Fuel Supply Agreements in Convenience Store and Gas Station Sale-Leasebacks: What REIT Investors Need to Know

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For real estate investment trusts (REITs) that are active in the net lease space, convenience store and gas station sale-leasebacks can offer attractive yields and long-term income streams. However, the durability of those cash flows is uniquely dependent on the underlying operating business, which is often reliant on the terms of the fuel supply agreement for each gas station.[1] While often treated as a secondary contract, the fuel supply agreement can be effectively co-equal with the lease in determining asset performance, credit risk, and residual value.

In a typical structure, a REIT acquires the real estate and leases it back to an operator under a long-term triple-net lease, while a separate fuel supplier provides branded supply. Such agreements have extensive restrictions that control the operations at the station, along with the economics for the tenant. The agreement may include the following standard provisions:

- The tenant must exclusively buy fuel from the supplier, and must purchase minimum quantities (whether or not the tenant sells such amounts).
- Pricing is set for the term of the agreement.
- The supplier will retain control over store and gas branding and certain alterations;
- Credit cards receipts are controlled by the supplier (and paid to the tenant only after any amounts due to the supplier are set-off/paid).
- If the tenant defaults under the fuel supply agreement, the tenant's ability to obtain fuel can be terminated (so, cross-defaulting the supply agreement to the lease is imperative).

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- Suppliers require that if the tenant is terminated under the supply agreement, the supplier retains control of the site (through a right of first refusal (ROFR) and/or requiring that the fuel supply agreement "run with the land").
- Many supply agreements contain security interest or security agreements that require the tenant to pledge all personal property to the supplier to secure the tenant's obligations under the supply agreement.
- Environmental obligations of each tenant and supplier are set in the supply agreement.

Many of the above restrictions relate to controlling the site in order to satisfy the supplier's obligations under their contracts with major fuel brands. It is common for memorandums of such agreements (including ROFRs or use restrictions) to be recorded by the fuel supplier to ensure their control over the site.

Although the supply agreement and master lease are separate, these arrangements are economically interdependent and must be evaluated together. Fuel supply agreements support rent by stabilizing tenant margins through pricing structures, rebates, and incentives. They also drive site performance through branding, which directly affects customer traffic and revenue. A mismatch can lead to loss of supply or branding during the lease term, impairing both site performance and asset value. REIT investors should prioritize coterminous terms or strong restrictions on early termination.

Sale or assignment restrictions in supply agreements can limit a REIT's ability to re-tenant or manage distress situations. Supplier consent requirements may complicate evictions, foreclosures, restructuring, or exit strategies, making flexibility a key diligence point.

Environmental liability must also be carefully coordinated. Misalignment between lease and supply agreement provisions for spills, underground storage tanks, and indemnities can create unexpected exposure for the REIT as the property owner.

Key red flags include short or terminable supply terms, non-assignable agreements, ROFRs, lack of lender or landlord

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protections, aggressive volume commitments, unfavorable pricing, change-of-control termination rights, and weak environmental indemnities.

The above concerns should be addressed through an agreement among the fuel supplier, tenant, and REIT as landlord. In such agreement, the REIT can ensure that the risks associated with the foregoing are properly mitigated through the following safeguards:

- Requiring that any ROFR be waived upon default of the tenant so that the property many be sold.
- Providing the fuel supplier with the right to promptly step in under the lease and supply agreement and takeover operations if the tenant defaults under the lease (or fuel supply agreement).
- In the event a tenant defaults, if the supplier does not take over operations, then the fuel supply agreement should be terminated (along with any ROFRs or sale/use restrictions) so that the property may be sold or repurposed.

REITs should avoid taking on any obligations under the fuel supply agreement and never agree to undertake operations at the facility if the tenant defaults under the fuel supply agreement, or they may create material tax issues for the REIT. Using a separate agreement generally allows the REIT and supplier to detail the interaction of the parties in the event of a tenant default, without requiring the REIT to be a party to the to the fuel supply agreement directly.

Ultimately, REIT investors should treat the fuel supply agreement as a core component of underwriting. If the supply agreement were terminated, the key question is whether the lease would still produce reliable income. Convenience store and gas station sale-leasebacks can be compelling investments, but they require a disciplined approach that integrates real estate, operational, and contractual risk. When properly structured, they can deliver stable, long-term returns — but only where supply and lease economics are fully aligned.

If you have questions about how to structure sale-leaseback arrangements to mitigate risks while preserving flexibility in distressed situations, please contact the authors or any member of

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FBT Gibbons' Retail and Shopping Center Finance team for assistance.

[1] *Note that some convenience stores and gas stations are actually operated directly by fuel suppliers.*

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