



**Board of Directors Regular Meeting
August 21, 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 (FPH₂) Secretary located at the City of Lancaster, City Clerk's Office, 44933 Fern Avenue, Lancaster, CA 93534.

Members of the public can provide public 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 FPH₂ Board, any member of the public will have the opportunity to address the FPH₂ on any item listed on the agenda.

PRESENTATION

Anti-Trust Presentation

Consent Calendar

Item 1: Approve Minutes of June 18, 2025, Regular Meeting

RECOMMENDATION

Approve the Minutes of June 18, 2025, Regular Board Meeting.

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

RECOMMENDATION

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

Item 3: Consider Approval of Rental Agreement with the City of Lancaster for the Period July 1, 2025, through June 30, 2026, for a Base Rate of \$2,000 per Month

RECOMMENDATION

Approve a Rental Agreement with the City of Lancaster, for the period July 1, 2025, through June 30, 2026, with an option for up to five (5) annual extensions, for a base rate of \$2,000 per month, in substantially the form of the Rental Agreement. And authorize the Chief Executive Officer, or designee, to sign the Rental Agreement, and up to five (5) one year extensions thereof, subject to General Counsel approval.

Item 4: Consider Approval of an Amendment to the Professional Services Agreement with Bayshore Consulting Group

RECOMMENDATION

Approve the Amendment to the Professional Services Agreement with Bayshore Consulting Group, substantially in the form attached, to increase the contract by an amount not to exceed \$16,401.65 and authorize the Chief Executive Officer, or designee, to sign and execute all documents; and authorize the Chief Executive Officer, or 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 an Amendment to the Professional Services Agreement with FTI Consulting

RECOMMENDATION

Approve the Amendment to the Professional Services Agreement with FTI Consulting Inc., substantially in the form attached, to increase the contract by an amount not to exceed \$86,576.25 and authorize the Chief Executive Officer, or designee, to sign and execute all documents.

Item 6: Consider Adoption of a Resolution Authorizing the Establishment of a Section 125 Premium Only Plan for Employees

RECOMMENDATION

Adopt a resolution authorizing the establishment of a Section 125 Premium Only Plan for Employees and authorize the Chief Executive Officer, or designee, to sign all documents establishing the Section 125 Plan, subject to General Counsel approval.

Public Hearing

Item 7: Hold Public Hearing for Purposes of Receiving a Status of Vacancies, Recruitment and Retention Efforts Pursuant to AB2561

RECOMMENDATION

Conduct the Public Hearing and accept report on the status of FPH2 employee vacancies, recruitment, and retention efforts.

New Business

Item 8: Consider Approval of an Amendment to the Promissory Note Dated January 28, 2025, Between the City of Lancaster and First Public Hydrogen Authority Increasing the Amount by \$4.0M

RECOMMENDATION

Approve an amendment to the Promissory Note dated January 28, 2025, between the City of Lancaster and First Public Hydrogen Authority increasing the amount from \$2.6M to \$6.6M, an increase of \$4.0M and authorize the Chief Executive Officer, or designee, to sign the Promissory Note, subject to General Counsel approval.

Item 9: Consideration and Action Regarding Collaborative, Joint Venture, and/or Public/Private Partnership Agreement(s) with One or More Data Center Developers for Data Center Siting, Development, and Related Efforts

RECOMMENDATION

Authorize the Chief Executive Officer, or designee, to negotiate and execute a collaborative, joint venture, and/or public private partnership agreement(s) for data center siting, development, and related efforts, in a form approved by the General

Counsel, with one or more data center provider(s) located within or seeking to locate within FPH₂'s jurisdiction.

Item 10: Chief Executive Officer Update on Procurement, Marketing and Outreach, Transportation Services and General Administrative Topics

RECOMMENDATION

Receive updates from the Chief Executive Officer on Procurement, Marketing and Outreach, Transportation Services and General Administrative Topics.

Item 11: General Counsel Update on FPH₂ Matters

RECOMMENDATION

Receive update General Counsel on FPH₂ Matters.

PUBLIC COMMENT

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

BOARD MEMBER QUESTIONS/COMMENTS AND REPORTS ON FPH₂ RELATED TRAVEL

BOARD REQUESTS FOR FUTURE AGENDA ITEMS

NEXT MEETING: Regular Board Meeting September 18, 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
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**

CALL TO ORDER: The regular meeting of the First Public Hydrogen Authority (FPH2) was called to order by Chair Parris at 2:12 p.m.

ROLL CALL: Board Members: Peacock, Medrano, Hertzberg, Brouwer, Vice Chair Ruggles, Chair Parris. Board Member Vasquez arrived at 2:33 p.m.

FLAG SALUTE: CEO Jason Caudle led the flag salute.

PUBLIC COMMENT: None

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.

Jason Caudle CEO presented the staff report noting that July 1 is the beginning of a new budget year as such Bayshore Consulting Group, Inc. contract is scheduled for renewal. Bayshore Consulting provides Treasurer, Board Secretary, Accounting, Personnel and Procurement Services for CalChoice.

Motion by Board Member Ruggles, second by Board Member Hertzberg, to approve the recommendation.

Motion carried unanimously.

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.

Motion by Board Member Hertzberg, second by Board Member Brouwer, to approve the recommendation.

Motion carried unanimously.

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

RECOMMENDATION

Adopt the First Public Hydrogen Authority Vendor Communication Policy.

CEO Jason Caudle presented the staff report and General Counsel Allison Burns answered questions from the Board regarding limiting communication and not discuss anything pertaining to the RFP for the avoidance or appearance of any impropriety.

Motion by Board Member Hertzberg, second by Board Member Ruggles, to approve the recommendation.

Motion carried unanimously.

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.

No requests to speak on the Consent Calendar were received.

Motion by Board Member Brouwer, second by Board Member Medrano, to approve the Consent Calendar with the exception of Items 5 and 7 which were pulled for staff reports.

Motion approved unanimously.

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.

Director Alexis Merino provided a brief overview of the FPH2 Annual Budget.

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

Motion approved unanimously.

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.

CEO Jason Caudle presented the staff report noting that FPH2 has been working with multiple cities to join the venture and the City of Fresno is now joining the JPA.

Motion by Board Member Medrano, second by Board Member Ruggles, to approve the recommendation.

Motion approved unanimously.

Item 12: Chief Executive Officer and General Counsel Updates

RECOMMENDATION

Receive updates from the Chief Executive Officer and General Counsel

CEO Jason Caudle provided an update to the Board of Directors noting the magnitude of establishing FPH2 as a formal, separate complete entity, independent of the City of Lancaster; commented that the 22 RFP suppliers have been narrowed down to 10 with interviews taking place over the next couple of weeks; commented on working with off takers and the complicated process matching supplier and off taker; commented regarding the approval of the FPH2 Debt Policy and the development of the policies necessary to operate effectively.

Board questions/comments included how is staff communicating with respondents of the RFP who have not been selected and the estimated timeline for signing agreements; what might be the target range in terms of volumes to be procured; is there any pricing according to carbon intensity; how does federal funding impact pricing; request regarding the City of Fresno onboarding and what they are doing currently; and the Arches loan from the City of Lancaster and when/how that will be repaid.

CEO Jason Caudle indicated that the top 10 will be interviewed and the remainder will be notified and that six months is the timeline to be under contract and obtain visibility to long-term revenue. With regard to obtaining supply some price points are based on volume others are simpler as they relate to merging supply and demand and that all suppliers selected are within the market; and that a very heavy and detailed construction inspection process is envisioned to mitigate delivery issues; with regard to the City of Fresno they have their own transit agency with a zero emissions goal and that the current volume of fuel they are purchasing will not be enough for future needs in addition to having interest in the FPH2 stationary power component; and that the Arches loan is due in 2026 to the City of Lancaster.

PUBLIC COMMENT

A member of the public addressed the Board regarding possible funding for the oil company pathway to hydrogen and Michael Lewis regarding the 45Q Legislation.

BOARD MEMBER QUESTIONS/COMMENTS

None

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

None

Chair Parris adjourned the meeting at 3:22 pm.

NEXT MEETING: Regular Board Meeting July 17, 2025

Susan Caputo, MMC
Board Secretary
Approved:



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Barbara Boswell, Treasurer

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

Recommendation:

Receive and file Treasurer's Report for period ended June 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 June 30, 2025:

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

FIRST PUBLIC HYDROGEN AUTHORITY
STATEMENT OF NET POSITION
Unaudited and Preliminary
As of June 30, 2025

ASSETS

Cash	<u>\$1,346,292</u>
TOTAL ASSETS	<u>\$1,346,292</u>

LIABILITIES

Current Liabilities	
Accounts Payable	<u>\$329,826</u>
Total Current Liabilities	<u>\$329,826</u>
Noncurrent Liabilities	
Due to City of Lancaster	<u>\$2,600,000</u>
Total Noncurrent Liabilities	<u>\$2,600,000</u>
TOTAL LIABILITIES	<u>\$2,929,826</u>
NET POSITION	<u>(\$1,583,534)</u>

FIRST PUBLIC HYDROGEN AUTHORITY
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
Unaudited and Preliminary
Period Ended June 30, 2025

OPERATING REVENUES	<u>\$0.00</u>
OPERATING EXPENSES	
Staff Salaries & Benefits	\$577,090
Board Stipends	62,400
Materials & Supplies	46
Special Activity Supplies	10,638
Computer Hardware & Software	80,389
Professional/Technical Services	538,657
Legal Services	124,809
Sponsorships	111,467
Advertising	3,347
Dues & Memberships	16,809
Meetings & Conferences	7,903
Insurance	2,891
Utilities	13,230
Travel/Mileage Reimbursement	<u>33,859</u>
TOTAL OPERATING EXPENSES	<u>\$1,583,534</u>
OPERATING INCOME (LOSS)	<u>(\$1,583,534)</u>

FIRST PUBLIC HYDROGEN AUTHORITY
BUDGET TO ACTUALS COMPARISON
Unaudited and Preliminary
Period Ended June 30, 2025

	BUDGET	ACTUALS	AVAILABLE BUDGET \$	AVAILABLE BUDGET %
OPERATING REVENUE	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>0%</u>
OPERATING EXPENSES				
Staff Salaries &	\$900,000	\$577,090	\$322,910	36%
Board Stipends	76,800	62,400	14,400	19%
Materials & Supplies	0	46	(46)	0%
Special Activity	27,000	10,638	16,362	61%
Computer Hardware & Software	0	80,389	(80,389)	0%
Professional/Technical	909,280	538,657	370,623	41%
Legal Services	159,225	124,809	34,416	22%
Sponsorships	125,000	111,467	13,533	11%
Advertising	50,000	3,347	46,653	93%
Dues & Memberships	20,000	16,809	3,191	16%
Meetings & Conferences	15,000	7,903	7,097	47%
Insurance	0	2,891	(2,891)	0%
Utilities	16,120	13,230	2,890	18%
Travel/Mileage	50,000	33,859	16,141	32%
Lancaster	<u>195,000</u>	<u>0</u>	<u>195,000</u>	<u>0</u>
TOTAL OPERATING	<u>\$2,543,425</u>	<u>\$1,583,534</u>	<u>\$959,891</u>	<u>38%</u>
CHANGE IN NET POSITION	(\$2,543,425)	(\$1,583,534)	(\$959,891)	38%

**FIRST PUBLIC HYDROGEN AUTHORITY
LIST OF PAYMENTS ISSUED
MAY 2025**

FIRST PUBLIC HYDROGEN AUTHORITY
LIST OF PAYMENTS ISSUED
JUNE 2025

LIST OF SOLE SOURCE AGREEMENTS EXECUTED MAY AND JUNE 2025

NAME	DESCRIPTION	TERM	NOT TO EXCEED AMOUNT
NONE TO REPORT			



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 3: **Consider Approval of Rental Agreement with the City of Lancaster for the Period July 1, 2025, through June 30, 2026, for a Base Rate of \$2,000 per Month**

Recommendation:

1. Approve a Rental Agreement with the City of Lancaster, for the period July 1, 2025, through June 30, 2026, with an option for up to five (5) annual extensions, for a base rate of \$2,000 per month, in substantially the form of the attached Rental Agreement.
2. Authorize the Chief Executive Officer, or designee, to sign the Rental Agreement, and up to five (5) one-year extensions thereof, subject to General Counsel approval.

Fiscal Impact:

The base rate of \$2,000 per month, for a total \$24,000 per year is included in the Board adopted Fiscal Year 2025/26 budget.

Background:

The proposed Rental Agreement would allow First Public Hydrogen Authority (FPH2) the opportunity to rent property currently owned, but not being used by the City of Lancaster, for purposes of office space for FPH2 staff, located at 431 E. Avenue K-4, Lancaster. FPH2 staff has been working with Lancaster staff to prepare the location for use by FPH2. Per the terms of the Agreement, FPH2 will be responsible for all Improvements required to operate a Conforming Energy Facility and office uses, including but not limited to maintenance and upkeep of the improvements, costs, taxes, charges, expenses of every kind and nature. FPH2 will also be responsible for paying all common area charges for gas, electricity, water, sewer, waste management, cable and other utilities furnished to the parcel.

FPH2 has secured the required insurance through its insurance provider, Special District Risk Management Association.

The terms and base rate of the Rental Agreement reflect current market conditions and typical rental agreements for similar properties.

Attachment:

Rental Agreement between the City of Lancaster and First Public Hydrogen Authority

RENTAL AGREEMENT

By and Between the

CITY OF LANCASTER

and

FIRST PUBLIC HYDROGEN

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EXHIBITS

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RENTAL AGREEMENT

This RENTAL AGREEMENT (the “Rental Agreement”) is made as of _____, 2025 (the “Date of Agreement”) by and between the **CITY OF LANCASTER**, a municipal corporation and charter city (the “City” or “Landlord”), and **FIRST PUBLIC HYDROGEN**, a California joint powers authority (the “Tenant”).

1. SUBJECT OF RENTAL AGREEMENT; DEFINITIONS.

Beneficial ownership of that certain property described in Exhibit “B” hereto (the “City Parcel”) is currently held by the City. The City intends to permanently dispose of all interests in the City Parcel upon achieving an agreement with a private entity for the purchase of the City Parcel on terms that are reflective of market conditions and beneficial for taxing agencies applicable to the territory that includes the City Property. To date, the City has not received any written offer for the purchase of the City Property that is reasonable and adequate. For an interim period, the City is prepared to rent the City Property to Tenant on the terms and conditions set forth in this Rental Agreement. The rental of the City Parcel for a limited period of time pursuant to this Rental Agreement will benefit the City by furthering Lancaster’s renewable energy goals, by providing for the maintenance of the City Parcel by a private party without cost to the City, and by enhancing the operation of an existing asset which is presently underutilized. The availability of the City Parcel to the Tenant hereunder is also beneficial to the Tenant.

1.1 Definitions:

“City” means the City of Lancaster, a California charter city and municipal corporation.

“City Manager” means the City Manager of the City or his or her designee.

“City Parcel” means that certain property described in Exhibit “B” hereto.

“City Parcel Improvements” means those improvements which are situated on the City Parcel as of the Date of Agreement.

“City Parcel Legal Description” means the description of the City Parcel which is attached hereto as Exhibit “B” and incorporated herein.

“City Parcel Map” means the map of the City Parcel which is attached hereto as Exhibit “A” and incorporated herein.

“Commencement Date” means July 1, 2025.

“Conforming Business Activities” means the generation of renewable energy research and development, and production, and supporting office uses to the City Parcel.

“Conforming Energy Facility” means all Improvements made by Tenant in, on or to the City Parcel which is specifically related to the generation of renewable energy, including without limitation, the installation of hydrogen and ammonia power production equipment and hydrogen fueling station, but excluding other Improvements which are of a general nature such as office

improvements, improvements to the existing buildings to restore or renovate restrooms and conference rooms, or to improve the parking lot and landscaping of the City Parcel.

“Countable Amounts” means an amount or amounts equal to the lesser of (i) the actual cost paid by Tenant to unrelated third parties in connection with the construction of Countable Improvements as demonstrated to the reasonable satisfaction of the City Manager, or (ii) the reasonable value of the Countable Improvements as reasonably determined by the City Manager after consultation with Tenant.

“Countable Improvements” means improvements to the City Parcel and public improvements, if any, undertaken by Tenant after having been authorized by the City Manager and which benefit the City Parcel, provided that: (i) such improvements shall have received the prior written approval of the City Manager before such improvements are undertaken; and (ii) the Countable Improvements shall be completed in conformity with all applicable Governmental Requirements, including without limitation the payment of all applicable fees and the obtaining of all applicable permits.

“County” shall mean the County of Los Angeles, California.

“Default” means the failure of a party to perform any action or covenant required by this Rental Agreement within the time periods provided herein following any applicable notice and opportunity to cure period, as may be set forth herein.

“Governmental Requirements” means all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the state, the County, the City, or any other political subdivision in which the City Parcel is located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over the Tenant or the City Parcel.

“Hazardous Material” or *“Hazardous Materials”* means and include any substance, material, or waste which is or becomes regulated by any local governmental authority, including the County, the Regional Water Quality Control Board, the State of California, or the United States Government, including, but not limited to, any material or substance which is: (i) defined as a “hazardous waste,” “acutely hazardous waste,” “restricted hazardous waste,” or “extremely hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter Presley Tanner Hazardous Substance Account Act); (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos and/or asbestos containing materials; (vii) lead based paint or any lead based or lead products; (viii) polychlorinated biphenyls, (ix) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317); (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903); (xi) Methyl tertiary Butyl Ether; (xii) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq. (42 U.S.C. Section 9601); (xiii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by

any Governmental Requirements either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to the environment; and/or (xiv) lead based paint pursuant to and defined in the Lead Based Paint Poisoning Prevention Act, Title X of the 1992 Housing and Community Development Act, 42 U.S.C. § 4800, et seq., specifically §§ 4821–4846, and the implementing regulations thereto. Notwithstanding the foregoing, “Hazardous Materials” shall not include such products in quantities below attainment levels identified in one or more of the enactments identified above as Governmental Requirements, including those products and amounts as are customarily used in the construction, maintenance, rehabilitation, management, operation and residence of residential or commercial developments or associated buildings and grounds, or typically used in residential or office activities in a manner typical of other comparable residential or commercial developments, such as cleaning or office supplies, or substances commonly ingested by a significant population living within the Development, including without limitation alcohol, aspirin, tobacco and saccharine.

“Hazardous Materials Contamination” means the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in, or under the Site by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the Date of Agreement) emanating from the City Parcel.

“Improvements” means any improvements to realty, including, without limitation, the existing facilities as located on the City Parcel plus Countable Improvements.

“Notice” means a notice in the form prescribed by Section 24.6.

“Rental Agreement” means this Rental Agreement.

“Rental Agreement Year” means the period commencing as of Commencement Date and ending as of June 30, 2026, then, if applicable, each 365-day period thereafter during the Term of this Rental Agreement.

“Term” or *“Term of the City Rental Agreement”* means the period commencing as of the Commencement Date of this Rental Agreement and ending as of June 30, 2026; provided that such initial term is subject to annual renewal (in one year increments) as provided in Section 3 hereof for a period of up to five (5) additional Rental Agreement Years (ending no later than June 30, 2030).

2. RENTAL AGREEMENT.

City, for and in consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of Tenant to be paid, kept, performed and observed by Tenant, hereby rents to Tenant, and Tenant hereby rents from City, the City Parcel. Except as expressly provided to the contrary in this Rental Agreement, reference to the City Parcel is to the described land, inclusive of all City Parcel Improvements now or hereafter located on the land. City represents that it owns the City Parcel and has authority to enter into this Rental Agreement with Tenant.

3. RENTAL AGREEMENT TERM.

Tenant rents the City Parcel from City and City rents the City Parcel to Tenant for the Term, which shall be that period commencing as of the date first above written and ending as of June 30,

2026; provided that Tenant may request annual extensions as provided in Section 3.1 hereof. The Term is subject to earlier termination as provided for herein. "Property" is used herein to refer to the leasehold interest in the City Parcel provided to Tenant by this Rental Agreement.

3.1 Extensions. Tenant may exercise, within sixty (60) days prior to the expiration date then in effect, an annual extension up to five (5) times (to be requested one Rental Agreement Year at a time). Tenant's exercise of each annual extension shall be subject to Tenant not then being in default hereunder beyond any applicable notice and cure period. The Base Rent during each annual extension shall be fair market value (assuming the City Parcel is vacant land despite the existence of any City Parcel Improvements then existing on the City Parcel) as agreed by the Parties or, if the Parties cannot reach agreement as determined by a Qualified Broker pursuant to Section 16(g) hereof ("**Fair Market Value**"). Tenant shall exercise each annual extension in writing, reference this Section 3 of this Rental Agreement, and such writing must be received at least sixty (60), but not more than one hundred eighty (180), days prior to the end of the Rental Agreement Year then in effect. Within fifteen (15) business days of Tenant's exercise of each annual extension and the parties' determination of the Fair Market Value, City shall prepare and send to Tenant an amendment to this Rental Agreement which sets forth the extension Term and the Fair Market Value, provided that the execution of such amendment is not a condition to such extension.

4. USE OF THE PROPERTY.

4.1 Use of the City Parcel. Tenant covenants and agrees for itself, its successors and assigns, that during the Term, the Tenant shall operate and use the City Parcel solely for operation of a Conforming Energy Facility and office uses related thereto and shall conduct only Conforming Business Activities on the Site for so long as this Rental Agreement remains in effect. Uses shall additionally conform to all applicable laws, and the Property and the Improvements shall be devoted to those uses as set forth in the Rental Agreement.

4.2 Improvements. Tenant shall be responsible for all Improvements required to operate a Conforming Energy Facility and office uses related thereto on the site, including but not limited to maintenance and upkeep of the Improvements in keeping with the City of Lancaster Municipal Code throughout the Term. Prior to construction of any new Improvements, Tenant shall apply for and obtain all necessary permits and shall pay all fees associated therewith, and shall thereafter complete such Improvements, provided that the approval of Landlord is first obtained under this Rental Agreement, which approval may be granted, conditionally granted, or refused at the sole discretion of Landlord. The City Manager is authorized to make determinations on behalf of Landlord under this Section 4.

4.3 Management. Tenant shall manage or cause the Property and the Improvements to be managed in a prudent and business-like manner.

For purposes of this Rental Agreement, the term "Mismanagement" shall mean management of the Improvements in a manner which violates the terms of this Rental Agreement to operate Conforming Business Uses on the City Parcel, and shall include, but is not limited to, the following:

Failing to timely maintain the Improvements in accordance with this Rental Agreement;

Conduct of uses on the City Parcel that are other than Conforming Business Activities; and

Repeatedly failing to fully cooperate with the Los Angeles County Sheriff's Office and/or Lancaster Police Department in maintaining a crime free environment on the City Parcel.

Notwithstanding the above, Tenant shall use its best efforts to correct any defects in management at the earliest feasible time. The foregoing portion of this Section 4.3 is in addition to and does not limit the City's rights of termination or to pursue remedies under this Rental Agreement.

4.4 Only Limited Uses Permitted. Tenant shall not use the City Parcel or the Improvements for any purpose that is in violation of any law, ordinance or regulation of any federal, state, county or local governmental agency, body or entity or for any use other than Conforming Business Activities and office uses related thereto. Furthermore, Tenant shall not maintain or commit any nuisance or unlawful conduct (as now or hereafter defined by any applicable statutory or decisional law) on the City Parcel or the Improvements, or any part thereof.

5. RENT AND COMMUNITY PARTNERSHIP.

5.1 Net Lease. It is the intent of the parties hereto that the rent provided herein shall be absolutely net to City and that Tenant shall pay all costs, taxes, charges, and expenses of every kind and nature against the City Parcel and the Improvements which may arise or become due during the Term, and which, except for execution hereof, would or could have been payable by City.

5.2 Rent. As of the first day of each Rental Agreement Year during the Term, Tenant agrees to pay rent (the "Base Rent") of Two Thousand Dollars (\$2,000) per month, which shall be payable on the first day of each month that this Rental Agreement remains in effect.

5.3 Payment of Rent. All Base Rent that becomes due and payable pursuant to this Rental Agreement shall be paid to City at the address of City listed in Section 24.6 or such other place as City may from time to time designate by written notice to the Tenant without notice or demand, and without setoff, counterclaim, abatement, deferment, suspension or deduction.

6. UTILITIES AND TAXES.

6.1 Utilities. Tenant shall pay or cause to be paid all common area charges for gas, electricity, water, sewer, garbage collection, cable television, and other utilities furnished to the City Parcel and the City Parcel Improvements and all sewer use charges, hookup or similar charges or assessments for utilities levied against the City Parcel and the City Parcel Improvements for any period included within the Term. Utilities shall be separately metered and Tenant shall pay City's utility user taxes.

6.2 Real Estate Taxes.

(a) As used herein, the term "real estate taxes" shall mean all real estate taxes, municipal or county water and sewer rates and charges, or any other assessments or taxes, which shall be levied against the City Parcel or the City Parcel Improvements, or any interest therein, and which become a lien thereon and accrue during the Term.

(b) Any real estate taxes which are payable by Tenant hereunder shall be prorated between City and Tenant as of the Commencement Date and then again at the expiration or earlier termination of the Term.

(c) Tenant shall have the right to contest the amount or validity of any real estate taxes, in whole or in part, by appropriate administrative and legal proceedings, without any costs or expense to City, and Tenant may postpone payment of any such contested real estate taxes pending the prosecution of such proceedings and any appeals so long as such proceedings shall not operate to prevent the collection of such real estate taxes and the sale of the City Parcel and any City Parcel Improvements to satisfy any lien arising out of the nonpayment of the same.

(d) Tenant shall have the right to apply for and may obtain any exemption(s) as may be applicable as to real estate taxes.

6.3 Personal Property. Tenant covenants and agrees to pay before delinquency all personal property taxes, assessments and liens of every kind and nature upon all personal property as may be owned by Tenant and from time to time situated within the City Parcel and any City Parcel Improvements.

6.4 Possessory Interest. The parties acknowledge that whether any property taxes apply by virtue of this Rental Agreement is within the purview of the Los Angeles County Assessor. If any such assessment is made as to the leasehold interest of Tenant or otherwise as a result of this Rental Agreement, any resulting taxes and assessments shall be paid by Tenant promptly and prior to delinquency.

7. OWNERSHIP OF IMPROVEMENTS, FIXTURES AND FURNISHINGS.

7.1 Ownership During Term. All Improvements to existing structures constructed on the City Parcel by Tenant as permitted by this Rental Agreement shall, during the Term, be and remain the property of Landlord, subject to Tenant's leasehold interest pursuant to this Lease. Tenant shall have no right to waste the City Parcel Improvements, or to destroy, demolish or remove the City Parcel Improvements; and further, Tenant's rights and powers with respect to the City Parcel Improvements are subject to the terms and limitations of this Rental Agreement. City and Tenant covenant for themselves and all persons claiming under or through them that the Improvements are real property.

7.2 Ownership at Termination. Upon termination of this Rental Agreement, whether by expiration of the Term or otherwise, all Improvements, fixtures and furnishings shall, without compensation to Tenant, remain City's property, free and clear of all liens, encumbrances, and claims to or against them by Tenant or any third person, firm or entity, including but not limited to any mortgagee or lender, unless otherwise approved by City in writing at its discretion. At the option of the City, upon not less than ninety (90) days prior written notice, the City may require the Tenant to demolish and remove any Improvements which are solely related to the Conforming Energy Facility, such as equipment and improvements that were installed for hydrogen and ammonia power production equipment, made or altered by Tenant to the City Parcel, but Tenant shall not be responsible for demolishing or removing any general improvements made to the City Parcel, such as offices, kitchens, landscaping.

8. MECHANICS LIENS; FAITHFUL PERFORMANCE.

Tenant shall not suffer or permit any mechanics' or materialmen's liens to be enforced against the fee simple estate in reversion of City as to the City Parcel and City Parcel Improvements, nor against Tenant's leasehold interest therein by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding the City Parcel and the Improvements, or any part thereof, through or under Tenant, and Tenant agrees to defend, indemnify, and hold City and its respective officers, officials, employees, agents, and representatives, harmless against such liens. If any such lien shall at any time be filed against the City Parcel or any City Parcel Improvements, Tenant shall, within thirty (30) days after notice to Tenant of the filing thereof, cause the same to be discharged of record; provided, however, that Tenant shall have the right to contest the amount or validity, in whole or in part, of any such lien by appropriate proceedings but in such event, Tenant shall notify City and promptly bond such lien in the manner authorized by law with a responsible surety company qualified to do business in the State of California or provide other security acceptable to City. Tenant shall prosecute such proceedings with due diligence. Nothing in this Rental Agreement shall be deemed to be, nor shall be construed in any way to constitute, the consent or request of City, express or implied, by inference or otherwise, to any person, firm or limited partnership for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration or repair of or to the City Parcel, the City Parcel Improvements, or any part thereof. Prior to commencement of construction of the Improvements on the City Parcel, or any repair or alteration thereto having a cost in excess of Five Thousand Dollars (\$5,000.00), Tenant shall give City not less than ten (10) days advance notice in writing of intention to begin said activity in order that nonresponsibility notices may be posted and recorded as provided by State and local laws.

9. MAINTENANCE AND REPAIR.

Tenant agrees to assume full responsibility for the management, operation and maintenance of the Improvements and the City Parcel throughout the Term without expense to City, and to perform all repairs and replacements necessary to maintain and preserve the Improvements and the City Parcel in good repair, in a neat, clean, safe and orderly condition reasonably satisfactory to City and in compliance with all applicable laws. Other than the items specified on the list of City repairs that is attached hereto as Exhibit C and incorporated herein, Tenant agrees that City shall not be required to perform any maintenance, repairs or services or to assume any expense in connection with the Improvements and the City Parcel. Tenant hereby waives all rights to make repairs or to cause any work to be performed at the expense of City as provided for in Section 1941 and 1942 of the California Civil Code.

The following standards shall be complied with by Tenant and its maintenance staff, contractors or subcontractors:

(1) Tenant shall maintain the Improvements, in a safe fashion suitable for the proposed use. The Tenant agrees to provide utility services, administrative services, supplies, contract services, maintenance, and management.

(2) Landscape maintenance (to the extent there is landscaping) shall include, but not be limited to: watering/irrigation; fertilization; mowing, edging, and trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and optimum irrigation coverage; replacement, as

needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

(3) Clean-up maintenance shall include, but not be limited to: maintenance of all private paths, parking areas, driveways and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from Improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

(4) The Improvements shall be maintained in conformance and in compliance with the approved construction and architectural plans and design scheme, as the same may be amended from time to time with the approval of the City.

(5) All maintenance work shall conform to all applicable federal and state Occupation Safety and Health Act standards and regulations for the performance of maintenance.

(6) Any and all chemicals, unhealthful substances, and pesticides used in and during maintenance shall be applied only by persons in strict accordance with all governing regulations.

(7) Parking lots, lighting fixtures, trash enclosures, and all areas shall be kept free from any accumulation of debris or waste materials by regularly scheduled maintenance.

10. ENVIRONMENTAL MATTERS.

10.1 Assumption of Responsibility and Liabilities. Tenant assumes any and all responsibility and Liabilities (as defined in Section 10.2 of this Rental Agreement) for all Hazardous Materials Contamination of the City Parcel occurring during the Term of this Rental Agreement or any extension thereof; provided, however, Tenant shall not be responsible for and shall have no Liability for (i) any Hazardous Materials Contamination of the City Parcel which existed prior to the Term of this Lease, (ii) is disclosed in the Phase I Report (as defined below) or (iii) results from underground migration where the source of such migration was not caused by Tenant (collectively, exceptions (i), (ii), and (iii) to Tenant's liability under this Section 10.1 are referred to as the ("Hazardous Materials Exceptions"). City acknowledges and agrees that Tenant will order at its sole cost, a Phase I environmental assessment ("Phase I Report") of the City Parcel within ten (10) business days of the date of this Rental Agreement, and a copy of such report shall be provided to City.

10.2 Indemnification; Tenant's Indemnity. Except with respect to the Hazardous Materials Exceptions, which shall remain the liability of the City, Tenant shall save, protect, defend, indemnify and hold harmless City and its officers, officials, employees, and agents from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, reasonable attorneys' fees and remedial and response costs) (the foregoing are hereinafter collectively referred to as "Liabilities") which may now or in the future be incurred or suffered by City and its officers, officials, employees, or agents by reason of, resulting from, in connection with, or arising in any

manner whatsoever as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from the City Parcel of any Hazardous Materials or Hazardous Materials Contamination which first occurs after the Commencement Date and during the Term, including any Liabilities incurred under any Governmental Requirements relating to such Hazardous Materials or Hazardous Materials Contamination. Tenant's obligations under this Section 10.2 shall survive the expiration of this Rental Agreement and shall not merge with any grant deed, special warranty deed or quitclaim deed.

10.3 Duty to Prevent Hazardous Material Contamination. Tenant shall take all necessary precautions to prevent the release of any Hazardous Materials into the environment. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Tenant shall install and utilize such equipment and implement and adhere to such procedures as are consistent with the standards generally applied by projects similar to the City Parcel in Los Angeles County, California with respect to the disclosure, storage, use, removal, and disposal of Hazardous Materials.

10.4 Obligation of Tenant to Remediate Premises. Notwithstanding the obligation of Tenant to indemnify City pursuant to Section 10.2 of this Rental Agreement, except with respect to the Hazardous Materials Exceptions which shall remain the liability of the City, Tenant shall, at its sole cost and expense, promptly take (i) all actions required by any federal, state, regional, or local governmental agency or political subdivision or any Governmental Requirements and (ii) all actions necessary to make full economic use of the City Parcel for the purposes described in this Rental Agreement, which requirements or necessity arise from the presence upon, about or beneath the City Parcel of any Hazardous Materials or Hazardous Materials Contamination which may first exist in or on the City Parcel during the Term of this Rental Agreement. Such actions shall include, but not be limited to, the investigation of the environmental condition of the City Parcel, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal or restoration work, and Tenant shall take all actions necessary to promptly restore the City Parcel to an environmentally sound condition for the uses contemplated by this Rental Agreement notwithstanding any lesser standard of remediation allowable under applicable Governmental Requirements.

10.5 Storage or Handling of Hazardous Materials. Tenant, at its sole cost and expense, shall comply with all Governmental Requirements for its storage, use, transportation, handling and disposal of Hazardous Materials on or about the City Parcel. In the event Tenant does store, use, transport, handle or dispose of any Hazardous Materials, Tenant shall notify City in writing at least ten (10) days prior to their first appearance on the City Parcel and Tenant's failure to do so shall constitute a material default under this Rental Agreement. Except with respect to the Hazardous Materials Exceptions which shall remain the liability of the City, Tenant shall conduct all monitoring activities required or prescribed by applicable Governmental Requirements, and shall, at its sole cost and expense, comply with all posting requirements of Proposition 65 or any other similarly enacted Governmental Requirements. In addition, in the event of any complaint or governmental inquiry, or if otherwise deemed necessary by City in its reasonable judgment, City may require Tenant, at Tenant's sole cost and expense, to conduct specific monitoring or testing activities with respect to Hazardous Materials on the City Parcel. Tenant's monitoring programs shall be in compliance with applicable Governmental Requirements, and any program related to the specific monitoring of or testing for Hazardous Materials on the City Parcel, shall be satisfactory to City, in City's reasonable discretion. Except with respect to the Hazardous Materials Exceptions which shall remain the liability of the City, Tenant shall further be solely

responsible, and shall reimburse City, for all costs and expenses incurred by City arising out of or connected with the removal, clean-up and/or restoration work and materials necessary to return the City Parcel and any property adjacent to the City Parcel affected by Hazardous Materials emanating from the City Parcel to their condition existing at the time of the commencement of the Term. Tenant's obligations hereunder shall survive the termination of this Rental Agreement and shall not merge with any grant deed.

10.6 Environmental Inquiries. Tenant shall notify City, and provide to City a copy or copies, of the following environmental permits, disclosures, applications, entitlements or inquiries relating to the City Parcel: (i) notices of violation; (ii) notices to comply; (iii) citations; (iv) inquiries; (v) clean-up or abatement orders; (vi) cease and desist orders; (vii) reports filed pursuant to self-reporting requirements; and/or (viii) reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks. Tenant shall report to City, as soon as possible after each incident, any unusual, potentially important incident involving Hazardous Materials.

In the event of a release of any Hazardous Materials into the environment arising from, occurring on or pertaining to the City Parcel during the Term, Tenant shall, as soon as possible after the release, furnish to City a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request of City, Tenant shall furnish to City a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the City Parcel including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

11. ALTERATION OF IMPROVEMENTS.

Tenant shall not make or permit to be made any further material structural alteration of, structural addition to or change to any City Parcel Improvements within the public right of way, or change to any of the Improvements (which shall be deemed to be material if the cost or value of such structural alteration(s) or structural addition(s) exceeds \$100,000 per project) without the prior written approval of the City Manager, nor demolish all or any material part of the Improvements without the prior written consent of the City Manager; provided, however, that the foregoing shall not prohibit or restrict the repair and/or replacement of the City Parcel Improvements by Tenant in accordance with Section 9 hereof. In requesting such consent Tenant shall submit to City detailed plans and specifications of the proposed work and an explanation of the need and reasons therefor. City shall cooperate with Tenant, at no expense to City, in obtaining any governmental permits required for the proposed work.

This provision shall not limit or set aside any obligation of Tenant under this Rental Agreement to maintain the Improvements and the City Parcel in a clean and safe condition, including structural repair and restoration of damaged Improvements. City shall not be obligated by this Rental Agreement to make any improvements to the City Parcel or to assume any expense therefor.

Tenant shall not commit or suffer to be committed any waste or impairment of the City Parcel or the City Parcel Improvements, or any part thereof, except as otherwise permitted pursuant to this Rental Agreement. Tenant agrees to keep the City Parcel and the Improvements clean and clear of refuse and obstructions, and to dispose of all garbage, trash and rubbish in a manner satisfactory to City.

12. DAMAGE OR DESTRUCTION.

12.1 Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance. Subject to Section 12.3 below, if the Improvements shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty required to be insured against by Tenant, Tenant (i) may either terminate this Rental Agreement and, at City's option, demolish and remove any remaining Improvements made or altered by Tenant which are not salvageable or which are solely related to the Conforming Energy Facility, such as equipment related to hydrogen power production equipment, or (ii) may promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, to promptly and diligently commence the repair or replacement of the Improvements to substantially the same condition as the Improvements are required to be maintained in pursuant to this Rental Agreement, whether or not the insurance proceeds are sufficient to cover the actual cost of repair, replacement, or restoration, and Tenant shall complete the same as soon as possible thereafter so that the Improvements can continue to be operated and occupied in accordance with the Rental Agreement. Subject to Section 24.18 (force majeure), in no event shall the repair, replacement, or restoration period exceed 270 days from the date Tenant obtains insurance proceeds unless the City Manager, in his or her reasonable discretion, approves a longer period of time. City shall cooperate with Tenant, at no expense to City, in obtaining any governmental permits required for the repair, replacement, or restoration. If Tenant elects to repair or replace the Improvements, the City and Tenant shall extend the Term of this Rental Agreement at the then-existing Fair Market Value so that Tenant has at least three full years of Term after completion of the repairs and replacements. If, however, the then-existing laws of any other governmental agencies with jurisdiction over the City Parcel do not permit the repair, replacement, or restoration or Tenant has elected to not repair the Improvements and to terminate this Rental Agreement, Tenant may elect not to repair, replace, or restore the Improvements by giving notice to City (in which event all insurance proceeds shall be paid to City and Tenant on a pro-rata basis based upon the value of the City Parcel Improvements and the Countable Improvements, respectively and Tenant shall be required to remove all debris from the City Parcel) or Tenant may reconstruct such other improvements on the City Parcel as are consistent with applicable land use regulations and approved by the City, the City, and the other governmental agency or agencies with jurisdiction. In the event Tenant elects not to repair, replace, or restore and gives City notice of such election as provided herein, this Rental Agreement shall terminate.

12.2 Continued Operations. During any period of repair, (i) Tenant shall continue, or cause the continuation of, the operation of the City Parcel Improvements to the extent reasonably practicable from the standpoint of prudent business management, and (ii) Rent shall be abated for any portion of the City Parcel which is not usable by Tenant.

12.3 Damage or Destruction Due to Cause Not Required to be Covered by Insurance. If the City Parcel Improvements are completely destroyed or substantially damaged by a casualty for which Tenant is not required to (and has not) insured against, then Tenant shall not be required to repair, replace, or restore such Improvements and may elect not to do so by providing City with written notice of election not to repair, replace, or restore within ninety (90) days after such substantial damage or destruction. In such event, Tenant shall remove all debris from the City Parcel. As used in this Section 12.3, "substantial damage" caused by a casualty not required to be (and not) covered by insurance shall mean damage or destruction which is twenty-five percent (25%) or more of the replacement cost of the Improvements comprising the City

Parcel Improvements. In the event Tenant does not timely elect not to repair, replace, or restore the City Parcel Improvements as set forth in the first sentence of this Section 12.3, Tenant shall be conclusively deemed to have waived its right not to repair, replace, or restore the City Parcel Improvements and thereafter Tenant shall promptly commence and complete the repair, replacement, or restoration of the damaged or destroyed Improvements in accordance with Section 12.1 above and continue operation of the City Parcel Improvements during the period of repair (if practicable) in accordance with Section 12.2 above. In the event Tenant elects not to repair, replace, or restore, and gives City notice of such election as provided herein, this Rental Agreement shall terminate. If Tenant elects to repair or replace the Improvements, the City and Tenant shall extend the Term of this Rental Agreement at the then-existing Fair Market Value so that Tenant has at least three full years of Term after completion of the repairs and replacements.

13. SALE, ASSIGNMENT, SUBLEASE OR OTHER TRANSFER.

Except for the grant of an easement or license to the City, Tenant shall not sell, assign, sublease, or otherwise transfer this Rental Agreement or any right therein, nor make any total or partial sale, assignment, sublease, or transfer in any other mode or form of the whole or any part of the City Parcel or the City Parcel Improvements (each of which events is referred to in this Rental Agreement as an "Assignment"), without (a) prior written approval of City; and (b) applying all proceeds therefrom to the repayment of that certain Promissory Note by and between the City and Tenant dated January 30, 2025. By its approval of this Rental Agreement the City Council of the City hereby expressly delegates authority to approve any Assignment request to its City Manager. The term "Assignment" shall be deemed to include (without limitation) all refinancing thereof and any other loans approved by City. Any purported Assignment without the prior written consent of City shall be null and void and shall confer no rights whatsoever upon any purported assignee or transferee.

Notwithstanding any other provision of this Rental Agreement to the contrary, the City shall not unreasonably withhold its approval of an Assignment of this Rental Agreement or conveyance of the City Parcel or City Parcel Improvements, or any part thereof, in connection with any transfers to an entity or entities in which Tenant retains a minimum of fifty-one percent (51%) of the ownership or beneficial interest and retains management and control of the transferee entity or entities; provided that in the event of a proposed assignment by Tenant under the preceding portion of this paragraph, Tenant agrees that at least thirty (30) days prior to such Assignment it shall give written notice to City including a request for approval of such Assignment and satisfactory evidence that the assignee has assumed the obligations of this Rental Agreement.

Notwithstanding any provision in this Section 13 to the contrary, in no event shall Tenant make any Assignment which would or could be effective beyond the Term without the prior consent of the City Manager, which approval may be granted, conditionally granted, or refused at the reasonable discretion of the City Manager.

14. INDEMNITY.

During the Term, Tenant agrees that City and its agents, officers, representatives and employees, shall not be liable for any claims, liabilities, penalties, fines or for any damage to the goods, properties or effects of Tenant, its sublessees or representatives, agents, employees, guests, licensees, invitees, patrons or clientele or of any other person whomsoever, nor for personal injuries to, or deaths of any persons, whether caused by or resulting from any act or omission of Tenant or its

sublessees or any other person on or about the City Parcel and the Improvements, or in connection with the operation thereof, or from any defect in the City Parcel or the Improvements, or from any displacement of tenants or liability for relocation assistance pursuant to Government Code Section 7260, *et seq.*, due to the acts of Tenant hereunder; except for any claims, liabilities, penalties, fines, damages or injuries resulting from or caused by City's negligence or willful misconduct. Tenant agrees to indemnify and save free and harmless City and its authorized agents, officers, representatives and employees against any and all claims, actions, damages, liability (including reasonable expenses and attorneys' fees) concerning loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the City Parcel and/or the Improvements or the occupancy or use by Tenant of the City Parcel and/or the Improvements or any part thereof, or arising from or out of Tenant's failure to comply with any provision of this Rental Agreement or otherwise occasioned wholly or in part by any act or omission of Tenant, its agents, representatives, contractors, employees, servants, customers or licensees; except for any claims, liabilities, penalties, fines, damages or injuries resulting from or caused by City's negligence or willful misconduct.

15. INSURANCE.

15.1 Insurance to be Provided by Tenant. During the Term, Tenant, at its sole cost and expense, shall:

(a) Maintain or cause to be maintained a policy or policies of insurance against loss or damage to the Improvements of all property of an insurable nature located upon the City Parcel, resulting from fire, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage fire insurance and casualty loss policies.

(b) Maintain or cause to be maintained, comprehensive general liability insurance with respect to the City Parcel and the Improvements and the operations of the Tenant in, on or about the City Parcel and the Improvements, including, but not limited to, owned and hired motor vehicle liability, cross liability and severability of interests, personal injury, blanket contractual, owners protective broad form property damage, and product/completed operations liability coverage in an amount not less than Two Million Dollars (\$2,000,000.00), combined single limit, public liability insurance to protect against loss from liability for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the City Parcel and the Improvements, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Tenant or its sublessees, or any person acting for Tenant, or under their respective control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the City Parcel and the Improvements, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Tenant of its sublessees, or any person acting for Tenant, or under their respective control or direction. Such property damage and personal injury insurance shall also provide for and protect against incurring any legal cost in defending claims for alleged loss. The required amount of insurance shall be subject to increases as City may reasonably require from time to time, but not more frequently than once every twenty-four (24) months. In no event shall such increase or increases exceed the increase during such period in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, Subgroup "All Items," in the geographical area applicable to Lancaster. Tenant agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way

the extent to which Tenant may be held responsible for the payment of damages to persons or property resulting from Tenant's activities, activities of its sublessees or the activities of any other person or persons for which Tenant is otherwise responsible.

(c) Maintain or cause to be maintained worker's compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Tenant in connection with the City Parcel and the Improvements and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for on behalf of any person incurring or suffering injury or death in connection with the City Parcel or the Improvements or the operation thereof by Tenant.

15.2 Definition of "Full Insurable Value". The term "Full Insurable Value" as used in this Section 15 shall mean the actual replacement cost (excluding the cost of excavation, foundation and footings below the lowest floor and without deduction for depreciation) of the Improvements, including the cost of construction of the Improvements, architectural and engineering fees, and inspection and supervision. To ascertain the amount of coverage required, Tenant shall cause the Full Insurable Value to be determined from time to time by appraisal by the insurer or, if no such appraisal is available, by an appraiser mutually acceptable to City and Tenant, not less often than once every three (3) Rental Agreement Years.

15.3 General Insurance Provisions. All policies of insurance provided for in this Section 15, except for the workers' compensation insurance, shall name Tenant as the insured and loss payee and City, including its officers, employees, agents, and representatives, as additional insureds, as their respective interests may appear. Tenant agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. Tenant agrees to submit policies of all insurance required by this Section 15 of this Rental Agreement, or certificates evidencing the existence thereof, to City on or before the effective date of this Rental Agreement, indicating full coverage of the contractual liability imposed by this Rental Agreement. At least ten (10) days prior to expiration of any such policy, copies of renewal policies, or certificates evidencing the existence thereof, shall be submitted to City. All policies of insurance required of Tenant herein shall be issued by insurance companies with a general policy holder's rating of not less than A and a financial rating of not less than Class X, as rated in the most current available "Best's Key Rating Guide", and which are qualified to do business in the State of California. All policies or certificates of insurance shall also: (i) provide that such policies shall not be canceled or limited in any manner without at least ten (10) days prior written notice to City; and (ii) provide that such coverage is primary and not contributing with any insurance as may be obtained by City and shall contain a waiver of subrogation for the benefit of the City and the City.

Coverage provided hereunder by Tenant shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City and the City. None of the above-described policies shall require Tenant to meet a deductible or self-insured retention amount of more than Ten Thousand Dollars (\$10,000.00) unless first approved in writing by the City Manager. All policies shall be written

by good and solvent insurers qualified to do business in California and shall have a policyholder's rating of A or better in the most recent edition of "Best's Key Rating Guide -- Property and Casualty." The required certificate shall be furnished by Tenant at the time set forth herein.

15.4 Failure to Maintain Insurance. If Tenant fails or refuses to procure or maintain insurance as required by this Rental Agreement, City shall have the right, at City's election, and upon ten (10) days prior notice to Tenant, to procure and maintain such insurance. The premiums paid by City shall be treated as added rent due from Tenant, to be paid on the first day of the month following the date on which the premiums were paid. City shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

15.5 Insurance Proceeds Resulting from Loss or Damage to Improvements. All proceeds of insurance with respect to loss or damage to the City Parcel Improvements during the term of this Rental Agreement shall be payable, under the provisions of the policy of insurance, to Tenant, and said proceeds shall constitute a trust fund to be used for the restoration, repair and rebuilding of the City Parcel Improvements in accordance with plans and specifications approved in writing by City if repair and restoration is elected by Tenant pursuant to Section 12 above. To the extent that such proceeds exceed the cost of such restoration, repair or rebuilding, then such proceeds shall be retained by the party that purchased the insurance.

In the event this Rental Agreement is terminated by mutual agreement of City and Tenant and said City Parcel Improvements are not restored, repaired or rebuilt, the insurance proceeds shall be jointly retained by City and Tenant and shall be applied first to any payments due under this Rental Agreement from Tenant to City, second to restore the City Parcel and City Parcel Improvements to their original condition and to a neat and clean condition, and finally any excess shall be apportioned between Tenant and City as their interests may appear. The value of each interest for the purpose of apportioning excess proceeds under this Section 15.5 shall be the fair market value of such interests immediately prior to the occurrence of the damage or destruction.

16. EMINENT DOMAIN.

In the event that the City Parcel and/or the City Parcel Improvements or any part thereof shall be taken for public purposes by any public agency other than the City by condemnation as a result of any action or proceeding in eminent domain, then, as between City and Tenant (or mortgagee, if a mortgage is then in effect), the interests of City and Tenant (or mortgagee) in the award and the effect of the taking upon this Rental Agreement shall be as follows:

(a) In the event of such taking of only a part of the City Parcel, leaving the remainder of the City Parcel in such location and in such form, shape and size as to be used effectively and practicably for the conduct thereon of the uses permitted hereunder, in the reasonable determination of Tenant, this Rental Agreement shall terminate and end as to the portion of the City Parcel so taken as of the date title to such portion vests in the condemning authority, but shall continue in full force and effect as to the portion of the City Parcel not so taken and from and after such date the rental required by this Rental Agreement to be paid by Tenant to City shall be reduced in the proportion which the number of square feet so taken bears to the total number of square feet in the City Parcel.

(b) In the event of taking of only a part of the City Parcel, leaving the remainder of the City Parcel in such location, or in such form, shape or reduced size as to render the same not effectively and practicably usable, for the conduct thereon of the uses permitted hereunder, in the reasonable determination of Tenant, this Rental Agreement and all right, title and interest thereunder shall terminate on the date title to the City Parcel so taken vests in the condemning authority.

(c) In the event the entire City Parcel is taken, this Rental Agreement and all of the right, title and interest thereunder, shall terminate on the date title to the City Parcel so taken vests in the condemning authority.

(d) Promptly after a partial taking, at Tenant's expense and in the manner specified in provisions of this Rental Agreement related to maintenance, repairs, alterations, Tenant shall restore the Improvements, to the extent of condemnation proceeds received by Tenant, so as to place them in a condition suitable for the uses and purposes for which the City Parcel was leased.

(e) In the event of any taking under subparagraphs (a), (b) or (c) hereinabove, that portion of any award of compensation attributable to the fair market value of the City Parcel or portion thereof taken, valued as subject to this Rental Agreement, shall belong to City. That portion of any award attributable to the fair market value of Tenant's interest in the City Parcel pursuant to this Rental Agreement shall belong to Tenant. That portion of any award attributable to the fair market value of the City Parcel Improvements or portion thereof taken shall belong to City and Tenant, as their interests may appear with any increase in the fair market value of the City Parcel Improvements resulting from Tenant's Improvements belonging to Tenant, except that in the event of a partial taking, where the Rental Agreement remains in effect and Tenant is obligated to restore or repair the City Parcel Improvements, then Tenant shall be entitled to any portion of the award attributable to severance damages to the remaining City Parcel Improvements to the extent necessary to restore or repair the City Parcel Improvements and any remaining severance damages shall be payable to City. Said award shall be used for the restoration, repair or rebuilding of the City Parcel Improvements in accordance with plans and specifications approved in writing by City to the extent necessary to restore or repair the Improvements and any remaining severance damages shall be payable to Tenant; except that, during the last year Rental Agreement Year of the Term, any remaining severance damages shall be payable to City. The value of each interest for the purpose of apportionment under this Section 16 shall be the fair market value of such interests at the time of the taking.

(f) Notwithstanding the foregoing provisions of this Section 16, City may, in its discretion and without affecting the validity and existence of this Rental Agreement, transfer City's interests in the City Parcel in lieu of condemnation to any authority entitled to exercise the power of eminent domain. In the event of such transfer by City, Tenant (or mortgagee if a mortgage is then in effect) and City shall retain whatever rights they may have to recover from said authority the fair market value of their respective interests in the City Parcel Improvements taken by the authority.

(g) All valuations to be made pursuant to this Agreement, including, but not limited to this Section 16 shall be made by qualified, licensed real estate broker familiar with property in the Antelope Valley ("Qualified Broker") mutually selected by City and Tenant. In the event City and Tenant cannot agree on a Qualified Broker, then each of City and Tenant shall appoint a Qualified Broker who shall together select a third Qualified Broker, which selected Qualified Broker shall determine the valuation at issue.

(h) The City agrees that during the Term, provided that this Rental Agreement shall remain in effect, the City shall not exercise eminent domain powers as to the City Parcel or the City Parcel Improvements.

17. OBLIGATION TO REFRAIN FROM DISCRIMINATION.

There shall be no discrimination against or segregation of any person or group of persons, on account of sex, marital status, race, color, creed, religion, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the City Parcel and the Improvements, and Tenant itself or any person claiming under or through it shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees thereof or any portion thereof, or in the providing of goods, services, facilities, privileges, advantages and accommodation.

18. NONDISCRIMINATION IN EMPLOYMENT.

Tenant, for itself and its successors and assigns, agrees that during the operation of the City Parcel Improvements provided for in this Rental Agreement, and during any work of repair or replacement, Tenant shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, physical or mental disability, sexual orientation, ancestry or national origin, or on the basis of any other category or status not permitted by law.

19. NO RELOCATION BENEFITS; NO PAYMENTS RE LOSS OF GOODWILL.

Tenant agrees and acknowledges that, without regard to the time or circumstances associated with the cessation of the Term or the use of the City Parcel by Tenant, Tenant shall have no right to relocation assistance or benefits arising from the dispossession of the Tenant or such person or persons regardless of the circumstances thereof (including without limitation with respect to any Improvements made to the City Parcel). Tenant waives any rights to relocation benefits and/or relocation advisory assistance in connection with the use of the City Parcel or the cessation of use of the City Parcel. The provisions of this paragraph shall be in addition to and shall not limit the rights and remedies of Landlord as otherwise set forth in this Rental Agreement. The provisions of this Section 19 are a material part of this Lease and, but for such provisions, Landlord would not have entered into this Rental Agreement. Tenant further agrees that Tenant shall not be entitled to receive any compensation for loss of goodwill; Tenant waives any rights to such remuneration.

20. COMPLIANCE WITH LAW; PREVAILING WAGES.

Tenant agrees, at its sole cost and expense, to comply and secure compliance by all contractors and tenants of the City Parcel and in connection with the City Parcel Improvements with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the City Parcel and the City Parcel Improvements, and to faithfully observe and secure compliance by all contractors and tenants of the City Parcel and the City Parcel Improvements, with, in the use of the City Parcel and the City Parcel Improvements all applicable county and municipal ordinances and state and federal statutes now in force or which may hereafter be in force, and to pay before delinquency all taxes, assessments, and fees, if any, assessor levied upon Tenant or the City Parcel or the City Parcel Improvements, including the land and any

buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Tenant or by reason of the business or other activities of Tenant upon or in connection with the City Parcel and the City Parcel Improvements. Tenant shall use good faith efforts to prevent tenants from maintaining any nuisance or other unlawful conduct on or about the Property, and shall take such actions as are reasonably required to abate any such violations by tenants of the City Parcel and the City Parcel Improvements. The judgment of any court of competent jurisdiction, or the admission of Tenant or any sublessee or permittee in any action or proceeding against them, or any of them, whether City be a party thereto or not, that Tenant, sublessee or permittee has violated any such ordinance or statute in the use of the City Parcel or the City Parcel Improvements shall be conclusive of that fact as between City and Tenant, or such sublessee or permittee. Tenant shall comply with all applicable laws, regulations, and any applicable labor standards, all of which laws and regulations shall be deemed to be incorporated herein by reference. If Tenant makes improvements to the City Parcel, Tenant shall carry out the design, construction and operation of the Improvements in conformity with all applicable laws, including all applicable state labor standards and federal prevailing wage laws (including without limitation provisions for payment of prevailing wages in connection with all construction of the Improvements to the extent applicable), City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Code, the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the California Building Standards Code, Health and Safety Code Section 18900, et seq. Tenant, including but not limited to its contractors and subcontractors, shall comply with Labor Code Section 1720, et seq., and its implementing regulations, regarding the payment of prevailing wages (the "State Prevailing Wage Law") if applicable and, if applicable, federal prevailing wage law ("Federal Prevailing Wage Law" and, together with State Prevailing Wage Law, "Prevailing Wage Laws") with regard to the construction of improvements (if any) undertaken by Tenant on the City Parcel, but only if and to the extent such sections are applicable to the construction of such improvements. Tenant shall be solely responsible for determining and effectuating compliance with any applicable Prevailing Wage Laws, and City makes no final representation as to the applicability or non-applicability of the Prevailing Wage Laws to improvements (if any) made to the City Parcel or any part thereof. To the extent Tenant makes public improvements in the public right of way, Tenant shall effect payment with the Prevailing Wage Laws. Tenant hereby releases from liability, and agrees to indemnify, defend, assume all responsibility for and hold City, and its officers, employees, agents and representatives, harmless from any and all claims, demands, actions, suits, proceedings, fines, penalties, damages, expenses resulting from, arising out of, or based upon Tenant's acts or omissions pertaining to the compliance with the Prevailing Wage Laws as to any Improvements to the City Parcel.

21. ENTRY AND INSPECTION.

In addition to and without limitation to such rights as the City may have as a matter of law, the City reserves and shall have the right between the hours of 8:00 a.m. and 5:00 p.m., upon twenty-four (24) hours prior notice (except in cases of emergency in which case entry may be made at any time and without notice) to Tenant by the City Manager, to enter the City Parcel and the City Parcel Improvements for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the City Parcel and the City Parcel Improvements or to inspect the operations conducted thereon. This Section 21 shall be within limitation as to the rights of City acting under its police power.

22. RIGHT TO MAINTAIN.

In the event that the entry or inspection by City pursuant to Section 21 hereof discloses that the City Parcel or the City Parcel Improvements are not in a decent, safe, and sanitary condition, City shall have the right, after fourteen (14) days written notice to Tenant (except in case of emergency, in which event no notice shall be necessary), to have any necessary maintenance work done for and at the expense of Tenant and Tenant hereby agrees to pay promptly any and all costs incurred by City in having such necessary maintenance work done in order to keep the City Parcel and the City Parcel Improvements in a decent, safe and sanitary condition. The rights reserved in this Section 22 shall not create any obligations on City or increase obligations elsewhere in this Rental Agreement imposed on City.

23. EVENTS OF DEFAULT AND REMEDIES.

23.1 Events of Default by Tenant. The occurrence of any one (1) or more of the following shall constitute an event of default hereunder:

(a) Tenant shall fail to continuously operate Conforming Business Activities on the City Parcel other than during times of construction, holidays, and emergencies; or

(b) Tenant shall abandon or surrender the City Parcel, or the City Parcel Improvements; or

(c) Tenant shall fail or refuse to pay, within ten (10) days of notice from City that the same is due, any installment of rent or any other sum required by this Rental Agreement to be paid by Tenant; or

(d) Tenant shall fail to perform any covenant or condition of this Rental Agreement other than as set forth in subparagraphs (a) or (b) above or paragraphs (e), (h) or (i) below, and any such failure shall not be cured within thirty (30) days following the service on Tenant of a written notice from City specifying the failure complained of, or if it is not practicable to cure or remedy such failure within such thirty (30) day period, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within such thirty (30) day period and thereafter diligently prosecute such cure to completion; or

(e) Subject to any restrictions or limitations placed on City by applicable laws governing bankruptcy, Tenant's (i) application for, consent to or suffering of the appointment of a receiver, trustee or liquidator for all or for a substantial portion of its assets; (ii) making a general assignment for the benefit of creditors; (iii) admitting in writing its inability to pay its debts or its willingness to be adjudged a bankrupt; (iv) becoming unable to or failing to pay its debts as they mature; (v) being adjudged a bankrupt; (vi) filing a voluntary petition or suffering an involuntary petition under any bankruptcy, arrangement, reorganization or insolvency law (unless in the case of an involuntary petition, the same is dismissed within ninety (90) days of such filing); (vii) convening a meeting of its creditors or any class thereof for purposes of effecting a moratorium, extension or composition of its debts; or (viii) suffering or permitting to continue unstayed and in effect for sixty (60) consecutive days any attachment, levy, execution or seizure of all or a portion of Tenant's assets or of Tenant's interest in this Rental Agreement; or

(f) Tenant shall conduct uses on the City Parcel which are not Conforming Business Activities (or activities which are not Conforming Business Activities are otherwise conducted on the City Parcel).

In the event one or more of the foregoing shall occur, then, upon notice having been given by City and the failure to cure within thirty (30) days of such notice, such event shall constitute an event of default under this Rental Agreement.

23.2 Remedies of City.

In the event of any such default as described in Section 23.1 which default has not been timely cured, City may, at its option:

(1) Correct or cause to be corrected said default and charge the costs thereof (including costs incurred by City in enforcing this provision) to the account of Tenant, which charge shall be due and payable within thirty (30) days after presentation by City of a statement of all or part of said costs;

(2) Correct or cause to be corrected said default and pay the costs thereof (including costs incurred by City in enforcing this provision) from the proceeds of any insurance;

(3) Exercise its right to maintain any and all actions at law or suits in equity to compel Tenant to correct or cause to be corrected said default;

(4) Have a receiver appointed to take possession of Tenant's interest in the City Parcel and the City Parcel Improvements, with power in said receiver to administer Tenant's interest in the City Parcel and the City Parcel Improvements, to collect all funds available to Tenant in connection with its operation and maintenance of the City Parcel and the City Parcel Improvements; and to perform all other acts consistent with Tenant's obligation under this Rental Agreement as the court deems proper;

(5) Maintain and operate the City Parcel and the City Parcel Improvements, without terminating this Rental Agreement; or

(6) Terminate this Rental Agreement by written notice to Tenant of its intention to do so.

23.3 Right of City in the Event of Termination of Rental Agreement. Upon termination of this Rental Agreement pursuant to Section 23.2, it shall be lawful for City to re-enter and repossess the City Parcel and the City Parcel Improvements and Tenant, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver the City Parcel and the City Parcel Improvements peaceably to City immediately upon such termination in good order, condition and repair, except for reasonable wear and tear. Tenant agrees that upon such termination, title to all the City Parcel Improvements on the City Parcel shall vest in City (or remain with City) pursuant to Section 7.2.

Even though Tenant has breached the Rental Agreement and abandoned the City Parcel, this Rental Agreement shall continue in effect for so long as City does not terminate Tenant's right to possession, and City may enforce all of its right and remedies under this Rental

Agreement, including, but not limited to, the right to recover the rent as it becomes due under this Rental Agreement. No ejectment, re-entry or other act by or on behalf of City shall constitute a termination unless City gives Tenant notice of termination in writing.

Termination of this Rental Agreement shall not relieve or release Tenant from any obligation incurred pursuant to this Rental Agreement prior to the date of such termination. Termination of this Rental Agreement shall not relieve Tenant from the obligation to pay any sum due to City or from any claim for damages against Tenant.

23.4 Rights and Remedies are Cumulative. The remedies provided by this Section 23 are not exclusive and shall be cumulative to all other rights and remedies possessed by City. The exercise by City of one or more such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by Tenant.

24. MISCELLANEOUS.

24.1 Governing Law; Interpretation. The laws of the State of California shall govern the interpretation and enforcement of this Rental Agreement. This Rental Agreement shall be reasonably interpreted in light of its purposes to provide for the operation of Conforming Business Activities on the City Parcel, all as provided for herein. This Rental Agreement shall be interpreted as if jointly prepared by both parties.

24.2 Legal Actions. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Rental Agreement. Such legal actions must be instituted in the Superior Court of Los Angeles County, State of California.

24.3 Acceptance of Service of Process. In the event that any legal action is commenced by Tenant against City, service of process on City shall be made by personal service upon the City Manager, or in such other manner as may be provided by law. In the event that any legal action is commenced by City against Tenant, service of process on Tenant shall be made by personal service upon Tenant or in such other manner as may be provided by law, and shall be effective whether made within or without the State of California.

24.4 Attorneys' Fees and Court Costs. In the event that either City or Tenant shall bring or commence an action to enforce the terms and conditions of this Rental Agreement or to obtain damages against the other party arising from any default under or violation of this Rental Agreement, then the prevailing party shall be entitled to and shall be paid reasonable attorneys' fees and court costs therefore in addition to whatever other relief such prevailing party may be entitled.

24.5 Interest. Any amount due City that is not paid when due shall bear interest from the date such amount becomes due until it is paid. Interest shall be at a rate equal to the lesser of (i) seven percent (7%) per annum, compounded annually, on the first day of the month such amount becomes due, and (ii) the maximum rate permitted by applicable law.

24.6 Notices. All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments or designations hereunder by either party to the other shall be in writing and shall be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified or registered mail, return receipt requested, postage prepaid, and addressed as follows:

City:	City of Lancaster 44933 N. Fern Avenue Lancaster, California 93534 Attention: Economic Development
with a copy to: (delivery of which copy shall not constitute notice to City)	Stradling Yocca Carlson & Rauth Attention: Allison Burns 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660
Tenant:	First Public Hydrogen PO Box 4070 Lancaster, California 93539 Attention: Chief Executive Officer

or to such other address as either party shall later designate for such purposes by written notice to the other party. Notices shall be deemed effective upon receipt provided that the party to whom notice is being given has notified the other party of its current address, and otherwise upon the earlier of personal receipt or within seven (7) days after delivery thereof to the address(es) as provided above; provided, however that refusal to accept delivery after reasonable attempts thereto shall constitute receipt. Any notices attempted to be delivered to an address from which the receiving party has moved without notice to the delivering party shall be effective on the third day after the attempted delivery or deposit in the United States mail.

24.7 Time is of the Essence. Time is of the essence in the performance of the terms and conditions of this Rental Agreement.

24.8 Non-Merger of Fee and Leasehold Estates. If both City's and Tenant's estates in the City Parcel or the City Parcel Improvements or both become vested in the same owner, this Rental Agreement shall nevertheless not be destroyed by application of the doctrine of merger except at the express election of City. The voluntary or other surrender of this Rental Agreement by Tenant, or a mutual cancellation thereof, shall not work as a merger and shall, at the option of City, terminate all or any existing sublease or subtenancies or may, at the option of City, operate as an assignment to City of any or all such existing subleases or subtenancies.

24.9 Holding Over. The occupancy of the City Parcel after the expiration of the Term of this Rental Agreement shall be construed to be a tenancy from month to month at a fair market rent to be established by the City Manager at his discretion upon consultation with the Tenant (and which shall be not less than \$100 per day), and all other terms and conditions of this Rental Agreement shall continue in full force and effect.

24.10 Conflict of Interest. No member, official or employee of City shall have any personal interest, direct or indirect, in this Rental Agreement nor shall any such member, official or employee participate in any decision relating to the Rental Agreement which affects his personal interests or the interests of any limited partnership, partnership or association in which he is directly or indirectly interested. Tenant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Rental Agreement.

24.11 Non-Liability of City Officials and Employees. No member, official, officer, employee, agent or representative of City shall be personally liable to Tenant, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Tenant or successor or on any obligations under the terms of this Rental Agreement. No member, official, officer, employee, agent or representative of Tenant shall be personally liable to City in the event of any default or breach by Tenant or for any amount which may become due to City or on any obligations under the terms of this Rental Agreement.

24.12 Relationship. The relationship between the parties hereto shall at all times be deemed to be that of landlord and tenant. The parties do not intend nor shall this Rental Agreement be deemed to create a partnership or joint venture.

24.13 Waivers and Amendments. All waivers of the provisions of this Rental Agreement must be in writing and signed by the appropriate authorities of City or Tenant. The waiver by City of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by City shall not be deemed to be a waiver of any preceding breach of Tenant of any term, covenant or condition of this Rental Agreement, regardless of City's knowledge of such preceding breach at the time of acceptance of such rent. Failure on the part of City to require or exact full and complete compliance with any of the covenants or conditions of this Rental Agreement shall not be construed as in any manner changing the terms hereof and shall not prevent City from enforcing any provision hereof. All amendments or modifications hereto must be in writing and signed by the appropriate authorities of City and Tenant.

24.14 Entire Agreement; Duplicate Originals; Counterparts; Electronic Execution. This Rental Agreement sets forth the entire understanding of the parties with respect to Tenant's lease of the Property. This Rental Agreement may be executed in counterparts. This Rental Agreement includes twenty-six (26) pages and three exhibits, Exhibits A, B and C. The Exhibits are incorporated by reference herein. Each party hereto, and their respective successors and assigns shall be authorized to rely upon the signatures of all of the parties hereto on this Rental Agreement which are delivered by DocuSign, .pdf or other electronic means as constituting a duly authorized, irrevocable, actual, current delivery of this Rental Agreement with original ink signatures of each person and entity.

24.15 Severability. If any provision of this Rental Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Rental Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforceable to the greatest extent permitted by law.

24.16 Terminology. All personal pronouns used in this Rental Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of sections are for convenience only, and neither limit nor amplify the provisions of the Rental Agreement itself.

24.17 Binding Effect. This Rental Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

24.18 Force Majeure. The time within which City or Tenant is obligated herein to perform any obligation hereunder, other than an obligation that may be performed by the payment of money, shall be extended and the performance excused when the delay is caused by fire, earthquake or other acts of God, strike, lockout, acts of public enemy, acts of terrorism, riot, insurrection or other cause beyond the control of the applicable party.

24.19 Quiet Enjoyment. City does hereby covenant, promise and agree to and with Tenant that Tenant, for so long as Tenant is not in default hereof beyond any applicable notice and cure periods, shall and may at all times peaceably and quietly have, hold, use, occupy and possess the Property throughout the Term.

24.20 City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager or his or her designee is authorized to act on behalf of City unless specifically provided otherwise or the law otherwise requires.

24.21 No Third Parties Benefited. This Rental Agreement is made for the purpose of setting forth rights and obligations of Tenant and City; no other person shall have any rights hereunder or by reason hereof.

24.22 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 City Council or any other officer of the City 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 City Council 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, Tenant represents and warrants [select one]:

- ☐ Neither Tenant nor any agent acting on behalf of Tenant 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 City Council or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

- ☐ Tenant (or an agent acting on behalf of Tenant) has made a political contribution of more than \$500 to:

Identify the person(s) or agent(s) who made the contribution:

Identify the City officer(s) who received the contribution:

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

- ☐ Neither Tenant nor any agent or principal acting on behalf of Tenant 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 City Council or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

- ☐ Tenant (or an agent acting on behalf of Tenant) 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 City officer(s) who will receive the contribution:

[signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Rental Agreement to be executed by their lawfully authorized officers.

CITY:

CITY OF LANCASTER, a municipal corporation
and charter city

By: _____

Trolis Niebla
City Manager

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

TENANT:

FIRST PUBLIC HYDROGEN, a Joint Powers
Authority

By: _____

Jason Caudle

Its: _____

Chief Executive Officer

EXHIBIT A

CITY PARCEL MAP

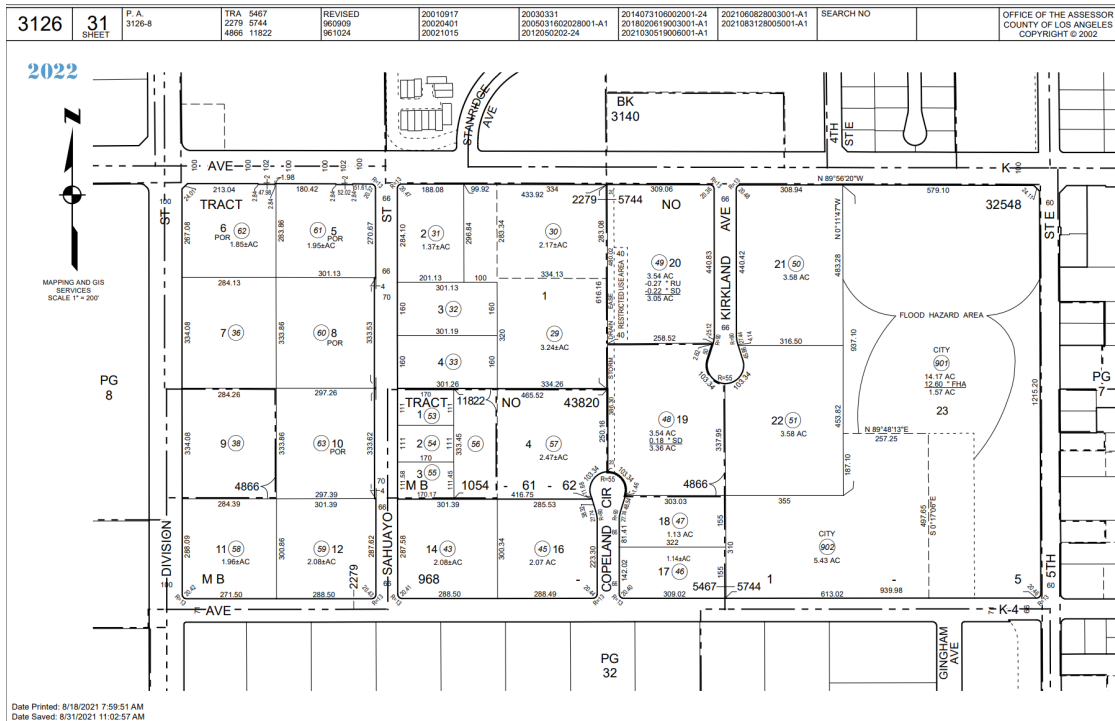


EXHIBIT B

CITY PARCEL LEGAL DESCRIPTION

That certain real property situated in the State of California, County of Los Angeles, more particularly described as follows:

Lot 23 of Tract No. 32548, in the City of Lancaster, County of Los Angeles, State of California, as per map recorded in Book 968, Pages 1 through 5 of Maps, in the office of the County Recorder of said County, EXCEPTING therefrom that portion described as follows:

Beginning at the Southeast corner of Lot 17 of said tract; thence North $00^{\circ} 11' 47''$ West, 310 feet to the Northeast corner of Lot 18 of said tract; thence North $89^{\circ} 52' 56''$ East, 355 feet to the Southeast corner of Lot 22 of said tract; thence North $00^{\circ} 11' 47''$ West, 187.10 feet, coincident with the Easterly lot line of Lot 22; thence North $89^{\circ} 48' 13''$ East, 257.25 feet; thence South $00^{\circ} 17' 06''$ East, 497.46 feet to the Northerly right-of-way line of Avenue K-4, that is parallel with and 33 feet Northerly of the center line of Avenue K-4; thence South $89^{\circ} 52' 56''$ West, coincident with said Northerly right-of-way line, 613.02 feet, to the point of beginning.

APN: 3126-031-901

That portion of Lot 23 of Tract No. 32548, in the City of Lancaster, County of Los Angeles, State of California, as per map recorded in Book 968, Pages 1 through 5 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the Southeast corner of Lot 17 of said tract; thence North $00^{\circ} 11' 47''$ West, 310 feet to the Northeast corner of Lot 18 of said tract; thence North $89^{\circ} 52' 56''$ East, 355 feet to the Southeast corner of Lot 22 of said tract; thence North $00^{\circ} 11' 47''$ West, 187.10 feet, coincident with the Easterly lot line of Lot 22; thence North $89^{\circ} 48' 13''$ East, 257.25 feet; thence South $00^{\circ} 17' 06''$ East, 497.46 feet to the Northerly right-of-way line of Avenue K-4, that is parallel with and 33 feet Northerly of the center line of Avenue K-4; thence South $89^{\circ} 52' 56''$ West, coincident with said Northerly right-of-way line, 613.02 feet, to the point of beginning.

APN: 3126-031-902

EXHIBIT C

LIST OF CITY REPAIRS

1. Electrical gate - front entrance
2. Exposed wiring - building B3
3. Bathroom doorknob broken - building B2
4. Garage door rusted/ unable to easily open/close
5. Broken HVAC system - building B3
6. Outlet hanging out of socket - exterior of building B3 next to women's bathroom
7. Small/medium-sized holes in the walls - both buildings
8. Flickering lights



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 4: **Consider Approval of an Amendment to the Professional Services Agreement with Bayshore Consulting Group**

Recommendation:

1. Approve the Amendment to the Professional Services Agreement with Bayshore Consulting Group, substantially in the form attached, to increase the contract amount by an amount not to exceed \$16,401.65 and authorize the Chief Executive Officer, or designee, to sign and execute all documents; and
2. Authorize the Chief Executive Officer, or 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:

The additional contract funds are available in the Fiscal Year 2024/25 budget, bringing the total contract amount to \$141,401.65.

Background:

Since January 2025, Bayshore Consulting has provided essential operational, administrative, and financial support for the First Public Hydrogen Authority (FPH₂). Their work established internal systems, compliance, and daily processes, enabling FPH₂ to launch as the nation's first public hydrogen utility with a strong, transparent, and accountable administrative foundation.

Bayshore is currently providing FPH₂ with essential administrative, procurement, board secretary, and treasury/finance services. These services are crucial for FPH₂'s operational

build-out and transition, covering policy development, staff training, full-service accounting,

board meeting management, and compliance. Bayshore's multidisciplinary team offers specialized expertise, streamlining operations and avoiding multiple contracts.

Due to the time required to support FPH₂'s operations, the original contract amount no longer adequately covers the level of services being provided. While the scope of work remains unchanged, Bayshore has gone above and beyond in delivering the contracted services. Bayshore's continued support remains pivotal to FPH₂'s success, and this amendment reflects the Authority's commitment to maintaining uninterrupted, high-quality administrative services during this critical stage of development.

Attachments:

- Amendment No. 1 to Professional Services Agreement
- Professional Services Agreement dated January 1, 2025

AMENDMENT NO. 1 TO PROFESSIONAL CONSULTANT SERVICES AGREEMENT

This Amendment (“Amendment No. 1”) is hereby entered into effective July 7, 2025, by and between the FIRST PUBLIC HYDROGEN AUTHORITY, a joint powers authority, (“Authority”), and BAYSHORE CONSULTING GROUP, INC. (“Consultant”) with respect to the Agreement for Professional Consultant Services between the parties dated January 1, 2025 (“Agreement”).

The Parties agree as follows:

1. Section 5A (“Obligations of the Authority”) is amended by deleting the entire paragraph and replacing it as follows:

The Authority shall pay Consultant an amount not to exceed \$141,401.65 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 submission of an invoice detailing the services performed, at the hourly rates set forth in Exhibit A.

2. All other terms and provisions of the Agreement and subsequent amendments are hereby reaffirmed.

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

BAYSHORE CONSULTING GROUP, INC.

Jason Caudle, CEO

Barbara Boswell

ATTEST:

Susan Caputo, Board Secretary

APPROVED AS TO FORM:

General Counsel

CONTRACT SUBMISSION APPROVAL:

Department Head

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES is made and entered into this 1st day of January, 2025, by and between the FIRST PUBLIC HYDROGEN AUTHORITY, a joint powers authority, (“Authority”), and BAYSHORE CONSULTING GROUP, (“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

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 \$125,000 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 six (6) 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
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(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 Rates 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. **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

DocuSigned by:
By: Jason Caudle
D682AFD6E85E4DD...
Jason Caudle, CEO

Dated: February 28, 2025 | 12:22:36 PM PST

BAYSHORE CONSULTING GROUP

Signed by:
By: Barbara Boswell
824C6E81F1564B1...
Barbara Boswell

Dated: February 21, 2025 | 6:23:28 PM PST

ATTEST:

Signed by:
Susan Caputo
D7A5C3B171AE41E...
Susan Caputo, Board Secretary

February 28, 2025 | 12:34:23 PM PST

APPROVED AS TO FORM:

DocuSigned by:
Allison Burns
7632AD2CC5A748F...
Allison Burns, General Counsel

February 28, 2025 | 11:11:12 AM PST

CONTRACT SUBMISSION APPROVAL:

DocuSigned by:
Alexus Merino
CFBC991A449B430...
Department Head

February 21, 2025 | 5:35:26 PM PST

DS
Aw

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, BAYSHORE CONSULTING GROUP represents and warrants [select one]:

☐ Neither BAYSHORE CONSULTING GROUP nor any agent or principal acting on behalf of BAYSHORE CONSULTING GROUP 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 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, BAYSHORE CONSULTING GROUP further represents and warrants [select one]:

☐ Neither BAYSHORE CONSULTING GROUP nor any agent or principal acting on behalf of BAYSHORE CONSULTING GROUP 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:

Initial

BB

Initial

BB

EXHIBIT A

**SCOPE OF SERVICES
AND RATES SCHEDULE**

EXHIBIT A

PROPOSAL FOR FIRST PUBLIC HYDROGEN JPA OPERATIONS SERVICES The Bayshore Consulting Group

Submitted by Barbara Boswell

Barbara@BayshoreCGI.com

November 20, 2024

Jason Caudle:

The Bayshore Consulting Group (“Bayshore”) is pleased to submit this proposal to support operations of First Public Hydrogen (First Public) Joint Powers Authority (JPA).

Bayshore’s team is uniquely qualified to provide operational support to First Public, a new JPA. Bayshore is poised to provide all administrative support including: Board Secretary services (meeting management, Form 700 compliance, records management), Treasurer and Chief Financial Officer, procurement and general administration services.

Bayshore’s experience is not only through its partnership with Lancaster. In 2020, Bayshore was hired by Clean Energy Alliance (CEA), a new JPA CCA to fill the initial Chief Executive Officer position and stand up that JPA by establishing policies, procedures, hiring consultants and key staff to initiate CCA services that launched in mid 2021. Bayshore was instrumental in ensuring that JPA got off the ground successfully, meeting all legal and regulatory requirements, and has grown from an initial 3-member agency to its now 7-member agency.

Barbara Boswell is the main point of contact for this proposal and can be reached at:

Barbara@BayshoreCGI.com, 661-510-0425.

We look forward to further discussions regarding how we can support Lancaster’s efforts to startup a new JPA entity to further its clean energy goals.

Barbara Boswell



Proposed Scope of Services

Operating a new JPA requires the establishment of a baseline of policies, procedures and the initial framework for successful operations.

This includes all steps to establish the following business functions:

- Administration
- Treasury
- Finance
- Human Resources
- Records Management
- Procurement
- Communications

Each of these functions will require policies that reflect legal and regulatory compliance requirements and best practices, procedures that ensure appropriate internal controls and a plan for efficiently fulfilling the requirements of those functions through either in-house staff or contractual services.

Bayshore proposes the following scope of services for First Public Hydrogen JPA:

- Administrative support including policy development and general administrative support;
- Board Secretary services – Form 700 administration, Board Management and Board Meeting management
- Records Management process establishment
- Treasurer Services – Cash management and accounting advisory services
- Assist in development of initial budget for JPA operations;
- Evaluate options and make recommendations for systems and staffing for agenda management, records management, conflict of interest compliance, accounting and procurement activities;
- Training for in-house staff, as requested;
- Financial Advisory services, as requested;
- Other services available upon request.

Bayshore will work hand in hand with City of Lancaster and Lancaster Energy staff in building this new entity to ensure long-term viability.

Proposed Bayshore Staff

Barbara Boswell, Partner – Barbara will provide treasury and account services, project management and administrative support utilizing on the experience she has from successfully guiding Clean Energy Alliance (CEA) JPA from its initial infancy to full operations. Barbara was the Chief Executive Officer of CEA from January 2020 through January 2024. She also works closely with the Bayshore team that supports CalChoice in providing operational, regulatory, procurement and energy programs support to the CalChoice member CCAs. Barbara holds a Master in Public Administration and Bachelor of Science – Business Administration.

Mark Bozigian, Partner – Mark brings expertise in municipal executive management through his experience as a City Manager. Mark will provide support and advisory services related to the new energy JPA Board establishment and administration. Mark holds Masters and Bachelors degrees in Business Administration.

Marshall Linn, Partner – Marshall brings financial advisory expertise from his over 50 years working with more than 250 governmental jurisdictions in structuring of their debt issues. The par value of financial advisory transactions exceeds well over \$7,000,000,000. Marshall holds Masters in Public Administration and Bachelors in Economics degrees. Marshall is a licensed registered Municipal Advisor with the MSRB and SEC.

Cathy DeFalco, Manager – Cathy brings energy procurement, contract administration and regulatory compliance and advocacy experience and expertise to this engagement. She will lead those efforts in establishing the energy JPA and supporting energy staff development in these areas. Cathy holds a degree of Executive Juris Doctor, a Master Certificate in Contract Management and a Bachelors in Business Administration.

Kevin Tonoian, Procurement and Regulatory Analyst – Kevin joined the Bayshore team after his 30 years in municipal government. Kevin will assist with establishing procurement policies, procedures and procurement efforts. Kevin holds a Master in Public Administration and Bachelor of Arts in Political Science.

Tammie Saranpa, Accountant – Tammie currently supports CalChoice in the accounting and finance areas, as the Accounting Manager for CalChoice. She brings that expertise and experience as she assists with the establishment of the accounting and finance functions of the energy JPA, including the creation of policies, procedures and internal controls of the new JPA.

Kathy Wells, Energy Programs Analyst – Kathy brings her experience and expertise in the energy programs arena and will work with the energy JPA staff in evaluating and establishing potential programs of the new JPA. Kathy holds a Master of Business Administration in Energy and Sustainable Studies.

Susan Caputo, Board Secretary - Susan brings over 30 years in municipal clerk experience to support the establishment of the JPA Board meeting operations and agenda processing, record keeping and Fair Political Practices Commission compliance. Susan was instrumental in supporting the operation of CEA's Board administration and Board Secretary services. Susan holds a Master Municipal Clerk certification.

Cost Proposal

Bayshore proposes and not to exceed amount of \$125,000 for the term January – June 2025, to be billed on an hourly time and material basis, with the following billing rates:

Position	Hourly Rate
Partner	\$235
Manager	\$150
Analyst	\$105
Accounting Manager	\$105
Board Secretary	\$85

Any out of pocket expenses incurred by Bayshore in the provision of these services are to be approved prior to being incurred, and reimbursed at a cost basis, with no mark-up. Mileage to attend meeting in person will be billed at the IRS Mileage reimbursement rate at the time the mileage was incurred.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/14/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Michael Geffre Insurance Agency 32392 Coast Hwy Ste 260 Laguna Beach, CA 92651	CONTACT NAME: PHONE (A/C, No. Ext): 949-494-7261 FAX (A/C, No): 949-494-4481 E-MAIL ADDRESS: <table style="width: 100%;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : FARMERS INSURANCE EXCHANGE</td> <td style="text-align: center;">21652</td> </tr> <tr> <td>INSURER B : EVANSTON INSURANCE COMPANY</td> <td style="text-align: center;">35378</td> </tr> <tr> <td>INSURER C : GEMINI INSURANCE COMPANY</td> <td style="text-align: center;">10833</td> </tr> <tr> <td>INSURER D : ARCH SPECIALTY INSURANCE CO</td> <td style="text-align: center;">21199</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : FARMERS INSURANCE EXCHANGE	21652	INSURER B : EVANSTON INSURANCE COMPANY	35378	INSURER C : GEMINI INSURANCE COMPANY	10833	INSURER D : ARCH SPECIALTY INSURANCE CO	21199	INSURER E :		INSURER F :	
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INSURER E :															
INSURER F :															
INSURED BAYSHORE CONSULTING GROUP 3111 N TUSTIN STREET SUITE 110 ORANGE, CA 92865															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR </div> <div style="text-align: center;">Y</div> </div> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			606297467	09/02/2024	09/02/2025	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 75,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY </div> <div> <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY </div> </div>			606297467	09/02/2024	09/02/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE </div> <div> <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ </div> </div>			EZXS3127903	09/02/2024	09/02/2025	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input type="checkbox"/>	N / A Y	A09597779	01/04/2024	01/04/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	PROFESSIONAL LIABILITY			VNPL015556	03/31/2024	03/31/2025	EACH CLAIM \$1,000,000 AGGREGATE \$1,000,000
D	CYBER LIABILITY			C4MQ8446748CYBER2024	03/31/2024	03/31/2025	AGGREGATE \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

"JPA OPERATIONAL SUPPORT"

THE FIRST PUBLIC HYDROGEN AUTHORITY, ITS BOUARD 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.

CERTIFICATE HOLDER**CANCELLATION**

FIRST PUBLIC HYDROGEN AUTHORITY 44933 NORTH FERN AVENUE LANCASTER, CA 93534	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY NUMBER:60629-74-67

**J6840**
2nd Edition

ADDITIONAL INSURED - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	THE FIRST PUBLIC HYDROGEN AUTHORITY
Location Of Covered Operation(s):	44933 FERN AVE LANCASTER CA 93534
Effective Date Of Endorsement:	02/14/25
If no entry appears above, information required to complete this endorsement will be shown in the Declarations.	

The BUSINESSOWNERS LIABILITY COVERAGE FORM is amended as follows:

- A.** With respect to the additional insured described in Paragraph **B.** of this endorsement, the following exclusions are added to Paragraph **1. Applicable To Business Liability Coverage** under Section **B. Exclusions**:

This insurance does not apply to:

1. "Bodily injury" or "property damage" for which the additional insured(s) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the additional insured(s) would have in the absence of the contract or agreement.
2. "Bodily injury" or "property damage" occurring after:
 - a. Your ongoing operations at the location of covered operations other than service maintenance or repairs performed by you or on your behalf have been completed; or
 - b. The portion of your ongoing operation out of which the "bodily injury" or "property damage" arises has been put to its intended use by any person or organization.

But in no event shall this insurance apply to "bodily injury" or "property damage" arising out of your operations that were completed prior to the effective date of this endorsement.

3. "Bodily injury" or "property damage" arising out of any act or omission of the additional insured(s) or any of its "employees", agents or contractors other than you, except for general supervision by the additional insured(s) of your ongoing operations performed for that additional insured.
4. "Property damage" to:
 - a. Property owned, used or occupied by or rented to the additional insured(s);
 - b. Property in the care custody or control of the additional insured(s) or over which the additional insured(s) exercise physical control; or
 - c. Any work including materials, parts or equipment furnished in connection with such work which is performed for the additional insured by you.

- B.** Section **C. Who Is An Insured** is amended to include as an insured the person(s) or organization(s) shown in the Schedule, but only to the extent that the additional insured(s) is held liable for "bodily injury" or "property damage" caused in whole or in part by:
- 1.** Your ongoing operations performed for such person or organization at the location designated above;
 - 2.** The acts or omissions of your subcontractors acting on "your" behalf on the scheduled project in the performance of your ongoing operations for the additional insured(s) which start and are completed within the effective period of this endorsement; or
 - 3.** The acts or omissions of such additional insured(s) in connection with its general supervision of such operations.
- C.** With respect to this endorsement, "wrap up policy" means an Owner or Contractor Controlled Insurance Program providing one or a series of policies designed to cover a specific construction project that insures all of the persons and entities working on such project.

The BUSINESSOWNERS COMMON POLICY CONDITIONS are amended as follows:

- A.** With respect to the additional insured described in Paragraph **B.** of this endorsement, Section **H. Other Insurance** is replaced by the following:

H. Other Insurance

1. Primary and Noncontributory Insurance

The coverage provided to an additional insured under this endorsement shall be primary and noncontributory ONLY to any insurance issued directly to the additional insured if:

- a.** The Named Insured agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis;
- b.** Such written contract or written agreement referenced in **a.** above was executed prior to the issuance of this endorsement;
- c.** The additional insured designated herein has a policy with an Other Insurance provision making that policy excess; and
- d.** There is no "wrap up policy" in effect for the work performed at the location designated in the Schedule of this endorsement.

2. Excess Insurance

If there is other valid and collectable insurance available to the additional insured(s) as an additional insured under other policies covering the work performed at the location designated and described in the schedule of this endorsement, this insurance will be excess over those policies.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all the terms of the policy.



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 5: **Consider Approval of an Amendment to the Professional Services Agreement with FTI Consulting**

Recommendation:

1. Approve the Amendment to the Professional Services Agreement with FTI Consulting Inc., substantially in the form attached, to increase the contract by an amount not to exceed \$86,576.25 and authorize the Chief Executive Officer, or designee, to sign and execute all documents.

Fiscal Impact:

Sufficient funds of \$86,576.25 are available in the Fiscal Year 2024/25 budget to fund this amount, bringing the total contract amount to \$336,576.25.

Background:

As FPH₂ transitions into a nationally recognized public hydrogen authority, strategic communications remain essential for advancing its mission. This contract amendment seeks to continue design support for FPH₂-led hydrogen initiatives. Services under this amendment include strategic messaging, media relations, campaign development, brand positioning, stakeholder communications, and graphic design—all tailored to promote FPH₂'s leadership role in the hydrogen sector.

FTI brings a proven track record of success in helping organizations navigate complex communications challenges and amplify their market presence. FTI's strong understanding of FPH₂'s mission, along with their integrated expertise in public affairs, reputation management, and creative strategy, positions them as a valuable partner to support FPH₂'s continued growth and visibility.

This contract amendment ensures continuity in communications strategy while providing the capacity and expertise needed to execute a cohesive, high-impact outreach plan that aligns with FPH₂'s goals and broader public energy objectives.

Attachments:

- Amendment No. 1 to Professional Services Agreement
- Assignment Agreement dated April 17, 2025

AMENDMENT NO. 1 TO PROFESSIONAL CONSULTANT SERVICES AGREEMENT

This Amendment (“Amendment No. 1”) is hereby entered into effective July 7, 2025, by and between the FIRST PUBLIC HYDROGEN AUTHORITY, a joint powers authority, (“Authority”), and FTI CONSULTING, INC. (“Consultant”) with respect to the Agreement for Professional Consultant Services between the parties dated January 1, 2025 (“Agreement”).

The Parties agree as follows:

1. Section 5A (“Obligations of the Authority”) is amended by deleting the entire paragraph and replacing it as follows:

The Authority shall pay Consultant an amount not to exceed \$336,576.25 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 submission of an invoice detailing the services performed, at the hourly rates set forth in Exhibit A.

2. All other terms and provisions of the Agreement and subsequent amendments are hereby reaffirmed.

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

FTI CONSULTING, INC.

Jason Caudle, CEO

Chris Tucker

ATTEST:

Susan Caputo, Board Secretary

APPROVED AS TO FORM:

General Counsel

CONTRACT SUBMISSION APPROVAL:

Department Head

ASSIGNMENT AGREEMENT
(Professional Services Agreement)

This Assignment Agreement (the "Assignment Agreement"), is made as of this 17th day of April, 2025, (Effective Date) by and between City of Lancaster, a municipal corporation ("City") and First Public Hydrogen Authority, a joint powers authority ("FPH2").

RECITALS

- A. City is a party to that certain Agreement **Professional Services Agreement** dated **July 23, 2024** ("Primary Agreement") by and between City and **FTI Consulting, Inc.** ("Consultant").
- B. City desires to assign its rights and obligations under the Primary Agreement to FPH2 and FPH2 desires to assume the same under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Recitals True and Correct. The Recitals set forth above are true and correct and are incorporated into this Assignment Agreement by this reference, as though fully set forth in this Assignment Agreement.
2. Assignment. City hereby assigns, transfers, conveys, sells, and delivers to FPH2, all of City's rights, title, obligations, duties and interest in and to the Primary Agreement, and FPH2 accepts same.
3. Assumption of Liabilities. FPH2 hereby assumes all of the obligations of City under the Primary Agreement, including without limitation, all covenants, indemnity obligations, representations and warranties of the Primary Agreement, including the obligations for payment of any outstanding and unpaid fees and expenses under the Primary Agreement.
4. Implementation. City further agrees to execute and deliver such further documents and instruments and take such other actions as may be reasonably required or appropriate to evidence or carry out the intent of this Assignment Agreement and/or assist in the transfer and conveyance of all rights under the Primary Agreement to FPH2.
5. Successors and Assigns. FPH2 may assign its rights hereunder to any entity without notice of such assignment. This Assignment Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.
6. Governing Law and Venue. This Assignment Agreement shall be construed and governed by the laws of the State of California. Any litigation or other proceedings between the Parties arising from this Assignment Agreement, shall be brought in the County of Los Angeles, California.
7. Counterparts. This Assignment Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

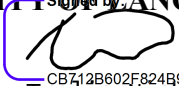
8. Severability. If any term, provision or portion of this Assignment Agreement or the application of this Assignment Agreement to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Assignment Agreement, or the application of such term or provision or portion of this Assignment Agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Assignment Agreement shall be valid and enforceable to the fullest extent permitted by law.

9. No Joint Venture. Nothing in this Assignment Agreement shall be construed to constitute the creation of a partnership or joint venture between City and FPH2 or any contractor or other person relating to the Primary Agreement. City is not an agent or representative of Consultant or FPH2 or vice versa.

10. Indemnity. FPH2 shall indemnify, defend and hold City and its officials, directors, officers, employees, consultants, attorneys and agents free and harmless from and against any and all losses, claims, damages, fees (including, without limitation, attorneys' fees and costs), injuries to persons or property (including wrongful death) arising out of or incident to this Assignment Agreement. The indemnification obligations of this Section shall survive the termination of this Assignment or any future assignments allowed pursuant to Section 5.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the day first above written.

CITY OF LANCASTER:


 By: Trolis Niebla
 Its: Trolis Niebla, City Manager

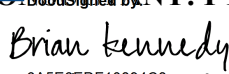
FIRST PUBLIC HDYROGEN


 AUTHORITY:
 By: Jason Caudle
 Its: CEO

CONSENT TO ASSIGNMENT

FTI Consulting, Inc. ("Consultant") consents to the assignment and amendment of Primary Agreement by and between City and Consultant.

CONSULTANT: FTI Consulting, Inc.


 By: Brian Kennedy
 Its: SMD, Head of the Americas

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES is made and entered into this **23rd day of July, 2024**, by and between the **CITY OF LANCASTER**, a municipal corporation and charter city, (“City”), and **FTI CONSULTING, INC.**, a Business Advisory Firm (“Consultant”) (collectively, sometimes referred to hereinafter as the “Parties”).

RECITALS

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

HYDROGEN & CLEAN ENERGY COMMUNICATIONS AND DESIGN 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: City of Lancaster
- 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.

CITY City of Lancaster
Attn: Trolis Niebla, City Manager
44933 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 City 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 City, all work and services set forth in Exhibit “A.” The City 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 City Manager, or his designee.

5. **Obligations of the City.**

A. The City shall pay Consultant an amount not to exceed \$250,000 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 City to Consultant, other than the final payment, shall be construed as an acceptance by the City 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 City.

7. **Hold Harmless and Indemnification.** Consultant agrees to indemnify and hold harmless the City, its elected officials, officers and employees, 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 City, its officers and employees, using counsel of the City’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 City 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 City 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 City 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 City and the Consultant may mutually agree in writing to extend the Term of this Agreement.

11. **Termination.**

A. For Convenience. The City 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 City may authorize in writing) after receipt of notice from the City specifying such failure. Should the failure not be corrected within this time period, the City 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 City's property. Consultant shall provide all documents to the City 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 City. 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 \$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 City 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 City. At the City's option, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City 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 City insured entities. Any insurance or self-insurance maintained by the City insured entities shall be in excess of the Consultant's insurance and shall not contribute with it.

F. Consultant shall furnish the City with Certificates of Insurance and with 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 City of Lancaster.

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

"HYDROGEN & CLEAN ENERGY COMMUNICATIONS AND DESIGN SUPPORT"

The City of Lancaster, its elected officials, officers, employees and volunteers 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 City of Lancaster, 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 six 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 City shall be the property of the City. Basic sketches, charts, computations and similar data prepared or obtained by Consultant under this Agreement shall, upon request, be made available to City without restriction or limitation on their use.

16. **Data Provided to Consultant.** City shall provide to Consultant, without charge, all data, including reports, records, maps and other information, now in the City'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 City 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, City 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 City 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 City, 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.

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. Each party shall pay its own attorneys’ fees and the costs of mediation shall be split equally between the parties.

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:

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 City 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.

CITY OF LANCASTER
LANCASTER, CALIFORNIA

DocuSigned by:
By: Trolis Niebla
Trolis Niebla, City Manager

Dated: September 18, 2024 | 8:09:27 PM PDT

FTI CONSULTING, INC.
NEW YORK, NEW YORK

DocuSigned by:
By: Chris Tucker
Chris Tucker, Global Energy Sector Lead

Dated: September 12, 2024 | 7:04:01 AM PDT

ATTEST:

DocuSigned by:
Andrea Alexander September 19, 2024 | 7:57:46 AM PDT
City Clerk

APPROVED AS TO FORM:

DS DocuSigned by:
mw September 17, 2024 | 8:27:57 PM PDT
City Attorney

CONTRACT SUBMISSION APPROVAL:


DocuSigned by:
Jason Caudle September 12, 2024 | 6:59:57 AM PDT
Department Head

DS
AH

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 \$250 that the party (or their agent) has made to a member of the City Council or any other officer of the City 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 \$250 to any member of the City Council 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, **CHRIS TUCKER** represents and warrants [select one]:


 ☒ Neither **CHRIS TUCKER** nor any agent acting on behalf of **FTI CONSULTING, INC.** TO} has, within the 12 months preceding the commencement of negotiations of this Agreement, made any political contribution of more than \$250 to any member of the City Council 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 \$250 to:
Identify the person(s) or agent(s) who made the contribution:

Identify the City officer(s) who received the contribution:

B. By its signature on this Agreement, **CHRIS TUCKER** further represents and warrants [select one]:

 ☒ Neither **CHRIS TUCKER** nor any agent 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 \$250 to any member of the City Council 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 \$250 to:
Identify the person(s) or agent(s) who will make the contribution:

Identify the City officer(s) who will receive the contribution:

**Strategic Communications**

555 12th Street NW, #700, Washington, DC 20004
T +1 (202) 312-9100 F +1 (202) 312-9101

To: City of Lancaster, CA
From: FTI Consulting
Date: July 18, 2024
RE: FTI Consulting Extension and Scope of Work

FTI Consulting ("FTI") appreciates the opportunity to continue supporting the City of Lancaster, CA, with its communications and design requirements across several programs and initiatives to help amplify the City of Lancaster as a leading municipality fostering entrepreneurship, innovation, technology and business partnerships. We have provided communications and design support to the City of Lancaster since June 2021 across Hydrogen & Clean Energy, Corporate Reputation, and Digital & Insights workstreams and would be excited to continue this collaboration.

At the request of the City of Lancaster staff, we are proposing an extension of the generalized scope of work to support projects on an as-needed basis. We submit this proposal and budget for the City Council's consideration and approval, which will cover the next 12 months.

Team Structure

FTI has established the following team structure to deliver this project. Scott Frankel and Peter Thompson will continue to serve as the main points of contact and liaisons between city staff and the FTI team, working closely with relevant workstream leads. Jeff Bechdel will provide senior oversight and advice, including on contractual and other key matters.

Account Oversight: Jeff Bechdel, Managing Director

Hydrogen & Clean Energy
Peter Thompson, Director
Cassidy Barnes, Consultant

Corporate Reputation
Scott Frankel, Senior Director
Jessica Delgado, Senior
Consultant

Digital & Insights
Ryan Tippery, Creative
Strategist, Shelly Liu, Director

Scope of Work

Workstream #1: Hydrogen & Clean Energy

Since 2021, FTI has supported the City of Lancaster's Smart Sister Cities initiative with Namie, Japan, the Pacific Hydrogen Alliance, project announcements with Choshu, Heliogen, Element Resources, SGH2, Hitachi Zosen, Hydroplane, and microgrids, and utility initiatives. FTI also supports city leadership to prepare talking points, speeches, and other event engagements in the hydrogen and clean energy space. We will expand our services to support the Lancaster Energy Division of the City.

Program Goals:

- Elevate Lancaster's reputation as a hydrogen and clean energy leader.
- Develop materials to entice new hydrogen and clean energy business to the city.
- Highlight the voice of city leadership as driving the global energy transition at the local level.

Key Messages:

- Lancaster is a business-friendly city.



- Lancaster is a trailblazer on hydrogen.
- Lancaster is a global leader among cities in the fight against climate change.
- In Lancaster, government and business are working in coordination to develop a thriving hydrogen economy.
- Climate change cannot be solved without a coordinated effort from all. Lancaster exemplifies the teamwork required for such an effort.

Key Audiences:

- Like-minded cities around the country and world who might join the Smart Sister Cities Partnership
- Hydrogen business community and neighboring municipalities
- Constituents

Workstream #2: Reputation and Positioning

FTI has supported the City of Lancaster on strategic communication matters for several years. The primary focus has been on due diligence research, project execution, and strategic counsel. Throughout this period, our common strategic goal has been to bolster the City of Lancaster’s reputation and positioning as a great place to live, work, and visit.

The proposed scope of work below proposes a continuation of this work to provide support for the strategic imperatives of the City of Lancaster.

We understand the objectives to be as follows:

- Raise the city’s profile in areas of priority, notably public safety, tech & innovation, and clean energy
- Support its economic development, including programs related to modernization and infrastructure
- Engage current and prospective stakeholders (businesses, constituents, etc.)
- Ensure city leaders are viewed as credible and sought-after thought leaders

Digital and Social

FTI’s Digital & Insights team will continue to provide support across digital and social efforts that include developing organic social content copies, accompanying creatives/assets, website design, campaign strategies, paid amplification, as well as ad hoc requests that involve the City of Lancaster’s digital presence. Digital & Insights work is used in support of the above workstreams.

Budget

FTI will work on a time and materials basis with an agreed cap for the scope of work to ensure sufficient flexibility and ability to pivot based on the City’s priorities. The City of Lancaster will provide the necessary direction on FTI deliverables within the framework laid out above.

The City of Lancaster will provide an initial budget of \$250,000, with a 20% contingency. The contingency fund will be made available through written approval from the City of Lancaster.

Standard Hourly Charge-Out Rates Estimated Fee

Senior Managing Director	\$730 – 780/hr
Managing Director	\$650 – 700/hr
Senior Director	\$570 – 625/hr
Director	\$470 – 520/hr
Senior Consultant	\$365 – 400/hr
Consultant	\$260 – 300/hr
Administration	\$95/hr



CERTIFICATE OF LIABILITY INSURANCE

 DATE(MM/DD/YYYY)
04/30/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services, Inc. of Washington, D.C. 2001 K Street NW Suite 625 N Washington DC 20006 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS: <table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Valley Forge Insurance Co</td> <td>20508</td> </tr> <tr> <td>INSURER B: The Continental Insurance Company</td> <td>35289</td> </tr> <tr> <td>INSURER C: Continental Casualty Company</td> <td>20443</td> </tr> <tr> <td>INSURER D: American Guarantee & Liability Ins Co</td> <td>26247</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Valley Forge Insurance Co	20508	INSURER B: The Continental Insurance Company	35289	INSURER C: Continental Casualty Company	20443	INSURER D: American Guarantee & Liability Ins Co	26247	INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															
INSURED FTI Consulting, Inc. 555 12th Street, NW Suite 700 Washington DC 20004 USA															

COVERAGES
CERTIFICATE NUMBER: 570105316553

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> StopGap-EL <input checked="" type="checkbox"/> State of WA GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			7018435449	05/01/2024	05/01/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Employee Benefit Lia \$1,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> Comp 100 Ded <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> Coll 1000 Ded			7018435452	05/01/2024	05/01/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000			7018435497	05/01/2024	05/01/2025	EACH OCCURRENCE \$25,000,000 AGGREGATE \$25,000,000 Products/Completed O \$25,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	7091989972	05/01/2024	05/01/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER SIR applies per policy terms & conditions E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Lancaster, its elected officials, officers, employees and volunteers are included as Additional Insured when required by written contract under the General Liability and Automobile Liability policies.

CERTIFICATE HOLDER
CANCELLATION

City of Lancaster 44933 Fern Avenue Lancaster CA 93534 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Inc. of Washington D.C.</i>
--	---

Holder Identifier :

Certificate No : 570105316553





CERTIFICATE OF LIABILITY INSURANCE

9/1/2025

DATE (MM/DD/YYYY)

8/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies, LLC 1801 K Street NW, Suite 200 Washington DC 20006 (202) 414-2400	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS:														
INSURED 1416902 FTI Consulting, Inc. 555 12th Street NW, Suite 700 Washington DC 20004	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A : National Fire and Marine Insurance Co</td> <td>20079</td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : National Fire and Marine Insurance Co	20079	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER E :															
INSURER F :															

COVERAGES**CERTIFICATE NUMBER:** 13674273**REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX DAMAGE TO RENTED PREMISES (Ea occurrence) \$ XXXXXXXX MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ XXXXXXXX GENERAL AGGREGATE \$ XXXXXXXX PRODUCTS - COMP/OP AGG \$ XXXXXXXX
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY		NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
	UMBRELLA LIAB EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTIONS	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE	NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	NOT APPLICABLE			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
A	Professional Liability Cyber Liability	N N	42-EPP-305962-07	9/1/2024	9/1/2025	Limit: \$10,000,000 Ret: \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

13674273 Evidence of Insurance	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

**CNA PARAMOUNT**

Endorsement

Effective Date: 08/15/2024

Insured Name:

FTI CONSULTING, INC.

555 12TH ST NW

WASHINGTON, DC 20004

Policy Number: 7018435449

Policy Period: 05/01/2024 – 05/01/2025

Producer's Information:

AON RISK SERVICES NORTHEAST, INC.
ONE LIBERTY PLAZA
165 BROADWAY STE 3201
NEW YORK, NY 10006
(212)441-2527

Producer Code: 070035

CNA Branch Number: 030

CNA Branch Name and Address:

NEW YORK CITY
125 BROAD STREET

NEW YORK, NY 10004
(000)000-0000

Thank you for choosing CNA!

With your CNA Paramount liability policy, you have insurance coverage tailored to meet the needs of your modern business. The international network of insurance professionals and the financial strength of CNA, rated "A" by A.M. Best, provide the resources to help you manage the daily risks of your organization so that you may focus on what's most important to you.

Claim Services — There When You Need Us

Claims are reported through a single point of entry available 24/7, connecting you to the individuals and information to help you resume your business when you need it most.

To report a claim, please call 877-CNA-ASAP, fax (800) 953-7389,
email lossreport@cnaasap.com, or visit www.cna.com/claim.

Risk Control Services — Help Avoid A Claim Before It Occurs

As a CNA policyholder, you have access to certified risk control professionals, risk mitigation programs and online resources to help identify and manage exposures that may disrupt your operation. We collaborate with business leaders to develop customized programs to assist you in safeguarding your assets and improving the bottom line.

To learn how our award-winning Risk Control services can help your business, please call (866) 262-0540, email us at riskcontrolwebinfo@cna.com or visit www.cna.com/riskcontrol.

When it comes to providing the coverage, service and resources paramount to your business success ... **we can show you more.**

INSURED

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000015 - 0003 of 0006 - 00131 JOBID 3ACAF005985

**CNA PARAMOUNT**

Amendment of Forms and Endorsements Schedule Addition or Deletion of Endorsements

It is understood and agreed as follows:

I. ADDITION OF FORMS OR ENDORSEMENTS

The **Forms and Endorsements Schedule** is amended to add the following forms or endorsements effective as of the date set forth in such form or endorsement

Endm't Number	Form or Endorsement Name	Form Number	Form Edition
60	Amendment of Forms and Endorsements Schedule Addition or Deletion of Endorsements	CNA62673XX	09-12
61	Additional Insured - Designated Person or Organization Endorsement	CNA74745XX	01-15

II. DELETION OF FORMS OR ENDORSEMENTS

The **Forms and Endorsements Schedule** is amended to delete the following forms or endorsements effective as of the "deletion date" indicated below.

The net premium change, if any, for the above endorsements in Sections I. and II. is:

\$0.00

FL Insurance Guaranty Association Emergency Assessment

Total change is :

\$0.00

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy Issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA62673XX 09-12

Page 1 of 1

VALLEY FORGE INSURANCE COMPANY

Insured Name: FTI CONSULTING, INC.

Policy No: 7018435449

Endorsement No: 60

Effective Date: 08/15/2024



	<p style="margin: 0;">CNA PARAMOUNT</p> <p style="margin: 0;">Additional Insured - Designated Person or Organization Endorsement</p>
--	--

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE
Name Of Additional Insured Person Or Organization:
City of Lancaster

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

It is understood and agreed that the section entitled **WHO IS AN INSURED** is amended with the addition of the following:

- A.** The person or organization shown in the Schedule is an **Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part, by: the **Named Insured's** acts or omissions, or the acts or omissions of those acting on the **Named Insured's** behalf:
 - 1. in the performance of the **Named Insured's** ongoing operations; or
 - 2. in connection with premises owned by or rented to the **Named Insured**.
- B.** However, if coverage for the additional **Insured** is required by written contract or written agreement, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional **Insured** with:
 - 1. coverage broader than required by such contract or agreement; or
 - 2. a higher limit of insurance than required by such contract or agreement.
- C.** The coverage granted by this endorsement does not apply to **bodily injury or property damage** included within the **products-completed operations hazard**.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

000015 - 0005 of 0006 - NNNNNN - 00133 JOBID 3ACAF005985



Workers Compensation And Employers Liability Insurance
Policy Endorsement

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 00 03 13 (04-1984)
Endorsement Effective Date:
Endorsement No: 21; Page: 1 of 1
Underwriting Company: Valley Forge Insurance Company, 151 N Franklin St, Chicago, IL 60606

Policy No: WC 7 91989972
Policy Effective Date: 05/01/2024
Policy Page: 151 of 230

STAFF REPORT

City of Lancaster

CC 9
7/23/2024
TN

Date: July 23, 2024

To: Mayor Parris and City Council Members

From: Jennifer Seguin, Manager - Communications

Subject: Professional Services Agreement - FTI Consulting, Inc.

Recommendations:

1. It is recommended that the City Council approve the Professional Services Agreement with FTI Consulting, Inc. (FTI) in an amount not to exceed \$250,000, and authorize the City Manager, or his designee, to sign all documents; and
2. Authorize the City Manager, or his designee, to execute any additional amendments to the Agreement deemed necessary to complete the project in a form approved by the City Attorney; and
3. Find that this item is not a project pursuant to the California Environmental Quality Act.

G.C. Section 84308: No

Fiscal Impact:

Sufficient funds are available in account numbers 50191000.5710 (250,000).

Background:

Since June 2021, FTI Consulting and the City of Lancaster have collaborated to elevate the city as a leading partner and adopter of clean energy solutions, notably hydrogen. Since Lancaster announced the goal to be the "First Hydrogen City" in the U.S. and launched the Smart Sister Cities partnership with Namie, Japan, FTI has supported the City's communication and design across hydrogen, clean energy, and digital & insights workstreams. With its growing, global reputation as a leading clean energy City coupled with its successful amplification of projects and partnerships, the City of Lancaster is now seeking additional strategic communications and design support to accomplish its goals and objectives.

In addition to their ongoing efforts, FTI has been instrumental in supporting the marketing efforts for the newly formed Lancaster Energy division. This includes promoting the City's initiatives and achievements in renewable energy and sustainability.

The City Manager's Office is requesting to approve a Professional Services Amendment with FTI Consulting, Inc. in a not-to-exceed amount of \$250,000 for an overall Communications and Design Support Plan with Hydrogen initiatives. The tactics in this plan are designed to position Lancaster as a City in which government and businesses are working together to develop a thriving hydrogen economy.

FTI has a proven track record of helping clients manage complex business challenges and delivering results by leveraging an integrated campaign approach to communications. FTI has a deep knowledge of the City through ongoing strategic communications work, extensive media relationships, and multidisciplinary skill sets across corporate reputation, financial communications, public affairs, and crisis management to support evolving needs.

Attachments:

Professional Services Agreement
Sole Source Memo



CERTIFICATE OF LIABILITY INSURANCE

 DATE(MM/DD/YYYY)
05/27/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services, Inc. of Washington, D.C. 2001 K Street NW Suite 625 N Washington DC 20006 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105	
	E-MAIL ADDRESS:	
INSURED FTI Consulting, Inc. 555 12th Street, NW Suite 700 Washington DC 20004 USA	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A: Continental Casualty Company	20443
	INSURER B: Valley Forge Insurance Co	20508
	INSURER C: The Continental Insurance Company	35289
	INSURER D: Transportation Insurance Co.	20494
	INSURER E: American Guarantee & Liability Ins Co	26247
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 570112742433 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> StopGap-EL <input checked="" type="checkbox"/> State of WA GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:			7018435449	05/01/2025	05/01/2026	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Employee Benefit Lia \$1,000,000
C	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> Coll 1000 Ded <input checked="" type="checkbox"/> Comp 100 Ded			7018435452	05/01/2025	05/01/2026	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000			7018435497	05/01/2025	05/01/2026	EACH OCCURRENCE \$25,000,000 AGGREGATE \$25,000,000 Products/Completed O \$25,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	7091989972 AOS (Except CA&HI) SIR applies per policy terms & conditions	05/01/2025	05/01/2026	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

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 Insured in accordance with the policy provisions of the General Liability policy.

CERTIFICATE HOLDER

The First Public Hydrogen Authority
44933 Fern Avenue
California CA 93534 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Inc. of Washington D.C.

Holder Identifier :

570112742433

Certificate No :





CNA PARAMOUNT

Endorsement

Effective Date: 05/01/2025

Insured Name:

FTI CONSULTING, INC.

555 12TH ST NW

WASHINGTON, DC 20004

Policy Number: 7018435449

Policy Period: 05/01/2025 – 05/01/2026

Producer's Information:

AON RISK SERVICES NORTHEAST, INC.
ONE LIBERTY PLAZA
165 BROADWAY STE 3201
NEW YORK, NY 10006
(212)441-2527

Producer Code: 070035

CNA Branch Number: 030

CNA Branch Name and Address:

NEW YORK CITY
1166 AVENUE OF THE AMERICAS 11

NEW YORK, NY 10036
(000)000-0000

Thank you for choosing CNA!

With your CNA Paramount liability policy, you have insurance coverage tailored to meet the needs of your modern business. The international network of insurance professionals and the financial strength of CNA, rated "A" by A.M. Best, provide the resources to help you manage the daily risks of your organization so that you may focus on what's most important to you.

Claim Services — There When You Need Us

Claims are reported through a single point of entry available 24/7, connecting you to the individuals and information to help you resume your business when you need it most.

To report a claim, please call 877-CNA-ASAP, fax (800) 953-7389,
email lossreport@cnaasap.com, or visit www.cna.com/claim.

Risk Control Services — Help Avoid A Claim Before It Occurs

As a CNA policyholder, you have access to certified risk control professionals, risk mitigation programs and online resources to help identify and manage exposures that may disrupt your operation. We collaborate with business leaders to develop customized programs to assist you in safeguarding your assets and improving the bottom line.

To learn how our award-winning Risk Control services can help your business, please call (866) 262-0540, email us at riskcontrolwebinfo@cna.com or visit www.cna.com/riskcontrol.

When it comes to providing the coverage, service and resources paramount to your business success ... **we can show you more.**



**CNA PARAMOUNT**

Amendment of Forms and Endorsements Schedule Addition or Deletion of Endorsements

It is understood and agreed as follows:

I. ADDITION OF FORMS OR ENDORSEMENTS

The **Forms and Endorsements Schedule** is amended to add the following forms or endorsements effective as of the date set forth in such form or endorsement

Endm't Number	Form or Endorsement Name	Form Number	Form Edition
60	Amendment of Forms and Endorsements Schedule Addition or Deletion of Endorsements	CNA62673XX	09-12
61	Additional Insured - Designated Person or Organization Endorsement	CNA74745XX	01-15
62	Changes - Notice of Cancellation or Material Restriction Endorsement	CNA74702XX	01-15
63	Changes - Notice of Cancellation or Material Restriction Endorsement	CNA74702XX	01-15

II. DELETION OF FORMS OR ENDORSEMENTS

The **Forms and Endorsements Schedule** is amended to delete the following forms or endorsements effective as of the "deletion date" indicated below.

The net premium change, if any, for the above endorsements in Sections I. and II. is: \$0.00

Total change is : \$0.00

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA62673XX 09-12

Page 1 of 1

VALLEY FORGE INSURANCE COMPANY

Insured Name: FTI CONSULTING, INC.

Policy No: 7018435449

Endorsement No: 60

Effective Date: 05/01/2025



CNA PARAMOUNT

**Additional Insured - Designated Person
or Organization Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE
Name Of Additional Insured Person Or Organization:
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

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

It is understood and agreed that the section entitled **WHO IS AN INSURED** is amended with the addition of the following:

- A.** The person or organization shown in the Schedule is an **Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part, by: the **Named Insured's** acts or omissions, or the acts or omissions of those acting on the **Named Insured's** behalf:
1. in the performance of the **Named Insured's** ongoing operations; or
 2. in connection with premises owned by or rented to the **Named Insured**.
- B.** However, if coverage for the additional **Insured** is required by written contract or written agreement, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional **Insured** with:
1. coverage broader than required by such contract or agreement; or
 2. a higher limit of insurance than required by such contract or agreement.
- C.** The coverage granted by this endorsement does not apply to **bodily injury or property damage** included within the **products-completed operations hazard**.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA74745XX (1-15)

Page 1 of 1

VALLEY FORGE INSURANCE COMPANY

Insured Name: FTI CONSULTING, INC.

Policy No: 7018435449

Endorsement No: 61

Effective Date: 05/01/2025

30020004970184354495975



**CNA PARAMOUNT**

Changes - Notice of Cancellation or Material Restriction Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
 EMPLOYEE BENEFITS LIABILITY COVERAGE PART
 LIQUOR LIABILITY COVERAGE PART
 OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
 RAILROAD PROTECTIVE LIABILITY COVERAGE PART
 STOP GAP LIABILITY COVERAGE PART
 TECHNOLOGY ERRORS AND OMISSIONS LIABILITY COVERAGE PART
 SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY - NEW YORK
 DEPARTMENT OF TRANSPORTATION

SCHEDULE

 Number of days notice (other than for nonpayment of premium):

30

 Number of days notice for nonpayment of premium:

10

 Name of person or organization to whom notice will be sent:

The First Public Hydrogen Authority, its Board of Directors, officers
 , employees and volunteers, as well as the officers, employees, and v
 olunteers of its member agencies, including but not limited to the Ci
 ty of Lancaster and the City of Industry

 Address:

44933 Fern Avenue

Lancaster, California 93534

30020004970184354495976

CNA74702XX 01-15

Page 1 of 2

VALLEY FORGE INSURANCE COMPANY

Insured Name: FTI CONSULTING, INC.

Policy No: 7018435449

Endorsement No: 62

Effective Date: 05/01/2025

	CNA PARAMOUNT
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Changes - Notice of Cancellation or Material Restriction Endorsement

If no entry appears above, the number of days notice for nonpayment of premium will be 10 days.

It is understood and agreed that in the event of cancellation or any material restrictions in coverage during the policy period, the Insurer also agrees to mail prior written notice of cancellation or material restriction to the person or organization listed in the above Schedule. Such notice will be sent prior to such cancellation in the manner prescribed in the above Schedule.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

30020004970184354495977



**CNA PARAMOUNT**

Changes - Notice of Cancellation or Material Restriction Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
 EMPLOYEE BENEFITS LIABILITY COVERAGE PART
 LIQUOR LIABILITY COVERAGE PART
 OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
 RAILROAD PROTECTIVE LIABILITY COVERAGE PART
 STOP GAP LIABILITY COVERAGE PART
 TECHNOLOGY ERRORS AND OMISSIONS LIABILITY COVERAGE PART
 SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK DEPARTMENT OF TRANSPORTATION

SCHEDULE	
Number of days notice (other than for nonpayment of premium):	30
Number of days notice for nonpayment of premium:	10
Name of person or organization to whom notice will be sent:	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, SEE ENDT
Address:	44933 Fern Avenue Lancaster CA 93534

If no entry appears above, the number of days notice for nonpayment of premium will be 10 days.

It is understood and agreed that in the event of cancellation or any material restrictions in coverage during the **policy period**, the Insurer also agrees to mail prior written notice of cancellation or material restriction to the person or organization listed in the above Schedule. Such notice will be sent prior to such cancellation in the manner prescribed in the above Schedule.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA74702XX (1-15)

Page 1 of 1

VALLEY FORGE INSURANCE COMPANY

Insured Name: FTI CONSULTING, INC.

Policy No: 7018435449

Endorsement No: 63

Effective Date: 05/01/2025

30020004970184354495978



30020004970184354495979



END OF COPY



Workers Compensation And Employers Liability Insurance

Policy Endorsement

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.
All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

POLICY NO: WC 7 91989969

Underwriting Company: Valley Forge Insurance Company, 151 N Franklin St, Chicago, IL 60606

Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date: 5/01/2025

Policy No: WC 7 91989969

Endorsement Expiration Date: 5/01/2026



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 6: **Consider Adoption of a Resolution Authorizing the Establishment of a Section 125 Premium Only Plan for Employees**

Recommendation:

1. Adopt a resolution authorizing the establishment of a Section 125 Premium Only Plan for Employees.
2. Authorize the Chief Executive Officer, or his designee, to sign all documents establishing the Section 125 Plan, subject to General Counsel approval.

Fiscal Impact:

The annual cost of the plan is \$100 and included in the adopted Fiscal Year 2025/26 Budget.

Background:

Section 125 of the Internal Revenue Code provides the opportunity for employees to pay their share of certain group insurance premiums on a pre-tax basis, reducing their taxable income. The adoption of a Premium Only Plan (POP) not only provides tax savings to employees, but also to FPH2 by reducing the amount of payroll subject to federal income and employment taxes.

Staff has worked with FPH2 benefits broker, Keenan and Associates, and identified a plan offered by WageWorks that meets the IRS regulations and the needs of FPH2. Adoption of the resolution will authorize the establishment of the Section 125 POP effective July 1, 2025, and authorizes the Chief Executive Officer to execute the Adoption Agreement (attached) and other related documents.

Attachments:

Resolution Authorizing the Establishment of a Section 125 Premium Only Plan

Attachment A – Section 125 Adoption Agreement

Attachment B – Section 125 Plan Document

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

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FIRST PUBLIC HYDROGEN AUTHORITY
AUTHORIZING THE ESTABLISHMENT OF A SECTION 125
PREMIUM ONLY PLAN FOR EMPLOYEES**

WHEREAS, the First Public Hydrogen Authority (“FPH2” or “Authority”) desires to provide its eligible employees with the opportunity to pay their share of certain group insurance premiums on a pre-tax basis in accordance with Section 125 of the Internal Revenue Code; and

WHEREAS, a Premium Only Plan (POP) allows employees to elect to have their premium contributions for eligible group health insurance, dental, vision, and other qualified benefits deducted from their pay on a pre-tax basis, thereby reducing their taxable income; and

WHEREAS, the adoption of a POP will result in tax savings to both the employees and the Authority by reducing the amount of payroll subject to federal income and employment taxes; and

WHEREAS, the Authority desires to establish and maintain a POP effective as of July 1, 2025, and to authorize the Chief Executive Officer or designee to take all actions necessary to implement and administer the POP in compliance with applicable laws and regulations.

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

Section 1. The Board hereby approved and authorizes the establishment of a Section 125 Premium Only Plan for eligible employees of the Authority, effective as of July 1, 2025.

Section 2. The Chief Executive Officer or designee is hereby authorized to execute any and all documents necessary to establish, implement, and administer the Premium Only Plan, including but not limited to the adoption agreement, plan documents, summary plan description, and any agreements with third-party administrators or legal counsel, as required.

Section 3. The Premium Only Plan shall be administered in accordance with Section 125 of the Internal Revenue Code and any other applicable federal and state laws and regulations, and any amendments thereto.

Section 4. If any section, subsection, clause or phrase of this resolution is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

Section 4. This resolution shall take effect immediately upon its adoption.

The foregoing Resolution No. was passed and adopted this 21st day of August 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

Adoption Agreement (2025)

For First Public Hydrogen Authority

Section 125 Premium Only Plan

The undersigned Employer amends the Premium Only Plan for those Employees who shall qualify as Participants hereunder. It shall be effective as of the date specified below. The Employer hereby selects the following Plan specifications:

1. **Name of Employer:** First Public Hydrogen Authority
2. **Effective Date:** This Amended Premium Only Plan shall be effective as of **July 1, 2025**.
3. **Effective Date of Original Plan:** This Premium Only Plan was originally effective July 1, 2025.
4. **Plan Year:** The Amended Plan year shall begin on **July 1, 2025**, and end on **June 30, 2026**. Future plan years will be based on the same twelve-month period beginning each **July 1** and ending each **June 30**.
5. **Plan number:** 520
6. **Employer's Principal Office:** This Premium Only Plan shall be governed under the laws of the:
 - a. ☒ (X) State of California
 - b. ☐ () Commonwealth of
7. **Benefits:** All the benefits listed below are included in this plan whether or not you currently offer them:
 - **Health Insurance and Voluntary Plans.** Premiums that are payroll deducted on a pre-tax basis may include low-deductible or high-deductible medical insurance, dental insurance, vision care, critical illness insurance, accidental death/dismemberment (ADD) insurance, hospital indemnity and/or cancer insurance. Individually-owned insurance policy premiums may not be paid with pre-tax dollars through the Premium Only Plan.
 - **Group-Term Life Insurance up to \$50,000.** The \$50,000 limit must include any employer-provided group-term life insurance coverage. For example, if the employer provides \$20,000 of group-term life insurance for employees, then participants in the POP can payroll deduct premiums on a pre-tax basis for up to \$30,000 of additional coverage. However, employees may not pay premiums that cover spouses or dependents on a pre-tax basis, even if the amount is de minimis.
 - **Disability Plan.** Short-term and long-term disability policies. If payroll deducted on a pre-tax basis, any future benefits received will be taxable to the employee.
 - **Health Savings Account (HSA).** Allows employees to make contributions by pre-tax payroll deduction to their individually-owned HSA. Employers may also make contributions to the employee's HSA plan on each employee's behalf, in the manner set forth in the Plan.

by _____
First Public Hydrogen Authority

AFFILIATES:

NONE

Plan Document

As Amended and Restated for 2025

For First Public Hydrogen Authority

Section 125 Premium Only Plan

Introduction

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Introduction

The Employer has adopted this Plan to allow Employees to choose between cash compensation and certain benefits based on their own particular goals, desires and needs.

The intention of the Employer is that the Plan qualify as a “Cafeteria Plan” within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended, and that the benefits which an Employee elects to receive under the Plan be includable or excludable from the Employee’s income under Section 125(a) and other applicable sections of the Internal Revenue Code of 1986, as amended. The Plan is also intended to meet any applicable state mandates that may otherwise apply to the Employer as an employer of Employees who are eligible to participate in a “premium only plan” sponsored by the Employer, as applicable.

Article I — Definitions

1.1 “Administrator” means the individual(s) or corporation appointed by the Employer to carry out the administration of the Plan. The Employer shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the plan. In the event the Administrator has not been appointed, or resigns from a prior appointment, the Employer shall be deemed to be the Administrator.

1.2 “Affiliated Employer” means the Employer and any corporation which is a member of a controlled group of corporations (as defined in Code Section 414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code Section 414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Treasury regulations under Code Section 414(o).

1.3 “Benefit” means any of the optional benefit choices available to a Participant as outlined in Section 4.1.

1.4 “Code” means the Internal Revenue Code of 1986, as amended or replaced from time to time, and which shall also include any governing regulations or applicable guidance thereunder.

1.5 “Compensation” means the compensation received by the Participant from an Affiliated Employer during a Plan Year prior to any reductions pursuant to a Salary Redirection Agreement authorized hereunder.

1.6 “Dependent” means for purposes of the Premium Only Plan, any individual who is defined as a dependent (within the meaning of Code Section 152(f)(1) who has not attained age 27 as of the end of the taxable year or Qualifying Relative who qualifies as a dependent under an Insurance Contract or under Code Section 152 (as modified by Code Section 105(b)), as applicable.

Certain provisions of “Michelle’s Law” in which the requirement that a Dependent child have a full-time status in order to extend coverage past a stated age will generally not apply if the child’s failure to maintain full-time status is due to a medically necessary leave of absence or other change in enrollment (such as reduction of hours).

Notwithstanding anything in the Plan to the contrary, the Plan will comply with Michelle’s Law.

1.7 “Effective Date” means the effective date as specified in Item 2 of the Adoption Agreement.

1.8 “Election Period” means the period immediately preceding the beginning of each Plan Year established by the Administrator for the election of Benefits and Salary Redirections, such period to be applied on a uniform and nondiscriminatory basis for all Employees and Participants. However, an Employee’s initial Election Period shall be determined pursuant to Section 5.1.

1.9 “Eligible Employee” means any Employee who has satisfied the provisions of Section 2.1.

An individual shall not be an “Eligible Employee” if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records are not “Eligible Employees” and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors.

1.10 “Employee” means any person who is employed by the Employer. The term Employee shall include leased employees within the meaning of Code Section 414(n)(2).

1.11 “Employer” means the Corporation or any such entity specified in Item 1 of the Adoption Agreement, and any Affiliated Employer, where appropriate (as defined in Section 1.2), which shall adopt this plan; and any successor, which shall maintain this Plan; and any predecessor, which has maintained this Plan.

1.12 “Health Savings Account” means an account established in accordance with Code Section 223(d) to which part of any Eligible Employee’s Cafeteria Plan Benefit Dollars may be allocated.

1.13 “Highly Compensated Employee” means, for the purposes of determining discrimination, an Employee described in Code Section 125 and the Treasury Regulations thereunder.

1.14 “Healthy Savings Account Trustee” means the designated Trustee (as defined under Code Section 223(d)(1)(B) of any Trust established for qualifying account beneficiaries who elect to establish a Health Savings Account.

1.15 “Insurance Contract” means any contract issued by an Insurer underwriting a Benefit.

1.16 “Insurance Premium Payment Plan” means the plan of benefits contained in Section 4.1 of this Plan, which provides for the payment of Premium Expenses.

1.17 “Insurer” means any insurance company that underwrites a Benefit under this Plan.

1.18 “Key Employee” means an employee defined in Code Section 416(i)(1) and the Treasury regulations there under.

1.19 “Participant” means any Eligible Employee who elects to become a Participant pursuant to Section 2.3 and has not for any reason become ineligible to participate further in the Plan.

1.20 “Plan” means this instrument, including all amendments thereto.

1.21 “Plan Year” means the 12-month period beginning and ending on the dates specified in the Adoption Agreement. The Plan Year shall be the coverage period for the Benefits provided for under this Plan. In the event a Participant commences participation during a Plan Year, then the initial coverage period shall be that portion of the Plan Year commencing on the date that such Participant began participating in the Plan and ending on the last day of such Plan Year.

1.22 “Premium Expenses” or “Premiums” mean the Participant’s cost for the insured Benefits described in Section 4.1.

1.23 “Qualifying Child” means an individual who, unless otherwise described under Code Section 152(b):

- Is a child (as defined under Code Section 152(f)(1)), or descendant of such child, or a brother, sister, stepbrother, stepsister, father, mother or any of their ancestors, or any other relative as described under Code Section 152(d)(2), including an individual who has the same principal residence as the Employee and who is a member of the Employee’s household;
- Who has the same principal residence, if allowed under local law, as the Employee for more than one-half of the current taxable year;
- Is younger than the taxpayer claiming such individual as a qualifying child, and is under the age of 19 as of the end of the Plan Year in which the Employee was eligible under this Plan, or is under the age of 24 when covered as a full time student (as defined under Code Section 152(f)(2)), after consideration of Code Section 152(c)(3) as applicable;
- Has not provided over one-half of his or her own support during the current Plan Year; and
- Who has not filed a joint return (other than only for a claim of refund) with the individual’s spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins; or
- Is a child (within the meaning of Code Section 152(f)(1) who has not attained age 27 as of the end of the taxable year.

1.24 “Qualifying Relative” means an individual who, unless otherwise described under Code Section 152(d) or (e):

- Is a child (as defined under Code Section 152(f)(1)), or descendant of such child, or a brother, sister, stepbrother, stepsister, father, mother or any of their ancestors, or any other relative as described under Code Section 152(d)(2), including an individual who has the same principal residence as the Employee and who is a member of the Employee’s household;
- Has (with the exception of certain handicapped dependents described under Code Section 152(d)(4)) gross income for the Plan Year that is less than the allowable income exemption amount (as defined under Code Section 151(d) for that taxable year;
- For whom the Employee provides over one-half of the individual’s support for that calendar year; and
- Is not an otherwise Qualifying Child of the Employee for any portion of the Plan Year.

1.25 “Regulations” means either temporary, proposed or final regulations, as applicable, issued from the Department of Treasury, as well as any further related guidance or interpretations issued as applicable.

1.26 “Salary Redirection” means the contributions made by Participants for benefits pursuant to Section 3.1.

1.27 “Salary Redirection Agreement” means an agreement between the Participant and the Employer under which the Participant agrees to reduce his Compensation or to forego all or part of the increases in such Compensation and to have such amounts contributed by the Employer to the Plan on the Participant’s behalf. The Salary Redirection Agreement shall apply only to Compensation that has not been actually or constructively received by the Participant as of the date of the agreement (after taking this Plan and Code Section 125 into account) and, does not become currently available to the Participant.

1.28 “Spouse” means spouse as determined under the Internal Revenue Code.

1.29 “Uniformed Services” means the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President of the United States in time of war or emergency.

All other defined terms in this Plan shall have the meanings specified in the various Articles of the Plan in which they appear.

Article II — Participation

2.1 Eligibility

As to each Benefit provided hereunder, any Eligible Employee shall be eligible to participate as of the date he satisfies the eligibility conditions set forth in the policy or plan providing such Benefit, the provisions of which are specifically incorporated herein by reference. However, any Eligible Employee who was a Participant in the Plan on the effective date of this amendment shall continue to be eligible to participate in the Plan.

2.2 Effective Date of Participation

(a) With respect to Benefits described in 4.1 An Eligible Employee shall become a Participant effective as of the later of the date on which he satisfies the requirements of Section 2.1 or the Effective Date of this Plan.

(b) If an Eligible Employee terminates employment after commencing participation in the Plan, except as otherwise provided in the applicable policy or plan providing a Benefit, such terminated Participants who are rehired within 30 days or less of the date of termination of employment shall not be considered a newly eligible employee and will be reinstated with the same election(s) such individual had before termination. If a terminated Participant is rehired more than 30 days following termination of employment and is otherwise eligible to participate in the Plan, the individual shall be treated as a newly Eligible Employee and may make a new election under procedures otherwise set forth within this section or Section 5.1 below as applicable.

2.3 Application to Participate

An Employee who is eligible to participate in this Plan shall, during the applicable Election Period, complete an application to participate and election of benefits form, which the Administrator shall furnish to the Employee. The election made on such form shall be irrevocable until the end of the applicable Plan Year unless the Participant is entitled to change his Benefit elections pursuant to Section 5.4 hereof.

An Eligible Employee shall also be required to execute a Salary Redirection Agreement, to elect to reduce salary to pay for allowable Benefits, during the Election Period for the Plan Year during which he wishes to participate in this Plan. Any such Salary Redirection Agreement shall be effective for the first pay period beginning on or after the Employee’s effective date of participation pursuant to Section 2.2. A failure to execute a Salary Redirection Agreement shall constitute an election by the Eligible Employee to receive his or her full salary or other compensation in lieu of Benefits available hereunder.

2.4 Termination of Participation

A Participant shall no longer participate in this Plan upon the occurrence of any of the following events:

- (a) His termination of employment, subject to the provisions of Section 2.5;
- (b) His death; or
- (c) The termination of this Plan, subject to the provisions of Section 8.2.

2.5 Termination of Employment

If a Participant terminates employment with the Employer for any reason other than death, his participation in the Plan shall cease, subject to the Participant's right to continue coverage under any Insurance Contract for which premiums have already been paid or any other ability to continue participation in a Health Savings Account pursuant to Code Section 223.

When an employee ceases to be a participant, the cafeteria plan must pay the former participant any amount the former participant previously paid for coverage or benefits to the extent the previously paid amount relates to the period from the date the employee ceases to be a participant through the end of that plan year.

Article III — Contributions to the Plan

3.1 Salary Redirection

Benefits under the Plan shall be financed by Salary Redirections sufficient to support Benefits that a Participant has elected hereunder and to pay the Participant's Premium Expenses. The salary administration program of the Employer shall be revised to allow each Participant to agree to reduce his Compensation during a Plan Year by an amount determined necessary to purchase the elected Benefit. The amount of such Salary Redirection shall be specified in the Salary Redirection Agreement and shall be applicable for a Plan Year. Notwithstanding the above, for new Participants, the Salary Redirection Agreement shall only be applicable from the first day of the pay period following the date the Employee began participating in the Plan up to and including the last day of the Plan Year.

Any Salary Redirection shall be determined prior to the beginning of a Plan Year (subject to initial elections pursuant to Section 5.1) and prior to the end of the Election Period and shall be irrevocable for such Plan Year. However, a Participant may revoke a Benefit election or a Salary Redirection Agreement after the Plan Year has commenced and make a new election with respect to the remainder of the Plan Year, if both the revocation and the new election are on account of and consistent with a change in status and such other permitted events as determined under Article V of the Plan and consistent with the rules and regulations of the Department of the Treasury. Salary Redirection amounts shall be contributed on a pro rata basis for each pay period during the Plan Year. All individual Salary Redirection Agreements are deemed to be part of this Plan and incorporated by reference hereunder.

3.2 Application of Contributions

As soon as reasonably practical after each payroll period, the Employer shall apply the Salary Redirection to provide the Benefits elected by the affected Participants. Any contributions made or withheld from an Employee's compensation, pursuant to the Employee's signed Salary Redirection Agreement for the Health Savings Account shall be credited to such account. Amounts designated for the Participant's Premium shall likewise be credited to such account for the purpose of paying Premium Expenses.

3.3 Periodic Contributions

Notwithstanding the requirement provided above and in other Articles of this Plan that Salary Redirections be made on a level and pro rata basis for each payroll period, the Employer and Administrator may implement a procedure under which Salary Redirections are contributed throughout the Plan Year on a periodic basis that is not pro rata for each payroll period. In the event Salary Redirections are not made on a pro rate basis, upon termination of participation, a Participant may be entitled to a refund of such Salary Redirections pursuant to Section 2.5.

Article IV — Benefits

4.1 Benefit Options

Each Participant may elect to have his full compensation paid to him in cash or elect to have the amount of his Cafeteria Plan Benefit Dollars applied to any one or more of the optional Benefits or any other group-insured or self-funded Benefit permitted under Code Section 125, including Marketplace/State Exchanges Small Business Health Options Program (SHOP Exchange) or federally facilitated Small Business Health Options Program (FF SHOP), which is offered by the Employer as set forth in the Adoption Agreement. If selected as an available Benefit Option under the Employer's Adoption Agreement, each Eligible Individual may elect coverage under the Health Savings Account Program option, in which case Article VI shall apply.

The employer may select suitable health and hospitalization Insurance Contracts for use in providing health benefits, which policies will provide uniform benefits for all Participants electing this Benefit.

4.2 Description of Benefits

Each Eligible Employee may elect to have the Administrator pay those contributions that the Employee is required to make to the Benefit options described under Section 4.1 as a condition for the Employee and his Dependents to participate in those Benefit options.

4.3 Nondiscrimination Requirements

(a) It is the intent of this Plan to provide benefits to a classification of employees which the Secretary of the Treasury finds not to be discriminatory in favor of the group in whose favor discrimination may not occur under Code Section 125 or applicable Regulations thereunder.

(b) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to reject any election or reduce contributions or non-taxable Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

Article V — Participant Elections

5.1 Initial Elections

An Employee who meets the eligibility requirements of Section 2.1 on the first day of, or during, a Plan Year may elect to participate in this Plan for all or the remainder of such Plan Year, provided he elects to do so before his effective date of participation pursuant to Section 2.2 or for a newly Eligible Employee, no more than 30 days after their date of hire. For any such newly Eligible Employee, if coverage is effective as of the date of hire pursuant to Section 2.1 above, such Employee shall be eligible to participate retroactively as of their date of hire. Newly Eligible Employee Election amounts will be collected on the first pay period on or after his or her election was received. However, if such Employee does not complete an application to participate and benefit election form and deliver it to the Administrator before such date, his Election Period shall extend 30 calendar days after such date, or for such further period as the Administrator shall determine and apply on a uniform and nondiscriminatory basis. However, any election during the extended 30-day election period pursuant to this Section 5.1 shall not be effective until the first pay period following the later of such Participant's effective date of participation pursuant to Section 2.2 or the date of the receipt of the election form by the Administrator, and shall be limited to the Benefit expenses incurred for the balance of the Plan Year for which the election is made. Any failure to elect the Benefits set forth herein shall constitute an Employee's election not to participate in the Plan during that Plan Year until a valid Election is otherwise made in the manner set forth herein.

5.2 Subsequent Annual Elections

During the Election Period prior to each subsequent Plan Year, each Participant shall be given the opportunity to elect, Salary Redirection Agreement, which Benefit options he wishes to select. With regard to subsequent annual elections, the following options shall apply:

(a) A Participant or Employee who failed to initially elect to participate may elect different or new Benefits under the Plan during the Election Period;

(b) A Participant may terminate his participation in the Plan by notifying the Administrator in writing during the Election Period that he does not want to participate in the Plan for the next Plan Year;

(c) An Employee who elects not to participate for the Plan Year following the Election Period will have to wait until the next Election Period before again electing to participate in the Plan, except as provided for in Section 5.4.

5.3 Failure to Elect

Any Participant failing to complete a new election of benefits form pursuant to Section 5.2 by the end of the applicable Election Period shall be deemed to have elected not to participate in the Plan for the upcoming Plan Year. No Salary Redirections shall therefore be authorized or made for such subsequent Plan Year for such Benefits.

5.4 Change of Elections

(a) Any Participant may change a Benefit election after the Plan Year (to which such election relates) has commenced and make new elections with respect to the remainder of such Plan Year if, under the facts and circumstances, the changes are necessitated by and are consistent with a change in status which is acceptable under rules and regulations adopted by the Department of the Treasury, the provisions of which are incorporated by reference. Notwithstanding anything herein to the contrary, if the rules and regulations conflict, then such rules and regulations shall control.

In general, a change in election is not consistent if the change in status is the Participant's divorce, annulment or legal separation from a spouse, the death of a spouse or dependent, or a dependent ceasing to satisfy the eligibility requirements for coverage, and the Participant's election under the Plan is to cancel accident or health insurance coverage for any individual other than the one involved in such an event. In addition, if the Participant, spouse or dependent gains or loses eligibility for coverage under a family member plan as a result of a change in marital status or a change in employment status, then a Participant's election under the Plan to cease or decrease coverage for that individual under the Plan corresponds with that change in status only if coverage for that individual becomes applicable or is increased under the family member plan.

Regardless of the consistency requirement, if the individual, the individual's spouse, or the individual is dependent becomes eligible for continuation coverage under the Health Benefit, Dental benefit, or Vision Benefit as provided in Code Section 4980B or any similar state law, then the individual may elect to increase payments under this Plan in order to pay for the continuation coverage. However, this does not apply for COBRA eligibility due to divorce, annulment or legal separation or the Dependent ceasing to satisfy the eligibility requirements for coverage.

Any new election shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the election form is completed and returned to the Administrator. For the purposes of this subsection, a change in status shall only include the following events or other events permitted by Treasury regulations:

(1) Legal Marital Status: events that change a Participant's legal marital status, including marriage, divorce, death of a spouse, legal separation or annulment;

(2) Number of Dependents: Events that change a Participant's number of dependents, including birth, adoption, placement for adoption, or death of a dependent;

(3) Employment Status: Any of the following events that change the employment status of the Participant, spouse, or dependent: termination or commencement of employment, a strike or lockout, commencement or returns from an unpaid leave of absence, or a change in worksite. In addition, if the eligibility conditions of this Plan or other employee benefit plan of the Employer of the Participant, spouse, or dependent depend on the employment status of that individual and there is a change in that individual's employment status with the consequence that the individual becomes (or ceases to be) eligible under the plan, then that change constitutes a change in employment under this subsection;

(4) Dependent satisfies or ceases to satisfy the eligibility requirements: an event that causes the Participant's dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstance; and

(5) Residency: A change in the place of residence of the Participant, spouse or dependent.

(b) Notwithstanding subsection (a), Participants may change an election for accident or health coverage during a Plan Year and make a new election that corresponds with the special enrollment rights provided in Code Section 9801(f) pertaining to HIPAA special enrollment rights or the Family and Medical Leave Act.

A Participant may change an election for accident or health coverage during a Plan Year and make a new election that corresponds with the special enrollment rights provided in Code Section 9801(f), including those authorized under the provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (SCHIP); provided that such Participant meets the sixty (60) day notice requirement imposed by Code Section 9801(f) (or such longer period as may be permitted by the Plan and communicated to Participants).

Such change shall take place on a prospective basis, unless otherwise required by Code Section 9801(f) to be retroactive.

(c) Notwithstanding subsection (a), in the event of a judgment, decree, or order ("order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in ERISA Section 609) which requires accident or health coverage for a Participant's child (including a foster child who is a dependent of the Participant):

(1) The Plan may change an election to provide coverage for the child if the order requires coverage under the Participant's plan; or

(2) The Participant shall be permitted to change an election to cancel coverage for the child if the order requires the former spouse to provide coverage for such child, under that individual's plan and such coverage is actually provided.

(d) Notwithstanding subsection (a), Participants may change elections to cancel accident or health coverage for the Participant or the Participant's spouse or dependent if the Participant or the Participant's spouse or dependent is enrolled in the accident or health coverage of the Employer and becomes entitled to coverage (i.e., enrolled) under Part A or Part B of the Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928 of the Social Security Act (the program for distribution of pediatric vaccines). If the Participant or the Participant's spouse or dependent who has been entitled to Medicaid or Medicare coverage loses eligibility, that individual may prospectively elect coverage under the Plan if a benefit package option under the Plan provides similar coverage.

(e) Notwithstanding subsection (a), Participants may make a prospective election change to add group health coverage for the Participant or the Participant's spouse or dependent if the Participant or the Participant's spouse or dependent, if such individual(s) lose coverage under any group health coverage sponsored by a governmental or educational institution, including (but not limited to) the following: a state children's health insurance program ("SCHIP") under Title XXI of the Social Security Act; a medical care program of an Indian Tribal government (as defined in Code Section 7701 (a) (40)), the Indian Health Service, or a tribal organization; a

state health benefits risk pool; or a foreign government group health plan, subject to the terms and limitations of the applicable benefit package option(s).

Further, if the Participant or the Participant's spouse or dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, the Participant may prospectively elect to commence or increase the accident or health coverage of the individual who loses Medicare or Medicaid eligibility.

(f) Notwithstanding subsection (a), Participants who elected to salary reduce through the Premium Only Plan for accident and health plan coverage is allowed to prospectively revoke or change his or her election with respect to the accident or health plan during open enrollment of a Marketplace Qualified Health Plan (QHP) as outline by the Affordable Care Act (ACA).

The new coverage in a QHP shall be effective no later than the day immediately following the last day of the original coverage that is revoked.

(g) Notwithstanding subsection (a), Participants who elected to salary reduce through the Premium Only Plan for accident and health plan coverage are allowed to prospectively revoke his or her election with respect to the accident or health plan if the Participant is moved from full-time status (at least 30 hours of service per week) to part-time status (less than 30 hours of service per week) and seek coverage in another plan that provides minimum essential coverage.

The new coverage shall be effective no later than the first day of the second month following the month that includes the date the original coverage is revoked.

(h) If the cost of a Benefit provided under the Plan increases or decreases during a Plan Year, then the Plan shall automatically increase or decrease, as the case may be, the Salary Redirections of all affected Participants for such Benefit. Alternatively, if the cost of a benefit package option increases significantly, the Administrator shall permit the affected Participants to either make corresponding changes in their payments or revoke their elections and, in lieu thereof, receive on a prospective basis coverage under another benefit package option with similar coverage; or drop coverage prospectively if there is no other benefit package option available that provides similar coverage. This Plan treats coverage by another Employer, such as a spouse's or dependent's employer, as similar coverage.

A cost increase or decrease refers to an increase or decrease in the amount of elective contributions under the Plan, whether resulting from an action taken by the Participants or an action taken by the Employer.

(i) If the cost of a Benefit Package Option provided under the plan decreases significantly during a Plan Year, the Administrator shall permit the affected Participants to either make corresponding changes in their payments; and employees who are otherwise eligible under the Plan may elect the Benefit Package Option, subject to the terms and limitations of the Benefit Package Option.

If the coverage under a Benefit is significantly curtailed, and such curtailment results in a loss of coverage, or ceases during a Plan Year, affected Participants may revoke their elections of such Benefit and, in lieu thereof, elect to receive on a prospective basis coverage under another plan with similar coverage, or drop coverage prospectively if there is no other Benefit Package Option available that provides similar coverage.

If the coverage under a Benefit is significantly curtailed, and such curtailment does not result in a loss of coverage, affected Participants may revoke their elections of such Benefit and, in lieu thereof, elect to receive on prospective basis coverage under another plan with similar coverage.

If, during the period of coverage, a new benefit package option or other coverage option is added (or an existing benefit package option or other coverage option is eliminated) or a significantly improved existing Benefit Package Option is added, then the affected Participants and employees who are otherwise eligible under the Plan may elect the newly-added or significantly improved option (or elect another option if an option has been

eliminated) prospectively and make corresponding election changes with respect to other benefit package options providing similar coverage.

(j) A Participant may make a prospective election change to add group health coverage for the Participant, the Participant's Spouse or Dependent if such individual loses group health coverage sponsored by a governmental or educational institution, including a state children's health insurance program under the Social Security Act, the Indian Health Service or a health program offered by an Indian tribal government, a state health benefits risk pool, or a foreign government group health plan.

(k) **Health Savings Account changes.** With regard to the Health Savings Account Benefit specified in Article IV, a participant who has elected to make elective contributions under such arrangement may modify or revoke the election prospectively, provided such change is consistent with Code Section 223 and the Treasury regulations thereunder.

Article VI - Health Savings Account Program

6.1 Establishment of Program

This Health Savings Account Program (hereinafter the "HSA") is intended to qualify as a program under Code Section 223 and shall be interpreted in a manner consistent with such Code Section. The Health Savings Account Program is provided and administered by the HSA Trustee.

6.2 Coordination with Premium Only Plan Benefits

All Participants under the Premium Only Plan are eligible to receive Benefits under this HSA, as long as they otherwise meet the definition of an Eligible Individual set forth under Code Section 223. The Employer may allow employees to make contributions to the HSA with pre-tax dollars, as governed and elected under the Adoption Agreement. In circumstances in which Employees are allowed to make pre-tax contributions to the HSA, the Employer shall also have the option of making contributions to the Employee's HSA as well, through usage of this Plan and as otherwise set forth herein after consideration of, among other provisions, Article III and Article IV accordingly related to applicability of Employer contributions and applicable nondiscrimination standards. The enrollment and termination of participation under the Premium Only Plan shall constitute enrollment and termination of participation under this HSA. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Premium Only Plan.

Article VII— Administration

7.1 Plan Administration

The Employer shall be the Administrator, unless the Employer elects otherwise. The Employer may appoint any person, including, but not limited to, the Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor.

If the Employer elects, the Employer shall appoint one or more Administrators. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. The Employer shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Employees entitled to participate in the Plan in accordance with the terms of ERISA (to the extent it applies), the Plan and the Code.

The operation of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out in accordance with its terms, and for the exclusive benefit of Employees entitled to participate in the Plan. The Administrator shall have full power to administer the Plan in all of its details, subject, however, to the pertinent provisions of the Code. The Administrator's powers shall include, but shall not be limited to the following authority, in addition to all other powers provided by this Plan:

- (a) To make and enforce such rules and regulations as the Administrator deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the Plan, the Administrator's interpretations thereof in good faith to be final and conclusive on all persons claiming benefits by operation of the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided under the Plan;
- (d) To reject elections or to limit contributions or Benefits for certain Highly Compensated Participants if it deems such to be desirable in order to avoid discrimination under the Plan in violation of applicable provisions of the Code;
- (e) To provide Employees with a reasonable notification of their benefits available under the Plan;
- (f) To keep and maintain the Plan documents and all other records pertaining to and necessary for the administration of the Plan;
- (g) To keep and communicate procedures to determine whether a medical child support order is qualified under ERISA Section 609; and
- (h) To appoint such agents, counsel, accountants, consultants, and actuaries as may be required to assist in administering the Plan.

Any procedure, discretionary act, interpretation or construction taken by the Administrator shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to comply with the terms of Code Section 125 and the Treasury regulations there under.

7.2 Examination of Records

The Administrator shall make available to each Participant, Eligible Employee and any other Employee of the Employer such records as pertain to their interest under the Plan for examination at reasonable times during normal business hours.

7.3 Payment of Expenses

Any reasonable administrative expenses shall be paid by the Employer unless the Employer determines that administrative costs shall be borne by the Participants under the Plan or by any Trust Fund which may be established hereunder. The Administrator may impose reasonable conditions for payments, provided that such conditions shall not discriminate in favor of Highly Compensated Participants.

7.4 Application of Benefit Plan Surplus

Any forfeited amounts credited to the benefit plan surplus by virtue of the failure of a Participant to incur a qualified expense may, but need not be, separately accounted for after the close of the Plan Year in which such forfeitures arose. In no event shall such amounts be carried over to reimburse a Participant for expenses incurred during a subsequent Plan Year for the same or any other Benefit available under the Plan; nor shall amounts forfeited by a particular Participant be made available to such Participant in any other form or manner, except as permitted by Treasury regulations. Amounts in the benefit plan surplus shall first be used to defray any administrative costs and experience losses and thereafter be retained by the Employer.

7.5 Insurance Control Clause

In the event of a conflict between the terms of this Plan and the terms of an Insurance Contract of a particular Insurer whose product is then being used in conjunction with this Plan, the terms of the Insurance Contract shall control as to those Participants receiving coverage under such Insurance Contract. For this purpose, the Insurance Contract shall control in defining the persons eligible for insurance, the dates of their eligibility, the conditions which must be satisfied to become insured, if any, the benefits Participants are entitled to and the circumstances under which insurance terminates.

7.6 Indemnification of Administrator

The Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who previously served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorney's fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith and not negligent.

Article VIII — Amendment or Termination of Plan

8.1 Amendment

The Employer, at any time or from time to time, may amend any or all of the provisions of the Plan without the consent of any Employee or Participant.

8.2 Termination

The Employer is establishing this Plan with the intent that it will be maintained for an indefinite period of time. Notwithstanding the foregoing, the Employer reserves the right to terminate the Plan, in whole or in part, at any time. In the event the Plan is terminated, no further contributions shall be made. Benefits under any Insurance Contract shall be paid in accordance with the terms of the Contract.

Any amounts remaining in any such fund or account as of the end of the Plan Year in which Plan termination occurs shall be forfeited and deposited in the benefit plan surplus.

Article IX — Miscellaneous

9.1 Plan Interpretation

All provisions of this Plan shall be governed and interpreted by the Employer, or its delegated Administrator, as applicable, in its full and complete discretion and shall be otherwise applied in a uniform, nondiscriminatory manner. This Plan shall be read in its entirety and not severed except as provided in Section 9.12.

9.2 Gender and Number

Wherever any words are used herein in the masculine, feminine, or gender neutral, shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

9.3 Written Document

This Plan, in conjunction with any separate written document which may be required by law, is intended to satisfy the written Plan requirement of Code Section 125 and any Regulations there under relating to Cafeteria Plans.

9.4 Exclusive Benefit

This Plan shall be maintained for the exclusive benefit of the Employees who participate in the Plan.

9.5 Participant's Rights

This Plan shall not be deemed to constitute an employment contract between the Employer and any Participant or Employee or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

9.6 Action by the Employer

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

9.7 Employer's Protective Clauses

(a) Upon the failure of either the Participant or the Employer to obtain any Insurance Contract contemplated by this Plan (whether as a result of negligence, gross neglect or otherwise), the Participant's Benefits shall be limited to the insurance premium(s), if any, that remained unpaid for the period in question and the actual insurance proceeds, if any, received by the Employer or the Participant as a result of the Participant's claim.

(b) The Employer's liability to the Participant shall only extend to and shall be limited to any payment actually received by the Employer from the Insurer. In the event that the full insurance Benefit contemplated is not promptly received by the Employer within a reasonable time after submission of a claim, then the Employer shall notify the Participant of such facts and the Employer shall no longer have any legal obligation whatsoever (except to execute any document called for by a settlement reached by the Participant). The Participant shall be free to settle, compromise or refuse the claim as the Participant, in his sole discretion, shall see fit.

(c) The Employer shall not be responsible for the validity of any Insurance Contract issued hereunder or for the failure on the part of the Insurer to make payments provided for under any Insurance Contract. Once insurance is applied for or obtained, the Employer shall not be liable for any loss which may result from the failure to pay Premiums to the extent Premium notices are not received by the Employer.

9.8 No Guarantee of Tax Consequences

Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under the Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. Notwithstanding the foregoing, the rights of Participants under this Plan shall be legally enforceable.

9.9 Indemnification of Employer by Participants

If any Participant receives one or more payments or reimbursements under the Plan that are not for a permitted Benefit, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.

9.10 Funding

Unless otherwise required by law, Participant Salary Redirections need not be placed in trust or dedicated to a specific Benefit, but shall instead be held in the general assets of the Employer until the Premium Expense required under the Plan has been paid. Furthermore, and unless otherwise required by law, nothing herein shall be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.

9.11 Governing Law

This Plan is governed by the Code and the Treasury regulations issued there under (as they might be amended from time to time). In no event shall the Employer guarantee the favorable tax treatment sought by this Plan. To the extent not preempted by federal law, the provisions of this Plan shall be construed, enforced and administered according to the laws of the state or commonwealth specified in the Adoption Agreement.

9.12 Severability

If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.

9.13 Captions

The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge, or describe the scope or intent of the Plan, nor in any way shall affect the Plan or the construction of any provision thereof.

9.14 Continuation of Coverage

Notwithstanding anything in the Plan to the contrary, in the event a Participant, Spouse or Dependent loses coverage under the Premium Only Plan such Participant, Spouse and Dependent will be entitled to continuation coverage as required in Code Section 4980B, and related regulations. This Section shall only apply if the Employer employs at least twenty (20) employees on more than 50% of its typical business days in the previous calendar year.

9.15 Family and Medical Leave Act

Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying unpaid leave under the Family and Medical Leave Act of 1993 (FMLA), to the extent required by the FMLA, after consideration of Treasury Regulation Section 1.125-3 as applicable, the Employer will continue to maintain the Participant's benefits under this Plan on the same terms and conditions as though he/she were still an active Employee (i.e., the Employer will continue to pay its share of the premium to the extent the Employee opts to continue his/her coverage). If the Employee opts to continue his/her coverage, the Employee may pay his/her share of the premium with after-tax dollars while on leave (or pre-tax dollars to the extent he/she receives compensation during the leave), or the Employee may be given the option to pre-pay all or a portion of his/her share of the premium for the expected duration of the leave on a pre-tax salary reduction basis out of his/her pre-leave Compensation by making a special election to that effect prior to the date such Compensation would normally be made available to him/her (provided, however, that pre-tax dollars may not be utilized to fund coverage during the next plan year), or via other arrangements agreed upon between the Employee and the Administrator (e.g., the Administrator may fund coverage during the leave and withhold "catch-up" amounts upon the Employee's return). Upon return from such leave, the Employee will be permitted to reenter the Plan on the same basis the Employee was participating in the Plan prior to his/her leave, or as otherwise required by the FMLA.

Furthermore, if a Participant goes on a qualifying paid leave under the FMLA, to the extent required by the FMLA, the Employee will continue coverage while on FMLA by the method normally used during any paid leave.

In all instances, a paid or unpaid leave under FMLA will be treated in the same manner and consistent with a non-FMLA paid or unpaid leave.

9.16 Health Insurance Portability and Accountability Act

Notwithstanding anything in this Plan to the contrary, this Plan shall be operated in accordance with HIPAA and regulations thereunder.

9.17 Uniformed Services Employment and Reemployment Rights Act (USERRA)

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with USERRA and the regulations there under, as well as any other applicable Regulations specific to the rights and obligations of Employers with Employees on active military leave.

9.18 COMPLIANCE WITH HIPAA PRIVACY STANDARDS

(a) **Application.** If any benefits under this Cafeteria Plan are subject to the Standards for Privacy of Individually Identifiable Health Information (45 CFR Part 164, the "Privacy Standards"), then this Section shall apply.

(b) **Disclosure of PHI.** The Plan shall not disclose Protected Health Information to any member of the Employer's workforce unless each of the conditions set out in this Section are met. "Protected Health Information" shall have the same definition as set forth in the Privacy Standards but generally shall mean individually identifiable information about the past, present or future physical or mental health or condition of an individual, including genetic information and information about treatment or payment for treatment.

(c) **PHI disclosed for administrative purposes.** Protected Health Information disclosed to members of the Employer's workforce shall be used or disclosed by them only for purposes of Plan administrative functions. The Plan's administrative functions shall include all Plan payment functions and health care operations. The terms "payment" and "health care operations" shall have the same definitions as set out in the Privacy Standards, but the term "payment" generally shall mean activities taken to determine or fulfill Plan responsibilities with respect to eligibility, coverage, provision of benefits, or reimbursement for health care. Protected Health Information that consists of genetic information will not be used or disclosed for underwriting purposes.

(d) **PHI disclosed to certain workforce members.** The Plan shall disclose Protected Health Information only to members of the Employer's workforce who are designated and authorized to receive such Protected Health Information, and only to the extent and in the minimum amount necessary for that person to perform his or her duties with respect to the Plan. "Members of the Employer's workforce" shall refer to all employees and other persons under the control of the Employer. The Employer shall keep an updated list of those authorized to receive Protected Health Information.

(1) An authorized member of the Employer's workforce who receives Protected Health Information shall use or disclose the Protected Health Information only to the extent necessary to perform his or her duties with respect to the Plan.

(2) In the event that any member of the Employer's workforce uses or discloses Protected Health Information other than as permitted by this Section and the Privacy Standards, the incident shall be reported to the Plan's privacy official. The privacy official shall take appropriate action, including:

(i) investigation of the incident to determine whether the breach occurred inadvertently, through negligence or deliberately; whether there is a pattern of breaches; and the degree of harm caused by the breach;

(ii) appropriate sanctions against the persons causing the breach which, depending upon the nature of the breach, may include oral or written reprimand, additional training, or termination of employment;

(iii) mitigation of any harm caused by the breach, to the extent practicable; and

(iv) documentation of the incident and all actions taken to resolve the issue and mitigate any damages.

(e) **Certification.** The Employer must provide certification to the Plan that it agrees to:

(1) Not use or further disclose the information other than as permitted or required by the Plan documents or as required by law;

(2) Ensure that any agent or subcontractor, to whom it provides Protected Health Information received from the Plan, agrees to the same restrictions and conditions that apply to the Employer with respect to such information;

(3) Not use or disclose Protected Health Information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer;

(4) Report to the Plan any use or disclosure of the Protected Health Information of which it becomes aware that is inconsistent with the uses or disclosures permitted by this Section, or required by law;

(5) Make available Protected Health Information to individual Plan members in accordance with Section 164.524 of the Privacy Standards;

(6) Make available Protected Health Information for amendment by individual Plan members and incorporate any amendments to Protected Health Information in accordance with Section 164.526 of the Privacy Standards;

(7) Make available the Protected Health Information required to provide an accounting of disclosures to individual Plan members in accordance with Section 164.528 of the Privacy Standards;

(8) Make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from the Plan available to the Department of Health and Human Services for purposes of determining compliance by the Plan with the Privacy Standards;

(9) If feasible, return or destroy all Protected Health Information received from the Plan that the Employer still maintains in any form, and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and

(10) Ensure the adequate separation between the Plan and members of the Employer's workforce, as required by Section 164.504(f)(2)(iii) of the Privacy Standards and set out in (d) above.

9.19 COMPLIANCE WITH HIPAA ELECTRONIC SECURITY STANDARDS

Under the Security Standards for the Protection of Electronic Protected Health Information (45 CFR Part 164.300 et. seq., the "Security Standards"):

(a) **Implementation.** The Employer agrees to implement reasonable and appropriate administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of Electronic Protected Health Information that the Employer creates, maintains or transmits on behalf of the Plan. "Electronic Protected Health Information" shall have the same definition as set out in the Security Standards, but generally shall mean Protected Health Information that is transmitted by or maintained in electronic media.

(b) **Agents or subcontractors shall meet security standards.** The Employer shall ensure that any agent or subcontractor to whom it provides Electronic Protected Health Information shall agree, in writing, to implement reasonable and appropriate security measures to protect the Electronic Protected Health Information.

(c) **Employer shall ensure security standards.** The Employer shall ensure that reasonable and appropriate security measures are implemented to comply with the conditions and requirements set forth in Section 11.18.

(d) **Security Incidents.** The Employer will report to the Plan any security incident, as defined in the HIPAA Security Standards, of which it becomes aware.

9.20 **MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT**

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Mental Health Parity and Addiction Equity Act and ERISA Section 712.

9.21 **GENETIC INFORMATION NONDISCRIMINATION ACT (GINA)**

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Genetic Information Nondiscrimination Act.

9.22 **WOMEN'S HEALTH AND CANCER RIGHTS ACT**

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Women's Health and Cancer Rights Act of 1998.



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Barbara Boswell, Treasurer

Item 7: **Hold Public Hearing for Purposes of Receiving a Status of Vacancies, Recruitment, and Retention Efforts Pursuant to AB2561**

Recommendation:

1. Conduct the Public Hearing: Open the Public Hearing, receive public testimony, and close the Public Hearing.
2. Accept report on the status of FPH2 employee vacancies, recruitment and retention efforts.

Fiscal Impact:

There is no fiscal impact to this action.

Background:

Assembly Bill (AB) 2561 (McKinnor) amended the Myers-Millas-Brown Act (MMBA) adding Government Code Section 3502.3, effective January 1, 2025, which created a new obligation for public agencies to present the status of vacancies, recruitment, and retention efforts. The public hearing must be held at least once per fiscal year prior to adopting an annual budget. Because FPH2 did not have vacancies until after the budget was adopted, FPH2 is conducting this public hearing now to ensure compliance with the Government Code.

During the hearing, the public agency is required to identify any necessary changes to policies, procedures, and recruitment activities that may lead to obstacles in the hiring process. The law also allows recognized employee organizations an opportunity to present at the public hearing, however, FPH2 does not have a recognized employee organization.

Status of Job Vacancies

For the Fiscal Year (FY) 2025/2026, six (6) positions have been filled with no current vacancies as shown in Table 1 below.

Table 1

Position	Effective	Hired	Reason for Vacancy
Chief Executive Officer	7/1/2025	Yes	New Position
Chief Operating Officer	7/1/2025	Yes	New Position
Managing Director	7/7/2025	Yes	New Position
Project Manager (3 positions)	7/7/2025	Yes	New Position

Recruitment and Retention Efforts

FPH2 is a new agency that was established by the cities of Lancaster and Industry, and initially staffed by City of Lancaster staff through an Administrative Services Agreement. FPH2's recruitment process provided the ability for the Lancaster staff who had been serving as staff for FPH2 to transition over as new staff for FPH2. In addition, the Chief Operating Officer had been serving FPH2 through a professional services contract. Due to the unique experience of the contracted person, the position was transitioned from contract to in-house full-time staff. There was not open recruitment process to fill these initial positions.

FPH2's retention efforts include offering competitive wages, generous retirement benefits including an employer contribution of 8% of base pay to a 401(a) retirement account, employer match of up to 5% of employees' contribution to a 457(b) retirement plan, generous vacation and sick time, and 11 paid holidays including a winter break. Because FPH2 does not anticipate any new positions to be added this year, no changes are being recommended to its recruitment process and retention efforts.

Attachment:

None



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 8: **Consider Approval of an Amendment to the Promissory Note Dated January 28, 2025, Between the City of Lancaster and First Public Hydrogen Authority Increasing the Amount by \$4,000,000**

Recommendation:

1. Approve an amendment to the Promissory Note dated January 28, 2025, between the City of Lancaster and First Public Hydrogen Authority increasing the amount from \$2.6M to \$6,600,000, an increase of \$4,000,000.
2. Authorize the Chief Executive Officer, or his designee, to sign the Promissory Note, subject to General Counsel approval.

Fiscal Impact:

The increase from \$2.6M to \$6.6M will provide sufficient funds for budgeted expenditures through June 30, 2026. The Maturity Date of July 1, 2028, remains unchanged. FPH2 pro forma reflects sufficient revenues to be generated by that date for full repayment of the principal and interest.

Background:

The First Public Hydrogen Authority (FPH2) is a joint powers authority established in December 2024 by the cities of Lancaster and Industry to lead hydrogen-related initiatives previously managed by the City of Lancaster. Since that time the Rowland Water District and City of Fresno have joined FPH2 as members for the purpose of procuring hydrogen to support its operations.

FPH2 began its operations in January 2025, and the expenditures incurred for the period January 2025 – June 2026 were financed through a promissory note approved by City of Lancaster at its January 14, 2025, City Council meeting, and accepted by the FPH2 Board, in a not to exceed amount of \$2.6M. Through June 30, 2025, FPH2 expended only \$1.7M and the remaining \$900k was rolled forward to provide initial cash flow for FPH2 fiscal year 2025/26 expenditures. The increase of an additional \$4,000,000 will provide FPH2 with sufficient funds for expenditures through June 30, 2026. It is projected that FPH2 will have sufficient revenue generated to repay the loan by the July 1, 2028, Maturity Date.

The Maturity Date of July 1, 2028, and interest in an amount equal to the average of the average monthly effective yields of the Local Agency Investment Fund (“LAIF”) remain unchanged.

Attachment:

Amended and Restated Promissory Note Between the City of Lancaster and First Public Hydrogen Authority

AMENDED AND RESTATED PROMISSORY NOTE

Original Note Amount: \$2,600,000
Amended and Restated Note Amount: \$6,241,850

Original Date: January 28, 2025
Amendment Date: August 12, 2025

Lancaster, CA

FOR VALUE RECEIVED, First Public Hydrogen Authority, a California joint exercise of power authority (“Maker”), promises to pay on or before July 1, 2028 (“Maturity Date”), to the **City of Lancaster**, a California municipal corporations and charter city (“Holder”), or order, the principal sum of Six Million Two Hundred Forty-One Thousand Eight Hundred Fifty Dollars (\$6,241,850), with interest in an amount equal to the average of the average monthly effective yields of the Local Agency Investment Fund (“LAIF”), as published by the California State Treasurer, for period commencing upon the date of funds disbursement by City of Lancaster and ending on the Maturity Date; provided, however, that in the event or prepayment, the interest period shall end the month preceding such prepayment.

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

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

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

If any provision or any word, term, clause, or part of any provision of this Note shall be invalid for any reason, the same shall be ineffective, but the remainder of this Note and of the provision shall not be affected and shall remain in full force and effect. Any of the terms or

conditions of this Note may be waived by Holder, but no such waiver shall affect or impair the rights of Holder to require observance, performance, or satisfaction, either of that term or condition as it applies on a subsequent occasion or of any other term or condition of this Note.

Maker and Holder expressly agree that this Note supersedes in its entirety the Promissory Note dated January 28, 2025 executed by Maker in favor of Holder (the “Original Note”) and that from and after the execution of this Note, the Original Note shall be of no further force or effect.

HOLDER:

CITY OF LANCASTER

a California Municipal Corporation and Charter City

BY: _____

NAME: _____

ITS: _____

DATE: _____

MAKER:

FIRST PUBLIC HYDROGEN AUTHORITY

a California joint exercise of powers authority

BY: _____

NAME: _____

ITS: _____

DATE: _____



STAFF REPORT

8/21/25
JC

Date: August 21, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 9: Consideration and Action Regarding Collaborative, Joint Venture, and/or Public Private Partnership Agreement(s) with one or more Data Center Developers for Data Center Siting, Development, and Related Efforts

Recommendation:

Authorize the Chief Executive Officer, or designee, to negotiate and execute a collaborative, joint venture, and/or public private partnership agreement(s) for data center siting, development, and related efforts, in a form approved by the General Counsel, with one or more data center provider(s) located within or seeking to locate within FPH₂'s jurisdiction.

Fiscal Impact:

None.

Background:

First Public Hydrogen Authority (FPH₂) continues to receive significant interest from technology companies and infrastructure developers exploring opportunities to site data centers within FPH₂'s jurisdiction. Data centers represent large-scale, long-term capital investments that bring substantial infrastructure improvements, high-value job creation, and sustained economic activity.

Over the past several months, FPH₂ staff have engaged with multiple prospective data center operators to explore opportunities for collaboration. These discussions have centered on aligning the operators' needs for reliable, sustainable power and advanced energy solutions with FPH₂'s ability to support clean hydrogen integration, renewable energy procurement, and public-sector coordination.

Such partnerships present opportunities to:

- Strengthen FPH₂'s role as a trusted partner in delivering clean energy infrastructure for next-generation industries;
- Advance the deployment of renewable hydrogen and complementary energy technologies; and
- Support local economic growth, workforce development, and regional competitiveness in emerging technology sectors.

Attachments:

None