

# Volkswagen Environmental Mitigation Trust Fund

## Zero-Emission Freight and Marine Program Solicitation

Issued June 18, 2020

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## I. Overview

### A. Introduction

The Volkswagen Environmental Mitigation Trust (Trust) was established as part of a settlement reached between the United States District Court for the Northern District of California and Volkswagen (VW) for VW's use of illegal defeat devices in certain 2.0-liter and 3.0-liter diesel vehicles. Through the Trust, funding will be awarded to Eligible Mitigation Actions as prescribed in the settlement's Consent Decree that are intended to mitigate past and future emissions of nitrous oxides (NO<sub>x</sub>) emitted by the subject diesel vehicles.

The California Air Resources Board (CARB) is the lead agency acting on the State's behalf in implementing California's share of Trust funds totaling approximately \$423 million. On May 25, 2018, CARB approved the Beneficiary Mitigation Plan (BMP)<sup>1</sup> for California, which establishes five eligible program categories and describes the goals and basic requirements for each category.

CARB authorized the allocation of approximately \$360 million in Trust funds for projects and \$63 million for reserves and administrative costs. The five program categories that have been designated for the Trust funds include:

- Zero-Emission Transit, School, and Shuttle Buses (\$130 million)
- Zero-Emission Class 8 Freight and Port Drayage Trucks (\$90 million)
- Zero-Emission Freight and Marine (\$70 million)
- Combustion Freight and Marine (\$60 million)
- Light-Duty Zero-Emission Vehicle Infrastructure (\$10 million)

Under contract to CARB, the Bay Area Air Quality Management District (BAAQMD) is serving as administrator ("VW Administrator") of the Trust funds for two of the five program categories—Zero-Emission Freight and Marine, and Light-Duty Zero-Emission Vehicle Infrastructure.

This document describes the Zero-Emission Freight and Marine (ZEF&M) Program category requirements, applicant and project eligibility, application process, evaluation criteria, reporting, inspection, implementation and operation, and other requirements.

***Please read this document completely before filling out an application; incomplete applications will be rejected. The VW Administrator reserves the right to modify this solicitation at its sole discretion.***

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<sup>1</sup> State of California. *Beneficiary Mitigation Plan*. <https://ww2.arb.ca.gov/resources/documents/californias-beneficiary-mitigation-plan>

## B. Zero-Emission Freight and Marine Program Goals and Overview

The ZEF&M Program is designed to mitigate excess NO<sub>x</sub> emissions, reduce pollution in disadvantaged and low-income communities<sup>2</sup>, support advanced technology vehicle and equipment deployments, and accelerate the zero-emission transformation in the heavy-duty freight and marine sectors.

The ZEF&M Program will provide up to \$70 million in Trust funds for eligible projects through two installments. The first installment of funding is being released through this solicitation and a second installment is expected in mid-2022. This solicitation seeks to award \$35 million on a competitive basis to projects that operate within the State of California and Regulated California Waters<sup>3</sup> that will:

- scrap and replace forklifts, airport ground support equipment (GSE), and port cargo handling equipment (CHE) with new zero-emission technologies;
- repower ferries, tugboats, and towboats by scrapping and replacing marine engines with new zero-emission, all-electric or fuel-cell, technologies; and
- install shore power at berths that serve ocean-going vessels.

***Trust funds will be paid only on a reimbursement basis after: project components and supportive infrastructure have been placed into service, eligible costs have been incurred and paid by the Funding Recipient, and the VW Administrator has approved the Funding Recipient's reimbursement request.***

Each piece of Equipment, i.e. ferries, tugboats and towboats, airport GSE, forklifts, port CHE, infrastructure, and ocean-going vessel (OGV) shore power systems, will be evaluated, scored, and ranked independently using the criteria set forth in this solicitation and the applicable Consent Decree and BMP requirements, including any subsequent updates, modifications, or advisories.

## C. ZEF&M Program Updates

Additional resources related to the ZEF&M Program, including announcements about upcoming workshops and teleconferences are available at <https://www.californiavwtrust.org/zero-freight-marine/>. Interested parties may also sign up at this site to receive periodic e-mail notifications regarding ZEF&M Program updates.

For more information about the VW Trust, visit the California VW Mitigation Trust website at <https://www.californiavwtrust.org/>.

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<sup>2</sup> At least 75 percent of funds will be allocated to projects located in disadvantaged or low-income communities.

<sup>3</sup> The definition for Regulated California Waters and other terms are provided at the end of this solicitation document.

## II. Eligibility Requirements

### A. Eligible Applicants:

1. Applicants must be:
  - a. For **Scrap and Replace/Repower Project Components**, the legal owner of the existing and proposed Equipment; or
  - b. For **Shore Power Project Components**, either: 1) the landowner, or 2) an operator with a long-term (i.e. 10 or more years remaining) lease agreement for the proposed berth.
2. Eligible entities include individuals, businesses, non-profits, or government entities based in California or with a California-based affiliate, and Indian Tribes provided all funding sources are reported to ensure that NO<sub>x</sub> reductions are not double-counted. For more information about the Environmental Trust Agreement for Indian Tribes Beneficiaries, please visit the Volkswagen Diesel Emissions Environmental Mitigation Trust site at: <https://www.vwenvironmentalmitigationtrust.com/tribe-trust>
3. Applicants must be in compliance with all applicable federal, State, and local regulations, including all CARB regulations that apply to the applicant's fleet, and be in good standing with all State and local air district grant agreement requirements.
4. Applicants must have the financial ability to pay upfront for all costs necessary to complete their projects.

### B. Requirements for Scrap and Replace/Repower Project Components:

1. **Eligible Existing (Baseline) Equipment include:**
  - a. **Forklifts:**
    - i. including reach stackers, side loaders, and top loaders with greater than 8,000 pounds lift capacity.
  - b. **Airport Ground Support Equipment (GSE):**
    - i. shall mean vehicles and equipment used at an airport to service aircraft between flights, including starting aircraft, aircraft maintenance, aircraft fueling, transporting cargo to and from aircraft, loading cargo, transporting passengers to and from aircraft, baggage handling, lavatory service, and food service; and
    - ii. with engines powered by:

- (a) Diesel Tier 0, Tier 1, or Tier 2; or
- (b) Spark ignition engines that are uncertified, or certified to 3 g/bhp-hr or higher emissions.

**c. Port Cargo Handling Equipment (CHE):**

- i. including rubber-tired gantry cranes, straddle carriers, shuttle carriers, terminal tractors, yard hostlers, and yard tractors that operate within ports.

**d. Marine Vessel Engines:** only ferry, tugboat, and towboat diesel Tier 0, Tier 1, or Tier 2 main and auxiliary engines. *All conventionally fueled main and auxiliary engines on the vessel must be replaced.*

**2. Requirements for All Baseline Equipment:** Baseline Equipment must

- a. be fueled by gasoline, diesel, compressed natural gas, liquefied natural gas, or propane;
- b. be operable;
- c. have been owned by the applicant and operated in California for the prior 12 consecutive months;
- d. be in compliance with regulatory requirements; and
- e. be *scrapped within 60 days* from the date the funded Equipment and the supportive infrastructure become operational unless a longer period requested by the Applicant in the application.

**3. Requirements for Funded (New) Equipment:** The new replacement Equipment must:

- a. **be zero-emissions** hydrogen fuel-cell or battery electric-powered technologies. The VW Administrator may consider other zero emission technologies on a case-by-case basis.
- b. **not have been previously owned** or registered in any state;
- c. **not have been purchased prior to Grant Agreement execution.** Applicants may not make down payments, become financially committed, or take possession of new Equipment prior to the issuance of a fully executed Grant Agreement signed by all parties. A fully refundable deposit is allowed, as long as the deposit clearly states that it is fully refundable.
- d. **not be a converted or aftermarket product.** Any Equipment that has been converted by modifying the existing engine with aftermarket parts or equipment to create a zero-emission Equipment are not eligible, unless the entire completed zero-emission Equipment has received CARB approval.
- e. **be functionally equivalent.** The new Equipment must serve the same function and perform equivalent or more work as the baseline Equipment.
- f. **be CARB Certified or Approved.** The applicant or the manufacturer must

provide evidence in the application that the new Equipment has received written CARB approval or certification.

- g. be operated and in service** during the Project Life, which is estimated to be **10 years**, unless the applicant requests and receives approval from the VW Administrator for a shorter period.

### **C. Requirements for New Shore Power Systems for Ocean-Going Vessels**

1. Only shore power systems that service vessels not required by current regulation<sup>4</sup> to reduce at-berth emissions from auxiliary engines are eligible.
2. All new shore power systems must comply with international shore power design standards. For systems not supplied by power sourced from the local utility grid, costs related to distributed, decentralized energy are not eligible for grant reimbursement or use of match funds.
3. Must be operated and in service during the Project Life, which is estimated to be 10 years, unless the applicant requests and receives approval from the VW Administrator for a shorter period.

### **III. Funding Limits, Match Funding, and Reimbursement Process**

A summary of funding limits, maximum award amounts, and match requirements can be found in Appendix A.

- A. Funding Limits:** The maximum funding for each new Equipment may not exceed the total eligible cost. Additionally,

1. **Caps per-Equipment and -Berth:**
  - a. **\$175,000 per forklift or port CHE**, including any supportive infrastructure.
  - b. **Up to the full incremental cost for airport GSEs.** The VW Administrator reserves the right to make a final determination regarding grant award amounts based on the incremental cost.
  - c. Up to \$2,500,000 per marine vessel (all conventionally fueled engines must be replaced) and per berth for **shore power installations.**
2. **Cap Per Entity:** The maximum award from this solicitation to an applicant entity, as determined by Tax ID #, **is capped at \$10,000,000** per applicant and the maximum award per applicant entity for **any combination of forklifts, port CHEs, and GSEs is capped at \$5,000,000.** The VW Administrator reserves the right to increase or decrease award limits based on the applications received.
3. **Match Funding Requirements:** The applicant must be able to cover upfront 100% of the project costs since VW funds are paid on a reimbursement basis,

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<sup>4</sup> <https://ww3.arb.ca.gov/ports/shorepower/shorepower.htm>

and will be responsible for covering all costs (“Match”) that are in excess of those that will be reimbursed. All match and co-funding sources must be disclosed in the application and the reimbursement request.

**a. Match Requirements by Entity:**

- i. **Government Owners** may request up to 100% of eligible project costs. *However, applicants are encouraged to consider providing match since applications will be evaluated on a competitive basis,*
- ii. **Non-Government owners** may request up to 25% of eligible project costs for shore power systems and up to 75% of eligible project costs for all other categories.

**b. Match Source Limits:**

- i. **Unallowed Sources:** Match/co-funding may NOT include funding from sources where any portion of the resulting NO<sub>x</sub> emission reductions could be double-counted, including but not limited to the Clean Off-Road Equipment Voucher Incentive Program, Carl Moyer Program, AB 923 (Firebaugh, Chapter 707, Statutes of 2004), and AB 617 (C. Garcia, Chapter 136, Statutes of 2017).
  - ii. **Allowable Sources:** Subject to any limitations from the co-funding source, applicants may use CEC, Low Carbon Fuel Standard, Utility programs, and Congestion Mitigation Air Quality as match. Applicants may also use funding from other State, local, federal, non-profit, or private revenue sources that do not claim or require NO<sub>x</sub> reductions.
- c.** Applicant is responsible for any costs or cost-overages that are not covered by a grant award. Also, if any match funding funds falls out or the project becomes ineligible for match, the applicant is solely responsible for securing additional match funding to meet the requirements herein.

**B. Eligible Costs:**

ZEF&M Program funds awarded may only be used to reimburse for eligible costs incurred, which are listed in the following table.

**Table 1: Eligible Costs by Equipment Type**

Eligible Costs	Equipment Type			
	Repower Ferry, Tugboat, or Towboat	Install Oceangoing Vessel Shore Power System	Replace Forklifts, Port CHE, and Airport GSE	Replace Forklifts, Port CHE with Supportive Infrastructure
Purchase price and taxes for new Equipment	✓		✓	✓
Purchase price and taxes for system components including: cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution		✓		
Extended warranty up to 10 years after delivery of Equipment	✓	✓	✓	✓
Reasonable shipping or delivery charges that are directly related to the Equipment	✓	✓	✓	✓
Supportive infrastructure for forklifts and port CHE				✓
Permit fees and electrical upgrades related to infrastructure		✓		
Infrastructure installation costs		✓		✓
Cost of design and engineering (i.e., labor, site preparation)		✓		
Contractor labor, contractor fees, and other contractor costs directly related to the repower of the commercial harbor craft	✓			

**C. Ineligible Costs:** The following are examples of costs that may be incurred by Funding Recipients in the implementation of their projects but are not eligible for use towards match requirements or for reimbursement with ZEF&M Program funds:

- Any costs not directly related to the new Equipment;
- Labor costs related to grant agreement administration and project management;
- Contractor labor, fees, or other costs that are not directly related to installation of infrastructure or repower of commercial harbor craft;
- Planning or feasibility studies;
- Costs related to scrapping of baseline Equipment;
- Maintenance costs (note: cost of extended warranty is allowed);
- Existing station upgrade;
- Fuel and energy costs;
- Non-essential equipment hardware;
- Operations costs (i.e., operational fees, maintenance, repairs, improvements, spare parts);
- Insurance;
- Data collection and reporting;
- Travel/lodging;

- Employee training and salaries;
- Legal fees;
- Real estate property purchases/leases;
- Performance bond costs;
- Storm water plan costs;
- Security costs;
- Testing and soil sampling;
- Hazardous materials, including permitting, handling, and disposal; and
- Signage.

**D. Reimbursement Process:** Awarded funds will be paid only on a reimbursement basis after project components and supportive infrastructure have been placed into service, eligible costs have been incurred and paid for by the Funding Recipient, and after the VW Administrator has approved the Funding Recipient's reimbursement request.

Required documentation includes (but is not limited to) a complete and valid invoice for the Equipment, proof of payment made, verification that the Equipment meets all requirements and is operational, and proof of destruction of the old Equipment.

#### IV. ZEF&M Program Schedule

<b>Key Actions</b>	<b>Dates</b>	<b>Time (Pacific)</b>
Public release of solicitation	June 18, 2020	1 PM Pacific Time
Applicant webinars	<u>Information to be posted on VW website</u>	
<b>Application submittal deadline</b>	August 31, 2020	1 PM Pacific Time
Evaluation period	September to October, 2020 (tentative)	
Applicants notified, "Notice of Proposed Award" (NOPA)	Month of November, 2020 (tentative)	
Proposed contracts sent to awardees for signature	Within 30 calendar days after publication of NOPA	
Deadline for awardees to return signed contract to VW Administrator	Within 60 days from date the contract has been issued by VW Administrator	
Contract executed and Notice to Proceed issued by VW Administrator	Within 14 days from date VW Administrator receives the signed contract from the Funding Recipient	
Inspections	May occur anytime prior to Grant Agreement execution and throughout the contract term	
New Equipment is delivered and placed into service	All funded Equipment must be placed into service and operational within 12 months of the date of award. Copies of purchase order must be submitted within 3 months of contract execution date. Shore power projects must be placed into service and operational within 24 months of the date of award. On a case by case basis, the VW Administrator may consider applicants' requests for a longer implementation period.	
Funding Recipient submits annual operational reports	Due by February 1 until the project has provided at least 36 months of operational data	
Funding Recipient maintains written records of Equipment purchased with Trust funds	Duration of the contract term plus three years	

#### V. Application Submittal Process and Evaluation

- A. Application Webinars:** The VW Administrator will hold online webinars to address questions about the application process, online application system, and the ZEF&M Program.

The online webinars will be open to all interested parties. Pre-registration is required for participation. The registration link, information about the webinar schedule, and recordings of all webinars will be posted on the California VW Mitigation Trust website at <https://www.californiavwtrust.org/zero-freight-marine/>.

- B. ZEF&M Program Questions:** Questions about the ZEF&M Program must be submitted via email to [californiavwtrust@baaqmd.gov](mailto:californiavwtrust@baaqmd.gov). The VW Administrator will

respond to questions by updating the FAQ document and also verbally at webinars for questions received prior to the webinars.

**C. Application Submittal Instructions:** All applications and supporting documentation must be submitted through the web-based application portal, located at <https://www.californiavwtrust.org/zero-freight-marine/>. Hard copy applications will not be accepted.

1. Applicants may use a third party to assist in completing the application; however, no contracts will be executed with a third party.
2. Applicants are responsible for ensuring the accuracy of all information provided in the application. Submission of incomplete, incorrect, or false information may result in disqualification or penalty of perjury.
3. For questions related to the use of the online system, applicants may contact the VW Administrator via email at [californiavwtrust@baaqmd.gov](mailto:californiavwtrust@baaqmd.gov) and via phone at **1-844-9VW-FUND**.

**Questions about the ZEF&M program will not be answered by phone.**

**D. Required Supporting Documentation:** Applicants must ensure that all required supporting documentation is submitted along with the application. A non-exhaustive list of application/supplemental documentation items required for each project component category is included in *Attachment A: Application Checklists*.

Requirements for each type of supplemental document are also described below:

<b>Document</b>	<b>Requirements for scrap and replace/repower project components</b>	<b>Requirements for shore power project components</b>
<b>Photos</b>	Photos of the existing Equipment or marine vessel, along with engine tag(s).	Photos and an aerial map of the pier, harbor, or area showing where the shore power system will be installed.
<b>Ownership Records</b>	A bill of sale for the existing Equipment, or alternative documentation (see Appendix C: Application Checklists).	Documentation that the applicant owns or has guaranteed use of the land through a long-term lease, easement, or other legal arrangement, for the duration of the contract term. For project components where the land is not owned, provide an executed lease agreement or letter of commitment lasting for the duration of the project

		components. This documentation must be signed by the property owners or their authorized representatives.
<b>Insurance Documentation</b>	Documentation of liability insurance of not less than \$1,000,000 per occurrence, and property insurance in an amount not less than the insurable value of applicant's existing Equipment covering all risks of loss, damage and destruction to Equipment.	Insurance documentation for the terminal property.
<b>Compliance Documents</b>	<p>Documentation demonstrating compliance with CARB regulations applicable to all Equipment owned by applicant, even if Equipment is not included in this application. Examples of applicable compliance documents include:</p> <ul style="list-style-type: none"> <li>• Diesel Off-road Online Reporting System (DOORS) documentation of fleet compliance, including CARB's fleet calculator that shows the fleet's current compliance status</li> <li>• Commercial Harbor Craft reporting form</li> <li>• Certificate of Reported Compliance Truck and Bus Regulation</li> <li>• Additionally, for Shore Power—any applicable Terminal and Vessel Plans</li> </ul>	
<b>Activity/Usage Records for the existing Equipment</b>	Usage records with hour meter readings for calendar year 2019. Additional records may be provided if calendar year 2019 is not representative of anticipated usage over the next 3 to 10 years. If the Equipment does not have a functional hour meter, provide fuel usage records.	Berth activity information for calendar year 2019. Additional records may be provided if calendar year 2019 is not representative of anticipated berth activity over the next 3 to 10 years. The activity information must include total vessel calls and a table that includes the following information for each vessel call: Lloyd's number for the vessels, vessel type, ship size (in twenty-foot equivalent units (TEU) capacity, dead weight tonnage (DWT) or gross weight tonnage (GWT)), estimated power demand (total auxiliary power), average power requirement (kW) for the vessel while at berth, average berthing time of the vessel at the port per visit, estimate of time needed to

		connect and disconnect vessel from shore power equipment, type of fuel used in auxiliary engines, whether the vessel visit was subject to CARB's At Berth Regulation (y/n).
<b>CARB Executive Order(s)</b>	CARB Executive Order(s) for the existing engine(s) and the approval letter or CARB Executive Order(s) for the new engines. CARB's Executive Orders can be accessed at the following website <a href="https://ww3.arb.ca.gov/msprog/ofroad/cert/cert.php">https://ww3.arb.ca.gov/msprog/ofroad/cert/cert.php</a> by selecting the applicable engine category and model year.	Not Required.
<b>New Equipment Quote</b>	A quote for the proposed new Equipment. For Airport GSE, also include a quote for a new internal combustion equivalent piece of Equipment in order to support the incremental cost value. For supportive infrastructure for forklifts or port CHE, also include a quote for the charging Equipment. Quotes must be dated within 60 days prior to application submittal date.	A budget that includes itemized cost information by phase (design, environmental, construction), and supporting estimates and quotes dated within 180 days prior to application submittal date.
<b>W-9</b>	<b>W-9</b> for the applicant.	

**E. Evaluation Process**

1. **Initial Screening:** All applications will undergo an initial screening process for eligibility and completeness according to the criteria set forth in this solicitation. In addition, each proposed Equipment and/or berth will be evaluated individually for eligibility and cost-effectiveness. The VW Administrator may disqualify any applicant who has demonstrated past failure to meet contractual obligations with the VW Administrator, other air district(s), or CARB, or has failed to comply with applicable local, state, or federal laws.
2. **Scoring and Ranking:** Each proposed Equipment will be scored and ranked based on the criteria listed below. As part of this process, the VW Administrator will verify information provided in the application, which may cause the initial cost-effectiveness rankings, and any associated awards, to change.
  - a. **Cost-effectiveness:** calculated by the Trust funds requested for each

Equipment divided by tons of NO<sub>x</sub> reduced over its Project Life.

For port CHE or forklifts, the award for each Equipment of supportive infrastructure (if any) is considered part of the funds awarded in the calculation.

The methodology to calculate NO<sub>x</sub> emissions reductions is described in Appendix A of the BMP<sup>5</sup>.

- b. Disadvantaged or low-income communities:** The first 75% of the Trust funds will be allocated to the projects with the highest cost-effectiveness rankings that are also located in disadvantaged or low-income communities. The remaining 25% of the Trust funds will be allocated to the next highest-ranking projects regardless of their location.
- 3. Applicants Selected for Award:** Applicants that are selected for an award (Funding Recipient) will be issued a **Notice of Proposed Award** and a proposed contract for signature. A **Notice to Proceed** will be issued with the fully executed contract (signed by both the Funding Recipient and the VW Administrator), at which point the Funding Recipient may begin work on their approved project. Applicants who have started any work on their project (e.g., signed purchase orders) prior to receiving the Notice to Proceed will have their project disqualified and cancelled (exceptions apply to fully refundable deposits and match/co-funding). Only a fully executed contract constitutes the VW Administrator's award of Trust funds. A Notice of Proposed Award does not constitute a final obligation on the part of the VW Administrator to fund a project.
- 4. Program Waitlist:** If the ZEF&M Program is oversubscribed, all eligible projects not initially selected for awards will be placed on a waitlist. At its sole discretion, the VW Administrator may use the waitlist to award funding to qualifying lower-ranked projects for up to 18 months. Prior to the release of the second round of funding that is anticipated to incur in mid-2022, the VW Administrator will abolish the waitlist and any Applicants with projects that have not been selected for award will need to reapply in order to participate in the new solicitation.

## VI. Inspections, Reporting, and Record Keeping

- A. Inspections:** Inspections may be conducted prior to contract execution to verify information provided in the application regarding the baseline Equipment, and throughout the contract term to verify baseline Equipment was properly destroyed and the new funded Equipment is operated in compliance with the contract. For shore power projects, inspections may be conducted after the funded Equipment has been installed to verify that the systems are operational by connecting a vessel to the electrical grid.

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<sup>5</sup> State of California. *Beneficiary Mitigation Plan*. <https://ww2.arb.ca.gov/resources/documents/californias-beneficiary-mitigation-plan>

Inspections may be performed by the VW Administrator or their designee in person or remotely for Funding Recipients that have video capability. The Funding Recipient shall provide all necessary access and supporting documentation required to conduct inspections.

**B. Reporting Requirements:** Funding Recipients will be required to submit periodic reports to the VW Administrator that at a minimum include:

1. **Semi-annual Progress reports** that contain information about the pre-operational status of the project, including project costs incurred, project activity during the reporting period, and information about progress made toward implementing the project.
2. **Annual operational reports** for at least a continuous 36-month operational period that document ownership status and include the new Equipment's mileage or hours operated. For shore power, annual operation reports will report the total ship visits to the berth and plug-ins to the funded equipment, including vessel type, and other relevant information.

**C. Maintaining Program Records:** Funding Recipients must keep written records of the Equipment purchased and funded with Trust funds – including but not limited to project related expenditures and proof of purchase, final copies of reports submitted to the VW Administrator, copy of executed Grant Agreement and amendments, if any, for the duration of the contract term plus three years.

**D. Requirement to Provide Records:** The Funding Recipient must provide all requested information related to any Equipment purchased with Trust funds within ten days of the VW Administrator's written request for such information. Requested information may include but is not limited to: purchase orders or agreements, Equipment payment information, registration, insurance and purchaser fleet information.

## **VII. Implementation and Operation Requirements**

**A. Implementation:** After a Grant Agreement has been executed and Notice to Proceed has been issued, Funding Recipients may begin work implementing their project component(s), which includes purchasing and placing the approved (new) Equipment in service and scrapping the existing (old) Equipment in accordance with scrapping guidelines.

1. **Deadline to place new Equipment into service:** All funded Equipment must be placed into service and operational within 12 months of the date of award. Copies of purchase order must be submitted within 3 months of contract execution date. Shore power projects must be placed into service and operational within 24 months of the date of award. On a case by case basis, the VW Administrator may consider applicants' requests for a longer implementation period.

2. **Scrapping the Old (Baseline) Equipment:** The old Equipment must be scrapped within 60 days following the date the new Equipment and supportive infrastructure, if any, become operational, or by the operational deadline included in the Grant Agreement, whichever is sooner.
  - a. **Approved dismantlers:** The old Equipment must be scrapped by a California-licensed dismantler, or other dismantling entity that has been approved by the VW Administrator.
  - b. **Income from scrapping:** Income from scrap is not allowed. However, a Funding Recipient may receive payment for scrap under the following conditions:
    - i. The Funding Recipient provides a receipt to the VW Administrator for any scrap payment showing the amount of funds received from the dismantler;
    - ii. The amount of scrap payment received will be deducted from the eligible grant award; and
    - iii. Funding Recipients must retain documentation of the scrap payment as part of the project record.
3. **Prevailing Wages and Labor Compliance:** For project components that install supportive infrastructure and shore power project components, the Funding Recipient must ensure that all work complies with all California prevailing wage requirements for any work performed with Trust funds, including but not limited to all of the provisions of State Labor Code Section 1771 regarding prevailing wages.

**B. Operation:** After the new Equipment has been placed into service, the Funding Recipient will operate the Equipment in California or within Regulated California Waters in the manner specified in the application and Grant Agreement.

1. **Usage Requirement:** The Funding Recipient must operate the new Equipment for the specified number of hours in the Grant Agreement.
2. **Project Life:** The Funding Recipient must maintain and operate all funded Equipment in service for at least 10 years, unless the applicant requests and receives approval from the VW Administrator for a shorter period.
3. **Out-of-State Operations:** For Equipment registered in a California county that borders either another state or Mexico, mileage or hours accrued outside of California will not be counted towards the Usage Requirement.
4. **Maintain Insurance:** Funding Recipient shall maintain insurance as required by law, including but not limited to property, liability, and workers compensation insurance. If an accident or other cause destroys or otherwise renders the funded Equipment permanently inoperable, the applicant must notify the VW Administrator in writing. The written notification must provide proof that the funded Equipment has become inoperable, including

photographs of the inoperable Equipment with equipment identification numbers (EIN) or other identifying markings, and any applicable insurance or police documentation.

**In the event that any funded Equipment become inoperable, the Funding Recipient is solely responsible for replacing the inoperable Equipment at their own expense to complete their usage and operational requirements if any of the contractual obligations have not been met.**

5. **Resale:** Upon receiving written approval from the VW Administrator, a Funding Recipient may identify a new purchaser for the Equipment. The new purchaser will be required to fulfill all of the remaining requirements in the Grant Agreement made with the original Funding Recipient. The following conditions also apply:
  - a. The original Funding Recipient must inform the new purchaser in writing about the project requirements by sharing a copy of the Grant Agreement.
  - b. In order for the original owner to be released from the requirement to satisfy the Grant Agreement terms, the new Equipment purchaser must sign an amended version of the Grant Agreement with the VW Administrator prior to official resale.
  - c. For funded Equipment that is resold or moved out of the State, the Funding Recipient must promptly refund a prorated portion of Trust funds received.
6. **Prohibition to Modify Vehicle or Equipment:** Funded Equipment must remain zero emissions. Funding Recipient shall make no modifications to the Equipment's emissions control systems, hardware, or software calibrations, (Vehicle Code Section 27156), and shall not install any combustion source such as a fuel fired heater.

# Appendix A: Summary of Requirements for Eligible Project Categories

Project Category	Eligible Old (Baseline) Equipment	Eligible New Equipment	Ownership Category*	Maximum % of Funding of Eligible Costs	Maximum Funding Level (per piece of Equipment)**
Repower Ferry, Tugboat or Towboat	Tier 2 and earlier diesel	Hydrogen fuel cell or battery-electric engine repower	Non-Government	75%	\$2,500,000
			Government	100%	
Install OGV Shore Power System	N/A	Shore power system must service vessels not required by regulation to reduce their onboard power generation	Non-Government	25%	\$2,500,000
			Government	100%	
Replace Forklift or Port Cargo Handling Equipment	Forklifts greater than 8,000 pounds lift capacity	Hydrogen fuel cell or battery-electric replacement	Non-Government	75%	\$175,000
			Government	100%	
Replace Airport Ground Support Equipment	Tier 2 and earlier diesel; spark ignition engines with uncertified, or certified to 3.0 g/bhp-hr or higher engines	Hydrogen fuel cell or battery-electric replacement	Non-Government	75%	Full Incremental Cost
			Government	100%	

\* The VW Administrator reserves the right to require documentation proving that the funded entity is government owned.

\*\* Applicable supportive infrastructure expenses are included in the Maximum Funding Level.

# Appendix B: Definitions

**“Airport Ground Support Equipment”** shall mean vehicles and equipment used at an airport to service aircraft between flights. GSE may perform a variety of functions that include: starting aircraft, aircraft maintenance, aircraft fueling, transporting cargo to and from aircraft, loading cargo, transporting passengers to and from aircraft, baggage handling, lavatory service, and food service.

**“All-Electric”** means powered exclusively by electricity provided by a battery, a hydrogen fuel cell, or the grid.

**“Applicant”** means any person or organization who submits an application.

**“BAAQMD”** means Bay Area Air Quality Management District, the entity selected by CARB to administer the Zero-Emission Freight and Marine funding category.

**“Beneficiary Mitigation Plan”** is the document that contains the eligible mitigation actions for California that CARB will fund from the State’s \$423 million allocation of the Environmental Mitigation Trust.

**“California Baseline”** means the mean lower low water line along the California coast, as shown on the following National Oceanic and Atmospheric Administration (NOAA) Nautical Charts as authored by the NOAA Office of Coast Survey, which are incorporated herein by reference:

1. Chart 18600, Trinidad Head to Cape Blanco (January 2002);
2. Chart 18620, Point Arena to Trinidad Head (June 2002);
3. Chart 18640, San Francisco to Point Arena (August 2005);
4. Chart 18680, Point Sur to San Francisco (June 2005);
5. Chart 18700, Point Conception to Point Sur (July 2003);
6. Chart 18720, Point Dume to Purisima Point (January 2005); and
7. Chart 18740, San Diego to Santa Rosa Island (April 2005).

**“CARB-Certified”** means a vehicle that has been certified and issued an Executive Order by CARB.

**“Consent Decree”** means the First Partial Consent Decree in “In re: Volkswagen ‘Clean Diesel’ Marketing, Sales Practices, and Products Liability Litigation,” MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), and the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

**“Cost-effectiveness”** of a project component means the amount of funds awarded for each ton of NO<sub>x</sub> emissions reduced. For the purposes of this solicitation, only the NO<sub>x</sub> emitted directly from the tailpipe of the old equipment will be included in the calculation of a project component’s cost-effectiveness.

**“Disadvantaged Communities”** are defined by the California Environmental Protection

Agency as the top 25% most impacted census tracts in CalEnviroSreen (current version is 3.0).

**“Eligible Mitigation Action”** means any of the actions listed in Appendix D-2 of the Environmental Mitigation Trust.

**“Environmental Mitigation Trust”** means the trust funded with Mitigation Trust Payments according to the terms of the First Partial Consent Decree and the Second Partial Consent Decree (jointly, the “Consent Decree”).

**“Expend”** for the purpose of the ZEF&M Program means the payment of funds on an invoice for an eligible vehicle or equipment.

**“Equipment”** for the purpose of this solicitation means the following: ferries, tugboats and towboats; airport ground support equipment (GSE); forklifts, port cargo handling equipment (CHE), infrastructure; and ocean-going vessel (OGV) shore power systems.

**“Ferry”** means a harbor craft that has provisions for only deck passengers or vehicles, operating on a short run, on a frequent schedule between two points over the most direct water route, and offering a public service of a type normally attributed to a bridge or tunnel.

**“Forklift”** means off-road equipment used to lift and move materials short distances and generally includes tines to lift objects. For the purpose of this solicitation, eligible types of forklifts include reach stackers, side loaders, and top loaders with greater than 8,000 pounds lift capacity.

**“Funding Recipient”** means applicants whose applications are selected for an award.

**“Government”** means a State or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority, that owns fleets purchased with government funds), and a tribal government or native village.

**“Infrastructure”** means the equipment used to enable the use of electric powered vehicles (e.g., electric vehicle charging station).

**“Low-income communities”** are census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits.

**“Match funding”** means those funds contributed by Funding Recipient, or other entity for the sole purposes of covering the Eligible Costs.

**“Mitigation Action”** is any of the actions listed in Appendix D-2 of the Environmental Mitigation Trust.

**“Oceangoing Vessel Shore Power”** (also see “Shore Power”) means power systems that enable a compatible vessel’s main and auxiliary engines to remain off while the vessel is at berth.

**“Port Cargo Handling Equipment”** means rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors, including yard hostlers and yard tractors that operate within ports.

**“Project”** means one or more of the following components: 1) the scrapping and replacement of an airport GSE, port CHE, or forklift, 2) the scrapping and replacement of the marine engines on a ferry, tugboat, or towboat, or 3) the installation of a shore power system on a berth that is included in an application or Grant Agreement.

**“Project Life”** is the period during which funded equipment is maintained and operated to provide NOx emissions reduction benefits.

**“Regulated California Waters”** means all of the following

1. all California internal waters;
2. all California estuarine waters;
3. all California ports, roadsteads, and terminal facilities (collectively “ports”);
4. all waters within 3 nautical miles of the California baseline, starting at the California- Oregon border and ending at the California- Mexico border at the Pacific Ocean, inclusive;
5. all waters within 12 nautical miles of the California baseline, starting at the California- Oregon border and ending at the California- Mexico border at the Pacific Ocean, inclusive;
6. all waters within 24 nautical miles of the California baseline. Starting at the California-Oregon border to 34.43 degrees North, 121.12 degrees West; inclusive; and
7. all waters within the area, not including any islands, between California baseline and a line starting at 34.43 degrees North, 121.12 degrees West; thence to 33.50 degrees North, 118.58 degrees West; thence to 32.48 degrees North, 117.67 degrees West; and ending at the California-Mexico border at the Pacific Ocean, inclusive

**“Repower”** means to replace an existing engine with a newer, cleaner engine or power source that is certified by EPA and, if applicable, CARB. For the purpose of this solicitation, repower includes, but is not limited to, combustion engine replacement with an electric power source (e.g. battery or fuel cell). All-Electric and hydrogen fuel cell Repowers do not require EPA or CARB certification.

**“Scrapped”** means to render inoperable and available for recycle, and, at a minimum, to specifically cut a 3-inch hole in the engine block for all engines. If any eligible vehicle will be replaced, scrapped also includes the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

**“Shore Power”** means power systems that enable a compatible vessel’s main and auxiliary engines to remain off while the vessel is at berth.

**“Tier 0, 1, 2, 3, 4”** refers to corresponding EPA engine emission classifications for nonroad, locomotive, and marine engines.

**“Towboat”** means any self-propelled vessel engaged in or intending to engage in the service of pulling, pushing, or hauling along side barges or other vessels, or any combination of pulling, pushing, or hauling along side barges or other vessels.

**“Trust funds”** means VW Environmental Mitigation Trust funds.

**“Tugboat”** means dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

**“VW Administrator”** see “BAAQMD”.

**“Zero-emission”** for the purposes of this solicitation means a vehicle or equipment that itself produces no emissions of pollutants (including carbon dioxide, carbon monoxide, hydrocarbons, oxides of nitrogen, and particulates) from the onboard source of power (e.g., All-Electric or hydrogen fuel cells) when stationary or operating.

# Appendix C: Application Checklist

## Application and Supporting Documentation Checklist

<b>Application Checklist</b>		
1	Domicile information for the baseline Equipment: <ul style="list-style-type: none"> <li>For ferry, tugboat, or towboat projects, include homeport and berth/slip/pier information</li> <li>For shore power, include berth</li> </ul>	
2	For any supportive infrastructure, location of infrastructure, power rating, number of vehicle plug-ins per year, average number of collection time per plug-in, description of infrastructure, and number of chargers	
3	Equipment total cost and grant funds requested for new equipment	
4	Fleet compliance identification number and first compliance date	
5	Information about the existing (baseline) Equipment: <ul style="list-style-type: none"> <li>Make, model, model year</li> <li>Serial Number or Hull number</li> <li>EIN or U.S. Coast Guard Documentation Number</li> </ul>	
6	Existing (baseline) engine(s) information <ul style="list-style-type: none"> <li>Hours of operation for calendar year 2019</li> <li>Engine make, model, model year, serial number, horsepower, EPA family number, emissions tier</li> </ul>	
7	<b>All Project Categories Except Shore Power:</b> Information about the new Equipment <ul style="list-style-type: none"> <li>Type, make, model, model year</li> </ul> <b>Shore Power Projects:</b> Estimated berth activity for eligible vessels: <ul style="list-style-type: none"> <li>New number of vessel plug-ins per year</li> <li>Average berthing time of the vessel per visit (hours/visit)</li> <li>Shore power installation power rating (kW)</li> </ul>	
8	Replacement (new) engine(s) information Engine make, model, model year, horsepower or power rating, estimated future annual hours of operation	
9	An estimated date for the Equipment to be operational	
<b>Supporting Documentation Checklist</b>		
1	<b>Photos of Baseline Equipment</b>  <b>All Project Categories Except Shore Power:</b> <ul style="list-style-type: none"> <li>A photo of the entirety of the existing Equipment</li> <li>A photo of the engine tag, correctly labeled for each engine, including the make, model, model year, serial number, horsepower, emissions tier, and family name</li> <li>A photo of the existing engine(s) hour meter reading</li> </ul>	

	<p><b>Shore Power Projects:</b></p> <ul style="list-style-type: none"> <li>• A photo of the berth where the Shore Power will be installed</li> <li>• An aerial map of the berth where the Shore Power will be installed</li> </ul>	
2	Photo of existing engine(s) hour meter reading	
3	<p><b>Ownership documentation for the baseline equipment</b></p> <p><b>All Project Categories Except Shore Power</b></p> <ul style="list-style-type: none"> <li>• Bill of sale for the old Equipment, or:</li> <li>• If a bill of sale cannot be provided, instead provide documentation of ownership for calendar year 2019 for at least one item in the following list: <ul style="list-style-type: none"> <li>○ Tax depreciation logs</li> <li>○ Property tax records</li> <li>○ Equipment insurance records</li> <li>○ Bank appraisals for equipment</li> <li>○ Maintenance/service records</li> <li>○ General ledgers</li> <li>○ Fuel records specific to the existing equipment that identify the equipment owner</li> </ul> </li> </ul> <p><b>Shore Power Projects</b></p> <ul style="list-style-type: none"> <li>• Supporting documentation that applicant owns land or has guaranteed use of the land through a long-term lease, easement, or other legal arrangement, for duration of contract term</li> <li>• For projects where land is not owned, an executed lease agreement or letter of commitment lasting for duration of the project components. Documentation must be signed by property owners or their authorized representatives.</li> </ul>	
4	Insurance Documentation for the Baseline Equipment or terminal property	
5	<p>Documentation demonstrating compliance with CARB regulations applicable to all Equipment owned by applicant. Examples of applicable compliance documents include, but are not limited, to:</p> <ul style="list-style-type: none"> <li>• Diesel Off-road Online Reporting System (DOORS) documentation of fleet compliance, including CARB’s fleet calculator that shows the fleet’s current compliance status</li> <li>• Commercial Harbor Craft reporting form</li> <li>• Certificate of Reported Compliance Truck and Bus Regulation</li> <li>• For Shore Power—any applicable Terminal and Vessel Plans</li> </ul>	
6	<p><b>Activity of Usage Records for the Baseline Equipment</b></p> <p><b>All Project Categories Except Shore Power</b></p> <p>Usage records with hour meter readings for calendar year 2019. Additional records may be provided if calendar year 2019 is not representative of anticipated usage over the next 3 to 10 years. If the</p>	

	<p>Equipment does not have a functional hour meter, provide fuel usage records.</p> <p><b>Shore Power Projects</b>          Berth activity information for calendar year 2019. Additional records may be provided if calendar year 2019 is not representative of anticipated berth activity over the next 3 to 10 years. Activity information must include total vessel calls and a table that includes the following information:</p> <ul style="list-style-type: none"> <li>• Total number of vessel calls</li> <li>• Lloyd's number for the vessels</li> <li>• Vessel type</li> <li>• Ship size (in TEU capacity, DWT, or GWT)</li> <li>• Estimated power demand (total auxiliary power)</li> <li>• Average power requirement (kW) for the vessel while at berth</li> <li>• Average berthing time of the vessel at the port per visit</li> <li>• Estimate of time needed to connect &amp; disconnect vessel from shore power equipment</li> <li>• Type of fuel used in auxiliary engines</li> <li>• Whether the visit was subject to CARB's At Berth Regulation (y/n)</li> </ul>	
7	<p><b>Vendor Quote</b></p> <p><b>All Project Categories Except Shore Power</b>          must include a vendor quote for the new Equipment dated within 60 days prior to the application submittal date with the following information:</p> <ul style="list-style-type: none"> <li>• Contact information for the dealer or vendor</li> <li>• Detailed information on the replacement equipment (make, model, manufacture year)</li> <li>• Date of quote</li> <li>• Total (including taxes and state fees)</li> <li>• Cost of parts and materials, and labor</li> <li>• Warranty information (including terms of coverage)</li> <li>• Tax rate</li> <li>• Manufacturer specification sheet</li> </ul> <p><b>Forklifts or Port Cargo Handling Equipment</b>          For any supportive infrastructure, must include a vendor quote dated within 60 days prior to the application submittal date with all the same fields as above.</p> <p><b>Airport Ground Support Equipment</b>          Must include vendor quotes dated within 60 days prior to the application submittal date for both a new zero-emissions Equipment and a new</p>	

	<p><b>internal combustion</b> equivalent piece of Equipment with all the same fields as above.</p> <p><b>Shore Power Projects</b>  A budget that includes itemized cost information by phase (design, environmental, construction), and supporting estimates and quotes dated within 180 days prior to the application submittal date.</p>	
8	Copy of CARB Executive Order for existing engine(s)	
9	Either a copy of CARB Executive Order or approval letter for replacement (new) engine(s)	
10	Organization W-9	