

## LEASE

### (Compressed Natural Gas "CNG" Fueling Station)

#### 1. BASIC LEASE PROVISIONS AND DEFINITIONS.

##### 1.01. Basic Lease Provisions and Definitions:

- A. Landlord and Address: Mt. Diablo Unified School District  
1936 Carlotta Drive  
Concord, CA 94519  
Attn: Chief Business Officer  
Email: [ramosr@mdusd.org](mailto:ramosr@mdusd.org)
- B. Tenant and Address: Trillium USA Company, LLC  
2929 Allen Parkway, Suite 4100  
Houston, TX 77019  
Attn: General Manager  
Email: [jonathan.gee@trilliumcng.com](mailto:jonathan.gee@trilliumcng.com)
- C. Effective Date: This Lease shall commence on the date the last party signs this Agreement (as indicated by the date associated with that party's signature), ("Effective Date").
- D. Property: The real property depicted or described on Exhibit A including all improvements thereon and all appurtenances thereto, with a common address of: 1490 Gasoline Alley, Concord, CA 94520.
- E. Premises: That portion of the Property consisting of approximately 15,540 square feet of land where the Tenant's CNG facilities are located, as depicted on the site plan ("Site Plan") attached hereto as Exhibit A-1.
- F. Term: From the Commercial Operation Date (Section 1.10(G)) until the last day of the 48th month following the Commercial Operation Date.
- G. Commercial Operation Date: February 1, 2019.
- H. Expiration Date: Last day of the 48<sup>th</sup> month following the Commercial Operation Date.
- I. Extension Option: See Section 3.01.

K. Monthly Rent: \$ 2,000.00 per month.

L. Permitted Use: The development, construction, installation, operation, maintenance, replacement, expansion, management and/or removal of CNG fueling station consisting of, among other items, including hardware and vehicle fueling areas, and any ancillary or incidental uses thereto, including CNG sales.

## **2. PREMISES; EASEMENTS.**

2.01. Lease of Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, on and subject to the terms and conditions herein set forth.

2.02. Common Areas. Tenant and its contractors, agents, employees, customers and invitees shall also have the right to use all common areas ("Common Areas") of the Property, including existing lighting, security systems, driveways, sidewalks, parking areas, Vehicular Easement Areas (as defined below), loading docks and systems and other facilities as may be necessary or convenient for the reasonable use and enjoyment of the Premises for the Permitted Use, including customer overnight parking.

2.03. Easement for Ingress, Egress and Parking. Landlord grants to Tenant, for the benefit of Tenant, its employees, agents, contractors, customers and invitees and appurtenant to the Premises, non-exclusive easements on, over, and across the roads, driveways, and parking areas ("Vehicular Easement Areas") located on the Property and depicted on Exhibit B, as the same may exist from time to time, for vehicular ingress and egress to and from the Premises, and for parking, fueling, loading, and unloading in connection with Tenant's use of the Premises. Neither Landlord nor Tenant shall cause, suffer or permit any obstruction of the Vehicular Easement Areas.

2.04. Easement for Utilities; CNG Pipeline. Landlord grants to Tenant, for the benefit of Tenant, its employees, agents, contractors, customers and invitees and appurtenant to the Premises, non-exclusive easements on, over, across, in, through, and under the Property, for the purpose of accessing, installing, constructing, situating, operating, maintaining, repairing, restoring, replacing, and removing existing and future utility lines, pipes, systems and components (including Tenant's CNG pipeline), to the extent reasonably necessary from time to time to service the Premises. Any future utility systems, lines, piping or components may be installed only (i) following reasonable notice by Tenant to Landlord, and (ii) on, over, across, in, through, and under those portions of the Property that will not unreasonably interfere with Landlord's operations. Promptly upon Tenant's request, Landlord shall grant directly to the applicable utility provider, using such utility provider's standard form easement, any of the foregoing easements Tenant requests. Landlord shall not construct or install improvements of any nature on or over such systems, lines, piping or components. Notwithstanding any other provision of this Lease, this Lease shall not provide or allow for, and Tenant shall have no, access or right to control, operate, use, or otherwise access any underground storage tanks or related piping or other equipment located on the Premises. Tenant shall have no responsibility for, or ability to control, any underground storage tanks or related piping or other equipment located on the Premises.

### 3. TERM.

3.01. Term. This Lease shall be effective as of the Effective Date. The initial Term of the Lease shall commence on the Commercial Operation Date and, except as otherwise provided herein, the Lease shall expire on midnight of the Expiration Date unless sooner canceled or terminated as hereinafter provided. Tenant shall memorialize the Commercial Operation Date in writing to the Landlord, when commercial operations begin at the CNG fueling station. Following the expiration of the initial Term, this Lease shall automatically renew for successive one-month periods unless either party shall provide the other party written notice not less than 30 days prior to the expiration of the initial Term or then-current monthly renewal term, as applicable, of its intent to terminate this Lease. Such one-month periods shall for all purposes be considered a part of the Term, and shall be on all the same terms and conditions of this Lease, provided that any obligations or commitments herein that apply on an annual basis shall be prorated accordingly.

3.02. Termination. Provided that Tenant is not in default under this Lease after the expiration of any applicable cure periods, Tenant shall have the right and option, at Tenant's election, to terminate this Lease:

- (a) Effective any time after the third anniversary of the Effective Date upon giving Landlord not less than six (6) months prior written notice;
- (b) On written notice if Landlord breaches any material term or covenant of this Agreement; or
- (c) On written notice, in accordance with Tenant's Contingency (Section 7).

### 4. RENT.

4.01. Monthly Rent. Commencing on the Commercial Operation Date, and continuing thereafter on the first day of each and every calendar month afterwards throughout the Term of this Lease, Tenant agrees to pay to Landlord at the address of Landlord set forth in Section 1.01(A) above, in advance, the Monthly Rent. Monthly Rent for any partial calendar month shall be prorated based on the number of days of the Term in such month.

4.02. Late Payment Interest. If Tenant fails to make any rental payment to Landlord required of it hereunder by the fifth (5th) day following the date when due, interest shall accrue on the overdue amount, from the date overdue until the date paid, at a rate equal to ten percent (10%) per annum ("Late Payment Interest") until paid in full.

4.03. Gross Lease. This Lease is and shall be a "gross" lease, and any costs and expenses in connection with, arising out of, or with respect to the Premises or the Property not specifically stated herein as the responsibility of Tenant shall be the sole responsibility of Landlord and Landlord shall be liable therefore, unless specifically indicated elsewhere in this Lease.

### 5. POSSESSION; USE AND ENJOYMENT.

5.01. Delivery of Possession. On the Effective Date, Landlord shall deliver to Tenant the Premises in the condition required by this Lease and otherwise in a condition suitable for Tenant's Permitted Use.

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5.02. Use of Premises. Tenant may use the Premises for the Permitted Use and no other use without the prior written consent of Landlord. Tenant shall not be required to open or operate a CNG fueling station or any other business on the Premises during the Term of this Lease.

5.03. Compliance with Laws. Except as otherwise provided herein, and except for violations existing as of the Effective Date and violations the existence of which would constitute a breach of any representation, warranty or covenant of Landlord made in this Lease, Tenant shall be responsible for compliance with all Laws (as defined below) related to Tenant's particular use of the Premises during the Lease Term. Landlord shall be responsible for all other compliance with Laws.

5.04. CNG Exclusive. Landlord covenants and agrees that, as measured from the Effective Date and following through the Term, no other portion of the Property, and no portion of any other property which is contiguous or adjacent to the Property or Premises, which Landlord, directly or indirectly, may now or hereafter own, lease or control (collectively, "Landlord's Property"), will be used for a CNG fueling station or the sale of CNG. Landlord covenants and agrees that in the event of a violation or threat thereof of Tenant's exclusive use contained in this Section 5.04, Tenant shall suffer irreparable harm and shall have no adequate remedy at law. As a result, in addition to all remedies available to Tenant at law, in equity and/or under this Lease, Tenant shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of this Section 5.04.

5.05. CNG Station Option; Right of First Refusal. In the event Landlord or an affiliate desires, or Landlord or an affiliate desires to allow a third party the right, to develop or operate a CNG fueling station at one or more properties that Landlord or any of its affiliates, directly or indirectly, may now or hereafter own, lease or control (collectively, the "Sites", and each, a "Site"), then Landlord shall give written notice of such desire to Tenant, and in such case Tenant shall have the option to develop or operate such CNG fueling station at such Site or Sites on such other terms and conditions as a third party may have offered to Landlord for the operation of a CNG fueling station at such Site or Sites in a commercially reasonable, arms-length third party transaction (each such option, an "Option"). Tenant shall have ninety (90) days after receipt of Landlord's notice (which notice shall contain a copy of the terms and conditions as proposed by such third party) to exercise such Option as to the Site or Sites identified in Landlord's notice by providing Landlord written notice of such election. Tenant may exercise such Option as to all or less than all of the Stations identified in Landlord's notice. If Tenant timely exercises such Option, Landlord, or its affiliates, and Tenant, or its affiliates, shall enter into a separate written lease for each Site on those terms and conditions that were a part of the commercially reasonable third-party proposal, and such other or additional terms and conditions as the parties may agree. Such Option shall automatically terminate as to any Site identified in the notice that Tenant does not elect to exercise such Option upon within such ninety (90) day period. However, in the event that a CNG fueling station is not actually open and operating at such Site within one hundred eighty (180) days after the date of Landlord's notice, then such Option shall automatically be reinstated as to that Station.

5.06. Quiet Enjoyment. Landlord covenants and agrees that, so long as Tenant shall duly and punctually perform and observe all of its obligations under this Lease, Tenant shall peaceably and quietly have, hold and enjoy the Premises without any hindrance or molestation from Landlord or any other party.

5.07. Landlord's Representations and Warranties. Landlord represents and warrants to Tenant as follows:

(a) Landlord has full power and authority to execute, deliver and perform under this Lease and such execution, delivery and performance have been specifically authorized by all requisite organizational action of Landlord; and, upon execution, this Lease will be valid and binding upon Landlord, and enforceable against Landlord in accordance with its terms.

(b) Neither Landlord's execution, delivery or performance of this Lease, nor Tenant's Permitted Use, is a violation of or will cause a breach or default under Landlord's franchise agreement for Landlord's operations at the Property or any other agreement to which Landlord is a party.

(c) As of the Effective Date, (i) there is no defect in the condition of the Property that would impair Tenant's occupancy or use of the Premises for the Permitted Use, (ii) the Property is in compliance with all building, zoning and other laws, rules, regulations and ordinances of federal, state and other governmental authorities and agencies having jurisdiction over the Property (including the Americans With Disabilities Act), and all recorded covenants, conditions and restrictions applicable to the Property (collectively, "Laws"), and there are no outstanding orders against the Property, (iii) use of the Premises for the Permitted Use is permitted as a matter of right under all Laws, (iv) no repair or construction work has been done on the Property for a period of six (6) months prior to the date of this Lease for which the labor and material providers have not been paid in full, and (v) Landlord owns good, marketable, fee simple title to the Property, free and clear of all monetary liens other than the Existing Mortgages (as defined in Section 7.01(i)) and free and clear of all other encumbrances, excepting only those matters of record satisfactory to Tenant and which would not materially affect Tenant's Permitted Use.

(d) There are no pending or to Landlord's knowledge threatened condemnation or eminent domain proceedings affecting the Property or any portion thereof, and to Landlord's knowledge there are no proposed actions by any governmental agencies or authorities which have created or may create a lien upon the Property or any portion thereof, excepting customary liens for real and personal property taxes not delinquent.

(e) There are no pending or to Landlord's knowledge threatened actions, claims, suits or proceedings against Landlord or the Property.

(f) No leak, spill, release, discharge, emission or disposal of Hazardous Materials (as hereinafter defined) in violation of applicable environmental Laws has occurred on the Property to date and the soil, groundwater and soil vapor on or under the Premises and Property does not contain Hazardous Materials at any level that would require reporting, investigation, or remediation under applicable environmental Laws as of the Effective Date of this Lease.

(g) There is full and free permanent vehicular access to and from the Property and the Premises from and to improved public right-of-ways over existing driveways and other means of access, and there is no pending restriction or denial, governmental or otherwise, upon such access.

## **6. INITIAL CONSTRUCTION.**

6.01. Tenant's Work. Tenant may complete Tenant's Work and improvements described on Exhibit C attached ("Tenant's Work"). Tenant's Work shall be performed in a good and workmanlike

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manner, substantially in accordance with the final plans provided to Landlord, and in material compliance with all applicable Laws. Prior to commencement of Tenant's Work, Tenant shall obtain, at its sole expense, all necessary permits, approvals and licenses from the appropriate governmental authorities. In connection with Tenant's Work, Tenant shall have the right to use those other parts of the Property designated by the Landlord as a staging area. Tenant's Work shall be performed in a manner so as not to unreasonably interfere with Landlord's activities on the Property.

6.02. Lien Indemnity. Tenant shall indemnify, defend and hold Landlord harmless from and against all statutory liens or claims of lien of any contractor, subcontractor, materialman, laborer or any other party arising in connection with any Tenant's Work.

## **7. TENANT'S CONTINGENCY.**

7.01 Tenant's Contingency. Tenant's obligations under this Lease are conditioned upon Tenant obtaining, satisfying, or waiving (in writing), within one hundred eighty (180) days following the Effective Date (the "Contingency Period"), the following:

(a) Tenant obtaining from all appropriate governmental bodies (and all other councils, boards and parties having a right to control, permit, approve or consent to the use and operation of the Premises) all approvals, permits, licenses and consents necessary or appropriate to allow Tenant to develop and use the Premises for the Permitted Use, including all approvals for rezoning or conditional or special use grants.

(b) Tenant obtaining a contractual commitment from Landlord for the purchase of CNG from the CNG station contemplated under this Lease, in quantities and pursuant to terms and conditions that are satisfactory to Tenant (such contract hereafter the "Fuel Purchase Agreement").

(c) Tenant being satisfied, in its sole discretion, with the ability of the Premises and Property to allow for the construction, support and operation of a CNG station.

(d) Tenant confirming that all utilities are or will be available at the Premises sufficient for Tenant's Permitted Use pursuant to agreements acceptable to Tenant.

(e) Each representation and warranty made by Landlord in this Lease being true and accurate as of the Effective Date, and Landlord not having defaulted under or breached any of the terms of this Lease.

(f) Landlord delivering to Tenant a subordination, non-disturbance and attornment agreement and such other agreements required by Tenant, in forms satisfactory to Tenant, executed by the lenders, mortgagees and/or secured parties (collectively, the "Existing Lenders"), as applicable, with respect to the mortgages, assignments of leases and rents, security agreements, financing statements and other security and/or financing documents listed on Exhibit E attached hereto (collectively, the "Existing Mortgages") encumbering the Property. Without limiting the foregoing, the agreements from Existing Lenders shall provide that (A) in the event of a foreclosure or other action taken under the Existing Mortgages by Existing Lenders, this Lease and the rights of Tenant hereunder shall not be disturbed but shall continue in full force and effect so long as Tenant shall not be in default hereunder after the expiration of any applicable

cure periods, and (B) the Existing Mortgages shall not constitute a lien or encumbrance on any of Tenant's Alterations (as defined in Section 12.01), personal property, real property, fixtures, improvements or Tenant's Work. Tenant shall be responsible for any costs associated with the extension of the Contingency Period to satisfy any of the above contingencies.

Unless Tenant gives written notice to Landlord on or before the last day of the Contingency Period confirming that Tenant's contingencies under Section 7 are satisfied, then this Lease shall, at the option of Tenant, be subject to termination upon written notice to Landlord; provided, however, that should the Tenant require additional time to satisfy any of the above contingencies, the Contingency Period may be extended for a reasonable period as to those contingencies identified by Tenant in writing to Landlord.

7.02 Tenant's Work During Contingency Period. Tenant may conduct Tenant's Work during the Contingency Period. Should the Tenant determine not to proceed with the Term and terminate the Lease in accordance with this Section 7, Tenant shall, within sixty (60) days after such termination, restore the Premises to substantially the condition it was in prior to commencement of Tenant's Work.

**8. UTILITIES AND TAXES.**

8.01. Utilities. Tenant shall arrange for, at its sole expense, and pay, when due, all charges and costs for electric, water, sewer, gas, telephone, cable and internet from time to time during the Term furnished to or consumed by Tenant in or upon the Premises, and, subject to the capabilities of the respective utility providers, all such utilities or services shall be separately metered to the Premises. In the event such utilities are not separately metered, Tenant shall, within thirty (30) days of presentment of supporting documentation by Landlord, reimburse Landlord for Tenant's pro-rata share of shared utility services.

8.02. Taxes. Landlord shall pay directly to the appropriate taxing authority when due and payable all real estate taxes and assessments, whether general or special, levied against the Premises or Property, and all taxes levied or assessed on rents or the receipt of rents which are in addition to or in substitution for the foregoing taxes and assessments. In the event any of the foregoing taxes or assessments are levied against and paid by Tenant, Landlord shall, upon demand from Tenant, reimburse Tenant for the full amount thereof. Tenant shall pay directly to the appropriate taxing authority all personal property taxes levied against Tenant's trade fixtures and personal property located at the Premises

**9. LANDLORD SERVICES.** Intentionally omitted.

**10. MAINTENANCE.**

10.01. Landlord. Except as expressly provided below, Landlord shall, at its sole expense, maintain and keep the Property, including the Common Areas and Vehicular Easement Areas, in good condition and repair, and shall promptly make and perform all maintenance, repairs and replacements thereto, including structural repairs and replacements to the Property.

10.02. Tenant. Tenant shall maintain the Premises in good condition and repair including performing the services set forth on Exhibit D attached hereto but shall not be required to make any repairs or replacements of a capital nature with respect to the Premises.

10.03. Manner of Repairs. Any and all repairs and replacements shall be made in compliance with all applicable Laws. In addition, prior to commencing any repairs or replacements, the repairing or replacing party shall obtain all necessary permits and licenses from the appropriate governmental authorities. The repairing or replacing party shall indemnify, defend and hold harmless the other party from and against all statutory liens or claims of lien of any contractor, subcontractor, materialman, laborer or any other party arising in connection with any such repair or replacement. Any and all repairs, maintenance and replacements performed by either party shall be done in a manner so as not to unreasonably interfere with the conduct of the other party's activities on the Premises or Property, as applicable.

## **11. INSURANCE AND INDEMNITY.**

11.01. Tenant's Insurance. Tenant, at its sole expense, shall carry and keep in force during the Term of this Lease: (i) property insurance covering the Premises and any and all fixtures, equipment, furnishings and personal property owned by Tenant from time to time located on the Premises, providing protection on a replacement cost basis against losses caused by fire and other hazards insured under a special perils form, or equivalent form insurance policy, with a deductible in such amounts as Tenant shall reasonably determine; (ii) comprehensive general liability insurance, including contractual liability naming Landlord and Landlord's mortgagee of which Landlord gives Tenant notice, as an additional insured, with a minimum combined single limit of \$5,000,000 per occurrence, \$10,000,000 in the aggregate for property damage and for injuries to or death of persons occurring on the Premises; and (iii) workers' compensation and disability insurance coverage as required by Law. Such insurance may be in the form of a blanket or umbrella policy as long as the Premises is designated in such policy. If a claims-made policy is used to satisfy any of the above requirements, such policy shall remain in effect for not less than three (3) years following the conclusion of the Term of this Lease.

11.02. Landlord's Insurance. Landlord, at its sole expense, shall carry and keep in force during the Term of this Lease: (i) property insurance covering the Property (excluding the Premises), the improvements thereto and equipment, furnishings, fixtures, and personal property thereon, providing protection on a replacement cost basis against losses caused by fire and other hazards insured under a special perils form, or equivalent form insurance policy; (ii) comprehensive general liability insurance, including contractual liability naming Tenant as an additional insured, with a minimum combined single limit of liability of \$2,000,000 per occurrence, for property damage and for injuries to or death of persons occurring in, on or about the Property (other than the Premises); and (iii) workers' compensation and disability insurance coverage as required by Law. If a claims-made policy is used to satisfy any of the above requirements, such policy shall remain in effect for not less than three (3) years following the conclusion of the Term of this Lease.

11.03. General Requirements. All insurance policies required under Sections 11.01 and 11.02 above shall: (a) be written by one or more insurance companies authorized to do business in the State in which the Property is located; (b) require the insurer to give the other party at least thirty (30) days advance written notice of any cancellation thereof or adverse material change thereto; and (c) be furnished (by way of copy or certificate thereof) to the other party within ten (10) business days from the Effective Date and annually upon renewal of policies thereafter. All deductibles for insurance required herein shall be at the sole expense of the party carrying such insurance. Notwithstanding the foregoing and anything to the contrary contained in this Lease, Tenant may elect at any time to "self-insure" against the risks described in this Lease, provided that Tenant has in effect a program of "self-insurance" insuring, against such risks, Tenant as a named insured and Landlord, and any other associated or affiliated entity

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as their interests may appear and at Landlord's request, any mortgagee(s), as additional insureds, for an amount consistent with the requirements set forth in this Lease, as if the additional insured status was issued under a Commercial General Liability Policy from a licensed and admitted carrier.

11.04. Waiver of Subrogation. Notwithstanding anything to the contrary in this Lease, each of Landlord and Tenant hereby releases the other from any and all liability or responsibility to them or anyone claiming through or under them by way of subrogation or otherwise: (i) for any loss or damage to property caused by fire or any other perils insured under policies of insurance covering such property as required hereunder; and (ii) for any claims covered by workers' compensation (or, in either case, if a party hereto shall fail to carry the insurance required hereunder, this release shall apply to any loss or damage that would have been covered under such insurance policies had they been carried by the party responsible therefor), even, in either case, if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

11.05. Landlord Indemnity. Landlord shall indemnify, defend and hold harmless Tenant from and against any and all losses, costs and expenses (including reasonable attorneys' fees) (i) arising out of death or injury to persons or damage to property to the extent caused by the negligence or willful misconduct of Landlord, its employees, agents or contractors, subject to Section 11.04 above, or (ii) resulting from Landlord's breach of any warranty or representation set forth in this Lease or Landlord's failure to perform or observe any of the terms, covenants and conditions of this Lease to be performed or observed by Landlord.

11.06. Tenant Indemnity. Tenant shall indemnify, defend and hold harmless Landlord from and against any and all losses, costs and expenses (including reasonable attorneys' fees) (i) arising out of death or injury to persons or damage to property to the extent caused by the negligence or willful misconduct of Tenant, its employees, agents or contractors, subject to Section 11.04 above, or (ii) resulting from the failure of Tenant to perform or observe any of the terms, covenants and conditions of this Lease to be performed or observed by Tenant.

11.07. Survival. The obligations of Sections 11.04, 11.05, and 11.06 shall survive the expiration or earlier termination of this Lease.

## **12. ALTERATIONS.**

12.01. Tenant's Alterations. Tenant, at its sole expense, with Landlord's consent which consent shall not be unreasonably withheld, conditioned or delayed, may from time to time make whatever alterations, additions and improvements (collectively "Alterations") to the Premises as Tenant deems necessary or desirable in connection with Tenant's Permitted Use of the Premises. Any and all Alterations shall be made in compliance with all applicable Laws, and, prior to commencing any Alterations, Tenant shall obtain all necessary permits and licenses from the appropriate governmental authorities. Such Alterations shall be done in a manner so as not to unreasonably interfere with the conduct of Landlord's activities on the Property. Tenant shall indemnify, defend and hold harmless Landlord from and against all statutory liens or claims of liens of any contractor, subcontractor, materialman, laborer or any other party arising in connection with any Alteration to the Premises by Tenant. Any Alteration (including Tenant's Work) installed or placed on the Premises by Tenant may be removed by Tenant at any time provided Tenant repairs any damage to the Premises caused by such removal. All Alterations (including Tenant's Work) remaining on the Premises ninety (90) days after the expiration or earlier termination of this Lease shall be deemed to be a part of the Premises.

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12.02. Tenant's Trade Fixtures. Tenant may furnish, install and maintain on the Premises any and all fixtures (including trade fixtures), equipment and other personal property useful in connection with Tenant's operations on the Premises. Upon the expiration or earlier termination of this Lease, all fixtures, equipment and other personal property installed in or located on the Premises and owned by Tenant may be removed by Tenant, provided Tenant repairs any damage to the Premises resulting from such removal.

12.03. Ownership of Alterations. Landlord shall have no ownership or other interest in any Alterations (including improvements in connection with Tenant's Work) installed on the Premises, or any profits derived therefrom, regardless of when such Alterations were constructed or installed on the Premises, including prior to the Effective Date.

12.04. Leasehold Mortgages. Without the prior written consent of Landlord, Tenant may grant mortgages, deeds of trust or other security interests in and to its interest in this Lease or any part thereof and/or any of Tenant's improvements, fixtures or equipment (each, a "Leasehold Mortgage") and, upon Landlord being notified in writing of the granting of any such Leasehold Mortgage, Landlord agrees that (i) as a result of any Tenant default there shall be no cancellation, amendment or termination of this Lease without first providing the secured party under such Leasehold Mortgage (the "Secured Party") an opportunity to satisfy such default as set forth in (ii), (ii) Landlord shall give any Secured Party simultaneous notice of any default and the Secured Party shall have the same period provided to Tenant under this Lease after service of such notice to remedy the default and Landlord shall accept such performance as if the same had been done by Tenant, and (iii) Landlord will execute any commercially reasonable agreement acknowledging the above rights of any Secured Party and such other terms as any Secured Party may reasonably require. A Secured Party (or its designee or nominee) may become the legal owner and holder of the interest of Tenant under this Lease by foreclosure or other enforcement proceedings, or by obtaining an assignment of this Lease in lieu of foreclosure, without Landlord's consent, but subject always to the applicable terms and provisions of the Lease. In such event, Secured Party (or, if Secured Party has not yet become a successor tenant hereto, then its designee or nominee) shall have the right thereafter to assign this Lease without any requirement for prior consent by Landlord, but subject to the applicable terms and provisions of this Lease.

### **13. ENVIRONMENTAL**

13.01. Tenant. Tenant shall indemnify, defend and hold harmless Landlord and its officers, employees and agents from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims) or losses, including reasonable attorneys' fees, consultant fees and expert fees, arising out of the presence of Hazardous Materials on the Premises or in the soil, groundwater or soil vapor on or under the Premises, to the extent caused by Tenant, its employees, agents or contractors during the Term.

13.02. Landlord. Landlord shall indemnify, defend and hold harmless Tenant and its officers, employees and agents from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims) or losses, including reasonable attorneys' fees, consultant fees and expert fees, arising out of the presence of Hazardous Materials now or hereafter on the Premises or in the soil, groundwater or soil vapor on or under the Premises or Property, except to the extent caused by Tenant, its employees, agents or contractors during the Term .

13.03. Hazardous Materials. As used in this Lease, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste, including those substances, materials and wastes listed

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in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. § 172.01) or by the Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law, rule or regulation, or as defined as "hazardous substances," "hazardous waste," "extremely hazardous waste," a pollutant, contaminant, or toxic substance pursuant to any Law, including petroleum, petroleum by-products and derivatives, asbestos, urea formaldehyde, or polychlorinated biphenyls.

13.04. Survival. The provisions of this Article 13 shall survive the expiration or earlier termination of this Lease.

14. ACCESS. Landlord, its agents and representatives, upon reasonable prior telephonic or email notice to Tenant, shall be entitled to enter upon the Premises at any time for the purpose of examining and inspecting the condition thereof, and exercising any right or power reserved to Landlord under this Lease; provided, however, such entry shall be done in a manner so as not to interfere with the conduct of Tenant's activities thereon.

15. ASSIGNMENT AND SUBLETTING. Tenant shall not assign or transfer this Lease or sublet the Premises to any person, firm, entity or corporation without the written consent of Landlord which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment, sublease or transfer without the prior written consent of Landlord shall be null and void at Landlord's option. Notwithstanding anything to the contrary contained herein, Landlord's consent shall not be required for: (A) any assignment or sublease to (1) an entity that purchases all or substantially all of the assets or stock of Tenant or an affiliate of Tenant, or (2) an entity affiliated with Tenant; or (B) any transfer pursuant to a merger or reorganization of Tenant or any affiliate of Tenant.

16. SURRENDER OF PREMISES; HOLDING OVER. Upon expiration or earlier termination of this Lease, Tenant shall be responsible for removing any and all above-ground CNG equipment leaving the Premises in a condition found prior to initial possession, with reasonable wear and tear excepted. Tenant shall peaceably surrender the Premises to Landlord in a neat, sightly and broom-swept condition. If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease and without the execution of a new lease, Tenant shall be deemed to be occupying the Premises as a tenant from day-to-day, at 125% of the rent as previously in effect under this Lease and otherwise subject to all applicable terms, conditions and covenants of this Lease.

17. SIGNS. Tenant shall have the right and privilege of attaching, affixing, painting or exhibiting signs on the Premises and Property, provided that: (1) any and all signs shall comply with applicable Laws; (2) such signs shall not materially change the structure of any building on the Premises; and (3) such signs shall be removed upon the expiration of the Term, and Tenant shall promptly repair any damage caused by such removal.

18. SUBORDINATION. Landlord hereby represents and warrants that as of the Effective Date no Mortgage, other than the Existing Mortgages, encumbers the Property or the Premises. Tenant shall, upon the written request of Landlord, agree to execute a commercially reasonable subordination, non-disturbance and attornment agreement in favor of any future mortgagee subordinating this Lease to the lien of any future Mortgage upon the Premises irrespective of the time of execution or the time of recording of any such Mortgage, provided that in such agreement the future mortgagee agrees that (A) in the event of a foreclosure or other action taken under the Mortgage by the holder thereof, this Lease

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and the rights of Tenant hereunder shall not be disturbed but shall continue in full force and effect so long as Tenant shall not be in default hereunder after the expiration of any applicable cure periods; (B) in the event it or any successor or assign shall be in possession of the Premises, that so long as Tenant shall observe and perform all of the obligations of Tenant to be performed pursuant to this Lease prior to the expiration of any applicable cure periods, such mortgagee will perform all obligations of Landlord required to be performed under this Lease; and (C) the Mortgage shall not constitute a lien or encumbrance on any of Tenant's Alterations, personal property, real property, fixtures, improvements or Tenant's Work. The word "Mortgage" as used herein includes mortgages, deeds of trust and any sale/leaseback transactions, or other similar instruments, and modifications, extensions, renewals, and replacements thereof, and any and all advances thereunder.

**19. DAMAGE BY FIRE OR OTHER CASUALTY.** If, during the Term of this Lease, including any time after Tenant may have given notice to terminate this Lease, the entire Premises or Property or such portion thereof as shall render the Premises unsuitable for the continued conduct of Tenant's activities thereon, shall be damaged or destroyed by fire or other casualty, then Tenant shall have the right for a period of thirty (30) days thereafter, by giving written notice to Landlord, to terminate this Lease as of the date of such casualty, in which event the rental and all other amounts payable by Tenant hereunder shall, if and as necessary, be apportioned and prorated to the date of such fire or other casualty. If Tenant does not elect to terminate this Lease or if the damage or destruction to the Premises or Property does not render the Premises unsuitable for the continued conduct of Tenant's activities thereon, then this Lease shall continue in full force and effect, and Landlord shall promptly commence and pursue diligently to completion whatever repairs to the Property (other than the Premises operated by Tenant) as are necessary to restore the Property to the condition the same were in immediately prior to such damage or destruction. All such repairs shall be performed in accordance with all applicable Laws. Commencing on the date of such damage or destruction and continuing during the period in which Landlord is repairing and restoring the Property (other than the Premises operated by Tenant) pursuant to this Section, the rent payable by Tenant shall equitably abate. Landlord shall be entitled to all insurance proceeds relating to any casualty to the Property, excepting those proceeds relating to the Premises, Tenant's trade fixtures, equipment, and personal property, which proceeds shall be Tenant's sole property.

**20. EMINENT DOMAIN.** If, during the Term of this Lease, the entire Premises shall be taken by any public or quasi-public authority under its power of condemnation or eminent domain (or is sold under threat thereof), this Lease shall terminate as of the date that possession shall be taken by the acquiring authority (or as of the date of sale). If any part of the Property or Premises shall be so taken as to render the Premises unsuitable for the continued conduct of Tenant's activities thereon, Tenant shall have the right to terminate this Lease by written notice to Landlord given within thirty (30) days after the date of such taking. In the event that this Lease shall terminate or be terminated, the rental and all other amounts payable by Tenant hereunder shall, if and as necessary, be apportioned and prorated to the date that possession is taken by the acquiring authority. If this Lease is not terminated, or if the portion of the Premises or Property taken by any public or quasi-public authority under its power of condemnation or eminent domain (or sold under threat thereof) shall not render the Premises unsuitable for the continued conduct of Tenant's activities thereon, Landlord shall, to the extent possible, promptly restore the remaining portion of the Property to the condition the same were in immediately prior to such taking and this Lease shall continue in full force and effect. During the period in which Landlord is repairing and restoring the Property pursuant to this Section, the rental payable by Tenant shall equitably abate. Tenant shall be entitled to seek condemnation proceeds, relocation costs and other amounts allowed under applicable Laws, including for Tenant's Work and Alterations.

## **21. DEFAULT.**

21.01. Default by Tenant. If (i) default be made in the payment of the rental by Tenant and such default shall continue for ten (10) days after Landlord gives Tenant written notice thereof, (ii) default be made in the performance or observance by Tenant of any other covenants or conditions herein contained and such default shall continue for thirty (30) days after Landlord gives Tenant written notice thereof (or if such default is not of a type that can reasonably be cured within thirty (30) days, then if Tenant fails to promptly commence and in good faith to proceed with due diligence to cure such default), (iii) Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors, shall file a petition under any section or chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or any state thereof, or shall be adjudged bankrupt or insolvent in proceedings filed against Tenant thereunder; or (iv) a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant, then Landlord may elect to (y) terminate this Lease and declare the Term ended, to re-enter the Premises or any part thereof with judicial process and to expel and remove Tenant or any person or persons occupying the same and again to repossess and enjoy the Premises; or (z) without terminating this Lease, repossess the Premises, in which event Landlord may (but shall not be obligated to) relent all or any part of the Premises for such rent and upon such terms as shall be satisfactory to Landlord and collect from Tenant any deficiency between the sum realized from such reletting and rent and other charges under this Lease. If any default under this Lease shall remain uncured after the expiration of any applicable cure period, Landlord shall also have the right, at its option, to cure such default by Tenant and obtain from Tenant the reasonable costs and expenses incurred by Landlord in curing such default.

21.02. Default by Landlord. If default be made by Landlord (a) in the performance or observance of any of the covenants or conditions herein contained and such default shall continue for thirty (30) days after Tenant gives Landlord written notice thereof (or if such default is not of a type that can reasonably be cured within thirty (30) days, then if Landlord fails to promptly commence and in good faith to proceed with due diligence to cure such default), or (b) in the performance or observance of any covenant, term, condition, or agreement binding on Landlord under the Fuel Purchase Agreement, then Tenant shall have the right, at its option, to immediately terminate this Lease or to cure any default by Landlord and deduct the reasonable costs and expenses incurred by Tenant in curing such default from the rental and any other amounts thereafter accruing to Landlord. All reasonable amounts expended by Tenant in curing Landlord's defaults shall be paid by Landlord upon demand by Tenant, together with Late Payment Interest.

21.03. Remedies Not Exclusive. Any right or remedy conferred on Landlord or Tenant under this Lease shall not be deemed to be exclusive of any other right or remedy which might otherwise be available hereunder, at law or in equity. The rights and remedies hereunder shall be cumulative and may be exercised and enforced concurrently and whenever and as often as occasion therefor arises. The failure of Landlord or Tenant to insist upon strict performance of any of the terms, covenants or conditions herein contained shall not be deemed a waiver of any of its rights or remedies and shall not be deemed a waiver of any subsequent breach or default of any of said terms, covenants and conditions.

**22. NOTICES.** All notices provided for herein shall be in writing and shall be deemed to have been given and received (i) three (3) days after being deposited in the United States mail, registered or certified, return receipt requested, postage prepaid, (ii) when received if hand delivered, (iii) one (1) business day after being deposited with a national overnight delivery service with charges prepaid, or (iv) upon electronic confirmation of receipt if sent by electronic facsimile transmission, addressed to Landlord or {00193400.DOCX;2}

Tenant at the respective addresses or facsimile number set forth in Sections 1.01(A) and 1.01(B) above or addressed to any such party at such other address as such party shall hereafter furnish by written notice to the other party hereto in such manner as set forth herein.

**23. ESTOPPEL CERTIFICATES.** Each party agrees that at any time within twenty (20) days following written notice from the other party, it will execute, acknowledge and deliver to the requesting party or any proposed mortgagee or purchaser a statement in writing certifying whether this Lease is in full force and effect and, if it is in full force and effect, what modifications have been made to the date of the certificates and whether or not any defaults or offsets exist with respect to this Lease and, if there are, what they are claimed to be and setting forth dates to which rent or other charges have been paid in advance, if any, and stating whether to the other party's knowledge the requesting party is in default, and if so, specifying what the default may be.

**24. MISCELLANEOUS.**

24.01. Landlord/Tenant. Nothing contained herein or in any other instrument or agreement between Landlord and Tenant shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between Landlord and Tenant or of any relationship other than landlord/tenant.

24.02. Attorneys' Fees. In any litigation arising out of this Lease, the prevailing party shall be entitled to all of its actual costs of litigation (including reasonable attorneys' fees) from the non-prevailing party.

24.03. Benefit and Amendment. This Lease and all of the covenants and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Neither this Lease nor any of the terms, covenants or conditions herein may be modified or amended, except by an agreement in writing duly executed and delivered by both Landlord and Tenant.

24.04. Applicable Law. This Lease shall be governed by and construed under the laws of the State in which the Premises is located.

24.05. Severability. If a court of competent jurisdiction determines any provision(s) of this Agreement to be illegal, invalid or unenforceable, then this Lease shall be construed so that the remaining provisions shall not be affected but shall remain in full force and effect, and any such illegal, invalid or unenforceable provision(s) shall be deemed, without further action on the part of any person, to be modified, amended and/or limited to the extent necessary to render the same valid and enforceable in such jurisdiction.

24.06. Waiver of Landlord's Lien; Fixture Disclaimer. Notwithstanding any provision of this Lease to the contrary, Landlord hereby waives any lessor's or landlord's liens it may have at law or in equity with respect to Tenant's property and waives and disclaims any interest in the fixtures and property of Tenant located on the Premises.

24.07. Consent. Whenever in this Lease consent or approval is required of Landlord, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

24.08. Entire Agreement. This Lease (and contemporaneous Fuel Purchase Agreement) constitutes the entire agreement between Landlord and Tenant, superseding all prior oral or written understandings or negotiations concerning the Premises.

24.09. Memorandum of Lease. Tenant shall have the right to unilaterally execute and record a memorandum of this Lease against the Property, which memorandum may include notice of Tenant's exclusive use and easement rights granted under this Lease.

24.10. Interpretation. Whenever the word "including" is used herein, it shall mean "including without limitation".

24.11. Counterparts. This Lease may be executed in any number of counterparts and by facsimile or electronic mail (*e.g.* PDF) signatures, each of which shall be deemed an original, and all of which shall, collectively, be deemed a single instrument.

24.12. Force Majeure. Neither party shall be deemed in default with respect to the failure to perform any of the terms, covenants and conditions of this Lease on such party's part to be performed, if such failure is due in whole or part to any strike, lockout, labor dispute (whether legal or illegal), civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war, fuel shortages, accidents, casualties, Acts of God, acts of other tenants or occupants of the Property or any other cause beyond the reasonable control of the non-performing party. In such event, the time for performance by said non-performing party shall be extended by an amount of time equal to the period of the delay so caused.

24.13 Headings. Headings and titles of Articles, Sections or Paragraphs of this Lease are for the convenience of reference only and shall not be considered in interpreting the text of this Lease.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease to be effective as of the Effective Date.

**TENANT:**

**TRILLIUM USA COMPANY, LLC**

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

Name: Ben CASHWATER

Title: DIRECTOR

Date: 2/6/19

**LANDLORD:**

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

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

Name: \_\_\_\_\_

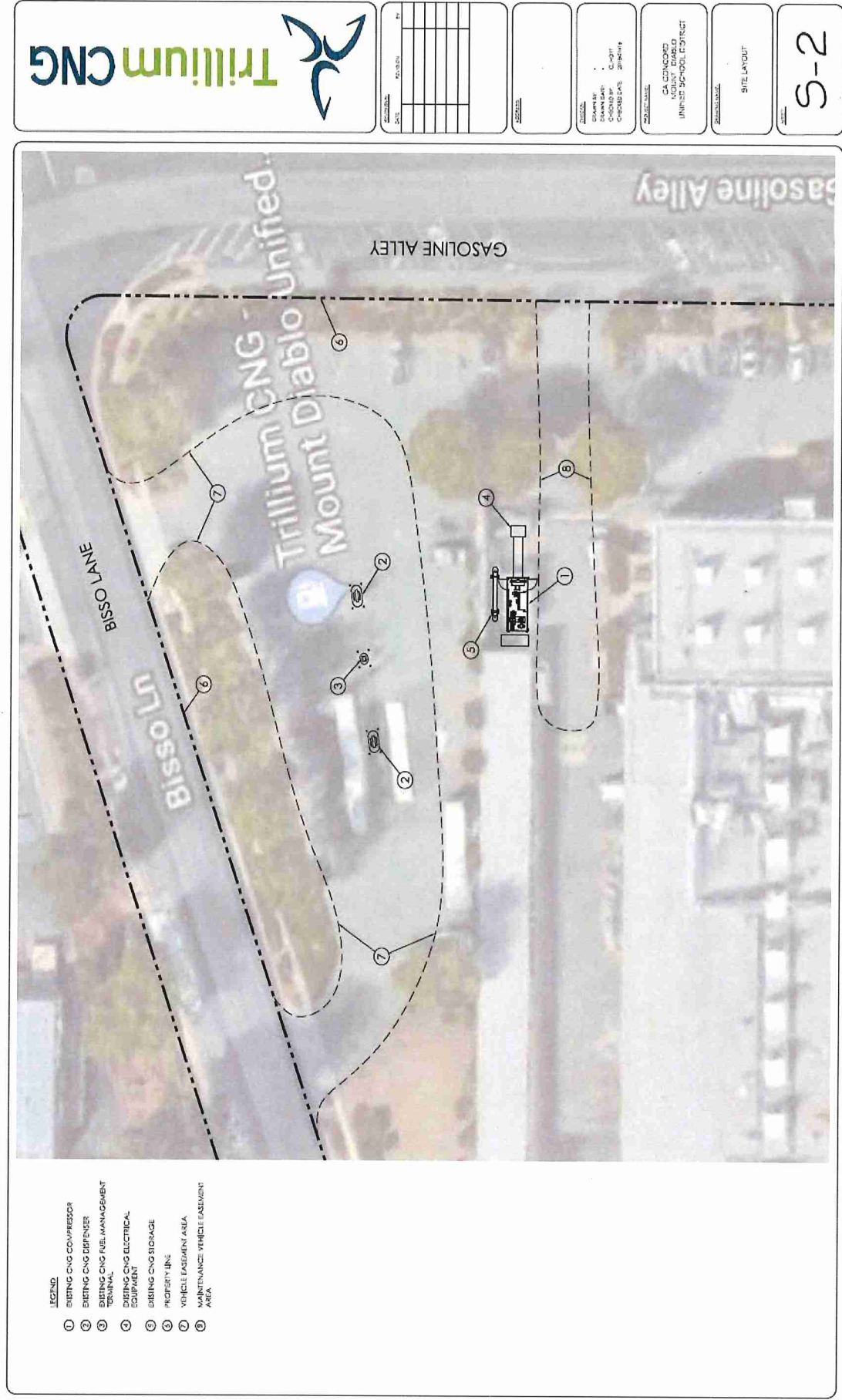
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Date: \_\_\_\_\_



# EXHIBIT A

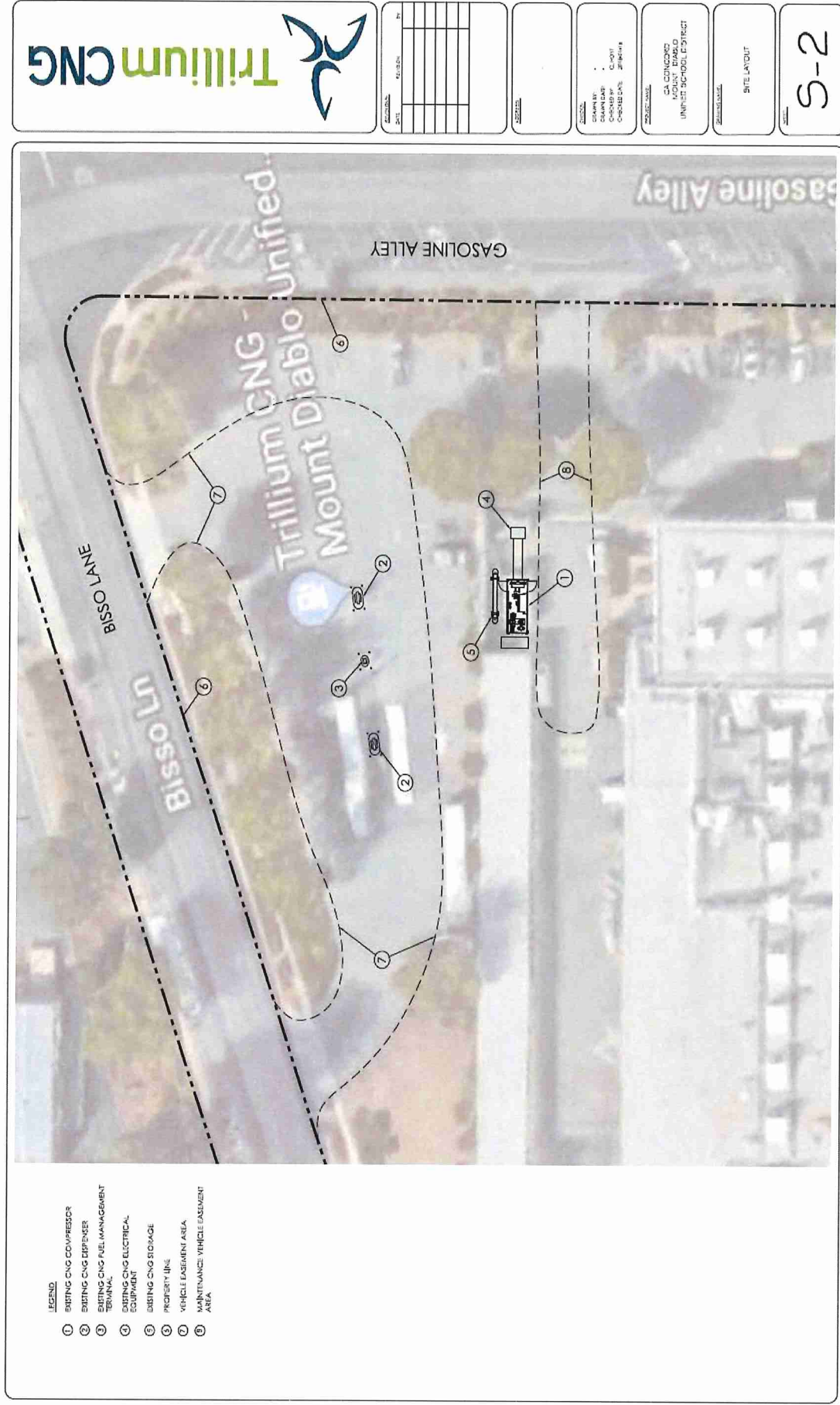
## Depiction and/or Description of the Property



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# EXHIBIT A-1

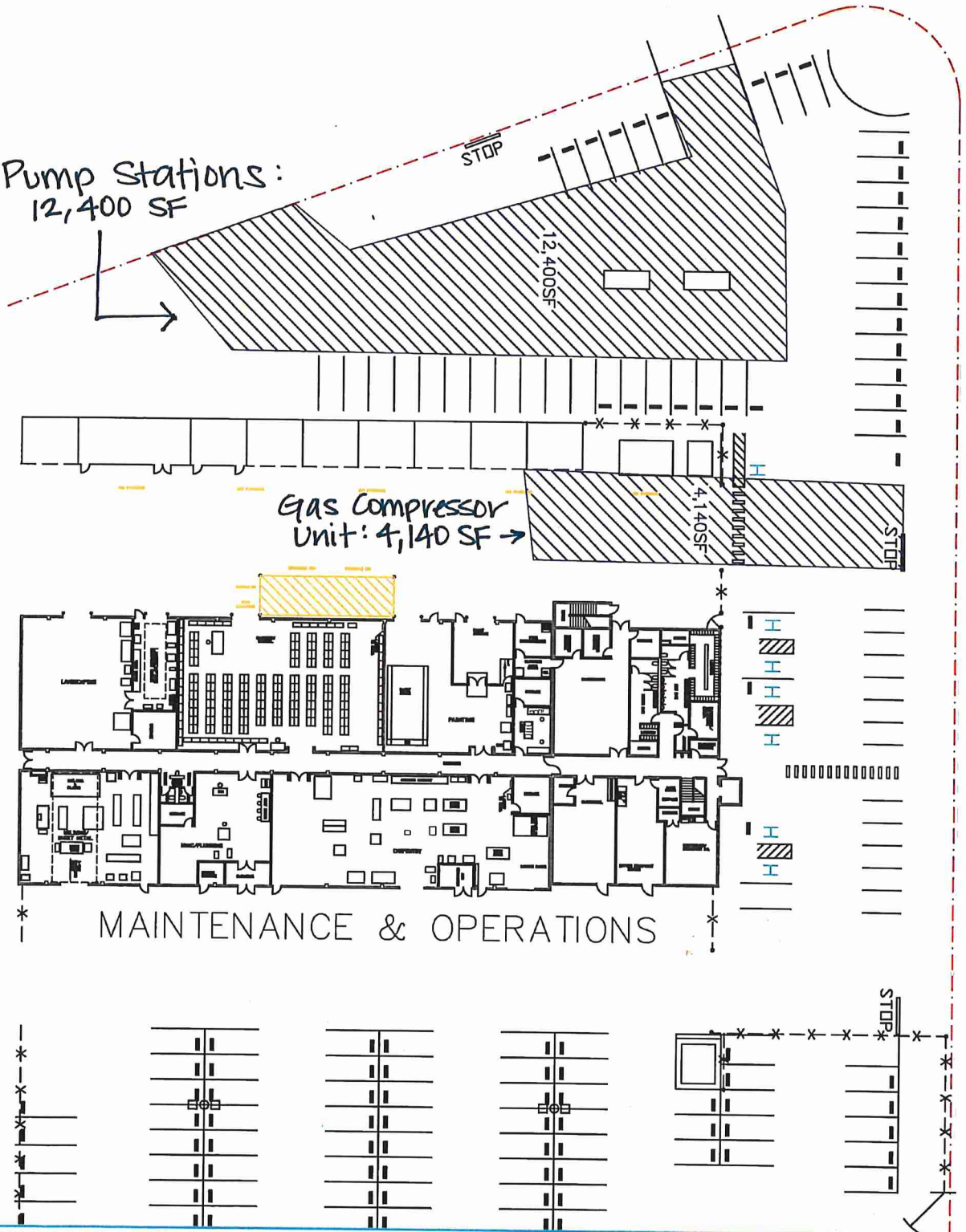
## Site Plan



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Purple Shaded areas = Trillian Equipment = Pumps

Pump Stations:  
12,400 SF



SITE PLAN  
SCALE: 1"=50'-0"

SITE PLAN

MAINTENANCE & OPERATIONS

1480 GASOLINE ALLEY  
CONCORD CA 94520

DESIGNED BY KAM	DATE 1/25/2019
APPROVED BY N/A	DATE N/A
PROJECT NUMBER N/A	
SCALE AS NOTED	
SHEET NUMBER EDU-1	

1 OF 1

**EXHIBIT B**

Vehicular Easement Areas

See Exhibit A.

**EXHIBIT C**

Description of Tenant's Work

None

## EXHIBIT D

### Description of Tenant Services

- (a) Trash and refuse removal for the dispensers' area at least two (2) days per week.
- (b) Establishing and implementing safety procedures at the Premises (*e.g.* emergency shutoff of CNG fueling pumps, spill notification, *etc.*); and

**EXHIBIT E**

Existing Mortgages

None