

**This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>**

**Executive Order No. \_\_\_\_**

**[State/City, etc.] of \_\_\_\_**

**AN EXECUTIVE ORDER DIRECTING [STATE/MUNICIPAL] DEPARTMENTS TO PROCURE ALTERNATIVE FUEL VEHICLES**

WHEREAS, *[Name of Governmental Entity]* is committed to protecting public health, doing its part to reduce greenhouse gas emissions that endanger the public welfare of current and future generations, reducing fuel consumption and saving costs in *[State/municipal]* operations; and

WHEREAS, emissions from internal combustion-powered motor vehicles (“ICE vehicles”), including but not limited to particulates, nitrogen oxides and sulfur oxides, increase air pollution in and around the *[State/City, etc.]* and thereby contribute to the incidence of respiratory and other diseases, with consequent impacts to public health and welfare; and

WHEREAS, emissions from the transportation sector in the *[State/City, etc.]* account for *[a substantial percentage]* *[approximately \_\_ percent]*<sup>1</sup> of greenhouse gas emissions, which are the primary driver of climate change; and

WHEREAS, *[add a paragraph about the entity’s climate action plan or other planning documents, as applicable, including any greenhouse gas emission reduction targets that have been adopted;]* and

WHEREAS, the Department of \_\_ (the “Department”) is responsible for procuring *[state/municipal]* vehicles and the fuel for powering such vehicles, and for maintaining such vehicles (the “government fleet”) in sound operating condition; and<sup>2</sup>

WHEREAS, the *[State/City, etc.]* devotes substantial resources to the operation and maintenance of the government fleet, expending more than \$\_\_ in fuel costs and \_\_ in maintenance costs devoted to keeping the *[State’s/City’s, etc.]* vehicles running and in a state of good repair, and; and

WHEREAS, the increased use of Alternative Fuel Vehicles (“AFVs”), as defined below, can be expected to reduce the amount of fossil fuel consumed in the operation of the government fleet,

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<sup>1</sup> If the state/municipality has engaged in climate planning it may know, and should insert, the percentage contribution of the transportation sector.

<sup>2</sup> This paragraph (and subsequent paragraphs referring to “the Department”) will be tailored to meet circumstances of the particular jurisdiction (i.e., where multiple agencies are responsible for procurement and maintenance of vehicles.)

reduce operation and maintenance costs for the [State/City, etc.] and reduce air pollution, including the emission of greenhouse gases; and

WHEREAS, engineering advances have improved the reliability and performance of light duty AFVs, so that their performance equals or exceeds that of ICE vehicles for many applications; and

WHEREAS, automobile manufacturers are producing light duty AFV models that are cost competitive with comparable models of ICE vehicles; and

WHEREAS, it is in the public interest to transform the government fleet from one that relies primarily on ICE vehicles to one that utilizes AFVs in accordance with a well-considered plan that takes into account, among other things, the considerations set forth above, the life-cycle of vehicles, the whole-life cost of motor vehicles and the operational requirements of the vehicles comprising the government fleet.

NOW, THEREFORE, by the power vested in me as the [Governor/Mayor] of the [State/City, etc.] of \_\_, it is hereby ordered that:

1. The Department shall prepare and implement a “Green Fleet Transition Plan” for transforming the government fleet from one that consists of ICE vehicles to one that consists primarily of AFVs in accordance with the milestone dates set forth in Section 3 hereinbelow.<sup>3</sup>
2. For purposes of this order, the term “Alternative Fuel Vehicle” or “AFV” means a light duty vehicle that is a plug-in electric vehicle, plug-in hybrid electric vehicle or a vehicle powered by a hydrogen fuel cell.
3. **Alternative 1:** The Green Fleet Transition Plan (the “Plan”) shall: provide for the retirement and disposition of ICE vehicles, and the procurement of AFVs according to a timetable such that 10 percent of the government fleet shall be AFVs by January 1, 2022; 25 percent of the government fleet shall be AFVs by January 1, 2026, and 40 percent of the government fleet shall be AFVs by January 1, 2030. The Plan shall include additional interim milestone goals set at the discretion of the Department at levels that will achieve a government fleet consisting of 95 percent AFVs by 2050.

**Alternative 2:** The Green Fleet Transition Plan (the “Plan”) shall: provide for: (i) the retirement and disposition of ICE vehicles approaching the end of their useful life at the earliest practicable and fiscally responsible time, and (ii) the procurement of AFVs to replace retired ICE vehicles or to supply additional vehicles to the government fleet in accordance with a timetable whereby at least 40 percent of all vehicles in the government fleet shall be AFVs by no later than

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<sup>3</sup> Where multiple agencies are responsible for procurement, this paragraph will be tailored by language such as “Each department shall prepare and implement a “Green Fleet Transition Plan” for transforming its government fleet from one that consists of ICE vehicles to one that consists primarily of AFVs in accordance with the milestone dates set forth in Section 3 hereinbelow.” Subsequent paragraphs will be modified accordingly.

the year 2030, and at least 95 percent of all vehicles in the government fleet shall be AFVs by no later than 2050.

4. The Plan shall be prepared by the Department in consultation with *[include the Police Department, the Fire Department, the Department of Public Works, other affected agencies and the electric utility serving the area.]*<sup>4</sup>

(a) The Plan shall include, among other things in the Department's discretion:

(i) an inventory of all of the passenger vehicles, sports utility vehicles and light duty trucks (such vehicles hereafter referred to as "Units") owned or leased by the [State/City, etc.], which inventory shall identify the [State/City, etc.] agency to which each Unit is assigned, and indicate the make, model-year, vehicle identification number, expected date of retirement and primary function served by each such Unit;

(ii) a schedule for the retirement and disposition of ICE vehicles and the procurement of AFVs, which schedule shall meet or exceed the requirements of paragraph 3;

(iii) a process for (A) the disposition of ICE vehicles approaching the end of their useful life at the earliest practicable and fiscally responsible time, and (B) the procurement of AFVs, which process shall adhere to lawful procedures, and which may, in the Department's discretion, include participation in the collective procurement of AFVs with other governmental entities;<sup>5</sup> and

(iv) provision for the establishment of specifications for the procurement of AFVs and other motor vehicles that account for the whole-life cost of vehicles (i.e., the costs of owning and operating the vehicles over their useful lives); and assure the procurement of Units that meet the functional needs of the affected agencies. In particular, the Plan shall accommodate the needs of the Police Department, Fire Department and other agencies responsible for protecting public safety for vehicles meeting special performance requirements.

(b) The Plan also shall provide for the procurement and installation of the infrastructure needed for the convenient recharging of the electric vehicles or plug-in hybrid vehicles to be acquired in accordance with such Plan.

(c) The Plan may provide for the procurement and installation of infrastructure and "telematics" or other technology to be used for: (i) integrating vehicle charging with management of the electric grid, and (ii) identifying underutilized vehicles and adjusting fleet size to match the [State's, City's, Town's, etc.] needs.

(d) The Department shall consult with: State or Federal officials to identify and secure such financial incentives as may be available to support the [City, Town etc.] in its implementation of the Plan.

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<sup>4</sup> This paragraph will be deleted where each department creates its own plan.

<sup>5</sup> See, e.g., Climate Mayors' Electric Vehicle Purchasing Collaborative at <https://driveevfleets.org/>

(e) The Department shall also consult with electric utilities to identify opportunities for AFVs to charge at optimal times in conjunction with renewable energy and electric grid operation, and to identify opportunities to support the Plan by participating in vehicle-to-grid systems.

5. The Plan shall be completed by no later than \_\_\_ and shall be updated, and adjusted as necessary, on an [*annual*] basis. Such updates shall include a report addressing: (i) the progress made, and problems encountered, in achieving the goals set forth in section 3, and (ii) an assessment of the fiscal impacts of the Plan during the reporting period, taking into account, among other things in the discretion of the Department, fuel savings and operational cost reductions achieved in the operation and maintenance of AFVs, any financial incentives that may have been secured, and the costs incurred by the [*State/City, etc.*] in purchasing, leasing and operating Units for the government fleet and related infrastructure.

6. On and after \_\_\_, procurement of all passenger vehicles and light-duty trucks by or for the [*State/City, etc.*] shall be in accordance with the Plan.

7. All department heads are directed to cooperate with the Department in the implementation of this order.

8. This order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the [*State/City, etc.*] of \_\_\_, its agencies, departments, entities, officers, employees or any other person.

9. This order shall take effect immediately.

Dated the \_\_\_ day of \_\_\_, 2020

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Governor/Mayor, [*State/City, etc.*] of \_\_\_