

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary Commonwealth of Massachusetts

Lead Agency Authorized to Act on Behalf of the Beneficiary Department of Environmental Protection
(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:	Port Cargo Handling Equipment (CHE)
Beneficiary's Project ID:	Port Cargo Handling Equipment (CHE)
Funding Request No.	(sequential) N/A
Request Type: (select one or more)	☐ Reimbursement ☐ Advance ☒ Other (specify): <u>General D-4 submitted for 60-day review by Wilmington Trust & funds liquidation</u>
Payment to be made to: (select one or more)	☐ Beneficiary ☒ Other (specify): <u>Grantee or grantee's vendor, only after Disbursement Agreement forms filed</u>
Funding Request & Direction (Attachment A)	☒ Attached to this Certification ☐ To be Provided Separately

SUMMARY

Eligible Mitigation Action	☒ Appendix D-2 item (specify): <u>EMA 8, Port Cargo Handling Equipment (CHE)</u>
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): See attached	
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): See attached	
Estimate of Anticipated NOx Reductions (5.2.3): See attached	
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): Massachusetts Department of Environmental Protection (MassDEP)	
Describe how the Beneficiary will make documentation publicly available (5.2.7.2). See attached	
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). See attached	
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9). See attached	

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).
See attached

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 Massachusetts, 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: 11/26/2024



Bonnie Heiple, Commissioner

[NAME]

[TITLE]

Department of Environmental Protection

[LEAD AGENCY]

for

Massachusetts

[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	1/18/19
Project Sponsor Submits Proposal to Lead Agency	3/18/19
Lead Agency Provides Written Approval of Project Sponsor's Proposal	Ongoing
Lead Agency Incorporates Project Sponsor's Proposal into Mitigation Plan	12/7/18
Trustee Acknowledges Receipt of Project Certification and Funding Direction	TBD
Trustee Allocates Share of State Funds for Approved Project	TBD
Lead Agency Directs Funding (Advance Funded Projects)	N/A
Project Sponsor Obtains Cost Share, Notifies or Certifies to Lead Agency	Ongoing
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Start	Ongoing
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Complete	Ongoing
Project Installation(s) – Start	Ongoing
Project Installation(s) – Complete	Ongoing
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)	Ongoing
Trustee Acknowledges Receipt of Direction for Payment(s) (Advance Funded, Reimbursement)	-
Project Sponsor Certifies Project Completion	Ongoing
Lead Agency Reports Project Completion	Ongoing

PROJECT BUDGET

Period of Performance: EMA8 through 12/31/2024				
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	\$ 213,687.00	\$ 111,605.00	\$ 102,082.00	\$
2. Contractor Support <i>(Provide List of Approved Contractors as Attachment with approved funding ceilings)</i>	\$ 0	\$ 0	\$ 0	\$
3. Subrecipient Support <i>(Provide List of Approved Subrecipients or Grant Awardees as Attachment with approved funding ceilings)</i>	\$ 0	\$ 0	\$ 0	\$
4. Administrative ¹	\$ 72.50	\$ 72.50	\$ 0	\$
Project Totals	\$ 213,759.50	\$ 111,677.50	\$ 102,082.00	\$
Percentage	0.14 %	0.14 %	N/A %	%

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

PROJECTED TRUST ALLOCATIONS:

	2017	2018	2019	2020	2021	2022	2023	2024
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$0.00	\$0.00	\$61,053.00	\$4,820,355.03	\$9,606,750.41	\$18,544,485.61	\$2,859,740.13	\$3,875,072.55
2. Anticipated Annual Cost Share	\$0.00	\$0.00	\$41,262.00	\$852,331.03	\$6,609,649.40	\$5,574,515.96	\$2,246,058.08	\$1,767,274.08
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$0.00	\$0.00	\$102,315.00	\$5,672,686.06	\$16,216,399.81	\$24,119,001.57	\$5,105,798.21	\$5,642,346.63
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$0.00	\$0.00	\$0.00	\$61,053.00	\$4,881,408.03	\$14,488,158.44	\$33,032,644.05	\$35,892,384.18
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$0.00	\$0.00	\$61,053.00	\$4,820,355.03	\$9,606,750.41	\$18,544,485.61	\$2,859,740.13	\$3,875,072.55
6. Total Funding Allocated to for Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$0.00	\$0.00	\$61,053.00	\$4,881,408.03	\$14,488,158.44	\$33,032,644.05	\$35,892,384.18	\$39,767,456.73
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$75,087,930.30	\$75,947,847.52	\$77,361,357.67	\$78,270,136.71	\$73,466,915.93	\$64,257,972.38	\$47,521,765.58	\$46,344,245.85
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$75,087,930.30	\$75,947,847.52	\$77,300,304.67	\$73,388,728.68	\$58,978,757.49	\$31,225,328.33	\$11,629,381.40	\$6,576,789.12
8a. Corrected Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 5)	\$75,087,930.30	\$75,947,847.52	\$77,300,304.67	\$73,449,781.68	\$63,860,165.52	\$45,713,486.77	\$44,662,025.45	\$42,469,173.30

Attachment to
BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

SUMMARY

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

EMA 8 projects were awarded \$111,605.00 under a \$7.5 million VW Open Solicitation included in the Massachusetts Beneficiary Mitigation Plan (BMP). Open Solicitation projects meet and fulfill the following goals identified in the Massachusetts BMP:

- 1) Help the Commonwealth in achieving GHG emission reduction targets and reduce air pollution in the transportation network;
- 2) Promote electrification of the State's transportation network;
- 3) Drive technological and policy progress in air pollution mitigation and GHG emissions reduction in the transportation network;
- 4) Serve environmental justice populations; and
- 5) Promote equitable geographic distribution across the state.

The VW Open Solicitation supports each of the five goals by: a) focusing on achieving GHG and air pollution reductions through the placement of equipment (Goals 1 & 2); b) allowing for the introduction of new charging station technology (Goal 3); c) serving communities with known environmental justice populations (Goal 4); and d) siting the charging stations in a range of geographic areas across Massachusetts, including in each of MassDEP's four regions (Goal 5).

Massachusetts was allocated \$75,064,424.40 (prior to investment earnings) under the VW Settlement. MassDEP's December 2019 Amendment to *Final Massachusetts Volkswagen Settlement Beneficiary Mitigation Plan* (<https://www.mass.gov/doc/amendment-to-massachusetts-volkswagen-settlement-beneficiary-mitigation-plan-december-2019/download>) requires "\$7.5 million [be] made available through an open solicitation for proposals to implement projects eligible under any of the EMAs (except the EVSE EMA) allowed under the VW Settlement." The Settlement also allows a maximum of 15%, or \$11,259,663.66, to be used for the actual administrative expenditures associated with implementing all eligible mitigation projects. MassDEP's April 2023 Amendment to *Final Massachusetts Volkswagen Settlement Beneficiary Mitigation Plan* (<https://www.mass.gov/doc/amendment-to-massachusetts-volkswagen-settlement-beneficiary-mitigation-plan-april-2023/download>) allocated \$50,000 for administrative costs to disburse checks to grantees across all EMAs, well below the maximum allowed amount.

The page 8 Table in this D-4 includes actual VW spending through 2023, as further detailed in MassDEP's semiannual VW reports at <https://www.mass.gov/lists/past-massdep-vw-settlement-semiannual-reports>, and projected VW spending in 2024, including EMA 8 project funds of \$ 111,605.00 and EMA 8 administrative funds of \$72.50, for a total of \$ 111,677.50 being liquidated in this D-4.

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

MassDEP posted Open Solicitation application forms and requirements documents at: <https://www.mass.gov/how-to/apply-for-a-vw-open-solicitation-grant>

In an effort to provide continuing community benefits, EMA 8 grantees are required to:

- Purchase port cargo handling equipment (CHE) within 18 months of the effective date of the contract;

-Own and operate the CHE for a minimum of three consecutive years following the date the CHE is placed in service;

-If any issue arises that requires the CHE to be taken out of service for more than 30 consecutive days in the three-year period, notify MassDEP of the issue within 45 days of the CHE first being taken out of service, and within 45 days of the CHE being returned to service;

-Allow MassDEP access to the CHE to verify that the CHE is in service;

-Provide adequate property and casualty insurance coverage for the CHE;

-Train personnel on the operation and maintenance of the new CHE;

-Provide, upon request by MassDEP, data on the operation of the CHE including, but not limited to, hours used, operation and maintenance costs and records, documentation of operation inside Massachusetts, in addition to other related information;

-Maintain the CHE in accordance with the manufacturer's recommended procedures and specifications.

Air quality benefits include the reduction of NO_x, carbon dioxide (CO₂), carbon monoxide (CO), particulate matter (PM), and hydrocarbons (HC) emissions from conventional internal combustion engines. Reduced exposure to these pollutants provides additional community benefits.

Estimate of Anticipated NO_x Reductions (5.2.3):

Estimates were calculated using the US Environmental Protection Agency Diesel Emissions Quantifier and are based on engine data (engine model year, annual fuel use, and operational and idling hours) provided by funding recipients. Reductions after CHE upgrades would be approximately 2.5 short tons NO_x and 221.7 short tons CO₂ equivalents (CO₂e) per year. Actual fuel use and operating hours will determine the actual NO_x and CO₂e reductions.

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

As detailed in the Massachusetts Attachment to D-3:

"In addition to compliance with the Public Records Law, and in order to enhance access and reduce the burden for the general public, MassDEP will continue to post appropriate records regarding the VW settlement agreement and MassDEP's implementation of the Beneficiary Mitigation Plan, including records submitted by MassDEP in support of funding requests and expenditures of Trust Funds, on its searchable website at <http://www.mass.gov/dep>. The website can be used to easily access and produce electronic copies of such records without the need for a formal public records request."

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

Massachusetts funding for EMA 8 (CHE) allows non-government grantees up to 75% and government entities up to 80% funding towards CHE costs. Under the VW Open Solicitation, MassDEP allocates a maximum of \$500,000 to a grantee. Grantees must pay the portion not covered, including 100% of the costs above \$500,000, from non-VW funding sources.

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, MassDEP, the designated lead agency for the Beneficiary, the Commonwealth of Massachusetts, notified agencies via e-mail that they could "request Eligible Mitigation Action funds for use on lands within the Department of Interior's/Department of Agriculture's custody, control or management (including, but not limited to, Clean Air Act Class I and II areas)." MassDEP notified the Department of the Interior, National Park Service, Air Resources Division; the Department of the Interior, U.S. Fish and Wildlife Service; the Department of Agriculture; and the U.S. Coast Guard Base Cape Cod.

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).

For MassDEP's VW Open Solicitation, including new CHE funding, one project selection criterion was whether applicants' projects are located in communities that have historically borne a disproportionate share of NOx emissions, as listed in <https://www.mass.gov/files/documents/2016/07/ul/ej-2010-communitystatistics.pdf> and detailed in the Environmental Justice (EJ) Viewer provided by the Commonwealth of Massachusetts (current version at <https://mass-eoeaa.maps.arcgis.com/apps/webappviewer/index.html?id=1d6f63e7762a48e5930de84ed4849212>). 97% of the 31 selected projects are located in EJ areas, and were required as part of their application to use the EJ Viewer to determine the EJ criteria (minority, English isolation, income or a combination) of the project location.

MassDEP will monitor the locations awarded funding, and has indicated in the "Massachusetts Volkswagen Open Solicitation: Application Guidance and Grant Requirements" document that "The Commonwealth seeks to promote the equitable distribution of funding across the state. Geographic areas are defined as the four MassDEP Regional Service Areas." Because one of the goals of the MA BMP is reducing NOx, the use of CHE under the VW funding will help mitigate NOx emissions in nearby communities that have historically borne a disproportionate share of NOx emissions.

ATTACHMENT C

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

As detailed in Massachusetts Attachment to D-3, filed November 21, 2017:

“In addition to compliance with the Public Records Law, and in order to enhance access and reduce the burden for the general public, MassDEP will continue to post appropriate records regarding the VW settlement agreement and MassDEP’s implementation of the Beneficiary Mitigation Plan, including records submitted by MassDEP in support of funding requests and expenditures of Trust Funds, on its searchable website at <http://www.mass.gov/dep>. The website can be used to easily access and produce electronic copies of such records without the need for a formal public records request.”

In addition, Wilmington Trust will post on its public facing website the semi-annual reports MassDEP is required to submit pursuant to Settlement section 5.3:

“5.3 Beneficiary Reporting Obligations: For each Eligible Mitigation Action, no later than six months after receiving its first disbursement of Trust Assets, and thereafter no later than January 1 and July 1 of each year, each Beneficiary shall serve upon the Trustee, a semiannual report describing the progress implementing each Eligible Mitigation Action during the six-month period leading up to the reporting date (including a summary of all costs expended on the Eligible Mitigation Action through the reporting date). Such reports shall include a complete description of the status (including actual or projected termination date), development, implementation, and any modification of each approved Eligible Mitigation Action. ... The Trustee shall post each semiannual report on the Trust’s public-facing website upon receipt.”

ATTACHMENT D

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

As detailed above (in *Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8)*), under the VW Open Solicitation, MassDEP allocates a maximum of \$500,000 to a grantee. Therefore, there is the potential for a single vendor to receive more than \$25,000 for a particular project. Quotes are required to be submitted to MassDEP with VW Open Solicitation applications. Final actual invoices are required to be submitted to MassDEP with payment requests.

As agreed by MassDEP and Wilmington Trust in a December 2019 disbursement agreement, Wilmington Trust will disburse checks to grantees or vendors. Attached is an explanatory document to be enclosed with such checks.

You are receiving the enclosed check in response to a payment request submitted to the Massachusetts Department of Environmental Protection (MassDEP) related to an award of grant funding from the Volkswagen Environmental Mitigation Trust. Should you have any questions about this check, please contact Ms. Haidee Janak at MassDEP at (857) 276-2540 or Haidee.Janak@mass.gov . Do not contact Wilmington Trust, N.A. with questions. Thank you.