



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

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

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

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

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

All documents available for public review are on file with the First Public Hydrogen Authority (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

None

Consent Calendar

Item 1: Approve Minutes of August 21, 2025, Regular Meeting

RECOMMENDATION

Approve the Minutes of August 21, 2025, Regular Board Meeting.

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

RECOMMENDATION

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

Item 3: Consider Approval of First Public Hydrogen Authority Cost Confidentiality Policy

RECOMMENDATION

Approve the First Public Hydrogen Cost Confidentiality Policy.

Item 4: Consider Approval of First Public Hydrogen Authority Board Travel Reimbursement Policy

RECOMMENDATION

Approve the First Public Hydrogen Authority Board Travel Reimbursement Policy.

Item 5: Approve Hydroplane Sublease for Property at 431 E Avenue K4

RECOMMENDATION

Approve Hydroplane Sublease for Property at 431 E. Avenue K4

New Business

- Item 6: Consider Approval of Resolution Approving and Authorizing the City of Montebello to Enter into the Joint Exercise of Powers Agreement for the First Public Hydrogen Authority (FPH2)**

RECOMMENDATION

Adopt Resolution No. 2025-### Approving and Authorizing the City of Montebello 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.

- Item 7: Marketing and Social Media Update**

RECOMMENDATION

Receive marketing and social media update.

- Item 8: 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 9: 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 October 16, 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
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**

CALL TO ORDER: The regular meeting of the First Public Hydrogen Authority (FPH2) was called to order by Chair Parris at 2:04 p.m.

ROLL CALL: Board Members: Brouwer, Hertzberg, Peacock, Vasquez, Vice Chair Ruggles, Chair Parris. Board Member Medrano was absent.

FLAG SALUTE: Chair Parris led the flag salute.

Consent Calendar

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

RECOMMENDATION

Approve the Minutes of June 18, 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.

No requests to speak on the Consent Calendar were received.

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

Motion approved unanimously.

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.

General Counsel Allison Burns introduced the item.

Chair Parris opened the public hearing.

No requests to speak were received and no communication was received in the ten days preceding the public hearing.

Chair Parris closed the public hearing, and the report was accepted by the Board.

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.

CEO Jason Caudle presented the staff report and no requests to speak were received on the item.

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

Motion approved unanimously.

- 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.

CEO Jason Caudle presented the staff report and no requests to speak were received on the item.

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

Motion approved unanimously.

- 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.

CEO Jason Caudle provided an update to the Board of Directors noting that FPH₂ has succeeded in the effort of identifying available new green, affordable hydrogen supply and are currently working to finalize negotiations getting suppliers under contract and bundle with those who have demand; commented on the RFP for Transportation pricing with a goal to go to contract by year end.

Item 11: General Counsel Update on FPH2 Matters

RECOMMENDATION

Receive update General Counsel on FPH2 Matters.

General Counsel Allison Burns thanked those that reviewed the Antitrust training and reminded all to sign the acknowledgement.

PUBLIC COMMENT

Addressing the Board was Will Crampton, Vice President, TO Viridi, regarding data centers.

BOARD MEMBER QUESTIONS/COMMENTS

None

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

None

Chair Parris adjourned the meeting at 3:20 pm.

NEXT MEETING: Regular Board Meeting September 18, 2025

Susan Caputo, MMC
Board Secretary
Approved:



STAFF REPORT

9/18/25
JC

Date: September 18, 2025

To: Chair Parris and Authority Members

From: Barbara Boswell, Treasurer

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

Recommendation:

Receive and file Treasurer's Report for period ended July 31, 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 July 31, 2025:

- Statement of Financial Position (Unaudited) – Reports assets, liabilities, and financial position of First Public Hydrogen Authority (FPH2) as of July 31, 2025.
- Statement of Revenues, Expenses and Changes in Net Position (Unaudited) as of July 31, 2025.
- Budget to Actuals Comparison Schedule (Unaudited) – Reports actual revenues and expenditures compared to the adopted budget as of July 31, 2025.
- List of Payments Issued – Reports payments issued in July 2025.
- List of Sole Source Agreements

FIRST PUBLIC HYDROGEN AUTHORITY
STATEMENT OF NET POSITION

Unaudited

As of July 31, 2025

ASSETS

Cash	<u>\$756,357</u>
TOTAL ASSETS	<u>\$756,357</u>

LIABILITIES

Current Liabilities

Accounts Payable	\$12,611
Employment Taxes Payable	4,449
Employee Benefits Payable	<u>10,056</u>
Total Current Liabilities	<u>\$27,117</u>

Noncurrent Liabilities

Due to City of Lancaster	<u>\$2,600,000</u>
Total Noncurrent Liabilities	<u>\$2,600,000</u>

TOTAL LIABILITIES	<u>\$2,627,117</u>
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NET POSITION	<u>(\$1,870,760)</u>
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FIRST PUBLIC HYDROGEN AUTHORITY
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

Unaudited

Period Ended July 31, 2025

OPERATING REVENUES	<u>\$0.00</u>
OPERATING EXPENSES	
Staff Salaries & Benefits	\$120,067
Board Stipends	11,200
Operating Materials & Supplies	538
Special Events	423
IT Software/Subscriptions	1,070
Professional/Technical Services	13,035
Legal Services	
Sponsorships	2,500
Marketing & Outreach	707
Dues & Memberships	
Meetings & Conferences	
Insurance	50
Utilities	1,429
Travel/Mileage Reimbursement	<u>233</u>
TOTAL OPERATING EXPENSES	<u>\$151,252</u>
OPERATING INCOME (LOSS)	<u>(\$151,252)</u>

**FIRST PUBLIC HYDROGEN AUTHORITY
BUDGET TO ACTUALS COMPARISON**

Unaudited

Period Ended July 31, 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 & Benefits	\$127,950	\$120,067	\$7,883	6.16%
Board Stipends	11,167	11,200	-33.33	0.00%
Materials & Supplies	9,167	537	8,629	94.13%
Special Events	4,167	423	3,744	89.85%
Computer Hardware & Software	6,250	1,070	5,180	82.88%
Professional/Technical	125,000	12,035	111,965	89.57%
Legal Services	21,667	0	21,667	100.00%
Sponsorships	8,333	2,500	5,833	70.00%
Marketing & Outreach	6,667	707	5,960	89.40%
Dues & Memberships	1,833	0	1,833	100.00%
Meetings & Conferences	1,250	0	1,250	100.00%
Travel/Mileage	9,167	65	9,101	99.29%
Travel/Meals	0	168	-168	0.00%
Insurance	4,667	50	4,616	98.93%
Utilities	4,583	1,429	3,154	68.81%
Office Rent	2,000	0	2,000	100.00%
Interest Exp	8,333	0	8,333	100.00%
Furniture & Fixtures	<u>1,288</u>	<u>0</u>	<u>1,288</u>	<u>100.00%</u>
TOTAL OPERATING EXPENSES	<u>\$354,988</u>	<u>\$151,251</u>	<u>\$203,736</u>	<u>57.39%</u>
CHANGE IN NET POSITION	<u>-\$354,988</u>	<u>-\$151,251</u>	<u>-\$203,736</u>	

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

**Bill Payment List
First Public Hydrogen Authority
July 1-31, 2025**

Date	Vendor	Amount	Transaction type	Memo/Description
07/09/2025	Special District Risk Management Authority	\$ (19,508.84)	Bill Payment (Check)	# 78784
07/24/2025	The Winter Co.	\$ (900.00)	Bill Payment (Check)	Inv 16581-000282
07/25/2025	CaliforniaChoice Benefit Administrators	\$ (5,563.45)	Bill Payment (Check)	# 4888454
07/31/2025	Jason Caudle	\$ (251.25)	Bill Payment (Check)	Inv 10001
07/31/2025	Paraclete High School	\$ (2,500.00)	Bill Payment (Check)	Inv 1965-- bill.com Check Number: 214100210
07/31/2025	The Winter Co.	\$ (900.00)	Bill Payment (Check)	Inv 16581-000286
07/31/2025	SoCalGas	\$ (34.35)	Bill Payment (Check)	Acct 03158245534 - Inv 07302025--
07/31/2025	Special District Risk Management Authority	\$ (50.00)	Bill Payment (Check)	Acct 8154 - Inv 78924
07/31/2025	City of Lancaster	\$ (1,600.00)	Bill Payment (Check)	Inv Monthly Stipend
07/31/2025	Robert M. Hertzberg	\$ (1,600.00)	Bill Payment (Check)	Inv Monthly Stipend
07/31/2025	Jacob Brouwer	\$ (1,600.00)	Bill Payment (Check)	Inv Monthly Stipend
07/31/2025	Tanya Peacock	\$ (1,600.00)	Bill Payment (Check)	Inv Monthly Stipend
07/31/2025	Waste Management	\$ (501.25)	Bill Payment (Check)	Acct 32-65689-23000 - Inv 6106704-2508-7
07/31/2025	Ernesto Medrano	\$ (1,600.00)	Bill Payment (Check)	Inv Monthly Stipend
07/31/2025	Newell Wayne Ruggles	\$ (1,600.00)	Bill Payment (Check)	Inv Monthly Stipend
07/31/2025	Vasquez Impact Solutions LLC	\$ (1,600.00)	Bill Payment (Check)	Inv Monthly Stipend
07/31/2025	Gonzalez Property Svcs.	\$ (1,240.00)	Bill Payment (Check)	Inv 23586
07/31/2025	Southern California Edison.	\$ (1,395.07)	Bill Payment (Check)	Inv 8020216511
Total Payments		\$ (44,044.21)		

LIST OF SOLE SOURCE AGREEMENTS EXECUTED JULY 2025

VENDOR NAME	DESCRIPTION	TERM	NOT TO EXCEED AMOUNT
NONE TO REPORT			



STAFF REPORT

9/18/25
JC

Date: September 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 3: **Consider Approval of First Public Hydrogen Authority Cost Confidentiality Policy**

Recommendation:

Approve the First Public Hydrogen Authority Cost Confidentiality Policy.

Fiscal Impact:

There is no fiscal impact.

Background:

The First Public Hydrogen Authority (Authority) and its member agencies regularly engage in negotiations and procurements with hydrogen fuel suppliers. As part of these transactions, the Authority and its members will have access to market-sensitive information, including pricing and volume data, that could impact the Authority's ability to secure the most favorable terms for its customers if disclosed. To ensure that this information is appropriately protected, the attached Cost Confidentiality Policy establishes procedures for redacting sensitive data while balancing the public's right to access records under the California Public Records Act. Adoption of this policy will safeguard the Authority's competitive position in the marketplace and protect customers from potential disadvantages that could result from premature disclosure of supplier pricing or contract details.

Adoption of this policy will ensure consistent handling of market-sensitive supplier information, protect the Authority's and its members' negotiating position, and uphold transparency obligations while balancing the public interest.

Attachment:

First Public Hydrogen Authority Cost Confidentiality Policy



POLICY TITLE:	Cost Confidentiality	
POLICY NUMBER:	FPH₂ 2025-XXX	ADOPTED: September 18, 2025

1.0 Purpose

To protect the market sensitive data of First Public Hydrogen Authority, a Joint Powers Authority.

2.0 Organizations Affected

2.1 First Public Hydrogen Authority and Its Members

3.0 References

3.1 California Public Records Act Government Code Section 6255

4.0 Definition of Terms

4.1 Market Sensitive Data - Data that reveals the cost, location, type or volume of hydrogen fuel, equipment or services, electricity, energy storage or energy services, contracted under a certain agreement Agency – First Public Hydrogen Authority (FPH₂)

4.2 Customer – Hydrogen producer, equipment and/or services provider, hydrogen supply or hydrogen services off-taker, electricity or energy storage or microgrid solutions provider or offtaker of Hydrogen Fuel, Electricity, Microgrid or Energy Storage Provider – A vendor of hydrogen fuel product or services, electricity or electric services, microgrid systems, and energy storage systems

4.3 Redacted Contracts - Contracts that have market sensitive and/or usage data blacked out

5.0 Background

5.1 In determining if a contract contains market sensitive data, the Agency weighs the interest of its customers against the public's right to receive precise pricing information. The Agency's ability to get the most favorable pricing would be impacted if other hydrogen, electricity, energy storage and microgrid systems providers had full knowledge of what the Agency pays for energy and energy systems. Disclosure of specific details would impact



the Agency's ability to negotiate future contracts. If the Agency did not keep market sensitive data confidential, its ability to negotiate the most favorable pricing would be hampered and the Agency would not be able to secure the most favorable rates for its Customers.

6.0 Policy

- 6.1 It is the policy of the Agency and its Associate Members to maintain the confidentiality of all market sensitive data in order to ensure that customers are not disadvantaged relative to other market participants. In accordance with Government Code Section 6255, the Agency may justify withholding any record by demonstrating the public interest in nondisclosure outweighs the public interest in disclosure.

7.0 Procedure

- 7.1 The Agency Secretary will receive all contracts with market sensitive data redacted. All Contracts submitted to the Agency Secretary will have a cover sheet indicating redacted or non-redacted (see Exhibits B and C for examples). Redacted contracts are available to the public.
- 7.2 The Contract with non-redacted market sensitive data is made available to the public 5 years after contract execution.

All persons requesting redacted Contracts will have a response letter issued to them stating the reason for non-disclosure (see Exhibit A for example).

Jason Caudle, Executive Director

Date



Exhibit A

Sample Letter

Dear _____,

In response to your request dated _____, First Public Hydrogen Authority (FPH2) has determined that the information requested contains market sensitive data. In accordance with Policy No. _____, copies of executed contracts are available to the public with the market sensitive data redacted.

In determining if an agreement contains market sensitive data, FPH2 weighs the interests of its customers against the public's right to receive precise pricing information. FPH2 believes it is necessary to protect sensitive market data to secure the most favorable pricing for FPH2 and its customers.

Therefore, FPH2 is providing redacted copies of the agreements requested.

Susan Caputo
Secretary
First Public Hydrogen Authority



Exhibit B

CONTRACT: _____

PER POLICY # _____

REDACTED COPY

FOR PUBLIC DISCLOSURE



Exhibit C

CONTRACT: _____

PER POLICY # _____

NON-REDACTED COPY

NOT FOR PUBLIC DISCLOSURE

UNTIL _____



STAFF REPORT

9/18/25
JC

Date: September 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 4: **Consider Approval of First Public Hydrogen Authority Board Travel Reimbursement Policy**

Recommendation:

Approve the First Public Hydrogen Authority Board Travel Reimbursement Policy.

Fiscal Impact:

Funding for travel reimbursements is included in the adopted Fiscal Year 2025/26 Budget.

Background:

From time-to-time members of the First Public Hydrogen (FPH2) Authority Board may incur travel costs to attending events as a representative of FPH2. California Government Code Sections 53232.2 and 53232.3 authorize the reimbursement for actual and necessary expenses as well as outlines the process for these reimbursements.

The draft policy covers reimbursements of travel, meals, lodging, registration fees and related incidental expenses incurred while conducting official FPH2 business. The draft policy proposes the following procedure to be used:

- a. Travel Reimbursement Report Form. Members must submit the FPH2 Travel Reimbursement Report with required receipts and documentation within 30 days after travel/event. The report must certify that expenses are actual and necessary and within this Policy.
- b. Receipts. Itemized receipts are required for lodging and for any single expense of \$25 or more. Under IRS rules, receipts are not required for (i) expenses (other than lodging) under \$25; (ii) transportation expenses where a receipt isn't readily available; or (iii) approved per diem allowances accounted for under an accountable

plan. FPH2 may still require documentation of business purpose and amounts claimed.

- c. Per Diem Method. When per diem is used, members claim the applicable GSA M&IE (and lodging, if used) rates for the travel location and dates; no receipts for meals are required, but proof of travel and business purpose is mandatory. Per Diem rates are reimbursed at 75% of the rate for the first and last day of travel. When actual expenses are claimed instead of per diem, itemized receipts are required, and reimbursement is limited to applicable caps.
- d. Mileage. Personal vehicle mileage is reimbursed at the IRS standard business mileage rate for the year of travel. Parking and tolls are reimbursable with documentation.

Government Code Section 53232.3(d) requires members to provide a brief report at the next regular Board meeting after the official travel attended at FPH2 expense, which can be satisfied by giving a verbal report.

Attachment:

Draft First Public Hydrogen Authority Board Travel Reimbursement Policy



POLICY TITLE:	Board Travel Reimbursement Policy	
POLICY NUMBER:	FPH ₂ 2025-0XX	PROPOSED: September 18, 2025

1.0 Purpose

The purpose of this policy is to establish guidelines under which Board Members will be reimbursed for actual and necessary travel and mileage expenses while conducting official business on behalf of First Public Hydrogen Authority (FPH₂), in compliance with California Government code SS 53232.2, applicable provisions of the Ralph M. Brown Act, Internal Revenue Service (IRS) regulations and accountable plan requirements (IRS Publication 463) and recognized public-sector best practices.

2.0 Authority

California Government Code § 53232.2 authorizes local agencies that reimburse members of a legislative body for actual and necessary expenses to adopt a written expense reimbursement policy specifying qualifying occurrences and reasonable rates. Government Code § 53232.3 requires the use of expense report forms, timely submission with receipts, and brief reports on meetings attended at public expense.

This Policy is not intended to supersede other laws that establish different reimbursement rates for specific circumstances.

3.0 Scope & Applicability

This Policy applies to FPH₂ Board Members and any Board-appointed officials acting within the course and scope of FPH₂ business. It covers travel, meals, lodging, registration fees, and related incidental expenses incurred while conducting official FPH₂ business as defined in this Policy.

4.0 Definitions

Actual and necessary expenses: reasonable costs incurred that are directly related to and required for the performance of official FPH₂ business.

Incidental Expenses Include:

- Internet
- Tips

Mileage Form – Form that documents travel related mileage, to include date, destination, business purpose, and miles driven (Attachment A).

Per Diem: a daily allowance for meals and incidental expenses (M&IE) and, when applicable, lodging, consistent with federal schedules and IRS rules.

Reasonable Time: Time for submitted expense reports is 30 days after conclusion of travel or the event unless documented extenuating circumstances exist.

Travel Reimbursement Form – Form that documents travel related expenses including transportation, lodging, meals and incidental expenses (Attachment B).

5.0 Qualifying Occurrences (Pre-Approved Categories)

The following occurrences qualify for reimbursement when directly related to FPH2 business and within approved budget:

- Attendance at conference, trainings, seminars, or meeting of industry associations, joint powers authorities, or governmental organizations where FPH2 business is discussed or advanced.
- Meetings with federal, state, regional, or local officials or stakeholders for legislative, regulatory, programmatic, funding, or intergovernmental purposes related to FPH2.
- Board-authorized site visits, inspections, or project reviews.
- Community outreach, ceremonial functions, and public events where Board presence advances FPH2 purposes.
- Other occurrences approved in advance by the Board Chair or by the Board in open session.

6.0 Reimbursable Expenses & Rates

6.1 Reimbursements will be made only for authorized, business-related travel expenses that are:

- Ordinary, necessary and pre-approved;
 - Travel expected to exceed one day or to require airfare or overnight lodging must be approved in advance by the Board Chair (or designee) or by the Board in open session, consistent with budget authority. Expenses not covered by this Policy or at rates above those allowed require advance approval by the Board at a public meeting.
- Adequately documented with receipts or mileage logs
- Submitted within 30 days of incurring the expense.

6.2 Any reimbursement not meeting these requirements may be treated as taxable income.

6.3 Unless FPH2 adopts specific rates in this Policy, FPH2 uses IRS Publication 463 and related federal schedules as default reimbursable rates. Where applicable, the U.S. General Services Administration (GSA) per diem schedules for Meals & Incidental Expenses (M&IE) and Lodging are used to determine maximum reimbursable amounts for domestic travel (CONUS). For non-CONUS and foreign travel, use the applicable Department of Defense (Alaska, Hawaii, U.S. territories) or U.S. Department of State per diem schedules.

6.4 Transportation. Coach/economy airfare (unless otherwise approved by the Board, Board Chair or designee); standard rail; reasonable rideshare/taxi/shuttle; personal vehicle use reimbursed at the IRS standard business mileage rate in effect for the calendar year of travel (e.g., \$0.70 per mile for 2025); standard parking and tolls. Car rentals should be compact or midsize unless business needs justify otherwise.

- 6.5 Lodging. Reimbursable up to the host conference's group rate when offered and available at booking; otherwise, up to the applicable GSA lodging per diem for the destination and dates. Itemized hotel folios are required.
- 6.6 Meals & Incidentals. Reimbursable up to the GSA M&IE per diem for the destination and dates. FPH2 will reduce the daily M&IE when meals are provided by a conference or third party. Alcohol is not reimbursable. M&IE per diem rates are paid at 75% on the first and last day of travel.
- 6.7 Registration Fees. Conference and program registration fees directly related to FPH2 business are reimbursable.
- 6.8 Communications & Miscellaneous. Reasonable business internet access and mobile voice/data charges when needed for FPH2 business; baggage fees; and other incidentals consistent with IRS rules and this Policy.
- 6.9 Non-Reimbursable Expenses
- Alcoholic beverages; in-room entertainment; personal services (spa, salon, gym day passes, etc.); personal travel insurance.
 - Expenses for spouses, family members, or companions.
 - Upgrades (airfare, rental cars, hotel rooms) unless medically necessary or cost-neutral/less expensive overall.
 - Traffic fines, parking citations, or damages from accidents.
 - Late checkout fees or additional nights unrelated to FPH2 business
- 6.10 Booking Standards. Members must use available government/association group rates for transportation and lodging when available. Travel should be arranged sufficiently in advance to obtain economical rates, consistent with business needs.

7.0 Travel Reimbursement Procedure

The following procedure is to be used to claim reimbursement of travel expenses.

- a. Travel Reimbursement Report Form (Attachment B). Members must submit the FPH2 Travel Reimbursement Report with required receipts and documentation within 30 days after travel/event. The report must certify that expenses are actual and necessary and within this Policy.
- b. Receipts. Itemized receipts are required for lodging and for any single expense of \$25 or more. Under IRS rules, receipts are not required for (i) expenses (other than lodging) under \$25; (ii) transportation expenses where a receipt isn't readily available; or (iii) approved per diem allowances accounted for under an accountable plan. FPH2 may still require documentation of business purpose and amounts claimed.
- c. Per Diem Method. When per diem is used, members claim the applicable GSA M&IE (and lodging, if used) rates for the travel location and dates; no receipts for meals are required, but proof of travel and business purpose is mandatory. Per Diem rates are reimbursed at 75% of the rate for the first and last day of travel. When actual expenses are claimed instead of per diem, itemized receipts are required, and reimbursement is limited to applicable caps.
- d. Mileage. Personal vehicle mileage is reimbursed at the IRS standard business mileage rate for the year of travel. Parking and tolls are reimbursable with documentation.

8.0 Brief Reports at next Regular Board Meeting

Members shall provide a brief report at the next regular Board meeting regarding meetings attended at FPHA expense, consistent with Government Code § 53232.3(d).

9.0 Public Records

Expense reports and supporting documents are public records subject to disclosure under the California Public Records Act, except as otherwise permitted by law.

10.0 Compliance; Exceptions; Consequences

Expenses outside this Policy or above applicable rates require advance approval by the Board in a public meeting. Members who incur higher costs without such approval may do so at personal expense. Misuse of public resources or falsifying expense reports may result in loss of reimbursement privileges, restitution, civil penalties, and/or prosecution consistent with Government Code §§ 53232.2–53232.4 and other applicable laws.

11.0 Administration

The Chief Executive Officer (or designee) shall implement procedures, forms, and training to administer this Policy, including a standardized Expense Report and Mileage Log and guidance on use of per diem versus actuals. The Chief Executive Officer may issue interpretive guidance consistent with this Policy and law.

12.0 Effective Date; Periodic Review

This Policy is effective upon Board adoption and will be reviewed at least every two years, or sooner as laws, IRS guidance, or best practices change.

Informational References (Non-Binding)

- Cal. Gov. Code § 53232.2 (Expense Reimbursement Policy Requirements)
- Cal. Gov. Code § 53232.3 (Expense Reports; Brief Reports; Public Records)
- IRS Publication 463 (Travel, Gift, and Car Expenses; accountable plans; \$25 receipt exception)
- IRS Standard Mileage Rate (current calendar year)
- U.S. GSA Per Diem Rates (CONUS); U.S. DoD (Non-CONUS); U.S. Department of State (Foreign)

Approved:

Date:

Board Chair



STAFF REPORT

9/18/25
JC

Date: September 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 5: **Consider Approval of a Sublease Agreement with Hydroplane Ltd., for the period October 1, 2025, through September 30, 2026.**

Recommendation:

1. Approve a Sublease Agreement with Hydroplane Ltd., for the period October 1, 2025, through September 30, 2026, with an option for up to five (5) annual extensions, for a base rate of eight hundred dollars (\$800) per month, in substantially the form of the attached Sublease Agreement; and
2. Authorize the Chief Executive Officer, or his designee, to sign the Sublease Agreement, and up to five (5) one-year extensions thereof, subject to General Counsel approval.

Fiscal Impact:

The nominal base rent of \$800 per month, for a total of \$9,600 per year. Sub-Tenant will be responsible for all utilities, taxes, and related operating costs associated with the premises, minimizing fiscal exposure to FPH2.

Background:

Hydroplane Ltd. is a minority woman-owned, California-based small business founded in 2020 by aerospace engineer Dr. Anita Sengupta. The company specializes in developing modular hydrogen fuel cell powerplants for general aviation, urban air mobility, vertical lift platforms, and ground-based mobile power applications.

Hydroplane is currently developing a hydrogen-powered aircraft at General William J. Fox Airfield (Fox Field) in Lancaster, working in coordination with Antelope Valley College and utilizing local students to support the build. This project not only advances hydrogen aviation technology but also provides hands-on educational opportunities for the community.

Co-locating with Hydroplane at the leased premises directly fulfills the intended purpose of creating the “Launchpad” for emerging hydrogen businesses. By establishing space for technical experts working on next-generation clean energy applications right next door, FPH₂ fosters collaboration, supports the growth of innovative small businesses, and strengthens the region’s role as a hub for hydrogen technology.

FPH₂, authorized by its rental agreement with the City of Lancaster, can sublease part of its leased premises to a third party. This sublease allows FPH₂ to efficiently utilize space for its clean energy mission, leveraging its flexible rental contract while maintaining compliance with the original lease and advancing operational goals.

Attachments:

Sublease Agreement between Hydroplane Unlimited and First Public Hydrogen Authority

SUBLEASE AGREEMENT

By and Between the

FIRST PUBLIC HYDROGEN AUTHORITY

and

HYDROPLANE LTD.

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SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT (the “Sublease”) is made as of October 1, 2025 (the “Date of Agreement”) by and between **FIRST PUBLIC HYDROGEN**, a California joint powers authority (“FPH2” or “Sub-Lessor”), and Hydroplane Ltd., a California limited liability company (the “Sub-Sub-Tenant”).

1. SUBJECT OF SUBLEASE; DEFINITIONS.

Beneficial ownership of that certain property described in Exhibit “B” hereto (the “Subleased Property”) is currently held by the City of Lancaster (“City”) and is the subject of that certain Rental Agreement by and between the City and Sub-Lessor dated October 1, 2025 (“Rental Agreement”).

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 October 1, 2025.

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

“*Conforming Energy Facility*” means all Improvements made by Sub-Tenant in, on or to the Subleased Property 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 Subleased Property.

“

“*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 Sublease 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 Subleased Property is located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over the Sub-Tenant or the Subleased Property.

“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 Subleased Property.

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

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

“*Sublease*” means this Sublease.

“*Rental Agreement*” means that certain rental agreement between FPH2 and the City dated August 25, 2025 for certain real property, including the Subleased Property.

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

“*Subleased Property*” means that certain property described and depicted in Exhibit “C” hereto.

“*Subleased Property Improvements*” means those improvements which are situated on the Subleased Property as of October 1, 2025.

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

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

2. SUBLEASE.

FPH2, for and in consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of Sub-Tenant to be paid, kept, performed and observed by Sub-Tenant, hereby rents to Sub-Tenant, and Sub-Tenant hereby rents from FPH2, the Subleased Property. Except as expressly provided to the contrary in this Sublease, reference to the Subleased Property is to the described land, inclusive of all Subleased Property Improvements now or hereafter located on the land. FPH2 represents that it holds a leasehold interest in the Subleased Property and has secured the consent of the owner of the Subleased Property, attached as exhibit __ hereto, and has authority to enter into this Sublease with Sub-Tenant.

3. SUBLEASE TERM.

Sub-Tenant rents the Subleased Property from FPH2 and FPH2 rents the Subleased Property to Sub-Tenant for the Term, which shall be that period commencing as of the date first above written and ending as of September 30, 2026; provided that Sub-Tenant may request annual extensions as provided in Section 3.1 hereof. The Term is subject to earlier termination as provided for herein. “Subleased Property” is used herein to refer to the leasehold interest in the Subleased Property provided to Sub-Tenant by this Sublease.

3.1 Extensions. If and to the extent FPH2 secures one or more extensions to the Rental Agreement, Sub-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 Sublease Year at a time). Sub-Tenant’s exercise of each annual extension shall be subject to Sub-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 Subleased Property is vacant land despite the existence of any Subleased Property Improvements then existing on the Subleased Property) 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**”). Sub-Tenant shall exercise each annual extension in writing, reference this Section 3 of this Sublease, 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 Sublease Year then in effect. Within fifteen (15) business days of Sub-Tenant’s exercise of each annual extension and the parties’ determination of the Fair Market Value, FPH2 shall prepare and send to Sub-Tenant an amendment to this Sublease 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 Subleased Property Sub-Tenant covenants and agrees for itself, its successors and assigns, that during the Term, the Sub-Tenant shall operate and use the Subleased Property 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 Sublease 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 Sublease.

4.2 Improvements. Sub-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, Sub-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 Sub-Lessor is first obtained under this Sublease, which approval may be granted, conditionally granted, or refused at the sole discretion of Sub-Lessor. The CEO of FPH2 is authorized to make determinations on behalf of Sub-Lessor under this Section 4.

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

For purposes of this Sublease, the term “Mismanagement” shall mean management of the Improvements in a manner which violates the terms of this Sublease to operate Conforming Business Uses on the Subleased Property, and shall include, but is not limited to, the following:

Failing to timely maintain the Improvements in accordance with this Sublease;

Conduct of uses on the Subleased Property 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 Subleased Property.

Notwithstanding the above, Sub-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 FPH2's rights of termination or to pursue remedies under this Sublease.

4.4 Only Limited Uses Permitted. Sub-Tenant shall not use the Subleased Property 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, Sub-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 Subleased Property 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 FPH2 and that Sub-Tenant shall pay all costs, taxes, charges, and expenses of every kind and nature against the Subleased Property 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 FPH2.

5.2 Rent. As of the first day of each Sublease Year during the Term, Sub-Tenant agrees to pay rent (the "Base Rent") of Eight Hundred Dollars (\$800) per month, which shall be payable on the first day of each month that this Sublease remains in effect. Notwithstanding the foregoing, the Parties acknowledge that the Base Rent may be re-evaluated and amended upon a determination by the FPH2 that (i) the Sub-Tenant has provided verifiable community benefits, in-kind services, or other non-monetary contributions that advance the FPH2's mission or provide substantial value to the community, and (ii) such re-evaluation is in the public interest. Any modification, reduction, credit, or offset to the Base Rent shall not be effective unless and until approved by the Board of Directors of FPH2 at a duly noticed public meeting and documented in a written amendment to this Sublease.

5.3 Payment of Rent. All Base Rent that becomes due and payable pursuant to this Sublease shall be paid to FPH2 at the address of FPH2 listed in Section 24.6 or such other place as FPH2 may from time to time designate by written notice to the Sub-Tenant without notice or demand, and without setoff, counterclaim, abatement, deferment, suspension or deduction.

6. UTILITIES AND TAXES.

6.1 Utilities. Sub-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 Subleased Property and the Subleased Property Improvements and all sewer use charges, hookup or similar charges or assessments for utilities levied against the Subleased Property and the Subleased Property Improvements for any period included within the Term. Utilities shall be separately metered and Sub-Tenant shall pay FPH2'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 Subleased Property or the Subleased Property 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 Sub-Tenant hereunder shall be prorated between FPH2 and Sub-Tenant as of the Commencement Date and then again at the expiration or earlier termination of the Term.

(c) Sub-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 FPH2, and Sub-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 Subleased Property and any Subleased Property Improvements to satisfy any lien arising out of the nonpayment of the same.

(d) Sub-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. Sub-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 Sub-Tenant and from time to time situated within the Subleased Property and any Subleased Property Improvements.

6.4 Possessory Interest. The parties acknowledge that whether any property taxes apply by virtue of this Sublease is within the purview of the Los Angeles County Assessor. If any such assessment is made as to the leasehold interest of Sub-Tenant or otherwise as a result of this Sublease, any resulting taxes and assessments shall be paid by Sub-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 Subleased Property by Sub-Tenant as permitted by this Sublease shall, during the Term, be and remain the property of Sub-Lessor, subject to Sub-Tenant’s leasehold interest pursuant to this Lease. Sub-Tenant shall have no right to waste the Subleased Property Improvements, or to destroy, demolish or remove the Subleased Property Improvements; and further, Sub-Tenant’s rights and powers with respect to the Subleased Property Improvements are subject to the terms and limitations of this Sublease. FPH2 and Sub-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 Sublease, whether by expiration of the Term or otherwise, all Improvements, fixtures and furnishings shall, without compensation to Sub-Tenant, remain FPH2’s property, free and clear of all liens, encumbrances, and claims to or against them by Sub-Tenant or any third person, firm or entity, including but not

limited to any mortgagee or lender, unless otherwise approved by FPH2 in writing at its discretion. At the option of the FPH2, upon not less than ninety (90) days prior written notice, the FPH2 may require the Sub-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 Sub-Tenant to the Subleased Property, but Sub-Tenant shall not be responsible for demolishing or removing any general improvements made to the Subleased Property, such as offices, kitchens, landscaping.

8. MECHANICS LIENS; FAITHFUL PERFORMANCE.

Sub-Tenant shall not suffer or permit any mechanics' or materialmen's liens to be enforced against the fee simple estate in reversion of City or FPH2 as to the Subleased Property and Subleased Property Improvements, nor against Sub-Tenant's leasehold interest therein by reason of work, labor, services or materials supplied or claimed to have been supplied to Sub-Tenant or anyone holding the Subleased Property and the Improvements, or any part thereof, through or under Sub-Tenant, and Sub-Tenant agrees to defend, indemnify, and hold City and FPH2 and their respective officers, officials, employees, agents, and representatives, harmless against such liens. If any such lien shall at any time be filed against the Subleased Property or any Subleased Property Improvements, Sub-Tenant shall, within thirty (30) days after notice to Sub-Tenant of the filing thereof, cause the same to be discharged of record; provided, however, that Sub-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, Sub-Tenant shall notify FPH2 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 FPH2. Sub-Tenant shall prosecute such proceedings with due diligence. Nothing in this Sublease shall be deemed to be, nor shall be construed in any way to constitute, the consent or request of FPH2, 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 Subleased Property, the Subleased Property Improvements, or any part thereof. Prior to commencement of construction of the Improvements on the Subleased Property, or any repair or alteration thereto having a cost in excess of Five Thousand Dollars (\$5,000.00), Sub-Tenant shall give FPH2 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.

Sub-Tenant agrees to assume full responsibility for the management, operation and maintenance of the Improvements and the Subleased Property throughout the Term without expense to FPH2, and to perform all repairs and replacements necessary to maintain and preserve the Improvements and the Subleased Property in good repair, in a neat, clean, safe and orderly condition reasonably satisfactory to FPH2 and in compliance with all applicable laws. Sub-Tenant agrees that FPH2 shall not be required to perform any maintenance, repairs or services or to assume any expense in connection with the Improvements and the Subleased Property. Sub-Tenant hereby waives all rights to make repairs or to cause any work to be performed at the expense of FPH2 as provided for in Section 1941 and 1942 of the California Civil Code.

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

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

(2) 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.

(3) 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.

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

(5) 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.

(6) 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. Sub-Tenant assumes any and all responsibility and Liabilities (as defined in Section 10.2 of this Sublease) for all Hazardous Materials Contamination of the Subleased Property occurring during the Term of this Sublease or any extension thereof; provided, however, Sub-Tenant shall not be responsible for and shall have no Liability for (i) any Hazardous Materials Contamination of the Subleased Property 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 Sub-Tenant (collectively, exceptions (i), (ii), and (iii) to Sub-Tenant's liability under this Section 10.1 are referred to as the ("Hazardous Materials Exceptions"). FPH2 acknowledges and agrees that Sub-Tenant will order, at its sole cost, a Phase I environmental assessment ("Phase I Report") of the Subleased Property within ten (10) business days of the date of this Sublease, and a copy of such report shall be provided to FPH2 .

10.2 Indemnification; Sub-Tenant's Indemnity. Except with respect to the Hazardous Materials Exceptions, which shall remain the liability of FPH2, Sub-Tenant shall save, protect, defend, indemnify and hold harmless FPH2, City and their 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 FPH2, City

and their 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 Subleased Property 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. Sub-Tenant's obligations under this Section 10.2 shall survive the expiration of this Sublease and shall not merge with any grant deed, special warranty deed or quitclaim deed.

10.3 Duty to Prevent Hazardous Material Contamination. Sub-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, Sub-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 Subleased Property in Los Angeles County, California with respect to the disclosure, storage, use, removal, and disposal of Hazardous Materials.

10.4 Obligation of Sub-Tenant to Remediate Premises. Notwithstanding the obligation of Sub-Tenant to indemnify FPH2 and City pursuant to Section 10.2 of this Sublease, except with respect to the Hazardous Materials Exceptions which shall remain the liability of FPH2, Sub-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 Subleased Property for the purposes described in this Sublease, which requirements or necessity arise from the presence upon, about or beneath the Subleased Property of any Hazardous Materials or Hazardous Materials Contamination which may first exist in or on the Subleased Property during the Term of this Sublease. Such actions shall include, but not be limited to, the investigation of the environmental condition of the Subleased Property, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal or restoration work, and Sub-Tenant shall take all actions necessary to promptly restore the Subleased Property to an environmentally sound condition for the uses contemplated by this Sublease notwithstanding any lesser standard of remediation allowable under applicable Governmental Requirements.

10.5 Storage or Handling of Hazardous Materials. Sub-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 Subleased Property. In the event Sub-Tenant does store, use, transport, handle or dispose of any Hazardous Materials, Sub-Tenant shall notify FPH2 in writing at least ten (10) days prior to their first appearance on the Subleased Property and Sub-Tenant's failure to do so shall constitute a material default under this Sublease. Except with respect to the Hazardous Materials Exceptions which shall remain the liability of FPH2, Sub-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 FPH2 in its reasonable judgment, FPH2 may require Sub-Tenant, at Sub-Tenant's sole cost and expense, to conduct specific monitoring or testing activities with respect to Hazardous Materials on the Subleased Property. Sub-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 Subleased Property, shall be satisfactory to FPH2, in

FPH2's reasonable discretion. Except with respect to the Hazardous Materials Exceptions which shall remain the liability of FPH2, Sub-Tenant shall further be solely responsible, and shall reimburse FPH2, for all costs and expenses incurred by FPH2 arising out of or connected with the removal, clean-up and/or restoration work and materials necessary to return the Subleased Property and any property adjacent to the Subleased Property affected by Hazardous Materials emanating from the Subleased Property to their condition existing at the time of the commencement of the Term. Sub-Tenant's obligations hereunder shall survive the termination of this Sublease and shall not merge with any grant deed.

10.6 Environmental Inquiries. Sub-Tenant shall notify FPH2, and provide to FPH2 a copy or copies, of the following environmental permits, disclosures, applications, entitlements or inquiries relating to the Subleased Property: (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. Sub-Tenant shall report to FPH2, 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 Subleased Property during the Term, Sub-Tenant shall, as soon as possible after the release, furnish to FPH2 a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request of FPH2, Sub-Tenant shall furnish to FPH2 a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Subleased Property 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.

Sub-Tenant shall not make or permit to be made any further material structural alteration of, structural addition to or change to any Subleased Property 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 FPH2's CEO, nor demolish all or any material part of the Improvements without the prior written consent of FPH2's CEO; provided, however, that the foregoing shall not prohibit or restrict the repair and/or replacement of the Subleased Property Improvements by Sub-Tenant in accordance with Section 9 hereof. In requesting such consent Sub-Tenant shall submit to FPH2 detailed plans and specifications of the proposed work and an explanation of the need and reasons therefor. FPH2 shall cooperate with Sub-Tenant, at no expense to FPH2, in obtaining any governmental permits required for the proposed work.

This provision shall not limit or set aside any obligation of Sub-Tenant under this Sublease to maintain the Improvements and the Subleased Property in a clean and safe condition, including structural repair and restoration of damaged Improvements. FPH2 shall not be obligated by this Sublease to make any improvements to the Subleased Property or to assume any expense therefor.

Sub-Tenant shall not commit or suffer to be committed any waste or impairment of the Subleased Property or the Subleased Property Improvements, or any part thereof, except as otherwise permitted pursuant to this Sublease. Sub-Tenant agrees to keep the Subleased Property and the

Improvements clean and clear of refuse and obstructions, and to dispose of all garbage, trash and rubbish in a manner satisfactory to FPH2.

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 Sub-Tenant, Sub-Tenant (i) may either terminate this Sublease and, at FPH2's option, demolish and remove any remaining Improvements made or altered by Sub-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 Sublease, whether or not the insurance proceeds are sufficient to cover the actual cost of repair, replacement, or restoration, and Sub-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 Sublease. Subject to Section 24.18 (force majeure), in no event shall the repair, replacement, or restoration period exceed 270 days from the date Sub-Tenant obtains insurance proceeds unless FPH2's CEO, in his or her reasonable discretion, approves a longer period of time. FPH2 shall cooperate with Sub-Tenant, at no expense to FPH2, in obtaining any governmental permits required for the repair, replacement, or restoration. In the event Sub-Tenant elects not to repair, replace, or restore and gives FPH2 notice of such election as provided herein, this Sublease shall terminate.

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

12.3 Damage or Destruction Due to Cause Not Required to be Covered by Insurance. If the Subleased Property Improvements are completely destroyed or substantially damaged by a casualty for which Sub-Tenant is not required to (and has not) insured against, then Sub-Tenant shall not be required to repair, replace, or restore such Improvements and may elect not to do so by providing FPH2 with written notice of election not to repair, replace, or restore within ninety (90) days after such substantial damage or destruction. In such event, Sub-Tenant shall remove all debris from the Subleased Property. 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 Subleased Property Improvements. In the event Sub-Tenant does not timely elect not to repair, replace, or restore the Subleased Property Improvements as set forth in the first sentence of this Section 12.3, Sub-Tenant shall be conclusively deemed to have waived its right not to repair, replace, or restore the Subleased Property Improvements and thereafter Sub-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 Subleased Property Improvements during the period of repair (if practicable) in accordance with Section 12.2 above. In the event Sub-Tenant elects not to repair,

replace, or restore, and gives FPH2 notice of such election as provided herein, this Sublease shall terminate.

13. SALE, ASSIGNMENT, SUBLEASE OR OTHER TRANSFER.

Except for the grant of an easement or license to FPH2, Sub-Tenant shall not sell, assign, sublease, or otherwise transfer this Sublease 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 Subleased Property or the Subleased Property Improvements (each of which events is referred to in this Sublease as an "Assignment"), without prior written approval of FPH2. Any purported Assignment without the prior written consent of FPH2 shall be null and void and shall confer no rights whatsoever upon any purported assignee or transferee.

Notwithstanding any other provision of this Sublease to the contrary, FPH2 shall not unreasonably withhold its approval of an Assignment of this Sublease or conveyance of the Subleased Property or Subleased Property Improvements, or any part thereof, in connection with any transfers to an entity or entities in which Sub-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 Sub-Tenant under the preceding portion of this paragraph, Sub-Tenant agrees that at least thirty (30) days prior to such Assignment it shall give written notice to FPH2 including a request for approval of such Assignment and satisfactory evidence that the assignee has assumed the obligations of this Sublease.

Notwithstanding any provision in this Section 13 to the contrary, in no event shall Sub-Tenant make any Assignment which would or could be effective beyond the Term without the prior consent of FPH2's CEO, which approval may be granted, conditionally granted, or refused at the reasonable discretion of FPH2's CEO.

14. INDEMNITY.

During the Term, Sub-Tenant agrees that FPH2 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 Sub-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 Sub-Tenant or its sublessees or any other person on or about the Subleased Property and the Improvements, or in connection with the operation thereof, or from any defect in the Subleased Property or the Improvements, or from any displacement of Sub-Tenants or liability for relocation assistance pursuant to Government Code Section 7260, *et seq.*, due to the acts of Sub-Tenant hereunder; except for any claims, liabilities, penalties, fines, damages or injuries resulting from or caused by FPH2's negligence or willful misconduct. Sub-Tenant agrees to indemnify and save free and harmless FPH2, City and their 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 Subleased Property and/or the Improvements or the occupancy or use by Sub-Tenant of the Subleased Property and/or the Improvements or any part thereof, or arising from or out of Sub-Tenant's failure to comply with any provision of this Sublease or otherwise occasioned wholly or in part by any act or omission of Sub-Tenant, its agents, representatives, contractors, employees, servants, customers or licensees; except to the extent any claims, liabilities,

penalties, fines, damages or injuries result from or are caused by FPH2 or City's respective negligence or willful misconduct.

15. INSURANCE.

15.1 Insurance to be Provided by Sub-Tenant. During the Term, Sub-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 Subleased Property, 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 Subleased Property and the Improvements and the operations of the Sub-Tenant in, on or about the Subleased Property 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 Subleased Property and the Improvements, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Sub-Tenant or its sublessees, or any person acting for Sub-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 Subleased Property and the Improvements, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Sub-Tenant of its sublessees, or any person acting for Sub-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 FPH2 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. Sub-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 Sub-Tenant may be held responsible for the payment of damages to persons or property resulting from Sub-Tenant's activities, activities of its sublessees or the activities of any other person or persons for which Sub-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 Sub-Tenant in connection with the Subleased Property 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 Subleased Property or the Improvements or the operation thereof by Sub-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, Sub-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 FPH2 and Sub-Tenant, not less often than once every three (3) Sublease Years.

15.3 General Insurance Provisions. All policies of insurance provided for in this Section 15, except for the workers’ compensation insurance, shall name Sub-Tenant as the insured and loss payee and FPH2 and City, including their officers, employees, agents, and representatives, as additional insureds, as their respective interests may appear. Sub-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. Sub-Tenant agrees to submit policies of all insurance required by this Section 15 of this Sublease, or certificates evidencing the existence thereof, to FPH2 on or before the effective date of this Sublease, indicating full coverage of the contractual liability imposed by this Sublease. 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 FPH2. All policies of insurance required of Sub-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 FPH2; and (ii) provide that such coverage is primary and not contributing with any insurance as may be obtained by FPH2 or City and shall contain a waiver of subrogation for the benefit of the City and FPH2.

Coverage provided hereunder by Sub-Tenant shall be primary insurance and not be contributing with any insurance maintained by FPH2 or 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 FPH2. None of the above-described policies shall require Sub-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 FPH2’s CEO. 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 Sub-Tenant at the time set forth herein.

15.4 Failure to Maintain Insurance. If Sub-Tenant fails or refuses to procure or maintain insurance as required by this Sublease, FPH2 shall have the right, at FPH2’s election, and upon ten (10) days prior notice to Sub-Tenant, to procure and maintain such insurance. The premiums paid by FPH2 shall be treated as added rent due from Sub-Tenant, to be paid on the first day of the month following the date on which the premiums were paid. FPH2 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 Subleased Property Improvements during the term of this Sublease shall be payable, under the provisions of the policy of insurance, to Sub-Tenant, and said proceeds shall constitute a trust fund to be used for the restoration, repair and rebuilding of the Subleased Property Improvements in accordance with plans and specifications approved in writing by FPH2 if repair and restoration is elected by Sub-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 Sublease is terminated by mutual agreement of FPH2 and Sub-Tenant and said Subleased Property Improvements are not restored, repaired or rebuilt, the insurance proceeds shall be jointly retained by FPH2 and Sub-Tenant and shall be applied first to any payments due under this Sublease from Sub-Tenant to FPH2, second to restore the Subleased Property and Subleased Property Improvements to their original condition and to a neat and clean condition, and finally any excess shall be apportioned between Sub-Tenant and FPH2 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 Subleased Property and/or the Subleased Property Improvements or any part thereof shall be taken for public purposes by any public agency other than FPH2 by condemnation as a result of any action or proceeding in eminent domain, then, as between FPH2 and Sub-Tenant (or mortgagee, if a mortgage is then in effect), the interests of FPH2 and Sub-Tenant (or mortgagee) in the award and the effect of the taking upon this Sublease shall be as follows:

(a) In the event of such taking of only a part of the Subleased Property, leaving the remainder of the Subleased Property 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 Sub-Tenant, this Sublease shall terminate and end as to the portion of the Subleased Property 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 Subleased Property not so taken and from and after such date the rental required by this Sublease to be paid by Sub-Tenant to FPH2 shall be reduced in the proportion which the number of square feet so taken bears to the total number of square feet in the Subleased Property.

(b) In the event of taking of only a part of the Subleased Property, leaving the remainder of the Subleased Property 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 Sub-Tenant, this Sublease and all right, title and interest thereunder shall terminate on the date title to the Subleased Property so taken vests in the condemning authority.

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

(d) Promptly after a partial taking, at Sub-Tenant's expense and in the manner specified in provisions of this Sublease related to maintenance, repairs, alterations, Sub-Tenant shall restore the Improvements, to the extent of condemnation proceeds received by Sub-Tenant, so as to place them in a condition suitable for the uses and purposes for which the Subleased Property 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 Subleased Property or portion thereof taken, valued as subject to this Sublease, shall belong to FPH2. That portion of any award attributable to the fair market value of Sub-Tenant's interest in the Subleased Property pursuant to this Sublease shall belong to Sub-Tenant. That portion of any award attributable to the fair market value of the Subleased Property Improvements or portion thereof taken shall belong to FPH2 and Sub-Tenant, as their interests may appear with any increase in the fair market value of the Subleased Property Improvements resulting from Sub-Tenant's Improvements belonging to Sub-Tenant, except that in the event of a partial taking, where the Sublease remains in effect and Sub-Tenant is obligated to restore or repair the Subleased Property Improvements, then Sub-Tenant shall be entitled to any portion of the award attributable to severance damages to the remaining Subleased Property Improvements to the extent necessary to restore or repair the Subleased Property Improvements and any remaining severance damages shall be payable to FPH2. Said award shall be used for the restoration, repair or rebuilding of the Subleased Property Improvements in accordance with plans and specifications approved in writing by FPH2 to the extent necessary to restore or repair the Improvements and any remaining severance damages shall be payable to Sub-Tenant; except that, during the last year Sublease Year of the Term, any remaining severance damages shall be payable to FPH2. 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, FPH2 may, in its discretion and without affecting the validity and existence of this Sublease, transfer FPH2's interests in the Subleased Property in lieu of condemnation to any authority entitled to exercise the power of eminent domain. In the event of such transfer by FPH2, Sub-Tenant (or mortgagee if a mortgage is then in effect) and FPH2 shall retain whatever rights they may have to recover from said authority the fair market value of their respective interests in the Subleased Property 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 FPH2 and Sub-Tenant. In the event FPH2 and Sub-Tenant cannot agree on a Qualified Broker, then each of FPH2 and Sub-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) FPH2 agrees that during the Term, provided that this Sublease shall remain in effect, FPH2 shall not exercise eminent domain powers as to the Subleased Property or the Subleased Property 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 Subleased Property and the Improvements, and Sub-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 Sub-Tenants, lessees, , sublessees, or vendees thereof or any portion thereof, or in the providing of goods, services, facilities, privileges, advantages and accommodation.

18. NONDISCRIMINATION IN EMPLOYMENT.

Sub-Tenant, for itself and its successors and assigns, agrees that during the operation of the Subleased Property Improvements provided for in this Sublease, and during any work of repair or replacement, Sub-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.

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

20. COMPLIANCE WITH LAW; PREVAILING WAGES.

Sub-Tenant agrees, at its sole cost and expense, to comply and secure compliance by all contractors and Sub-Tenants of the Subleased Property and in connection with the Subleased Property 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 Subleased Property and the Subleased Property Improvements, and to faithfully observe and secure compliance by all contractors and Sub-Tenants of the Subleased Property and the Subleased Property Improvements, with, in the use of the Subleased Property and the Subleased Property 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 Sub-Tenant or the Subleased Property or the Subleased Property Improvements, including the land and any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Sub-Tenant or by reason of the business or other activities of Sub-

Tenant upon or in connection with the Subleased Property and the Subleased Property Improvements. Sub-Tenant shall use good faith efforts to prevent Sub-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 Sub-Tenants of the Subleased Property and the Subleased Property Improvements. The judgment of any court of competent jurisdiction, or the admission of Sub-Tenant or any sublessee or permittee in any action or proceeding against them, or any of them, whether FPH2 be a party thereto or not, that Sub-Tenant, sublessee or permittee has violated any such ordinance or statute in the use of the Subleased Property or the Subleased Property Improvements shall be conclusive of that fact as between FPH2 and Sub-Tenant, or such sublessee or permittee. Sub-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 Sub-Tenant makes improvements to the Subleased Property, Sub-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 Lancaster Municipal 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. Sub-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 Sub-Tenant on the Subleased Property, but only if and to the extent such sections are applicable to the construction of such improvements. Sub-Tenant shall be solely responsible for determining and effectuating compliance with any applicable Prevailing Wage Laws, and FPH2 makes no final representation as to the applicability or non-applicability of the Prevailing Wage Laws to improvements (if any) made to the Subleased Property or any part thereof. To the extent Sub-Tenant makes public improvements in the public right of way, Sub-Tenant shall effect payment with the Prevailing Wage Laws. Sub-Tenant hereby releases from liability, and agrees to indemnify, defend, assume all responsibility for and hold FPH2, City, and their 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 Sub-Tenant's acts or omissions pertaining to the compliance with the Prevailing Wage Laws as to any Improvements to the Subleased Property.

21. ENTRY AND INSPECTION.

In addition to and without limitation to such rights as FPH2 may have as a matter of law, FPH2 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 Sub-Tenant by FPH2's CEO and/or the City Manager of the City, to enter the Subleased Property and the Subleased Property Improvements for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the Subleased Property and the Subleased Property Improvements or to inspect the operations conducted thereon. This Section 21 shall be without 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 FPH2 pursuant to Section 21 hereof discloses that the Subleased Property or the Subleased Property Improvements are not in a decent, safe, and sanitary condition, FPH2 shall have the right, after fourteen (14) days written notice to Sub-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 Sub-Tenant and Sub-Tenant hereby agrees to pay promptly any and all costs incurred by FPH2 in having such necessary maintenance work done in order to keep the Subleased Property and the Subleased Property Improvements in a decent, safe and sanitary condition. The rights reserved in this Section 22 shall not create any obligations on FPH2 or increase obligations elsewhere in this Sublease imposed on FPH2.

23. EVENTS OF DEFAULT AND REMEDIES.

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

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

(b) Sub-Tenant shall abandon or surrender the Subleased Property, or the Subleased Property Improvements; or

(c) Sub-Tenant shall fail or refuse to pay, within ten (10) days of notice from FPH2 that the same is due, any installment of rent or any other sum required by this Sublease to be paid by Sub-Tenant; or

(d) Sub-Tenant shall fail to perform any covenant or condition of this Sublease 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 Sub-Tenant of a written notice from FPH2 specifying the failure complained of, or if it is not practicable to cure or remedy such failure within such thirty (30) day period, then Sub-Tenant shall not be deemed to be in default if Sub-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 FPH2 by applicable laws governing bankruptcy, Sub-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 Sub-Tenant's assets or of Sub-Tenant's interest in this Sublease; or

(f) Sub-Tenant shall conduct uses on the Subleased Property which are not Conforming Business Activities (or activities which are not Conforming Business Activities are otherwise conducted on the Subleased Property).

In the event one or more of the foregoing shall occur, then, upon notice having been given by FPH2 and the failure to cure within thirty (30) days of such notice, such event shall constitute an event of default under this Sublease.

23.2 Remedies of FPH2.

In the event of any such default as described in Section 23.1 which default has not been timely cured, FPH2 may, at its option:

(1) Correct or cause to be corrected said default and charge the costs thereof (including costs incurred by FPH2 in enforcing this provision) to the account of Sub-Tenant, which charge shall be due and payable within thirty (30) days after presentation by FPH2 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 FPH2 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 Sub-Tenant to correct or cause to be corrected said default;

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

(5) Maintain and operate the Subleased Property and the Subleased Property Improvements, without terminating this Sublease; or

(6) Terminate this Sublease by written notice to Sub-Tenant of its intention to do so.

23.3 Right of FPH2 in the Event of Termination of Sublease. Upon termination of this Sublease pursuant to Section 23.2, it shall be lawful for FPH2 to re-enter and repossess the Subleased Property and the Subleased Property Improvements and Sub-Tenant, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver the Subleased Property and the Subleased Property Improvements peaceably to FPH2 immediately upon such termination in good order, condition and repair, except for reasonable wear and tear. Sub-Tenant agrees that upon such termination, title to all the Subleased Property Improvements on the Subleased Property shall vest in FPH2 (or remain with FPH2) pursuant to Section 7.2.

Even though Sub-Tenant has breached the Sublease and abandoned the Subleased Property, this Sublease shall continue in effect for so long as FPH2 does not terminate Sub-Tenant's right to possession, and FPH2 may enforce all of its right and remedies under this Sublease, including, but not limited to, the right to recover the rent as it becomes due under this Sublease. No ejectment, re-entry or other act by or on behalf of FPH2 shall constitute a termination unless FPH2 gives Sub-Tenant notice of termination in writing.

Termination of this Sublease shall not relieve or release Sub-Tenant from any obligation incurred pursuant to this Sublease prior to the date of such termination. Termination of this Sublease shall not relieve Sub-Tenant from the obligation to pay any sum due to FPH2 or from any claim for damages against Sub-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 FPH2. The exercise by FPH2 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 Sub-Tenant.

24. MISCELLANEOUS.

24.1 Governing Law; Interpretation. The laws of the State of California shall govern the interpretation and enforcement of this Sublease. This Sublease shall be reasonably interpreted in light of its purposes to provide for the operation of Conforming Business Activities on the Subleased Property, all as provided for herein. This Sublease 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 Sublease. 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 Sub-Tenant against FPH2, service of process on FPH2 shall be made by personal service upon FPH2's CEO, or in such other manner as may be provided by law. In the event that any legal action is commenced by FPH2 against Sub-Tenant, service of process on Sub-Tenant shall be made by personal service upon Sub-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 FPH2 or Sub-Tenant shall bring or commence an action to enforce the terms and conditions of this Sublease or to obtain damages against the other party arising from any default under or violation of this Sublease, then the prevailing party shall be entitled to and shall be paid reasonable attorneys' fees and court costs therefor in addition to whatever other relief such prevailing party may be entitled.

24.5 Interest. Any amount due FPH2 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:

FPH2:	First Public Hydrogen Authority 431 E. Avenue K-4 Lancaster, California 93534 Attn: Chief Executive Officer
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
Sub-Tenant:	Hydroplane Ltd. Attention: Anita Sengupta 4549 William J. Barnes Rd., Lancaster, CA

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 Sublease.

24.8 Non-Merger of Fee and Leasehold Estates. If both FPH2's and Sub-Tenant's estates in the Subleased Property or the Subleased Property Improvements or both become vested in the same owner, this Sublease shall nevertheless not be destroyed by application of the doctrine of merger except at the express election of FPH2. The voluntary or other surrender of this Sublease by Sub-Tenant, or a mutual cancellation thereof, shall not work as a merger and shall, at the option of FPH2, terminate all or any existing sublease or subtenancies or may, at the option of FPH2, operate as an assignment to FPH2 of any or all such existing subleases or subtenancies.

24.9 Holding Over. The occupancy of the Subleased Property after the expiration of the Term of this Sublease shall be construed to be a tenancy from month to month at a fair market rent to be established by FPH2's CEO at his discretion upon consultation with the Sub-

Tenant (and which shall be not less than \$100 per day), and all other terms and conditions of this Sublease shall continue in full force and effect.

24.10 Conflict of Interest. No member, official or employee of FPH2 shall have any personal interest, direct or indirect, in this Sublease nor shall any such member, official or employee participate in any decision relating to the Sublease which affects his personal interests or the interests of any limited partnership, partnership or association in which he is directly or indirectly interested. Sub-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 Sublease.

24.11 Non-Liability of FPH2 Officials and Employees. No member, official, officer, employee, agent or representative of City or FPH2 shall be personally liable to Sub-Tenant, or any successor in interest, in the event of any default or breach by FPH2 or for any amount which may become due to Sub-Tenant or successor or on any obligations under the terms of this Sublease. No member, official, officer, employee, agent or representative of Sub-Tenant shall be personally liable to FPH2 in the event of any default or breach by Sub-Tenant or for any amount which may become due to FPH2 or on any obligations under the terms of this Sublease.

24.12 Relationship. The relationship between the parties hereto shall at all times be deemed to be that of Sub-Lessor and Sub-Tenant. The parties do not intend nor shall this Sublease be deemed to create a partnership or joint venture.

24.13 Waivers and Amendments. All waivers of the provisions of this Sublease must be in writing and signed by the appropriate authorities of FPH2 or Sub-Tenant. The waiver by FPH2 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 FPH2 shall not be deemed to be a waiver of any preceding breach of Sub-Tenant of any term, covenant or condition of this Sublease, regardless of FPH2's knowledge of such preceding breach at the time of acceptance of such rent. Failure on the part of FPH2 to require or exact full and complete compliance with any of the covenants or conditions of this Sublease shall not be construed as in any manner changing the terms hereof and shall not prevent FPH2 from enforcing any provision hereof. All amendments or modifications hereto must be in writing and signed by the appropriate authorities of FPH2 and Sub-Tenant.

24.14 Entire Agreement; Duplicate Originals; Counterparts; Electronic Execution. This Sublease sets forth the entire understanding of the parties with respect to Sub-Tenant's lease of the Property. This Sublease may be executed in counterparts. This Sublease 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 Sublease which are delivered by DocuSign, .pdf or other electronic means as constituting a duly authorized, irrevocable, actual, current delivery of this Sublease with original ink signatures of each person and entity.

24.15 Severability. If any provision of this Sublease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Sublease 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 Sublease, 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 Sublease itself.

24.17 Binding Effect. This Sublease, 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 FPH2 or Sub-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. FPH2 does hereby covenant, promise and agree to and with Sub-Tenant that Sub-Tenant, for so long as Sub-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 FPH2 Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by FPH2, FPH2's CEO or his or her designee is authorized to act on behalf of FPH2 unless specifically provided otherwise or the law otherwise requires.

24.21 No Third Parties Benefited. This Sublease is made for the purpose of setting forth rights and obligations of Sub-Tenant and FPH2; with the sole exception of the City of Lancaster, 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 FPH2's Board of Directors or any other officer of FPH2 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 FPH2's 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, Sub-Tenant represents and warrants [select one]:

- ☐ Neither Sub-Tenant nor any agent acting on behalf of Sub-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 FPH2's Board of Directors or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

- ☐ Sub-Tenant (or an agent acting on behalf of Sub-Tenant) has made a political contribution of more than \$250 to:

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

Identify the FPH2 officer(s) who received the contribution:

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

- ☐ Neither Sub-Tenant nor any agent or principal acting on behalf of Sub-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 FPH2's Board of Directors or any other officer as defined in the Levine Act who may have participated in the making of this Agreement.

OR

- ☐ Sub-Tenant (or an agent acting on behalf of Sub-Tenant) 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 FPH2 officer(s) who will receive the contribution:

[signature page to follow]

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

FPH2:

FIRST PUBLIC HYDROGEN AUTHORITY, a
California Joint Powers Authority

By: _____
Chief Executive Officer

APPROVED AS TO FORM:

General Counsel

ATTEST:

Board Secretary

SUB-TENANT:

HYDROPLANE Ltd., a California Limited Liability
Company

By: _____

Its: _____

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: 3126-031-902T

EXHIBIT C

DESCRIPTION AND DEPICTION OF SUBLEASED PROPERTY

The “Subleased Property” consists of that portion of the real property described in Exhibit A (“Property”), consisting of the standalone building outlined in red in the attached Exhibit C-1, situated on the northern side of the Property. The Subleased Improvements include approximately 2,384 square feet of interior space, comprised of:

- One (1) Commercial Office Area, approx. 753 sq. ft.
- One (1) Meeting Room, approx. 547 sq. ft.
- One (1) Garage/Lab Area, approx. 521 sq. ft.
- Two (2) Washrooms, approx. 319 sq. ft. combined
- One (1) additional Commercial/Utility Area, approx. 244 sq. ft.

In addition, the Subleased Property shall include non-exclusive access to adjacent patio and porch areas, as reasonably necessary for storage and ingress/egress, as depicted in Exhibit C-2 - Floorplan.

EXHIBIT C-1

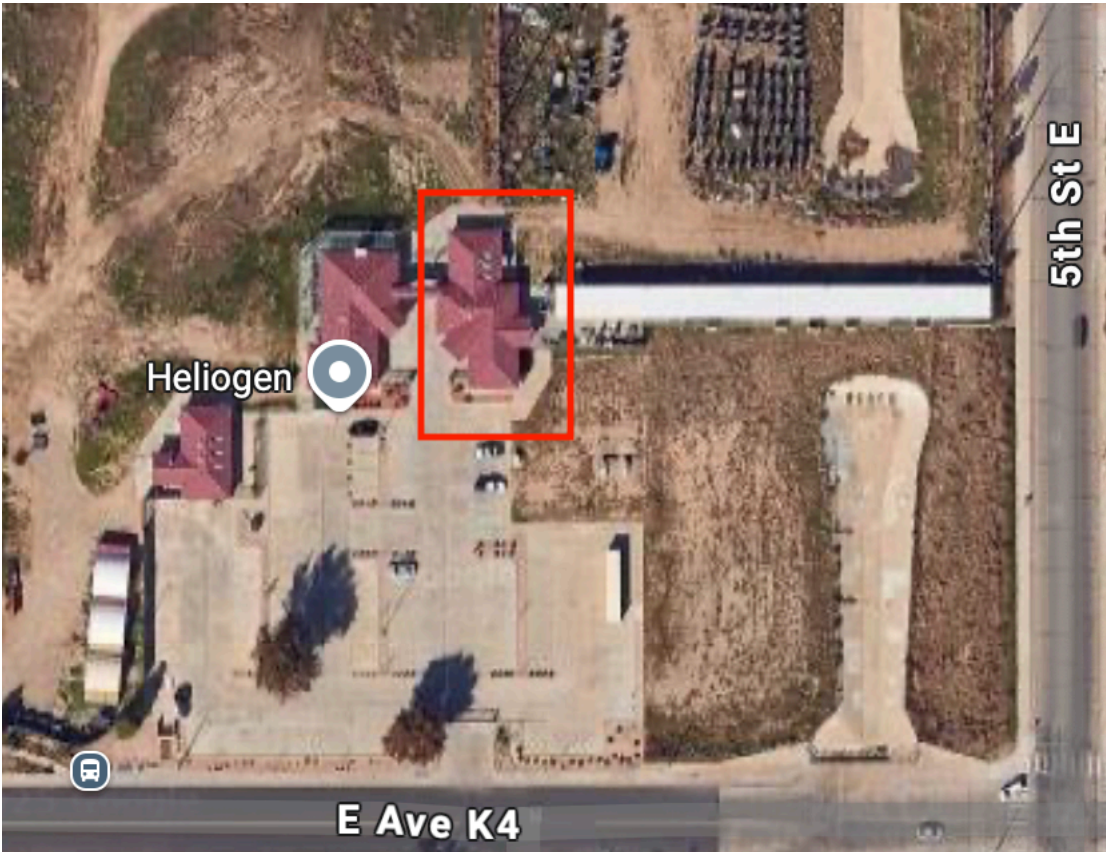
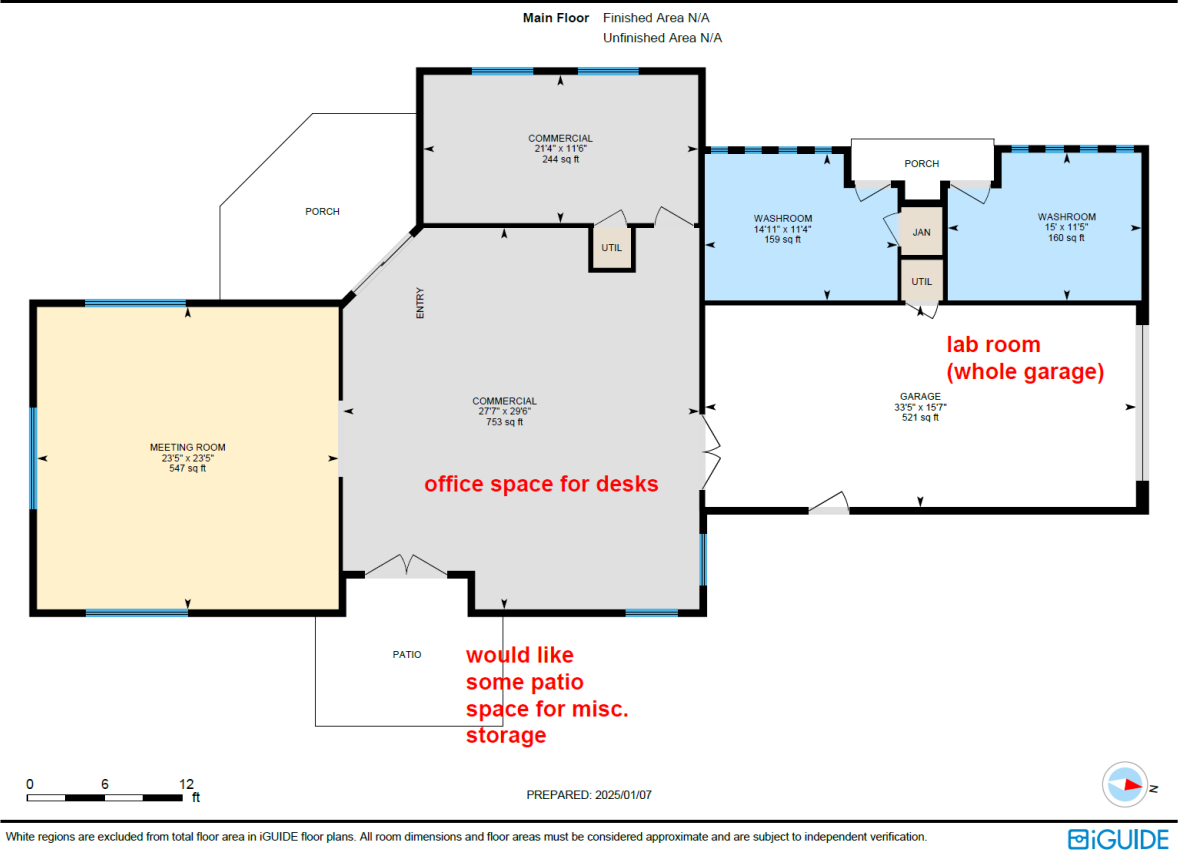


EXHIBIT C-2

Hydroplane

431 E Ave K4, Lancaster, CA





STAFF REPORT

9/18/25
JC

Date: September 18, 2025

To: Chair Parris and Authority Members

From: Jason Caudle, Chief Executive Officer

Item 6: **Consider Approval of Resolution Approving and Authorizing the City of Montebello to Enter into the Joint Exercise of Powers Agreement for the First Public Hydrogen Authority (FPH2)**

Recommendation:

Adopt Resolution No. 2025-### Approving and Authorizing the City of Montebello 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.

Fiscal Impact:

There is no fiscal impact.

Background:

The First Public Hydrogen Authority (FPH2) was established by the City of Lancaster and the City of Industry to lead the development and deployment of renewable hydrogen solutions for public agencies, utilities, and industries. As the first public hydrogen utility in the U.S., FPH2 facilitates cost-effective hydrogen procurement, infrastructure development, and policy advocacy to accelerate the transition to clean energy.

By aggregating hydrogen demand from transit agencies, municipalities, ports, and industrial users, FPH2 enables members to:

- Secure hydrogen at competitive bulk pricing.
- Gain access to state and federal hydrogen funding opportunities.
- Participate in collaborative hydrogen infrastructure projects.

Pursuant to Section 13 of the JPA Agreement, additional public agencies may become members of FPH2 by following the steps outlined in the Agreement.

- Submitting an executed counterpart of the FPH2 JPA agreement and a copy of the resolution of the governing board of the prospective new member agency approving the JPA agreement;
- Adoption of a resolution by the FPH2 Board approving the addition of the agency as a Member.

The addition of the City of Montebello strengthens FPH2's ability to expand the hydrogen economy, enhance regional clean energy resilience, and drive economic and environmental benefits for its members.

At their regular meeting on August 27, 2025, the City of Montebello adopted the required resolution approving joining FPH2 and the JPA Agreement and have provided the resolution and executed JPA agreement counterpart.

FPH2 staff recommends the FPH2 Board adopt the resolution approving and authorizing the City of Montebello to join FPH2.

Attachments:

Attachment A - Draft Resolution No. 2025-XXX, City of Montebello

Attachment B - Executed JPA Resolution and Joint Powers Authority Agreement counterpart from City of Montebello

RESOLUTION NO. 2025-###

**A RESOLUTION OF THE FIRST PUBLIC HYDROGEN AUTHORITY
 APPROVING AND AUTHORIZING THE CITY OF MONTEBELLO TO ENTER INTO THE
 JOINT EXERCISE OF POWERS AGREEMENT FOR
 THE FIRST PUBLIC HYDROGEN AUTHORITY**

WHEREAS, the First Public Hydrogen Authority (“Authority”) is a joint exercise of powers authority created under the Joint Exercise of Powers Act (California Code Section 6500, *et seq.*) by that certain agreement dated December 10, 2024 (“JPA Agreement”); and

WHEREAS, Section 13 of the JPA Agreement, provides that public agencies may be added as parties to the JPA Agreement, and thereby become members of the Authority, upon the following: (i) the filing with the Authority of an executed counterpart of the JPA Agreement, together with a copy of a resolution of the governing body of the joining public agency approving the JPA Agreement and execution and delivery thereof; and (ii) adoption of a resolution of the Authority’s governing body approving the addition of such public agency as a member; and

WHEREAS, other public agencies may from time to time elect to become member public agencies of the Authority to utilize its expertise in purchase, sale, and or resale of hydrogen and/or energy, the financing and/or refinancing of projects of any nature, including, but not limited to, capital or working capital projects, insurance, liability or maintenance programs or facilitating Members’ use of existing or new financial instruments and mechanisms; and

WHEREAS, the City Council of the City of Montebello (“Agency”) adopted a resolution on August 27, 2025, approving and authorizing Agency to enter into the JPA Agreement and to become a member of the Authority.

NOW, THEREFORE, THE BOARD OF THE FIRST PUBLIC HYDROGEN AUTHORITY, DOES HEREBY RESOLVE, DETERMINE AND ORDER, AS FOLLOWS:

Section 1. The foregoing recitals are true and correct.

Section 2. The Authority Members hereby approve and authorize the Authority to accept Agency as a counterpart to the JPA Agreement, and thereby approves and authorizes Agency to become a member of the Authority.

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

PASSED, APPROVED, and ADOPTED this 18th day of September 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Chair

First Public Hydrogen Authority

ATTEST:

Board Secretary

First Public Hydrogen Authority

RESOLUTION NO. 25-73

RESOLUTION OF THE CITY OF MONTEBELLO, CALIFORNIA, AUTHORIZING AND APPROVING MEMBERSHIP IN THE FIRST PUBLIC HYDROGEN AUTHORITY

RECITALS

WHEREAS, the City of Montebello (“Agency”) is a municipal corporation organized and operating under the laws of the State of California, with the City Council of the City of Montebello (City) (“Governing Body”) serving as the governing body of the Agency; and

WHEREAS, the First Public Hydrogen Authority (“Authority”) is a joint exercise of powers authority created under the Joint Exercise of Powers Act (California Government Code Section 6500, et seq.) by that certain agreement dated December 10, 2024, (“JPA Agreement”) attached hereto as Exhibit “A”; and

WHEREAS, Section 13 of the JPA Agreement, provides that public agencies may be added as parties to the JPA Agreement, and thereby become members of the Authority, upon the following: (i) the filing with the Authority of an executed counterpart of the JPA Agreement, attached herewith as Exhibit “B”, together with a copy of the resolution of the governing body of the joining public agency approving the JPA Agreement and the execution and delivery thereof; and (ii) adoption of a resolution of the Authority’s governing body approving the addition of such public agency as a member; and

WHEREAS, the City Council desires for the City to become a party to the JPA Agreement, and a member of the Authority, and finds that doing so will further the public health, safety, and general welfare of the community; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA HEREBY RESOLVES, FINDS, AND DECLARES AS FOLLOWS:

SECTION 1: Based on the staff report, presentation, public comment, and other matters presented to the City Council during its consideration of this matter, the City Council finds and declares that the foregoing recitals are true and correct, and hereby incorporated as substantive findings of this Resolution.

SECTION 2: The City Council hereby approves and authorizes the city to enter into the JPA Agreement and thereby approves and authorizes the Agency to become a member of the Authority. The City Manager is authorized and directed to execute a counterpart to the JPA Agreement on behalf of the city and file the same, along with a copy of this Resolution, with the Authority pursuant to Section 13 of the JPA Agreement.

SECTION 3: That the Senior Deputy City Clerk shall certify to the passage and adoption of this Resolution and that the same shall be in full force and effect.

RESOLUTION NO. 25-73

Page 2 of 2

APPROVED AND ADOPTED THIS 27TH DAY OF AUGUST 2025.

Salvador Melendez, Mayor

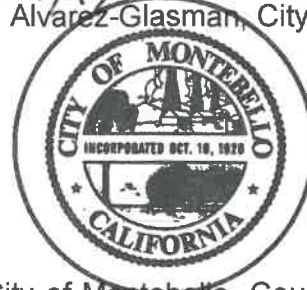
ATTEST:

Kimberly Guillen,
Senior Deputy City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF MONTEBELLO) SS:



I, Kimberly Guillen, Senior Deputy City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 25-73 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the Senior Deputy City Clerk at a regular meeting of said Council held on the 27th day of August 2025 and that said Resolution was adopted by the following vote, to-wit:

AYES: Alonzo, Romero, Tamayo, Peralta, Melendez

NOES: None

ABSTAIN: None

ABSENT: None

The undersigned, Senior Deputy City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: 8/27/2025

Kimberly Guillen,
Senior Deputy City Clerk

EXHIBITS:

- EXHIBIT A – JPA Agreement
- EXHIBIT B – Counterpart of JPA Agreement

**JOINT EXERCISE OF POWERS AGREEMENT
FOR FIRST PUBLIC HYDROGEN AUTHORITY**

THIS AGREEMENT, dated as of December 10, 2024, is entered into by and between the City of Lancaster, a municipal corporation (Lancaster) and the City of Industry, a municipal corporation (Industry). Lancaster and Industry are herein referred to as the “Founding Members”:

WITNESSETH

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (in effect as of the date hereof and as the same may from time to time be amended or supplemented, the “Joint Exercise of Powers Act”), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, each of the Founding Members is a “public agency” as that term is defined in Section 6500 of the Joint Exercise of Powers Act; and

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

WHEREAS, each of the Founding Members may accomplish the purposes and objectives described in the preceding preamble by various means, including through making grants, loans or providing other financial assistance to governmental and nonprofit organizations, and private retail customers within their jurisdiction; and

WHEREAS, each Founding Member is also empowered by law to acquire and dispose of real property for a public purpose; and

WHEREAS, the Joint Exercise of Powers Act authorizes the Founding Members to create a joint exercise of powers entity with the authority to exercise any powers common to the Founding Members, as specified in this Agreement and to exercise the additional powers granted to it in the Joint Exercise of Powers Act and any other applicable provisions of the laws of the State of California; and

WHEREAS, pursuant to Section 10002 of the Public Utilities Code, any municipal corporation may acquire, construct, own, operate, or lease any public utility; and

WHEREAS, the intent of the Founding Members is to bring other qualifying public agencies into the joint exercise of power entity as members as provided herein (all such members together with the Founding Members shall herein be referred to as the “Members”); and

WHEREAS, it is the desire of the Founding Members to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake the purchase, sale, and or resale of hydrogen and/or energy, the financing and/or refinancing of projects of any nature, including, but not limited to, capital or working capital projects, insurance, liability or maintenance programs or facilitating Members’ use of existing or new financial instruments and mechanisms; and

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

WHEREAS, beginning January 1, 2027 the State has mandated that all vehicle purchases made by public agencies be for zero emissions vehicles; and

WHEREAS, the State has received 1.2 billion dollars in funding from the federal government and the State has formed the Alliance for Renewable Clean Hydrogen Energy Systems (ARCHES) for the purpose of distributing those funds; and

WHEREAS, municipal utilities have unique authority to implement energy services and cities have the authority to provide public transit services; and

WHEREAS, hydrogen is seen as an integral tool to solve the climate crisis; and

WHEREAS, First Public Hydrogen Authority is committed to provide transportation services and fueling infrastructure to assist in the state's energy transition goals; and

WHEREAS, First Public Hydrogen Authority intends to provide for off-grid and beyond the meter solutions for the construction of new industrial and residential developments; and

WHEREAS, First Public Hydrogen Authority intends to develop off-grid and beyond the meter solutions for transportation services; and

WHEREAS, First Public Hydrogen Authority intends to remove load from the grid while using microgrids powered by hydrogen; and

WHEREAS, by this Agreement, each Member desires to create and establish the "First Public Hydrogen Authority" for the purposes set forth herein and to exercise the powers provided herein;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

Section 1. Purpose.

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act. The purpose of this Agreement is to establish a public entity for the joint exercise of powers common to the Members and for the exercise of additional powers given to a joint powers entity under the Joint Powers Act or any other applicable law, including, but not limited to, the purchase, sale, production, trading, retail, and/or resale, transport delivery and dispensary of hydrogen and/or energy, issuance of Bonds for any purpose or activity permitted under the Joint Exercise of Powers Act or any other applicable law. The purpose also includes, the design, construction, operation of behind the meter, off-grid energy solutions to be powered by a number of technologies including, but not limited to, solar, battery, and hydrogen fuel cell. Such purpose will be accomplished and said power exercised in the manner hereinafter set forth.

Section 2. Term.

This Agreement shall become effective in accordance with Section 16 as of the date hereof and shall continue in full force and effect until such time as it is terminated in writing by all the Members;

provided, however, that this Agreement shall not terminate or be terminated until each of the following is satisfied:

1. All Bonds issued or caused to be issued by the Authority (defined below) shall no longer be outstanding under the terms of the indenture, trust agreement or other instrument pursuant to which such Bonds are issued, or unless a successor to the Authority assumes all of the Authority's debts, liabilities and obligations;
2. All obligations under all Energy Contracts to which the Authority is a party have been fully performed, assigned or terminated in accordance with their respective terms. For purposes of the foregoing sentence, "Energy Contract" means an agreement for the purchase, sale or other disposition of hydrogen energy, hydrogen, renewable energy or related products, including a power purchase agreement and/or confirmation letter thereto.
3. All obligations to Authority's then current or former employees (e.g. pension, other post-employment benefits, and/or unfunded pension liability) have been fully satisfied, performed, assigned or terminated.

Section 3. Authority.

A. CREATION AND POWERS OF AUTHORITY.

Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the "First Public Hydrogen Authority" (the "Authority"), and said Authority shall be a public entity separate and apart from the Members. Its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any individual member and shall be debts, liabilities or obligations of the Authority, only.

B. BOARD.

The Authority shall be administered by a board of directors, comprised of the following:

1. Board Members. The Board shall be comprised of seven (7) members, each of whom shall have one (1) vote.

(a) The initial Board shall be appointed as follows:

- i. Lancaster shall appoint five (5) of the initial Board members and shall designate one (1) of those Board members as a "Founding Board Member"; and
- ii. Industry shall appoint one (1) Board member, who shall be a Founding Board Member.
- iii. The six initial Board members appointed by Lancaster and Industry shall appoint one (1) Board member.

(b) With the exception of the Founding Board Members, if and as vacanc(ies) exist on the Board, the remaining members on the Board shall appoint such replacement member(s) as may be necessary to fill such vacanc(ies). Industry and Lancaster shall each continue to always appoint one (1) member to the Board should the respective Founding Board Member's seat become vacant.

(c) If a Board Member is absent without permission from the greater of (i) all Authority regular meetings for 90 days consecutively from the last regular meeting he or she attended, or (ii) two consecutive regular Board meetings, then his or her board position shall immediately become vacant and shall be filled in accordance with subsection (a) above.

(d) In the event that each of the governing bodies of the Founding Members determine by majority vote that any Board Member has engaged in malfeasance, neglect, and/or impropriety with regard to their Board Member duties, then his or her board position shall immediately become vacant and shall be filled in accordance with subsection (a) above.

2. The Board shall be the administering agency of this Agreement and, as such, shall be vested with the powers set forth herein, and shall administer this Agreement in accordance with the purposes and functions provided herein.

C. OFFICERS; DUTIES; OFFICIAL BONDS.

1. Chair and Vice Chair. The City of Lancaster shall appoint a Director to serve as the first Chair of the Board of Directors for a six (6) year term, and the Director appointed by Industry shall serve as the Vice Chair. At the conclusion of the first Chair's and Vice Chair's term, as well as at the conclusion of subsequent terms of office, or in the event of a vacancy, the Chair and Vice Chair shall be selected by a majority vote of the Board to serve a four (4) year term.

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

Subject to the applicable provisions of any resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an "Indenture") providing for a trustee or other fiscal agent and except as may otherwise be specified by resolution of the Board, the Treasurer is designated as the depository of the Authority to have custody of all money of the Authority, from whatever source derived and shall have the powers, duties and responsibilities specified in Sections 6505, 6505.5 and 6509.5 of the Joint Exercise of Powers Act.

The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond with the Secretary of the Authority in the amount specified by resolution of the Board but in no event less than \$1,000.

The Chief Executive shall have the power to appoint such other officers and employees as he/she may deem necessary and to retain independent counsel, consultants and accountants subject to the same contract limits as the City Manager of Lancaster has until such time as the Board adopts its own purchasing policy.

The Board shall have the power, by resolution, to the extent permitted by the Joint Exercise of Powers Act or any other applicable law, to delegate any of its functions to one or more of the Board Members, employees or agents of the Authority and to cause any of said Board Members, employees

or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Authority.

D. MEETINGS OF THE BOARD.

(1) Ralph M. Brown Act.

All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California), or any successor legislation hereinafter enacted (the "Brown Act").

(2) Regular Meetings.

The Board shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board. To the extent permitted by the Brown Act, such meetings may be held by telephone and/or video conference.

(3) Special Meetings.

Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California. To the extent permitted by the Brown Act, such meetings may be held by telephone and/or video conference.

(4) Minutes.

The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(5) Quorum.

A majority of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board except upon the affirmative vote of a majority of the Directors constituting a quorum, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Authority may adopt, from time to time, by resolution of the Board such rules and regulations for the conduct of its meetings and affairs as may be required. In the absence of any policies or procedures, the policies or procedures of the City of Lancaster.

F. PUBLIC OFFICIALS

The Board Members shall be considered public officials within the meaning of the Political Reform Act of 1974, as amended, and its regulations, for the purposes of financial disclosure, conflict of interest and other requirements of such Act and regulations, and shall file annual statements of economic interest as required, along with any other officers of the Authority who is required to do so. Other persons working for or on behalf of the Authority may be required to file such statements in accordance with the Authority's conflict of interest code, which shall be adopted by the Board promptly.

G. TECHNICAL ADVISORY COMMITTEE.

The Authority shall have a Technical Advisory Committee ("TAC"), comprised of (i) the City Manager (or chief executive) of each Member, or his or her designee, and (ii) the Chief Executive Officer of the Authority. The TAC shall be vested with authority, responsibility and scope of activity as may be established by action of the Authority Board from time to time. Each member of the TAC shall have one vote.

Section 4. Powers.

The Authority shall have the power, in its own name, to exercise the common powers of the Members and to exercise all additional powers given to a joint powers entity under any of the laws of the State of California, including, but not limited to, the Joint Exercise of Powers Act, for any purpose authorized under this Agreement. Such powers shall include the common powers specified in this Agreement and may be exercised in the manner and according to the method provided in this Agreement. The Authority is hereby authorized to do all acts necessary for the exercise of such power, including, but not limited to, any of all of the following: to purchase, sell, and or resell hydrogen and/or energy; to make and enter into contracts; to employ agents and employees; to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works or improvements; to acquire, hold or dispose of property wherever located; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from person, firms, corporations and any governmental entity; to sue and be sued in its own name; to make grants, loans or provide other financial assistance to governmental and nonprofit organizations, or private retail customers to accomplish any of its purposes; and generally to do any and all things necessary or convenient to accomplish its purposes.

Without limiting the generality of the foregoing, the Authority may issue or cause to be issued Bonds, and pledge any property or revenues as security to the extent permitted under the Joint Exercise of Powers Act, or any other applicable provision of law; provided, however, the Authority shall not issue Bonds with respect to any project located in the jurisdiction of one or more Members unless the governing body of any such Member, or its duly authorized representative, shall approve, conditionally or unconditionally, the project, including the issuance of Bonds therefor. Such approval may be evidenced by resolution, certificate, order, report or such other means of written approval of such project as may be selected by the Member (or its authorized representative) whose approval is required. No such approval shall be required in connection with Bonds that refund Bonds previously issued by the Authority and approved by the governing board of a Member.

The manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California charter city could exercise such powers and perform such duties. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other

public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

Section 5. Fiscal Year.

For the purposes of this Agreement, the term “Fiscal Year” shall mean the fiscal year as established from time to time by resolution of the Board, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 2025.

Section 6. Disposition of Assets.

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Authority, all property of the Authority both real and personal shall automatically vest in the Members in the manner and amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Members.

Section 7. Funding

Nothing in this Agreement shall require any Member to fund any costs associated with the administration of the Authority. any activity of the Authority, and any debts related thereto, including but not limited to, capital improvement projects, real property purchases, power purchase agreements, and maintenance costs. Any Member may elect to loan or grant funds to the Authority pursuant to such terms as such parties may mutually agree in writing.

Section 8. Bonds.

From time to time the Authority may issue Bonds, in one or more series, for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement. However, the Founding Members' credit ratings will not be utilized for the issuance of any Bonds without their prior written consent.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing shall be used by the Authority. The expenses of the Authority shall be paid from the proceeds of the Bonds or any other unencumbered funds of the Authority available for such purpose.

Section 9. Bonds Only Limited and Special Obligations of Authority.

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Member or pledge of the faith and credit of the Members or the Authority. The Bonds shall be only special obligations of the Authority, and the Authority shall under no circumstances be obligated to pay the Bonds except from revenues and other funds pledged therefor. Neither the Members nor the Authority shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Members nor the faith and credit of the Authority shall be pledged to the payment of the principal of, premium, if any, or interest on the

Bonds nor shall the Members or the Authority in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or related document shall be deemed to be a covenant or agreement of any Board Member, or any officer, employee or agent of the Authority in his or her individual capacity and neither the Board of the Authority nor any Board Member or officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

Section 10. Accounts and Reports.

All funds of the Authority shall be strictly accounted for. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by each Member.

The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member and also with the county auditor of each county in which a Member is located; provided, however, that to the extent permitted by law, the Authority may, instead of filing such report with each Member and such county auditor, elect to post such report as a public record electronically on a website designated by the Authority. Such report if made shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

The Treasurer is hereby directed to report in writing during the months of July, October, January, and April of each year to the Board which report shall describe the amount of money held by the Treasurer for the Authority, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provided regular reports covering such amounts).

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

In any Fiscal Year the Board may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

Section 11. Funds.

Subject to the applicable provisions of any Indenture, which may provide for a trustee or other fiduciary to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to the accounting procedures

developed under Sections 3(E) and 9, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions or purposes of this Agreement.

Section 12. Notices.

Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member; provided, however, that to the extent permitted by law, the Authority may, provide notices and other communications and postings electronically (including, without limitation, through email).

Section 13. Additional Members/Withdrawal of Members.

Qualifying public agencies may be added as parties to this Agreement and become Members upon: (1) the filing by such public agency with the Authority of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (2) adoption of a resolution of the Board approving the addition of such public agency as a Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

A Member may withdraw from this Agreement upon written notice to the Board; provided, however no such withdrawal notice shall be effective until and unless: (a) such withdrawal will not result in the dissolution of the Authority so long as any Bonds remain outstanding; (b) all obligations of such Member under all of the Energy Contracts between the Authority and such Member have been fully performed or assigned by such Member, and (c) the date on which all of the Energy Contracts to between the Authority and the Member have terminated or assigned in accordance with their respective terms. In the event that there are only two Members, a Member may withdraw, provided the withdrawing Member presents a substitute public agency to the Board for its approval as a Member. Said approval by the Board shall not be unreasonably withheld, conditioned, or delayed. Withdrawal of a Member shall not relieve the withdrawing Member of its share of any debts or other liabilities incurred by the Authority prior to the effective date of such withdrawal, or any liabilities imposed upon or incurred by the Member pursuant to this Agreement prior to the effective date of such withdrawal. Upon the effective date of a withdrawal, the withdrawing Member shall not be entitled to any revenue being generated by the Authority; provided, however, that it shall remain entitled a share of the revenue proportionate to that Member's contribution to (1) any existing or future long-term agreement, and (2) any conveyance of all or any portion of any asset of the Authority when, and if such conveyance, occurs.

Section 14. Indemnification.

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Director or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Authority, against expenses, including attorneys' fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal

proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

The Authority shall defend, indemnify and hold harmless each Member and each Member's elected officials, officers, employees, agents and representatives, harmless from all claims, disputes, litigation, judgments and attorney fees arising out of the acts and/or omissions of the Authority.

Section 15. Immunities.

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions within the territorial limits of their respective public agencies, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Authority while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

Section 16. Amendments.

Except as provided in Section 12 above, this Agreement shall not be amended, modified, or altered without (1) a 30-day notice being given to each Member, and (2) written approval by each Member.

Section 17. Effectiveness.

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Members on the date that the Board shall have received from each of the Founding Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Founding Member approving this Agreement and the execution and delivery hereof.

Section 18. Partial Invalidity.

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 19. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

Section 20. Insurance.

The Authority shall at all times maintain insurance policies (or pooled insurance coverage through a joint powers authority) naming the Members as additional insureds in compliance with the

following:

A. The insurance shall be in amounts no less than the following:

Commercial General Liability

Each Occurrence	\$2,000,000
Per Project General Aggregate	\$5,000,000
Including Products/Completed Operations; Contractual Liability/Independent Contractors; Property Damage	
<i>(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)</i>	

Commercial Automobile Liability

Combined Single Limit per Accident for Bodily Injury and Property Damage	\$5,000,000
<i>(Coverage shall be at least as broad as ISO form CA00 01)</i>	

Workers Compensation

As Required by the State of California	Statutory Limits
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Employers' Liability

Each Accident	\$1,000,000
Bodily Injury by Disease	\$1,000,000
Each Employee	\$1,000,000
<i>(A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation & Employers' Liability policies)</i>	

Professional Liability

Each Occurrence	\$5,000,000
General Aggregate	\$5,000,000

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

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

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

F. Authority shall furnish the Members with Certificates of Insurance and with endorsements effecting coverage required by this Agreement.

Section 21. Government Claims.

A. To the extent authorized by Government Code section 935 and any other laws, all claims against the Authority for money or damages, including any claims otherwise excepted from the claims filing requirement by Government Code section 905, shall be subject to and presented within the time and manner prescribed in Part 3 of Division 3.6 of Title 1 of the Government Code. A signed written claim shall be presented to the Authority by mail or personal delivery by the claimant or a person authorized by claimant to act on his or her behalf. The claim shall conform to the requirements of Government Code section 910.

B. Unless otherwise designated by the Board, the TAC shall comprise a Claims Committee. The Claims Committee shall, in consultation with legal counsel for the Authority, review all claims and make recommendations to the Board concerning their disposition.

Section 22. Miscellaneous.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

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


This Agreement is the complete and exclusive statement of the agreement among the Members, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the Founding Members have caused this Agreement to be executed and attested by its duly authorized representatives as of the date and year first set forth above.

[SIGNATURES ON NEXT PAGE]

Founding Member:

CITY OF LANCASTER

By 
Name: R. Rex Parris
Title: Mayor

ATTEST:


Andrea Alexander, Clerk

Founding Member:

CITY OF INDUSTRY

By 
Name: Cory C. Moss
Title: Mayor

ATTEST:


Julie Gutierrez-Robles, Clerk

EXHIBIT B

**COUNTERPART TO
JOINT EXERCISE OF POWERS AGREEMENT
FOR FIRST PUBLIC HYDROGEN AUTHORITY**


THIS COUNTERPART TO JOINT EXERCISE OF POWERS AGREEMENT FOR FIRST PUBLIC HYDROGEN AUTHORITY, dated as of August 27, 2025, is entered into by City of Montbello with regard to that certain Joint Exercise of Powers Agreement for First Public Hydrogen Authority attached hereto ("JPA Agreement").

By its authorized signature below, City of Montbello agrees to be bound by each and all of the terms of the JPA Agreement.

CITY OF MONTEBELLO

By 
Name: Raul Alvarez,
Title: City Manager

ATTEST:


Kimberly Guillen
Senior Deputy City Clerk