

**APPENDIX D-4**  
**Beneficiary Eligible Mitigation Action Certification**

## BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary Commonwealth of Kentucky

Lead Agency Authorized to Act on Behalf of the Beneficiary Energy & Env. Cabinet, Office of Energy Policy  
*(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)*

<b>Action Title:</b>	
<b>Beneficiary's Project ID:</b>	Transit Bus Replacement Program
<b>Funding Request No.</b>	<i>(sequential)</i> 01
<b>Request Type:</b> (select one or more)	<input type="checkbox"/> Reimbursement <span style="float: right;"><input checked="" type="checkbox"/> Advance</span> <input type="checkbox"/> Other (specify): _____
<b>Payment to be made to:</b> (select one or more)	<input checked="" type="checkbox"/> Beneficiary <input type="checkbox"/> Other (specify): _____
<b>Funding Request &amp; Direction (Attachment A)</b>	<input checked="" type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

### SUMMARY

<b>Eligible Mitigation Action</b>	<input checked="" type="checkbox"/> Appendix D-2 item (specify): <u>Category 2 - Transit Bus Replacement</u>
<b>Action Type</b>	<input type="checkbox"/> Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal): _____
<b>Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1):</b> See Attachment G	
<b>Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):</b> See Attachment G	
<b>Estimate of Anticipated NOx Reductions (5.2.3):</b> See Attachment G	
<b>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):</b> See Attachment G	
<b>Describe how the Beneficiary will make documentation publicly available (5.2.7.2).</b> <b>See Attachments C &amp; G</b>	
<b>Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).</b> See Attachment G	
<b>Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).</b> <b>See Attachment G.</b>	

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).  
See Attachment G.

**ATTACHMENTS**  
**(CHECK BOX IF ATTACHED)**

- Attachment A Funding Request and Direction.
- Attachment B Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).
- Attachment C Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11).
- 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.]
- Attachment E DERA Option (5.2.12). [Attach only if using DERA option.]
- 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 Kentucky, 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: 8.13.2021

*Lynn Stump*  
[NAME]  
[TITLE] *Executive Director*

*EEC*  
[LEAD AGENCY]

for

*Kentucky*  
[BENEFICIARY]

**ATTACHMENT B**

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

**PROJECT MANAGEMENT PLAN**

Milestone	Date
HB352 - outlining Kentucky's plan for expending the Trust Funds and providing appropriation for expending the funds became effective	7/1/2020
Beneficiary Mitigation Plan Finalized and submitted to Trustee by Energy & Environment Cabinet, Office of Energy Policy (Lead Agency)	6/1/2020
As directed by the Legislature, the Office of Transportation Delivery begins working with Transit Agencies to obtain applications for transit bus replacement. Applications describe the projects, projected emissions reductions, cost share, and identifies buses to be	7/1/2020
Office of Transportation Delivery enters into agreements with state transit agencies for funding allocated to transit bus replacement initiative. (all agreements finalized)	10/24/2020
Lead Agency requests Trust Funding to cover transit bus projects.	7/1/2021
Lead Agency begins receiving and reviewing requests for reimbursement for bus purchases once new buses have been received (start date) Buses will be delivered on a staggered basis)	August 2021 thru last buses being received - estimate late-2022
Lead Agency reviews transit agency documentation including paid invoices and compliance with scrappage requirements of the activity	August 2021 thru last buses being received - estimate late 2022
Lead Agency begins approving payments to transit agencies to reimburse for new bus replacements	August 2021 thru last buses being received - estimate late 2022
<b>Lead Agency reports project completion.</b>	

## Detailed Budget

<b>Transit Agency Receiving Funding</b>	<b>Amount Authorized</b>
Transit Authority of River City (TARC), in Jefferson County -- replacement of 45 older	\$4,768,281
Transit Authority of Northern Kentucky to replace 6 older buses	\$2,104,672
LexTran, in Lexington, Fayette County -- replacement of 6 older buses	\$1,492,344
Owensboro Transit System -- replacement of 1 older bus with an all-electric bus	\$156,403
<b>total transit awards</b>	<b>\$8,521,700</b>
Administrative Expenses	\$55,700
<b>total request</b>	<b>\$8,577,400</b>

## ATTACHMENT C

### DETAILED PLAN FOR REPORTING ON ELIGIBLE MITIGATION ACTION IMPLEMENTATION (5.2.11)

After being named by the Governor as Kentucky's Lead Agency, the Energy and Environment Cabinet created a web site specific to information associated with the administration of the Environmental Mitigation Trust Funds and all activities associated with administering those funds in the Commonwealth.

This site has been used to report on the development of and final Beneficiary Mitigation Plan (BMP) developed by the Commonwealth, as well as the entities chosen to receive funding under each activity outlined in the BMP.

This site is used to provide the public a comprehensive, transparent accounting of the information on funding, as well as the information being submitted by the chosen entities and funds distributed in the state.

The semi-annual reports associated with each activity will be posted on this dedicated web site as the reports are submitted to the Trustee.

All information from entities receiving funds under this trust, reimbursements made, will be posted on the web site.

#### **Kentucky's BMP**

The Kentucky Energy and Environment Cabinet, Office of Energy Policy will provide detailed reporting on this Environmental Mitigation Trust project in two ways:

1. Timely updates to Kentucky EEC Volkswagen Diesel Settlement public-facing webpage which can be accessed at <https://eec.ky.gov/Energy/Programs/Pages/Volkswagen-Settlement.aspx>;
2. Kentucky's semi-annual Beneficiary Reporting Obligations to Wilmington Trust (the "Trustee").

The Commonwealth of Kentucky's Beneficiary Mitigation Plan and all documentation and records submitted by the Beneficiary in support of each funding request to the Trustee is and will be available to the public on the agency webpage. The webpage will be updated with the latest information in order to inform the general public on the projects' status as well as when these projects have been completed. Kentucky shall comply with Subparagraph 5.3 of the Environmental Mitigation Trust Agreement for State Beneficiaries, which details the following 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 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year, each Beneficiary shall submit to the Trustee a semi-annual 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. The Trustee shall post each semiannual report on the State Trust's public-facing website upon receipt.

Additionally, these reports will be posted on the Energy and Environment Cabinet's Volkswagen Settlement Fund web-pages which provide information on the Beneficiary Mitigation Plan, awards, requests for draw down of funds (D4s) and any payments made using these funds.

- The four (4) Kentucky transit agencies, in order to be reimbursed for replacement buses, must provide proof that replacement buses have been received and the invoices paid prior to receiving any reimbursement under this program. Additionally, proof of the existing bus(s) having been scrapped must also be provided in order to receive reimbursement.
- Information on awardees under the Transit Bus Replacement Program has been posted on the Cabinet VW website since the awards were made through the Kentucky Transportation Cabinet and are being provided to the Trustee with the submittal of this document.



## **ATTACHMENT D**

### **DETAILED COST ESTIMATES FROM SELECTED OR POTENTIAL VENDORS FOR EACH PROPOSED EXPENDITURE EXCEEDING \$25,000**

The potential amounts for reimbursements to the four (4) subrecipients under the Transit Bus Replacement Program are included with this documentation to the Trustee, along with the number of buses to be replaced by each of the four. Detailed cost invoices for the eligible Transit Bus Replacements will be provided to the Trustee with the semi-annual reports, documented on the cabinet's website devoted to the Kentucky portion of the Volkswagen Trust.

## Estimated Cost of Transit Buses

<b>Transit Agency</b>	<b>Number of Buses</b>	<b>Estimated Total Cost per Transit Bus</b>
<b>Transit Authority of River City (TARC)</b>		
35 Foot low-floor	4 \$	483,769.00
40 Foot low-floor	41 \$	478,218.00
<b>Transit Authority of Northern Kentucky (TANK)</b>		
40 Foot Clean Diesel	1 \$	398,910.00
40 Foot Clean Diesel	5 \$	446,386.00
<b>LexTran</b>		
40 Foot electric buses	2 \$	1,037,571.00
40 Foot CNG buses	4 \$	540,045.00
<b>Owensboro Transit Authority</b>		
35 foot all electric bus	1 \$	1,059,032.00

# ATTACHMENT G

## BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION SUMMARY

### 5.2.1 – Explanation of how funding request fits into Beneficiary’s Mitigation Plan

Section E.1 states that the Commonwealth will allocate \$8,521,700 to eligible Transit Bus Replacement Projects.

Eligible buses include 2009 engine model year or older... transit buses. Eligible buses must be scrapped. Eligible buses may be repowered with any new diesel or alternate fueled or all-electric engine, or may be replaced with any new diesel or alternate fueled or all-electric vehicle, with the engine model year in which the eligible bus mitigation occurs or one engine model year prior. Section E.1 also provides for the availability of administrative funds for administering the Mitigation Trust.

### 5.2.2 – Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits

Kentucky, through working with the Office of Transportation Delivery, will fund the replacement of fifty-eight (58) older diesel buses operating in areas of the state that have current or historic air quality issues. Kentucky’s BMP outlined that all efforts would be made to prioritize funding in these areas of the state. Replacement buses will be a mix of cleaner diesel, CNG, or all-electric buses, depending on the needs of each transit agency. Providing new, cleaner buses will help reduce street-level exhaust emissions, including those operating in Qualified Opportunity Zones (QOZ) and will enhance environmental justice those neighborhoods. Projects funded under the Transit Bus Replacement Program are located in counties that currently, or had historically, had air quality issues for ozone and/or PM2.5. Replacement of these older buses, to cleaner, new, lower emitting buses will have a direct benefit on the communities where these buses operate.

### 5.2.3 – Estimate of Anticipated NOx Reductions

Once all buses are received and operating, it is estimated that the new buses will provide a combined 292 tons of NOx emission reductions over the lifetime of the buses. These estimates are from each of the transit agencies being funded, and represent the projected use and lifetime of the buses on routes designated by the Transit Agencies. These emission reductions were calculated using the U.S. Environmental Protection Agency’s (EPA) Diesel Emissions Quantifier Tool.

### 5.2.7.1 – Identification of the Government Entity Responsible for Reviewing and Auditing Expenditures of Eligible Mitigation Action Funds to Ensure Compliance with Applicable Law

Kentucky Energy and Environment Cabinet and the Kentucky Transportation Cabinet

#### **5.2.7.2 – Describe how the Beneficiary will make Documentation Publicly Available**

After being named by the Governor as Kentucky's Lead Agency, the Energy and Environment Cabinet created a web site specific to information associated with the administration of the Environmental Mitigation Trust Funds and all activities associated with administering those funds in the Commonwealth.

This site has been used to report on the development of and final Beneficiary Mitigation Plan (BMP) developed by the Commonwealth, as well as the entities chosen to receive funding under each activity outlined in the BMP.

This site is used to provide the public a comprehensive, transparent accounting of the information on funding, as well as the information being submitted by the chosen entities and funds distributed in the state.

The semi-annual reports associated with each activity will be posted on this dedicated web site as the reports are submitted to the Trustee.

All information from entities receiving funds under this trust, reimbursements made, will be posted on the web site. This Information is also included in Attachment C.

#### **5.2.8 – Describe any Cost share requirement to be placed on each NOx source proposed to be mitigated.**

HB352, of Kentucky's 2020 Legislative Session, prescribed that \$8,521,700 of the available funds be used to maximize other available funding for transit buses. Each project approved to receive funding from this initiative also had other federal and/or organization funding. That level of funding depended on the local transit agency and the requirements of the other funding agencies.

All agencies receiving funding under this initiative were public transit agencies and therefore were not required by the Settlement to provide mandatory cost share - the cost share requirement was mandated by HB352. Although Appendix D2 of the Settlement would allow for 100% of the cost of a replacement Transit Bus for Governmental Organizations, Kentucky's legislative directive was to maximize the use of matching federal transit dollars in relation to funding available through the Trust. As directed by House Bill 352, the Office of Transportation Delivery worked with transit agencies in Kentucky to maximize the funding for transit bus replacements. Each of the four entities had differing cost share needs and therefore a definitive percentage was not required.

#### **5.2.9 – Describe how the Beneficiary complied with Subparagraph 2.4.8, related to notice to U.S. Government Agencies**

On February 20, 2018, the Commonwealth of Kentucky notified appropriate federal agencies that the Commonwealth had been named a beneficiary of the Mitigation Trust and providing notification of the possibility of said funds pursuant to Section 4.2.8 of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries -- Volkswagen "Clean

Diesel” Marketing, Sales Practices and Products Liability Litigation (Docket #2103-1) As required by Section 4.2.8 of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries (copy attached), this communication is provided to your federal agency. Please be advised that the Beneficiary Mitigation Plan for the Commonwealth of Kentucky, when finalized, may provide for the availability of funds which your federal agency or other parties could apply for proposed projects for use on lands within your agency’s custody, control, or management.

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

Funding authorized for the replacement of transit buses in Kentucky will be used in areas of the state currently experiencing, or having experienced, air quality issues in the past.

Replacing buses providing transit services in these areas lowers the NOx emissions associated with ozone formation and will also impact the emission of PM2.5 and toxic emissions from older diesel engines.

Providing new, cleaner buses will help reduce street-level exhaust emissions, in all areas, including those operating in Qualified Opportunity Zones (QOZ) and will enhance environmental justice those neighborhoods. Particularly, Louisville/Jefferson County, will be receiving the bulk of the \$8.5 million, (approximately \$4.8 million) to replace over 40 older buses.