



**Board of Directors Special Meeting
January 13, 2025, 2:00 p.m.
City of Industry, Expo Center, Avalon Room
16200 Temple Avenue, City of Industry, CA 91744**

All documents available for public review are on file with the First Public Hydrogen Authority (FPH₂) Secretary located at the City of Lancaster, City Clerk's Office, 44933 Fern Avenue, Lancaster, CA 93534.

Members of the public can provide public comment in writing or orally in person as follows:

Written Comments: If you are unable to participate in person and you wish to make a comment, you may submit written comments by 9:00am on the day of the meeting via email to: Secretary@FPH2.org All written comments will be posted online and become part of the meeting record. Public comments received in writing will not be read aloud at the meeting.

Oral Comments: Members of the public can address the Board in person on items on the agenda at the time the item is being addressed or during Public Comments for topics that are not listed on the agenda. Speakers are limited to three (3) minutes each. In conformance with the Brown Act, no Board action can occur on items presented during Public Comment.

To address the Board regarding an item on the agenda, please fill out a speaker card and submit it to the Board Secretary before the Board Chair announces the item. If you desire to speak during Public Comment, please fill out a speaker card and submit it to the Board Secretary. When you are called to speak, please come forward to the podium and state your name.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

OATH OF OFFICE – New Board Members – (Introductions)

ACTION ITEMS

Prior to action of the FPH₂ Board, any member of the public will have the opportunity to address the FPH₂ on any item listed on the agenda.

Item 1: Consider Appointment of First Public Hydrogen Authority Officers

RECOMMENDATION

Board of Directors appoint First Public Hydrogen Authority Officers:

Chief Executive Officer – Jason Caudle

General Counsel – Allison Burns

Secretary – Susan Caputo

Treasurer – Barbara Boswell

PRESENTATIONS – Duties and Responsibilities – Allison Burns, General Counsel

Consent Calendar

Item 2: Consider Adoption of Resolution No. 2025- 001 Establishing Regular Board Meeting Schedule.

RECOMMENDATION

Adopt Resolution No. 2025- 001 Establishing Regular Board Meeting Schedule.

Item 3: Consider Adoption of Resolution No. 2025-002 Approving First Public Hydrogen Authority Bylaws

RECOMMENDATION

Adopt Resolution No. 2025- 002 Approving First Public Hydrogen Authority Bylaws.

Item 4: Consider Adoption of First Public Hydrogen Policy No. FPH₂ 2025-01 Non-Energy Procurement Policy

RECOMMENDATION

Approve First Public Hydrogen Authority Policy No. FPH₂ 2025-01 Non-Energy Procurement Policy.

New Business

Item 5: Consider Adoption of Resolution No. 2025-004 Approving First Public Hydrogen Authority Fiscal Year 2024/25 Budget and Approve Execution of City of Lancaster Agreement.

RECOMMENDATION

Adopt Resolution No. 2025-004 approving the First Public Hydrogen Authority Fiscal Year 2024/25 budget and approve execution of City of Lancaster Agreement,

substantially in the form attached, and authorize Chief Executive Officer to execute all documents, subject to General Counsel approval.

Item 6: Consider Authorization of Execution of a Community Workforce Agreement

RECOMMENDATION

Authorize the Chief Executive Officer to execute a Community Workforce Agreement, establishing labor relations policies and procedures for certain First Public Hydrogen projects, substantially in the form attached, subject to General Counsel approval.

Item 7: Consider Approval of Qualified Hydrogen Fuel Supplier List

RECOMMENDATION

Approve Qualified Hydrogen Fuel Supplier List as submitted.

Item 8: Chief Executive Officer/General Counsel Update

RECOMMENDATION

Receive updates from the Chief Executive Officer and General Counsel

PUBLIC COMMENT

Members of the public may address the Board of Directors on any item that is within the jurisdiction of First Public Hydrogen Authority (FPH₂); however, no action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Subdivision (b) of Section 54954.2 of the Government Code. Under the provisions of the Brown Act, the FPH₂ Board is prohibited from taking action on non-agendized matters. However, Board Members may respond briefly or refer the communication to staff. The FPH₂ Board may also request the Secretary to calendar an item related to your communication at a future Board meeting.

BOARD MEMBER QUESTIONS/COMMENTS

BOARD REQUESTS FOR FUTURE AGENDA ITEMS

PREVIEW OF AGENDA ITEMS FOR FUTURE MEETINGS – DRAFT AGENDA FORECAST ATTACHED

NEXT MEETING: Regular Board Meeting February 20, 2025, Contingent on Board Approval of Item 2 Resolution No. 2025-001 Establishing Regular Board Meeting Schedule

If you are an individual with a disability and need a reasonable modification or accommodation pursuant to the Americans with Disabilities Act (“ADA”), please contact Secretary@FPH2.org prior to the meeting for assistance.

Forecast of February Agenda Items

- Consider Adoption of Debt Policy
- Consider Approval of Credit Facility
- Consider Board Member Appointment
- Consider Adoption of Conflict of Interest Code

DRAFT



STAFF REPORT

1/13/25
JC

Date: January 13, 2025
To: Chair Parris and Authority Members
From: Jason Caudle, Chief Executive Officer
Item 1: **Consider Appointment of First Public Hydrogen Officers**

Recommendation:

Board of Directors appoint the following First Public Hydrogen Officers:

- Chief Executive Officer - Jason Caudle
- General Counsel - Allison Burns
- Secretary - Susan Caputo
- Treasurer - Barbara Boswell

Fiscal Impact:

There is no fiscal impact to First Public Hydrogen Authority ("FPH₂") by this action.

Background:

The FPH₂ Joint Powers Agreement ("JPA") establishes the responsibilities of the Board of Directors. Section C.3 of the JPA states:

"The Board of Directors shall appoint a Chief Executive, General Counsel, Secretary and Treasurer/Auditor-Controller of the Authority ("Treasurer") pursuant to Section 6505.6 of the Joint Exercise of Powers Act."

The recommended appointees bring experience in municipal government and successfully establishing new JPA agencies.

Chief Executive Officer

Jason Caudle brings municipal executive experience, currently serving as Chief Executive Officer of California Choice Energy Authority (CalChoice) and as City Manager of the City of Lancaster.

Jason oversaw the successful launch of CalChoice, a JPA serving the needs of municipal community choice aggregations. Under the leadership of Chair Parris, Jason has been instrumental in overseeing the creation of FPH₂. His knowledge in the hydrogen industry ensures that FPH₂ will be the premier public entity for local agencies to meet their hydrogen demands and hydrogen suppliers to effectively sell their fuel.

General Counsel

Allison Burns brings her many years of experience serving as General Counsel and City Attorney for local government agencies throughout the state. Allison serves as City Attorney for City of Lancaster, as well as General Counsel for CalChoice. Her expertise in the energy industry will be invaluable as FPH₂ navigates this new and exciting business world.

Secretary

Susan Caputo has spent the past 30 years serving as Board Secretary and Deputy City Clerk for a number of agencies. These include Clean Energy Alliance (CEA), a community choice aggregation that was formed in 2021, Clean Power Alliance (CPA) and the City of Santa Clarita. Having served as the Board Secretary during CEA early formation years, Susan is uniquely qualified to serve as the inaugural Board Secretary, establishing policies and procedures consistent with State law and industry best practices.

Treasurer

Barbara Boswell brings over 30 years of municipal finance experience. She served as Finance Director/Treasurer for City of Lancaster for 11 years and currently serves as Treasurer of CalChoice. In addition to her finance experience, Barbara also brings executive leadership experience in guiding new JPAs, having served as the inaugural Chief Executive Officer for CEA.

Attachment:

None



STAFF REPORT

1/13/25
JC

Date: January 13, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 2: **Consider Adoption of Resolution No. 2025-001 Establishing First Public Hydrogen Regular Board Meeting Schedule**

Recommendation:

Adopt Resolution No. 2025-001 establishing First Public Hydrogen Regular Board Meeting Schedule.

Fiscal Impact:

There is no fiscal impact to First Public Hydrogen Authority (FPH₂).

Background:

Pursuant to Section 3.D(2) of the FPH₂ Joint Powers Agreement, the FPH₂ Board is to adopt a resolution establishing the date, hour, and place of the regular Board meetings. The Board may also call special meetings when needed, in accordance with Section 54956 of the Government Code of the State of California, to the extent permitted by the Brown Act. Board Members may participate in Board meetings either by telephone or video conference, subject to compliance with the Brown Act.

The resolution sets the Regular Board meetings schedule as follows:

DATE	HOUR	PLACE
3 RD Thursday of each Month	3pm	City of Lancaster, City Council Chambers 44933 Fern Ave Lancaster, CA. 93534

Attachment:

First Public Hydrogen Resolution No. 2025-001 Establishing Date, Hour, and Place of Regular Board Meetings

**FIRST PUBLIC HYDROGEN AUTHORITY
RESOLUTION NO. 2025-001**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FIRST PUBLIC
HYDROGEN AUTHORITY SETTING TIME AND PLACE
FOR FIRST PUBLIC HYDROGEN
REGULAR BOARD MEETINGS**

WHEREAS, the First Public Hydrogen (FPH₂) is a joint powers agency, formed in December 2024 by the cities of Industry and Lancaster; and

WHEREAS, the FPH₂ Joint Powers Agreement establishes regular meetings are to be set by the Board via adoption of a resolution; and

WHEREAS, special meetings of the Board of Directors will be called as necessary and following the requirements of the Brown Act (Government Code §54954).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the First Public Hydrogen Authority, as follows:

Section 1. The Board of Directors of the First Public Hydrogen Authority hereby establishes the following dates, times, and location, for regular Board meetings:

DATE	HOUR	PLACE
3 RD Thursday of each Month	3pm	City of Lancaster, City Council Chambers 44933 Fern Ave Lancaster, CA. 93534

Section 2. That the meeting calendar will be posted to the First Public Hydrogen Authority website.

The foregoing Resolution No. 2025-001 was passed and adopted this 13th day of January 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

R. Rex Parris, Chair
First Public Hydrogen Authority

ATTEST:

Susan Caputo, Board Secretary
First Public Hydrogen Authority



STAFF REPORT

1/13/25
JC

Date: January 13, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 3: **Consider Adoption of Resolution No. 2025-002 Approving First Public Hydrogen Bylaws**

Recommendation:

Adopt Resolution No. 2025-002 approving First Public Hydrogen (FPH₂) Bylaws.

Fiscal Impact:

Section 1.4 of the Bylaws recommends monthly compensation in the amount of \$1,600 per Board Member for meeting attendance. Total annual cost of compensation for all 7 board members is \$134,400. The Board compensation is included in the Proposed FY 2024/25 Budget to be considered by the Board in a later action at this meeting.

Background:

The purpose of the FPH₂ Bylaws is to establish procedural rules for the conduct of FPH₂ business that are consistent with the provisions of the FPH₂ Joint Powers Authority Agreement (JPA Agreement). The JPA Agreement has extensive procedural requirements set forth within it which reduces the need for lengthy bylaws. The bylaws prepared for Board consideration address the following:

- Article 1 – The Authority: addresses Name, Board Members, Principal Office, Compensation and Conflict of Interest Code
- Article 2 – Officers: addresses Officers, Chair, Vice Chair, Chief Executive Officer/Executive Director, Secretary, Treasurer/Auditor-Controller, Confirmation of Officers, Authority to Bind Authority
- Article 3 - Employees and Agents: addresses Appointment of Employees and Agents
- Article 4 – Meetings: address Ralph M. Brown Act, Regular Meetings, Special Meetings, Closed Sessions, Public Hearings, Quorum, Adjourning Meetings and

Continuing Public Hearings to Other Times or Places, Order of Business,
Parliamentary Procedure

- Article 5 – Addition or Removal of Member Agency: addresses Adding Member, Membership, Committees, Termination of Membership
- Article 6 – Amendments: Addresses process for amending the bylaws.

Attachment:

Resolution No. 2025-002 Approving First Public Hydrogen Authority Bylaws

**FIRST PUBLIC HYDROGEN AUTHORITY
RESOLUTION NO. 2025-002**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FIRST PUBLIC
HYDROGEN AUTHORITY APPROVING BYLAWS**

WHEREAS, the First Public Hydrogen (FPH₂) is a joint powers agency, formed in December 2024 by the cities of Industry and Lancaster; and

WHEREAS, the Bylaws establish procedural rules for the conduct of FPH₂ business that are consistent with the provisions of the FPH₂ Joint Powers Agreement; and

WHEREAS, the FPH₂ Board desires to adopt Bylaws.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the First Public Hydrogen Authority, as follows:

Section 1. The Board of Directors of the First Public Hydrogen Authority have reviewed the Bylaws as presented and find them consistent with the provisions of the FPH₂ Joint Powers Agreement.

Section 2. The Bylaws are to be immediately effective.

The foregoing Resolution No. 2025-002 was passed and adopted this 13th day of January 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

R. Rex Parris, Chair
First Public Hydrogen Authority

ATTEST:

Susan Caputo, Board Secretary
First Public Hydrogen Authority

**Bylaws of
First Public Hydrogen Authority
Approved: _____**

ARTICLE 1 THE AUTHORITY

Section 1.1 Name

The official name of the Authority shall be the “First Public Hydrogen Authority.” The Authority was created pursuant to the Joint Exercise of Powers Agreement, dated December 10, 2024 (“Agreement”), between the City of Lancaster (“Lancaster”) and the City of Industry (“Industry”). The Authority has and may add additional members per the terms of the Joint Exercise of Powers Agreement.

Section 1.2 Authority Board Members

The Authority shall be administered by a governing Board of Directors (the “Board”) as set forth in the Agreement.

Section 1.3 Principal Office

The principal office for the transaction of the business of the Authority shall be 44933 Fern Ave, Lancaster, California, or at such other place as may be designated by the Board by resolution.

Section 1.4 Compensation

Members of the Board shall receive \$1,600 per month for attendance at Authority meetings. Authority Members may be reimbursed for any actual expenses incurred in connection with serving as a member of the Board.

Section 1.5 Conflicts of Interest

The Authority shall adopt a conflict of interest code pursuant to, and in accordance with, the Fair Political Practices Act.

ARTICLE 2 OFFICERS

Section 2.1 Officers

The Officers of the Authority shall be the Chair, Vice Chair, Executive Director, Secretary and Treasurer/Auditor-Controller.

Section 2.2 Chair

The Board member designated by Lancaster shall serve as the first Chair of the Board of Directors for a six (6) year term. At the conclusion of such six (6) year term, and every four (4) years thereafter, an election shall be held at which a Chair shall be selected by majority vote of the Board of Directors for a four (4) year term. The chair shall have no authority greater than any other board member except as set forth in the Agreement and/or these By-laws.

Section 2.3 Vice Chair

At the first Board meeting, and every four (4) years thereafter, an election shall be held at which a Vice Chair shall be selected by majority vote of the Board of Directors for a four (4) year term. In the event that the Board of Directors elects a Chair pursuant to Section 2.2 above, an election shall be held for Vice Chair at the same Board of Directors meeting at which a Chair is elected. At the conclusion of such four (4) year term, and every four (4) years thereafter, an election shall be held at which a Vice Chair shall be selected by majority vote of the Board of Directors for a four (4) year term. The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair, until such time as a new Chair is selected or appointed.

Section 2.4 Chief Executive Officer/Executive Director

The Board shall appoint a Chief Executive Officer/Executive Director (hereafter "CEO/Executive Director") who may be an officer of any Member, and shall be responsible for execution and supervision of the affairs of the Authority. Except as otherwise authorized by vote of the Board, the Executive Director or his or her designee shall sign all contracts, deeds and other instruments executed by the Authority. The Executive Director shall also perform other such functions and duties as may be delegated to him or her by vote of the Board.

Section 2.5 Secretary

The Board shall appoint a Secretary of the Board who may be the City Clerk or Board Secretary of any Member.

Section 2.6 Treasurer/Auditor-Controller

The Board shall appoint a Treasurer/Auditor-Controller. Subject to the applicable provisions of any trust agreement, indenture or resolution providing for a trustee or other fiscal agent, the Treasurer/Auditor-Controller is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and shall file an official bond if so required by the Board in accordance with these Bylaws and, as such, shall have the powers, duties and responsibilities specified in Section 6505.1 of the Joint Exercise of Powers Act (the "Act"), set forth at California Government Code Sections 6500 et seq., as amended. The Treasurer/Auditor-Controller shall perform all duties of a treasurer, as outlined in Section 6505.5 of the Act; however, the Board shall have the discretion to transfer this function to a certified public accountant, consistent with Section 6505.5.

Section 2.7 Confirmation of Officers

Confirmation of officers shall be the first order of business at the first meeting of the Authority, regular or special, held in each fiscal year.

Section 2.8 Authority to Bind Authority

No member, officer, agent or employee of the Authority shall have any power or authority to bind the Authority by any contract, to pledge its credit, or to render it liable for any purpose in any amount, except to the extent that such person

has been granted or delegated prior specific or general authority by vote of the Board.

ARTICLE 3 EMPLOYEES AND AGENTS

Section 3.1 Appointment of Employees and Agents

The Authority, through the Executive Director, may from time-to-time request from the respective Authority Members the services of such personnel, counsel or agents, permanent or temporary, as may be necessary to carry out the business and affairs of the Authority. The Board, or the Executive Director if so delegated by vote of the Board, may in addition employ or contract with temporary professional and technical personnel for the performance of Authority business and affairs, on such terms and at such rates of compensation as the Board, or Executive Director if so delegated by the Board, may determine; provided, however, that adequate sources of funds are identified for the payment of such temporary professional and technical services. Members shall be paid/reimbursed from the Authority for all applicable staff time expended and billed for Authority businesses at their fully burdened hourly rate, as approved by the Executive Director of the Authority or as pursuant to a reimbursement agreement.

ARTICLE 4 MEETINGS

Section 4.1 Ralph M. Brown Act

The Ralph M. Brown Act (Cal. Gov't Code §54950 et seq.) (the "Brown Act") applies to all meetings of the Board.

Section 4.2 Regular Meetings

The Board shall hold regular meetings as specified by Board resolution, and the date, hour and place of the regular meetings shall be fixed by such Board resolution. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

Section 4.3 Special Meetings

A special meeting may be called at any time by the Chair or the Chief Executive Officer/Executive Director in accordance with the Brown Act.

Section 4.4 Closed Sessions

Nothing contained in these By-laws shall be construed to prevent the Board from holding closed sessions during a regular or special meeting concerning any matter permitted by law to be considered in a closed session. All closed sessions shall be held pursuant to and in accordance with the Brown Act.

Section 4.5 Public Hearings

All public hearings held by the Board shall be held during regular or special meetings of the Board.

Quorum

A majority of the number of Board members shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other official purposes, except that less than a quorum may adjourn from time to time until a quorum is obtained. Any action or decision of the Authority shall be on motion duly approved by a majority of a quorum of the Board at a lawfully held meeting.

Section 4.6 Adjourning Meetings and Continuing Public Hearings to Other Times or Places

The Board may adjourn any meeting to a time and place specific in the order of adjournment. If all Board members are absent from any regular meeting or adjourned regular meeting, the Secretary or acting Secretary of the Authority may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be noticed and conducted in accordance with the Brown Act. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specific for regular meetings.

Any public hearing being held, or any hearing noticed or ordered to be held at any meeting may by order or notice of continuance be continued or re-continued to any subsequent meeting and to the same extent set forth herein for the adjournment of the meetings; provided, that if the hearing is continued to a time less than twenty-four (24) hours after the time specific in the order or notice of hearing a copy of the order or notice of continuance shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

Section 4.7 Order of Business.

The Chief Executive Officer/Executive Director shall prepare the agenda for all meetings of the Authority. Business shall be conducted according to the agenda, except when determined by the Board as permitted by law.

Section 4.8 Parliamentary Procedure

The presiding officer at the meeting shall determine the rules of conduct. The presiding officer may be guided by the rules of parliamentary procedure set forth in Robert's Rules of Order, but failure to follow Robert's Rules of Order shall not affect the validity of any action or motion duly taken or adopted by the board at any lawfully held meeting.

ARTICLE 5 ADDITION OR REMOVAL OF MEMBER AGENCY

Section 5.1 Adding Member

Additional Members may be added pursuant to the provisions of Section 12 of the Agreement.

Section 5.2 Membership

Any local agency in the state of California may, with the approval of the Board by resolution, become a Member of the Authority pursuant to the provisions of Section 12 of the Agreement.

Section 5.3 Committees.

The Board may establish an advisory committee as the Board deems appropriate to assist the Board in carrying out its functions. The Board may establish rules, regulations, policies, or procedures to govern any such committees and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

Section 5.4 Termination of Membership

A Member may, upon request, terminate its membership in the Authority upon the conclusion of the term of every Hydrogen Contract that the Authority has entered into on behalf of the Member that has not been assigned to the Member. Upon receipt of a Member's request to commence the process to terminate its membership, the Authority shall take all reasonably practicable steps to assist the Member to negotiate the assignment and assumption of all Hydrogen Contracts that the Authority has entered into on behalf of the Member to the Member and otherwise to facilitate the Member's disassociation from the Authority. Upon assignment and assumption of all Hydrogen Contracts (or expiration of the term of each such Hydrogen Contract), the Authority and the departing Member shall negotiate and execute an agreement documenting the termination of the Member's membership in Authority ("Termination Agreement") and assumption of all rights, duties and obligations pertaining to all Energy Contracts, Administrative Services Agreement(s), technical and/or operational support agreement(s) and/or other contracts entered by Authority on such Member's behalf. The Authority shall be guided in its negotiation of the Termination Agreement by the principles of 1) ensuring the Authority and the Member's financial obligations are fairly and equitably divided, including, but not limited to, requiring the departing Member to replace and/or substitute collateral (or the applicable portion thereof) previously deposited by the Authority on such Member's behalf; 2) making best efforts to facilitate the departing Member's departure by negotiating in good faith for the assignment and/or termination of agreements with third parties entered into in whole or in part on behalf of such Member without compromising Authority's ongoing contracts and/or relationships with such third parties; and 3) not unreasonably delaying, withholding and/or conditioning its consent to such Termination Agreement.

ARTICLE 6 AMENDMENTS

Section 6.1 Amendment by the Board of Directors

The Board may, by resolution, adopt, amend, or repeal the Authority's Bylaws.

EXHIBIT "A"

CERTIFICATE OF SECRETARY

I certify that I am the duly appointed and acting Secretary of the First Public Hydrogen Authority, created in accordance with the provisions of the Joint Exercise of Powers Act (Cal. Gov't. Code §§6500 et seq.); that these bylaws, consisting of a total of eight (8) pages, constitute the bylaws of this Authority as adopted by the Board of Directors on January 13, 2025; and that these bylaws have not been amended or modified since that date.

Executed on _____ at _____, California.

Secretary



STAFF REPORT

1/13/25
JC

Date: January 13, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 4: **Consider Approval of Policy No. FPH₂ 2025-01 Non-Energy Procurement Policy**

Recommendation:

Approve Policy No. FPH₂ 2025-01 Non-Energy Procurement Policy.

Fiscal Impact:

There is no fiscal impact as a result of this action.

Background:

The First Public Hydrogen Authority's (FPH₂) procurement authority was established in the Joint Powers Agreement ("JPA") by and between the City of Lancaster and the City of Industry. Section 3.C of the JPA designates the Chief Executive Officer (CEO) as the individual with the authority to retain independent counsel, consultants, and accountants for the Authority.

This Non-Energy Procurement Policy (the "Policy") is being proposed to provide guidance on the exercise of this authority.

Proposed Policy:

The proposed Policy sets forth rules and procedures for the competitive solicitation of goods and services by FPH₂. The proposed Policy also designates the CEO as the primary authorized signatory for all contracts entered into by FPH₂.

Significant Procurement Requirements:

- **Contract Value Thresholds:** Clear thresholds are established to trigger competitive bidding processes, ensuring transparency and fairness.
 - If the aggregate anticipated value of a contract is \$10,000 or less in any Fiscal Year, no formal proposals or bids shall be required to procure Services or a Combination of Goods and Services. However, the CEO shall use best efforts to seek or obtain at least 2 competitive quotes.
 - If the aggregate anticipated value of a contract is between \$10,001 and \$100,000 in any Fiscal Year, the CEO may procure the Services or Combination of Goods and Services through the RFQ Process.
 - If the aggregate anticipated value of a contract is greater than \$100,000 in any Fiscal Year, one of the following processes shall be used: Request for Proposal (RFP) or Request for Information (RFI).

- **Additional Procurement Methods:** The policy encourages leveraging cost-saving opportunities through cooperative agreements with other entities in instances which enhance operational efficiencies and demonstrates potential cost savings for the Authority, including transaction costs.

CEO Signatory Authority: The proposed Policy designates the CEO as the primary authorized signatory for all non-energy contracts entered into by FPH₂ and authorizes the CEO to enter into any contract pursuant to the proposed Policy up to \$135,000 without prior Board approval.

Attachment:

Policy No. FPH₂ 2025-01 Non-Energy Public Contracting Policy



POLICY TITLE:	Non-Energy Procurement Policy	
POLICY NUMBER:	FPH₂ 2025-01	PROPOSED: January 13, 2025

I. Purpose

The purpose of this policy is to establish competitive solicitation and procurement practices for non-energy services, goods, or a combination thereof for the First Public Hydrogen Authority ("FPH₂"). These practices should facilitate efficient business operations, offer fair compensation and transparency, and provide local workforce opportunities within a framework of high quality, competitive offerings.

This policy ("Policy") does not apply to any energy procurements or transactions governed by the Energy Procurement Policy as enacted, adopted, or revised from time to time by the FPH₂ Board of Directors (the "Board").

II. Definitions

1. **Best Value:** An award based on factors in addition to price that provide the best overall value to FPH₂.
2. **Board:** The Board of Directors of FPH₂, as defined in the JPA, and as may be amended from time to time.
3. **California Multiple Award Schedules (CMAS):** CMAS are statewide contracts established by the Department of General Services (DGS) that offer a streamlined procurement process for a wide variety of goods and services. These contracts have undergone a competitive bidding process, ensuring that pricing and terms are competitive.
4. **Chief Executive Officer or CEO:** Includes the CEO's delegee.
5. **Competitive Solicitation:** A competitive process in which FPH₂ procures goods, services, or a combination thereof from Proposers to secure the Best Value for the FPH₂ and its customers.
6. **Cooperative Procurement:** Refers to the combining of requirements of two or more Public Entities to leverage the benefits of volume purchases, delivery and supply chain advantages, best practices, the reduction of administrative time and expenses, or some combination thereof.

7. **Federal Grant Procurements:** Procurements made on behalf of entities funded in whole or in part by federal funding sources are subject to specific policies and procedures beyond those covered in this policy. For these procurements, the specific requirements shall be detailed in the bid specifications.
8. **Fiscal Year or FY:** Refers to FPH₂'s fiscal year as established from time to time by resolution of the Board, as defined in the JPA, and as may be amended from time to time.
9. **Goods:** All types of tangible personal property, including materials, supplies, furnishings, software, equipment, and media advertising (print, broadcast, out-of-home, digital media, or other electronic mediums).
10. **Legal Services:** Legal representation, advocacy, advice, counsel, or other similar legal services provided by an attorney, or a law firm, company, or partnership with attorneys duly licensed by the California State Bar or authorized to practice in California.
11. **Leveraged Procurement Agreements (LPAs):** LPAs are contractual agreements between two or more entities that allow them to combine their purchasing power and leverage economies of scale to obtain goods and services at lower costs.
12. **Master Agreement:** An agreement between FPH₂ and a Proposer for any goods, services, or combination thereof, except for a Legal Services Agreement.
13. **Office Equipment:** Includes furnishings, computers, information technology (IT) hardware or software, or other personal property.
14. **Piggyback Solicitation:** Refers to the use of a prior solicitation, competitively bid by a Public Entity for the same goods and/or services currently requested or needed by FPH₂; or may be a form of intergovernmental cooperative purchasing in which FPH₂ will be extended the same pricing and terms of a contract entered into by another Public Entity. Generally, the originating entity can competitively award a contract that will include language allowing for other entities to utilize the contract, or FPH₂ may join in a single competitive procurement with another Public Entity. The Piggyback Solicitation provides an advantage in terms of pricing, thereby gaining economies of scale that FPH₂ or an individual Public Entity would otherwise not receive if each competed on its own.

15. **Pre-Qualified Providers or PQP:** A Proposer who is available and willing to perform work on an as-needed basis under a Request for Information solicitation process.
16. **Proposer:** A person or business entity who seeks to do business with FPH₂ by responding to a Competitive Solicitation of any kind, a Cooperative Procurement or Piggyback Solicitation, or seeking to enter into a contract with FPH₂ through an exception or alternative to the Competitive Solicitation requirements.
17. **Proposal:** A response by a Proposer to a request by FPH₂.
18. **Public Entity:** The state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state.
19. **Request for Bid (RFB):** A formal, structured solicitation process used to procure goods when the anticipated value of a contract exceeds \$150,000 in a fiscal year.
20. **Request for Information (RFI):** A process to solicit qualifications from vendors to develop a Pre-Qualified Vendor or Supplier list.
21. **Request for Proposal (RFP) -** A Request for Proposal (RFP) is a solicitation document used to procure complex or unique services where FPH₂'s requirements are defined, but expertise, methods, and creative solutions may vary; when innovative approaches are needed; and where performance is anticipated to be ongoing, requiring a detailed explanation of the proposer's approach, work plans, solutions, and pricing.
22. **Request for Quote (RFQ):** A process wherein the CEO or at the CEO's discretion, a delegate of the CEO, requests written quotes from at least three (3) vendors. The RFQ process can only be used when the CEO can establish a single set of criteria or parameters for the required services, goods, or combination of goods and services, and can apply that criteria or parameter from the requested quotes. The RFQ response may be in an email format. The CEO may select a vendor that offers the Best Value.
23. **Services:** The performance of labor by an outside company or individual for and/or on behalf of FPH₂. It can be rendered to FPH₂ by a company or individual, with or without the furnishing of goods.
24. **Single Source Procurement:** A single source procurement occurs when only one supplier can provide the necessary goods or services at the time of the

procurement due to only one supplier of the good or service existing, a lack of a reasonable alternative, or a compelling justification for not seeking a reasonable alternative.

25. **Sole Source Procurement:** A sole source procurement involves intentionally selecting a specific vendor for a project, where it is not feasible or practicable to use competitive procurement methods.
26. **Specialized Services:** Services provided by persons specially trained, experienced, expert, and competent to perform the specialized services. The specialized services may consist of services, advice, education, or training for FPH₂. The specialized services may include but are not limited to financial, economic, accounting (including the preparation and issuance of payroll checks or warrants), legal, administrative, or building security matters. The specialized services may include maintenance or custodial matters if the Board finds that FPH₂'s resources and economic interests are served by such a contract.
27. **Task Order Solicitation or TO:** Issued in the solicitation process to solicit bids from providers who have been pre-qualified under the Pre-Qualification process. If FPH₂ awards the bid, the TO will be appended to a Master Agreement once the Task Order is awarded to a Pre-Qualified Provider.

III. Delegation of Procurement or Purchasing Authority to the Chief Executive Officer

1. The Board designates the Chief Executive Officer ("CEO") as FPH₂'s purchasing agent. As the purchasing agent for FPH₂, the CEO is authorized on behalf of FPH₂ to (i) purchase goods; (ii) rent furnishings and equipment; or (iii) contract for services, Specialized Services, or Legal Services, as provided herein. The CEO may further delegate this authority in the CEO's discretion.
2. The CEO is authorized as follows without prior Board approval:
 - o To enter into any contract pursuant to this Policy when the contract price or the expected contract price for any single contract is \$135,000 or less within a 12-month period or when any single vendor is to be paid \$135,000 or less within any single FY period.
 - o To increase the aggregate contract price of any non-energy contract to no more than \$135,000 over the term of that contract.

3. For any contracts, whether Board approved or executed under the CEO's delegated authority, the CEO is further authorized to exercise all rights and powers specified under the contract as belonging to FPH₂, including but not limited to:
- (i) changes in original scope, provided that for Board-approved contracts, any core programmatic changes, including a greater than 25% change of the original scope, shall be approved by the Board.
 - (ii) amendments; the CEO is authorized to approve amendments that do not materially alter the contract, do not increase the total value by more than \$135,000, and do not expand the scope beyond originally defined deliverables. Amendments that materially alter the contract, increase the total value beyond the specified threshold, or expand the scope beyond originally defined deliverables require Board approval.
 - (iii) authorization of subcontractors,
 - (iv) assignments,
 - (v) insurance,
 - (vi) termination, and
 - (vii) to perform such other acts and things related to the delivery of non-energy goods or services required in the contract.

This delegated authority is subject to paragraph III.2., above.

4. A contract shall not be split into subparts or smaller similar actions to avoid the delegated limits specified above.

5. Signature Authority

- The CEO is designated as the primary authorized signatory for all non-energy contracts entered into by FPH₂, pursuant to this Policy.
- The CEO may, in writing, delegate signatory authority for specific non-energy contracts to other officers or employees of FPH₂ as deemed necessary and appropriate.
- Any such delegation of signatory authority shall be documented in writing, specifying the scope and limitations of the delegated authority.

- The CEO shall maintain a record of all delegated signatory authorities, ensuring that such delegations are reviewed and updated periodically.
- In the absence of a written delegation of signatory authority, the CEO shall remain the sole authorized signatory for all non-energy contracts.

IV. Rules Regarding Competitive Solicitation of Goods or Services

1. Services or a Combination of Goods and Services.

- If the aggregate anticipated value of a contract is \$10,000 or less in any Fiscal Year, no formal proposals or bids shall be required to procure Services or a combination of goods and services. However, the CEO shall use best efforts to seek or obtain at least 2 competitive quotes.
- If the aggregate anticipated value of a contract is between \$10,001 and \$100,000 in any Fiscal Year, the CEO may procure the Services or Combination of Goods and Services through the RFQ Process.
- If the aggregate anticipated value of a contract is greater than \$100,000 in any Fiscal Year, one of the following processes shall be used:
 - **Request for Proposal (RFP):**
 - **Description:** An RFP is typically used to procure complex or unique Services in which FPH₂'s requirements are defined but expertise and methods may vary; when creative or innovative approaches are needed; and/or, where performance of services is anticipated to be ongoing in nature.
 - **Content:** An RFP will include, at a minimum, a requirements statement or statement of work; experience, expertise, or qualification criteria; and evaluation criteria for which a Proposal will be evaluated. An RFP also typically states FPH₂'s goals, objectives, project summary, major tasks, or timelines. An RFP will include a sample agreement and may include a budget for the work being procured. FPH₂ will require proposals to offer a detailed explanation of Proposer's approach, detailed work plans, solutions, or methods, and price/budget, as applicable.

- **Contracting:** FPH₂ will contract with a Proposer through a written Agreement. FPH₂ may engage in negotiations on the terms and conditions of the Agreement with the selected Proposer(s), including but not limited to the scope of services or price/budget.
- **Request for Information ("RFI"):**
 - **Description:** An RFI is typically used to procure services or a combination of goods and services when FPH₂ needs to establish a pool of Pre-Qualified Providers (PQP). The RFI process is typically used to procure distinct, stand-alone, or discrete projects having a specific deadline; or for services ordered or used by FPH₂ on a routine basis.
 - **Content:** The RFI will specify the areas of expertise, experience, or knowledge that FPH₂ seeks, and, if applicable, the process for a Proposer to become PQP in those specified areas. FPH₂ will maintain a list of PQPs for each specified area. The RFI should attach a copy of the proposed form of agreement.
 - **Task Order Solicitation:** PQPs will be awarded work through a Task Order Solicitation that FPH₂ may issue from time to time. The TOs will contain FPH₂'s objectives; a statement of work, including any deliverables, tasks, or milestones; estimated time of completion; and pricing, cost, or budget. A TO will designate the area(s) of expertise, experience, or knowledge that FPH₂ seeks or anticipates needing and the TO will be sent to PQPs in those specified area(s). Interested PQPs shall submit a bid in response to the TO and that bid should offer, at a minimum, Proposer's acknowledgment of FPH₂'s objectives; approach to the identified statement of work, including any deliverables, tasks, or milestones; pricing, cost, or budget; and other relevant information, solutions or methods as specified in the TO.
 - **Contracting:** A Proposer is expected to sign a Master Agreement no later than five (5) business days after FPH₂

issues the relevant TO. A signed Master Agreement does not guarantee a Proposer any minimum amount of work. The Master Agreement is not effective unless and until a TO has been awarded by FPH₂ and the Master Agreement has been executed by the successful Proposer and FPH₂.

2. **Goods.**

- If the aggregate anticipated value of a contract is \$100,000 or less in any Fiscal Year, the CEO may purchase goods from a single vendor without an RFQ or Request for Bid. The CEO must affirm and approve such purchases as being necessary.
 - If the aggregate anticipated value of a contract in any Fiscal Year is \$100,001 to \$150,000 for a single vendor, the CEO may procure the goods through the Request for Quote (RFQ) Process.
 - If the aggregate anticipated value of a contract in any Fiscal Year is greater than \$150,000 in any Fiscal Year, the CEO shall issue a formal Request for Bid (RFB). The RFB shall specify, at a minimum, the item(s) specifications, or dimensions; description of requirements; and quantities. A bid in response to an RFB must contain a Proposer's name, address, phone number, and the proposed cost to provide the requested items, and other information requested by FPH₂. The RFB should attach a copy of the proposed form of agreement. FPH₂ will contract with a Proposer using a written agreement.
3. Notwithstanding anything in Sections 1 and 2 of this Article, the CEO may, in the CEO's discretion, determine that it is in the best interest of FPH₂ to procure any goods, services, or a combination of goods and services through a process required to be utilized to procure a contract with a higher anticipated contract value, such as an RFP or RFB, irrespective of the anticipated aggregate contract value. The CEO must approve any procurement of goods, must verify compliance with the solicitation processes, must verify that the procurement stays within the FY budget, and affirm the purchase is necessary.
4. **Specialized Services or Legal Services.** No competitive procurement is required for Specialized Services or Legal Services. However, it is recommended that the CEO use the RFQ Process to procure Specialized Services or Legal Services

whenever practical. When using the RFQ Process, CEO may procure services from a provider offering the Best Value.

5. **Rent or Lease of Office Equipment or Office Space:** No Competitive Solicitation shall be required to rent or lease Office Equipment or office space provided that (a) the CEO affirms that the rent or lease of Office Equipment or office space is necessary; (b) the CEO requests at least two (2) quotes, whether verbal or written, from at least two (2) offerors; and (c) the CEO approves of the rent or lease of Office Equipment or office space.
6. **Awards of Competitive Solicitation:** Competitive Solicitations may be awarded on a Best Value basis, unless otherwise required by California law or otherwise specified in the Competitive Solicitation document.
7. **Additional Authorized Procurement Methods:** FPH₂ may engage in the procurement of goods, services, or some combination thereof through any of the following procurement methods.
 - o **Cooperative Procurement, Leveraged Procurement Agreements, or Piggyback Agreement:** FPH₂ may use these alternative procurement methods when the use enhances operational efficiencies; demonstrates potential cost savings for FPH₂, including transaction costs.
8. **Federal Grant Procurement Requirements:** For procurements funded by federal grants, applicable federal regulations and the terms of the grant award shall take precedence over any conflicting provisions in this policy. Federal grant procurements shall adhere to applicable federal regulations, including but not limited to 2 CFR Part 200. Bid specifications for such procurements shall include specific clauses required by the grant award, federal reporting requirements, allowable cost guidelines, and any necessary subrecipient monitoring procedures. FPH₂ shall maintain complete procurement records to ensure compliance with federal grant audits and provide training to staff involved in these procurements.

V. Reservation of FPH₂'s Rights

1. The CEO may, at the CEO's sole discretion, take any of the following actions:
 - a. Reject any or all Proposals, for any reason without explanation to the Proposer(s);
 - b. Elect in its Competitive Solicitation to select any part of a Proposal, or sub-divide, or combine a Proposal;
 - c. Cancel a Competitive Solicitation, in its entirety;
 - d. Elect to proceed with a contract for only some of the Services included in the Proposal.
2. The CEO shall have the right to amend a Competitive Solicitation by written addendum. FPH₂ is responsible only for that which is expressly stated in the Competitive Solicitation document and any authorized written addenda. Should such addendum require additional information not previously requested, failure to address the requirements of such addendum may result in the Proposal being found non-responsive and not being considered, as determined in the sole discretion of FPH₂.
3. The CEO is not responsible for and shall not be bound by any representations, statements, or explanations made by any individual acting or purporting to act on his/her behalf, other than the FPH₂ staff member identified on the Competitive Solicitation document, provided the representations, statements, or explanations by the identified FPH₂ staff member are in writing.
4. The CEO reserves the right to waive inconsequential irregularities in a submitted Proposal.
5. The CEO reserves the right to submit supplementary follow-up questions or inquiries to request clarification of information submitted and to request additional information from any one (1) or more of the Proposers.
6. FPH₂ shall not be liable for any costs incurred by any Proposer in connection with the preparation or submission of any Proposal or any action taken by Proposer in its effort to do business with FPH₂. Any and all such costs whatsoever shall remain the sole responsibility of the Proposer.
7. FPH₂ shall not be liable to any Proposer in law or equity for any reason whatsoever for any acts or omissions arising out of or in conjunction with this Policy.

8. FPH₂ may require Proposers to provide certain performance assurances, including, but not limited to, performance security or payment and performance bonds for Public Works Contracts.
9. Proposers are expected to complete all of their due diligence activities prior to entering into any final contract negotiations with FPH₂, including a review of FPH₂'s policies, requirements, forms, or other guidance documents that FPH₂ may issue from time to time. FPH₂ policies are available on FPH₂'s website.

VI. Competitive Solicitation Advertisement and Proposer List

1. Except as otherwise provided in this Policy, RFBs, RFIs, RFPs, RFQs, and Task Order Solicitations shall be posted on FPH₂'s website. FPH₂ is not required to formally publish its Competitive Solicitations in a newspaper or similar publication.
2. Notwithstanding the RFI process and the PQP list, FPH₂ may maintain a list of Proposers for any Competitive Solicitation. To be added to the list of Proposers, interested Proposers must provide the CEO's delegee with Proposer's contact information, including address, phone number, and a current email address. It is the Proposer's obligation to keep its contact information current with FPH₂. FPH₂ will use its best effort to send any Competitive Solicitations to all Proposers who request to be placed on the list of Proposers.
3. FPH₂ does not guarantee any Proposer placed on the list of Proposers any work.

VII. Single Source Procurements

1. **Definition:** Single source procurement occurs when only one supplier can provide the necessary goods or services at the time of the procurement due to only one supplier of the good or service existing, a lack of a reasonable alternative, or a compelling justification for not seeking a reasonable alternative.
2. In cases where single source procurement is deemed necessary, the following conditions must be satisfied:
 - a. Market research is conducted to identify any potential alternative suppliers.
 - b. A documented justification is prepared, outlining the reasons for selecting a single-source procurement approach.

- c. The justification is reviewed and approved by the appropriate level of authority within the organization.
- d. The procurement process is conducted in a fair and transparent manner, ensuring that the selected supplier is held accountable for delivering the required goods or services at a competitive price and quality.

3. Procedure:

- a. The CEO, or a designated staff member, must document the reasons for pursuing a single-source procurement, demonstrating that no other viable options exist.
- b. This documentation should include a detailed justification explaining the specific circumstances that necessitate a single-source approach.
- c. The CEO must approve all single-source procurements.

4. Transparency and Accountability:

- a. All single-source procurements must be documented and reported to the Board on a monthly basis. This report should include a summary of the goods or services procured, the justification for the single-source approach, and the total cost.

VIII. Sole Source Purchasing

- 1. FPH₂ may procure services, or a combination of goods and services, from a sole source when the following factors exist:
 - a. No other vendor offers a service or employs personnel meeting the minimum requirements.
 - b. FPH₂'s required timeframe for project completion is critical and cannot be exceeded without extreme hardship.
 - c. The cost to continue with the same service provider is less than the cost for any other vendor due to the time necessary to get 'up to speed' (learning curve) with the project.

d. A unique and proprietary solution has been offered which is determined to be in the best interest of FPH₂.

2. FPH₂ may justify procurement of a good from a sole source when the following factors exist:

The good is:

- a. Available from only one source (e.g., proprietary to a manufacturer, distributor, and/or reseller, etc.).
- b. The only brand that meets the qualifications or specifications needed by FPH₂.
- c. A brand that must match or inter-member with an existing system and cannot be substituted without replacing the system, resulting in significant costs to FPH₂.
- d. Going to enable FPH₂ to avoid other costs (e.g., data conversion, training, purchase of additional hardware, etc.).

3. The following factors shall not qualify as reasons to purchase with a sole source:

- a personal preference for a product or Proposer; or
- b the length of time needed to conduct a Competitive Solicitation is inconvenient.

4. In all cases, sole source purchases must be justified in writing, with sufficient detail to explain the basis for suspending the competitive procurement process, and the CEO shall review the justification and approve the use of sole source purchasing. The sole source justification shall be retained with the Proposer's contract documentation. The CEO may develop a justification form or checklist for sole source purchases. The CEO shall report any sole source contracts to the Board on a monthly basis.

IX. Severability

If any section, subsection, sentence, or clause of this Policy is determined to be illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect the legality, validity, or enforceability of this Policy as a whole or any section, subsection, sentence, or clause herein that is not so determined.



STAFF REPORT

1/13/25
JC

Date: January 13, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 5: **Consider Adoption of Resolution No. 2025-004 Approving First Public Hydrogen Authority Fiscal Year 2024/25 Budget and Approve Execution of Agreement with City of Lancaster for Administrative and Operational Support Services and Promissory Note**

Recommendation:

- 1) Adopt Resolution No. 2025-004 approving First Public Hydrogen Authority (FPH₂) Fiscal Year 2024/25 Budget;
- 2) Approve Execution of Agreement with City of Lancaster for Administrative and Operational Support Services and Promissory Note, substantially in the form attached, and authorize the Chief Executive Officer to execute all documents, subject to General Counsel approval.

Fiscal Impact:

The action establishes a fiscal year 2024/25 budget in the amount of \$2,543,425.00 to be funded through a loan from the City of Lancaster.

Background:

The FPH₂ Joint Powers Agreement establishes the FPH₂ fiscal year as July 1 of the current year to June 30 of the following year. For this first year, the fiscal year is a partial year, from the date the JPA was executed, December 10, 2024, to June 30, 2025. The budget assumes that FPH₂ is supported through a combination of City of Lancaster staff and professional and technical contractual services. The proposed budget is detailed below:

Account Description	Proposed FPH2 Total Budget
STAFF SALARIES	\$ 900,000.00
PROFESSIONAL/TECHNICAL SERVICES	\$ 1,150,000.00
LANCASTER ADMINISTRATIVE SERVICES	\$ 195,000.00
SPONSORSHIPS	\$ 100,000.00
BOARD COMPENSATION	\$ 67,200.00
ADVERTISING	\$ 50,000.00
LEGAL SERVICES	\$ 24,225.00
DUES & MEMBERSHIPS	\$ 20,000.00
TRAVEL/MILEAGE REIMBURSEMENT	\$ 20,000.00
MEETINGS & CONFERENCES	\$ 15,000.00
SPECIAL ACTIVITY SUPPLIES	\$ 2,000.00
	\$ 2,543,425.00

FPH₂ currently has no revenue, and its FY 2024/25 budget is being funded through a loan from the City of Lancaster, to be repaid to Lancaster from future FPH₂ revenues. The loan is memorialized by a promissory note, included as Exhibit C of the Agreement with City of Lancaster, for an amount not to exceed \$2,600,000. The repayment is due by July 1, 2028, with interest in an amount equal to the average of the average monthly effective yields of the Local Agency Investment Fund (LAIF), as published by the California State Treasurer, for the period commencing upon the date of invoice and ending on the Maturity Date.

The staffing and administrative support provided by Lancaster is documented through an agreement between FPH₂ and Lancaster. Services being provided include direct staff, payroll, accounts payable, human resources, etc. The proposed agreement for Board consideration is being considered by the Lancaster City Council at its January 14, 2025, Council meeting.

Attachment:

- A. Resolution No. 2025-004 Approving First Public Hydrogen Authority Fiscal Year 2024/25 Budget
- B. Agreement with City of Lancaster for Administrative and Operational Support Services and Promissory Note

**FIRST PUBLIC HYDROGEN AUTHORITY
RESOLUTION NO. 2025-004**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF FIRST
PUBLIC HYDROGEN AUTHORITY APPROVING THE FISCAL
YEAR 2024/25 BUDGET**

WHEREAS, the First Public Hydrogen Authority (FPH₂) is a joint powers agency formed in December 2024 by the cities of Industry and Lancaster; and

WHEREAS, Section 5 of the FPH₂ Joint Powers Agreement (Agreement) sets the fiscal year as July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of the Agreement to June 30, 2025; and

WHEREAS, the initial Fiscal Year shall be December 10, 2024, to June 30, 2025; and

WHEREAS, the budget establishes the spending authority for FPH₂.

NOW, THEREFORE, the Board of Directors of First Public Hydrogen Authority does hereby resolve as follows:

Section 1. The First Public Hydrogen Authority Fiscal Year 2024/25 is hereby approved in the amount of \$2,543,425.00 as detailed below:

Account Description	Proposed FPH2 Total Budget
STAFF SALARIES	\$ 900,000.00
PROFESSIONAL/TECHNICAL SERVICES	\$ 1,150,000.00
LANCASTER ADMINISTRATIVE SERVICES	\$ 195,000.00
SPONSORSHIPS	\$ 100,000.00
BOARD COMPENSATION	\$ 67,200.00
ADVERTISING	\$ 50,000.00
LEGAL SERVICES	\$ 24,225.00
DUES & MEMBERSHIPS	\$ 20,000.00
TRAVEL/MILEAGE REIMBURSEMENT	\$ 20,000.00
MEETINGS & CONFERENCES	\$ 15,000.00
SPECIAL ACTIVITY SUPPLIES	\$ 2,000.00
	\$ 2,543,425.00

Section 2. The funding source for the expenditures is a loan from the City of Lancaster.

The foregoing Resolution No. 2025-004 was passed and adopted this 13th day of January 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

R. Rex Parris, Chair
First Public Hydrogen Authority

ATTEST:

Susan Caputo, Board Secretary
First Public Hydrogen Authority

**AGREEMENT BETWEEN THE
FIRST PUBLIC HYDROGEN AUTHORITY
AND THE CITY OF LANCASTER**

This agreement (Agreement) is made between the FIRST PUBLIC HYDROGEN AUTHORITY (FPH2) AND THE CITY OF LANCASTER (CITY).

RECITALS

WHEREAS, FPH2 is a Joint Powers Authority established pursuant to Title 1, Division 7, Chapter 5 of the California Government Code; and

WHEREAS, pursuant to Article XI, Local Government Section 9, of the California Constitution, a municipal corporation may establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communication; and

WHEREAS, pursuant to the Public Utilities Code, section 10002, FPH2 was established with the intent to acquire, construct, own, operate, or lease any public utility; and

WHEREAS, the purpose of FPH2 is to undertake the purchase, sale, and or resale of hydrogen and/or energy, the financing and/or refinancing of projects of any nature, including, but not limited to, capital or working capital projects, insurance, liability or maintenance programs or facilitating Members' use of existing or new financial instruments and mechanisms; and

WHEREAS, it is further the intention of the Members that the projects undertaken will result in significant public benefits to the inhabitants of the jurisdictions of the Members; and

WHEREAS, FPH2 agrees to contract from the CITY OF LANCASTER services necessary to provide hydrogen utility services, including human resource, staffing and fiscal administration adequate to meet the regulatory and legislated responsibilities of a public utility within the State of California; and

WHEREAS, the CITY agrees to provide such services consistent with all applicable laws and regulations pursuant to the provisions of this Agreement; and

WHEREAS, FPH2 and the CITY OF LANCASTER together agree to enter into this Agreement pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 of the California Government Code (commencing with §6500).

In consideration of the mutual covenants and conditions, FPH2 and the CITY OF LANCASTER agree as follows:

TERMS AND CONDITIONS

1. PURPOSE

The purpose of this Agreement is for FPH2 to contract from the CITY OF LANCASTER certain administrative and operations services as FPH2 and the CITY OF LANCASTER have determined are necessary to enable FPH2 to meet the regulatory and legislated responsibilities of a public utility for compensation consistent with all applicable laws and regulations. This Agreement is entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 of the California Government Code (commencing with §6500).

2. TERM OF AGREEMENT

The term of this Agreement shall be for a period commencing on the date of the last signature hereon and ending on June 30, 2025, unless earlier terminated, extended, or modified as provided herein. The Parties hereto expressly agree and authorize the City Manager of the CITY OF LANCASTER and Chief Executive Officer of FPH2, respectively, to extend the term hereof to no later than June 30, 2026. Although this Agreement will become effective as of the date of the last signature hereon, and the parties will commence planning for the remainder of the 2024/25 fiscal year, it is intended that the provision of Services pursuant to this Agreement will commence prior to the date of the last signature hereon.

3. SCOPE OF SERVICES

The CITY OF LANCASTER agrees to provide the human resource, staffing, and fiscal administration, as specified in “Scope of Materials and Services” (Exhibit “A”), attached and incorporated by this reference (collectively, the “Services”). The CITY OF LANCASTER and FPH2 will mutually agree upon an annual budget for the Services based on a best estimate of the costs to provide such Services and historical data, which budget will be adopted by FPH2 prior to the commencement of each fiscal year (“Annual Budget”). The Annual Budget for the fiscal year inclusive of the date of the last signature hereon, is attached hereto as Exhibit “B”. The Annual Budget will be subject to amendment in accordance with changes in the actual costs of goods and services provided by the CITY OF LANCASTER as described in Section 5(c). Exhibit A may be amended in whole or in part to reflect any changes or adjustments as directed by the actions of the governing bodies of the FPH2 and/or the CITY OF LANCASTER. For purposes of interpretation of the scope and nature of the Services, the governing order of document precedence shall be first Exhibit A and second the current fiscal year budget for the FPH2, as amended. For all subsequent fiscal years, the annual budget will be effective July 1 – June 30 of each year.

Notwithstanding any other provision of this Agreement, the CITY OF LANCASTER shall have no obligation to perform any Services or other obligation under this Agreement once the aggregate amount of all invoices issued pursuant to Section 5, below, totals \$2,600,000.00.

4. COMPENSATION

The CITY OF LANCASTER shall perform its obligations under this Agreement in accordance with the approved Annual Budget, as amended, each fiscal year during the term of this Agreement or until the termination or expiration of this Agreement. Compensation is based on the cost matrix as described below:

- A. The CITY OF LANCASTER may purchase materials and supplies which will be reimbursed by FPH2 at the actual cost of the material or supplies.
- B. FPH2 shall pay the pro rata portion of the base salary and associated employment benefits for all time spent by Program Staff (as defined in Section 11) on FPH2 matters as described in the Annual Budget.
- C. The CITY OF LANCASTER agrees to provide the following products and services in the scope of this Agreement to the level used by the CITY OF LANCASTER in the scope of its regular business practices: financial and payroll systems as needed to provide human resource, staffing and fiscal support. Where FPH2 has purchased and/or owns user licenses or enhancements, or chooses to enhance any of these services beyond the level used by the CITY OF LANCASTER, FPH2 agrees to pay the costs for the enhancements and related maintenance.
- D. Except as provided in Paragraph C above, the CITY OF LANCASTER may make available certain services, products and/or software for which they are the sole owner, or certain services or purchases from which both the CITY and FPH2 derive relevant benefits. The CITY OF LANCASTER may assess a proportionate share of the purchase cost and/or service costs to FPH2 not to exceed a proportionate amount based on the ratio of Full-Time Equivalents or any other relevant use metric between both agencies at the end of the current fiscal year or period of service, product and/or software use.
- E. If additional services are required or requested over and above the services described in Exhibit A or which exceed the Annual Budget, as amended, then such services and associated costs may be provided when directed and approved by the FPH2 Governing Board and accepted by the CITY OF LANCASTER.
- F. FPH2 will further pay a charge to cover administrative overhead and compensate the CITY OF LANCASTER for the indirect costs of delivering the services described herein. Said charge will be calculated as 10% of the total billed each month for services and will be added to the invoice.

5. PAYMENT OF COSTS

The CITY OF LANCASTER shall, within sixty (60) days of the end of FPH2's fiscal year or as necessary, deliver to FPH2 an invoice for materials and services provided since the previous invoice. Each invoice shall include a description of the materials and services provided.

- A. Payment for the costs of services and materials provided by the CITY OF LANCASTER to the FPH2 pursuant to this Agreement shall be made pursuant to the adopted budget approved by the FPH2 Governing Board.

- B. Professional services of the CITY OF LANCASTER staff will be billed monthly at 1/12 of the contracted amount approved in the annual FPH2 Budget as set forth in the line item, “Program Staff”.
- C. Not less than quarterly, the CITY OF LANCASTER will reconcile the actual costs to deliver the Services against the estimates approved in the Annual Budget. If the actual cost to deliver the Services exceeds the estimate in the Annual Budget, then the CITY OF LANCASTER may immediately invoice FPH2 for such excess cost. If the actual cost to deliver the Services is less than the estimate in the Annual Budget, then the CITY OF LANCASTER will credit FPH2 for such cost savings. If an increase or decrease in actual cost is expected to continue for the remainder of the fiscal year, then the Annual Budget and the monthly billing will be modified accordingly, provided, however, that with respect to increases in the Annual Budget, the CITY OF LANCASTER will cooperate with FPH2 to find ways to mitigate such increases.
- D. FPH2 shall pay the aggregate amount of all invoices pursuant to the promissory note that is attached hereto as Exhibit “C” and incorporated herein.

In the event FPH2 disputes an amount indicated on an invoice, such dispute shall be resolved in accordance with the conflict resolution procedures as set forth in Section 8 below. In the event of such a dispute, interest will accrue on only that part of the disputed amount which is determined to be due and owing to the CITY OF LANCASTER as provided in Section 4 above.

In the event of a breach or termination of this Agreement, the CITY OF LANCASTER is entitled to payment for Services actually performed and materials actually provided as of the date of the breach or termination. In such event, the CITY OF LANCASTER shall provide a final invoice as set forth above detailing the materials and services provided and hours expended for the period between the last date indicated on the previous invoice to the date of the breach or termination. The final invoice will include the cost of the CITY OF LANCASTER to transition all Dedicated Staff, as defined in Section 11, and for FPH2 to assume all Personnel Costs as set forth in Section 11.

6. INDEMNITY AND LIABILITY

FPH2 and the CITY OF LANCASTER shall, to the extent authorized by law, indemnify and hold harmless each other, their agents and employees against all liabilities arising out of or connected with the performance of this Agreement.

In the event litigation is threatened or commenced by a third party regarding negligent acts or omissions of FPH2, its officers, volunteers and authorized agents while performing services for the FPH2 to which the CITY OF LANCASTER becomes a party, the FPH2 shall retain and bear all litigation costs of FPH2 and THE CITY OF LANCASTER engendered by such litigation.

In the event litigation is threatened or commenced by a third party regarding negligent acts or omissions of the CITY OF LANCASTER, its officers, employees, volunteers and authorized agents while performing services for the CITY OF LANCASTER to which FPH2 becomes a party, the CITY OF LANCASTER shall retain and bear all litigation costs of FPH2 and the CITY OF LANCASTER engendered by such litigation.

For the purposes of this section, negligent acts and omissions include, but are not limited to, the failure to lawfully perform the following: the adoption and implementation of rules, regulations, plans and policies; the issuance of permits; the issuance and management of grants

and grant programs; the performance of duties under the California Environmental Quality Act (Pub. Res. Code 21000 et seq.); and the enforcement of rules, regulations, and orders of either FPH2 or the CITY OF LANCASTER. Notwithstanding the foregoing, the CITY OF LANCASTER staff will not be considered to be acting negligently if they properly carry out the rules, regulations, plans and policies adopted by FPH2. FPH2 remains solely responsible for such rules, regulations, permit issuance, grant activities, plans and policies, as well as defending any third-party claim which challenges the enforceability and/or legality of same.

7. INSURANCE

Within thirty (30) days from the execution of this Agreement and for the term of this Agreement, the CITY OF LANCASTER will include FPH2 as an additional named insured on the CITY OF LANCASTER policies for workers' compensation insurance and employment practices insurance.

FPH2 shall obtain and maintain general liability insurance, property insurance, vehicle comprehensive and collision insurance, errors and omissions insurance, and other insurance as approved by the FPH2 Governing Board at the expense of FPH2.

In the event FPH2 directly obtains the services of officers and employees outside the scope of this Agreement, FPH2 shall obtain and maintain workers' compensation and employment practices insurance at the expense of FPH2. Such additional insurance shall be obtained within thirty (30) days from the employment of officers or employees outside the scope of this Agreement. FPH2 will, as necessary, include the CITY OF LANCASTER as an additional named insured on such policies.

8. CONFLICT RESOLUTION

Conflicts regarding the terms, provisions, nature, scope, delivery, provision of specific services or materials, or arising as a result of the implementation of this Agreement shall be resolved in the following manner:

- A. The chair of the Governing board of FPH2 (the "Chair") or the Mayor of the CITY OF LANCASTER (the "Mayor") shall contact the other, inform him or her of the nature and scope of the conflict and attempt to resolve the conflict.
- B. If the Chair and Mayor cannot resolve the conflict by discussion, each shall place an item on the agenda of the next regularly scheduled meetings for their respective Governing Board/City Council, respectively, regarding the conflict and appointment of Governing Board/City Council Members to a Conflict Resolution Committee.
- C. The FPH2 Governing Board and the CITY OF LANCASTER City Council shall each appoint two (2) members to the Conflict Resolution Committee.
- D. The Conflict Resolution committee shall schedule a meeting to occur within fifteen (15) days of the later of the FPH2 or the CITY OF LANCASTER Governing Board/City Council meeting at which members were appointed to the Conflict Resolution Committee. The Conflict Resolution Committee shall have fifteen (15) days from the date of the first meeting of the committee to attempt to resolve the conflict.

- E. If the Conflict Resolution Committee fails to resolve the conflict within the time stated above, the matter shall be submitted to non-binding arbitration by either Party. Each Party agrees to bear one-half (1/2) the cost of obtaining such non-binding arbitration. An impartial arbitrator shall be selected by alternately striking from a list provided by the California State Mediation and Conciliation Service who shall hear the matter and render a decision.
- F. If either of the Governing Board/City Council elects not to accept the decision of the arbitrator at its next regularly scheduled meeting or the arbitrator fails to resolve the matter, either FPH2 or the CITY OF LANCASTER may terminate this Agreement in accordance with the terms set forth herein and pursue such remedies as may be available at law or in equity.
- G. Each party reserves its rights and remedies to enforce the terms of this Agreement at law or in equity.

9. DUE DILIGENCE

Upon commencement of the term of this Agreement, the CITY OF LANCASTER agrees to perform with due diligence the services specified herein.

10. EQUIPMENT

Equipment owned by FPH2 at the expiration or termination of this Agreement shall remain the property of FPH2.

Equipment owned by the CITY OF LANCASTER prior to the expiration or termination of this Agreement but used in the performance of services under this Agreement shall remain the property of the CITY OF LANCASTER.

Equipment purchased and billed to FPH2 pursuant to the terms of this Agreement shall be the property of FPH2.

The CITY OF LANCASTER agrees that upon expiration or termination of this Agreement, any property of FPH2 which is in the possession of the CITY OF LANCASTER shall be returned to FPH2 at a location designated by FPH2 within fifteen (15) days of the expiration or termination of this Agreement.

11. PROGRAM STAFF

The CITY OF LANCASTER will provide professional officers and employees of the CITY OF LANCASTER to perform the Services for FPH2 pursuant to the terms of this Agreement. It is intended that the CITY OF LANCASTER will use both (a) existing CITY OF LANCASTER staff; and (b) staff which has been hired by the CITY OF LANCASTER solely to perform the Services (“Dedicated Staff”). All officers and employees of the CITY OF LANCASTER, including the Dedicated Staff, shall remain the officers and employees of the CITY OF LANCASTER. Notwithstanding the provisions of paragraph 4 above, the CITY OF LANCASTER shall remain solely responsible for the payment of all salaries and benefits, including but not limited to salary, health and dental benefits, employment related taxes and

pension contributions (collectively, “Personnel Costs”), for its officers and employees when such officers and employees are performing the Services.

The duties which the officers and employees of the CITY OF LANCASTER may be required to perform for FPH2 pursuant to this Agreement shall conform to the job descriptions of such officers and employees in their duties with the CITY OF LANCASTER. For the purposes of this Agreement “job description” shall be the current and most recent job descriptions or as subsequently amended by the CITY OF LANCASTER for the CITY OF LANCASTER’s officers and employees.

Upon expiration or termination of this Agreement with the CITY OF LANCASTER, it is intended that the Dedicated Staff and its office location will be transitioned to FPH2. In the event the FPH2 offers employment to such Dedicated Staff in the same or a similar capacity and subject to the personnel policies and procedures of FPH2 and other requirements as determined by the FPH2 Governing Board, if any, FPH2 will assume all Personnel Costs (including retirement related benefits) of the Dedicated Staff transferred to FPH2 employment on the transition date. Following the expiration or termination, if services will be performed by a third-party contractor, then FPH2 may request 1) that the third-party contractor offer position(s) to the Dedicated Employees; and 2) that the third-party contractor give priority offers of employment of same or similar positions to the Dedicated Employees. Notwithstanding the use of a third-party contractor, FPH2 will remain financially responsible for the assumption of all Personnel Costs for transferred staff as of the transition date.

In the event that FPH2 or any third-party contractor employed by FPH2 fails to transition the Dedicated Staff, then the CITY OF LANCASTER will continue to treat the Dedicated Staff in accordance with the CITY OF LANCASTER’s normal existing policies and procedures and Dedicated Staff will have the same rights and seniority in the same manner and to the same extent as the CITY OF LANCASTER staff who have not been dedicated to provide services to FPH2. Notwithstanding the foregoing, the CITY OF LANCASTER reserves the right to terminate Dedicated Staff if no position(s) are available and FPH2 will be responsible for all reasonable costs and expenses incurred by the CITY OF LANCASTER in connection with such termination.

12. LEGISLATED POSITIONS

The Governing Board of FPH2 may appoint legal counsel.

13. OPERATIONAL OVERSIGHT

- A. The CITY OF LANCASTER will provide the services of a qualified Staff Member to act in the capacity of Chief Executive Officer (CEO) of FPH2. It is acknowledged and understood that the position of CEO is unique and that the person serving in this position must have the full confidence of the Governing Board of FPH2. Accordingly, the Governing Board of FPH2 will have the right, at any time by majority vote, to request the removal of the Staff Member or any replacement thereof from the position of CEO. The replacement for the position of CEO will be subject to the review and approval of FPH2 and FPH2 will be responsible for and shall defend and indemnify the CITY OF LANCASTER from and against any and all costs, expenses, liabilities and/or claims (i) with regard to the removal of the CEO pursuant to this paragraph 13.A., and (ii) to locate and hire any replacement CEO.

- B. The initial CEO of FPH2 will be Jason Caudle. Any removal of Jason Caudle from this position will result in his removal from employment with the CITY OF LANCASTER.
- C. The Governing Board of FPH2 reserves the right to contract separately for operation oversight of the FPH2 office. The CITY OF LANCASTER will provide reasonable access to its records and personnel for such oversight. Such third party hired for oversight may direct day to day operations under this Agreement as well as oversee actions of staff to provide services under this Agreement as well as oversee actions of staff to provide services under this Agreement, however such third party shall not have the right to change the scope or nature of Services under this Agreement nor exercise any personnel related authority under the CITY OF LANCASTER's policies and procedures including, but not limited to, performance reviews and discipline of CITY OF LANCASTER personnel. Nothing in this provision shall prevent either the FPH2 Governing Board or any person contracted to provide operation oversight from providing input, advice and consultation regarding FPH2 issues.

14. FEES, FINES, SUBVENTIONS, GRANTS AND OTHER REVENUE

All fees, fines, subventions, grants and other revenue owed to FPH2 pursuant to Federal, State or FPH2 law, rule, regulation, permit or order of a State or Federal Court of competent jurisdiction shall be received by FPH2. In the event that any such fee, fine, subventions, grants and other revenue owed to FPH2 is received by the CITY OF LANCASTER, it shall be transferred to FPH2 immediately upon receipt and shall not affect payments made under this Agreement.

15. CONTRACT PERFORMANCE

The CITY OF LANCASTER agrees to make and maintain all records that are required by Federal or State law or FPH2 rule, regulation, permit or order or by an order of a State or Federal Court of competent jurisdiction and to transfer such records to FPH2 upon expiration or termination of this Agreement.

A Governing Board member of the respective Governing Boards of FPH2 and the CITY OF LANCASTER may attend any open session of Governing Board meetings of the other agency and any public meetings of the other agency which directly relate to the materials and services provided pursuant to this Agreement.

16. COPYRIGHT MATERIALS

FPH2 reserves the right to any copyrightable materials developed pursuant to this agreement. Upon acceptance of the copyrightable materials, FPH2 shall have the right, title and interest, including trade secret and copy right interest, in the copyrightable materials. During the term of this Agreement, the CITY OF LANCASTER shall have a non-exclusive right to use, copy and otherwise benefit from such materials.

17. FISCAL AUDIT

FPH2 shall designate an auditor and a fiscal audit shall be conducted annually by a qualified accountancy firm. The results of the audit shall be presented to the Governing Board on completion.

In the event this agreement expires or terminates, an audit shall be provided to the Governing Board of FPH2 within ninety (90) days of the expiration or termination of this Agreement.

The CITY OF LANCASTER agrees that FPH2 or its duly authorized representative shall have access and the right to examine, audit, excerpt, transcribe and copy the CITY OF LANCASTER's financial records, documents, papers and records which are related or pertinent to this Agreement. Such materials shall be retained for a period of at least two (2) years or such other longer period as required by State or Federal law, rule or regulation or by the CITY OF LANCASTER's policies or procedures.

FPH2 agrees that the CITY OF LANCASTER or its duly authorized representative shall have access and the right to examine, audit, excerpt, transcribe and copy FPH2's financial records, documents, papers and records which are related or pertinent to this Agreement. Such materials shall be retained for a period of at least two (2) years or such other longer period as required by State or Federal law, rule or regulation or by FPH2's policies or procedures.

18. PRIVILEGES AND IMMUNITIES

Pursuant to the provisions of Government Code 6513 and any other applicable law, all of the privileges and immunities from liability, exceptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of the CITY OF LANCASTER shall apply to the same degree and extent while such officers, agents or employees of the CITY OF LANCASTER are engaged in the performance of any of their functions and duties within the jurisdiction of FPH2 or the CITY OF LANCASTER.

19. SUCCESSORS

Neither party will assign or transfer any rights or obligations under this Agreement without the written consent of the other.

Each party and their successors, legal representatives and to the extent permitted herein, their assigns, are hereby bound to the other party and to the successors, legal representatives and the assigns of the other party in respect to all covenants, agreements and obligations of this Agreement.

20. AMENDMENT

This Agreement and its Exhibits, as amended from time to time in accordance with the terms of this Agreement, constitute the entire agreement between the Parties and will supersede all prior written or oral understandings. This Agreement and its Exhibits, as amended, may only

be amended, supplemented and modified by an executed written instrument as approved the Governing Board of FPH2 and the City Council of the CITY OF LANCASTER. Notwithstanding the foregoing, the Governing Board and City Council may specify a threshold for modifications to the Services and the Annual budget which are within the discretion of the FPH2 Chief Executive Officer and CITY OF LANCASTER City Manager.

21. TERMINATION

The Governing Board and City Council of FPH2 or the CITY OF LANCASTER, respectively, may terminate this Agreement at any time by giving written notice to the other party 180 days in advance of the proposed termination, but not less than ninety (90) days before the effective date of the proposed termination.

In the event this Agreement is terminated, all finished and unfinished documents and other materials produced by the CITY OF LANCASTER pursuant to the terms of this Agreement shall be provided to FPH2. If the Agreement is terminated by either party, the CITY OF LANCASTER shall be paid all amounts due and unpaid, whether or not such amounts had been billed to FPH2, as of the date of the termination subject to the resolution of any disputed amounts pursuant to the conflict resolution procedure set forth in Section 8 above.

In the event this Agreement is terminated, FPH2 Dedicated Staff will be transitioned in accordance with the terms of Section 11.

22. EFFECTIVE DATE

This Agreement shall be effective [execution date] for the term specified in Section 2 above.

23. VENUE

The venue for any claims or actions brought related to or regarding this Agreement shall lie in the County of Los Angeles, California.

This Agreement is executed in the City of Lancaster, County of Los Angeles.

FIRST PUBLIC HYDROGEN AUTHORITY

CITY OF LANCASTER

BY: _____
Jason Caudle
Chief Executive Officer

BY: _____
Trolis Niebla
City Manager

DATED: _____

DATED: _____

ATTEST:

Andrea Alexander, City Clerk

APPROVED AS TO FORM:

Allison Burns, City Attorney

EXHIBIT A

SCOPE OF MATERIALS AND SERVICES

The CITY OF LANCASTER agrees to provide services to FPH2 as specified in the Agreement, namely: provide administration and operations, adequate to meet the regulatory and legislated responsibilities of a public utility within the State of California pursuant to the Public Utilities Code, section 10002. The scope of services that the CITY OF LANCASTER may provide as directed by the fiscal year budget are described below.

In the event the FPH2 Governing Board redirects or appoints a third party to perform any of the services or functions listed herein to another party, contractor, consultant or vendor, the CITY OF LANCASTER will be relieved from any and all liabilities arising out of or connection with the performance of such services by any or all third parties from the effective date of such Governing Board action. FPH2 shall indemnify and hold harmless the CITY OF LANCASTER, its agents and employees, against all liabilities arising out of or connected with the transfer of such assignment.

The CITY OF LANCASTER agrees to provide staffing for the following positions to serve in each referenced capacity on behalf of FPH2 operations:

City of Lancaster Title	City of Lancaster Employee Group	FPH2 Working Title	Starting Hourly Range Steps 1-6. (City of Lancaster: Effective December 29,2024)					
			Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
Chief Executive Officer of Lancaster Energy	2000	Chief Executive Officer	H - \$191.33 M - \$33,164.50					
Assistant Director	3000	Director	\$93.42	\$98.09	\$102.99	\$108.14	\$113.55	\$119.23
Manager	3000	Manager	\$61.69	\$64.77	\$68.01	\$71.41	\$74.98	\$78.73
Coordinator II (3)	4000	Energy Coordinator (3)	\$42.04	\$44.14	\$46.35	\$48.66	\$51.10	\$53.65
Office Assistant	8000	Office Assistant	\$22.04	\$23.14	\$24.30	\$25.51	--	--
Project Assistant	8000	Energy Assistant	\$31.73 - \$54.50					

Annually, THE CITY OF LANCASTER and FPH2 will amend or confirm the titles and organizational structure in concurrence with the annual budget process. The CITY OF LANCASTER will provide all benefits for the above listed personnel as it does for all other CITY OF LANCASTER employees. As such, all listed positions will be subject to amendments and changes approved by the CITY OF LANCASTER City Council.

Grant Account/Management: all activities including, but not limited to, making application for available funds, soliciting projects that meet the objectives of each grant program, developing and administering contracts to ensure the grant program objectives are met, disbursing funds and performing reviews on contract performance. A portion of the CITY OF LANCASTER's Finance Department staff will supervise and account for the grant's activity and FPH2 will be billed on a time and material basis for such support.

Administrative Services: all activities including, but not limited to, operations for a staffed office located in the FPH2 jurisdiction with regular business operating hours, revenue collection and expenditure tracking, budget preparation and administration, development, procurement and maintenance of facilities, operations and fixed assets as set forth in the annual budget, and miscellaneous expenses as identified in the annual budget. Financial and accounting services include, but are not limited to, appropriate accounting procedures to maintain bank accounts, receive and expend funds and report accordingly, and computer information systems.

Executive Services: all activities including, but not limited to services of the Chief Executive Officer, direction and oversight of all operations of FPH2, support for boards, commissions and committees, including the Governing Board.

EXHIBIT “B”

BUDGET

Account Description	Proposed FPH2 Total Budget
STAFF SALARIES	\$ 900,000.00
PROFESSIONAL/TECHNICAL SERVICES	\$ 1,150,000.00
LANCASTER ADMINISTRATIVE SERVICES	\$ 195,000.00
SPONSORSHIPS	\$ 100,000.00
BOARD COMPENSATION	\$ 67,200.00
ADVERTISING	\$ 50,000.00
LEGAL SERVICES	\$ 24,225.00
DUES & MEMBERSHIPS	\$ 20,000.00
TRAVEL/MILEAGE REIMBURSEMENT	\$ 20,000.00
MEETINGS & CONFERENCES	\$ 15,000.00
SPECIAL ACTIVITY SUPPLIES	\$ 2,000.00
	\$ 2,543,425.00

**EXHIBIT “C”
PROMISSORY NOTE**

\$2,600,000.00
January ____, 2025
Lancaster, California

FOR VALUE RECEIVED, First Public Hydrogen Authority, a California joint exercise of power authority (“Maker”), promises to pay on or before July 1, 2028 (“Maturity Date”), to **City of Lancaster**, a California municipal corporation and charter city (“Holder”), or order, the principal sum of Two Million Six Hundred Thousand Dollars (\$2,600,000.00), or as much thereof as Holder invoiced pursuant to that certain agreement effective as of January ____, 2025, with interest in an amount equal to the average of the average monthly effective yields of the Local Agency Investment Fund (“LAIF”), as published by the California State Treasurer, for the period commencing upon the date of invoice and ending on the Maturity Date; provided, however, that in the event of prepayment, the interest period shall end the month preceding such prepayment.

Maker shall make all payments in lawful money of the United States of America and in immediately available funds. This Note may be prepaid in whole or in part, without penalty, at the option of Maker and without the consent of Holder. All payments under this Note shall be paid to Holder at 44933 Fern Avenue, Lancaster, California, or at such other address as Holder shall direct Maker in writing. Should Maker default in the payment of principal when due, the whole sum of principal due under this Note shall be immediately due and payable without further demand or notice and shall bear interest at the rate set forth in the previous paragraph or seven percent (7%) per annum, whichever is greater.

This Note shall be governed by the laws of the State of California excluding its conflict of laws rules. The exclusive jurisdiction and venue of any legal action instituted by any party to this Note shall be Los Angeles County, California. Maker waives presentment, protest and demand, notice of protest, notice of demand and dishonor, and notice of nonpayment of this Note. Maker expressly agrees that this Note or any payment under this Note may be extended by Holder from time to time without in any way affecting the liability of Maker. Maker shall pay all costs and expenses, including attorney fees, incurred: (i) in collecting payment on this Note; (ii) in connection with any dispute that arises as to its enforcement, validity, or interpretation, whether or not legal action is instituted or prosecuted to judgment; or (iii) in enforcing any judgment obtained in any related legal proceeding.

The Maturity Date may be extended by mutual written agreement by Maker and Holder.

[Remainder of page blank.]

If any provision or any word, term, clause, or part of any provision of this Note shall be invalid for any reason, the same shall be ineffective, but the remainder of this Note and of the provision shall not be affected and shall remain in full force and effect. Any of the terms or conditions of this Note may be waived by Holder, but no such waiver shall affect or impair the rights of Holder to require observance, performance, or satisfaction, either of that term or condition as it applies on a subsequent occasion or of any other term or condition of this Note.

MAKER:

FIRST PUBLIC HYDROGEN AUTHORITY,
a California joint exercise of powers authority

By: _____

Name: _____

Its: _____



STAFF REPORT

1/13/25
JC

Date: January 13, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 6: **Consider Authorization of Execution of a Community Workforce Agreement**

Recommendation:

Authorize the Chief Executive Officer to execute a Community Workforce Agreement establishing labor relations policies and procedures for certain First Public Hydrogen projects, substantially in the form attached, subject to General Counsel approval.

Fiscal Impact:

While there may be a slight increase in administrative costs related to ensuring compliance with the agreement, those costs are anticipated to be readily absorbed within the budget for applicable projects.

Background:

First Public Hydrogen (FPH₂) desires to execute a Community Workforce Agreement to establish the labor relations policies and procedures for FPH₂.

The agreement provides that, for applicable projects, FPH₂ will contract exclusively with contractors who agree to comply with the terms of the agreement. Non-union contractors may bid on, and be awarded, contracts for applicable FPH₂ projects subject to the terms of the agreement.

The projects subject to the terms of the agreement are limited to multi-trade contracts that exceed \$175,000 and prime specialty contracts that exceed \$100,000, with several exemptions (including work performed by FPH₂ employees, design teams and other FPH₂ consultants not performing manual labor; non-construction support services; and work that has been deemed immediately required as a result of a local emergency). As these types of projects are already subject to prevailing wage, entering into this agreement does not cause

an increase in project costs.

In conjunction with the trades council's and unions' local training and apprenticeship programs, entering into this agreement will help local residents to become part of a trained workforce with good-paying jobs.

Attachment:

Community Workforce Agreement

COMMUNITY WORKFORCE AGREEMENT

BY AND BETWEEN

FIRST PUBLIC HYDROGEN AUTHORITY

AND

BUILDING AND CONSTRUCTION TRADES COUNCIL

AND THE SIGNATORY CRAFT COUNCILS AND UNIONS

TABLE OF CONTENTS		Page
ARTICLE 1	DEFINITIONS	3
ARTICLE 2	SCOPE OF THE AGREEMENT	4
ARTICLE 3	UNION RECOGNITION AND EMPLOYMENT	8
ARTICLE 4	UNION ACCESS AND STEWARDS	12
ARTICLE 5	WAGES AND BENEFITS	13
ARTICLE 6	WORK STOPPAGES AND LOCKOUTS	15
ARTICLE 7	WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES	18
ARTICLE 8	MANAGEMENT RIGHTS	19
ARTICLE 9	SETTLEMENT OF GRIEVANCES AND DISPUTES	21
ARTICLE 10	REGULATORY COMPLIANCE	23
ARTICLE 11	SAFETY AND PROTECTION OF PERSON AND PROPERTY	23
ARTICLE 12	APPRENTICES	23
ARTICLE 13	PRE-JOB CONFERENCES	24
ARTICLE 14	WORK OPPORTUNITIES PROGRAM	25
ARTICLE 15	SAVINGS AND SEPARABILITY	25
ARTICLE 16	WAIVER	26
ARTICLE 17	AMENDMENTS	26
ARTICLE 18	DURATION OF THE AGREEMENT	26
ATTACHMENT A	LETTER OF ASSENT	29
ATTACHMENT B	LOCAL RESIDENT ZIP CODES	30
ATTACHMENT C	CRAFT REQUEST FORM	31
ATTACHMENT D	DRUG AND ALCOHOL TESTING POLICY	33

FIRST PUBLIC HYDROGEN AUTHORITY COMMUNITY WORKFORCE AGREEMENT

This Community Workforce Agreement ("Agreement") is entered into by and between First Public Hydrogen Authority and its successors or assigns, ("Authority"), the [ENTER NAME HERE] Building and Construction Trades Council ("Council"), and the signatory Craft Councils and Local Unions signing this Agreement (collectively, the "Union" or "Unions"). This Agreement establishes the labor relations Policies and Procedures for the Authority... The Authority, Council and Unions are hereinafter referred to herein, as the context may require, as "Party" or "Parties."

It is understood by the Parties to this Agreement that if this Agreement is acceptable to the Authority, it will become the policy of the Authority for the Project Work to be contracted exclusively to Contractors who agree to execute and be bound by the terms of this Agreement, directly or through the Letter of Assent (a form of which is attached as "Attachment A"), and to require each of its subcontractors, of whatever tier, to become bound. The Authority shall include, directly or by incorporation by reference, the requirements of this Agreement in the advertisement of and/or specifications for each and every contract for Project Work to be awarded by the Authority.

ARTICLE I **DEFINITIONS**

Section 1.1 "Agreement" means this Community Workforce Agreement.

Section 1.2 "Apprentice" means those employees indentured and participating in a Joint Labor/Management Apprenticeship Program approved by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards.

Section 1.3 "Construction Contract" and "Construction Contracts" means any contract entered into by the Parties as defined by Section 2.2.

Section 1.4 "Contractor" means any individual firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a Construction Contract with the Authority or any of its contractors or any of the Authority's or contractor's subcontractors of any tier, with respect to the construction of any part of a Project under contract terms and conditions approved by the Authority and which incorporate this Agreement.

Section 1.5 "Authority" means the First Public Hydrogen Authority.

Section 1.6 "Joint Labor/Management Apprenticeship Program" as used in this Agreement means a joint Union and Contractor administered apprenticeship program certified by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards.

Section 1.7 "Letter of Assent" means the document that each Contractor (of any tier) must sign and submit to the Authority before beginning any Project Work, which formally binds such Contractor(s) to adherence to all the forms, requirements, and conditions of this Agreement in the form attached hereto as Attachment A.

Section 1.8 "Master Labor Agreements" or "MLA" as used in this Agreement means the local collective bargaining agreements of the signatory Unions having jurisdiction over the Project Work and which have signed this Agreement.

Section 1.9 "Project," "Authority Project" or "Project Work" means the construction work of public projects, as defined in Section 22002 of the California Public Contract Code, pursuant to a Construction Contract entered into by the Authority, as more fully described in Article 2, below.

Section 1.10 "Subscription Agreement" means the contract between a Contractor and a Union's Labor/Management Trust Fund(s) that allows the Contractor to make the appropriate fringe benefit contributions in accordance with the terms of a Master Labor Agreement.

Section 1.11 The use of masculine or feminine gender or titles in this Agreement should be construed as including both genders and not as gender limitations unless the Agreement clearly requires a different construction. Further, the use of Article titles and/or Section headings are for information only, and carry no legal significance.

ARTICLE 2

SCOPE OF THE AGREEMENT

Section 2.1 **General** This Agreement shall apply and is limited to all of the Authority's Project Work, as specified in Section 2.2 of this Article, performed by those Contractor(s) of whatever tier that have contracts awarded for such work, for the development of the Authority's facilities which, jointly, constitute the Project, and have been designated by the Authority for construction or rehabilitation.

Section 2.2 **Specific** The work covered by this Agreement is defined and limited to:

(a) All construction and rehabilitation work pursuant to prime multi-trade contracts that exceed \$175,000.00 and all subcontracts arising from these prime contracts; and

(b) All prime specialty contracts that exceed \$100,000.00, and all subcontracts arising from these specialty contracts;

(c) It is understood by the Parties that the Authority may at any time, and at its sole discretion, add additional projects under this Agreement not set forth in subsections (a) and (b), above.

Section 2.3 **Bundling of Contracts** The Parties understand that, to the maximum extent feasible, and consistent with goals of the Authority to (i) utilize this Agreement as the labor relations policy for its construction and rehabilitation program and (ii) fully utilize the services of local small business enterprises for such construction and rehabilitation work:

(a) The Authority, in its sole discretion, will seek to group (or "bundle") for bidding, contracts not meeting the thresholds of Section 2.2 (a) or (b) above. (Small contracts for like types of work, scheduled to be undertaken at the same facility or on the same project site, and within the same timeframe, will be considered for such bundling, consistent with economies of scale, and the purposes of this Agreement); and

(b) Project Work will not be split, divided, or otherwise separated for contract award purposes to avoid application of this Agreement.

Section 2.4 This Agreement shall not apply to any work of any Contractor other than that on Project Work specifically covered by this Agreement.

Section 2.5 Exclusions Items specifically excluded from the Scope of this Agreement include the following:

(a) Work of non-manual employees, including but not limited to: superintendents; supervisors; staff engineers; time keepers; mail carriers; clerks; office workers; messengers; guards; safety personnel; emergency medical and first aid technicians; and other professional, engineering, administrative, supervisory and management employees;

(b) Equipment and machinery owned or controlled and operated by the Authority;

(c) All off-site manufacture and handling of materials, equipment or machinery; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project or Project Work, and the movement of materials or goods between locations on a Project site are within the scope of this Agreement;

(d) All employees of the Authority, Community Workforce Coordinator, design teams (including, but not limited to architects engineers and master planners), or any other consultants for the Authority (including, but not limited to, project managers and construction managers and their employees where not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations, not performing manual labor within the scope of this Agreement; provided, however, that it is understood and agreed that Building/Construction Inspector and Field Soils and Materials Testers (Inspectors) are a covered craft under the CWA. (This inclusion applies to the scope of work defined in the State of California Wage Determination for said Craft. This shall also specifically include such work where it is referred to by utilization of such terms as "quality control" or "quality assurance." Every Inspector performing under the Wage classification of Building/Construction Inspector and Field Soils and Material Testers under a professional services agreement of a construction contract shall be bound to all applicable requirements of the CWA.) Covered Work as defined by this Agreement shall be performed pursuant to the terms and conditions of this Agreement regardless of the manner in which the work was awarded;

(e) Any work performed on or near or leading to or into a site of work covered by this Agreement and undertaken by state, county, Authority or other governmental bodies, or their Contractors; or by public utilities, or their Contractors; and/or by the Authority or its Contractors (for work for which is not within the scope of this Agreement);

(f) Off-site maintenance of leased equipment and on-site supervision of such work;

(g) It is recognized that certain materials, equipment and systems of a highly technical and specialized nature will have to be installed at the Project. The nature of the materials, equipment and systems, together with requirements of manufacturer's or vendor's warranty, may dictate that it be prefabricated, pre-piped, and/or pre-wired and that it be installed under the supervision and direction of Owner's and/or manufacturer's personnel. The Unions agree to install such material, equipment, and systems without incident;

(h) Non-construction support services contracted by the Authority, Community Workforce Coordinator, or Contractor in connection with this Project;

(i) Laboratory work for testing;

G) Any work that would ordinarily be subject to this Agreement, but has been deemed immediately required as a result of a local emergency, in accordance with the emergency contracting procedures set forth in Section 22050 of the Public Contract Code

Section 2.6 Awarding of Contracts

(a) The Authority and/or the Contractors, as appropriate, have the absolute right to award contracts or subcontracts on this Project to any Contractor notwithstanding the existence or non-existence of any agreements between such Contractor and any Union parties, provided only that such Contractor is willing, ready and able to execute and comply with this Community Workforce Agreement should such Contractor be awarded work covered by this Agreement.

(b) It is agreed that all Contractors and subcontractors of whatever tier, who have been awarded contracts for work covered by this Agreement, shall be required to accept and be bound to the terms and conditions of this Community Workforce Agreement, and shall evidence their acceptance by the execution of the Letter of Assent as set forth in Attachment A hereto, prior to the commencement of work. At the time that any Contractor enters into a subcontract with any subcontractor of any tier providing for the performance on the construction contract, the Contractor shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a part of accepting the award of a construction subcontract, to agree in writing in the form of a Letter of Assent to be bound by each and every provision of this Agreement prior to the commencement of work on the Project. No Contractor or subcontractor shall commence Project Work without having first provided a copy of the Letter of Assent as executed by it to the Community Workforce Coordinator and to the Council forty-eight (48) hours before the commencement of Project Work, or within forty-eight (48) hours after the award of Project Work to that Contractor (or subcontractor), whichever occurs later.

(c) The Authority agrees that to the extent permitted by law and consistent with the economy and efficiency of construction and operation, it will use its best efforts to purchase materials, equipment and supplies which will not create labor strife. Under all circumstances, however, the Authority shall retain the absolute right to select the lowest reliable and responsible bidder for the award of contracts on all projects.

Section 2.7 Coverage Exception

(a) This Agreement shall not apply if the Authority receives funding or assistance from any Federal, State, local or other public entity for the Construction Contract if a requirement, condition or other term of receiving that funding or assistance, at the time of the awarding of the contract, is that the Authority not require, bidders, contractors, subcontractors or other persons or entities to enter into an agreement with one or more labor organizations or enter into an agreement that contains any of the terms set forth herein. The Authority agrees that it will make every effort to establish the enforcement of this Agreement with any governmental agency or granting authority.

Section 2.8 Master Labor Agreements

(a) The provisions of this Agreement, including the MLAs, (which are the local Master Labor Agreements of the signatory Unions having jurisdiction over the work on the Project, as such may be changed from time-to-time and which are incorporated herein by reference) shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreement which may conflict with or differ from the terms of this Agreement. However, such does not apply to work performed under the National Cooling Tower Agreement, the National Stack Agreement, the National Transit Division Agreement (NTD), or within the jurisdiction of the International Union of Elevator Constructors and all instrument calibration and loop checking work performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, except that Articles dealing with Work Stoppages and Lock-Outs, Work Assignments and Jurisdictional Disputes, and Settlement of Grievances and Disputes shall apply to such work. It is specifically agreed that no later agreement shall be deemed to have precedence over this Agreement unless signed by all Parties signatory hereto who are then currently employed or represented at the Project. Where a subject covered by the provisions of this Agreement is also covered by a MLA, the provisions of this Agreement shall apply. Where a subject is covered by a provision of a MLA and not covered by this Agreement, the provisions of the MLA shall prevail. Any dispute as to the applicable source between this Agreement and any MLA for determining the wages, hours of working conditions of employees on this Project shall be resolved under the procedures established in Article 10.

(b) It is understood that this Agreement, together with the referenced MLA's, constitutes a self-contained, stand-alone agreement and by virtue of having become bound to this Community Workforce Agreement, the Contractor will not be obligated to sign any other local, area or national collective bargaining agreement as a condition of performing work within the scope of this Agreement (provided, however, that the Contractor may be required to sign a uniformly applied, non-discriminatory Participation Agreement at the request of the trustees or administrator of a trust fund established pursuant to Section 302 of the Labor Management Relations Act, and to which such Contractor is bound to make contributions under this Agreement, provided that such Participation Agreement does not purport to bind the Contractor beyond the terms and conditions of this Agreement and/or expand its obligation to make contributions pursuant thereto). It shall be the responsibility of the prime Contractor to have each of its subcontractors sign the documents described herein, with the appropriate Craft Union prior to the subcontractor beginning work on covered Projects.

Section 2.9 Workers' Compensation Carve-out The Parties recognize the potential which the Project Work may provide for the implementation of a cost effective workers' compensation system, as permitted by revised California Labor Code Section 3201.5, and it is understood that the Authority is in an ongoing review of the value of such a program. Should the Authority request, the Union parties agree to meet and negotiate in good faith with representatives of the Authority for the development, and subsequent implementation, of an effective program involving improved and revised dispute resolution and medical care procedures for the delivery of workers' compensation benefits and medical coverage as permitted by the California Labor Code.

Section 2.10 Binding Signatories Only This Agreement shall only be binding on the signatory Parties hereto, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such Party.

Section 2.11 Other Authority Work This Agreement shall be limited to the construction work within the Scope of this Agreement including, specifically, site preparation and related demolition work, and new construction and major rehabilitation work for new or existing facilities referenced in Section 2.2 above. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work or function not covered by this Agreement, which may be performed by Authority Employees or contracted for by the Authority for its own account, on its property or in and around a Project site.

Section 2.12 Separate Liability It is understood that the liability of the Contractor(s) and the liability of the separate Unions under this Agreement shall be separate and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the Authority and/or any Contractor.

Section 2.13 Completed Project Work As areas of covered work are accepted by the Authority, this Agreement shall have no further force or effect on such items or areas except where the Contractor is directed by the Authority or its representatives to engage in repairs, modification, check- out and/or warranties functions required by its contract(s) with the Authority.

ARTICLE 3

UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition The Contractor recognizes the Council and the signatory local Unions as the exclusive bargaining representative for the employees engaged in Project Work. Contractors further recognize that the Unions shall be the primary source of all craft labor employed on Authority Projects. In the event that a Contractor has its own core workforce, said Contractor shall follow the procedures outlined below.

Section 3.2 Contractor Selection of Employees The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, unless expressly limited or required by a specific provision of this Agreement or an MLA. The Contractor shall also have the right to reject any applicant referred by a Union for any reason, subject to any required reporting pay; provided, however, that such

right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this Agreement.

Section 3.3 Referral Procedures

(a) For signatory Unions now having a job referral system contained in a MLA, the Contractor agrees to comply with such system, and it shall be used exclusively by such Contractor, except as modified by this Agreement. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of the Authority to encourage employment of Authority residents and utilization of small local businesses on the Project, and to facilitate the ability of all Contractors to meet their employment needs.

(b) The local Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractor, including specific employment obligations to which the Contractor may be legally and/or contractually obligated; and to refer apprentices as requested to develop a larger, skilled workforce. The local Unions will work with their affiliated regional and national unions, to identify and refer competent craft persons as needed for Project Work, and to identify and hire individuals, particularly residents of the Authority, for entrance into joint labor/management apprenticeship programs, or to participate in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such apprenticeship programs, all maintained to increase the available supply of skilled craft personnel for Project Work and future construction of maintenance work to be undertaken by the Authority.

(c) The Union shall not knowingly refer an employee currently employed by a Contractor on a covered Project to any other Contractor.

Section 3.4 Non-Discrimination in Referral, Employment, and Contracting The Unions and the Contractors agree that they will not discriminate against any employee or applicant for employment in hiring and dispatching on the basis of race, color, religion, sex, gender, national origin, age, membership in a labor organization, sexual orientation, political affiliation, marital status or disability. Further, it is recognized that the Authority has certain policies, programs, and goals for the utilization of local small business enterprises. The Parties shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this Agreement which may appear to interfere with local small business enterprises successfully bidding for work within the scope of this Agreement shall be carefully reviewed, and adjustments made as may be appropriate and agreed upon among the Parties, to ensure full compliance with the spirit and letter of the Authority's policies and commitment to its goals for the significant utilization of local small businesses as direct Contractors or suppliers for Project Work.

Section 3.5 Employment of Authority Residents

(a) The Unions and Employers agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, the Unions will exert their best efforts to

refer and/or recruit sufficient numbers of skilled craft "Local Residents" as defined herein, to fulfill the requirements of the Employers. In recognition of the fact that the Authority and the communities surrounding Project Work will be impacted by the construction of the Project Work, the parties agree to support the hiring of workers from the residents of these surrounding areas. Towards that end, the Parties hereby establish a goal that 30% of all construction labor hours worked on the Project shall be from Veterans and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, regardless of where they reside, and qualified area residents residing: first, in those first tier zip codes which overlap the Authority boundaries, as reflected on the list of U.S. Postal Service zip codes attached hereto as "Attachment B", second, area residents residing within the remainder of the County of Los Angeles. For dispatch purposes, employees described in this Section 3.5(a) shall be referred to as "Local Residents."

(b) A goal of 30% of the total work hours performed on the Project shall be from qualified workers described in (a) above. In addition, a goal of 10 % of the total work hours shall be from transitional workers residing within the greater Antelope Valley area, as reflected on the attached list of zip codes.

(c) The Unions shall coordinate with community-based job placement organizations to ensure transitional workers, veterans and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program are referred to the Unions from such organizations. The community-based job placement organizations shall pre-screen any applicant prior to referral to the Unions. Drug screening will be a prerequisite to employment. The following criteria will be used to identify transitional workers:

- having a gross household income below 50% of the Los Angeles County median;
- being homeless;
- a welfare recipient;
- having a history of involvement with the justice system;
- being unemployed for the previous three (3) months; or
- a custodial single parent.

For the applicant to qualify under this program, the community-based job placement organizations shall verify the presence of at least one of the above criteria for those applicants referred to the Unions.

(d) Contractors and Unions will administer this local residency and disadvantaged worker preference, and shall maintain adequate records to demonstrate that local residency and disadvantaged worker preferences have been pursued. The Authority has the authority to review such records to ensure compliance.

Section 3.6 To facilitate the dispatch of local residents, transitional workers, veterans and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, all Contractors will be required to utilize the Craft Employee Request Form whenever they are requesting the referral of any employee from a Union referral list for any Covered Project, a sample of which is attached as Attachment C. When local residents, transitional workers, veterans, and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program are requested by the

Employers, the Unions will refer such workers regardless of their place in the Unions' hiring halls' list and normal referral procedures.

Section 3.7 Helmets to Hardhats The Employers and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the Parties. For purposes of this Agreement the term "Eligible Veteran" shall have the same meaning as the term "veteran" as defined under Title 5, Section 2108(1) of the United States Code as the same may be amended or re-codified from time to time. It shall be the responsibility of each qualified Authority resident to provide the Unions with proof of his/her status as an Eligible Veteran.

The Unions and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

Section 3.8 Core Employees

(a) Contractors which are not independently signatory to a Master Labor Agreement may employ, as needed, first, a member of his core workforce, then an employee through a referral from the appropriate Union hiring hall, then a second core employee, then a second employee through the referral system, and so on until a maximum of five (5) core employees are employed, thereafter, all additional employees in the affected trade or craft shall be requisitioned from the craft hiring hall in accordance with Section 3.3. In the laying off of employees, the number of core employees shall not exceed one-half plus one of the workforce for an employer with 10 or fewer employees, assuming the remaining employees are qualified to undertake the work available. This provision applies only to Contractors which are not independently signatory to a Master Labor Agreement and is not intended to limit the transfer provisions of the MLA of any trade. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate fringe benefit fund coverage, all Contractors shall require their core employees and any other persons employed other than through the Union referral process, to register with the appropriate Union hiring hall, if any, prior to their first day of employment at a project site.

(b) The core work force is comprised of those employees whose names appeared on the Contractor's active payroll for sixty (60) of the one hundred (100) working days immediately before award of Project Work to the Contractor; who possess any license required by state or federal law for the Project Work to be performed; who have the ability to safely perform the basic functions of the applicable trade; and who have been residing within the zip codes within the boundaries of the Authority for the one hundred (100) working days immediately prior to the award of Project Work to the Contractor.

(c) Prior to each Contractor performing any work on the Project, each Contractor

shall provide a list of his core employees to the Council. Failure to do so will prohibit the Contractor from using any core employees. Upon request by any Party to this Agreement, the Contractor hiring any core employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, driver's license, voter registration, postal address and such other documentation) evidencing the core employee's qualification as a core employee to the Council.

(d) Hours worked by residents of states other than California shall not be included in the calculation of total hours of Project Work for purposes of the percentage requirements set forth above.

Section 3.9 Time for Referral If any Union's registration and referral system does not fulfill the requirements for specific classifications requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays, and holidays), that Contractor may use employment sources other than the Union registration and referral services, and may employ applicants meeting such standards from any other available source. The Contractors shall inform the Union of any applicants hired from other sources within forty-eight (48) hours of such applicant being hired, and such applicants shall register with the appropriate hiring hall, if any, prior to their first day of employment at a project site.

Section 3.10 Lack of Referral Procedure If a signatory local Union does not have a job referral system as set forth in Section 3.3 above, the Contractors shall give the Union equal opportunity to refer applicants. The Contractors shall notify the Union of employees so hired, as set forth in Section 3.5.

Section 3.11 Union Membership No employee covered by this Agreement shall be required to join any Union as a condition of being employed, or remaining employed, for the completion of Project Work; provided, however, that any employee who is a member of the referring Union at the time of referral shall maintain that membership in good standing while employed under this Agreement. All employees shall, however, be required to comply with the Union security provisions of the applicable MLA for the period during which they are performing on-site Project Work to the extent, as permitted by law, of rendering payment of the applicable monthly and working dues only, as uniformly required of all craft employees while working on the Project and represented by the applicable signatory Union.

Section 3.12 Individual Seniority Except as provided in Section 4.3, individual seniority shall not be recognized or applied to employees working on the Project; provided, however, that group and/or classification seniority in a Union's MLA as of the effective date of this Agreement shall be recognized for purposes of layoffs.

Section 3.13 Foremen The selection and number of craft foreman and/or general foreman shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foreman shall be designated as working foreman at the request of the Contractors.

ARTICLE 4
UNION ACCESS AND STEWARD

Section 4.1 Access to Project Sites Authorized representatives of the Union shall have access to Project Work, provided that they do not interfere with the work of employees and further provided that such representatives fully comply with posted visitor, security, and safety rules.

Section 4.2 Stewards

(a) Each signatory local Union shall have the right to dispatch a working journey person as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.

(b) In addition to his/her work as an employee, the steward should have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward should be concerned only with the employees of the steward's Contractor and, if applicable, subcontractor(s), and not with the employees of any other Contractor. A Contractor will not discriminate against the steward in the proper performance of his/her Union duties.

(c) When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request, and the Union shall appoint such additional working stewards as the Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

(d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 4.3 Steward Layoff/Discharge The Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable MLA, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice have been given.

Section 4.4 Employees on Non-Project Work On work where the personnel of the Authority may be working in close proximity to the construction activities covered by this Agreement, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with the Authority personnel, or with personnel employed by the any other employer not a Party to this Agreement.

ARTICLE 5
WAGES AND BENEFITS

Section 5.1 **Wages** All employees covered by this Agreement shall be classified in accordance with work performed and paid by the Contractors the hourly wage rates for those classifications in compliance with the applicable prevailing wage rate determination established pursuant to applicable law. If a prevailing rate increases under law, the Contractor shall pay that rate as of its effective date under the law. Notwithstanding any other provision in this Agreement, Contractors directly signatory to one or more of the MLAs are required to pay all of the wages set forth in those MLAs without reference to the forgoing.

Section 5.2 **Benefits**

(a) Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate MLA and make all employee-authorized deductions in the amounts designated in the appropriate MLA, however, such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination. Notwithstanding any other provision in this Agreement, Contractors directly signatory to one or more of the MLA are required to make all contributions set forth in those MLA without reference to the foregoing. Bona fide jointly trusteed benefit plans or authorized employee deduction programs established or negotiated under the applicable MLA or by the Parties to this Agreement during the life of this Agreement may be added.

(b) The Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the Parties to such trust funds to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

(c) Each Contractor and subcontractor is required to maintain records evidencing that it has paid all benefit contributions due and owing to the appropriate Trust(s) prior to the receipt of its final payment and/or retention. Further, a Union shall work with any prime Contractor or subcontractor who is delinquent in payments to assure that proper benefit contributions are made. In the event of failure of a prime Contractor or subcontractor to timely make the delinquent payments, a Union may request that the Authority or the prime Contractor withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

Section 5.3 **Wage Premiums** Wage premiums, including but not limited to pay based on height of work, hazard pay, scaffold pay, and special skills shall not be applicable to work under this Agreement, except to the extent provided for in any applicable prevailing wage determination.

Section 5.4 **Compliance with Prevailing Wage Laws** The Parties agree that the Authority shall monitor the compliance by all Contractors and subcontractors with all applicable federal and state prevailing wage laws and regulations, and that such monitoring shall include Contractors engaged in what would otherwise be Project Work but for the exceptions to Agreement coverage in Article 2, Section 2.2. All complaints regarding possible prevailing

wage violations shall be referred to the Authority for processing, investigation, and resolution, and if not resolved within thirty calendar days, may be referred by any party to the state labor commissioner.

ARTICLE 6

WORK STOPPAGE AND LOCK-OUTS

Section 6.1 **No Work Stoppages or Disruptive Activity** The Council and the Unions signatory hereto agree that neither they, and each of them, nor their respective officers or agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slow-down, picketing, observing picket lines or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever with respect to or any way related to Project Work, or which interferes with or otherwise disrupts, Project Work, or with respect to or related to the Authority or Contractors or subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes whether or not the underlying dispute is arbitrable. Any such actions by the Council, or Unions, or their members, agents, representatives, or the employees they represent shall constitute a violation of this Agreement. The Council and the Union shall take all steps necessary to obtain compliance with this Article and neither should be held liable for conduct for which it is not responsible.

Section 6.2 **Employee Violations** The Contractor may discharge any employee violating Section 6.1 above and any such employee will not be eligible for rehire under this Agreement.

Section 6.3 **Standing to Enforce** The Authority or any Contractor affected by an alleged violation of Section 6.1 shall have standing and the right to enforce the obligations established therein.

Section 6.4 **Expiration of the MLA's** If the MLA, or any local, regional, and other applicable collective bargaining agreements expire during the term of the Project, the Union(s) agree that there shall be no work disruption of any kind as described in Section 6.1 above as a result of the expiration of any such agreement(s) having application on this Project and/or failure of the involved Parties to that agreement to reach a new contract. Terms and conditions of employment established and set at the time of bid shall remain established and set. Otherwise to the extent that such agreement does expire and the Parties to that agreement have failed to reach concurrence on a new contract, work will continue on the Project on one of the following two (2) options, both of which will be offered by the Unions involved to the Contractors affected:

(a) Each of the Unions with a contract expiring must offer to continue working on the Project under interim agreements that retain all the terms of the expiring contract, except that the Unions involved in such expiring contract may each propose wage rates and employer contribution rates to employee benefit funds under the prior contract different from what those wage rates and employer contributions rates were under the expiring contracts. The terms of the Union's interim agreement offered to Contractors will be no less favorable than the terms offered by the Union to any other employer or group of employers covering the same type of construction work in Los Angeles County.

(b) Each of the Unions with a contract expiring must offer to continue working on the Project under all the terms of the expiring contract, including the wage rates and employer contribution rates to the employee benefit funds, if the Contractor affected by that expiring

contract agrees to the following retroactive provisions: if a new MLA, local, regional or other applicable labor agreement for the industry having application at the Project is ratified and signed during the term of this Agreement and if such new labor agreement provides for retroactive wage increases, then each affected Contractor shall pay to its employees who performed work covered by this Agreement at the Project during the hiatus between the effective dates of such expired and new labor agreements, an amount equal to any such retroactive wage increase established by such new labor agreement, retroactive to whatever date is provided by the new labor agreement for such increase to go into effect, for each employee's hours worked on the Project during the retroactive period. All Parties agree that such affected Contractors shall be solely responsible for any retroactive payment to its employees.

(c) Some Contractors may elect to continue to work on the Project under the terms of the interim agreement option offered under paragraph (a) above and other Contractors may elect to continue to work on the Project under the retroactivity option offered under paragraph (b) above. To decide between the two options, Contractors will be given one week after the particular labor agreement has expired or one week after the Union has personally delivered to the Contractors in writing its specific offer of terms of the interim agreement pursuant to paragraph (a) above, whichever is the later date. If the Contractor fails to timely select one of the two options, the Contractor shall be deemed to have selected option (b).

Section 6.5 No Lockouts Contractors shall not cause, incite, encourage, condone, or participate in any lock-out of employees with respect to Project Work during the term of this Agreement. The term "lock-out" refers only to a Contractor's exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination or layoff of employees by the Contractor for any reason in the exercise of rights pursuant to any provision of this Agreement, or any other agreement, nor does "lock-out" include the Authority's decision to stop, suspend or discontinue any Project Work or any portion thereof for any reason.

Section 6.6 Best Efforts to End Violations

(a) If a Contractor contends that there is any violation of this Article or Section 7.3, it shall notify, in writing, the Executive Secretary of the Council, the Senior Executive of the involved Union(s) and the Authority. The Executive Secretary and the leadership of the involved Union(s) will immediately instruct, order, and use their best efforts to cause the cessation of any violation of the relevant Article.

(b) If the Union contends that any Contractor has violated this Article, it will notify that the Contractor and the Authority, setting forth the facts which the Union contends violate the Agreement, at least twenty-four (24) hours prior to invoking the procedures of Section 6.8. The Authority shall promptly order the involved Contractor(s) to cease any violation of the Article.

Section 6.7 Withholding of services for failure to pay wages and fringe benefits

Notwithstanding any provision of this Agreement to the contrary, it shall not be a violation of this Agreement for any Union to withhold the services of its members (but not the right to picket) from a particular Contractor who:

(a) fails to timely pay its weekly payroll; or

(b) fails to make timely payments to the Union's Joint Labor/Management Trust Funds in accordance with the provisions of the applicable MLA. Prior to withholding its members' services for the Contractor's failure to make timely payments to the Union's Joint Labor/Management Trust Funds, the Union shall give at least ten (10) days (unless a lesser period of time is provided in the Union's MLA, but in no event less than forty-eight (48) hours) written notice of such failure to pay by registered or certified mail, return receipt requested, and by facsimile transmission to the involved Contractor and to the Authority. Union will meet within the ten (10) day period to attempt to resolve the dispute.

(c) Upon the payment of the delinquent Contractor of all monies due and then owing for wages and/or fringe benefit contributions, the Union shall direct its members to return to work and the Contractor shall return all such members back to work.

Section 6.8 Expedited Enforcement Procedure Any party, including the Authority, which the Parties agree is a Party to the Agreement for purposes of this Article and an intended beneficiary of this Article, may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of Section 6.1 or 6.5, above, or Section 7.3 is alleged.

(a) The Party invoking this procedure shall notify Louis Zigman who has been selected by the negotiating Parties, and whom the Parties agree shall be the permanent arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the party invoking this procedure shall notify one of the alternates selected by the Parties, as set forth under section 9.2, Step 3 (a), in that order on an alternating basis. Expenses incurred in arbitration shall be borne equally by the Parties involved in the arbitration and the decision of the arbitrator shall be final and binding on the Parties, provided, however, that the arbitrator shall not have the authority to alter or amend or add to or delete from the provisions of this Agreement in any way. Notice to the arbitrator shall be by the most expeditious means available, with notices to the Parties alleged to be in violation, and to the Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by telegram, facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or his/her alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Executive Secretary and the Senior Official(s) as required by Section 6.6, as above.

(c) The arbitrator shall notify the Parties of the place and time chosen for this hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed 24 hours unless otherwise agreed upon by all Parties. A failure of any Party or Parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

(d) The sole issue at the hearing shall be whether or not a violation of Sections 6.1 or 6.5, above, or Section 7.3 has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation, or mitigation of such violation or to award damages,

(except for damages as set forth in 6.8 below) which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any Party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The arbitrator may order cessation of the violation of the Article and other appropriate relief, and such award shall be served on all Parties by hand or registered mail upon issuance.

(e) Such award shall be final and binding on all Parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other Party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 6.7(d) of this Article, all Parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any Party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all Parties by hand or by delivery to their address as shown on this Agreement (for a Union), as shown on their business contract for work under this Agreement (for a Contractor) and to the representing Union (for an employee), by certified mail by the Party or Parties first alleging the violation.

(f) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the Parties to whom they accrue.

(g) The fees and expenses of the arbitrator shall be equally divided between the Party or Parties initiating this procedure and the respondent Party or Parties.

ARTICLE 7

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 7.1 Assignment of Work The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

Section 7.2 The Plan All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding, and conclusive on the Employers and Unions parties to this Agreement.

(a) If a dispute arising under this Article involves the Southwest Regional Council of Carpenters or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the Trades Council within 14 days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

Section 7.3 No Work Disruption Over Jurisdiction All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 7.4 Pre-Job Conferences As provided in Article 13, each Contractor will conduct a pre-job conference with the appropriate affected Union(s) prior to commencing work. The Council and the Community Workforce Coordinator shall be advised in advance of all such conferences and may participate if they wish.

Section 7.5 Resolution of Jurisdictional Disputes If any actual or threatened strike, sympathy strike, work stoppage, slow down, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or interference with the progress of Project Work by reason of a jurisdictional dispute or disputes occurs, the Parties shall exhaust the expedited procedures set forth in the Plan, if such procedures are in the plan then currently in effect, or otherwise as in Article 6 above.

ARTICLE 8

MANAGEMENT RIGHTS

Section 8.1 Contractor and Authority Rights The Contractors and the Authority have the sole and exclusive right and authority to oversee and manage construction operations on Project Work, as set forth in this Article, without any limitations unless expressly limited or required by a specific provision of this Agreement or an MLA. In addition to the following and other rights of the Contractors enumerated in this Agreement, the Contractors expressly reserve their management rights, and all the rights conferred upon them by law. The Contractor's rights include, but are not limited to, the right to:

- (a) Plan, direct and control operations of all work;
- (b) Hire, promote, transfer and layoff their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements;
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations;
- (d) Discharge, suspend or discipline their own employees for just cause;
- (e) Utilize, in accordance with Authority approval, any work methods, procedures or techniques, and select, use and install any types or kinds of materials, apparatus or equipment, regardless of source of manufacture or construction; assign and schedule work at their discretion; and
- (t) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable MLA(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

Section 8.2 Specific Authority Rights In addition to the following and other rights of the Authority enumerated in this Agreement, the Authority expressly reserves its management rights, and all the rights conferred on it by law. The Authority's rights (and those of the Contract Administrator on its behalf) include but are not limited to the right to:

- (a) Inspect any construction site or facility to ensure that the Contractor follows the applicable safety and other work requirements;
- (b) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project Work at a particular location;
- (c) At its sole option, terminate, delay and/or suspend any and all portions of the covered work at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the Authority's Facilities and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project site; and/or require such other operational or schedule changes it deems necessary, in its sole judgment, to effectively maintain its primary mission and remain a good neighbor to those in the area of its facilities. (In order to permit the Contractors and Unions to make appropriate scheduling plans, the Authority will provide the affected Contractor(s) and Union(s) with reasonable notice of any changes it requires pursuant to this section; provided, however, that if notice is not provided in time to advise employees not to report for work, show-up pay shall be due pursuant to the applicable MLA;
- (d) Approve any work methods, procedures and techniques used by Contractors whether or not these methods, procedures or techniques are part of industry practices or customs; and
- (e) Investigate and process complaints, in the matter set forth in Articles 6 and 9.

Section 8.3 Use of Materials There should be no limitations or restriction by Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization, of equipment, machinery, packaging, precast, prefabricated, prefinished, or preassembled materials, tools or other labor saving devices, subject to the application of the State Public Contracts and Labor Codes as required by law in reference to offsite construction. Generally, the onsite installation or application of such items shall be performed by the craft having jurisdiction over such work. The Authority shall advise all Contractors of, and enforce as appropriate, the off-site application of the prevailing wage law as it affects Project Work.

Section 8.4 Special Equipment, Warranties and Guaranties

- (a) It is recognized that certain materials, equipment and systems of a highly technical and specialized nature will have to be installed at the Project. The nature of the materials, equipment and systems, together with requirements of manufacturer's or vendor's warranty, may dictate that it be prefabricated, pre-piped, and/or pre-wired and that it be installed under the supervision and direction of Owner's and/or manufacturer's personnel. The Unions agree to install such material, equipment, and systems without incident;

(b) The Parties recognize that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Project Work. The Union agrees that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install, or work with any standardized and/or catalogue: parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, or materials whatever their source of manufacture or construction.

(c) If any disagreement between the Contractor and the Unions concerning the methods of implementation or installation of any equipment, or device or item, or method of work, arises, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will precede as directed by the Contractor and the Parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article 9.

ARTICLE 9

SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 9.1 Cooperation and Harmony on Site

(a) This Agreement is intended to establish and foster continued close cooperation between management and labor. The Council shall assign a representative to this Project for the purpose of assisting the local Unions, and working with the Authority and the Contractors, to complete the construction of the Project economically, efficiently, continuously and without any interruption, delays, or work stoppages.

(b) The Contractors, Unions, and employees collectively and individually, realize the importance to all Parties of maintaining continuous and uninterrupted performance Project Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 6 or 7.

(c) The Unions and/or Council shall oversee the processing of grievances under this Article and Articles 6 and 7, including the scheduling and arrangements of facilities for meetings, selection of the arbitrator from the agreed-upon panel to hear the case, and any other administrative matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal parties to any pending grievance to insure the time limits and deadlines are met.

Section 9.2 Processing Grievances Any questions arising out of and during the term of this Agreement involving its interpretation and application, which includes applicable provisions of the MLA's, but not jurisdictional disputes or alleged violations of Section 6.1 and 6.4 and similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

Step 1. Employee Grievances When any employee subject to the provisions of this Agreement feels aggrieved by an alleged violation of this Agreement, the employee shall, through his local Union business representative or, job steward, within ten (10) working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated. A business representative of

the local Union or the job steward and the worksite representative of the involved Contractor shall meet and endeavor to resolve the matter within ten (10) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within ten (10) working days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the parties directly involved.

Union or Contractor Grievances Should the Union(s) or any Contractor have a dispute with the other Party(ies) and, if after conferring within ten (10) working days after the disputing Party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within five (5) working days, the dispute shall be reduced to writing and processed to Step 2 in the same manner as outlined in l(a) above for the adjustment of an employee complaint.

Step 2. The business manager of the involved local Union or his designee, together with the site representative of the involved Contractor, shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the Parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.

Step 3. (a) If the grievance shall have been submitted but not resolved under Step 2, either the Union or Contractor Party may request in writing to the other party to the grievance (with copy (ies) to the other Party (ies)) within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator selected from the agreed upon list below, on a rotational basis in the order listed. Those arbitrators are: (1) Edna Francis; (2) Louis Zigman; (3) Fredric Horowitz; (4) Sara Adler; (5) William Rule; (6) Walt Daugherty; and (7) Michael Rappaport. The decision of the arbitrator shall be final and binding on all Parties and the fee and expenses of such arbitration shall be borne equally by the involved Contractor(s) and the involved Union(s).

(b) Failure of the grieving Party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the Parties involved at the particular step where the extension is agreed upon. The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add too, or detract from any of the provisions of this Agreement.

(c) The fees and expenses incurred by the arbitrator, as well as those jointly utilized by the Parties (i.e., conference room, court reporter, etc.) in arbitration, shall be divided equally by the Parties to the arbitration, including Union(s) and Contractor(s) involved.

Section 9.3 Limit on Use of Procedures The procedures contained in this Article shall not be applicable to any alleged violation of Articles 6 or 7, with a single exception that any employee discharged for violation of Section 6.2, or Section 7.3, may resort to the procedures of this Article to determine only if he/she was, in fact, engaged in that violation.

Section 9.4 Notice The Authority shall be notified by the involved Contractor of all actions at Steps 2 and 3, and further, the Authority may, in its sole discretion, designate an Authority staff member to participate fully as a party in all proceedings at such steps.

ARTICLE 10

REGULATORY COMPLIANCE

Section 10.1 Compliance with All Laws The Council and all Unions, Contractors, subcontractors and their employed shall comply with all applicable federal and state laws, ordinances and regulations including, but not limited to, those relating to safety and health, employment and applications for employment. All employees shall comply with the safety regulations established by the Authority or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

Section 10.2 Monitoring Compliance The Parties agree that the Authority shall require, and that the Council and Unions may monitor, compliance by all Contractors and subcontractors with all federal and state laws regulation that, from time to time may apply to Project Work. It shall be the responsibility of the Council to investigate or monitor compliance with these various laws and regulations. The Council may recommend to the Authority procedures to encourage and enforce compliance with these laws and regulations.

Section 10.3 Prevailing Wage Compliance The Council or Union shall refer all complaints regarding any potential prevailing wage violation to the Authority, who shall process, investigate and resolve such complaints, consistent with Article 5, Section 5.4. The Council or Union, as appropriate, shall be advised in a timely manner with regard to the facts and resolution, if any, of any complaint. It is understood that this Section does not restrict any individual rights as established under the State Labor Code, including the rights of an individual to file a complaint with the State Labor Commissioner.

Section 10.4 Violations of Law Based upon a finding of violation by the Authority of a federal and state law, and upon notice to the Contractor that it or its subcontractors is in such violation, the Authority, in the absence of the Contractor or subcontractor remedying such violation, shall take such action as it is permitted by law or contract to encourage that Contractor to come into compliance, including, but not limited to, assessing fines and penalties and/or removing the offending Contractor from Project Work. Additionally, in accordance with the Agreement between the Authority and the Contractor, the Authority may cause the Contractor to remove from Project Work any subcontractor who is in violation of state or federal law.

ARTICLE 11

SAFETY AND PROTECTION OF PERSON AND PROPERTY

The Parties adopt the Building and Construction Trades Council Approved Drug and Alcohol Testing Policy, a copy of which is attached hereto as Attachment D, and which shall be the policy and procedure utilized under this Agreement.

ARTICLE 12

APPRENTICES

Section 12.1 **Importance of Training** The Parties recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by the Authority, and the opportunities to provide continuing work under the construction program. To these ends, the Parties will facilitate, encourage, and assist local residents to commence and progress in Labor/Management Apprenticeship and/or training Programs in the construction industry leading to participation in such apprenticeship programs. The Authority and the Council will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the formal joint labor/management apprenticeship programs maintained by the signatory Unions.

Section 12.2 **Use of Apprentices**

(a) Apprentices used on Projects under this Agreement shall be registered in Joint Labor Management Apprenticeship Programs approved by the State of California. Apprentices may comprise up to thirty percent (30%) of each craft's work force at any time, unless the standards of the applicable joint apprenticeship committee confirmed by the Division of Apprenticeship Standards ("DAS"), establish a lower or higher maximum percentage. Where the standards permit a higher percentage, such percentage shall apply on Project Work. Where the applicable standards establish a lower percentage, the applicable Union will use its best efforts with the Joint Labor Management apprenticeship committee and, if necessary, the DAS to permit up to thirty percent (30%) apprentices on the Project.

(b) The Unions agree to cooperate with the Contractor in furnishing apprentices as requested up to the maximum percentage. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices. The Authority shall encourage such utilization, and, both as to apprentices and the overall supply of experienced workers. The Unions will assure appropriate and maximum utilization of apprentices and the continuing availability of both apprentices and Journey persons.

(c) The Parties agree that apprentices will not be dispatched to Contractors working under this Agreement unless there is a journeyman working on the project where the apprentice is to be employed who is qualified to assist and oversee the apprentice's progress through the program in which he is participating.

(d) All apprentices shall work under the direct supervision of a journeyman from the trade in which the apprentice is indentured. A journeyman shall be defined as set forth in the California Code of Regulations, Title 8 [apprenticeship] section 205, which defines a journeyman as a person who has either completed an accredited apprenticeship in his or her craft, or has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft which has workers classified as journeyman in the apprenticeable occupation. Should a question arise as to a journeyman's qualification under this subsection, the Contractor shall provide adequate proof evidencing the worker's qualification as a journeyman to the Council.

ARTICLE 13
PRE-JOB CONFERENCES

Each Primary Contractor which is awarded a Construction Contract by the Authority for Project Work shall conduct a Pre-Job conference with the appropriate affected Union(s) prior to commencing work. All Contractors who have been awarded contracts by the Primary Contractor shall attend the Pre-Job conference. The Council and the Community Workforce Coordinator shall be advised in advance of all such conferences and may participate if they wish. All work assignments shall be disclosed by the Primary Contractor and all Contractors at the Pre- Job conference in accordance with industry practice. Should there be Project Work that was not previously discussed at the pre-job conference, or additional project work be added, the contractors performing such work will conduct a separate pre-job conference for such newly included work. Should there be any formal jurisdictional dispute raised under Article 8, the Community Workforce Coordinator shall be promptly notified. Primary Contractor shall have available at the Pre-Job conference the plans and drawings for the work to be performed on the Project.

ARTICLE 14
WORK OPPORTUNITIES PROGRAM

Section 14.1 The Parties to this Agreement support the development of increased numbers of skilled construction workers from among the Area Residents residing within the geographic area serviced by the Authority of Lancaster, to meet the labor needs of the Project, specifically, and the requirements of the local construction industry generally. Towards that end the Parties agree to cooperate respecting the establishment of a work opportunities program for these Area Residents, the primary goals of which shall be to maximize construction work opportunities for traditionally underrepresented members of the community. In furtherance of the foregoing, the Unions specifically agree to:

- a) Encourage the referral and utilization, to the extent permitted by law and hiring hall practices, of qualified Area Residents as journeymen, and apprentices on the Project and entrance into such qualified apprenticeship and training programs as may be operated by signatory Unions; and
- b) Assist Area Residents in contacting pre-apprenticeship programs that utilize the Building Trades multi-craft core curriculum (MC3) and the Apprenticeship Training Committees for the crafts and trades they are interested in. The Unions shall assist Area Residents who are seeking Union jobs on the Project and Union membership in assessing their work experience and giving them credit for provable past experience in their relevant craft or trade, including experience gained working for non-union Contractors. The Unions shall put on their rolls qualified bona fide Area Residents for work on this Project; and
- c) Support local events and programs designed to recruit and develop adequate numbers of qualified workers in the construction industry.

ARTICLE 15
SAVINGS AND SEPARABILITY

Section 15.1 Savings Clause It is not the intention of the Authority, Contractor, or the Union parties to violate any laws governing the subject matter of this Agreement. The Parties hereto agree that in the event any provision of this Agreement is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Parties agree that if and when any provision(s) of this Agreement is finally held or determined to be illegal or void by a court of competent jurisdiction, the Parties will promptly enter into negotiations concerning the substantive effect of such decision for the purposes of achieving conformity with the requirements of any applicable laws and the intent of the Parties hereto. If the legality of this Agreement is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this Agreement, then the Parties agree that all Project Work that would otherwise be covered by this Agreement should be continued to be bid and constructed without application of this Agreement so that there is no delay or interference with the ongoing planning, bidding and construction of any Project Work.

Section 15.2 Effect of Injunctions or Other Court Orders The Parties recognize the right of the Authority to withdraw, at its absolute discretion, the utilization of the Agreement as part of any bid specification should a Court of competent jurisdiction issue any order, or any applicable statute which could result, temporarily or permanently in delay of the bidding, awarding and/or construction on the Project. Notwithstanding such an action by the Authority, or such court order or statutory provision, the Parties agree that the Agreement shall remain in full force and effect on covered Project Work to the maximum extent legally possible.

ARTICLE 16
WAIVER

A waiver of or a failure to assert any provisions of this Agreement by any or all of the Parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the Agreement or change in the terms and conditions of the Agreement and shall not relieve, excuse, or release any of the Parties from any of their rights, duties or obligations hereunder.

ARTICLE 17
AMENDMENTS

The provisions of this Agreement can be renegotiated, supplemented, rescinded, or otherwise altered only by mutual agreement in writing, hereafter signed by the negotiating Parties hereto.

ARTICLE 18
DURATION OF THE AGREEMENT

Section 17.1 Duration

(a) This Agreement shall be effective from the date signed by all Parties for all contracts that are executed after January 13, 2025, and shall remain in effect for a period of five (5) years with three one-year renewals upon mutual written agreement of the Parties, unless either Party provides written notice of its intent to terminate, sent no later than sixty (60) days prior to the termination date or successor termination date; provided, however, that this Agreement may be extended by mutual written agreement of the Parties. Any covered Project awarded during the term of this Agreement shall continue to be covered hereunder, until completion of the Project, notwithstanding the expiration date of this Agreement.

(b) This Agreement may be extended by mutual consent of the Authority and the signatory Unions for such further periods as the Parties shall agree to.

Section 17.2 Turnover and Final Acceptance of Completed Work

(a) Construction of any phase, portion, section, or segment of Project Work shall be deemed complete when such phase, portion, section or segment has been turned over to the Authority by the Contractor and the Authority has accepted such phase, portion, section, or segment. As areas and systems of the Project are inspected and construction-tested and/or approved and accepted by the Authority or third parties with the approval of the Authority, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the Authority to engage and repairs or modifications required by its contract(s) with the Authority.

(b) Notice of each final acceptance received by the Contractor will be provided to the Council with the description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a "punch" list, and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the Authority and Notice of Completion is issued by the Authority or its representative to the Contractor. At the request of the Union, complete information describing any "punch" list work, as well as any additional work required of a Contractor at the direction of the Authority pursuant to (a) above, involving otherwise turned-over and completed facilities which have been accepted by the Authority, will be available from the Community Workforce Coordinator.

IN WITNESS whereof the Parties have caused this Community Workforce Agreement to be executed as of the date and year above stated.

AUTHORITY OF FIRST PUBLIC HYDROGEN BUILDING & CONSTRUCTION
TRADES COUNCIL

By: _____
Jason Caudle
Authority Chief Executive Officer

By: _____

Building and Construction Trades Council

ATTACHMENT A-LETTER OF ASSENT

To be signed by all contractors awarded work covered by the Community Workforce Agreement prior to commencing work.

[Contractor's Letterhead]
First Public Hydrogen Authority
1234 address
Authority, state, zip code
Attn:

Re: Community Workforce Agreement - Letter of Assent

Dear Sir:

This is to confirm that [name of company] agrees to be party to and bound by the First Public Hydrogen Authority Community Workforce Agreement effective _____, 202_, as such Agreement may, from time to time, be amended by the negotiating parties or interpreted pursuant to its terms.

Such obligation to be a party and bound by this Agreement shall extend to all work covered by the agreement undertaken by this Company on the project and this Company shall require all of its contractors and subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical letter of assent prior to their commencement of work.

Sincerely.

[Name of Construction Company]

By: ----- ' Name and Title of Authorized Executive

Contractor's State License No:

Project Name: _____

[Copies of this letter must be submitted to the Authority and to the Council.]

ATTACHMENT B

LOCAL RESIDENT ZIP CODES

(TIER 1)

LANCASTER RESIDENTS

93534
93535
93536
93539
93551
93584
93586

INDUSTRY RESIDENTS

90601
91714
91715
91716
91732
91744
91746
91748
91749
91765
91789

(TIER2)

THE REMAINING AREA ZIP CODES IN LOS ANGELES COUNTY

ATTACHMENT C

FIRST PUBLIC HYDROGEN AUTHORITY CRAFT REQUEST FORM

TO THE CONTRACTOR: Please complete and fax this form to the applicable union to request craft workers that fulfill the hiring requirements for this project. After faxing your request, please call the Local to verify receipt and substantiate their capacity to furnish workers as specified below. Please print your Fax Transmission Verification Reports and keep copies for your records.

The First Public Hydrogen Authority Community Workforce Agreement establishes a goal that 30% of all of the labor and craft positions shall be from Veterans and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, regardless of where they reside, and qualified area residents residing: first, in those first tier zip codes which overlap the Authority boundaries, as reflected on the list of U.S. Postal Service zip codes attached hereto as "Attachment B", second, area residents residing within the greater Antelope Valley area, as reflected on the list of U.S. Postal Service zip codes attached hereto as "Attachment B", third, area residents residing within the remainder of the County of Los Angeles. For dispatch purposes, employees described herein shall be referred to as "Local Residents." In addition, a goal of 10 % of all of the labor and craft positions shall be from qualified transitional workers residing within the greater Antelope Valley area, as reflected on the attached list of zip codes. The following criteria will be used to identify transitional workers: having a gross household income below 50% of the Los Angeles County median; being homeless; a welfare recipient; having a history of involvement with the justice system; being unemployed for the previous three (3) months; or a custodial single parent.

TO THE UNION: Please complete the "Union Use Only" section on the next page and fax this form back to the requesting Contractor. Be sure to retain a copy of this form for your records.

CONTRACTOR USE ONLY

To: Union Local # _____ **Fax#** _____ **Date:** _____
Cc: Community Workforce Coordinator
From: Company: _____ Issued By: _____
 Contact Phone: _____ Contact Fax: _____

PLEASE PROVIDE ME WITH THE FOLLOWING UNION CRAFT WORKERS.

Craft Classification (i.e., plumber, painter, etc.)	Journeyman or Apprentice	Local Resident or General Dispatch	Number of workers needed	Report Date	Report Time
TOTAL WORKERS REQUESTED=					

Please have worker(s) report to the following work address indicated below:

Project Name: _____ Site: _____ Address: _____

Report to: _____ On-site Tel: _____ On-site Fax: _____

Comment or Special Instructions: _____

UNION USE ONLY

Date dispatch request received:
Dispatch received by:
Classification of worker requested:
Classification of worker dispatched:

WORKER REFERRED

Name:		
Date worker was dispatched:		
Is the worker referred a:		(check all that apply)
JOURNEYMAN	Yes	No
APPRENTICE	Yes	No
LOCAL RESIDENT	Yes	No
GENERAL DISPATCH FROM OUT OF WORK LIST	Yes	No

[This form is not intended to replace a Local Union's Dispatch or Referral Form normally given to the employee when being dispatched to the jobsite.]

ATTACHMENT D

[ENTER NAME HERE]
BUILDING AND CONSTRUCTION TRADES
COUNCIL APPROVED
DRUG AND ALCOHOL TESTING POLICY

The Parties recognize the problems which drug and alcohol abuse have created in the construction industry and the need to develop drug and alcohol abuse prevention programs. Accordingly, the Parties agree that in order to enhance the safety of the workplace and to maintain a drug and alcohol free work environment, individual Employers may require applicants or employees to undergo drug and alcohol testing.

1. It is understood that the use, possession, transfer or sale of illegal drugs, narcotics, or other unlawful substances, as well as being under the influence of alcohol and the possession or consuming alcohol is absolutely prohibited while employees are on the Employer's job premises or while working on any jobsite in connection with work performed under the Community Workforce Agreement ("CWA").

2. No Employer may implement a drug testing program which does not conform in all respects to the provisions of this Policy.

3. No Employer may implement drug testing at any jobsite unless written notice is given to the Union setting forth the location of the jobsite, a description of the project under construction, and the name and telephone number of the Project Supervisor. Said notice shall be addressed to the office of each Union signing the CWA. Said notice shall be delivered in person or by registered mail before the implementation of drug testing. Failure to give such notice shall make any drug testing engaged in by the Employer a violation of the CWA, and the Employer may not implement any form of drug testing at such jobsite for the following six months.

4. An employer who elects to implement drug testing pursuant to this Agreement shall require all employees on the Project to be tested. With respect to individuals who become employed on the Project subsequent to the proper implementation of this drug testing program, such test shall be administered upon the commencement of employment on the project, whether by referral from a Union Dispatch Office, transfer from another project, or another method. Individuals who were employed on the project prior to the proper implementation of this drug testing program may only be subjected to testing for the reasons set forth in Paragraph 5(f) (1) through 5(f) (3) of this Policy. Refusal to undergo such testing shall be considered sufficient grounds to deny employment on the project.

5. The following procedure shall apply to all drug testing:

a. The Employer may request urine samples only. The applicant or employee shall not be observed when the urine specimen is given. An applicant or employee, at his or her sole option, shall, upon request, receive a blood test in lieu of a urine test. No employee of the Employer shall draw blood from a bargaining unit employee, touch or handle urine specimens, or

in any way become involved in the chain of custody of urine or blood specimens. A Union Business Representative, subject to the approval of the individual applicant or employee, shall be permitted to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.

b. The testing shall be done by a laboratory approved by the National Institute on Drug Abuse (NIDA), which is chosen by the Employer and the Union.

c. An initial test shall be performed using the Enzyme Multiplied Immunoassay Technique (EMZT). In the event a question or positive result arises from the initial test, a confirmation test must be utilized before action can be taken against the applicant or employee. The confirmation test will be by Gas Chromatography Mass Spectrometry (GC/MS). Cutoff levels for both the initial test and confirmation test will be those established by the National Institute on Drug Abuse. Confirmed positive samples will be retained by the testing laboratory in secured long-term frozen storage for a minimum of one year. Handling and transportation of each sample must be documented through strict chain of custody procedures.

d. In the event of a confirmed positive test result the applicant or employee may request, within forty-eight (48) hours, a sample of his/her specimen from the testing laboratory for purposes of a second test to be performed at a second laboratory, designated by the Union and approved by NDA. The retest must be performed within ten (10) days of the request. Chain of custody for this sample shall be maintained by the Employer between the original testing laboratory and the Union's designated laboratory. Retesting shall be performed at the applicant's or employee's expense. In the event of conflicting test results the Employer may require a third test.

e. If, as a result of the above testing procedure, it is determined that an applicant or employee has tested positive, this shall be considered sufficient grounds to deny the applicant or employee his/her employment on the Project.

f. No individual who tests negative for drugs or alcohol pursuant to the above procedure and becomes employed on the Project shall again be subjected to drug testing with the following exceptions:

1. Employees who are involved in industrial accidents resulting in damage to plant, property or equipment or injury to him/herself or others may be tested pursuant to the procedures stated hereinabove.

2. The Employer may test employees following thirty (30) days advance written notice to the employee(s) to be tested and to the applicable Union. Notice to the applicable Union shall be as set forth in Paragraph 3 above and such testing shall be pursuant to the procedures stated hereinabove.

3. The Employer may test an employee where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Reasonable cause shall be defined as exhibiting aberrant or unusual behavior, the type of which

is a recognized and accepted symptom of impairment (i.e., slurred speech, unusual lack of muscular coordination, etc.). Such behavior must be actually observed by at least two persons, one of whom shall be a Supervisor who has been trained to recognize the symptoms of drug abuse or impairment and the other of whom shall be the job steward. If the job steward is unavailable or there is no job steward on the project the other person shall be a member of the applicable Union's bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be removed from the Employer's payroll.

g. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug testing. Payment shall be at the applicable wage and benefit rates set forth in the applicable Union's Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.

6. The employers will be allowed to conduct periodic job site drug testing on the Project under the following conditions:

a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;

b. Jobsite testing cannot commence sooner than thirty (30) days after start of the work on the Project;

c. Prior to start of periodic testing, a business representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;

d. Testing shall be conducted by a N.I.D.A. certified laboratory, pursuant to the provisions set forth in Paragraph 5 hereinabove.

e. Only two periodic tests may be performed in a twelve month period.

7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Employer to remove the employee from the jobsite.

8. Any grievance or dispute which may arise out of the application of this Agreement shall be subject to the grievance and arbitration procedures set forth in the CWA.

9. The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule or regulation. Should any part of this Agreement be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the

parties, the remaining portions of the Agreement shall be unaffected, and the parties shall enter negotiations to replace the affected provision.

10. Present employees, if tested positive, shall have the prerogative for rehabilitation program at the employee's expense. When such program has been successfully completed the Employer shall not discriminate in any way against the employee. If work for which the employee is qualified exists, he/she shall be reinstated.

11. The Employer agrees that results of urine and blood tests performed hereunder will be considered medical records held confidential to the extent permitted or required by law. Such records shall not be released to any persons or entities other than designated Employer representatives and the applicable Union. Such release to the applicable Union shall only be allowed upon the signing of a written release and the information contained therein shall not be used to discourage the employment of the individual applicant or employee on any subsequent occasion.

12. The Employer shall indemnify and hold the Union harmless against any and all claims, demands, suits, or liabilities that may arise out of the application of this Agreement and/or any program permitted hereunder.

13. Employees who seek voluntary assistance for substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs shall be subject to all Employer rules, regulations, and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.

14. This Memorandum, of Understanding shall constitute the only Agreement in effect between the parties concerning drug and alcohol abuse, prevention and testing. Any modifications thereto must be accomplished pursuant to collective bargaining negotiations between the parties.

DRUG ABUSE PREVENTION AND DETECTION

APPENDIX A

CUTOFF LEVELS

DRUG	SCREENING METHOD	SCREENING LEVEL **	CONFIRMATION METHOD	CONFIRMATION LEVEL
Alcohol	EMIT	.02%	CG/MS	.02%
Amphetamines	EMIT	1000 ng/ml*	CG/MS	500 ng/ml*
Barbiturates	EMIT	300 ng/ml	CG/MS	200 ng/ml
Benzodiazepines	EMIT	300 ng/ml	CG/MS	300 ng/ml
Cocaine	EMIT	300 ng/ml*	CG/MS	150 ng/ml*
Methadone	EMIT	300 ng/ml	CG/MS	100 ng/ml
Methaqualone	EMIT	300 ng/ml	CG/MS	300 ng/ml
Opiates	EMIT	300 ng/ml*	CG/MS	300 ng/ml*
PCP (Phencyclidine)	EMIT	25 ng/ml*	CG/MS	25 ng/ml*
THC (Marijuana)	EMIT	100 ng/ml*	CG/MS	15 ng/ml*
Propoxyphene	EMIT	300 ng/ml	CG/MS	100 ng/ml

* NTDA specified threshold

** A sample reported positive contains the Indicated drug at or above the cutoff level for that drug. A negative sample either contains no drug or contains a drug below the cutoff level.

EMIT - Enzyme Immunoassay

CC/MS - Gas Chromatography/Mass Spectrometry

SIDE LETTER OF AGREEMENT
TESTING POLICY FOR DRUG ABUSE

It is hereby agreed between the parties hereto that an Employer who has otherwise properly implemented drug testing, as set forth in the Testing Policy for Drug Abuse, shall have the right to offer an applicant or employee a "quick" drug screening test. This "quick" screen test shall consist either of the "ICUP" urine screen or similar test or an oral screen test. The applicant or employee shall have the absolute right to select either of the two "quick" screen tests, or to reject both and request a full drug test.

An applicant or employee who selects one of the quick screen tests, and who passes the test, shall be put to work immediately. An applicant or employee who fails the "quick" screen test, or who rejects the quick screen tests, shall be tested pursuant to the procedures set forth in the Testing Policy for Drug Abuse. The sample used for the "quick" screen test shall be discarded immediately upon conclusion of the test. An applicant or employee shall not be deprived of any rights granted to them by the Testing Policy for Drug Abuse as a result of any occurrence related to the "quick" screen test.



STAFF REPORT

1/13/25
JC

Date: January 13, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 7: **Consider Approval of Qualified Hydrogen Fuel Supplier List**

Recommendation:

Approve the Qualified Hydrogen Fuel Supplier List as submitted and authorize the Chief Executive Officer to add additional suppliers as they become eligible.

Fiscal Impact:

There is no fiscal impact by this action.

Background:

The City of Lancaster (the “City”), on behalf of the First Public Hydrogen Authority (“FPH₂”), issued a Request for Information (“RFI”) on November 1, 2024. The purpose of the RFI was to seek information related to clean hydrogen technologies for the production, storage, and use of clean hydrogen in the transportation, transit, industrial, and energy sectors. The information gathered through this RFI was to inform the development of a Qualified Hydrogen Fuel Supplier List (the “List”).

Responses to the RFI, which were due December 2, 2024, included twenty responses from eighteen individual respondents. An evaluation team comprised of industry experts, transit and port representatives, and FPH₂ staff, reviewed the responses based on several criteria, including experience in hydrogen production, readiness of production facilities, financing status, and pricing competitiveness. The evaluation team identified nine respondents and conducted initial meetings with those nine suppliers.

The List is intended to be dynamic, and additional suppliers are expected to be added. The initial List, comprised of suppliers with existing hydrogen production projects, will be used to

engage the approved suppliers for FPH₂'s initial Request for Proposals ("RFP"). The RFP, expected to be released in the first quarter of this calendar year, will include specific off-taker requirements and is expected to result in agreements with several approved suppliers.

Attachment:

Qualified Hydrogen Fuel Supplier List



Qualified Hydrogen Fuel Supplier List

BayoTech, Inc.

Houston, TX

Project: Lancaster, CA

Clean Water Ventures, Inc.

North Kingstown, RI

Project: Lancaster, CA; Brawley, CA; McFarland, CA

Element Resources, Inc.

Houston, TX

Project: Lancaster, CA

Green Grid Inc.

San Ramon, CA

Project: Yolo County, CA

Intersect Power, LLC

Beaverton, OR

Project: Fresno County, CA

Linde Inc.

Danbury, CT

Project: Ontario, CA

NovoHydrogen Holdings LLC

Centennial, CO

Project: Antelope Valley, CA

RIC Development LLC

New York, NY

Project: Cadiz, CA

T.O. Viridi, Inc.

Deerfield Beach, FL

Project: TBD