessionaire's Design QC Manager shall assess and evaluate the Concessionaire's design QC activities in order to certify to the Concessionaire and to the MDTA that the design QC activities comply with the Design Quality Control Plan and the requirements of the Project Documents. The Concessionaire shall ensure that the Design QC Manager carries out all duties expressed and implied for the Project.

(b) The Design QC Manager shall have QC responsibilities related to the design of permanent and major temporary components; changes in design of permanent components; and As-Built Plans. The Design QC Manager shall also perform the following activities: identify and report non-conformities/non-compliance; track, monitor, and report on status of outstanding design-related Non-Conformance Reports; supply monthly reports; and submit specified certificates (permanent components and major temporary components). The requirement that the Concessionaire engage and use a Design QC Manager shall not relieve the Designer from carrying out all of the checks and reviews that a professional and prudent designer would normally carry out on the type of Work that is actually being designed.

2.8.6 Design Units

(a) The Concessionaire shall package all design, drawings, and other related documents for the Work into separate design units. Each design unit shall comprise similar and coherent significant parts of the Project that can be checked and reviewed as a self-contained package with due consideration for accommodating interfaces with other Project components. Within thirty (30) days following the Effective Date, the Concessionaire shall provide a written report updating information submitted with the Concessionaire's Proposal and identifying each design unit. The written report shall include the following:

- (i) Design unit description, including scope of design Work within each design unit, which includes limits and interface points;
- (ii) Planned review stages and dates, including specific information to be reviewed, planned review dates (measured from NTP date), and percent-complete represented by each review;
- (iii) Responsible Engineer/Architect; and
- (iv) Locations where design Work will be performed.

(b) The Concessionaire shall submit any revisions to the information provided in response to this Subsection in writing to the MDTA concurrent with the monthly progress report.

2.8.7 Schedule for Design Checks and Reviews

The Concessionaire shall schedule and conduct design reviews to meet design and/or construction needs of the Baseline Progress Schedule. It is recognized and anticipated that the design review process and the frequency, duration, and intensity of design reviews may vary with the complexity of the individual design units and the associated construction activities. The duration of design reviews shall be discussed and mutually agreed upon between the MDTA and Concessionaire during the design workshop and verified and modified by mutual agreement during the course of the project. Concessionaire shall give a written notice of scheduled design reviews to the MDTA at least one (1) week prior to any review. Concessionaire shall include the agreed-upon design review schedule for all design units (including their components, design safety assessment, and elements) as part of the Baseline Progress Schedule. The design review schedule shall be reviewed monthly. Concessionaire shall not schedule more than two (2) concurrent design reviews without the MDTA's written concurrence. Design Documents shall be complete for each design unit, but may be combined for multiple design units at any one time upon the MDTA's written concurrence. The Concessionaire shall review each design unit in accordance with the Baseline Progress Schedule. Concessionaire shall allow the time for the MDTA's participation and input to any design review conducted by the Concessionaire's Design QC Manager per this Subsection. Concessionaire shall incorporate this schedule into the Baseline Progress Schedule and report progress and updates in the monthly updates. Concessionaire shall keep the MDTA up to date on the exact timing of reviews. Concessionaire shall treat any substantial changes to design initiated by the Concessionaire and already checked by the Designer and certified by the Design QC Manager as an entirely new design.

2.8.8 Design Review Plan and Schedule

Concessionaire shall prepare and submit a written Design Review Plan and Schedule that addresses design stages, planned completeness, and the Quality Control process consistent with the Concessionaire's Quality Plan for each design unit within forty-five (45) days following the Effective Date for consultation and written comment by the MDTA. The Design Review Plan and Schedule shall describe the level of design that the Designer will accomplish for each of the planned stages of design development and provide a description and/or checklist for each design unit clearly identifying the design product that will be reviewed. The schedule shall include proposed review times for each design review, including the review dates and durations for the MDTA.

2.8.9 Design Checks, Certifications and Reviews

The Design QC Manager shall certify that the drawings, plans, specifications, calculations, and reports have been checked per the requirements of the Project Documents and the Concessionaire's Design Quality Control Plan. Concessionaire shall conduct and complete the design checks, certifications, and reviews for each design unit. The MDTA will provide consultation and written comment of the design prior to the Concessionaire releasing designs for construction. The MDTA may also issue design Non-Conformance Reports which must be addressed and resolved to the satisfaction of the MDTA prior to releasing the design(s) for construction. Concessionaire shall conduct its design review or submit its design for review for each design unit and in accordance with the design review schedule in the Baseline Progress Schedule.

2.8.10 Design Support During Construction

The Designer and Design QC Manager shall verify during construction that the conditions actually encountered are consistent with the design and related Design Plans, Working Plans, and Project Specifications. The Designer shall prepare necessary adjustments in the Design Plans, Working Plans, and Project Specifications, and the Concessionaire shall obtain required MDTA consultation and written comment. The Designer and Design QC Manager shall check any such changes in accordance with the Design Quality Control Plan. The Design QC Manager shall certify the changes in writing as meeting the requirements of the Project Documents. Concessionaire shall incorporate the adjustments in the As-Built Plans. Concessionaire shall retain copies of the Design QC Manager's written certifications and submit the certifications to the MDTA.

2.8.11 Design Workshop

Within thirty (30) days following the Effective Date, Concessionaire shall arrange a design workshop to familiarize the Designer's personnel and the MDTA review personnel with the design concepts, issues, status, and review procedures. The intent of the workshop is to make the subsequent design reviews more effective and efficient for all parties. The MDTA and Concessionaire shall jointly develop the agenda of the workshop and how it will be organized (e.g., by design unit and engineering discipline). The agenda shall include developing agreements regarding time allowed for design reviews.

2.8.12 Design Quality Records

(a) Concessionaire shall include engineering and design progress and changes in its Baseline Progress Schedule including Work on any design change. The Design QC Manager shall prepare and submit monitoring reports to the MDTA of all design issues and review comments resulting from the scheduled and additional checks and reviews, including informal reviews. Concessionaire shall also maintain an auditable record of all Design Quality Control Plan procedures, reviews and checks. An independent auditor shall be able to determine and verify by reviewing documentation if all procedures included in the Design Quality Control Plan have been followed. Concessionaire shall submit reports of checks and reviews within seven (7) calendar days of completion of the review. Concessionaire shall develop, implement, and maintain a log of design Non-Conformance Reports and/or notices indicating dates issued, reasons, status, or resolution and date of resolution.

(b) The Design QC Manager shall submit a monthly report to the MDTA by the third working day of the following month that includes the following: summary of reviews conducted; non-conforming Work and current status and/or disposition based on design nonconformance log; and submission(s) from Concessionaire and status.

(c) Upon completion of the Final Design for each design unit, including all its components and elements, the Design QC Manager shall notify Concessionaire, with a copy to the MDTA, of any outstanding monitoring report issues or unresolved review comments.

2.8.13 Design Plans, Working Plans and Project Specifications

(a) The Project Documents establish the minimum standards of quality and define requirements that the design and construction must satisfy. During the design process, the Concessionaire shall develop Project Specifications and Design Plans based on the Project Documents that are applicable to the specific materials, products, equipment, procedures, and methods that the Concessionaire intends to use. During the design reviews, the Design Plans and Project Specifications will be evaluated by the MDTA to determine if they meet the requirements of the Project Documents.

(b) The Work shall be performed in accordance with the details as shown on the Design Plans prepared by the Concessionaire. It shall be solely the Concessionaire's responsibility to provide Working Plans of such a nature as to develop a finished product in accordance with Design Plans, Project Specifications, and the requirements of the Project Documents. The Concessionaire shall verify pertinent dimensions in the field prior to conducting a Working Plans review. Participation in the review of the Concessionaire's Design Plans and/or Working Plans by the MDTA shall not relieve the Concessionaire of the responsibility for the satisfactory completion of the Work. Working Plans shall be reviewed and approved in writing by the Designer before beginning the construction Work and shall not thereafter be amended or altered without prior written approval of the Designer and the MDTA.

Section 2.9 Construction Quality Assurance/Quality Control

(a) Concessionaire shall develop and implement a quality program for all phases of the Project, including design, construction, maintenance, and environmental compliance.

Concessionaire, through its Quality Plan, shall have the primary responsibility for the quality of the Work, including all Work and products of Subcontractors, fabricators, suppliers, and vendors both on-site and off-site. The MDTA, in its Oversight role through Quality Assurance (“QA”), reserves the right to and will conduct verification Oversight inspections, audits, sampling and testing, and Independent Assurance (“IA”). The program shall be capable of ensuring that procurement, shipping, handling, fabrication, installation, cleaning, inspection, construction, testing, storage, examination, repair, maintenance, and required modifications of all materials, equipment, and elements of the Work will comply with the requirements of the Project Documents and that all elements of the Work will perform satisfactorily for the purpose intended.

(b) All construction processes, procedures, and workmanship shall be inspected by the Concessionaire’s construction Quality Control (“QC”) inspectors. The construction QC inspections shall include the observations, measurements, and documentation specified in the Concessionaire’s Quality Plan. Inspection observations, measurements, results, non-conformances, and corrective actions shall be documented on the Concessionaire’s forms acceptable to the MDTA. Inspection observation and documentation shall include a description of the construction activity and location by Specification section.

(c) All materials are subject to inspection, sampling, and testing at any time before Operational Capability has been reached. References in the Project Documents to the Maryland State Highway Administration’s test methods or test designation of the American Association of State Highway and Transportation Officials (“AASHTO”), the American Society for Testing and Materials (“ASTM”), or any other recognized national organization shall mean the latest revision of that test method or Specification for the Work in effect on the day the Request for Proposal (“RFP”) is issued. Materials will be sampled and tested by the construction QC testers and samplers. Copies of all test results will be furnished to the Concessionaire’s Project Manager, the Construction QC Manager, and the MDTA’s Authorized Representative. The MDTA’s Authorized Representative may observe any sampling testing performed by the QC testers and samplers. If the MDTA’s Authorized Representative observes a deviation from the specified sampling or testing procedures, the MDTA’s Authorized Representative shall verbally describe the observed deviation to the Concessionaire’s Construction QC Manager and shall follow with a written Non-Conformance Report (“NCR”) addressing the deviation sent to the Concessionaire’s Construction QC Manager and Project Manager within twenty-four (24) hours.

(d) Quality Assurance Oversight will be performed by the MDTA’s Authorized Representative assigned to the Project. The MDTA’s Authorized Representative will periodically audit sampling and testing results. The audit and subsequent feedback to the Concessionaire’s Construction QC Manager are intended to assess the adequacy of the Concessionaire’s QC, including frequency of testing. The Concessionaire’s Project Manager will provide information to the MDTA’s Authorized Representative regarding verification that activities are completed as per the Concessionaire’s Baseline Progress Schedule.

(e) The MDTA’s Authorized Representative will provide periodic Independent Assurance to evaluate the sampling and testing personnel and testing equipment. The program

will evaluate sampling procedures, testing procedures, and testing equipment of the Concessionaire's independent construction Quality Control firm ("QC Engineer").

(f) Concessionaire shall provide process control measures adequate to produce a constructed product of acceptable quality that conforms to the requirements of the Project Documents. The Concessionaire shall perform process control sampling, testing, and inspection during all phases of the Work at a rate sufficient to assure that the Work conforms to the requirements of the Project Documents. Concessionaire shall provide personnel and equipment capable of providing a product that conforms to specified requirements and shall provide personnel and equipment capable of confirming and documenting performance. Continual production of non-conforming Work will not be allowed.

(g) The Concessionaire shall retain the services of an independent engineering consultant ("QC Engineer") to oversee, manage, certify, and perform construction QC activities as specified in this Section, other Project Documents, and the Concessionaire's Quality Plan. The QC Engineer and any firm acting as a subconsultant to the QC Engineer shall not be owned by or be an Affiliate of the Concessionaire, any Principal Participant, or construction Subcontractor. The QC Engineer shall be responsible for management and scheduling of all QC inspection and QC sampling and testing of all items of construction Work. Subject to the limitations stated above, the Designer may serve as the QC Engineer. The Project's Construction QC Manager, construction QC inspectors, and construction QC testers and samplers and their support staff shall be employees of the QC Engineer or employees of firm(s) acting as subconsultants to the QC Engineer.

(h) The Construction QC Manager shall be responsible for overall management and supervision of the Concessionaire's construction QC programs. The Construction QC Manager shall be a Maryland-licensed Professional Engineer. The Construction QC Manager shall report directly to the Concessionaire's Quality Manager. The Construction QC Manager, or his/her designees, shall be delegated the authority to make needed improvements to the quality of Work, including the suspension of the Work if required. The Construction QC Manager shall be responsible for coordinating the schedules of the construction QC inspectors and construction QC testers and samplers with the Concessionaire's construction activities so as not to delay the Concessionaire's operations due to Construction QC inspection, sampling, and testing activities.

2.9.1 Documentation

(a) Concessionaire shall collect and preserve each of the following types of data during the Concessionaire's performance of the Work using a format for all data acceptable to the MDTA:

- (i) Daily Inspection Reports;
- (ii) Record As-Built Plans;
- (iii) Secure databases, such as spreadsheets, standard database software, and computation books;
- (iv) Material acceptance records;

- (v) Photographs; and
- (vi) Field change sheets.

(b) A daily log for construction-related activities shall be maintained by the Concessionaire's Construction Project Manager or his/her designee(s) in which all significant occurrences on the Project shall be recorded daily in a narrative form, including unusual weather events, and conditions causing or threatening to cause any significant delay, disruption, or interference with the progress of the Work; significant injuries to persons or property; and a listing of each activity depicted on the current monthly plan update which is being actively prosecuted. Also, traffic accidents in the Project area shall be noted along with lane closures in effect at the time of the accident. For Utility-related activities, such data shall be maintained separately for each Utility facility. For harmful/Hazardous Material remediation Work, such data shall be maintained separately for each Project site. Records shall document all QC operations, inspections, activities, and tests performed, including the Work of Subcontractors. Such records shall include any delays encountered and Work noted that does not conform to the requirements of the Project Documents together with the corrective actions taken regarding such Work.

(c) Within thirty (30) days following the Effective Date and to the extent information is known, Concessionaire shall provide to the MDTA the sources of supply and item material types that will be used in the Work. For materials not initially identified or changes to the initial source provided, the source of supply shall be provided sufficiently in advance of their use. Documentary evidence that materials and equipment conform to the Project requirements shall be available at the Project site no less than twenty-four (24) hours prior to installation or use of such materials and equipment. This documentary evidence shall be retained at the Project site and shall be sufficient to identify that the specific requirements, such as Working Plans, codes, standards, or Specifications, are fulfilled by the purchased materials and equipment. Additionally, a copy of all documentary evidence that materials and equipment conform to the Project requirements shall be provided to the MDTA at the same time the Concessionaire receives such documentary evidence. The effectiveness of the QC by the Concessionaire's own forces and Subcontractors shall be assessed by the Concessionaire and the QC Engineer at intervals consistent with the importance, complexity, and quantity of the product or services. The MDTA reserves the right to audit and review these documents at any time. Upon reaching Operational Capability, the Concessionaire shall submit a certificate of compliance signed by the Concessionaire's Project Manager and Construction QC Manager indicating that all materials incorporated in the Project conform to the Project requirements.

2.9.2 Construction Quality Control for Operational Capability

The MDTA has the responsibility and authority for determining if the Project has reached Operational Capability. Concessionaire shall complete all Work and provide all documents, certifications, and other information in accordance with the Project Documents. Operational Capability will depend on QC testing and verification testing. Any deviations from the sampling and testing methods and frequencies will require the MDTA's approval prior to the start of construction on any affected Work. Operational Capability will be based on certificates of

compliance and/or Manufacturer’s test results where specified in the Project Documents and the individual Project Specifications.

2.9.3 Quality Plan

(a) Concessionaire shall submit a Quality Plan, updated as necessary, to the MDTA for consultation and written comment. The Quality Plan shall address the topics contained in this Section and shall meet the specified requirements of this Section as applicable. The Quality Plan shall establish a “quality system team” which shall be distinct and separate from the design and construction production organization. The quality system team shall report directly to the Concessionaire’s Project Quality Manager (“Quality Manager”). The Quality Manager shall have the overall responsibility for development and management of the Concessionaire’s Quality Plan and shall be responsible for the overall Quality Control program of the Concessionaire, including the quality of management, design, and construction. The Quality Plan shall describe the quality system to be implemented at all levels of the Concessionaire’s organization, to include consultants, Subcontractors, suppliers, and vendors at all tiers.

(b) Concessionaire shall submit a comprehensive Quality Plan within thirty (30) days following the Effective Date. No construction shall commence until the Quality Plan is approved. Design activities may proceed upon submission of the Design Quality Control Plan and successful resolution of the MDTA’s consultation and written comment.

(c) Concessionaire shall conduct management reviews of its quality system as specified in this Section. As Work progresses, Concessionaire shall update the Quality Plan to reflect current conditions. Concessionaire and/or the MDTA may identify the need for revisions to the Quality Plan. The Concessionaire shall submit any revisions or updates to the Quality Plan to the MDTA for consultation and written comment within thirty (30) days of the identification of the need for a revision. In addition, Concessionaire shall submit its Quality Plan for consultation and written comment by the MDTA annually even if no revisions have occurred during that period of twelve (12) months. Concessionaire shall submit a conformed copy of the updated Quality Plan with revisions highlighted.

2.9.4 Organizational Requirements

Concessionaire shall designate a Project Quality Manager (“Quality Manager”), who shall be responsible for overseeing the overall quality program and the preparation, implementation, and update of the Quality Plan for the Concessionaire, including management, design, and construction. The Quality Manager shall not report to the Concessionaire’s Project Manager, but shall be directly responsible to, and report to senior management or similar level of the Concessionaire’s organization not directly responsible for design or construction. The Concessionaire’s Quality Manager shall be present and available for consultation with the MDTA on an on-call basis throughout the duration of the Project. The Quality Manager shall attend the monthly progress meetings at a minimum and such other meetings as the MDTA may request, including individual meetings between the Quality Manager and MDTA staff. The Quality Manager shall be the primary point of contact to the MDTA for all issues relating to the Concessionaire’s Quality Plan (preparation, review, implementation, and updates). The Quality

Manager, irrespective of other responsibilities, shall have defined authority for: ensuring that a quality system is established, implemented, and maintained; reporting on the performance of the quality system to the Concessionaire's management for review and as a basis for improvement of the quality system; and direct supervision of the Design QC Manager and Construction QC Manager and their respective staffs.

2.9.5 Quality System Requirements

Concessionaire shall define and document its policy for quality, including objectives for quality and its commitment to quality. Concessionaire shall review the quality system at defined intervals sufficient to ensure its continuing suitability and effectiveness in satisfying the requirements of this standard and the Concessionaire's stated quality policy and objectives. Concessionaire shall establish, document, and maintain a quality system as a means of ensuring that products conform to specified requirements. The Quality Plan shall include or make reference to the quality system procedures and outline the structure of the documentation used in the quality system. The Quality Plan shall cover temporary and permanent components. The Quality Plan shall either contain or reference the procedures and documentation structure that is considered critical to quality. The Quality Plan shall also establish or reference the procedures that make up the quality system. The plan shall detail the roles, responsibilities, and authority of the Concessionaire, the Quality Manager, the Designer, the Design and Construction QC Managers, and other team members having a significant quality role. The Quality Plan shall define policies, goals, and objectives of the organization and organizational interfaces.

2.9.6 Design Control

(a) Concessionaire shall establish and maintain documented procedures to control and verify the design of the product in order to ensure that the specified requirements are met. Design control shall be applied to computer programs, design tables, and other products that provide analytical results which are used to develop or check designs. The plan shall detail the roles of the: Designer; Design Manager; Design QC Manager; and Responsible Engineer(s)/Architect(s).

(b) Concessionaire shall prepare a Design Quality Control Plan for each design and development activity. The Design Quality Control Plan shall describe or reference these activities and define responsibility for their implementation. The Design Quality Control Plan shall be updated as the design evolves. The Design Quality Control Plan shall define the technical interfaces among the different groups which provide input to the design process or receive output. The necessary information shall be documented, transmitted, and regularly reviewed.

(c) Design input requirements relating to the product, including applicable statutory and regulatory requirements shall be identified, documented, and their selection reviewed by the Concessionaire for adequacy. Incomplete, ambiguous, or conflicting requirements shall be resolved with those responsible for imposing these requirements.

(d) Concessionaire shall document design output and express output in terms that can be verified and compared against design input requirements and validated. The control of these design outputs is an integral part of the Concessionaire's document control process, which comprises a portion of the Design Quality Control Plan. Output documentation shall be reviewed for compliance with Design Requirements.

2.9.7 Design Review and Verification

(a) At appropriate stages of design, documented reviews of the design results shall be planned and conducted. Participants at each design review shall include representatives of all functions concerned with the design stage being reviewed as well as other specialist personnel, as required.

(b) Design verification is the process of ensuring that verified requirements have been met. The Design Quality Control Plan shall include procedures for verifying and documenting that the design output meets the design input requirements. Verification shall include independent checks, tests, and/or reviews. Verification shall be performed under the direction of the Design QC Manager. Designs provided by Subconsultants shall be independently verified and documented under the direction of the Design QC Manager prior to acceptance and incorporation into the Work of others.

(c) Concessionaire shall perform design validation to ensure that the Project conforms to defined user needs and/or requirements. The Design Quality Plan shall identify appropriate validation procedures.

(d) Concessionaire shall establish and include in the Design Quality Control Plan procedures on how design changes are initiated, reviewed, approved, implemented, and recorded in order to maintain configuration control, and shall include the identification of Persons authorized to approve design changes. Any proposed changes should be reviewed and approved by the Responsible Engineer/Architect that produced the original Work. The degree and nature of control on design changes shall be at least equivalent to that under which the original Work was accomplished.

2.9.8 Inspection and Testing

(a) Concessionaire shall establish and maintain documented procedures for inspection and testing activities in order to verify that the specified requirements for the Project are met. The required inspection and testing, and the records to be established, shall be detailed in the Quality Plan or documented procedures. Concessionaire shall establish, document, and maintain procedures for inspection and testing activities. QC inspection and testing shall be performed in accordance with written procedures developed by the Concessionaire, or the proper issue of test procedures issued by industry, government, and/or code bodies available to test personnel.

(b) Quality Check Points and hold points (Work that must be inspected and approved by the assigned QC inspector before Work can proceed) shall be clearly established and

identified. QC inspection procedures, logistics, and reporting of results shall be clearly defined, developed, and implemented.

(c) Concessionaire shall ensure that incoming product is not used or processed until it has been inspected or otherwise verified as conforming to specified requirements. Verification of the specified requirements shall be in accordance with the Quality Plan and/or documented procedures.

(d) Concessionaire shall inspect and test the product as required by the Quality Plan and/or documented procedures and hold product until the required inspection and tests have been completed or necessary reports have been received and verified. Concessionaire shall establish and maintain records which provide evidence that the product has been inspected and/or tested.

Section 2.10 Public Art – Existing Murals

The Concessionaire shall properly remove murals on the second floor walls of the Maryland House Primary Service Facility, which shall be removed and given to MDTA in accordance with the MDTA Mural Conservation Plan, which will be later developed, but to be provided to the Concessionaire prior to removal. Removal and temporary storage and transfer shall be by a qualified art archivist in order to protect the murals for storage and to prevent damage.

ARTICLE III

Initial: Construction Plans and Drawings

Section 3.1 Conceptual Design Plans

Concessionaire, at its sole cost and expense, and in addition to each and every other obligation of Concessionaire under this Lease and Concession Agreement, shall be required to fund and implement the Initial Improvements and Reinvestments, the budgets of which are Exhibits G-1 and G-2 of the Lease and Concession Agreement. Attached hereto as Attachment A are the plans and project description and narrative that set forth the general scope and content of the Initial Improvements, preliminary floor plans for each of the Travel Plazas, interior and exterior materials lists which have been approved by MDTA (the “Conceptual Design Plans”). The Conceptual Design Plans shall be sufficient for Concessionaire’s compliance with Appendix 1, Section 2.2 of this Lease and Concession Agreement. Concessionaire shall prepare the Definitive Design Review Plans and the Final Design Review Plans generally in accordance with the Conceptual Design Plans. Concessionaire shall be responsible, at its sole cost and expense, for the performance of all activities related to the funding, design, construction and implementation of the Initial Improvements, including Community Outreach and obtaining all applicable Governmental Approvals.

Section 3.2 Definitive Design Review Plans

Concessionaire shall, on or before the time specified therefore in the Construction Schedule, submit to MDTA for its review and approval, eight (8) sets of Definitive Design Review Plans and specifications in accordance with this Lease and Concession Agreement for Initial Improvements (referred to herein, as the “Definitive Design Review Plans”) to be constructed in accordance with the timeline set forth on the Construction Schedule (as the same may be amended in accordance with this Lease and Concession Agreement). Concessionaire shall include with the Definitive Design Review Plans as much of the information described in Appendix 1, Section 3.4 of this Lease and Concession Agreement as may be available but, at a minimum shall include preliminary floor plans, plumbing, electrical and HVAC layouts and information and a preliminary LEED certification checklist. MDTA shall review the Definitive Design Review Plans and shall provide Concessionaire feedback with respect thereto, initial code review and to the extent necessary information is provided, a preliminary environmental review by necessary Governmental Authorities. Such MDTA review and feedback shall be completed as soon as reasonably practicable.

Section 3.3 Final Design Review Plans

Following the Definitive Design Review Plans, Concessionaire shall, on or before the time specified therefore in the Construction Schedule, submit to MDTA for its review and approval, eight (8) sets of Final Design Review Plans and specifications in accordance with this Lease and Concession Agreement for Initial Improvements (referred to herein, as the “Final Design Review Plans”) to be constructed in accordance with the timeline set forth on the Construction Schedule (as the same may be amended in accordance with this Lease and Concession Agreement). Concessionaire shall include with the Final Design Review Plans as much information as available as to each of the categories described in Appendix 1, Section 3.4 of this Lease and Concession Agreement. To the extent MDTA provided any review comments following submission of the Definitive Design Review Plans, Concessionaire will indicate which comments have and have not been incorporated into the Final Design Review Plans. Concessionaire shall provide an explanation as to those review comments that have not been incorporated into the Final Design Review Plans. Responses to previous review comments and marked-up plans, specifications and other data, each as determined by Concessionaire, may be submitted with the Final Design Review Plans. MDTA shall review the Final Design Review Plans and shall provide Concessionaire feedback with respect thereto, initial or follow-up code review and to the extent necessary information is provided, a preliminary or follow-up environmental review by necessary Governmental Authorities. Such MDTA review and feedback shall be completed as soon as reasonably practicable.

Section 3.4 Review and Approval of Improvements Plans

3.4.1 Concessionaire’s Submittals to MDTA

Concessionaire shall submit to MDTA, with respect to each Travel Plaza, on or before the time specified in the Construction Schedule for review and approval Concessionaire’s detailed construction plans and specifications for the Initial Improvements for each Travel Plaza based upon the Definitive Design Review Plans and the Final Design Review Plans for such

Travel Plaza. The exact nature of the Initial Improvements contained in the plans and specifications shall be determined by Concessionaire subject to the approval of MDTA.

3.4.1.1 Such plans and specifications shall include a clear description of, at a minimum, the following:

- (a) Site layout and uses;
- (b) Building masses and dimensions and details relating to the wall and roof systems;
- (c) HVAC systems;
- (d) Electrical distribution;
- (e) Plumbing layouts, including waste disposal and septic systems, if applicable;
- (f) Emergency systems, including emergency generators;
- (g) Illumination plans and systems, including parking lot security systems;
- (h) Interior and exterior building design features and finishes with material specifications, including proposed color samples of all prominent materials including but not limited to walls, furniture, floor tiles, bathroom partitions, case work, trim work, and ceilings;
- (i) Furniture, fixtures and equipment;
- (j) Parking and striping layout;
- (k) Idle-reduction systems;
- (l) Access ways;
- (m) Traffic patterns;
- (n) Services available at each Travel Plaza at any particular time, particularly restroom services;
- (o) The Welcome/Visitor Centers;
- (p) The kitchen layout and design;
- (q) Stormwater drainage;
- (r) Signage;
- (s) Trash and recycling receptacles, new fences, public comment boxes, telephones, ATMs, security and surveillance systems and other equipment and systems required for the provision of the services identified in Article IX;
- (t) Fuel Service Equipment systems, specification, design and layout; and
- (u) Food and Beverage Equipment layout and specifications for Major Subcontractors.

3.4.1.2 Such detailed plans as submitted by Concessionaire shall provide:

- (a) that all Fuel Service facilities and Fuel Service Equipment will comply with all Legal Requirements and will be equal to or exceed the standards and capacity of facilities normally developed under similar circumstances (including the number of fueling locations), thereafter any new Fuel Service Equipment shall be of a quality equal or superior to the original equipment;
- (b) that all aspects of the Leased Premises shall conform to all requirements of the ADA, as may be amended prior to submission of such detailed plans, and any other applicable Legal Requirements and the Performance Standards;
- (c) that restrooms will be located in a secure, highly visible locations;
- (d) that a janitor's closet shall be provided adjacent to the restrooms for maintenance personnel;
- (e) for sufficient LEED elements in the planning, design, construction and/or operation of each Travel Plaza such that the Travel Plazas shall result in a silver LEED certification under the most current LEED standards.

3.4.1.3 Such plans and specifications shall also include a budget for such Initial Improvements, Permitting Schedule, a revised Construction Schedule depicting the critical milestones for each Travel Plaza and an applicable LEED checklist.

3.4.1.4 In connection with MDTA's review and approval of all Equipment and Fixtures and Fuel Service Equipment, Concessionaire shall provide MDTA with such documentary and other information regarding the type and quality of such Equipment and Fixtures and Fuel Service Equipment, as MDTA may request, including catalog cuts and other manufacturer specifications and warranties.

3.4.1.5 MDTA will use good faith efforts to approve or disapprove the Definitive Design Review Plans, the Final Design Review Plans or any Plans and Specifications related thereto (or proposed modification thereof) as soon as reasonably practicable following its receipt of the same prepared in accordance with the provisions of this Article by Concessionaire; provided that any such disapproval of any such Definitive Design Review Plans and the Final Design Review Plans shall not be based upon design or other considerations unless such design or considerations are substantially different from the Conceptual Design Plans, earlier approved versions of the Definitive Design Review Plans and the Final Design Review Plans, and, to the extent applicable, Improvements Plans submitted by Concessionaire and approved by MDTA with respect to other similar portions of the Leased Premises. Following any disapproval by MDTA, Concessionaire and MDTA agree to cooperate with one another to address and resolve MDTA's concerns as soon as reasonably possible. The Plans and Specifications, once approved as hereinabove provided, only may be amended or supplemented with MDTA's prior written

approval (such plan as approved and as same may be so amended or supplemented, being hereinafter referred to as the “Improvements Plan”). Any inaction by MDTA to approve or disapprove any such plans shall not be construed to mean MDTA approval. The provisions of this Appendix 1, Section 3.4 of the Lease and Concession Agreement shall be subject to the further provisions of Appendix 1, Section 3.6 of the Lease and Concession Agreement below.

3.4.2 Schedule Review Meetings

Prior to Completion of the Initial Improvements, MDTA and Concessionaire shall meet not less frequently than weekly at such time and place as the parties may mutually agree to review the Permitting Schedule, Community Outreach Schedule and Construction Schedule (or any modifications or updates to such schedules) and progress of the construction and redevelopment of the Leased Premises.

Section 3.5 Governmental Approvals

(a) Concessionaire shall be responsible, at its sole cost, to diligently pursue any and all applicable Governmental Approvals (including, if required, appearing at any required public meeting or hearing, or otherwise assisting MDTA in obtaining any approvals pursuant to necessary Governmental Authorities) as may be necessary to implement the Improvements Plan. Concessionaire shall pay or reimburse MDTA promptly upon demand for any reasonable fees, costs and expenses incurred by MDTA in connection with any review by necessary Governmental Authorities documentation or proceedings. Concessionaire shall keep MDTA currently advised as to the dates the applications are filed and as to the dates of any hearings thereon, and as to the dates applications are approved or rejected. MDTA shall be named as the owner of the Leased Premises on all such applications and will cooperate with Concessionaire, at no cost to MDTA, in obtaining approvals from Governmental Authorities, as necessary or appropriate, for the Improvements or operations at the Travel Plazas or on the Leased Premises. Concessionaire shall file any and all applications with applicable Governmental Authorities for any Travel Plaza or the Leased Premises no later than forty-five (45) days after MDTA’s approval of the Final Design Review Plans for such Travel Plaza or the Leased Premises.

(b) If, despite diligent effort on the part of Concessionaire, Concessionaire is unable to obtain all Governmental Approvals necessary to implement the Improvements Plans for any one or more Travel Plazas or the Leased Premises, as approved by MDTA or as reasonably modified to address concerns or requests raised during the permitting, licensing and Governmental Approval process, on or prior to the date which is one hundred eighty (180) days following submission of the application to the applicable Governmental Authorities for any such Travel Plaza or the Leased Premises, the parties shall in good faith propose mutually satisfactory changes to the Improvements Plan and/or Construction Schedule for any such facility and/or this Lease and Concession Agreement as a consequence of any such concerns or requests.

(c) If Concessionaire is unable to obtain all Governmental Approvals necessary to implement the Improvements Plan for any of the Travel Plazas or the Leased Premises within one year from the first application for such Governmental Approval due to litigation pursued by third parties, MDTA and Concessionaire will endeavor in good faith to develop mutually

satisfactory changes to address any such concerns or requests raised as a consequence of such litigation.

(d) If no mutually satisfactory changes to this Lease and Concession Agreement and/or the Improvements Plan for any affected Travel Plaza or the Leased Premises are developed within one hundred eighty (180) days following the earlier of (i) one year following the initial application for such Governmental Approval, or (ii) the refusal of the applicable Governmental Authority to issue such necessary Governmental Approval for such Travel Plaza or the Leased Premises or if implementation of the Improvements Plan is otherwise delayed due to litigation by third parties, the parties agree that renovation to such applicable Travel Plaza will be modified to the closest alternative that is commercially reasonable and for which approval can be obtained and which is consistent with the other Travel Plaza.

Section 3.6 Concessionaire's Construction Drawings

MDTA shall have the right to review and approve all schematic, design, construction, and remodeling drawings relating to any Improvements and the Travel Plazas (including all related signage). With respect to all Improvements to be constructed by Concessionaire, Concessionaire, at its sole cost and expense, shall provide to MDTA detailed plans and specifications for the installation, construction, dimensions and location of such Improvements for MDTA's approval. Such plans and specifications shall be prepared in accordance with all applicable Legal Requirements by a licensed engineer, architect or landscape architect (as applicable) reasonably acceptable to MDTA and delivered under seal. In the event that MDTA disapproves any aspect of such plans and specifications, MDTA shall specify the reasons therefore in reasonable detail to Concessionaire. MDTA will use diligent efforts to approve or disapprove such plans and specifications as soon as reasonably practicable following its receipt of detailed plans and specifications prepared in accordance with the provisions hereof by Concessionaire. Following any disapproval of such plans and specifications, Concessionaire and MDTA agree to cooperate with one another to address and resolve MDTA's concerns as soon as reasonably possible. Such plans and specifications, once approved as hereinabove provided, only may be amended or supplemented with MDTA's prior written consent (such plans and specifications, as same may be so amended or supplemented, being hereinafter referred to as the "Concessionaire's Construction Drawings") and shall be incorporated herein. Any inaction by MDTA to approve or disapprove shall not be construed to mean MDTA approval. Review and approval by MDTA of Concessionaire's Construction Drawings shall not relieve Concessionaire from any responsibility for developing fully functional Improvements, furnishing equipment and materials of proper dimension or quantity, nor shall such review and approval relieve Concessionaire of responsibility for errors and omissions, code compliance, Legal Requirements, and/or completeness in the preparation of construction drawings. By its review and approval, MDTA shall in no way be deemed to have warranted the documents satisfy the foregoing requirements or to have assumed any responsibility or liability for errors or omissions contained therein. Concessionaire acknowledges that any approval of MDTA under this Article shall not be deemed a representation or warranty of MDTA that the Concessionaire's Construction Drawings are adequate for any use or purpose or comply with any applicable Legal Requirement, but shall merely be the consent of MDTA thereto for purposes of this Article.

ARTICLE IV
Progress with Construction

Section 4.1 Construction of Improvements; MDTA Status Report; Minimal Inconvenience

(a) Following the approval of the Improvement Plans and the entering into of the applicable contracts with the General Contractor and Construction Subcontractors but prior to the commencement of any construction work with respect to the Initial Improvements at any applicable Travel Plaza, Concessionaire shall require the Construction Bonds be delivered for those Travel Plazas where the Improvements are being performed.

(b) At such time as MDTA shall have issued a NTP to Concessionaire, Concessionaire shall diligently proceed to, and shall, complete the installation and construction of the Improvements contemplated by the Concessionaire's Construction Drawings, in accordance with Plans and Specifications, the NTP, Concessionaire's Construction Drawings, on time in accordance with the Construction Schedule and the terms hereof. Concessionaire shall not commence any work unless and until a NTP has been issued by MDTA. All such work shall be performed in a good and workmanlike manner, using components that are consistent with and meet the requirements of the Plans and Specifications, are of good quality and constructed in a good and workmanlike manner in accordance with the industry standards of their respective kind and components in each case in accordance with all applicable Legal Requirements as approved in the Plans and Specifications. All such work shall be paid by Concessionaire in a timely manner and in accordance with the progress benchmarks identified in Concessionaire's Construction Schedule. Concessionaire shall use commercially reasonable efforts to minimize inconveniences to the motoring public during the construction of any and all Improvements.

(c) Concessionaire shall keep MDTA informed, on not less than a weekly basis, of the progress of the Completion of construction of any and all Improvements, and the anticipated Completion date thereof. During the construction of the Improvements, MDTA and MDTA's Authorized Representative(s) shall have the right to ascertain Concessionaire's compliance with the terms and provisions of this Lease and Concession Agreement and the pertinent NTP and otherwise ascertain the status of the Completion thereof.

(d) Promptly following the Completion of such construction of any Improvements, Concessionaire shall provide to MDTA a certificate from Concessionaire and a licensed engineer, architect or landscape architect (as applicable) reasonably acceptable to MDTA, in form and substance reasonably acceptable to MDTA, to the effect that all such work has been completed in accordance with the Plans and Specifications, all applicable Legal Requirements, Concessionaire's Construction Drawings and the NTP, which shall be delivered with an Acknowledgement. In addition, Concessionaire shall provide MDTA with the Asbestos Certification in a format acceptable to the MDTA prior to Completion. If applicable, Concessionaire shall deliver copies of any and all current licenses and registration(s) for all pertinent licensed professionals providing design, construction and environmental services with

respect to this Lease and Concession Agreement to MDTA no later than forty-five (45) days prior to the start of any construction or remediation work, as evidence that such are in full force and effect.

Section 4.2 Construction Schedule; Completion of Initial Improvements

Concessionaire shall complete the Initial Improvements in accordance with the Construction Schedule and successfully meet progress benchmarks identified in the Construction Schedule, Attachment B. Concessionaire shall have the right to propose changes to the Construction Schedule from time to time, which shall be subject to the approval of MDTA, which approval shall not be unreasonably withheld or delayed. Concessionaire shall nonetheless consult with and keep MDTA reasonably apprised as to any such modification or amendment. All Construction Schedule changes, modifications or amendments shall be submitted to MDTA. Any change, modification or amendment to the Construction Schedule for either Travel Plazas herein shall not extend the Outside Completion Date, except in accordance with Appendix 1, Section 5.4.

Section 4.3 Reinvestments

Attachment F of this Appendix sets forth the proposed Reinvestments through the Reinvestment Plan. Not later than _____ and not later than each March 1 in each Lease Year thereafter, Concessionaire shall deliver to MDTA a rolling five year capital expenditure plan, which plan will not be materially inconsistent with the Reinvestment Budget, Exhibit G-2 of the Lease and Concession Agreement, and Attachment F of Appendix 1, as the same may be modified by mutual agreement of Concessionaire and MDTA, to the extent necessary to address the needs and conditions of the Leased Premises (the “Reinvestment Plan”). To the extent, determined by MDTA based upon the proposed items on the applicable Reinvestment Plan, Concessionaire shall submit Plans and Specifications for MDTA’s review and approval in accordance with the provisions of Appendix 1, Article III of the Lease and Concession Agreement. Concessionaire shall make the Reinvestments pursuant to the Reinvestment Plan, and all costs incurred in connection with the Reinvestment Plan shall be the sole responsibility of Concessionaire.

Section 4.4 Operational Capability

4.4.1 General

MDTA shall issue Notice of Operational Capability when a Travel Plaza is Complete and ready for occupancy. Operational Capability notice will not be issued until MDTA receives all applicable licensed engineer and architect statements indicating the Improvements and Work are completed in accordance with the plans, specifications, and all Legal Requirements and MDTA has received the Asbestos Certification. Operational Capability does not preclude the development of a “punch list” identifying other items that will need to be implemented prior to any Travel Plaza being determined Complete. As a condition of Operational Capability for one Travel Plaza, the Travel Plaza must be in Successful Operation for at least two weeks before the other Plaza is shut down for redevelopment. Successful Operation means the full operational

performance of the Travel Plaza, including the provision of all retail and commercial activities including fueling, and public availability to all areas of the Travel Plaza to be used by the public, including but not limited to parking, restrooms, and public eating areas.

4.4.2 Final Clean-Up

As a prerequisite to Operational Capability certification, the construction area and all other adjoining areas, other than those owned by the Concessionaire, occupied by the Concessionaire during the construction of said Lease and Concession Agreement shall be cleaned in accordance with all applicable Governmental Rules of all surplus and discarded materials, spilled materials, excess materials left deposited on the permanent Work as a result of the Concessionaire's operations, false work, and rubbish and temporary structures and buildings, that were placed thereon by the Concessionaire. The adjoining areas mentioned above will be reshaped, seeded, and mulched, or otherwise restored as directed by the MDTA's Authorized Representative at the Concessionaire's expense.

ARTICLE V **Requirements Upon Completion**

Section 5.1 Warranties; As Built Plans

Promptly following the Completion of construction of any Improvements, Concessionaire shall deliver to MDTA copies of any and all written warranties or certificates relative to such Improvements, including an Asbestos Certification and lead paint abatement reports, Fuel Service Equipment warranties and reports, roof warranties, and all other written warranties relating to the buildings and building systems. Concessionaire shall use commercially reasonable efforts to cause MDTA to be named as a beneficiary on all warranties in excess of five (5) years at no cost to Concessionaire. Within ninety (90) days following the Completion of construction of any Improvements, Concessionaire shall submit to MDTA one (1) electronic and one (1) paper copy of the drawings and complete files of the "As-built" Plans and Specifications of the same. Upon expiration or Termination of this Lease and Concession Agreement, all warranties of any kind or nature existing with respect to Improvements that are or will become the property of MDTA as contemplated by Section 2.7 of the Lease and Concession Agreement shall automatically be assigned and set over to MDTA absolutely, without further action on the part of the parties, with the same force and effect as though all such warranties expressly ran for the benefit of MDTA. Without limiting the effectiveness of the preceding sentence, Concessionaire shall execute and deliver, at no cost to MDTA such further instruments of assignments with respect to any one or more of such assignments as MDTA may reasonably request from time to time in order to more fully confirm, perfect or protect MDTA's right, title or interest in or to such warranties.

Section 5.2 Title to Plans and Specifications

Notwithstanding any contrary provision contained herein, the Conceptual Design Plans and, upon MDTA approval thereof, the Definitive Design Review Plans, the Final Design

Review Plans, and all Improvement Plans, including Concessionaire's Construction Drawings and all other Plans and Specifications, including "As-Builts" surveys or plans (but excluding plans for Improvements that are property of a Subcontractor), shall be jointly owned by MDTA and Concessionaire. In furtherance of the foregoing, Concessionaire hereby assigns, transfers and sets over to MDTA, Concessionaire's right, title and interest therein, such that during the Term, Concessionaire and MDTA shall jointly own all such Plans and Specifications and after the Term MDTA shall solely own all such Plans and Specifications thereafter.

Section 5.3 Discharge of Liens

5.3.1 No Creation of Liens

Except as provided in Appendix 3, Concessionaire shall not create or permit to be created any Lien upon or against any portion of any of the Leased Premises, the Improvements, MDTA's income from any of the foregoing, or any assets of MDTA, and Concessionaire shall not do or suffer any other matter or thing whereby the rights of MDTA in the Leased Premises, the Improvements or any part thereof might be diminished or impaired.

5.3.2 Discharge or Bonding over of Liens

If any Lien created by Concessionaire or any Subcontractor shall be filed upon or against any portion of the Leased Premises, the Improvements, MDTA's income from any of the foregoing, or any assets of MDTA, then Concessionaire, within twenty (20) days after notice of the filing thereof, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise.

5.3.3 No Liability of MDTA for Labor or Materials

Nothing in this Lease and Concession Agreement shall be deemed or construed in any way as constituting the consent or request of MDTA, expressed or implied by inference or otherwise, to any contractor, Subcontractor, laborer or materialmen for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of any portion of the Leased Premises, the Improvements, or as giving Concessionaire any right, power or authority to contract for or permit the rendering of any services or the furnishing of materials that would give rise to the filing of any Lien against MDTA's interest in any portion of the Leased Premises, the Improvements, MDTA's income from any of the foregoing or any assets of MDTA. Notice is hereby given, and Concessionaire shall cause all contracts for construction relating to the Leased Premises or the Improvements to provide, that MDTA shall not be liable for any work performed or to be performed on the Leased Premises by any contractor, Subcontractor, laborer or materialmen for any materials furnished or to be furnished on the Leased Premises by any contractor, Subcontractor, laborer or materialmen and that no Lien for such work or materials shall attach to or affect the estate or interest of MDTA in and to the Leased Premises, the Improvements, MDTA's income from any of the foregoing or any assets of MDTA. Concessionaire shall have no power to do any act or make any contract that may create or be the foundation for any Lien upon the estate, income or assets of MDTA, or of any interest of MDTA in the Leased Premises or the Improvements.

5.3.4 Asbestos Certification

(a) Concessionaire shall not use materials containing asbestos. It is the expressed intent of the MDTA that no materials containing asbestos of any kind or amount be installed during the course of the Work. If any asbestos containing material is found to have been installed as a result of the Work, Concessionaire shall be required to remove such material, at its sole cost and expense, as soon as such determination is made. The Concessionaire shall also replace the removed material with materials that do not contain asbestos of any kind or amount. Throughout the Term of the Lease and Concession Agreement, the MDTA reserves the right to conduct testing on any building material(s) suspected to contain asbestos unless the Concessionaire provides a certification from the manufacturer that the building material(s) in question are asbestos-free.

(b) Upon completion of the Work, the Concessionaire shall provide a notarized certification, signed by a Maryland licensed architect or engineer, in a format acceptable to the MDTA, that no asbestos-containing materials have been used in the Work.

Section 5.4 Outside Completion Date

Concessionaire shall Complete the Initial Improvements, in accordance with the Plans and Specifications developed pursuant to this Appendix, at each and all of the Travel Plazas on or before _____ (the “Outside Completion Date”) provided that:

(a) The Outside Completion Date shall be extended as a consequence of an Unavoidable Delay in accordance with Section 9.38 of the Lease and Concession Agreement;

(b) The Outside Completion Date shall be extended:

- (i) For each day that any Definitive Design Review Plans, any Final Design Review Plans or any Plans and Specifications (to the extent the same are submitted in accordance with the requirements and content of Appendix 1, Article 3) are not approved by MDTA within sixty (60) days of submission of the same pursuant to Appendix 1, Article 3 of this Lease and Concession Agreement;
- (ii) For each day of delay for obtaining Governmental Approvals beyond customary time periods for obtaining such Governmental Approvals and as provided in Appendix 1, Section 3.5; and
- (iii) For each day of actual delay with respect to any Improvements at any of the Travel Plazas as a result of any Pre-Existing Contamination not actually known by Concessionaire on the date hereof;

provided that, with respect to the items described in this clause (b), Concessionaire shall as soon as practicable after the occurrence thereof notify MDTA in writing of the same, together with a reasonably detailed explanation of the event or occurrence and a reasonable estimate of the delay that affects the Outside Completion Date, including an updated Construction Schedule. In connection with any claimed delay under this Section, MDTA, after receipt of such notice, may

request that Concessionaire provide such further supporting evidence relative to the event or occurrence as may be reasonably requested by MDTA.

(c) Without limiting the generality of the provisions of Appendix 1, Sections 5.4(a) and 5.4(b), Concessionaire may request that the Outside Completion Date be extended upon application to MDTA stating the reasons for the need for such extension, which application may be granted or denied by MDTA in its sole discretion;

(d) Without limiting the generality of the provisions of Appendix 1, Section 5.4(c), Concessionaire shall not be in breach of this Appendix 1, Section 5.4 if Concessionaire has not Completed the Initial Improvements on or before the Outside Completion Date as the same may be extended pursuant to Appendix 1, Sections 5.4(a), 5.4(b) or 5.4(c) if and to the extent that Concessionaire is diligently pursuing all Governmental Approvals and the Completion of the Improvements. If Concessionaire fails to reach progress benchmarks in accordance with the Construction Schedule, Concessionaire shall be in breach of this Lease and Concession Agreement. MDTA shall impose and Concessionaire shall pay monthly the per diem sum of liquidated damages for failing to meet such progress benchmarks identified in Concessionaire's Construction Schedule, which shall be set as the projected annual average per diem revenues over the initial five year period. In addition, if Concessionaire fails to complete Initial Improvements on or before the Outside Completion Date, MDTA shall, impose and Concessionaire shall pay monthly the per diem sum of liquidated damages per Travel Plaza for each calendar day each such Travel Plaza is not Completed on or before the Outside Completion Date as the same may be extended pursuant to Appendix 1, Sections 5.4(a), 5.4(b) or 5.4(c) on the day Monthly Payments are due. Concessionaire hereby acknowledges and agrees that such liquidated damages are not a penalty but a reasonable estimate of the damages caused by such delays.

(e) If the Outside Completion Date is effectively extended pursuant to this Section, Concessionaire will send MDTA a letter confirming such revision to the Outside Completion Date.

(f) If MDTA disagrees with or disputes all or any portion of any Concessionaire's claim for an extension under Appendix 1, Section 5.4(b), MDTA may refer the matter to the dispute resolution procedure pursuant to Article XVI of the Lease and Concession Agreement.

Attachment D
To Appendix 1 of the
I-95 Travel Plazas Lease and Concession Agreement

GENERAL CONTRACTOR
RECOGNITION AGREEMENT

THIS RECOGNITION AGREEMENT (this "Agreement") is dated as of the ____ day of _____, 20____ by and between [Identify Name of Contractor], a [Identify State of Incorporation and Type of Business Entity] ("General Contractor"), [Identify Name of Concessionaire the State in which Incorporated and Type of Business Entity] ("Concessionaire"), and the Maryland Transportation Authority an agency of the State of Maryland (hereinafter referred to as "MDTA"), pursuant to the statutory authority of Sections 4-101, 4-201, 4-204(a), 4-205, and 4-209 of the Transportation Article of the Annotated Code of Maryland.

WITNESSETH:

WHEREAS, title to the two travel plazas on I-95, commonly known as the Maryland House, which is located at mile post 82 in Harford County and the Chesapeake House, which is located at mile post 97 in Cecil County (the "Travel Plazas") is held in the name of the State of Maryland to the use of the State Roads Commission and the MDTA is the successor to the State Roads Commission, pursuant to Section 4-209 of the Transportation Article of the Annotated Code of Maryland; and

WHEREAS, on June 27, 2011, the MDTA issued a Request for Proposals "I-95 Travel Plazas Public/Private Partnership", Contract Number 60833436R (together with all schedules, exhibits, amendments, and written answers thereto, the "RFP") as amended, for the financing, design, construction, operation and maintenance of the MDTA's Travel Plazas; and

WHEREAS, in response to the RFP, [Identify Name of Successful Proposer and the state in which it is incorporated] ("Concessionaire") submitted a proposal for the performance of such services (the "Proposal"), and based upon the Proposal and supporting documentation and other information submitted by Concessionaire, MDTA selected the Proposal; and

WHEREAS, contemporaneously herewith, MDTA and Concessionaire have executed and delivered that certain Lease and Concession Agreement dated as of this same date (the "Lease and Concession Agreement"); and

WHEREAS, Concessionaire has hired General Contractor to provide design and construction services at the Travel Plazas, and Concessionaire and General Contractor have entered into that certain Design and Build Construction Contract, dated as of the ____ day of _____, 20____ (the "General Contract"), in order to confirm their mutual understandings and agreements with respect for the provision of such services; and

WHEREAS, MDTA, Concessionaire and General Contractor now desire to execute and deliver this Agreement in order to recognize and confirm the effectiveness of the General Contract as well as the Lease and Concession Agreement and to set forth their respective rights and obligations with respect thereto.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration the sufficiency of which is hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Incorporation of Recitals: Definitions. The recitals to this Agreement are hereby incorporated into the body of this Agreement as an integral part hereof. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Lease and Concession Agreement.

2. Recognition of the Lease and Concession Agreement. General Contractor acknowledges that MDTA and Concessionaire have entered into the Lease and Concession Agreement which, subject to the terms and conditions of Section 1.1(b) thereof, will not be effective unless and until executed by each of the OAG, the MDTA Board, and the BPW. General Contractor acknowledges and agrees that it has received a true and complete copy of the Lease and Concession Agreement in connection with its execution of the General Contract. General Contractor agrees to cooperate fully with Concessionaire in connection with Concessionaire's performance of its obligations under the Lease and Concession Agreement. General Contractor specifically acknowledges Concessionaire's design and construction obligations to MDTA and assumes towards Concessionaire all such duties as Concessionaire by the Lease and Concession Agreement has to MDTA thereunder.

3. Recognition of General Contract. MDTA recognizes that Concessionaire and General Contractor have entered into the General Contract. Provided that: (i) the General Contract is then in full force and effect and (ii) General Contractor is not then in material default under the General Contract beyond any applicable grace or cure periods provided in the General Contract, the General Contract shall not automatically be terminated by the occurrence of a Termination of the Lease and Concession Agreement but rather MDTA shall have the unilateral ability to either (A) recognize and accept the General Contract and the General Contractor as the general contractor thereunder and be bound to General Contractor under all terms and conditions of the General Contract, or (B) terminate, and neither recognize nor accept, the General Contract and the General Contractor, all as more fully set forth below.

(a) If MDTA elects to recognize the General Contract and the General Contractor, MDTA shall be entitled, following such Termination of the Lease and Concession Agreement (or if such Termination is disputed lawfully and in good faith by Concessionaire, then upon a Final Decision (as hereinafter defined) declaring the termination of the Lease and Concession Agreement valid) to exercise step-in rights and directly enforce the General Contract against General Contractor in accordance with its terms without any necessity for a consent or approval from Concessionaire. Following

such Termination of the Lease and Concession Agreement (or if such Termination is disputed lawfully and in good faith by Concessionaire, then upon a Final Decision (as hereinafter defined) declaring the termination of the Lease and Concession Agreement valid), upon issuance of such notice contemplated by the foregoing sentence, the General Contract shall continue in full force and effect as a direct contract, in accordance with its terms (except as provided in this Agreement) between MDTA and General Contractor. As used herein, “Final Decision” means a decision from a court of competent jurisdiction as to which the appeal period has expired with no appeal having been taken. General Contractor further agrees to incorporate into the General Contract and be bound by any contract provisions that are then required by the State of Maryland to be included in contracts with the State.

(b) If MDTA elects to terminate, MDTA, without liability to MDTA, agrees that General Contractor will not be liable for any representation or warranty of, or any act, omission, or breach by General Contractor under the General Contract which occurs following the effective date of such termination.

MDTA’s exercise of its step-in rights hereunder shall not be construed to extend liability to MDTA for any person’s right to payment or constitute a waiver of the State’s sovereign immunity. To the extent such a waiver may be construed by a court of competent jurisdiction, any such waiver shall be strictly limited to the extent of MDTA’s actual involvement with General Contractor during the time period beginning on the date which MDTA exercises its step-in rights and ending on the date which MDTA designates a Replacement Concessionaire.

4. Attornment. Following Termination of the Lease and Concession Agreement (or if such Termination is disputed lawfully and in good faith by Concessionaire, then upon a Final Decision declaring the termination of the Lease and Concession Agreement valid), upon General Contractor’s receipt of notice from MDTA that Concessionaire has been or will be replaced by MDTA with one or more Persons designated by MDTA to act as a replacement for Concessionaire (collectively, and to the extent it assumes the role of a replacement contractor for Concessionaire a “Replacement Concessionaire”), General Contractor will, subject to the provisions of Section 3 of this Agreement, attorn to and recognize any such Replacement Concessionaire as a substitute for Concessionaire under the General Contract, without any necessity for a consent or approval from Concessionaire. General Contractor’s attornment to and recognition of any such Replacement Concessionaire shall be effective and self-operative following Termination immediately upon General Contractor’s receipt of such notice without the execution or delivery of any further instrument. Upon any such Replacement Concessionaire’s request, General Contractor will execute and deliver to such Replacement Concessionaire and MDTA an instrument reasonably acceptable to General Contractor acknowledging General Contractor’s attornment to and recognition of such Replacement Concessionaire. Following Termination, upon the receipt by General Contractor of the notice contemplated by this Section, the General Contract shall continue in full force and effect as a direct contract, in accordance with its terms (except as provided in this Agreement) between the Replacement Concessionaire and General Contractor.

5. Replacement Concessionaire. Subject to the provisions of Section 3 above, Replacement Concessionaire will assume and be bound, as the concessionaire, to General Contractor under all covenants and conditions of the General Contract for the remainder of the term of the General Contract and any renewal or extension thereof provided for under the terms of the General Contract, except General Contractor agrees that no Replacement Concessionaire:

(a) will be liable for any representation or warranty of, or any act, omission, or breach by Concessionaire under the General Contract which occurs prior to the date General Contractor receives notice from MDTA that Concessionaire has been or will be replaced;

(b) will be subject to any right of set-off or defense in the General Contract that General Contractor may have against Concessionaire under or with respect to the General Contract;

(c) will be bound by any provisions that purport to change or would have the effect of amending the General Contract upon attornment to and assumption by MDTA or a Replacement Concessionaire;

(d) if the Replacement Concessionaire is MDTA or any other agency of the State of Maryland, will be subject to any right of set off or recoupment against any amounts due and payable by General Contractor under the General Contract; or

(e) if the Replacement Concessionaire is MDTA or any other agency of the State of Maryland, will be obligated for payment of any Savings, Bonus, Interest, Prior Services or indemnification reimbursement as contemplated under the General Contract.

The foregoing shall not limit General Contractor's right to exercise against Replacement Concessionaire any offset rights otherwise expressly set forth in the General Contract to the extent available to General Contractor because of events first occurring after the date of attornment. The foregoing shall not limit General Contractor's right to exercise any rights, at law or in equity, against Concessionaire.

6. No Exercise of Lease and Concession Agreement Remedies against General Contractor. So long as (i) the General Contract has not expired or otherwise been terminated by Concessionaire and (ii) there is no existing material default under or breach of the General Contract by General Contractor that has continued beyond applicable cure periods, MDTA shall not name or join General Contractor as a defendant in any exercise of MDTA's rights and remedies arising upon an Event of Default (as defined in the Lease and Concession Agreement) under the Lease and Concession Agreement unless applicable law requires General Contractor to be made a party thereto as a condition to proceeding against Concessionaire or prosecuting such rights and remedies. In the latter case, MDTA may join General Contractor as a defendant in such action only for such purpose and not to terminate the General Contract or otherwise

diminish or interfere with General Contractor’s rights under the General Contract or this Agreement in such action.

7. Estoppel Certificates and Other Information. Whenever reasonably requested by MDTA (but not more often than once per year), Concessionaire and General Contractor, from time to time, shall severally execute and deliver to MDTA, within fifteen (15) Business Days of such request, and without charge to MDTA, an estoppel certificate in a form reasonably acceptable to Concessionaire and General Contractor setting forth information MDTA may reasonably require to confirm that the General Contract is and remains in full force and effect. Upon exercise of MDTA’s rights under paragraph (a) of Section 3 above, General Contractor shall also provide to MDTA or any Replacement Concessionaire:

(a) upon MDTA’s reasonable request therefore, copies of the General Contract and subcontracts General Contractor has entered with Construction Subcontractors and Design Professionals, including all amendments thereto and supplements thereof, which shall be considered and marked by General Contractor as proprietary commercial records exempt under the MPIA as provided in Section 11 below; and

(b) upon MDTA’s reasonable request therefore, copies of all construction payment and performance bonds issued pursuant to the General Contract.

In addition, General Contractor shall provide to MDTA any Notice of Termination under the General Contract at the same time such notice is provided to Concessionaire.

8. Notices. Any notice required or permitted to be given by any party under the terms of this Agreement shall be in writing and deemed to have been duly given only when mailed postage prepaid by certified or registered mail, with return receipt requested, or by recognized overnight delivery service, addressed to the party to which the notice is to be given at the address set forth below, or at any other address specified in a notice given by such party to the others:

If to MDTA:

Maryland Transportation Authority

Attention: _____

E-mail: _____

With a copy to:

If to General Contractor:

With a copy to:

If to Concessionaire:

With a copy to:

9. Waiver. Concessionaire hereby waives any claim or cause of action against General Contractor arising out of or relating to Sections 3 and 4 of this Agreement, in reliance on a written notice from MDTA to General Contractor.

10. Reservation of Immunities. Without limiting the application of Section 14 hereof, MDTA reserves all immunities and defenses arising out of its sovereign status, including under the Constitution of the State of Maryland and the Eleventh Amendment of the United States Constitution, and no waiver of any such immunities or defenses shall be implied or otherwise deemed to exist by reason of recognizing the General Contract or by entering into this Agreement or by any express or implied provisions hereof, or by any actions or omissions to act by any State Parties, whether taken pursuant to the Agreement.

11. Public Records. Any information required to be submitted to MDTA, or requested by MDTA of General Contractor, pursuant to the Lease and Concession Agreement or this Agreement that General Contractor considers confidential, financial information given in confidence, intellectual property or trade secret or General Contractor otherwise considers to be exempt from disclosure pursuant to the Maryland Public Information Act, State Government Article, Title 10, Subtitle 6, of the Annotated Code of Maryland, (MPIA) shall be labeled as such on submission by General Contractor to the State, unless such earlier claims were already adjudicated as such, accompanied with an explanation justifying exemption from release consistent with the MPIA. Should the General Contractor's asserted exemption be challenged by any Person, the final administrative authority to release or exempt any or all material so identified rests with the administrative body or court of jurisdiction. In the event such information is requested from MDTA under the MPIA, MDTA shall notify General Contractor of such request and permit General Contractor five (5) Business Days to respond, defend or otherwise prevent the release of the information. General Contractor hereby indemnifies MDTA and each of its officers, employees and agents from all costs, damages and expenses incurred in connection with refusing to disclose any material which General Contractor has designated as a trade secret.

12. No Derogation of Police Powers. Nothing in any of the Lease and Concession Agreement or the General Contract shall be in derogation of the valid exercise of the police powers of the State of Maryland.

13. Consent to Jurisdiction. General Contractor irrevocably consents with respect to any claims or remedies at law or in equity, arising out of or in connection with the Lease and Concession Agreement, this Agreement and/or General Contract to the venue and jurisdiction in the courts of the State of Maryland, or the U.S. District Court for the District of Maryland and irrevocably waives any objections that it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise, providing, that nothing herein shall be construed to waive any of the State's immunities.

14. Claims Against the State. General Contractor expressly acknowledges and agrees that the sole and exclusive means for the presentation of any claim against the State and MDTA arising from, or in connection with the Agreement shall be brought by General Contractor in accordance with the laws of Maryland and that General Contractor further agrees not to initiate legal proceedings against the State or MDTA in any state or federal court unless authorized pursuant to the laws of Maryland.

15. Miscellaneous.

(a) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

(b) If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

(c) This Agreement shall bind and inure to the benefit of the respective heirs, assigns, personal representatives and successors of the parties hereto, including any Replacement Concessionaire.

(d) No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

(e) Each party shall take such action and deliver such instruments to the other party, in addition to the actions and instruments specifically provided for herein, as may reasonably be requested or required to effectuate the purposes or provisions of this Agreement.

(f) This Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Maryland.

(g) The undersigned signatory for General Contractor hereby represents and warrants that he/she has full and complete authority to execute this Agreement on behalf of General Contractor. The undersigned signatory for Concessionaire hereby represents and warrants that it has full and complete authority to execute this Agreement on behalf of Concessionaire. This representation and warranty is made for the purpose of inducing MDTA to execute this Agreement.

(h) This Agreement constitutes full compliance with, any provisions in the Lease and Concession Agreement and General Contract requiring delivery of a recognition agreement by Concessionaire and General Contractor, respectively.

(i) If MDTA terminates the Concessionaire's Contract and designates a Replacement Concessionaire in accordance with this Agreement, Article XVII and Appendix 1 of the Lease and Concession Agreement shall, immediately upon General Contractor's receipt of written notice from MDTA of such designation, and without the execution or delivery of any further instrument, be deemed incorporated into the General Contract mutatis mutandis and shall be considered a part of the General Contract as if fully set forth therein.

(j) General Contractor will require each Construction Subcontractor, to the extent of the work to be performed by the Construction Subcontractor, to be in compliance with the applicable terms of the General Contract and to assume toward the

General Contractor all the obligations and responsibilities including the responsibility for safety of the Construction Subcontractor’s work, which the General Contractor assumes toward Concessionaire and MDTA under the terms of the General Contract, to the extent applicable to the Construction Subcontractor’s work.

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

WITNESS

GENERAL CONTRACTOR:

[NAME]

By:_____

Name:

Title:

WITNESS:

OWNER:

MARYLAND TRANSPORTATION AUTHORITY

By:_____

Name:

Title:

Witness:

Concessionaire:

[NAME]

By:_____

Name:

Title:

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

Assistant Attorney General

I-95 Travel Plazas
Maryland House & Chesapeake House

Lease and Concession Agreement
Between

Maryland Transportation Authority

&

Appendix 2
Environmental Provisions

Contract No. 60833436R

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ARTICLE I
Environmental Provisions Scope

Section 1.1 Scope of Appendix 2

The Environmental Provisions of this Appendix 2 of the Lease and Concession Agreement are in addition to the performance specifications and Mandatory Work identified in Appendices A and B of the RFP.

Section 1.2 Controlling Authority

Provisions of the Appendices of the RFP provide for specific items of work and identify standards that are to be adhered to when performing the Work. If a conflict arises between Environmental Laws, terms of this Lease and Concession Agreement and terms of the RFP, first and foremost, Environmental Laws must be adhered to; however if a requirement of the RFP or this Lease and Concession Agreement is more stringent than a Governmental Rule, the more stringent requirement controls.

Section 1.3 Environmental Provisions Definitions

“Environmental Compliance Plan” means the Concessionaire’s document, a portion of the Quality Manual, so designated, that sets out the Concessionaire’s means of complying with its obligations in relation to environmental QC.

“Environmental Conditions” means the presence of one or more Hazardous Materials in the Environmental Media that require Remedial action under applicable Environmental Laws and/or that may give rise to claims and/or liabilities to third parties, including Governmental Authorities. Environmental Conditions shall include the presence of any Hazardous Material in Environmental Media at or above any applicable default criterion in Governmental Rules

“Environmental Media” means soil, land, surface or subsurface strata, surface strata, surface waters, ponds, streams, groundwater, bedrock, drinking water supply, stream sediments, atmosphere, air, vegetation and any other environmental medium or natural resource.

“Environmental Permits” means any permit, license, approval, authorization, registration, general permit, or consent required under any Environmental Laws for any Travel Plaza or the Leased Premises and its lawful construction, reconstruction and operation. Environmental Permits shall include, but not be limited to, any federal, state or municipal permits related to air, water, waste or land use.

“Pre-Existing Contamination” means Environmental Conditions existing on the Leased Premises prior to the Transfer of Operations and that occurred prior to the Transfer of Operations.

“Remediate,” “Remedy(ies),” “Remedial,” “Remediating” or “Remediation” means to investigate, address, remedy, mitigate, remove, response, respond, abate, and clean-up.

ARTICLE II **General Environmental Considerations**

Section 2.1 General

In accordance with Section 3.1 of the Lease and Concession Agreement, and Appendices A and B of the RFP, the following applies with regards to the environmental considerations on the Leased Premises.

Section 2.2 Mutual Cooperation for Environmental Approvals

MDTA shall cooperate fully in Concessionaire’s efforts to obtain environmental approvals as necessary or appropriate in accordance with Environmental Laws for the operation, repair, remodeling or construction on the Leased Premises or as required by Mandatory Work. MDTA’s cooperation shall not be considered agreement to pay for any Environmental Permits. Environmental Permits for the Improvements that Concessionaire constructs pursuant to the Lease and Concession Agreement shall be at the sole responsibility and expense of Concessionaire, except as otherwise provided by this Lease and Concession Agreement. Concessionaire shall cooperate fully and promptly with the MDTA by providing it with any impact statements, assessments, forms, data, or other information that may be required. Copies of environmental approvals and/or rejections shall be submitted to MDTA within thirty (30) days of receipt.

Section 2.3 Duty to Exchange Environmental Reports

2.3.1 Generally

Concessionaire shall provide MDTA with a copy of any reports discussing or addressing environmental conditions or Hazardous Materials relating to the Leased Premises, including the results of any laboratory analysis that Concessionaire receives during the Term of the Lease and Concession Agreement. MDTA shall provide to Concessionaire any such reports it has in its possession as of the Effective Date or that it receives during the Term of this Lease and Concession Agreement. Neither Concessionaire nor MDTA warrant the opinions, findings or conclusions set forth in any environmental report prepared by a third party consultant.

2.3.2 UST System Records

Concessionaire shall maintain inventory, UST and line maintenance records, warranties, tightness tests, failure determinations and any other test performed for each Travel Plaza and the Leased Premises as required to comply with all applicable Environmental Laws and Legal Requirements. Such records shall also be provided to MDTA in accordance with Appendix 2, Section 2.3.1 of this Lease and Concession Agreement. To the extent that other Subcontractors

may be preparing such reports or maintaining such records, Concessionaire shall require each Subcontractor to provide MDTA with rights of access to review such reports and records.

Section 2.4 Limit of Concessionaire's Environmental Liability

(a) Unless otherwise provided by law and without limiting its obligations under any other section of this Lease and Concession Agreement, Concessionaire shall not be liable for the presence of any Hazardous Material on, under, or adjacent to the Leased Premises prior to the Transfer of Operations of this Lease and Concession Agreement, except for those pre-existing conditions the Concessionaire or its Subcontractors may be liable for due to their previous use, activities, ownership, or operation of all or a part of the Site or those which the Concessionaire has exacerbated during the course of its development, construction and operation of the Travel Plazas. MDTA shall be solely and completely responsible with respect to damages when the Concessionaire discovers or encounters pre-existing Hazardous Materials or pollutants during the performance of construction or maintenance services required by the terms of this Lease and Concession Agreement when the presence of such materials or pollutants was unknown or not reasonably discoverable and MDTA shall hold Concessionaire harmless for such damage. MDTA's responsibility shall only be effective if the Concessionaire immediately stops construction work and notifies the MDTA of the Hazardous Material or the pollution problem. The MDTA will not indemnify the Concessionaire for damages resulting from any willful, wanton, or intentional conduct of the Concessionaire. Nothing in this Lease and Concession Agreement shall constitute a waiver or release of the Concessionaire from such liability for pre-existing conditions for which it may be considered a responsible party under Environmental Laws.

(b) Concessionaire represents to MDTA that it will operate the Travel Plazas in compliance with all applicable Governmental Rules and Environmental Laws and that it will not conduct any activity or allow any activity to be conducted on the Leased Premises that will interfere with or prevent compliance with such Environmental Laws or give rise to any common law liability. Concessionaire shall use safe storage and handling procedures.

Section 2.5 General Condition of Leased Premises

(a) Except as addressed within the Lease and Concession Agreement, MDTA has not made and is not now making, and specifically disclaims, any warranties, representations or guaranties of any kind or character, express or implied, oral or written, past, present or future, with respect to the Leased Premises, including, but not limited to, warranties, representations or guaranties as to: (i) environmental matters relating to the Leased Premises or any portion thereof; (ii) geological conditions, including subsidence (including, but not limited to the Environmental Conditions on the Leased Premises), the Environmental Media and related subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and earthquake faults and the resulting damage of past and/or future earthquakes; (iii) whether, and to the extent to which the Leased Premises or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, flood plain, floodway or special flood hazard; (iv) drainage; (v) soil conditions, including the existence of instability, past soil repairs,

soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring; (vi) the availability or sufficiency of any utilities to the Leased Premises or any portion thereof including water, sewage, gas and electric; (vii) usage of adjoining property; (viii) compliance with the Existing Service Providers' plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, or physical or financial operations at the Travel Plazas or any portion thereof; (ix) any affect from the Travel Plazas to properties off-site; (x) the condition or use of the Leased Premises or compliance of the Leased Premises with any or all past, present or future Legal Requirements as any may be applicable to the Leased Premises; (xi) any other matter affecting the compliance, condition, stability or integrity of the real property, the buildings, or the existing Fuel Service Equipment, UST Systems and USTs; and (xii) the potential for further development of the Leased Premises. Neither MDTA nor the State is liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Leased Premises furnished by MDTA, any agent, employee, or other Person, unless the same are specifically set forth or referred to in this Lease and Concession Agreement.

(b) Concessionaire is entering into this Lease and Concession Agreement with the full knowledge of MDTA's disclaimer of representations and warranties and without reliance upon any representations or warranties as to the condition of the Leased Premises by MDTA or any other Person on behalf of the State. Concessionaire has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of MDTA, the State or any of its agents, except as is specifically set forth in this Lease and Concession Agreement.

Section 2.6 Compliance with Environmental Laws

(a) Concessionaire shall conduct and maintain, and require all Subcontractors to conduct and maintain, all construction, reconstruction, and operations, activities and property at the Leased Premises in accordance with all applicable Environmental Laws. Concessionaire shall employ an Environmental Manager responsible for all environmental design and construction issues. Concessionaire shall not enter into any settlement agreement, consent decree, administrative consent order or other compromise with respect to any claim relating to any Hazardous Materials or compliance with any Environmental Laws in any way connected with the Leased Premises without first notifying MDTA, in writing, of Concessionaire's intention to do so, and, to the extent reasonably practical, affording MDTA an opportunity to appear, intervene, or appropriately assert and protect MDTA's interest with respect thereto.

(b) Without limiting the provisions of Appendix 2, Section 2.6(a) of this Lease and Concession Agreement, Concessionaire is the owner of the Fuel Service Equipment. Concessionaire and its Fuel Service Provider shall be responsible for complying with all Environmental Laws and Legal Requirements applicable to the Fuel Service Equipment.

Section 2.7 Environmental Permits

Concessionaire, at its sole cost and expense, shall apply for, obtain, maintain and comply with all terms and conditions in any and all Environmental Permits issued by any Governmental

Authority, in order for Concessionaire to construct, reconstruct, redevelop, maintain and operate the Travel Plazas and the Leased Premises, including responsibility for any general or individual permit as may be required for the operation of each Travel Plaza under any Environmental Law.

Section 2.8 Access and Testing by MDTA

Without limiting the generality of Section 5.4 of the Lease and Concession Agreement or any other provisions of this Lease and Concession Agreement granting MDTA access to any part of the Leased Premises, MDTA shall at all times have access to perform any testing, including boring and installation of monitoring wells, with respect to Environmental Media, Environmental Conditions or any buildings, structures or improvements on the Leased Premises, as MDTA in its discretion may elect to perform in order to protect the interests of the State. Any work performed by MDTA and its consultants shall be at MDTA's sole cost and expense. Prior to performing any onsite testing, MDTA will notify and coordinate with the Concessionaire and agrees to minimize interference with the normal business operations of the Concessionaire on the Leased Premises. MDTA shall restore any portion of the Leased Premises damaged or disturbed as a result of any such investigations. Concessionaire shall not be responsible for any acts performed by MDTA pursuant to this Section.

Article III
Environmental Considerations for Fueling Facilities

Section 3.1 Equipment

On the Transfer of Operations Date, the Concessionaire will begin operating the Fueling Facilities at the Leased Premises, associated lines and submersible pumps designed to supply motor fuel to dispensing islands, along with leak detection devices for underground storage tanks and monitoring wells designed to indicate the presence of a leak from the tanks or lines, as required by applicable Governmental Rules. Concessionaire shall expand certain motor fuel storage and distribution systems and demolish and reconstruct certain other motor fuel storage and distribution systems as described in the Concessionaire's plans. Ownership of and title to the Fuel Service Equipment, whether provided by the MDTA, shall remain in the name of the Concessionaire.

Section 3.2 Maintenance and Replacement

The Concessionaire, at its sole cost and expense, shall maintain in good repair all existing motor fuel storage tanks and all new Fuel Service Equipment constructed by Concessionaire or its Subcontractors. Concessionaire shall repair, maintain, upgrade and replace the motor fuel storage and distribution systems, leak detection devices and monitoring wells as necessary to maintain compliance with all current and any future Governmental Rules including Environmental Laws. Concessionaire shall respond promptly to any report of a malfunction or suspected malfunction to all agencies with jurisdiction and to the MDTA. Concessionaire

accepts the existing Fuel Service Equipment in an “as-is” condition as of the Transfer of Operations Date.

Section 3.3 Remediation

The Concessionaire shall perform at Concessionaire’s sole cost and expense full remediation of all Hazardous Materials released from the Date of Transfer of Operations through the Term of this Lease and Concession Agreement, from the Fuel Service Equipment installed on the Lease Premises, including pollutants released during system filling, product distribution, or dispensing at the fuel islands. In addition, Concessionaire shall comply with specific requirements identified in Appendix 2, Section 5.2 of this Lease and Concession Agreement

Section 3.4 Compliance Groundwater Monitoring and Tank Field Observation Wells

3.4.1 Compliance and Tank Field Wells for New Fuel Service Equipment

(a) Concessionaire shall monitor the compliance groundwater monitoring and tank field wells that Concessionaire is required to install in accordance with the Mandatory Work. Concessionaire shall notify MDTA and Governmental Authorities with jurisdiction of any leakage or spills of which Concessionaire becomes aware, and Concessionaire shall Remediate in accordance with Appendix 2, Sections 3.3 and 5.2 of this Lease and Concession Agreement. The Concessionaire shall employ a compliance officer who will perform all monitoring duties and be in charge of all remediation efforts. Concessionaire shall provide accurate inventory records as well as personnel capable of interpreting the inventory records and discussing results of the monitoring obligations imposed on the Concessionaire within this paragraph with MDTA.

(b) Concessionaire shall be responsible for requirements identified in Appendices A and B of the RFP under Mandatory Work pertaining to the tank field wells and shall conduct such work in accordance with, and as a part of Concessionaire’s performance under the Lease and Concession Agreement. In addition, Concessionaire shall maintain the monitoring wells, as required by Governmental Authorities, throughout the Term. Upon Concessionaire’s receipt of any copies of reports generated while maintaining and conducting tests from the groundwater monitoring wells, Concessionaire shall send such reports simultaneously to MDTA.

3.4.2 Remediation System Wells and Multilevel Wells

Concessionaire shall be responsible for requirements identified in Appendix B of the RFP under Mandatory Work pertaining to the existing groundwater monitoring wells and the multi-level monitoring wells. MDTA shall maintain the existing groundwater treatment system including monitoring of the remediation system monitoring and recovery wells that MDTA created in response to pre-existing contamination at the Site. If monitoring the existing groundwater treatment system reveals a change in results indicating an increase in the presence of Hazardous Materials, Concessionaire shall be solely responsible and shall remediate in accordance with Appendix 2, Article 3.3 of this Lease and Concession Agreement.

3.4.3 Damage to Wells

Concessionaire shall be responsible for any repair or replacement of any monitoring wells owned or maintained by other Persons but damaged by Concessionaire during the Term. Concessionaire shall report any damage to groundwater wells on the Leased Premises to the well owner if the wells are owned or being monitored by someone other than Concessionaire, with copies of such reports being sent simultaneously to MDTA.

ARTICLE IV
Representations, Warranties and Compliance

Section 4.1 Environmental Representations, Warranties and Agreements of MDTA

(a) MDTA represents and warrants that to the best of its knowledge after diligent inquiry, there are no contaminants, pollutants or hazardous wastes in the ground or ground water, upon or in the vicinity of the Leased Premises or any existing improvements thereon other than as those disclosed in the Lease and Concession Agreement and Reference Documents. To the extent additional Hazardous Materials exist, the Concessionaire takes the premises “as-is” in accordance with other provisions of this Lease and Concession Agreement. The Concessionaire hereby acknowledges it has reviewed the facts disclosed in the Lease and Concession Agreement and the Reference Documents, which were made available in their entirety for review by the Concessionaire.

(b) There is no pending civil, criminal or administrative action, suit, demand, claim, hearing, notice of violation, investigation, proceeding, notice or demand letter pending or threatened against MDTA, relating in any way to Environmental Laws relating to emissions, discharges, releases or threatened releases of contaminants, pollutants or Hazardous Wastes into the environment or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of contaminants, pollutants or Hazardous Wastes; to the best of MDTA’s knowledge, except with respect to the existing contamination as disclosed in the Lease and Concession Agreement and Reference Documents.

Section 4.2 Fuel Storage and Distribution System Maintenance and Regulatory Compliance

The Concessionaire shall submit to MDTA for approval a Fuel Storage and Distribution System Maintenance and Regulatory Compliance Plan that further defines how Concessionaire shall adhere to its obligations under this Appendix 2. Concessionaire shall submit the Fuel Storage and Distribution System Maintenance and Regulatory Compliance Plan to the MDTA no later than sixty (60) days prior to the Transfer of Operations. The MDTA shall review the Plan and Concessionaire shall make such changes to the Fuel Storage and Distribution System Maintenance and Regulatory Compliance Plan until it is approved by MDTA. Concessionaire shall comply with the requirements of the MDTA approved plan throughout the Term of the Lease and Concession Agreement.

ARTICLE V
Leased Premises Conditions

Section 5.1 Existing Condition of Leased Premises

5.1.1 General

Except as set forth below, Concessionaire shall be responsible for the physical and environmental condition of the Leased Premises as of the Transfer of Operations Date and shall incur all costs and responsibilities for repairs, replacements and maintenance prior to initiating the Improvements.

5.1.2 Fuel Service Equipment

Prior to the Transfer of Operations Date, in addition to any tests performed by Existing Service Providers, Concessionaire, with prior notice to MDTA on each occasion, may perform tightness tests of all USTs and lines, or other components of the UST System, testing and/or inspections of secondary containment, functional testing and/or inspections of the vapor recovery (Stage II) systems and hydrostatic testing of the spill containment devices on the Leased Premises. Upon completion of such tests and/or inspections, Concessionaire shall furnish copies of the test and/or inspection results to MDTA in the manner specified in Appendix 2, Section 7.5.

Section 5.2 Post-Closing Conditions

5.2.1 Post-Closing Building Conditions

Upon the Transfer of Operations Date, Concessionaire shall be solely responsible for any and all building conditions that may be created as a result of materials installed by Concessionaire or any Subcontractor under this Lease and Concession Agreement.

5.2.2 Post-Closing Environmental Conditions

(a) Upon the Transfer of Operations Date, Concessionaire shall be solely responsible for any and all Environmental Conditions caused by the Concessionaire, any Subcontractor or any Person (including all guests, invitees, truckers, patrons, delivery persons) other than the State, including all Discharges caused by the Concessionaire, any Subcontractor or any Person (including all guests, invitees, patrons or delivery persons), of any material of any kind whatsoever that occur on the Leased Premises during the Term, with the exception of any Pre-Existing Contamination to which creation of which Concessionaire or its Affiliates may have contributed, or any Environmental Condition that arises from or is associated with an off-site source (“Post-Closing Environmental Conditions”). Post-Closing Environmental Conditions shall include any increase or exacerbation of Pre-Existing Contamination during the Term, except to the extent associated with an off-site source or the construction of the Immediate Repairs or Initial Improvements, unless such Pre-Existing Contamination was negligently or recklessly increased or exacerbated during the Term. In the event of any increase or exacerbation of Pre-Existing Contamination for which Concessionaire is responsible, Concessionaire is only responsible for the amount of increase or exacerbation caused by Concessionaire.

(b) To the extent required by applicable Environmental Laws, Concessionaire shall diligently Remediate or otherwise respond to Post-Closing Environmental Conditions. MDTA may review any proposed or draft Remedial action plan or document to determine whether the proposed Remedy is consistent with applicable Environmental Laws. Concessionaire shall perform all Remediation activities required by and consistent with applicable Environmental Laws. In the performance of such Remediation activities, Concessionaire shall Remediate such Environmental Condition consistent with the then-current use of the Leased Premises and MDTA shall cooperate with Concessionaire in performance thereof. In connection therewith, Concessionaire shall provide MDTA a report from a licensed environmental professional demonstrating compliance with the applicable Environmental Laws. The terms of this Section shall survive the Term.

ARTICLE VI

Specific Environmental Conditions

Section 6.1 Hazardous Materials

Except for Hazardous Materials used in connection with the Concessionaire's or any Subcontractor's fuel-dispensing, food and beverage or retail operations, which shall include Hazardous Materials transported by others in compliance with Environmental Laws, and in connection with the performance of Concessionaire's or any Subcontractor's maintenance, repair, and other obligations under and pursuant to this Lease and Concession Agreement, Concessionaire shall not intentionally or willfully cause or permit any Hazardous Material to be brought upon, handled, generated, used, manufactured, transported, emitted, released, treated, stored, kept, disposed or used in or about the Leased Premises by Concessionaire, its agents, employees, contractors, Subcontractor's, or suppliers, without the prior written approval of MDTA.

Section 6.2 Discharges

Concessionaire shall diligently avoid any Discharges of any Hazardous Materials and shall not willfully or intentionally Discharge any Hazardous Material into the Environmental Media. Concessionaire shall immediately respond to any Discharges to the environment and Remediate the Discharge in accordance with Appendix 2, Section 5.2 above and applicable Environmental Laws.

ARTICLE VII

Additional Environmental Obligations of Concessionaire

Section 7.1 Preparedness and Training

(a) Concessionaire shall keep an adequate amount of absorbents at each of the Travel Plazas to clean up minor amounts of Discharges of petroleum products resulting from the use of Fuel Service Equipment by patrons or from truck and car vehicles. Only properly trained employees of Concessionaire or its Subcontractors shall use absorbents and shall maintain and dispose of them in accordance with all applicable Environmental Laws and Legal Requirements.

(b) Concessionaire shall ensure that, at all times, there will be at each Travel Plaza at least one person who has been trained in emergency and Discharge response, spill prevention and preparedness. Concessionaire shall post or cause to be posted contact information at various locations throughout each of the Travel Plazas identifying the phone numbers of who to call in the event of a Discharge.

Section 7.2 Disposal Obligations

Concessionaire shall, as required by applicable Environmental Laws, and at its own cost and expense, promptly arrange for the transportation, treatment and disposal of any Hazardous Materials Concessionaire or the Subcontractors generate on the Leased Premises. Concessionaire shall cause all shipments, treatment and disposal of such Hazardous Materials to be accompanied by a manifest (if required by the applicable Environmental Law) listing the applicable Travel Plaza and Concessionaire or any Subcontractor, as generator and owner, and reflecting the legal and proper treatment or disposal of such materials.

Section 7.3 Notice

7.3.1 Notice of Discharge

Following notice to the applicable Governmental Authority upon discovery of Discharge at the Leased Premises, Concessionaire shall notify MDTA as soon as practicable of any incident regarding the Discharge and planned Remedial measures. In addition, Concessionaire shall notify MDTA as soon as practicable, but in any event within seventy-two (72) hours, in writing, of Concessionaire's receipt, knowledge or discovery of: (a) the presence of any Hazardous Material on, about, beneath or arising from any portion of the Leased Premises that creates an obligation under any of the Environmental Laws; (b) any enforcement or action (including but not limited to any notices of violation, orders, consent orders, civil or criminal actions) instituted or threatened against Concessionaire or the Leased Premises by any Governmental Authority pursuant to any of the Environmental Laws; and (c) any claim made or threatened by any person or entity against Concessionaire or the Leased Premises relating to any form of damage, loss or injury resulting from or claimed to result from any Environmental Conditions or claims of violations of Environmental Laws.

7.3.2 Notice Regarding UST Systems

Concessionaire shall give MDTA fourteen (14) Business Days advance written notice as to when a UST or component of the UST System shall be installed, replaced, removed, modified, tested or updated.

Section 7.4 Quarterly Meetings

In addition to the meetings addressed in Article II of the Lease and Concession Agreement, Concessionaire shall meet quarterly with MDTA's Authorized Representative and other MDTA staff to review the Environmental Conditions on the Leased Premises, the Environmental Permits, water usage and discharges (including sampling information), environmental "incidents and activities" for the Leased Premises, any notices of noncompliance and complaints received relating to environmental matters and any Discharges that do or have the potential to require Remedial actions. These meetings may include site visits to the Leased Premises. The frequency of these meetings or site visits may be decreased at the discretion of MDTA.

Section 7.5 Copies of Permits, Reports, Data and Similar Documents

Concessionaire shall make available not later than two (2) days after the submission to the applicable Governmental Authority: (i) copies of all reports, tests, sample results, monitoring results or similar document required to be filed by Concessionaire or any Subcontractor under any of the Environmental Laws; (ii) responses to any request for information made by any Governmental Authority; (iii) written responses to any of the notices sent to Concessionaire (or any Subcontractor) by any Governmental Authority, relating to the Concessionaire's or Subcontractor's compliance with the Environmental Laws, (iv) any written Environmental Permits and documents submitted to MDE and (v) all UST System registrations, warranties, certificates, insurance certificates, inventory records, and UST System tightness and fitness tests. Additionally, Concessionaire shall make available not later than two (2) days after completion, any final copies of each of Phase I, II, III, IV reports, laboratory analyses, remedial action plans, Remediation reports, quarterly groundwater monitoring or any other such reports and records describing the environmental activities at the Leased Premises, tests, sample results, monitoring results or similar documents.

Section 7.6 Quality Plan

In developing its Quality Plan, Concessionaire shall establish appropriate controls in its management, design, construction, installation, and documentation procedures to ensure that environmental permit requirements are met and documented. The Environmental Compliance Plan shall describe how Concessionaire will achieve full compliance with the commitments, considerations, permit conditions, and approval requirements for design and construction; and describe the Concessionaire's process, structure, organization, location, and methods proposed for documentation, communication, and QA and QC.

Section 7.7 Environmental Reports and Third-Party Audits

(a) Concessionaire shall submit annual reports for the Leased Premises. The first report shall be submitted one (1) year from the Transfer of Operations Date. This report will summarize reportable spills or any environmental incidents or responses that have the potential to require responsive actions, and any incidents which cause noncompliance with the applicable

Environmental Laws. Upon the request of the MDTA, Concessionaire shall make available to the MDTA any environmental reports, including, but not limited to, inventory records. The annual reports shall include a listing of all approvals or authorizations, certificates, permits or licenses required by any environmental or other regulation for the design, construction, installation, or operation of all facilities on the Leased Premises.

(b) Concessionaire shall conduct a third-party environmental compliance self-audit every three (3) years on the Leased Premises in a form as determined and approved by MDTA. The self-audit shall include an evaluation of the Leased Premises' operating practices and procedures. The Concessionaire shall audit compliance with the following federal regulations or authorized state counterparts of the federal regulations: the Clean Air Act; Clean Water Act; Safe Drinking Water Act; Federal Insecticide, Fungicide and Rodenticide Act; Resource Conservation and Recovery Act; Emergency Planning and Community Right-to-Know Act; and Toxic Substances Control Act.

(c) No later than ninety (90) days prior to conducting each compliance audit, the Concessionaire shall submit to MDTA for review and approval a written audit template report and audit checklists which correspond to the above-referenced regulations.

(d) The Concessionaire, where applicable, shall report all findings of non-compliance discovered during the audits to the appropriate Governmental Authority.

Section 7.8 End of Term Environmental Obligations

(a) No later than four (4) months prior to the expiration of the Term, or such other earlier date as may be agreed upon by the parties, Concessionaire shall deliver to MDTA a status report for the Leased Premises documenting an environmental investigation (including a subsurface investigation of the Environmental Media) of each Travel Plaza, which investigation is intended to establish new baseline data for the Leased Premises, and an environmental third-party audit of the status of the compliance of the Leased Premises with all Environmental Laws in effect at the time. Concessionaire shall bear all costs for investigating, inspecting and documenting the Environmental Condition of the Leased Premises. The report shall describe the status of each of the UST Systems and other Fuel Service Equipment and the status of compliance of the Leased Premises under the then applicable Environmental Laws.

(b) In accordance with Section 18.6 of the Lease and Concession Agreement, no later than one year prior to the expiration of this Lease and Concession Agreement or any extension thereof, or within one hundred twenty (120) days of its early termination of the Term, the Concessionaire shall make a decision, which shall be approved by MDTA to either sell or remove its Fuel Service Equipment and cause the sale or removal to occur on or before the Termination Date. If the Concessionaire elects to remove the underground storage tank systems and all associated appurtenances, it shall submit a closure report(s) to the MDE. The Concessionaire shall remain responsible for any site investigations, site characterizations, and/or corrective actions directed by any regulatory agency or body that are associated with any

contaminated soil and/or ground encountered during removal of the underground storage tank systems and associated appurtenances which resulted from the Concessionaire and/or any Occupancy Tenant's operation of the underground storage tank systems and/or dispensing systems. The Concessionaire shall be responsible for remediating soil and groundwater to then current industry standards for similar fuel facilities or to Governmental Rules, whichever is stricter, before the Termination Date. If Concessionaire decides not to sell or remove its underground fuel storage tank systems and associated distribution systems, as approved and permitted by MDTA, then within 45 days prior to the end of the Term or upon Termination, Concessionaire shall cause tightness tests of all USTs and lines, or other components of the UST System, testing and/or inspections of secondary containment, functional testing and/or inspections of the vapor recovery (Stage II) systems and hydrostatic testing of the spill containment devices at the Leased Premises. Upon completion of such tests and/or inspections, Concessionaire shall furnish copies of the tests and/or inspection results to MDTA. If required by applicable Environmental Laws, Concessionaire shall replace or repair any components of the UST System at its sole cost and expense.

I-95 Travel Plazas
Maryland House & Chesapeake House

Lease and Concession Agreement
Between

Maryland Transportation Authority

&

Appendix 3
Financing Provisions

Contract No. 60833436R

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ARTICLE I
Financing Preliminary Matters

Section 1.1 Scope of Appendix 3

The Financing Provisions of this Appendix 3 of the Lease and Concession Agreement is in addition to the performance specifications and provisions contained within the RFP.

Section 1.2 Controlling Authority

Provisions within the Appendices of the RFP provide specific guidance as to the financing permitted and standards concerning the financial thresholds required of the Concessionaire. If a conflict arises between Governmental Rules, terms of this Lease and Concession Agreement and terms of the RFP, first and foremost, Governmental Rules must be adhered to; however if a requirement of the RFP or this Lease and Concession Agreement is more stringent than a Governmental Rule, the more stringent requirement controls

Section 1.3 Financing Provision Definitions

“Collateral Assignee Notice Requirements” means the delivery by a holder of a Collateral Assignment to MDTA, no later than ten (10) Business Days after the execution and delivery of such Collateral Assignment by the Concessionaire, of a true and complete copy of the executed original of such Collateral Assignment, together with a notice containing the name and address of the holder of such Collateral Assignment

“Collateral Assignment” means the granting of any lien or the granting of any other security interest (including a leasehold mortgage, and assignment, or grant of a Lien or security interest with respect to revenues and cash flows received by or due to Concessionaire under and pursuant to this Lease and Concession Agreement or any Subcontract) encumbering any or all of Concessionaire's assets, including rights, benefits and interests under and pursuant to this Lease and Concession Agreement or any Subcontract and any cash reserves or deposits held in the name of the Concessionaire securing Concessionaire's obligation under and pursuant to any Indebtedness, in each case that satisfies all of the conditions in Article XI and Appendix 3, of the Lease and Concession Agreement.

“Institutional Lender” means (a) the United States of America, any state thereof or any agency or instrumentality of either of them, any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects, (b) any (i) savings bank, financial institution, savings and loan association, commercial bank, trust company (whether acting individually or in a fiduciary capacity), or insurance company organized and existing under the laws of the United States of America or any state thereof, (ii) foreign insurance company or commercial bank qualified to do business as an insurer or commercial bank as applicable under the laws of the United States, (iii) pension fund, foundation or university or college or other endowment fund or (iv) investment bank, pension advisory firm,

mutual fund, investment company or money management firm, (c) any “qualified institutional buyer” under Rule 144(A) under the Securities Act or any other similar Legal Requirement hereinafter enacted that defines a similar category of investors by substantially similar terms, (d) any entity that regularly serves as a trustee or collateral agent or (e) any other financial institution or entity designated by Concessionaire and approved by MDTA, which approval shall not be unreasonably withheld; provided, however, that each such entity (other than entities described in clauses (c) and (d) of this definition) or combination of such entities if the Institutional Lender shall be a combination of such entities shall have individual or combined assets, as the case may be, of not less than \$500,000,000, which shall include, in the case of an investment or advisory firm, assets controlled by it or under its management.

“Occupancy Lease” means any lease, sublease, concession, license, or other similar agreement or arrangement for the occupancy of less than all of the Leased Premises.

“Permitted Transferee” means a Person, approved by the MDTA, to whom a conveyance of the Concessionaire’s leasehold interest in the Leased Premises is made, pursuant to this Lease and Concession Agreement.

Article II **Permitted Financing**

Section 2.1 Indebtedness

(a) Notwithstanding anything herein to the contrary, Concessionaire may, but shall not be obligated to, incur and obtain any Indebtedness with respect to the construction and operation of the Travel Plazas and the performance of its obligations under and pursuant to this Lease and Concession Agreement on terms and conditions as may be acceptable to Concessionaire in its sole discretion provided that:

- (i) at the time such Indebtedness is originated no Event of Default then exists and has not been cured within the applicable cure period pursuant to Article XIV of the Lease and Concession Agreement;
- (ii) the terms and conditions of any such Indebtedness shall be in accordance with the terms and conditions of this Appendix 3, Article II; and
- (iii) such Indebtedness shall not cause the net amount of all outstanding Indebtedness to increase such that the aggregate amount of the Indebtedness would be in excess of the appraised fair market value of the Concessionaire’s interest in the Lease and Concession Agreement.

(b) If Concessionaire seeks to obtain any Indebtedness, Concessionaire bears all of the risks relating to a delay in receiving the necessary approvals and for compliance with all Legal Requirements. MDTA does not bear any risk for the failure of Concessionaire to obtain funding from any source, and such failure, if any, shall not diminish Concessionaire’s obligations under this Lease and Concession Agreement.

(c) No State Parties shall have any liability whatsoever with respect thereto, including for payment of the principal sum of any Indebtedness, or any interest accrued thereon or any other sum secured by or accruing under any document, instrument or agreement evidencing or securing the Indebtedness, except as expressly set forth in this Appendix 3, Article II. MDTA shall have no obligation to join in, execute or guarantee any note or other evidence of Indebtedness. Except for a violation by MDTA of its express obligations to Collateral Assignees set forth in this Appendix 3, Article II, no Collateral Assignee is entitled to seek any damages or other amounts from MDTA, whether for Indebtedness or any other amount. MDTA's review of any document, instrument or agreement evidencing or securing the Indebtedness is not a guarantee or endorsement of the Indebtedness, or any other obligations issued or incurred by Concessionaire in connection with this Lease and Concession Agreement, and is not a representation, warranty or other assurance as to the ability of Concessionaire to perform its obligations with respect to the Indebtedness or any other obligations issued or incurred by Concessionaire in connection with this Lease and Concession Agreement, or as adequacy of the Gross Revenues to provide for payment of the Indebtedness or any other obligations issued or incurred by Concessionaire in connection with this Lease and Concession Agreement.

(d) Concessionaire shall not enter into any lease, sublease, concession, management agreement, operating agreement or other similar arrangement or other transaction that would cause any State Parties to become a party to a "prohibited tax shelter transaction" within the meaning of Section 4965 of the Internal Revenue Code of 1986, as amended (it being agreed that, for purposes of this Section), the State and MDTA shall not be treated as having become a party to any such transaction solely by virtue of the execution of this Lease and Concession Agreement.

Section 2.2 Collateral Assignments

(a) With respect to any such Indebtedness, Concessionaire shall have the right, at its sole cost and expense, to execute and deliver one or more (subject to Appendix 3, Section 2.7) Collateral Assignments, if at the time any such Collateral Assignment is executed and delivered to the Collateral Assignee, no Event of Default then exists and has not been cured within the applicable cure period pursuant to Article XIV and upon and subject to the following terms and conditions:

- (i) a Collateral Assignment may not cover any property or secure any Indebtedness issued by or guaranteed by any Person other than Indebtedness of Concessionaire;
- (ii) all rights under the Collateral Assignment, and the terms of such Collateral Assignment, shall expressly provide that the Collateral Assignment shall be and is subject and subordinate to the provisions of this Lease and Concession Agreement and to all rights and interests of the MDTA hereunder and such Collateral Assignment shall specifically acknowledge the property insurance allocation provision described in Article XIII of this Lease and Concession Agreement and the condemnation insurance allocation provision described in this Lease and Concession Agreement;

- (iii) no Person other than an Institutional Lender shall be entitled to the benefits and protections accorded to a Collateral Assignee in this Lease and Concession Agreement; provided, however, that lenders to Concessionaire (and lenders to the Collateral Assignee as successor in interest to Concessionaire under this Lease and Concession Agreement) may be Persons other than Institutional Lenders so long as any Collateral Assignment securing the loans made by such Persons is held by an Institutional Lender acting as collateral agent or trustee;
- (iv) no Collateral Assignment or other instrument purporting to pledge, encumber, or create a lien, charge, or security interest on or against any or all of Concessionaire's interest under and pursuant to this Lease and Concession Agreement or the cash flows and other rights of Concessionaire pursuant hereto or any Subcontract shall extend to or affect the fee simple interest in the Leased Premises, MDTA's interest in this Lease and Concession Agreement (including all Monthly Payments or other payments due MDTA pursuant to this Lease and Concession Agreement) or any State Party's right, title, interest and/or estate in and to the Leased Premises, any part thereof, or the Equipment and Fixtures or Fuel Service Equipment;
- (iv) no State Party shall have any liability whatsoever for payment of any principal, interest, fees, costs or expenses with respect to Indebtedness of Concessionaire or any amounts secured by any Collateral Assignment, or any interest accrued thereon or any other sum secured thereby or accruing thereunder;
- (v) no State Party shall have any obligation to any Collateral Assignee in the enforcement of MDTA's rights and remedies herein except as expressly set forth in this Lease and Concession Agreement and unless such Collateral Assignee has provided MDTA with notice of its Collateral Assignment in accordance with the Collateral Assignee Notice Requirements;
- (vi) each Collateral Assignment shall provide that if Concessionaire is in default under the Collateral Assignment and the Collateral Assignee gives notice of such default to Concessionaire, then the Collateral Assignee shall give notice of such default to MDTA;
- (vii) subject to the terms of this Lease and Concession Agreement, all rights acquired by a Collateral Assignee under any Collateral Assignment or other documents evidencing any Indebtedness shall be subject and expressly subordinate to the rights of MDTA to receive the Monthly Payments or other payments due to MDTA pursuant to this Lease and Concession Agreement;
- (viii) while any Collateral Assignment is outstanding, MDTA shall not amend or modify this Lease and Concession Agreement in any manner that could reasonably be expected to have a material adverse effect on the rights or

interests of the Collateral Assignee or agree to a voluntary surrender or termination of this Lease and Concession Agreement by Concessionaire without the reasonable consent of the Collateral Assignee;

- (ix) notwithstanding any enforcement of the security of any Collateral Assignment, Concessionaire shall remain liable to MDTA for the payment of all sums owing to MDTA under this Lease and Concession Agreement and the performance and observance of all of Concessionaire's covenants and obligations under this Lease and Concession Agreement;
- (x) a Collateral Assignee shall not, by virtue of its Collateral Assignment, acquire any greater rights or interest in the Leased Premises than Concessionaire has at any applicable time under this Lease and Concession Agreement, other than such rights or interest as may be granted or acquired in accordance with this Appendix 3, Article II; and each Collateral Assignee, MDTA, and Concessionaire shall enter into a consent agreement in a form acceptable to all parties; provided that such consent agreement shall be in a customary form and shall include the rights and protections provided to the Collateral Assignees in this Lease and Concession Agreement; and
- (xi) any Collateral Assignment shall contain an express covenant of the Collateral Assignee, in form and substance reasonably satisfactory to MDTA, to be bound by the provisions of Appendix 3, Section 2.8.

(b) The Concessionaire acknowledges that executing a Collateral Assignment that does not satisfy all of the requirements of a Collateral Assignment as provided in this Lease and Concession Agreement or is with a Collateral Assignee that has not been approved by the MDTA is a breach of this Lease and Concession Agreement. The foregoing provisions of this Section shall not prohibit the Concessionaire or any other Person from pledging any other interest in the Concessionaire to any Person for any purpose, provided that the pledge is not secured by an interest in the Leased Premises, and provided further that the provisions of this Lease and Concession Agreement regarding Permitted Transfers shall continue to apply.

(c) Any Collateral Assignment shall contain a requirement that if any Person (other than Concessionaire) succeeds to the ownership of Concessionaire's Leasehold Estate under this Lease and Concession Agreement or Concessionaire's interests in the Leased Premises and Improvements, through the operation of such Collateral Assignment, by foreclosure, trustee's sale or deed in lieu thereof, such successor to Concessionaire (a "Successor") shall in writing (in a form recordable where necessary and approved by the Collateral Assignee under such Collateral Assignment) agree not to disturb the tenancies of Occupancy Tenants under subleases, if any, that were approved in writing by such Collateral Assignee; and assume any and all of the Concessionaire's obligations under this Lease and Concession Agreement arising from and after such Person succeeds to Concessionaire's Leasehold Estate hereunder, subject, however, to any Person to whom any Transfer is attempted in violation of any of the provisions of this Lease and Concession Agreement shall have no claim, right or remedy whatsoever against the MDTA and

any State Party, and neither the MDTA nor any State Party shall have any duty to recognize any Person claiming by, through or under the transferee, other than Occupancy Tenants.

Section 2.3 Notices and Payments to Collateral Assignees

Whenever a Collateral Assignment exists as to which MDTA has been provided notice in accordance with the Collateral Assignee Notice Requirements, MDTA shall, simultaneously with providing Concessionaire any required notice under this Lease and Concession Agreement, provide a copy of such notice to such Collateral Assignee, and no such notice to Concessionaire shall be effective against the Collateral Assignee until a copy thereof is duly provided to such Collateral Assignee at its address specified in its notice given to MDTA in accordance with the Collateral Assignee Notice Requirements (or any subsequent change of address notice given to MDTA pursuant to the requirements of Section 18.1 of the Lease and Concession Agreement).

Section 2.4 Collateral Assignee's Right to Cure

The Collateral Assignee shall have a period of thirty (30) days with respect to any Event of Default (other than a Event of Default described in Section 14.1(a)), beyond any cure period expressly provided to Concessionaire herein, in which to cure or cause to be cured any such Event of Default; provided, however, that such thirty (30) day period shall be extended if such Event of Default may be cured but cannot reasonably be cured within such period of thirty (30) days and the Collateral Assignee begins to cure such default within such thirty (30) day period and thereafter proceeds with all due diligence to cure such Event of Default within a period of time reasonably necessary to cure such Event of Default. The Collateral Assignee shall have a period of ten (10) days with respect to any Event of Default described in Section 14.1(a), beyond any cure period expressly provided to Concessionaire in Section 14.1(a), in which to cure or cause to be cured any such Event of Default (including satisfying any monetary obligation of Concessionaire). If a Collateral Assignee's right to cure an Event of Default has not expired, and the Collateral Assignee is acting to cure such Event of Default in accordance with this Appendix 3, Section 2.4 then MDTA shall not exercise its right to terminate this Lease and Concession Agreement by reason of such Event of Default. In furtherance of the foregoing, MDTA shall permit the Collateral Assignee and its representatives the same access to the Leased Premises as is permitted to Concessionaire hereunder. MDTA shall accept any such payment or performance by a Collateral Assignee as though the same had been done or performed by Concessionaire. Any payment to be made or action to be taken by a Collateral Assignee hereunder as a prerequisite to keeping this Lease and Concession Agreement in effect shall be deemed properly to have been made or taken by the Collateral Assignee if such payment is made or action is taken by a nominee, agent or assignee of the rights of such Collateral Assignee. The Collateral Assignee's right to cure, as provided above, shall not otherwise be deemed to prohibit MDTA from terminating this Lease and Concession Agreement in accordance with its terms or exercising any right or option under this Lease and Concession Agreement

Section 2.5 Rights of the Collateral Assignee

(a) If a Collateral Assignee, through the operation of its loan documents or by entry as a mortgagee in possession or by foreclosure, or by acceptance of an assignment in lieu of foreclosure or through any other means, including a bankruptcy or other insolvency proceeding, arrangement, confirmation or sale, acquires Concessionaire's interest in the Leased Premises, such Collateral Assignee shall have the right, at its option, to:

- (i) Complete construction of the Improvements substantially in accordance with the Concessionaire's Plans, as then applicable, and operate the Improvements itself and in all respects comply with the provisions of the Project Documents; or
- (ii) Subject to Appendix 3, Subsection 2.6(a) below, regarding a New Lease and Concession Agreement, then, or at any time thereafter, assign or transfer Concessionaire's interest in the Leased Premises, the Improvements or this Lease and Concession Agreement to (A) an Affiliate of such Collateral Assignee, or (B) any other assignee or transferee, which Affiliate or other assignee or transferee shall expressly assume all of the covenants, agreements and obligations of Concessionaire thereafter arising under this Lease and Concession Agreement by written instrument, provided that, with respect to any assignment or transfer under this Appendix 3, Subsection 2.5(a)(ii), the assignment or transfer shall be to a Permitted Transferee; or
- (iii) Terminate this Lease and Concession Agreement, permitting reversion of all of Concessionaire's rights under the Lease and Concession Agreement in the Leased Premises and the Improvements to MDTA.

No such action by a Collateral Assignee shall relieve the Concessionaire of any obligations hereunder, or under the Project Documents.

(b) Subject to the provisions of this Appendix 3, Article II and subject to the Reserved Rights, a Collateral Assignee may (i) enforce its Collateral Assignment in any lawful way, (ii) acquire Concessionaire's interests in and pursuant to this Lease and Concession Agreement or any Subcontract in any lawful way or (iii) take control of, in any lawful way, and manage the Travel Plazas, in each case, subject to the terms of this Lease and Concession Agreement.

(c) Except as provided in Appendix 3, Section 2.4, unless and until a Collateral Assignee (i) forecloses upon or has otherwise taken ownership of Concessionaire's interests in and pursuant to this Lease and Concession Agreement or any Subcontract or (ii) has taken possession or control of Concessionaire's interests in and pursuant to this Lease and Concession Agreement or any Subcontract, whether directly or by an agent as a mortgagee in possession or a receiver or receiver and manager has taken possession or control of Concessionaire's interests in and pursuant to this Lease and Concession Agreement or any Subcontract by reference to the Collateral Assignment, the Collateral Assignee shall not be liable for any of Concessionaire's

obligations under this Lease and Concession Agreement or be entitled to any of Concessionaire's rights and benefits contained in this Lease and Concession Agreement, except by way of security. If the Collateral Assignee itself or by an agent or a receiver or a receiver and manager is the owner, or is in control or possession of, Concessionaire's interests in and pursuant to this Lease and Concession Agreement or any Subcontract, it shall be bound by all liabilities and obligations of Concessionaire under this Lease and Concession Agreement. Once the Collateral Assignee goes out of ownership, possession or control of Concessionaire's interests in and pursuant to this Lease and Concession Agreement or any Subcontract or Transfers Concessionaire's interest in this Lease and Concession Agreement to another Person in accordance with the provisions of this Lease and Concession Agreement, the Collateral Assignee shall cease to be liable for any of Concessionaire's obligations under this Lease and Concession Agreement accruing thereafter and shall cease to be entitled to any of Concessionaire's rights and benefits contained in this Lease and Concession Agreement, except, if the Collateral Assignment remains outstanding, by way of security.

(d) Any payment to be made or action to be taken by a Collateral Assignee as a prerequisite to keeping this Lease and Concession Agreement in effect shall be deemed properly to have been made or taken by the Collateral Assignee if such payment is made or action is taken by a Person proposed by the Collateral Assignee and reasonably approved by MDTA. MDTA shall have no obligation to recognize any claim to Concessionaire's rights hereto by any Person that has acquired Concessionaire's rights hereto by, through, or under any Collateral Assignment or whose acquisition shall have been derived immediately from any holder thereof, unless such Person is reasonably approved by MDTA pursuant to Appendix 3, Section 2.5(d), (such approved entity a "Substituted Entity").

(e) MDTA shall have no obligation to approve a Person as a Substituted Entity and Qualified Buyer unless the Collateral Assignee demonstrates to MDTA's reasonable satisfaction that: (i) the proposed Substituted Entity and its contractors collectively have the financial resources, qualifications and experience to timely perform Concessionaire's obligations hereunder; (ii) the proposed Substituted Entity and its contractors, each of their respective direct and indirect beneficial owners, any proposed key personnel, each of their respective officers and directors and each of their respective affiliates have a good reputation (including the absence of criminal or material civil or regulatory claims or actions against any such Person); and (iii) the proposed Substituted Entity and its contractors are in compliance with MDTA's rules, regulations and adopted written policies regarding organizational conflicts of interest. MDTA will approve or disapprove a proposed Substituted Entity within ninety (90) days after it receives from the Collateral Assignee a request for approval together with: a) such information, evidence and supporting documentation concerning the identity, financial resources, qualifications, experience and potential conflicts of interest of the proposed Substituted Entity and its contractors as MDTA may reasonably request; and b) such evidence of organization, authority, incumbency certificates, certificates regarding disqualification, debarment or suspension, and other certificates, representations and warranties as MDTA may reasonably request consistent with the terms and conditions of this Lease and Concession Agreement. MDTA will evaluate the financial resources, qualifications, experience and potential conflicts of interest of the proposed Substituted Entity and its contractors using the same standards and criteria that it is then

currently applying, or if there is no current application, then the same standards and criteria it most recently applied, to the evaluation of Persons responding to MDTA requests for qualifications for concession or similar agreements for comparable projects and facilities.

(f) A Collateral Assignee may request approval of more than one Substituted Entity at any time or times. Any approval by MDTA of a Substituted Entity shall expire (unless otherwise agreed in writing by MDTA) one year after the approval is issued if the Substituted Entity has not succeeded to Concessionaire's interest in this Lease and Concession Agreement within that period of time. MDTA may revoke an approval if at any time prior to succeeding to Concessionaire's interest herein the Substituted Entity ceases to be in compliance with MDTA's rules and regulations regarding organizational conflicts of interest. If the Substituted Entity succeeds to Concessionaire's interest herein, then MDTA shall not be entitled to terminate due to any breaches accumulated by Concessionaire related to the Performance Standards prior to its replacement by the Substituted Entity.

Section 2.6 MDTA's Termination of the Lease and Concession Agreement; New Lease and Concession Agreement

(a) Without prejudice to the rights of a Collateral Assignee under Appendix 3, Section 2.4, if this Lease and Concession Agreement is terminated prior to the expiration of the Term due to an Event of Default (in which case MDTA shall notify the Collateral Assignee of such termination) or if this Lease and Concession Agreement is rejected or disaffirmed pursuant to any bankruptcy law or proceeding or other similar Legal Requirement or proceedings affecting creditors' rights generally with respect to a bankruptcy proceeding relating to Concessionaire or otherwise, MDTA agrees to enter into a new agreement with respect to the operation of the Travel Plazas with the Collateral Assignee for the remainder of the original stated Term upon all of the covenants, agreements, terms, provisions and limitations of this Lease and Concession Agreement (the "New Lease and Concession Agreement"), effective as of the date of such termination, but only on and subject to the satisfaction of all of the following requirements and conditions: (i) such Collateral Assignee commits in writing to MDTA, in a notice delivered to MDTA, within ten (10) days after MDTA delivers the termination notice to the Collateral Assignee (or, if later, upon the expiration of any cure period granted to the Collateral Assignee pursuant to Appendix 3, Section 2.4) or within thirty (30) days after the effective date of such rejection or disaffirmance, as the case may be, that the Collateral Assignee (or its designee or nominee) will enter into the New Lease and Concession Agreement, which notice is accompanied by a copy of such New Lease and Concession Agreement, duly executed and acknowledged by the Collateral Assignee (or its designee or nominee); (ii) provided MDTA notifies the Collateral Assignee in advance, the Collateral Assignee (or its designee or nominee) pays or causes to be paid to MDTA, at the time of the execution and delivery of the New Lease and Concession Agreement, all amounts which, at the time of the execution and delivery thereof, would have been past due or due and payable in accordance with the provisions of this Lease and Concession Agreement but for such termination; (iii) the Collateral Assignee pays or causes to be paid to MDTA all reasonable costs and expenses (including legal fees), taxes, fees, charges and disbursements paid or incurred by MDTA in connection with such defaults and termination, the recovery of possession from Concessionaire, and in connection with the preparation,

execution and delivery of the New Lease and Concession Agreement and related agreements and documents specified in such statement or invoice, provided MDTA furnishes a statement or invoice for such costs; and (iv) such Collateral Assignee (or its designee or nominee), at the time of such written request, cures all defaults under this Lease and Concession Agreement (curable by the payment of money) existing immediately prior to the termination of this Lease and Concession Agreement, or, if such defaults cannot be cured by the payment of money, such Collateral Assignee (or its designee or nominee) commits to MDTA in the New Lease and Concession Agreement to proceed both promptly and diligently, upon the execution of the New Lease and Concession Agreement, to cure all such other defaults and, if possession is necessary in order to cure such other Events of Default, to proceed both promptly and diligently to obtain the possession required to cure any such other defaults (and such cure shall be a covenant in the New Lease and Concession Agreement).

(b) A New Lease and Concession Agreement shall provide that, with respect to each and every Occupancy Lease that immediately prior to the termination of the Term was superior to the legal operation and effect of the Collateral Assignment held by the Collateral Assignee that obtained such New Lease and Concession Agreement, the Successor Concessionaire thereunder shall be deemed to have recognized the Occupancy Lease, as though the Occupancy Lease had never terminated but had continued in full force and effect after the termination of the Term of this Lease and Concession Agreement, and the Successor Concessionaire shall be deemed to have assumed all of the obligations of the sublandlord under the Occupancy Lease accruing from and after the termination of the Term; provided that the obligation of the Successor Concessionaire under such New Lease and Concession Agreement for any covenant of quiet enjoyment, express or implied, contained in the sublease shall be limited to the acts of the Successor Concessionaire and those claiming by, under, or through such Successor Concessionaire. Upon execution and delivery of a New Lease and Concession Agreement, all Occupancy Leases that may previously have been assigned and transferred to the MDTA shall thereupon be assigned and transferred without recourse by the MDTA to the Successor Concessionaire.

(c) During the period from and after the date of termination of this Lease and Concessionaire Agreement to the execution and delivery of a New Lease and Concession Agreement, MDTA shall obtain the consent of such Collateral Assignee prior to terminating or making any amendment to any Occupancy Lease.

(d) Nothing contained in this Appendix 3, Section 2.6 shall be deemed to limit or affect MDTA's interest in and to the Leased Premises upon the expiration of the Term of the New Lease and Concession Agreement. The provisions of this Appendix 3, Section 2.6 shall survive the termination of this Lease and Concession Agreement and shall continue in full force and effect thereafter to the same extent as if this Appendix 3, Section 2.6 were a separate and independent contract made by MDTA, Concessionaire and the Collateral Assignee and, if the Collateral Assignee satisfies the conditions to a New Lease and Concession Agreement from the effective date of such termination of this Lease and Concession Agreement to the date of execution and delivery of the New Lease and Concession Agreement, the Collateral Assignee may operate the concession created by this Lease and Concession Agreement without hindrance

by MDTA, but only on and subject to the terms and provisions of this Lease and Concession Agreement.

Section 2.7 Recognition by MDTA of Collateral Assignee

If there is more than one Collateral Assignee, only that Collateral Assignee, to the exclusion of all other Collateral Assignees, whose notice was earliest received by MDTA pursuant to the Collateral Assignee Notice Requirements, shall have the rights as a Collateral Assignee under this Appendix 3, Article II, unless such Collateral Assignee has designated in writing another Collateral Assignee to exercise such rights.

Section 2.8 MDTA's Right to Purchase Indebtedness Secured by Collateral Assignment

(a) If any default by Concessionaire has occurred under a Collateral Assignment, or any act, condition or event has occurred which would permit a Collateral Assignee to declare all or part of the Indebtedness secured by a Collateral Assignment to be immediately due and payable, then MDTA shall have ninety (90) days after the date on which the Collateral Assignee shall serve notice upon MDTA in writing ("Collateral Assignee's Notice") that such Collateral Assignee intends to commence proceedings to exercise its rights or remedies under the Collateral Assignment stating the calculation of the purchase price pursuant to Appendix 3, Section 2.8(c), during which ninety (90) day period MDTA shall have the right and option (the "MDTA's Option") to purchase from the Collateral Assignee the Indebtedness secured by the Collateral Assignment, upon the terms and subject to the conditions contained in this Appendix 3, Section 2.8.

(b) MDTA's Option shall be exercised by notice served upon Concessionaire and Collateral Assignee within such ninety (90) day period. Time shall be of the essence as to the exercise of MDTA's Option. If MDTA's Option is duly and timely exercised, MDTA shall purchase on the date which is ninety (90) days after the date on which a Collateral Assignee's Notice is served upon MDTA. The closing shall take place at a mutually convenient time and place.

(c) The purchase price payable by MDTA shall be equal to the aggregate amounts secured by such Collateral Assignment or incurred with respect to the related Indebtedness (including principal, interest, fees, premiums, breakage, and other costs and expenses, which includes attorneys' fees, swap or any other derivatives, termination, prepayment and similar fees and expenses and taxes incurred by the holder of Indebtedness secured by a Collateral Assignment or transfer fees imposed by any Governmental Authority, each as supported by reasonably satisfactory documentation, and any other amounts secured thereby) as of the closing date of the purchase. The purchase price shall be paid in full in cash at closing by wire transfer or other immediately available funds to an account or accounts designated by the Collateral Assignee. The purchase price shall be paid by MDTA to the Collateral Assignee, to be applied by the Collateral Assignee to the Indebtedness secured by the Collateral Assignment owed to such Collateral Assignee, subject to the priorities of the security interests created by such Collateral Assignment.

(d) At the closing and upon payment in full of the purchase price the Collateral Assignee shall assign its Collateral Assignment to MDTA, without recourse, representations, covenants or warranties of any kind.

(e) MDTA shall have the right to receive all notices of default under any Collateral Assignment, but MDTA shall not have the right to cure any default under any Collateral Assignment except to the extent provided in this Appendix 3, Section 2.8.

Section 2.9 Consent Rights of Collateral Assignee

(a) The provisions of this Lease and Concession Agreement that provide for the consent, approval, joinder or other right of any Collateral Assignee shall apply only to and for the benefit of a Collateral Assignee whose Collateral Assignment provides for the right of the Collateral Assignee to have such consent, approval, joinder, or other right and shall not create or grant additional rights.

(b) To the extent the terms and provisions of any Collateral Assignment require or provide for the consent, approval, joinder, or other right of the Collateral Assignee as a condition to any consent, approval, joinder, or other action taken by or on behalf of MDTA, other than those matters already expressly provided for in this Lease and Concession Agreement, such provisions shall not be binding upon MDTA unless and until MDTA enters into a written instrument to that effect.

Section 2.10 Concessionaire's Compliance with Collateral Assignments

(a) The Concessionaire covenants:

- (i) Not to make any payments due under any Collateral Assignment more than one (1) month in advance of the due dates therefore;
- (ii) To notify MDTA immediately of the receipt by the Concessionaire of any notice of default under any Collateral Assignment and to furnish to MDTA a copy of such notice of default or any other Notice received by Concessionaire;
- (iii) To furnish to the MDTA promptly following the execution thereof true copies of any Collateral Assignment and all amendments, modifications, consolidations, replacements, assignments, extensions or renewals thereof; and
- (iv) Upon MDTA's request, to promptly furnish evidence reasonably satisfactory to the MDTA that the Concessionaire has complied with its covenants hereunder with respect to a Collateral Assignment.

(b) The Concessionaire shall defend, indemnify and hold harmless the State Parties from and against any and all loss, cost, claim, damage, liability, or expenses incurred by any of them in connection with any claim brought against the State Parties with respect to a Collateral

Assignment (including, but not limited to, the reasonable fees of attorneys, investigators and experts).

Section 2.11 Required Notice of Collateral Assignee

Notwithstanding anything in this Lease and Concession Agreement to the contrary, any rights under this Lease and Concession Agreement with respect to a Collateral Assignment shall not apply unless the Collateral Assignment or a memorandum thereof is recorded among the Land Records; and any communication with a Collateral Assignee shall be made only to the Persons that Concessionaire designates as Notice Persons.

Section 2.12 Sale, Assignment or Transfer

In the event of a sale, assignment or transfer by MDTA of its interest in the Leased Premises and in this Lease and Concession Agreement, MDTA shall thereupon be released and discharged from all covenants and obligations of MDTA thereafter accruing, but such covenants and obligations shall be binding upon the purchaser or assignee or transferee of the MDTA, from and after the effective date of the transfer. MDTA shall be entitled to sell, transfer, mortgage, pledge, hypothecate, or otherwise encumber all or any interest in the Fee Estate.

Section 2.13 Estoppel Certificates

MDTA shall execute, acknowledge and deliver to Concessionaire, promptly upon request but not more often than one time in a year, its certificate certifying to the best of its knowledge:

- (a) that this Lease and Concession Agreement is unmodified and in full force and effect (or, if there have been modifications, that this Lease and Concession Agreement is in full force and effect, as modified, and stating the modifications);
- (b) whether there are then existing any charges or compensation claims against, or defenses against the enforcement by, Concessionaire of any agreement, covenant or condition hereof on the part of MDTA to be performed or observed (and, if so, specifying the same); and
- (c) whether there are then existing any defaults by Concessionaire in the performance or observance by Concessionaire of any agreement, covenant or condition hereof on the part of Concessionaire to be performed or observed and whether any notice has been given to Concessionaire of any default which has not been cured (and, if so, specifying the same).