

APPENDIX D-4

Beneficiary Eligible Mitigation Action Certification



Francis Energy, LLC: Carlsbad – Arby’s EVNM-0022 Project, NM-VW-20-18

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of New Mexico

Lead Agency Authorized to Act on Behalf of the Beneficiary New Mexico Environment Department

(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:	Carlsbad – Arby's EVNM-0022
Beneficiary's Project ID:	NM-VW-20-18
Funding Request No.	<i>(sequential)</i> 052
Request Type: (select one or more)	☒ Reimbursement ☐ Other (specify): Click or tap here to enter text.
Payment to be made to: (select one or more)	☐ Beneficiary ☒ Other (specify): Francis Energy, LLC
Funding Request & Direction (Attachment A)	☒ Attached to this Certification ☐ To be Provided Separately

SUMMARY

Eligible Mitigation Action ☒ Appendix D-2 item (specify): Eligible Mitigation Action 9. Light Duty Zero Emission Vehicle Supply Equipment
Action Type ☐ 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): The Beneficiary Mitigation Plan's overarching goal is to protect New Mexico's environment and the health of our citizens. The Trust allows the State the opportunity to offset (mitigate) the impact of excess nitrogen oxide (NO _x) emissions associated with the affected vehicles registered within New Mexico. The reduction of NO _x from mobile sources achieves the intended use of Trust funds by preventing the deterioration of air quality, ensuring the health and safety of the inhabitants of the State, and promoting visibility improvement within New Mexico. Implementation of diesel NO _x reduction projects using Trust funds will have immediate and long-lasting benefits. The proposed project will reduce emissions of NO _x , focusing on the most cost-effective vehicles that maximize emission reductions.
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): A publicly accessible electric vehicle charging station consisting of two (2) 150kW DC fast charging stations located on commercial property housing a restaurant, with other amenities nearby in the heart of Carlsbad. Site has direct access to HWY 285 and directly located near public parks and other public attractions. This metropolitan location provides a convenient location for local charging and transit charging alike.
Estimate of Anticipated NO_x Reductions (5.2.3): N/A
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): The New Mexico Environment Department Administrative Services Division is the governmental entity responsible for reviewing and auditing expenditures of EMA funds to ensure compliance.
Describe how the Beneficiary will make documentation publicly available (5.2.7.2):

The New Mexico Environment Department has created a public website, <https://www.env.nm.gov/vw-settlement/> for information relating to the Trust, the VW Partial Consent Trust Decrees, New Mexico's Beneficiary Mitigation Plan, and project implementation information. To provide transparency and accountability, the NMED will post information on its website.

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

The total project cost is Three Hundred Eighty-Four Thousand, Three Hundred Sixty-Two dollars, and Seventeen cents (\$384,362.17). Trust funding will provide the requested Seventy-Seven Thousand, Two Hundred Twenty-One dollars and Twenty-Five cents (\$77,221.25), approximately 20% of the final total project cost for the purchase and installation of the charging equipment. The remaining Three Hundred Seven Thousand, One Hundred Four dollars and Ninety-Two cents (\$307,104.92) constitute Francis Energy's cost share.

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

On February 27, 2018, NMED sent notice to the U.S. Department of the Interior and the U.S. Department of Agriculture using the contact information provided in Subparagraph 4.2.8.

If applicable, describe how the mitigation action will mitigate the impacts of NO_x emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10):

Trust funds have afforded the State the opportunity to advance environmental justice goals. New Mexico's Draft Mitigation Plan expresses a commitment to prioritizing projects that benefit those communities most impacted by poor air quality. Minorities and those living below the poverty level historically have borne a disproportionate share of air pollution, including air pollution emissions associated with on-road vehicles. The service area for this project is within the City of Carlsbad, located in Eddy County. The minority population in this area is 50%, and the low-income population is 36%. The completion of this project is an essential step towards reducing regional air pollution levels, improving human health and addressing environmental inequality.

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 |
| ☒ | Attachment D | Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6). |
| ☐ | 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). |

CERTIFICATIONS

By submitting this application, the Lead Agency makes the following certifications:

1. This application is submitted on behalf of Beneficiary the State of New Mexico, 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 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: 12/13/2024



Eric Peters
Control Strategies Manager, Air Quality Bureau

New Mexico Environment Department

For

State of New Mexico
[BENEFICIARY]

ATTACHMENT B
PROJECT MANAGEMENT PLAN
PROJECT SCHEDULE AND MILESTONES

Milestone	Date
Lead Agency Provides Notice of Availability of Mitigation Action Funds	7/15/2019
Pre-application meetings with applicants	7/15/2019 through 1/9/2020
Project Sponsor Submits Proposal to Lead Agency	1/9/2020
Lead Agency Provides Written Approval of Project Sponsor's Proposal	6/8/2020
Project agreements signed.	10/14/2020
Lead Agency Incorporates Project Sponsor's Proposal into Mitigation Plan	10/2/2020
Trustee Acknowledges Receipt of Project Certification and Funding Direction	Q4 2024
Trustee Allocates Share of State Funds for Approved Project	Q4 2024
Project Sponsor Obtains Cost Share, Notifies or Certifies to Lead Agency	Q4 2020
Project Sponsor Enters into Contracts, Purchase Orders, etc. – Start	Q4 2020
Project Sponsor Enters into Contracts, Purchase Orders, etc. – Complete	Q4 2024
Project Installations(s) – Start	5/20/2024
Project Installations(s) – Complete	9/13/2024
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)	11/26/2024
Lead Agency completes review and certifies payment direction to Trustee (Reimbursement)	Q4 2024
Trustee Acknowledges Receipt of Direction for Payment(s) (Advance Funded, Reimbursement)	Q4 2024
Lead Agency Reports Project Completion	Q4 2024

PROJECT BUDGET

Period of Performance: 10/2/2020-8/26/2024				
Budget Category	Total Approved Budget	Share of Total Budget Funded by the Trust	Cost-Share, if applicable (Entity #1)	Cost-Share, if applicable (Entity #2)
1. Equipment Expenditure	\$384,362.17	\$77,221.25	\$307,104.92	\$0
2. Contractor Support	\$0	\$0	\$0	\$0
3. Subrecipient Support	\$0	\$0	\$0	\$0
4. Administrative ¹	\$0	\$0	\$0	\$0
Project Totals	\$384,362.17	\$77,221.25	\$307,104.92	\$0
Percentage	100%	20%	80%	0%

¹ Subject to Appendix D-2 15% administrative cap.

ATTACHMENT C
DETAILED PLAN FOR REPORTING ON ELIGIBLE MITIGATION
ACTION IMPLEMENTATION

The New Mexico Environment Department (NMED), as the lead agency for the State of New Mexico for implementing the Volkswagen Environmental Mitigation Settlement Plan, has established a webpage for the Settlement and mitigations actions, www.env.nm.gov/vw-settlement/. NMED will post documents and links as required under Paragraph 7 of Appendix D-3 Certification for Beneficiary Status form. NMED is subject to the *Open Meetings Act*, which provides the statutory guidelines for conducting public meetings and the *Inspection of Public Records Act*, which is a New Mexico state law that provides the public and media access to public information.

For the initial round of funding, NMED solicited, through a competitive process, public and private entities for funding opportunities. Projects were selected through a scored application using an identified scoring criterion. The records of selected projects will be posted and made available on the NMED VW Settlement webpage. The public website was created specifically to provide information related to the Trust, the VW Partial Consent Decrees, and accountability. The NMED will post timely updates on the following:

- General information on the Trust and Consent Decrees
- The State's final Beneficiary Plan
- All public records supporting funding requests the NMED submits to the Trust
- All public records supporting all expenditures of the Trust Fund
- NMED contact information

After the initial round of funding, NMED will periodically evaluate the implementation of the State's Beneficiary Mitigation Plan (BMP) and associated Eligible Mitigation Actions and will determine whether any revisions to the BMP and funding levels need to be reevaluated. If revisions to the BMP are warranted, NMED will seek public input on BMP revisions with a minimum of a 30-day public comment period.

In addition, the State will also comply with the reporting obligations listed in the Environmental Mitigation Trust Agreement for State Beneficiaries in Subparagraph 5.3.

ATTACHMENT D
DETAILED COST ESTIMATE FROM SELECTED OR POTENTIAL VENDORS
FOR EACH PROPOSED EXPENDITURE EXCEEDING \$25,000 (5.2.6)

See attached invoices.