FIRST PUBLIC H_2
AGENDA

Board of Directors Regular Meeting
June 18, 2025, 2:00 p.m.

City of Lancaster, Council Chambers
44933 Fern Avenue, Lancaster CA 93534

Alternate Location:
City of Industry, Council Chambers
15651 Mayor Dave Way, City of Industry, CA 91744

Members of the public can observe the livestream of the meeting via Zoom by clicking:

https://cityoflancasterca-gov.zoom.us/j/88251725175
1(669) 900-9128
Webinar ID: 882 5172 5175

All documents available for public review are on file with the First Public Hydrogen Authority (FPH_2) Secretary located at the City of Lancaster, City Clerk's Office, 44933 Fern Avenue, Lancaster, CA 93534.

Members of the public can provide public comments 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

ACTION ITEMS
Prior to action of the FPH_2 Board, any member of the public will have the opportunity to address the FPH_2 on any item listed on the agenda.

Consent Calendar

Item 1: **Approve Minutes of May 15, 2025, Special Meeting**

RECOMMENDATION
Approve the Minutes of May 15, 2025, Special Board Meeting.

Item 2: **Receive and File Treasurer's Report for Period Ended April 30, 2025**

RECOMMENDATION
Receive and File Treasurer's Report for period ended April 30, 2025.

Item 3: **Consider Approval of a Professional Services Agreement with FTI Consulting for an Amount not to Exceed $180,000**

RECOMMENDATION
Approve the Professional Services Agreement with FTI Consulting, substantially in the form attached, in an amount not to exceed $180,000, and authorize the Chief Executive Officer, or their designee, to sign and execute all documents; and

Authorize the Chief Executive Officer, or their designee, to execute any additional amendments to the Agreement deemed necessary to complete the project in a form approved by the General Counsel.

Item 4: **Consider Approval of a Professional Services Agreement with Enso Advisory Services for an Amount not to Exceed $192,000**

RECOMMENDATION
Approve the Professional Services Agreement with Enso Advisory Services, LLC, substantially in the form attached, in an amount not to exceed $192,000, and authorize the Chief Executive Officer, or their designee, to sign and execute all documents; and

Authorize the Chief Executive Officer, or their designee, to execute any additional amendments to the Agreement deemed necessary to complete the project in a form approved by the General Counsel.

Item 5 **Consider Approval of a Professional Services Agreement with Bayshore Consulting Group for an Amount not to Exceed $240,000**

RECOMMENDATION
Approve the Professional Services Agreement with Bayshore Consulting Group, substantially in the form attached, in an amount not to exceed $240,000 and authorize the Chief Executive Officer, or his designee, to execute all documents.

Authorize the Chief Executive Officer, or his designee, to execute any additional amendments to the Agreement deemed necessary to complete the project in a form approved by General Counsel.

Item 6 **Consider Adoption of a Resolution Approving a Debt Policy for Future Obligations**

RECOMMENDATION
Adopt a Resolution approving a Debt Policy for future obligations.

Item 7 **Consider Adoption of a First Public Hydrogen Authority Vendor Communication Policy**

RECOMMENDATION
Adopt the First Public Hydrogen Authority Vendor Communication Policy.

Item 8 **Consider Adoption of a Resolution Delegating Authority to Employ Personnel to the Chief Executive Officer and Approval of the Employee Handbook and Related Personnel Policies**

RECOMMENDATION
Adopt a Resolution delegating authority to employ personnel to the Chief Executive Officer.

Approve the following Personnel Policies:

a. Employee Handbook,
b. 2025 Harassment Discrimination Retaliation Prevention Policy
c. Hybrid Work Policy
d. Drug and Alcohol Policy
e. Family Care and Medical Leave and Pregnancy Leave Policy
f. Electronic Communications Policy

Item 9 **Consider Approval of an Agreement Appointing Jason Caudle as Chief Executive Officer of First Public Hydrogen Authority**

RECOMMENDATION
Approve agreement appointing Jason Caudle as Chief Executive Officer of First Public Hydrogen Authority.

New Business

Item 10 **Consider Adoption of a Resolution Approving the First Public Hydrogen Authority Fiscal Year 2025/26 Annual Budget**

RECOMMENDATION

Adopt Resolution approving the First Public Hydrogen Authority Fiscal Year 2025/26 Annual Budget.

Item 11: **Consider Approval of a Resolution Approving and Authorizing the City of Fresno to Enter into the Joint Exercise of Powers Agreement for the First Public Hydrogen Authority (FPH2)**

RECOMMENDATION

Adopt a Resolution Approving and Authorizing the City of Fresno to Enter into the Joint Exercise of Powers Agreement for the First Public Hydrogen Authority and authorizing the Chief Executive Officer to execute all necessary documents to finalize the membership, subject to General Counsel approval.

Item 12: **Chief Executive Officer and General Counsel Updates**

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 (FPH_2); 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 FPH_2 Board is prohibited from taking action on non-agendized matters. However, Board Members may respond briefly or refer the communication to staff. The FPH_2 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

CLOSED SESSION

1. Conference with Legal Counsel – Anticipated Litigation significant exposure to litigation pursuant to Government Code Section 54956.9(d) (2) - one potential case.
2. Conference with Legal Counsel - Anticipated Litigation: consideration of initiation of litigation pursuant to Government Code Section 54956.9(d) (4) – one potential case
3. PUBLIC EMPLOYEE APPOINTMENT pursuant to Government Code section 54957 Title: CEO

NEXT MEETING: Regular Board Meeting July 17, 2025, 2:00 p.m.

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.

First Public Hydrogen Authority
Board of Directors Regular Meeting Minutes
May 15, 2025, 2:00 p.m.
City of Lancaster, Council Chambers
44933 Fern Avenue, Lancaster CA 93534
Alternate Location:
City of Industry, Council Chambers
15651 Mayor Dave Way, City of Industry, CA 91744

CALL TO ORDER: The regular meeting of the First Public Hydrogen Authority (FPH2) was called to order by Vice Chair Ruggles at 2:22 p.m.

ROLL CALL: Board Members: Peacock, Medrano, Hertzberg, Vasquez, Brouwer, Vice Chair Ruggles. Chair Parris was not in attendance.

FLAG SALUTE: Vice Chair Ruggles led the flag salute.

PUBLIC COMMENT: None

Consent Calendar

Item 1: **Approve Minutes of April 17, 2025, Regular Meeting**

RECOMMENDATION
Approve the Minutes of April 17, 2025, Regular Board Meeting.

Item 2: **Receive and File Treasurer's Report for Period Ended March 31, 2025**

RECOMMENDATION
Receive and File Treasurer's Report for period ended March 31, 2025.

Item 3: **Consider Adoption of a Resolution Revising the First Public Hydrogen Authority Regular Board Meeting Schedule and Rescinding Resolution No. 2025-001**

RECOMMENDATION
Adopt a resolution revising the First Public Hydrogen Authority Regular Board meeting schedule and rescinding Resolution No. 2025-001.

Board Member Vasquez pulled Item 3 for discussion.

CEO Jason Caudle presented the staff report and General Counsel Allison Burns answered questions of the Board regarding remote attendance.

Item 4: **Consider Adoption of Resolutions Approving Initial Salary Schedule, Position Control Listing and Employee Benefits Package**

RECOMMENDATION
Adopt Resolutions approving initial Salary Schedule, Position Control Listing and Employee Benefits Package and authorize the Chief Executive Officer, or his designee, to execute agreements with Keenan and Associates that implement the Employee Benefits Package, subject to General Counsel Approval.

No requests to speak on the Consent Calendar were received.

Motion by Board Member Hertzberg, second by Board Member Medrano, to approve the Consent Calendar.

Motion approved unanimously.

New Business

Item 5: **Review and Provide Input into Draft Fiscal Year 2025/26 First Public Hydrogen Authority Budget**

RECOMMENDATION
Review and provide input into the Draft Fiscal Year 2025/26 First Public Hydrogen Authority Budget and direct staff to return with the Proposed Fiscal Year 2025/26 Budget on June 18, 2025, for adoption.

Chief Executive Officer Jason Caudle presented Draft Fiscal Year 2025/26 FPH2 Budget to the Board.

Board comments/questions included clarification on the Professional Services line item, Vehicle and Fueling Infrastructure, Sponsorships and grants.

Chris Wilson addressed the Board regarding League of California Cities.

Motion by Peacock, second by Board Member Brouwer, to approve the recommended action.

Motion approved unanimously.

Item 6: **Chief Executive Officer and General Counsel Updates**

General Counsel:

- Discussion of pending RFP and prohibition on communications with potential proposers
- Legal update

RECOMMENDATION
Receive updates from the Chief Executive Officer and General Counsel

CEO Jason Caudle provided an update to the Board of Directors noting the first FPH2 Request for Proposals (RFP) has been issued with 53 people receiving the RFP packet and closing date will be May 20, 2025 and reminded the

Board not to discuss with potential bidders, commented on the strategic effort to gain members and market molecules, and commented on the monitoring of 45V.

General Counsel Allison Burns reminded the Board not to discuss the RFP with any of the potential bidders to ensure fairness among bidders.

PUBLIC COMMENT
Addressing the Board was Michael Lewis regarding multiple different energy credits.

BOARD MEMBER QUESTIONS/COMMENTS
None

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS
None

Vice Chair Ruggles adjourned the meeting at 3:01 pm.

NEXT MEETING: Regular Board Meeting June 18, 2025, 2025

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Susan Caputo, MMC
Board Secretary
Approved:

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Barbara Boswell, Treasurer

Item 2: **Receive and File Treasurer's Report for Period Ended April 30, 2025**

Recommendation:
Receive and file Treasurer's Report for Period Ended April 30, 2025

Fiscal Impact:
There is no fiscal impact by this action.

Background:
This Treasurer's Report provides the Board with the following financial information for the period ended April 30, 2025:

- Statement of Financial Position (Unaudited and preliminary) – Reports assets, liabilities, and financial position of First Public Hydrogen Authority (FPH2) as of April 30, 2025.
- Statement of Revenues, Expenses and Changes in Net Position (Unaudited and preliminary) as of April 30, 2025.
- Budget to Actuals Comparison Schedule (Unaudited and preliminary) – Reports actual revenues and expenditures compared to the adopted budget as of April 30, 2025.
- List of Payments Issued – Reports payments issued in April 2025.

FIRST PUBLIC HYDROGEN AUTHORITY
STATEMENT OF NET POSITION
As of April 30, 2025

ASSETS	
Cash	$2,056,920
TOTAL ASSETS	**$2,056,920**
LIABILITIES	
Current Liabilities	
Accounts Payable	$14,537
Total Current Liabilities	$14,537
Noncurrent Liabilities	
Due to City of Lancaster	$2,600,000
Total Noncurrent Liabilities	$2,600,000
TOTAL LIABILITIES	**$2,614,537**
NET POSITION	**($557,617)**

FIRST PUBLIC HYDROGEN AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

Period Ended April 30, 2025

OPERATING REVENUES	**$0.00**
OPERATING EXPENSES	
Staff Salaries & Benefits	$240,417
Board Stipends	30,400
Materials & Supplies	46
Special Activity Supplies	2,281
Professional/Technical Services	189,692
Legal Services	20,873
Sponsorships	34,655
Advertising	2,847
Dues & Memberships	10,000
Meetings & Conferences	5,454
Utilities	2,390
Travel/Mileage Reimbursement	18,625
TOTAL OPERATING EXPENSES	**$557,671**
OPERATING INCOME (LOSS)	**($557,617)**

FIRST PUBLIC HYDROGEN AUTHORITY
BUDGET TO ACTUALS COMPARISON
Period Ended April 30, 2025

	BUDGET	ACTUALS	VARIANCE $	VARIANCE %
OPERATING REVENUE	$0.00	$0.00	$0.00	0
OPERATING EXPENSES				
Staff Salaries & Benefits	$900,000	$240,417	$659,583	27%
Board Stipends	67,200	30,400	36,800	45%
Materials & Supplies		46	(46)	0%
Special Activity Supplies	2,000	2,218	(218)	111%
Professional/Technical	1,150,000	189,692	960,308	16%
Legal Services	24,225	20,873	3,352	86%
Sponsorships	100,000	34,655	73,500	26.5%
Advertising	50,000	2,847	47,153	5.7%
Dues & Memberships	20,000	10,000	10,000	50%
Meetings & Conferences	15,000	5,454	9,546	36.3%
Utilities	0	2,390	(2,390)	0%
Travel/Mileage	20,000	18,625	1,375	93%
Lancaster Administrative	195,000	0	195,000	0
TOTAL OPERATING	$2,543,425	$557,617	$1,985,808	22%
CHANGE IN NET POSITION	($2,543,425)	($557,617)	($2,185,293)	22%

FIRST PUBLIC HYDROGEN AUTHORITY
LIST OF PAYMENTS ISSUED
APRIL 2025

CHECK DATE	CHECK NO	VENDOR	VENDOR NAME	INVOICE #	DESCRIPTION	INVOICE DATE	AMOUNT
4/11/25	7458404	13285	BROUWER, JACOB	250401	JACOB BROUWER - FPH2 BOARD STIPEND - MAR 2025	4/1/25	$ 1,600.00
4/11/25	7458436	13286	HERTZBERG, ROBERT N.	250401	ROBERT HERTZBERG - FPH2 BOARD STIPEND - MAR 2025	4/1/25	1,600.00
4/11/25	7458470	13292	PEACOCK, TANYA	250301	TANYA PEACOCK - FPH2 BOARD STIPEND - MAR 2025	4/1/25	1,600.00
4/11/25	7458478	13293	RUGGLES, NEWELL WAYN	250401	NEWELL RUGGLES - FPH2 BOARD STIPEND - MAR 2025	4/1/25	1,600.00
4/11/25	7458510	13336	VASQUEZ IMPACT SOLUT	250401	AURA VASQUEZ - FPH2 BOARD STIPEND -MAR 2025	4/1/25	1,600.00
4/11/25	2000077	13122	BAYSHORE CONSULTING	1347	01/25 CONSULTING SERVICES	2/5/25	14,872.50
4/11/25	2000077	13122	BAYSHORE CONSULTING	1364	03/25 CONSULTING SERVICES	4/2/25	24,755.39
4/11/25	7458518	13300	WINTER, DANIELLE	16581-000256	03/09-15/25-FPH2 PROFESSIONAL SERVICES	3/24/25	900.00
4/11/25	7458511	13376	VERDEXCHANGE LLC	324252	VERDEXCHANGE 2025 SPONSORSHIP	3/24/25	15,000.00
4/11/25	7458403	11092	BRAUN BLAISING	22513	02/25-PARTICIPATE IN CALL W/GORDON DASH & JASON	3/20/25	392.00
4/11/25	7458516	13091	WHANG, PAUL	250319MLGE	PW-MLGE-IRVINE - 03/19/25	3/19/25	174.30
4/11/25	7458516	13091	WHANG, PAUL	250407	PW-PR DM-LA-04/06-10/25	3/27/25	387.00
4/11/25	7458438	13093	HOWARD, ADRIENNE	250407	AH-PR DM-LA-04/06-10/25	3/27/25	387.00
4/11/25	7458514	13094	WEGNER, ASHLEY	250407	AW-PR DM-LA-04/06-10/25	3/27/25	387.00
4/18/25	2000123	13300	WINTER, DANIELLE	16581-000260	FPH2 INVOICE 03.23.25-04.05.25	4/8/25	900.00
4/18/25	2000124	13381	WILLSON CONSULTING	133	STAKEHOLDER ENGAGEMENT & NETWORKING - JAN 2025	1/31/25	5,950.00
4/18/25	2000124	13381	WILLSON CONSULTING	134	STAKEHOLDER ENGAGEMENT & NETWORKING - FEB 2025	2/28/25	5,075.00
4/18/25	2000124	13381	WILLSON CONSULTING	135	STAKEHOLDER ENGAGEMENT & NETWORKING - MARCH 2025	3/31/25	5,862.50
4/18/25	7458591	12203	MERINO, ALEXUS	250404	REIMBURSEMENT FOR PHA SPONSORSHIP EXPENSES	4/4/25	110.13
4/18/25	7458529	12668	AMAZON CAPITAL SRVCE	1G36-ML6X-YFK7	2025 PHA VISIT SPONSORSHIP SUPPLIES	3/29/25	176.35
4/18/25	7458529	12668	AMAZON CAPITAL SRVCE	1KYN-DPQY-Q4D6	2025 PHA VISIT SPONSORSHIP SUPPLIES	3/28/25	60.97
4/18/25	7458529	12668	AMAZON CAPITAL SRVCE	1YNW-NN9G-9NMX	2025 PHA VISIT SPONSORSHIP SUPPLIES	3/30/25	8.99
4/18/25	7458568	13093	HOWARD, ADRIENNE	250405	AH - REIMBURSEMENT FOR PHA SPONSORSHIP EXPENSE	4/8/25	247.98
4/18/25	7458568	13093	HOWARD, ADRIENNE	250408	AH - REIMBURSEMENT FOR PHA SPONSORSHIP EXPENSE	4/8/25	50.90
4/18/25	7458567	13392	HALL ENERGY LAW PC	2020011054	10/24-02/25 LEGAL SERVICES RENDERED	3/27/25	8,640.00
4/18/25	7458547	12191	CAUDLE, JASON	250408	JC-PR DM-LA-04/07-10/25	4/7/25	301.00
4/25/25	7458695	12851	KAWAGUCHI, HIROKO	250411	TRANSLATOR SERVICES - PHA VISIT	4/11/25	5,222.00
4/25/25	7458705	12203	MERINO, ALEXUS	250414	AM-PR DM-MONTEREY-04/13-14/25	4/14/25	138.00
4/25/25	7458756	13091	WHANG, PAUL	250414	PW-PR DM-MONTEREY-04/13-14/25	4/14/25	138.00
							$ 98,137.01

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 3: **Consider Approval of a Professional Services Agreement with FTI Consulting for an Amount not to Exceed $180,000**

Recommendation:

1. Approve the Professional Services Agreement with FTI Consulting, substantially in the form attached, in an amount not to exceed $180,000, and authorize the Chief Executive Officer, or his designee, to sign and execute all documents; and

2. Authorize the Chief Executive Officer, or his designee, to execute any additional amendments to the Agreement deemed necessary to complete the project in a form approved by the General Counsel.

Fiscal Impact:

Sufficient funds are available in the Fiscal Year 2025/26 budget to fund the $180,000 professional services agreement with FTI Consulting.

Background:

Since its public launch in January 2025, the First Public Hydrogen Authority (FPH_2) has received growing attention as the first public hydrogen utility in the United States. Effectively managing external communications, public perception, and stakeholder engagement is critical to FPH_2's success in bridging the gap between clean hydrogen producers and users across California and beyond.

FTI Consulting has supported FPH_2 since its inception with strategic communications planning and implementation, helping to establish the agency's public presence and credibility. The firm brings deep experience in energy sector communications, strong relationships with media and trade outlets, and the capability to support fast-moving initiatives across a variety of platforms.

Under this agreement, FTI will provide services including media relations, social media content development, executive communications support for events, design and production of educational materials, and strategic oversight of FPH_2's digital and web assets. These services are vital to ensuring FPH_2's voice is heard clearly by policymakers, industry leaders, and the general public as the agency expands its impact.

FTI Consulting's continued support will allow FPH_2 to maintain consistent, high-quality external communications that align with agency priorities. The agreement includes weekly coordination with FPH_2 leadership and a flexible work plan to address communication needs on an as-needed basis. Their understanding of FPH_2's brand, goals, and evolving role in the hydrogen ecosystem eliminates the need for onboarding and ensures efficient execution of deliverables.

The scope of work is structured as a time-and-materials agreement with a not-to-exceed cap of $180,000 for a 12-month term. FTI will provide monthly invoices and routine budget updates. Their ability to deliver specialized communications services through a senior-led, multidisciplinary team supports both efficiency and effectiveness without the need for multiple separate vendors.

FTI's familiarity with FPH_2's strategy and proven track record in energy communications make them uniquely qualified to support the Authority's public outreach and reputation-building efforts during this critical growth phase.

Attachments:

- Draft Professional Services Agreement for FTI Consulting
- Sole Source Justification

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES is made and entered into this 1st day of July, 2025, by and between the FIRST PUBLIC HYDROGEN AUTHORITY, a joint powers Authority, ("Authority "), and FTI CONSULTING, INC., ("Consultant") (collectively, sometimes referred to hereinafter as the "Parties").

RECITALS

WHEREAS, the Authority desires to engage Consultant to perform certain technical and professional services, as provided herein, identified as:

STRATEGIC COMMUNICATIONS (THE "SERVICES")

WHEREAS, the principal members of Consultant are qualified and duly registered/licensed under the laws of the State of California, and Consultant desires to accept such engagement;

NOW, THEREFORE, the parties agree as follows:

1. **Parties to the Agreement**.

The parties to this Agreement are:

A. AUTHORITY: First Public Hydrogen Authority

B. CONSULTANT: FTI Consulting, Inc.

2. **Notices**. All written notices required by or related to this Agreement shall be sent by Certified Mail, Return Receipt Requested, postage prepaid and addressed as listed below. Neither party to this Agreement shall refuse to accept such mail; parties to this Agreement shall promptly inform the other party of any changes of address. All notices required by this Agreement are effective on the day of receipt, unless otherwise indicated herein.

AUTHORITY
First Public Hydrogen Authority
Attn: Jason Caudle, CEO
44933 North Fern Avenue
Lancaster, California 93534

CONSULTANT
FTI Consulting
Attn: Chris Tucker, Global Energy Sector Lead
88 Pine St., 32nd Floor
New York, NY 10005

3. **Successors and Assigns**. The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no party hereto shall assign any of the benefits and burdens hereunder, whether voluntarily or by operation of law, without prior written consent of the other party, and any such assignments without said consent shall be void.

4. **Description of Work**. The Authority hereby engages Consultant, and Consultant accepts

such engagement, to perform the technical and professional services set forth in the "Scope of Services and Rates Schedule," attached hereto as Exhibit "A" and incorporated herein by reference. Consultant shall perform and complete, in a manner satisfactory to the Authority, all work and services set forth in Exhibit "A." The Authority Manager or his designee shall have the right to review and inspect the work during the course of its performance at such times as may be specified by the Authority Manager, or his designee.

5. **Obligations of the Authority.**

A. The Authority shall pay Consultant an amount not to exceed $180,000 for all work necessary to complete the Services, as described in the Scope of Services and Rates Schedule. Payments shall be due within thirty (30) days following submittal of an invoice detailing the services performed, at the hourly rates set forth in Exhibit A.

B. No payment made hereunder by the Authority to Consultant, other than the final payment, shall be construed as an acceptance by the Authority of any work or materials, nor as evidence of satisfactory performance by Consultant of its obligations under this Agreement.

6. **Obligations of the Consultant**.

A. Consultant shall perform as required by this Agreement and in accordance with the Scope of Services and Rates Schedule set forth in Exhibit A.

B. Consultant shall be responsible for payment of all employees' wages and benefits, and shall comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.

C. Consultant shall not subcontract any of the work required to perform the Services without the express prior written approval of the Authority.

7. **Hold Harmless and Indemnification**. Consultant agrees to indemnify and hold harmless the Authority , its elected officials, officers and employees, and its member agencies from and against any and all third party claims, losses, obligations, or liabilities whatsoever, including reasonable attorney's fees, incurred to the extent arising out of or related to Consultant's negligent or willful wrongful acts, errors or omissions, or those of its employees or agents. Consultant agrees to defend the Authority, its officers and employees, using counsel of the Authority 's choosing, from and against any and all claims covered by the indemnity in the preceding sentence.

8. **Amendments**. Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon mutual written approval by the Authority and Consultant.

9. **Non-Discrimination and Equal Employment Opportunity**.

A. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Affirmative action relating to employment shall include, but not be limited to the following:

employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

B. The provisions of subsection A above shall be included in all solicitations or advertisements placed by or on behalf of Consultant for personnel to perform any services under this Agreement. The Authority shall have access to all documents, data and records of Consultant and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section.

10. **Term; Effective Date**. This Agreement shall become effective and shall be in full force and effect upon the execution of the Agreement by the Authority and the Consultant. This Agreement shall continue in full force and effect for twelve (12) months, unless the Agreement is sooner terminated in accordance with this Agreement; provided, however, that the Authority and the Consultant may mutually agree in writing to extend the Term of this Agreement.

11. **Termination**.

A. For Convenience. The Authority may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the other party of such termination and specifying the effective date thereof. In the event of termination of this Agreement, Consultant will be paid for work completed through the date of termination within thirty (30) days following submittal of a final invoice.

B. For Cause. If Consultant fails to perform the services called for by this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, Consultant shall correct such failure within ten (10) days (or such longer period that the Authority may authorize in writing) after receipt of notice from the Authority specifying such failure. Should the failure not be corrected within this time period, the Authority may immediately terminate the Agreement by written notice to Consultant.

C. In the event of termination, whether for convenience or cause, reports, plans, studies and other documents (collectively, “documents”) related to the Services shall become the Authority ’s property. Consultant shall provide all documents to the Authority that have not yet been within ten (10) calendar days after termination of the Agreement.

12. **Independent Contractor**. Consultant is an independent contractor and shall have no power or authority to incur any debt, obligation or liability on behalf of the Authority. It is expressly understood between the Parties to this Agreement that no employee/employer relationship is intended.

13. **Insurance**.

A. The Consultant, at its expense, shall maintain in effect at all times during the term of this Agreement the following coverage and limits of insurance, which shall be maintained with insurers listed “A-, VIII” or better in the Best’s Key Rating Guide:

Commercial General Liability	
Each Occurrence	$1,000,000
Per Project General Aggregate	$2,000,000
Including Products/Completed Operations; Contractual Liability/Independent Contractors; Property Damage	

(Coverage shall be at least as broad as ISO form CG2010 11/85 or CG2010 07/04 and CG2037 07/04 combined, or an equivalent providing ongoing and completed operations)

Commercial Automobile Liability	
Combined Single Limit per Accident for Bodily Injury and Property Damage	$1,000,000
(Coverage shall be at least as broad as ISO form CA00 01)	
Workers Compensation	
As Required by the State of California	Statutory Limits
Employers' Liability	
Each Accident	$1,000,000
Bodily Injury by Disease	$1,000,000
Each Employee	$1,000,000

(A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation & Employers' Liability policies)

Professional Liability	
Each Occurrence	$1,000,000
General Aggregate	$1,000,000

Provide one of the following for cyber-related services

Technology Professional Liability	
(Errors and Omissions)	
Each Occurrence	$2,000,000
General Aggregate	$2,000,000

(Coverage shall be sufficiently broad to respond to the duties and obligations as are undertaken by Consultant pursuant to this Agreement and shall include, without limitation, claims involving invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as any applicable regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.)

Or

Cyber Liability Insurance	
Each Occurrence	$2,000,000
General Aggregate	$2,000,000

B. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability.

C. Professional liability and/or cyber insurance written on a "claims made" basis must be renewed for a period of three (3) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract and will cover Consultant for all claims made by the Authority insured entities arising out of any acts or omissions of Consultant or its officers, employees, or agents during the time this Agreement was in effect.

D. Any deductibles or self-insurance retentions must be declared and approved by the Authority. At the Authority 's option, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority insured entities or the insurer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. All insurance shall be primary and non-contributory as respects the Authority insured entities. Any insurance or self-insurance maintained by the Authority insured entities shall be in excess of the Consultant's insurance and shall not contribute with it.

F. Consultant shall furnish the Authority with Certificates of Insurance and with original endorsements effecting coverage required by this Agreement. Certificates of Insurance shall meet the following requirements:

(1) Show that the insurance policy has been endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after 30 days' prior written notice (10 days' written notice for non-payment) to the First Public Hydrogen Authority.

(2) List in the "Descriptions of Operations/Locations/Vehicles" section:
"STRATEGIC COMMUNICATIONS"
The First Public Hydrogen Authority, its Board of Directors, officers, employees and volunteers, as well as the officers, employees, and volunteers of its member agencies, including but not limited to the City of Lancaster and the City of Industry, are included as additional covered parties, but only insofar as the operations under this contract are concerned."

(3) List in the "Certificate Holder" section:
The First Public Hydrogen Authority, 44933 Fern Avenue, Lancaster, California 93534.

14. **<u>Commencement and Completion of Work</u>**. The Services to be provided by Consultant pursuant to this Agreement shall commence immediately after execution of this Agreement, and shall be completed no later than one (1) year following commencement; provided however, that the Parties may agree to extend the time for completion upon mutual written agreement.

15. **<u>Ownership of Documents</u>**. All plans, specifications, reports, studies, maps and other documents prepared or obtained by Consultant in the course of performing the work and are required by this Agreement to be delivered to the Authority shall be the property of the Authority. Basic sketches, charts, computations and similar data prepared or obtained by Consultant under this Agreement shall, upon request, be made available to Authority without restriction or limitation on their use.

16. **<u>Data Provided to Consultant</u>**. Authority shall provide to Consultant, without charge, all data, including reports, records, maps and other information, now in the Authority 's possession which may facilitate the timely performance of the work described in Exhibit A.

17. **<u>Consultant's Warranties and Representations</u>**.

Consultant warrants and represents to Authority as follows:

A. Consultant has not employed or retained any person or entity, other than a bona fide employee working exclusively for Consultant, to solicit or obtain this Agreement. Consultant has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this Agreement. Upon any breach or violation of this warranty, Authority shall have the right, in its sole discretion, to terminate this Agreement without further liability, or, in the alternative, to deduct from any sums payable hereunder the full amount or value of any such fee, commission, percentage or gift.

B. Consultant has no knowledge that any officer or employee of the Authority has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of the Consultant, and that if any such interest comes to the knowledge of Consultant at any time, a complete written disclosure of such interest will be made to Authority , even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

C. Upon the execution of this Agreement, Consultant has no interest, direct or indirect, in any transaction or business entity which would conflict with or in any manner hinder the performance of services and work required by this Agreement, nor shall any such interest be acquired during the term of this Agreement.

18. **<u>Resolution of Disputes</u>**.

A. Disputes regarding the interpretation or application of any provisions of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

B. If the parties cannot resolve the dispute through good faith negotiations, either party may give Notice of Dispute to the other party. The Notice of Dispute shall state the nature of the dispute and the corrective action necessary to remedy the dispute.

(1) After Notice of Dispute, the parties shall first attempt to resolve any disputes by mediation. The parties shall agree on a single mediator. Mediation shall be conducted in Lancaster, California or such other location as to which the Parties may mutually agree. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

(2) If the dispute has not been resolved by mediation within 45 days after Notice of Dispute, or the parties are unable to agree to a mediator, within 15 days after Notice of Dispute, then, the dispute may, upon agreement of the parties, be resolved by binding arbitration.

C. If any action at law or in equity is brought to enforce or interpret any provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, cost and necessary disbursements, in addition to such other relief as may be sought and awarded.

19. **<u>Exhibits</u>**.

The following exhibits to which reference is made in this Agreement are deemed incorporated herein in their entirety. In the event of a conflict between the terms of this Agreement and the terms of the attached Exhibit(s), the terms of this Agreement shall control.

Exhibit "A" Scope of Services and Rates Schedule

20. **<u>Governing Law</u>**.

This Agreement shall be governed by the laws of the State of California.

21. **Effective Date**.

This Agreement shall become effective as of the date set forth below on which the last of the parties, whether Authority or Consultant, executes said Agreement.

[Signatures begin on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized.

FIRST PUBLIC HYDROGEN AUTHORITY
LANCASTER, CALIFORNIA

By: ____
Jason Caudle, CEO

Dated: ____

FTI CONSULTING, INC.
NEW YORK, NEW YORK

By: ____
Chris Tucker, Global Energy Sector Lead

Dated: ____

ATTEST:

____
Susan Caputo, Board Secretary

APPROVED AS TO FORM:

____
Allison Burns, General Counsel

CONTRACT SUBMISSION APPROVAL:

____
Department Head

EXHIBIT A

SCOPE OF SERVICES
AND RATES SCHEDULE

LEVINE ACT DISCLOSURE.

California Government Code section 84308 ("Levine Act") requires a party to a contract other than competitively bid, labor, or personal employment contract, to disclose any contribution of more than $500 that the party (or their agent) has made to a member of the First Public Hydrogen Authority (FPH2) Board of Directors or any other officer of the FPH2 Authority as defined in the Levine Act within the prior 12 months. The Levine Act also prohibits for 12 months following a final decision, a party (or their agent) from making a contribution of more than $500 to any member of the FPH2 Board of Directors or any other officer as defined in the Levine Act who may participate in the making of this Agreement.

A. By its signature on this Agreement, FTI CONSULTING, INC. represents and warrants [select one]:

□ Neither FTI CONSULTING, INC. nor any agent or principal acting on behalf of FTI CONSULTING, INC. has, within the 12 months preceding the commencement of negotiations of this Agreement, made any political contribution of more than $500 to any member of the FPH2 Board of Directors l or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

□ FTI CONSULTING, INC. (or an agent acting on behalf of FTI CONSULTING, INC.) has made a political contribution of more than $500 to:
Identify the person(s) or agent(s) who made the contribution:

____
____
____

Identify the FPH2 officer(s) or Board member(s) who received the contribution:

____
____
____

B. By its signature on this Agreement, FTI CONSULTING, INC. further represents and warrants [select one]:

□ Neither FTI CONSULTING, INC. nor any agent or principal acting on behalf of FTI CONSULTING, INC. intends, within the 12 months following the execution of this Agreement, to make any political contribution of more than $500 to any member of the FPH2 Board of Directors or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

□ FTI CONSULTING, INC. (or an agent acting on behalf of FTI CONSULTING, INC.) intends to make a political contribution of more than $500 to:
Identify the person(s) or agent(s) who will make the contribution:

____
____
____

Identify the FPH2 officer(s) or Board member(s) who will receive the contribution:

____
____
____

To: Jason Caudle - CEO

From: Alexus Merino - Director

Date: June 18, 2025

Subject: **Sole Source Justification - Professional Services Agreement with FTI Consulting**

This memo serves to request approval for a sole source agreement with FTI Consulting to provide strategic communications support services to the First Public Hydrogen Authority (FPH$_2$).

FTI Consulting brings nationally recognized expertise in public affairs, media strategy, and stakeholder communications, and is uniquely qualified to continue to amplify FPH$_2$'s profile as the nation's first hydrogen-focused utility. Since FPH$_2$'s inception, FTI has played a central role in shaping its external messaging and managing its reputation with key stakeholders across the hydrogen ecosystem.

Their services will include strategic media relations, digital content development, production of educational materials, executive communications support for events, and continuous refinement of FPH$_2$'s public-facing channels such as its website and social media presence. These functions are essential to securing and sustaining public and private support as FPH$_2$ advances its mission to bridge the gap between clean hydrogen producers and end-users in California and beyond.

FTI Consulting's team offers deep experience in communicating complex energy issues to diverse audiences, and maintains active relationships with key national, state, and trade media outlets. Their ongoing support ensures FPH$_2$ can respond quickly to emerging opportunities, maintain message consistency across platforms, and position itself as a credible leader in the clean hydrogen transition.

Critically, FTI's existing familiarity with FPH$_2$'s communications strategy, brand identity, and organizational goals enables them to deliver seamless and efficient service with no learning curve or onboarding delay. Engaging a new vendor would significantly slow progress on active campaigns, disrupt continuity of messaging, and risk missed opportunities to influence key stakeholders during a formative stage in FPH$_2$'s development.

FTI's ability to deploy a flexible, senior-level team across specialized functions—including media strategy, digital campaigns, content design, and executive visibility—under a unified engagement structure further strengthens the case for a sole source agreement. This integrated approach allows FPH_2 to receive comprehensive communications support that can be quickly tailored to its evolving needs.

Based on FTI Consulting's qualifications, demonstrated impact to date, and capacity to provide high-level, adaptive support across critical communications functions, we recommend approval of this sole source agreement.

We respectfully request authorization to retain FTI Consulting as a sole source vendor.

APPROVAL:

DocuSigned by:
Jason Caudle
D682AFD6E85E4DD...

May 29, 2025 | 8:27:49 AM PDT

Date

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 4: **Consider Approval of a Professional Services Agreement with Enso Advisory Services for an Amount not to Exceed $192,000**

Recommendation:

1. Approve the Professional Services Agreement with Enso Advisory Services, LLC, substantially in the form attached, in an amount not to exceed $192,000, and authorize the Chief Executive Officer, or his designee, to sign and execute all documents; and

2. Authorize the Chief Executive Officer, or his designee, to execute any additional amendments to the Agreement deemed necessary to complete the project in a form approved by the General Counsel.

Fiscal Impact:

Sufficient funds are available in the Fiscal Year 2025/26 budget to fund the $192,000 professional services agreement with Enso Advisory Services.

Background:

In its ongoing commitment to clean energy innovation, the City of Lancaster has taken a leadership role in advancing renewable hydrogen solutions locally and globally. With the formation of First Public Hydrogen Authority (FPH_2), the City has established a dedicated entity to carry forward this work, including oversight and management of its participation in the U.S. Department of Energy's H2 Twin Cities Mentor-Mentee Program.

As FPH_2 assumes responsibility for program leadership, continued support from Enso Advisory Services is essential to ensure a smooth transition and continued success. Enso has been instrumental in building the foundation for the City's international hydrogen collaborations, particularly with Namie, Japan and Hawaiʻi County, Hawaiʻi. Their early efforts included diplomatic outreach, relationship building, and technical guidance, enabling Lancaster to secure its place in this prestigious Department of Energy (DOE) program.

Beyond H2 Twin Cities, Enso now advises on other high-impact initiatives being led by FPH_2 — including the development of the Pacific Hydrogen Alliance (PHA), a regional clean hydrogen consortium, and the City's flagship Green Energy Microgrid (GEM) project. Enso's ability to operate across international, federal, and private sector channels has positioned Lancaster at the forefront of hydrogen innovation, investment, and policy alignment.

Given Enso's history with the program and ongoing contributions to the City's broader clean hydrogen strategy, a sole source agreement is warranted. Their unique expertise, trusted relationships, and deep contextual knowledge make them the only viable partner to continue this work without interruption or redundancy.

With board approval, FPH_2 will contract directly with Enso Advisory Services to lead strategy, stakeholder engagement, and technical implementation for the H2 Twin Cities program and related initiatives. This partnership will ensure continuity, maximize momentum, and reinforce Lancaster's position as a global leader in clean hydrogen development.

Attachments:

- Draft Professional Services Agreement for Enso Advisory Services
- Sole Source Justification

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES is made and entered into this 1st day of July 2025, by and between the FIRST PUBLIC HYDROGEN AUTHORITY, a joint powers authority, ("Authority"), and ENSO ADVISORY SERVICES, a limited liability company ("Consultant") (collectively, sometimes referred to hereinafter as the "Parties").

RECITALS

WHEREAS, the Authority desires to engage Consultant to perform certain technical and professional services, as provided herein, identified as:

Project Advisor of Clean Energy Ministerial / DOE H2 Twin Cities Mentor-Mentee Program and GEM Project (THE "SERVICES")

WHEREAS, the principal members of Consultant are qualified and duly registered/licensed under the laws of the State of California, and Consultant desires to accept such engagement;

NOW, THEREFORE, the parties agree as follows:

1. **Parties to the Agreement**.

The parties to this Agreement are:

A. AUTHORITY: First Public Hydrogen Authority

B. CONSULTANT: Enso Advisory Services, LLC

2. **Notices**. All written notices required by or related to this Agreement shall be sent by Certified Mail, Return Receipt Requested, postage prepaid and addressed as listed below. Neither party to this Agreement shall refuse to accept such mail; parties to this Agreement shall promptly inform the other party of any changes of address. All notices required by this Agreement are effective on the day of receipt, unless otherwise indicated herein.

AUTHORITY
First Public Hydrogen Authority
Attn: Jason Caudle, CEO
44933 North Fern Avenue
Lancaster, California 93534

CONSULTANT
Enso Advisory Services, LLC
Attn: Lex Heslin, CEO
39 Broadway, Suite 3010
New York, NY 10007

3. **Successors and Assigns**. The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no party hereto shall assign any of the benefits and burdens hereunder, whether voluntarily or by operation of law, without prior written consent of the other party, and any such assignments without said consent shall be void.

4. **Description of Work**. The Authority hereby engages Consultant, and Consultant accepts

such engagement, to perform the technical and professional services set forth in the "Scope of Services and Rates Schedule," attached hereto as Exhibit "A" and incorporated herein by reference. Consultant shall perform and complete, in a manner satisfactory to the Authority, all work and services set forth in Exhibit "A." The Authority Manager or his designee shall have the right to review and inspect the work during the course of its performance at such times as may be specified by the Authority Manager, or his designee.

5. **Obligations of the Authority**.

A. The Authority shall pay Consultant an amount not to exceed $192,000.00 for all work necessary to complete the Services, as described in the Scope of Services and Rates Schedule. Payments shall be due within thirty (30) days following submittal of an invoice detailing the services performed at the hourly rates set forth in Exhibit A.

B. No payment made hereunder by the Authority to Consultant, other than the final payment, shall be construed as an acceptance by the Authority of any work or materials, nor as evidence of satisfactory performance by Consultant of its obligations under this Agreement.

6. **Obligations of the Consultant**.

A. Consultant shall perform as required by this Agreement and in accordance with the Scope of Services and Rates Schedule set forth in Exhibit A.

B. Consultant shall be responsible for payment of all employees' wages and benefits, and shall comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.

C. Consultant shall not subcontract any of the work required to perform the Services without the express prior written approval of the Authority.

7. **Hold Harmless and Indemnification**. Consultant agrees to indemnify and hold harmless the Authority, its elected officials, officers and employees, and its member agencies from and against any and all third party claims, losses, obligations, or liabilities whatsoever, including reasonable attorney's fees, incurred to the extent arising out of or related to Consultant's negligent or willful wrongful acts, errors or omissions, or those of its employees or agents. Consultant agrees to defend the Authority, its officers and employees, using counsel of the Authority's choosing, from and against any and all claims covered by the indemnity in the preceding sentence.

8. **Amendments**. Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon mutual written approval by the Authority and Consultant.

9. **Non-Discrimination and Equal Employment Opportunity**.

A. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Affirmative action relating to employment shall include, but not be limited to the following:

employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

B. The provisions of subsection A above shall be included in all solicitations or advertisements placed by or on behalf of Consultant for personnel to perform any services under this Agreement. The Authority shall have access to all documents, data and records of Consultant and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section.

10. **Term; Effective Date**. This Agreement shall become effective and shall be in full force and effect upon the execution of the Agreement by the Authority and the Consultant. This Agreement shall continue in full force and effect for twelve (12) months, unless the Agreement is sooner terminated in accordance with this Agreement; provided, however, that the Authority and the Consultant may mutually agree in writing to extend the Term of this Agreement.

11. **Termination**.

A. For Convenience. The Authority may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the other party of such termination and specifying the effective date thereof. In the event of termination of this Agreement, Consultant will be paid for work completed through the date of termination within thirty (30) days following submittal of a final invoice.

B. For Cause. If Consultant fails to perform the services called for by this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, Consultant shall correct such failure within ten (10) days (or such longer period that the Authority may authorize in writing) after receipt of notice from the Authority specifying such failure. Should the failure not be corrected within this time period, the Authority may immediately terminate the Agreement by written notice to Consultant.

C. In the event of termination, whether for convenience or cause, reports, plans, studies and other documents (collectively, "documents") related to the Services shall become the Authority's property. Consultant shall provide all documents to the Authority that have not yet been within ten (10) calendar days after termination of the Agreement.

12. **Independent Contractor**. Consultant is an independent contractor and shall have no power or authority to incur any debt, obligation or liability on behalf of the Authority. It is expressly understood between the Parties to this Agreement that no employee/employer relationship is intended.

13. **Insurance**.

A. The Consultant, at its expense, shall maintain in effect at all times during the term of this Agreement the following coverage and limits of insurance, which shall be maintained with insurers listed "A-, VIII" or better in the Best's Key Rating Guide:

Commercial General Liability

Each Occurrence	$1,000,000
Per Project General Aggregate	$2,000,000

Including Products/Completed Operations; Contractual Liability/Independent Contractors; Property Damage

(Coverage shall be at least as broad as ISO form CG2010 11/85 or CG2010 07/04 and CG2037 07/04 combined, or an equivalent providing ongoing and completed operations)

Commercial Automobile Liability

Combined Single Limit per Accident for Bodily Injury and Property Damage	$1,000,000

(Coverage shall be at least as broad as ISO form CA00 01)

Workers Compensation

As Required by the State of California	Statutory Limits

Employers' Liability

Each Accident	$1,000,000
Bodily Injury by Disease	$1,000,000
Each Employee	$1,000,000

(A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation & Employers' Liability policies)

Professional Liability

Each Occurrence	$1,000,000
General Aggregate	$1,000,000

B. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability.

C. Professional liability and/or cyber insurance written on a "claims made" basis must be renewed for a period of three (3) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract and will cover Consultant for all claims made by the Authority insured entities arising out of any acts or omissions of Consultant or its officers, employees, or agents during the time this Agreement was in effect.

D. Any deductibles or self-insurance retentions must be declared and approved by the Authority. At the Authority's option, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority insured entities or the insurer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. All insurance shall be primary and non-contributory as respects the Authority insured entities. Any insurance or self-insurance maintained by the Authority insured entities shall be in excess of the Consultant's insurance and shall not contribute with it.

F. Consultant shall furnish the Authority with Certificates of Insurance and with original endorsements effecting coverage required by this Agreement. Certificates of Insurance shall meet the following requirements:

(1) Show that the insurance policy has been endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after 30 days' prior written notice (10 days' written notice for non-payment) to the First Public Hydrogen Authority.

(2) List in the "Descriptions of Operations/Locations/Vehicles" section:

"Project Advisor of Clean Energy Ministerial / DOE H2 Twin Cities Mentor-Mentee Program and GEM Project
The First Public Hydrogen Authority, its Board of Directors, officers, employees and volunteers, as well as the officers, employees, and volunteers of its member agencies, including but not limited to the City of Lancaster and the City of Industry, are included as additional covered parties, but only insofar as the operations under this contract are concerned."

(3) List in the "Certificate Holder" section:
The First Public Hydrogen Authority, 44933 Fern Avenue, Lancaster, California 93534.

14. **Commencement and Completion of Work**. The Services to be provided by Consultant pursuant to this Agreement shall commence immediately after execution of this Agreement, and shall be completed no later than one (1) year following commencement; provided however, that the Parties may agree to extend the time for completion upon mutual written agreement.

15. **Ownership of Documents**. All plans, specifications, reports, studies, maps and other documents prepared or obtained by Consultant in the course of performing the work and are required by this Agreement to be delivered to the Authority shall be the property of the Authority. Basic sketches, charts, computations and similar data prepared or obtained by Consultant under this Agreement shall, upon request, be made available to Authority without restriction or limitation on their use.

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Consultant warrants and represents to Authority as follows:

A. Consultant has not employed or retained any person or entity, other than a bona fide employee working exclusively for Consultant, to solicit or obtain this Agreement.

B. Consultant has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this Agreement. Upon any breach or violation of this warranty, Authority shall have the right, in its sole discretion, to terminate this Agreement without further liability, or, in the alternative, to deduct from any sums payable hereunder the full amount or value of any such fee, commission, percentage or gift.

C. Consultant has no knowledge that any officer or employee of the Authority has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of the Consultant, and that if any such interest comes to the knowledge of Consultant at any time, a complete written disclosure of such interest will be made to Authority, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

D. Upon the execution of this Agreement, Consultant has no interest, direct or indirect, in any transaction or business entity which would conflict with or in any manner hinder the performance of services and work required by this Agreement, nor shall any such interest be acquired during the term of this Agreement.

18. **Resolution of Disputes**.

A. Disputes regarding the interpretation or application of any provisions of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

B. If the parties cannot resolve the dispute through good faith negotiations, either party may give Notice of Dispute to the other party. The Notice of Dispute shall state the nature of the dispute and the corrective action necessary to remedy the dispute.

(1) After Notice of Dispute, the parties shall first attempt to resolve any disputes by mediation. The parties shall agree on a single mediator. Mediation shall be conducted in Lancaster, California or such other location as to which the Parties may mutually agree. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

(2) If the dispute has not been resolved by mediation within 45 days after Notice of Dispute, or the parties are unable to agree to a mediator, within 15 days after Notice of Dispute, then, the dispute may, upon agreement of the parties, be resolved by binding arbitration.

C. If any action at law or in equity is brought to enforce or interpret any provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, cost and necessary disbursements, in addition to such other relief as may be sought and awarded.

19. **Exhibits**.

The following exhibits to which reference is made in this Agreement are deemed incorporated herein in their entirety. In the event of a conflict between the terms of this Agreement and the terms of the attached Exhibit(s), the terms of this Agreement shall control.

Exhibit "A" Scope of Services and Rates Schedule

20. **Governing Law**.

This Agreement shall be governed by the laws of the State of California.

21. **Effective Date**.

This Agreement shall become effective as of the date set forth below on which the last of the parties, whether Authority or Consultant, executes said Agreement.

[Signatures begin on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized.

FIRST PUBLIC HYDROGEN AUTHORITY
LANCASTER, CALIFORNIA

By: ____
Jason Caudle, CEO

Dated: ____

ENSO ADVISORY SERVICES, LLC

By: ____
Lex Heslin, CEO

Dated: ____

ATTEST:

____
Susan Caputo, Board Secretary

APPROVED AS TO FORM:

____
Allison Burns, General Counsel

CONTRACT SUBMISSION APPROVAL:

____
Department Head

EXHIBIT A

SCOPE OF SERVICES & RATES SCHEDULE

Enso's Scope of Work (SOW) would extend his time as Advisor on the Clean Energy Ministerial / United States Department of Energy H2 Twin Cities Mentor-Mentee Program and GEM Project:

1. Strategic Advisory & Coordination for H2 Twin Cities
   - Serve as the primary advisor for the City's engagement in the Clean Energy Ministerial / DOE H2 Twin Cities Mentor-Mentee Program.
   - Maintain regular coordination with City and FPH2 staff to guide program alignment, strategic decisions, and partner engagement.
   - Ensure continuity of progress toward the original and expanded goals outlined in the City's DOE application.

2. Design & Execution of the International Professional Exchange Program
   - Lead the planning, design, and implementation of the Professional Exchange Program (PEP), fostering on-site learning between Lancaster, Hawaiʻi County (HI), and Namie Town (Japan).
   - Manage participant coordination, travel arrangements, cultural exchange logistics, and itinerary development across the three cities.
   - Facilitate post-exchange debriefs and compile lessons learned to refine and scale the program.

3. Delivery of Program Outputs and Grant Management Support
   - Finalize and distribute educational and technical materials, including case studies, hydrogen development frameworks, stakeholder toolkits, and clean energy reference guides.
   - Monitor and support the administration of any remaining grant funding in compliance with DOE guidelines, providing regular reporting on budgetary and programmatic status.
   - Organize stakeholder convenings (virtual and/or in-person) to showcase project outcomes and foster deeper public-private engagement.

4. Ongoing Knowledge Exchange & International Collaboration
   - Sustain cross-city collaboration between mentor and mentee cities through regular calls, webinars, conference presence, and delegation coordination.
   - Curate and update best practice guides and knowledge products emphasizing climate equity, hydrogen policy, and workforce development strategies.

5. Integration with Broader Hydrogen Ecosystem Development
   - Provide advisory support for Lancaster's leadership within the Pacific Hydrogen Alliance (PHA), assisting with governance development, partner coordination, and regional engagement.
   - Support strategic planning and partnership cultivation for the Green Energy Microgrid (GEM), including alignment with federal and private sector priorities.

6. Monitoring & Reporting
   - Track progress against all deliverables, including implementation of the PEP and related cross-border exchanges.
   - Provide monthly narrative and budget reports summarizing accomplishments, partner activities, and next steps.
   - Document the environmental, social, and economic outcomes resulting from hydrogen-related initiatives, with emphasis on job creation and equity.

Enso’s fee for the above services will be $16,000.00 per month, including expenses, to be paid by FPH2 monthly.

LEVINE ACT DISCLOSURE.

California Government Code section 84308 ("Levine Act") requires a party to a contract other than competitively bid, labor, or personal employment contract, to disclose any contribution of more than $500 that the party (or their agent) has made to a member of the First Public Hydrogen Authority (FPH2) Board of Directors or any other officer of the FPH2 Authority as defined in the Levine Act within the prior 12 months. The Levine Act also prohibits for 12 months following a final decision, a party (or their agent) from making a contribution of more than $500 to any member of the FPH2 Board of Directors or any other officer as defined in the Levine Act who may participate in the making of this Agreement.

A. By its signature on this Agreement, ENSO ADVISORY SERVICES, LLC represents and warrants [select one]:

□ Neither ENSO ADVISORY SERVICES, LLC nor any agent or principal acting on behalf of ENSO ADVISORY SERVICES, LLC has, within the 12 months preceding the commencement of negotiations of this Agreement, made any political contribution of more than $500 to any member of the FPH2 Board of Directors l or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

□ [COMPANY NAME] (or an agent acting on behalf of [COMPANY NAME]) has made a political contribution of more than $500 to:
Identify the person(s) or agent(s) who made the contribution:

____
____
____

Identify the FPH2 officer(s) or Board member(s) who received the contribution:

____
____
____

B. By its signature on this Agreement, ENSO ADVISORY SERVICES, LLC further represents and warrants [select one]:

□ Neither ENSO ADVISORY SERVICES, LLC nor any agent or principal acting on behalf of ENSO ADVISORY SERVICES, LLC intends, within the 12 months following the execution of this Agreement, to make any political contribution of more than $500 to any member of the FPH2 Board of Directors or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

□ [COMPANY NAME] (or an agent acting on behalf of [COMPANY NAME]) intends to make a political contribution of more than $500 to:
Identify the person(s) or agent(s) who will make the contribution:

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____
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Identify the FPH2 officer(s) or Board member(s) who will receive the contribution:

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To: Jason Caudle - CEO

From: Alexus Merino - Director

Date: June 18, 2025

Subject: **Sole Source Justification - Professional Services Agreement with Enso Advisory Services**

As part of the City of Lancaster's clean energy objectives, Enso Advisory Services, LLC ("Enso"), upon Board approval, will continue to advise the City and FPH$_2$ on the Clean Energy Ministerial/DOE H$_2$ Twin Cities Mentor-Mentee program, and additionally provide strategic support on the Green Energy Microgrid (GEM) project and potential expansion efforts related to the Pacific Hydrogen Alliance (PHA).

Enso was initially awarded a contract in November 2022 for the first 18 months of the proposed five-year H$_2$ Twin Cities program, a global initiative that connects cities and communities to accelerate deployment of clean hydrogen solutions. The program is supported by the U.S. Department of Energy (DOE) to foster mentorship, shared best practices, and collaboration on environmental justice and clean energy job creation.

Enso has developed a strong and effective partnership with the City and FPH$_2$ over the past three years, producing key resources and strategic insight into Lancaster's clean hydrogen priorities, barriers, and stakeholder landscape. Enso's early contributions helped the City successfully apply to the H$_2$ Twin Cities program through their facilitation of relationships with Namie Town, Japan, and Hawaiʻi County. They arranged meetings—with interpretation support—as well as in-person visits, including the City's official delegation to Japan in August 2022. These efforts elevated Lancaster's international profile and laid the groundwork for potential foreign investment in hydrogen and clean energy projects.

Building on this success, Enso is currently assisting the City with its involvement in the Pacific Hydrogen Alliance (PHA)—a regional coalition working to accelerate clean hydrogen deployment and policy alignment across the Pacific. Enso's work includes stakeholder coordination, governance planning, and strategic positioning of Lancaster as a founding leader within the alliance.

Enso also serves as a key advisor on the Green Energy Microgrid (GEM) project, which aims to establish a resilient, locally controlled energy system powered by renewable sources and supported by hydrogen infrastructure. Enso's unique expertise in renewable hydrogen development, regulatory navigation, and investment strategy is critical to aligning GEM with the City's long-term sustainability and equity goals.

Although this work originated under a City-led initiative, it now squarely aligns with FPH_2's operational mandate to accelerate hydrogen infrastructure and investment in Lancaster. Funding this contract through FPH_2 offers multiple advantages:

- **Strategic Continuity**: FPH_2 ensures that foundational work on H_2 Twin Cities, GEM, and PHA continues without disruption or loss of momentum.
- **Mission Alignment**: Enso's scope of work advances FPH_2's goals to attract clean hydrogen investment, enhance energy resilience, and shape regional hydrogen policy.
- **Execution Role**: While the City provides strategic direction, FPH_2 acts as the implementer — and contracting directly with Enso ensures tactical follow-through.
- **Relationship Capital**: Enso has built critical international, federal, and private sector relationships that are essential to FPH_2's success.
- **Leverage for Future Funding**: Enso's work directly supports positioning Lancaster and FPH_2 for upcoming DOE grants, private investment, and international partnership opportunities.
- **Operational Control**: By managing the contract, FPH_2 can ensure deliverables are aligned with its project pipeline and that insights, data, and relationships are retained in-house.

Enso has established rapport and a comprehensive understanding of the City and now First Public Hydrogen's challenges, resources, and staff dynamics. Given their in-depth familiarity with our organization, onboarding a new vendor would lead to significant delays and potentially compromise the quality of work due to the learning curve associated with acclimating a new provider to our needs. Repeating this foundational phase with another vendor would not only duplicate costs but also disrupt the momentum achieved so far. THEREFORE, THE COST TO CONTINUE WITH ENSO IS LESS THAN THE COST FOR ANY OTHER VENDOR DUE TO THE TIME NECESSARY TO GET UP TO SPEED WITH THE PROJECT.

In addition, their tailored approach has proven effective in fostering strategic leadership within our executive team, reinforcing the rationale for their continued involvement. Due to Enso's existing knowledge base, strong track record, and proven results, we recommend proceeding with them as a sole source vendor to ensure uninterrupted support for our strategic and leadership development initiatives. BECAUSE OF THIS KNOWLEDGE BASE AND

EXPERIENCE, COMPETITIVE SOLICITATION IN ACCORDANCE WITH THE NON-ENERGY PROCUREMENT POLICY WOULD BE MEANINGLESS.

Our approval is requested for Enso Advisory Services to continue as a sole source vendor for the upcoming phases of strategic support.

APPROVAL:

Signed by:
Jason Caudle
2DDF6CA7418B437... June 10, 2025 | 8:21:04 AM PDT

Jason Caudle, CEO Date

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 5: **Consider Approval of a Professional Services Agreement with Bayshore Consulting Group for an Amount not to Exceed $240,000**

Recommendation:

1. Approve the Professional Services Agreement with Bayshore Consulting Group, substantially in the form attached, in an amount not to exceed $240,000 and authorize the Chief Executive Officer, or his designee, to sign and execute all documents; and

2. Authorize the Chief Executive Officer, or his designee, to execute any additional amendments to the Agreement deemed necessary to complete the project in a form approved by the General Counsel.

Fiscal Impact:

Sufficient funds are available in the proposed Fiscal Year 2025/26 budget to fund the $240,000 professional services agreement with Bayshore Consulting Group.

Background:

Since January 2025, Bayshore Consulting has supported the foundational development of the First Public Hydrogen Authority (FPH$_2$) by providing essential operational support across key administrative and financial functions. Their work has been instrumental in establishing the internal systems, compliance protocols, and day-to-day processes necessary to launch FPH$_2$ as the nation's first public hydrogen utility. This partnership has enabled the Authority to begin operations with a strong administrative backbone, supporting transparency, accountability, and effective service delivery.

FPH$_2$ is currently building out its operational infrastructure to support the agency's next phase of growth. To meet this need, Bayshore Consulting Group will provide a comprehensive suite of administrative, procurement, board secretary, and treasury/finance services that are essential for establishing the Authority's internal systems and compliance frameworks.

Key services under this agreement include the development of administrative and procurement policies and procedures, staff training on procurement best practices, and full-service accounting support including budget preparation, audit coordination, and financial reporting. Bayshore Consulting Group will also manage board meeting agendas and compliance requirements under the Fair Political Practices Act, as well as collaborate with legal counsel on personnel and purchasing policies.

These services are critical as FPH_2 continues its transition from formation to full operational status. Bayshore Consulting Group's multidisciplinary team—including a Treasurer, Procurement Manager, Board Secretary, and Accounting Manager—offers specialized expertise that enables efficient and compliant agency operations without the need for multiple separate contracts or onboarding delays.

The agreement supports FPH_2's efforts to implement accountable, transparent, and efficient internal systems aligned with public sector standards. Bayshore Consulting Group's prior experience with similar agencies and ability to provide seamless support across a broad range of functions makes them an ideal partner at this pivotal stage of development.

Attachments:

- Draft Professional Services Agreement for Bayshore Consulting Group
- Sole Source Justification

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES is made and entered into this ___ day of _______, 2025, by and between the FIRST PUBLIC HYDROGEN AUTHORITY, a joint powers authority, ("Authority"), and BAYSHORE CONSULTING GROUP, INC ("Consultant") (collectively, sometimes referred to hereinafter as the "Parties").

RECITALS

WHEREAS, the Authority desires to engage Consultant to perform certain technical and professional services, as provided herein, identified as:

JPA Operational Support (THE "SERVICES")

WHEREAS, the principal members of Consultant are qualified and duly registered/licensed under the laws of the State of California, and Consultant desires to accept such engagement;

NOW, THEREFORE, the parties agree as follows:

1. **Parties to the Agreement**.

The parties to this Agreement are:

A. CITY: First Public Hydrogen Authority

B. CONSULTANT: Bayshore Consulting Group, Inc.

2. **Notices**. All written notices required by or related to this Agreement shall be sent by Certified Mail, Return Receipt Requested, postage prepaid and addressed as listed below. Neither party to this Agreement shall refuse to accept such mail; parties to this Agreement shall promptly inform the other party of any changes of address. All notices required by this Agreement are effective on the day of receipt, unless otherwise indicated herein.

CITY
First Public Hydrogen Authority
Attn: Jason Caudle, CEO
44933 North Fern Avenue
Lancaster, California 93534

CONSULTANT
Bayshore Consulting Group
Attn: Barbara Boswell
626 W Lancaster Boulevard
Lancaster, CA 93534

3. **Successors and Assigns**. The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no party hereto shall assign any of the benefits and burdens hereunder, whether voluntarily or by operation of law, without prior written consent of the other party, and any such assignments without said consent shall be void.

4. **Description of Work**. The Authority hereby engages Consultant, and Consultant accepts such engagement, to perform the technical and professional services set forth in the "Scope of Services

and Rates Schedule," attached hereto as Exhibit "A" and incorporated herein by reference. Consultant shall perform and complete, in a manner satisfactory to the Authority, all work and services set forth in Exhibit "A." The Authority Manager or his designee shall have the right to review and inspect the work during the course of its performance at such times as may be specified by the Authority Manager, or his designee.

5. **Obligations of the Authority**.

A. The Authority shall pay Consultant an amount not to exceed $240,000 for all work necessary to complete the Services, as described in the Scope of Services and Rates Schedule. Payments shall be due within thirty (30) days following submittal of an invoice detailing the services performed, at the hourly rates set forth in Exhibit A.

B. No payment made hereunder by the Authority to Consultant, other than the final payment, shall be construed as an acceptance by the Authority of any work or materials, nor as evidence of satisfactory performance by Consultant of its obligations under this Agreement.

6. **Obligations of the Consultant**.

A. Consultant shall perform as required by this Agreement and in accordance with the Scope of Services and Rates Schedule set forth in Exhibit A.

B. Consultant shall bill for services on an hourly basis and provide a monthly invoice.

C. Consultant shall be responsible for payment of all employees' wages and benefits and shall comply with all requirements pertaining to employer's liability, workers' compensation, unemployment insurance, and Social Security.

D. Consultant shall not subcontract any of the work required to perform the Services without the express prior written approval of the Authority.

7. **Hold Harmless and Indemnification**. Consultant agrees to indemnify and hold harmless the Authority, its elected officials, officers and employees, and its member agencies from and against any and all third-party claims, losses, obligations, or liabilities whatsoever, including reasonable attorney's fees, incurred to the extent arising out of or related to Consultant's negligent or willful wrongful acts, errors or omissions, or those of its employees or agents. Consultant agrees to defend the Authority , its officers and employees, using counsel of the Authority's choosing, from and against any and all claims covered by the indemnity in the preceding sentence.

8. **Amendments**. Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon mutual written approval by the Authority and Consultant.

9. **Non-Discrimination and Equal Employment Opportunity**.

A. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, national origin, physical or mental disability or age. Affirmative action relating to employment shall include, but not be limited to the following:

employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

B. The provisions of subsection A above shall be included in all solicitations or advertisements placed by or on behalf of Consultant for personnel to perform any services under this Agreement. The Authority shall have access to all documents, data and records of Consultant and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section.

10. **Term; Effective Date**. This Agreement shall become effective and shall be in full force and effect upon the execution of the Agreement by the Authority and the Consultant. This Agreement shall continue in full force and effect for one (1) year, with the option to extend an additional two (2) years, unless the Agreement is sooner terminated in accordance with this Agreement; provided, however, that the Authority and the Consultant may mutually agree in writing to extend the Term of this Agreement.

11. **Termination**.

A. For Convenience. The Authority may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the other party of such termination and specifying the effective date thereof. In the event of termination of this Agreement, Consultant will be paid for work completed through the date of termination within thirty (30) days following submittal of a final invoice.

B. For Cause. If Consultant fails to perform the services called for by this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, Consultant shall correct such failure within ten (10) days (or such longer period that the Authority may authorize in writing) after receipt of notice from the Authority specifying such failure. Should the failure not be corrected within this time period, the Authority may immediately terminate the Agreement by written notice to Consultant.

C. In the event of termination, whether for convenience or cause, reports, plans, studies and other documents (collectively, "documents") related to the Services shall become the Authority's property. Consultant shall provide all documents to the Authority that have not yet been within ten (10) calendar days after termination of the Agreement.

12. **Independent Contractor**. Consultant is an independent contractor and shall have no power or authority to incur any debt, obligation or liability on behalf of the Authority. It is expressly understood between the Parties to this Agreement that no employee/employer relationship is intended.

13. **Insurance**.

A. The Consultant, at its expense, shall maintain in effect at all times during the term of this Agreement the following coverage and limits of insurance, which shall be maintained with insurers listed "A-, VIII" or better in the Best's Key Rating Guide:

Commercial General Liability

Each Occurrence	$1,000,000
Per Project General Aggregate	$2,000,000

Including Products/Completed Operations; Contractual Liability/Independent Contractors; Property Damage

(Coverage shall be at least as broad as ISO form CG2010 11/85 or CG2010 07/04 and CG2037 07/04 combined, or an equivalent providing ongoing and completed operations)

Commercial Automobile Liability	
Combined Single Limit per Accident for Bodily Injury and Property Damage	$1,000,000
(Coverage shall be at least as broad as ISO form CA00 01)	
Workers Compensation	
As Required by the State of California	Statutory Limits
Employers' Liability	
Each Accident	$1,000,000
Bodily Injury by Disease	$1,000,000
Each Employee	$1,000,000
(A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation & Employers' Liability policies)	
Professional Liability	
Each Occurrence	$1,000,000
General Aggregate	$1,000,000

B. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability.

C. Professional liability and/or cyber insurance written on a "claims made" basis must be renewed for a period of three (3) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract and will cover Consultant for all claims made by the Authority insured entities arising out of any acts or omissions of Consultant or its officers, employees, or agents during the time this Agreement was in effect.

D. Any deductibles or self-insurance retentions must be declared and approved by the Authority . At the Authority 's option, either the insurer shall reduce or eliminate such deductibles or self- insured retentions as respects the Authority insured entities or the insurer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. All insurance shall be primary and non-contributory as respects the Authority insured entities. Any insurance or self-insurance maintained by the Authority insured entities shall be in excess of the Consultant's insurance and shall not contribute with it.

F. Consultant shall furnish the Authority with Certificates of Insurance and with original endorsements effecting coverage required by this Agreement. Certificates of Insurance shall meet the following requirements:

(1) Show that the insurance policy has been endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after 30 days' prior written notice (10 days' written notice for non-payment) to the First Public Hydrogen Authority.

(2) List in the "Descriptions of Operations/Locations/Vehicles" section:

"JPA Operational Support"
The First Public Hydrogen Authority, its Board of Directors, officers, employees and volunteers, as well as the officers, employees, and volunteers of its member agencies, including but not limited to the City of Lancaster and the City of Industry, are included as additional covered parties, but only insofar as the operations under this contract are concerned."

(3) List in the "Certificate Holder" section:
The First Public Hydrogen Authority, 44933 Fern Avenue, Lancaster, California 93534.

14. **Commencement and Completion of Work**. The Services to be provided by Consultant pursuant to this Agreement shall commence on January 1st, 2025 after execution of this Agreement, and shall be completed no later than six (6) months following commencement; provided however, that the Parties may agree to extend the time for completion upon mutual written agreement.

15. **Ownership of Documents**. All plans, specifications, reports, studies, maps and other documents prepared or obtained by Consultant in the course of performing the work and are required by this Agreement to be delivered to the Authority shall be the property of the Authority. Basic sketches, charts, computations and similar data prepared or obtained by Consultant under this Agreement shall, upon request, be made available to Authority without restriction or limitation on their use.

16. **Data Provided to Consultant**. Authority shall provide to Consultant, without charge, all data, including reports, records, maps and other information, now in the Authority's possession which may facilitate the timely performance of the work described in Exhibit A.

17. **Consultant's Warranties and Representations**.

Consultant warrants and represents to Authority as follows:

A. Consultant has not employed or retained any person or entity, other than a bona fide employee working exclusively for Consultant, to solicit or obtain this Agreement.

B. Consultant has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this Agreement. Upon any breach or violation of this warranty, Authority shall have the right, in its sole discretion, to terminate this Agreement without further liability, or, in the alternative, to deduct from any sums payable hereunder the full amount or value of any such fee, commission, percentage or gift.

C. Consultant has no knowledge that any officer or employee of the Authority has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of the Consultant, and that if any such interest comes to the knowledge of Consultant at any time, a complete written disclosure of such interest will be made to Authority, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

D. Upon the execution of this Agreement, Consultant has no interest, direct or indirect, in any transaction or business entity which would conflict with or in any manner hinder the performance of services and work required by this Agreement, nor shall any such interest be acquired during the term of this Agreement.

18. **Resolution of Disputes**.

A. Disputes regarding the interpretation or application of any provisions of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

B. If the parties cannot resolve the dispute through good faith negotiations, either party may give Notice of Dispute to the other party. The Notice of Dispute shall state the nature of the dispute and the corrective action necessary to remedy the dispute.

(1) After Notice of Dispute, the parties shall first attempt to resolve any disputes by mediation. The parties shall agree on a single mediator**.** Mediation shall be conducted in Lancaster, California or such other location as to which the Parties may mutually agree**.** Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

(2) If the dispute has not been resolved by mediation within 45 days after Notice of Dispute, or the parties are unable to agree to a mediator, within 15 days after Notice of Dispute, then, the dispute may, upon agreement of the parties, be resolved by binding arbitration.

C. If any action at law or in equity is brought to enforce or interpret any provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, cost and necessary disbursements, in addition to such other relief as may be sought and awarded.

19. **Exhibits**.

The following exhibits to which reference is made in this Agreement are deemed incorporated herein in their entirety. In the event of a conflict between the terms of this Agreement and the terms of the attached Exhibit(s), the terms of this Agreement shall control.

Exhibit "A" Scope of Services and Rate Schedule

20. **Governing Law**.

This Agreement shall be governed by the laws of the State of California.

21. **[Change in Law Defined**.

"Change in Law" means any of the following acts, events or circumstances to the extent that compliance therewith materially expands the scope of the obligations of either party hereunder, materially interferes with, materially delays or materially increases the cost of performing the obligations of either party hereunder:

A. the adoption, amendment, promulgation, issuance, modification, repeal or written change in any applicable law, or the administrative or judicial interpretation thereof on or after the Effective Date unless such applicable law was on or prior to such date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any Governmental Body;

B. the order or judgment of any Governmental Body issued on or after the Effective

Date (unless such order or judgment is issued to enforce compliance with applicable law which was effective as of such date) to the extent such order or judgment is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the Consultant or of the Authority, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

22. **Change in Law Effect**.

If the Consultant is required to make material changes to the Services as a sole and direct result of a Change in Law, regulation or permit, after the Effective Date, Consultant shall, upon provision of evidence satisfactory to Authority of a Change in Law requiring material changes to the Services, be able to immediately [INSERT CASE SPECIFIC REMEDY FOR CHANGE IN LAW], the Parties shall have the right to terminate this Agreement upon written notice to the other Party; provided however, such termination shall be each Party's sole remedy and neither Party shall be entitled to recover any form of damages or restitution. Notwithstanding the foregoing, in the event this Agreement is terminated pursuant to this Section 22 and Consultant continues to perform the Services, the terms of Section [INSERT CASE SPECIFIC SURVIVAL TERMS] shall survive.]

23. **Effective Date**.

This Agreement shall become effective as of the date set forth below on which the last of the parties, whether Authority or Consultant, executes said Agreement.

[Signatures begin on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized.

FIRST PUBLIC HYDROGEN AUTHORITY
LANCASTER, CALIFORNIA

By: ____
Jason Caudle, CEO

Dated: ____

BAYSHORE CONSULTING GROUP

By: ____
Barbara Boswell

Dated: ____

ATTEST:

____
Susan Caputo, Board Secretary

APPROVED AS TO FORM:

____
Allison Burns, General Counsel

LEVINE ACT DISCLOSURE.

California Government Code section 84308 ("Levine Act") requires a party to a contract other than competitively bid, labor, or personal employment contract, to disclose any contribution of more than $500 that the party (or their agent) has made to a member of the First Public Hydrogen Authority (FPH2) Board of Directors or any other officer of the FPH2 Authority as defined in the Levine Act within the prior 12 months. The Levine Act also prohibits for 12 months following a final decision, a party (or their agent) from making a contribution of more than $500 to any member of the FPH2 Board of Directors or any other officer as defined in the Levine Act who may participate in the making of this Agreement.

A. By its signature on this Agreement, [COMPANY NAME] represents and warrants [select one]:

□ Neither [COMPANY NAME] nor any agent or principal acting on behalf of [COMPANY NAME] has, within the 12 months preceding the commencement of negotiations of this Agreement, made any political contribution of more than $500 to any member of the FPH2 Board of Directors l or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

□ [COMPANY NAME] (or an agent acting on behalf of [COMPANY NAME]) has made a political contribution of more than $500 to:
Identify the person(s) or agent(s) who made the contribution:

____
____
____

Identify the FPH2 officer(s) or Board member(s) who received the contribution:

____
____
____

B. By its signature on this Agreement, [COMPANY NAME] further represents and warrants [select one]:

□ Neither [COMPANY NAME] nor any agent or principal acting on behalf of [COMPANY NAME] intends, within the 12 months following the execution of this Agreement, to make any political contribution of more than $500 to any member of the FPH2 Board of Directors or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

□ [COMPANY NAME] (or an agent acting on behalf of [COMPANY NAME]) intends to make a political contribution of more than $500 to:
Identify the person(s) or agent(s) who will make the contribution:

____
____
____

Identify the FPH2 officer(s) or Board member(s) who will receive the contribution:

____
____
____

EXHIBIT A

SCOPE OF SERVICES AND
SCHEDULE OF HOURLY RATES

ADMINISTRATION/OPERATIONS

- Prepare Administrative Policies & Procedures;
- Coordinate with General Counsel and Special Counsel to establish Personnel Policies and Procedures;
- Attend Staff Meetings;
- Other Duties as Requested.

PROCUREMENT

- Prepare Procurement Policies and Procedures;
- Provide Staff Training on Procurement Best Practicies and Procedures;
- Prepare and Manage Request for Proposals and solicitations;
- Coordinate with General Counsel and Special Counsel to Develop Purchase Agreements;
- Negotiate Transactions in Coordination with FPH2 Management, General and Special Counsel
- Attend Staff Meetings;
- Other Duties as Requested.

BOARD SECRETARY

- Full Service Board Meeting Agenda Management, including agenda preparation, minutes preparation and document follow-up processing;
- Form 700 and Fair Politicial Practices Act Compliance;
- Prepare Records Retention Policies and Procedures and Conflict of Interest Code
- Attend Staff Meetings;
- Other Duties as Requested.

TREASURY/FINANCE

- Provide full-service accounting services including:
    - Accounts Payable Processing
    - General Ledger Transactions and Reporting
    - Preparation of Monthly Treasurers Report
    - Annual Audit Coordination and Annual Financial Report Preparation
    - Cash Flow Management
    - Preparation of Financial Policies and Procedures
    - Budget Preparation and Tracking
    - Debt Management
    - Other Duties as Requested

HOURLY RATE SCHEDULE

POSITION	HOURLY RATE
Treasurer	$250
Procurement Manager	$175
Procurement Analyst	$125
Accounting Manager	$125
Board Secretary	$125

Rates will be adjusted effective January 1 of each year, based on the Bureau of Labor Statistics, Employement Cost Index, 12-month percent change effective September of the immediately prior year. Actual out-of-pocket expenses will be billed without mark-up.

FIRST PUBLIC H_2

To:	Jason Caudle - CEO
From:	Alexus Merino - Director
Date:	June 18, 2025
Subject:	**Sole Source Justification - Professional Services Agreement with Bayshore Consulting Group**

This memo serves to request approval for a sole source agreement with Bayshore Consulting Group to provide critical administrative, procurement, board secretary, and treasury/finance support services to the First Public Hydrogen Authority (FPH$_2$).

Bayshore Consulting Group brings extensive experience in public sector operations, procurement compliance, and financial management, and is uniquely qualified to support FPH$_2$ as it builds out its foundational internal systems and governance. Their services will include the development of administrative policies, procurement procedures, board agenda and records management, and full-service accounting and treasury operations. These functions are essential to establishing FPH$_2$'s operational integrity and enabling effective, compliant execution of its strategic objectives.

The scope of services includes coordinating with legal counsel to develop personnel policies, managing solicitations and vendor agreements, ensuring board compliance with the Fair Political Practices Act, and preparing and tracking budgets and audits. These highly specialized responsibilities require deep knowledge of public agency requirements, government finance, and interagency collaboration.

Bayshore Consulting Group has an existing track record of delivering these services to similar public entities, and their familiarity with FPH$_2$'s structure and emerging needs positions them to perform this work without delay or onboarding ramp-up. Attempting to engage another vendor would require significant time to orient them to our evolving structure, policies, and legal frameworks—delaying the launch of mission-critical systems and increasing the risk of operational gaps or compliance issues.

Given the complexity of the services, Bayshore Consulting Group's capacity to provide multiple specialized staff—including a Treasurer, Procurement Manager, Accounting Manager, and Board Secretary—under a unified engagement provides both efficiency and cost-effectiveness.

Based on Bayshore Consulting Group's qualifications, proven expertise, and ability to provide seamless support across multiple critical functions, we recommend approval of this sole source agreement.

We respectfully request authorization to retain Bayshore Consulting Group as a sole source vendor.

APPROVAL:

DocuSigned by:
Jason Caudle
D682AFD6E85E4DD...

May 13, 2025 | 2:21:00 PM PDT

Date

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Barbara Boswell, Treasurer

Item 6: **Consider Adoption of a Resolution Approving a Debt Policy for Future Obligations**

Recommendation:
Adopt a Resolution approving a Debt Policy for future obligations.

Fiscal Impact:
There is no direct fiscal impact from the adoption of the Debt Policy. However, having an adopted policy in place is a legal prerequisite for any future debt issuance.

Background:
The First Public Hydrogen Authority (FPH2) Joint Powers Agreement authorizes FPH2 to incur debt and issue bonds subject to the certain limitations of and compliance with the Government Code of the State of California (State). Senate Bill 1029, effective January 1, 2017, amended Section 8855 of the Government Code, which, among other things, requires local agencies within the State, such as FPH2, to establish and implement a formal policy governing the methods by which FPH2 issues debt obligations and the internal controls over the issuance of debt. The legislation aims to enhance debt transparency and promote prudent debt issuance and management practices by requiring specific content in a debt policy.

The recommended Debt Policy (Policy), attached as Exhibit A to the proposed resolution meets all the requirements of Government Code Section 8855(i), as amended by S.B. 1029 by including the following elements:

- The purposes for which debt proceeds may be used.
- The types of debt that may be issued.

- The relationship of the debt to, and integration with, FPH2's capital improvement program or budget.
- Policy goals relating to FPH2's planning goals and objectives.
- The internal control procedures to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

The Policy is intended to help ensure that:

- FPH2 and management and staff adhere to sound debt issuance and management practices;
- FPH2 achieves the most advantageous cost of capital within prudent risk parameters;
- FPH2 preserves future financial flexibility; and
- FPH2 preserves and enhances the credit ratings assigned to its debt.

Attachment
Resolution Approving a Debt Policy for Future Obligations and Exhibit A Debt Policy

FIRST PUBLIC HYDROGEN AUTHORITY
RESOLUTION 2025-___

A RESOLUTION OF THE BOARD OF DIRECTORS OF FIRST PUBLIC HYDROGEN AUTHORITY APPROVING A DEBT POLICY FOR FUTURE OBLIGATIONS

WHEREAS, First Public Hydrogen Authority ("FPHA") is a joint powers authority established on December 10, 2024, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, the Legislature of the State of California (the "State") has adopted S.B. 1029 ("S.B. 1029"), amending Section 8855 of the Government Code of the State, and effective in part as of January 1, 2017, which, among other things, requires local agencies within the State, such as FPHA, to establish and implement a formal policy governing the methods by which FPHA issues debt obligations ("Debt") and the internal controls over the issuance of Debt; and

WHEREAS, the Board hereby determines the Debt Policy appended hereto as Exhibit A (the "Debt Policy") meets all the requirements of Government Code Section 8855(i), as amended by S.B. 1029; and

WHEREAS, the Board hereby determines that the Debt Policy shall be effective for all Debt issuances approved by the Board following the adoption of this Resolution, which shall occur upon the majority vote of the Directors of the Board; and

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

Section 1. The foregoing recitals are true and correct.

Section 2. The Debt Policy attached hereto as Exhibit A is hereby approved and adopted, and staff is directed to comply therewith, for all future issuances of Debt approved by the Board following the adoption of this Resolution; provided, however, that staff may review the Debt Policy and report to the Board any suggested amendments to the Debt Policy, based either upon further State legislative action or upon staff experience in implementing the Debt Policy. In the event such recommendations are made to the Board, the Board reserves the right to approve or decline to approve such amendments; any amendments will be made by further Resolution of the Board.

Section 3. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution No. 2025- was passed and adopted this 18th day of June 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

____
R. Rex Parris, Chair

ATTEST:

____
Susan Caputo, Board Secretary

Exhibit A

DEBT POLICY

(See attachment)

EXHIBIT A

FIRST PUBLIC HYDROGEN AUTHORITY

DEBT POLICY

Dated as of ________, 2025

I. Purpose

The purpose of this Debt Policy (the “Debt Policy”) is to establish comprehensive guidelines for the issuance and management of debt (herein referred as “Debt”) issued by the First Public Hydrogen Authority (the “Issuer”). This Debt Policy is intended to help ensure that: (i) the Issuer, the governing body of the Issuer (the “Board of Directors” or the “Board”), and Issuer management and staff adhere to sound debt issuance and management practices; (ii) the Issuer achieves the most advantageous cost of capital within prudent risk parameters; (iii) the Issuer preserves future financial flexibility; and (iii) the Issuer preserves and enhances the credit ratings assigned to its debt.

II. Scope of Debt Policy

This Debt Policy shall provide guidance for the issuance and management of bonds and other forms of indebtedness of the Issuer, together with any credit, liquidity and other ancillary instruments and agreements secured or executed in connection with such transactions. While adherence to this Debt Policy is recommended in applicable circumstances, the Issuer recognizes that changes in the capital markets, Issuer programs and other unforeseen circumstances may produce situations that are not covered by the Debt Policy or require modifications or exceptions to achieve Debt Policy goals. In these cases, management flexibility is appropriate, provided specific authorization from the Board is obtained. The Issuer may approve Debt and other related agreements the terms or provisions of which deviate from this Debt Policy, upon the recommendation and approval of the Chief Financial Officer of the Issuer (the “Chief Financial Officer”) as circumstances warrant. The failure by the Issuer to comply with any provision of this Debt Policy shall not affect the validity of any Debt that is otherwise duly authorized and executed.

The Treasurer/Chief Financial Officer is the designated administrator of the Debt Policy. The Treasurer/Chief Financial Officer shall have the day-to-day responsibility and authority for structuring, implementing and managing the Issuer's debt and financing program. The Debt Policy requires that each debt issuance be specifically authorized by the Board of Directors.

III. Legal Authority; Compliance with Laws, Resolutions, Debt Documents and Contracts

A) Legal Authority

The Issuer has exclusive authority to plan and issue Debt for Issuer related purposes, subject to approval by the Board of Directors.

B) Compliance with Law

All Debt of the Issuer shall be issued in accordance with applicable Federal and State laws, rules and regulations, including without limitation the Internal Revenue Code of 1986 (the "Code") with respect to the issuance of tax-exempt Debt, the Securities Act of 1933 and the Securities Exchange Act of 1934, in each case as supplemented and amended, and regulations promulgated pursuant to such laws.

C) Compliance with Issuer Resolutions and Debt Documents

Debt of the Issuer shall be issued in accordance with applicable resolutions and debt documents of the Issuer, in each case as supplemented and amended.

D) Compliance with Other Agreements

Debt of the Issuer shall be issued in compliance with any other agreements of the Issuer with credit or liquidity providers, bond insurers or other third parties.

E) Compliance with SB 1029

This Debt Policy complies with California Senate Bill 1029 (2016). As amended by Senate Bill 1029, California Government Code Section 8855(i) requires issuers to adopt debt policies addressing each of the five items below:

1) *The purposes for which the debt proceeds may be used.*

Section V (Purposes for Debt) and Section VI (Types of and Limitations on Debt) address the purposes for which debt proceeds may be used.

2) *The types of debt that may be issued.*

Section VI (Types of and Limitations on Debt) provides information regarding the types of debt that may be issued.

3) *The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable.*

Section XV (Budgeting and Capital Planning) provides information regarding the relationship between the Issuer's debt and budgeting process, including its budgeting process for capital expenditures.

4) *Policy goals related to the issuer's planning goals and objectives.*

As described in Section I (Purpose), Section XVI (Credit Rating Objectives), Section XVII (Debt Affordability), and other sections, this Policy has been adopted to assist with the Issuer's goals of adhering to sound debt issuance and management practices, achieving the most advantageous cost of capital within prudent risk parameters, preserving future financial flexibility, and preserving and enhancing the credit ratings assigned to its debt.

5) *The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.*

Section IVA.6 (Administration of Debt Policy) provides information regarding the Issuer's internal control procedures designed to ensure that the proceeds of its debt issues are spent as intended.

IV. Administration of Debt Policy

A) Issuer

The Issuer shall be responsible for:

1) Approval of the issuance of all Debt and the terms and provisions thereof;

2) Appointment of municipal advisors, bond counsel, disclosure counsel, Issuer consultants, underwriters, feasibility consultants, trustee and other professionals retained in connection with the issuance of Debt;

3) Approval of this Debt Policy and any supplements or amendments;

4) Periodic approval of the Issuer's expenditure plans;

5) Periodic approval of proposed Issuer annual and supplemental budgets for submission to the Board of Directors, including without limitation provisions for the timely payment of principal of and interest on all Debt; and

6) Maintaining internal control procedures with respect to Debt proceeds. Debt proceeds will be held either by a third-party trustee, which will disburse such proceeds to the Issuer upon the submission of one or more written requisitions, or by the Issuer to be held and accounted for in a separate fund or account, the expenditure of which will be carefully documented by the Issuer.

B) Treasurer/Chief Financial Officer

The Treasurer/Chief Financial Officer shall have responsibility and authority for the structure, issuance and management of the Issuer's Debt and financing programs. These responsibilities shall include, but not be limited to, the following:

1) Determining the appropriate structure and terms for all proposed debt transactions;

2) Undertaking to issue Debt at the most advantageous interest and other costs consistent with prudent levels of risk;

3) Ensuring compliance of any proposed Debt with any applicable additional debt limitations under State law, or the Issuer's Debt Policy, resolutions and debt documents;

4) Seeking approval from the Board of Directors for the issuance of Debt or other debt obligations;

5) Coordinating with other public agencies in connection with necessary approvals associated with Debt issuance;

6) Recommending to the Board of Directors the manner of sale of any Debt or other debt transactions;

7) Monitoring opportunities to refund outstanding Debt to achieve debt service savings, and recommending such refunding to the Board, as appropriate;

8) Providing for and participating in the preparation and review of all legal and disclosure documents in connection with the issuance of any Debt by the Issuer;

9) Recommending the appointment of municipal advisors, bond counsel, disclosure counsel, Issuer consultants, underwriters, feasibility consultants and other professionals retained in connection with the Issuer's debt issuance as necessary or appropriate;

10) Distributing information regarding the business operations and financial condition of the Issuer to appropriate bodies on a timely basis in compliance with any applicable continuing disclosure requirements;

11) Communicating regularly with the rating agencies, bond insurers, investment providers, institutional investors and other market participants related to the Issuer's Debt; and

12) Maintaining a database with summary information regarding all of the Issuer's outstanding Debt and other debt obligations.

C) Procedures for Approval of Debt

Any proposed issuance of Debt by the Issuer shall be submitted to and subject to authorization and approval by the Board of Directors.

D) Considerations in Approving Issuance of Debt

The Issuer may take into consideration any or all of the following factors, as appropriate, prior to approving the proposed issuance of Debt:

1) Whether the proposed issuance complies with this Debt Policy;

2) Source(s) of payment and security for the Debt;

3) Projected revenues and other benefits from the projects proposed to be funded;

4) Projected operating costs and other costs related to the proposed projects;

5) Impacts, if any, on Issuer and Debt credit ratings;

6) Period, if any, over which interest on the Debt should be capitalized;

7) Extent to which debt service on the Debt should be level or non-level;

8) Appropriate lien priority of the Debt; and

9) Adequacy of the proposed disclosure document.

V. Purposes for Debt

The Issuer may issue Debt for the purposes of financing and refinancing the costs of capital projects undertaken by the Issuer. The Issuer may also issue Debt for working capital purposes/startup related costs and expenses and to pay other extraordinary unfunded costs, including, but not limited to, termination or other similar payments due in connection with interest rate swaps (if any) and investment agreements entered into in connection with Debt. Proceeds of Debt may be applied to pay costs of issuance, to fund capitalized interest and debt service reserves and to pay costs incurred in connection with securing credit enhancement, including, but not limited to, premiums payable for bond insurance and reserve fund sureties.

A) New Money Debt

New money issues are typically those financings that generate additional funding to be available for expenditure on capital projects. New money proceeds may not be used to fund non-capital operational activities other than working capital or startup related costs. Working capital or startup related costs may be financed by short term Debt, as provided in Section VI.B.

B) Refunding Debt

The Issuer may issue Debt to refund the principal of and interest on outstanding Debt of the Issuer in order to (i) achieve debt service savings; (ii) restructure scheduled debt service; (iii) convert from or to a variable or fixed interest rate structure; (iv) change or modify the source or sources of payment and security for the refunded Debt; or (v) modify covenants otherwise binding upon the Issuer. Refunding Debt may be issued either on a current or advance basis, as permitted by applicable Federal tax laws. The Issuer may also utilize a tender offer process to refund Debt that is not otherwise subject to optional call by the Issuer.

Refunding Debt should be issued to achieve debt service savings in most cases. Refundings which do not produce savings are permitted if justified based on the need for restructuring to remove covenants/pledges that are restrictive and/or no longer required by the market and/or to make other changes in debt documents that would benefit the current, short-term, or long term capital cost of the Issuer.

VI. Types of and Limitations on Debt

A) Long-Term Debt

The Issuer may issue Debt with longer-term maturities to amortize Issuer capital or other costs over a period commensurate with the expected life, use or benefit provided by the project, program or facilities financed from such Debt. Long-term Debt will generally have a final maturity of five (5) years or more. Long-term debt is appropriate for financing essential capital projects and certain capital equipment where the project being financed will provide benefit over multiple years and the Issuer considers the project to be of vital, time-sensitive need and there are no plausible alternative financing sources after considering other alternatives, such as pay-as-you-go funding or existing funds on hand.

B) Short-Term Debt

The Issuer may issue Debt with shorter-term maturities to provide interim funding for capital projects and expenditures that will ultimately be funded from another source such as a grant, a long-term Debt issue, or the receipt of Federal or State grants, other revenues, and/or for cash flow management (including but not limited to working capital or startup related costs). Short-term Debt generally shall consist of Debt of an issue with a final maturity of five (5) years or less and may include, but is not limited to, Debt in the form of Tax and Revenue Anticipation Notes, Bond Anticipation Notes, Grant Anticipation Notes, and/or Commercial Paper.

C) Power Revenue Debt

If and to the extent authorized in accordance with applicable provisions of State law, the Issuer may issue Debt payable in whole or in part from power revenues. It is expected that power revenue debt will represent the principal form of Debt of the Issuer.

D) Other Revenue Debt

If and to the extent authorized in accordance with applicable provisions of State law, the Issuer may issue Debt payable in whole or in part from other types of revenues.

E) Other Federally Supported Programs

The Issuer may also participate in federal loans administered or provided by the United States as well as federally subsidized taxable and tax-exempt bond programs, and may secure credit enhancement and/or credit support provided under Federal programs, provided such loans, bonds or programs provide an attractive funding cost or other desirable features such as, but not limited to, deep subordination of the repayment obligation, an unusually long repayment term, or no payment due until a certain period after substantial project completion.

F) Fixed-Rate Debt

The Issuer may issue Debt that bears a fixed-rate rate of interest.

G) Variable Rate Debt

The Issuer may also issue Debt that bears a variable rate of interest, including, but not limited to, variable rate demand obligations, commercial paper and floating rate notes.

VII. Terms and Provisions of Debt

A) Debt Service Structure

The Issuer shall design the financing schedule and repayment of debt so as to take best advantage of market conditions, provide flexibility and, as practical, to recapture or maximize its debt capacity for future use. Annual debt service payments will generally be structured on a level basis; however, principal amortization may occur more quickly or slowly where permissible, to mirror debt repayment streams and/or provide future financing flexibility.

B) Amortization of Principal

Long-term Debt of the Issuer shall be issued with maturities that amortize the principal of such Debt over a period commensurate with the expected life, use or benefit (measured in years) provided by the projects, programs and/or facilities financed from the proceeds of such Debt. The weighted average maturity of such Debt (if issued as tax-exempt Debt) should not exceed one hundred and twenty percent (120%) of the reasonably estimated weighted average life, use or benefit (measured in years) of the projects, programs and/or facilities financed from the proceeds of such Debt.

Amortization of principal may be achieved either through serial maturities and/or through term Debt subject to mandatory sinking fund payments and/or optional redemptions.

C) Capitalized Interest

The Issuer may fund interest on Debt from proceeds of Debt for legal, budgeting or structuring purposes.

D) Call Provisions for Debt

1) Optional Call Provisions. The Issuer shall seek to include the shortest practicable optional call rights, with and/or without a call premium, consistent with optimal pricing of such Debt. Call premiums, if any, should not be in excess of then prevailing market standards and to the extent consistent with the most advantageous borrowing cost for the Issuer. Non-callable maturities may be considered and used to accommodate market requirements or other advantageous benefits to the Issuer.

2) Extraordinary Call Provisions. The Issuer, at its option, may include extraordinary call provisions, including for example with respect to unspent proceeds, damage to or destruction of the project or facilities financed, or other matters, as the Issuer may determine is necessary or desirable.

E) Payment of Interest

1) Current Interest Debt may be issued. It is anticipated that the interest on most, if not all, Debt issued will be paid on a current interest basis.

2) Deferred Interest Debt may also be issued. Debt of the Issuer may be issued with the payment of actual or effective interest deferred in whole or in part to the maturity or redemption date of each debt instrument, or the conversion of such debt instrument to a current interest-paying debt instrument (known, respectively, as capital appreciation bonds, zero coupon bonds and convertible capital appreciation bonds). Deferred Interest Debt may be issued to achieve optimal sizing, debt service structuring, pricing or other purposes.

F) Determination of Variable Interest Rates on Debt

The interest rate from time to time on Debt the interest of which is not fixed to maturity may be determined in such manner that the Issuer determines, including without limitation on a daily, weekly, monthly or other periodic basis, by reference to an index, prevailing market rates or other measures, and by or through an auction or other method.

G) Tender Options on Debt

The Issuer may issue Debt subject to the right or obligation of the holder to tender the Debt back to the Issuer for purchase, including, for example, to enable the holder to liquidate their position, or upon the occurrence of specified credit events, interest rate mode changes or other circumstances. The obligation of the Issuer to make payments to the holder upon any such tender may be secured by (i) a credit or liquidity facility from a financial institution in an amount at least equal to the principal amount of the Debt subject to tender, (ii) a liquidity or similar account into which the Issuer shall deposit and maintain an amount at least equal to the principal amount of the Debt subject to tender, or (iii) other means of self-liquidity that the Issuer deems prudent.

H) Multi-Modal Debt

The Issuer may issue Debt that may be converted between two or more interest rate modes without the necessity of a refunding. Such interest rate modes may include, without limitation: daily interest rates, weekly interest rates, other periodically variable interest rates, commercial paper rates, auction rates, fixed rates for a term and fixed rates to maturity (in each case with or without tender options).

I) Debt Service Reserve Funds

The Issuer may issue Debt that is secured by amounts on deposit in or credited to a debt service reserve fund or account in order to minimize the net cost of borrowing and/or to provide additional reserves for debt service or other purposes. Debt service reserve funds may secure one or more issues of Debt, and may be funded by proceeds of Debt, other available moneys of the Issuer, and/or by surety policies, letters or lines of credit or other similar instruments. Surety policies, letters or lines of credit or other similar instruments may be substituted for amounts on deposit in a debt service reserve fund if such amounts are needed for capital projects or other purposes.

Amounts in the debt service reserve funds shall be invested in accordance with the requirements of the applicable Debt documents in order to (i) maximize the rate of return on such amounts; (ii) minimize the risk of loss; (iii) minimize volatility in the value of such investments; and (iv) maximize liquidity so that such amounts will be available if it is necessary to draw upon them.

J) Lien Levels

The Issuer may create senior and junior lien pledges, as well as pledges at various lien priority levels, for each fund source which secures Debt repayment in order to optimize financing capacity.

VIII. Maintenance of Liquidity; Reserves

The Issuer may maintain unencumbered reserves in amounts sufficient in the determination of the Issuer to cover unexpected revenue losses, extraordinary payments and other contingencies, and to provide liquidity in connection with the Issuer's outstanding Debt.

IX. Investment of Debt Proceeds and Related Moneys

Proceeds of Debt and amounts in the Issuer's debt service, project fund and debt service reserve funds with respect to outstanding Debt shall be invested in accordance with the terms of the applicable Debt documents and other applicable agreements of the Issuer.

X. Third Party Credit Enhancement

The Issuer may secure credit enhancement for its Debt from third-party credit providers to the extent such credit enhancement is available upon reasonable, competitive and cost-effective terms. Such credit enhancement may include municipal bond insurance ("Bond Insurance"), letters of credit and lines of credit (collectively and individually, "Credit Facilities"), as well as other similar instruments.

A) Bond Insurance

All or any portion of an issue of Debt may be secured by Bond Insurance provided by municipal bond insurers ("Bond Insurers") if it is economically advantageous to do so, or if it is otherwise deemed necessary or desirable in connection with a particular issue of Debt. The relative cost or benefit of Bond Insurance may be determined by comparing the amount of the Bond Insurance premium to the present value of the estimated interest savings to be derived as a result of the insurance.

B) Credit Facilities

The issuance of certain types of Debt requires a letter of credit or line of credit (a "Credit Facility") from a commercial bank or other qualified financial institution to provide liquidity and/or credit support. The types of Debt where a Credit Facility may be necessary include commercial paper, variable rate Debt with a tender option and Debt that could not receive an investment grade credit rating in the absence of such a facility.

The criteria for selection of a Credit Facility provider shall include the following:

1) Long-term ratings from at least two nationally recognized credit rating agencies ("Rating Agencies") preferably to be equal to or better than those of the Issuer, if any;

2) Short-term ratings as appropriate for the type of Debt being issued;

3) Experience providing such facilities to state and local government issuers;

4) Fees, including without limitation initial and ongoing costs of the Credit Facility; draw, transfer and related fees; counsel fees; termination fees and any trading differential; and

5) Willingness to agree to the terms and conditions proposed or required by the Issuer.

XI. Use of Derivatives

Derivative products include but are not limited to interest rate swaps, interest rates caps and collars and forward or other hedging agreements. Derivative products will be considered in the issuance or management of debt only in instances where it has been demonstrated that the derivative product will either provide a hedge that reduces risk of fluctuations in expense or revenue, or, alternatively, where it will reduce total debt service cost in a manner that exceed the risks. Derivative products will only be utilized following the adoption of derivative product policy and with prior Board approval. In addition, an analysis of early termination costs and other conditional terms must be completed by the Issuer's municipal advisor prior to the approval of any derivative product by the Board. Such analysis will document the risks and benefits associated with the use of the particular derivative product.

XII. Methods of Sale and Pricing of Debt

There are three principal methods for the sale of Debt: (i) competitive; (ii) negotiated and (iii) private placement. In addition, Debt may be incurred as a direct loan. The Issuer shall utilize the method of sale that (a) is reasonably expected to produce the most advantageous interest cost with respect to the Debt and (b) provides the Issuer with the flexibility most desirable in connection with the structuring, timing or terms of such Debt. The Issuer shall utilize such method that is likely to provide the most advantageous borrowing costs and execution on behalf of the Issuer.

Debt may be sold at such prices, including at par, a premium or a discount, as the Issuer, in consultation with its municipal advisor, may determine is likely to produce the most advantageous interest cost under then prevailing market conditions, subject to compliance with applicable State law and Federal securities laws.

A) Competitive Sale

The competitive method of sale is appropriate when:

1) Bond prices are stable and/or there is strong demand for the bonds;

2) Market timing and interest rate sensitivity are not critical to the pricing;

3) Issuer has a strong credit rating and is well known to investors;

4) The Issuer has straightforward political and organizational structure, and the project, funding, and credit quality are easy to understand and market to potential investors; and

5) The Debt type and structure are conventional and the transaction size is manageable.

B) Negotiated Sale

A negotiated sale is appropriate when:

1) There is market volatility and/or weak demand and high supply of competing financings;

2) The Debt structure is complex;

3) Issuer has lower or weakening credit rating and is not well known to investors;

4) The Debt has non-standard structural features, such as a forward delivery, issuance of variable rate bonds, use of derivative products, or possesses a specific structuring feature that benefits from a negotiated sale;

5) Early structuring and market participation by underwriters are desired and there is strong projected retail demand for the Debt; and

6) The Debt size is significantly larger and would limit competition.

For a negotiated bond sale, the Issuer, with the assistance of its municipal advisor, will conduct a competitive underwriter selection process for either a specific Debt issue or through the establishment of an underwriter pool from which to choose over a defined period of time.

C) Private Placement

A private placement is structured for one purchaser or a group of purchasers, who are typically qualified institutional buyers, in a non-public offering conducted by an underwriting firm serving as placement agent. Since no public offering is involved, securities disclosure requirements are not as heavy. If a private placement is considered as the optimal sale method for the Issuer, the municipal advisor will conduct a competitive selection process to recommend the placement agent.

D) Direct Purchase; Direct Loan; Revolving Obligations

A direct purchase or direct loan is structured specifically for one bank (or a syndicate of banks), putting the Issuer and bank in a bilateral borrower-lender relationship. Examples include a direct purchase agreement or revolving credit facility. Securities disclosure requirements are the least burdensome for this structure. A direct purchase or direct loan may be advisable if the Issuer is unable to access the municipal capital markets or for other reasons. If a direct purchase or direct loan is contemplated, a municipal advisor, if any, should conduct a competitive selection process to recommend the bank. Selection criteria will include:

1) A term sheet to be provided along with the request for qualifications, with any requested modifications to be highlighted by the bank and taken into consideration in the evaluation process;

2) A representative list of clients for whom the bank has provided similar agreements; and

3) Evaluation of fees, specifically, cost of the agreement including index, spread, and other administrative charges. The evaluation of fees, terms and conditions will be compared to other alternative financing methods.

XIII. Debt Redemption Programs

The Issuer may establish from time-to-time a plan or program for the payment and/or redemption of outstanding Debt and/or interest thereon from revenues and/or other available funds pursuant to a recommendation from the Chief Financial Officer. Such plan or program may be for the purposes of reducing outstanding Debt, managing the amount of debt service payable in any year, or other suitable purposes, as determined by the Issuer.

XIV. Professional Services

The Issuer may retain professional services providers as necessary or desirable in connection with: (i) the structuring, issuance and sale of its Debt; (ii) monitoring of and advice regarding its outstanding Debt; and (iii) the negotiation, execution and monitoring of related agreements, including without limitation Bond Insurance, Credit Facilities, Derivatives and investment agreements; and (iv) other similar or related matters. Professional service providers may include municipal advisors, bond counsel, disclosure counsel, Issuer consultants, bond trustees and Federal arbitrage rebate services providers, and may include, as appropriate, underwriters, feasibility consultants, remarketing agents, auction agents, broker-dealers, escrow agents, verification agents and other similar parties.

The Issuer shall require that its Municipal Advisors, bond and disclosure counsel and other Issuer consultants be free of any conflicts of interest, or that any necessary or appropriate waivers or consents are obtained.

A) Municipal Advisors

The Issuer may utilize one or more municipal advisors to provide ongoing advisory services with respect to the Issuer's outstanding and proposed Debt and related agreements, including without limitation Bond Insurance, Credit Facilities, Derivatives, investment agreements and other similar matters. Municipal advisors must be registered with the Municipal Securities Rulemaking Board and as a municipal advisor as such term is defined in the Securities Exchange Act of 1934 and shall be required to disclose any conflicts of interest.

B) Bond Counsel, Disclosure Counsel and Other Legal Counsel

1) Bond Counsel. The Issuer may utilize one or more bond counsel firms to provide ongoing legal advisory services with respect to the Issuer's outstanding and proposed Debt and related agreements, including without limitation Credit Facilities, Derivatives, investment agreements and other similar matters. All Debt issued by the Issuer shall require a written opinion from the Issuer's bond counsel, as appropriate, regarding (i) the validity and binding effect of the Debt, and (ii) the exemption of interest from Federal and State income taxes.

2) Disclosure Counsel. The Issuer may utilize a disclosure counsel firm to provide ongoing legal advisory services with respect to initial and continuing disclosure in connection with the Issuer's outstanding and proposed Debt. Such firm may be one of the Issuer's bond counsel firms.

3) Other Legal Counsel. The Issuer may encourage or require, as appropriate, the retention and use of legal counsel by other parties involved in the issuance of Debt and the execution of related agreements which are approved by the Issuer.

C) Issuer Consultant

The Issuer may utilize one or more outside Issuer consultants to provide ongoing advisory services with respect to the Issuer's outstanding and proposed Debt, Issuer fares, strategic business and financial decisions and such other matters as the Issuer requires.

D) Trustees and Fiscal Agents

The Issuer may engage bond trustees and/or fiscal agents, paying agents and tender agents, as necessary or appropriate, in connection with the issuance of its Debt.

E) Underwriters/Remarketing Agents/Broker-Dealers

The Issuer may engage an underwriter or a team of underwriters, including a senior managing underwriter, in connection with the negotiated sale of its Debt. The Issuer also may engage one or more underwriters, as necessary or appropriate, to serve as remarketing agents, broker-dealers or in other similar capacities with respect to variable rate, auction, tender option, commercial paper and other similar types of Debt issued by the Issuer.

F) Feasibility Consultants

The Issuer may retain feasibility consultants in connection with proposed project, programs, facilities or activities to be financed in whole or in part from proceeds of Debt. The criteria for the selection of such feasibility consultants, in addition to those set forth above, shall include their expertise and experience with projects, programs, facilities or activities similar to those proposed to be undertaken by the Issuer.

G) Arbitrage Rebate Services Providers

Because of the complexity of the Federal arbitrage rebate statutes and regulations, and the severity of potential penalties for non-compliance, the Issuer may retain an arbitrage rebate services provider in connection with its outstanding and proposed Debt, and may also solicit related legal and tax advice from its bond counsel or separate tax counsel. The responsibilities of the arbitrage rebate services provider shall include: (i) the periodic calculation of any accrued arbitrage rebate liability and of any rebate payments due under and in accordance with the Code and the related rebate regulations; (ii) advice regarding strategies for minimizing arbitrage rebate liability; (iii) the preparation and filing of periodic forms and information required to be submitted to the Internal Revenue Service; (iv) the preparation and filing of requests for reimbursement of any prior overpayments; and (v) other related matters as requested by the Issuer.

The Issuer shall maintain necessary and appropriate records regarding (i) the expenditure of proceeds of Debt, including the individual projects and facilities financed and the amounts expended thereon, and (ii) investment earnings on such Debt proceeds. The Issuer shall maintain such records for such period of time as shall be required by the Code.

H) Other Professional Services

The Issuer may retain such other professional services providers, including without limitation verification agents, escrow agents, auction agents, as may be necessary or appropriate in connection with its Debt.

XV. Budgeting and Capital Planning

The Issuer's budgeting process, including its budgeting process for capital expenditures, shall provide a framework for evaluating proposed Debt issuances.

XVI. Credit Rating Objectives

The Issuer shall seek to preserve and enhance the credit ratings with respect to its outstanding Debt, if any, to the extent consistent with the Issuer's current and anticipated business operations and financial condition, strategic plans and goals and other objectives, and in accordance with any developed credit strategies.

XVII. Debt Affordability

The Issuer shall periodically review its debt affordability levels and capacity for the undertaking of new financing obligations to fund its expenditure plans. Debt affordability measures shall be based upon the credit objectives of the Issuer, criteria identified by rating agencies, comparison of industry peers and other internal factors of the Issuer.

XVIII. Relationships with Market Participants

The Issuer shall seek to preserve and enhance its relationships with the various participants in the municipal bond market, including without limitation, the Rating Agencies, Bond Insurers, credit/liquidity providers and current and prospective investors, including through periodic communication with such participants.

The Issuer shall prepare or cause to be prepared appropriate disclosures as required by the Securities and Exchange Commission Rule 15c2-12, the federal government, the State of California, rating agencies and other persons or entities entitled to disclosure to ensure compliance with applicable laws and regulations and agreements to provide ongoing disclosure.

XIX. Periodic Review

The Treasurer/Chief Financial Officer shall review this Debt Policy on a periodic basis, and recommend any changes to the Board for consideration.

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Barbara Boswell, Treasurer

Item 7: **Consider Adoption of a First Public Hydrogen Authority Vendor Communication Policy**

Recommendation:
Adopt the First Public Hydrogen Authority Vendor Communication Policy.

Fiscal Impact:
There is no fiscal impact by this action.

Background:
The purpose of adopting a Vendor Communication Policy (Policy) is to establish guidelines related to communications with active vendors and proposers. The proposed Policy has been drafted taking into account best practices for ensuring fair and transparent solicitations and vendor relationships and establishes duties for the Board of Directors and active and prospective proposing Vendors. These duties include:

- Limitations on Board and individual Director communications with active and proposing vendors regarding a specific FPH2 procurement or contract;
- Prohibits Board or Director from using their official position to influence a decision on a specific FPH2 procurement or contract;
- Sets processes for disclosure by the Board or Director and Vendors of communications with active vendors or proposing vendors; and
- Establishes a violation of the Policy constitutes sufficient cause for FPH2 to terminate a contract or decline to do business with a Vendor.

Attachment:
First Public Hydrogen Authority Vendor Communication Policy

POLICY TITLE:	Vendor Communication Policy	
POLICY NUMBER:	FPH_2 2025-##	PROPOSED: June 18, 2025

I. Purpose

The purpose of this policy is to establish guidelines related to communications with active vendors and proposers.

II. Definitions

1. Board: The Board of Directors of FPH_2, as defined in the JPA, and as may be amended from time to time.
2. Director: A member of the Board.
3. Financial Relationship: A relationship where the financial effect on a Vendor or Director, or Vendor or Director's immediate family is distinguishable from its effect on the public generally. For example, an investment worth one thousand dollars ($1,000) or more or a business entity in which the Director or Staff holds a position of management.
4. Immediate Family: A spouse, child, stepchild or parent.
5. Proposer: A person or business entity who seeks to do business with FPH_2 by responding to a Competitive Solicitation of any kind, a Cooperative Procurement or Piggyback Solicitation, or seeking to enter into a contract with FPH_2 through an exception or alternative to the Competitive Solicitation requirements.
6. Vendor: Any bidder, proposer, provider, contractor, subcontractor, or consultant, including each of their respective agents, consultants, or lobbyists who seeks to do business or is doing business with FPH_2.

III. Board or Director Duties

1. The Board or Director shall not communicate or participate in discussions, whether oral or in writing, with any Vendor, who the Board or Director knows or has reason to know is a Vendor, regarding any specific FPH_2 procurement or contract of any kind, except (i) during a duly-noticed meeting or (ii) when the Board or Director is required to attend a mediation, arbitration, or other similar proceeding, provided the Board or

Director's attendance at a proceeding is determined to be necessary by the General Counsel. The Board or Director shall direct any such Vendor inquiries and requests to FPH_2 staff.

2. The Board or Director shall not make, participate in making, or in any way attempt to use his or her official position to influence a decision on a specific FPH_2 procurement or contract if the Director has communicated or participated in discussions specified in Section III.2 above.

3. A Director shall disclose to the Board any communications or discussions with a Vendor when that communication or discussion leads to or results in FPH_2 commencing a specific procurement or FPH_2 entering into a specific contract.

    a. The disclosure shall occur at a duly-noticed meeting of the Board when the Director knows or has reason to know that a communication or discussion with a Vendor has resulted in a specific FPH_2 procurement or contract and has been presented to the Board for a decision.

    b. The disclosure shall include the name of the party or parties who participated; date, time, and location of the communication or discussion; and whether it was oral, written, or a combination of both; and a summary of the communication.

4. A Director is obligated to report to the General Counsel any facts made known to the Director which shows that a Vendor, who a Director knows or has reason to know is a Vendor, has engaged in business practices regarding a FPH_2 specific procurement or contract which may violate this Policy.

IV. Vendor Duties

1. A Vendor shall not communicate with or participate in discussions, whether oral or in writing, with a Director regarding any specific FPH_2 procurement or contract of any kind except (i) during a duly-noticed meeting or (ii) when a Vendor is required to attend a mediation, arbitration, or other similar proceeding where a Director is in attendance.

2. <u>Duty to Disclose:</u>.

    a. Each Vendor has an obligation to promptly disclose in writing to the General Counsel if any of the following become known to the management of the Vendor:

i. Any financial relationship between the Vendor and a Director or FPH_2 Staff;

ii. Any financial or close personal relationship between any officers, directors or key employees of the Vendor and a Director or FPH_2 Staff;

iii. Any outstanding offer of employment to, or the current or former employment of, any current or former Director or FPH_2 Staff by the Vendor; or

iv. Any campaign contributions exceeding two-hundred fifty dollars ($250) made by or on behalf of the Vendor to any current Director within the previous two (2) years.

b. The duty to disclose as described herein exists prior to and during any procurement of term of contract and regardless of whether the facts constitute an actual conflict of interest under any law.

3. A Vendor's duties specified herein shall be in addition to any policies, requirements, forms, or other guidance documents that FPH_2 may issue from time to time.

4. Any violation of this section by a Vendor shall constitute sufficient cause for $FPH_{2,}$ in its sole discretion, to terminate a contract with a Vendor, to decline to do business with a Vendor, to disqualify a Vendor from a pending procurement, or to take any other action as. FPH_2 may decide.

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Barbara Boswell, Treasurer

Item 8: **Consider Adoption of a Resolution Delegating Authority to Employ Personnel to the Chief Executive Officer and Approval of the Employee Handbook and Related Personnel Policies**

Recommendation:

1. Adopt a Resolution delegating authority to employ personnel to the Chief Executive Officer.

2. Approve the following Personnel Policies:

    a. Employee Handbook,
    b. 2025 Harassment Discrimination Retaliation Prevention Policy
    c. Hybrid Work Policy
    d. Drug and Alcohol Policy
    e. Family Care and Medical Leave and Pregnancy Leave Policy
    f. Electronic Communications Policy

Fiscal Impact:

Funding for employee salaries and benefits are included in the Proposed Fiscal Year 2025/26 Budget.

Background:

At its May 15, 2025, Special Board meeting, the First Public Hydrogen Authority (FPH2) Board of Directors adopted Resolution Nos. 2025-006, 2025-007 and 2025-008, approving salary schedules, position control listing and employee benefits package for six full-time at-will employees to join FPH2 in July 2025. As part of preparing for the activities related to the hiring of FPH2's initial staff, additional actions are needed by the Board. These include:

- Adoption of a resolution delegating authority to employ personnel to the Chief Executive Officer
- Approval of the Employee Handbook
- Approval of Personnel Policies

Resolution Delegating Authority to Employee Personnel
Section C.3 of the FPH2 Joint Exercise of Powers Agreement states "The Chief Executive shall have the power to appoint such other officers and employees as he/she may deem necessary." and Article 3 Section 3.1 of the FPH2 Bylaws further states "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…". The proposed Resolution delegates the authority to employ personnel in accordance with the salary schedule, employee benefits package and position control listing as established by the Board.

Employee Handbook
The Employee Handbook is a comprehensive guide to FPH2's policies, procedures, and expectations, ensuring employees understand their roles and responsibilities, and mitigating potential legal risks for FPH2.

Personnel Policies
The proposed Personnel Policies go hand in hand with the Employee Handbook and address compliance with legal requirements as well as best practices for an employer.

2025 Harassment Discrimination Retaliation Prevention Policy – The 2025 Harassment Discrimination Retaliation Prevention Policy applies to all officials, employees and volunteers of FPH2 and prohibits harassment and discrimination by any employee including supervisors and coworkers and by others doing business with the Authority. It prohibits retaliation by any employee including supervisors and coworkers. The Policy establishes procedures should harassment or discrimination occur.

Hybrid Work Policy – The Hybrid Work Policy supports a work environment that supports flexible work arrangements for its employees which includes employees working both a partial remote work week as well as a full remote work week. The Policy establishes the requirements and criteria for the Hybrid Work environment.

Drug and Alcohol Policy – The Drug and Alcohol Policy supports a work environment that is free of drugs and alcohol and to discourage drug and alcohol abuse by employees. It supports safe and efficient working conditions for employees and complies with the Drug-Free Workplace Act of 1988, and the California Drug-Free Workplace Act of 1990.

Family Care and Medical Leave and Pregnancy Leave Policy – The Family Care and Medical Leave and Pregnancy Leave Policy provides employees with information about and establishes guidelines for the taking of family care and medical leave, in accordance with the

California Family Rights Act, the California Pregnancy Leave Law, and the California Reproductive Loss Leave Law.

Electronic Communications Policy – The Electronic Communications Policy establishes clear guidelines for the appropriate, secure, and lawful use of FPH2 electronic communications systems, including email, messaging platforms, social media and other digital tools used for business purposes. The Policy applies to all officials, employees and consultants granted the right to access, or otherwise use, FPH2 electronic communications systems.

Attachments:
A - First Public Hydrogen Authority Resolution Delegating Authority to Employ Personnel to the Chief Executive Officer
B - First Public Hydrogen Authority Employee Handbook
C - 2025 Harassment Discrimination Retaliation Prevention Policy
D – Hybrid Work Plan
E – Drug and Alcohol Policy
F – Family Care and Medical Leave and Pregnancy Leave Policy
G – Electronic Communications Policy

FIRST PUBLIC HYDROGEN AUTHORITY
RESOLUTION NO. 2025-_____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FIRST PUBLIC HYDROGEN AUTHORITY DELEGATING AUTHORITY TO EMPLOY PERSONNEL TO THE CHIEF EXECUTIVE OFFICER

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, pursuant to FPH2 Bylaws, the Board of Directors may delegate to the Chief Executive Officer/Executive Director (CEO/Executive Director) the authority to employ personnel on such terms and at such rates of compensation as the Board, or CEO/Executive Director if so delegated by the Board, may determine; and

WHEREAS, the Board adopted Resolution No. 2025-006, 2025-007, and 2025-008, which established a salary schedule, position control listing and employee benefits package, for six full-time, at-will employment positions; and

WHEREAS, the Board desires to grant the CEO/Executive Director the authority to employ FPH2 personnel consistent with Board-established positions, salary schedule, and benefits package;

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

Section 1. The Board hereby delegates to the incumbent of the position of CEO/Executive Director the authority to employ personnel in accordance with the salary schedule, employee benefits package, and position control listing as established by the Board and as may be amended from time-to-time by subsequent Board resolutions.

Section 2. The Board hereby authorizes the CEO/Executive Director to act in all matters related to the employment of FPH2 personnel in accordance with such delegated authority, except as to those actions that must be approved by the Board.

Section 3. This Resolution shall be effective immediately upon its passage and approval.

The foregoing Resolution was passed and adopted this 18th day of June 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

FIRST PUBLIC HYDROGEN AUTHORITY

EMPLOYEE HANDBOOK

June 18, 2025

FIRST PUBLIC HYDROGEN AUTHORITY
EMPLOYEE HANDBOOK

RULE I. GENERAL PROVISIONS

A. Purpose. This Employee Handbook ("Handbook") is intended to establish and maintain an efficient and uniform personnel program for the First Public Hydrogen Authority ("Authority" or "FPH2"). Upon adoption, this Handbook will become the official guide outlining the Authority's personnel policies and procedures.

B. Nature of Employment. All employees of FPH2 are at-will employees. Their employment can be terminated by FPH2 or FPH2's employee at any time, with or without cause, with or without notice, and without the right of appeal. Nothing in this Handbook, in a contract for employment, or any other policy adopted by FPH2, should be interpreted in a manner that would cause the employee's employment to be other than at-will.

C. Applicability. Unless otherwise specifically stated either in this Handbook or in a contract for employment or resolution or bylaws provision of the Board of Directors, the provisions of this Handbook apply to all Authority employees. In the event of conflict between the provisions of this Handbook and a stand-alone personnel policy, the provisions of this Handbook will control. In the event of a conflict between this Handbook and a written contract for employment, the terms of the written contract for employment will control.

D. Not an Employment Contract. None of the provisions of this Handbook shall be deemed to create a vested contractual right for any employee.

E. Amendment of Handbook. The Board of Directors shall have authority to adopt, amend, or repeal this Handbook by resolution. The Personnel Officer, as defined in this Handbook, shall have authority to prepare and recommend revisions to the Handbook.

F. Adoption of Administrative Policies. Except for administrative policies that may be applicable to members of the Board, the Personnel Officer is hereby authorized to adopt administrative policies, so long as said administrative policies are not in direct conflict with this Handbook.

G. Delegation of Authority. Except as otherwise provided, any duties, responsibilities, powers, and authority granted by this Handbook or FPH2's Bylaws to FPH2's Chief Executive Officer/Executive Director ("CEO"), or any other person may be delegated, in writing, to any other employee at the discretion of the delegating individual.

H. Changes to the Law. When any local ordinance, state or federal law, or regulation, that is incorporated in the Handbook or upon which the Handbook rely is amended, the Handbook shall be deemed amended in conformance with those amendments.

I. Severability. If any section, subsection, sentence, clause, or phrase in the Handbook is found to be illegal by a court of competent jurisdiction, such findings shall not affect the validity of the remaining portions of the Handbook.

RULE II. DEFINITIONS

A. General Definitions. All words and terms used in this Handbook and in any resolution or bylaw dealing with personnel policies, systems, or procedures shall be defined as they are normally and generally defined in the field of personnel administration.

B. Specific Definitions.

1. "Acting appointment" means a temporary appointment of an employee who possesses at least the minimum qualifications established for a particular class and who is appointed to a position in that class in the absence of available eligible incumbents, or on an interim basis pending later appointment of an eligible person.

2. "Advancement" means a salary increase within the limits of a pay range established for a class.

3. "Appointing authority" means the CEO or their designee.

4. "At-will employee" means an employee whose employment can be terminated by FPH2 or the employee, at any time, with or without cause and with or without notice.

5. “Base Pay” means the employee’s rate of pay based on the established and approved salary schedule.

6. "Class" or “Classification” means all positions outlined in the position control listing, as approved by resolution of the Board of Directors and amended from time to time, sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.

7. "Compensation" means the salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any position but does not include expenses authorized and incurred incidental to employment.

8. "Continuous service" means service in the employ of FPH2 without a break or interruption. Unless otherwise required by law, a severance of the employee from their employment initiated by either FPH2 or the employee for periods of more than 30 days constitutes a break in continuous service.

9. "Board" or “Board of Directors” means the Board of Directors of the Authority.

10. "Day" or "days" means calendar day(s), unless otherwise stated.

11. "Demotion" means the movement of an employee from one class to another class having a lower maximum base rate of pay.

12. “Supervisor” means an employee with supervisory authority over subordinate employees.

13. “Disciplinary action" means the discharge, demotion, reduction in pay, suspension, or reprimand of an employee for punitive reasons.

14. “Exempt Employee” means an employee who holds a position that, based on both the job requirements and the salary earned, does not entitle the employee to receive compensation at an overtime rate under applicable state or federal wage and hour laws.

15. "Full-time employees" means employees whose positions require the employee works at least 40 hours in a workweek. All positions shall be full-time unless otherwise designated, or unless the compensation is fixed upon the basis of part-time work.

16. "Layoff' means the separation of employees from the active work force due to lack of work or funds, or to the abolition of positions by the Board for the foregoing reasons or due to organization changes.

17. “Non-exempt employee” means an employee who holds a position that, based on either the job requirements or the compensation earned, may entitle the employee to receive compensation at an overtime rate under applicable state or federal wage and hour laws.

18. "Personnel Officer" means the CEO or their designee.

19. "Part-time employees" means employees whose positions work less than 30 hours per week, are paid on an hourly basis and only receive fringe benefits as provided by this Handbook and as otherwise required by law.

20. "Position" means a group of duties and responsibilities in the service of the Authority requiring the full-time or part-time employment of one person.

21. "Promotion" means the movement of an employee from one class to another class having a higher maximum base rate of pay.

22. "Reinstatement" means the restoration without examination of a former employee to a classification in which the employee formerly served.

23. "Suspension" means the temporary separation from service of an employee without pay for disciplinary purposes.

24. "Temporary employee" means an employee who is appointed to a position for a limited period of time and is only entitled to benefits as provided by resolution of the Board and as required by law.

25. "Transfer" means the movement of an employee from one position to another position in the same class or to another class with the same maximum base rate of pay.

RULE III. NONDISCRIMINATION

A. Equal Employment Opportunity. FPH2 is committed to a policy of equal employment opportunity for applicants and employees. It does not discriminate against qualified applicants or employees with respect to terms or conditions of employment based on race (including traits associated with race, such as hair texture and hairstyles), color, ancestry, sex, gender, sexual orientation, gender identity, gender expression, age (over 40), religion, ethnicity, national origin, creed, physical or mental disability, medical condition, genetic information, marital status, pregnancy, reproductive health decision-making, childbirth or related medical conditions, breastfeeding, military or veteran's status, or any other characteristic protected by state or federal law or local ordinance, or any combination of such protected characteristics, a perception that the individual has any of those characteristics or any combination of those characteristics, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics or any combination of these characteristics. This policy applies to all applicants and employees, without exception.

Any technique or procedure used in recruitment and selection of employees will be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique will be used which, in the opinion of the CEO or designee, is not justifiably linked to successful job performance.

Employees who believe they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedure provided in FPH2's Harassment, Discrimination, and Retaliation Prevention Policy.

B. Policy Against Harassment, Discrimination and Retaliation. FPH2 maintains a policy against Harassment, Discrimination, and Retaliation. This policy is attached as appendix __ to this Handbook.

C. Disabled Applicants and Employees. FPH2 has a commitment to ensure equal opportunities for disabled applicants and Authority employees. Every reasonable effort will be made to provide an accessible work environment for such employees and applicants. Employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate unlawfully against disabled applicants or employees. FPH2 provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act ("FEHA") and the Americans with Disabilities Act ("ADA").

1. Request for Accommodation. An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Personnel Officer. The request must identify: a) the job-related functions at issue; and b) the desired accommodation(s). Reasonable accommodation may include, but is not limited to, job restructuring, reassignment to a vacant position for which the employee is qualified, and making facilities accessible.

2. Reasonable Documentation of Disability. Following receipt of the request, the Personnel Officer may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform the employee's essential functions, but will not require disclosure of diagnosis or genetic history.

3. Interactive Process. FPH2 will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, FPH2 will examine potential reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process will include a meeting with the employee or applicant, FPH2, and, if necessary, the employee or applicant's health care provider.

4. Case-by-Case Determination. FPH2 determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide. FPH2 will not provide an accommodation that would pose an undue hardship upon FPH2 or that is not required by law. FPH2 will inform the employee or applicant of any decisions made under this section in writing.

5. Light or Modified Duty. During the interactive process, FPH2 may approve, at its sole discretion and subject to availability, the employee to perform light or modified duty for a limited period of time.

6. Fitness for Duty Leave. While FPH2 is engaged in the interactive process with an employee, FPH2 may require that the employee be placed on a fitness for duty leave in accordance with Rule _______.

D. Religious Accommodation. FPH2 will make reasonable accommodations to the known religious creed of an applicant during the hiring process and of an employee in the course of employment, unless doing so would impose an undue hardship on FPH2.

E. Lactation Accommodation. FPH2 accommodates lactating employees by providing a reasonable amount of break time to any employee who desires to express breast milk for an infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. For non-exempt employees, any break time provided to express breast milk that does not run concurrently with break time already provided to the employee shall be unpaid. To the extent that such lactation break time would seriously disrupt Authority operations, FPH2 may limit the employees' use of such break time.

1. Employees who desire lactation accommodations should contact, preferably in writing, their supervisor or the Personnel Officer to request accommodations. FPH2 will respond via email or other written document within a reasonable period of time to acknowledge the request. Before implementing a lactation accommodation, FPH2 will request input from the employee and the employee's supervisor(s) regarding the anticipated timing of lactation break(s) and proposed location(s) for taking lactation breaks.

2. Following a lactation accommodation request, FPH2 will provide written details to the employee regarding the terms of the lactation accommodation, which will include:

   a. Identification of a space, other than a bathroom, that is in close proximity to the employee's work area, is safe, clean, free of hazardous materials, and that is shielded from view and free from intrusion while the employee is expressing milk.

      i. FPH2 will also ensure that the space contains a place to sit and a surface to place a breast pump and personal items and contains access to electricity or alternative devices (such as extension cords or charging stations) needed to operate an electric or battery-powered breast pump.

      ii. If the designated space is a room that may also be used for purposes other than lactation, FPH2 will ensure that the use of the room for expression of milk will take priority over other uses.

   b. Identification of a sink with running water and a refrigerator (or other cooling device suitable for storing expressed milk) that are in close proximity to the employee's work area and that will be accessible for the employee's use.

3. If FPH2 is unable to comply with the requirement to provide an employee with a lactation break accommodation due to an undue hardship, FPH2 will issue a written response to the employee explaining that the accommodation cannot be provided due to an undue hardship that causes FPH2 significant difficulty

or expense when considered in relation to the size, financial resources, nature, or structure of FPH2.

4. Employees who believe they have been denied appropriate accommodation under this policy or have been subjected to discrimination or retaliation in violation of the lactation accommodation requirements under California law are encouraged to notify the Personnel Officer. Employees also have the right to file a complaint with the nearest Labor Commissioner's Bureau of Field Enforcement (BOFE) Office and may visit How To Report Violation to BOFE for more information regarding California's complaint process.

RULE IV. CLASSIFICATION/POSITION CONTROL LISTING

A. Preparation of Plan. The Personnel Officer shall ascertain and record the duties, responsibilities, minimum standards, and minimum qualifications of all positions in FPH2 and shall recommend a position control listing. The position control listing outlines the different classifications and salary range for each classification.

B. Adoption, Amendment and Revision of Plan. The position control listing shall be adopted by and may be amended from time to time by resolution of the Board. At the time of consideration by the Board, any interested party may appear and be heard.

C. New Positions. A new position shall not be created and filled until the position control listing has been amended to provide for such position.

D. Job Descriptions. The Personnel Officer will prepare written specifications for each classification of positions to the CEO for review. Subject to Board approval of the initial job description, the specifications, when approved by the CEO, will constitute the official classification specifications and will indicate the date of approval or last revision. Revisions to job descriptions do not require approval by the Board. Each specification will include the classification title, a brief description of the scope, nature, and responsibility of the class, a description of the tasks or duties ordinarily performed in the positions allocated to the classification; a statement of the minimum qualifications considered necessary for proficient performance of the work, including education, experience, training, knowledge, skills, physical characteristics, and any additional factors considered pertinent. Specifications are not restrictive. The specifications shall not be construed as an all-inclusive list of tasks performed; or be interpreted as restricting the assignment of related tasks not specifically listed therein; or as limiting the authority of supervisory personnel to assign, direct and control the work of subordinate employees. A supervisor may temporarily assign other related duties and responsibilities or otherwise direct the work of employees.

RULE V. COMPENSATION

A. Salary on Appointment.

1. New Employees. The CEO maintains sole discretion in determining the starting salary, within the range for each pertinent classification as outline in the position control listing, for each employee based on their qualifications, experience, and Authority needs.

2. Reemployment/Reinstatement. A person who previously held a position with FPH2 and resigned in good standing may, at the discretion of the CEO, when re-employed in the same or a comparable position held at separation, be appointed at the same salary rate which was paid at the effective date of the person's termination.

B. Salary Anniversary Dates. Employees shall have a salary anniversary date on the date of their most recent appointment, promotion, demotion, reinstatement or reemployment. The salary anniversary date may be modified by the CEO.

C. Pay Periods. The salaries and wages of all employees shall be paid bi-weekly, on Friday following the end of the Pay Period.

RULE VI. HIRING PROCEDURES

A. Vacancies. When a need for hiring exists, the Supervisor will inform the CEO of their desire to recruit a new employee. With the CEO’s approval, the Personnel Officer will conduct a recruitment for the vacant position. The CEO will have the final decision in whether an offer of employment will be made. No applicant shall be required to provide criminal conviction history or to submit to a criminal conviction history check until after a conditional offer of employment has been made, unless a lawful exception exists under applicable state or federal law.

B. Disqualification of Applicants. The Personnel Officer may reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position, or because the applicant has failed to timely submit the application, fully complete the application, or submit all required materials.

C. Ineligibility for Employment. Further examination or consideration for employment of any applicant may be discontinued, and any employment of any person may be terminated, when any of the following has been determined by the Personnel Officer (this is a non-exhaustive list):

1. The individual does not meet the minimum qualifications established for the class or position to which they seek appointment.

2. The individual has made a false statement, misrepresentation, or omission of material fact, or actual or attempted deception, fraud or misconduct in connection with their application.

3. The application shows on its face that the applicant is physically or psychologically restricted from performing the essential functions of the

position applied for, and FPH2 determines that no reasonable accommodation can be made for such medical restrictions in the position applied for.

4. An employment history or personal conduct which demonstrates a lack of fitness for Authority employment, including dismissal for cause from prior public or private employment.

5. The individual has failed to submit a complete application within the prescribed time limit.

6. The individual has directly or indirectly obtained information regarding examinations to which applicants are not entitled.

7. Following a criminal conviction history review, the CEO, or designee, determines that the individual has been convicted, including pleas of guilty and nolo contendere, of any felony or misdemeanor, which was of such a nature as to reflect adversely and substantially on the individual's ability to perform the duties of the position. The CEO, or designee, may disregard such convictions of felonies or misdemeanors if it is found and determined by the CEO, or designee that mitigating circumstances exist. In making such determination, the CEO, or designee, may consider the classification, including sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction; the nature and seriousness of the offense; the circumstances surrounding the offense; the length of time elapsed since the conviction; the age of the person at the time of conviction; the presence or absence of rehabilitation or efforts at rehabilitation; and/or contributing social or environmental conditions.

    a. Unless otherwise required by law, FPH2 will not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, until FPH2 has issued a conditional offer of employment.

    b. Applicants who receive a conditional offer of employment may be requested to complete a supplemental form regarding criminal conviction history for review by FPH2, and a background screening, as part of the application process. The CEO, or designee, will conduct an individual assessment, as may be required by law, for each applicant who has prior convictions before determining whether to disqualify the applicant and rescind the conditional offer of employment.

8. The individual has otherwise violated provisions of this Handbook.

Applicants disqualified from further participation in the selection process will be promptly notified to permit submission of additional information provided that the time limit for receiving applications has not expired. Notice will be mailed to the last known address and/or will be emailed to the email address provided by the applicant on the applicant's application; it will be the applicant's responsibility to keep the applicant's current physical address and email address on file. Whenever an application is rejected, the Personnel Officer will mail and/or email notice of such

RULE VII. APPOINTMENTS

A. Appointment of New Employee. The hire date of a new employee shall be that of the first day actually worked, unless an exception is approved by the CEO.

B. Acting Appointments. Acting appointments may be used to fill positions that are vacant or that are temporarily vacant, such as when an employee is on an extended leave of absence. Where applicable, upon the return of the incumbent from leave or disability, the acting appointment shall be immediately terminated, and the appointee shall resume regular duties, compensation and privileges as if the appointee had continued their duties in their regular classification. Acting appointments shall be subject to the following:

1. Whenever the needs of FPH2 require an employee to temporarily perform the duties of a higher classification than that in which the employee is currently employed for a period of more than 10 consecutive working days, the CEO may authorize the employee to receive a salary increase of 5%, but in no case shall such salary exceed the salary maximum of the higher classification.

2. An employee appointed in an acting capacity shall be eligible to receive performance increases in the permanent position during the acting appointment but shall not be entitled to performance increases in the position which the employee holds in an acting capacity.

C. Emergency Appointment. To meet the immediate requirements of an emergency condition, the CEO, may employ such persons as may be needed for the duration of the emergency without regard to the procedures in this Handbook. Emergencies are defined as fire, flood, earthquake, or other public calamity, which threatens life or property. The emergency appointee shall be considered a temporary employee and, except as otherwise required by law, shall not be entitled to the rights and benefits afforded to employees under this Handbook.

D. Reinstatement. With the approval of the CEO, an employee who has completed at least 12 months of service and who has resigned in good standing may be reinstated within one year of the effective date of resignation to a vacant position in the same or comparable class. For purposes of reinstatement, "good standing" shall mean that the employee was not terminated by FPH2, did not resign in lieu of termination, provided the required amount of notice of resignation, and was evaluated at least as "Satisfactory" or an equivalent rating on the employee's last performance evaluation. Except as otherwise required by law relating to unused accrued sick leave, no credit for former employment shall be granted in computing salary, vacation, sick leave, retirement benefits, or other benefits except on the specific written direction of the CEO at the time of reinstatement. An individual requesting reinstatement is required to successfully complete a background examination as provided in this Handbook.

E. Reemployment. An employee may be appointed from a reemployment list following layoff.

F. Promotion. It is the policy of FPH2 to fill authorized vacant positions based on merit. Insofar as consistent with the best interest of FPH2, vacancies may be filled by promotion. All employees meeting the qualifications standard of a higher-grade position under the same or different job classification may be considered for promotion. The date of promotion will become the employee's new anniversary date for performance review and merit salary increase purposes.

G. Demotion. The CEO may voluntarily or involuntarily demote an employee. No employee will be demoted to a position for which the employee does not possess the minimum qualifications. An employee may also request a voluntary demotion. An employee who possesses the minimum qualifications, may request a voluntary demotion to a lower position. The CEO retains final discretion as to whether to approve demotion. The employee's anniversary date will change to the effective date of the demotion. Demoted employees will have their salary reduced accordingly to the appropriate salary range. Salary determinations for demoted employees are solely within the discretion of the CEO.

H. Transfer. The Personnel Officer may transfer an employee from one position to another in the same class or a comparable class at the same salary level.

I. Interactive Process Transfer. As part of the interactive process and in accordance with state and federal law, an employee who is unable to perform the essential functions of the employee's present classification may be placed in a vacancy in another class that does not result in a promotion if the employee can perform the essential functions of the vacant position, with or without reasonable accommodation.

RULE VIII. NEPOTISM AND CONSENSUAL ROMANTIC RELATIONSHIPS BETWEEN EMPLOYEES

A. Nepotism.

1. Definitions.

a. Applicant. A person who applies for a position at FPH2 and is not a Current Employee.

b. Change of Status. A change in the legal status or personnel status of one or more Current Employees.

i. Changes in legal status include but are not limited to marriage, divorce, separation, or any such change through which a Current Employee becomes a Family Member or ceases to be a Family Member of another Current Employee.

ii. Changes in personnel status include but are not limited to promotion, demotion, transfer, resignation, retirement or termination of a Current Employee who is a Family Member of another Current Employee.

c. Current Employee. A person who is presently an Authority employee, or a Board member.

d. Family Member. A spouse, domestic partner (registered or not), parent, parent-in-law, step-parent, legal guardian, sister, step-sister, sister-in-law, brother, step-brother, brother-in-law, child, step-child, legal ward, daughter- in-law, son-in-law, grandchild, grandparent, niece, nephew, spouse's niece, spouse's nephew, domestic partner's niece, or domestic partner's nephew.

e. Prohibited Conduct. Conduct by Family Members including, but not limited to, one or more of the following:

i. Participation directly or indirectly in the recruitment or selection process for a position for which a Family Member is an Applicant.

ii. Direct Supervision of a Family Member that does not comply with limitations set forth in this Section.

iii. Conduct by one or more Family Members that has an adverse effect on supervision, safety, security or morale.

2. CEO Authority. The CEO is authorized to make initial determinations under this Rule. Should the CEO be related to the employee/applicant in question, the CEO shall appoint a designee to execute the responsibilities under this Rule.

3. Applicants for Employment.

a. No qualified Applicant may be denied the right to file an application for employment and compete in the hiring process. However, consistent with this Section, FPH2 may reasonably regulate, condition, or prohibit the employment of an Applicant.

b. Disclosure of Relationship. Each Applicant is required to disclose the identity of any Family Member who is a Current Employee.

c. Review of CEO. For each Applicant who has a Family Member who is a Current Employee, the CEO shall assess whether any of the following circumstances exist:

i. Business reasons of supervision, safety, security or morale warrant FPH2's refusal to place the Applicant under Direct Supervision by the Family Member; or

ii. Business reasons of supervision, security, or morale that involve potential conflicts of interest or other hazards that are greater for Family Members than for other employees, which warrant FPH2's refusal to permit employment of Family Members in the same department, division, or facility.

d. Decision of the CEO. If the CEO determines that either of the above circumstances exist, the CEO will exercise their discretion to either reject the Applicant or, to the extent available, consider the Applicant for employment in a position that does not present either of the above circumstances.

4. Guidelines for Current Employees.

a. Employees shall report a Change of Status to the CEO within a reasonable time after the effective date of the Change of Status. Wherever feasible, Employees shall report a Change of Status in advance of the effective date.

b. Within thirty days from receipt of notice, the CEO shall undertake a case-by-case consideration and individualized assessment of the particular work situation to determine whether the Change of Status has the potential for creating an adverse impact on supervision, safety, security, or morale.

5. Monitoring by CEO.

a. Following a Change of Status or new hire of a Family Member, the CEO, or designee, shall reasonably monitor and regulate both Family Members' conduct and performance.

b. If the CEO determines that an employee has engaged in Prohibited Conduct, the CEO may take one or more of the following measures:

i. Transfer one of the Family Members to a similar position that would not be in violation of this policy.

ii. If the situation cannot be resolved by transfer, one of the Family Members must separate from Authority employment. If one of the employees does not voluntarily resign, CEO will determine which employee must separate.

c. Where situations exist prior to the effective date of this Section that may be in conflict with this Section, every effort shall be made to reasonably address the situation so as to avoid any future conflict.

6. Employee Complaints. Employees who believe that they have been adversely affected by Prohibited Conduct by one or more Family Member should submit complaints to the CEO.

B. Consensual Romantic Relationships Between Employees.

1. General. Consensual romantic or sexual relationships between Authority employees can lead to misunderstandings, complaints of favoritism, adverse effects on employee morale, and possible claims of sexual harassment during or after termination of the relationship. As a result, such relationships present existing or potential conflicts that adversely affect efficient operation of FPH2 . Relationships that present an actual conflict under this Section are therefore prohibited.

2. Application. This section shall apply to all Authority employees, regardless of gender or sexual orientation, who have a romantic or sexual relationship with another Authority employee. The provisions of Section A of this rule regarding nepotism shall govern employees who marry or become domestic partners with another Authority employee.

3. Definition of Conflict. For purposes of this section, a conflict exists if business issues of supervision, safety, security, and/or morale would be impacted by a romantic or sexual relationship between two employees.

4. Supervisor's Duty to Report. If a romantic or sexual relationship exists between a Supervisor and another employee (including another Supervisor), the Supervisor shall promptly disclose the relationship to the Personnel Officer and request a determination as to whether the relationship presents a conflict. The disclosure must identify the names and positions of both employees. A Supervisor's failure to comply with this section shall be grounds for discipline up to and including termination.

5. Determination by CEO. Within five working days, the CEO shall issue a written determination as to whether the relationship presents a conflict and is thereby prohibited. The CEO shall have exclusive discretion in making the determination.

6. Resolution of Conflicts. The CEO will attempt in good faith to work with the Supervisor and the other employee to consider options to eliminate the conflict, including removing the Supervisory authority that created the conflict,

reassignment, transfer or voluntary demotion of a Supervisory employee, or where the CEO determines that modification of a Supervisor's assignment is not feasible, reassignment, transfer or voluntary demotion of a non-Supervisory employee. The CEO retains discretion to determine that the conflict may be resolved via voluntary resignation or termination only.

7. Prohibited On-Duty Conduct. All Authority employees are prohibited from engaging in intimate, physical, or other conduct in furtherance of a romantic or sexual relationship with another Authority employee at work locations, including off-site meetings, conferences, and similar activities. Moreover, upon termination of a sexual or romantic relationship with another Authority employee, employees are prohibited from engaging in behavior that adversely affects the working conditions of any Authority employee. In general, all employees are expected to observe appropriate standards of workplace conduct in their interactions with other Authority employees.

8. Complaints. Employees who believe that they have been adversely affected by romantic or sexual relationships between Authority employees should follow the complaint procedures provided under FPH2's Harassment, Discrimination, and Retaliation Prevention Policy. The complaint procedures are available to all employees regardless of their past or present participation in a romantic or sexual relationship with another Authority employee.

RULE IX. REPORTS AND RECORDS

A. Maintenance of Personnel Files. A personnel history folder shall be kept for each employee. Confidential medical records will be maintained in a separate file from other personnel files. The personnel history folders shall be maintained by the Personnel Officer or designee, and shall contain a record of date of employment, promotions, performance reviews, disciplinary actions and such other information as the CEO, or CEO's designee, shall prescribe.

B. Review and Access of Personnel Files. Personnel records are confidential and, unless otherwise required by law, access to personnel records will be limited to current or former employees, authorized representatives of current or former employees, and authorized representatives of FPH2. Rights to access, inspect, and copy personnel records, as well as applicable procedures and limits upon such rights shall be consistent with the law. An individual wishing to review or access their personnel file must submit such request in writing to the Personnel Officer, or designee. The Personnel Officer, or designee, will schedule a date and time with the individual to review their personnel file. The date and time will be at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date FPH2 receives a written request, unless the current or former employee, or his or her representative, and FPH2 agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from FPH2's receipt of the written request, in accordance with Labor Code 1198.5.

Except as otherwise required by law, the Personnel Officer, or designee, will only reveal the following information regarding an employee, or ex-employee, in response to outside inquiries, including employment reference checks:

1. Employee's name.
2. Job title.
3. Hire date and/or termination date.

This information is a matter of public record and is available to anyone. An employee may inspect their own personnel files during regular business hours. Upon request, the employee will receive a copy of any materials in the personnel file provided that the cost for such copies is paid by the employee. An employee shall be furnished a copy of any statement written for inclusion in the employee's personnel file concerning the employee's conduct or performance.

C. Current Address. Employees are required to notify the Personnel Officer of any change of name, address, or telephone number within five calendar days of change.

D. References. Only the CEO, or designee, is authorized to provide references for former or current employees on behalf of FPH2. No other employee is authorized to provide such written or verbal references or recommendations for former or current employees. Further, no other employee is authorized to respond to questions from persons outside FPH2 about former or current employees regarding their work performance.

E. Destruction of Records. Upon approval of FPH2's Attorney, records relating to personnel may be destroyed as prescribed by law.

RULE X. PERFORMANCE EVALUATIONS

A. Policy. It is the policy of FPH2 that regular evaluations be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the CEO and supervisors that these evaluations be completed. It is the responsibility of the Personnel Officer to provide and prescribe the forms and procedures to be used in such evaluations of performance and to assist in the training of supervisory personnel so that the program of performance evaluation will be carried on in a sound and effective manner.

B. Authority to Make Evaluations. The CEO, or designee, shall have the authority to prepare performance evaluations. The CEO, or designee may, however, delegate such authority to such subordinate supervisory employees who are most familiar with work of the employees to be evaluated, provided that the CEO, or designee, shall review and approve all performance evaluations of personnel.

C. Time for Performance Evaluation. An annual performance evaluation may be prepared and received before the employee's salary anniversary date, and shall evaluate the employee's performance in the last year. If the employee receives a rating of (or equivalent to) "improvement needed" or "unsatisfactory" in the employee’s annual performance evaluation, the employee may be given a performance evaluation at any other time during the year at the discretion of the appointing authority.

D. Postponement of Performance Evaluation. Unless otherwise required by law, the use of any leave of absence in excess of 30 consecutive days shall cause the date of the employee's performance evaluation to be extended by the same period of time that the employee was absent.

E. Review with Employee. Each performance evaluation shall be presented by the supervisor who prepared it and discussed with the employee. The employee shall sign the evaluation to acknowledge its contents. Such signature shall not necessarily mean the employee endorses the content of the evaluation. Employees may not appeal or grieve the contents of a performance evaluation or the rating(s) received by the employee. Employees who disagree with the contents of their performance evaluation shall have the right to attach a written statement explaining the basis of their disagreement to the performance evaluation.

F. Retention of Performance Evaluation. After review and approval of the appointing authority, the performance evaluation, as well as any written statement provided by the employee, shall be made a part of the employee's personnel file.

G. Effects of "Improvement Needed" and "Unsatisfactory" Ratings.

1. Any employee who receives an "unsatisfactory" or "improvement needed" rating will not receive any merit salary increase during the period following the report.

2. If an employee who has been denied a merit salary increase improves their performance to such an extent that the appointing authority believes a merit salary increase is now justified, the appointing authority shall indicate the improvement on a report of performance form and may specifically award a merit salary increase. Additionally, in awarding the merit salary increase under this subsection, the appointing authority may change the merit salary increase anniversary date to the date of the award of the merit salary increase or may permit the anniversary date to remain the same. Any merit salary increase awarded under this subsection shall not be made retroactive.

RULE XI. WORKWEEK, HOURS OF WORK AND OVERTIME

A. FLSA Classification. The Personnel Officer shall designate those positions which are exempted from the provisions of the Fair Labor Standards Act ("FLSA") based on an assessment of the duties of each position.

B. Work Schedules and Workweek. FPH2 operates on a 9/80 work schedule for all employees:

a. Work Schedule: Employees will work Monday through Thursday 7:30 a.m. to 5:00 p.m. Employees will also work from 7:30 a.m. to 4:00 p.m. on every other Friday and will have the other Friday off. At the direction of the CEO, some employees may be required to work a different schedule to meet the requirements of their job classification. Any variation to the 9/80 work schedule must be memorialized in writing.

b. Workweek: The workweek starts Friday at 12:00 p.m. and ends the following Friday at 11:59 a.m. Time worked by non-exempt employees in excess of 40 hours in a workweek will constitute overtime.

C. Recording of Work Hours. All non-exempt employees are required to report their time using the prescribed timekeeping program.

D. Daily Hours of Work/Shifts. Daily hours of work or shifts for employees within the Work Week shall be assigned by supervisors as required to meet the operational requirements. FPH2 reserves the right to regulate and/or change the designation of the specific hours or days to be worked by any employee, and no such change in the scheduling of days or hours worked shall be deemed to constitute overtime, provided the total number of hours and days does not exceed those specified as constituting the standard work year, work period, workweek and workday.

E. Changes in Work Schedules. FPH2 reserves the right to establish and modify work schedules in order to meet FPH2's needs. If the needs of FPH2 require that a position be assigned to work a different work schedule or have a different workweek than set forth in this section, the CEO, in consultation with the supervisor, may designate the work schedule and workweek for employees in that position in writing. Any additional alternative workweeks shall be designated by administrative policy adopted by the CEO.

F. Meal Periods. Non-exempt employees are entitled to unpaid meal periods during which they shall be entirely relieved of responsibilities and restrictions. Such time shall not constitute hours worked.

1. Exempt employees shall be entitled to a 30-minute unpaid meal period during each work shift which equals or exceeds 8 hours; non-exempt employees shall be entitled to a 30-minute unpaid meal period during each work shift which exceeds 5 hours but is less than 8 hours.

2. Supervisors shall schedule meal periods to ensure appropriate coverage.

3. Employees shall take reasonable measures wherever feasible to avoid the need for work to be performed during meal periods. Non-exempt employees who work during their meal periods shall be paid for time worked.

G. Rest Periods. Except where unusual operational demands prevent a rest break, non-exempt employees are entitled to two 10-minute paid rest periods during each work shift which equals or exceeds 8 hours, or one 10-minute paid rest period during each work shift which equals or exceeds 4 hours, but is less than 8 hours. Rest periods shall not be combined or added to employees' meal periods. Rest periods shall also not be added to the beginning or end of an employee's shift.

H. Overtime. Non-exempt employees shall be entitled to overtime at the rate of one and one-half of their regular hourly rate of pay for each hour worked in excess of 40 hours in any one workweek. Employees are not entitled to compensatory time off in lieu of overtime. Exempt employees are not eligible to receive overtime compensation.

1. Calculation of Hours Worked. For the purposes of overtime compensation, "hours worked" shall only include those periods of time that the employee is required to be on duty or to be on FPH2's premises or at a prescribed workplace, and all time during which an employee is suffered or permitted to work. As such, paid time off, including for example, time spent on a paid leave of absence, sick leave, holidays and vacation, as well as time assigned as standby duty, shall not be included in the calculation of hours worked.

2. Approval of Overtime. It is the policy of FPH2 to avoid the necessity for overtime work whenever possible. Employees shall take reasonable measures wherever feasible to avoid the need for work to be performed outside of their regularly scheduled shifts.

Employees shall not perform work outside of their regularly scheduled shifts or in excess of 40 hours in a workweek unless requested to do so by their supervisor or with advance written authorization from their supervisor. This requirement applies to, but is not limited to:

a. Work performed before the start of the shift;

b. Work performed during meal periods;

c. Work performed after the end of the shift; and

d. Other work performed "off the clock" including work performed at home.

Time spent on such work outside an employee's regularly scheduled shift shall be kept to a minimum. FPH2 will compensate employees for all hours worked as required by law, including overtime hours worked without approval from the pertinent supervisor. However, employees that work overtime without receiving prior approval as required under this section, may be subject to disciplinary action, up to and including, termination of employment.

RULE XII. LEAVES OF ABSENCE

A. Effect of Leave of Absence.

1. Effect of Leave of Absence on Employment Benefits.

a. Fully Paid Leave. Unless otherwise required by law, an employee on a leave of absence who continues to receive full compensation through the use of their accrued leave banks will continue to receive full employment benefits. Such employment benefits may include, but are not limited to, the accrual of paid leaves, accrual of seniority, and cafeteria contributions which remain at the rate the employee would receive if the employee was working their normal work schedule.

b. Partially Paid Leave. Unless otherwise required by law, an employee on a paid leave of absence who is receiving less than full compensation from FPH2 through the use of the employee's accrued paid leaves shall receive a prorated share of their employment benefits, including, but not limited to, the accrual of paid leaves, cafeteria contributions, or supplemental pay, when only partially paid leave has been received for two consecutive workweeks.

c. Unpaid Leave. Unless otherwise required by law, an employee on an unpaid leave of absence shall not accrue any employment benefits, including, but not limited to, the accrual of paid leaves, accrual of seniority, cafeteria contributions, and supplemental pay, when unpaid leave has been used for at least 40 hours in a pay period.

2. Effect of Leave on Performance Evaluations and Merit Increases. Unless otherwise required by law, the use of any leave of absence in excess of 30 consecutive days shall cause the date of the employee's performance evaluation, and merit increase, if relevant, to be extended by the same period of time that the employee was absent.

B. Unauthorized Absences. Any employee absent from their job for more than three consecutive working days without prior permission of their supervisor may be considered to have voluntarily resigned from their employment with FPH2. Any unauthorized absence may be cause for disciplinary action as provided in this Handbook.

C. Holidays.

1. Holidays Observed. Full-time employees are eligible to receive holiday pay on the following Authority observed holidays:

a. New Year's Day (January 1)

b. Martin Luther King Jr. Day

c. Presidents' Day

d. Memorial Day

e. Juneteenth (June 19)

f. Independence Day (July 4)

g. Labor Day

h. Columbus Day

i. Veterans’ Day (November 11)

j. Thanksgiving Day

k. Day after Thanksgiving Day

l. Each working day of the last calendar week of each calendar year, commencing December 24 and ending December 31

2. Date holidays observed. The date each holiday will be observed each year will be determined by the CEO. Holidays falling on Sunday will be observed on the following Monday. Holidays falling on Saturday will be observed on the preceding Friday.

3. Eligibility for Holiday. Non-exempt employee will only be eligible for holiday pay provided they have completed the full work shift immediately prior to and after the holiday, or were excused (i.e. vacation, sick, bereavement, or other leave) from the last prior work shift at least twenty-four (24) hours prior to the beginning of the last prior work shift, or unable to provide such notice in an emergency situation as determined by the employee's supervisor.

4. Holiday Hours Provided for Work on an Observed Holiday. A non-exempt employee who is scheduled and required to work on an observed holiday will be compensated for all time actually worked at their regular salary. In addition, the employee will receive holiday pay for the observed holiday. The holiday pay received is not for hours worked and will not be considered in overtime calculation.

5. Winter Closure. FPH2 observes the last calendar week of the year (Christmas eve through New Year’s Eve) as a holiday. Authority offices will be closed, and employees will receive holiday pay for this time.

D. Vacation

Each full-time employee shall begin accruing vacation leave upon hire and shall accrue vacation leave according to the following rates, measured from the hire date:

Start of Service Year	Annual Hours Accrued	Pay Period Accrual	Maximum Accrual (Accrual Cap)
1	80	3.08	275
2	88	3.66	275
3	96	4.00	275
4	104	4.33	275
5	112	4.66	275
6	120	5.00	350
7	128	5.33	350
8	136	5.66	350
9	144	6.00	350
10	152	6.33	350
11+	160	6.66	400

Full-time employees who are in a less than full pay status shall earn vacation leave on a prorated basis in accordance with section XII.A, above.

1. Accrual Cap. Employees are allowed to accrue vacation time up to the cap (maximum), based on their years of service. Once the accrual cap is reached, the employee will not accrue any additional vacation leave until their leave balance falls below the cap amount. The CEO may approve a temporary higher accrual cap on an individual basis where staffing requirements imposed by FPH2 reasonably prevent the employee from using vacation time.

2. Unused Vacation at Separation. All unused vacation hours will be compensated at the employee's then-current rate of pay upon the employee's separation of employment. An employee may not use their vacation leave to extend their retirement or separation date unless required by law.

3. Requesting and Scheduling Vacation. Employees seeking to use accrued vacation time must submit a written request to their supervisor and obtain supervisory approval at least 10 working days before their desired vacation start date. Supervisors must review the employee's vacation request and will have discretion to deny the request or suggest alternate dates when doing so would be in the best interest of FPH2. Factors to consider when determining the best interest of FPH2 include, but are not limited to, the anticipated need for the employee's services during the requested vacation, workload, staffing coverage, seniority, timing of the request, and any other appropriate, work-related factors. Exceptions to the minimum notice requirement may be granted, in the discretion of the employee's supervisor, upon evidence that 1) unforeseeable emergency circumstances require the immediate use of accrued vacation leave and 2) the employee requested to use vacation leave as soon as practicable after the emergency circumstances arose. An employee reaching the maximum vacation accrual cap is not a qualifying emergency circumstance.

4. Use for Sick Leave Purposes. Employees who have exhausted their accrued sick leave balances may use vacation leave for the unforeseeable illness or injury of the employee or a family member when authorized by their supervisor.

5. Cash-out of Accrued Vacation While Employed. An employee may request, up to two time per calendar year, to cash-out accrued vacation pay at the employee's then current rate of pay for any hours accrued over 80 hours. A minimum of 80 hours of accrued vacation must remain in the employee's vacation leave bank after such cash-out. The maximum amount of cash-out an employee may receive in a calendar year is 80 hours. Employees are required to make an irrevocable election, by submitting a request to the Supervisor no later than December 31 of the preceding calendar year, as to whether they would like to cash out vacation hours during the following calendar year.

6. Employees Hired from the City of Lancaster. City of Lancaster employees, hired in the month of July 2025 as Authority employees, will receive 20 hours of front-loaded vacation leave upon hiring. Such employees will also begin vacation accrual according to the "start of service year" commensurate with their years of service as City of Lancaster employees.

7. Holiday while on Vacation. If a holiday falls on a workday during an employee's vacation time, that day shall be considered as a paid holiday and not vacation time.

E. Sick Leave

1. Definitions.

a. Hours Worked. Hours worked shall include all time when an employee is required to be on duty or to be on FPH2's premises or at a prescribed workplace, and all time when an employee is suffered or permitted to work. Paid sick time is not considered time worked.

b. Family member means any of the following: a child (which means a biological child, adopted child, foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status), a parent (which means a biological parent, adoptive parent, foster parent, stepparent, legal guardian of an employee or registered domestic partner, or person who stood in loco parentis when the employee was a minor child), a spouse, a registered domestic partner, a grandparent, a grandchild, a sibling, or a designated person (which means a person identified by the employee at the time the employee requests paid sick leave. FPH2 limits the employee to one designated person per 12-month period for paid sick leave).

2. Paid Sick Leave.

a. Accrual of Paid Sick Leave. Each employee will earn 8 hours of sick leave for each month (96 hours annually) worked or major fraction thereof. Employees will be compensated for using sick leave at their hourly wage, on the payday for the next regular payroll period after the sick leave was taken.

b. Cap on Accrual of Sick Leave. Sick leave will accrue without a cap.

c. Sick Leave Cash-out. Employees that have accumulated more than 320 hours have the option to cashout accrued sick leave over 320 hours at 50% compensation up to 96 hours per calendar year. Employees can make up to two requests per calendar year totaling up to 96 hours.

d. No Advance of Paid Sick Leave. FPH2 will not "advance" or "lend" paid sick leave before it has been accrued.

e. Sick Time Rate of Pay. Employees shall be compensated for paid sick leave at their regular rate of pay for the position and schedule in which paid sick leave is utilized.

f. Accrued Paid Sick Leave Carry-Over. Unused paid sick leave may be carried over from calendar year to calendar year.

g. Minimum Increments Paid Sick Leave. The minimum charge to employee paid sick leave account shall be 30 minutes per workday.

h. Permitted Use of Sick Leave. Upon the oral or written request of an employee, FPH2 shall permit the employee to use accrued paid sick leave for the following purposes:

- Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member.

- Employees who are victims of crime or abuse, or qualifying acts of violence, as that term is defined in Government Code section 12945.8, may take time off as paid sick leave to obtain or attempt to obtain any relief. Relief includes, but is not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the employee or their child.

- Employees who are victims of crime or abuse, or qualifying acts of violence, as that term is defined in Government Code section 12945.8, may take time off as paid sick leave to seek medical attention for injuries caused by crime or abuse; to obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of the crime or abuse; to obtain psychological counseling or mental health services related to an experience of crime or abuse; or to participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation.

- Any other use as may be permitted or required by law.

i. Request for Use of Paid Sick Leave.

- Employee shall contact the employee's immediate supervisor prior to their scheduled work shift to report the need for paid sick leave. If no immediate supervisor is available, an employee shall contact the Personnel Officer. Consideration shall be given to emergency situations that restrict the employee from contacting the employee's immediate supervisor prior to their scheduled work shift including, but not limited to: accident, injury, or hospitalization. In such emergency situations, an employee shall contact the employee's supervisor as soon as practicable.

- If the need for paid sick leave unforeseeably arises, such as at an employee's work site, the employee shall notify the employee's immediate supervisor before leaving the work site or as soon as practicable.

- When an employee has advance notice of the need for paid sick leave, such as when scheduling non-emergency medical and dental appointments, the employee is required to notify the employee's supervisor at least three (3) days in advance of the employee's need for paid sick leave. Employees are encouraged to schedule medical and dental appointments outside normal working hours if possible.

j. Reinstatement of Unused Paid Sick Leave. Unused accrued paid sick leave for employees at termination shall be reinstated upon return to active status occurring within no more than twelve (12) months of termination.

k. Records Documenting Hours Worked and Paid Sick Leave Accrued and Used. FPH2 shall keep records documenting the hours worked and paid sick leave accrued and used by an employee for three (3) years.

l. Employee Inspection of Records Pertaining to Paid Sick Leave. Upon reasonable request to the Personnel Officer, and within twenty-one (21) calendar days after the request, FPH2 shall afford current and former employees the right to inspect or copy records pertaining to their hours worked and paid sick leave accrued and used.

m. Abuse of Sick Leave. Abuse of sick leave may be grounds for discipline. Abuse will be determined on a case-by-case basis. Sick leave abuse may include, but is not limited to, failure to abide by the provisions of this rule, and use of sick leave for non-specified reasons.

F. <u>Bereavement Leave</u>.

1. <u>Eligibility and Available Leave</u>. An employee is eligible to receive leave under this section if the employee has been employed by FPH2 for at least thirty (30) days prior to commencement of leave. If an employee's immediate family member, as defined in this section below, dies, or is determined by their health care provider to have a critical illness where death is imminent, the employee will be allowed to take up to five (5) days of leave per death. Leave days under this section need not be consecutive, but shall be completed within three months of the date of death of the immediate family member. FPH2 may request verification of death as permitted under the law.

2. <u>Pay While on Leave.</u> Each employee is eligible to receive up to 40 hours of pay per year while on bereavement leave as provided in this section. These 40 hours of pay for bereavement leave shall not be chargeable to any other leave balance. Once an employee exhausts available pay under this section, such employee may use other available accrued paid leave to receive pay during additional bereavement leave.

3. Immediate Family Member. For purposes of this section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, spouse, domestic partner, child, grandparent, grandchild, legal guardian or legal ward.

G. Military Leave. Employees, whenever foreseeable, are requested to provide FPH2 with at least a ten days' notice regarding their need for military leave. Military leave with or without pay shall be granted in accordance with Section 395 of the California Military and Veteran's Code and the Uniformed Services Employment and Reemployment Rights Act.

H. Jury Duty.

1. An employee summoned for jury duty will immediately notify the employee's supervisor. While serving on a jury, an employee will be given a leave of absence with pay for all regularly scheduled work days served on jury duty. Such leave of absence with pay is conditional upon the employee returning to work upon their dismissal each day to complete their normal workday, as required at the employee's supervisor's sole discretion. Employees who fail to return to work, as required by their supervisor, are required to use other accrued paid leaves for that period of the employee's absence. Such leave is also conditional upon the employee's conveyance to FPH2 of any compensation received as a juror, not including any travel allowance received.

2. An employee required to serve on a jury for longer than ten days may elect to use any accrued paid leaves, other than sick leave, for the time spent on jury duty after the ten days of jury duty paid leave have been exhausted. An employee is not required to convey compensation received as a juror in this circumstance.

I. Pregnancy Disability Leave. Employees who are disabled due to pregnancy, childbirth, or related medical conditions shall be granted leave in accordance with the full provisions governing such leave set forth in an administrative policy.

J. Family Care and Medical Leave. Employees shall be granted family care or medical leave in accordance with the California Family Rights Act. The full provisions governing such leave will be set forth in an administrative policy.

K. Reproductive Loss Leave. Employees shall be granted with Reproductive Loss Leave as required under California law. The full provisions governing such leave will be set forth in FPH2's Family Care and Medical Leave Policy, and Pregnancy Disability Leave.

L. Leave of Absence Without Pay. In accordance with the procedures in this section, a temporary unpaid leave of absence for a defined period may be considered because of illness or disability not protected by law, or for other reason deemed acceptable at FPH2's sole discretion. The supervisor may approve up to two weeks of leave without pay. Any amount of leave without pay beyond two weeks must be approved by the CEO or their designee. This section does not govern leave protected by the law.

1. Exhaustion of Paid Leaves.

   a. Non-medical Leave of Absence Without Pay. An employee requesting leave under this section for nonmedical reasons is required to fully exhaust all available paid leaves, except sick leave, in order to be eligible to receive a leave of absence without pay.

   b. Medical Leave of Absence Without Pay. An employee requesting leave under this section for medical reasons is required to fully exhaust all of their paid leaves, including sick leave, in order to be eligible to receive a leave of absence without pay.

2. Accrual of Benefits. Leave of absence without pay shall not be construed as a break in service or employment, and rights accrued at the time leave is granted shall be retained by the employee; however, vacation time, sick leave (where applicable), increases in salary, health benefit allotments, allowances and other similar benefits shall not accrue to a person granted such leave during the period of absence. An employee reinstated after leave of absence without pay shall receive the same step in the salary range the employee received when they began their leave of absence. Time spent on such leave without pay shall not count toward service for increases within the salary range, and the employee's salary anniversary date shall be set forward by an amount equal to the days of unpaid leave taken by the employee.

   Failure of the employee to return to their employment upon the termination of any authorized leave of absence shall constitute an automatic termination from Authority service of that employee, unless such leave is extended.

M. Administrative Leave. As compensation for the unique nature of their jobs, including after-hours meetings or work, FPH2 provides exempt employees with 80 hours of Administrative Leave per fiscal year. Exempt employees shall be credited and vest on January 1st of each year. New eligible employees shall be credited with a prorated number of administrative leave hours based on the number of months remaining in their first fiscal year as an eligible employee. One day worked in a particular month shall be considered as qualifying for that month. Employees must submit a request to use Administrative Leave to the CEO, and use of Administrative Leave is subject to CEO’s approval based on FPH2’s staffing and operational needs, at the CEO’s sole discretion.

Administrative leave cannot be carried forward from year to year, and any unused leave will be forfeited on December 31st of each year. Employees may not receive cash out of unused administrative leave at separation from Authority employment.

N. Fitness for Duty Leave.

1. Purpose/Policy. Employees are expected to report to work fit for duty, which means able to perform their job duties in a safe, appropriate, and effective manner, free from adverse effects of physical, mental, emotional, and/or personal problems. This Rule is intended to provide a safe environment and protect the health and welfare of employees and the public. If an employee feels unfit to perform their duties, the employee must notify their supervisor immediately.

2. Reasons for Fitness for Duty Leave. In the discretion of FPH2, an employee may be placed on a paid Fitness for Duty Leave and a fitness for duty examination may be ordered in any of the following situations:

   a. An employee returns from a medical leave of absence of more than five working days.

   b. An employee is involved in the interactive process with FPH2.

   c. Supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.

   d. Fitness for duty examinations based on a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol shall be conducted in accordance with FPH2's Drug-Free Workplace Policy.

3. Procedures for Ordering a Fitness for Duty Examination. When a supervisor becomes aware of or observes behavior that makes the supervisor reasonably suspect that an employee may not be fit for duty, the supervisor shall confer with the Personnel Officer to discuss the supervisor's basis for the reasonable suspicion that the employee may not be fit for duty. After such conference between the supervisor and the Personnel Officer, the Personnel Officer may request the supervisor to refer the employee to the Personnel Officer who will determine whether a fitness for duty examination is necessary and should be scheduled. If the circumstances warrant it, the Personnel Officer may place the employee on a paid or unpaid leave pending the results of the employee's fitness for duty examination. The examination shall be paid for by FPH2.

4. Procedure Following Receipt of Examination Results. The doctor examining the employee shall be limited to finding the employee "fit for duty" or "fit for duty with restrictions" or "unfit for duty." In the case of finding an employee fit for duty, the doctor may issue work restrictions. In no case shall the doctor

reveal the underlying cause of the fit or unfitness for duty without the employee's permission.

a. Fit for Duty. If the doctor finds the employee is fit for duty, the employee shall return to work immediately and perform all duties of their position.

b. Fit for Duty with Restrictions. If the doctor finds the employee is fit for duty with restrictions, the doctor shall specifically list what restrictions are necessary and for how long those restrictions are necessary. If the employee's restrictions are based on a disability as defined by FEHA, FPH2 shall engage in the interactive process. FPH2 shall then evaluate those restrictions and determine if the restrictions can be reasonably accommodated.

c. Unfit for Duty. If the employee is found to be unfit for duty, the employee shall not be permitted to work. The Employee may request a leave of absence in accordance with the appropriate subsection of this Rule. If the employee can provide certification of fitness for duty prior to the exhaustion of all paid and unpaid leave that the employee is entitled to under This Handbook, the employee shall be returned to work. However, if such certification is from the employee's own health care provider, FPH2 may request a second opinion from a doctor of its choosing and at its cost to evaluate the employee under the requirements of this section. If the two certifications conflict, a third opinion will be sought from a doctor chosen by FPH2 and the employee, at the expense of FPH2. The opinion of fit or unfit rendered by the third doctor shall be binding. If the employee's restrictions are based on a disability or a medical condition as defined by FEHA, FPH2 shall engage in the interactive process.

O. Voting Leave. FPH2 encourages eligible employees to register and vote in all federal, state and local elections. Employees of FPH2 are expected to vote prior to or following their assigned working hours. In accordance with the *Election Code*, Sections 14000 and 14001, if a registered voter employee does not have sufficient time outside regular working hours within which to vote at statewide elections, the employee may take off such working time as will enable the employee to vote. A maximum of two hours may be taken with pay. To receive time off for voting, the employee must notify the employee's supervisor in advance. Employees who need Voting Leave, must take such leave at the beginning or end of the employee's work shift, based on the needs of the supervisor and the employee's schedule. The exact amount of time off work and the scheduling of time off shall be decided between the employee and the employee's supervisor. Employees who use Voting Leave are required to present a voter's receipt to their supervisor.

P. Subpoenaed Absence. An employee who is subpoenaed or otherwise required under a court order to provide testimony as a witness will be provided unpaid leave accordingly. Employee may use accrued vacation leave to receive pay under this section. If the subpoena is related to Authority business, then employee will receive their regular pay during the employee's absence. An employee who receives a "Summons or Subpoena to Appear" for witness duty, must provide reasonable advance notice to the employee's supervisor.

Q. Personnel Action Leave. FPH2 has the right to place an employee on leave at any time with full pay. An employee may be placed on personnel action leave pending investigation of misconduct, potential disciplinary action, or other reasons that the CEO, in the CEO's discretion, believes warrant such leave. If the CEO is to be placed on personnel action leave, it will be done so at the discretion of the majority vote of the Board. A personnel action leave shall not have any negative effect on the employee's benefits. Personnel action leave may also be referred to as "Relief of Duty." An employee assigned to personnel action leave shall be required to be available by phone during the employee's regular working hours. In addition, employees on a personnel action leave are prohibited from entering Authority facilities or property or communicating with Authority employees without prior approval by the CEO, except to the extent that non-employees may access Authority facilities, property, or employees. The CEO may place other reasonable restrictions on an employee during the period of personnel action leave.

R. School Leave. FPH2 will grant a leave of absence to an employee who is the parent or guardian of a child to appear at the school of the child pursuant to a request made by the child's school under California Education Code section 48900.1.

S. Workers' Compensation. Workers' compensation applies to all employees who experience an injury or illness that arises out of the course and scope of employment. Employees must immediately report all injuries or illnesses related to the scope of their employment to their supervisor or Personnel Officer. If an employee is incapacitated and unable to immediately report their injury or illness, they must report their injury or illness as soon as they are reasonably able to do so.

Employees seeking immediate medical attention at the direction of their supervisor, or in emergency situations, shall receive payment for time spent waiting for and receiving treatment, through the end of their scheduled shift on the date of injury or the date which their supervisor sends them for treatment, only. Subsequent appointments are dictated by the doctor, and therefore time spent at the appointments are not paid for through temporary disability insurance. Employees attending follow-up appointments may use their supplemental leave accruals for appointments for which they are unable to attend outside of working hours.

RULE XIII. ATTENDANCE

A. Attendance. Employees will be in attendance on time at their workstation or location in accordance with the rules regarding hours of work, holidays, and leaves. Employees will make every effort to schedule personal appointments outside their working hours. Employee adherence to the rules governing attendance, leaves of absence and tardiness will be reviewed and evaluated during the employee's annual performance evaluation.

B. Tardiness. It is the responsibility of the employee to arrive at work on or before the assigned time each day. If for some reason beyond the control of the employee, it is not possible for the employee to come to work on time, arrangements in advance with the supervisor must be made at the earliest possible time. In no case will repeated tardiness be tolerated.

C. General Absences. Pre-authorized time off, authorized paid/unpaid leaves of absence due to bona fide illness or injury, jury duty, bereavement, or other Authority leaves are the only types of absences permitted. All others will be considered a violation of this Handbook.

D. Unauthorized Absences. An employee who is absent for a full shift without notification or authorization may be subject to disciplinary action, up to and including, termination of employment.

RULE XIV. LAYOFF/SEPARATION/RETIREMENT

A. Layoff. Whenever, in the judgment of the Board, it becomes necessary to abolish any position or employment, the employee holding such position or employment, may be laid off without disciplinary action and without the right of appeal, unless otherwise required by law. The CEO shall determine the class and number of positions within each class to be affected, as well as the effective date of the layoff.

1. Notification. Employees to be laid off shall be given, whenever possible, at least 14 days prior notice.

2. Order of Layoff. In each class of position, employees shall be laid off according to the needs of the service as determined by the supervisor and the Personnel Officer.

3. Reemployment List. The names of persons laid off or demoted in accordance with this section shall be entered upon a reemployment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used by every supervisor when a vacancy arises in the same or lower class of position before certification is made from an eligible list or starting a recruitment. Names of persons laid off shall be carried on a reemployment list for one year, except that persons appointed to a position of the same level as that which laid off, shall, upon such appointment, be dropped from the list. Persons who refuse reemployment shall be dropped from the list. Persons reemployed in a lower class, or on a temporary basis, shall be continued on the list for the higher position until a full year lapses following the layoff or demotion under this section.

B. Resignations. Employees may resign at any time. However, FPH2 requests that resigning employees file a written resignation stating the effective date and reason(s) at least two weeks prior to leaving FPH2's service. The resignation date should be the last day the employee actually worked.

C. Terminations. FPH2 may terminate any employee at any time with or without cause and with or without notice.

RULE XV. ETHICAL STANDARDS

A. Outside Employment, Enterprise, or Activity. In accordance with California Government Code section 1125 et seq., no employees may engage in any outside employment, enterprise, or activity that is inconsistent, incompatible, in conflict with, or adverse to the employee's employment, their ability to perform their duties and responsibilities, including performance of overtime work and emergency duties, or any other aspect of Authority operations.

1. Employees are required to notify their supervisor in writing of all outside employment in which they are engaged, regardless of when that outside employment began, so that FPH2 may assess whether such outside employment conflicts with the employee's Authority employment. An employee's outside employment, enterprise, or activity will be prohibited when any of the following are present:

   a. It involves the use for private gain or advantage of their Authority time, facilities, equipment and/or supplies; or the badge, uniform, prestige, or influence of their Authority employment;

   b. It involves the receipt or acceptance by the employee of any money or other consideration from anyone other than FPH2 for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of their Authority employment or as part of their duties as an Authority employee;

   c. It involves the performance of an act, in other than their capacity as a Authority employee, which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee of FPH2 ; or

   d. It involves the time demands as would render performance of their duties as an Authority employee less efficient.

2. When outside employment is reported to a supervisor, the supervisor shall determine whether the employee's outside employment conflicts with the performance of their duties, and shall advise the employee of their determination in writing. An employee who is unsatisfied with the decision of their supervisor may appeal the decision to the CEO. An employee wishing to

appeal this determination must file a written appeal to the CEO within 10 days of receipt of the supervisor's decision. The CEO shall meet with the employee and determine whether the employee's outside employment conflicts with the performance of their duties as an Authority employee. The CEO shall advise the employee and the supervisor of the CEO's determination in writing within 15 days of meeting with the employee. The CEO's determination shall be final and binding on all parties.

B. Political Activities. Consistent with the provisions of California Government Code section 3201 et seq., employees may not engage in political activity during working hours, while on Authority property on which members of the public would not be entitled to engage in political activities, or while in uniform.

C. Solicitation of Political Contributions. Consistent with the provisions of California Government Code section 3201 et seq., no Authority employee may knowingly, directly or indirectly, solicit a political contribution from an Authority employee, Authority officer, or person on an employment list. However, this does not prohibit Authority employees from requesting political contributions if the solicitation is part of a solicitation made to a significant segment of the public, which may include Authority employees. This also does not prohibit an Authority employee from soliciting or receiving political funds or contributions to promote the passage of or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of Authority employees, provided that such solicitation cannot occur during working hours or while on Authority property. For purposes of this section, "contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

D. Contracts and Conflicts of Interest. In accordance with California Government Code section 1090 et seq., no Authority employee can be financially interested in any contract made by the employee in the employee's official capacity, or by any body or board of which the employee is a member.

E. Conduct During the Workday. During the workday, employees are expected to devote their full time to the performance of their assigned duties. Any approved outside work, hobbies, or personal business must be performed during off-duty hours.

F. Employees with Access to Confidential Information. In performing their duties, employees may have access to confidential information, including, but not limited to, employees' personnel files and the personal or financial information of other Authority employees or persons who do business with FPH2. In addition, some Authority employees will be involved in some communications with FPH2 Attorney's

Office, which can be protected by the attorney-client privilege. Employees with such access are required to keep such information confidential.

RULE XVI. DISCIPLINARY ACTIONS

A. Reason for Disciplinary Action. While FPH2 maintains an at-will employment environment and may terminate any employee at any time with or without cause, FPH2 also reserves the right to take disciplinary actions against any employee. FPH2 may take disciplinary action against an employee for any of the following reasons (this is a non-exhaustive list):

1. Violation of Handbook.

2. Violation of any policies, procedures, personnel rules and/or regulations of the employee's department.

3. Any act of insubordination.

4. Act detrimental to the public service.

5. Refusal or inability to comply with the duties of the position occupied by the employee.

6. Any type of misfeasance, malfeasance or nonfeasance relating to their duties, office or position.

7. Fraud in securing employment or making a false statement on an application for employment or on any supporting documents furnished with or made a part of any application.

8. Dishonesty.

9. Incompetence, such as failure to comply with the minimum standards for an employee’s position.

10. Absence from the job during working hours without permission from the employee’s supervisor.

11. Conviction of a misdemeanor relating to the employee’s fitness to perform assigned duties, or conviction of a felony.

12. Discourtesy to the public, employees, or other persons with whom FPH2 maintains a relationship; or engaging in treatment that does not foster cooperation.

13. Malicious gossip and/or spreading rumors; engaging in behavior designed to create discord and lack of harmony; interfering with another employee on the job; or willfully restricting work output or encouraging others to do the same.

14. Misuse or abuse of Authority property or equipment.

15. Substandard job performance.

16. Failure to maintain any employment qualification.

17. Discrimination and/or harassment of employees or applicants based on a protected characteristic, as set forth in FPH2's Harassment, Discrimination and Retaliation Prevention Policy.

18. Failure or refusal to properly or satisfactorily perform assigned duties.

19. Theft or harm to Authority property or the personal property of another.

20. Inattention to duty, indolence, carelessness or negligence in the care or handling of Authority property.

21. Assault, battery, horseplay, or fighting while on duty or under the guise of office.

22. Gambling on Authority property or during working hours.

23. Sleeping on the job.

24. Improper use of Authority funds.

25. Acceptance or solicitation or bribes or extortion.

26. Abuse of vacation time or sick leave, repeated tardiness, or excessive absenteeism of any kind.

27. Acceptance from any source of any emolument, reward, gift or other form of remuneration in addition to the employee's regular compensation, as a personal benefit to the employee for actions performed in the normal course of the employee's assigned duties.

28. Refusal or failure to report to work in a disaster or an emergency.

29. Falsification of any Authority report or record, or of any report or record required to be filed by the employee.

30. Use of influence of position with FPH2 for private gain or advantage, or the use of time, facilities, equipment or supplies for private gain or advantage.

31. Disclosure of confidential or proprietary Authority information to unauthorized persons, employees, or organizations.

32. Use of Authority tools, equipment, or other property for private, personal, unauthorized, or inappropriate purposes

B. Types of Disciplinary Actions. FPH2 employs a disciplinary system, which includes a variety of levels of disciplinary actions, up to and including termination of employment. However, nothing in this disciplinary policy should be interpreted in any way that would affect the employee's at-will employment status. Notwithstanding any provision of this policy, all employees may be terminated at any time, with or without notice, and with or without cause. FPH2 may take any of the following types of disciplinary actions against its employees:

1. Verbal Reprimand. Verbal reprimand as a disciplinary action means the employee is informed of their poor performance or misconduct verbally by their supervisor. Such verbal reprimand may be followed up with a written documentation memorializing the verbal reprimand.

2. Written Reprimand. Written reprimand as a disciplinary action means an official notification to the employee that there is cause for dissatisfaction with their services and that further disciplinary measures may be taken if such cause is not corrected. Official reprimand shall be given in the manner prescribed by the Personnel Officer, or designee. Reprimand notices shall be made a part of the employee's official personnel record.

3. Suspension Without Pay. Suspension without pay shall be a temporary separation from Authority service. Employees are ineligible to use any accrued leave during a suspension without pay.

4. Reduction In Range. Reduction in step within range as a disciplinary measure is the withdrawal of increments granted for merit, efficiency and length of service. Reduction in pay shall become effective on the first pay period following the effective date of the disciplinary action.

5. Involuntary Demotion. Demotion without consent shall include a reduction in classification or rank, with commensurate reduction in salary.

6. Termination. Termination is the dismissal of an employee from Authority service.

C. Authority for Disciplinary Actions.

1. The supervisors and/or CEO shall have authority to take disciplinary action.

2. The Personnel Officer or designee shall be notified of any contemplated disciplinary action prior to the time it is taken.

D. Name-Clearing Hearing. In certain circumstances, an employee may be entitled to a name-clearing hearing before the disciplinary action is imposed by FPH2. In such circumstances, the employee will be entitled to a name-clearing hearing in accordance with this section.

1. Criteria for Entitlement to a Name-Clearing Hearing. In accordance with state and federal law, when the following three elements are present, the employee is entitled to a name-clearing hearing:

   a. A stigmatizing charge.

   b. The employee's denial of the stigmatizing charge.

   c. Public disclosure of the stigmatizing charge.

2. Name-Clearing Hearing. If the employee has satisfied all three criteria set forth in Rule XVI.D.1., based on the CEO's determination, then the employee is entitled to a hearing in order to clear the employee's name. Under this limited circumstance, FPH2 shall provide the employee with at least five days' notice of its intent to discipline the employee. During those five days, the employee may request a name-clearing hearing. If the employee desires a name-clearing hearing, the employee must file a written request with the Personnel Officer or designee within five days of receiving notice from FPH2 of its intent to impose disciplinary action.

   If the employee does not timely request a name-clearing hearing, then the employee will have been deemed to have waived their right to said hearing. If the employee requests a hearing, then the Personnel Officer or designee will make all necessary arrangements for the hearing prior to imposing the disciplinary action. The hearing shall be before the Personnel Officer or designee. The employee is not entitled to a full evidentiary hearing, but is only entitled to the opportunity to clear their name of the stigmatizing charge(s). All name-clearing hearings shall be held in private unless the employee requests a public hearing in writing.

RULE XVII. EMPLOYMENT BENEFITS

A. Health Benefits. Medical, dental, and vision insurance to cover non-occupational injuries and sickness for full-time employees will be provided by FPH2, as set forth in Board Resolution 2025-008 as may be amended and adopted from time to time.

1. FPH2 provides each full-time employee with a monthly allowance, as approved by the Board, towards the cost of Authority provided medical, dental, and vision insurance.

2. FPH2 does not permit employees to take a "cash out" or "cash in lieu" of the medical, dental or vision insurance allotment.

B. Disability Insurance. FPH2 participates in the California State Disability Insurance ("SDI") program, which is employee funded. FPH2 also provides a supplemental short-term disability plan that is paid by FPH2, and provides employees with up to 70% of their base pay. FPH2 also provides a long term disability insurance benefit that is paid by FPH2, and provides employees with up to 60% of their base pay. Employees with questions regarding these plans should contact the Personnel Officer for additional details.

C. Retiree Health Savings Account. FPH2 will contribute to a Retiree Health Savings Plan for each employee. FPH2 will contribute $175 per month into each employee's Retiree Health Savings Account at the commencement of employment. Employees are vested in their Retiree Health Savings Account at the completion of five years of Authority employment. Employees who opt out of medical, dental, and vision coverage provided by FPH2 will receive an additional monthly contribution of $175 into their Retiree Health Savings Account. Employees who enroll in "employee only" medical, dental, and vision coverage will also receive an additional monthly contribution of $75 into their Retiree Health Savings Account.

D. Retirement Benefits. Subject to applicable law and plan rules, FPH2 provides employees with the following retirement benefit plans:

1. 401(a): FPH2 will contribute 8% of the employee's base salary to the employee's 401(a) plan account.

2. 457 – Deferred Compensation Plan: Subject to limitations provided by law, employees may contribute pre-tax wages to a 457 deferred compensation plan. FPH2 will make a matching employer contribution to the employee's 457 plan up to a maximum of 4% of the employee's base salary.

E. Voluntary Insurance Benefits. Employees are eligible to purchase, at their own cost, accident and critical illness Insurance, additional life insurance, and contribute to a Flexible Spending Account for eligible expenses. Costs for programs offered in this subparagraph are borne 100% by the employee.

F. Life insurance. FPH2 will provide employees with life insurance coverage benefit at the greater of $100,000.00 or 1x annual salary, up to a maximum of $225,000.00. Authority will pay the premiums for this benefit.

G. Tuition Reimbursement. Full-time employees are eligible to receive tuition reimbursement for courses or programs taken during their non-working hours that directly relate to the employee's current duties and will improve their ability to perform their job. So long as funds are available, qualified employees may be reimbursed for up to $3,000.00 per year. Employees must obtain the written approval of the CEO prior to beginning the course/program and must receive a passing grade in the course/program to be eligible for tuition reimbursement. Any educational opportunities required by FPH2 shall be fully paid by FPH2.

RULE XVIII. WORKPLACE VIOLENCE PREVENTION

FPH2 maintains a standalone administrative plan for workplace violence prevention: The First Public Hydrogen Authority Workplace Violence Prevention Plan. Employees should refer to the stand-alone policy for details regarding the prevention of workplace violence.

RULE XIX. DRUG- and ALCOHOL-FREE WORKPLACE POLICY

It is the desire of FPH2 that all work environments of employees be safe and productive and free of the influence of drugs and alcohol. FPH2 is concerned with the physical safety of all employees, potential damage to property and equipment, mental and physical health of employees, productivity and work quality, medical insurance costs, and the harm done to employees and their families by drug and alcohol abuse. The full provisions regarding drugs and alcohol in the workplace will be set forth in an administrative policy.

RULE XX. ELECTRONIC COMMUNICATIONS POLICY

FPH2 provides its employees with certain electronic communications devices. Employees should be aware that no computer usage including messages transmitted or received on the computer system are private or confidential. FPH2 's full policy regarding the use of electronic communications equipment will be set forth in an administrative policy.

RULE XXI. HYBRID WORK POLICY

FPH2 provides its employees with a hybrid work environment. FPH2's full policy regarding its hybrid work environment will be set forth in an administrative policy.

RULE XXII. DISASTER AND EMERGENCY SERVICE WORKERS

The protection of the health and safety, and the preservation of lives and property from the effects of natural, man-made, or war-caused emergencies which result in conditions of disaster or extreme peril to life, proper, and resources, is paramount to FPH2. When a disaster strikes, the assistance of Authority employees is vital to ensuring that Authority operations recover from a disaster as quickly as possible. It is important that all Authority employees be available to assist in responding to disasters, regardless of the position they hold. As such, in accordance with the provisions of Government Code sections 3100 and following, all Authority employees are declared to be disaster service workers. Upon the declaration of a disaster or an emergency, Authority employees are required to follow direction given in accordance with FPH2's emergency procedures, or any other additional duties as assigned.

EMPLOYEE ACKNOWLEDGMENT OF RECEIPT OF EMPLOYEE HANDBOOK

This acknowledges that I have received my copy of the First Public Hydrogen Authority ("Authority") Employee Handbook ("Handbook"). I recognize that the Handbook supersede any related Personnel Rules, Employee Handbook, policy statements, manuals, and/or administrative policies. I have read and agree to abide by all provisions set forth in the Handbook and associated personnel policies. I understand that if any part of the Handbook is unclear, it is my responsibility to seek clarification from my supervisor, Personnel Officer, or CEO.

I understand that this Handbook does not create a vested contractual right in the execution by Authority of any duties and responsibilities relating to this Handbook or associated personnel policies. I also understand that my employment with the Authority is at-will, meaning either the Authority or I may terminate my employment at any time with or without cause and with or without advance notice.

PRINT FULL NAME ____

SIGNED ____

DATE ____

[RETAIN IN EMPLOYEE PERSONNEL FILE]

POLICY TITLE:	2025 Harassment Discrimination Retaliation Prevention Policy	
POLICY NUMBER:	FPH_2 2025-##	PROPOSED: June 18, 2025

I. PURPOSE AND POLICY

The First Public Hydrogen Authority ("Authority") is committed to preventing harassment, discrimination, and retaliation, and maintains a strict policy prohibiting all types of harassment, discrimination, or retaliation because of race (including traits associated with race, such as hair texture and hairstyles), color, national origin, ancestry, religion, creed, sex, gender, gender identity, gender expression, genetic characteristics or information, physical or mental disability, medical condition, marital status, sexual orientation, age, pregnancy, reproductive health choices, childbirth, or related medical conditions, military or veteran status, any other basis protected by applicable federal, state, or local law, or any combination of such protected characteristics, a perception that the individual has any of those characteristics or any combination of those characteristics, including based on association with individuals with these protected characteristics, or any combination of these characteristics. All such harassment, discrimination, or retaliation is prohibited.

This policy applies to all officials, employees, interns, and volunteers involved in the operations of the Authority, as well as to applicants for employment, or any participant of another limited duration program to provide unpaid work experience, and prohibits harassment and discrimination by any employee including supervisors and co-workers, and by others doing business with the Authority. This policy prohibits retaliation by any employee, including supervisors and co-workers. If harassment occurs on the job by someone not employed by the Authority, the procedures in this policy should be followed as if the harasser were an employee of the Authority.

Conduct that may not be prohibited under harassment, discrimination, or retaliation law may nevertheless violate this policy, violate other Authority policies, or other Authority standards of conduct.

II. DEFINITIONS

A. **Discrimination**: Discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly situated to the employee, because the employee is a member of a Legally Protected Category or Characteristic. Examples of conduct that can constitute discrimination if based on an individual's Legally Protected Category or Characteristic include, but are not limited to the following:

1. Failing or refusing to hire an individual based on their Legally Protected Category or Characteristic.

2. Terminating an individual from employment based on their Legally Protected Category or Characteristic.

3. Singling out or targeting an individual for different or less favorable treatment because of their Legally Protected Category or Characteristic

B. **<u>Employee</u>**: Any individual under the direction and control of the Authority under any appointment or contract of hire or apprenticeship, express or implied, oral or written. For purposes of this policy, the term "employee" includes any individual who is an unpaid intern or volunteer of the Authority. The inclusion of any individual, including but not limited to unpaid interns and volunteers, in the definition of "employee" for purposes of this policy should not be interpreted to affect the applicability of any other policy or procedure of the Authority.

C. **<u>Harassment</u>**: Unwelcome verbal, visual, or physical conduct based on membership in a Legally Protected Category or Characteristic that creates an intimidating, offensive, or hostile work environment. Such conduct constitutes harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, or an unpaid internship or volunteer program;

2. Submission to or rejection of the conduct is used as the basis for an employment decision, or any decision related to an unpaid internship or volunteer program; or

3. The harassment unreasonably interferes with an employee's work performance <u>or</u> creates an intimidating, hostile, or offensive work environment.

Harassing conduct can take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, computer images, or cartoons regarding an employee's Legally Protected Category or Characteristic. Harassment is prohibited whether it involves a co-worker, subordinate, supervisor or manager, or third parties doing business with or for the Authority.

D. **<u>Legally Protected Category or Characteristic</u>**: Race (including traits associated with race, such as hair texture and hairstyles), color, national origin, ancestry, religion, creed, sex, gender, gender identity, gender expression, genetic characteristics or information, physical or mental disability, medical condition, marital status, sexual orientation, age (40 and over), pregnancy, reproductive health choices, childbirth, breastfeeding, or related medical conditions, military or veteran status, any other basis protected by applicable federal, state, or local law, or any combination of such protected characteristics, a perception that the individual has any of those characteristics or any combination of those characteristics, including based on association with individuals with these protected characteristics, or any combination of these characteristics.

E. **<u>Sexual Harassment</u>**: Sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature may all constitute sexual harassment when: (1) submission to such conduct is made a term or condition of employment, an unpaid internship, or volunteer program; or (2) submission to or rejection of such conduct is used as basis for employment decisions, or any decision relating to an unpaid internship or volunteer program, affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance <u>or</u> creating an intimidating, hostile or offensive working environment. This definition includes potential forms of offensive behavior. The following is a non-exclusive list of some examples:

1. Unwanted sexual advances.

2. Offering employment benefits in exchange for sexual favors.

3. Making or threatening reprisals after a negative response to sexual advances.

4. Visual conduct, such as leering, making sexual gestures, displaying of sexually explicit jokes, comments about an employee's body or dress.

5. Verbal sexual advances or propositions.

6. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitations.

7. Physical conduct, such as touching, assault, impeding, or blocking movements.

8. Retaliation for reporting harassment or threatening to report harassment.

9. Electronic communications such as email, texts, or internet use that violate this policy

Sexual harassment can occur between members of the same or opposite sex and need not be motivated by sexual desire or attraction. Sexual harassment can be based on pregnancy, childbirth, or related medical conditions where such conduct unreasonably interferes with the employee's work performance, affect or impact an employee's terms and conditions or privileges of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by third parties doing business with or for the Authority.

F. **<u>Supervisor</u>**: Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or the responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

G. **<u>Retaliation</u>**. Taking adverse action against any employee because of the employee's opposition to a practice that the employee reasonably believes constitutes employment discrimination or harassment or because of the employee's participation in an employment discrimination or harassment investigation, proceeding or hearing. Retaliation also includes adverse action against an employee because of opposition or participation by a family member or close associate of the employee. Further, retaliation includes adverse employment action due to an employee's request for a reasonable accommodation.

1. <u>Examples of Opposition</u>: Opposition to perceived harassment or discrimination includes threatening to file a discrimination complaint with the Equal Employment Opportunity Commission ("EEOC"), the California Civil Rights Department ("CRD"), union, or court, or complaining or protesting about alleged employment discrimination or harassment to a manager, union official, co-worker, or other official. Opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. A complaint about an

employment practice constitutes protected opposition only if the employee communicates to the Authority a reasonable good faith belief that the practice opposed constitutes employment discrimination or harassment. Opposition in a manner which disrupts the workplace, or which constitutes an unlawful activity, or engaging in badgering or threatening of employees or supervisors is not protected.

2. Examples of Participation: The Authority prohibits retaliation against any individual because the individual has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding, hearing or litigation under federal or state employment discrimination or harassment statutes or at other hearings regarding protected employee rights, such as an application for unemployment benefits. The Authority also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights.

3. Examples of Adverse Actions: For purposes of this policy, an adverse action includes the following acts, when the act is taken because of the employee's opposition to or participation in disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings or events, or undesirable change in work duties.

III. PROCEDURES

A. Training and Policy Dissemination:

1. Non-Supervisory Employees: All employees will be given a copy of this policy, and will receive guidance from the Managing Director on its provisions and the Authority's commitment to provide a harassment-free, discrimination-free, and retaliation-free workplace. Non-Supervisory employees will receive training once every two years or upon hire, under direction of the Authority as required by law.

2. Supervisory Employees:

   (a) All supervisors will be trained once every two years on matters relating to the prevention, reporting, and investigation of harassment, discrimination, and retaliation. Further, individuals appointed to supervisory positions from a non-supervisory position or as a new employee shall receive training within six months of their hiring or assumption of the supervisory position.

   (b) Supervisory training will last for a minimum of two hours.

   (c) Supervisory training will be conducted in a classroom or other interactive setting and will, at a minimum, cover the following topics:

      (1) Information and practical guidance regarding federal and state statutory laws about sexual harassment;

      (2) Information about the correction of sexual harassment and the remedies available to victims of sexual harassment;

      (3) Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation; and

(4) Information and practical guidance regarding the prevention of abusive conduct, which is defined as follows: conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act does not constitute abusive conduct, unless especially severe and egregious.

B. <u>Preventing Harassment, Discrimination, and Retaliation</u>: The Authority's complaint procedure provides for a prompt, thorough, impartial, and objective investigation of every harassment, discrimination, or retaliation claim, appropriate disciplinary action against one found to have engaged in prohibited harassment, discrimination, or retaliation, and appropriate remedies to any victim of harassment, discrimination, or retaliation. The Authority encourages reporting of all perceived incidents of harassment, discrimination, and retaliation.

1. <u>Optional Process</u>: An employee who believes that another person has harassed, discriminated, or retaliated against the employee is encouraged to, but is not required to, confront this person and politely, but firmly inform the person of the conduct that the employee finds offensive or retaliatory and request that the person cease this behavior. If the employee does not wish to confront the person harassing, discriminating, or retaliating against the employee, or if the employee's attempts to do so have failed, the employee should file a complaint with the Authority.

2. <u>Filing a Complaint</u>: Employees should follow this procedure to notify the Authority of harassment, discrimination, or retaliation. Employees who believe they have been harassed, discriminated against, including by persons doing business with or for the Authority, or retaliated against on the job, should promptly report the complaint to their immediate supervisor, any supervisor, the Managing Director, or to the Chief Executive Officer/Executive Director ("CEO") as soon as possible.

In addition to being able to report potential harassment, discrimination, or retaliation to any supervisory employee, the following suggested reporting procedures are available when filing a complaint about certain individuals in the Authority:

- Complaints regarding a person within the employee's direct chain of command may be provided to the Managing Director.

- Complaints regarding the Managing Director may be provided to the CEO.

- Complaints regarding the CEO or the Authority Attorney may be submitted to the Authority's Clerk for consideration by the Board of Directors during closed session.

- Complaints regarding a member of the Board of Directors may be reported to the CEO or the Authority Attorney.

The complaints should be as detailed as possible and should include: details of the incident(s), name(s) of individuals involved, and the name(s) of any witness(es). The employee should also attach any documentary evidence to the complaint.

Notification to the Authority of potential harassment, discrimination, or retaliation is essential. The Authority assures employees that they will not be penalized in any way for filing a good faith complaint of potential discrimination, harassment, or retaliation.

Supervisors and managers must immediately refer all harassment, discrimination, or retaliation complaints to the Authority's Managing Director.

ALL EMPLOYEES SHOULD NOTE THAT THE FAILURE TO USE THE AUTHORITY'S COMPLAINT PROCEDURE MAY HAVE AN ADVERSE EFFECT ON ANY CLAIM UNDER THIS POLICY WHEN SUCH CLAIMS ARE LITIGATED.

3. Investigation of Complaints: All incidents of harassment, discrimination, and retaliation that are reported must be investigated. The Managing Director, or other appropriate person if the circumstances warrant, will promptly undertake or direct an effective, thorough, and objective investigation of the harassment, discrimination, or retaliation allegations. The investigation will be completed and the determination regarding the harassment, discrimination, or retaliation alleged will be made and such determination will be communicated to the complainant and the accused.

   Employees may be placed on administrative leave during an investigation until the conclusion of a discrimination, harassment, or retaliation investigation.

4. Corrective Action: If the Authority determines that a policy violation has occurred, the Authority will take effective remedial action commensurate with the circumstances. Appropriate action will also be taken to deter any such future violation of the policy.

In light of the Authority's duty to prevent harassment, discrimination, and retaliation and in light of the Authority's desire to have a professional and productive work environment, the Authority reserves the right to take appropriate corrective action when an employee engages in inappropriate conduct that does not fully rise to the legal standards and definitions set forth in this policy but violates other Authority policy or standards of conduct. For example, the Authority may take appropriate corrective action for inappropriate conduct, even if such conduct was not subjectively unwelcome or offensive to another employee of the Authority.

C. Anonymity and Confidentiality:

1. While the Authority will investigate anonymous complaints, the Authority strongly discourages anonymous complaints. EMPLOYEES CHOOSING TO FILE A COMPLAINT ANONYMOUSLY MUST BE AWARE THAT ANONYMITY IN THE COMPLAINT PROCEDURE MAY COMPROMISE THE AUTHORITY'S ABILITY TO COMPLETE A THOROUGH INVESTIGATION. Employees should also be aware that should the Authority learn of the identity of an

anonymous complainant, the Authority cannot guarantee that the complainant's identity will remain confidential, if the Authority determines in its discretion that disclosure is necessary to complete the investigation.

2. The Authority will take all reasonable steps available to maintain the confidentiality of all complaints of harassment, discrimination, and/or retaliation as well as all information gathered during an investigation. However, the Authority retains sole discretion to determine whether disclosure of information is necessary to complete the investigation or for other legitimate purposes.

3. In order to protect the integrity of the investigation and the privacy of the individuals involved, the Authority may request that all employees involved in an investigation of harassment, discrimination, and/or retaliation complaints as complainant(s), witness(es), or accused are required to keep all information related to the investigation confidential.

D. **<u>Obligation to Cooperate</u>**: All employees involved in a workplace investigation into alleged harassment, discrimination, or retaliation are required to fully and truthfully cooperate with the investigation. Failure to fully and truthfully cooperate with the investigation is grounds for disciplinary action as provided for in the City's Employee Handbook, up to and including termination.

E. **<u>Obligation to Report</u>:**

1. <u>Supervisory Employees</u>: Any supervisor who receives a complaint of harassment, discrimination, or retaliation, who witnesses harassment, discrimination, or retaliation or who has any reason to believe that harassment, discrimination, or retaliation may have occurred in the workplace is required to report the conduct immediately to the Managing Director. Failure to report may result in disciplinary action being taken against the supervisor as provided for in the City's Employee Handbook, up to and including termination.

2. <u>Non-Supervisory Employees</u>: While non-supervisory employees are not required under this policy to report potential harassment, discrimination, or retaliation, they are strongly encouraged to do so. If a non-supervisory employee elects to report potential harassment, discrimination, or retaliation, the employee may report to any supervisor or to the Managing Director.

F. **<u>Intentionally False Complaints:</u>** Employees are prohibited from making an intentionally false complaint of harassment, discrimination, and/or retaliation. An intentionally false complaint is a complaint that the employee demonstrably does not believe to be true. Any employee making an intentionally false complaint is subject to disciplinary action, up to and including termination.

G. **<u>Additional Enforcement Information:</u>** In addition to the Authority's internal complaint procedure, employees should also be aware that the EEOC and the CRD investigate and prosecute complaints of harassment, discrimination, or retaliation in employment.

1. You can contact the EEOC as follows: Los Angeles District Office, 255 East Temple, 4th Floor, Los Angeles, California, 90012; 800-669-4000/800-669-6820 (TTY) or 213-894-1000; www.eeoc.gov.

2. You can contact the CRD as follows: 2218 Kausen Drive, Suite 100, Elk Grove, California 95758; 800-884-1684/800-700-2320 (TTY) or 916-478-7251; www.calcivilrights.ca.gov.

Employees should feel free, without fear of retaliation, to follow the procedures set forth above if they believe they have been harassed, discriminated or retaliated against as described in this policy.

IV. <u>EXCEPTIONS</u>

There are no exceptions to this policy without the express authorization of the CEO.

FIRST PUBLIC H2

FIRST PUBLIC HYDROGEN AUTHORITY

POLICY AGAINST HARASSMENT, DISCRIMINATION,

AND RETALIATION

ACKNOWLEDGEMENT OF RECEIPT

By my signature below, I acknowledge that I have received, read and understood the First Public Hydrogen Authority's Policy Against Harassment, Discrimination, and Retaliation, and I will abide by its terms. I understand that failure to fully comply with all terms set forth in the Policy may lead to disciplinary action, up to and including termination.

____

Name (PLEASE PRINT)

____

Signature

____

Date

POLICY TITLE:	Hybrid Work Policy	
POLICY NUMBER:	FPH_2 2025-##	PROPOSED: June 18, 2025

A. Purpose and Scope

First Public Hydrogen Authority ("Authority") supports flexible work arrangements for its employees. As part of this flexibility, the Authority has adopted a hybrid work environment as the standard work arrangement for most employees, provided certain requirements are met.

This policy applies to all Authority employees, subject to certain limited exceptions (see Eligibility below).

For disability accommodation requests, see Reasonable Accommodations Based on Disability below.

B. Definitions

The following definitions apply to the Authority's Hybrid Work Policy:

- "Hybrid working" refers to Authority's standard work arrangement where employees split their workweek between in-person work and remote work.
- A "hybrid employee" refers to any employee splitting their workweek between in-person work and remote work under the Authority's standard hybrid working arrangement.
- "Office/in-person" refers to the Authority's office located at 431 East Ave K-4, Lancaster, CA 93535
- A "fully remote employee" refers to an employee performing their entire workweek remotely with no regular workdays in the office.
- An "office-based/in-person employee" refers to an employee performing their entire workweek in the office/in-person at the Authority's location with no regular workdays working remotely.

C. Eligibility

Hybrid working is the standard working arrangement for all Authority employees, subject to the exceptions listed below. Unless an exception applies, employees are automatically designated as hybrid employees and do not need to make a formal request.

Hybrid employees must live within commuting distance of the Authority's location where the employee reports to the office.

This hybrid work policy does not apply to:

- Fully remote employees (approved by the Chief Executive Officer/Executive Director ["CEO"]).
- Office-based/In-person employees based on the employee's role or residence or other unique circumstances designated by the employee's supervisor and approved by CEO.

For exceptions to this hybrid work policy as a reasonable accommodation for a disability, see Reasonable Accommodations Based on Disability below.

D. Standard Hybrid Work Schedule

The hybrid working schedule for hybrid employees is:

- Three (3) workdays per workweek in-person at Authority office.
- Two (2) workdays per workweek working remotely.

Authority may require hybrid employees to report to the office on different or additional days than the standard hybrid working schedule as needed based on Authority's business or other needs, such as, but not limited to, certain meetings, projects, deadlines, or urgent matters requiring in-person work.

Hybrid employees generally should not split a single workday between remote and in-person work unless special circumstances apply, which employees should discuss with their manager.

Hybrid employees should consult with their supervisor regarding:

- Expectations about which days to report to the office and work hours.
- Work activities appropriate for in-person work and remote work.
- Any questions regarding an employee's particular hybrid work plan.

Hybrid employees should have open communication and transparency with their supervisor and co-workers regarding schedules, locations, availability, and contact information.

E. Office/In-Person Work Protocols

Hybrid employees must live within commuting distance of the Authority's office and should report to that office on the days they work in the office. The Authority does not pay for hybrid employees' commuting costs on in-person days nor provides a commuting cost stipend for hybrid employees. Employees must travel to and from the Authority's office location during non-working hours.

F. Remote Work

Hybrid employees must comply with all Authority rules regarding remote work on the days they work remotely, as set forth in this section. Hybrid employees must review and familiarize themselves with employee and employer responsibilities that apply to all remote work, including:

- Continued compliance with all Authority policies while working remotely, including but not limited to Authority's policies on anti-discrimination and anti-harassment, and electronic communications.
- Timekeeping, as may be applicable for non-exempt employees.
- Adequate workspaces and internet connection.

- Equipment and technology support.
- Information security.
- Safety and health.
- Communication and engagement with the employee's supervisor and colleagues.
- Prohibition on performing or engaging in unauthorized outside work during remote work hours.
- Child care and other dependent care arrangements.

G. <u>Reasonable Accommodations Based on Disability</u>

The procedures and requirements set out in this policy do not apply to requests for a reasonable accommodation for a disability under the Fair Employment Housing Act (FEHA) or other applicable law. Employees requesting a reasonable accommodation for a disability should follow the procedures outlined in the Authority's Employee Handbook.

FIRST PUBLIC H_2

POLICY TITLE:	Drug and Alcohol Policy	
POLICY NUMBER:	FPH$_2$ 2025-##	PROPOSED: June 18, 2025

I. PURPOSE

A. The First Hydrogen Public Authority ("Authority") is committed to providing a healthy and safe work environment for its employees. The purpose of this policy is to maintain a workplace that is free of drugs and alcohol and to discourage drug and alcohol abuse ("substance abuse") by employees. There is a vital interest in maintaining safe and efficient working conditions for employees. Substance abuse is incompatible with health, safety, efficiency, and success. Employees who are under the influence of alcohol or who have any illegal drugs in their system, or who abuse legal drugs while on Authority premises, conducting or performing business endanger their own health and safety and the health and safety of others.

B. Substance abuse can also cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for coworkers, disruption to other employees, delays in the completion of work, inferior quality of service, and disruption of community relations. This policy governs not only the abuse of alcohol and illegal drugs but also the use and abuse of legal drugs in the workplace. Employees who use legal drugs, including prescription and over-the-counter drugs, should consult with a health care provider regarding the medication's impact on work and must comply with those provisions set forth in this policy that address such use.

C. To further its interest in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, to protect its business, property, equipment, and operations, and to comply with all federal and state requirements, including, but not limited to, the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8103) and the California Drug-Free Workplace Act of 1990 (Government Code § 8355), the Authority has established this policy concerning employee use of alcohol and drugs. As a condition of hire and continued employment, each employee must abide by this policy. Each employee will be given a copy of this policy upon their hire.

D. In the spirit of creating a drug- and alcohol-free work environment, nothing in the policy shall be construed to restrict Authority's ability to use common sense, prudence, technology, or external resources to protect the safety of its employees, its customers, or the public, unless otherwise prohibited by law.

Nothing in this policy is intended to diminish the Authority's commitment to employ qualified disabled individuals or to provide reasonable accommodation to such individuals consistent with all federal, state, and local laws.

II. APPLICABILITY

This policy applies to all applicants and employees of the Authority.

III. DEFINITIONS

A. *Personnel Officer.* The Personnel Officer of the Authority shall be the Chief Executive Officer, or designee.

B. *Controlled Substances.* Any drug or substance that is classified into the five schedules or classes on the basis of its potential for abuse, accepted use, and accepted safety under medical supervision by the federal Drug Enforcement Administration. Examples of controlled substances include, but are not limited to, marijuana metabolites, cocaine metabolites, opiate metabolites, amphetamines, and phencyclidine (PCP). Controlled substances may be further classified as illegal or legal drugs.

C. *Illegal Drugs.* A controlled substance, a legal drug which has not been legally obtained, or a legal drug which was legally obtained, but that is being sold or distributed unlawfully.

D. *Legal Drugs*. Any drug, including any prescription drug or over-the-counter drug, that has been legally obtained and that is not unlawfully sold or distributed.

E. *Abuse of any Legal Drug*. Abuse of any legal drug means the use of any legal drug (i) for any purpose other than the purpose for which it was prescribed or manufactured; or (ii) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.

F. *Drug Paraphernalia*. Drug paraphernalia means any device or instrument used for injecting, smoking, consuming, or otherwise administering a controlled substance/legal drug/illegal drug, which includes, but is not limited to the items set forth in California Health and Safety Code section 11364.

G. *Reasonable Suspicion*. Reasonable suspicion means a belief based upon objective facts, evidence, or other indicators sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion (this is not an exhaustive list):

1. Slurred speech;

2. Alcohol odor on breath/person;

3. Cannabis odor on breath/person;

4. Unsteady walking and movement;

5. Physical symptoms of impairment (e.g., glassy eyes, eye dilation, shaking, or erratic movement);

6. An accident involving Authority property that provides a reasonable basis to believe that the accident was likely to have been caused by impairment from drugs or alcohol;

7. Physical or verbal altercation;

8. Unusual behavior;

9. Job impairment;

10. Possession of alcohol, drugs, or prohibited drug paraphernalia; or

11. Information obtained from a reliable source with personal knowledge.

H. *Possession*. Possession means that an employee has the substance on the employee's person or otherwise under the employee's control.

I. *Under the Influence*. The use or misuse of any of the following in a manner and to a degree that impairs the employee's work performance or ability to use Authority property or equipment safely:

1. Any alcoholic beverage;

2. Any illegal drug or substance; or

3. Any legal drug.

J. *Impaired*. Diminished capacity, ability, mental acuity, or performance.

K. *Safety-Sensitive Employees*. Safety-sensitive employees are employees who hold safety-sensitive positions. Safety-sensitive positions are those requiring the performance of duties that present risks to self and others so that even a momentary lapse of attention can have disastrous consequences, including, but not limited to the following:

1. Positions that include interaction with children, where employees are directly responsible for protecting children, or where employees have continuous interaction or supervision that puts them in a position of influence over children.

2. Positions that have a history of drug or alcohol use include those where the Authority has established the existence of documented problems with drug

or alcohol use by employees in a particular position or particular department.

IV. POLICY

No Right of Privacy.

The Authority respects the individual privacy of its employees. However, employee privacy does not extend to the employee's use of Authority-provided equipment, supplies, or property. Employees should be aware that the terms of this policy limit their privacy in the workplace and that employees have no reasonable expectation of privacy with respect to Authority property, which may be searched at any time.

Cannabis

The Authority recognizes that the State of California has legalized the use of cannabis for recreational and certain medical uses. However, under federal law, the use of cannabis remains prohibited, and cannabis remains a controlled substance. The Authority will not take action against an employee solely because of the employee's lawful, off-duty use of cannabis. However, the Authority reserves the right to take disciplinary action under this policy, up to and including termination, when an employee is actually impaired by cannabis on duty or engages in any other conduct involving cannabis that violates this Policy. Any action involving cannabis use will be consistent with Government Code Section 12954.

C. Advance Notification to Authority of Use of Legal Drugs

1. *Use of Legal Drugs*. The Authority recognizes that it may be necessary for employees to use legal drugs from time to time. The Authority also recognizes that even legal drugs can impair the employee's ability to adequately or safely perform their duties. In order to accommodate employees who use legal drugs while helping avoid serious adverse consequences resulting from such drug use, employees are required to notify the Authority so that the Authority can determine if any work restrictions are advisable under the circumstances.

2. *When Notification is Required*. Employees who know or should know that their use of legal drugs might endanger their own safety or the safety of another person, might pose a risk of significant damage to the Authority's property, or might interfere with their job performance or the efficient operation of the Authority's business, are obligated to report such drug use to the Personnel Officer. The Authority reserves the right to have either an Authority-designated physician or the employee's own physician determine whether it is advisable for the employee to continue working while taking such drugs.

3. *Duty to Disclose*. Employees who operate or who are responsible in any way for the operation, custody, or care of the Authority's property, or for the safety of other employees or other persons, have a duty to disclose the nature of their job duties to any prescribing physician or pharmacist and/or to a Authority physician or pharmacist and to inquire of the physician(s) or pharmacist whether their use of the prescribed drug might result in the dangers, risks, or impairment that this policy is intended to prevent.

4. *Restrictions on Work*. The Authority reserves the right to restrict the work activities of any employee who is using legal drugs or prohibit any employee from working entirely while the employee is using legal drugs. The Authority may make a reasonable accommodation pursuant to Rule III.C.1 of the Employee Handbook.

5. *Duty to Refrain from Working*. No employee using legal drugs may report for or remain at work while impaired.

D. Prohibited Conduct

1. *Scope*. Employees may not engage in any of the prohibited conduct identified in this policy any time the employee is:

   a. On Authority premises, in the workplace, or in uniform;

   b. Conducting or performing Authority business, regardless of location;

   c. Operating or responsible for the operation, custody, or care of Authority vehicles, equipment, or other property, or

   d. Responsible in any way for the safety of other individuals associated with Authority, including, but not limited to, colleagues, management, visitors, residents, and vendors.

2. *Alcohol*. The following acts are prohibited, and commission of these acts may subject an employee to discipline, up to and including, termination:

   a. The unauthorized use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol; or

   b. Being impaired due to alcohol use.

3. *Controlled Substances*. The unlawful manufacture, distribution, dispensation, possession, or use of any controlled substance are prohibited, and commission of these acts may subject an employee to discipline, up to and including, termination.

4. *Illegal Drugs*. The following acts are prohibited, and commission of these acts may subject an employee to discipline, up to and including, termination:

a. The purchase, sale, manufacture, distribution, transportation, dispensation, use, or possession of any illegal drug or drug paraphernalia; or

b. Having any illegal drug in an employee's system.

c. Cannabis. As it relates to testing for cannabis, consistent with Government Code section 12954, and except as otherwise required under federal law, this section shall only apply to an employee who has psychoactive cannabis metabolites in their system.

5. *Legal Drugs*. The following acts are prohibited, and commission of these acts may subject an employee to discipline, up to and including termination:

a. The abuse of any legal drug; or

b. The purchase, sale, manufacture, distribution, transportation, dispensation, use, or possession of any legal prescription or over-the-counter drug in a manner inconsistent with law; or

c. Working while impaired by the use of a legal drug in violation of this section IV; or

d. Working without providing the required notice in violation of this section IV; or

e. Failure to make proper disclosure in violation of this section IV.

V. SUBSTANCE SCREENING

A. Job Applicants

Job applicants may be required to undergo drug and alcohol testing as a condition of employment with the Authority. No drug and/or alcohol test shall be administered prior to the applicant receiving a conditional offer of employment. Only positions that present a special need for drug and/or alcohol testing will be subject to this section. For purposes of pre-employment drug and/or alcohol testing, special need includes safety-sensitive positions as defined in this policy and identified in Appendix A.

B. Employees

Current employees will be subject to drug or alcohol testing in the following circumstances:

1. Following a determination that reasonable suspicion exists in accordance with this policy; or

2. When an employee is subject to return to duty and/or follow-up testing following an employee's return from drug and/or alcohol rehabilitation and/or treatment.

C. Testing

1. The Authority may use each or all of the following testing methods:

   a. Pre-employment testing;

   b. Reasonable suspicion testing;

   c. Post-accident testing; and

   d. Testing authorized or required by federal or state regulations, including Department of Transportation regulations.

2. *Consent*. Prior to the administration of any drug and/or alcohol testing, the Authority's testing provider shall attempt to obtain from the employee a completed and signed consent form. This form will document the employee's consent in writing to examination and testing and will authorize the release of such information to the Authority. Refusal by the employee to sign a consent form is considered insubordination and may be independent grounds for disciplinary action, up to and including termination.

3. *Interference with a Required Test or Refusal to Cooperate*. An employee will be subject to the same consequences as a positive test if the employee:

   a. Refuses the screening or test by engaging in behavior such as refusal to provide a urine specimen, body fluid specimen, hair, or breath sample without a valid medical explanation; a verbal declaration of refusal; or physical absence;

   b. Adulterates, dilutes, contaminates, or tampers with the specimen, or attempts to do so;

   c. Substitutes the specimen with that of another person, or sends an imposter to provide a specimen, or attempts to do either act;

   d. Refuses to sign the required forms or documentation;

   e. Otherwise refuses to cooperate in the testing process in such a way that prevents conducting or completion of the test.

4. *Results*. If the drug screen is positive, the employee may be requested to provide, within one (1) business day of the test results, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name.

5. *Cannabis*. Consistent with Government Code section 12954, and except as otherwise required under federal law, the Authority will not screen for nonpsychoactive cannabis metabolites.

VI. CONSEQUENCES OF POLICY VIOLATIONS

Violation of this policy by any employee may result in discipline, up to and including discharge, depending on the circumstances and at the sole discretion of the Authority.

A. Effect of Criminal Conviction

An employee who is convicted under a criminal drug statute for a violation occurring in the workplace, while conducting or performing Authority business regardless of location, or during any Authority-related activity or event will be deemed to have violated this policy.

B. Effect of a Positive Test

An employee who receives a positive test for drugs or alcohol will be in violation of this policy. An applicant who receives a positive test result for drugs or alcohol may have their conditional offer of employment rescinded and may not be hired.

C. Refusal to Test

Whenever an employee refuses an order to submit to a drug or alcohol test upon appropriate direction, the employee shall be reminded of the requirements of this policy and the disciplinary consequences for refusal. Such refusal may be considered insubordination and is grounds for disciplinary action up to and including termination. Refusal to test includes, but is not limited to:

1. Failing to appear at the collection site in the time allotted;
2. Leaving the collection site before the testing process is completed;
3. Failing to provide a breath, urine, hair, or saliva specimen;
4. Failing to permit the observation or monitoring of specimen collection when required;
5. Failing to provide a sufficient amount of urine or breath specimen without a valid medical explanation;
6. Adulterating or diluting a urine, breath, or saliva specimen;
7. Failing or refusing to take a second test when required;
8. Failing to cooperate with any part of the testing process; for example: refusing to sign the testing form when required.

D. Return to Duty/Follow-up Testing

Employees who violate this policy may also be required to participate in a drug and/or alcohol rehabilitation or counseling programs as a condition of continued employment. In certain instances (such as an employee who tested positive for drugs or alcohol or has successfully completed drug or alcohol rehabilitation), and solely at the Authority's discretion, the Authority may enter into an agreement with an employee who would otherwise be disciplined to permit the employee to keep their job upon fulfilling certain requirements pertaining to drug and/or alcohol rehabilitation, including, but not limited to, submitting to return to duty and/or follow-up testing when directed to do so by the Authority in accordance with this policy.

VII. CRIMINAL CONVICTIONS

Employees must notify the Authority of any conviction under a criminal drug statute for a violation occurring in the workplace, while conducting or performing Authority business regardless of location, or during any Authority-related activity or event, in writing, no later than 5 days after any such conviction. For purposes of this policy, a conviction includes a finding of guilt, a plea of *nolo contendre* or no contest, and/or an imposition of sentence by any judicial body charged with responsibility to determine violations of federal or state criminal drug and alcohol statutes. When required by applicable law, the Authority will notify agencies under contract of any employee who has been convicted under a criminal drug statute for a violation occurring while conducting or performing Authority business, regardless of location.

VIII. CONFIDENTIALITY

Disclosures made by employees to the Personnel Officer concerning their use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work-related reason to do so, or disclosure is required by law. Disclosures made by employees to the Personnel Officer concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially. Laboratory reports and/or test results shall not be maintained in an employee's general personnel file and information of this nature will be maintained in a separate confidential medical folder.

Managers and supervisors must restrict communications concerning possible violations of this policy to persons who have an important work-related reason to know. In addition, managers and supervisors must not disclose the fact of an employee's participation in any drug or alcohol counseling or rehabilitation program.

IX. VOLUNTARY ASSISTANCE OR REHABILITATION

A. In General

The Authority encourages employees who suspect they may have alcohol or drug problems to seek voluntary assistance and rehabilitation at an early date. Accordingly, an eligible employee who decides to seek treatment or rehabilitation will not be subject to discipline solely because of seeking such treatment.

However, the Authority reserves the right to discipline employees, up to and including termination, who are found to have engaged in activity prohibited by this policy.

B. Employee Assistance

The Employee Assistance Program (EAP) is available to assist employees in these efforts to overcome problems with drugs and/or alcohol. Information pertaining to such programs may be obtained by direct contact with the EAP agency or by contacting ________________________________.

C. Leave of Absence for Voluntary Receipt of Assistance and Rehabilitation

Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the Personnel Officer, who will determine whether the Authority can accommodate the employee by providing unpaid leave to complete the program. The Authority reserves the right to deny such leave in accordance with applicable state or federal law if granting the leave is unreasonable or would impose an undue hardship on the Authority.

EMPLOYEE ACKNOWLEDGMENT OF
RECEIPT OF DRUG- AND ALCOHOL-FREE WORKPLACE POLICY

My signature below acknowledges that I have received my copy of the Authority's Drug- and Alcohol-Free Workplace Policy ("Policy") and that I have read the Policy and understand my rights and obligations under the same.

I understand that this Policy only represents the Authority's current policies, procedures, rights, and obligations. Regardless of what the Policy states or provides, the Authority retains the right to add, change, or delete provisions of the Policy at any time and in its sole discretion.

By signing below, I agree to abide by all provisions of the Policy. I understand that failure to fully comply with all provisions of the Policy may lead to disciplinary action, up to and including termination.

PRINT FULL NAME: ____

SIGNATURE: ____

DATE: __________________________

[RETAIN IN EMPLOYEE PERSONNEL FILE]

APPENDIX A
SAFETY-SENSITIVE POSITIONS

- The following job classifications are safety sensitive positions:
    -

APPENDIX B

REASONABLE SUSPICION REPORT (Fillable)

EMPLOYEE:

Name:

Job Title:

Department:

Supervisor:

OBSERVATION: Location/Building:

Date: **Time: From:** ☐**AM** ☐**PM** **To:** ☐**AM** ☐**PM**

CAUSE FOR SUSPICION (*Answer all that apply*):

1. **Presence of Drugs, Alcohol, and/or Paraphernalia *(specify)*:**

2. **Appearance:**

☐ Normal ☐ Flushed ☐ Puncture Marks

☐ Disheveled ☐ Bloodshot Eyes ☐ Inappropriate wearing of sunglasses

☐ Tremors ☐ Profuse Sweating ☐ Dilated/Constricted Pupils

☐ Body Odor ☐ Dry-mouth Symptoms ☐ Runny Nose/Sores

☐ Other:

3. **Behavior:**

Speech: ☐ Normal ☐ Incoherent ☐ Slurred ☐ Silent

☐ Confused ☐ Slowed ☐ Whispering

☐ Other:

Awareness: ☐ Normal ☐ Confused ☐ Mood Swings ☐ Euphoria

☐ Lethargic ☐ Disoriented ☐ Paranoid ☐ Lack of Coordination

☐ Other:

4. **Motor Skills**

Balance: ☐ Normal ☐ Swaying ☐ Falling ☐ Staggering

☐ Other:

Walking & Turning:

☐ Normal ☐ Swaying ☐ Arms Raised for Balance

☐ Stumbling ☐ Falling ☐ Reaching for Support

☐ Other:

Other Observed Action or Behavior *(specify, add other sheets as needed)*

Witnessed by: *(must be a supervisor or manager trained in physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances)*

Signature:

Title:

Date: **Time:** **☐AM ☐PM**

Optional 2nd Signature:

Title:

Date: *Time:* *☐AM ☐PM*

FIRST PUBLIC H2

POLICY TITLE:	Family Care and Medical Leave and Pregnancy Disability Leave Policy	
POLICY NUMBER:	FPH$_2$ 2025-##	PROPOSED: June 18, 2025

I. PURPOSE:

To provide employees with information about and establish guidelines for the taking of family care and medical leave, in accordance with the California Family Rights Act ("CFRA"), the California Pregnancy Disability Leave Law ("PDL"), and the California Reproductive Loss Leave Law.

II. POLICY:

To the extent not already provided for under current leave policies and provision, the First Public Hydrogen Authority (the "Authority") will provide family and medical care leave for eligible employees as required by state law. Additional definitions and other provisions governing employees' rights and obligations under the CFRA and the PDL not specifically set forth below are set forth in the California Department of Fair Employment and Housing's CFRA regulations (2 C.C.R. § 11087 *et seq.*) and PDL regulations (2 C.C.R. § 11035 *et seq.*). This Policy is deemed to include such regulatory provisions, including subsequent revisions to such regulatory provisions. This policy also includes a separate section detailing an employee's right to receive a leave of absence under California's Reproductive Loss Leave law as provided in Government Code section 12945.6.

III. FAMILY CARE AND MEDICAL LEAVE:

A. Eligibility: To be eligible for CFRA leave, an employee must have been employed by the Authority for at least 12 months prior to the date on which the CFRA leave is to commence, and have worked at least 1,250 hours over the 12-month period preceding the CFRA leave.

B. Qualifying Reasons for CFRA Leave: Employees meeting the eligibility requirements under Section III.A. may take CFRA leave for any of the following qualifying reasons:

1. The birth of a child of the employee and in order to care for such child.

2. The placement of a child with the employee for adoption or foster care of the child by the employee and in order to care for that child.

3. Providing care for a spouse, child, parent, grandparent, grandchild, sibling, domestic partner, or a designated person[1] who is either related by blood or whose association with the employee is the equivalent of a family relationship,[2] due to a serious health condition.

4. The employee's own serious health condition.

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1 An employee may identify their "designated person" at the time the employee requests leave under this Policy.
2 Each employee shall be limited to selecting one "designated person" per twelve month period for the purposes of this Policy.

CFRA also provides for military exigency leave, which is addressed under Section V of this Policy. The PDL also provides for leave for employees with a serious health condition on account of pregnancy, childbirth, or related medical conditions, and that leave is addressed under Section IV.

C. **Child:** Leave may be taken under Section B.1., B.2., or B.3 under CFRA by an employee for a "child" who is any of the following: 1) a biological child; 2) an adopted child; 3) a foster child; 4) a stepchild; 5) a legal ward of the employee; 6) a child to whom the employee stands in loco parentis; 7) a child of a domestic partner

D. ***In loco parentis***:

1. For purposes of this Policy an employee stands *in loco parentis* by providing day-to-day care or financial support with demonstrated intent of assuming the responsibilities typically held by a parent.

2. Whether an employee stands *in loco parentis* to a child for purposes of this Policy will be determined by the Authority on a case-by-case basis, and the Authority may require reasonable documentation to support an employee's claim of providing either day-to-day care or financial support for the child.

E. **Spouse:** The definition of spouse expressly includes individuals in lawfully recognized same sex marriages, common law marriages and marriages that were validly entered into outside of the United States if they could have been entered into at least one state. In addition, the regulatory definition of spouse has moved from "state of residence" rule to "place of celebration" rule in which to look to the law of the place in which the marriage was entered into as opposed to the law of the state where the employee resides.

F. **Parent:** Parent means a biological, foster or adoptive parent, a stepparent, a legal guardian, other person who stood in loco parentis to the employee when the employee was a child, or parent-in-law. A biological or legal relationship is not necessary for a person to have stood *in loco parentis* to the employee as a child.

G. **Domestic Partner:** A registered domestic partner as defined by Family Code 297 through 297.5.

1. Two adults who have chosen to share one another's lives in an intimate and committed caring relationship.

2. Domestic partnership is established in the state of California when both persons file a Declaration of Domestic Partnership with the Secretary of State and the time of the filing all of the following requirements are met:

   a. Neither persons are married to someone else nor is a member of another domestic partnership unless otherwise terminated, dissolved, or adjudged a nullity;

b. Both persons are at least 18 years of age and are not related by blood in any way that would prevent them from being married in California; and

c. Both persons are capable of consenting to domestic partnership.

H. Serious Health Condition: A serious health condition is an illness, injury, impairment, or physical or mental condition that involves the employee or a Covered Family Member[3] that makes the employee unable to work. Specifically it involves either inpatient care or continuing treatment or supervision by health care provider as follows:

1. "*Inpatient care*" means a stay in a hospital, hospice, or residential medical care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered an "inpatient" when a health care facility formally admits the person to the facility with the expectation that the person will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.

2. "*Continuing treatment or supervision by a health care provider*" means and includes any one or more of the following:

   a. Treatment by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (*e.g.* physical therapist) under orders of, or on referral by, a health care provider, with the first visit being within seven days of the first day of incapacity;

   b. In-person treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider; or

   c. Any period of incapacity, or treatment for such incapacity, due to a chronic serious health condition, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three days. A chronic serious health condition is one which:

      i. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider; and

      ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and

      iii. May cause episodic rather than a continuing period of incapacity (*e.g.* , asthma, diabetes, epilepsy, *etc.*).

3 For purposes of this Policy, a "covered family member" means: 1) a child as defined in Section III.C; 2) a parent as defined in Section III. F; 3) a spouse as defined in Section III.E, 4) a domestic partner as defined in Section III.G; 5) a Sibling; 6) a Grandparent; 7) a Grandchild; or 8) a Designated Person as provided in section III.B.3.

d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease; or

e. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for either:

i. Restorative surgery after an accident or other injury; or

ii. A condition that would likely result in a period of incapacity of more than three consecutive days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), or kidney disease (dialysis).

3. "*Incapacity*" means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

I. **Amount of Leave Entitlement:** Provided that all applicable conditions of Section III are met, an employee may take a maximum of 12 workweeks of CFRA leave in a rolling 12-month period measured backwards from the date the employee uses any CFRA leave.

1. Employees taking CFRA leave for the birth, adoption, or foster care of their child must initiate and complete any CFRA leave within one year of the birth of the child or placement of the child with the employee for adoption or foster care.

2. An employee's CFRA leave does not need to be consecutive, but can be cumulative within a 12-month period.

3. Industrial injury leaves and all non-industrial injury leaves are CFRA leaves if they qualify as serious health conditions.

J. **Concurrent Use of Accrued Paid Leaves:** Leave taken under this Policy is unpaid. Employees may elect or may be required to use their accrued leave balances concurrently with CFRA leave, as provided below. When an employee elects or is required to use the employee's accrued leave balances, the employee may specify in writing the order in which the employee would prefer to exhaust accrued leave balances. If the employee fails to designate the order of exhaustion, the Authority will exhaust the leave balances in the following order: sick leave (subject to the terms of Section III.J.1., below), vacation, and administrative leave. The paid leave shall run concurrently with the CFRA leave, and shall not extend the employee's entitlement to CFRA leave.

1. **Sick leave:** Employees are required to coordinate all accumulated sick leave concurrently when CFRA leave is taken for the employee's own serious health

condition. Employees may elect to so coordinate their accumulated sick leave when CFRA leave is taken for any other reason under Section III.B. of this Policy.

2. **Other paid leaves:** Employees are required to coordinate all other accrued paid leaves of absence, including but not limited to, compensatory time off, administrative leave, vacation, and holiday leave, when taking CFRA leave for any reason.

3. **Coordination with Wage Replacement Plans:** If an employee who is on CFRA leave is also receiving a wage replacement payment from State Disability Insurance, Paid Family Leave, Short Term Disability, Long Term Disability, and/or Workers' Compensation the employee and the Authority may mutually agree to coordinate the employee's accrued paid leaves with the amount received from the wage replacement plan, up to an amount equal to the employee's regular salary.

K. Intermittent or Reduced Schedule Leave: Intermittent CFRA leave is leave taken on an as-needed basis in increments of minutes, hours, or days. A reduced schedule CFRA leave involves a reduction in the number of hours per day or per week that an employee regularly works, with the employee substituting CFRA time for hours not worked. The minimum CFRA leave increment that can be taken by an employee is _______________. [NOTE TO EMPLOYER: this should be the smallest increment that can be calculated by your payroll system.]

1. **Calculation of Intermittent or Reduced Schedule Leave:** The maximum equivalent number of hours to which an employee is entitled during the 12-week period will be based on the employee's regularly scheduled workweek. For example, an employee who is regularly scheduled to work 40 hours per workweek will be entitled to a maximum of 480 hours of CFRA leave, whereas, an employee who is regularly scheduled to work 32 hours per workweek will be entitled to a maximum of 384 hours of CFRA leave. In calculating this amount for employees with a varying schedule, the Authority will use an average of the employee's workweeks within the 12-month period immediately preceding the intermittent or reduced schedule leave.

2. **Impact on Salary:** Where permitted by applicable state and federal wage and hour laws, the Authority may make deductions from an employee's salary for all hours of leave taken as intermittent leave, unless the employee is entitled or required to coordinate paid leave. Such deductions do not affect the employee's classification as exempt or nonexempt for purposes of the Fair Labor Standards Act.

3. **Inclusion of Scheduled Overtime**: If an employee normally would be required to work overtime hours, but is unable to do so because of a CFRA-qualifying reason that limits the employee's ability to work overtime, the hours that the employee would have been required to work may be counted against the employee's CFRA entitlement, as the employee would be considered to be using intermittent or reduced schedule leave. For example, if an employee is normally required to work 50 hours in a particular workweek, but because of a CFRA-qualifying reason, the

employee works only 40 hours that week, the employee would use 10 hours of CFRA-protected leave out of the 50-hour workweek.

4. **Conditions for Taking Intermittent or Reduced Schedule Leave**

   a. CFRA leave taken for the employee's own serious health condition, or the serious health condition of the covered family member, as defined in Footnote 1 above, or for military caregiver leave under Section V.B. of this policy, may be taken intermittently or on a reduced leave schedule when medically necessary (as distinguished from voluntary treatments and procedures).

   b. Military exigency leave under section V.A. of this Policy may be taken on an intermittent or reduced schedule basis without limitation.

   c. Leave taken following the birth, adoption, or placement of foster care of a child may be taken on an intermittent or reduced schedule basis, subject to the conditions set forth in Section III.K.6., below.

5. **Temporary Transfer:**

   a. **Required by the Authority**: The Authority may require that the employee temporarily transfer to an available alternative position for which the employee is qualified and which provides equivalent pay and benefits and that better accommodates recurring leave periods than the employee's regular position.

   b. **Requested by Employee**: An employee on intermittent or reduced schedule CFRA leave for foreseeable and planned medical treatments may request a transfer to an open and available position for which the employee is qualified, if the duties of that position would better accommodate the employee's intermittent or reduced schedule CFRA leave. Transfers will not be considered under this Section when the intermittent or reduced schedule CFRA leave is unscheduled, such as in the case of chronic conditions.

6. **Leave Taken for Baby Bonding:** The basic minimum duration of a leave taken for the birth, adoption, or foster care of a child shall be two weeks. However, the Authority will also grant two requests for shorter leave periods in the applicable one-year period.

L. Employee Notice: Employees requesting leave under the CFRA must notify their supervisor in accordance with the rules set forth below. Employees will provide the supervisor with sufficient information to make the Authority aware that the employee needs CFRA leave, and the anticipated timing and duration of that leave. Supervisors must forward any such requests to the Managing Director. Employees may also provide notice of requested CFRA leave to Managing Director directly.

1. **Foreseeable Events:** An employee must provide the Authority with at least 30 days' advance notice before the date the leave is to begin, or must provide notice as soon as is practicable, normally the same business day or next business day if the employee is off work when the employee learns of the need for leave. If the employee provides less than 30 days' advance notice, the Authority may require explanation of why 30 days' advance notice was not practicable.

   a. In any case in which the need for CFRA leave is foreseeable based on one of the circumstances listed below in sub-section b., the employee shall make a reasonable effort to schedule any planned medical treatment or supervision so as not to unduly disrupt the operations of the Authority. However, any such scheduling shall be subject to the approval of the health care provider of the employee or the covered family member as defined in Footnote 1 above.

   b. The need for leave is considered "foreseeable" when it is taken for any of the following reasons:

      i. Planned medical treatment for a serious health condition of the employee.

      ii. Planned medical treatment for a serious health condition of a family member.

      iii. An expected birth, or placement for adoption or foster care.

   c. If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the Authority reserves the right to delay the taking of the leave by up to 30 days after the date the employee provides notice of the need for CFRA leave.

2. **Unforeseeable Events:** If an employee requires CFRA leave for an unforeseeable event, the employee is required to provide notice to the Authority as soon as is practicable.

3. **Notice of Intermittent/Reduced Schedule Leave:** The notice requirements for foreseeable intermittent or reduced schedule leaves shall be the same as for other foreseeable leaves, and the notice requirements for unforeseeable intermittent or reduced schedule leave shall be the same as for other unforeseeable leaves.

4. **Contents of Notice:** All requests for CFRA leave should include the anticipated date(s) and duration of the leave and be sufficient to make the Authority aware that the employee needs leave under the CFRA. The employee must state the reason the leave is needed, by reference to the list in Section III.B. of this Policy. When the employee provides notice, it may not contain sufficient information for the Authority to determine whether the employee's leave could be for a CFRA-qualifying purpose. In such cases, the Authority may follow up with the employee for additional information, and the employee is required to respond to the same.

However, the employee shall not be required to provide the Authority with a diagnosis.

5. **Changes to Dates of Leave:** The employee must advise the Authority as soon as practicable when the employee learns that the dates of the CFRA leave may change.

6. **Requests for Extension:** Any requests for extensions of a CFRA leave must be received at least five business days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the CFRA leave. If the employee has exhausted the employee's leave entitlement under Section III.I., the Authority will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation for the employee's own serious health condition; however, any such additional leave shall not be subject to the provisions of this Section III.

M. **Authority Response to a Request for CFRA Leave or Request for Extension - Eligibility Notice**: Within five business days of an employee's request to take CFRA leave, the Authority shall provide the employee with a written Eligibility Notice. The Eligibility Notice is not a designation of the employee being on CFRA Leave. The Eligibility Notice shall include the following information:

1. Whether the employee is eligible to take CFRA leave. If the employee is ineligible for CFRA leave, the notice will include the reason(s) why the employee is ineligible.

2. Whether the employee has exhausted the employee's 12-week CFRA entitlement.

3. Whether additional information, such as a medical certification, is required from the employee in order to process the employee's request for CFRA leave or request for extension.

4. The employee's rights and responsibilities under the CFRA, which will include a statement of whether the employee is required to provide a medical certification or recertification. A statement requiring a medical certification will also advise the employee of the anticipated consequences of the employee's failure to provide adequate notice.

5. If the employee has requested an extension of leave for the employee's own serious health condition but has exhausted the leave entitlement under Section III.I., the Authority will advise whether additional leave will be granted as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section III.

N. **Medical Certification and Recertification**: Any request for CFRA leave for an employee's own serious health care condition or for CFRA leave to care for a family member with a serious health condition must be supported by medical certification from the treating health care provider. Employees are encouraged to use the Authority's medical certification form to ensure that all pertinent information is obtained. Any request for an extension of CFRA leave also must be supported by a medical certification from the treating health care provider. Again, employees are encouraged to use the Authority's medical certification to ensure that all pertinent information is obtained.

1. **Timing of Request for Medical Certification:** The Authority will request medical certification:

   a. Within five business days after an employee requests foreseeable leave; or

   b. Within five business days after an employee provides notice of an unforeseeable leave, or within five business days after an unforeseeable leave commences, whichever is later.

2. **Timing for Employee's Return of the Medical Certification:** All medical certifications and recertifications must be returned to the Authority within 15 days from the Authority request, regardless of whether the leave is foreseeable or unforeseeable. Exceptions to this may be granted when it is not practicable to provide the certification or recertification within 15 days, despite the employee's diligent, good faith efforts to do so.

3. **Certification for Serious Health Condition of Covered Family Member:** The employee must have the patient's treating health care physician complete a medical certification form when requesting family leave to care for a Covered Family Member (as defined in Footnote 1, above) with a serious health condition. Employees are encouraged to use the Authority's medical certification form to ensure that all pertinent information is obtained.

   a. **Medical Recertification:** If the employee requests additional leave beyond the time period which the health care provider originally estimated that the employee needed to take care of a Covered Family Member, the Authority may request a recertification from the employee.

4. **Certification for the Employee's Own Serious Health Condition:**

   a. **First Opinion:** The employee must have the employee's health care physician complete a medical certification form when requesting CFRA leave for the employee's own serious health condition. Employees are encouraged to use the Authority 's medical certification form to ensure that all pertinent information is obtained.

   b. **Second and Third Opinions:** If the Authority has reason to doubt the validity of the certification provided by the employee, the Authority may require the employee to obtain a second opinion from a doctor of the Authority's choosing at the Authority's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the Authority may require a third opinion, also at the Authority's expense, performed by a mutually agreeable doctor who will make a final determination that shall be binding on both the Authority and the employee.

c. **Medical Recertification:** The Authority may request recertification of a medical condition upon the expiration of the time period which the health care provider originally estimated, if additional CFRA leave is requested.

5. **Certification for an Employee's Return to Work:**

a. **Returning from a Continuous Leave:** As a condition of restoration to the employee's former position, an employee taking continuous leave under the CFRA is required to provide the Authority with certification from the employee's health care provider stating that the employee is able to resume essential work functions. An employee who fails to provide the certification may have reinstatement delayed.

b. **Returning from an Intermittent or Reduced Schedule Leave:** In addition to the requirement in Section 5.a., above, if the employee is on intermittent or reduced schedule leave, the Authority may require a fitness for duty certification at fixed intervals not exceeding every 30 days if there are reasonable safety concerns. "Reasonable safety concerns" means a reasonable belief of significant risk of harm to the employee or others.

c. **Contents of Certification:** The Authority will provide the employee with a form and a copy of the employee's job description for the employee health care provider to review in completing the fitness for duty certification, and employees are encouraged to use the Authority's form to ensure that all pertinent information is obtained. The employee must provide a complete and sufficient fitness for duty certification. If the employee's health care provider releases the employee back to work with restrictions, the Authority will engage in the interactive process to determine what reasonable accommodation, if any, will permit the employee to return to work in accordance with the ADA and the FEHA.

6. **Employee's Failure to Provide a Medical Certification or Recertification:** If the employee fails to timely provide a complete and sufficient medical certification when requested, the request for CFRA leave may be denied, delayed until a sufficient certification is provided. Employees will be advised of these consequences in connection with any request by the Authority for medical certification or recertification.

O. Authority's Designation of Leave: Absent extenuating circumstances, within five business days after the Authority has acquired enough information to determine whether the employee's request qualifies for CFRA leave, the Authority will provide the employee with a written Designation Notice.

1. **Designating Leave as CFRA-Qualifying:** If the leave is designated as being CFRA-qualifying, the Designation Notice will contain, but is not limited to, the following information:

a. A statement that the leave is being designated as CFRA leave;

b. The amount of leave being counted as CFRA leave, if known;

c. Whether accrued paid leave will be used during the leave, and that any paid leave used will count as CFRA leave;

d. Whether a medical certification or recertification will be required to release the employee to return to work; and

e. Whether a job description or description of essential duties is attached to the Designation Notice for the health care provider to use in completing the medical certification or recertification to release the employee to return to work.

2. **Unable to Designate:** If the Authority is unable to determine whether the leave requested is CFRA-qualifying because more information is needed, the employee will be informed that

a. The medical certification is incomplete or insufficient, and the Authority will provide a list of deficiencies and explain the employee's opportunity to cure said deficiencies; or

b. A second or third medical opinion is being required.

3. **Not Designating Leave as CFRA-Qualifying:** If the Authority has determined that the employee's leave does not qualify as CFRA leave, or that employee has exhausted the 12-week CFRA entitlement, the Authority will notify the employee in writing that the leave is not being designated as CFRA leave, and the reason for the denial

P. Employment Benefits and Protection:

1. **Previously Accrued Benefits and Seniority Status:**

a. Leave under the CFRA will not result in the loss of any employment benefits accrued before the date the leave commenced.

b. Leave under the CFRA will not constitute a break in service or otherwise cause the employee to lose longevity or seniority, even if other paid or unpaid leave constitutes a break in service for purposes of establishing longevity or seniority, or for layoff, recall, promotion, job assignment, or seniority-related benefits.

2. **No Accrual of Leave or Seniority during Unpaid CFRA Leave:**

a. An employee on unpaid CFRA leave shall not accrue any additional paid leave time. Thus, employees will not accrue vacation leave, sick leave, administrative leave, nor will they be paid for holidays during the unpaid leave.

b. The time off on unpaid CFRA leave shall not count as time worked for purposes of establishing additional seniority for purposes of layoff, recall, promotion, job assignment, and other seniority-related benefits.

c. However, during the time that an employee supplements the employee's unpaid CFRA leave with paid leave, the employee will continue to accrue leaves and benefits in accordance with the provisions of the Authority's policy governing those leaves of absence (*i.e.,* when coordinating with sick leave, the rules governing sick leave will apply with regard to the employee's benefits).

3. **Maintenance of Health Insurance of the Employee:** Employees will continue to receive the same medical benefits while on CFRA leave for up to 12 workweeks, or longer depending on the basis for the qualifying leave, in a 12-month period. The Authority shall be responsible for the continued payment of the Authority's share of the cost of the employee's health benefits during the leave period. Benefits for absences beyond the allotted period will be handled in the same manner as benefits for employees on any other type of unpaid leave of absence. An employee who notifies the Authority that the employee does not intend to return to work from the CFRA leave is not entitled to medical benefits provided by the Authority as if the employee were on a CFRA leave and instead is entitled to the benefits provided to employees who are on an unpaid leave of absence for any other reason.

4. **Maintenance of Benefits Requiring Employee Contributions:**

a. During any period of unpaid leave, unless otherwise prohibited by applicable law, an employee may elect to discontinue health insurance coverage for the employee, a spouse, registered domestic partner, and/or any dependent(s) as well as any other benefits offered or sponsored by the Authority to which the employee is required to make monthly contributions. Employees must notify the Authority in writing of such an election.

b. An employee will continue to be responsible for making the payment of monthly contributions for which the Authority has not received advanced notice of election to discontinue. If any premium amounts are increased or decreased for other employees similarly situated, the employee will be required to pay the new premium rates.

c. All monthly contributions are due and payable to the Authority at the same time as they would be if made through payroll deduction.

d. If any monthly contributions are not received within 30 days of their due date, the Authority has the option to either discontinue said benefit(s) or continue said benefit(s) by making the monthly contributions on the employee's behalf.

e. Upon the employee's return to work, the Authority is entitled to seek reimbursement from the employee for the employee's share of any monthly contributions made on the employee's behalf.

f. Employees included in a pension or retirement plan may continue to make contributions in accordance with the terms of the plan during the period of leave. However, the Authority shall not be required to make plan payments for employees during the leave period which is unpaid, and the unpaid leave period shall not be counted for purposes of time accrued under the plan.

g. If the Authority provides a new health plan or benefits or changes health plans or benefits while an employee is on CFRA leave, the Authority will give written notice to the employee to advise that the employee is subject to the new or changed plan/benefits in the same manner, and to the same extent, as if the employee were not on leave.

5. **Failure to Return from Leave:** The Authority may recover the entire premium it paid for maintaining health insurance benefits for an employee during any period of unpaid leave if the employee fails to return to work promptly upon the expiration of a leave for a reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to leave or other circumstances beyond the employee's control.

Q. Reinstatement:

1. **Restoration to Position:** When an employee returns from a leave under the CFRA, the employee will be restored to the position held when the leave began, or to a comparable position, with equivalent (i.e. virtually identical) employment benefits, pay, and other conditions of employment.

   The duties of the position must be capable of being performed in the same or similar geographic location, and involve the same or substantially similar duties as

   the position held when leave began, with responsibilities that entail substantially equivalent skill, effort, responsibility.

2. **Denial of Restoration Rights:** The Authority may refuse to reinstate an employee to the employee's pre-leave position at the conclusion of a CFRA leave when the employee's position and any comparable position have ceased to exist because of legitimate business reasons unrelated to the employee's CFRA leave. In this case, the Authority shall reasonably accommodate the employee through alternative means that will not cause undue hardship to the Authority's operation. The Authority may offer the employee any other position that is available and suitable. The Authority is not required to create new employment that would not otherwise be created, discharge or transfer another employee, or promote another employee who is not qualified to perform the job.

3. **Opportunity to Fulfill Missed Requirements:** If an employee is unable to attend a necessary course, renew a license, or is otherwise adversely affected in terms

of fulfilling minimum requirements or qualifications for the position as a result of the CFRA leave the employee will be given a reasonable opportunity to fulfill those requirements or qualifications upon returning to work from CFRA leave.

4. **Accommodation Upon Returning from Leave:** Nothing in this section prevents the Authority from accommodating an employee's request for any change in shifts, schedule, position, or geographic location. Similarly, nothing in this section prohibits the Authority from offering a promotion to a better position, or from providing a reasonable accommodation pursuant to its obligations under the Americans with Disabilities Act and the Fair Employment and Housing Act.

IV. PREGNANCY DISABILITY LEAVE OR TRANSFER.

A. Eligibility and Duration:

1. **Eligibility:**

   a. Any employee who is disabled on account of pregnancy, childbirth, or related medical conditions may take a pregnancy-related disability leave, regardless of the number of hours worked or her length of employment with the Authority.

   b. An employee's pregnancy-related disability is not considered a serious health condition under the CFRA and is not counted against an employee's CFRA leave eligibility.

2. **Amount of Leave Entitlement:** An eligible employee may take a pregnancy-related disability leave for the period of disability, up to four months (an equivalent of 17 1/3 weeks). An employee is entitled to take off the number of days or hours that the employee would normally work during 17 1/3 weeks of employment. For example, an employee, who regularly works 40 hours per week is entitled to take 693 hours of leave, and an employee who regularly works 20 hours per week, would be entitled to 346.5 hours of leave.

3. **Temporary Transfer:** Any employee affected by conditions related to pregnancy, childbirth, or related medical conditions is entitled to transfer temporarily to a less strenuous or hazardous position or to less strenuous or hazardous duties upon the certification of the employee's health care provider that the transfer is medically advisable, if the transfer can be reasonably accommodated.

4. **Reasonable Accommodation:** The Authority will provide reasonable accommodation to an employee who is affected by pregnancy, childbirth or related medical conditions as required by law.

B. Use of Accrued Leave: An employee taking pregnancy-related disability leave must coordinate any available sick leave with her pregnancy-related disability leave. An employee taking pregnancy-related disability leave may, at her option, coordinate any other accumulated paid leaves, including, but not limited to, vacation time, holiday pay, compensatory time off, or administrative leave with her pregnancy-related disability leave. The paid leave shall run concurrently with the pregnancy-related disability leave, and shall not extend the employee's entitlement to pregnancy-related disability leave beyond the amount specified in Section IV.A.2 of this Policy.

C. **Notice**: An employee should notify her supervisor of her need for pregnancy-related disability leave or transfer as soon as she is aware of the need for such leave.

1. **Foreseeable Events:** Where the need for pregnancy-related disability leave or transfer is foreseeable, the employee must provide at least 30 days' advance notice to the Authority of the need for pregnancy-related disability leave or transfer. If the leave or transfer is required in connection with any planned, non-emergency medical treatment or supervision, the employee shall consult with the Authority and make a reasonable effort to schedule any such planned medical treatment or supervision to minimize disruption to the Authority's operations, subject to the approval of the health care provider of the employee.

2. **Unforeseeable Events:** For non-emergency events that are not foreseeable 30 days in advance, or when 30 days' advance notice is not practicable, the employee must notify the Authority as soon as practicable under the circumstances, ordinarily within two business days after the employee learns of the need for leave.

3. **Notice of Intermittent Leave:** In the event that an employee requires intermittent pregnancy-related disability leave, she shall notify the Authority of the anticipated dates for the absences as much in advance as possible.

4. **Failure to Provide Notice:** If the employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the Authority reserves the right to delay the employee's right to take the CFRA leave for up to 30 days after the date the employee provides notice of the need for pregnancy-related disability leave or transfer; provided, however, that the delay would not endanger the employee's health, pregnancy, or health of the employee's co-workers.

D. **Contents of Notice or Request for Extension**:

1. All requests for pregnancy-related disability leave or transfer should include the anticipated timing and duration of the leave or transfer and be sufficient to make the Authority aware that the employee requires a pregnancy-related disability leave or transfer. Any requests for extensions of a pregnancy-related disability leave or transfer must be received at least five business days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the pregnancy-related disability leave or transfer.

2. If the employee has exhausted her leave entitlement under Section IV.A.2., the Authority will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section IV.

E. **Intermittent or Reduced Schedule Leave**: Pregnancy-related disability leave can be taken on an intermittent or on a reduced schedule basis when medically advisable, as determined by the employee's health care provider. The minimum pregnancy-related disability leave increment that can be taken by an employee is fifteen minutes. If pregnancy-related disability is taken on an intermittent or reduced schedule basis and it is foreseeable based on planned medical treatment because of pregnancy, the Authority retains the discretion to temporarily transfer the employee to an alternative position, for which the employee is qualified, with equivalent pay and benefits, which better accommodates the employee's leave schedule, but need not have equivalent duties.

F. **Authority Response to a Request for Pregnancy-Related Disability Leave or Transfer or Request for Extension**: Within five business days of an employee's request for pregnancy-related disability leave or transfer, the Authority shall provide the employee with a written Eligibility Notice, which shall conform to the provisions of Section III.M. The Eligibility Notice shall also inform the employee of her additional rights under the California PDL. If the employee has exhausted her leave entitlement under Section IV.A.2., the Authority will advise whether additional leave will be granted as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section IV.

G. **Medical Certification:**

1. **Timing of Certification:** Any request for pregnancy-related disability leave or transfer must be supported by a medical certification from a health care provider.

    a. For foreseeable pregnancy-related disability leaves or transfers, employees will provide the required medical certification before the leave/transfer begins. When this is not possible, employees must provide the required certification within 15 days, unless it is not practicable under the circumstances to do so. Failure to provide the required medical certification may result in the denial or delay of foreseeable pregnancy-related disability leaves or transfers until such certification is provided.

    b. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave until certification is eventually provided. Any request for an extension of the leave/transfer must also be supported by an updated certification.

2. **Contents of the Certification for Pregnancy-Related Leave:** Employees are encouraged to use the Authority's medical certification when requesting pregnancy-related disability leave to ensure that all pertinent information is obtained. The following information must be included: (1) date the employee became or will become disabled due to pregnancy; (2) the probable duration of the period or periods of disability; and (3) an explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons.

3. **Contents of the Certification for Pregnancy-Related Transfers:** Employees are encouraged to use the Authority's medical certification when requesting

pregnancy-related disability transfer to ensure that all pertinent information is obtained. The medical certification for pregnancy-related transfer shall include: (1) a description of the requested transfer or reasonable accommodation; (2) the date the need for the transfer or reasonable accommodation became medically advisable; (3) the probable duration of the need for the transfer or reasonable accommodation; and (4) an explanatory statement that, due to the disability, the transfer or reasonable accommodation is medically advisable.

4. **No Second/Third Opinions Allowed:** There will not be a second or third opinion regarding pregnancy-related disability leave or transfer.

5. **Return to Work Certification:** As a condition of restoration to her former position, an employee taking leave under the PDL is required to provide the Authority with certification from her health care provider stating that she is able to resume her original job duties.

H. **Authority's Designation of Leave**: Once an employee requests pregnancy-related disability leave or transfer, Managing Director shall notify the employee in writing whether the requested leave or transfer is approved and qualifies as pregnancy-related disability leave or transfer. This designation shall comply with the provisions of Section III.O., and shall also inform the employee of any additional rights and obligations under the California Pregnancy Disability Leave Law.

I. **Employment and Benefits Protection**: The provisions set forth in Section III.P. of this Policy regarding employment and benefits protection in connection with CFRA leave also apply to all pregnancy-related disability leaves, except that where the Authority 's policy permits employees on paid leave and/or unpaid leave to accrue seniority, employees on paid and/or unpaid pregnancy-related disability leaves shall also accrue seniority.

J. **Reinstatement**: Upon the completion of the employee's pregnancy-related disability leave or transfer period, and upon submission of the return to work notice, the employee shall be returned to the same position she previously held, or to a comparable position as permitted by law. However, for pregnancy-related disabilities, there is no reinstatement exception for key employees.

V. <u>MILITARY EXIGENCY LEAVE</u>.

The CFRA provides for military exigency leave. The Authority permits employees who have a covered military family member in the Armed Forces (including the National Guard or Reserves) to take up to twelve workweeks of CFRA leave due to a qualifying exigency resulting from the covered military family member's active military duty (or call to active duty status) in support of a contingency operation.

1. **Definitions:**

   a. **Armed Forces:** The Army, Navy, Air Force, Marine Corps, or Coast Guard, including the National Guard and Reserves.

   b. **Covered Active Duty or Call to Active Duty Status:** One of the following:

i. For a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; or

ii. For a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of Title 10, United States Code.

c. **Covered Military Family Member:** An employee may take leave under CFRA for the employee's spouse, domestic partner, child or a parent who is a member of the Armed Forces and is on Covered Active Duty or Call to Active Duty Status.

d. **Covered Military Family Member's Child:** The biological, adopted, or foster child, stepchild, legal ward, or child for whom the Military Family Member stands *in loco parentis*, within the meaning of Section III.D. of this Policy, who is either under the age of 18 or who is aged 18 or older but incapable of self-care because of a physical or mental disability at the time leave under this Section V.A. is to commence.

e. **Covered Military Family Member's Parent:** The biological, adoptive, step, or foster father or mother, or an individual who stood *in loco parentis*, within the meaning of Section III.D. of this Policy, to a Covered Military Family Member who was under 18 years of age.

2. **Qualifying Reasons for Military Exigency Leave:** Military exigency leave can be taken for the following non-medical, non-routine activities only:

a. **Short-Notice Deployment Activities:** If a Covered Military Family Member receives seven or less calendar days' notice prior to the date of deployment, an employee may take CFRA leave to address any issue arising from an impending call or order to active duty in support of a contingency operation. The employee may take CFRA leave for up to seven days beginning on the date the Covered Military Family Member receives the notice of impending call or order to active duty.

b. **Military Events and Related Activities:** An employee may take CFRA leave to attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of the Covered Military Family Member. An employee may also take CFRA leave to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or American Red Cross that are related to the active duty or call to active duty status of a Covered Military Family Member.

c. **Childcare and School Activities:** An employee may take CFRA leave for the following reasons, if the reason is necessitated by the Covered Military Family Member's active duty or call to active duty status, or circumstances arising from it:

i. To make alternative childcare arrangements of a Covered Military Family Member's Child;

ii. To provide childcare for a Covered Military Family Member's Child on an urgent, immediate need basis, but not on a regular, routine, or everyday basis;

iii. To enroll in or transfer a Covered Military Family Member's Child in a new school or day care facility; and/or

iv. To attend meetings with staff at a school or day care facility, such as regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, for a Covered Military Family Member's Child.

d. **Financial and Legal Arrangements:** An employee may take CFRA leave in order to make or update financial or legal arrangements to address the Covered Military Family Member's absence while on active duty or call to active duty status; and/or to act as the Covered Military Family Member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the Covered Military Family Member is on active duty or call to active duty status (up to a period of 90 days following the termination of the Covered Military Family Member's active duty status).

e. **Counseling Activities:** An employee may take CFRA leave to attend counseling, provided that:

i. The need for counseling arises from the Covered Military Family Member's active duty or call to active duty;

ii. Such counseling is provided by someone other than a health care provider; and

iii. The counseling is for the employee, the Covered Military Family Member, and/or the Covered Military Family Member's Child. (Note that if medical counseling is needed due to a serious health condition, the employee may be able to take CFRA leave under Section III instead.)

f. **Rest and Recuperation Activities:** If a military member is granted short-term, temporary, rest and recuperation leave during the period of deployment, an employee may take CFRA leave to spend time with the military member. An employee may take CFRA leave for this purpose for up to fifteen calendar days for each instance of rest and recuperation, beginning on the date the Covered Military Family Member commences each instance of rest and recuperation leave.

g. **Post-Deployment Activities:** An employee may take CFRA leave to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following termination of the Covered Military Family Member's active duty status. An employee may also take CFRA leave to address issues that arise from the death of a Covered Military Family Member while on active duty status, such as meeting and recovering the body of, making funeral arrangements for, or attending funeral services for the Covered Military Family Member.

h. **Parental Care:** An employee may take CFRA leave for care of a Covered Military Family Member's Parent who is incapable of self-care.

i. "Incapable of self-care" means that the individual requires active assistance to provide daily self-care in three or more of the following activities: caring appropriately for one's grooming and hygiene; bathing; dressing; eating; cooking; cleaning; shopping; taking public transportation; paying bills; maintaining a residence; using telephones and directories; using a post office; or other activities or instrumental activities of daily living.

ii. An employee may take parental care leave for the following purposes when the need arises from the covered active duty or call to active duty of the Covered Military Family Member:

A. To arrange for alternative care of the Covered Military Family Member's Parent from the existing care arrangement;

B. To provide care for the Covered Military Family Member's Parent on an urgent, immediate need basis (as opposed to a routine, regular, or everyday basis);

C. To admit to or transfer to a care facility the Covered Military Family Member's Parent; or

D. To attend meetings with staff at a care facility, such as meetings with hospice or social service workers, that are not regular or routine.

i. **Additional Activities:** An employee may take CFRA leave for another form of exigency, provided that:

i. The reason for the leave arises out of the Covered Military Family Member's active duty or call to active duty;

ii. The Authority and the employee mutually agree that such leave shall be considered taken for a qualifying exigency; and

iii. The Authority and employee mutually agree on the timing and duration of the leave.

3. **Employee Notice of Need for Military Exigency Leave.**

a. **Timing of Notice:** Employees are required to give notice of the need for military exigency leave as soon as practicable under the circumstances.

b. **Content of Notice:** Employees are required to provide the Authority with sufficient information, depending on the situation, to notify the Authority as to the anticipated timing and duration of the leave, that a Covered Military Family Member is on active duty or call to active duty status, and that one of the qualifying exigencies in Section V.2. is present.

c. **Updates from Employee:** The employee is required to advise the Authority as soon as is practicable when the dates of leave or other circumstances change.

4. **Authority Response to Notice of Need for Military Exigency Leave:** The Authority will request any additional, necessary information needed to process the employee's request and will also follow the procedures set forth under Section III of this Policy in responding to an employee's notice that employee has a need for military exigency leave.

5. **Certification of Need for Military Exigency Leave:** The Authority will request certification of the employee's need for military exigency leave when it provides notice under Section III., and will provide the employee with a form to complete or an explanation of the information needed. Employees requesting military exigency leave for the first time for a particular active duty or call to active duty are also required to provide the Authority with a copy of the military member's active duty orders.

a. **Required Information for Certification:**

i. A signed statement or description by the employee of the facts supporting the request for leave for one or more of the reasons set forth in Section V.2 and any available supporting written documentation, including, but not limited to, meeting announcements, appointment confirmations, or a copy of a bill for services.

ii. The approximate date on which the reason for the leave commenced, or will commence.

iii. The applicable timeframe.

A. If for a single, continuous period of time, the beginning and end dates for the employee's absence from work;

B. If on an intermittent or reduced schedule basis, the estimated frequency and duration of the employee's absences.

iv. For leave involving a meeting with a third party, appropriate contact information for the individual or entity, such as name, title, organization, address, telephone number, fax number, and email address, as well as a brief description of the purpose of the meeting.

v. For leave involving rest and recuperation activities, a copy of the Covered Military Family Member's Rest and Recuperation orders, or other documentation issued by the military indicating that the Covered Military Family Member has been granted Rest and Recuperation leave and identifying the dates of that Rest and Recuperation leave.

b. **Timing of Authority's Notice of Required Certification:** The Authority will request the certification in accordance with the timeframes set forth in Section III.N. of this Policy.

c. **Insufficient or Incomplete Certification:** Employees are required to provide a complete and sufficient certification. If an employee provides an incomplete or insufficient certification, the Authority will give the employee written notice of the deficiencies and seven calendar days to cure the deficiencies, unless seven days is not practicable, despite the employee's diligent, good faith efforts. The employee's leave may be denied if the employee fails to provide timely a required certification.

d. **Verification of Certification:** The Authority may verify the employee's certification by contacting the appropriate Department of Defense unit to verify the military member is on active duty or call to active duty status. If the exigency involves meeting with a third party, the Authority may contact the entity or individual with whom the employee is meeting to verify the meeting or appointment schedule and the nature of the meeting. The Authority will not request additional information. No permission from the employee is required for such verification.

VI. <u>REPRODUCTIVE LOSS LEAVE</u>

A. Eligibility: Upon completion of thirty (30) days of employment with the Authority, all employees are eligible to receive reproductive loss leave as provided in this section.

B. Definitions: The following definitions are applicable to this section of this Policy.

1. Reproductive loss event: means the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.

2. Failed adoptions: means the dissolution or breach of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party. This event applies to any person who would have been the parent if the adoption was completed.

3. Failed surrogacy: means the dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate. This event applies to any person who would have been the parent if the child was born as a result of the surrogacy.

4. Miscarriage: means a miscarriage by a person, by the person's current spouse or domestic partner, or by another individual if the person would have been a parent of a child born as a result of the pregnancy.

5. Stillbirth: means a stillbirth resulting from a person's pregnancy, the pregnancy of a person's current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy that ended in stillbirth.

6. Unsuccessful assisted reproduction: means an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure. This event applies to a person, the person's current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy.

C. **Leave Entitlement:** An employee is entitled to receive up to five (5) days of unpaid leave under this section following a reproductive loss event. If an employee experiences more than one reproductive loss event within a twelve (12)-month period, the Authority will grant additional reproductive loss leave, under this section, up to twenty (20) days within a twelve (12) month period. An employee may use leave entitlement under this section nonconsecutively. Except as otherwise provided in subsection D "Impact of Other Leave" below, leave under this section shall be completed within three (3) months of the reproductive loss event.

D. **Impact of Other Leave:** If prior to or immediately following a reproductive loss event, an employee is on or chooses to go on leave under sections III or IV of this policy, or any other leave entitlement under state or federal law, the employee shall complete leave under this section within three (3) months of the end date of the other leave.

E. **Use of Accrued Paid Leave:** An employee may use vacation leave, sick leave, or other leave that is otherwise available to the employee to receive compensation while on leave under this section.

F. **Nonretaliation; Noninterference:** The Authority will not retaliate against an employee, including imposing any disciplinary action, because of the employee's exercise of the right for leave under this section or an employee giving information or testimony as to their own reproductive loss leave, or another person's reproductive loss leave. Further, the Authority will not interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this section.

G. **Confidentiality Provision:** The Authority will maintain the confidentiality of any employee requesting leave under this section. Any information provided to the Authority pursuant to this section will be maintained as confidential and will not be disclosed except, as necessary, to internal personnel, legal counsel, or as may otherwise be required by law**.**

VII. EMPLOYEE RESPONSIBILITIES AND DUTY TO COOPERATE

Employees are expected to fully cooperate with the Authority in meeting the obligations and requirements set forth under this Policy, as well as those set forth in state law. An employee's cooperation includes, but is not limited to, timely completion of all requested forms and responding to all inquiries for additional information. Cooperation also requires that an employee respond to the Authority's inquiries for information to determine whether the employee is requesting leave under the CFRA, PDL, and/or Reproductive Loss Leave. Employees are also required to consult with the Authority and make a reasonable effort to schedule foreseeable treatments so as to not unduly disrupt the Authority's operations. Employees on family care or medical leave will respond to the Authority's reasonable inquiries and keep the Authority updated as to the status of the employee's family care or medical leave.

Failure to cooperate with the Authority or failure to meet the employee's responsibilities may result in a delay in granting the employee's leave, a denial of leave, and/or a denial of the protections and benefits afforded by CFRA, PDL, and/or Reproductive Loss Leave. Employees who have questions about their responsibilities under this Policy will direct their inquiries to Managing Director.

POLICY TITLE:	Electronic Communications Policy	
POLICY NUMBER:	FPH$_2$ 2025-##	PROPOSED: June 18, 2025

Article 1. PURPOSE AND APPLICABILITY:

The purpose of the Electronic Communications Policy is to establish clear guidelines for the appropriate, secure, and lawful use of First Public Hydrogen Authority ("Authority") electronic communications systems. This includes email, messaging platforms, internet usage, social media, mobile devices, and other digital tools used for business purposes.

The policy applies to all employees, Board Members and consultants granted the right to access, or otherwise use, the Authority Electronic Communications Systems.

Article 2. DEFINITIONS:

1. Cellular Phone (Mobile Phone): A type of short-wave analog or digital telecommunication in which a subscriber has a wireless connection from a mobile telephone to a relatively nearby transmitter. Types of cellular phones include Digital/Analog, Wi-Fi, as well as Smartphones such as iPhone, and other data-enabled phones including devices equipped with direct connect functionality.

2. Electronic Communications: Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectric, or photo optical system, including but not limited to telephone calls, cellular phone calls, fax machine transmissions, and e-mail.

3. Electronic Communications Devices: Voice or data-enabled equipment, including but not limited to land-line phones, cellular phones, Smartphones, two-way radios, PDAs, and tablets, that can be used for Electronic Communications.

4. Electronic Communications Systems: All electronic equipment, devices, software, data, and other means of electronic communication (either furnished by Authority or property of the employee), including, but not limited to computer hardware and software, telephones, tablets, fax machines, cellular telephones, pagers, e-mail, Internet/World Wide Web, voice mail, personal digital assistants. Any wire, radio, electromagnetic, photo optical, photo electronic facilities for the transmission of Electronic Communications, and any computer facilities or

related electronic equipment for the Electronic Storage of such communications as well as any newly created devices yet to be created.

5. Electronic Mail (E-mail): E-mail may include non-interactive communication of text, data, images or voice messages between a sender and designated recipient(s) by systems utilizing telecommunications links. It may also include correspondence transmitted and stored electronically using software facilities called “e-mail”, “facsimile” or “instant messaging” system; or voice messages transmitted and stored for later retrieval from a computer system.

6. Electronic Storage/Electronic Storage Systems: Any system used to prepare, record, transfer, index, store, preserve, retrieve, or reproduce records. The system may be used to store documents and records that were originally created in an electronic format, as well as documents and records that were originally created on paper and then converted to an electronic format.

7. Hands-free: An adjective used to describe a device that can be used without the use of hands; most commonly used with mobile phones. Hands-free devices are equipped with both a speaker and a microphone. Common examples of hands-free devices are mobile headsets and earpieces, which can be wired or wireless, as well as blue-tooth devices, which use wireless technology to exchange data over short distances.

8. Messaging (Instant /Text (SMS) /PIN): A text-based conference over telecommunication lines such as the Internet or cellular frequencies between two or more people who may or may not be connected at the same time.

9. Internet: A worldwide network of networks, connecting informational networks communicating through a common communications language or “protocol.”

10. Land-line: Standard telephone and data communications systems that use in-ground and telephone pole cables in contrast to wireless cellular and satellite services.

11. Public Record: Any record relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

12. Smartphone: A cellular phone that is characterized as a wireless telephone set with special computer-enabled features, such as e-mail, text-messaging, Internet, Web browsing, fax, PIM, and LAN connectivity that provides computing and information storage and retrieval capabilities for personal or business use.

Examples include PDAs (Personal Digital Assistants), iPhone, and other data-enabled devices running software such as Windows Mobile and Android.

13. Social Networking Sites: Any web-based URL site that allows for the public or private posting of messages, photos or video. Social networking sites include, but are not limited to, Facebook, Instagram, Reddit, LinkedIn, and Twitter.

14. User/Users: Any person using Authority's Electronic Communications Systems.

15. Vendors: Any private person or business enterprise doing business with Authority.

16. Wi-Fi Cellular Phone: A cellular telephone that can automatically switch between conventional cellular and Wi-Fi VoIP modes, even during the course of a conversation. A Wi-Fi LAN acts, in effect, as a cellular repeater for such a phone.

Article 3. POLICY:

A. LIMITATIONS ON EMPLOYEES' PRIVACY:

1. Authority's Electronic Communications Systems, Electronic Communications Devices, and Electronic Storage Systems are Authority property and are intended for Authority business. All Electronic Communications and Electronic Storage within these systems are the property of Authority, regardless of the content, including any personal communications.

2. Authority reserves the right to monitor the Electronic Communications Systems for any reason at any time without notice to the User(s), including the right to review, audit, and disclose all matters and content sent over or stored on Electronic Communications Systems.

3. Employees should be aware that Electronic Communications and Electronic Storage can be copied, modified, and forwarded to others without the express permission of the original author. Therefore, employees must use caution in the storage, transmission, and dissemination of Electronic Communications outside of the Authority and must comply with all applicable state and federal laws. Electronic Communications and Electronic Storage of Authority may be recognized as official records in need of protection/retention in accordance with state and federal laws.

4. All uses of Electronic Communications are subject to Authority's Employee Handbook and all applicable state and federal laws, including but not limited to the California Public Records Act, open meeting laws, and the federal and California Electronic Communications Privacy Act.

5. Employees should be aware that the terms of this Policy limit their right to privacy in the workplace. Employee privacy does not extend to the employee's work-related conduct or to any use of Authority-provided Electronic Communication Devices, and employees should have **<u>no expectation of privacy</u>** with respect to any such conduct or use, including storage of Electronic Communications.

B. PASSWORDS:

1. Employees are prohibited from sharing, giving, or otherwise disclosing any passwords created by the employee or issued by Authority for any Electronic Communications Systems or Electronic Storage Systems. Passwords may be changed periodically by system administrators to ensure security.

2. Security features contained within Authority's Electronic Communications Systems such as passwords, codes, or delete functions will not prevent Authority from accessing employees' business or personal Electronic Communications, stored or otherwise, on Authority's Electronic Storage Systems or Electronic Communications Systems.

C. APPROPRIATE USE/PROHIBITED USES OF AUTHORITY'S ELECTRONIC COMMUNICATIONS SYSTEMS:

1. Authority's Electronic Communications Systems are designed to facilitate Authority business and communication through their appropriate use. Authority values its Electronic Communications Systems and Electronic Storage, and takes measures to safeguard them from corruption and illegal use, and to protect Authority from any possible liability due to illegal use of the Electronic Communications Systems and Electronic Storage.

2. No employee may receive access to Authority's Electronic Communications Systems without first reading and agreeing to comply with the procedures set forth in this Policy.

3. It is the responsibility of each Authority employee to use Authority's Electronic Communications Systems in a professional and courteous manner. Authority prohibits the use of its Electronic Communications Systems in a manner that violates any law, regulation, ordinance, or policy or procedure of Authority. Electronic Communications Systems should not be used in any way that is offensive, harmful, or insulting to any person. Other examples of prohibited uses include, but are not limited to:

    a. Illegal activities;

b. Solicitation of funds;

c. Political messages or transmissions;

d. Messages or transmissions that violate Authority's Policy Prohibiting Harassment, Discrimination, and Retaliation based on the protected characteristics outlined therein;

e. Messages or transmissions that violate Authority's Employee Handbook or another policy of Authority.

f. Any other message or transmission that is in any way inappropriate for the workplace, in the judgment of the Chief Executive Officer/Executive Director ("CEO").

4. Personal Use of Electronic Communications Systems.

Authority's Electronic Communications Systems are intended primarily for the conduct of Authority business. Limited, occasional, or incidental use of the electronic communications systems (either furnished by Authority or property of the employee) for personal, non-business purposes during working hours is permitted only under the following circumstances:

a. Personal use must not interfere with the productivity of the employee or his/her co-workers;

b. Personal use must not involve any prohibited activity described in this Policy;

c. Personal use must not involve conduct that is prohibited under any other Authority Policy or Employee Handbook;

d. Personal use must not disrupt or delay the performance of Authority business;

e. Personal use must not consume Authority resources or otherwise deplete system resources available for Authority business purposes;

f. Personal use must not be used for personal employee gain or commercial ventures;

g. Personal use must not support or advocate non-Authority related business purposes;

h. If an employee's personal use of Authority's Electronic Communications Systems results in a cost to the Authority, the cost must be reimbursed to Authority by the employee.

D. ACCESS TO ANOTHER EMPLOYEE'S ELECTRONIC COMMUNICATIONS:

1. Employees may not intentionally intercept, eavesdrop on, record, read, alter, retrieve, receive, send, or use another person's Electronic Communications, Electronic Communications Devices, or Electronic Storage without proper authorization. Employees, including system administrators and supervisors, may not, without prior authorization from the CEO, peruse Electronic Communications or Electronic Storage of other employees.

2. Requests for access to an employee's individual data, messages, and phone records must be submitted to the CEO for further action.

3. Any request for access to another employee's Electronic Communications must be supported by a legitimate, work-related reason.

E. AUTHORITY WEBSITE POLICIES

Authority's external (or public) World Wide Web site and all domains owned and maintained by Authority, represent a fundamental communication tool for providing critical Authority information. Toward that end, the development and use of Authority's sites are guided by this Web Site Policy:

1. To preserve the public nature of Authority's Website and to avoid any perception that Authority endorses or provides favorable treatment to any private person or business enterprise (collectively referred to as "vendor"), no corporate or commercial logos or links to vendor sites will be allowed on Authority's external Website, unless such link represents a mission critical partnership and is permitted by the CEO or designee.

2. Authority's Website is for "official use" only. All information disseminated through Authority website must be related to the official duties and responsibilities of employees and Authority.

3. The California Public Records Act applies to information processed, sent and stored on the Internet. Confidential information should not be posted on Authority's external Website.

F. INTERNET POLICIES

1. Authorization for Internet Access. Authorization for Internet access must be obtained through the employee's supervisor. Once authorization is approved the employee is responsible for the security of their account password and will be held responsible for all use or misuse of his/their account.

2. Appropriate/Inappropriate Use of the Internet. Employees who are granted access to the Internet are expected to use this privilege in a professional and courteous manner. The prohibited uses of Electronic Communications Systems described in this Policy apply to the use of the Internet, but in addition, all users should be aware that inappropriate use of the Internet also includes, but is not limited to, the following:

   a. Using an account assigned to another user.

   b. Making an unauthorized attempt to enter any computer.

   c. Posting, sending, disclosing, or providing access to any confidential Authority materials or information, unless expressly authorized in the course of employment.

   d. Posting, sending or providing videos or still footage taken during working hours or during the course of employment to any social networking or other non-Authority websites.

   e. Accessing websites or online content that may degrade, hamper, or impede the performance or capacity of Authority's Electronic Communication Systems;

   f. Accessing or viewing gross, indecent, obscene, harassing, pornographic, or sexually explicit materials;

   g. Accessing gambling sites;

   h. Accessing illegal drug-oriented sites; and

   i. Misrepresenting identity as being someone else, real or fictional.

3. Social Networking Sites.

   a. Personal Use of Social Networking Sites. Except as is consistent with Section C.4. of this Policy, Authority does not condone the personal use of social networking sites during the workday or by using Authority-owned equipment. Employees are also reminded and cautioned that information posted on a social networking site may be used as evidence in administrative or legal proceedings. An employee's use of social networking sites in a manner that violates Authority Employee Handbook or other personnel rules or policies will not be tolerated by Authority. In compliance with state law, Authority will not require employees to disclose usernames, passwords, or any other information related to personal social media accounts.

b. Official Authority Use of Social Networking Sites**.** Authority may elect to use social networking sites to communicate with the public. Such official use of social networking sites is strictly regulated by Authority. No employee is authorized to post information on a social networking site on behalf of Authority without the express, written permission of the CEO. Unauthorized posting on behalf of Authority will not be tolerated.

4. Authority Monitoring of Information Regarding User Access to Internet Sites and System Use.

   a. Authority reserves the right to limit access to certain sites deemed inappropriate. Information regarding sites accessed by a user may be monitored by the systems administrator(s) if authorized in writing by the CEO in advance. Should the need arise; users are obligated to cooperate with any investigation regarding the use of their computer equipment.

   b. Authority reserves the right to monitor and log all transactions in or out of the system. Information regarding such system use may be monitored by the systems administrator if authorized in writing by the CEO in advance. None of the security features contained within Authority's Electronic Communication Systems such as passwords, codes, or delete functions will prevent Authority from accessing employees' Electronic Communications, stored or otherwise, on the systems.

G. EMPLOYEE TERMS OF USE FOR AUTHORITY-ISSUED ELECTRONIC COMMUNICATIONS DEVICES:

1. Authority-issued Electronic Communications Devices are provided for the conduct of Authority business and will be issued to employees in Authority's discretion, based on Authority's assessment of employees' work-related needs.

2. The use of Authority-issued Electronic Communications Devices by employees for making personal calls may be permitted, subject to the provisions of this Policy and the Employee Handbook, if it is not excessive and does not interfere with the conduct of Authority business.

3. The use of Authority-issued Electronic Communications Devices must also be in accordance with the following requirements:

   a. All calls should be limited to the shortest amount of time necessary to conduct Authority business.

   b. All Authority employees must continuously strive to minimize costs associated with use of Authority-issued Electronic Communications Devices.

   c. Employees are not allowed to use Authority-issued Electronic Communications Devices in an illegal, illicit, or offensive manner.

   d. Employees are not allowed to use Authority-issued Electronic Communications Devices to conduct personal for-profit business.

   e. Employees are responsible for taking reasonable steps to safeguard and avoid damage to their Authority-issued Electronic Communications Devices.

   f. Features on Electronic Communications Devices requiring a fee or purchase, such as installation of "apps," text messaging, and emergency interrupts should only be used for official Authority business and only when absolutely necessary.

   g. Employees who engage in excessive personal use of Authority-issued Electronic Communications Devices may be required to reimburse Authority for a proportional amount of the expenses incurred, even if Authority does not incur additional cost as a result.

H. **MONITORING USE OF AUTHORITY-ISSUED ELECTRONIC COMMUNICATIONS DEVICES**:

On an annual basis, the CEO may review which employees have Authority-issued Electronic Communications devices and whether or not they still need them for their work.

ARTICLE 4. VIOLATIONS OF POLICY:

Violations of this Policy should be reported to the CEO or designee. Employees who violate any provision of this Policy may be subject to appropriate disciplinary action up to and including termination, as well as potential reimbursement of costs and loss or limitation of privileges.

ARTICLE 5. INFORMATION AND ASSISTANCE:

Any employees experiencing difficulties in the use of Authority's Internet services or in interpreting or implementing Authority's Electronic Communications Systems Policy are encouraged to contact the Managing Director.

Acknowledgment of Receipt and Review

I, ______________________ (EMPLOYEE NAME), ACKNOWLEDGE THAT ON ____________________ (DATE), I RECEIVED A COPY OF THE FIRST PUBLIC HYDROGEN AUTHORITY ("AUTHORITY") ELECTRONIC COMMUNICATIONS POLICY AND THAT I READ IT, UNDERSTOOD IT, AND AGREE TO COMPLY WITH IT.

I UNDERSTAND THAT AUTHORITY HAS THE MAXIMUM DISCRETION PERMITTED BY LAW TO INTERPRET, ADMINISTER, CHANGE, MODIFY, OR DELETE THIS POLICY AT ANY TIME WITH OR WITHOUT NOTICE.

NO STATEMENT OR REPRESENTATION BY A SUPERVISOR OR MANAGER OR ANY OTHER EMPLOYEE, WHETHER ORAL OR WRITTEN, CAN SUPPLEMENT OR MODIFY THIS POLICY.

I ALSO UNDERSTAND THAT ANY DELAY OR FAILURE BY AUTHORITY TO ENFORCE ANY WORK POLICY OR RULE WILL NOT CONSTITUTE A WAIVER OF AUTHORITY'S RIGHT TO DO SO IN THE FUTURE.

____

Signature

____

Printed Name

____

Date

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Allison Burns, General Counsel

Item 9: **Consider Approval of an Agreement Appointing Jason Caudle as Chief Executive Officer of First Public Hydrogen Authority**

Recommendation:

Approve agreement appointing Jason Caudle as Chief Executive Officer of First Public Hydrogen Authority.

Fiscal Impact:

Funding for the costs of the agreement have been included in the proposed Fiscal Year 2025/26 Annual Budget being considered by the Board at the June 18, 2025, Board meeting.

Background:

At the January 13, 2025, Special Meeting, the First Public Hydrogen Authority (FPH2) Board of Directors approved the execution of an Administrative Agreement and Promissory Note for the provision of staffing, including the Chief Executive Officer (CEO). Through that agreement, Jason Caudle was appointed as the initial CEO of FPH2 and has filled that position since that appointment. During his tenure significant milestones have been achieved, including the addition of the first new member, Rowland Water District, and a prospective new member being considered at today's Board meeting, the issuance and completion of a Request for Information to develop a list of prequalified hydrogen suppliers and the issuance and closure of the first Request for Proposals for hydrogen supply.

The proposed agreement for Jason Caudle to be appointed as the full-time FPH2 CEO reflects salary and benefits for similar positions in the energy industry.

Attachment:
Agreement Appointing Jason Caudle as Chief Executive Officer of First Public Hydrogen Authority

CEO EMPLOYMENT AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into in the City of Lancaster on this _____ day of June, 2025 by and between FIRST PUBLIC HYDROGEN AUTHORITY, a California joint powers authority, hereinafter referred to as "FPH2," and Jason Caudle, hereinafter referred to as "Employee."

WITNESSETH:

WHEREAS, FPH2 desires to employ the services of Jason Caudle as Chief Executive Officer of FPH2; and

WHEREAS, it is the desire of the Board of Directors to:

A. Secure and retain the services of Employee and to provide inducement for him to remain in such employment;

B. Make possible full work productivity assuring Employee's morale and peace of mind with respect to future security; and

C. Provide a just means for terminating Employee's services as such time as he may be unable to fully discharge his duties.

WHEREAS, Employee desires to accept employment as CEO of FPH2.

NOW, THEREFORE, in consideration of their mutual promises, obligations, and covenants hereinafter contained, the parties hereto agree as follows:

1. Term of Agreement. This agreement shall be in full force and effect for a period of three (3) years commencing on the date set forth above and ending _______________, 2028, unless sooner terminated pursuant to the terms hereof. Notwithstanding the foregoing, this Agreement shall annually automatically extend by one year unless either party gives the other party notice of its decision not to extend this agreement not less than six (6) months prior to the date of expiration.

2 Duties. FPH2 hereby agrees to hire the services of Employee to perform the functions and duties as specified in Exhibit A hereto, with the cooperation and assistance of its Board of Directors and staff.

3. Compensation. In consideration of the performance of the duties and functions as outlined herein, Employee shall receive the sum of Three Hundred Eighty Five Thousand Dollars ($385,000) per year payable at the time and in the manner and subject to adjustments as provided for all other executive management personnel of FPH2.

4. Benefits. Employee shall be entitled to all benefits to which other executive management employees of FPH2 are entitled, including any changes made to those benefits.

5. Review. The Board of Directors shall have the right to review and evaluate Employee's performance as CEO with consideration for an adjustment in compensation, benefits,

and/or contract terms based on performance. Any adjustments under this Section will be over and above salary adjustments as provided for all other executive management personnel of FPH2.

6. Termination. Except as hereinafter provided, in the instance that (i) the Board of Directors exercises its right to terminate Employee or its right not to extend the term hereof pursuant to Section 1 above, and (ii) Employee is willing to perform the duties of CEO, FPH2 agrees to pay to Employee six (6) months of salary plus accrued benefits as provided in Section 4. Employee shall be entitled to the benefits described in Section 4 until the end of the six month severance period or until the Employee finds other employment, whichever occurs first. The amounts payable in accordance with the foregoing sentences shall be payable at the option of the Employee either in a lump sum amount or as a payroll payment over the applicable period of time. In the instance that Employee exercises his right to terminate, Employee shall be eligible only for his salary and benefits as outlined above until the effective date of his termination.

In the event the Board of Directors at any time during the course of this Agreement reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all employees of FPH2, or in the event the Board of Directors refuses following written notice to comply with any provision herein benefiting Employee, Employee may, at his option, be deemed "terminated" at the date of such reduction or such refusal to comply within the meaning and context of the severance pay provision.

The decision to terminate this Agreement shall be made in closed session and confirmed in a public meeting. In recognition of Employee's professional status and integrity, Employee and the Board of Directors shall endeavor to prepare a joint public statement to be made by FPH2's Board of Directors at the public meeting when termination is confirmed.

Employee may choose to resign his office instead of being terminated if a decision by FPH2's Board of Directors to terminate has been made in closed session. In such an event, the public announcement as provided for above will note Employee has resigned and the termination provisions hereof remain applicable.

7. Indemnification. FPH2's Board of Directors shall defend, hold harmless, and indemnify Employee against any tort, professional liability claim, or demand, or civil rights or other legal action, arising out of any act, event or omission occurring in the performance of Employee's professional duties as CEO, except to the extent that Employee's actions are the result of gross negligence or willful misconduct. FPH2 will defend, compromise or settle any such claim or suit, as appropriate, and pay the amount of any settlement or judgment rendered thereon. This indemnification shall extend beyond termination of employment or other expiration of this Agreement, to provide full and complete protection to Employee for acts undertaken or committed by Employee in his capacity as CEO, regardless of whether receipt of notice or filing of any claim or lawsuit occurs during or following Employee's employment with FPH2. The extent of defense or indemnification shall be limited by the provisions of California State law.

8. Amendments. Any amendment, modification, or variance from the terms of this Agreement shall be in writing and shall be effective only upon the prior approval of FPH2's Board of Directors.

9. Assignments. This Agreement shall not be assigned or subcontracted by either party without the prior consent of the other.

10. Entire Agreement. This Agreement constitutes the whole agreement between the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

FIRST PUBLIC HYDROGEN AUTHORITY,
a California joint powers authority

APPROVED AS TO FORM:

__________________________________	__________________________________
Allison E. Burns, General Counsel	R. Rex Parris, Chairman of the Board of Directors
ATTEST:	EMPLOYEE:
__________________________________	__________________________________
Susan Caputo, Secretary to the Board	Jason Caudle, CEO

Exhibit A

Job Description and Plan of Action for CEO of FIRST PUBLIC HYDROGEN AUTHORITY

Position: Chief Executive Officer (CEO) – FPH2

Summary: The CEO of FPH2 will provide visionary leadership and strategic direction to drive the implementation of the nations first hydrogen utility. This executive will oversee the existing FPH2 operation, spearhead the development and implementation of innovative hydrogen projects, and ultimately integrate hydrogen energy as a public utility into the energy ecosystem.

Role and Responsibilities:

Strategic Leadership:

- Develop and execute a comprehensive strategic plan aligned with the vision of the FPH2 Board of Directors.
- Identify and secure funding opportunities for energy projects and infrastructure development.
- Position FPH2 as a global leader in hydrogen energy and sustainable practices.
- Build strategic partnerships with government agencies, research institutions, private sector companies, and community stakeholders to accelerate hydrogen adoption.
- Advocate for policies and regulations that support the growth of the hydrogen economy at local, state, and federal levels.

Operational Management:

- Oversee the daily operations of FPH2, ensuring efficient and reliable energy delivery.
- Ensure the efficient operation of FPH2, including the optimization of energy procurement, rate setting, and customer service.
- Lead the development and implementation of hydrogen production, storage, distribution, and utilization projects.
- Ensure safe and reliable hydrogen supply to customers.
- Implement robust safety protocols and risk management strategies for all energy operations.
- Utilize technology, AI, and innovative solutions to enhance operational efficiency and customer satisfaction.

Business Development:

- Identify and pursue new business opportunities in the energy and hydrogen value chain (e.g., fuel cell vehicles, industrial applications, power generation).
- Develop and implement marketing and customer acquisition strategies for FPH2 offerings.
- Build a strong brand reputation for FPH2 as a leader in the clean energy sector, particularly hydrogen.

Team Leadership:

- Build and lead a high-performing team of professionals across various disciplines (e.g., engineering, operations, marketing, finance).
- Provide oversight and direction to all FPH2 staff and contractors, fostering a culture of excellence, innovation, and collaboration.
- Implement organizational structures and processes that enhance operational efficiency and effectiveness.

Financial Oversight and Revenue Generation:

- Manage FPH2's financial resources, ensuring effective budget allocation and financial sustainability.
- Identify and secure additional funding sources, including grants and private investments.
- Oversee FPH2's annual revenue and manage the influx of added revenues, ensuring fiscal responsibility and transparency.
- Ensure fiscal responsibility and transparency in all financial dealings.

Project Management and Delivery:

- Oversee the development, execution, and management of all renewable hydrogen and clean energy projects.
- Ensure projects are completed on time, within budget, and meet established performance metrics.
- Utilize advanced technologies, including AI and data analytics, to optimize project outcomes and operational efficiency.

Community and Workforce Development:

- Promote public education and workforce development initiatives to support the state and local governments transition to a new energy economy.
- Implement programs to train and develop a skilled workforce for the hydrogen and clean energy sectors.

- Drive community engagement efforts to foster public support and awareness of FPH2's initiatives.

Innovation and Technology Integration:

- Leverage AI and advanced technologies to drive innovation and operational excellence.
- Oversee the implementation of cutting-edge technology solutions to enhance energy production, distribution, and management.
- Foster a culture of continuous improvement and innovation within FPH2.

Launchpad Development:

- Lead the establishment of the "Launchpad" at the Lancaster Business Park, creating a premier hydrogen incubator to nurture startups and established businesses in the hydrogen sector.
- Ensure the Launchpad serves as a catalyst for innovation, economic growth, and industry leadership.

Plan of Action:

Immediate Goals (0–3 months):

- Establish executive leadership structure and operational readiness for project execution.
- Finalize strategic partnerships with technology providers, off-takers, and regulatory stakeholders.
- Initiate permitting and site development for initial hydrogen infrastructure and power projects.

Short-Term Goals (3–6 months):

- Complete and deliver 3 stationary hydrogen power projects.
- Achieve sales of 10,000 tons of hydrogen, targeting industrial and transportation clients.
- Launch pilot programs to demonstrate hydrogen viability in municipal and commercial applications.

Mid-Term Goals (6–12 months):

- Secure long-term contracts for the sale of 20,000 tons of hydrogen annually.
- Expand distribution infrastructure to support additional regional demand.
- Evaluate and plan for scaling power projects based on initial deployment performance.

Long-Term Goals (12–24 months):

- Deliver an additional 10,000 tons of hydrogen specifically for stationary power project demands.
- Expand Launchpad incubator capabilities to support new hydrogen startups.
- Initiate second phase of infrastructure build-out, including fueling stations and grid-connected solutions

Key Performance Indicators:

Financial Metrics:

- Direct Revenue from Sales of Hydrogen Molecules: Quarterly reporting on revenue generated from hydrogen sales, comparison against forecasted revenue targets.
- Direct Revenue from Sales of Electricity (Electrons): Quarterly reporting on revenue generated from electricity sales, comparison against forecasted revenue targets.
- Grants and Funding Received: Total amount of grants and alternative funding secured, impact of secured funding on project acceleration and expansion.

Economic Impact:

- Jobs Created: Number of jobs created per project (construction, permanent positions), employment rates within the local community.
- Property Tax Generated: Additional property tax revenue resulting from new developments and infrastructure.
- Sales Tax Generated: Increase in sales tax revenue linked to new business activities and consumer spending.

Cost Savings and Efficiency:

- Energy Cost Savings for Residents: Tracking the reduction in energy costs for residents participating in programs developed by FPH2.
- Predicted Energy Cost Savings: Forecasting future cost savings based on current trends and project expansions, as well as evaluating energy cost trends compared to traditional energy providers like Edison.

Environmental and Social Impact:

- Carbon Emissions Reduced: Carbon emissions reduced through various hydrogen and renewable energy projects are measured, and comparative analysis against baseline emissions data is performed.

- Community Engagement and Education: The number of community engagement events and educational initiatives conducted, as well as feedback and participation rates from residents.

Project Performance:

- Project Timelines and Milestones: Tracking the progress of key projects against planned timelines and milestones.
- Infrastructure and Technology Deployment: Number of off-grid facilities, residential systems, fueling stations established, adoption rates of hydrogen-powered vehicles and equipment.

Comprehensive Reporting:

- Quarterly and Annual Reports: Compilation of all metrics into quarterly and annual reports for review by stakeholders utilization of standardized templates to ensure consistency and comparability across projects.
- Impact Analysis: Detailed analysis of each project's economic, environmental, and social impacts, continuous improvement based on feedback and performance data.

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 10: **Consider Adoption of a Resolution Approving the First Public Hydrogen Authority Fiscal Year 2025/26 Annual Budget**

Recommendation:
Adopt Resolution approving the First Public Hydrogen Authority Fiscal Year 2025/26 Annual Budget.

Fiscal Impact:
The Fiscal Year 2025/26 expenditures will be funded by the remaining funds provided by City of Lancaster through the Promissory Note dated January 28, 2025, estimated to be $1,600,000. The remaining funds needed will be provided through a Revolving Line of Credit that will be brought to the Board of Directors for consideration at a later meeting.

Background:
At its May 15, 2025, Regular Board Meeting, staff presented the draft Fiscal Year 2025/26 Annual Budget to the Board for their input.

Fiscal Year 2025/26 marks the first full year of operations for First Public Hydrogen Authority (FPH2). The Board of Directors is tasked with adopting a budget that establishes the spending authority for FPH2.

Staff prepared the proposed FY 25/26 Annual Budget with the following key objectives in mind:

- Deliver on our mission to bring affordable, clean hydrogen to market by aligning every budgeted activity with the goal of securing and activating public-sector facilitated off-take.

- Support the internal capacity needed to negotiate, execute and enforce upstream and downstream hydrogen agreements, including legal counsel and coordination.
- Advance organizational readiness for fuel delivery by funding the planning, modeling and staffing needed to assess transportation options and engage third-party carriers.
- Promote FPH2's public utility model through sustained outreach, strategic marketing and public sector lobbying to grow membership and reinforce our value to government, labor and industry.
- Maintain core operations by funding staffing, consultants, legal support and administrative resources needed to deliver services and respond to evolving agency needs.

At the May 15 meeting, the Board discussed the draft budget and indicated support for the budget as presented. They also directed staff to return the budget to the Board at this meeting for consideration of adoption.

Salaries and Benefits reflects the actions approved by the Board including the salary schedule for new positions and the employee benefits package. The Operating Expenditures category reflects the costs related to professional, legal and technical support needed to successfully launch FPH2, renting the Launchpad office location from City of Lancaster, expenses related to maintenance and utilities, as well marketing and outreach to prospective hydrogen suppliers and offtakers. The Capital Outlay category includes reflects funding to implement a mobile vehicle fueling pilot project.

While staff has not included an assumption for revenue being generated in the FY 2025/26 Annual Budget, they are actively working towards entering into agreements to not only procure hydrogen but also to identify entities to enter into offtake agreements for the sale of supply in the coming year. As an interim financing source, there are sufficient funds remaining in the existing $2.6M loan from the City of Lancaster to fund the operating expenditures through December 31, 2025. Staff anticipates returning to the Board in the fall with a proposal for a Revolving Line of Credit to fund operations after December 31, 2025.

The line item detail of the proposed budget based on the key objectives is presented below.

Salaries and Benefits		
Salaries		$ 1,240,000.00
Benefits		
Medical/Denta/Vision Insurance	$ 108,000.00	
Life Insurance	2,300.00	
LT/ST Disability	4,000.00	
Medicare	18,000.00	
Deferred Compensation	150,000.00	
Retiree Health Savings	12,600.00	
AD&D Insurance	500.00	
Total Benefits		295,400.00
Total Salaries & Benefits		$ 1,535,400.00
Operating Expenditures		
Board Compensation		$ 134,000.00
Professional Technical Services		1,500,000.00
Legal Services		260,000.00
Special Events		50,000.00
Sponsorships		100,000.00
Marketing & Outreach		80,000.00
Dues & Memberships		22,000.00
Travel/Mileage Reimbursement		110,000.00
Meeting & Conference Registration		15,000.00
Operating Materials & Supplies		110,000.00
Insurance Expense		56,000.00
IT Software/Subscriptions		75,000.00
Utilities		55,000.00
Building Lease		24,000.00
Furniture & Fixtures		15,450.00
Interest Expense		100,000.00
Total Operating Expenditures		2,706,450.00
Capital Outlay		
Vehicles and Fueling Infrastructure		$ 300,000.00
Total Capital outlay		$ 300,000.00
TOTAL PROPOSED FY 2025/26 ANNUAL BUDGET		**$ 4,541,850.00**

Adoption of the Resolution authorizes the appropriations and the Chief Executive Officer to implement the budget.

Attachment:
Resolution Approving the First Public Hydrogen Authority Fiscal Year 2025/26 Annual Budget

FIRST PUBLIC HYDROGEN AUTHORITY
RESOLUTION NO. 2025-_____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FIRST PUBLIC HYDROGEN AUTHORITY APPROVING THE FISCAL YEAR 2025/26 ANNUAL BUDGET

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

WHEREAS, in accordance with Government Code Sections 6508 and 6509, the Authority operates subject to the fiscal policies and procedures of its governing agreement and applicable provisions of California law; and

WHEREAS, the Chief Executive Officer submitted a proposed Fiscal Year 2025/25 Annual Budget for Board review and input at its May 15, 2025, Regular Board meeting; and

WHEREAS, the Board has determined that the proposed budget provides for the efficient operation of the Authority and supports the public purposes for which the Authority was formed.

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

<u>Section 1</u>. The Board hereby approved and adopts the Fiscal Year 2025/26 Annual Budget as presented and attached hereto as Exhibit A.

<u>Section 2</u>. The amounts specified in the Annual Budget are hereby appropriated for expenditure in accordance with the purposes and activities described therein.

<u>Section 3</u>. The Chief Executive Officer is authorized and directed to take all actions necessary to implement and manage the approved budget, including entering into contracts, making expenditures, and administering funds in accordance with the budget and applicable law.

<u>Section 4.</u> This resolution shall take effect immediately upon its adoption.

The foregoing Resolution No. was passed and adopted this 18th day of June 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

Exhibit A
First Public Hydrogen Authority
Fiscal Year 2025/26 Annual Budget

Salaries and Benefits		
Salaries		$ 1,240,000.00
Benefits		
Medical/Denta/Vision Insurance	$ 108,000.00	
Life Insurance	2,300.00	
LT/ST Disability	4,000.00	
Medicare	18,000.00	
Deferred Compensation	150,000.00	
Retiree Health Savings	12,600.00	
AD&D Insurance	500.00	
Total Benefits		295,400.00
Total Salaries & Benefits		$ 1,535,400.00
Operating Expenditures		
Board Compensation		$ 134,000.00
Professional Technical Services		1,500,000.00
Legal Services		260,000.00
Special Events		50,000.00
Sponsorships		100,000.00
Marketing & Outreach		80,000.00
Dues & Memberships		22,000.00
Travel/Mileage Reimbursement		110,000.00
Meeting & Conference Registration		15,000.00
Operating Materials & Supplies		110,000.00
Insurance Expense		56,000.00
IT Software/Subscriptions		75,000.00
Utilities		55,000.00
Building Lease		24,000.00
Furniture & Fixtures		15,450.00
Interest Expense		100,000.00
Total Operating Expenditures		2,706,450.00
Capital Outlay		
Vehicles and Fueling Infrastructure		$ 300,000.00
Total Capital outlay		$ 300,000.00
TOTAL PROPOSED FY 2025/26 ANNUAL BUDGET		**$ 4,541,850.00**

STAFF REPORT

6/18/25
JC

Date: June 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 11: **Consider Approval of a Resolution Approving and Authorizing the City of Fresno to Enter into the Joint Exercise of Powers Agreement for the First Public Hydrogen Authority (FPH2)**

Recommendation:
Adopt a resolution approving and authorizing the City of Fresno to enter into the Joint Exercise of Powers Agreement for the First Public Hydrogen Authority and authorizing the Chief Executive Officer to execute all necessary documents to finalize the membership, subject to General Counsel approval.

Fiscal Impact:
There is no fiscal impact.

Background:
The First Public Hydrogen Authority (FPH2) was established by the City of Lancaster and the City of Industry to lead the development and deployment of renewable hydrogen solutions for public agencies, utilities, and industries. As the first public hydrogen utility in the U.S., FPH2 facilitates cost-effective hydrogen procurement, infrastructure development, and policy advocacy to accelerate the transition to clean energy.

By aggregating hydrogen demand from transit agencies, municipalities, ports, and industrial users, FPH2 enables members to:

- Secure hydrogen at competitive bulk pricing
- Gain access to state and federal hydrogen funding opportunities

- Participate in collaborative hydrogen infrastructure projects

Pursuant to Section 13 of the JPA Agreement, additional public agencies may become members of FPH2 by following the steps outlined in the Agreement.

- Submitting an executed counterpart of the FPH2 JPA agreement and a copy of the resolution of the governing board of the prospective new member agency approving the JPA agreement;
- Adoption of a resolution by the FPH2 Board approving the addition of the agency as a member.

The addition of City of Fresno strengthens FPH2's ability to expand the hydrogen economy, enhance regional clean energy resilience, and drive economic and environmental benefits for its members.

At its meeting on May 1, 2025, the City of Fresno adopted Resolution No. 2025-132 approving joining FPH2 and the JPA Agreement and has provided the executed JPA agreement counterpart and the resolution.

FPH2 staff recommends the FPH2 Board adopt a resolution approving and authorizing the City of Fresno joining FPH2 as its fourth member.

Attachments:
Attachment A – Resolution Approving and Authorizing the City of Fresno to Enter into the Joint Exercise of Powers Agreement for the First Public Hydrogen Authority
Attachment B - Executed JPA Resolution and Joint Powers Authority Agreement counterpart from City of Fresno

RESOLUTION NO. 2025-

A RESOLUTION OF THE FIRST PUBLIC HYDROGEN AUTHORITY APPROVING AND AUTHORIZING THE CITY OF FRESNO TO ENTER INTO THE JOINT EXERCISE OF POWERS AGREEMENT FOR THE FIRST PUBLIC HYDROGEN AUTHORITY

WHEREAS, the First Public Hydrogen Authority ("Authority") is a joint exercise of powers authority created under the Joint Exercise of Powers Act (California Code Section 6500, *et seq.*) by that certain agreement dated December 10, 2024 ("JPA Agreement"); and

WHEREAS, Section 13 of the JPA Agreement, provides that public agencies may be added as parties to the JPA Agreement, and thereby become members of the Authority, upon the following: (i) the filing with the Authority of an executed counterpart of the JPA Agreement, together with a copy of a resolution of the governing body of the joining public agency approving the JPA Agreement and execution and delivery thereof; and (ii) adoption of a resolution of the Authority's governing body approving the addition of such public agency as a member; and

WHEREAS, other public agencies may from time to time elect to become member public agencies of the Authority to utilize its expertise in 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, the City Council of the City of Fresno ("Agency") adopted a resolution on May 1, 2025, approving and authorizing Agency to enter into the JPA Agreement and to become a member of the Authority.

NOW, THEREFORE, THE BOARD OF THE FIRST PUBLIC HYDROGEN AUTHORITY, DOES HEREBY RESOLVE, DETERMINE AND ORDER, AS FOLLOWS:

Section 1. The foregoing recitals are true and correct.

Section 2. The Authority Members hereby approve and authorize the Authority to accept Agency as a counterparty to the JPA Agreement, and thereby approves and authorizes Agency to become a member of the Authority.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, and ADOPTED this 18th day of June 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

____
Chair
First Public Hydrogen Authority

ATTEST:

____
Board Secretary
First Public Hydrogen Authority

RESOLUTION NO. 2025-132

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, TO APPROVE MEMBERSHIP IN THE FIRST PUBLIC HYDROGEN AUTHORITY AND AUTHORIZING THE CITY MANAGER OR THEIR DESIGNEE TO EXECUTE A COUNTERPART TO THE JOINT POWERS AUTHORITY AGREEMENT

WHEREAS the CITY OF FRESNO ("Agency") is a municipal corporation organized and operating under the laws of the State of California, with the Council of the City of Fresno ("Governing Body") serving as the governing body of the Agency.

WHEREAS the First Public Hydrogen Authority ("Authority") is a joint exercise of powers authority created under the Joint Exercise of Powers Act (California Government Code Section 6500, *et seq.*) by that certain agreement dated December 10, 2024, ("JPA Agreement") attached hereto as Exhibit "A".

WHEREAS, Section 13 of the JPA Agreement, provides that public agencies may be added as parties to the JPA Agreement, and thereby become members of the Authority, upon the following: (i) the filing with the Authority of an executed counterpart of the JPA Agreement, attached herewith as Exhibit "B", together with a copy of the resolution of the governing body of the joining public agency approving the JPA Agreement and the execution and delivery thereof; and (ii) adoption of a resolution of the Authority's governing body approving the addition of such public agency as a member;

WHEREAS the Council desires that the City to become a party to the JPA Agreement, and a member of the Authority, and finds that doing so will further the public health, safety, and general welfare of the community.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Based on the staff report, presentation, public comment, and other matters presented to the Council during its consideration of this matter, the Council finds and declares that the foregoing recitals are true and correct and hereby incorporated as substantive findings of this Resolution.

2. The Council hereby approves and authorizes the City of Fresno to enter into the JPA Agreement and thereby approves and authorizes the Agency to become a member of the Authority. The City Manager or their designee is authorized and directed to execute a counterpart to the JPA Agreement on behalf of the City of Fresno and file the same, along with a copy of this Resolution, with the Authority pursuant to Section 13 of the JPA Agreement.

3. This resolution shall be effective upon final approval.

* * * * * * * * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 1st day of May 2025.

AYES : Perea, Karbassi, Arias, Maxwell, Vang, Esparza
NOES : None
ABSENT : Richardson
ABSTAIN : None

TODD STERMER, MMC
City Clerk

By: 5-20-2025
Date

Deputy

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: 5-19-2025
Brent Richardson Date
Deputy City Attorney

Attachment: Exhibit A

EXHIBIT A

JOINT POWERS AGREEMENT

JOINT EXERCISE OF POWERS AGREEMENT
FOR FIRST PUBLIC HYDROGEN AUTHORITY

THIS AGREEMENT, dated as of December 10, 2024, is entered into by and between the City of Lancaster, a municipal corporation (Lancaster) and the City of Industry, a municipal corporation (Industry). Lancaster and Industry are herein referred to as the "Founding Members":

WITNESSETH

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (in effect as of the date hereof and as the same may from time to time be amended or supplemented, the "Joint Exercise of Powers Act"), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, each of the Founding Members is a "public agency" as that term is defined in Section 6500 of the Joint Exercise of Powers Act; and

WHEREAS, pursuant to Article XI, 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, each of the Founding Members may accomplish the purposes and objectives described in the preceding preamble by various means, including through making grants, loans or providing other financial assistance to governmental and nonprofit organizations, and private retail customers within their jurisdiction; and

WHEREAS, each Founding Member is also empowered by law to acquire and dispose of real property for a public purpose; and

WHEREAS, the Joint Exercise of Powers Act authorizes the Founding Members to create a joint exercise of powers entity with the authority to exercise any powers common to the Founding Members, as specified in this Agreement and to exercise the additional powers granted to it in the Joint Exercise of Powers Act and any other applicable provisions of the laws of the State of California; and

WHEREAS, pursuant to Section 10002 of the Public Utilities Code, any municipal corporation may acquire, construct, own, operate, or lease any public utility; and

WHEREAS, the intent of the Founding Members is to bring other qualifying public agencies into the joint exercise of power entity as members as provided herein (all such members together with the Founding Members shall herein be referred to as the "Members"); and

WHEREAS, it is the desire of the Founding Members to use a public entity established pursuant to the Joint Exercise of Powers Act 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 Founding Members that the projects undertaken will result in significant public benefits to the jurisdictions of the Founding Members; and

WHEREAS, beginning January 1, 2027 the State has mandated that all vehicle purchases made by public agencies be for zero emissions vehicles; and

WHEREAS, the State has received 1.2 billion dollars in funding from the federal government and the State has formed the Alliance for Renewable Clean Hydrogen Energy Systems (ARCHES) for the purpose of distributing those funds; and

WHEREAS, municipal utilities have unique authority to implement energy services and cities have the authority to provide public transit services; and

WHEREAS, hydrogen is seen as an integral tool to solve the climate crisis; and

WHEREAS, First Public Hydrogen Authority is committed to provide transportation services and fueling infrastructure to assist in the state's energy transition goals; and

WHEREAS, First Public Hydrogen Authority intends to provide for off-grid and beyond the meter solutions for the construction of new industrial and residential developments; and

WHEREAS, First Public Hydrogen Authority intends to develop off-grid and beyond the meter solutions for transportation services; and

WHEREAS, First Public Hydrogen Authority intends to remove load from the gride while using microgrids powered by hydrogen; and

WHEREAS, by this Agreement, each Member desires to create and establish the "First Public Hydrogen Authority" for the purposes set forth herein and to exercise the powers provided herein;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

Section 1. <u>Purpose</u>.

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act. The purpose of this Agreement is to establish a public entity for the joint exercise of powers common to the Members and for the exercise of additional powers given to a joint powers entity under the Joint Powers Act or any other applicable law, including, but not limited to, the purchase, sale, production, trading, retail, and/or resale, transport delivery and dispensary of hydrogen and/or energy, issuance of Bonds for any purpose or activity permitted under the Joint Exercise of Powers Act or any other applicable law. The purpose also includes, the design, construction, operation of behind the meter, off-grid energy solutions to be powered by a number of technologies including, but not limited to, solar, battery, and hydrogen fuel cell. Such purpose will be accomplished and said power exercised in the manner hereinafter set forth.

Section 2. <u>Term</u>.

This Agreement shall become effective in accordance with Section 16 as of the date hereof and shall continue in full force and effect until such time as it is terminated in writing by all the Members;

provided, however, that this Agreement shall not terminate or be terminated until each of the following is satisfied:

1. All Bonds issued or caused to be issued by the Authority (defined below) shall no longer be outstanding under the terms of the indenture, trust agreement or other instrument pursuant to which such Bonds are issued, or unless a successor to the Authority assumes all of the Authority's debts, liabilities and obligations;
2. All obligations under all Energy Contracts to which the Authority is a party have been fully performed, assigned or terminated in accordance with their respective terms. For purposes of the foregoing sentence, "Energy Contract" means an agreement for the purchase, sale or other disposition of hydrogen energy, hydrogen, renewable energy or related products, including a power purchase agreement and/or confirmation letter thereto.
3. All obligations to Authority's then current or former employees (e.g. pension, other post-employment benefits, and/or unfunded pension liability) have been fully satisfied, performed, assigned or terminated.

Section 3. <u>Authority</u>.

A. CREATION AND POWERS OF AUTHORITY.

Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the "First Public Hydrogen Authority" (the "Authority"), and said Authority shall be a public entity separate and apart from the Members. Its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any individual member and shall be debts, liabilities or obligations of the Authority, only.

B. BOARD.

The Authority shall be administered by a board of directors, comprised of the following:

1. Board Members. The Board shall be comprised of seven (7) members, each of whom shall have one (1) vote.

(a) The initial Board shall be appointed as follows:

i. Lancaster shall appoint five (5) of the initial Board members and shall designate one (1) of those Board members as a "Founding Board Member"; and
ii. Industry shall appoint one (1) Board member, who shall be a Founding Board Member.
iii. The six initial Board members appointed by Lancaster and Industry shall appoint one (1) Board member.

(b) With the exception of the Founding Board Members, if and as vacanc(ies) exist on the Board, the remaining members on the Board shall appoint such replacement member(s) as may be necessary to fill such vacanc(ies). Industry and Lancaster shall each continue to always appoint one (1) member to the Board should the respective Founding Board Member's seat become vacant.

(c) If a Board Member is absent without permission from the greater of (i) all Authority regular meetings for 90 days consecutively from the last regular meeting he or she attended, or (ii) two consecutive regular Board meetings, then his or her board position shall immediately become vacant and shall be filled in accordance with subsection (a) above.

(d) In the event that each of the governing bodies of the Founding Members determine by majority vote that any Board Member has engaged in malfeasance, neglect, and/or impropriety with regard to their Board Member duties, then his or her board position shall immediately become vacant and shall be filled in accordance with subsection (a) above.

2. The Board shall be the administering agency of this Agreement and, as such, shall be vested with the powers set forth herein, and shall administer this Agreement in accordance with the purposes and functions provided herein.

C. OFFICERS; DUTIES; OFFICIAL BONDS.

1. Chair and Vice Chair. The City of Lancaster shall appoint a Director to serve as the first Chair of the Board of Directors for a six (6) year term, and the Director appointed by Industry shall serve as the Vice Chair. At the conclusion of the first Chair's and Vice Chair's term, as well as at the conclusion of subsequent terms of office, or in the event of a vacancy, the Chair and Vice Chair shall be selected by a majority vote of the Board to serve a four (4) year term.

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

Subject to the applicable provisions of any resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an "Indenture") providing for a trustee or other fiscal agent and except as may otherwise be specified by resolution of the Board, the Treasurer is designated as the depositary of the Authority to have custody of all money of the Authority, from whatever source derived and shall have the powers, duties and responsibilities specified in Sections 6505, 6505.5 and 6509.5 of the Joint Exercise of Powers Act.

The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond with the Secretary of the Authority in the amount specified by resolution of the Board but in no event less than $1,000.

The Chief Executive shall have the power to appoint such other officers and employees as he/she may deem necessary and to retain independent counsel, consultants and accountants subject to the same contract limits as the City Manager of Lancaster has until such time as the Board adopts its own purchasing policy.

The Board shall have the power, by resolution, to the extent permitted by the Joint Exercise of Powers Act or any other applicable law, to delegate any of its functions to one or more of the Board Members, employees or agents of the Authority and to cause any of said Board Members, employees or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Authority.

D. MEETINGS OF THE BOARD.

(1) Ralph M. Brown Act.

All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California), or any successor legislation hereinafter enacted (the "Brown Act").

(2) Regular Meetings.

The Board shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board. To the extent permitted by the Brown Act, such meetings may be held by telephone and/or video conference.

(3) Special Meetings.

Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California. To the extent permitted by the Brown Act, such meetings may be held by telephone and/or video conference.

(4) Minutes.

The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(5) Quorum.

A majority of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board except upon the affirmative vote of a majority of the Directors constituting a quorum, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Authority may adopt, from time to time, by resolution of the Board such rules and regulations for the conduct of its meetings and affairs as may be required. In the absence of any policies or procedures, the policies or procedures of the City of Lancaster.

F. PUBLIC OFFICIALS

The Board Members shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations, and shall file annual statements of economic interest as required, along with any other officers of the Authority who is required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code, which shall be adopted by the Board promptly.

G. TECHNICAL ADVISORY COMMITTEE.

The Authority shall have a Technical Advisory Committee ("TAC"), comprised of (i) the City Manager (or chief executive) of each Member, or his or her designee, and (ii) the Chief Executive Officer of the Authority. The TAC shall be vested with authority, responsibility and scope of activity as may be established by action of the Authority Board from time to time. Each member of the TAC shall have one vote.

Section 4. Powers.

The Authority shall have the power, in its own name, to exercise the common powers of the Members and to exercise all additional powers given to a joint powers entity under any of the laws of the State of California, including, but not limited to, the Joint Exercise of Powers Act, for any purpose authorized under this Agreement. Such powers shall include the common powers specified in this Agreement and may be exercised in the manner and according to the method provided in this Agreement. The Authority is hereby authorized to do all acts necessary for the exercise of such power, including, but not limited to, any of all of the following: to purchase, sell, and or resell hydrogen and/or energy; to make and enter into contracts; to employ agents and employees; to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works or improvements; to acquire, hold or dispose of property wherever located; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from person, firms, corporations and any governmental entity; to sue and be sued in its own name; to make grants, loans or provide other financial assistance to governmental and nonprofit organizations, or private retail customers to accomplish any of its purposes; and generally to do any and all things necessary or convenient to accomplish its purposes.

Without limiting the generality of the foregoing, the Authority may issue or cause to be issued Bonds, and pledge any property or revenues as security to the extent permitted under the Joint Exercise of Powers Act, or any other applicable provision of law; provided, however, the Authority shall not issue Bonds with respect to any project located in the jurisdiction of one or more Members unless the governing body of any such Member, or its duly authorized representative, shall approve, conditionally or unconditionally, the project, including the issuance of Bonds therefor. Such approval may be evidenced by resolution, certificate, order, report or such other means of written approval of such project as may be selected by the Member (or its authorized representative) whose approval is required. No such approval shall be required in connection with Bonds that refund Bonds previously issued by the Authority and approved by the governing board of a Member.

The manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California charter city could exercise such powers and perform such duties. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

Section 5. Fiscal Year.

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by resolution of the Board, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 2025.

Section 6. Disposition of Assets.

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Authority, all property of the Authority both real and personal shall automatically vest in the Members in the manner and amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Members.

Section 7. Funding

Nothing in this Agreement shall require any Member to fund any costs associated with the administration of the Authority. any activity of the Authority, and any debts related thereto, including but not limited to, capital improvement projects, real property purchases, power purchase agreements, and maintenance costs. Any Member may elect to loan or grant funds to the Authority pursuant to such terms as such parties may mutually agree in writing.

Section 8. Bonds.

From time to time the Authority may issue Bonds, in one or more series, for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement. However, the Founding Members' credit ratings will not be utilized for the issuance of any Bonds without their prior written consent.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing shall be used by the Authority. The expenses of the Authority shall be paid from the proceeds of the Bonds or any other unencumbered funds of the Authority available for such purpose.

Section 9. Bonds Only Limited and Special Obligations of Authority.

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Member or pledge of the faith and credit of the Members or the Authority. The Bonds shall be only special obligations of the Authority, and the Authority shall under no circumstances be obligated to pay the Bonds except from revenues and other funds pledged therefor. Neither the Members nor the Authority shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Members nor the faith and credit of the Authority shall be pledged to the payment of the principal of, premium, if any, or interest on the

Bonds nor shall the Members or the Authority in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or related document shall be deemed to be a covenant or agreement of any Board Member, or any officer, employee or agent of the Authority in his or her individual capacity and neither the Board of the Authority nor any Board Member or officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

Section 10. Accounts and Reports.

All funds of the Authority shall be strictly accounted for. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by each Member.

The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member and also with the county auditor of each county in which a Member is located; provided, however, that to the extent permitted by law, the Authority may, instead of filing such report with each Member and such county auditor, elect to post such report as a public record electronically on a website designated by the Authority. Such report if made shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

The Treasurer is hereby directed to report in writing during the months of July, October, January, and April of each year to the Board which report shall describe the amount of money held by the Treasurer for the Authority, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provided regular reports covering such amounts).

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

In any Fiscal Year the Board may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

Section 11. Funds.

Subject to the applicable provisions of any Indenture, which may provide for a trustee or other fiduciary to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to the accounting procedures developed under Sections 3(E) and 9, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions of purposes of this Agreement.

Section 12. Notices.

Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member; provided, however, that to the extent permitted by law, the Authority may, provide notices and other communications and postings electronically (including, without limitation, through email).

Section 13. Additional Members/Withdrawal of Members.

Qualifying public agencies may be added as parties to this Agreement and become Members upon: (1) the filing by such public agency with the Authority of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (2) adoption of a resolution of the Board approving the addition of such public agency as a Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

A Member may withdraw from this Agreement upon written notice to the Board; provided, however no such withdrawal notice shall be effective until and unless: (a) such withdrawal will not result in the dissolution of the Authority so long as any Bonds remain outstanding; (b) all obligations of such Member under all of the Energy Contracts between the Authority and such Member have been fully performed or assigned by such Member, and (c) the date on which all of the Energy Contracts to between the Authority and the Member have terminated or assigned in accordance with their respective terms. In the event that there are only two Members, a Member may withdraw, provided the withdrawing Member presents a substitute public agency to the Board for its approval as a Member. Said approval by the Board shall not be unreasonably withheld, conditioned, or delayed. Withdrawal of a Member shall not relieve the withdrawing Member of its share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Upon the effective date of a withdrawal, the withdrawing Member shall not be entitled to any revenue being generated by the Authority; provided, however, that it shall remain entitled a share of the revenue proportionate to that Member's contribution to (l) any existing or future long-term agreement, and (2) any conveyance of all or any portion of any asset of the Authority when, and if such conveyance, occurs.

Section 14. Indemnification.

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Director or an officer, employee of other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Authority, against expenses, including attorneys' fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

The Authority shall defend, indemnify and hold harmless each Member and each Member's elected officials, officers, employees, agents and representatives, harmless from all claims, disputes, litigation, judgments and attorney fees arising out of the acts and/or omissions of the Authority.

Section 15. Immunities.

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions within the territorial limits of their respective public agencies, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Authority while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

Section 16. Amendments.

Except as provided in Section 12 above, this Agreement shall not be amended, modified, or altered without (1) a 30-day notice being given to each Member, and (2) written approval by each Member.

Section 17. Effectiveness.

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Members on the date that the Board shall have received from each of the Founding Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Founding Member approving this Agreement and the execution and delivery hereof.

Section 18. Partial Invalidity.

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 19. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

Section 20. Insurance.

The Authority shall at all times maintain insurance policies (or pooled insurance coverage through a joint powers authority) naming the Members as additional insureds in compliance with the following:

A. The insurance shall be in amounts no less than the following:

Commercial General Liability

Each Occurrence	$2,000,000
Per Project General Aggregate	$5,000,000

Including Products/Completed Operations; Contractual Liability/Independent Contractors; Property Damage
(Coverage shall be at least as broad as ISO form CG2010 11/85 or CG2010 07/04 and CG2037 07/04 combined, or an equivalent providing ongoing and completed operations)

Commercial Automobile Liability

Combined Single Limit per Accident for Bodily Injury and Property Damage	$5,000,000

(Coverage shall be at least as broad as ISO form CA00 01)

Workers Compensation

As Required by the State of California	Statutory Limits

Employers' Liability

Each Accident	$1,000,000
Bodily Injury by Disease	$1,000,000
Each Employee	$1,000,000

(A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation & Employers' Liability policies)

Professional Liability

Each Occurrence	$5,000,000
General Aggregate	$5,000,000

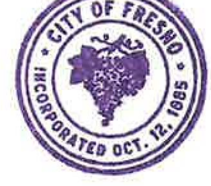
B. The Authority's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability.

C. Professional liability and/or cyber insurance written on a "claims made" basis must be renewed for a period of three (3) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract and will cover Authority for all claims made by the City insured entities arising out of any acts or omissions of Authority or its officers, employees, or agents during the time this Agreement was in effect.

D. All insurance shall be primary and non-contributory as respects the Member insured entities. Any insurance or self-insurance maintained by the Member insured entities shall be in excess of the Authority's insurance and shall not contribute with it.

F. Authority shall furnish the Members with Certificates of Insurance and with endorsements effecting coverage required by this Agreement.

Section 21. **Government Claims.**



A. To the extent authorized by Government Code section 935 and any other laws, all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Authority by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.

B. Unless otherwise designated by the Board, the TAC shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

Section 22. Miscellaneous.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement shall be governed under the laws of the State of California.

This Agreement is the complete and exclusive statement of the agreement among the Members, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the Founding Members have caused this Agreement to be executed and attested by its duly authorized representatives as of the date and year first set forth above.

[SIGNATURES ON NEXT PAGE]

Founding Member:

CITY OF LANCASTER

By
Name: R. Rex Parris
Title: Mayor

ATTEST:

Andrea Alexander, Clerk

Founding Member:

CITY OF INDUSTRY

By
Name: Cory C. Moss
Title: Mayor

ATTEST:

Julie Gutierrez-Robles, Clerk

4891-4096-0214v1/022283-0548

EXHIBIT B

COUNTERPART TO
JOINT EXERCISE OF POWERS AGREEMENT
FOR FIRST PUBLIC HYDROGEN AUTHORITY

THIS COUNTERPART TO JOINT EXERCISE OF POWERS AGREEMENT FOR FIRST PUBLIC HYDROGEN AUTHORITY, dated as of December 10, 2024, is entered into by the City of Fresno with regard to that certain Joint Exercise of Powers Agreement for First Public Hydrogen Authority attached hereto ("JPA Agreement").

By its authorized signature below, the City of Fresno agrees to be bound by each and all of the terms of the JPA Agreement.

CITY OF FRESNO

By ____________________________
Name:
Title:

ATTEST:

TODD STERMER, MMC
City Clerk

By: ____________________________________
Date

Deputy