

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

State of New York
New York State Department of Environmental Conservation -
New York Power Authority
Cooperative Agreement #CA11699
Eligible Mitigation Action Item 2:
Charging Infrastructure for All-Electric Transit Buses
Advance Funding Request #12

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of New York

Lead Agency Authorized to Act on Behalf of the Beneficiary: New York State Department of Environmental Conservation (NYSDEC)

(Any authorized person with delegation of such authority to direct the Trustee delivered to the Trustee pursuant to a Delegation of Authority and Certificate of Incumbency)

Action Title:	NYPA EMA 2: Transit Bus Charging Infrastructure
Beneficiary’s Project ID:	CA11699.MA12
Funding Request No.	<i>(sequential)</i> 12
Request Type: (select one or more)	<input type="checkbox"/> Reimbursement <input checked="" type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input type="checkbox"/> Beneficiary <input checked="" type="checkbox"/> Other (specify): <u>New York Power Authority</u>
Funding Request & Direction (Attachment A)	<input checked="" type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

SUMMARY

Eligible Mitigation Action Type Appendix D-2, Mitigation Action 2. Charging infrastructure associated with new Class 4-8 all-electric transit buses. This funding request is to direct VW Trust funding to NYPA to support charging infrastructure associated with all-electric transit buses funded through a separate VW Trust funding request.

Explanation of how funding request fits into Beneficiary’s Mitigation Plan (5.2.1): VW funding directed to NYPA will provide incentives for charging infrastructure projects associated with all-electric transit buses funded through a separate VW Trust funding request. NY intends to replace older diesel-powered transit buses with new, all-electric transit buses as stated in New York's Beneficiary Mitigation Plan (BMP). At least \$52.4 million in New York’s allocation from the VW Mitigation Trust has been proposed for EMA 2: Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses) replacement projects. See: https://www.dec.ny.gov/docs/air_pdf/vwcleantransportplan19.pdf (pp. 1, 16, and 19.)

Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): Transit bus charging infrastructure incentive funding will support the replacement of older diesel powered transit buses that often operate in Disadvantaged Communities. The new, all-electric Class 4-8 replacement transit buses will decrease NOx emissions and improved local air quality. Existing, older NYS-registered diesel-powered transit buses will be scrapped.

Estimate of Anticipated NOx Reductions (5.2.3): The projected vehicle lifetime NOx emission benefits from replacing an estimated 100 older diesel transit buses with new all-electric transit buses is estimated to be 200 tons. These NOx emission reductions will be made possible through two separate VW Trust funding requests. VW Trust funds will be directed to NYPA for the charging infrastructure; and in a separate funding request, VW Trust funds will be directed to NYSERDA for the transit bus portion of these bus replacement projects (CA11725).

In addition, greenhouse gases will be reduced from these transit bus replacement projects. Final NOx emission reductions will be calculated based on projects completed under this mitigation action.

Identification of Governmental Entity Responsible for Reviewing and Auditing Expenditures of Eligible Mitigation Action Funds to Ensure Compliance with Applicable Law (5.2.7.1):

New York Power Authority

Describe how the Beneficiary will make documentation publicly available (5.2.7.2).

New York State submitted an Appendix D-3, Certification for Beneficiary Status Under Environmental Trust Agreement, on November 1, 2017, in which the State of New York (NYS) agreed to maintain and make publicly available all documentation and records:

- (i) submitted by it in support of each funding request; and
- (ii) supporting all expenditures of the Trust Fund by the State of New York, each until the Termination Date of the Trust pursuant to Paragraph 6.8 of the Trust Agreement. These records will be made accessible to the public through the lead agency, New York State Department of Environmental Conservation (NYSDEC), website at: <http://www.dec.ny.gov/chemical/109784.html>

Documentation will be available to the public in an easy to access, publicly available webpage. Links to the documents will be contained in a table developed by the NYSDEC utilizing Appendix D-2 eligible mitigation action categories in chronological order based on DEC submission date to the Trustee. All expenditures made by the Trustee to designated NYS recipients will be formatted in a similar manner. DEC will update the webpage within 10 days of a funding request made to the Trustee, or receipt of a Trustee payment. All necessary or publicly available records associated with DEC funding requests and Trustee payments will be provided in adobe PDF format or equivalent as determined by the DEC website administrator.

The DEC website will make these records available to the public through a link on the NYSDEC main webpage. The NYSDEC VW Settlement site can also be easily located through a search engine result of entering "NYSDEC VW Settlement."

Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). VW funding, provided through NYPA, will fund a portion of the cost of eligible charging infrastructure associated with VW Trust funded new all-electric transit buses. The level of VW incentive funding will depend on the charging infrastructure capacity.

A NYPA incentive schedule (e.g., table) will be established prior to the program launch. The charging equipment incentive funding amounts will be based on, the lesser of either:

- i) a percentage of eligible charging equipment cost, or
- ii) a kW-based funding cap.

The outstanding balance of the electric transit bus charging equipment remaining after the NYPA incentive will be provided by the eligible transit bus entity.

Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).

NYSDEC (lead agency) notified the U.S. Government agencies as prescribed in 5.2.9 via email on February 9, 2018. See attached Notice of Availability of Mitigation Action Funds.

If applicable, describe how the mitigation action will mitigate the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).

New York State's Beneficiary Mitigation Plan, Clean Transportation NY, describes the overall goals of improving air quality and accelerating the transition to zero emission transportation through funding made available under the Volkswagen Trust. These air quality improvement goals include reducing nitrogen oxides (NOx), greenhouse gases, particulate matter, hydrocarbon, and mobile source air toxics emissions throughout the state. Funding those projects described in the Plan will result in significant NOx reductions while accelerating the transformation to a zero-tailpipe emission transportation system. Projects will be located throughout New York State, with a particular focus on communities and neighborhoods subject to a disproportionate amount of air pollution from diesel-powered vehicles and equipment. NYTVIP has conducted targeted outreach to fleets with transit buses domiciled in, or operated near, Disadvantaged Communities and will report on the award of incentives for transit buses in these areas.

This all-electric transit bus charging infrastructure project will lower NOx emissions and improve local air quality by supporting the replacement of older diesel powered, higher emitting Class 4-8 transit buses that often operate in Disadvantaged Communities. These replacement all-electric transit buses have zero tailpipe emissions and improve local air quality in communities that have historically borne a disproportionate share of the adverse impact of diesel exhaust emissions.

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

ATTACHMENTS
(CHECK BOX IF ATTACHED)

- | | | |
|-------------------------------------|---------------------|---|
| <input checked="" type="checkbox"/> | Attachment A | Funding Request and Direction. |
| <input checked="" type="checkbox"/> | Attachment B | Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4). |
| <input checked="" type="checkbox"/> | Attachment C | Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11). |
| <input checked="" type="checkbox"/> | Attachment D | Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6). [Attach only if project involves vendor expenditures exceeding \$25,000.] |
| <input type="checkbox"/> | Attachment E | DERA Option (5.2.12). [Attach only if using DERA option.] |
| <input type="checkbox"/> | Attachment F | Attachment specifying amount of requested funding to be debited against each beneficiary's allocation (5.2.13). [Attach only if this is a joint application involving multiple beneficiaries.] |

CERTIFICATIONS

By submitting this application, the Lead Agency makes the following certifications:

1. This application is submitted on behalf of Beneficiary State of New York, and the person executing this certification has authority to make this certification on behalf of the Lead Agency and Beneficiary, pursuant to the Certification for Beneficiary Status filed with the Court.
2. Beneficiary requests and directs that the Trustee make the payments described in this application and Attachment A to this Form.
3. This application contains all information and certifications required by Paragraph 5.2 of the Trust Agreement, and the Trustee may rely on this application, Attachment A, and related certifications in making disbursements of trust funds for the aforementioned Project ID.
4. Any vendors were or will be selected in accordance with a jurisdiction's public contracting law as applicable. (5.2.5)
5. Beneficiary will maintain and make publicly available all documentation submitted in

support of this funding request and all records supporting all expenditures of eligible mitigation action funds subject to applicable laws governing the publication of confidential business information and personally identifiable information. (5.2.7.2)

DATED: 04/30/2021



Christopher LaLone, P.E.
Division Director, Division of Air Resources

New York State Department of Environmental Conservation

[LEAD AGENCY]

for

State of New York

[BENEFICIARY]



ATTACHMENTS B, C, D TO APPENDIX D-4

ATTACHMENT B TO APPENDIX D-4

Action Title: NYPA – Class 4-8 All-Electric Transit Bus Charging Infrastructure

Eligible Mitigation Action Management Plan including Detailed Budget and Implementation and Expenditures Timeline. (5.2.4)

Implementation and Expenditures Milestones and Timeline

Milestone	Date
DEC provides Notice to Proceed	02/07/20
NYPA provides DEC with Project Budget Plan	03/2020
NYPA provides DEC with 1 st Advance Funding Request and Direction form, Schedule 2, Project Management Plan, and Schedule 3, Payment Request Forms	06/05/20
DEC submits Project Certification and Funding Direction to Trustee for \$2,000,000 of Advance Funding available under this Cooperative Agreement	06/10/20
Trustee Acknowledges Receipt of Project Certification and Funding Direction	06/11/20
Trustee allocates 1 st Advance Funding to NYPA	08/27/20
NYPA provides outreach efforts to notify stakeholders of availability of funds	06/2020
Start of 60 -month Incentive Period begins	02/07/20
Initial notification of approved applicants begins	07/2020
NYPA completes projects representing 10% (i.e., \$1,145,600) of total funding available under this Cooperative Agreement and submits documentation to DEC	03/30/21
NYPA provides DEC with 2 nd Advance Funding Request and Direction form, Schedule 2, Project Management Plan, and Schedule 3, Payment Request Forms	CY 2021, Q2 (est)
NYPA completes projects representing 50% of total funding available under this Cooperative Agreement (i.e., \$5,728,000) and submits documentation to DEC	CY 2021, Q4 (est)
DEC submits Funding Direction to Trustee for additional \$7,456,000 of Advance Funding available under this Cooperative Agreement	CY 2021, Q2 (est)
If applicable, DEC approves revision(s) to Schedule 6, Incentives	CY 2022, Q2 (est)
NYPA provides DEC with 3 rd Advance Funding Request (no more than \$2,000,000) and Direction Form, Schedule 2, Project Management Plan, and Schedule 3, Payment Request Forms	CY 2022, Q2 (est)
DEC submits Funding Direction to Trustee for remaining balance of Advance Funding available under this Cooperative Agreement	CY 2022, Q2 (est)
End of 60 -month Incentive Period for New Transit Bus Charging Equipment (from Notice to Proceed)	CY 2024, Q3 (est)
NYPA provides detailed invoices for all claimed project costs, documentation for emission reduction estimates, required certification documents to DEC to support final project accounting	CY 2024, Q4 (est)
NYPA returns any unused funds to Trustee	CY 2024, Q4 (est)
NYPA certifies project completion	CY 2026, Q3 (est)
DEC reports project completion	CY 2026, Q3 (est)

Project Budget

(Mitigation Action Item #2) - Class 4-8 Transit Bus Charging Infrastructure. This project will direct VW Trust funds to NYPA to offer incentives for charging infrastructure for eligible Class 4-8 all-electric transit buses made available through a separate VW Trust funding request. Cooperative agreement CA11699 was amended on April 5, 2021 to provide an additional \$5,456,000 in incentives and administrative costs.

Item #1 Incentive Costs: \$10,414,545.50

Item #1 Administrative Costs (Capped at 10%): \$1,041,454.50

Funding Method: Advance

Procurement Method: Incentive

Total Project Budget

Project	Transit Bus Charging Infrastructure Funding Amount	Administrative Costs	Total Project Cost
EMA 2: Class 4-8 Transit Bus Charging Infrastructure	\$10,414,545.50	\$1,041,454.50	\$11,456,000

Funding Milestones

Initial Advance Funding Amount	\$2,000,000 (completed)
Second round of funding when 10% of projects completed	\$7,456,000
Third round of funding when 50% of projects completed	\$2,000,000
Total Project Cost	\$11,456,000

ATTACHMENT C to APPENDIX D-4

Action Title: NYPA – Class 4-8 All-Electric Transit Bus Charging Infrastructure

Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11)

New York State Department of Environmental Conservation will meet the requirements of Appendix D to the Partial Consent Decree, section 5.3:

5.3 Beneficiary Reporting Obligations: *For each Eligible Mitigation Action, no later than six months after receiving its first disbursement of Trust Assets, and thereafter no later than January 1 and July 1 of each year, each Beneficiary shall serve upon the Trustee, a semiannual report describing the progress implementing each Eligible Mitigation Action during the six-month period leading up to the reporting date (including a summary of all costs expended on the Eligible Mitigation Action through the reporting date). Such reports shall include a complete description of the status (including actual or projected termination date), development, implementation, and any modification of each approved Eligible Mitigation Action.*

Beneficiaries may group multiple Eligible Mitigation Actions and multiple sub-beneficiaries into a single report. These reports shall be signed by an official with the authority to submit the report for the Beneficiary and must contain an attestation that the information is true and correct and that the submission is made under penalty of perjury. To the extent a Beneficiary avails itself of the DERA Option described in Appendix D-2, that Beneficiary may submit its DERA Quarterly Programmatic Reports in satisfaction of its obligations under this subparagraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the Trust's public-facing website upon receipt.

DEC will post its semiannual reports made to the Trustee on the public-facing website for New York's Volkswagen Settlement at <https://www.dec.ny.gov/chemical/109784.html>.

ATTACHMENT D to APPENDIX D-4

Action Title: NYPA – Class 4-8 All-Electric Transit Bus Charging Infrastructure

Detailed Costs Estimates from Selected Potential Vendors for Each Proposed Expenditure Exceeding \$25,000 (5.2.6)

DEC will direct VW Trust funding to the NYPA in the form of advance payments for Class 4-8 all-electric transit bus charging infrastructure project incentives. Cost estimates from selected electrical contractors will be part of NYPA all-electric transit bus charging infrastructure projects. Preliminary cost estimates for all-electric Class 4-8 transit bus charging infrastructure projects are provided in the tables below.

Preliminary Class 4-8 Transit Bus Charging Infrastructure Cost Estimates

Transit Bus Charging Infrastructure Category	Estimated Number of Units	Estimated Cost per Unit	Estimated Total Cost
Depot, DCFC, 50-75kW	10-20	\$75,000	\$750,000 - \$1,500,000
Depot, DCFC, 76-149kW	15-25	\$135,000	\$2,025,000 - \$3,375,000
Depot, DCFC, ≥150kW	25-50	\$155,000	\$3,875,000 - \$7,750,000
		Total Budget	\$11,456,000

PROJECTED TRUST ALLOCATIONS: New York State

Project Name	Funding Request #	EMA #	Cooperative Agreement # *	Cumulative Approved Funding Requests	2021 Pending Funding Requests Undergoing WT Review	2021 Anticipated Additional Funding Requests	2022 Anticipated Funding Requests	2023 Anticipated Funding Requests	Total Project Allocations
NYSERDA Class 8 Trucks	1	1	CA111434	\$ 1,320,000.00		\$ 1,320,000.00	\$ 1,320,000.00		\$ 3,960,000.00
NYSERDA Class 4-7 Trucks	2	6	CA111434	\$ 1,760,000.00		\$ 1,760,000.00	\$ 1,760,000.00		\$ 5,280,000.00
NYSERDA Transit Buses ¹	3	2	CA111725	\$ 6,116,000.00			\$ 5,232,000.00		\$ 11,348,000.00
NYCDOT Clean Truck Class 4	4	6	CA111728	\$ 1,358,500.00		\$ 1,358,500.00	\$ 1,358,500.00		\$ 4,075,500.00
NYCDOT Clean Truck Class 8	5	1	CA111728	\$ 1,925,000.00		\$ 1,925,000.00	\$ 1,925,000.00		\$ 5,775,000.00
NYPA Transit Bus EVSE	6	2	CA111699	\$ 2,000,000.00			\$ 2,000,000.00		\$ 4,000,000.00
NYSERDA DFCV EVSE	7	9	CA111943	\$ 6,050,000.00		\$ 6,050,000.00			\$ 12,100,000.00
NYSERDA Charge Ready NY-Light Duty EVSE	8	9	CA111863	\$ 5,500,000.00					\$ 5,500,000.00
NYSERDA School Bus	9	2	CA111813	\$ 4,400,000.00		\$ 4,400,000.00	\$ 4,400,000.00		\$ 13,200,000.00
NYSERDA Transit Buses ¹	10	2	CA111725	\$ 25,000,000.00					\$ 25,000,000.00
NYSERDA Cargo Handling	11	8	CA111912		\$ 990,000.00				\$ 990,000.00
NYPA Transit Bus EVSE ²	12	2	CA111699		\$ 7,456,000.00				\$ 7,456,000.00
Totals				\$ 55,429,500.00	\$ 8,446,000.00	\$ 16,813,500.00	\$ 17,995,500.00	\$ -	\$ 98,684,500.00

¹ CA11725 (12/12/19) provided initial funding of \$18,348,000. Total funding was increased by amendment No.1 (7/15/20) to \$36,348,000. The Anticipated and Total Project Allocations reflect CA11725 payment requirements.

² CA11699 (2/4/20) provided initial funding of \$6,000,000. Total funding was increased by amendment No.1 (4/5/21) to \$11,456,000. The Anticipated and Total Project Allocations reflect CA11699 payment requirements.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Air Resources
625 Broadway, Albany, New York 12233-3250
P: (518) 402-8452 | F: (518) 402-9035
www.dec.ny.gov

FEB - 9 2018

Return Receipt Requested

National Park Service
Air Resources Division
VW Settlement
PO Box 25287
Denver, CO 80225-0287

RE: Volkswagen Settlement (Case No. MDL 2672 CRB), Notice of Availability of Mitigation Action Funds

Dear Sir/Madam:

On November 1, 2017, New York State Governor Andrew Cuomo signed the Notice of Filing of Certification for Beneficiary Status Under the Environmental Mitigation Trust Agreement for the State of New York. Further, the New York State Department of Environmental Conservation was designated as the Lead Agency for purposes of the Beneficiary's participation in the Environmental Mitigation Trust and was delegated the authority to act on, behalf of, and legally bind the Beneficiary for purposes of the Trust.

On January 29, 2018, Wilmington Trust, N.A., as Trustee of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the State TrustSM), included the State of New York as a Designated Beneficiary under the State Trust.

In accordance with paragraph 4.2.8 of the Trust Agreement, "[each] Certifying Entity will provide a copy of the State Trust Agreement with Attachments to the U.S. Department of the Interior, the U.S. Department of Agriculture, and any other Federal Agency that has custody, control, or management of land within or contiguous to the territorial boundaries of the Certifying Entity and has by then notified the Certifying Entity of its interest hereunder, explaining that the Certifying Entity may request Eligible Mitigation Action funds for use on lands within that Federal Agency's custody, control, or management (including, but not limited to, Clean Air Act Class I and II areas), and setting forth the procedures by which the Certifying Entity will review, consider, and make a written determination upon each such request.

The New York State Department of Environmental Conservation (DEC) has not received notice from any federal agency regarding projects to be funded by the Volkswagen Environmental Mitigation Trust. As such, this letter is being sent to the designated United States Departments of the Interior and Agriculture contacts to fulfill

our reporting requirements listed under paragraph 4.2.8 of the Trust Agreement. Please find attached the required documentation:

ENVIRONMENTAL MITIGATION TRUST AGREEMENT FOR STATE BENEFICIARIES (Document 51-1, Filed 10/02/17)

APPENDIX D-3, CERTIFICATION FOR BENEFICIARY STATUS UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT (New York State, 11/01/17)

If you should have any questions related to this notice, please contact Mr. James Clyne, P.E, Director, Bureau of mobile Sources and Technology development at (518) 402-8292.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Flint", is positioned above the printed name.

Steven E. Flint, P.E.
Director, Division of Air Resources