

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).

n/a

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 Nevada, 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: _____

[NAME]

[SIGNATURE]

[TITLE]

[LEAD AGENCY]

for

[BENEFICIARY]

**DETAILED DESCRIPTION OF MITIGATION ACTION ITEM INCLUDING
COMMUNITY AND AIR QUALITY BENEFITS (5.2.2)**

This Eligible Mitigation Action Category 9 project will install publicly available light duty electric vehicle charging infrastructure at a non-Government Owned Property in Baker, Nevada. Specifically, the charging infrastructure will be installed at the Border Inn Rest Stop at the Highway 50 Border between Nevada and Utah. Two Direct Current Fast Chargers (both chargers will have two cords, one SAE Combo and one CHAdeMO, but only one can be in use at a time) will be installed because of this project.

This project supports the development of the Nevada Electric Highway. Once completed, the Nevada Electric Highway will provide a network of electric vehicle charging stations across the state in order to make it easier for Nevadans and our guests alike to appreciate all the state has to offer. By investing in the charging infrastructure identified in the Nevada Electric Highway and this Eligible Mitigation Action specifically, Environmental Mitigation Trust Funds will help to increase the availability of charging stations for electric vehicles and thus increase electric vehicle usage in Nevada’s metropolitan areas, as well as significantly contribute to an increase in the number of electric vehicles driven across not only Nevada, but the entire western region.

Through this Nevada Electric Highway project, the Nevada Division of Environmental Protection (NDEP) will advance funding to the Nevada Governor’s Office of Energy (GOE) who will directly oversee the completion of the project. The GOE’s project partner will then be reimbursed on actual expenditures incurred over the course of the charging infrastructure’s installation. The GOE will provide progress reports to the NDEP detailing the work done to complete the project and once completed, any unspent Trust funds will be returned to Wilmington Trust.

The expected lifetime emissions reductions are based on the Federal Highway Administration’s Congestion Mitigation and Air Quality Improvement Program’s Cost Effectiveness Tables. An important assumption associated with this project, but not considered in the below estimates, is that as the number of electric vehicles increases so too will the amount of emissions reduced due to the installation of this charging infrastructure. The emissions reductions, in short tons, are:

Pollutant	Emissions Reductions (tons)
NO _x	0.105
PM _{2.5}	0.010
VOCs	0.043
CO	1.722
PM ₁₀	0.023

ATTACHMENT FOR 5.2.7.2

Describe how the Beneficiary will make documentation publicly available

Subparagraph 5.2.7.2 of the Environmental Mitigation Trust Agreement for State Beneficiaries requires that Beneficiaries include in their funding requests:

A commitment by the Beneficiary to maintain and make publicly available all documentation submitted in support of the 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, together with an explanation of the procedures by which the Beneficiary shall make such documentation publicly available;

The Nevada Division of Environmental Protection (NDEP), the Lead Agency for the State of Nevada, is committed to maintaining and making publicly available all documentation submitted support of the funding requests 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.

The public will be able to view these records on the NDEP's website (<https://ndep.nv.gov>). The NDEP will maintain these records on a Volkswagen (VW) Environmental Mitigation Trust Fund specific webpage that will be designed to support public access and limit burden for the general public. The NDEP's VW specific webpage can currently be found at <https://ndep.nv.gov/air/vw-settlement>.

The NDEP has created an electronic listserv, open to the public, used to communicate news, events, and information related the Environmental Mitigation Trust Fund (Mitigation Fund). The listserv, NevadaVWFund, is advertised through the NDEP website and at public events related to the Mitigation Fund.

Chapters 603A and 239B of the Nevada Revised Statutes (NRS) provide definitions and requirements for handling *personal information*.

NRS Section 603A.040 defines 'Personal Information' as:

1. *"Personal information" means a natural person's first name or first initial and last name in combination with any one or more of the following data elements, when the name and data elements are not encrypted:*
 - (a) *Social security number.*
 - (b) *Driver's license number, driver authorization card number or identification card number.*
 - (c) *Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.*
 - (d) *A medical identification number or a health insurance identification number.*

- (e) A user name, unique identifier or electronic mail address in combination with a password, access code or security question and answer that would permit access to an online account.*
- 2. The term does not include the last four digits of a social security number, the last four digits of a driver's license number, the last four digits of a driver authorization card number or the last four digits of an identification card number or publicly available information that is lawfully made available to the general public from federal, state or local governmental records.*

NRS Section 239B.030 – *Recorded, filed or otherwise submitted documents* - states that:

- 1. Except as otherwise provided in subsections 2 and 6, a person shall not include and a governmental agency shall not require a person to include any personal information about a person on any document that is recorded, filed or otherwise submitted to the governmental agency on or after January 1, 2007.*
- 2. If personal information about a person is required to be included in a document that is recorded, filed or otherwise submitted to a governmental agency on or after January 1, 2007, pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant, a governmental agency shall ensure that the personal information is maintained in a confidential manner and may only disclose the personal information as required:*
- (a) To carry out a specific state or federal law; or*
- (b) For the administration of a public program or an application for a federal or state grant.*
- ↪ Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.*
- 3. A governmental agency shall take necessary measures to ensure that notice of the provisions of this section is provided to persons with whom it conducts business. Such notice may include, without limitation, posting notice in a conspicuous place in each of its offices.*
- 4. A governmental agency may require a person who records, files or otherwise submits any document to the governmental agency to provide an affirmation that the document does not contain personal information about any person or, if the document contains any such personal information, identification of the specific law, public program or grant that requires the inclusion of the personal information. A governmental agency may refuse to record, file or otherwise accept a document which does not contain such an affirmation when required or any document which contains personal information about a person that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.*
- 5. Each governmental agency may ensure that any personal information contained in a document that has been recorded, filed or otherwise submitted to the governmental agency before January 1, 2007, which the governmental agency continues to hold is:*
- (a) Maintained in a confidential manner if the personal information is required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant; or*
- (b) Obliterated or otherwise removed from the document, by any method, including, without limitation, through the use of computer software, if the personal information is not required to be*

included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.

↪ *Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.*

6. *A person may request that a governmental agency obliterate or otherwise remove from any document submitted by the person to the governmental agency before January 1, 2007, any personal information about the person contained in the document that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant or, if the personal information is so required to be included in the document, the person may request that the governmental agency maintain the personal information in a confidential manner. If any documents that have been recorded, filed or otherwise submitted to a governmental agency:*

(a) Are maintained in an electronic format that allows the governmental agency to retrieve components of personal information through the use of computer software, a request pursuant to this subsection must identify the components of personal information to be retrieved. The provisions of this paragraph do not require a governmental agency to purchase computer software to perform the service requested pursuant to this subsection.

(b) Are not maintained in an electronic format or not maintained in an electronic format in the manner described in paragraph (a), a request pursuant to this subsection must describe the document with sufficient specificity to enable the governmental agency to identify the document.

↪ *The governmental agency shall not charge any fee to perform the service requested pursuant to this subsection.*

7. *As used in this section:*

(a) "Governmental agency" means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government.

(b) "Personal information" has the meaning ascribed to it in [NRS 603A.040](#).

Chapter 239 of the NRS provides general principles for the definition and the handling of public records. In particular, subsection 239.010.3 states that:

A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

Chapter 445B of the NRS (Air Controls) specifically provides further directions on what is confidential information and how such information must be handle in the context of the Air Program of the NDEP. In particular section 445B.570 – *Confidentiality and use of information obtained by Department*¹; penalty – states that (footnotes added for clarity):

¹ Nevada Department of Conservation and Natural Resources (DCNR)

1. *Any information which the Department obtains in the course of the performance of its duties pursuant to the provisions of this chapter is public information unless otherwise designated as confidential information pursuant to the provisions of this section.*
2. *The emission of an air contaminant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by regulation of the Commission cannot be certified as being confidential.*
3. *Any confidential information received by the Commission², the Director³ or any local control authority which is certified in writing to the recipient as confidential by the owner or operator disclosing the information and verified and approved in writing as confidential by the recipient must, unless the owner expressly agrees to its publication or availability to the public, be used only:
 - (a) *In the administration or formulation of air pollution controls;*
 - (b) *In compiling or publishing analyses or summaries relating to the condition of the outdoor atmosphere which do not identify any owner or operator or reveal any confidential information;*or
 - (c) *In complying with federal statutes, rules and regulations.**
4. *This section does not prohibit the use of confidential information in a prosecution for the violation of any statute, ordinance or regulation for the control of air pollution.*
5. *A person who discloses or knowingly uses confidential information in violation of this section is guilty of a misdemeanor, and is liable in tort for any damages which may result from such disclosure or use.*
6. *As used in this section, "confidential information" means information or records which:
 - (a) *Relate to dollar amounts of production or sales;*
 - (b) *Relate to processes or production unique to the owner or operator; or*
 - (c) *If disclosed, would tend to affect adversely the competitive position of the owner or operator.**

² Nevada State Environmental Commission

³ Director of the Department of Conservation and Natural Resources

ATTACHMENT B

**ELIGIBLE MITIGATION ACTION MANAGEMENT PLAN INCLUDING DETAILED
BUDGET AND IMPLEMENTATION AND EXPENDITURES TIMELINE**

ATTACHMENT B

PROJECT MANAGEMENT PLAN PROJECT SCHEDULE AND MILESTONES

Milestone	Date
The Nevada Governor’s Office of Energy received the application from NV Energy for the installation of eligible electric vehicle charging infrastructure	CY 2020, Q3
GOE enters into Agreement with NV Energy	CY 2020, Q3
GOE submits application to NDEP	CY 2020, Q4
NDEP enters into Subgrant Agreement with GOE	CY 2020, Q4
NDEP Submits and Trustee acknowledges receipt of project certification and funding direction	CY 2020, Q4
NV Energy completes installation of electric vehicle charging infrastructure	CY 2021, Q3
GOE reports project completion to NDEP	CY 2021, Q3
NDEP reports project completion—any unspent VW State Trust funds will be returned to the Trustee	CY 2021, Q4

PROJECTED TRUST ALLOCATIONS

ANNUAL PROJECTIONS	2021
1. Anticipated annual project funding request to be paid through the Trust	\$277,376.00
2. Portion of anticipated project funding request to be paid through the Trust to cover Eligible Mitigation Action Administrative Expenditures	\$25,216.00
3. Portion of anticipated project funding request to be paid through the Trust to cover Eligible Mitigation Action Expenditures	\$252,160.00
4. Anticipated annual cost share	\$63,040.00
5. Anticipated total project funding by year (line 1 plus line 4)	\$340,416.00
CUMULATIVE PROJECTIONS	
6. Cumulative outstanding Trustee payments requested against cumulative approved Beneficiary allocation	\$8,597,081.98
7. Cumulative Trustee payments made to date against cumulative approved Beneficiary allocation	\$4,910,585.04
8. Beneficiary funding to be paid through the Trust for this project (sum of line 1)	\$277,376.00
9. Total funding approved for Beneficiary Eligible Mitigation Actions, inclusive of current Action (sum of lines 6, 7, and 8)	\$13,785,043.02
10. Beneficiary share of estimated funds remaining in Trust	\$21,230,715.59
11. Estimated Beneficiary funds remaining in Trust after project completion (line 10 minus lines 6 and 8)	\$12,356,257.61

**GOE NEH Funding Opportunity April 2018
Attachment 2: Subgrant Workplan Template**

Name of Applicant:	Mt. Wheeler Power, Inc.	Name of Project:	Border Inn on Hwy 50
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Task/ Milestone	Start Date	Activity	Deliverable	Detailed Description	Completion Date
Task/Milestone 1		<i>Site Selection</i>	<i>Report to GOE will include a map of the location with the on-site power availability (e.g., 3-phase) Expect approximately 10% of the budget will be allocated for this Task/Milestone</i>	<i>Only real opportunity for a Rest Stop unit in the immediate area. Border Inn Rest Stop on Hwy 50 at the Nevada/Utah Border. Agreed with landowner on site location in Nevada.</i>	Completed
Task/Milestone 2		<i>Design</i>	<i>Report to GOE will include the drawings, specifications, etc. Expect approximately 15% of the budget will be allocated for this Task/Milestone</i>	<i>Going to save time and money by using same structural designs as the Ely project. Will just have to complete civil designs.</i>	Nov- Dec 2020
Task/Milestone 3		<i>Equipment purchase</i>	<i>Report to GOE will include the equipment specifications. Expect approximately 35% of the budget will be allocated for this Task/Milestone</i>	<i>Will order the 2 Fast Charger units as soon as contract is signed with the State of Nevada.</i>	Nov 2020
Task/Milestone 4		<i>Construction/Installation</i>	<i>Report to GOE will include construction start/end dates, labor used (e.g., in-house, subcontract) Expect approximately 35% of the budget will be allocated for this Task/Milestone</i>	<i>Weather permitting and Contractor availability for this very rural location may extend in mid-2021. Start as soon as contract signed by the State and I can get Contractors to meet.</i>	July 2021
Task/Milestone 5		<i>Final Close-out</i>	<i>Final report to GOE will include wrap-up of the project,</i>	<i>Once all invoices in and paid...</i>	July 2021

**GOE NEH Funding Opportunity April 2018
Attachment 2: Subgrant Workplan Template**

Task/ Milestone	Start Date	Activity	Deliverable	Detailed Description	Completion Date
			<p><i>photos of the completed installation, final invoices for equipment purchases and post construction design updates (as-built drawings, specs, costs). Expect approximately 5% of the budget will be allocated for this Task/Milestone</i></p>		

Notes: Complete the table above. The items pre-populated are suggested items. Percentages noted are estimates and are adjustable, based on the individual subgrantee. Tie each Task/milestone to the budget on the budget template provided. Provide a more detailed description of the work that will take place in order to complete each Task/Milestone, including information on how the Deliverable will be produced and to what specifications.

ATTACHMENT C

**DETAILED PLAN FOR REPORTING ON ELIGIBLE MITIGATION ACTION
IMPLEMENTATION**

ATTACHMENT C

DETAILED PLAN FOR REPORTING ON ELIGIBLE MITIGATION ACTION IMPLEMENTATION

The Nevada Division of Environmental Protection (NDEP) will provide detailed reporting on this Volkswagen (VW) Environmental Mitigation Trust Fund for State Beneficiaries Eligible Mitigation Action project in two ways: 1, timely updates to NDEP's VW Environmental Mitigation Trust Fund webpage; and 2, Nevada's semiannual reporting obligation to Wilmington Trust (the "Trustee").

NDEP maintains a VW Environmental Mitigation Trust Fund specific webpage that has been designed to support public access and limit burden for the general public. The NDEP's VW specific webpage can currently be found at <https://ndep.nv.gov/air/vw-settlement>. Timely updates to the webpage will inform the general public on the project's status as well as when this Eligible Mitigation Action has been completed.

Subparagraph 5.3 of the Environmental Mitigation Trust Agreement for State Beneficiaries details Nevada's 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 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year, each Beneficiary shall submit to 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. Beneficiaries may group multiple Eligible Mitigation Actions and multiple sub-beneficiaries into a single report. These reports shall be signed by an official with the authority to submit the report for the Beneficiary and must contain an attestation that the information is true and correct and that the submission is made under penalty of perjury. To the extent a Beneficiary avails itself of the DERA Option described in Appendix D-2, that Beneficiary may submit its DERA Quarterly Programmatic Reports in satisfaction of its obligations under this Paragraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the State Trust's public-facing website upon receipt."

NDEP shall, in the next semiannual report following the Trustee's approval of this project, describe the progress implementing this Eligible Mitigation Action that will include a summary of all costs expended on the Eligible Mitigation Action through the reporting date. The report will also include a complete description of the status, development, implementation (including project schedule and milestone updates), and any modification to this Eligible Mitigation Action.

ATTACHMENT D

**DETAILED COST ESTIMATES FROM SELECTED OR POTENTIAL VENDORS FOR
EACH PROPOSED EXPENDITURE EXCEEDING \$25,000**



Prepared By John Mason
Email jmason@greenlots.com

Quote Number 00000750
Date 7/24/2020

Account Name Mt. Wheeler Power
Contact Name Jesse Murdock

Phone (775) 296-0917
Email mwjjesse54@mwpower.org

Bill To Name Mt. Wheeler Power
Bill To 1600 Great Basin Hwy
Ely, NV 89301
USA

Ship To Name Mt. Wheeler Power (Pricing for 1 site)
Ship To 1600 Great Basin Hwy
Ely, NV 89301
USA

Product	Line Item Description	Sales Price	Quantity	Tax Amount	Total Price
BTC-50kW-480-Dual-SLIM	Option 1: [2] 50kW BTCPower SlimLine DC fast charging stations per site	USD 24,934.00	2.00	USD 3,854.80	USD 49,868.00
Cust-Vinyls-Wraps	Custom vinyl wrapping for 2 DC fast charging stations	USD 750.00	2.00	USD 0.00	USD 1,500.00
FREIGHT-BTC-DCFC	Final shipping location TBD; shipping for 2 DC fast charging stations	USD 685.00	2.00	USD 0.00	USD 1,370.00
SKY-5YEAR	5-year SKY software license for 2 DC fast charging stations; Additional transaction fees of 5% or \$0.50, whichever is higher; Greenlots collects and processes each transaction and reimburses site host quarterly minus transaction fee. Cell data included.	USD 2,125.00	2.00	USD 0.00	USD 4,250.00
SVC- Project Management	Pre-installation site analysis cost of \$2,500 per site (\$2,750 for 2 sites, if preliminary site visits conducted concurrently)	USD 2,500.00	1.00	USD 0.00	USD 2,500.00
SVC-COMMISS	Remote software commissioning for 2 DC fast charging stations	USD 150.00	2.00	USD 0.00	USD 300.00
SVC-EXWARRANTY	5-year extended manufacturer's warranty for 2 DC fast charging stations, parts only	USD 3,200.00	2.00	USD 0.00	USD 6,400.00
SVC-MAINT-1-YEAR	1 year of preventative maintenance for 2 DC fast charging stations (2 visits per site)	USD 900.00	2.00	USD 0.00	USD 1,800.00

Subtotal USD 67,988.00
Total Tax Roll-up Amount(Quote) USD 3,854.80
Total Price (Quote) USD 71,842.80

50 kW Slim Line DC Fast Charger

PARAMETERS	MODEL	
	L3S-50-480-01-003	L3S-50-208-01-003
Power Rating	50 kW	50 kW
Connector/Protocol	CHAdeMO, SAE J1772 Combo CCS1	
Network Compatibility	OCPP 1.5/1.6, BTCP Network	
Access Control - Communication	RFID, Credit Card - 4G, Cat-5 Ethernet	
Input Power VAC 3 Phase	480 VAC	208 VAC
Input Power AC Current (FLA)	72 A	166 A
Efficiency Rating	> 90%	
Max Output DC Current	125 A	
Max Output DC Voltage	50 - 500 V	
Surge Protection	6000 VAC	
Ambient Condition	-30 °C to +50 °C, 95% Humidity Non-condensing, 6000 ft Altitude	
Dimension & Weight	34" W x 86" H x 22" D, 850 lbs	
Safety Compliance	ETL Listed for USA and Canada: Complies with UL 2202, UL 2231 UL50E, NEC Article 625, CSA STD C22.2 No. 107.1, FCC Part 15 Class A	



STANDARD

- Integrated Cord Retractors
- 15" Outdoor Color Display
- Connector Configuration:
 - SAE J1772 Combo CCS1 and CHAdeMO
- Payment types: (OCPP Network Enabled)
 - Credit Card Reader
 - RFID

OPTIONAL

- ISO 15118:2014
- 4G Modem
- Connector Configuration:
 - Dual SAE J1772 Combo CCS1
 - Single CHAdeMO
 - Single SAE J1772 Combo CCS1

BTC POWER

1719 S Grand Ave, Santa Ana, CA 92705

**ADDITIONAL DIVISION TERMS AND CONDITIONS
ATTACHMENT TO SUBGRANT
SUBGRANT CONTROL #DEP-S21-017
BENEFICIARY PROJECT ID #NVDEMF 20-18**

1. The Division shall pay no more compensation than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits) for individual consultants retained by the Subgrantee or by the Subgrantee's contractors or subcontractors. This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate.

2. Quarterly progress reports will be required. Quarterly reports are considered project status reports and will address the progress made achieving this Subgrant's goals. The Division will provide a template for the quarterly reports. The Subgrantee shall submit quarterly reports to the Division according to the following schedule. If a due date falls on a weekend or holiday, the report will be due on the next business day.

January 1 – March 31 Reporting Period: Report due date April 10

April 1 – June 30 Reporting Period: Report due date July 10

July 1 – September 30 Reporting Period: Report due date October 10

October 1 – December 31 Reporting Period: Report due date January 10

If a project start date falls within a defined Reporting Period, the Subgrantee must report for that period by the given due date. This quarterly reporting schedule shall be repeated for the duration of the Subgrant.

3. All payments under this Subgrant are contingent upon the notice of approval of sufficient funds to the Division, necessary to carry out the provisions of this Subgrant, from Wilmington Trust, the Trustee acting behalf of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries, (can take up to 60 days). The Division shall determine if it has received the specific approval necessary to fund this Subgrant. If Wilmington Trust denies the request to funds this Subgrant, the Division is under no obligation to supply funding for this Subgrant. The approval of sufficient funds by Wilmington Trust is a condition precedent to the Division's obligation to ensure Wilmington Trust disburses payment under this Subgrant (disbursement of payment can take up to an additional 15 days). Nothing in this Subgrant shall be construed to provide the Subgrantee with a right of payment over any other entity. If any payments that are otherwise due to the Subgrantee under this Subgrant are deferred because of unavailability of sufficient funds, such payments will promptly be made to the Subgrantee if sufficient funds later become available.

4. Notwithstanding the terms of paragraph 3, and at the sole discretion of the Division, payments will not be made by the Division unless all required reports or deliverables have been submitted to and approved by the Division within the schedule stated in paragraph 2 of these Additional Division Terms & Conditions and the schedule included in Attachment B of ATTACHMENT: Completed Appendix D-4 – Beneficiary Eligible Mitigation Action Certification of the Environmental Mitigation Trust Agreement for State Beneficiaries.

5. Any funds obligated by the Division under this Subgrant that are not expended by the Subgrantee upon the completion, termination or cancellation of this Subgrant shall be returned to Wilmington Trust, the Trustee acting behalf of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries. The Division shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Subgrantee. The Subgrantee shall have no claim of any sort to such unexpended funds.

6. The books, records, documents, and accounting procedures and practices of the Subgrantee or any subcontractor relevant to this Subgrant shall be subject to inspection, examination, and audit by the State of Nevada, the Division, the Attorney General of Nevada, the Nevada State Legislative Auditor, the federal or other funding agency, the Comptroller General of the United States, or any authorized representative of those entities.
7. All books, reports, studies, photographs, negatives, annual reports, other documents, data, materials, or drawings prepared by or supplied to the Subgrantee in the performance of its obligations under this Subgrant shall be the joint property of both parties. Such items must be retained by the Subgrantee for a minimum of three years from the date of final payment by the Division to the Subgrantee, and only after all other pending matters are closed. If requested by the Division at any time within the retention period, any such materials shall be remitted and delivered by the Subgrantee, at the Subgrantee's expense, to the Division. The Division does not warrant or assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, report, or product of any kind that the Subgrantee may disclose or use for purposes other than the performance of the Subgrantee's obligations under this Subgrant. For any work outside the obligations of this Subgrant, the Subgrantee must include a disclaimer that the information, report, or products are the views and opinions of the Subgrantee and do not necessarily state or reflect those of the Division nor bind the Division.
8. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with funds provided under this Subgrant, the Subgrantee shall clearly state that funding for the project or program was provided by the Nevada Diesel Emission Mitigation Fund. The Subgrantee will ensure that Division and the Subgrantee are given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with the Division prior to being published.
9. The Subgrantee, to the extent provided by Nevada law, shall indemnify and save and hold the State of Nevada, its agents and employees harmless from any and all claims, causes of action, or liability arising from the performance of this Subgrant by the Subgrantee or the Subgrantee's agents or employees or any subcontractor or their agents or employees. The Division, to the extent provided by Nevada law, shall indemnify and save and hold the Subgrantee, its agents, and employees harmless from any and all claims, causes of action, or liability arising from the performance of this Subgrant by the Division or the Division's agents or employees.
10. The Subgrantee shall be construed and interpreted according to the laws of the State of Nevada and conditions established in the Volkswagen Environmental Mitigation Agreement for State Beneficiaries. Nothing in this Subgrant shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this Subgrant shall be brought in the First Judicial District Court of the State of Nevada.
11. The Subgrantee shall neither assign, transfer, nor delegate any rights, obligations, or duties under this Subgrant without the prior written consent of the Division.