

**MARYLAND HOUSE AND CHESAPEAKE HOUSE
LEASE AND CONCESSION AGREEMENT
MODIFICATION NO. 8 (ANNUAL MAINTENANCE ESCROW ACCOUNT- FUEL RELATED
CONTRIBUTION)
To
MARYLAND TRANSPORTATION AUTHORITY
CONTRACT NO. 60833436R
I-95 TRAVEL PLAZAS**

THIS MODIFICATION NO. 8 to Maryland Transportation Authority Contract No. 60833436R (the "Agreement") is effective as of October 1, 2014, by and between the Maryland Transportation Authority (hereinafter referred to as "MDTA") and Areas USA MDTP, LLC (hereinafter referred to as "Concessionaire").

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

WHEREAS, the Agreement requires the Concessionaire to establish and maintain an Annual Maintenance Escrow Account ("AMEA") after the completion of the Initial Improvements that is independent of other matters and accounts of the Concessionaire;

WHEREAS, the monthly deposits into the AMEA are to be in an amount equal to (i) one percent (1%) of Gross Revenues for the preceding month and (ii) \$0.0075 per gallon of Fuel sold for the preceding month;

WHEREAS, the Lease and Concession Agreement notes in Exhibit D - Concessionaire's Payment Schedule – "[i]f Fuel Stations are operated by Sunoco, then the gallons per Lease Year will be based on gallons sold. If the Fuel Stations are operated by a Franchisee, then the gallons per Lease Year will be based on gallons delivered by Sunoco to Franchisee per Lease Year;"

WHEREAS, the Fuel Stations at both Travel Plazas are operated by a Franchisee and a Fuel supplier, Sunoco, Inc., provides the Fuel to the Fuel Stations;

WHEREAS, the parties desire to modify the Agreement to adjust the AMEA calculation to be based on the gallons delivered as opposed to gallons sold in order to be consistent with the calculation of the monthly payment schedule as noted in Exhibit D where operation of the Fuel Stations is by a Franchisee;

WHEREAS, in order to verify payments made to the AMEA based on the new calculation, method, the parties also desire to modify the Agreement to require specific records that the Fuel supplier has for gallons of fuel delivered and Diesel Exhaust Fluid (DEF) sold and delivered be maintained and provided to MDTA upon request; and

MODIFICATION NO. 8 (Annual Maintenance Escrow Account- Fuel Related Contribution)
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Areas USA MDTP, LLC

WHEREAS, on January 22, 2015, the MDTA Board unanimously approved this Contract Modification and delegated authority to the Executive Director to finalize and execute approval documents.

NOW, THEREFORE, the parties agree as follows:

- A. In accordance with the MDTA Board approval, the effective date of this modification is October 1, 2014.
- B. The Agreement will be modified as indicated on Attachment A to modify portions of the Agreement including the following:
 - a. Agreement, Section 9.4.2 Annual Maintenance Escrow Account, page 44 to specify that payments to the AMEA will be \$0.0075 per gallon of Fuel and DEF sold if the Fuel supplier is operating the Fueling Facilities and it will be based on Fuel and DEF delivered if the Fueling Facilities are operated by a Franchisee.
 - b. Agreement, Section 9.4.2 Annual Maintenance Escrow Account, page 44 requiring Concessionaire to cause the Fuel supplier to maintain certain records reporting Fuel delivered, which is to be available to MDTA upon request;
 - c. Agreement, Section 10.1, Maintenance and Audit of Records, page 64 adding the requirement that Concessionaire maintain and shall require its Subcontractors to maintain records of gallons of Fuel delivered and DEF sold and delivered; and
 - d. Agreement, Exhibit G-2 Reinvestment Budget to specify that payments to the AMEA will be \$0.0075 per gallon of Fuel and DEF sold if the Fuel supplier is operating the Fueling Facilities and it will be based on Fuel and DEF delivered if the Fueling Facilities are operated by a Franchisee.
- C. The adjustment to the AMEA calculation and payments is intended to be consistent with the payment calculation for monthly revenue payments as identified in Exhibit D of the Agreement.
- D. The terms and conditions of this Modification No. 8 constitute all of the additional rights and obligations of the parties. This Modification No. 8 does not serve to modify any other provisions of the Agreement which shall remain in full force and effect, unless expressly amended herein.

MODIFICATION NO. 8 (Annual Maintenance Escrow Account- Fuel Related Contribution)
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Areas USA MDTP, LLC

IN WITNESS WHEREOF, the parties hereto have caused this Modification No. 8 to be executed in two original copies this 15 day of May, 2015.

Witness:

Tracy Edwards

MARYLAND TRANSPORTATION AUTHORITY

Bruce W. Gartner

Bruce W. Gartner
Executive Director

Date: 5/13/2015

Attest:

V. Pence

AREAS USA MDTP, LLC

By: Xavier Rabell

Printed Name: XAVIER RABELL

Title: PRESIDENT

Date: 5/13/15

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:
this 15th day of May, 2015

Kimberly Hullett
Assistant Attorney General

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 equal to (i) one percent (1%) of Gross Revenues for the preceding month and (ii)(a) \$0.0075 per gallon of Fuel and DEF from Fuel Service Equipment sold if the Fueling Facilities are operated by a Fuel supplier, such as Sunoco, and (ii)(b) \$0.0075 per gallon of Fuel and DEF from Fuel Service Equipment delivered if the Fueling Facilities are operated by a Franchisee for the preceding month in accordance with the terms of Exhibit G-2. 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 for the purposes stated in Exhibit G-2 and for no other purpose other than distribution of any remaining balance to MDTA, if any, upon expiration of the Term of this Lease and Concession Agreement.

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 and DEF from Fuel Service Equipment sold, gallons of Fuel and DEF from Fuel Service Equipment delivered, 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.

Exhibit G-2

I-95 Travel Plazas Lease and Concession Agreement

REINVESTMENT BUDGET

Commencing on the date Concessionaire completes the Initial Improvements, Concessionaire shall establish and maintain an Annual Maintenance Escrow Account that is independent of other matters and accounts of the Concessionaire. The Annual Maintenance Escrow Account shall be maintained and not held in a pool of funds of other operations of the Concessionaire, in a financial institution approved by the Maryland State Treasurer wherein the Concessionaire shall deposit monthly, within twenty (20) days after the end of each month after the Concessionaire has completed the Initial Improvements, an amount equal to (i) one percent (1%) of Gross Revenues for the preceding month and (ii) (a) \$0.0075 per gallon of Fuel and DEF from Fuel Service Equipment sold if the Fueling Facilities are operated by a Fuel supplier, such as Sunoco, and (ii)(b) \$0.0075 per gallon of Fuel and DEF from Fuel Service Equipment delivered if the Fueling Facilities are operated by a Franchisee for the preceding month.

The Annual Maintenance Escrow Account shall be used by the Concessionaire throughout the Term of the Lease and Concession Agreement solely for renovating or improving the Sites or Leased Premises, which shall include but not be limited to (i) painting, (ii) new landscaping, (iii) replacement of Equipment and Fixtures, (iv) Reinvestment and (v) any other expenditure that improves the appearance, service or functionality of the Sites. Notwithstanding the foregoing, Concessionaire shall not be allowed to use the funds in the Annual Maintenance Escrow Account for routine monthly operating expenditures.

The Concessionaire's obligations to continue to deposit the funds into the Annual Maintenance Escrow Account shall be suspended at such time as the balance of the account, plus accrued interest, equal at least Ten Million Dollars (\$10,000,000.00), but the Concessionaire's obligation to deposit funds into the Annual Maintenance Escrow Account shall resume the month immediately following the date on which the balance of the Annual Maintenance Escrow Account falls below Ten Million Dollars (\$10,000,000.00). The maximum amount to be maintained in the Annual Maintenance Escrow Account shall be adjusted every five (5) years commencing on September 1, 2017 in accordance with the CPI. In no event will the Concessionaire be entitled to any funds from the Annual Maintenance Escrow Account except as provided above. Concessionaire's obligation to make deposits into the refurbishment trust shall cease twelve (12) months immediately preceding the expiration of the Term of this Agreement.

It is intended that the funds accumulated in this Annual Maintenance Escrow Account shall be spent for the above-stated purposes only by the expiration of the Term of this Lease and Concession Agreement. Any remaining balance at the end of this Lease and Concession Agreement, or the earlier termination thereof, shall be payable to MDTA.

In addition to the Annual Maintenance Escrow Account, Concessionaire, along with the Fuel Provider, shall further reinvest in the Sites in accordance with the following capital upgrade schedule that may include fuel dispenser replacements, restroom upgrades, convenience store interior remodeling, HVAC upgrades, cooler upgrades/improvements:

Capital Upgrade Schedule

<u>Year of Agreement</u>	<u>Concessionaire</u>	<u>Fuel Provider</u>
Year 8		\$1,100,000.00
Year 9		\$850,000.00
Year 10	\$1,500,000.00	
Year 15		\$1,100,000.00
Year 16		\$850,000.00
Year 20	\$2,000,000.00	
Total	\$3,500,000.00	\$3,900,000.00

In the event Concessionaire and its Fuel Provider fail to spend the committed dollars during the corresponding years of the Lease and Concession Agreement set forth in the capital upgrade schedule above, Concessionaire shall pay to MDTA, within thirty (30) days after the end of the applicable year of the Lease and Concession Agreement where Concessionaire and its Fuel Provider were to spend the committed dollars, the difference between the committed dollars set forth in the capital upgrade schedule above and what Concessionaire and its Fuel Provider actually spent on capital upgrades. Notwithstanding the foregoing, Concessionaire may submit a written request to MDTA to delay Concessionaire's and/or its Fuel Provider's requirement to spend the committed capital upgrade dollars. This request must be submitted to the MDTA during a corresponding Lease and Concession Agreement year where Concessionaire and its Fuel Provider are to spend committed dollars for capital upgrades and may be accepted or rejected at MDTA's sole discretion.