



APPENDIX D-4

Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary Commonwealth of Virginia

Lead Agency Authorized to Act on Behalf of the Beneficiary Virginia 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)

Action Title:	Eligible Shuttle Buses
Beneficiary's Project ID:	VA VW-08
Funding Request No.	(sequential)
Request Type: (select one or more)	<input checked="" type="checkbox"/> Reimbursement <input type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input checked="" type="checkbox"/> Beneficiary <input type="checkbox"/> Other (specify): _____
Funding Request & Direction (Attachment A)	<input type="checkbox"/> Attached to this Certification <input checked="" type="checkbox"/> To be Provided Separately

SUMMARY

Eligible Mitigation Action	<input checked="" type="checkbox"/> Appendix D-2 item (specify): <u>Eligible Buses</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): See Attached Summary Table	
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): See Attached Summary Table	
Estimate of Anticipated NOx Reductions (5.2.3): See Attached Summary Table	
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): See Attached Summary Table	
Describe how the Beneficiary will make documentation publicly available (5.2.7.2). See Attached Summary Table	
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). See Attached Summary Table	
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9). See Attached Summary Table	

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 Attached Summary Table

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 Commonwealth of Virginia, 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: 04-16-2024


Michael G. Dowd, Director, Air and Renewable Energy Division

[NAME]

[TITLE]

Virginia Department of Environmental Quality

[LEAD AGENCY]

for

Commonwealth of Virginia

[BENEFICIARY]

Attachment 1: Summary Table to Appendix D-4 Beneficiary Eligible Mitigation Action Certification

Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1).

Virginia's Beneficiary Mitigation Plan includes all eligible mitigation actions delineated in Appendix D-2 to the Volkswagen Settlement Agreements.

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

VW State Trust funds will be used to replace 5 older diesel heavy duty shuttle buses with all electric buses operating at the Dulles-Washington International Airport (located in Fairfax and Loudoun County). The shuttle program operates continuously utilizing a portion of the 26 in-service vehicles covering 311,000 trips totaling 1.43 million miles annually and consuming nearly 290,000 gallons of fuel while transporting passengers and a significant portion of the daily airport workforce. VW State Trust funds will also be used to replace four older model year heavy duty shuttle buses with four electric buses operated by Fairfax County Department of Transportation. The four vehicles for this project will operate in one of the busiest corridors within Fairfax County: Interstate 66 (I-66) which runs from the western portion of the County to the eastern boundary of the County, linking Fairfax County to Washington, D.C. There are over 130,000 vehicle trips per day on this corridor. Replacing old diesel buses with battery electric will help improve the air quality in Virginia's only nonattainment area for Ozone, which include Fairfax and Loudoun County, as well as Arlington County, Prince William County, City of Alexandria, City of Fairfax, City of Falls Church, City of Manassas, and City of Manassas Park, improve air quality in Diesel Emissions Reduction Act 2020 Priority Areas, and in low income or communities of color.

Estimate of Anticipated NOx Reductions (5.2.3).

Calculated lifetime NO_x, PM_{2.5} and CO₂ reductions of replacing nine older heavy duty diesel shuttle buses with all-electric:

Lifetime NOx Reduction (tons)	Lifetime PM 2.5 Reduction (tons)	Lifetime CO2 Reduction (tons)
23	0.7	7,868

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).

Virginia Department of Environmental Quality (DEQ).

Attachment 1: Summary Table to Appendix D-4 Beneficiary Eligible Mitigation Action Certification

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

Per Appendix D-3 Certification for Beneficiary Status: Paragraph 7. Publicly Available Information, Virginia certifies that it will maintain and make publicly available all documentation and records: (i) submitted by it in support of each funding request; and (ii) supporting all expenditures of Trust Funds by the Beneficiary, each until the Termination Date of the Trust pursuant to Paragraph 6.8 of the Trust Agreement, unless the laws of the Beneficiary require a longer record retention period. Together herewith, the Beneficiary attaches an explanation of: (i) the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public; (ii) for the Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered; and (iii) a description of 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.

Procedures for Accessing Information Pertaining to the Use of State Beneficiary Environmental Mitigation Trust (State Trust) Funds

Information referenced under Paragraph 7 and submitted to the Trustee in support of funding request for eligible mitigation actions and expenditures of State Trust funds will be publicly available from the Virginia Department of Environmental Quality (DEQ) public Volkswagen mitigation webpage located at <https://www.deq.virginia.gov/get-involved/topics-of-interest/volkswagen-settlement-agreement> as well as on the Trustee public facing website located at www.vwenvironmentalmitigationtrust.com/state-trust/virginia.

The public may also access this information by submitting a Freedom of Information Act (FOIA) request by U.S. mail, fax, e-mail, in person, or over the phone. DEQ's Freedom of Information Act policy (<https://www.deq.virginia.gov/get-involved/about-deq/freedom-of-information-act>) delineates the procedures for accessing agency information as well as the treatment and disclosure of certified confidential business information (CBI) or personally identifiable information. DEQ's FOIA policy and procedures are established pursuant to the Virginia Freedom of Information Act (VFOIA) Va. Code §2.2-3700 (<https://law.lis.virginia.gov/vacode/title2.2/chapter37/>).

Procedures for Requesting and Considering Public Input on the State Beneficiary Mitigation Plan

Virginia developed a proposed Beneficiary Mitigation Plan (BMP) in 2016 intended to provide the public with insight into the Commonwealth's vision for the eligible uses of the VW Trust mitigation funds. The state conducted a public comment period (Nov 17 — Dec 16, 2016) and meeting (Dec 7, 2016) on the proposed mitigation plan. Virginia received 101 comments on the proposed mitigation plan.

Attachment 1: Summary Table to Appendix D-4 Beneficiary Eligible Mitigation Action Certification

To further inform the state's understanding of the best use of VW EMT funds, Virginia released Request for Information (RFI) # 17-01-CP in April 2017 seeking early input from governmental and non-governmental entities on the type and scope of projects that they may later submit to compete for VW Trust funds, funding and project evaluation priorities, and methods the state could employ to increase participation in future requests for VW mitigation projects. DEQ received a total of 35 responses to RFI #17-01-CP. Of the 35 responses, 29 organizations submitted 39 project ideas totaling approximately \$600 million, and six organizations exclusively submitted responses to the question section of the RFI.

DEQ submitted a revised BMP to the Trustee on August 9, 2018. A state BMP is a living document. As such, public input is ongoing. The public may submit comments and/or questions regarding the BMP to vwmitigation@deq.virginia.gov.

Public input on Virginia's mitigation plan is guided by DEQ's community involvement processes for engaging the public in effective environmental discussion making, such as creating early and ongoing opportunities for public input in agency decisions beyond the minimum requirements, ensuring that decision-making activities are open and accessible to all interested individuals and organizations, ensuring that the public understands the most effective ways to provide comment to DEQ, and considering and integrating public input into environmental decisions. DEQ's community involvement processes supplement existing Virginia regulations that detail public participation requirements applicable to only DEQ's regulatory activities under the Virginia Administrative Process Act Va. Code § 2.2-4007.02 (<https://law.lis.virginia.gov/vacode/2.2-4007.02/>), These requirements specify the minimum level of participation in regulatory decisions.

Applicability to State Laws Governing Confidential Business Information (CBI) and Personally Identifiable information

The certification in Paragraph 7 is fully subject to Virginia's applicable laws governing the publication of confidential business information and personally identifiable information, Va. Code § 2.2-4342(F) provides: "Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 2.2-4317 shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary." See also Va. Code § 2.2-3705.6(10) (exempting "[c]onfidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317"). The certification is subject to the Commonwealth of Virginia's procurement policies and

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<p>procedures in the "Agency Procurement and Surplus Property Manual" (APSPM). Available at: https://dgs.virginia.gov/procurement/policy-consulting--review/policy/. Specifically, Special Term and Condition #59 provides: "The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and unless disclosure is required pursuant to court order, subpoena or other regulatory authority, will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement." Additionally, Va. Code § 2.2-3705.1(10) excludes from disclosure under FIOA: "Personal contact information furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. Finally, the certification is be subject to the Government Data Collection and Dissemination Practices Act, Va. Code §§ 2.2-3800 through -3809. This Act provides some limits on the use of personal information by public agencies. For instance, any "agency maintaining an information system that includes personal information shall [c]ollect, maintain, use, and disseminate only that personal information permitted or required by law to be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the agency." Va. Code § 2.2-3803(A)(1).</p>
<p>Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).</p> <p>Project owners are required to provide at least a 25% cost-share of eligible project costs. Project owners are responsible for funding all project costs not eligible for reimbursement.</p>
<p>Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).</p> <p>DEQ emailed the State Trust Agreement to specified U.S. Government Agencies on February 23, 2018.</p>
<p>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).</p> <p>Prioritizing replacements of old diesel heavy duty shuttle buses that operate in communities considered low income, or communities of color, Diesel Emissions Reduction Act 2020 Priority Areas, or nonattainment areas.</p>

Attachment B: Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).

Clean Air Communities Program: EMA#2 Eligible Shuttle Buses Deployment Project Schedule	
Action	Date
Buses and Charging Infrastructure Ordered	2023
Buses Delivered and Charging Infrastructure Installed	2024-2025
Buses and Charging Infrastructure are Operational	2024-2025
Reimbursement Requests Submitted to DEQ	2025

Clean Air Communities Program: EMA#2 Eligible Shuttle Bus Project Budgets¹			
EMA#2	Total Project Budget(s)	Share of Total Budget(s) to be Funded by the VW State Trust	Share of Total Budget(s) Funded by the Grantee
New Electric Shuttle Buses and Charging infrastructure	\$9,802,045.00	\$6,967,783.75	\$2,834,261.25
DEQ Administrative Expenditures	100,000	100,000	N/A
Total	\$9,902,045.00	\$7,967,783.75	\$2,834,261.25

¹Table shows budget for two shuttle bus projects: 1) Fairfax County Department of Transportation, and 2) Washington Metropolitan Airport Authority

Virginia Department of Environmental Quality
Appendix D-4 Beneficiary Eligible Mitigation Action Certification
EMA 2: Eligible Shuttle Buses

PROJECTED EXPENDITURES BY YEAR		
	2024	2025
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$3,047,783.75	\$4,020,000.00
2. Anticipated Annual Cost Share	\$1,194,261.25	\$1,640,000.00
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$4,242,045.00	\$5,660,000.00
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$39,072,103.61	\$42,119,887.36
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$3,047,783.75	\$4,020,000.00
6. Total Funding Obligated, inclusive of Current Action by Year (line 4 plus line 5)	\$42,119,887.36	\$46,139,887.36
7.Total Beneficiary Share of Trust	\$93,633,980.48	\$93,633,980.48
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$51,514,093.12	\$47,494,093.12

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

The Virginia Department of Environmental Quality (DEQ) will provide detailed reporting in two ways: 1) timely updates to DEQ's Volkswagen Environmental Mitigation Trust web pages at <https://www.deq.virginia.gov/get-involved/topics-of-interest/volkswagen-settlement-agreement>; and 2) semiannual reports to the Trustee as required by subparagraph 5.3 of the Environmental Mitigation Trust Agreement for State Beneficiaries.

DEQ Website

DEQ maintains a Volkswagen Mitigation webpage, which can be found at. Virginia's Beneficiary Mitigation Plan, information on planned or mitigation actions underway, and background information on the VW Settlement agreements are available for public access through the webpage. Links to approved funding requests (Attachment A to D-4 forms) will be available for public access through links on the DEQ website to the Trustee's public facing website at <https://www.vwenvironmentalmitigationtrust.com/state-trust/virginia>.

Semiannual Reports to the Trustee

As required by subparagraph 5.3 of the Environmental Mitigation Trust Agreement for State Beneficiaries, DEQ will submit a report to the Trustee within 6 months of the first disbursement and thereafter no later than January 30 and July 30 for the preceding 6-month periods. These reports will describe the progress implementing this and any other Eligible Mitigation Action ongoing during the reporting period. These reports will include a summary of all costs expended and a complete description of the status (including the actual or projected termination date), development, implementation, and any modification of the Eligible Mitigation Action. These semi-annual reports to the Trustee will be available for public access through links on the DEQ website to the Trustee's public facing website at <https://www.vwenvironmentalmitigationtrust.com/state-trust/virginia>.

Attachment D: Detailed cost estimates from selected vendor for each proposed expenditure exceeding \$25,000 (5.2.6)

The Virginia Department of Environmental Quality satisfies 5.2.6 by requiring the following documentation be provided prior to reimbursement, including but not limited to:

- Copy of bid(s) and/or detailed cost estimate(s) from the vendor for shuttle buses and charging infrastructure or a copy a state/public contract and pricing for each bus and each associated charger.
- Copy(s) of the original purchase order(s) and vendor-issued sale receipt(s) that shall include (a) total price, (b) price for each product and/or service, (c) a detailed description of each product and/or service (including the VIN for each invoiced bus), and (d) the vendor delivery date for each bus); and proof of the payment to the vendor(s).
- Copies of original invoices from vendor for new shuttle buses and associated charging infrastructure that show: Itemization of costs to identify the amount paid by the project owner, the amount paid by “Other” funding sources, the amount to be paid by State Trust funds, and the total amount the public body is requesting for reimbursement.
- Signed form certifying that all vehicles and associated charging infrastructure presented for reimbursement were procured in a manner compliant with the jurisdiction's public procurement and contracting law (5.2.5).