

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary _____

Lead Agency Authorized to Act on Behalf of the Beneficiary _____
(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:	
Beneficiary's Project ID:	
Funding Request No.	<i>(sequential)</i>
Request Type: (select one or more)	<input type="checkbox"/> Reimbursement <input type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input type="checkbox"/> Beneficiary <input type="checkbox"/> Other (specify): _____
Funding Request & Direction (Attachment A)	<input type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

SUMMARY

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

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).

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 _____, 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: _____

[NAME]

[TITLE]

[LEAD AGENCY]

for

[BENEFICIARY]

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[SAMPLE ATTACHMENT B - USE OF THIS FORMAT IS NOT MANDATORY]

PROJECT MANAGEMENT PLAN
PROJECT SCHEDULE AND MILESTONES

Milestone	Date
Lead Agency Provides Notice of Availability of Mitigation Action Funds	
Project Sponsor Submits Proposal to Lead Agency	
Lead Agency Provides Written Approval of Project Sponsor's Proposal	
Lead Agency Incorporates Project Sponsor's Proposal into Mitigation Plan	
Trustee Acknowledges Receipt of Project Certification and Funding Direction	
Trustee Allocates Share of State Funds for Approved Project	
Lead Agency Directs Funding (Advance Funded Projects)	
Project Sponsor Obtains Cost Share, Notifies or Certifies to Lead Agency	
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Start	
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Complete	
Project Installation(s) – Start	
Project Installation(s) – Complete	
Project Sponsor provides detailed invoices for all claimed project costs, documentation for emission reduction estimates, required certification documents to Lead Agency to support direction to Trustee for Payment (Reimbursement, Direct-to-Vendor) or final accounting (Forward Funded Projects)	-
Lead Agency completes review and certifies payment direction to Trustee (Reimbursement)	
Trustee Acknowledges Receipt of Direction for Payment(s) (Advance Funded, Reimbursement)	-
Project Sponsor Certifies Project Completion	
Lead Agency Reports Project Completion	

PROJECT BUDGET

Period of Performance: _____				
Budget Category	Total Approved Budget	Share of Total Budget to be Funded by the Trust	Cost-Share, if applicable (Entity #1)	Cost-Share, if applicable (Entity #2)
1. Equipment Expenditure	\$	\$	\$	\$
2. Contractor Support <i>(Provide List of Approved Contractors as Attachment with approved funding ceilings)</i>	\$	\$	\$	\$
3. Subrecipient Support <i>(Provide List of Approved Subrecipients or Grant Awardees as Attachment with approved funding ceilings)</i>	\$	\$	\$	\$
4. Administrative ¹	\$	\$	\$	\$
Project Totals	\$	\$	\$	\$
Percentage	%	%	%	%

¹ Subject to Appendix D-2 15% administrative cap.

PROJECTED TRUST ALLOCATIONS:

	2017	2018	2019	2020	2021
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$	\$	\$	\$	\$
2. Anticipated Annual Cost Share	\$	\$	\$	\$	\$
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$	\$	\$	\$	\$
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$	\$	\$	\$	\$
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$	\$	\$	\$	\$
6. Total Funding Allocated to for Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$	\$	\$	\$	\$
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$	\$	\$	\$	\$
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$	\$	\$	\$	\$

Attachment to
BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

SUMMARY

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

Funding school, shuttle and transit buses and, in the case of electric buses, associated charging infrastructure meets and fulfills the following five goals identified in the Massachusetts Beneficiary Mitigation Plan (BMP):

- 1) Help the Commonwealth in achieving GHG emission reduction targets and reduce air pollution in the transportation network;
- 2) Promote electrification of the State’s transportation network;
- 3) Drive technological and policy progress in air pollution mitigation and GHG emissions reduction in the transportation network;
- 4) Serve environmental justice populations; and
- 5) Promote equitable geographic distribution across the state.

New school, shuttle and transit buses and, in the case of electric buses, associated charging infrastructure support each of the five goals by: a) focusing on achieving GHG and air pollution reductions through the placement of new vehicles, electric buses and associated charging infrastructure (Goals 1 & 2); b) allowing for the introduction of new electric buses and associated charging infrastructure technology (Goal 3); c) serving communities with known environmental justice populations (Goal 4); and d) siting the vehicles and electric buses and associated charging infrastructure in a range of geographic areas across Massachusetts (Goal 5).

Massachusetts was allocated \$75,064,424.40 under the VW Settlement. MassDEP’s December 2019 Amendment to *Final Massachusetts Volkswagen Settlement Beneficiary Mitigation Plan* (<https://www.mass.gov/doc/amendment-to-massachusetts-volkswagen-settlement-beneficiary-mitigation-plan-december-2019/download>) requires “\$7.5 million [be] made available through an open solicitation for proposals to implement projects eligible under any of the EMAs (except the EVSE EMA) allowed under the VW Settlement.” MassDEP awarded \$2,697,409.32 to EMA 2 projects under the VW Open Solicitation (\$287,936 already paid). The BMP also allocated \$22 million to electric regional transit authority buses under EMA 2. Massachusetts plans to support the purchase of electric transit buses and associated charging infrastructure in the amount of \$3.9 million for Martha’s Vineyard Transit Authority (VTA) (already paid), \$12,293,250.83 (\$4,051,482.83 already paid) for Pioneer Valley Transit Authority (PVTA) and \$5,513,500 for Greater Attleboro-Taunton Regional Transit Authority (GATRA) (collectively, Regional Transit Authorities or RTAs). The Settlement also allows a maximum of 15%, or \$11,259,663.66, to be used for the actual administrative expenditures associated with implementing eligible mitigation projects. The MA BMP indicates that the “Commonwealth will review each mitigation project to determine the appropriate level of administrative expenditure and does not expect to use the entire 15% for this purpose.” Thus, no more than 15% of \$24,404,160.15, or \$3,660,624.02, may be used for currently-planned bus and associated charging infrastructure administrative expenditures.

This EMA 2 D-4 submittal is an increase from the prior \$10,977,992 portion of the currently planned projects to a \$26,708,492.84 portion (an increase of \$15,730,500.84); specifically, it covers

\$8,239,418.83 already paid, plus the \$14,985,357.55 expected to be issued to Grantees in the near term, plus up to \$3,483,716.46 for administrative expenditures.

The \$31,660,800.92 2021 projection in row 1 of the page 8 Table in this D-4 includes: \$3,337,554.04 from a separate EMA 1 D-4 for large trucks, plus the remaining \$32,080.02 of \$223,858.77 from a separate EMA 4 D-4 for ferries, plus \$988,858.92 from a separate EMA 6 D-4 for medium trucks, plus \$5,078,815.11 from a separate EMA 9 D-4 for electric vehicle supply equipment, plus \$23,224,776.38 expected to be issued under this EMA 2 D-4, plus up to \$3,483,716.46 for administrative expenditures.

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

MassDEP posted Open Solicitation application forms and requirements documents at: <https://www.mass.gov/how-to/apply-for-a-vw-open-solicitation-grant>

In an effort to provide continuing community benefits, MassDEP requires RTA electric transit bus grantees/Open Solicitation bus grantees to:

- Place the buses and, if applicable, charging infrastructure into service within 19/18 months after the effective date of the contract between funding recipients and the Commonwealth;
- Keep the buses and, if applicable, charging infrastructure in service for a minimum of 36 months;
- Scrap existing buses within 90 days after new buses are placed into service;
- Provide adequate property and casualty insurance coverage for each bus and, if applicable, the charging infrastructure;
- Train personnel on the operation and maintenance of the buses and, if applicable, the charging infrastructure;
- For RTAs, provide an annual report, including, but not limited to, data on vehicle miles traveled, ridership, electrical usage, bus and charging infrastructure operation and maintenance costs and records, and the driver experience;
- For Open Solicitation bus grantees, provide, upon request by MassDEP, data on the operation of the vehicle(s) including, but not limited to, vehicle miles traveled, vehicle operation and maintenance costs and records, documentation of operation inside Massachusetts, in addition to other related information; and
- Maintain the buses and, if applicable, the charging infrastructure in accordance with the manufacturer's recommended procedures and specifications.

Air quality benefits include the elimination of NO_x, carbon dioxide (CO₂), carbon monoxide (CO), particulate matter (PM), and hydrocarbons (HC) tailpipe emissions from conventional internal combustion vehicles. Reduced exposure to these pollutants provides additional community benefits.

Estimate of Anticipated NO_x Reductions (5.2.3):

Based on bus data provided by the RTAs and using MassDEP inspection data to calculate the annual vehicle miles traveled by the existing buses in 2018, MassDEP was able to use the US Environmental Protection Agency's Diesel Emissions Quantifier (DEQ) to estimate emissions reductions from the project. Reductions after upgrades would be approximately 6.09 short tons NO_x and 2,399 short tons CO₂ per year.

For Open Solicitation Grantees, estimates were calculated using the DEQ and are based on vehicle data (engine model year, annual fuel use, vehicle miles travelled (VMT) and idling hours, and remaining vehicle life) provided by funding recipients. Reductions after upgrades would be

approximately 1.25 short tons NOx and 336 short tons CO₂ equivalents (CO₂e) per year. Actual VMT and fuel use will determine the actual NOx and CO₂e reductions.

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

As detailed in the Massachusetts Attachment to D-3:

“In addition to compliance with the Public Records Law, and in order to enhance access and reduce the burden for the general public, MassDEP will continue to post appropriate records regarding the VW settlement agreement and MassDEP’s implementation of the Beneficiary Mitigation Plan, including records submitted by MassDEP in support of funding requests and expenditures of Trust Funds, on its searchable website at <http://www.mass.gov/dep>. The website can be used to easily access and produce electronic copies of such records without the need for a formal public records request.”

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

As defined in Appendix D-2, RTA grantees are government agencies purchasing new All-Electric Government Owned Eligible transit Buses (and charging infrastructure for two grantees), and are therefore eligible for 100% of costs, and are not required by the VW Settlement to provide a cost share. Pioneer Valley Transit Authority (PVTA) has been approved to receive up to \$906,951 each for four 40-foot long buses, up to \$919,721 each for four additional 40-foot long buses, up to \$881,721 each for four 35-foot long buses, up to \$48,500 each for six chargers and \$168,678.83 for associated charging infrastructure and installation and up to \$125,000 each for four additional chargers and \$500,00 for associated charging infrastructure and installation. Any additional costs will be covered by PVTA from other sources. Greater Attleboro-Taunton Regional Transit Authority (GATRA) has been approved to receive up to \$828,858 each for six 30-foot long buses, up to \$96,784 for three charging units and installation and up to \$250,000 for infrastructure. Any additional costs will be covered by GATRA from other sources. Martha’s Vineyard Transit Authority (VTA) received \$750,000 each for four 35-foot long buses and \$550,000 each for two 30-foot long buses, with a combined maximum of \$3.9 million (since the combination of individual bus costs adds to \$4.1 million, VTA covered the \$200,000 difference as a cost share from other sources; also, VTA funded charging infrastructure from other sources).

Massachusetts VW Open Solicitation funding for EMA 2 (Buses) allows non-government grantees up to 25% to replace a diesel vehicle with a new diesel or alternative fuel (AF) vehicle, up to 40% to repower a diesel engine with a new diesel or AF engine and up to 75% to repower with a new all-electric engine or replace with a new all-electric vehicle. Government entities are allowed up to 80% funding for all technologies. Under the VW Open Solicitation, MassDEP allocates a maximum of \$500,000 to a grantee. Grantees must pay the portion not covered, including 100% of the costs above \$500,000, from non-VW funding sources.

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

On February 27, 2018, MassDEP, the designated lead agency for the Beneficiary, the Commonwealth of Massachusetts, notified agencies via e-mail that they could “request Eligible Mitigation Action funds for use on lands within the Department of Interior’s/Department of Agriculture’s custody, control or management (including, but not limited to, Clean Air Act Class I and II areas).” MassDEP notified the Department of the Interior, National Park Service, Air Resources Division; the Department of the Interior, U.S. Fish and Wildlife Service; the Department of Agriculture; and the U.S. Coast Guard Base Cape Cod.

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).

As stated in the BMP goals, MassDEP is interested in funding projects that serve environmental justice populations. MassDEP used the Environmental Justice (EJ) Viewer provided by the Commonwealth of Massachusetts at <https://mass-eoeea.maps.arcgis.com/apps/MapSeries/index.html?appid=535e4419dc0545be980545a0eeaf9b53> to determine that PVTA, GATRA and VTA have bus routes that are located in EJ areas. The EJ criteria of minority status, English isolation, income, or a combination are inclusive of or correlated to communities that have historically borne a disproportionate share of the adverse impacts of NOx and other emissions, as listed in <https://www.mass.gov/files/documents/2016/07/ul/ej-2010-communitystatistics.pdf> and <https://www.mass.gov/doc/massachusetts-cities-towns-with-environmental-justice-populations/download>.

For MassDEP's VW Open Solicitation, including new buses and, if applicable, charging infrastructure, one project selection criterion was whether applicants' projects are located in communities that have historically borne a disproportionate share of NOx emissions, as listed in <https://www.mass.gov/files/documents/2016/07/ul/ej-2010-communitystatistics.pdf> and detailed in the Environmental Justice (EJ) Viewer provided by the Commonwealth of Massachusetts at <https://mass-eoeea.maps.arcgis.com/apps/MapSeries/index.html?appid=535e4419dc0545be980545a0eeaf9b53>. 65% of the 17 selected projects are located in EJ areas, and were required as part of their application to use the EJ Viewer to determine the EJ criteria (minority, English isolation, income or a combination) of the project location.

MassDEP will monitor the locations awarded funding, and has indicated in the "Massachusetts Volkswagen Open Solicitation: Application Guidance and Grant Requirements" document that "The Commonwealth seeks to promote the equitable distribution of funding across the state. Geographic areas are defined as the four MassDEP Regional Service Areas." Because one of the goals of the MA BMP is reducing NOx, the replacement of diesel vehicles in all areas of the state under the VW funding will help mitigate NOx emissions in communities that have historically borne a disproportionate share of NOx emissions.

ATTACHMENT C

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

As detailed in Massachusetts Attachment to D-3, filed November 21, 2017:

"In addition to compliance with the Public Records Law, and in order to enhance access and reduce the burden for the general public, MassDEP will continue to post appropriate records regarding the VW settlement agreement and MassDEP's implementation of the Beneficiary Mitigation Plan, including records submitted by MassDEP in support of funding requests and expenditures of Trust Funds, on its searchable website at <http://www.mass.gov/dep>. The website can be used to easily access and produce electronic copies of such records without the need for a formal public records request."

In addition, Wilmington Trust will post on its public facing website the semi-annual reports MassDEP is required to submit pursuant to Settlement 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. ... The Trustee shall post each semiannual report on the Trust’s public-facing website upon receipt.”

ATTACHMENT D

Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6).

As detailed above (in *Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8)*), under the VW Open Solicitation, MassDEP allocates a maximum of \$500,000 to a grantee. In addition, the RTAs have been allocated the amounts listed in Section 5.2.8 above. Therefore, there is the potential for a single vendor to receive more than \$25,000 for a particular project. Quotes are required to be submitted to MassDEP with VW Open Solicitation applications. MassDEP will only fund costs as detailed on Section 5.2.8 above, and in no case more than actual costs incurred. Final actual invoices are required to be submitted to MassDEP with payment requests.

As agreed by MassDEP and Wilmington Trust in a December 2019 disbursement agreement Wilmington Trust will disburse checks to grantees or vendors. Attached is an explanatory document to be enclosed with such checks.

You are receiving the enclosed check in response to a payment request submitted to the Massachusetts Department of Environmental Protection (MassDEP) related to an award of grant funding from the Volkswagen Environmental Mitigation Trust. Should you have any questions about this check, please contact Ms. Haidee Janak at MassDEP at (617) 556-1138 or Haidee.Janak@mass.gov . Do not contact Wilmington Trust, N.A. with questions. Thank you.