

1 [Administrative Code - Establish Low Carbon Fuel Standard Credits Sales Fund - Authorizing
2 Agreements to Sell Low Carbon Fuel Standard Credits - Public Utilities Commission]

3 **Ordinance delegating authority under Charter, Section 9.118(a), to the General Manager**
4 **of the Public Utilities Commission to enter into one or more agreements to sell Low**
5 **Carbon Fuel Standard Credits accrued by the Municipal Transportation Agency when**
6 **revenue from such an agreement will be \$1,000,000 or more; and amending the**
7 **Administrative Code to establish a Low Carbon Fuel Standard Credits Sales Fund to**
8 **receive funds from the credits sales for use in connection with projects that will reduce**
9 **San Francisco’s carbon footprint and/or advance its sustainability goals.**

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11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.
13 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
14 **Board amendment additions** are in double-underlined Arial font.
15 **Board amendment deletions** are in ~~strikethrough Arial font~~.
16 **Asterisks (* * * *)** indicate the omission of unchanged Code
17 subsections or parts of tables.

18 Be it ordained by the People of the City and County of San Francisco:

19 Section 1. Findings.

20 (a) In Assembly Bill 32, entitled the Global Warming Solutions Act of 2006, the
21 Legislature required California to reduce its greenhouse gas emissions to 1990 levels by
22 2020.

23 (b) In 2009, at the direction of then-Governor Schwarzenegger, the California Air
24 Resources Board (“CARB”) adopted Low Carbon Fuel Standard (“LCFS”) regulations to
25 partially implement Assembly Bill 32 (“LCFS Regulations”). Under the LCFS Regulations,

1 transportation providers that use fuels with a carbon intensity (or greenhouse gas emissions)
2 lower than the State target generate LCFS credits that can be sold.

3 (c) The San Francisco Municipal Transportation Agency (“SFMTA”) uses
4 greenhouse gas-free electric energy provided by the San Francisco Public Utilities
5 Commission (“SFPUC”) to operate its electric public transit fleet, consisting of electric trolley
6 buses, cable cars, light rail vehicles and, in the future, battery-powered electric buses.
7 Because this fleet operates with a carbon intensity below the State target, the SFMTA
8 accumulates credits that can be sold.

9 (d) The SFPUC estimates that the LCFS credits it has accumulated to date can be
10 sold for more than \$10 million at current prices. The SFPUC further estimates that, in
11 subsequent years, it could accumulate credits worth in excess of \$4 million per year at current
12 prices.

13 (e) In October 2017, the SFPUC and the SFMTA entered into a Memorandum of
14 Understanding (“MOU”) setting forth the roles and responsibilities of the two agencies with
15 respect to sales of the LCFS credits. Among other things, the agencies agreed that: (1) each
16 agency would share equally the net revenues from the LCFS credits sales; and (2) both
17 agencies would use the revenues generated from selling the LCFS credits to support general
18 operations that reduce San Francisco’s carbon footprint and/or advance the City’s
19 sustainability goals.

20 (f) In Resolution No. 17-0199, dated September 12, 2017, the SFPUC approved
21 the MOU, authorized the SFPUC’s Power Enterprise to sell the LCFS credits, delegated to the
22 SFPUC’s General Manager the authority to enter into agreements necessary to effectuate
23 those sales, and authorized the SFPUC to seek Board of Supervisors approval of any sales
24 under the LCFS program that would exceed \$1 million.

1 (g) Pursuant to that authority, the SFPUC intends to sell the LCFS credits by issuing
2 requests for offers to interested counterparties. Once the SFPUC accepts an offer from a
3 counterparty, the SFPUC and the counterparty will enter into a Leadership for Energy
4 Automated Processing (“LEAP”) Master Agreement for Purchasing and Selling Low Carbon
5 Fuel Standard Credits (“LEAP Master Agreement”). The LEAP Master Agreement will
6 establish the necessary terms and conditions of the sale and the transfer of title to the LCFS
7 credits from the SFMTA to the counterparty.

8
9 Section 2. Delegation of Authority Under Charter Section 9.118(a).

10 (a) Under Section 9.118(a) of the Charter, the Board of Supervisors (“Board”) must
11 approve any contract entered into by a City department where the anticipated revenue from
12 the contract is \$1 million or more.

13 (b) The Board authorizes the General Manager of the SFPUC to sell the SFMTA’s
14 existing LCFS credits and future LCFS credits, through one or more contracts, including
15 contracts with revenues of \$1 million or more. The Board is approving the SFPUC’s entering
16 into such contracts at this time, even before the SFPUC has offered the LCFS credits for sale,
17 because the Board understands that the SFPUC will need to expeditiously complete the sales
18 to maximize the value of the credits. In addition, the Board is granting this authority with the
19 understanding that there could be multiple sales in excess of the \$1 million threshold (each of
20 which would require Board approval absent this delegation), and that each sale will be
21 effectuated through use of the LEAP Master Agreement.

1 (c) The Board conditions its approval of LCFS credits sales of more than \$1 million
2 on the General Manager of the SFPUC entering into contracts substantially in the form of the
3 LEAP Master Agreement; provided, however, that the City Attorney and SFPUC General
4 Manager may determine that certain non-material changes to that form agreement are
5 necessary to effectuate the LCFS credits sales authorized herein and/or to adequately protect
6 the City's interests.

7 (d) The SFPUC shall submit a report to the Board identifying the protocols the
8 SFPUC has developed for selling Low Carbon Fuel Standard Credits.

9
10 Section 3. Chapter 10, Article XIII, of the Administrative Code is hereby amended by
11 adding Section 10.100-92, to read as follows:

12
13 **SEC. 10.100-92. LOW CARBON FUEL STANDARD CREDITS SALES FUND.**

14 (a) Low Carbon Fuel Standard Credits Sales.

15 (1) The San Francisco Municipal Transportation Agency ("SFMTA") uses
16 greenhouse gas-free electric energy provided by the San Francisco Public Utilities Commission
17 ("SFPUC") to operate its electric public transit fleet, consisting of electric trolley buses, cable cars,
18 light rail vehicles, and, in the future, battery-powered electric buses.

19 (2) In Assembly Bill 32, entitled the Global Warming Solutions Act of 2006, the
20 Legislature required California to reduce its greenhouse gas emissions to 1990 levels by 2020. In
21 2009, at the direction of then-Governor Schwarzenegger, the California Air Resources Board adopted
22 Low Carbon Fuel Standard ("LCFS") regulations to partially implement Assembly Bill 32 ("LCFS
23 Regulations"). Under the LCFS Regulations, transportation providers that use fuels with a carbon
24 intensity (or greenhouse gas emissions) lower than the State target generate LCFS credits that can be
25 sold.

1 (3) The SFMTA accumulates credits that can be sold to fuel producers, because the
2 SFMTA operates its electric public transit fleet with a carbon intensity (or greenhouse gas emissions)
3 below the State target. As of 2019, the SFPUC has agreed to take responsibility for the sales of those
4 credits. It is possible that other agencies of the City and County of San Francisco might also
5 accumulate LCFS credits and that the SFPUC might assume responsibility for the sales of those LCFS
6 credits.

7 (b) Establishment of Fund. The Low Carbon Fuel Standard Credits Sales Fund is
8 established as a category eight fund to receive, and account for the expenditure of, proceeds from the
9 sale of Low Carbon Fuel Standard credits by the SFPUC.

10 (c) Use of Fund.

11 (1) Money in the Low Carbon Fuel Standard Credits Sales Fund shall be used first
12 to reimburse the SFPUC and the SFMTA for any expenses they incur to sell Low Carbon Fuel Standard
13 credits. After expenses, the SFPUC and the SFMTA will share equally in the net revenues from such
14 sales. The SFPUC will use its share of the net revenues to support general operations that reduce the
15 City and County of San Francisco's carbon footprint and/or advance its sustainability goals. The
16 SFMTA intends to use its share to advance the SFMTA's sustainability and climate action initiatives
17 and goals.

18 (2) In the event that any other City agencies accumulate LCFS credits, and that the
19 SFPUC takes responsibility for the sale of those LCSF credits, funds from those sales may also be
20 received in the Low Carbon Fuel Standard Credits Sales Fund for distribution by the SFPUC to those
21 other City agencies. In that event, the SFPUC and those other agencies will determine how to share
22 the proceeds.

1 (d) Administration of Fund. The SFPUC will administer the Low Carbon Fuel Standard
2 Credits Sales Fund. The General Manager of the SFPUC shall submit an annual written report to the
3 Board of Supervisors and the Controller; (1) specifying the number of Low Carbon Fuel Standard
4 Credits sold during the previous fiscal year, the price received for each credit, and the total
5 amount of the sales; and (2) describing the expenditures made from the Low Carbon Fuel Standard
6 Credits Sales Fund during the previous fiscal year.

7
8 Section 4. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor’s veto of the ordinance.

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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

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16 By: _____
17 WILLIAM K. SANDERS
18 Deputy City Attorney

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