State of Maine Appendix D-2 Round 1 Funding Awards 2019 (23901.10) Advance fund request 4

APPENDIX D-4 Maine Beneficiary Eligible Mitigation Action Certification

State of Maine
Appendix D-2 Round 1 FY 2019 Funding Awards
Item 2: Class 4-8 School Bus
MaineDOT ID 23901.10
Advance Fund Request #4

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary: State of Maine

(i)

Lead Agency Authorized to Act on Behalf of the Beneficiary: <u>Maine Department of Transportation</u> (MaineDOT) (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:	Appendix D-2 Eligible Mitigation Actions - Round 1 Funding Awards for Item 2: Class		
Danasia was Duaisat IDa	4-8 School Bus, Shuttle Bus, or Transit Bus 23901.10		
Beneficiary's Project ID:	4		
Funding Request No.	☐ Reimbursement X Advance		
Request Type:	☐ Other (specify):		
(select one or more)	X Beneficiary		
Payment to be made to:	☐ Other (specify):		
(select one or more)	- Other (speeds).		
Funding Request &	X Attached to this Certification		
Direction (Attachment A)	☐ To be Provided Separately		
Direction (Attachment 11)			
	SUMMARY		
Eligible Mitigation Action	Appendix D-2 item (specify):		
Annendix D-2 Competitive Fu	inding Round 1- Item 2: Class 4-8 School Bus, Shuttle Bus, or Transit Bus		
Action Type	☐ Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal):		
Explanation of how funding r	request fits into Beneficiary's Mitigation Plan (5.2.1):		
Maine's BMP allocated 5.3 mil	lion to Appendix D-2 Competitive Category. The funding request will fund the first		
round of school bus replacemer	nts. This results in 29 school bus replacements. The project will reduce NOx		
emissions by scrapping older di	esel engines.		
Detailed Description of Mitig	gation Action Item Including Community and Air Quality Benefits (5.2.2):		
See Maine BMP, Section VII	\cdot		
Estimate of Anticipated NO:	x Reductions (5.2.3):		
See Maine BMP, Section VII			
Identification of Governmen	ntal Entity Responsible for Reviewing and Auditing Expenditures of Eligible		
Mitigation Action Funds to	Ensure Compliance with Applicable Law (5.2.7.1):		
MaineDOT, Bureau of Finance	e & Administration		
Describe how the Reneficiar	will make documentation publicly available (5.2.7.2).		
As stated in Dargaraph 7 of Ms	gine's Annendix D-3 filing, the Beneficiary certifies that it will maintain and make		
kliaki azzailahla all dogumen	tation and records: (i) submitted by it in support of each funding request, and (ii)		
annouting all expenditures of	Trust Funds by the Beneficiary, each until the Termination Date of the Trust		
Investigant to Paragraph 6.8 of th	ne Trust Agreement, unless the laws of the Beneficiary require a longer record		
retention period. Together her	rewith, the Beneficiary attaches an explanation of:		

To satisfy the procedures by which the records may be accessed, which shall be designed to support access

(http://www.maine.gov/mdot/vw) to house state-specific documents, guidance, public comments, funding process descriptions, and web links to other sites for useful background information and resources related

and limit burden for the general public. MaineDOT has established a website

to the VW Environmental Mitigation Settlement;

- (ii) As part of Maine's Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered included the solicitation of public comments via web notice and comment period on Maine's Beneficiary Mitigation Plan. Two public meetings were held in geographically diverse locations prior to closing of the comment period. Comments were and will continue to be considered through program implementation.
- Whether and the extent to which the certification in this Paragraph 7 is subject to the Beneficiary's applicable laws governing the publication of confidential business information and personally identifiable information. The certification in Paragraph 7 is subject to Maine's Freedom of Access Act (FOAA), 1 M.R.S. §§ 400-414, and other applicable Maine law. All documentation and records submitted by the State in support of each funding request and supporting all expenditures of Trust Funds by the State shall be accessible to the public unless an exception from disclosure under Maine law applies to the document or part thereof. For example, Maine's FOAA, 1 M.R.S. § 402(3), includes in the list of exceptions a general exception for records that have been designated confidential by statute. Any claims for confidentiality under this exception, other enumerated exceptions, or under other Maine law would be reviewed by the Maine Department of Transportation and legal counsel. Documents, or parts of documents, would be protected from disclosure only to the extent required by Maine law. The State has identified the following specific provisions potentially applicable to confidential business information and personally identifiable information.

The enumerated exceptions under Maine's FOAA include records that would be within the scope of a privilege against discovery or use as evidence recognized by Maine courts in civil or criminal trials if the records were sought during the course of a court proceeding. 1 M.R.S. § 402(3)(B). Maine Rule of Civil Procedure 26(c) provides that a trade secret or other confidential research, development, or commercial information may be the subject of a protective order by a court, when sought during discovery. Also, Rule 507 of the Maine Rules of Evidence contains a privilege to refuse to disclose, and prevent others from disclosing, a trade secret. The Maine Supreme Judicial Court has looked to the definition of "trade secret" in Maine's Uniform Trade Secrets Act, 10 M.R.S. § 1542(4), in interpreting "trade secret" claims for non-disclosure under FOAA. That definition includes information that "[d]erives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use" and "[i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

Maine's FOAA contains exceptions to disclosure for certain personally identifiable information such as social security numbers. 1 M.R.S. § 402(3)(N).

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

Under Maine's BMP, there is a 20% cost share for competitive applications for activities that qualify for Appendix D-2 of the Settlement Agreement.

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

Lead agency contact emailed the State Trust Agreement to specified recipients on February 12, 2018.

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)

X	Attachment A	Funding Request and Direction.
X	Attachment B	Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).
X	Attachment C	Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11).
X	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 Maine, 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: 4/19/19	
	aleth
	David Gardner
	Director, Environmental Office
	Maine Department of Transportation
	[LEAD AGENCY]
	for
	State of Maine
	[BENEFICIARY]

ATTACHMENT B Eligible Mitigation Action Management Plan

Project Schedule and Milestones (July 2018-June 2019)

MILESTONE	DATE
Release RFP for completive Appendix D-2 projects	7/9/18
Receive applications	9/15/18
Score applications	10/15/18
Notify applicants of results	10/31/18
Receive Maine Dept of Education baseline bus pricing	1/15/19
Request funds from Wilmington Trust	1/31/19
Proponents complete orders with approved vendors.	10/31/18 + 10 months
Proponents submit evidence of scrapping, invoices, other	10/31/18 +24 months
docs	
Lead Agency reviews and reports	Jan 30/July 30

Project Budget (July 2018 - June 2019)

BUDGET CATEGORY	TOTAL APPROVERD BUDGET	SHARE TO BE FUNDED BY TRUST	COST SHARE (project sponsor)
Expenditure on Appendix D-2 Item 2 School Buses	\$2,510,050	\$2,104,920	\$405,130
Contract support	0	0	0
Administrative	0	0	0 `
Project Totals	\$2,510,050	\$2,104,920	\$405,130
Percentage	100%	80%	20%

Projected Trust Allocations

		FY 2019	FY 2020	FY 2021-2028
		July 2018-June 2019		
1.	Anticipated Annual Project Funding Requests to be paid through Trust	\$6,300,000	\$10,000,000	\$3,253,064
	Anticipated Annual Cost Share	\$3,504,600	\$4,320,000	\$5,855,515
2. 3.	Anticipated Total Project Funding by Year (line 1 plus line 2)	\$9,804,600	\$14,320,000	\$9,108,579
4.	Cumulative Trustee Payments made to Date against Cumulative Approved Beneficiary Allocations	\$1,500,000	7,800,000	\$17,800,000
5.	Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$6,300,000	\$10,000,000	\$3,253,064
6.	Total Funding Allocated to Beneficiary, inclusive of current Action by Year (line 4 plus line 5)	\$7,800,000	\$17,800,000	\$21,053,051
7.	Beneficiary Share of estimated Funds Remaining in Trust	\$19,553,064	\$13,253,064	-
8.	Net Beneficiary Funds Remaining in Trust, Net of Cumulative Beneficiary Funding Actions (line 7 minus line 5)	\$13,253,064	\$3,253,064	

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

Records of applications and selected projects will be made available on the Maine VW webpage: http://www.maine.gov/mdot/vw/.

ATTACHMENT D COST ESTIMATES and AWARDS

Detailed Cost Estimates from Selected or Potential Vendors for each Proposed expenditure exceeding \$25,000 (5.2.6)

The Maine Department of Education posted the FY19 State School Bus Purchase Program base pricing. The base price for a Type C 77 passenger bus is \$86,500, therefore the award is \$69,200 (80%) and the match is \$17,300 (20%). A propane school bus baseline is \$97,650. Making the award \$78,120 (80%) and the match \$19,530 (20%).

TYPE	BASELINE COSTS	VW FUNDS	COST SHARE
		On bus/Total	On bus/Total
18 diesel class C	\$86,500	\$1,245,600 (69,200 per)	\$190,300 (17,300 per)
11 propane	\$97,650	\$859,320 (78,120 per)	\$214,830 (19,530 per)
Total		\$2,104,920	\$405,130

The total VW share for the Appendix D-2 Round 1 Funding- Item 2: School Bus is \$2,104,920.

Application and scoring information can be located on the Maine VW webpage: http://www.maine.gov/mdot/vw/.