

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

## BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

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Beneficiary State of Utah

Lead Agency Authorized to Act on Behalf of the Beneficiary Department of Environmental Quality  
*(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>	Class 4-7 Local Freight Trucks (Medium Trucks)
<b>Beneficiary's Project ID:</b>	Class 4-7 Trucks1 - 2019
<b>Funding Request No.</b>	<i>(sequential)</i> 4
<b>Request Type: (select one or more)</b>	<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: (select one or more)</b>	<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>Class 4-7 Local Freight Trucks (Medium Trucks)</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 Summary Attachment.	
<b>Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):</b> See Summary Attachment.	
<b>Estimate of Anticipated NOx Reductions (5.2.3):</b> See Summary Attachment.	
<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 Summary Attachment.	
<b>Describe how the Beneficiary will make documentation publicly available (5.2.7.2).</b> <b>See Summary Attachment.</b>	
<b>Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).</b> See Summary Attachment.	
<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 Summary Attachment.</b>	

If applicable, describe how the mitigation action will mitigate the impacts of NO<sub>x</sub> emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).  
See Summary Attachment.

**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 State of Utah, 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:** 10/5/2023



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**Bryce C. Bird**  
**Director, Division of Air Quality**  
Utah Department of Environmental Quality

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**[LEAD AGENCY]**

**for**

**State of Utah**

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**[BENEFICIARY]**

**[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 <sup>1</sup>	\$	\$	\$	\$
<b>Project Totals</b>	\$	\$	\$	\$
<b>Percentage</b>	%	%	%	%

<sup>1</sup> 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	\$	\$	\$ <del>542,500</del> \$329,117	\$	\$
2. Anticipated Annual Cost Share	\$	\$	\$ <del>410,112</del> \$213,446	\$	\$
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$	\$	\$ <del>952,612</del> \$542,563	\$	\$
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$	\$	\$34,355,904 <del>\$34,142,521</del> (EVSE - 2019, Buses 2019, and Class 8 Trucks1 - 2019)	\$	\$
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$	\$	\$ <del>542,500</del> \$329,117	\$	\$
6. Total Funding Allocated to for Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$	\$	\$ 34,685,021	\$	\$
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$	\$	\$ 34,685,021	\$	\$
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$	\$	\$ 0	\$	\$

**Summary Attachment**

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

The Utah Department of Environmental Quality (UDEQ) is requesting a total of ~~\$500,000~~ **\$303,334** from the State of Utah’s Volkswagen Trust (VW Trust) for Category 6, Class 4-7 Local Freight Trucks (Medium Trucks), and administrative costs of ~~\$42,500~~ **\$25,783** (8.5%).

The State of Utah’s Beneficiary Mitigation Plan (UBMP) was submitted to Wilmington Trust in June 2018 and accepted by Wilmington Trust in February 2019. As described in pages 12-14 of the UBMP, the State has allocated 73.5% of the VW Trust to Categories 1, 2 and 6 for public fleets and 8.5% for administrative costs (see page 12-14 of the UBMP). The UBMP was developed based on input from an advisory committee and public input process (detailed in pages 8-10 of UBMP), which resulted in support for a portion of the State’s VW Trust to be allocated to these categories.

The selected projects represented in this Funding Request were prioritized, in part, by their ability to assist the State in achieving the goals of the UBMP (page 10-11). In the plan, the UDEQ states that achieving “NOx reductions that work toward fully mitigating the excess lifetime NO<sub>x</sub> emissions from the non-compliant VW vehicles and contribute to the State’s ongoing goal of reaching attainment of the National Ambient Air Quality Standards.” As such, the scoring structure for which projects were prioritized weighed NOx reductions and associated costs the heaviest of all criteria.

To further achieve the goals stated in the UBMP, the UDEQ reserved eligibility for the VW Trust to government entities throughout the state, providing both economic and air quality benefits to tax payers (page 11 of the UBMP).

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

As a result of a competitive application process, the UDEQ selected one local government entity to receive VW Trust funds for Category 6, Class 4-7 Local Freight Trucks (Medium Trucks). These projects were prioritized and selected based on their reduction of nitrogen oxides (NO<sub>x</sub>), cost-per-ton of NO<sub>x</sub> reduced, value to the nonattainment areas, and community benefits. The vehicles selected for funding in this category are diesel dump trucks with operations that impact the nonattainment areas. Awardees have three years upon execution of grant agreements to complete the vehicle projects.

Any unused funds from current awards and projects still yet to be determined will be used toward other prioritized vehicle projects in this category.

Figure 1 shows a detailed description of the currently selected projects.

*Figure 1*

State of Utah VW Settlement Awards Class 4-7 Local Freight Trucks Category			
Awardee	Vehicle Replacement Type	# of Vehicles Awarded	Award Amount *
Pleasant Grove City	Diesel dump trucks replaced with new diesel	<del>5</del>	<del>\$410,412</del>
		3	\$213,446
	<b>Total Current Projects</b>	<del>5</del> 3	<del>\$410,412</del> \$213,446
Additional Class 4-7 Local Freight Truck Projects	To Be Determined	To Be Determined	\$89,888
		<b>Total</b>	<del>\$500,000</del> <b>\$303,334</b>

**Estimate of Anticipated NO<sub>x</sub> Reductions**

	Estimated Annual NO <sub>x</sub> Reductions (tons)	Estimated Lifetime NO <sub>x</sub> Reductions (tons)
Current Class 4-7 Local Freight Truck (Medium Trucks) Projects	<del>0.202</del> 0.12	<del>1.577</del> 1.001
Future Projects	TBD	TBD

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

The Utah Division of Air Quality will review expenditures and supporting documentation of Eligible Mitigation Action Funds to ensure payments made to awardees are the result of eligible costs and compliance with the VW Trust Agreement.

The Audit Manager for the Utah Department of Environmental Quality, Executive Director's Office, will serve in an independent capacity to prevent conflicts of interest and be responsible for auditing the State of Utah's VW Trust.

**Describe How the Beneficiary will Make Documentation Publicly Available (5.2.7.2)**

Unless classified, pursuant to state or federal law, as a private, protected or controlled record or subject to federal or court protection, the UDEQ shall make available on its public-facing website: 1) records submitted by Utah to the Trustee and all supporting funding request documentation, except Attachment A, Funding Request and Direction, which contains specific bank and financial authorization information; and 2) all supporting trust fund expenditure documentation until the Termination Date<sup>1</sup>. Following submittal to the Trustee, upon written request, individuals may directly review funding request documentation during office hours at the Utah Division of Air Quality in accordance with existing state law<sup>2</sup>. A copy may be provided upon written request within 10 business days. The public may submit requests electronically, by U.S. postal or commercial delivery or in person.

Public funding requests and expenditure documentation shall be continually available on the UDEQ's public-facing website regarding the Trustee's decision for each request. Utah further expects to make available documentation supporting expenditures for all ongoing eligible mitigation actions funded in accordance with the Trust Agreement.

**Describe Any Cost-Share Requirement to be Placed on Each NO<sub>x</sub> Source Proposed to be Mitigated**

Although the UDEQ has targeted government-owned fleets in which 100% funding is allowed under the consent decree for vehicle and engine replacement projects, the UDEQ has required a 50% cost-sharing

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<sup>1</sup> Termination Date is the date the Trust is terminated.

<sup>2</sup> Utah Code Annotated 63G-2-201.



for the new replacement vehicles; however, for new California Air Resources Board's (CARB) Optional Low-NO<sub>x</sub> replacement vehicles, a lower cost-share of 45% is required.

**Describe how the Beneficiary Complied with Subparagraph 4.2.8, Related to Notice to U.S. Government Agencies (5.2.9).**

On February 13, 2018, the UDEQ emailed notification of the State of Utah's beneficiary status to the following air quality department contacts at the U.S. Department of the Interior and the U.S. Department of Agriculture with control or management of land within or contiguous to the territorial boundaries of the State of Utah: Tim Allen of the U.S. Fish and Wildlife Service, National Park Service, Air Resources Division; Linda Geiser, National Air Program Manager, U.S. Department of Agriculture; and Bret Anderson, National Air Modeling Coordinator, U.S. Department of Agriculture.

The letter announced the beneficiary status for the State of Utah, the purpose of the Trust, and a description of the Beneficiary Mitigation Plan. The letter was emailed with a follow-up certified copy sent to Tim Allen of the U.S. Fish and Wildlife Service, National Park Service after failure to deliver the email.

**If Applicable, Describe How the Mitigation Action Will Mitigate the Impacts of NO<sub>x</sub> Emissions on Communities That Have Historically Borne a Disproportionate Share of the Adverse Impacts of Such Emissions.**

The Class 4-7 Local Freight Trucks (Medium Trucks) replacement projects that have been selected for funding were prioritized, in part, by their location within the State's nonattainment and environmental justice areas.

Combined with unique topography, geography, and meteorology, NO<sub>x</sub> emissions are conducive to areas of the state exceeding the National Ambient Air Quality Standards set by EPA for 24-hour PM<sub>2.5</sub> and ozone. More than 80% of the state's population live and work in these areas that are also impacted by heavy freight traffic for highway, rail, inter-modal, pipeline, and air freight for the Western U.S.

Using geographic Information system mapping, the UDEQ evaluated each project based on their primary locations and daily/weekly/seasonal operation schedule. Projects that occurred where nonattainment and environmental justice areas overlapped received higher scores. The environmental justice factors that were evaluated included: low income; sensitive age groups; exposure to diesel particulate matter, ozone and PM<sub>2.5</sub> concentrations; cancer risk; respiratory hazard index; proximity to industrial development; and traffic proximity.

Attachment B Budget Class 4-7 Local Freight Trucks Category				
Awardee	Vehicle Replacement Type	# of Vehicles Awarded	Award Amount *	Cost-Share Amount
Pleasant Grove City	Diesel dump trucks replaced with new diesel	<del>5</del>	<del>\$410,112</del>	<del>\$410,112</del>
		3	\$213,446	\$213,446
	<b>Total Current Projects</b>	<del>5</del> 3	<del>\$410,112</del> \$213,446	<del>\$410,112</del> \$213,446
Additional Class 4-7 Local Freight Truck Projects	To Be Determined	To Be Determined	\$89,888	To Be Determined
		<b>Total</b>	<del>\$500,000</del> \$303,334	
		<b>Administrative Costs @ 8.5%</b>	<del>\$42,500</del> \$25,783	
		<b>Total Request</b>	<del>\$542,500</del> \$329,117	
*In the event that actual costs are less than the award, the remaining funds will be redirected to the additional projects.				

\$542,563

## Attachment B

### Project Management Plan Project Schedule and Milestones

Milestone	Date
UDEQ submits Environmental Mitigation Plan to VW Trustee.	June 2018
UDEQ opens application period for government entities to submit Class 4-8 local freight truck, school bus, shuttle bus, and transit bus projects to be considered for VW Mitigation Trust Funds.	October - November 2018
UDEQ announces successful Class 4-8 local freight truck, school bus, shuttle bus, and transit bus projects to public.	August 2019
UDEQ issues Conditional Approval Letters to successful awardees.	August 2019
Awardees submit procurement documentation including: a detailed explanation of their local procurement rules; a detailed description of how their estimated project costs; and a list of likely potential vendors from which purchases will be made.	August - September 2019
VW Eligible Mitigation Action Agreements executed between awardees and UDEQ.	December 2019 - January 2020
UDEQ submits D-4 Funding Request to Trustee.	December 2019
Trustee acknowledges receipt of D-4 Funding Request.	December 2019 - February 2020
Trustee provides direction for D-4 Funding Request.	March 2020
UDEQ posts each funding request on public-facing website.	March 2020
Awardees begin projects to be completed within a three-year project period.	March 2020- March 2023
Awardees provide UDEQ quarterly status reports and UDEQ provides Trustee semi-annual report describing the progress implementing the Eligible Mitigation Actions.	March 2020 - March 2023
Awardees provide final invoices and required documentation as detailed in grant agreements to UDEQ for review, approval, and reimbursement.	March 2020 - March 2023
UDEQ reviews final invoices and documentation and issues reimbursement payments to awardees.	March 2020 - March 2023
UDEQ posts documentation and records supporting all expenditures on public-facing website.	March 2020 - March 2023
UDEQ reports project completion.	April 2023

## **Attachment C**

### **Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.12)**

In accordance with Approved Trust Agreement ¶ 5.3, Utah shall submit to the Trustee semiannual reports for each approved environmental mitigation action that includes a description of the status (including actual or projected termination date), development, implementation, and any modifications that occur for the reporting period.

To ensure timeliness and accuracy in its reporting to the Trustee, the UDEQ will contractually obligate subrecipients to provide quarterly reports to the UDEQ that describe their progress in completing their project including timelines, accomplishments, and any issues that may have occurred during the reporting period.

Utah intends to post the initial report and subsequent semiannual reports on its public-facing website.

**Attachment D**  
**Detailed Cost Estimates from Selected or Potential Vendors for Each Proposed Expenditure**  
**Exceeding \$25,000**  
**Class 4-7 Local Freight Trucks (Medium Trucks) Category**

Awardee	Vehicle Replacement Type	# of Vehicles Awarded	Award Amount	Potential Vendors (through state and local procurement processes)
Pleasant Grove City	Diesel dump trucks replaced with new diesel	<del>5</del>  3	<del>\$410,112</del>  \$213,446	<p style="text-align: center;"><del>Freightliner of Utah</del>  <del>Ken Garff Chevrolet</del>  <del>Kenworth Sales Company</del>  <del>Mountain West Truck Center</del></p> <p style="text-align: center;">Rush Truck Centers  Jackson Group Peterbilt  Williamsen-Godwin  Premier Truck Group</p>
	<b>Total Current Projects</b>	<del>5</del>  3	<del>\$410,112</del>  \$213,446	
Additional Class 4-7 Local Freight Truck Projects	To Be Determined	To Be Determined	\$89,888	To Be Determined
<b>Total</b>			<del>\$500,000</del> \$303,334	