

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: City Manager – Authorize a License Agreement to Construct a Compressed Natural Gas fueling facility on a portion of City-owned land located at 20500 Madrona.
Expenditure: None**

RECOMMENDATION

Recommendation of the City Manager that City Council approve a License Agreement by and between the City of Torrance, a municipal corporation and Clean Energy, a California Corporation and Clean Energy Construction, a California Corporation to construct and operate a Compressed Natural Gas fueling facility on a portion of City-owned land located at 20500 Madrona (City Yard).

Funding

The City will receive \$500.00 per month rent plus \$.05 per Gasoline Gallon Equivalent excluding City-owned vehicles. City vehicles will also receive a discounted rate per gallon for fuel purchased.

BACKGROUND

Several years ago there was a natural gas fueling facility located at the subject site. The site was eventually closed due to low volumes of Compressed Natural Gas (CNG) sold. The City was approached by Clean Energy (CE) to construct a new facility at the abandoned site. The requirements of the South Coast Air Quality Management District and other local requirements to convert portions of fleets to alternative fuels have made reopening the site more financially viable.

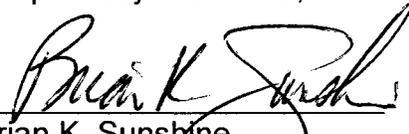
ANALYSIS

The License Agreement will allow CE to occupy a Support Facility within the fence at the City Yard that will feed the Station that will be constructed in an area where fleet use and general public use can be accomplished. At this time there is a bio-diesel trailer located in this area; the License Agreement acknowledges that it is on-site and that an area must be established for this fueling trailer. The construction and maintenance of improvements are to be borne by CE; the premises of the City Yard are to be maintained, as is currently, by the City of Torrance.

The terms of the License allows for an initial term of 10 years with five (5) consecutive five-year terms. The additional terms may be canceled at the beginning of each period by either CE or the City with six months prior written notice.

The proposed rent is \$500.00 per month with a royalty of \$.05 per gallon sold (other than City vehicles). In addition the City will receive a reduced rate for purchase of CNG based on a compression fee plus the monthly Southern California Gas Company's Delivered Cost of Gas. The formula is shown in Exhibit III of the License Agreement.

Respectfully submitted,



by Brian K. Sunshine
Assistant to the City Manager

CONCUR:



LeRoy J. Jackson
City Manager

Attachment:

- A) License Agreement

COMPRESSED NATURAL GAS VEHICLE
FUELING STATION AND CNG SALES LICENSE AGREEMENT

This License Agreement (the "License") is made and entered into as of December 15, 2009 by and between the City of Torrance, a municipal corporation ("City") and CLEAN ENERGY, a California corporation ("CE") and Clean Energy Construction, a California corporation ("CECI"). City, CE and CECI are sometimes referred to in this Agreement individually as a "Party" or jointly as "Parties".

In consideration of the mutual promises, covenants, and agreements herein contained, the sufficiency of which is hereby agreed to by the Parties, the Parties hereto agree as follows:

ARTICLE 1
SCOPE OF AGREEMENT AND DEFINITIONS

1.1 Intent. This License expresses the terms and conditions pursuant to which City authorizes CE to design, construct, operate and maintain a compressed natural gas fueling station on property owned by City located at 20500 Madrona Avenue Torrance, California for City's use and other authorized users.

1.2 Definitions. As used in this License, the following terms and expressions shall have the indicated meanings:

"License" means this document and any and all exhibits attached hereto.

"CE" means Clean Energy acting by and through its employees, officers and authorized agents.

"CECI" means Clean Energy Construction acting by and through its employees, officers and authorized agents.

"City" means the City of Torrance, acting by and through its employees, officers and authorized agents.

"CNG" means pipeline quality natural gas, compressed for vehicle use.

"CNG Vehicle(s)" means motor vehicles powered by internal combustion engines using CNG as a primary fuel.

"Gasoline Gallon Equivalent" means 124,800 BTU/gallon. Also referred to as a GGE.

"Party" or "Parties" means CE and City, in their respective capacities as parties to this License.

"Premises" means that portion of the real property owned by City and located at 20500 Madrona Avenue Torrance, California upon which the Station will be constructed and operated as more fully described in Exhibit II.

"Station" means the facility for refueling CNG Vehicles designed, constructed, operated and maintained by CE as more fully described in Exhibit I and shown on Exhibit II.

"Support Facility" means the area as depicted in Exhibit II that is constructed to compress and store CNG for the "Station". Piping and other appurtenances required to connect the Support Facility to the Station will be depicted in plans and specifications submitted to and approved by City. The placement of the piping will be added as an additional Exhibit to this License once designed and permitted.

"Therm" means 100,000 British Thermal Units.

"Third Party Users" means CNG vehicles owned and/or operated by entities other than the City.

ARTICLE 2 RESPONSIBILITIES OF CE

2.1 Station. CE shall design, construct, operate and maintain the Station on the Premises, and shall be responsible for obtaining, at its cost, all permits relating to the design, construction, operation and maintenance of the Station. The Station shall be located on the Premises as shown in Exhibit II. To the extent that this License contemplates the construction of a work of improvement or any related activity for which a license from the California Contractor's State License Board is required, all such work will be performed by CECI as a general contractor. The Station will include a dispenser designed for public access (the "Public Dispenser") as shown in Exhibit II.

2.2 CNG Service to City. CE shall provide natural gas and provide the Station with CNG to fuel City's vehicles and will bill City at the rate described in Exhibit III.

2.3 CNG Service to Third-Party Users. CE shall provide natural gas and provide the Station with CNG to fuel third-party vehicles and will bill the third-party users at rates set in CE's sole and absolute discretion.

2.4 Maintenance. CE shall maintain the Station in accordance with the following requirements:

2.4.1 Routine Maintenance. CE shall provide scheduled, routine maintenance service for the term of this License and shall repair, or replace, any defective parts or equipment at its expense. CE shall also perform other necessary maintenance or repairs, including emergency repairs, at its expense, in order to keep the Station operating. However, any maintenance or repair costs incurred due to damage, abuse or neglect by City's personnel shall be billed to City at CE's then-existing rates.

2.4.2 Scheduling. CE and City shall mutually agree on times for maintenance services that require the Station to be out of operation for more than four (4) hours.

2.4.3 Service Calls. CE shall be available to provide emergency repair service on a 24-hour, 7-day per week basis, and will provide an emergency contact telephone number to City. In the event of an emergency at the Station, CE shall respond as soon as is commercially reasonable following notification by City, and will restore the operation of the Station as soon as is commercially reasonable.

2.5 Training. CE shall offer reasonable training programs to educate City's personnel as to the procedures for the safe and efficient use of the Station, including, without limitation, procedures relating to safe vehicle fueling, troubleshooting and appropriate emergency procedures.

2.6 Compliance with Law. In performing the obligations under this License, CE shall comply in all material respects with all applicable federal, state and local laws, regulations, ordinances and rulings, including (but not limited to) those pertaining to health, safety, employment and environmental matters.

2.7 CE's Costs. Except as specified in this Article 2 and in Exhibit III, or as may be separately agreed to by City and CE, CE shall not charge City for other costs incurred in providing the services described in this Article. CE shall be responsible for the ad valorem or possessory interest taxes relating to the Station.

ARTICLE 3 CITY'S RESPONSIBILITIES

3.1 Maintenance of Premises. City shall maintain the real property in the vicinity of the Station in a clean, safe, and commercially reasonable condition suitable for CNG vehicle refueling use, including the ingress to, and egress from, the Station.

3.2 Refueling Vehicles. City employees shall refuel its CNG Vehicles. City will provide appropriate training and supervision for employees, including, but not limited to, scheduling attendance at all appropriate training sessions provided by CE.

3.3 Compliance with Law. In performing its obligations under this License, City shall comply in all material respects with all applicable federal, state and local laws, regulations, ordinances and rulings, including, but not limited to, those pertaining to health, safety, employment and environmental matters.

3.4 Payment of CE Billings. City shall pay each invoice submitted by CE within thirty (30) days following receipt of the invoice by City. For purposes of this section, receipt shall be defined as three (3) days after the invoice is mailed by CE. Any payments not made when due shall accrue interest on the unpaid amount at a rate of 12% per annum, calculated from the date payment is due to and including the date payment is received by CE.

City's Costs. Except as specified in this Article, or as may be separately agreed to in writing by City and CE, City shall not charge CE for the materials or labor utilized in providing the services provided in this Article. CE shall not be responsible for any taxes relating to the Premises (including, without limitation, any real property taxes and assessments) except for any Possessory Interest taxes levied against the value of the improvements made by CE or the value assessed to the License Agreement, as well as any and all maintenance and repair costs, as contemplated in this Article.

ARTICLE 4 LICENSE TO USE PREMISES

4.1 Permitted Use. To enable CE to fulfill its obligations set forth herein, City hereby licenses and permits CE to use the Premises and grants the right of ingress to and egress from the Premises to CE, CE's employees, agents, servants, customers, vendors, suppliers, patrons and invitees for the purposes contemplated hereby in accordance with the terms and conditions of this License. City shall not, and shall not permit others to, levy any rent, charge, lien or encumbrance not expressly provided for in this License against CE for the use of the Premises or the Station.

4.2 Clear Title. City is, and shall remain during the term of this License, the owner or lessee of the Premises, and shall not allow any lien or encumbrance affecting the Station or CE's performance hereunder. CE shall be the owner of the Station, and its parts and equipment. CE shall have the right to grant a lien or encumbrance against its right, title and interest in the Station or its equipment to a third party for financing purposes; provided, however, that CE shall not permit any liens or encumbrances of any kind to be placed on the Premises, and shall promptly discharge, at its expense, any and all mechanic's, laborer's or materialman's liens, encumbrances or charges against the Premises or the Station related to its performance under this License.

4.3 Memorandum of License. Upon CE's request, City shall execute a memorandum reflecting this License and the property interest of CE in recordable form to reflect CE's interest in the Station and the Premises. CE shall be responsible for all reasonable costs related thereto.

4.4 Sale, Abandonment or Removal. Unless otherwise agreed to by the Parties in writing, upon termination or expiration of this License, CE shall have the right, but not the obligation, to (i) sell the Station to City on mutually agreeable terms; (ii) remove the Station at CE's sole expense (including any and all merchandise, equipment, furnishings, fixtures, machinery and tools relating to the Station), from the Premises, which shall be restored in all material respects to their condition as of the date of this License, excluding the removal of any underground piping which may be left in place by CE; or (iii) abandon the same in place by quitclaiming all of its right, title and interest therein to City. Thereafter, CE shall have no further rights or obligations under this License with respect to the Premises.

4.5 Pre-Existing Conditions. The Premises shall be clear of pre-existing underground hazards, soil contaminants or unanticipated soil conditions that would impact the construction of the Station. If it is determined that underground hazards, soil contaminants or conditions exist that either (a) require removal, replacement, and disposal of soils or materials, (b) require remediation, or (c) deem the site unsuitable for the station's construction, CE shall not be financially and legally responsible for such remediation, removal, replacement and disposal. If City does not commence, within thirty (30) days after discovery of any such pre-existing underground hazard or soil contaminant, and thereafter to diligently prosecute to completion the correction of such condition, CE may, without further obligation or penalty, terminate this License for cause by written notice to City.

4.6 Bio-Diesel Fuel Dispenser. CE and City are aware that located on premises is a Bio-Diesel fueling dispenser. CE will work with City to develop a location on-site in the current drive-through area to locate the dispenser for access by Bio-Diesel customers.

ARTICLE 5 TERM AND TERMINATION

5.1 Term. The initial term of this License shall commence on the date of this License (the "Effective Date") and end on the tenth (10th) anniversary of the date the City first purchases CNG from CE. This License shall automatically renew under the same terms and conditions for consecutive five (5) year terms unless CE or City gives notice of cancellation to the other party at least six (6) months prior to such renewal date. The initial term and any renewal terms are referred to herein as the "Term."

5.2 Notwithstanding the above, upon a material breach of this License, either Party shall have the right to terminate this License, for cause, upon fifteen (15) days written notice and opportunity to cure to the other Party, provided, however, that where it is not commercially reasonable to fully effect a cure to the other Party within the fifteen (15) day period set forth above, the Party in breach shall not be deemed to be in default of the License and subject to termination for cause where it commences implementation of the cure within such fifteen (15) day period and thereafter proceeds diligently to cure the breach.

5.3 Buyout by City. In the event that CE, for any voluntary reason, ceases CNG operations with respect to the Station, City shall have the option to purchase the Station for the depreciated book value of the Station (calculated based on a fifteen-year useful life of the Station).

ARTICLE 6

CE's AND THIRD PARTIES' USE OF PUBLIC DISPENSER

6.1 Use of Station by Non-City Vehicles. During the Term, CE will use commercially reasonable efforts to market the Station to Third-Party Users and sell CNG fuel to Third Party Users at a price determined by CE in its sole and absolute discretion (the "Retail Rate"). The Station is shown in Exhibit II as "Station".

6.2 Royalty. CE shall pay City the amount of \$0.05 per Gasoline Gallon Equivalent of CNG sold at the Station's Public Dispenser, excluding sales to City owned or operated vehicles. Royalty payments relating to this Article shall be made by CE on a quarterly basis within thirty (30) days following the end of each calendar quarter.

6.3 Payment. CE shall pay the City the amount of \$500.00 per month for use of the Premises. The Lease payment will begin in the month the station is commissioned and the City first purchases CNG from CE. Payments relating to this Article shall be made by CE on a monthly basis within thirty (30) days following the end of each calendar month.

ARTICLE 7

PURCHASE OF CNG

7.1 Pricing of CNG. CE shall provide City with CNG at a price per Gasoline Gallon Equivalent as described on Exhibit III. By signing this License, City hereby represents to CE that it will use 100% of the CNG purchased hereunder for vehicle use.

ARTICLE 8
EXCISE, SALES AND USE TAXES

CE is currently required to, or may be required in the future to, collect and remit certain federal, state and local taxes, including fuel use taxes, on CNG sold at the Station, subject to certain exemptions. City shall be responsible for all such applicable excise, sales and use taxes related to its purchases of CNG under this License. If City qualifies for an exemption from one or all of these taxes, City shall furnish to CE appropriate certification authorizing non-payment of the applicable tax or taxes. If City fails to maintain its exemption status, or for any other reason City's exemption becomes invalid without notifying CE thereof, City shall indemnify CE for all taxes, penalties and interest on any nonpayments and underpayments of taxes.

ARTICLE 9
INDEMNIFICATION AND LIMITATION OF LIABILITY

9.1 Except to the extent that liabilities arise from City's or its employees, agents, contractors or subcontractors' negligence or willful misconduct, CE agrees to indemnify, defend and protect City and its officers, directors, agents and employees from and against and hold City and its officers, directors, agents and employees harmless and free from any and all liability, loss, cost, expense or obligation, including without limitation reasonable attorneys' fees, court costs and other expenses, including without limitation, those of appeal, on account of or arising out of, injury to or death of any person or persons or damage to or loss of use of property, from whatever cause, occurring during the Term related in any way to the construction, use, operation or maintenance of the Station by CE (except for any aspect of Station operation attributable to City or its employees or agents), negligence or willful misconduct by CE or its employees or agents or material breaches of this License by CE.

9.2 Indemnification Procedure. In the event any action is commenced or claim is made or threatened against an indemnified party, hereunder ("Indemnitee") as to which the other party ("Indemnitor") is obligated to indemnify Indemnitee or hold it harmless, Indemnitee shall promptly notify Indemnitor of such event and Indemnitor shall assume the defense of, and may settle, that part of any such claim or action commenced or made against Indemnitee which relates to Indemnitor's indemnification and Indemnitor may take such other steps as may be necessary to protect itself. Indemnitor shall not be liable to Indemnitee on account of any settlement of any such claim or litigation affected without Indemnitor's consent. The right of Indemnitor to assume the defense of any action shall be limited to that part of the action commenced against Indemnitee which relates to Indemnitor's obligation of indemnification and holding harmless.

9.3 Neither Party shall have any liability to the other Party for special, consequential, or incidental damages.

9.4 Dispute Resolution Procedures. In the event a dispute arises between the Parties related to this License, the following process shall be followed:

(a) Each Party will designate a senior executive ("Designated Representative") to represent it in connection with any dispute that may arise between the Parties (a "Party Dispute"). The designations shall be as described elsewhere herein. Subsequent changes in a Party's Designated Representative shall be in writing and communicated in the same manner.

(b) In the event that a Party Dispute should arise, the Designated Representatives will meet, with their attorneys, if they so agree, within five (5) business days after written request by any Party to any other Party (the "Dispute Notice") in an effort to resolve the Party Dispute.

(c) If the Designated Representatives are unable to resolve the Party Dispute within twenty (20) business days following their first meeting, the Party Dispute will be submitted to non-binding mediation in Los Angeles, California before a mediator made available to the Parties through JAMS.

(d) In the event that the mediation process fails to result in a resolution of the Party Dispute within forty-five (45) days following receipt of the Dispute Notice, the Parties may take any action they may deem necessary to protect their interests subject to the requirements of Section 12.6.

9.5 Force Majeure. In the event that CE is prevented from performing its duties and obligations pursuant to this License by circumstances beyond its control, including, without limitation, fires, floods, labor disputes, equipment failure, the interruption of utility services, the cessation of providing necessary products or services to CE by any supplier to CE, war, acts of terrorism, or Acts of God (hereinafter referred to as "Force Majeure"), then CE shall be excused from performance hereunder during the period of such disability ("Force Majeure Period"). If CE claims Force Majeure, CE shall notify City within 24 hours after it learns of the existence of a Force Majeure condition, and will also provide City with an estimate, if one can be reasonably made, of the anticipated Force Majeure Period. CE will also notify City within 24 hours after the Force Majeure condition has terminated. CE shall agree to use commercially reasonable efforts to correct whatever events or circumstance cause the Force Majeure event.

ARTICLE 10 INSURANCE

CE shall procure at its sole expense, and maintain in full force and effect during the term of this License, including any renewals, with insurance carriers rated at least A- in Best's Insurance Report and admitted to do business in the state where the Station is located, the following primary insurance in at least the minimum amounts specified, with the City named in the commercial general liability policy (or excess liability or umbrella liability policy, if applicable) and the automotive liability policy as an additional insured. Such insurance shall be endorsed to require at least thirty (30) days' written notice to the other respective Party of any material change or

cancellation. CE shall provide City with a reasonably satisfactory contractual liability indemnity endorsement relating to the Station and the potential liabilities relating thereto.

(a) Comprehensive Commercial General Liability Insurance, including blanket contractual liability applicable to personal injury and property damage, to a combined single limit of not less than \$5,000,000. Excess liability or umbrella liability coverage may be used to evidence or provide limits in addition to primary limits of no less than \$1 million on the commercial general liability policy.

(b) Comprehensive Commercial Automobile Liability Insurance, including owned, non-owned and hired automobiles covering bodily injury and property damage, to a combined single limit of \$1,000,000.

(c) Workers Compensation and Employers Liability

(i) Workers compensation in compliance with applicable state and federal laws.

(ii) Employers liability with a limit of not less than \$1,000,000.

The requirements for carrying the foregoing insurance shall not derogate from the provisions of indemnification as set forth in this License.

CE shall send certificates of insurance evidencing such coverage within thirty (30) days after the date of this License to:

City:City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503
Attn: City Clerk
Fax: 310-618-2931

ARTICLE 11
DESIGNATED REPRESENTATIVES AND NOTICES

11.1 Representatives. Each Party hereby designates the following as its representative (and its “Designated Representative” for dispute resolution purposes) for the administration of this License:

CE and/or

CECI: James N. Harger
 3020 Old Ranch Parkway
 Suite 400
 Seal Beach, CA 90740

Telephone: (562) 493-2804

Fax: (562) 493-4532

City: City Manager or designee

Telephone: 310-618-5880

Fax: 310-618-5891

11.2 Notices. Except for City’s request for service calls, which may be made by telephone, notices pertaining to this License shall be in writing and shall be transmitted either by personal delivery, facsimile, or by overnight delivery carrier and shall be deemed to be delivered up receipt. The addresses set forth below shall be the addresses used for notice purposes unless written notice of a change of address is given:

CE: Clean Energy
 3020 Old Ranch Parkway
 Suite 400
 Seal Beach, CA 90740
 Attn: Mr. James N. Harger
 Fax: (562) 493-4532

City: City of Torrance
 3031 Torrance Boulevard
 Torrance, CA 90503
 Attn: City Clerk
 Fax: 310-618-2931

ARTICLE 12
MISCELLANEOUS

12.1 Assignment. Neither Party shall have the right to assign its rights or obligations hereunder without obtaining the prior written consent of the other Party (which consent shall not be unreasonably withheld), and any attempted assignment without such prior written consent shall be void: provided that such consent shall not be necessary in the context of an acquisition of either party by asset sale, merger, change in control or operation of law. Permitted assigns and successors in interest shall have the benefit of, and shall be bound by, all terms and conditions of this License. Notwithstanding anything contained herein to the contrary, either Party may assign this License to such Party's parent corporation, an entity under common control with the Party, or a wholly-owned subsidiary of the Party without the consent of the other.

12.2 Headings. The headings in this License are for convenience and reference only, and shall not affect the interpretation of this License.

12.3 No Joint Venture. CE shall perform its duties herein as an independent contractor. Nothing contained herein shall be considered to create the relationship of employer and employee, partnership, joint venture or other association between the Parties, except as principal and independent contractor agent.

12.4 Waiver. No waiver by either Party of any one or more defaults by the other Party in the performance of any provisions of this License shall operate or be construed as a waiver of any other default or defaults, whether of a like or different character. No waiver or modification of this License shall occur as the result of any course of performance or usage of trade.

12.5 Severability. If any provision of this License or the application thereof to any person or circumstances shall to any extent be held in any proceeding to be invalid or unenforceable, the remainder of this License shall be valid and enforceable to the fullest extent permitted by law, but only if, and to the extent, such enforcement would not materially and adversely alter the Parties' essential objectives as expressed herein.

12.6 Governing Law, Forum and Venue. This License shall be subject to and construed in accordance with the laws of the State of California with the courts of that State having jurisdiction to resolve all disputes which may arise under or which relate to this License. Any and all claims or actions arising out of or relating to this License shall be filed in and heard by the state or federal courts with jurisdiction to hear such suits located in Los Angeles, California, and each Party hereby consents to the jurisdiction of such courts and irrevocably waives any objections thereto, including, without limitation, objections on the basis of improper venue or forum non conveniens.

12.7 Counterparts and Facsimile Execution. This License may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, and all of which taken together shall constitute one and the same License. Delivery of an executed counterpart of this License by facsimile shall be equally as effective as delivery of a manually executed counterpart. Any Party hereto delivering an executed counterpart of this License by facsimile shall also deliver a manually executed counterpart, but the failure to do so shall not affect the validity, enforceability or binding effect of the counterpart executed and delivered by facsimile.

12.8 Attorney's Fees. If any action at law or equity is commenced concerning this License or to enforce its terms, the prevailing Party in such matter shall be entitled to the payment of reasonable attorneys' fees and costs as determined by the Court, in addition to any other relief which may be awarded to that Party.

12.9 Additional Documents. The Parties agree to execute and to deliver to each other any and all other additional documents and to take any additional steps reasonably necessary to complete, to document and to carry out the business transaction contemplated by this License.

12.10 Negotiated Transaction. The drafting and negotiation of this License has been participated in by all of the Parties. For all purposes, this License shall be deemed to have been drafted jointly by each of the Parties.

12.11 Representation regarding Authority to Sign License. Each of the representatives of the Parties signing this License warrants and represents to the other that he, she or it has the actual authority to sign this License on behalf of the Party for whom he, she or it is purporting to represent.

12.12 Entire License. This License and its exhibits contain the entire License between the Parties and it supersedes any prior written or oral agreements between the Parties concerning the subject matter of this License. There are no representations, agreements, or understandings between the Parties relating to the subject matter of this License which are not fully expressed within this License and its exhibits.

12.13 Binding Effect. This License shall be binding upon and inure to the benefit of the respective heirs, successors, assigns, affiliates and personal representatives of the Parties.

12.14 Modification. This License shall not be modified, amended, or changed except in a writing signed by each of the Parties affected by such modification, amendment or change.

12.15 Audit Provisions

1) Within ninety (90) days after the close of each calendar year during the term of this License Agreement, Licensee agrees to cause CE to submit to the City an Annual Statement, signed and certified to be correct by CE showing the amount of Gasoline Gallon Equivalent of CNG sold at the Station's Public Dispenser, excluding sales to City owned or operated vehicles for the preceding calendar year. If an Annual Statement is not received by the City on or prior to the thirtieth (30th) day after such Annual Statement was due hereunder, a late payment charge will be applied. The late charge will be computed by applying a periodic rate of 1.50% per month (Annual Percentage Rate: 18%) or the maximum rate allowed by law to the balance. If the date on which an Annual Statement is required to be submitted to the City falls on a Saturday, Sunday or holiday on which the City's offices are closed for business, such report shall be due on the immediately succeeding day on which the City's offices shall be open for business. The obligations of the Licensee set forth in this paragraph shall survive the expiration or sooner termination of the term of the License. The acceptance by the City of payments of Royalties or reports thereof shall be without prejudice to, and shall in no event constitute a waiver of, the City's right to claim a deficiency in the payment of Royalties due or to audit CE's books and records, as hereafter set forth.

2) For each calendar year, Licensee will keep in the State of California for a period of at least twenty four (24) months (which period shall commence only when the City has received a complete Annual Statement pertaining to a calendar year and all Royalties payable hereunder for such calendar year based upon the amount of Royalties reflected on such Annual Statement, complete and accurate books and records in accordance with generally-accepted accounting principles, consistently applied, sufficient to show all sales and other transactions from which Royalties during such calendar year thereof can be determined.

3) The City shall have the right to cause a complete audit of any one or more statements of Royalties submitted to the City by CE at any reasonable time, and from time to time, within a period of eighteen (18) months after each Annual Statement. In connection with such audit, the City shall have the right, at the City's sole cost and expense (except as hereinafter provided), to examine CE's books of accounts and records (including all supporting data and any other records from which Royalties may be tested or determined) of Royalties disclosed in any statement given to the City by CE; and CE shall make all such books of accounts and records available for such examination at the office where the same are regularly maintained. The City shall have the option of having such audit performed either by its own personnel or by an independent Certified Public Accountant or firm of accountants. The City shall have the right to copy and duplicate such information as the City may require, provided however that the City may only copy or duplicate information pertaining to royalties paid to the City pursuant to this Agreement and shall not disclose this information to any other person or entity, except to an independent CPA or firm of

accountants solely for the purpose of conducting an audit. City shall inform any independent CPA or firm of accountants to which it provides Clean Energy's information that such information must be kept confidential and shall not be shared with any third parties. If any such audit discloses that the actual amount of Royalties exceeds the amount reported, then Licensee shall pay the City all additional Royalties due to the City; and if the excess of Royalties so disclosed shall be more than ten percent (10%) of that originally paid, CE shall also pay, the cost of such audit and examination. Any failure to pay such amounts shall constitute a breach of this License, entitling the City to all the rights and remedies provided for hereunder.

4) If any audit shall be commenced by the City, or if there shall arise a difference or dispute concerning Royalties, then and in any such event, CE's books of accounts (including all supporting data and any other records) shall be retained by CE until such audit has been completed or a final resolution or final determination of the difference or dispute has been obtained. Any information obtained by the City as a result of such audit shall be treated as confidential, except in any litigation or proceeding between the parties or pursuant to any subpoena or judicial process or where otherwise required by law.

12.16 Further Assurances. All of the Parties to this License agree to perform any and all further acts as are reasonably necessary to carry out the provisions of this License.

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IN WITNESS WHEREOF, the Parties hereto have caused this License to be signed by their duly authorized representatives, effective as of the date first set forth above.

CLEAN ENERGY

By: _____

James N. Harger
Senior Vice President &
Chief Marketing Officer

CITY OF TORRANCE
A Municipal Corporation

By: _____
MAYOR FRANK SCOTTO

CLEAN ENERGY CONSTRUCTION

By: _____

James N. Harger
Senior Vice President &
Chief Marketing Officer

ATTEST:

Sue Herbers, CITY CLERK

APPROVED AS TO FORM:

JOHN L. FELLOWS III,
CITY ATTORNEY

By: _____
Patrick Q. Sullivan
Assistant City Attorney

Exhibit I
Scope of Work

At CE's expense, CE will design, build, operate and maintain a Compressed Natural Gas (CNG) station located on the City's property at 20500 Madrona Avenue, Torrance, California. CE will be responsible for all costs to build the station, ongoing operations and maintenance costs including utilities, and keeping the equipment and adjacent areas clean and free of and trash.

Exhibit II
The Premises and Station Location

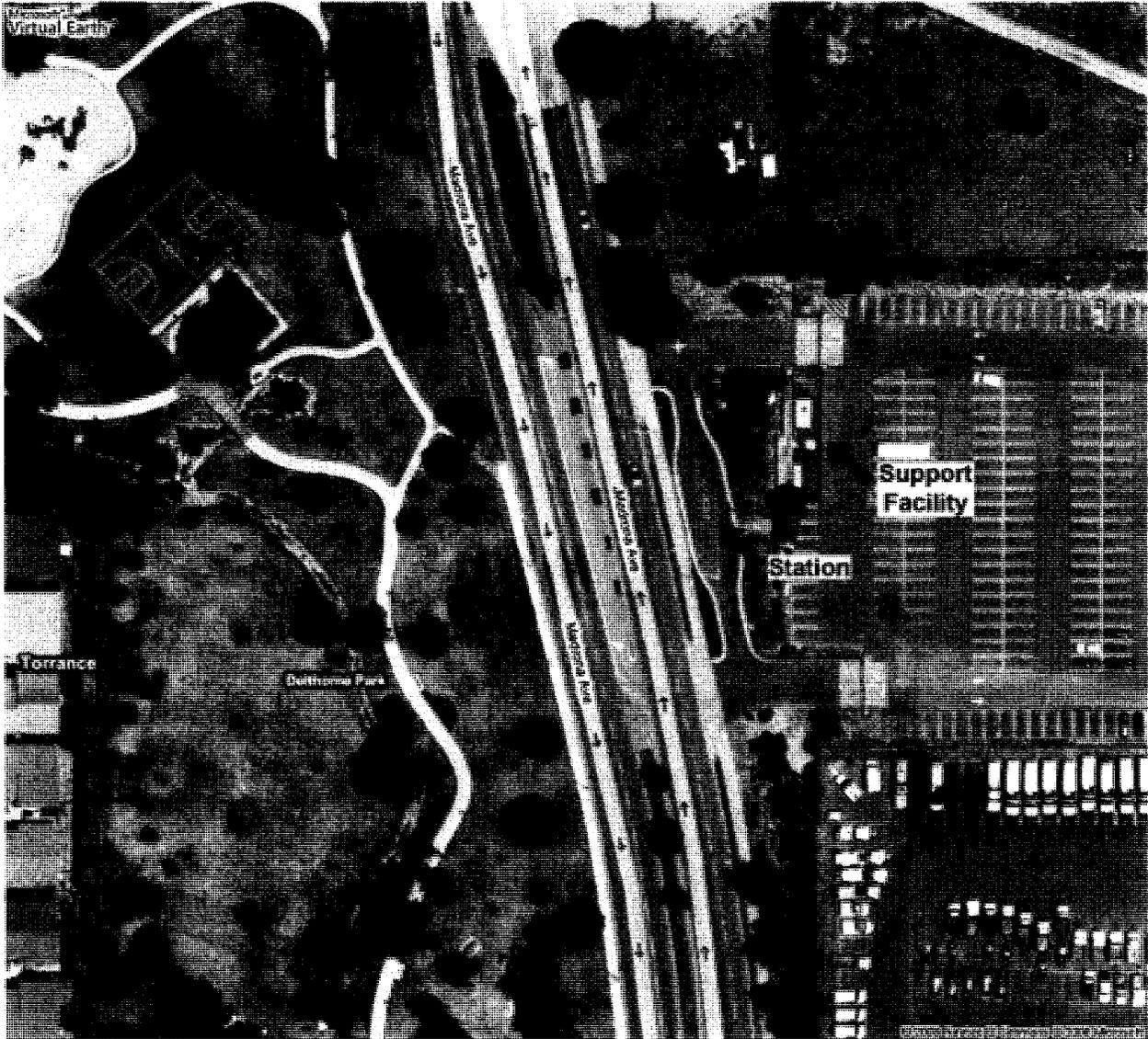


Exhibit III
CNG Pricing

A. CNG City Price

The monthly CNG price per Gasoline Gallon Equivalent shall be determined by the following formula:

The monthly Southern California Gas Company's Delivered Cost of Gas (G-NGU tariff) per GGE + the Compression Charge per GGE + any applicable excise, sales, and/or use taxes per GGE = CNG Price per GGE charged to the City.

Whereby:

1. CE Compression Charge = \$1.00 per GGE
2. The compression fee will be adjusted annually beginning January 1, 2010 by the increase in the United States Bureau of Labor Statistics Consumer Price Index All Items, for All Urban Consumers, Los Angeles-Anaheim-Riverside, California (1982-84=100).
3. The City will be responsible for all applicable excise, sales, and use taxes for fuel dispensed to the City's fleet.
4. Monthly volumes of CNG consumed will be based on GGEs dispensed at the public dispensers.

The City's price per CNG gallon will not exceed the posted retail price per CNG gallon at the Public Access Dispenser.

B. CNG Pricing For Third Parties

CE will set the retail rate for all third party consumption of CNG fuel sold at the station.