

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

**BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION**

Beneficiary Upper Sioux Community

Lead Agency Authorized to Act on Behalf of the Beneficiary Office of the Environment  
*(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>	Upper Sioux Community Eligible Mitigation Action
<b>Beneficiary's Project ID:</b>	November 2019 Submission 2
<b>Funding Request No.</b>	<i>(sequential)</i> 1
<b>Request Type:</b> (select one or more)	<input checked="" type="checkbox"/> Reimbursement <input type="checkbox"/> Advance <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>Class 7 Truck</u>
<b>Action Type</b>	<input type="checkbox"/> Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal): _____
<b>Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):</b> See Addendum	
<b>Estimate of Anticipated NOx Reductions (5.2.3):</b> See Addendum	
<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> Tribal Treasurer Sharon Odegard, Upper Sioux Community, Granite Falls, MN.	
<b>Describe how the Beneficiary will make documentation publicly available (5.2.7.2).</b> <b>See Addendum</b>	
<b>Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).</b> The vehicle cost more than our allocation. Tribe is covering the additional cost for the Class 7 vehicle of \$5, 674.	
<b>Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).</b> No government agency has contacted the Tribe regarding the VW Settlement.	

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 Addendum

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

- |                                     |              |  |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Attachment A | Funding Request and Direction.   |
| <input checked="" type="checkbox"/> | Attachment B | Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).   |
| <input checked="" type="checkbox"/> | Attachment C | Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11).   |
| <input checked="" type="checkbox"/> | 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.] |
| <input type="checkbox"/>            | Attachment E | DERA Option (5.2.12). [Attach only if using DERA option.]  |
| <input type="checkbox"/>            | 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 Upper Sioux Community, 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: August 14, 2019

Environmental Director, Barbara E. Long

[NAME]

[TITLE]

SIGNATURE: 

Office of the Environment

[LEAD AGENCY]

for

Upper Sioux Community

[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 Funds for Approved Project	11/13/2019
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	07/2019
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Complete	08/2019
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	05/13/2020

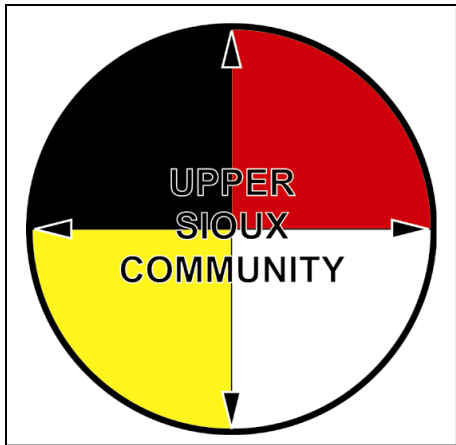
**PROJECT BUDGET**

Period of Performance: July 2019 - Dec 2019				
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	\$ 167,430	\$ 161,756	\$ 5,674	\$
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>	\$ 167,430	\$ 161,756	\$ 5,674	\$
<b>Percentage</b>	100 %	96.6 %	3.4 %	%

<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	\$	\$	\$ 161,756 +	\$	\$
2. Anticipated Annual Cost Share	\$	\$	\$ 5,674 +	\$	\$
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$	\$	\$ 167,430 +	\$	\$
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)	\$	\$	\$	\$	\$



**Board of Trustees**  
**Chairman – Kevin Jensvold**  
**Vice Chairman – Caralyn Trutna**  
**Tribal Secretary – Tremayne Blue**  
**Tribal Treasurer – Sharon Odegard**  
**Member at Large – Jeremy Hamilton**  
Post Office Box 147  
5722 Travers lane  
Granite Falls, MN 56241  
320.564.3853  
320.564.4482 - fax

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**D-4 Attachments and Addendums for Wilmington Trust, LLC**

**Volkswagen Diesel Emissions Environmental Mitigation Trust  
Agreement for Indian Tribe Beneficiaries**

**Upper Sioux Community Office of the Environment**

**August 14, 2019**

## 5.2.2

### Detailed Description of Mitigation Action Items Including Community and Air Quality Benefits

#### Description of Mitigation Action Items

Upper Sioux Community proposes replacing one diesel vehicle, a Class 7 2004 freightliner propane delivery truck (VIN: 1FVACXCS64HN01469). The above vehicle was chosen from the Propane Department and Roads Department due to age and disproportionately higher level of emissions. Replacement of the older diesel vehicle will benefit the Upper Sioux Community by reducing greenhouse emissions, in turn saving fuel costs, while substantially improving air quality and energy security. Advanced fuel technologies (diesel, propane, CNG, and electric) will also benefit the surrounding soundscape, with much quieter engines. The eventual outcome is two-fold, a healthier environment with reduced nitrogen oxide (NOx) pollution, as well as noise reduction throughout the reservation. Thus, Upper Sioux Community intends to replace its designated older vehicle (2004), while adhering to the scraping requirements described within the Volkswagen Settlement Agreement. We plan to replace the following one qualifying vehicle with 2020 diesel model:

Fleet Vehicle	Sector	Vehicle/Equipment Code
2004 Propane Delivery Truck	Short Haul - Single Unit	Class 7

#### Community and Air Quality Benefits

This land we call Pejuhutazizi Kapi (the place where they dig for yellow medicine) has been the homeland for our people, the Dakota Oyate (Nation), for thousands of years. We have always occupied this area bordering the Minnesota River Valley, with the exception of a short period of time in the late 1800's, following the United States/Dakota Conflict of 1862.

At that time, the Dakota were exterminated, forcibly-removed to reservations elsewhere or voluntarily fled to avoid harm. Many Dakota died during those difficult years. Some of those who survived the forced removal defied the state and federal governments by not remaining on assigned reservations (located outside of Minnesota), but instead chose to return to our ancient homelands in the Minnesota River Valley.

In 1938, 746 acres of original Dakota lands in Minnesota were returned to our people, and the Upper Sioux Indian Community came into existence. Provisions for governing the Upper Sioux Community were adopted, and a Board of Trustees was elected to carry out responsibilities identified in these Provisions. In 1995, the Provisions were modified to become the governing document that is our Constitution of the Upper Sioux Community.

Since its formal designation as an Indian community, Upper Sioux has struggled with poverty, substandard housing, inadequate health care, and the subtleties of racism. Tribal leaders continually strive to improve the standard of living and quality of life on the reservation.

The population is small. Upper Sioux's share of program monies from the federal government has been minimal. Sill yet, the elected tribal leaders managed to provide bare-bones programs in housing, health care and education. Through, the 1970's and 80's, conditions improved very little.



By the late 1980's, the legal standing of tribes as sovereign nations had been acknowledged in the highest federal courts. In 1990, following these court decisions, the Upper Sioux Community did as many other tribes had done—we exercised our rights as a sovereign nation to capitalize on financial opportunities by building and opening Firefly Creek Casino.

In the years since, our businesses have helped to revitalize and energize the Upper Sioux Community, allowing us an opportunity to obtain economic independence. We are finding ways to preserve our dignity, culture and traditions, free from the burden of meeting basic survival needs. Total land base stands at 1,464 acres in Trust; 309 acres Non-Trust.

This project will enable us to reduce particulate matter (PM 2.5), which will lead to annual health benefits resulting from reduced exposure to PM 2.5. The benefits include the reduction of premature mortality, chronic bronchitis, asthma attacks, non-fatal heart attacks, and other health problems. Our health impacts are expected to be:

### Health Benefits Results

County and State	Annual Diesel PM2.5 Reduction (short tons)
Yellow Medicine, Minnesota	0.009
<b>Total</b>	0.009

### 5.2.3

#### Estimate of Anticipated NOx Reductions

We utilized the United States Environmental Protection Agency’s Diesel Emissions Quantifier to prepare our estimates. Anticipated reductions of nitrogen oxides (NOx) for our project vehicle upgrade are 0.370 short tons over the lifetime of the vehicle. Details follow:

## Emission Results <sup>?</sup>

Here are the combined results for all groups and upgrades entered for your project.<sup>1</sup>

<i>Annual Results (short tons)<sup>2</sup></i>	NO <sub>x</sub>	PM2.5	HC	CO	CO <sub>2</sub>	Fuel <sup>3</sup>
Baseline for Upgraded Vehicles/Engines	0.103	0.008	0.014	0.054	16.5	1,463
Amount Reduced After Upgrades	0.093	0.008	0.013	0.049	0.0	0
Percent Reduced After Upgrades	89.6%	98.0%	91.4%	91.2%	0.0%	0.0%
<i>Lifetime Results (short tons)<sup>2</sup></i>						
Baseline for Upgraded Vehicles/Engines	0.413	0.032	0.058	0.216	65.8	5,852
Amount Reduced After Upgrades	0.370	0.031	0.053	0.197	0.0	0
Percent Reduced After Upgrades	89.6%	98.0%	91.4%	91.2%	0.0%	0.0%

### 5.2.7.2

#### 7: Publicly Available Information

The Upper Sioux Community established a webpage (<http://www.uppersiouxcommunity-nsn.gov/page/usc-environmental>) on the Tribe's website (<http://www.uppersiouxcommunity-nsn.gov>) dedicated to the funding received from the Volkswagen Settlement Trust, which includes a link for members of the public to request additional information and/or documents related to the funding request and expenditure of funds. The Upper Sioux Community will endeavor to respond to such request within 10 business days and, when documents are requested, will advise the individual/s within that timeframe of the procedure for reviewing such documents. The Upper Sioux Community follows Minnesota law related to matters governing the publication of confidential business information and personally identifiable information, and exemptions thereto.

**Tribal Chairman:** Kevin Jensvold

**Beneficiary:** Upper Sioux Community

**Lead Agency Contact:** Barbara E. Long, Environmental Director, Office of the Environment

### 5.2.10

#### **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 Adverse Impacts of Such Emissions**

The Upper Sioux Community affirms that this project has the potential to impact their community, which has historically borne a disproportionate share of the adverse impacts of such emissions by improving air quality on the Reservation. Indigenous populations are prone to much higher rates of asthma, diabetes, as well as chronic obstructive pulmonary diseases compared to that of the overall populace. The Minnesota Pollution Control Agency (2017) argues that the following are source contributors: permitted facilities – such as power plants, refineries, manufacturing, recyclers; transportation – like passenger cars, diesel trucks, buses, airports, railroads, recreational vehicles; residential – through home heating, backyard fires, lawn mowers, cleaning products, open burning; commercial and industrial – via large boilers, diesel equipment, gas stations, construction equipment; wildfires and prescribed burns – by way of forest fires, agricultural burning, grassland and park fires; and non-local sources (background and secondary formation – for example, pollution forming from the breakdown and/or combination of other pollutants, and the transport of emissions from natural sources such as forests or dust storms. Major sources of NO<sub>x</sub> pollution within and/or adjacent to the Upper Sioux Community are permitted facilities, commercial, industrial, agricultural, and residential. Additionally, Highway 67 runs east and west through the Reservation. Subsequently, this very active thoroughfare is a significant source of NO<sub>x</sub> emissions to the Upper Sioux Community and its nearby residents. Currently, the Office of the Environment is actively seeking guidance and assistance in implementing an air quality monitoring program for the Upper Sioux Community in Granite Falls, Minnesota. Although the emissions reductions from replacing one propane truck will not dramatically improve the air quality for the Upper Sioux Community, it is a step in the right direction.

## Attachment C

### 5.2.11

#### Detailed Plan for Reporting on Eligible Mitigation Action Implementation

Transparency will be ensured via the Upper Sioux Community's new web page: (<http://www.upperSiouxCommunity-nsn.gov/page/usc-environmental>), part of the Tribe's website (<http://www.upperSiouxCommunity-nsn.gov>) that dedicated to the funding received from the Volkswagen Settlement Trust. Volkswagen Settlement Environmental Air Quality Documents will be posted here and available by request.

Reporting on Eligible Mitigation Activities (EMA) will take place semiannually. Reports will be posted on the Upper Sioux Community website no more than 30 days after the end of the period, starting with the period from July 1, 2019 – December 31, 2019, and also provided to the Trustee via Intralinks. The Office of the Environment will oversee the proposed EMAs as follows:

- a) The Office of the Environment, Comptroller, and Program Accounting Director will review and audit expenditures to ensure compliance with all applicable laws.
- b) The Office of the Environment will maintain and make publicly available all documentation submitted in support of this funding request, as well as records supporting all expenditures of sequential funds, subject to applicable laws governing the publication of confidential business information and personally-identifiable information. The Office of the Environment will post documentation to the Upper Sioux Community website, under the Environmental/Air Quality tab. Furthermore, the Office of the Environment will work with our Information Technology Network Administrator in posting this documentation to ensure that all information is true, accurate, and accessible. Additional information will be provided upon request. The procedure by which the Beneficiary shall make such documentation publicly available is: requests shall be made to the Office of the Environment's Environmental Director Barbara Long.
- c) Upon the termination or completion, any unused funds shall be returned by Upper Sioux Community to the Trustee, to ultimately be returned to the Tribal Allocation Subaccount.
- d) The Beneficiary (Upper Sioux Community) shall submit a semiannual report to the Trustee (via Intralinks) describing the progress made, the implementations, as well as a reporting date. This report shall include a summary of the initial and final expenditures. The first report shall be submitted no later than six months after receiving the initial disbursement of Trust Assets. This report will also include a complete description of our status (including actual and/or projected termination date), development and implementation, approved by the EMA. These reports will be signed by an official with the authority to submit the report for the Beneficiary and will contain an attestation that the information is true and correct, and that the submission is made under penalty of perjury.

**Attachment D**

**5.2.6**

**Detailed Cost Estimates from Selected or Potential Vendors for each Proposed Expenditure  
Exceeding \$25,000**

Detailed cost estimates associated with each replacement follow:

<b>Original Fleet Vehicle</b>	<b>Vehicle Replacement Line Items</b>	<b>Cost</b>
2004 Propane Delivery Truck	Class 7 Peterbilt 2020 Model 337	\$167,430
2004 Propane Delivery Truck	Vehicle Delivery Fee	\$0
2004 Propane Delivery Truck	Vehicle Tag	Exempt
	<b>Total</b>	<b>\$167,430</b>

Please see attached vendor quotes for each vehicle cited above.

# Sales Order 57603-B

soodbw.frx

Order Date 07/08/19

**Arrow Tank and Engineering Co.**  
 8950 Evergreen BLVD  
 Minneapolis, MN 55433-6042

Telephone: 763/689-3360

**Bill To:**

UPPER SIOUX COMMUNITY PROPANE  
 5722 TRAVERS LANE  
 GRANITE FALLS, MN 56241

**Ship To:**

UPPER SIOUX COMMUNITY PROPANE  
 5722 TRAVERS LANE  
 GRANITE FALLS, MN 56241

**THIS IS A REVISED SALES ORDER**

Customer	Ship Via	F.O.B.	Terms	Purchase Order Number	Salesperson	Reference No.
USCP	Best Way	Origin	Due Upon Receipt	Verbal	TPS	
Qty. Ordered	Qty. Shipped	Item Number	Unit of Measure	Required Date	Unit Price	Extended Price
	Back Ordered	Item Description			Discount % Tax	
1	0	WO-32401 3400 GALLON 80" DIA TANK AND EQUIPMENT PER QUOTE #19-367  VESSEL SERIAL NO. 48395	EA	07/30/19	87979.00 N	87979.00
1	0	58P2020337005 CHASSIS PETERBILT 2020 MODEL 337 VIN# _____ 677193	EA	07/30/19	74701.00 N	74701.00
1	0	ADD PETERBILT 5 YR/250,000 MILE EXTENDED WARRANTY	EA	07/30/19	4750.00 N	4750.00
<p><b>CONFIRMING</b></p>						
<p>Non Taxable Subtotal</p>						167430.00
<p>Taxable Subtotal</p>						0.00
<p>Tax</p>						0.00
<p>Total Order</p>						<b>167430.00</b>