

## CNG PURCHASE AND LEASE AGREEMENT

**THIS CNG PURCHASE AND LEASE AGREEMENT** (“**Agreement**” or “**Lease**”), is made and entered into as of the date stated on the City’s signature page below, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, through and on behalf of its Department of Aviation (“**City**”), and **CLEAN ENERGY**, an entity formed and registered under the laws of the State of California, and authorized to do business in the State of Colorado **under the business name of CLEAN ENERGY FUELS CORP** (“**Tenant**” or “**Operator**”).

### RECITALS

**WHEREAS**, the City owns, operates, and maintains Denver International Airport (“**DEN**”); and

**WHEREAS**, City desires to enter into an agreement with a tenant to install, own, and operate compressed natural gas or “**CNG**” fueling stations and related infrastructure at DEN; and

**WHEREAS**, City has undertaken a competitive process to solicit and receive proposals for such services, and has selected the proposal submitted by the Tenant; and

**WHEREAS**, Tenant is qualified, willing, and able to perform the services set forth in this Agreement in a timely, efficient, and economical manner;

**NOW, THEREFORE**, for and in consideration of the premises and other good and valuable consideration, the Parties hereto agree as follows:

### SECTION 1 GENERAL

#### 1.01 CONSIDERATION.

The City enters into this Agreement for and in consideration of the proposal submitted by the Tenant to install, own, and **operate CNG fueling** stations and related infrastructure at DEN.

#### 1.02 INCORPORATION OF ATTACHED EXHIBITS, REQUEST FOR PROPOSALS AND ADDENDA.

The Exhibits attached to this Agreement shall be deemed incorporated in this Agreement by reference.

## **SECTION 2 DEFINITIONS**

### **2.01 AIRPORT OR DEN.**

"Airport" or "DEN" shall mean Denver International Airport.

### **2.02 AUDITOR.**

"Auditor" shall mean the City's Auditor and his authorized representative.

### **2.03 CNG.**

"CNG" shall mean compressed natural gas for use by motor vehicles.

### **2.04 CEO.**

"CEO" shall mean the Chief Executive Officer of Denver International Airport.

### **2.05 DEN DESIGN STANDARDS.**

"DEN Design Standards" shall mean the design standards and criteria for Denver International Airport, and as hereafter amended, as such design standards and criteria apply to Tenant's CNG fueling stations on the Land. The "DEN Design Standards" can be found on <http://business.flydenver.com/bizops/bizRequirements.asp>.

Notwithstanding anything to the contrary in this Agreement or any document referenced or incorporated into this Agreement, when applicable pursuant to this Agreement, Tenant will use reasonable efforts to comply with the applicable DEN Design Standards; however, the parties acknowledge and agree that Tenant will not be required to comply with DEN Design Standards that are inconsistent with the Denver Building Code and Denver Fire Code.

### **2.06 DEN DEVELOPMENT GUIDELINES.**

"DEN Development Guidelines" shall mean the criteria established at DEN for tenants and concessionaires for design, construction, installation, signage, and related matters, as currently in force or hereafter promulgated or amended, as such criteria apply to Tenant's CNG fueling stations on the Land. The DEN Development Guidelines can be found on <http://business.flydenver.com/bizops/bizRequirements.asp>.

Notwithstanding anything to the contrary in this Agreement or any document referenced or incorporated into this Agreement, when applicable pursuant to this Agreement, Tenant will use reasonable efforts to comply with the applicable DEN Development Guidelines; however, the parties acknowledge and agree that Tenant will not be required to comply with DEN Development Guidelines that are inconsistent with

the Denver Building Code and Denver Fire Code.

## **2.07 LAND.**

"Land" shall mean the parcel of real property legally described and generally depicted on **Exhibit A** attached hereto, containing approximately 1,525 square feet. The City expressly reserves from the Land all oil, gas, and other mineral rights, as well as all water rights, and an avigation easement for operation of aircraft. In addition, Operator understands that DEN is exploring constructing a "plane spotting" area in an area that may impact the Land; Operator and the City agree that in the event DEN wants to proceed s forward with that project, the parties shall work together to amend the relevant terms of this Agreement.

## **2.08 LEASE IMPROVEMENTS.**

"Lease Improvements" shall mean all facilities, improvements, and structures to be constructed or that are already constructed on the Lease Premises for the operations and uses authorized by this Lease, and includes, without limitation, the Tenant's Equipment which is owned by Tenant, which improvements must conform to plans and specifications which were approved in writing by DEN pursuant to the terms of this Agreement or approved during the term of any prior lease or license agreement.

## **2.09 LEASE PREMISES.**

"Lease Premises" shall mean the Land together with the Lease Improvements.

## **2.10 MATERIAL ADVERSE CHANGE.**

"Material Adverse Change" shall have the definition stated in Section 6.02, *infra*.

## **2.11 MMBTU & GGE**

A. "MMBTU" shall mean the amount of CNG it takes to produce one million British Thermal Units (approximately 8.00 GGEs).

B. "GGE" shall mean gasoline gallon equivalent or volume of CNG that has the same energy content as one gallon of gasoline.

## **2.12 PAST DUE INTEREST RATE.**

"Past Due Interest Rate" shall mean interest accruing at 18% per annum from the due date, unless payment is received within five (5) days after payment is due.

## **2.13 TENANT'S EQUIPMENT.**

"Tenant's Equipment" shall mean all equipment, apparatus, machinery,

furnishings, trade fixtures, and personal property installed by Tenant and used in the operation of the business of Tenant (as distinguished from the use and operation of the Airport or City property) which is listed on an inventory list submitted by Tenant to DEN in the form of **Exhibit B** attached hereto. Tenant's Equipment as of the date of this Agreement is described in the attached **Exhibit B**. On at least an annual basis, and any other time Tenant's Equipment is changed, Tenant shall provide an updated **Exhibit B** to DEN and, upon acceptance by DEN, such updated document shall be incorporated into this Agreement; such updates shall not be deemed an amendment to this Agreement. In the event DEN does not respond to the updated **Exhibit B** provided by Tenant to DEN within ten (30) days of transmission, DEN shall be deemed to have accepted such **Exhibit B**.

### **SECTION 3**

#### **LEASE OF PREMISES**

##### **3.01 LEASE RIGHTS GRANTED.**

City grants to Tenant the right to construct upon, occupy and use the **Lease Premises** consistent with and subject to all of the terms and provisions of this Agreement. The rights and privileges granted herein are subject to prior easements, rights of way, and other matters affecting title to the Land which shall not unreasonably interfere with Tenant's exercise of its rights granted in this Agreement. The Lease Premises are expressly subject to an avigation easement hereby reserved to the City and the Airport for the flight of aircraft over the Lease Premises.

The City also reserves for itself the right to install utilities and other infrastructure upon areas of the Lease Premises as necessary or convenient for the operation of the Airport, and the City further shall have the right to grant easements, licenses, or permits on the Land for the installation of such utilities and infrastructure, provided that the installation of utilities or other infrastructure, use of such areas and/or the grant of such easements, licenses, or permits does not unreasonably interfere with the Tenant's operations and use of the Lease Premises. The Tenant shall not be entitled to any compensation or abatement of rent if the installation of utilities or other infrastructure, use of such areas or the grant of such easements, licenses, or permits does not interfere unreasonably with the Tenant's operations or use of the Lease Premises.

##### **3.02 USE OF LEASE PREMISES.**

Tenant may use the Lease Premises solely for the construction, operation, and maintenance of dispensing stations to serve CNG to vehicles, and related infrastructure.

##### **3.03 QUIET ENJOYMENT.**

Provided Tenant is not in default under the terms of this Agreement, Tenant shall and may peacefully have, hold and enjoy the Lease Premises and shall not be disturbed



or interfered with by the City or by any person claiming by, through, or under the City, except as stated in this Agreement.

### **3.04 RIGHTS NOT EXCLUSIVE.**

The City reserves the right to grant to other tenants the right to operate CNG fuel dispensing stations at locations other than the Lease Premises; Tenant understands and agrees that its right to operate a CNG dispensing station is not exclusive.

### **3.05 MEANS OF ACCESS.**

Tenant, its contractors, agents and employees, have a non-exclusive right of ingress to and egress from the Lease Premises by a means of access located outside the Land as specified by the City. In any non-public areas, access shall be restricted under the Airport's security requirements as described in the section below entitled "Security". The City may, at any time, temporarily or permanently, close or consent to or request the closing of any roadway or other right-of-way for such access, ingress, and egress, and any other area at the Airport or in its environs presently or hereafter used as such, so long as there is reasonable access, ingress, and egress available to the Lease Premises. Tenant hereby releases and discharges the City of and from any and all claims, demands, or causes of action which the Tenant may at any time have against the City arising or alleged to arise out of the closing of any roadway or other right-of-way for such access, ingress, and egress, or other area at the Airport, so long as reasonable access, ingress, and egress is available after any such modification.

Nothing in this Agreement shall be construed to prevent the City from charging the operators of vehicles carrying passengers and property a fee for the privilege of entering upon the Airport or using the roadways in or on the Airport, or soliciting passengers upon the Airport, or otherwise operating on the Airport; and City reserves the right to make such charges provided that they do not discriminate unreasonably against the operators of vehicles used for carrying officers, employees, passengers or property of Tenant.

### **3.06 RIGHT OF INSPECTION.**

The City retains the full right of entry upon and to the Lease Premises for any purpose necessary, incidental to or in connection with its obligations hereunder, or in the exercise of its governmental functions, or for the purpose of making any inspection or conducting any testing it deems necessary.

### **3.07 NO INTERFERENCE.**

The City covenants and agrees that, so long as Tenant is not in default under this Agreement, Tenant shall be entitled pursuant to the terms herein to peacefully have, hold and enjoy the Lease Premises and shall not be unreasonably disturbed or interfered with by the City or any party claiming by, through or under the City, except as

stated in this Agreement.

### **3.08 ADDITIONAL SERVICES.**

DEN may request Tenant to perform services which relate to the CNG fueling stations but which are not described in or are in excess of the Tenant's obligations under this Agreement (hereinafter referred to as "**Additional Services**"). Tenant shall be reasonably compensated for such Additional Services in the amounts agreed upon in writing by DEN and Tenant before any such Additional Services are performed.

## **SECTION 4 TERM**

### **4.01 TERM.**

A. "**Term**" shall mean the period commencing as of **November 1, 2020 and expiring on October 31, 2025**, unless sooner cancelled or terminated as provided for in this Agreement. Thereafter, this Agreement shall automatically renew for up to two (2) consecutive two-year extensions unless either party provides the other with a written notice of termination at least six (6) months prior to the applicable renewal date.

B. **Continuity of Services.** See Section 4.02.B.

### **4.02 TENANT OBLIGATIONS UPON EXPIRATION OR TERMINATION OF AGREEMENT.**

A. Except as otherwise specified in Section 4.02(B) below, upon the expiration or earlier termination of this Agreement (as further detailed below), Tenant covenants and agrees that the City will elect, and notify Tenant in writing, one of the following options as soon as reasonably possible prior to the effective date of termination or expiration:

- (1) Where the termination or expiration occurs prior to the expiration of the Term of this Agreement pursuant to Section 9.02 **after Tenant's default** the City shall elect one of the following options:
  - a. Buy Tenant's Equipment for the greater of (a) the remaining capital cost recovery amount pursuant to the Depreciation Schedule stated in **Exhibit B-1**, or (b) the Fair Market Value (defined below) of Tenant's Equipment. Such amount to be paid (subject to the offsets described below in this paragraph) to Tenant by the City within sixty (60) days of the effective date of termination. This payment obligation shall survive the termination of this Agreement. From the amount to be paid by the City to Tenant for the purchase of Tenant's Equipment, the City may offset such amount by the following amounts: (i) any amounts owed to the City by Tenant which accrued prior to the effective date of

termination; plus (ii) substantiated direct damages incurred by the City based on Tenant's default which the City was unable to avoid with reasonable efforts. The City shall provide a written detailed summary of how the amounts offset were determined on the day the funds are paid to Tenant. In the event it is determined (pursuant to the paragraph below the following paragraph) that: (1) the City owes additional amounts to the Tenant (i.e. too much was offset), the City shall remit the amount(s) owed to Tenant within thirty (30) days of the day the amount owed is determined; or (2) the Tenant owes additional amounts to the City (i.e. too little was offset), the Tenant shall remit the amount(s) owed to the City within thirty (30) days of the day the amount owed is determined. The City acknowledges and agrees that it will take all efforts to mitigate its damages; or

- b. Have Tenant remove Tenant's Equipment which is above ground from the Land, abandon all underground lines as long as they are shut off at the valve and demo all affected Land to grade, and work shall be completed within a reasonable period of time after termination or expiration, though in no case longer than 6 months after Tenant's default. In the event the City provides timely written notice of its election of this option (b) and Tenant does not comply with its obligations thereto, the City may cause such removal and restoration to be done at Tenant's expense.

In the event of a termination pursuant to Section 9.02 for Tenant's default, Tenant acknowledges that Tenant's default and the termination of this Agreement based on such default may result in damages incurred by the City and in the event the City does claim any damages from such default and termination, the City shall provide a written notice to Tenant which indicates the City's claim amount and evidence to support such claim. After Tenant's receipt of such notice and evidence, the parties shall attempt to work together to settle such claim promptly. In the event such negotiations do not result in a resolution, the parties may mutually elect to engage in non-binding mediation with the costs of the mediator split equally between the parties. However, should such negotiations and mediation fail, the parties may take any action they deem necessary to protect their interests, subject the terms of this Agreement.

- (2) Where the termination or expiration occurs **prior to the expiration of the Term** and is not pursuant to Section 9.02 (see options above for a termination pursuant to Section 9.02), the following options shall be available to the City:
  - a. buy Tenant's Equipment for the greater of:
    - i. the Fair Market Value (defined below) of Tenant's Equipment; or
    - ii. the applicable remaining capital cost recovery amount pursuant to the Depreciation Schedule stated in **Exhibit B-1**.

The City agrees that it shall remit the applicable amount described above plus applicable Capital Carrying Cost amount determined in accordance

with the formula below to Tenant as soon as possible (and in any event within 12 months from the determination of the Fair Market Value). In the event the option to purchase the Tenant's Equipment is elected by the City: (1) the City's obligation to pay Tenant all amounts owed to Tenant pursuant to this Agreement (including, without limitation, this subsection) shall survive such termination until Tenant has received all such amounts; and (2) on the effective date of termination, ownership of Tenant's Equipment shall transfer from Tenant to the City. The "**Capital Carrying Cost**" amount shall be determined in accordance with the following formula:

[Amount to be paid to CE for Tenant's Equipment] x ((# of days into the 12 months the date of payment occurs)/365] x .157); or

- b. for Tenant to remove Tenant's Equipment which is above ground from the Land, abandon all underground lines as long as they are shut off at the valve, and demo all affected Land to grade. Work shall be completed within a reasonable period of time after termination or expiration, though in no case longer than 6 months after the effective date of termination. In the event the City elects this option (b), the City shall be responsible for paying Tenant for Tenant's reasonable costs of removal of the equipment plus any unrecovered capital value for the civil improvements associated with Tenant's CNG stations. In the event the City provides timely written notice of its election of this option (b) and Tenant does not comply with its obligations hereto, the City may cause such removal and restoration to be done at Tenant's expense.

(3) where the termination occurs based on the **expiration of the Term**, the following options shall be available to the City to elect:

- a. buy Tenant's Equipment for the greater of:
  - i. the Fair Market Value of Tenant's Equipment; or
  - ii. the applicable amount described in the Depreciation Schedule stated in **Exhibit B-1**;

such amount to be paid to Tenant within six (6) months of the effective date of termination. The City agrees that it shall also pay Tenant for any Capital Carrying Cost amount determined in accordance with the formula above. The Fair Market Value of Tenant's Equipment shall be determined prior to the City's applicable yearly budget cycle. In the event the option to purchase the Tenant's Equipment is elected by the City: (1) the City's obligation to pay Tenant all amounts owed to Tenant pursuant to this Agreement (including, without limitation, this subsection) shall survive such termination until Tenant has received all such amounts; and (2) on the effective date of termination, ownership of Tenant's Equipment shall transfer from Tenant to the City; or

- b. for Tenant to remove Tenant's Equipment which is above ground from the Land, abandon all underground lines as long as they are shut off at the valve, and demo all affected Land to grade. Work shall be completed within a reasonable period of time after termination or expiration, though in no case longer than 6 months after the City's approval of the estimates for the work as described in the following paragraph.

In the event the City elects this option (b), the City shall be responsible for paying Tenant for Tenant's reasonable costs of removal of the equipment. The Tenant will provide estimates to the City which must be approved by the City (such approval to not be unreasonably withheld) before any work can be done. In the event the City provides timely written notice of its election of this option and Tenant does not comply with its obligations thereto, the City may cause such removal and restoration to be done at Tenant's expense.

- (4) As used in this Agreement, "Fair Market Value" means an amount determined according to the following procedure:

Each party shall choose an independent appraiser, and the two appraisers shall each determine the fair market value of the Tenant's Equipment on the basis on an arm's-length sale between an informed and willing buyer (other than a buyer currently in possession) and an informed and willing seller under no compulsion to sell. The average of the amounts determined by the two appraisers shall be the Fair Market Value. Each party shall pay the expenses of their appraiser.

For any payments made to Tenant by the City pursuant to the above, the City shall also be responsible for any applicable taxes related to such payment(s). The City will be exempt from all taxes as long as evidence/documentation is provided to support the exemption.

B. Tenant recognizes that the services provided under this contract are vital to Denver International Airport, and therefore, in the event the City has selected a new third party tenant to perform operations similar to Tenant on the Land after the expiration or termination of this Agreement, the City may elect in a writing to Tenant which is provided at least sixty (60) days prior to the expiration date, that the Term of this Agreement shall automatically renew on a month-to-month basis (not to exceed a total of six (6) months without Tenant's written approval) during which time Tenant shall reasonably cooperate with the City to create a phase in/phase out transition plan and schedule that will address the following:

- (1) the process of removal of Tenant's Equipment as described (if the City elected a removal option pursuant to Section 4.02(A) above) above, if applicable;

- (2) any regulatory timelines and requirements applicable to closure of a CNG station; and
- (3) any installation of equipment by the new tenant.

During the renewal period(s), Tenant will continue to receive revenue from the CNG stations that it operates. Tenant shall work in good faith with the City and any new tenant to minimize disruption to operations and service at Denver International Airport to the extent practicable. In no way shall Tenant be responsible for any act or omission by any new tenant or any equipment or other property of a new tenant. Further, the parties acknowledge and agree that Tenant will not be obligated to operate during the renewal period(s) at a financial loss.

C. This Section 4.02 shall survive the termination or expiration of the Agreement to allow the parties to comply with their obligations hereunder and so that each party can enforce its rights under this Section 4.02.

#### **4.03 HOLDING OVER.**

If Tenant holds over after termination of this Lease (other than as described above in Section 4.02(B)), thereafter Tenant's occupancy shall be at sufferance at a monthly rental, payable in advance, equal to 150% of the monthly rent provided in Section 5 herein, but otherwise Tenant shall be bound by all terms and conditions, with the exception of the rent provisions and provisions relating to the Term, as herein provided in the absence of a written agreement to the contrary. Nothing herein shall be construed to give Tenant the right to hold over at any time, and City may exercise any and all remedies at law or in equity to recover possession of the Lease Premises, as well as any damages incurred by the City.

### **SECTION 5 PAYMENTS**

#### **5.01 RENT.**

Tenant covenants and agrees, without offset, deduction or abatement, to pay the City an annual ground rent of \$1,098.00 for the rights and privileges herein granted by the City. The ground rent in the amount of \$0.72 per square foot may be adjusted annually according to DEN's ratemaking methodology, including as it may be amended.

The annual ground rent shall be payable by Tenant to City in advance and without demand commencing on November 1, 2020 ("**Rent Commencement Date**") and the first day of November each succeeding year thereafter during the Term.

#### **5.02 CNG CHARGES AND REPORTING**

A. Pricing. Tenant shall provide CNG to the City and to third parties in accordance with the procedures and rates stated in **Exhibit C**. Pricing to Tier 3 users

(defined as users other than Tier 1 and Tier 2 users) shall be uniform (except as otherwise permitted pursuant to Section 6.01(C)) and shall consist of the cost of equipment amortized over the applicable period of time, a negotiated fee based on Operators proposal escalated annually, and the cost of natural gas supplied by the City or the Operator including transportation and handling fees, all as described in **Exhibit C**.

B. **Records**. Tenant shall provide DEN with a detailed quarterly report to include the following information, and other information that may be reasonably requested by DEN from time to time:

- Total transactions for CNG customers
- Vehicle/User ID
- Time of transaction
- Total fuel dispensed for Tier 1 and Tier 2 users
- Cost per gallon showing margin, commodity rate, and other expenses (handling fee, transportation cost)
- Annual report stating that the equipment meets regulatory and environmental requirements/standards

Operating issues if any should be identified with each quarterly report.

“**Tier 2**” users means CNG vehicles operated by an entity included on the attached **Exhibit C-1**, the Airport Related User List. The City may update this list by providing an updated Airport Related User List to Tenant via email and certified mail and such updated list shall be effective on the first day of the month following the month of receipt of the updated list by Tenant. Once the new list is effective, it shall be deemed to supersede and replace the attached **Exhibit C-1**.

C. **On-Line Access**. Once available, Tenant also will provide DEN secure, online access to shared files and reports.

### **5.03 INVOICING FOR CITY VEHICLES AND MAXIMUM CONTRACT AMOUNT.**

A. Operator will invoice the City on a monthly basis for fuel used for City vehicles and for vehicles owned by City contractors and consultants (collectively, “Tier 1” users).

1. All invoices must be submitted electronically in PDF format: to: [ContractAdminInvoices@Flydenver.com](mailto:ContractAdminInvoices@Flydenver.com).
2. **Prompt Pay**: Receipt of Contractor invoices to: [ContractAdminInvoices@Flydenver.com](mailto:ContractAdminInvoices@Flydenver.com) starts the official prompt payment process. Any invoices submitted to other parties will not be

considered part of the process, and all other methods of invoice submittal will be rejected. The City shall pay all invoices within 30 days of Tenant sending the invoice to the email above. Any payments not made to the Tenant when due shall accrue interest at the Past Due Interest Rate.

3. Invoices must include:

Company name  
Project name  
Contract number/task order number  
Invoice date  
Invoice billing period  
All backup documentation/receipts for work performed  
All invoices must be submitted electronically in PDF format to: ContractAdminInvoices@Flydenver.com.

D. The Maximum Contract Amount for CNG sales to the City is Ten **Million Eight Hundred Fifty Thousand Dollars (\$10,850,000.00)**.

**5.04 INTEREST ON PAST DUE AMOUNTS.**

Any payments not made to the City when due shall accrue interest at the Past Due Interest Rate, as herein defined.

**5.05 PLACE AND MANNER OF PAYMENTS.**

All sums payable to the City hereunder shall be made to "Airport Revenue Fund" without notice at such place as DEN may hereafter designate by notice in writing to Tenant. All sums shall be made in legal tender of the United States. Any check given to the City shall be received by it subject to collection, and Tenant agrees to pay any charges, fees or costs incurred by the City for such collection, including reasonable attorney's fees.

**5.06 REESTABLISHMENT OF RENTALS, FEES AND CHARGES.**

The City, through DEN, may from time to time at DEN's sole discretion, and subject to the requirements of any outstanding bond ordinance pertaining to the Airport, reestablish the rentals, fees, and charges provided for herein; provided, however, such reestablished schedule of rentals, fees, and charges shall be reasonable in relation to the cost of providing, operating, and maintaining property, services, and facilities of the Airport.

**5.07 BOOKS OF ACCOUNT AND AUDITING.**

A. In connection with any services performed hereunder on items of work



toward which federal funds may be received under the Airport and Airway Improvement Act of 1982, as amended, the City and County of Denver, the Federal Aviation Administration, the Comptroller General of the United States and any other duly authorized representatives shall have access to any books, documents, papers and records of the Tenant which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions.

B. The Tenant agrees that until the expiration of three years after the final payment under this Agreement, any duly authorized representative of the City, including the Manager or City Auditor or their representatives, shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Tenant involving transactions related to this Agreement, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program.

## **SECTION 6 STANDARDS AND SERVICES**

### **6.01 STANDARDS OF OPERATIONS.**

Tenant agrees to conduct its business on the Lease Premises in the following manner:

A. Fueling Positions. Tenant shall properly maintain the CNG fueling dispensers and all related equipment on the Lease Premises.

B. Training. Tenant agrees to provide training to persons utilizing the CNG equipment and infrastructure it owns and operates regarding the safe and efficient use and dispensing of CNG. Such training shall be at no cost to the fuel users. Tenant shall take reasonable steps to minimize fueling congestion at the Lease Premises.

C. Incentives. Tenant may at its discretion provide incentives to attract users to convert vehicles to CNG or to incentivize users to use Tenant's public access CNG station(s) on the Land. Such incentives shall be available to all who satisfy the terms of the incentive and for a limited time. No incentives that do not sunset shall be offered.

### **6.02 SERVICE OBLIGATIONS.**

A. Throughout the Term, Tenant shall be obligated to provide CNG and CNG fuel dispensing services for all vehicles utilizing the Airport as approved by the CEO from time to time. Tenant shall procure the amount of CNG required for DEN operations.

B. The parties acknowledge that from time to time Tenant may request DEN's approval to provide other clean environmentally friendly alternative fuels to other

vehicles as warranted. DEN's approval shall not be unreasonably withheld.

C. Technology to provide motor vehicle power may change over the term of the Agreement. Notwithstanding the foregoing or anything to the contrary in the Agreement, in the event of a Material Adverse Change (as defined below), Tenant may request, such request not to be unreasonably denied, conditioned or delayed, the ability to proportionally increase the capital cost recovery component of its pricing (referenced in Exhibit C) per GGE so that Tenant can recover its capital outlays ("**Adverse Change Adjustment**").

1. Before making, an Adverse Change Adjustment, Tenant shall provide the City with written notice of the amount of such Adverse Change Adjustment and also provide supporting financial reports and any other documentation needed to explain the Material Adverse Change, and explain how the increase in the capital cost recovery amount was calculated.
2. Upon receipt of the request and supporting documentation for an Adverse Change Adjustment, DEN and Tenant will meet to review the request and negotiate a final Adverse Change Adjustment.
3. The finalized Adverse Change Adjustment shall take effect on the first day of the month following the date the Adverse Change Adjustment was finalized.

D. If the supporting financial reports and other documentation show that a Material Adverse Change is so significant that Tenant cannot continue its operations on the Land except at a financial loss lasting more than 90 days, Tenant may terminate the Agreement, upon written notice to the City and such termination shall be in accordance with Section 4.02(A)(2).

E. A "**Material Adverse Change**" means a material adverse change in the amount of CNG either dispensed or to be dispensed from Tenant's Equipment. A Material Adverse Change includes, without limitation, more than a 10% drop in the amount of CNG dispensed between two consecutive 6 month time periods or the City's knowledge of a strategy for vehicle or bus procurement which is focused on transitioning to a fuel source other than CNG (such as, but not limited to electric). Upon the City's receipt of knowledge of a Material Adverse Change, it shall immediately provide Tenant with notice of such event in a writing.

### **6.03 HOURS OF OPERATION.**

Tenant agrees that it will keep facilities open for business for dispensing CNG 24 hours per day, seven days per week.

#### **6.04 CARE OF AREA.**

Tenant agrees that it will keep the Lease Premises in a neat, clean, safe, sanitary, and orderly condition at all times, and further agrees that it will keep such area free at all times of all paper, rubbish, spills, and debris. Tenant, at its own expense, shall collect and deposit all trash and refuse at frequent intervals at collection station locations specified by the City. Accumulation of boxes, cartons, barrels or other similar items shall not be permitted on the Lease Premises.

#### **6.05 VENDING MACHINES.**

With the exception of fuel card readers, no amusement or vending machines or other machines operated by coins, tokens or credit cards shall be installed or maintained in or upon the Lease Premises except with the written permission of the CEO or his authorized representative. This prohibition includes, but not by way of limitation, sales from vending machines of such items as cigarettes, candy, maps, coffee, soft drinks, newspapers, stamps and insurance policies; telephones; dispensation of cash, money orders and checks; and operation of mechanical or electronic game devices, electronic video games, and entertainment devices.

#### **6.06 COMPLIANCE WITH ALL LAWS AND REGULATIONS.**

Tenant agrees not to use or permit the Lease Premises to be used for any purpose prohibited by the laws of the United States or the State of Colorado or the ordinances or Charter of the City and County of Denver, or not authorized hereunder, and it further agrees that it will use the Lease Premises in accordance with all applicable federal, state and local laws and all general rules and regulations adopted by the City or the CEO for the management, operation, and control of the Airport, either promulgated by the City on its own initiative or in compliance with regulations or actions of the Federal Aviation Administration or other authorized federal agency, and including as all such laws, ordinances, and rules may be amended. Tenant further agrees to submit any report or reports or information which the City is required by law or regulation to obtain from Tenant or which the CEO may request relating to Tenant's operations.

#### **6.07 COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS.**

Tenant, in conducting any activity on the Lease Premises, shall comply with all applicable airport, local, state and federal rules, regulations, statutes, laws or orders, as they exist at the time this agreement is executed and as they may be amended in the future, including, but not limited to, requirements regarding the storage, use and disposal of Hazardous Materials, petroleum products, or any other substance. Tenant shall acquire all necessary federal, state, local and airport permits and comply with all permit requirements. Any Hazardous Materials not normally used in Tenant's operations hereunder are barred from the Lease Premises. Tenant shall identify all Hazardous Materials to be used at the Lease Premises. For purposes of this Lease, Hazardous Materials shall mean any flammable, explosive or radioactive material,

petroleum products, or any substance defined as or included within the definition of "hazardous substance," "hazardous waste," "Hazardous Materials" or "toxic substances" under any applicable federal, state or local law or regulation. Tenant hereby specifically agrees to indemnify and hold City harmless from and against any and all claims, losses, liability, remedial action requirements, enforcement actions of any kind, or costs and expenses, including attorney fees, incurred in connection with or arising from the presence of any Hazardous Materials or release of any Hazardous Materials on, under or emanating from the Lease Premises as a result of use or occupation of the Lease Premises by Tenant or Tenant's contractors, invitees, etc., or any activity undertaken on or off the Lease Premises in connection with cleanup, handling, treatment, transport or disposal of any Hazardous Materials on or emanating from the Lease Premises relating to Tenant's use or occupation of the Lease Premises.

In the event of a release or threatened release of Hazardous Materials relating to or arising out of the Tenant's use or occupancy of the Lease Premises, or in the event any claim, demand, action or notice is made against the Tenant with regard to the Tenant's failure or alleged failure to comply with any requirement hereunder, the Tenant immediately shall notify the City in writing and shall provide the City with copies of any written claims, demands, notices or actions so made. Tenant shall also undertake all actions necessary to remedy or remove any Hazardous Materials and any other contamination discovered on or under the Lease Premises introduced by or exacerbated by Tenant as is necessary to restore the Lease Premises to either its condition immediately prior to the initiation of the Lease or to a condition in compliance with all applicable local, state, federal or Airport rules, regulations or orders, at the City's sole discretion, and to protect the public health and safety and the environment from actual or potential harm. This work shall be performed at Tenant's expense and the City shall have the right to review and inspect all such work at any time using consultants and representatives of the City's choice. Tenant shall further conduct all necessary and prudent surface and subsurface monitoring pertaining to Tenant's activities hereunder to ensure compliance with applicable laws, rules, regulations and permits.

Tenant, at the request of City, shall make available for inspection and copying, upon reasonable notice and at reasonable times, any or all of the documents and materials that the Tenant has prepared pursuant to any environmental requirement hereunder or submitted to any governmental or regulatory agency. If there is a requirement to file any notice or report of a release or threatened release of a substance on, under or about the Lease Premises, Tenant shall provide a copy of such report or notice to the City.

The City shall have a right of access to the Lease Premises without prior notice to inspect the same to confirm that Tenant is using the Lease Premises in accordance with this Lease. At the City's request, Tenant shall conduct any further testing and analysis as is necessary to ascertain whether the Tenant is in compliance with this Lease.

## **6.08 COMPRESSION, CNG STORAGE, AND FUELING.**

Tenant agrees to only store and dispense CNG, or other fuels authorized by the CEO, on the Lease Premises. Tenant shall not store, compress or dispense any other commercial fuel produce such as liquefied petroleum gas (LPG), propane, liquefied natural gas (LNG), diesel fuel, or any other liquid or gaseous fuel substance, without the prior written approval of the CEO. Tenant further agrees that all storage, compression, fueling, or dispensing of CNG will take place only on the Lease Premises. All CNG compression and storage facilities and dispensing activities shall comply with the Uniform Fire Code; National Fire Prevention Association (NFPA) Standards relating to the proper storage and handling of CNG for vehicle fueling; all Federal regulations relating to the general requirements for compressed gases; and any other applicable law. The storage facilities shall also comply with requirements of the "Environmental Guidelines for Tenant Operations at DEN" which can be found on [https://www.flydenver.com/about/administration/environmental\\_management](https://www.flydenver.com/about/administration/environmental_management), as such requirements apply to Tenant's CNG fueling stations on the Land. Notwithstanding anything to the contrary in this Agreement or any document referenced or incorporated into this Agreement, Tenant will use reasonable efforts to comply with the applicable Environmental Guidelines for Tenant Operations at DEN; however, the parties acknowledge and agree that Tenant will not be required to comply with Environmental Guidelines for Tenant Operations at DEN that are not code compliant or standard in the natural gas fuel station operations industry.

## **6.09 SPILL/RELEASE RESPONSE AND CLEANUP.**

A. In the event of a suspected or confirmed spill or release or threat of a spill or release of any substance or material relating to or arising out of the Tenant's use or occupancy of the Lease Premises, Tenant shall immediately notify the DEN Communications Center (303-342-4200). In the event any claim, demand, action, or notice is made against the City or the Tenant with regard to the Tenant's failure or alleged failure to comply with any legal requirement related to Tenant's activities under this Lease, Tenant shall provide the City with copies of any written claims, demands, notices, or actions so made.

B. Tenant shall undertake all actions necessary to remediate any spill/release of Hazardous Materials discovered on or under the Lease Premises caused by Tenant as is necessary to restore the Lease Premises to a condition in compliance with all applicable local, state, federal or Airport laws, rules, regulations or orders, including Aviation Rule and Regulation 180. This work shall be performed at Tenant's expense and the City shall have the right to review and inspect all such work at any time using consultants and representatives of the City's choice. Tenant shall further conduct all necessary and prudent surface and subsurface monitoring pertaining to Tenant's activities hereunder to ensure compliance with applicable laws, rules, regulations, and permits. Tenant shall make available to the City copies of all correspondence to and from any regulatory agency regarding a suspected or confirmed spill or release including any records documenting verbal spill notifications.

C. Assessment and/or remediation of spills/releases from Tenant's activities that will require intrusive work deeper than six inches (6") below ground surface or use of mechanized equipment are specifically not included in the rights granted by this Agreement. An access agreement will be required for such activities. Tenant shall request an access agreement through DEN Legal.

D. The City shall have a right of access to the Lease Premises without prior notice to inspect the same to confirm that Tenant is using the Lease Premises in accordance with this Agreement. At the City's request, Tenant shall conduct any further testing and analysis as is necessary to ascertain whether the Tenant is in compliance with this Agreement.

#### **6.10 WASTE OR IMPAIRMENT OF VALUE.**

Tenant agrees that nothing shall be done or kept on the Lease Premises which might impair the value of the City's property or which would constitute waste or a public or private nuisance.

#### **6.11 STRUCTURAL OR ELECTRICAL OVERLOADING.**

Tenant agrees that nothing shall be done or kept on the Lease Premises and no improvements, changes, alterations, additions, maintenance or repairs shall be made to the Lease Premises which might result in an overload of utility lines serving the Airport or interfere with electric, electronic or other equipment at the Airport. In the event of violations hereof, Tenant agrees to immediately remedy the violation at Tenant's expense.

#### **6.12 NOISE, ODORS, VIBRATIONS AND OTHER ANNOYANCES.**

Tenant shall conduct its operations in an orderly and proper manner so as not to commit any nuisance on the Lease Premises or annoy, disturb or be offensive to others at the Airport and shall take all reasonable measures, using the latest known and practicable devices and means, to eliminate any unusual, nauseous or objectionable noise, vapors, odors, lights and vibrations. The City acknowledges that Tenant is operating a CNG dispensing station on the Lease Premises.

#### **6.13 ACCESSIBILITY.**

Tenant shall not do or permit to be done anything which might interfere with free access and passage of the public areas adjacent thereto, or hinder police, firefighting or other emergency personnel in the discharge of their duties.

#### **6.14 NO AUCTION.**

Tenant agrees not to allow or permit any sale by auction or hawking on the Lease Premises.

#### **6.15 NO ANIMALS.**

Tenant agrees that no animals shall be kept on the Lease Premises.

#### **6.16 RESTRICTION ON CHANGES AND ALTERATIONS.**

Tenant agrees not to substantially improve, change, alter, add to, remove or demolish all or any Lease Improvements without the prior written consent of the CEO or their authorized representative. Tenant must comply with all reasonable conditions which may be imposed by the CEO in their reasonable judgment. Full and complete specifications for all such work and improvements, along with a statement of the time required to complete such work shall be submitted to and approved in writing by the CEO or their authorized representative before construction work commences. Four copies of plans for all changes or alterations shall be given to the Deputy Manager of Aviation, Planning and Development for review and written approval prior to commencement of construction. After the City's final approval, the City shall return to Tenant one approved copy for its records and shall retain one approved copy as an official record thereof.

First-class standards of design and construction will be required in connection with all such work, facilities and improvements, and all improvements shall conform with applicable statutes, ordinances, building codes, regulations and other general requirements of the City, including but not limited to compliance with DIA Design Standards and DIA Development Guidelines, procurement of general liability and builder's risk insurance and performance bond, and compliance with worker's compensation, Denver's Prevailing Wage Ordinance, DRMC Section 20-76 *et seq.*, applicable rules and ordinances under the authority of the City's Division of Small Business Opportunity ("**DSBO**"), and compliance with the Americans with Disabilities Act and its regulations. The approval given by City shall not constitute a representation or warranty as to such conformity; responsibility therefor shall at all times remain with Tenant.

Approval of the City shall extend to and include consideration of architectural and aesthetic matters, and the City expressly reserves the right to reject any designs submitted and to require Tenant to resubmit designs and layout proposals until they meet with the City's approval. The City agrees to act promptly upon a request for approval of such plans and/or revisions thereto.

#### **6.17 TITLE TO IMPROVEMENTS.**

Tenant agrees that all improvements to the Lease Premises, including approved

changes and renovations, which are affixed to the realty, other than Tenant's Equipment, shall become the property of the City upon their completion and acceptance by the City. Notwithstanding the foregoing, any fuel storage and distribution system lines installed by Tenant shall remain the property of Tenant and shall be Tenant's Equipment as herein defined.

#### **6.18 REQUIRED MINIMUM INVESTMENT.**

Tenant shall retain on the Land, purchase or construct, at its sole cost, the Lease Improvements and furnish and equip the Lease Premises with, at a minimum, the items set forth in **Exhibit B** (the "**Required Minimum Investment**"). Tenant's covenant to retain, purchase and/or construct the Lease Improvements at the Required Minimum Investment is a material part of the consideration running to the City pursuant to this Agreement.

#### **6.19 FUTURE LEASE IMPROVEMENTS**

Based upon demand for CNG, current station performance or equipment, or technological changes, DEN or Tenant may request that Tenant construct additional Lease Improvements including new stations. Upon such request, Tenant will provide designs and cost estimates for review and approval or rejection by DEN (such rejection not to be unreasonably withheld, conditioned or delayed). If DEN approves of such designs and cost estimates, Tenant will propose an adjustment to the CNG Margin to recover the costs of the approved improvements. The CNG Margin will remain unchanged unless the proposal adjustment is approved by DEN in a writing. Upon full cost recovery, the CNG Margin will be reduced appropriately.

#### **6.20 AS-BUILTS AND ARCHITECT STATEMENT.**

As soon as practicable after construction of any Lease Improvements or installation of equipment, but in no event later than 90 days after substantial completion of construction of the Lease Improvements, Tenant shall file with DEN a statement certified by its architect setting forth the total construction costs, with as-builts of the Lease Improvements in a format to be approved by DEN, and appropriate detail itemizing the elements of design, furnishings, fixtures, and equipment.

### **SECTION 7 UTILITIES AND SERVICES**

#### **7.01 UTILITIES.**

Tenant, at its sole cost and expense, shall be responsible for obtaining all utilities required for the operation of any improvements on the Lease Premises and shall pay all applicable charges and fees for such utilities required for operations on the Lease Premises.



## **7.02 MAINTENANCE.**

A. Maintenance Requirement. The cost of maintenance, care, and any necessary replacement of the Lease Improvements and/or Lease Premises shall be borne by Tenant. Tenant agrees, at its expense and without cost or expense to the City (except as otherwise expressly referenced in this Agreement), that Tenant is responsible for all aspects of maintaining and operating the CNG stations and related infrastructure, including installing new equipment as may be required, and operating and maintaining the compression and dispensing equipment and related underground facilities. Tenant shall keep the Lease Improvements in good order and condition and will make all necessary and appropriate repairs and replacements thereof promptly and in a good and workmanlike fashion without diminishing the original quality of such improvements.

B. Cleanliness. Tenant shall not permit rubbish, debris, waste materials or anything unsightly or detrimental to health, or likely to create a fire hazard, or conducive to deterioration, to remain on any part of the Lease Premises or to be disposed of improperly.

C. Lighting. Tenant shall provide and maintain obstruction lights and all similar equipment or devices now or at any time required by any applicable law, ordinance or municipal, state or federal regulation. Tenant shall appropriately light, maintain and repair all surface areas for the parking of vehicles for fueling on the Lease Premises.

D. Emergency Repair. Tenant shall maintain a 24-hour, seven-day-per-week availability for standard and emergency maintenance and repair of the fuel dispenser equipment. Emergency repair services shall be provided within two hours of notification. Standard maintenance response time on Tenant's Equipment is within 24 hours after notification. Tenant shall post its repair and maintenance telephone numbers at each fueling island.

E. DEN Objections. DEN shall have the right to make reasonable objections regarding the maintenance and appearance of the Lease Premises. Tenant agrees to promptly discontinue or remedy any objectionable condition within five (5) days after written notice by DEN.

## **7.03 COMMON USE SERVICES.**

The Manager may establish common use services at the Airport, including but not limited to trash and refuse removal, deliveries, industrial waste handling, recycling, and security guards. The CEO reserve the right to establish charges for common use services based upon documented actual costs. Trash, sewer, and deliveries will be common use services which Tenant may be required to use and pay its pro rata actual share; however, other common use services may be utilized at Tenant's option. Tenant agrees to pay the charges for those common use services which are utilized by Tenant.

#### **7.04 INTERRUPTION OF SERVICES.**

Tenant agrees that the City shall not be liable for failure to supply any utility services. The City reserves the right to temporarily discontinue utility services at such time as may be necessary by reason of accident, unavailability of employees, repairs, alterations or improvements or whenever by reason of strikes, lockouts, riots, acts of God or any other happenings beyond the control of the City, the City is unable to furnish such utility services. The City shall not be liable for damages to persons or property for any such discontinuance, nor shall such discontinuance in any way be construed as cause for abatement of rent or operate to release the Tenant from any of its obligations hereunder, except as otherwise provided in the section entitled "Damage, Destruction or Loss."

### **SECTION 8 INDEMNITY, INSURANCE AND BONDS**

#### **8.01 INDEMNITY.**

A. To the extent permitted by law, Tenant hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to its activities under this Agreement ("Claims"), unless such Claims arise based on the sole negligence or willful misconduct of the City or its employees, agents officials, or contractors. To the extent permitted by law, this indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Tenant or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City or its employees, agents officials, or contractors.

B. To the extent permitted by law, Tenant's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to Tenant by City regardless of whether Claimant has filed suit on the Claim. To the extent permitted by law, Tenant's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages as long as City promptly provides Tenant with written notice of the Claim.

C. To the extent permitted by law, Tenant will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Tenant under the terms of this indemnification obligation. The Tenant shall obtain, at its own expense, any additional insurance that Tenant deems necessary for the City's protection.

E. The Tenant represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under this Agreement. The Tenant agrees to save and hold harmless the City, its officers, employees, agents and representatives from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Tenant under this Agreement.

F. The City shall not be liable for any loss of property by theft or burglary from the Airport by third parties or for any damage to person or property on the Airport resulting from electric lighting or water, rain or snow, which may come into or issue or flow from any part of the Airport or Airport Site, or from the pipes thereof, and the Tenant agrees to make no claim for any such loss or damage at any time.

G. The parties hereto agree that the City shall not be liable to the Tenant or any subcontractor for any injury or death of any of the Tenant's or any subcontractor's agents, representatives or employees or of any other person or for any damage to any of the Tenant's or any subcontractor's property or loss of revenue caused by any third person in the maintenance, construction, or operation of facilities at the Airport, or caused by any third person using the Airport, or caused by any third person navigating any aircraft on or over the Airport, whether such injury, death or damage is due to negligence or otherwise, as long as such injury, death or damage was not caused by the negligence or willful misconduct of the City or its employees.

H. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

## **8.02 INSURANCE.**

Tenant shall, at its own expense, obtain and keep in force during the entire term of this Agreement, all of the insurance policies described in the City's form of insurance certificate which is attached to this Agreement as **Exhibit D** and incorporated herein. Upon execution of this Agreement, Tenant shall submit to the City a fully completed and executed ACORD form which specifies the issuing company or companies, policy numbers, and policy periods for each required form of coverage.

## **8.03 PERFORMANCE BOND.**

Upon execution of this Lease, Tenant shall deliver to the CEO, and maintain in

effect at all times throughout the Term, a valid corporate performance bond, or such other acceptable surety as first approved in writing by City, in the initial amount of \$15,000, which amount may at the CEO's option be increased. DEN agrees to accept a single bond to secure Tenant's performance under this Agreement for multiple CNG locations at the Airport. Such bond shall be payable without condition to the City and guarantee to the City full and faithful performance of all of the terms and provisions of this Agreement by Tenant, as said Agreement may be amended, supplemented or extended.

All bonds shall be issued by a surety company licensed to transact business in the State of Colorado and satisfactory to and approved by the City. If a bond is executed by an attorney-in-fact of the surety, a power of attorney must be attached to the bond.

#### **8.04 NO PERSONAL LIABILITY.**

No director, officer or employee of either party hereto shall be held personally liable under this Agreement or because of its execution or attempted execution.

#### **8.05 TAXES, LICENSES, LIENS AND FEES.**

Tenant agrees to promptly pay all taxes, excises, license fees and permit fees of whatever nature applicable to its operations hereunder and to take out and keep current all municipal, state or federal licenses required for the conduct of its business at and upon the Lease Premises and further agrees not to permit any of said taxes, excises, license fees or permit fees to become delinquent. Tenant also agrees not to permit any mechanic's or materialman's or any other lien to become attached or be foreclosed upon the Lease Premises or improvements thereto, or any part thereof, by reason of any work or labor performed or materials furnished by any mechanic or materialman on behalf of Tenant. Tenant agrees to furnish to the CEO, upon request in the CEO's reasonable judgment, duplicate receipts or other satisfactory evidence showing the prompt payment by it of Social Security, unemployment insurance and worker's compensation insurance, and all required licenses and all taxes. Tenant further agrees to promptly pay when due all bills, debts and obligations incurred by it in connection with its operations hereunder and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment or execution to be filed against the Lease Premises or improvements thereon which will in any way impair the rights of the City under this Agreement.

### **SECTION 9 DEFAULT AND REMEDIES**

#### **9.01 DEFAULT.**

Tenant shall be in default under this Agreement if Tenant:

- A. Fails to timely pay when due to City the compensation, rent or any other

payment required hereunder and such failure is not cured by Tenant within thirty (30) days after Tenant's receipt of notice of such failure; or

B. Becomes insolvent, or takes the benefit of any present or future insolvency or bankruptcy statute, or makes a general assignment for the benefit of creditors, or consents to the appointment of a receiver, trustee or liquidator of any or substantially all of its property; or

C. Transfers its interest under this Agreement, without the prior written approval of the City, by reason of death, operation of law, assignment, sublease or otherwise, to any other person, entity or corporation; or

D. Abandons, deserts or vacates the Lease Premises except as otherwise permitted in Sections 10.01, 10.02 and 11.08 under this Agreement; or

E. Suffers any lien or attachment to be filed against the Lease Premises, the Airport or the City's property because of any act or omission of Tenant, and such lien or attachment is not discharged or contested by Tenant in good faith by proper legal proceedings within 20 days after receipt of notice thereof by Tenant; or

F. Fails to keep, perform and observe any other promise, covenant or agreement set forth in this Agreement and such failure continues for a period of more than 30 days after delivery by CEO of a written notice of such breach or default, except where a shorter period is specified herein, or where fulfillment of its obligation requires activity over a period of time and Tenant within 10 days of notice commences in good faith to perform whatever may be required to correct its failure to perform and continues such performance without interruption except for causes beyond its control; or

G. Gives its permission to any person to use for any illegal purpose any portion of the Airport made available to Tenant for its use under this Agreement.

## **9.02 REMEDIES.**

If Tenant defaults in any of the covenants, terms and conditions herein, the City may exercise any one of the following remedies:

A. The City may elect to allow this Agreement to continue in full force and effect and to enforce all of City's rights and remedies hereunder, including without limitation the right to collect rent as it becomes due together with Past Due Interest; or

B. The City may cancel and terminate this Agreement and without liability for so doing, upon giving 30 days written notice to Tenant of its intention to terminate, at the end of which time all the rights hereunder of the Tenant shall terminate, unless the default, which shall have been stated in such notice, shall have been cured within such 30 days. Notwithstanding the foregoing, Tenant shall be allowed only two notices of default hereunder which it may cure within the time specified in this section. The third

notice shall be final and shall state the date of termination of the Agreement.

C. If City elects to terminate, Tenant shall be liable to the City for all amounts owing at the time of termination, including but not limited to rent due plus interest thereon at the Past Due Interest Rate, together with any other amount to fully compensate the City for all loss of rent and any other substantiated and direct damages or costs, including costs of reletting and attorney's fees, caused by Tenant's failure to perform its obligations hereunder. Amounts owed to the City will be agreed upon mutually through negotiations as further described in Section 4.02(A)(1). As described in Section 4.02(A)(1), the City shall take all efforts to mitigate its damages. The City and Tenant acknowledge and agree that, notwithstanding anything to the contrary in this Agreement, Tenant shall not be financially liable for rent to the extent the Land is re-let and in the event any payment was made to the City for rent attributable to a time period when the Land is re-let, such payment shall be promptly (within thirty (30) days) remitted back to Tenant.

D. Notwithstanding anything to the contrary in this Agreement, neither party shall have any liability to the other party for special, consequential, or incidental damages, except however in connection with a claim made against either party by a third party, provided that such claim is within the scope of the indemnity obligations of Tenant or City, as applicable, under this Agreement.

### **9.03 REMEDIES CUMULATIVE.**

The remedies provided in this Agreement shall be cumulative and shall in no way affect any other remedy available to the City under law or equity.

### **9.04 ADMINISTRATIVE HEARING.**

Disputes arising out of this Agreement shall be resolved by administrative hearing before A Hearing Officer following the procedures outlined in Denver Revised Municipal Code Section 5-17; provided, that City shall retain its right to obtain an order of eviction in accordance with applicable state law. It is further agreed that no cause of action shall be brought against the City until there has been full compliance with the terms of this paragraph.

### **9.05 WAIVERS.**

No failure of the City to insist upon the strict performance of a term, covenant or agreement contained in this Agreement, no failure by the City to exercise any right or remedy under this Agreement, and no acceptance of full or partial payment during the continuance of any default by Tenant shall constitute a waiver of any such term, covenant or agreement or a waiver of any such right or remedy or a waiver of any default by Tenant.

**SECTION 10  
DAMAGE, DESTRUCTION, OR LOSS**

**10.01 DAMAGE TO OR DESTRUCTION OF LEASE PREMISES.**

If the Lease Premises or any portion thereof or a portion of the City's property located adjacent thereto is destroyed or damaged by fire or otherwise to an extent which renders the Lease Premises or the City's property unusable, the City may, at its sole option, rebuild or repair any portions of the City's property which has been destroyed or damaged, and, if the cause was beyond the control of Tenant, the obligation of Tenant to pay the rent hereunder shall abate as to such damaged or destroyed portions during the time they are unusable. If the City elects not to proceed with such rebuilding or repair, it shall give notice of its intent within 90 days after the destruction or damage. Tenant then, at its option, (a) may cancel and terminate this Agreement, or (b) elect to repair and rebuild at Tenant's expense the portion of the City's property which was destroyed or damaged and is necessary for the operation of the Lease Premises. If the City elects to rebuild, Agreement shall continue in full force and effect subject to the abatement of rent for those portions damaged or destroyed during the time the damaged or destroyed portions are unusable.

**10.02 LOSS OR DAMAGE TO PROPERTY.**

The City shall not be liable for any loss of property by theft or burglary from the Airport or for any damage to person or property on the Airport resulting from electric lighting, or water, rain or snow, which may come into or issue or flow from any part of the Airport or Airport Site, or from the pipes thereof, and Tenant agrees to make no claim for any such loss or damage at any time.

Notwithstanding the foregoing or anything to the contrary in this Agreement or any document attached to this Agreement, in the event the Lease Premises is damaged or destroyed by the negligence or willful misconduct of the City or its employees, agents or contractors, the City shall reimburse Tenant for all costs and/or damages and/or expenses Tenant incurs to remedy such damage and/or destruction at Tenant's then existing labor and materials rates.

## **SECTION 11 MISCELLANEOUS PROVISIONS**

### **11.01 ADVERTISING AND PUBLIC DISPLAYS.**

Tenant shall not install or have installed or allow to be installed upon or within the Lease Premises, without the prior written approval of the CEO or their authorized representative, any sign, either lighted or unlighted, poster or other display of advertising media, including material supplied by manufacturers of merchandise offered for sale, as well as other types of display specified in the DIA Design Standards. Permission will not be granted for any advertising which fails to comply with DIA Design Standards or DIA Development Guidelines, or any advertising material, fixture or equipment which extends beyond the Lease Premises.

### **11.02 AGREEMENT BINDING UPON SUCCESSORS.**

This Agreement, subject to the provisions of the section entitled "Assignment", shall be binding upon and extend to the heirs, personal representatives, successors and assigns of the respective parties hereto.

### **11.03 AGREEMENT MADE IN COLORADO.**

This Agreement shall be deemed to have been made in and shall be construed in accordance with the laws of the State of Colorado.

### **11.04 AGREEMENT SUBORDINATE TO AGREEMENTS WITH UNITED STATES.**

This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for Airport purposes and the expenditure of federal funds for the development of the Airport or airport system. The provisions of the attached **Appendix A** is incorporated herein by reference.

### **11.05 ASSIGNMENT.**

Tenant covenants and agrees not to assign, pledge, transfer or sublet its rights in this Agreement, in whole or in part, nor grant any license or concession hereunder, except as otherwise provided herein, without the prior written consent of the CEO, which shall not be unreasonably withheld. Any attempt by the Tenant, except as required herein, to assign or in any way transfer its interest in this Agreement, in whole or in part, without such prior written consent of the CEO shall, at the option of said CEO, automatically terminate this Agreement and all rights of the Tenant hereunder. Such consent may be granted or denied at the sole and absolute discretion of the CEO.



#### **11.06 BOND ORDINANCES.**

This Agreement is in all respects subject and subordinate to any and all City bond ordinances applicable to the Airport and airport system and to any other bond ordinances which should amend, supplement or replace such bond ordinances. The parties to this Agreement acknowledge and agree that all property subject to this Agreement which was financed by the net proceeds of tax-exempt bonds is owned by the City, and Tenant agrees not to take any action that would impair, or omit to take any action required to confirm, the treatment of such property as owned by the City for purposes of the Internal Revenue Code, as amended. In particular, the Tenant agrees to make, and hereby makes, an irrevocable election (binding on itself and all successors in interest under this Agreement) not to claim depreciation or an investment credit with respect to any property subject to this Agreement which was financed by the net proceeds of tax-exempt bonds and shall execute such forms and take such other action as the City may request in order to implement such election. Notwithstanding the foregoing, the City and Tenant acknowledge and agree that none of the Tenant's Equipment was financed by the net proceeds of tax-exempt bonds and is therefore not owned by the City but by the Tenant.

#### **11.07 FORCE MAJEURE.**

Neither party hereto shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants or conditions of this Agreement due to causes which were not reasonably foreseeable and beyond the control of that party, including without limitation strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or any other circumstance for which such party is not responsible or which is not in its power to control, but in no event shall this paragraph be construed so as to allow Tenant to reduce or abate its obligation to pay the rent herein.

#### **11.08 MASTER PLAN-TERMINATION AND RELOCATION.**

The City reserves the right and Tenant agrees that the City acting by and through the CEO, at its sole option and without any liability to the City whatsoever, may cancel and terminate this Agreement in its entirety or with respect to the Lease Premises for the purpose of implementing any present or future master plan for the development or expansion of the Airport, including, but not by way of limitation, runway or taxiway relocation or clear zone changes; provided, that the City shall give Tenant not less than 180 days prior written notice of termination for this purpose.

In the event of such termination for the purpose of implementing the master plan, the City may provide to Tenant suitable alternate land for such site at Denver International Airport for the conduct of its business. Such substitute facilities shall be to the extent possible similar to the Lease Premises as to size and general location. Tenant reserves the right to terminate this Agreement with respect to any alternative

sites proposed by the City if the City's determination of suitable substitute premises or facilities is not adequate for Tenant's operations upon 60 days written notice after the City offers Tenant the substitute facilities. Should Tenant elect to utilize the substitute site premises or facilities, then said use shall be governed by all terms and conditions of this Agreement as modified below.

In the event of Tenant's utilization of such substitute site premises or facilities, Tenant may proportionally increase the capital cost recovery component of its pricing (referenced in Exhibit C) per GGE so that Tenant can recover its capital outlays. Tenant shall provide the City with written notice of the amount of such changes and such changes shall take effect on the first day of the month following the month Tenant provides written notice thereof to the City.

#### **11.09 INCONVENIENCES DURING CONSTRUCTION.**

Tenant recognizes that from time to time during the Term of this Agreement, it may be necessary for the City to commence or complete extensive programs of construction, expansion, relocation, maintenance and repair in order that the Airport and its facilities may be completed and operated in accordance with any present or future master layout plan, and that such construction, expansion, relocation, maintenance and repair may inconvenience the Tenant in its operation at the Airport. Tenant agrees that no liability shall attach to the City, its officers, agents, employees, contractors, subcontractors and representatives by way of such inconveniences, and Tenant waives any right to claim damages or other consideration therefrom.

#### **11.10 LIMITATIONS ON LIABILITY.**

Tenant agrees that no liability shall attach to the City for any damages or losses incurred or claimed by Tenant or any other person or party on account of the construction or installation of the Lease Improvements or other improvements to the Lease Premises made by Tenant. Tenant agrees that no liability shall attach to the City for any interference or delay caused by construction in adjacent areas, travelers, other businesses or Airport operations, including without limitation damages or losses in the nature of delay damages, lost labor productivity, and impact damages. Tenant agrees to indemnify, defend and hold harmless the City from any loss, cost, damage or expense incurred, claimed, asserted or arising in connection with Tenant's, or its contractors or agents, construction or installation of the Lease Improvements or other improvements to the Lease Premises made by Tenant.

#### **11.11 INDEPENDENT CONTRACTOR.**

Tenant shall at all times have the status of an independent contractor and not an agent or employee of the City without the right or authority to impose tort or contractual liability upon the City.

**11.12 NOTICES.**

All notices required to be given to the City or Tenant hereunder shall be in writing and sent by certified mail, return receipt requested, to:

City: CEO of Denver International Airport  
Denver International Airport  
8500 Peña Boulevard  
Denver, Colorado 80249-6340

with a copy to:

DEN Legal  
Denver International Airport  
8500 Peña Boulevard  
Denver, Colorado 80249-6340

Tenant: Clean Energy  
4675 MacArthur Court, Suite 800  
Newport Beach, California 92660  
Attn: Chad Lindholm, VP, Sales

With a copy to:

Clean Energy  
Attn: SVP, Corporate Transactions and CLO  
4975 MacArthur Court, Suite 800  
Newport Beach, CA 92660

Either party hereto may designate in writing from time to time the address of substitute or supplementary persons within the State of Colorado to receive such notices. The effective date of service of any such notice shall be the date such notice is mailed or delivered to Tenant or CEO, whichever occurs later.

**11.13 PARAGRAPH HEADINGS.**

The paragraph headings herein are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

**11.14 PATENTS AND TRADEMARKS.**

Tenant represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under this Agreement. Tenant agrees to save and hold harmless the City, its officers, employees, agents and representatives from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent,

trademark or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Tenant under this Agreement.

#### **11.15 SECURITY.**

A. It is a material requirement of this Agreement that Tenant shall comply with all rules, regulations, written policies and authorized directives from the City and/or the Transportation Security Administration with respect to Airport security. Tenant shall conduct all of its activities at the Airport in compliance with the Airport security program, which is administered by the Security Section of the Airport Operations Division, Department of Aviation. Violation by Tenant or any of its employees or subcontractors of any rule, regulation, or authorized directive from the City or the Transportation Security Administration with respect to Airport Security shall be grounds for termination by the City of this Contract for cause if such violation is not cured by the Tenant within ten (10) days after its receipt of notice of such violation.

B. Upon execution of this Agreement, Tenant shall promptly meet with the Airport Security to establish badging requirements for Tenant's operations under this Agreement. Tenant shall obtain the proper access authorizations for all of its employees and subcontractors who will enter the Airport to perform work or make deliveries, and shall be responsible for each such person's compliance with all Airport rules and regulations, including without limitation those pertaining to security. Any person who violates such rules may be subject to revocation of her/his access authorization. The failure of Tenant to complete any required services hereunder shall not be excused on account of the revocation for good cause of access authorization of any person.

C. The security status of the Airport is subject to change without notice. If the security status of the Airport changes at any time during the term of this Agreement, Tenant shall take immediate steps to comply with security modifications which occur as a result of the changed status. Tenant may at any time obtain current information from the Airport Security Office regarding the Airport's security status in relation to Tenant's operations at the Airport.

D. Tenant shall return to the City at the expiration or termination of this Agreement, or upon demand by the City, all access keys or access badges issued to it for any area of the Airport, whether or not restricted. If Tenant fails to do so, Tenant shall be liable to reimburse the City for all the City's costs for work required to prevent compromise of the Airport security system. The City may withhold funds in the amount of such costs from any amounts due and payable to Tenant under this Agreement

#### **11.16 SEVERABILITY.**

If any provision in this Agreement is held by a court to be invalid, the validity of other provisions herein which are severable shall be unaffected.

### **11.17 THIRD PARTIES.**

This Agreement shall not be deemed to confer upon any third party or parties (except parties to whom the Tenant may assign this Agreement in accordance with the terms hereof, and except any successor to the City) any right to claim damages or to bring any action or proceeding against either the City or the Tenant because of any breach hereof or because of any of the terms, covenants, agreements, and conditions herein.

### **11.18 USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS.**

Tenant, its officers, agents and employees shall cooperate and comply with the provisions of the Federal Drug-Free Workplace Act of 1988 and Denver Executive Order No. 94, or any successor thereto, concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring Tenant from City facilities or participating in City operations.

### **11.19 CITY SMOKING POLICY.**

Tenant and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order 99 dated July 2, 1990, or any successor thereto, prohibiting smoking in all City buildings and facilities. Tenant agrees that it will prohibit smoking by its employees and the public on the Lease Premises.

### **11.20 NONDISCRIMINATION.**

In connection with the performance of work under this Agreement, Tenant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and Tenant further agrees to insert the foregoing provision in all subcontracts hereunder.

### **11.21 COLORADO OPEN RECORDS ACT.**

A. **Agreement Subject to Colorado Open Records Act.** Tenant acknowledges that the City is subject to the provisions of the Colorado Open Records Act, Colorado Revised Statutes §24-72- 201 *et seq.* (the "**Act**"), and Tenant agrees that it will fully cooperate with the City in the event of a request or lawsuit arising under such Act for the disclosure of any materials or information which the Tenant asserts is confidential and exempt from disclosure. Any other provision of this Agreement notwithstanding, including exhibits and other documents incorporated into this Agreement by reference, all materials, records and information provided by the Tenant to the City shall be considered confidential by the City only to the extent provided in and allowed by the Act, and the Tenant agrees that any disclosure of information by the City

consistent with the provisions of the Act shall result in no liability of the City.

**B. Indemnification in Event of Objection.** In the event of a request to City for disclosure of information related to this Agreement, City will make a good faith effort to advise Tenant of such request in order to give Tenant the opportunity to object to the disclosure of any material Tenant may consider confidential, proprietary, or otherwise exempt from disclosure. In the event Tenant objects to disclosure, City, in its sole and absolute discretion, may file an application to the Denver District Court for a determination of whether disclosure is required or exempted. In the event a lawsuit to compel disclosure is filed prior to City's application, City will tender all such material to the court for judicial determination of the issue of disclosure. In both situations, Tenant will either waive any claim of privilege or confidentiality, or will intervene in such legal process to protect materials Tenant does not wish disclosed. Tenant agrees to defend, indemnify, and hold harmless City, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Tenant's objection to disclosure including prompt reimbursement to City of all reasonable attorney fees, costs, and damages that City may incur directly or may be ordered to pay by such court.

#### **11.22 PREVAILING WAGE.**

Tenant shall comply with the City's Prevailing Wage Ordinance, D.R.M.C. Section 20-76 *et seq.*, as such Ordinance may apply to its activities under this Agreement. The tenant is prohibited from hiring any subcontractor that is currently debarred by the City in accordance with D.R.M.C § 20-77.

**11.23 PAYMENT OF CITY MINIMUM WAGE.** Tenant shall comply with, and agrees to be bound by, all requirements, conditions, and City determinations regarding the City's Minimum Wage Ordinance, D.R.M.C. Sections 20-82 through 20-84, including, but not limited to, the requirement that every covered worker shall be paid no less than the City Minimum Wage in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, Tenant expressly acknowledges that Tenant is aware of the requirements of the City's Minimum Wage Ordinance and that any failure by Tenant, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

#### **11.24 ENTIRE AGREEMENT.**

The parties agree that the provisions herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No amendments, unless expressly reserved to the CEO herein, shall be valid unless executed by an instrument in writing by all the parties with the same formality as this Agreement.

## 11.25 CITY EXECUTION OF AGREEMENT.

A. **City Execution.** This Agreement is expressly subject to, and shall not become effective or binding on City, until it is fully executed by all signatories of City and County of Denver. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same, and it may be signed electronically by either party in the manner specified by City.

B. **Electronic Signatures and Electronic Records.** Tenant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[SIGNATURE PAGES, APPENDIX, AND EXHIBITS FOLLOW]

**Contract Control Number:** PLANE-202056302-00  
**Contractor Name:** CLEAN ENERGY

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_



**Contract Control Number:**  
**Contractor Name:**

PLANE-202056302-00  
CLEAN ENERGY

By:  \_\_\_\_\_

Name: Robert M Vreeland  
\_\_\_\_\_  
(please print)

Title: CFO  
\_\_\_\_\_  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

## APPENDIX A

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

Federal laws and regulations require that recipients of federal assistance (Sponsors) include specific contract provisions in certain contracts, requests for proposals, or invitations to bid.

Certain provisions must be included in all sponsor contracts, regardless of whether or not the contracts are federally-funded. This requirement was established when a sponsor accepted the Airport Improvement Program (AIP) grant assurances.

As used in these Contract Provisions, “Sponsor” means The City and County of Denver, Department of Aviation, and “Contractor” or “Consultant” means the Party of the Second Part as set forth in Contract Number PLANE 202056302

#### GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

## APPENDIX A

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

## APPENDIX A

### Federal Aviation Administration Required Contract Provisions

#### ALL CONTRACTS – NON-AIP FUNDED

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

#### FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The [*contractor* | *consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*contractor* | *consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

## **APPENDIX A**

### **Federal Aviation Administration Required Contract Provisions**

#### **ALL CONTRACTS – NON-AIP FUNDED**

#### **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.



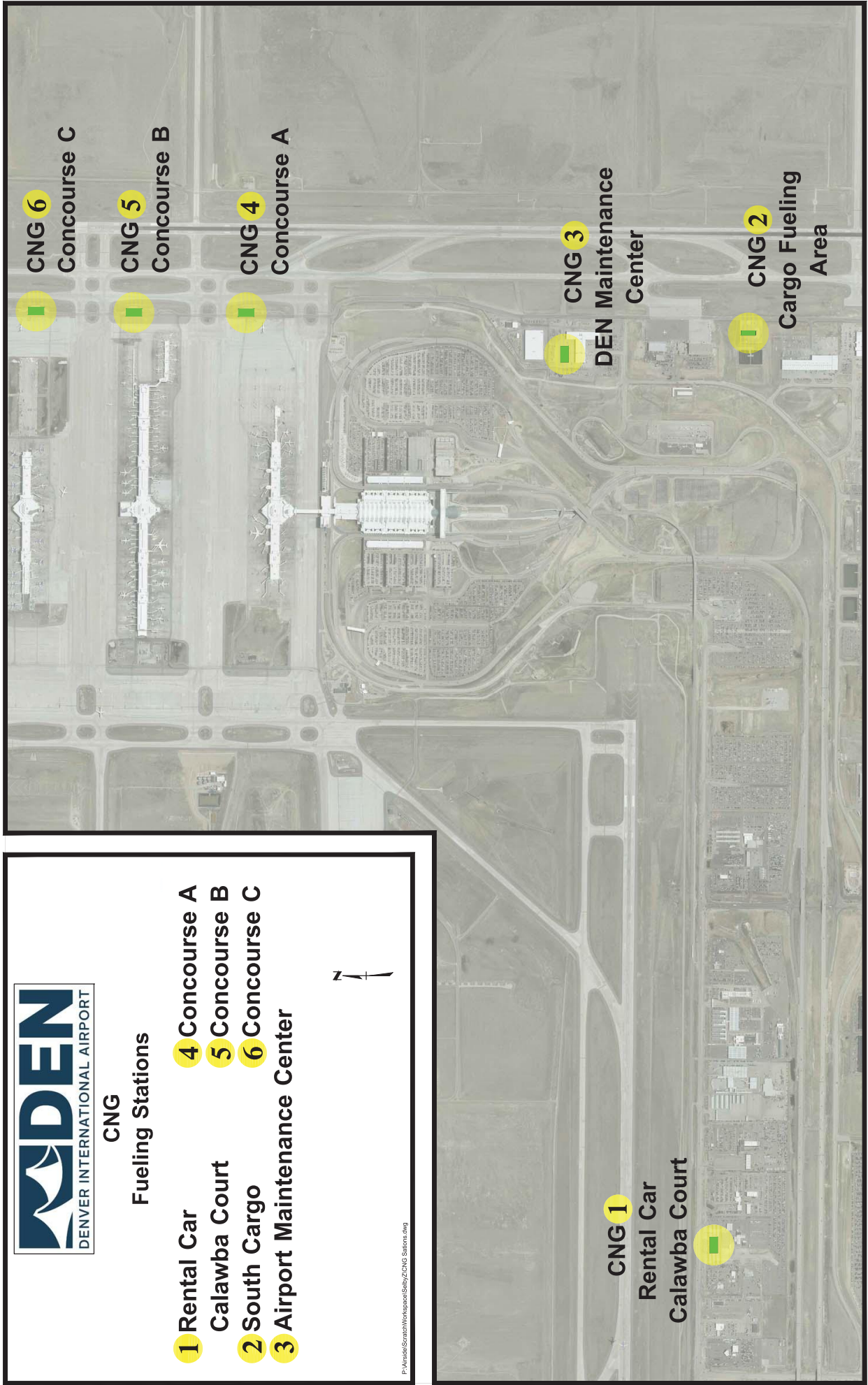
**CNG**

**Fueling Stations**

- 1** Rental Car Calawba Court
- 2** South Cargo
- 3** Airport Maintenance Center
- 4** Concourse A
- 5** Concourse B
- 6** Concourse C



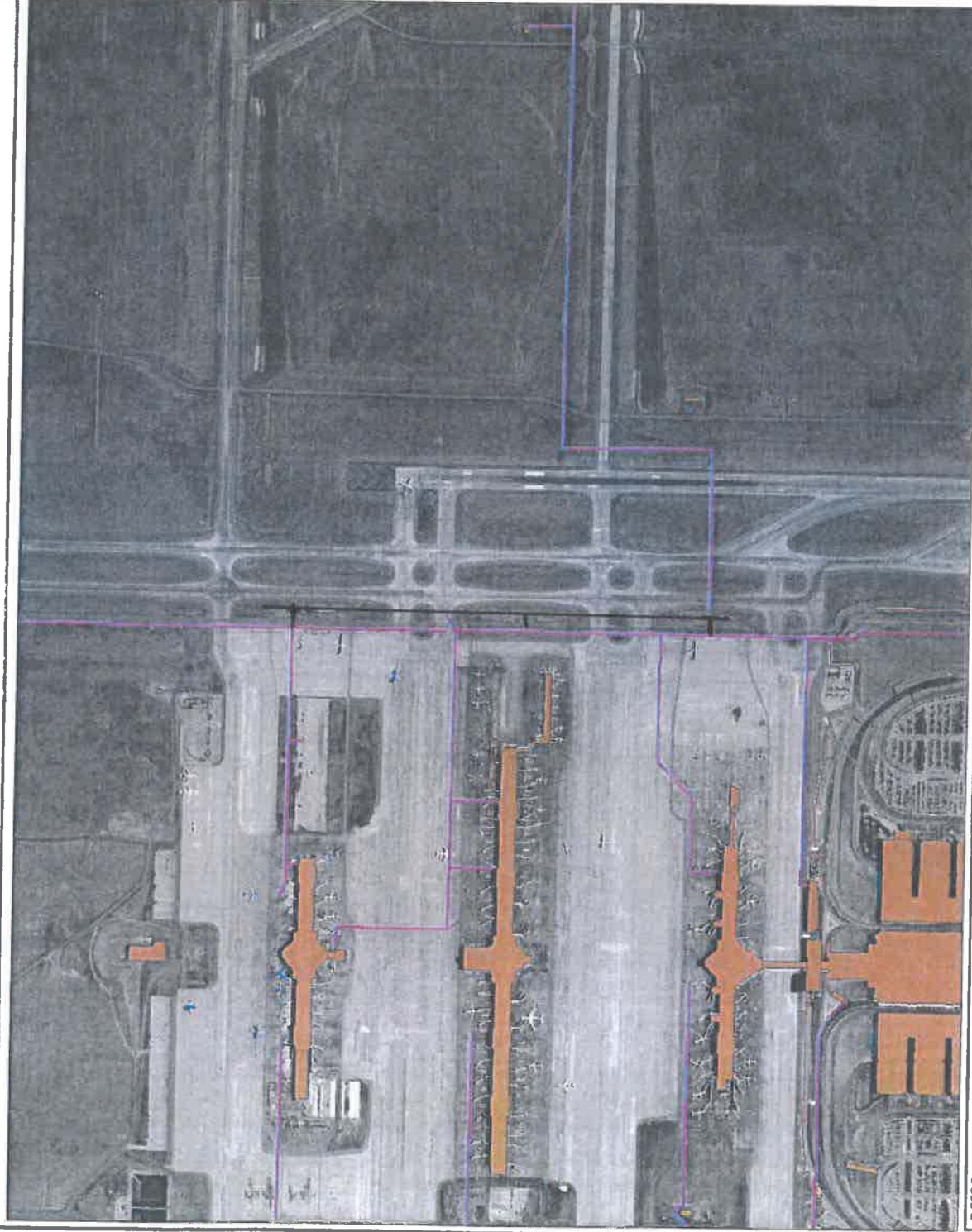
P:\Avalon\Search\Workspaces\Safety\CNG Stations.dwg







### Concourse CNG Stations and associated CNG fuel lines



#### Legend

- ▣ Building
- ▬ Natural Gas Line
- ▬ Fence - ADA
- ▬ Security Gate (with Guard)
- ▬ Security Gate (without Guard)
- ▬ PAPA GATE
- ▬ DECOMMISSIONED GATE

- ▬ XCEL CNG lines
- ▬ Clean Energy CNG Lines

3,009.2 0 1,504.58 3,009.2 Feet

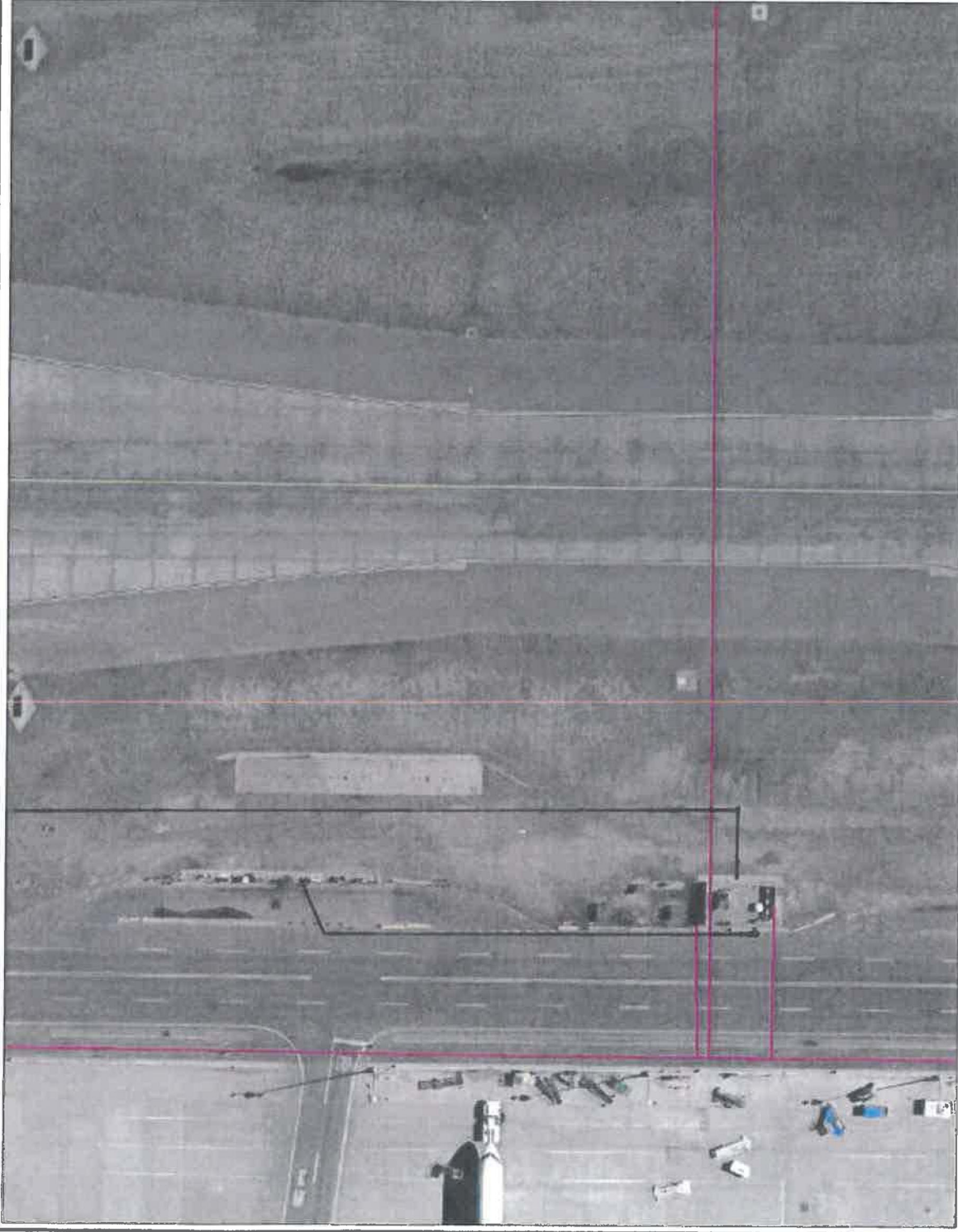
WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Denver International Airport (City and County of Denver) 1: 18,055

Map Generated 7/27/2015 THIS IS NOT A LEGAL DOCUMENT

Disclaimer: Map exhibits produced using DEN Maps are for display purposes and do not supplant the need for a professional survey.



### Concourse A CNG Station and associated lines lines



#### Legend

- Roofline
- Building
- Natural Gas Lines
- Fence - ADA
- Security Gate (with Guard)
- Security Gate (without Guard)
- PAPA GATE
- DECOMMISSIONED GATE

— XCEL CNG lines

— Clean Energy CNG lines

188.0

108.0 Feet

94.00

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

© Denver International Airport (City and County of Denver)

1: 1, 128



Disclaimer: Map exhibits produced using DEN Maps are for display purposes and do not supplement the need for a professional survey.

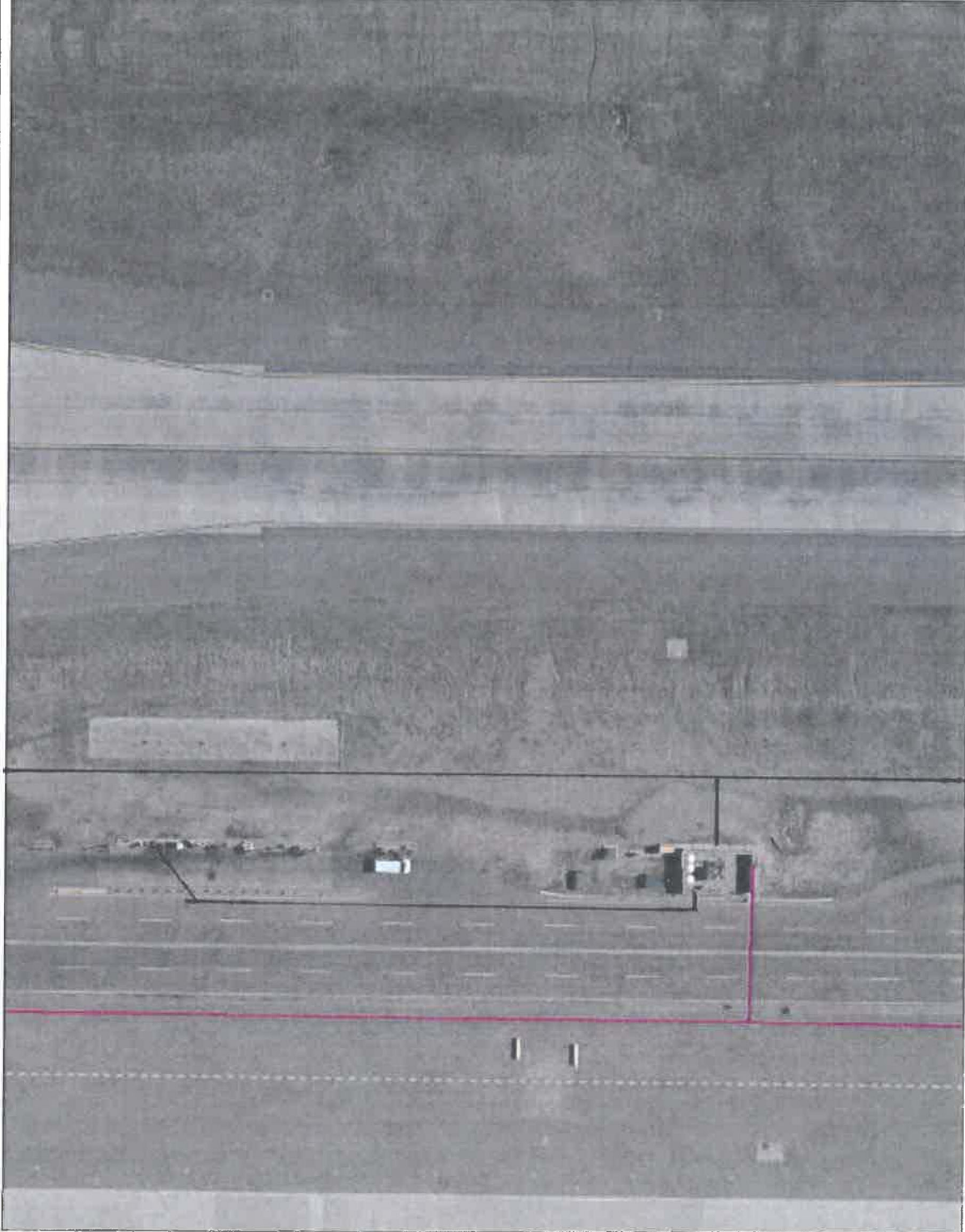
Map Generated 7/27/2015

THIS IS NOT A LEGAL DOCUMENT





### Concourse B CNG Station and associated fuel lines



- Legend**
- Building
  - Hatched Area Lines
  - Fence - ADA
  - Security Gate (with Guard)
  - Security Gate (without Guard)
  - PAVA GATE
  - DECOMMISSIONED GATE

XCEL CNG lines

Clean Energy CNG lines

188.0 0 94.00 188.0 Feet

WGS 1984 Web\_Mercator\_Auxiliary\_Sphere  
© Denver International Airport (City and County of Denver)

1: 1,128



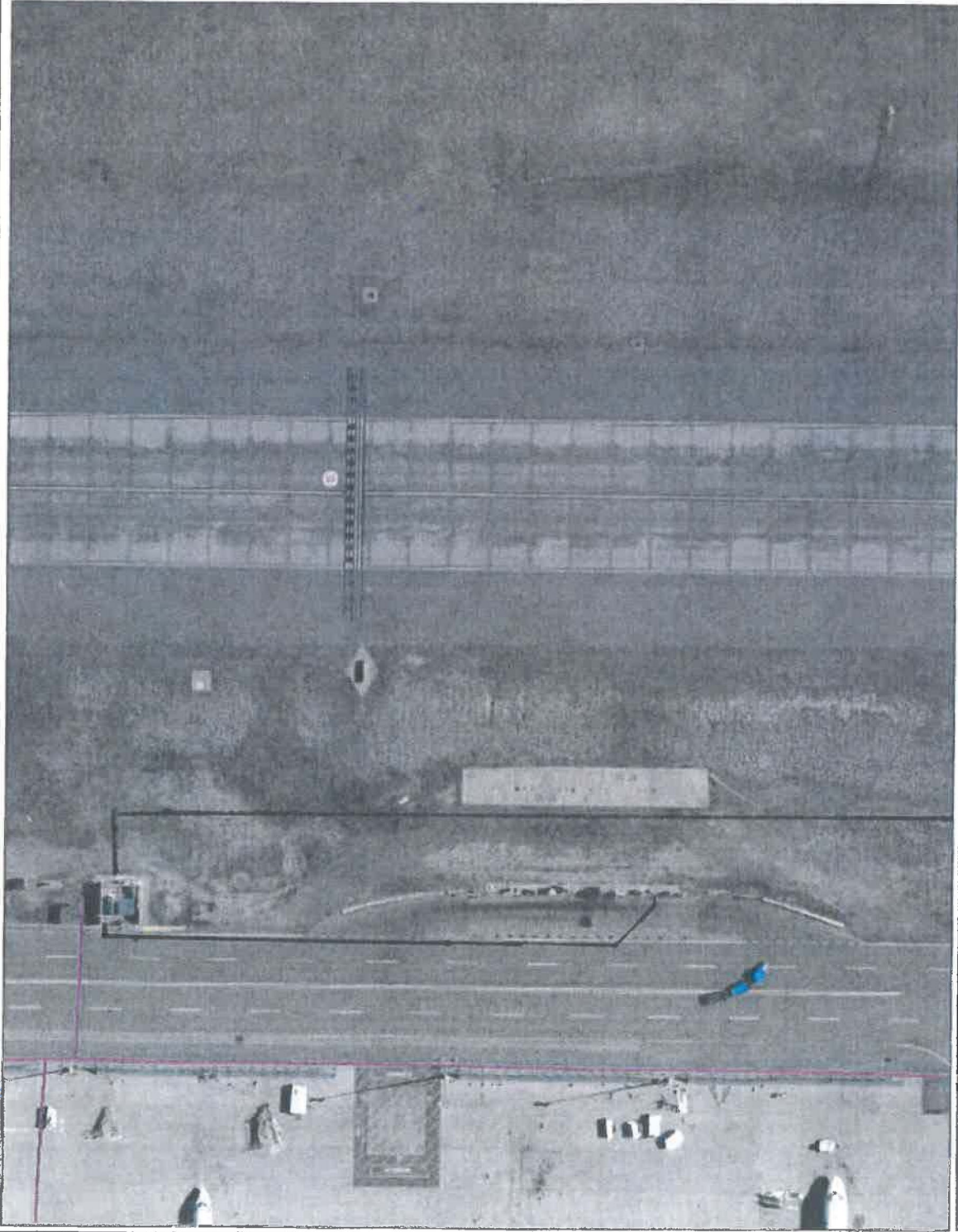
Disclaimer: Map exhibits produced using DEN Maps are for display purposes and do not supplant the need for a professional survey.

Map Generated 7/27/2015

THIS IS NOT A LEGAL DOCUMENT

**DEN Maps**

Concourse C CNG Station and associated fuel lines



**Legend**

- Escalator
- Building
- Interior Gas Lines
- Fence - ADA
- Security Gate (with Guard)
- Security Gate (without Guard)
- PIPA GATE
- DISCOMMISSIONED GATE

 XCEL CNG lines

 Clean Energy CNG lines

188.0 94.00 188.0 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Denver International Airport (City and County of Denver)

1: 1,128

Disclaimer: Map exhibits produced using DEN Maps are for display purposes and do not supplement the need for a professional survey.

Map Generated 7/27/2015


THIS IS NOT A LEGAL DOCUMENT




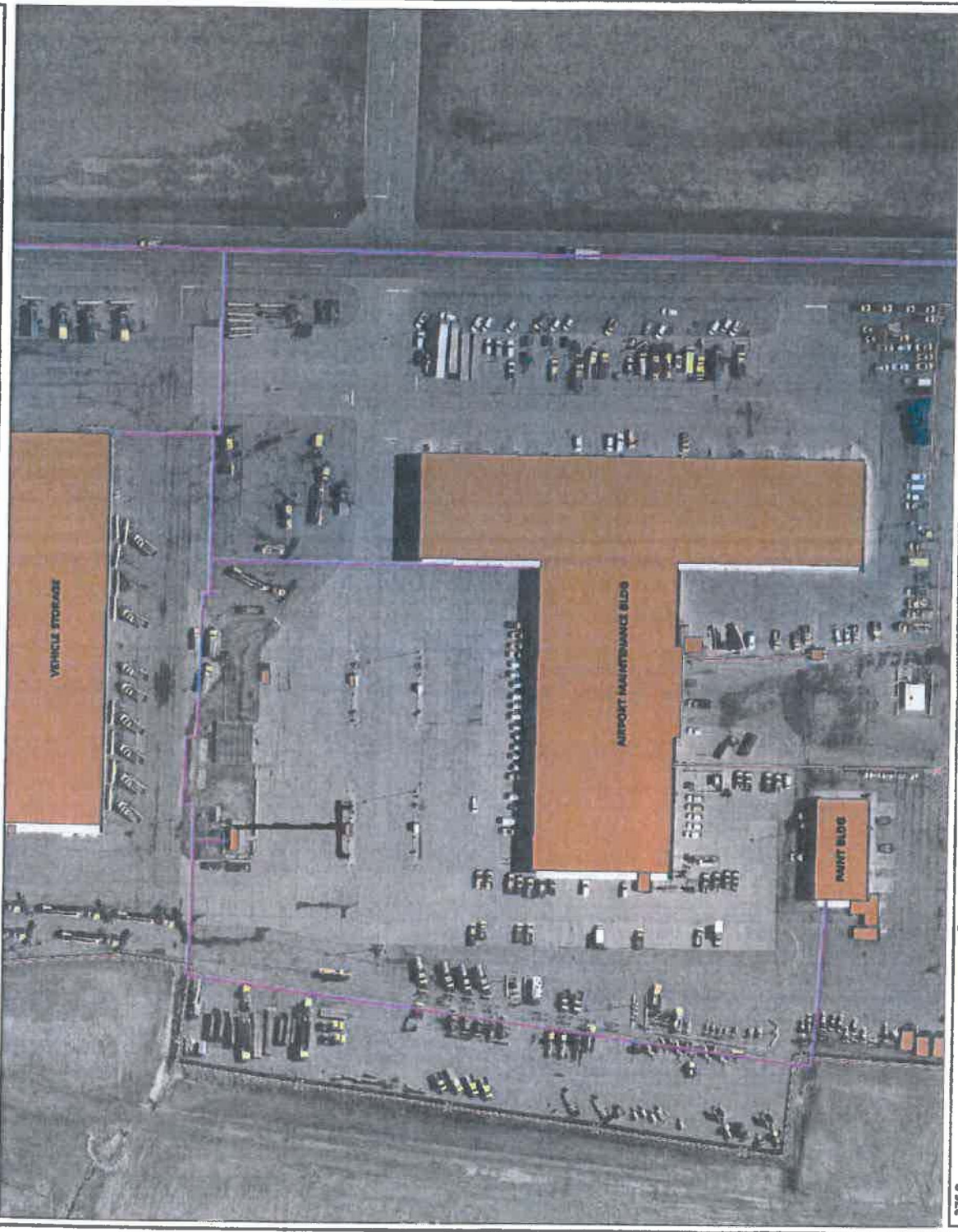
**DEN Maps**

Maintenance Center CNG Station and associated fuel lines

- Legend**
- Building
  - Natural Gas Lines
  - Kerosene - ACA
  - Security Gate (with Guard)
  - Security Gate (without Guard)
  - NPA GATE
  - DECOMMISSIONED GATE

 XCEL CNG Lines

 Clean Energy CNG lines



376.0 0 188.00 376.00 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Denver International Airport (City and County of Denver) 1:2,256

Map Generated 7/27/2015

Disclaimer: Map exhibits produced using DEN Maps are for display purposes and do no supplant the need for a professional survey.

**THIS IS NOT A LEGAL DOCUMENT**



### South Cargo CNG Station and associated fuel lines



#### Legend

- Roofline
- Building
- Natural Gas Lines
- Fence - ADA
- Security Gate (with Guard)
- Security Gate (without Guard)
- PAPA GATE
- DECOMMISSIONED GATE

XCEL CNG lines

Clean Energy CNG lines

188.0 94.00 188.0 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Denver International Airport (City and County of Denver)

1:1,128

Disclaimer: Map exhibits produced using DEN Maps are for display purposes and do no supplant the need for a professional survey.

Map Generated 7/27/2015

THIS IS NOT A LEGAL DOCUMENT



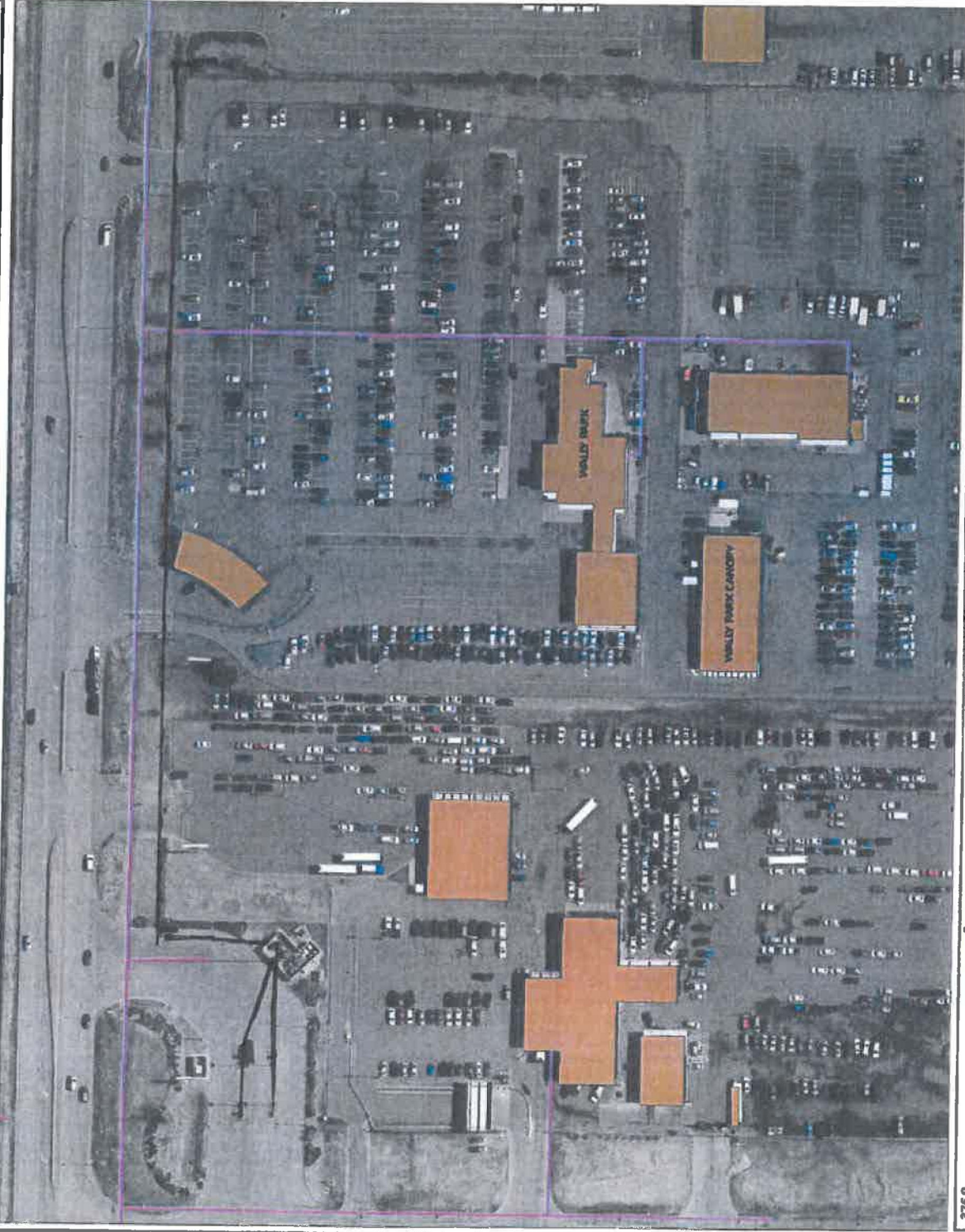


# 78th Ave Retail CNG Station and associated fuel lines

- Legend**
- Boundary
  - ▭ Building
  - Natural Gas Line
  - Power - ACA
  - Security Gate (with Guard)
  - Security Gate (without Guard)
  - PAPA GATE
  - DISCOMMISSIONED GATE

XCEL CNG lines

Clean Energy CNG lines includes line to Budget Rent a Car Facility



376.0 188.00 376.0 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© Denver International Airport (City and County of Denver)

1:2,256

Disclaimer: Map exhibits produced using DEN Maps are for display purposes and do not supplement the need for a professional survey.

Map Generated 7/27/2015

THIS IS NOT A LEGAL DOCUMENT

**LEGAL DESCRIPTION FOR THE NATURAL FUELS CNG LEASE AREAS**

June 17, 1994 *REV:* April 7, 2005

Bearings used in this legal description are based on the west line of the NW ¼ of Section 31, Township 2 South, Range 65 West of the 6th Principal Meridian, City and County of Denver, State of Colorado as being N 00°05'30" W. Found a 3 ¼" Aluminum cap, L.S. #14592, at the NW corner and found a 3 ¼" Aluminum Cap, L.S. #14592, at the West ¼ corner of said Section 31.

**P-1 (Parcel 1)**

A parcel of land located in the NW ¼ of said Section 31, being more particularly described as follows:

Commencing at the West ¼ corner of said Section 31 (N 50185.864, E 78386.857);

Thence N 56°14'27" E, 2028.17 feet to the **POINT OF BEGINNING** (N 51312.925, E 80073.034);

Thence N 00°00'00" W, 3.0 feet (N 51315.925, E 80073.034);

Thence N 90°00'00" E, 12.0 feet (N 51315.925, E 80085.034);

Thence S 00°00'00" E, 3.0 feet (N 51312.925, E 80085.034);

Thence S 90°00'00" W, 12.0 feet to the **POINT OF BEGINNING of Parcel 1**;

containing 36 square feet, more or less.

**P-2 (Parcel 2)**

A parcel of land located in the NW ¼ of said Section 31, being more particularly described as follows:

Commencing at the West ¼ corner of said Section 31 (N 50185.864, E 78386.857);

Thence N 57°01'27" E, 2010.27 feet to the **POINT OF BEGINNING** (N 51280.021, E 80073.270);

Thence N 00°00'00" W, 3.0 feet (N 51283.021, E 80073.270);

Thence N 90°00'00" E, 12.0 feet (N 51283.021, E 80085.270);

Thence S 00°00'00" E, 3.0 feet (N 51280.021, E 80085.270);

Thence S 90°00'00" W, 12.0 feet to the **POINT OF BEGINNING of Parcel 2**;

containing 36 square feet, more or less.

**LEGAL DESCRIPTION FOR THE NATURAL FUELS CNG LEASE AREAS (cont'd)****P-3 (Parcel 3)**

A parcel of land located in the NW ¼ of said Section 31, being more particularly described as follows:

Commencing at the West ¼ corner of said Section 31 (N 50185.864, E 78386.857);

Thence N 57°45'06" E, 2050.57 feet to the **POINT OF BEGINNING** (N 51280.030, E 80121.117);

Thence N 00°00'00" W, 3.0 feet (N 51283.030, E 80121.117);

Thence N 90°00'00" E, 12.0 feet (N 51283.030, E 80133.117);

Thence S 00°00'00" E, 3.0 feet (N 51280.030, E 80133.117);

Thence S 90°00'00" W, 12.0 feet to the **POINT OF BEGINNING of Parcel 3**;

containing 36 square feet, more or less.

**P-4 (Parcel 4)**

A parcel of land located in the NW ¼ of said Section 31, being more particularly described as follows:

Commencing at the West ¼ corner of said Section 31 (N 50185.864, E 78386.857);

Thence N 56°58'40" E, 2068.39 feet to the **POINT OF BEGINNING** (N 51313.070, E 80121.120);

Thence N 00°00'00" W, 3.0 feet (N 51316.070, E 80121.120);

Thence N 90°00'00" E, 12.0 feet (N 51316.070, E 80133.120);

Thence S 00°00'00" E, 3.0 feet (N 51313.070, E 80133.120);

Thence S 90°00'00" W, 12.0 feet to the **POINT OF BEGINNING of Parcel 4**;

containing 36 square feet, more or less.

**P-5 (Parcel 5)**

A parcel of land located in the NW ¼ of said Section 31, being more particularly described as follows:

Commencing at the West ¼ corner of said Section 31 (N 50185.864, E 78386.857);

Thence N 55°58'17" E, 2080.44 feet to the **POINT OF BEGINNING** (N 51350.090, E 80111.040);

**LEGAL DESCRIPTION FOR THE NATURAL FUELS CNG LEASE AREAS (cont'd)**

Thence N 00°00'00" W, 13.33 feet (N 51363.420, E 80111.040);

Thence N 90°00'00" E, 19.33 feet (N 51363.420, E 80130.370);

Thence S 00°00'00" E, 13.33 feet (N 51350.090, E 80130.370);

Thence S 90°00'00" W, 19.33 feet to the **POINT OF BEGINNING of Parcel 5;**

containing 257.7 square feet, more or less.

**P-6 (Parcel 6)**

A parcel of land located in the NW ¼ of said Section 31, being more particularly described as follows:

Commencing at the West ¼ corner of said Section 31 (N 50185.864, E 78386.857);

Thence N 59°15'06" E, 2117.56 feet to the **POINT OF BEGINNING** (N 51268.506, E 80206.735);

Thence N 45°00'00" E, 42.00 feet (N 51298.206, E 80236.435);

Thence S 45°00'00" E, 26.75 feet (N 51279.294, E 80255.347);

Thence S 45°00'00" W, 42.00 feet (N 51249.594, E 80225.647);

Thence N 45°00'00" W, 26.75 feet to the **POINT OF BEGINNING of Parcel 6;**

containing 1123.5 square feet, more or less.

The basis of bearings and survey coordinate system values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA Engineering Section, Survey office, 27301 – E. 71<sup>st</sup> Ave, Unit 4, Denver, Colorado 80249.

This legal description was prepared by Kenneth Conlan for the Denver International Airport Engineering Division, 8500-Pena Blvd., Denver, Colorado 80249.

I hereby certify that this  
legal description was prepared  
under my direct supervision.

Kenneth R. Conlan

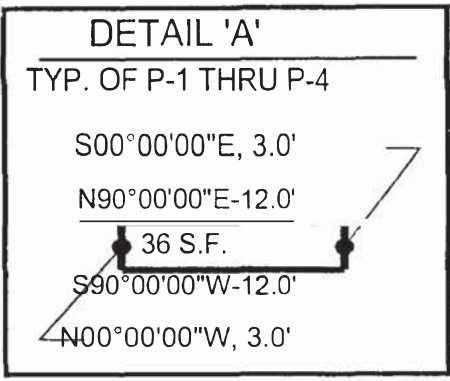
 4/27/05

Approved by: Michael H. Steffens, P. E. Date  
Manager of Construction

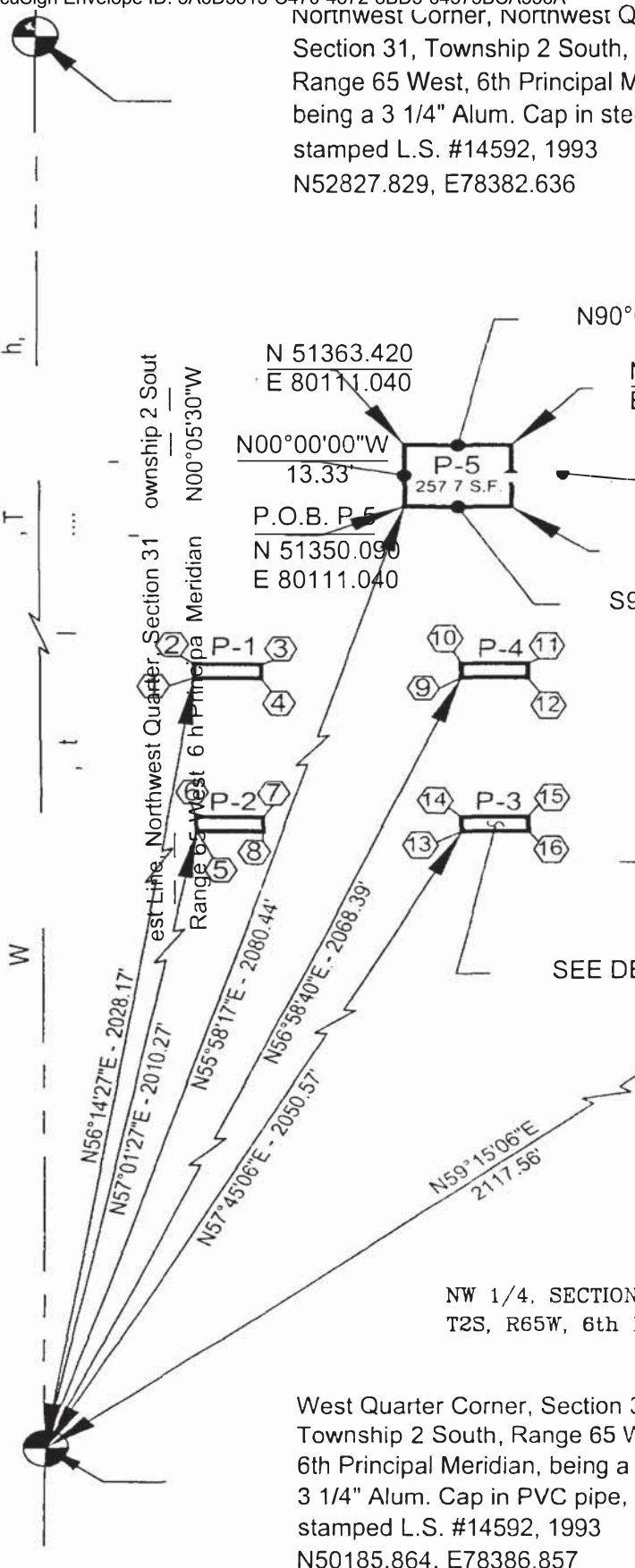




Northwest Corner, Northwest Quarter,  
Section 31, Township 2 South,  
Range 65 West, 6th Principal Meridian,  
being a 3 1/4" Alum. Cap in steel pipe,  
stamped L.S. #14592, 1993  
N52827.829, E78382.636



SCALE: 1"=30'



N90°00'00"E, 19.33'

N 51363.420  
E 80111.040

N 51363.420  
E 80130.370

N00°00'00"W  
13.33'

S00°00'00"E, 13.33'

P.O.B. P-5  
N 51350.090  
E 80111.040

N 51350.090  
E 80130.370

S90°00'00"W, 19.33'

N 51279.294  
E 80255.347

S45°00'00"E, 26.75'

N 51298.206  
E 80236.435

P.O.B. P-6  
N 51268.506  
E 80206.735



N 51249.594  
E 80225.647

N45°00'00"W, 26.75'

SEE DETAIL 'A'

NW 1/4, SECTION 31,  
T2S, R65W, 6th P.M.

West Quarter Corner, Section 31,  
Township 2 South, Range 65 West,  
6th Principal Meridian, being a  
3 1/4" Alum. Cap in PVC pipe,  
stamped L.S. #14592, 1993  
N50185.864, E78386.857

COORDINATE TABLE					
①	N 51312.925	P.O.B.	⑩	N 51313.070	P.O.B.
	E 80073.034	P-1		E 80121.120	P-4
②	N 51315.925		⑪	N 51316.070	
	E 80073.034			E 80121.120	
③	N 51315.925		⑫	N 51316.070	
	E 80085.034			E 80133.120	
④	N 51312.925		⑬	N 51313.070	
	E 80085.034			E 80133.120	
⑤	N 51280.021	P.O.B.	⑭	N 51280.030	P.O.B.
	E 80073.	2		E 80121.117	P-3
⑥	N 51283.021		⑮	N 51283.	
	E 80073.270			E 80121.117	
⑦	N 51283.021		⑯	N 51283.	
	E 80085.270			E 80133.117	
⑧	N 51280.021		⑰	N 51280.030	
	E 80085.270			E 80133.117	

The Basis of Bearings and Survey Coordinate System values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA Engineering Section, Survey Office, 27301-E. 71st Ave., Unit 4, Denver, Co 80249

Note: This does not represent a monumented land survey. It is intended only to depict the attached description.

*Michael H. Steffens* 4/27/05

Michael H. Steffens, P.E. Date  
Manager of Construction

CITY AND COUNTY OF DENVER  
DEPARTMENT OF AVIATION  
DENVER INTERNATIONAL AIRPORT  
NATURAL FUELS CNG  
LEASE AREAS  
EXHIBIT

NO.	DATE	NAME	SCALE	DRAWN BY	SHEET NO.	DRAWING NO.
1	07/05	KRC	1" = 30'	KRC	1	
REVISION	DATE	SCALE	DRAWN BY	SHEET NO.	DRAWING NO.	
	06/17/94	1" = 30'	KRC	1		

**LEGAL DESCRIPTION FOR THE SOUTH CARGO NATURAL FUELS FUELING STATION  
LICENSE AREAS**

**DATE:** 2 MARCH, 1995 **REV:** 29 MAY 1996

Bearings used in this legal description are based on the East line of the Northeast 1/4 of Section 33, Township 2 South, Range 65 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado as being N 00°26'05" W. Found a 3 1/4" Aluminum Cap, L.S. #14592, at the Northeast corner and found a 3 1/4" Aluminum Cap, L.S. #14592, at the East Quarter corner of said Section 33.

**NATURAL FUELS FUELING STATION (PARCEL NO. 1)**

A parcel of land located in the Northeast Quarter of said Section 33, being more particularly described as follows:

Commencing at the East Quarter corner of said Section 33 (N 50221.168: E 94183.888);

Thence N 68°26'19" W, 1,828.30 feet to the POINT OF BEGINNING (N50893.064: E92483.524);

Thence S 90°00'00" W, 20.00 feet (N50893.064: E92463.524);

Thence N 00°00'00" W, 6.00 feet (N50899.064: E92463.524);

Thence N 90°00'00" E, 20.00 feet (N50899.064: E92483.524);

Thence S 00°00'00" E, 6.00 feet to the POINT OF BEGINNING, containing 120.00 Square Feet, or 0.00275 Acres, more or less.

**TOGETHER WITH**

**NATURAL FUELS FUELING STATION (PARCEL NO. 2)**

A parcel of land located in the Northeast Quarter of said Section 33, being more particularly described as follows:

Commencing at the East Quarter corner of said Section 33 (N 50221.168: E 94183.888);

Thence N 69°03'12" W, 1,820.69 feet to the POINT OF BEGINNING (N50872.064: E92483.524);

Thence S 90°00'00" W, 20.00 feet (N50872.064: E92463.524);

Thence N 00°00'00" W, 6.00 feet (N50878.064: E92463.524);

Thence N 90°00'00" E, 20.00 feet (N50878.064: E92483.524);

Thence S 00° 00' 00" E, 6.00 feet to the POINT OF BEGINNING, containing 120.00 Square Feet, or 0.00275 Acres, more or less.

The basis of bearings and survey coordinate system values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA Engineering Section, Survey office, 7141-Powhaton Rd., Denver, CO. 80249.

This legal description was prepared by James McKibbin, for the Denver International Airport Engineering Section, 8500-Pena Blvd, Denver, Colorado 80249.

I hereby certify that this legal description was prepared under my direct supervision.

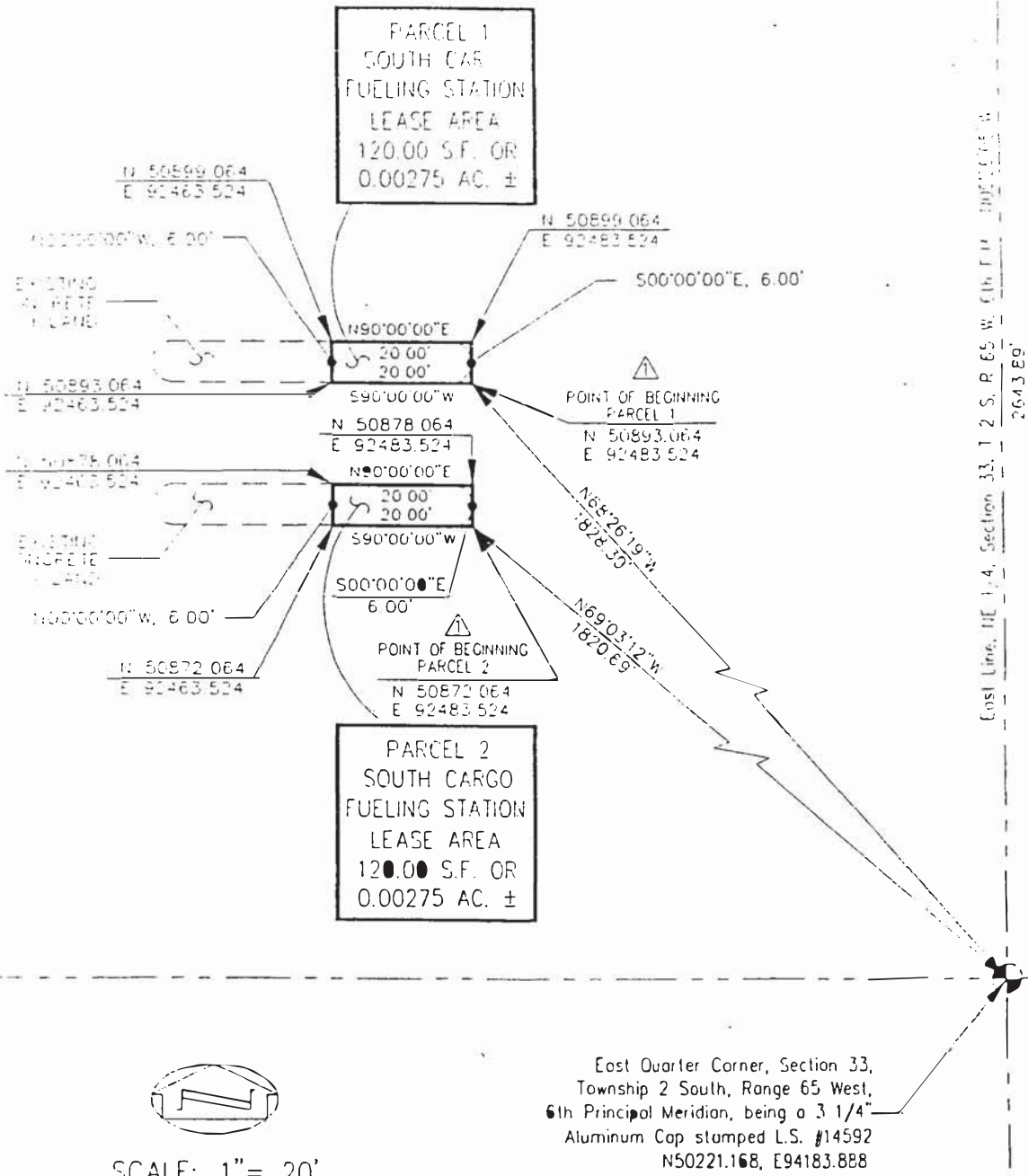
Kenneth R. Conlan



Approved By: John W. Brennan 6-10-96  
John W. Brennan, P.E. Date  
Survey Section Manager

NE 1/4, SEC N 33,  
T 2 S, R 65 W, 6TH P.M.

Northeast Corner, Section 33,  
Township 2 South, Range 65 West,  
6th Principal Meridian, being a 3 1/4"  
Aluminum Cap, stamped L.S. #14592  
N52864.982, E94163.830

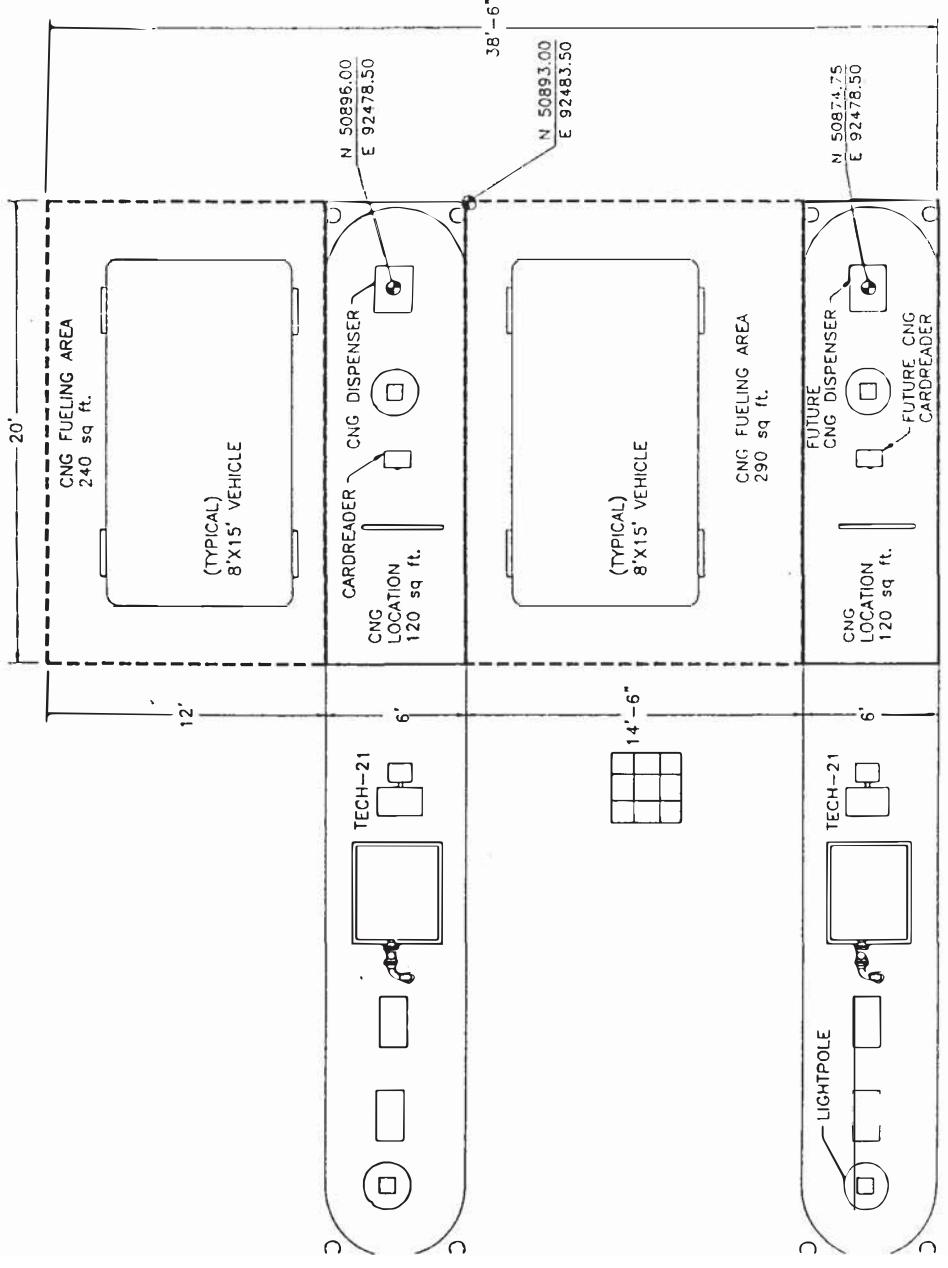


Note: This does not represent a monumented land survey. Nor does it represent a search for easements or Rights-of-Way of record. It is intended only to depict the attached description.

The Basis of Bearings and Survey Coordinate System values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA engineering section, Survey Office, 7141-Powhatan Rd., Denver, Co. 80249

NO.	DATE	NAME	CITY AND COUNTY OF DENVER DEPARTMENT OF AVIATION DENVER INTERNATIONAL AIRPORT		
1	8-22-94	JMB			
			SOUTH CARGO NATURAL FUELS FUELING STATION LEASE AREA EXHIBIT		
REVISED	DATE	SCALE	DRAWN BY	SHEET NO.	DRAWING NO.
	03/02/95	1" = 20'	PIB/PSB/AV	OF 1 SHEETS	

*John W. Brennan*  
John W. Brennan, P.E.      Date  
Survey Section Manager



TOTAL AREA  
770 sq ft.

NATURAL FUELS CORP.<sup>TM</sup>  
5855 STAPLETON DR. N. DENVER, CO. 80219-3312

DIA SOUTH CARGO, CNG  
FUELING, NFC LEASE AREA

DATE: JAN 12, 04 | OWN. BY: JAA | DWG. NO.: SCISS-MC | REV. NO. 2 | SHEET NO. 1 OF 1



LEGAL DESCRIPTION FOR THE CCD MAINTENANCE NATURAL FUELS FUELING STATION LICENSE AREA

DATE: 21 May, 1996

Bearings used in this legal description are based on the South line of the Southeast 1/4 of Section 28, Township 2 South, Range 65 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado as being S 89°57'54" E. Found a 3 1/4" Aluminum Cap, L.S. #14592, at the Southeast corner and found a 3 1/4" Aluminum Cap, L.S. #14592, at the South Quarter corner of said Section 28.

A parcel of land located in the Southeast Quarter of said Section 28, being more particularly described as follows:

Commencing at the South Quarter corner of said Section 28 (N 52866.597, E 91520.444);

Thence N 41°25'08" E, 800.54 feet to the POINT OF BEGINNING (N53466.918, E92050.048);

Thence N 00°00'00" W, 6.08 feet (N53472.998, E92050.048);

Thence N 90°00'00" E, 70.00 feet (N53472.998, E92120.048);

Thence S 00°00'00" E, 6.08 feet (N53466.918, E92120.048);

Thence S 90°00'00" W, 70.00 feet to the POINT OF BEGINNING;

Containing 425.60 Square Feet, or 0.0098 Acres, more or less.

The basis of bearings and survey coordinate system values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA Engineering Section, Survey office, 7141-Powhaton Rd., Denver, CO. 80249.

This legal description was prepared by William Armbruster for the Denver International Airport Engineering Section, 8500-Pena Blvd, Denver, Colorado 80249.

I hereby certify that this legal description was prepared under my direct supervision.

Kenneth R. Conlan

*John W. Brennan* 6-10-96

Approved by: John W. Brennan, P.E. Date  
Survey Section Supervisor



LEGAL DESCRIPTION FOR THE CCD MAINTENANCE NATURAL FUELS FUELING STATION LICENSE AREA

DATE: 21 May, 1996

Bearings used in this legal description are based on the South line of the Southeast 1/4 of Section 28, Township 2 South, Range 65 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado as being S 89°57'54" E. Found a 3 1/4" Aluminum Cap, L.S. #14592, at the Southeast corner and found a 3 1/4" Aluminum Cap, L.S. #14592, at the South Quarter corner of said Section 28.

A parcel of land located in the Southeast Quarter of said Section 28, being more particularly described as follows:

Commencing at the South Quarter corner of said Section 28 (N 52866.597, E 91520.444);

Thence N 41°25'08" E, 800.54 feet to the POINT OF BEGINNING (N53466.918, E92050.048);

Thence N 00°00'00" W, 6.08 feet (N53472.998, E92050.048);

Thence N 90°00'00" E, 70.00 feet (N53472.998, E92120.048);

Thence S 00°00'00" E, 6.08 feet (N53466.918, E92120.048);

Thence S 90°00'00" W, 70.00 feet to the POINT OF BEGINNING;

Containing 425.60 Square Feet, or 0.0098 Acres, more or less.

The basis of bearings and survey coordinate system values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA Engineering Section, Survey office, 7141-Powhaton Rd., Denver, CO. 80249.

This legal description was prepared by William Armbruster for the Denver International Airport Engineering Section, 8500-Pena Blvd, Denver, Colorado 80249.

I hereby certify that this legal description was prepared under my direct supervision.

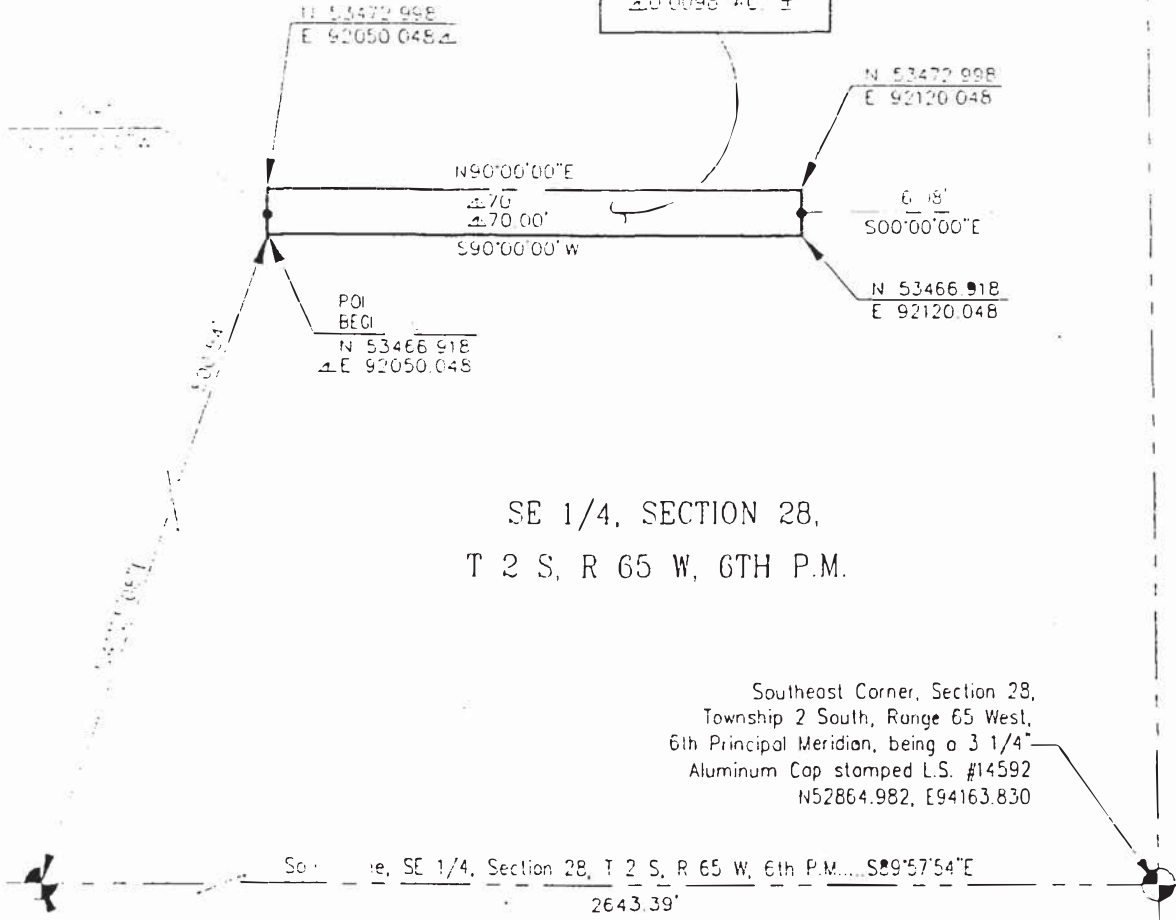
Kenneth R. Conlan

*John W. Brennan* 6-10-96

Approved by: John W. Brennan, P.E. Date  
Survey Section Supervisor



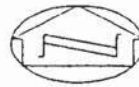
CCD MAINTENANCE  
NATURAL FUELS  
FUELING STATION  
LEASE AREA  
425.60 S.F. OR  
±0.0098 AC ±



SE 1/4, SECTION 28,  
T 2 S, R 65 W, 6TH P.M.

Southeast Corner, Section 28,  
Township 2 South, Range 65 West,  
6th Principal Meridian, being a 3 1/4"  
Aluminum Cap stamped L.S. #14592  
N52864.982, E94163.830

South Quarter Corner, Section 28,  
Township 2 South, Range 65 West,  
6th Principal Meridian, being a 3 1/4"  
Aluminum Cap, stamped L.S. #14592  
N52866.597, E91520.444



SCALE: 1" = 20'

Note: This does not represent a monumented  
land survey. Nor does it represent a search  
for easements or Rights-of-Way of record.  
It is intended only to depict the attached  
description.

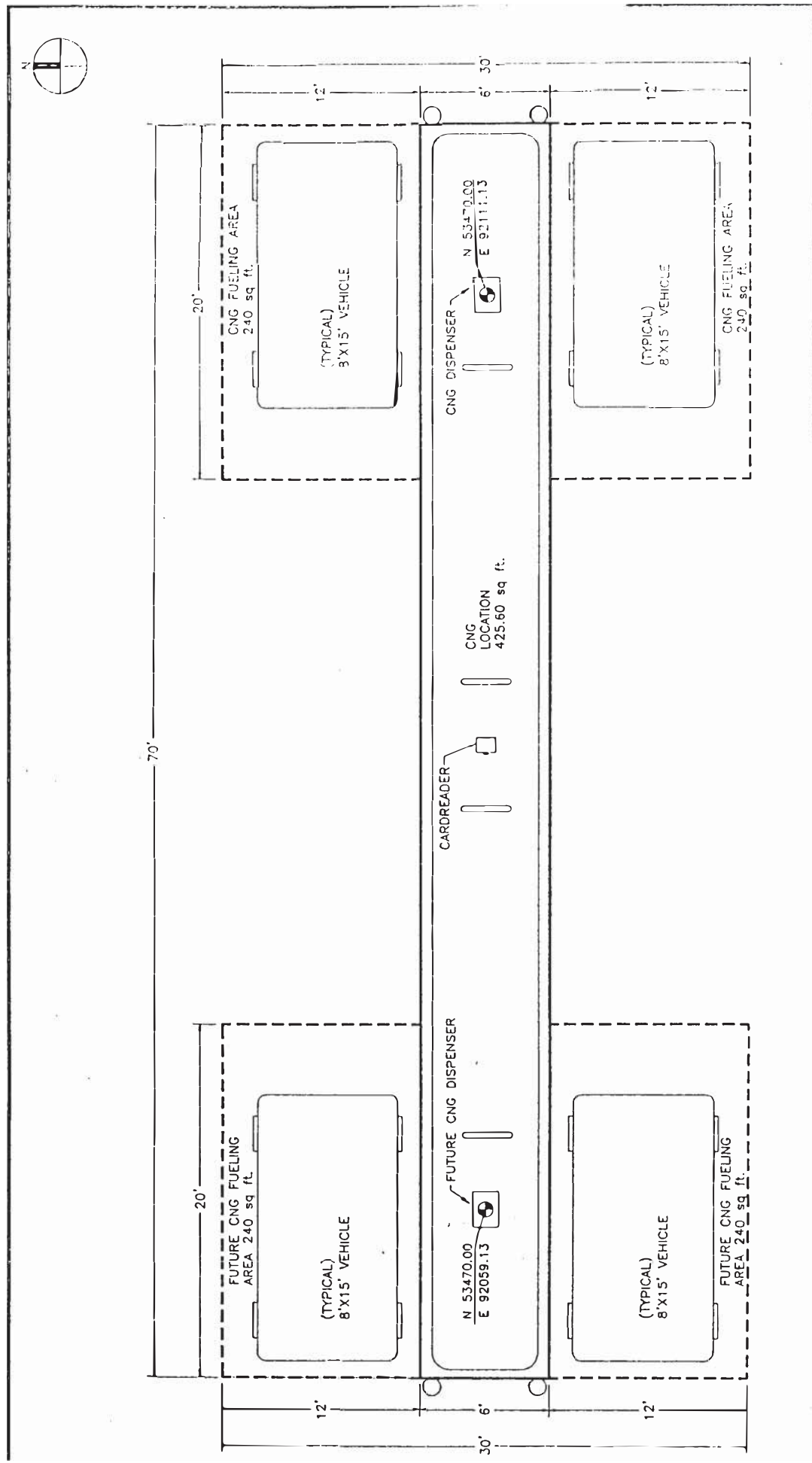
The Basis of Bearings and Survey Coordinate System values  
are taken from the Denver International Airport (DIA) grid  
control map, which may be reviewed at the DIA Eng. Section,  
Survey Office, 7141-Powhuton Rd., Denver, Co. 80249

*John W. Brennan 6-10-96*  
John W. Brennan, P.E. Date  
Survey Section Manager

NO	DATE	NAME	CITY AND COUNTY OF DENVER		
1	06/12/95	DAJA	DEPARTMENT OF AVIATION		
			DENVER INTERNATIONAL AIRPORT		
			CCD MAINTENANCE NATURAL FUELS		
			FUELING STATION LEASE AREA		
			EXHIBIT		
REVISED	DATE	SCALE	DRAWN BY	DESIGN BY	SHEET NO
	03/02/95	1" = 20'	DM		

*14*





**NATURAL FUELS CORP.™**  
 585E STAPLETON DR., N. DENVER, CO 80216-3172  
**DIA MAINTENANCE, CNG FUELING, NFC LEASE AREA**

DATE: JAN 12, 94 DRAWN BY: JAA CNG, NO. USLAND REV. NO. 2

**TOTAL AREA  
 905.6 sq ft.**

LEGAL DESCRIPTION FOR THE CONCOURSE A NATURAL FUELS FUELING STATION  
LICENSE AREA

DATE: 2 March, 1995

Bearings used in this legal description are based on the North line of the Northeast 1/4 of Section 28, Township 2 South, Range 65 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado as being S 89°50'43" E. Found a 3 1/4" Aluminum Cap, L.S. #14592, at the Northeast corner and found a 3" Brass Cap in concrete apron pavement, L.S. #14592, at the North Quarter corner of said Section 28.

A parcel of land located in the Northeast Quarter of said Section 28, being more particularly described as follows:

Commencing at the North Quarter corner of said Section 28 (N 58161.005, E 91458.010);

Thence S 70°34'28" E, 1,292.09 feet to the POINT OF BEGINNING (N57731.278, E92676.543);

Thence N 90°00'00" E, 6.50 feet (N57731.278, E92683.043);

Thence S 00°00'00" E, 20.00 feet (N57711.278, E92683.043);


Thence S 90°00'00" W, 6.50 feet (N57711.278, E92676.543);

Thence N 00°00'00" W, 20.00 feet to the POINT OF BEGINNING;

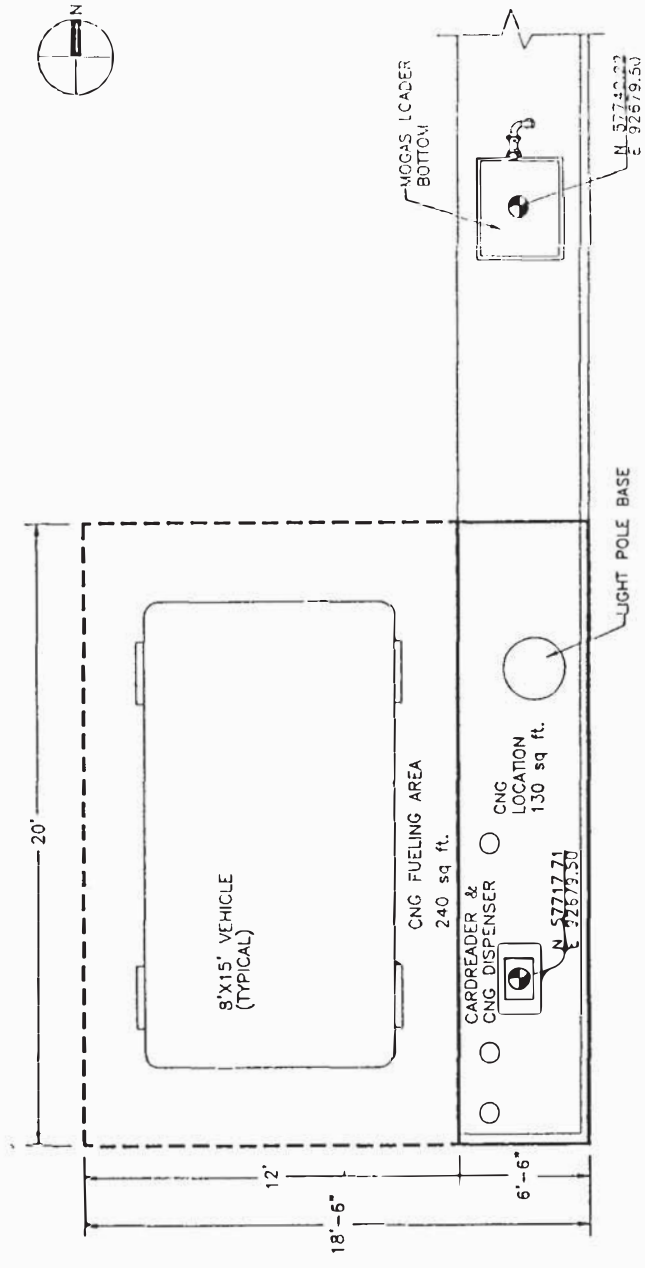
containing 130.0 Square Feet, or 0.0030 Acres, more or less.

The basis of bearings and survey coordinate system values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA construction site, Survey office, 7195-Powhaton Rd., Denver, CO. 80249.

This legal description was prepared by Kenneth Conlan, L.S. #30089, for the Denver International Airport Engineering Dept., 8500-Pena Blvd, Denver, Colorado 80249.


  
John W. Brennan, P.E.      Date  
Airport Engineer





TOTAL AREA  
370 sq ft.

"A" CONCOURSE CNG FUELING ISLAND

 <b>NATURAL FUELS CORP.</b>	
5815 STAPLETON DR. N.	DESER, CO. 80228-1312
<b>DIA A-CONCOURSE, CNG FUELING, NFC LEASE AREA</b>	
DATE: JAN '2024	DRAWN BY: JAA
CWG. NO. ISLAND	REV. NO. 1

LEGAL DESCRIPTION FOR CONCOURSE B NATURAL FUELS FUELING STATION  
LICENSE AREAS

DATE: 21 March, 1995

Bearings used in this legal description are based on the South line of the Southeast 1/4 of Section 21, Township 2 South, Range 65 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado as being S 89°50'43" E. Found a 3 1/4" Aluminum Cap, L.S. #14592, at the Southeast corner and found a 3" Brass Cap in concrete apron pavement, L.S. #14592, at the South Quarter corner of said Section 21.

PARCEL 1

A parcel of land located in the Southeast Quarter of said Section 21, being more particularly described as follows:

Commencing at the South Quarter corner of said Section 21 (N 58161.005, E 91458.010);

Thence N 49°03'07" E, 1,613.54 feet to the POINT OF BEGINNING (N59218.478, E92676.726);

Thence N 00°00'00" W, 20.00 feet (N59238.478, E92676.726);

Thence N 90°00'00" E, 6.33 feet (N59238.478, E92683.056);

Thence S 00°00'00" E, 20.00 feet (N59218.478, E92683.056);

Thence S 90°00'00" W, 6.33 feet to the POINT OF BEGINNING;

Containing 129.60 Square Feet, or 0.0029 Acres, more or less.

PARCEL 2

A parcel of land located in the Southeast Quarter of said Section 21, being more particularly described as follows:

Commencing at the South Quarter corner of said Section 21 (N 58161.005, E 91458.010);

Thence N 50°26'08" E, 1,582.50 feet to the POINT OF BEGINNING (N59168.975, E92677.976);

Thence N 00°00'00" W, 20.08 feet (N59189.058, E92677.976);

Thence N 90°00'00" E, 5.08 feet (N59189.058, E92683.056);

Thence S 00°00'00" E, 20.08 feet (N59168.975, E92683.056);

Thence S 90°00'00" W, 5.08 feet to the POINT OF BEGINNING;

Containing 102 Square Feet, or 0.0023 Acres, more or less.

The basis of bearings and survey coordinate system values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA construction site, Survey office, 7195-Powhaton Rd., Denver, CO. 80249.

This legal description was prepared by Kenneth Conlan, L.S. #30089, for the Denver International Airport Engineering Dept., 8500-Pena Blvd, Denver, Colorado 80249.

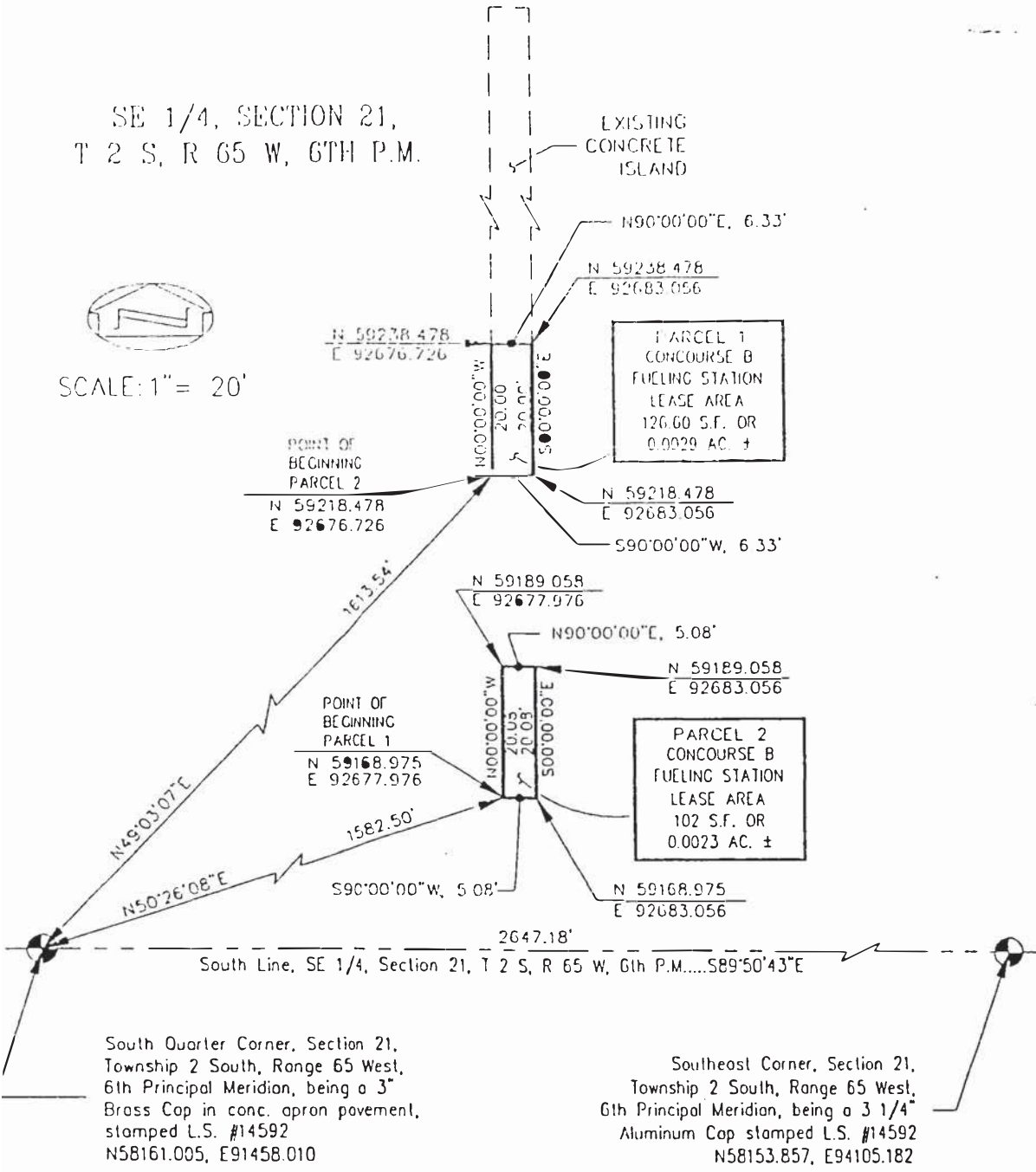
*John W. Brennan* 3-21-95  
John W. Brennan, P.E. Date  
Airport Engineer



SE 1/4, SECTION 21,  
T 2 S, R 65 W, 6TH P.M.



SCALE: 1" = 20'

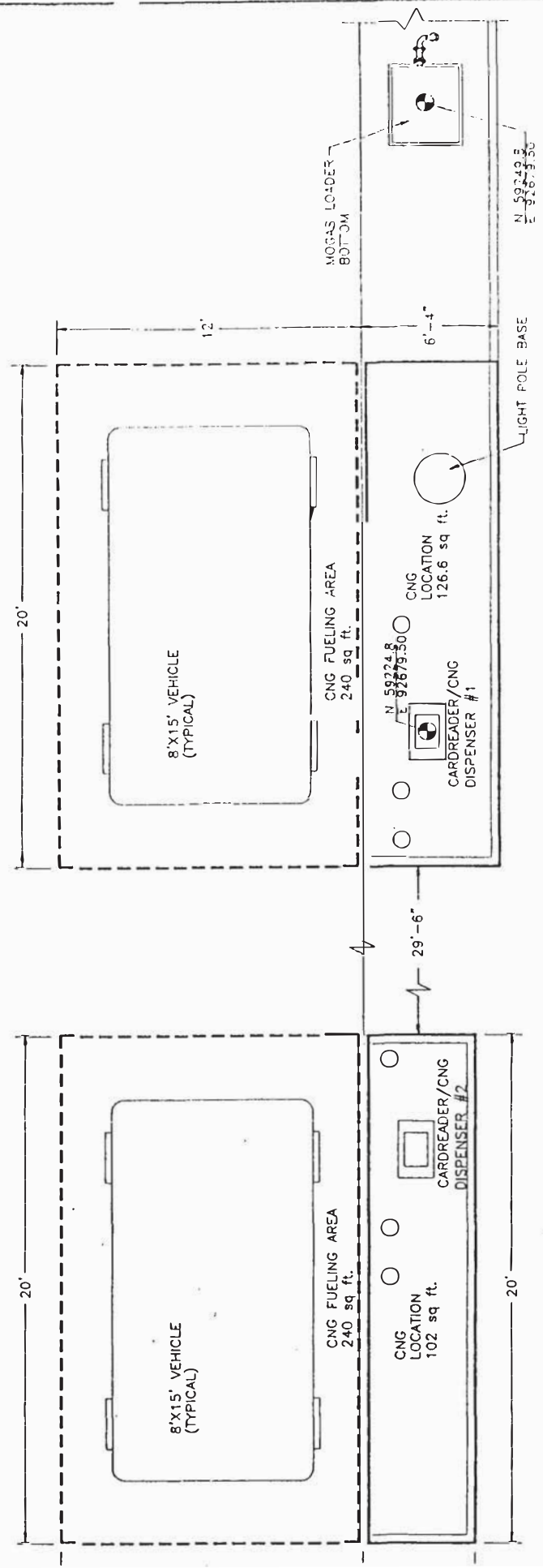


Note: This does not represent a monumented land survey. It is intended only to depict the attached description.

The Basis of Bearings and Survey Coordinate System values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA construction site, Survey Office, 7195-Powhatan Rd., Denver, Co. 80249

*John W. Brennan* 3-21-95  
John W. Brennan, P.E.     Dale  
Airport Engineer

NO.	DATE	NAME	CITY AND COUNTY OF DENVER DEPARTMENT OF AVIATION DENVER INTERNATIONAL AIRPORT			
			PARCELS 1 AND 2 CONCOURSE B NATURAL FUELS FUELING STATION LEASE AREA EXHIBIT			
			DATE	SCALE	DRAWN BY	SHEET NO.
			03/21/95	1" = 20'		



**"B" CONCOURSE CNG FUELING ISLAND**

**NATURAL FUELS CORP.**  
5855 STAPLETON DR. N. DENVER, CO. 80218-3312

**DIA B-CONCOURSE, CNG FUELING, NFC LEASE AREA**

DATE: JAN 12, 2004  
DRAWN BY: J. H. HAN  
CHECKED BY: J. H. HAN  
SCALE: 1/8" = 1'-0"  
DWG. NO. BR-LAND  
REV. NO. 3 5/7/98

**TOTAL AREA  
708.6 sq ft.**

LEGAL DESCRIPTION FOR THE CONCOURSE C NATURAL FUELS FUELING STATION  
LICENSE AREA

DATE: 2 March, 1995

Bearings used in this legal description are based on the East line of the SE 1/4 of Section 21, Township 2 South, Range 65 West, of the 6th Principal Meridian, City and County of Denver, State of Colorado as being S 00°43'43" E. Found a 3 1/4" Aluminum Cap, L.S. #14592, at the East Quarter corner and found a 3 1/4" Aluminum Cap, L.S. #14592, at the Southeast corner of said Section 21.

A parcel of land located in the Southeast Quarter of said Section 21, being more particularly described as follows:

Commencing at the East Quarter corner of said Section 21 (N 60796.947, E 94071.569);

Thence S 80°33'15" W, 1,407.48 feet to the POINT OF BEGINNING (N60565.957, E92683.175);

Thence S 00°00'00" E, 20.00 feet (N60545.957, E92683.175);

Thence N 90°00'00" W, 6.50 feet (N60545.957, E92676.680);

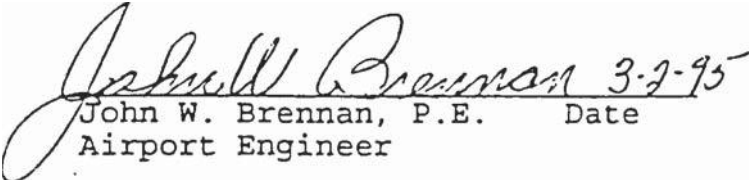
Thence N 00°00'00" W, 20.00 feet (N60565.957, E92676.680);

Thence N 90°00'00" E, 6.50 feet to the POINT OF BEGINNING;

Containing 130 Square Feet, or 0.0030 Acres, more or less.

The basis of bearings and survey coordinate system values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA construction site, Survey office, 7195-Powhaton Rd., Denver, Colorado 80249.

This legal description was prepared by Kenneth Conlan, L.S. #30089, for the Denver International Airport Engineering Dept., 8500-Pena Blvd, Denver, Colorado 80249.

  
John W. Brennan, P.E.      Date 3-2-95  
Airport Engineer



East Quarter Corner, Section 21,  
Township 2 South, Range 65 West,  
6th Principal Meridian, being a 3 1/4"  
Aluminum Cap stamped L.S. #14592  
NG0796.947, E94071.569

SE 1/4, SECTION 21,  
T 2 S, R 65 W, 6TH P.M.

EXISTING  
CONCRETE  
ISLAND

6.50'  
N90°00'00"E

N 60565.957  
E 92676.680

POINT OF  
BEGINNING

N 60565.957  
E 92683.175

CONCOURSE C  
FUELING STATION  
LEASE AREA  
130 S.F. OR  
0.0030 AC. ±

N 60545.957  
E 92676.680

N 60545.957  
E 92683.175

6.50'  
N90°00'00"W

Southeast Corner, Section 21,  
Township 2 South, Range 65 West,  
6th Principal Meridian, being a 3 1/4"  
Aluminum Cap stamped L.S. #14592  
N58153.857, E94105.182



SCALE: 1" = 20'

The Basis of Bearings and Survey Coordinate System values  
are taken from the Denver International Airport (DIA) grid  
control map, which may be reviewed at the DIA construction  
site, Survey Office, 7195-Powharon Rd., Denver, Co. 80249

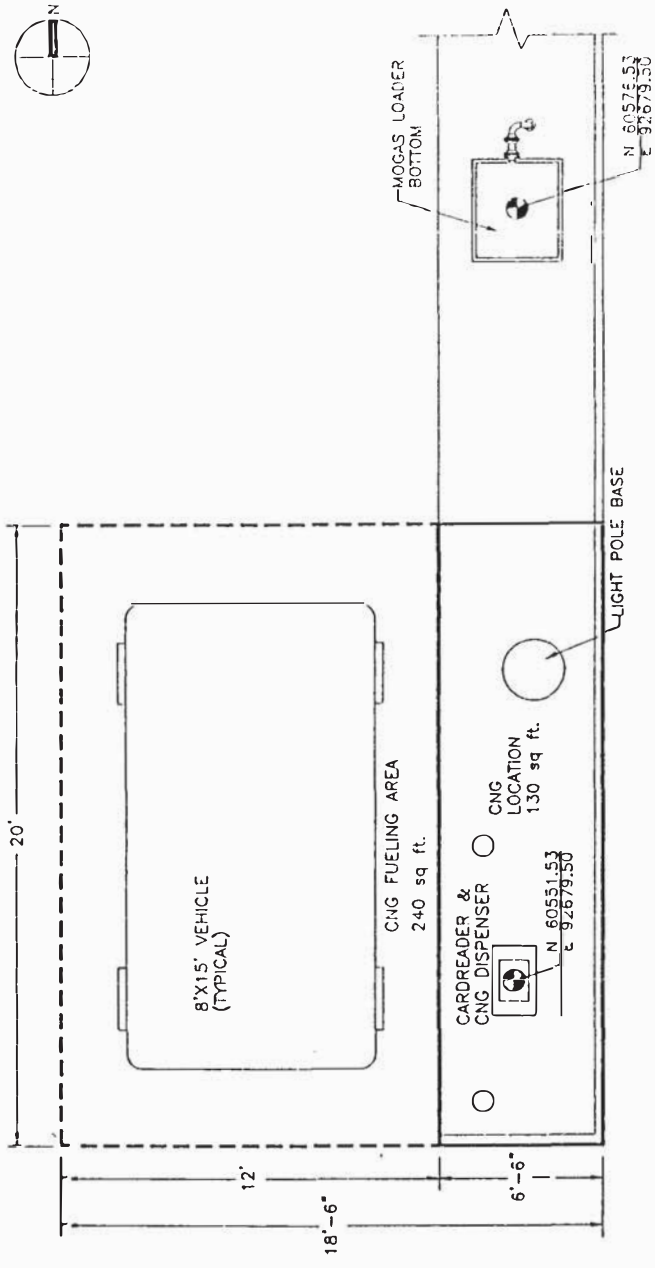
Note: This does not represent a monumented  
land survey. It is intended only to depict  
the attached description.

NO.	DATE	NAME

CITY AND COUNTY OF DENVER  
DEPARTMENT OF PUBLIC WORKS  
DENVER INTERNATIONAL AIRPORT

CONCOURSE C NATURAL FUELS  
FUELING STATION LEASE AREA  
EXHIBIT

*John W. Brennan* 3-3-95  
John W. Brennan, P.E.      Date  
Airport Engineer



**TOTAL AREA**  
370 sq ft.

"C" CONCOURSE CNG FUELING ISLAND

	
<b>NATURAL FUELS CORP.</b> 5855 STAPLETON DR. N. DENVER, CO. 80214-3312	
<b>DIA C-CONCOURSE, CNG FUELING, NFC LEASE AREA</b>	
DATE: JAN 12 2014	DWG. NO. C5LAND
REV. NO. 2	

4-

**Exhibit B****Denver Airport CNG Equipment as of 9/15/2020**

<b>Rental Car Calawba Court</b>		
<b>Quantity</b>	<b>Manufacturer</b>	<b>Description</b>
1	Tech 21	Card reader
3	Multiforce	Card readers
4	Tech 21	Pedestal
1	Natural Fuels	NF series CNG Dispenser (two hose)
3	Gilbarco	Gilbarco high hose dispensers
2	Ariel	JGP 100 HP CNG Compressors
1	Ariel	JGJ/2 300 HP CNG Compressor
3	Cherco	48" CNG Storage Spheres 4500 psi
1	Cherco	60" CNG storage sphere 5500 psi
1	Xebec	Gas dryer - 3"
1	Various	Priority control valves
1	Caterpillar	500KW back up GENSET
1		Fuel System Support Panel
1	GE	800 amp Electrical Switchgear

<b>South Cargo Fueling Area</b>		
<b>Quantity</b>	<b>Manufacturer</b>	<b>Description</b>
1	Tech 21	Card reader
1	Tech 21	Pedestal
1	Natural Fuels	Retail Series CNG Dispenser (two hose)
1	Ingersoll Rand	Model 0525NG CNG compressor
3	CPI	20" x 23' CNG storage vessels
1	Various	Priority control valves
1		Fuel System Support panel

<b>Maintenance Center</b>		
<b>Quantity</b>	<b>Manufacturer</b>	<b>Description</b>
1	Multiforce	Card reader (owned by DIA)
1	Natural Fuels	Retail Series CNG Dispenser (two hose)
2	Ingersoll Rand	Model 0525NG CNG compressors
1	Ingersoll Rand	40HP CNG Compressor
3	Cherco	48" CNG storage spheres
1	Various	Priority control valves
1		Electrical Switchgear

<b>Concourse A</b>		
<b>Quantity</b>	<b>Manufacturer</b>	<b>Description</b>
1	Tech 21	Card reader
1	Natural Fuels	CNG dispenser (two hose)
1	Ariel	Model JGP Natural gas compressor
4	Cherco	48" CNG storage spheres
1	Various	Priority control valves
1		Electrical Switchgear
1		Fuel System Support panel

<b>Concourse B</b>		
<b>Quantity</b>	<b>Manufacturer</b>	<b>Description</b>
2	Tech 21	Card reader
2	Natural Fuels	CNG dispenser (two hose)
1	Ariel	Model JGP CNG compressor, gas driven
3	Cherco	48" CNG storage spheres
1	Various	Priority control valves
1	Olympian	30KW Diesel Generator
1		Electrical Switchgear
1		Fuel System Support panel

<b>Concourse C</b>		
<b>Quantity</b>	<b>Manufacturer</b>	<b>Description</b>
1	Tech 21	Card reader
1	Natural Fuels	CNG dispenser (two hose)
1	Ingersoll Rand	Model 0525NG CNG compressor
1	Cherco	48" CNG storage sphere
1	Various	Priority control valves
1		Electrical Switchgear
1		Fuel System Support panel

**EXHIBIT B-1****Depreciation Schedule**

Assumes 2 year, straightline depreciation

Total Invested Capital:

\$ 109,157

<u>Month</u>		<u>Balance</u>
Month 1	\$	104,609
Month 2	\$	100,061
Month 3	\$	95,512
Month 4	\$	90,964
Month 5	\$	86,416
Month 6	\$	81,868
Month 7	\$	77,320
Month 8	\$	72,771
Month 9	\$	68,223
Month 10	\$	63,675
Month 11	\$	59,127
Month 12	\$	54,579
Month 13	\$	50,030
Month 14	\$	45,482
Month 15	\$	40,934
Month 16	\$	36,386
Month 17	\$	31,837
Month 18	\$	27,289
Month 19	\$	22,741
Month 20	\$	18,193
Month 21	\$	13,645
Month 22	\$	9,096
Month 23	\$	4,548
Month 24		

### Exhibit C

**(A) Fuel Pricing:**

- The price per GGE for CNG sales to Tier 1 and Tier 2 users will consist of the following:

Price per GGE = [Margin] + [Commodity] + [Commodity Transportation] +  
 [6% Commodity Handling Fee] + [all other commodity related charges]  
 + [all applicable taxes, fees and assessments, including, without limitation,  
 taxes which are measured based on the selling price]

- **“Margin”** will be fixed at \$0.749 per GGE for the first contract year (November 1, 2020 – October 31, 2021). Beginning November 1, 2021 and on each November 1<sup>st</sup> thereafter, the portion of the Margin, excluding the initial capital cost recovery component, shall be increased by the change in the Consumer Price Index (CPI-U) for All Items and All Consumers for the Denver-Aurora-Lakewood, Colorado Metropolitan Area as maintained by the U.S. Bureau of Labor Statistics (1982-1984 = 100) from November 1, 2020 for the first such adjustment, or the date of the last adjustment for each subsequent adjustment, through the date of the current adjustment. If the United States Bureau of Labor Statistics shall discontinue issuing the Index for the Denver-Aurora-Lakewood Metropolitan, then the adjustments provided for in this Agreement shall be made on the basis of changes in the U.S. national city average CPI-U for all items and all consumers, if available, or if not, using the most comparable and recognized cost-of-living index then issued and available which is published by the United States Government. The capital cost recovery component of the Margin shall remain fixed (except as otherwise permitted pursuant to the Agreement) until the earlier the termination or expiration of the Agreement or the Tenant has fully recovered its initial capital outlay, as noted below.
- **“Commodity”** means the natural gas commodity price per MMBtu based on Inside FERC’s Gas Market Report, Monthly Bidweek Spot Prices, Rockies/Northwest for CIG Rockies + \$0.09. The commodity price per MMBtu is divided by eight (8) to determine the commodity price per GGE.
- **“Commodity Transportation”** means the transportation service charges associated with the delivery of the natural gas commodity to the natural gas meters and includes the interruptible transportation rate, service fees, and taxes, and any other related charges or costs.
- **“6% Commodity Handling Fee”** means the costs associated with billing all station users, paying commodity invoices and commodity transportation invoices, reporting, remitting all applicable Federal, State and local fuel use taxes and fuel card management.
- If Tenant fully recovers its capital outlay prior to the end of the Term, Tenant will proportionally decrease the Margin. The capital outlay recovery is based on total usage volume over the Term of the Agreement. On an annual basis, the Tenant will include a report which is based on volume that will be used to track the total cumulative capital outlay recovery.

**Exhibit C-1****AIRPORT RELATED USER LIST**

<b>Account</b>	<b>Name</b>	<b>Billing Group</b>	<b>Tier</b>
100011	DIA Airport Maintenance	DEN	Tier 1
100035	American Airlines	DENUsers	Tier 2
100055	CenturyLink Fleet FKA Qwest/Fleet Services	DENUsers	Tier 2
100057	United Airlines - DIA	DENUsers	Tier 2
100089	HSS Inc.	DENUsers	Tier 2
100148	US Airways Inc.	DENUsers	Tier 2
100186	Concessions Denver	DENUsers	Tier 2
100188	Worldwide Flight Services	DENUsers	Tier 2
100194	Delta Airlines	DENUsers	Tier 2
100202	The Hudson Group	DENUsers	Tier 2
100445	Great Lakes Aviation LTD	DENUsers	Tier 2
100476	Denver Pizzazz EOM-CC	DENUsers	Tier 2
100491	Frontier Airlines, Inc.	DENUsers	Tier 2
100660	SkyWest Airlines	DENUsers	Tier 2
100780	Chris Cox	DENUsers	Tier 2
100787	Fueltek Conversion Corporation	DENUsers	Tier 2
100924	James Louie	DENUsers	Tier 2
100938	Southwest Airlines	DENUsers	Tier 2
103181	US Customs Service	DENUsers	Tier 2

**CITY AND COUNTY OF DENVER  
INSURANCE REQUIREMENTS FOR THE DEPARTMENT OF AVIATION**

---

Certificate Holder Information:

CITY AND COUNTY OF DENVER  
Attn: Risk Management, Suite 8810  
Manager of Aviation  
Denver International Airport  
8500 Peña Boulevard  
Denver CO 80249

If you are awarded the contract, your ACORD forms must be submitted electronically to: [contractadmininvoices@flydenver.com](mailto:contractadmininvoices@flydenver.com).  
HARD COPIES will not be accepted.  
All ACORD forms must have the project number in the Description of Operations section.

---

**CONTRACT NAME & NUMBER TO WHICH THIS INSURANCE APPLIES: 201840465 – Compressed Natural Gas Station Lease and Supply**

---

**I. PRIMARY COVERAGE**

**Colorado Workers' Compensation and Employer Liability**

<b>Minimum Limits of Liability (In Thousands)</b>	\$100, \$500, \$100
---	---------------------

- Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement. Any such rejections previously effected, must have been revoked as of the date Contractor executes this Agreement.
- If the contractor/consultant is a sole proprietor, Workers' Compensation is waived per State of Colorado law.

**Commercial General Liability**

**Minimum Limits of Liability (In Thousands):**

Each Occurrence:	\$1,000
General Aggregate Limit:	\$2,000
Products-Completed Operations Aggregate Limit:	\$2,000
Personal & Advertising Injury:	\$1,000

The policy must provide the following:

- That this Agreement is an Insured Contract under the policy.
- Defense costs are outside the limits of liability.
- A severability of interests or separation of insureds provision (no insured vs. insured exclusion).
- A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
- The full limits of coverage must be dedicated to apply to each project/location.

**Business Automobile Liability**

**Minimum Limits of Liability (In Thousands):**

Combined Single Limit	\$1,000
-----------------------	---------

The policy must provide the following:

- Coverage applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
- If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy.

## II. ADDITIONAL COVERAGE

### Excess/Umbrella Liability

#### Minimum Limits of Liability (In Thousands):

Umbrella Liability Controlled Area	Each Occurrence and aggregate	\$9,000
------------------------------------	-------------------------------	---------

The policy must provide the following:

1. Coverage must be written on a "follow form" or broader basis.
2. Any combination of primary and excess coverage may be used to achieve required limits.
3. If operations include unescorted airside access at DIA, then a \$9 million Umbrella Limit is required.

### Professional Liability, Design, Engineering and Construction Supervision

#### Minimum Limits of Liability (In Thousands)

Per Claim	\$1,000
Aggregate	\$1,000

The policy must provide the following:

1. Coverage shall extend to cover the full scope of all cost estimating work performed under the insured's contract with City.
2. Coverage shall apply for three (3) years after project is complete.
3. Coverage is to be on a primary basis, if other professional coverage is carried.

### Property Insurance

Coverage: All Risk Form Property Insurance, Replacement Cost basis

Personal Property, Contents, Fixtures, Tenant Improvements and Betterments

- 100% of the Replacement Cost value of Personal Property, Contents, Fixtures, Tenant Improvements and Betterments
- Covered Cause of Loss – Special Form including glass coverage and signs
- Replacement Cost Endorsement

Business Income including Loss of Rents

Amount equal to all Minimum Annual Rent and Other Sums payable under the Lease

#### **Any Policy issued under this section must contain, include or provide for the following:**

1. The City and County of Denver, Department of Aviation shall be named as loss payee as its interest may appear.
2. Waiver of Subrogation Applies to City as Landlord for any protected Landlord Property.
3. In the event of payment of any Loss involving Tenant Improvements and Betterments, permanent fixtures, etc, the insurance carrier shall pay the City (as Landlord) its designee first for said property loss.
4. If leased property is located in a flood or quake zone (including land subsidence), flood or quake insurance shall be provided separately or in the property policy.

### Builders' Risk Insurance or Installation Floater (during period of construction)

#### Minimum Limits of Liability (In Thousands)

Special Completed Value Basis

The policy must provide the following:

1. The insurance must be in the amount of the initial Contract Sum, plus value of subsequent modifications, change orders, and cost of material supplied or installed by others, comprising total value of the entire Project at the site on a replacement cost basis.
2. The insurance shall be written on a **Special Completed Value** Covered Cause of Loss form and shall include theft, vandalism, malicious mischief, collapse, false-work, temporary buildings, transit, debris removal, demolition, increased cost of construction, flood (including water damage), earthquake, and if applicable, all below and above ground structures, piping, foundations including underground water and sewer mains, pilings including the ground on which the structure rests and excavation, backfilling, filling and grading.



3. The Policy shall remain in force until formal acceptance of the project by the City or the placement of permanent property insurance coverage whichever is later.
4. The Builders' Risk shall include a Beneficial Occupancy Clause. The policy shall specifically permit occupancy of the building during construction. Contractor shall take reasonable steps to obtain consent of the insurance company and delete any provisions with regard to restrictions within any Occupancy Clauses within the Builder's Risk Policy.
5. Equipment Breakdown Coverage (a.k.a. Boiler & Machinery) shall be included as required by the Contract Documents or by law, which shall specifically covers insured equipment during installation and testing (including cold and hot testing).

### **III. ADDITIONAL CONDITIONS**

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein:

1. For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
2. All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess.
3. For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.
4. The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
5. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better.
6. For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
7. No changes, modifications or interlineations on this document shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

### **NOTICE OF CANCELLATION**

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, or sustain a material change in coverage adverse to the City, the issuing company or its authorized Agent shall give notice to the Department of Aviation in accordance with policy provisions.