

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of Kansas

Lead Agency Authorized to Act on Behalf of the Beneficiary Kansas Department of Health and 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)

Action Title:	EV Charging Equipment PROJ04
Beneficiary's Project ID:	PROJ04
Funding Request No.	(sequential) 3
Request Type: (select one or more)	<input type="checkbox"/> Reimbursement <input checked="" type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input type="checkbox"/> Beneficiary <input checked="" type="checkbox"/> Other (specify): <u>Kansas Department of Health and Environment (Lead Agency)</u>
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>Action 9</u> 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): Please see Summary Attachment
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): Please see Summary Attachment
Estimate of Anticipated NOx Reductions (5.2.3): Please see Summary Attachment
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): Please see Summary Attachment
Describe how the Beneficiary will make documentation publicly available (5.2.7.2). Please see Summary Attachment
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). Please see Summary Attachment
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9). Please see Summary Attachment

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).
Please 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 Kansas, 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: 04-08-2022

Janet Stanek JH

[NAME]

[TITLE]

Kansas Department of Health and Environment

[LEAD AGENCY]

for

State of Kansas

[BENEFICIARY]

Beneficiary: State of Kansas
Lead Agency: Kansas Department of Health and Environment
D-4: 3

**Summary Attachment
Beneficiary Eligible Mitigation Action Certification**

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

This funding request addresses VW EMT action category 9, Light Duty Zero Emission Vehicle Supply Equipment.

The lead agency (KDHE) will pass-through trust funds for project support awards involving electric vehicle (EV) charging equipment, to the Kansas Department of Transportation (KDOT).

Detailed description of the proposed Eligible Mitigation Action, including its community and air quality benefits (5.2.2):

The activity offers project support awards for eligible expenses related to light duty electric vehicle charging equipment, project selection and project management. Awards for project support increase public access to charging infrastructure and do not contribute to on-road mobile source emissions across the state of Kansas.

Estimate of the NOx reductions anticipated as a result of the proposed Eligible Mitigation Action (5.2.3):

There are no estimates for the amount of NOx in TPY that will be reduced by increasing the number of charging stations in Kansas. This project will increase the number of EV charging stations in the State of Kansas in an effort to increase EV vehicle usage. Electric vehicles do not emit NOx.

Identification of the specific governmental entity responsible for reviewing and auditing expenditures of Eligible Mitigation Action funds to ensure compliance with applicable law (5.2.7.1):

Names of all authorized instructors and confirmers are listed on the Kansas Delegation of Authority and Exhibit A forms that were submitted to the trust.

Reviewing and auditing expenditures is a KDHE work process. For this project KDHE will pass through the trust funds to KDOT for a competitive public awards process. KDHE will work with KDOT to review expenditures and assure correct use of the trust funds.

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

To the extent allowable under Kansas law, KDHE is committed to providing documentation submitted by applicants and recipients of Eligible Mitigation Action funds to the public. KDHE will post this documentation on its KS VW Settlement webpage. Electronic and paper copies of these documents can be requested by the public under the Kansas Open Records Act.

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

Cost share of eligible expenses for each awarded project is required. Cost share (match) is currently established as an 80/20 split for the trust fund and the awardee. Paid receipts are required to be submitted to KDOT and awarded site projects must be verified in person and by photographs before reimbursement is made to the awardee.

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

KDHE provided the Department of the Interior, Department of Agriculture and a compiled list of tribal contacts and federal land contacts within Kansas with the following notification via e-mail:

Re: Notice of Availability of Mitigation Action Funds pursuant to Section 4.2.8 of the Environmental Mitigation Trust Agreement for State Beneficiaries, in In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672CRB (JSC) (Dkt. No. 2103-1)

This communication is provided to your Federal Agency pursuant to Section 4.2.8 of the above-cited Trust Agreement (copy attached hereto). Please be advised that the Beneficiary Mitigation Plan for the State of Kansas may provide for the availability of funds for which your Federal Agency or other parties could apply for proposed projects for use on lands within your Agency's custody, control, or management (including, but not limited to, Clean Air Act Class I and II areas). The review, consideration and written determinations relating to each such application or request will be subject to the terms of the underlying settlement agreement documents, all applicable laws and regulations of this jurisdiction, and any additional procedures or other measures that will be developed, adopted and published by this jurisdiction relating to the handling of requests or applications for project funding. For further information, please visit our VW Settlement website at <http://www.kdheks.gov/bar/air-monitor/dieselgrant/dieselvw.html>.

Kansas does not have Class I or Class II designated areas.

If applicable, a description of how the Eligible Mitigation Action mitigates the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).

The Bureau of Air at KDHE operates the KS Air Monitoring Network. Ozone and particulate matter (PM) exceedances have occurred in past years but none of the Kansas monitors currently violate the health-based standards for these criteria pollutants. Oxides of nitrogen (NOx) are also

a concern though current effort has not detected any exceedances of the health-based standard. The focus of this project addresses increasing public access to EV charging.

ATTACHMENT B
PROJECT MANAGEMENT PLAN - 3
PROJECT SCHEDULE AND MILESTONES

General Milestones	Date
KDHE named lead agency	12/2016
KDHE holds an informal request for information period	11/2017 to 12/2017
Kansas certified for beneficiary status	1/30/2018
KDHE provides notification to federal agencies	3/2018
KDHE posts EMT plan for formal comments	6/1/2018 to 7/2/2018
KDHE uploads final plan to 3 rd party trust	8/6/2018
KDHE submits 1 st funding request to 3 rd party	8/20/2019
KDHE submits 2 nd funding request to 3 rd party	9/1/2019
KDHE submits 3 rd funding request to 3 rd party trust (Proj 04)	3/22/2022
PROJ 04	
KDHE (Lead agency Proj 04)	
KDHE submits 3 rd funding request	3/22/2022
KDHE/KDOT create "workplan agreement"	3/22/2022
KDHE receives fund transfer	5/22/2022
KDHE pass through funding to KDOT	5/22/2022
KDHE report to Trust 6 months	9/15/2022
KDHE reports to Trust 12 months	3/15/2023
KDHE final report to Trust for Proj 04	6/15/2024
KDOT (Project Manager Proj 04)	
Project Kick-off Meeting	August 11, 2021
Draft RFI submitted to KDOT	August 18, 2021
Final RFI submitted to KDOT	August 26, 2021
RFI is posted to Kansas Register	September 10, 2021
RFI responses due to KDOT	September 24, 2021
Draft RFP submitted to KDOT	October 8, 2021
Final RFP submitted to KDOT	October 15, 2021
RFP is posted to Kansas Register	October 29, 2021
Pre-Proposal meeting	November 4 or 5, 2021
RFP responses due to KDOT	November 19, 2021
Project Selection	December 10, 2021
Awardee notification letters	January 2022
Award agreement presented to the Awardee	February 2022
Awardee returned signed agreement to KDOT	March 2022
Awardee begins project tasks	March 2022
Awardee completes project tasks	August 2022 to March 2023
Project verification	August 2022 to March 2023
Project reimbursement and close out	August 2022 to March 2023
Project reporting finalized ¹	June 2024

¹ It is anticipated that all projects will be finished in the 1st quarter of 2023. Extra time is built in to this projects due to concerns about project equipment and supply backorders and or shortages.

Reporting to the third-party trust will also occur per the prescribed schedule described in 5.3 of Attachment A of the final trust document.

PROJECT BUDGET

Period of Performance: 1/15/2022 to 6/30/2024	
Budget Category	Total Approved Budget to be funded by the Trust
1. Pass-through to KDOT from KDHE	\$2,349,335.82 (15% max allocated to EV charging Infrastructure)
2. KDOT Administrative and Contractor Support	Will not exceed 15% of the pass-through amount
Project Total	\$2,349,335.82 (at least)
Percentages	100%

1. KDHE will pass through the entire amount of this funding request to KDOT. This will occur as an electronic funds transfer. An MOU between KDHE and KDOT will be executed prior to transfer. KDHE will remain the lead agency for interactions with the Trust and be active in project selection/verification. KDOT will assume project management for the equitable distribution of the awards which will be made through a competitive process, all awards will be made through a written contract. Equipment is purchased by the awardee selected through a competitive process. Cost share for EV charging projects is required to be paid by the awardees.

2. KDOT is working with a contractor for the planning, execution of the RFP and award selection. This line will be updated and reported as PROJ04 progresses. Administrative is subject to Appendix D-2 15% cap and includes but is not limited to, contractor support, and KDOT salary/fringe and indirects. For D-4 number 4 administrative costs may not exceed \$352,400.37.

PROJECTED TRUST ALLOCATIONS:

	2017	2018	2019 (1)	2019 (2)	2022
1. Anticipated Annual Project Funding Request to be paid through the Trust	-	-	\$309,795.36	\$2,318,757.00	\$2,349,335.82
2. Anticipated Annual Cost Share	-	-	Approximately \$2,000,000	Approximately \$1,900,000	TBD and reported, awardees required to contribute 20% of the project total.
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	-	-	Approximately \$2,722,352.36 DERA, VW Trust and cost share	Approximately \$4,696,893.00	TDB and reported \$2,349,335.82 + required match from the awardees
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	-	-	\$0	\$309,795.36 Requested on 8/20/2019	\$309,795.36 (1) \$2,318,757.00 (2) TOTAL = \$2,628,552.36
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	-	-	\$309,795.36	\$2,318,757.00	\$2,349,335.82
6. Total Funding	-	-	\$309,795.36	\$2,628,552.36	\$4,977,888.18

Allocated to for Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)					
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$15,662,238.80	\$15,662,238.80	\$15,662,238.80	\$15,662,238.80 \$15,352,443.44 after 1 st request is processed.	\$13,033,686.44
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$15,662,238.80	\$15,662,238.80	\$15,352,443.44	\$13,033,686.44	\$10,684,350.62

Workplan for PROJ04 funds request D-4 No. 3

Project Title: PROJ04 – Action 9. Light Duty Zero Emission Vehicle Supply Equipment

Beneficiary: State of Kansas

Lead Agency: Kansas Department of Health and Environment (KDHE)

KDHE Contact: Kathleen Waters

Email: kathleen.waters@ks.gov

Phone: 785-296-1575

Address: KDHE – Bureau of Air, 1000 SW Jackson Street, Topeka, KS 66612

Project Period: 1/15/2022 to 6/30/2024

Goal: Increase access to light-duty electric vehicle charging across Kansas

Project Partners: Kansas Department of Transportation

Budget Overview:

Period of Performance: 1/15/2022 to 6/30/2024	
Budget Category	Total Approved Budget to be funded by the Trust
1. Pass-through to KDOT from KDHE	\$2,349,335.82 (15% max allocated to EV charging Infrastructure)
2. KDOT Administrative and Contractor Support	Will not exceed 15% of the pass-through amount
Project Total	\$2,349,335.82 (at least)
Percentages	100%

Task and Associated Outputs as of 3/22/2022:

The lead agency (KDHE) will pass-through trust funds for project support awards involving electric vehicle (EV) charging equipment, to the Kansas Department of Transportation (KDOT) per memorandum of understanding of all requirements and restrictions. The Kansas Department of Transportation (KDOT) is administering the funds for PROJ04 available from the Volkswagen Mitigation Trust funds allocated for investment in electric vehicle (EV) charging infrastructure. KDOT has identified approximately 12 general locations for the installation of DC Fast Charging stations to help advance the state’s effort to support publicly accessible charging stations every 50 miles along major primary corridors.

KDOT has requested consultant services to¹:

- Develop the Request for Information (RFI) and Request for Proposals (RFP)
- Engage community leaders and potential project partners and proposers
- Assist in the review and selection of project proposals
- Provide required project verification and documentation to meet reporting requirements

The proposed scope for this effort is organized into eight tasks as follows:

¹ The consultant services are provided by Burns and McDonnell, <https://www.burnsmcd.com/>

Task 1—Project Management

The consultant team will host a project kick-off meeting with KDOT, coordinate meetings with KDOT, submit monthly progress reports, submit monthly invoices, and establish necessary subcontract to complete the work of this project.

Task 1 Outputs: The consultant team scheduled and held regular TEAM meetings with KDOT and KDHE. The first meeting was held on 8/13/2021. Each meeting followed up via email with recap of the conversations and actions to take to launch an RFP for EV charging stations.

Task 2—Identify project requirements and review previous efforts

The team will meet with KDOT and KDHE to establish the EV Charging Station Installation program goals, desired project locations, specific project and technical requirements, and administrative needs through the life of the project.

The consultant team will identify previous efforts led by other transportation agencies, such as other DOTs, KDHE, and the KTA, to understand potential barriers to participation, identify examples of RFP language, note best practices, review project scoring criteria, and identify outreach opportunities to build interest in the program.

Task 2 Outputs:

- Project goal established – Increase number of charging stations
- Preferred project locations identified – 12 across Kansas
- Met with KDHE and KDOT to establish funding limitations and reporting requirements

Task 3—Develop Request for Information (RFI)

The consultant team will develop messaging and perform outreach activities (letters, public notices, phone calls, etc.) to build awareness for the RFI in advance of publication. We will develop outreach materials to inform community leaders in the area of desired EV charging station locations about the forthcoming RFI and RFP and work with KDOT to distribute those materials. We will also identify potential businesses and landowners that may be candidates for hosting charging stations within a 5-mile radius of desired charging station locations and provide this information to KDOT with a proposed outreach plan.

The consultant team will draft a Request for Information (RFI), based on the findings from Task 2. The RFI will ask interested parties (such as technology vendors, energy providers, community leaders, and business/land owners) to provide feedback on preliminary elements of the RFP and respond to specific questions that will help shape the RFP. The goal of the RFI will be to understand the number of interested parties around the state, the types of partnerships and desired contracting mechanisms, and any specific concerns about project requirements that may limit responses to the RFP.

Task 3 Outputs -

The consulting team performed outreach activities in advance of the RFI posting. Outreach was via phone, TEAM/Zoom meetings and electronic due to COVID-19 concerns and constraints. RFI was drafted and approved by KDOT with input from KDHE. The RFI was shared on 9/9/2021 and was open until 9/24/2021. Information received from the responses was used to adapt the RFP.

Task 4—Develop Request for Proposal (RFP)

The consultant team will draft a Request for Proposals (RFP) with specific proposal requirements and a scoring matrix for proposal evaluation based on the responses to the RFI. The RFP will include project schedule, technology requirements or constraints, and eligible costs for reimbursement with spending limits (if applicable). It will define “publicly accessible” for the purpose of required hours of operation for the charging stations. The RFP will request

information from the proposer on ownership agreements, future maintenance, fee/rate structure for use of the charging station, and warranties and contingencies to ensure public accessibility for a determined time period into the future.

Task 4 Outputs – RFP was posted on 10/28/2021 and closed on 12/15/2022.

Task 5—Host pre-proposal meeting for potential proposers

After the RFP has been posted, the consultant will host a workshop for potential proposers to provide support for RFP development and to answer any questions from participants. This workshop may be held in person, virtually, or in a hybrid format.

Task 5 Output – Workshop was held in virtual format on 11/2/2021.

Task 6—Review and select proposals

The consultant team will assist KDOT in reviewing and scoring proposals to support the selection of the installation projects to be funded.

Task 6 Output – Fifteen entities submitted application for 29 location in all 12 priority areas. Seven locations were selected after the review. Applicants were notified and a news release was prepared and posted on 2/4/2022.

Task 7—Verify project implementation and expenses

The consultant team will review project expenses to verify invoices and will provide documentation of the project installations in order to validate the requested reimbursement amount for each project. The project team does not anticipate traveling to each installation as part of this activity, but will rely on KDOT district staff and/or the proposing team to submit verification of charging station installation. Note: KDOT intends to pay 80 percent of expenses with a 20 percent match from the proposing team. KDHE will provide site visits and photographic documentation of completed projects.

Task 7 Outputs – This task is likely to occur beginning in fall of 2022 and will continue until all projects are complete.

Task 8—Project reporting

The consultant team will develop the required project reporting to demonstrate that the final projects met eligibility requirements for the Volkswagen settlement funding. While the vendor may be required to provide specific verification and reporting as part of the RFP, this project team will ensure that information is complete and adequate and will package it for all installations as a final deliverable to KDOT. KDHE will collect all efforts and provide required reports to the trust per the prescribed schedule.

Task 8 Outputs – This task will occur starting in October 2022 and continue until projects are complete.

Attachment C

Kansas Department of Health and Environment (KDHE)

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

The current project for 2022 (FFY2022) involves pass-through of the funds from KDHE to KDOT. KDOT will be the project lead for the task associated with request number 3 for increasing access to EV charging station across the state of Kansas. KDHE will continue as the lead agency to interaction with the Trust. KDOT will report progress on program tasks per prescribed timeline to KDHE. KDHE will provide reports on tasks to the Trust. The contents of the reports include expenditures and outputs including written agreements finalized, bid approvals, equipment verifications and project completion. The final report includes project completion, all project costs and cost-share contributed by the awardee. These reports will also be posted to the KS VW Settlement webpage for public viewing.¹

Anticipated report dates directly to the trust:

- August 2022 estimated date, six months after funding is received
- March 2023 annual report
- August 2023 interim report to trust
- March 2024 project funds will have been spent
- June 2024 final report to trust

¹ <http://www.kdheks.gov/bar/air-monitor/dieselgrant/dieselvw.html>

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.]

All of the awards will be over \$25,000. Vendors are chosen by the awardee and approved by KDOT to assure state bid competition laws are followed.

All awards require match of 20 percent of the approved project costs. All awardees order their equipment, install equipment and undergo the project verification process before reimbursed is processed.

Table 3. Award limits		
Project 4 (request 3)	Award	Required Match
EV Charging Station Installation	80%	20%

RFP closed on December 21,2021 and 7 projects were selected.

Award Range: \$190,000 to \$335,104

Average: \$283,486