

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary Tennessee

Lead Agency Authorized to Act on Behalf of the Beneficiary Tennessee Department of Environment and Conservation
(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:	STATE OF TENNESSEE TRANSIT AND SHUTTLE BUS GRANT
Beneficiary's Project ID:	ENVWTRANSITBUS
Funding Request No.	<i>(sequential)</i> 2
Request Type: (select one or more)	<input checked="" type="checkbox"/> Reimbursement <input type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input checked="" type="checkbox"/> Beneficiary <input type="checkbox"/> Other (specify): _____
Funding Request & Direction (Attachment A)	<input checked="" type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

SUMMARY

Eligible Mitigation Action	<input checked="" type="checkbox"/> Appendix D-2 item (specify): <u>Eligible Mitigation Action Category #2, Class 4-8 Transit Bus or Shuttle Bus</u> <input type="checkbox"/> Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal): _____
Action Type	
Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1):	See attached.
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):	See attached.
Estimate of Anticipated NOx Reductions (5.2.3):	See attached.
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):	Tennessee Department of Environment and Conservation
Describe how the Beneficiary will make documentation publicly available (5.2.7.2).	See attached.
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).	See attached.
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).	See attached.

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 attached.

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 Tennessee, 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

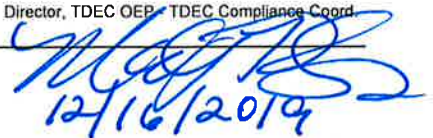
support of this funding request and all records supporting all expenditures of eligible mitigation action funds subject to applicable laws governing the publication of confidential business information and personally identifiable information. (5.2.7.2)

DATED: 12/16/2019

Molly R. Cripps, Director, TDEC OEP - TDEC Compliance Coord

[NAME]

[TITLE]

Handwritten signature in blue ink and the date 12/16/2019 written in blue ink.

Tennessee Department of Environment and Conservation

[LEAD AGENCY]

for

Tennessee

[BENEFICIARY]

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION SUMMARY ATTACHMENT

(All terms that are both bolded and italicized in this document are defined in Appendix D-2 of the State Trust Agreement.)

Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1):

Section V.B.ii. of the State of Tennessee's Beneficiary Mitigation Plan states:¹

Of the \$27,455,948.64 to be dedicated to the *Class 4-8 School Bus, Shuttle Bus, and Transit Bus* category, the State will allocate \$16,000,000 to eligible *Class 4-8 Transit and Shuttle Bus* projects.

Eligible *Transit and Shuttle Buses* may be replaced with any *Alternate Fueled* or *All-Electric* vehicle. The replacement of *Transit and Shuttle Buses* with new diesel vehicles will not be considered eligible under this Environmental Mitigation Action sub-category, as the majority of interest expressed by potential applicants during the State's comment periods was focused on *Alternate Fueled* or *All-Electric Repower* or replacement projects. For purposes of the State's Beneficiary Mitigation Plan, *Repowers* of *Class 4-8 Transit and Shuttle Buses* with any new *All-Electric* engine shall be considered eligible. All other *Repowers* under this Environmental Mitigation Action sub-category will not be considered eligible, as these types of vehicle modifications were found to not be commercially viable.

Additionally, Section V.D. of the State of Tennessee's Beneficiary Mitigation Plan speaks to the intended use of allowable administrative expenditures for each Eligible Mitigation Action category.²

Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):

Dependent on fuel and project type, the State expects to be able to fund between 27 and 673 *Transit or Shuttle Bus* projects.³ The new *Transit and Shuttle Buses* will reduce NOx emissions associated with the older (pre-2009) diesel *Transit and Shuttle Buses* to be *Scrapped*.

Applications for the first round of the *Transit and Shuttle Bus* Grant Program were due to the Tennessee Department of Environment and Conservation (TDEC) by November 19, 2019. TDEC is currently conducting a comprehensive review of all grant applications and will provide and submit to the Trustee detailed information on specific projects to be funded, to include community and air quality benefits, upon completion of that review. This information will be provided to the Trustee along with each corresponding Attachment A – Funding Request and Direction for this Eligible Mitigation Action category.

¹ State of Tennessee's Beneficiary Mitigation Plan. https://www.tn.gov/content/dam/tn/environment/energy/documents/vw-resources/TDEC%20VW%20EMT%20BMP_Updated%205.22.19.pdf.

² State of Tennessee's Beneficiary Mitigation Plan. https://www.tn.gov/content/dam/tn/environment/energy/documents/vw-resources/TDEC%20VW%20EMT%20BMP_Updated%205.22.19.pdf.

³ This range was calculated using cost information submitted in response to a TDEC Request for Information and/or obtained by TDEC personnel through subsequent outreach. It reflects the highest and lowest number of *Class 4-8 Transit and Shuttle Bus* projects that the State may fund under its Initial Eligible Project Funds budget of \$16,000,000. The low end of this estimate reflects the hypothetical funding of the maximum number of the most costly replacement at the 75% funding cap. The high end of this estimate reflects the hypothetical funding of the maximum number of the least costly *Repower* at the 25% funding cap.

Estimate of Anticipated NOx Reductions (5.2.3):

The above-mentioned range of potential *Transit and Shuttle Bus* projects to be funded is expected to yield NOx emissions reductions between 6.2 – 187 NOx tons/year.⁴ These emissions reduction estimates were calculated using the U.S. Environmental Protection Agency’s Diesel Emissions Quantifier (DEQ). TDEC will provide updated information on expected NOx emissions reductions for selected projects along with each corresponding Attachment A – Funding Request and Direction for this Eligible Mitigation Action category.

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

Please see the Attachment to the State of Tennessee’s Certification for Beneficiary Status under the Environmental Mitigation Trust,⁵ which details how the State of Tennessee will make documentation publicly available.

Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8):

Section V.B.ii. of the State of Tennessee’s Beneficiary Mitigation Plan states:⁶

For eligible *Shuttle and Transit Buses*, the State will fund:

- Up to 25% of the cost of a *Repower* or replacement for Non-Government Owned projects;
- Up to 50% of the cost of a *Repower* or replacement for *Government* Owned projects;
- Up to 75% of the cost of a *Repower* or replacement for *Government* Owned projects in current or former nonattainment areas for Ozone and/or PM2.5 NAAQS; and
- Up to 75% of the cost of a *Repower* or replacement for *Government* Owned projects in Distressed Counties.

For *All-Electric* projects, the State will fund up to 25% of the acquisition and installation costs for associated charging infrastructure (*All-Electric* infrastructure costs) for Non-Government Owned projects and up to 50% of the *All-Electric* infrastructure costs for *Government* Owned projects.

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

Please see Appendix 3 (Notice of Availability of Mitigation Action Funds to Certain Federal Agencies) of the State of Tennessee’s Beneficiary Mitigation Plan, which details how the Beneficiary complied with subparagraph 4.2.8 of the State Trust Agreement.⁷

⁴ The total number of projects that could be funded under this Environmental Mitigation Action category (e.g., replace with a new *All-Electric* vehicle, replace with an *Alternate Fueled* vehicle, etc.) was multiplied by the corresponding expected emissions reduction estimates to arrive at the range of expected emissions reductions.

⁵ Certification for Beneficiary Status Under Environmental Mitigation Trust Agreement.

[https://www.tn.gov/content/dam/tn/environment/energy/documents/vw-resources/Tennessee%20Appendix%20D-3%20form%20\(executed%20and%20filed\).pdf](https://www.tn.gov/content/dam/tn/environment/energy/documents/vw-resources/Tennessee%20Appendix%20D-3%20form%20(executed%20and%20filed).pdf).

⁶ State of Tennessee’s Beneficiary Mitigation Plan. https://www.tn.gov/content/dam/tn/environment/energy/documents/vw-resources/TDEC%20VW%20EMT%20BMP_Updated%205.22.19.pdf.

⁷ State of Tennessee’s Beneficiary Mitigation Plan. https://www.tn.gov/content/dam/tn/environment/energy/documents/vw-resources/TDEC%20VW%20EMT%20BMP_Updated%205.22.19.pdf.

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

Please see Section VI. of the State of Tennessee's Beneficiary Mitigation Plan. This section sets forth the method by which the Tennessee Department of Environment and Conservation will consider the potential beneficial impact of selected Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden.⁸

⁸ Ibid.

ATTACHMENT B**PROJECT MANAGEMENT PLAN – PROJECT SCHEDULE AND MILESTONES**

Transit and Shuttle Bus Grant Program Milestone	Date
Lead Agency Secures Delegated Grant Authority	December 2019
Solicitation Release	September 10, 2019
Application Deadline	November 19, 2019
Selected Grantees Announced	March 2020
Updated Beneficiary Mitigation Plan Published	March 2020
Draft Grant Contracts Sent to Grantees for Signature	April 2020
Grant Contracts Finalized	May 2020
Grant Contract Begin Date	Estimated June 2020
Trustee Acknowledges Receipt of Project Certification and Funding Direction	Estimated February 2020 (first D-4 expected to be submitted in December 2019, and on a quarterly basis after that)
Grantees complete quarterly, annual, and final reports, as required by the Grant Contract	July 2020-June 2027
Lead Agency conducts on-site and desktop monitoring of all Grantees	January 2021-September 2022
Grantees certify project completion and provide detailed invoices for all claimed project costs, documentation for emissions reduction estimates, required certification documents to Lead Agency to support direction to Trustee for Payment	January 2021-September 2022
Lead Agency completes review and certifies payment direction to Trustee	March 2021-December 2022
Trustee Acknowledges Receipt of Direction for Payment(s)	February 2020-January 2023
Trustee Allocates Share of State Funds for Approved Project (to coincide with vehicle purchase/delivery/deployment and corresponding scrappage)	March 2020-February 2023
Grant Contract End Date	June 2022, assuming that no contract extensions are granted
Grant Closeout / Lead Agency Reports Project Completion	September 2022-February 2023

PROJECT BUDGET

Period of Performance: November 2018-February 2023

Budget Category	Total Approved Budget	Share of Total Budget to be Funded by the Trust	Cost-Share, if applicable
Subrecipient Awards (See Attachment D for List of Approved Grantees and Corresponding Funding Ceilings)	TBD (\$21,333,333.33-\$64,000,000)	\$16,000,000.00	TBD (\$5,333,333.33-\$48,000,000)
Administrative	\$1,739,146.43	\$1,739,146.43	N/A
Project Totals	TBD (\$23,072,479.76-\$65,739,146.43)	\$17,739,146.43	TBD (\$5,333,333.33-\$48,000,000)
Percentage	100%	TBD (27%-77%)	TBD (23%-73%)

PROJECTED TRUST ALLOCATIONS

TDEC will conduct a comprehensive review of all grant applications and will provide and submit to the Trustee a projected trust allocation table upon completion of that review. This information will be provided to the Trustee along with each corresponding Attachment A – Funding Request and Direction for this Eligible Mitigation Action category.

ATTACHMENT C

DETAILED PLAN FOR REPORTING ON ELIGIBLE MITIGATION ACTION IMPLEMENTATION

The Tennessee Department of Environment and Conservation (TDEC) will provide detailed reporting on this Environmental Mitigation Trust project in two ways:

1. Timely updates to TDEC's *Tennessee and the Volkswagen Diesel Settlement* public-facing webpage (also referred to as the "TDEC Webpage," which can be accessed at www.tn.gov/environment/VWSettlement);
2. Tennessee's semiannual Beneficiary Reporting Obligations to Wilmington Trust (the "Trustee").

After being identified by the Governor as Lead Agency, TDEC launched the TDEC Webpage to provide information regarding the Environmental Mitigation Trust and eligible mitigation actions. The State of Tennessee's Beneficiary Mitigation Plan and all documentation and records submitted by the Beneficiary in support of each funding request to the Trustee will be available to the public on the TDEC Webpage. Timely updates to the TDEC Webpage will inform the general public on the projects' status as well as when these projects have been completed.

Tennessee will 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 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 Paragraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the State Trust's public-facing website upon receipt.

To assist Tennessee in fulfilling its Beneficiary Reporting Obligations, Grantees under TDEC's *Transit and Shuttle Bus* Grant Program will be required to submit quarterly, annual, and final reports on their funded vehicle *Repower* or replacement projects. Details on each Grantee's required reporting will be outlined in a *Transit and Shuttle Bus* Grant Program Manual, which is currently under development. TDEC will provide and submit to the Trustee detailed information on specific Grantee reporting requirements upon completion of the Grant Program Manual. This information will be provided to the Trustee along with each corresponding Attachment A – Funding Request and Direction for this Eligible Mitigation Action category.

ATTACHMENT D

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

Cost estimates for selected projects will be provided once TDEC has conducted a comprehensive review of all grant applications.

At the time of reimbursement request, Grantees under the *Transit and Shuttle Bus* Grant Program must submit to TDEC cost invoices along with all required supporting documentation. Eligible costs under this Program are limited to (1) the purchase costs of eligible *Transit and Shuttle Buses*, (2) the cost of a *Repower* with a new *All-Electric* engine, including the cost of installation of such engine, and (2) the acquisition and installation costs for associated *All-Electric* infrastructure, if applicable. The total purchase cost of eligible *Transit and Shuttle Buses* may include required costs to acquire the vehicle(s), such as taxes and delivery fees. Non-engine equipment costs associated with the *Repower* of a vehicle to a certain *All-Electric* technology (e.g., the cost of battery packs) shall be considered eligible for reimbursement. Costs not integral to *Transit or Shuttle Bus* function (e.g., idle reduction technologies, optional diesel after-treatment devices, etc.) cannot be considered eligible for reimbursement. Invoices provided as supporting documentation along with reimbursement requests must detail any such costs in an itemized fashion.

Detailed cost invoices for eligible *Class 4-8 Transit and Shuttle Bus Repowers* and/or replacements will be provided to the Trustee along with each corresponding Attachment A – Funding Request and Direction for this Eligible Mitigation Action category.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

COGNIZANT AGENCY
NEGOTIATION AGREEMENT

The State of Tennessee
Department of Environment
and Conservation
Nashville, Tennessee

Date: March 22, 2018
Filing Ref: February 23, 2017

The indirect cost rates contained herein are for use on grants and contracts with the Federal Government to which Office of Management and Budget Circular 2 CFR 200 applies, subject to the limitations contained in the Circular and in Section II, A below.

SECTION I: RATES

<u>Type</u>	<u>Effective Period</u>		<u>Rate</u>	<u>Base</u>
	<u>From</u>	<u>To</u>		
<u>Fixed:</u>				
Environment Bureau	7/1/2018	6/30/2019	22.12%	(a)
Conservation Bureau	7/1/2018	6/30/2019	16.76%	(a)

Basis for Application

a) Direct salaries and wages including applicable fringe benefits.

Treatment of Fringe Benefits: Fringe benefits applicable to direct salaries and wages are treated as direct costs.

SECTION II: GENERAL

A. LIMITATIONS: The rates in this Agreement are subject to any statutory and administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the department/agency or allocated to the department/agency by an approved cost allocation plan were included in the indirect cost pool as finally accepted; such costs are legal obligations of the department/agency and are allowable under governing cost principles; (2) The same costs that have been treated as indirect costs have not been claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the department/agency which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. CHANGES. The provisional rate contained in this agreement is based on the organizational structure and the accounting system in effect at the time the proposal was submitted. Changes in the organizational structure or changes in the method of accounting for costs which affect the amount of reimbursement resulting from use of the rate in this agreement, require the prior approval of the authorized representative of the responsible negotiation agency. Failure to obtain such approval may result in subsequent audit disallowances.

C. THE FIXED RATE contained in this agreement is based on an estimate of the cost which will be incurred during the period for which the rate applies. When the actual costs for such a period have been determined, an adjustment will be made in the negotiation following such determination to compensate for the difference between the cost used to establish the fixed rate and that which would have been used were the actual costs known at the time.

D NOTIFICATION TO FEDERAL AGENCIES: Copies of this document may be provided to other Federal agencies as a means of notifying them of the agreement contained herein.

E. SPECIAL REMARKS: The Bureau of Conservation switched back to the direct salaries and wages base for FY 2018, which they previously used. Please confirm your acceptance of the terms of the indirect cost rate agreement by signing and returning this letter to me, and retain a copy for your records.

ACCEPTANCE

The undersigned official warrants that he/she has the proper authority to execute this agreement on the behalf of the State Agency:

By the Federal Agency:

Benny Ramero
(Signature)

Benny Ramero
(Name)

Department Controller
(Title)

TDEC
(Agency)

3-22-18
(Date)

JACQUELINE
SMITH

Digitally signed by JACQUELINE
SMITH
Date: 2018.03.22 13:34:06 -04'00'

(Signature)

Jacqueline Smith, Rate Negotiator
Financial Analysis and
Oversight Service Center
U.S. Environmental Protection
Agency

Negotiated by: Jacqueline Smith
Telephone: (202) 564-5055