

30052

HYDROGEN STATION LEASE AND MAINTENANCE AGREEMENT

THIS AGREEMENT is entered by and between AIR PRODUCTS AND CHEMICALS, INC., a Delaware corporation, hereinafter referred to as "Air Products" or "Lessor," and the City of Long Beach, a California municipal corporation, hereinafter referred to as "Hydrogen Station Lessee". The effective date of this Agreement shall be May 1, 2007 (the "Effective Date").

1. INTRODUCTION

- 1.1 Air Products (the Lessor under this Agreement), and the United States Department of Energy (the "DOE") have entered into the DOE COOPERATIVE AGREEMENT, entitled, "California Hydrogen Infrastructure Project", as further defined herein.
- 1.2 Air Products, American Honda Motor Co., Inc., BMW of North America, LLC, Nissan North America, Inc., and Toyota Motor Sales, U.S.A., Inc., have entered into a Participation Agreement, having an effective date of December 8, 2004 (the "Participation Agreement") which sets forth terms and conditions under which Lessor shall lease the HYDROGEN STATION to the Hydrogen Station Lessee in furtherance of the objectives of the Participation Agreement and the DOE COOPERATIVE AGREEMENT.
- 1.3 Air Products, as prime contractor under the DOE COOPERATIVE AGREEMENT, shall lease the HYDROGEN STATION to the Hydrogen Station Lessee under terms consistent with the Participation Agreement and the DOE COOPERATIVE AGREEMENT. The HYDROGEN STATION constitutes a deliverable under the DOE COOPERATIVE AGREEMENT, subject to an "Authorization and Consent" Clause as set forth in the United States Code of Federal Regulations.

2. DEFINITIONS

- 2.1 The term, "AFFILIATE", shall mean any entity which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with another entity. As used in this definition, "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of another entity, whether through the ownership of shares or voting securities, by contract, or otherwise. One entity shall be presumed to control another entity if the first entity owns fifty percent (50%) or more of the voting rights in such second entity.
- 2.2 The term, "AGREEMENT", shall mean the articles of this Hydrogen Station Lease and Maintenance Agreement and its attachments and appendices, as amended from time to time as allowable and contemplated by the Parties pursuant to the provisions of this AGREEMENT.
- 2.3 The term, "DATA", shall possess the definition set forth in 10 CFR 600.325.
- 2.4 The term, "DOE COOPERATIVE AGREEMENT", shall mean DOE Cooperative Agreement Number DE-FG36-05GO85026, entitled, "California Hydrogen Infrastructure Project" entered by and between AIR PRODUCTS, as prime contractor, and DOE, having an effective date of December 8, 2004.

- 2.5 The term, "HYDROGEN FUELLED VEHICLE", shall mean an experimental, non-commercial automotive conveyance that utilizes hydrogen as a motive fuel.
- 2.6 The term, "HYDROGEN STATION", shall mean a hydrogen fueling station capable of dispensing hydrogen to be sited, constructed and/or operated in furtherance of the DOE COOPERATIVE AGREEMENT and as further specified in the First Attachment (Hydrogen Station Specifications) which is incorporated by reference and made a part of this AGREEMENT.
- 2.7 The term, "HYDROGEN STATION PARTICIPANT", shall mean each party identified in writing by Air Products as a permissible licensee of the Hydrogen Station Lessee for the purpose of dispensing hydrogen from the HYDROGEN STATION into such party's HYDROGEN FUELLED VEHICLES in furtherance of the Participation Agreement and the DOE COOPERATIVE AGREEMENT.

3. HYDROGEN STATION LEASE

- 3.1 Lessor grants the Hydrogen Station Lessee a revocable, terminable lease to use the HYDROGEN STATION to dispense hydrogen to HYDROGEN FUELLED VEHICLES owned, operated, leased or otherwise conveyed by HYDROGEN STATION PARTICIPANTS and their AFFILIATES in furtherance of the objectives of the Participation Agreement and the DOE COOPERATIVE AGREEMENT, subject to the limitations set forth in Article 4 ("Lease conditions").
- 3.2 Lessor's and Hydrogen Station Lessee's obligations pertaining to pre-construction, construction and installation are set forth in the Second Attachment (Pre-Construction, Construction and Installation). The Second Attachment is incorporated by reference and made a part of this Agreement.
- 3.3 Lessor shall deliver the HYDROGEN STATION to Hydrogen Station Lessee at Lessor's facility located at 2400 East Spring Street, Long Beach, CA. .

4. LEASE CONDITIONS

- 4.1 The Hydrogen Station Lessee grants Lessor the sole and exclusive right to collect DATA arising during the dispensing of hydrogen from the HYDROGEN STATION into HYDROGEN FUELLED VEHICLES owned, operated, leased or otherwise conveyed by HYDROGEN STATION PARTICIPANTS and their AFFILIATES in furtherance of the objectives of the Participation Agreement and the DOE COOPERATIVE AGREEMENT.
- 4.2 The Lessor shall promulgate safety rules, ingress and egress protocols, and other reasonable rules and regulations that shall be enforced by such Hydrogen Station Lessee during dispensing of hydrogen into HYDROGEN FUELLED VEHICLES in furtherance of this Agreement.
- 4.3 The Hydrogen Station Lessee shall allow each entity authorized in writing by Lessor to dispense hydrogen from the HYDROGEN STATION into a HYDROGEN FUELLED VEHICLE, subject to the Lessor and such entity entering into contracts in form and content acceptable to the Lessor and entered between the Lessor and such entity. In order to discharge obligations arising under the DOE COOPERATIVE AGREEMENT, Lessor shall possess the right to designate third parties from time to time that shall be given access to the HYDROGEN STATION to dispense hydrogen, to fuel HYDROGEN FUELLED VEHICLES authorized by such third party subject to abiding by the then applicable rules regulations and protocols adopted by the Lessor.

5. INTELLECTUAL PROPERTY

- 5.1 The Hydrogen Station Lessee shall not acquire a right of ownership of, nor use rights in DATA arising during the dispensing of hydrogen from the HYDROGEN STATION into HYDROGEN FUELLED VEHICLES owned, operated, leased or otherwise conveyed by HYDROGEN STATION PARTICIPANTS and their AFFILIATES.
- 5.2 Lessor grants the Hydrogen Station Lessee a non-exclusive, revocable license under United States patents and United States patents presenting claims embodying processes for dispensing hydrogen, issuing during the term of this Agreement assigned to Lessor for the limited purpose of dispensing hydrogen from the HYDROGEN STATION into HYDROGEN FUELLED VEHICLES subject to all limitations set forth in this AGREEMENT.

6. HYDROGEN STATION OPERATION

- 6.1 Lessor and the Hydrogen Station Lessee shall undertake the scope of work set forth in the First Attachment (Scope of Work) which is incorporated by reference and made a part of this Agreement.
- 6.2 Hydrogen Station Lessee grants Lessor a sole and exclusive lease, including right of ingress and egress during the term of this Agreement to a plot of land identified by "A" in a circle as set forth in the Third Attachment (Plot) to this Agreement. This sole and exclusive lease includes the the sole and exclusive right to grant ingress and egress rights to the Plot to HYDROGEN STATION PARTICIPANTS to access hydrogen from a HYDROGEN STATION to be delivered to such plot by Lessor during the term of this Agreement. Lessor shall operate or shall grant certain rights to HYDROGEN STATION PARTICIPANTS to operate the HYDROGEN STATION situated on the Plot to dispense hydrogen into certain HYDROGEN FUELLED VEHICLES. Lessor shall possess the sole right and responsibility to maintain the HYDROGEN STATION as set forth in the Second Attachment (Pre-Construction, Construction and Installation) of this Agreement.
- 6.3 Hydrogen Station Lessee shall visually inspect the HYDROGEN STATION each business day. Lessor shall otherwise operate and maintain the HYDROGEN STATION at its expense as set forth in Article 6.2 of this Agreement. Hydrogen Station Lessee shall use all reasonable precaution to prevent trespass on or entrance to the HYDROGEN STATION by any unauthorized person or persons. Hydrogen Station Lessee shall ensure that the HYDROGEN STATION will not become contaminated by oil, grease, moisture, or any other foreign material. Any and all maintenance or replacement parts that are installed during the term of this AGREEMENT shall become and be a part of the HYDROGEN STATION.
- 6.4 Except as set forth in the Second Attachment to this Agreement, Hydrogen Station Lessee shall not be liable for loss or damage to the HYDROGEN STATION except to the extent caused by negligent acts or omissions of the Hydrogen Station Lessee.
- 6.5 At the request of Lessor, Hydrogen Station Lessee agrees to join with Lessor in executing and recording a fixture filing pursuant to the Uniform Commercial Code in form satisfactory to Lessor to evidence Lessor's ownership and title in and to the HYDROGEN STATION.

- 6.6 Hydrogen Station Lessee shall comply with all laws, ordinances, and regulations governing or affecting the use and operation of the HYDROGEN STATION. Hydrogen Station Lessee shall abide by the recommendations of Lessor in matters pertaining to safe operation and maintenance of the HYDROGEN STATION, and to external factors affecting the safety thereof, and to promptly implement such recommendations. Lessor shall be permitted to inspect the HYDROGEN STATION at all reasonable times and to have access to the premises on which the HYDROGEN STATION is located for this purpose, such inspection to be at Lessor's own expense.
- 6.7 Lessor shall timely decommission and remove the HYDROGEN STATION upon the earlier of termination of the DOE COOPERATIVE AGREEMENT or termination of this AGREEMENT.

7. TAXES

- 7.1 In the event any excise, sales, use taxes, or any other taxes, charges, or fees are imposed by any Federal, state or local governmental authority upon the HYDROGEN STATION, its use, and operation, or upon the income resulting therefrom (except income taxes imposed by the Federal government), then Air Products shall be responsible for payment of such taxes, charges or fees.

8. LIABILITY AND INSURANCE

- 8.1 UNLESS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, THIS AGREEMENT CONTAINS NO OTHER WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY LAW, INCLUDING, WITHOUT LIMITATION OF THE FOREGOING, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LESSOR WILL NOT BE LIABLE TO HYDROGEN STATION LESSEE IN CONTRACT OR IN TORT (EXCLUDING GROSS NEGLIGENCE AND STRICT LIABILITY) FOR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT AND LOSS OF USE, ARISING OUT OF THIS AGREEMENT.
- 8.2 Hydrogen Station Lessee shall defend, indemnify, and hold harmless Lessor, its employees, officers, its affiliate and subsidiary companies, and agents, against all claims, suits, liabilities, judgments, losses and expenses and any fines, penalties and assessments, arising out of any bodily/personal injury, disease, or death of any persons or damage to or loss of any property, to the extent caused solely by the negligence or omission of Hydrogen Station Lessee, its employees, officers, its affiliate and subsidiary companies and agents in connection with operation, control over and access to and from the HYDROGEN STATION.
- 8.3 Lessor shall defend, indemnify, and hold harmless Hydrogen Station Lessee, its employees, officers, its affiliate and subsidiary companies, and agents, against all claims, suits, liabilities, judgments, losses and expenses and any fines, penalties and assessments, arising out of any bodily/personal injury, disease, or death of any persons or damage to or loss of any property, to the extent caused solely by the negligence or omission of Lessor, its employees, officers, its affiliate and subsidiary companies and agents in connection with site construction, installation and maintenance of the HYDROGEN STATION.
- 8.4 Neither Party's liability to the other Party under this AGREEMENT for claims, suits, liabilities, judgments, losses and expenses and any fines, penalties and assessments, arising out any legal theory or principal, whether previously existing or newly proposed shall exceed \$100,000 in the aggregate.

8.5 Hydrogen Station Lessee acknowledges that there are hazards associated with the use of the HYDROGEN STATION, that it understands such hazards, and that it is the responsibility of the Hydrogen Station Lessee to warn and protect its employees, HYDROGEN STATION PARTICIPANTS and their invitees and any third party exposed to such hazards through operation of the HYDROGEN STATION and the dispensing of hydrogen therefrom. The Hydrogen Station Lessee assumes all risk and liability for loss, damages or injury to persons or to property of the Hydrogen Station Lessee and or others arising out of the presence or use of the HYDROGEN STATION.

8.6. Concurrent with the execution of this LEASE AND MAINTENANCE AGREEMENT and in partial performance of LESSEE's obligations hereunder, LESSEE shall deliver to LESSOR a Certificate of Insurance or Self-Insurance on a standard form as provided in the Fourth Attachment, such form providing evidence of coverage for:

(a) Commercial general liability insurance or self-insurance equivalent in coverage scope to ISO CG 00 01 10 93 in an amount not less than One Million Dollars (US \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000) in aggregate.

(b) "All Risk" property coverage in an amount sufficient to cover the full replacement value of LESSEE's personal property, improvements, and equipment on the Lease and Maintenance Agreement Premises.

The insurance or self-insurance program shall not be suspended, voided, changed, or canceled by either party except after thirty (30) days prior written notice to LESSOR, and shall be primary and not contributing to any other insurance or self-insurance maintained by LESSOR.

With respect to damage to property, LESSOR and LESSEE hereby waive all rights of subrogation, one against the other, but only to the extent that collectible commercial insurance is available for said damage.

Such insurance or self-insurance as required herein shall not be deemed to limit LESSEE'S liability relating to performance under this LEASE AND MAINTENANCE AGREEMENT. Evidence of self-insurance shall not be construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this LEASE AND MAINTENANCE AGREEMENT.

LESSOR shall provide LESSEE with evidence of equivalent insurance or self-insurance.

Any modification or waiver of the insurance requirements herein shall be made only with the written approval of the LESSEE'S Risk Manager or designee.

9. **TITLE**

9.1 Nothing herein contained shall affect the absolute ownership and title in and to the HYDROGEN STATION, such ownership and title being hereby expressly reserved by the Lessor. Hydrogen Station Lessee shall not sub-lease the HYDROGEN STATION, or any part thereof, nor to permit the same, or any part thereof, to pass out of its possession or from its control. Hydrogen Station Lessee will not suffer or permit the HYDROGEN STATION or any part thereof, to become subject to any lien for debt of any kind that may be owed by or demanded of the Hydrogen Station Lessee.

10. **FORCE MAJEURE**

10.1 A Party hereto shall not be considered in default in the performance of its obligations hereunder (other than its obligation to make any payment of money hereunder), or be liable in damages or otherwise for any failure or delay in performance which is due to strike, lockout, concerted act of workers or other industrial disturbance, fire, explosion, flood or other natural catastrophe, civil disturbance, riot or armed conflict whether declared or undeclared, curtailment, shortage, rationing or allocation of normal sources of supply of labor, materials, transportation, energy, or utilities, accident, Act of God, delay of subcontractors or vendors, sufferance of or voluntary compliance with act of government and government regulations(whether or not valid), embargo, machinery or Hydrogen Station breakdown, or due to any other cause whether similar or dissimilar to any of the causes or categories of causes described above and which is beyond the reasonable control of the Party claiming excuse hereunder.

11 **ASSIGNMENT**

11.1 This AGREEMENT shall enure to the benefit of and be binding upon the Parties hereto and their respective successors, representatives and assigns, but no assignment shall release either Party from any of its obligations or duties under any of the provisions of this AGREEMENT, unless the other Party shall, in writing, consent to such release.

12. **TERM AND TERMINATION**

12.1 This AGREEMENT shall commence as of the EFFECTIVE DATE listed above and shall remain in full force and effect through September 30, 2008. This AGREEMENT shall be undertaken on a fiscal year basis (October 1 through September 30 of each respective calendar year during the term of this AGREEMENT, a "Fiscal Year"). The DOE COOPERATIVE AGREEMENT is tentatively scheduled to terminate on September 30, 2008. Lessor shall keep Hydrogen Station Lessee informed of changes to the termination date on a timely basis. The actual termination date may be extended beyond September 30, 2008, subject to mutual agreement between Air Products and the DOE, in which case Hydrogen Station Lessee and Lessor may mutually agree to extend the term of this AGREEMENT.

12.2 The Lessor shall possess the unilateral right to terminate this AGREEMENT if the DOE terminates the DOE COOPERATIVE AGREEMENT or funding for such HYDROGEN STATION is materially reduced by electing not to participate during a subsequent Fiscal Year by providing six (6) months written notice to the Hydrogen Station Lessee prior to commencement of the next respective Fiscal Year, provided that the effective date of termination shall be deemed September 30th of the Fiscal Year in which notice of termination is provided.

13. **NOTICES**

13.1 All notices hereunder shall be delivered to Hydrogen Station Lessee at the address set forth above and to Lessor at 7201 Hamilton Boulevard, Allentown, Pennsylvania 18195-1501 - Attention, Corporate Secretary.

14. **MISCELLANEOUS**

14.1 Any dispute between the Parties relating to this AGREEMENT that cannot be resolved with reasonable promptness shall be referred to each Party's senior manager in an effort to obtain prompt resolution. Neither Party shall commence any action against the other until the expiration of 60 days from the date of referral to such senior managers; provided however, this shall not preclude a Party from instituting an action seeking injunctive relief to prevent irreparable damage to such Party.

14.2 This instrument constitutes the entire agreement between the parties hereto, supersedes all previous agreements and understandings, whether oral or written, relating to the subject matter hereof, and may not be changed or modified orally. This AGREEMENT shall be governed by and construed according to the laws of the State of California without giving effect to its conflicts of laws provisions.

14.3 The Parties hereto have caused this AGREEMENT to be executed by their duly authorized representatives, on the day first above written, intending hereby to be legally bound.

CITY OF LONG BEACH, CALIFORNIA

COMPANY NAME (HYDROGEN STATION LESSEE)

By: [Signature]

City Manager
TITLE

4-4-07

DATE

Submitted by: Edward C. Heydorn

ACCEPTED

**AIR PRODUCTS AND CHEMICALS, INC.
(LESSOR)**

By: [Signature]

General Manager
TITLE

2/22/07

DATE

By: _____

TITLE

DATE

By: [Signature]

Vice President Energy
TITLE

2/22/07

DATE

NAKDG3888(V7).DOC

APPROVED AS TO FORM

3/14, 2007
ROBERT E. SHANNON, City Attorney

By: [Signature]
DEPUTY CITY ATTORNEY

ALL-PURPOSE ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

County of Lehigh

On February 22, 2007 before me, Nancy L. Wetzel
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Thomas F. Mutchler
Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
NANCY L. WETZEL, Notary Public
City of Allentown, Lehigh County
My Commission Expires Aug. 5, 2009
Place Notary Seal Above

WITNESS my hand and official seal.

Nancy L. Wetzel
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document
Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
<input type="checkbox"/> Individual	<input type="checkbox"/> Individual
<input type="checkbox"/> Corporate Officer -- Title(s): _____	<input type="checkbox"/> Corporate Officer -- Title(s): _____
<input type="checkbox"/> Partner -- <input type="checkbox"/> Limited <input type="checkbox"/> General	<input type="checkbox"/> Partner -- <input type="checkbox"/> Limited <input type="checkbox"/> General
<input type="checkbox"/> Attorney in Fact	<input type="checkbox"/> Attorney in Fact
<input type="checkbox"/> Trustee	<input type="checkbox"/> Trustee
<input type="checkbox"/> Guardian or Conservator	<input type="checkbox"/> Guardian or Conservator
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____

Signer Is Representing: _____

Signer Is Representing: _____

PHOTO IDENTIFICATION OF SIGNER
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PHOTO IDENTIFICATION OF SIGNER
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ALL-PURPOSE ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

County of Lehigh

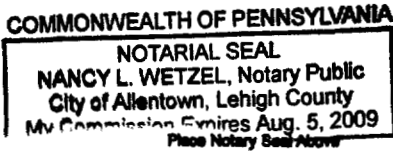
On February 22, 2007 before me, Nancy L. Wetzel
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared David J. Taylor
Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Nancy L. Wetzel
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

FIRST ATTACHMENT
SCOPE OF WORK

AIR PRODUCTS AND CHEMICALS (APCI), INC.
HYDROGEN FUELER (HF-150) SYSTEM INSTALLATION SCOPE OF WORK

Date: 3/24/06
Revision: 1

Customer Name: City of Long Beach System Location: Long Beach Energy, 2400 East Spring St.
Product/Purity: Hydrogen / Industrial City, State: Long Beach, CA

A. EQUIPMENT CAPABILITIES

	Gas
Product Used As (Gas or Liquid)	
Estimated Monthly Usage - kg/Month (SCF/month):	~40 (~17,000)
Maximum Total Monthly Volume kg/month (SCF/Month)	TBD (TBD)
Design Supply Pressure – bar (psig):	350 (5,076)
Design Vehicle Fill:	4 kg
Design Vehicle Fill Rate Without Communications	4 – 8 minutes
Time Between Fills	Immediate
Maximum Fills/Day (Average)	N/A

Special Capabilities: Compliant with CaFCP Rev 7, CaFCP Type 2 Fill and SAE J2600 compliant

B. MAJOR EQUIPMENT DESCRIPTION

- 1 HF-150 Trailer, to include:
- 8 High strength carbon steel 6600 psig gaseous hydrogen storage vessels
- 1 Automated Dispenser
- 1 Self-Power System
- 1 Cellular Telemetry Remote Monitoring System

C. MATERIALS OF CONSTRUCTION

Product Piping: Stainless Steel ASTM A269, Type 304 or 316
Process Valves: Stainless Steel

D. APCI'S HF-150 SYSTEM INSTALLATION RESPONSIBILITIES

1. Contact customer to discuss scope of work and negotiate installation schedule.
2. Conduct site visit/site evaluation. A technical representative of APCI must approve the installation site prior to the initiation of civil work by the customer. Siting is per NFPA 55 (latest edition) and APCI requirements.
3. Assist customer with permitting process, including providing non-proprietary drawings, operating experience, meetings with code officials. APCI shall bear its expenses incurred during the permitting process..
4. Provide drawings required for the execution of the site preparation which may include, but is not limited to, site layout, foundation details, and non-proprietary process flow diagrams.
5. Provide materials not explicitly highlighted under the customer's scope of work to commission and start-up the bulk hydrogen supply system in accordance with APCI specifications and standards.
6. Coordinate for the first delivery to the customer's installation site.
7. Provide protective posts (e.g. crash bollards), as required by the AHJ, to protect the system from vehicular traffic and third parties.

8. Provide and install ground rod 3/4" diameter x 6' long - ITT Weaver Type WB 3/4 at Emergency stop location for trailer ground. Test using a megger ground tester.
9. Provide operating procedure(s).
10. Installation of Emergency Stop at customer selected location. (Customer to provide wiring if beyond reach of standard 25 feet cable reel.)
11. Provide labor and materials not highlighted in the customer's scope of work to commission and start-up the HF-150 supply system. This will include the following:
 - a. Conduct an Operational Readiness Inspection (ORI) of the gaseous supply system.
 - b. Pressure test/Leak test system.
 - c. Commission the system immediately following the first delivery of the equipment.
12. Provide supply system description, operator training, and safety orientation to the customer's operating personnel. Training to consist of two classes approximately four hours each.
13. Provide labor and material required to perform routine maintenance and repair of the APCI-owned portions of the hydrogen supply system in accordance with APCI standard operating procedures.
14. Pick-up and deliver the HF-150 for refilling.
15. Commission the system immediately following a delivery.

E. CUSTOMER'S HF-150 SYSTEM INSTALLATION RESPONSIBILITIES

1. GENERAL

- a. To the extent APCI is unable to apply on its own behalf, the customer shall apply for all required state and local installation and operating permits including environmental permit(s) if applicable, to the extent such permits must be signed by the property owner of record.
- b. Restrict the use of the HF-150 trailer to vehicles and vehicles operators which have been trained and approved as agreed to by Customer and Air Products.
- c. Keep area clean and free of all debris and weeds.
- d. Prohibit the storage of oil, grease, lubricants or any flammable or combustible material on or within the equipment area.
- e. Provide site specific safety training for APCI personnel and contractors in accordance with OSHA guidelines.
- f. Prevent any customer employee or third party not properly trained in the operation of the supply system from altering, repairing, adjusting or tampering with the supply equipment.
- g. Provide provisions deemed necessary by Customer and APCI to maintain security of equipment.
- h. Any special site conditions or requirements not specifically listed in this document will be a change in original scope. These include, but are not limited to, building or zoning codes and restrictions, height, noise, or delivery restrictions, corrosive atmospheres, special materials of construction, emergency shutoff requirements, special instrumentation or control, sampling or analytical services, painting or color specifications, temporary supply requirements, soil bearing capacity, special design requirements, requirements for union labor, special cleaning requirements, special piping codes such as ANSI, special installation or maintenance procedures, or special site restrictions.

2. CIVIL

- a. Provide a suitable site that meets all of the requirements of NFPA 55 (latest edition).
- b. Provide adequate vehicle access to and from the installation site. Notify Air Products of any delivery restrictions or delivery windows.

3. ELECTRICAL

- a. Provide explosion proof electrical equipment, where required, within 15' of any portion of the HF-150 system. Reference the National Electric Code (NEC), latest revision, per Class 1, Group B, Division II, locations.
- b. Provide adequate lighting for the installation area for station users, night deliveries, and system service/repairs.

F. SCHEDULE

On-site time required to commission supply system:

1 day

SECOND ATTACHMENT
(PRE-CONSTRUCTION, CONSTRUCTION AND INSTALLATION)

1. EQUIPMENT: INSTALLATION, MAINTENANCE AND REMOVAL

- 1.1 Lessor shall, if required by Hydrogen Station Lessee, and as necessary for the mode of supply, install on Hydrogen Station Lessee's premises at each Designated Location storage units, equipment, piping, controls and other instrumentation and devices ("Equipment") as Lessor may deem appropriate to supply any of Hydrogen Station Lessee's requirements for liquid or gaseous Product(s). Hydrogen Station Lessee agrees that Lessor may use non-union labor for the installation of Equipment; provided, however, that such labor shall be paid at the prevailing wage rate as required by California law.
- 1.2 If significant changes in Hydrogen Station Lessee's requirements, methods or locations of use, or changes in the construction or operation of Hydrogen Station Lessee's facilities at any Designated Location warrant the relocation, replacement, installation or removal of any item of Equipment, including, but not limited to, installation of alternative supply Equipment, Lessor shall make such relocation and install or remove such item of Equipment and charge Hydrogen Station Lessee for the expenses incurred thereby. Lessor, at its own cost and expense, may from time to time remove any item of Equipment and replace it with such other item of Equipment as Lessor may determine is adequate to serve Hydrogen Station Lessee's needs.
- 1.3 Lessor shall maintain and repair Equipment in accordance with Lessor's standard practice. Repair due to damage to Equipment caused by Hydrogen Station Lessee shall be provided by Lessor and be paid for by Hydrogen Station Lessee at Lessor's standard service rates prevailing when such services are rendered. Repair due to damage to Equipment caused by Lessor or HYDROGEN STATION PARTICIPANTS shall be provided by Lessor and paid for by Lessor.

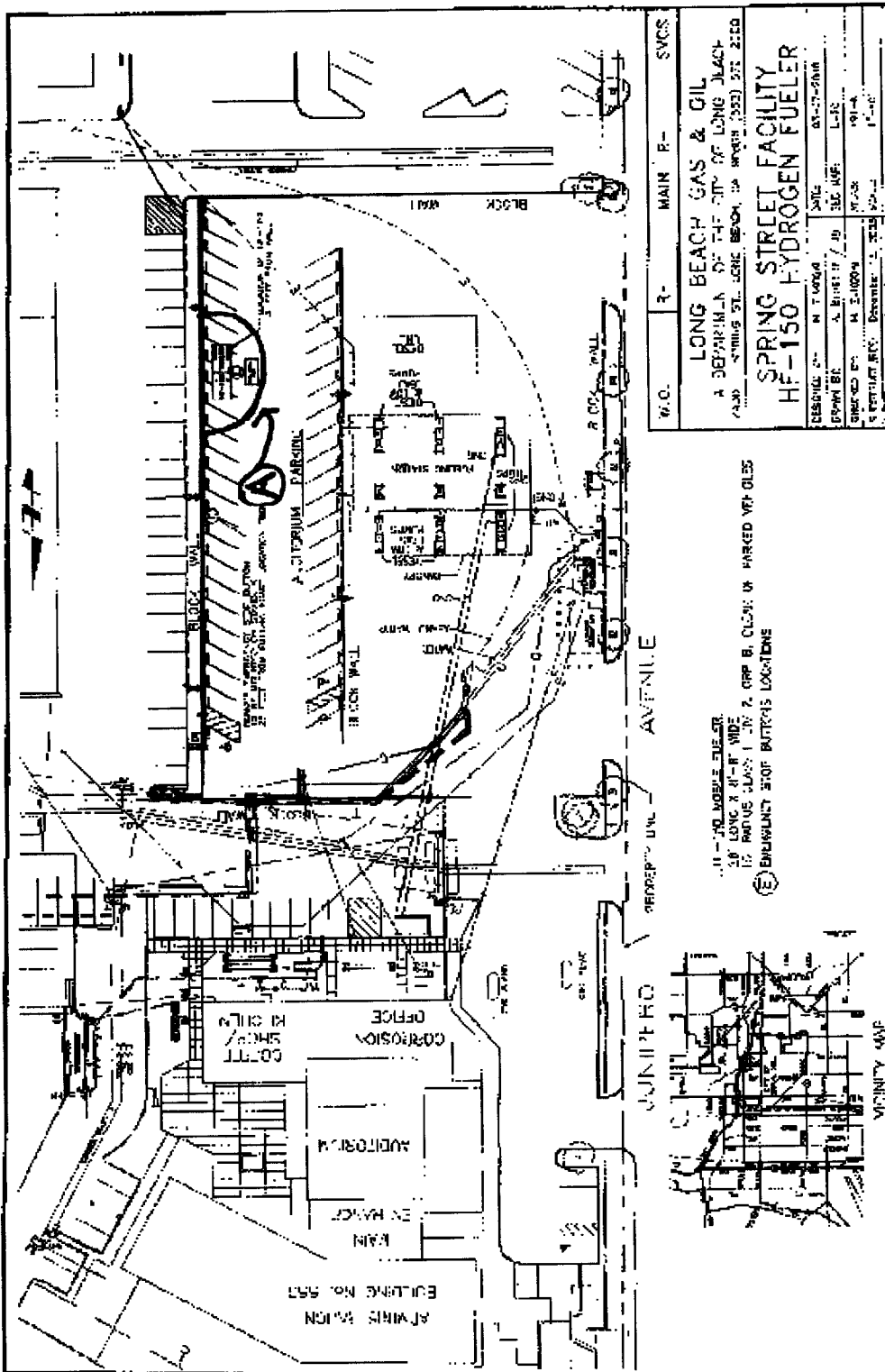
2. HYDROGEN STATION LESSEE'S OBLIGATIONS

Hydrogen Station Lessee shall, without cost to Lessor:

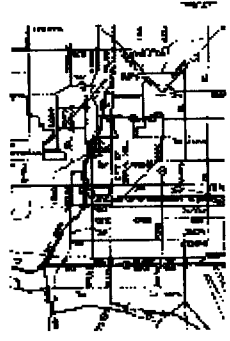
- 2.1 Furnish Lessor an area or areas meeting applicable federal, state and local legal requirements and satisfactory to Lessor for the installation of any Equipment ("Equipment Area"), together with unrestricted access thereto to Lessor and Lessor's authorized representatives for all proper purposes under this Agreement. The Equipment Area shall be free from toxic and hazardous materials which would prevent or increase the cost of installation or operation of the Equipment or which would cause injury or death of Lessor's employees or any other persons near the Equipment Area or which would cause damage to any other adjoining property. Notwithstanding anything else in this Agreement to the contrary, Hydrogen Station Lessee hereby indemnifies and holds harmless Lessor from and against any and all claims, liabilities, costs (including legal fees), expenses, damages, penalties and fines that arise out of or result from any toxic or hazardous materials now or hereafter in, on or under the Equipment Area, and which do not occur or result directly from Lessor's performance pursuant to this Agreement.
- 2.2 Cooperate with Lessor in the maintenance and repair of the HYDROGEN STATION.
- 2.3 Maintain in confidence and require its employees by appropriate instructions to safeguard any installation, maintenance and access instructions and codes provided by Lessor with respect to the equipment, and to return promptly all such materials to Lessor upon termination of this Agreement.

THIRD ATTACHMENT

(PLOT)



11 - 10' MOBILE CLEARANCE
 12 - LONG X 21'-8" WIDE
 13 - PARKING CLASS 1 - 2, ORP B, CLASS 1 - PARKED VEHICLES
 (E) BICYCLIST STOP BUTTONS LOCATIONS



FOURTH ATTACHMENT
(LESSOR'S CERTIFICATE OF INSURANCE)