

APPENDIX D-4
Maine Beneficiary Eligible Mitigation Action Certification

State of Maine
State Multimodal Improvements Option 2019
EMA Category 2-Class 4-8 School Bus, Shuttle Bus, or Transit Bus
MaineDOT ID (23901.00)
Advance Fund Request 7

- (ii) As part of Maine's Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered included the solicitation of public comments via web notice and comment period on Maine's Beneficiary Mitigation Plan. Two public meetings were held in geographically diverse locations prior to closing of the comment period. Comments were and will continue to be considered through program implementation.
- (iii) 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. The certification in Paragraph 7 is subject to Maine's Freedom of Access Act (FOAA), 1 M.R.S. §§ 400-414, and other applicable Maine law. All documentation and records submitted by the State in support of each funding request and supporting all expenditures of Trust Funds by the State shall be accessible to the public unless an exception from disclosure under Maine law applies to the document or part thereof. For example, Maine's FOAA, 1 M.R.S. § 402(3), includes in the list of exceptions a general exception for records that have been designated confidential by statute. Any claims for confidentiality under this exception, other enumerated exceptions, or under other Maine law would be reviewed by the Maine Department of Transportation and legal counsel. Documents, or parts of documents, would be protected from disclosure only to the extent required by Maine law. The State has identified the following specific provisions potentially applicable to confidential business information and personally identifiable information.

The enumerated exceptions under Maine's FOAA include records that would be within the scope of a privilege against discovery or use as evidence recognized by Maine courts in civil or criminal trials if the records were sought during the course of a court proceeding. 1 M.R.S. § 402(3)(B). Maine Rule of Civil Procedure 26(c) provides that a trade secret or other confidential research, development, or commercial information may be the subject of a protective order by a court, when sought during discovery. Also, Rule 507 of the Maine Rules of Evidence contains a privilege to refuse to disclose, and prevent others from disclosing, a trade secret. The Maine Supreme Judicial Court has looked to the definition of "trade secret" in Maine's Uniform Trade Secrets Act, 10 M.R.S. § 1542(4), in interpreting "trade secret" claims for non-disclosure under FOAA. That definition includes information that "[d]erives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use" and "[i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

Maine's FOAA contains exceptions to disclosure for certain personally identifiable information such as social security numbers. 1 M.R.S. § 402(3)(N).

Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).
Under Maine's BMP, there is an 75% cost share for the non-government transit buses which will be met using federal and/or state funds already committed.

Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).
Lead agency contact emailed the State Trust Agreement to specified recipients on February 12, 2018.

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).

ATTACHMENTS
(CHECK BOX IF ATTACHED)

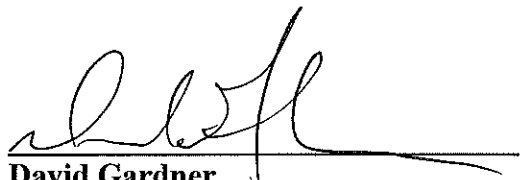
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|----------|---------------------|---|
| X | Attachment A | Funding Request and Direction. |
| X | Attachment B | Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4). |
| X | Attachment C | Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11). |
| X | 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 Maine, 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: 4/30/19


David Gardner
Director, Environmental Office

Maine Department of Transportation
[LEAD AGENCY]

for

State of Maine
[BENEFICIARY]

ATTACHMENT A

FUNDING REQUEST AND DIRECTION

(Attachment to Appendix D-4, Beneficiary Eligible Mitigation Action Certification, pursuant to Paragraph 5.2 of the Environmental Mitigation Trust Agreement)

Pursuant to the authority granted to the Maine Department of Transportation (MaineDOT) to act on behalf of Beneficiary State of Maine under the Mitigation Trust, the Maine Department of Transportation directs the Trustee to make the following payments from its subaccount no. 122969-023 to the following payees, for the amounts specified on the dates specified below.

LEAD AGENCY INFORMATION

Beneficiary Name: State of Maine	Lead Agency Contact Person: David Gardner
Lead Agency Name: Maine Department of Transportation (MaineDOT)	Lead Agency Email Address: david.gardner@maine.gov
Lead Agency Address: 16 State House Station Augusta, ME 04333	Lead Agency Fax: 207-624-3099
Lead Agency Phone: 207-592-2471	Lead Agency TIN: 016000001

Contact information entered above may correspond to Lead Agency or 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

MITIGATION ACTION INFORMATION

Action Title: State Multi-Modal Improvements (SMMI) 2019-EMA-2	Funding Request Number: 7
Beneficiary's Project ID: 23901.00	

PAYMENTS REQUESTED
(attach additional pages if needed)

Amount	Requested Date	Payee	Request Type
\$630,896.80	April 30, 2019	MaineDOT	Advance

PAYEE CONTACT AND WIRE INFORMATION

(fill out both tables below for each payee and payment identified in "Payments Requested" table on p. 1; attach additional pages if needed)

PAYEE CONTACT INFORMATION


Action Title:	SMMI 2019-EMA 2	Beneficiary Project ID:	23901.00
Payee Name:	MaineDOT	Payee Contact Person:	David Gardner
Payee Address:	16 State House Station Augusta, ME 04333	Payee Email Address:	david.gardner@maine.gov
Payee Phone:	207-592-2471	Payee Fax:	207-624-3099
Payee TIN:	016000001		

Payment Amount	Requested Date	Request Type
\$630,896.80	4/30/19	Advance

PAYMENT FORM

- CHECK
 WIRE TRANSFER

SIGNATURE OF AUTHORIZED INSTRUCTOR

Printed Name:	<u>Nathan Moulton</u>
Signature:	
Date:	<u>4/30/19</u>

ATTACHMENT B
Eligible Mitigation Action Management Plan

Project Schedule and Milestones (July 2018-June 2019)

Transit Provider	Milestone	Date
City of Bangor	Release request for application for Multimodal Priorities Category 2-Class 4-8 School Bus, Shuttle Bus, Transit Bus	10.17.18
	Receive applications	11.27.18
	Score applications	12.27.18 to 01.08.19
	Notify applicants of results	01.10.19
	Receive final bus pricing	02.19.19
	Contract with Transit Provider	03.11.19
	Request funds from Wilmington Trust	04.29.19
	Proponents complete orders with approved vendors.	02.15.20 (est.)
	Proponents submit evidence of scrapping, invoices, other docs	03.31.20 (est.)
Transit Provider	Milestone	Date
WMTS	Release request for application for Multimodal Priorities Category 2-Class 4-8 School Bus, Shuttle Bus, Transit Bus	10.17.18
	Receive applications	11.20.18
	Score applications	12.27.18 to 01.08.19
	Notify applicants of results	01.10.19
	Receive baseline bus pricing - Bid Award	02.19.19
	Contract with Transit Provider	04.19.19
	Order with final pricing	05.17.19 (est.)
	Request funds from Wilmington Trust	04.29.19
	Proponents complete orders with approved vendors.	05.17.19 + 8 months (est.)
Proponents submit evidence of scrapping, invoices, other docs	05.17.19 + 9 months (est.)	
Transit Provider	Milestone	Date
Downeast Community Partners	Release request for application for Multimodal Priorities Category 2-Class 4-8 School Bus, Shuttle Bus, Transit Bus	10.17.18
	Receive applications	11.28.19
	Score applications	12.27.18 to 01.08.19
	Notify applicants of results	01.10.19
	Receive baseline bus pricing - Bid Award	02.19.19
	Contract with Transit Provider	10.01.19 (est.)
	Order with final pricing	10.15.19 (est.)
	Request funds from Wilmington Trust	04.29.19

	Proponents complete orders with approved vendors.	10.15.19 + 8 months (est.)
	Proponents submit evidence of scrapping, invoices, other docs	10.15.19 + 9 months (est.)

Project Budget (July 2018 – June 2019)

BUDGET CATEGORY	TOTAL APPROVED BUDGET	SHARE TO BE FUNDED BY TRUST	COST SHARE (project sponsor/federal)
Expenditure on Multimodal priorities-17 New Diesel Transit Buses	\$3,728,789.00	\$630,896.80	\$3,097,892.20
Percentage	100%	17%	83%

Projected Trust Allocations

	FY 2019 July 2018-June 2019	FY 2020	FY 2021-2028
1. Anticipated Annual Project Funding Requests to be paid through Trust	\$6,300,000	\$10,000,000	\$3,253,064
2. Anticipated Annual Cost Share	\$3,504,600	\$4,320,000	\$5,855,515
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$9,804,600	\$14,320,000	\$9,108,579
4. Cumulative Trustee Payments made to Date against Cumulative Approved Beneficiary Allocations	\$1,500,000	7,800,000	\$17,800,000
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$6,300,000	\$10,000,000	\$3,253,064
6. Total Funding Allocated to Beneficiary, inclusive of current Action by Year (line 4 plus line 5)	\$7,800,000	\$17,800,000	\$21,053,051
7. Beneficiary Share of estimated Funds Remaining in Trust	\$19,553,064	\$13,253,064	-
8. Net Beneficiary Funds Remaining in Trust, Net of Cumulative Beneficiary Funding Actions (line 7 minus line 5)	\$13,253,064	\$3,253,064	-

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

Records of applications and selected projects will be made available on the Maine VW webpage:
<http://www.maine.gov/mdot/vw/>.

ATTACHMENT D
 COST ESTIMATES and AWARDS

Detailed Cost Estimates from Selected or Potential Vendors for each Proposed expenditure exceeding \$25,000 (5.2.6)

Pricing estimates for the transit buses are shown in the matrix below.

TYPE	COST	VW FUNDS (15-20%)	COST SHARE (80-85%)
(12) transit diesel buses (24+2)	\$1,432,044.00	\$286,384.80	\$1,145,659.20
(5) 29' transit diesel Buses	\$2,296,745.00	\$344,512.00	\$1,952,233.00
Total (17 transit buses)	\$3,728,789.00	\$630,896.80	\$3,097,892.20

The total VW share for the Multimodal Priorities Funding 2019- Category 2: Class 4-8 School Bus, Shuttle Bus, or Transit Bus is \$630,896.80.

Application information can be located on the Maine VW webpage: <http://www.maine.gov/mdot/vw/>.