



The State of New Hampshire
Department of Environmental Services



July 24, 2023

Mr. Michael Bochanski Jr.
Volkswagen Environmental Mitigation Trust
c/o Wilmington Trust, N.A. as Trustee
1100 North Market Street
Attn: Capital Markets & Agency Services
Wilmington, DE 19890

Dear Mr. Bochanski,

The New Hampshire Department of Environmental Services has enclosed the State of New Hampshire's funding request NHDES-23-02, the tenth funding request for the State of New Hampshire, as required by paragraph 5.2 of the Trust Agreement.

Thank you for your attention to this matter. If you have any questions regarding this submission, please contact me – Craig Wright, Director, Air Resources Division at craig.a.wright@des.nh.gov or at (603) 271-1088.

Sincerely,

Craig Wright
Director, Air Resources Division
New Hampshire Department of Environmental Services
P.O. Box 95
Concord, NH 03302-0095

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

[Faint handwritten signature]

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of New Hampshire

Lead Agency Authorized to Act on Behalf of the Beneficiary NH Department of Environmental Services
(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:	State Agency Vehicle Replacement – NH Department of Safety (NHDOS)
Beneficiary's Project ID:	NHDES-23-02
Funding Request No.	10
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 type="checkbox"/> Beneficiary <input checked="" type="checkbox"/> Other (specify): <u>NH Department of Safety</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>6. Local Freight Trucks (Medium Trucks)</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 Attachment 1
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): See Attachment 1
Estimate of Anticipated NOx Reductions(5.2.3): See Attachment 1
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): New Hampshire Department of Environmental Services
Describe how the Beneficiary will make documentation publicly available (5.2.7.2). https://www.des.nh.gov/business-and-community/loans-and-grants/volkswagen-mitigation-trust
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). See Attachment 1
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9). See Attachment 1
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 Attachment 1

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 New Hampshire, 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: _____

7/24/23



Craig Wright
Director, Air Resources

**New Hampshire Department of
Environmental Services**

for

State of New Hampshire

ATTACHMENT B

PROJECT MANAGEMENT PLAN PROJECT SCHEDULE AND MILESTONES

Milestone	Date
Lead Agency Provides Notice of Availability of Mitigation Action Funds	9/7/2018
Project Sponsor Submits Proposal to Lead Agency	11/28/2018
Public Notice of Governor and Council Meeting Agenda	3/20/2020
Lead Agency Receives Governor and Council Approval	3/25/2020
Lead Agency Notifies Project Sponsor of Governor and Council	3/27/2020
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Start	April 2020-June 2021
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Complete	June 2022
Agencies Accept Delivery of Replacement Vehicles	Fall 2020 – Spring 2023
Vehicle Destruction	Fall 2020 – Spring 2023
Lead Agency Reports to Trustee on Status of & Expenditures with Mitigation Actions Completed and Underway	Within six (6) months of first disbursement; Jan. 30 & July 30 thereafter

PROJECT BUDGET

Period of Performance: <u>January 2020 – June 2024</u>				
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	\$294,874	\$235,899.20	\$58,974.80	\$0
2. Contractor Support <i>(Provide List of Approved Contractors as Attachment with approved funding ceilings)</i>	\$0	\$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	\$0
4. Administrative ¹	\$0	\$0	\$0	\$0
Project Totals	\$294,874	\$235,899.20	\$58,974.80	\$0
Percentage (excl. admin costs)	100%	80%	20%	0%

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

PROJECTED TRUST ALLOCATIONS:

	2019 (Actuals)	2020 (Actuals)	2021 (Actuals)	2022 (Actuals)	2023 (Estimated)
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$3,731,345	\$761,307	\$2,118,031	\$0 ¹	\$3,750,000
2. Anticipated Annual Cost Share	\$5,033,176	\$828,624	\$529,508	\$459,707	\$2,500,000
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$8,764,521	\$1,589,931	\$2,647,539	\$459,707	\$6,250,000
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$3,731,345	\$4,492,652	\$6,610,683	\$6,610,683	\$6,610,683
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	N/A—Actuals	N/A—Actuals	N/A—Actuals	N/A—Actuals	\$3,750,000
6. Total Funding Allocated to the Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$3,731,345	\$4,492,652	\$6,610,683	\$6,610,683	\$10,360,683
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$31,204,145	\$27,472,800	\$26,711,493	\$25,809,908 ²	\$25,809,908
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 1)	\$27,472,800	\$26,711,493	\$24,593,462	\$25,809,908	\$22,059,908

¹\$73,904.38 of funds allocated to NHDES in 2021 were spent on DERA projects. \$271,532 were requested for disbursement in 2022, but were not received until March 2023.

²Per Wilmington trust website's actual market share as of February 2023, inclusive of the Trust's growth.

ATTACHMENT C

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

Information on funding availability, the application process, and status of approved projects under the New Hampshire Beneficiary Mitigation Trust are made available on the New Hampshire Department of Environmental Services' VW webpage in the form of a report that is consistent with Trust requirements. Records may also be requested by contacting the Department of Environmental Services.

ATTACHMENT D

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

Attachment 1

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

The projects fit into the Mitigation Plan by addressing the principal goal of New Hampshire's Mitigation Trust to alleviate excess nitrogen oxide emissions caused by the Volkswagen violations through implementation of cost-effective projects in all regions of the state. Utilizing Mitigation Trust funds for the replacement of publicly-owned vehicles lowers operating and maintenance costs for these fleets and saves taxpayer money. The vehicle to be replaced through this project will operate throughout the state, including in areas with historical air quality issues, and areas that receive a disproportionate quantity of air pollution from diesel fleets. The replacement of older diesel vehicles with lower emission vehicles maximizes air quality benefits by also reducing particulate emissions, greenhouse gas emissions, and the carcinogens associated with diesel exhaust. Use of state agency match for this project serves to leverage investment of additional funds and expand the number and scope of projects to be served by the Mitigation Trust.

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

The project involves the replacement of one Class 6 diesel truck with a newer more efficient truck. The replacement of this older and less efficient vehicle with a lower emission new diesel vehicle will benefit air quality in the state through reductions in emissions such as NO_x, particulate matter, and greenhouse gases. The replacement of this publicly-owned diesel vehicle will also provide a broad public benefit by lowering maintenance and fuel costs for this state fleet, and thus for taxpayers.

It is estimated that the state vehicle replacement project will result in the following annual and lifetime reductions of NO_x, PM_{2.5}, and CO (units in short tons based on an assumed 15 year lifetime):

Emission	Annual Reductions	Lifetime Reductions
NO _x	0.015	0.226
PM _{2.5}	0.001	0.016
CO	0.007	0.081

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

The cost share requirement for vehicle replacements is 20% of eligible costs. For this NH Dept. of Safety project, the cost share is \$58,974.80.

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

Pursuant to Section 4.2.8 of the Environmental Mitigation Trust Agreement for State Beneficiaries, the New Hampshire Department of Environmental Services (DES), Lead Agency for the Environmental Mitigation Trust, has made information pertaining to the availability of Trust funding for eligible mitigation activities publicly available. This notification was accomplished through the presentation of the New Hampshire Beneficiary Environmental Mitigation Plan and State Trust Agreement documents on the Volkswagen page of the DES website. The New Hampshire Beneficiary Environmental Mitigation Plan and State Trust Agreement documents were made available on the website of the original Lead Agency, the New Hampshire Office of Strategic Initiatives, beginning on September 7, 2018. This information is now available on the Volkswagen page of the DES website.

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):

The vehicle to be replaced through this project will operate throughout the state, including in areas with historical air quality issues, and areas that receive a disproportionate quantity of air pollution from diesel fleets.



State of New Hampshire Purchase Order

PURCHASE ORDER NUMBER 1076834
This number must appear on all Invoices, packages, cartons, bills of lading, and packing slips.

Date: 11/04/2020
Status: ORIGINAL
Ship Via:
FOB: Destination
Freight Terms: Vendor Paid
Terms: Net 30
Due Days: 30

Bill To: EQUIPMENT CONTROL WAREHOUSE
SAFETY BUSINESS OFFICE
33 HAZEN DRIVE
CONCORD NH 03305

FIRST PRIORITY EMERGENCY VEHIC
LEGAL DEPARTMENT
2444 RIDGEWAY BLVD NO 500
MANCHESTER NJ NJ 08759

Ship To:
NH DEPT OF SAFETY
EQUIPMENT CONTROL
WAREHOUSE
41 HAZEN DRIVE
CONCORD NH 03305

Phone: (908) 645-0631 Agency Contact: Cynthia Hagerty 603.223.8437
Fax: 91

Vendor #: 335132
Contact: Ian Graham

In accordance with BID 51-21

Table with 5 columns: LINE, QTY, UOM, DESCRIPTION, UNIT PRICE, EXTENDED PRICE. Row 1: 1, 1.00, EA, MOBILE CRIME LABORATORY FIRST PRIORITY FPG-2020 WITH Vendor Item Number: KENWORTH T270 CAB & CHASSIS Vendor Item Desc: 294,874.00000, 294,874.00. Summary: Goods Total: \$294,874.00, Order Total: \$294,874.00.

Buyer: Joseph Bouchard
Phone: 603-271-2650
Process Level: 02300

Total Amount: \$294,874.00

Signature of Joseph Bouchard
Purchase Approval

1. The State of New Hampshire engages the firm or individual ("the Vendor") to perform the services and/or sale of goods, described in the attached State Proposal and the Vendor's proposal, bid or quotation, any of which are incorporated herein by reference.

2. **COMPLIANCE BY VENDOR WITH LAWS AND REGULATIONS.** In connection with the performance of this agreement, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which shall impose any obligation or duty upon the Vendor, including, but not limited to civil rights and equal opportunity laws. In addition, the Vendor shall comply with all applicable copyright laws.

3. **TERM.** The contract and all obligations of the parties thereunder, shall become effective on a specified date and shall be completed in their entirety prior to a specified date. Any work undertaken by the Vendor prior to the effective date shall be at his sole risk and, in the event that the contract shall not become effective, the State shall be under no obligation to reimburse the Vendor for any such work.

4. **CONTRACT PRICE.** The contract price, a payment schedule and a maximum limitation of price shall be as specified by the proposal or bid invitation and the Vendor's response. All payments shall be conditioned upon receipt, and approval by the State, of appropriate vouchers and upon satisfactory performance by the Vendor, as determined by the State. The payment by the State of the Contract Price shall constitute complete reimbursement to the Vendor for all expenses of any nature incurred by the Vendor in the performance by the contractor and complete payment for the Services. The State shall have no other liability to the Vendor.

5. **DELIVERY.** If the Vendor fails to furnish items and/or services in accordance with all requirements, including delivery, the state may repurchase similar items from any other source without competitive process, and the original Vendor may be liable to the state for any excess costs.

If a Vendor is unable to complete delivery by the date specified, he must contact the using branch and or agency. However, the branch and or agency is not required to accept a delay to the original delivery date. All deliveries are subject to inspection and receiving procedure rules as established by the State of New Hampshire. Deliveries are not considered accepted until compliance with these rules has been established. State personnel signatures on shipping documents shall signify only the receipt of shipment.

6. **INVOICING.** All invoices must be in triplicate showing Order Number, Unit and Extension Prices and discounts allowed. A separate invoice shall be submitted for each order. Unless otherwise noted on the proposal or purchase order, payment will not be due until thirty(30) days after all services have been completed, or all items have been delivered, inspected and accepted or the invoice has been received, whichever is later.

7. **PERSONNEL.**

7.1. The Vendor shall disclose in writing the names of all owners (5% or more), directors, officers, employees, agents or subcontractors who are also officials or employees of the State of New Hampshire. Any change in this information shall be reported in writing within fifteen (15) days of their occurrence.

7.2. The person signing this agreement on behalf of the State, or his or her delegee ("Contracting Officer") shall be the State's representative for purposes of this agreement. In the event of any dispute concerning the interpretation of this agreement, the Contracting Officer's decision shall be final.

8. **EVENT OF DEFAULT; REMEDIES.**

8.1. Any one or more of the following acts or omissions of the Vendor shall constitute an event of default hereunder ("Events of Default").

8.1.1. failure to deliver the goods or services satisfactorily or on schedule; or

8.1.2. failure to submit any report required hereunder; or

8.1.3. failure to perform any of the other covenants and conditions of this agreement.

8.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1. give the Vendor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty(30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this agreement, effective two (2) days after giving the Vendor notice of termination; and

8.2.2. give the Vendor a written notice specifying the Event of Default and suspending all payments to be made under this agreement and ordering that the portion of the Contract Price, which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default, shall never be paid to the Vendor; and

8.2.3. set off against any other obligation the State may owe to the Vendor any damages the State suffers by reason of any Event of Default; and

8.2.4. treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

9. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express failure of any Event of Default shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof regarding any further or other default on the part of the Vendor.

10. **VENDOR'S RELATION TO THE STATE.** In the performance of this agreement the Vendor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Vendor nor any of its officers, employees, agents or members shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

11. **ASSIGNMENT AND SUBCONTRACTS.** The Vendor shall not assign, or otherwise transfer any interest in this agreement without the prior written consent of the State. No work required by this contract shall be subcontracted without the prior written consent of the State.

12. **INDEMNIFICATION.** The Vendor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the state, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Vendor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

12.1. **PATENT PROTECTION.** The Vendor agrees to indemnify and defend the State of New Hampshire from alleged and actual patent infringements and further agrees to hold the State of New Hampshire harmless from any liability arising under RSA 382-A:2-312(3). (Uniform Commercial Code).

13. **TOXIC SUBSTANCES.** In compliance with RSA 277-A known as the Workers Right to Know Act, the Vendor shall provide Material Safety Data Sheets with the delivery of any and all products covered by said law.

14. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given below.

15. **AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto.

16. **CONSTRUCTION OF AGREEMENT AND TERMS.** This agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns.

17. **ADDITIONAL PROVISIONS.** The additional provisions (if any) have been set forth as Exhibit "A" hereto.

18. **ENTIRE AGREEMENT.** This agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.