



Clean Truck, Bus & Airport Equipment  
Request for Applications

Prepared by the Energy Office at the  
Montana Department of Environmental Quality

September 28, 2021

## Table of Contents

<b>Section 1. Overview &amp; Background</b> .....	3
<b>Section 2. Eligibility Requirements</b> .....	3
<b>Section 3. Project Selection &amp; Scoring Criteria</b> .....	6
<b>Section 4. Proposal Materials &amp; Instructions</b> .....	8
<b>Section 5. Schedule of Events &amp; Term</b> .....	8
<b>Appendix A: Priority Air Quality Counties and Areas</b> .....	10
<b>Truck &amp; Bus Application Form</b> .....	11
<b>Airport Equipment Application Form</b> .....	15
<b>Draft Model Contract</b> .....	19

# Montana Clean Truck, Bus & Airport Equipment Project

## Volkswagen Environmental Mitigation Trust Funding

### **Section 1. Overview & Background**

The Montana Department of Environmental Quality (DEQ) is issuing this Request for Applications (RFA) to public and private entities to fund eligible projects that will reduce mobile emissions of nitrogen oxides (NO<sub>x</sub>). This RFA is issued in accordance with the Volkswagen Environmental Mitigation Trust (EMT) Agreement for State Beneficiaries. Montana is a beneficiary of the EMT, and the DEQ has been designated as the lead agency to administer funds allocated to Montana. The purpose of the EMT is to fund actions with the goal of achieving reductions of NO<sub>x</sub> emissions. NO<sub>x</sub> is a family of poisonous gases that form when diesel and other fuel is burned at high temperatures. NO<sub>x</sub> pollution has been shown to irritate human respiratory function, exacerbate asthma conditions, and increase susceptibility of people to respiratory infections.

Montana's total allocation of the EMT is \$12.6 million. Pursuant to the EMT, Montana must use its allocation to fund Eligible Mitigation Actions (EMAs). EMAs are specific activities, defined in the EMT, that are intended to reduce mobile NO<sub>x</sub> emissions. This RFA is intended to achieve the following goals described in [Montana's Beneficiary Mitigation Plan](#) published in November 2018:

- Achieve mobile source NO<sub>x</sub> emission reductions across Montana focusing on areas with the highest mobile source NO<sub>x</sub> emissions;
- Achieve long-term air quality benefits for the greatest number of Montanans;
- Invest in clean alternative fuels/infrastructure;
- Support long-term investments in zero-emission transportation options; and,
- Reduce diesel emission exposure of sensitive populations.

Through this RFA, DEQ will provide up to \$7,392,000 to successful applicants as reimbursement funding for eligible projects. The maximum funding request for each project proposal is \$500,000. Project cost share requirements vary by project sponsor type, replacement vehicle/airport ground support equipment (AGSE), and engine technology/fuel. Detailed cost share requirements are provided in Section 2.D of this RFA. Please submit one application per vehicle/AGSE proposal. Eligible applicants may submit more than one project proposal.

### **Section 2. Eligibility Requirements**

#### **2.A. Applicant Eligibility**

Eligible applicants include both Government and Non-Government entities. "Government" shall mean a federal, state, or local government agency (including a municipality, city, county special district, school district, transit district, joint powers authority, or port authority owning fleets purchased with government funds), or Tribal governments located within the State of Montana. "Non-Government" shall mean for-profit businesses or non-profit organizations identified as having a tax-exempt declaration from the Internal Revenue Service.

#### **2.B. Project Eligibility**

Eligible projects must:

- Meet the engine model year, usage, emission tier, and other requirements of each Category listed below.
- Replace a diesel-powered (see exception in Category D) vehicle/AGSE which is fully operational, and in regular use.
- Be commercially available.
- Be the same type or comparable to the vehicle/AGSE being replaced.
- Operate primarily in Montana (i.e., for at least half of its operating time/mileage) and for at least five years.

Vehicles/AGSE must be replaced with new 2020 or newer vehicle models that are all electric, or EPA-certified diesel, or alternate fuel. Alternate Fuel options include compressed natural gas (CNG), liquefied natural gas (LNG), liquefied petroleum gas (LPG or propane), and diesel electric hybrid. All-electric shall mean powered exclusively by electricity provided by a battery, fuel cell, or the electric grid.

- **Category A** – Eligible on-road trucks include Class 4-8 (14,001 lbs. GVWR or greater) used for local freight or delivery. Eligible trucks may include, but not be limited to, waste haulers, dump trucks, street sweepers, courier services, delivery trucks, box trucks moving freight, and concrete mixers. Vehicles eligible for replacement shall have an engine model year of 1992-2009.
- **Category B** – Eligible buses include Class 4-8 (14,001 lbs. GVWR or greater) shuttle buses or transit buses. Vehicles eligible for replacement shall have an engine model year of 1992-2009.
- **Category C** – Eligible school buses include 2009 engine model year or older Class 4-8. School buses may only be replaced by all-electric buses. To be eligible as a school bus, a vehicle should meet the definition of a school bus as defined by the National Highway Transportation Safety Administration. This definition includes, but is not limited to, 1) A bus that is used for purposes that included carrying students to and from school or related events on a regular basis; 2) Be identified with the words “School Bus”; and 3) Be painted National School Bus Glossy Yellow. School districts that use private bus contractors are eligible to apply and need to coordinate with their contractors to apply for these funds. Contractors may apply and would qualify for the “Government-Owned” maximum funding percentage identified in Table 2 below but should identify what school district the bus will be used for.
- **Category D** – AGSE may only be replaced by all-electric AGSE. Eligible AGSE for replacement pertains to vehicles and equipment that are used at an airport to service aircraft between flights for at least the last 2 years and includes:
  - Emission Tier 0, Tier 1, or Tier 2 diesel-powered airport GSE; and
  - Uncertified, or certified to 3 grams/brake horsepower-hour (bhp-hr) or higher emissions, gasoline spark ignition engine-powered airport GSE.

### **2.C. Ineligible Costs & Technology Options**

The following projects or costs are not eligible for funding through this RFA:

- ⊗ Fleet expansion projects or new vehicle/AGSE not replacing an old diesel vehicle/AGSE.
- ⊗ Expenses incurred, or vehicle/AGSE or charging equipment purchased before the contract associated with this RFA is fully executed.
- ⊗ Engine replacements, repowered or re-manufactured engines.
- ⊗ Rebuilds of existing vehicle/AGSE.
- ⊗ Charging infrastructure not associated with the purchase of a zero-emission vehicle (e.g., charging infrastructure primarily available to the general public and not to the proposed zero-emission vehicle/AGSE).
- ⊗ Fueling infrastructure for non-zero-emission vehicles/AGSE (i.e., refueling stations for diesel, CNG, LNG, or LPG).
- ⊗ Costs not integral to vehicle/AGSE or engine function (e.g., idle reduction technologies, etc.).
- ⊗ Expenses associated with scrapping eligible vehicle/AGSE to be replaced.
- ⊗ Replacing a vehicle/AGSE that is non-functional or non-operational.
- ⊗ Replacing gasoline powered vehicles under Categories A, B, or C.
- ⊗ Vehicle/AGSE operation and maintenance costs.

### **2.D. Eligible Mitigation Action (EMA) Funding Levels & Costs Covered**

The maximum grant award is \$500,000 per project proposal and all projects are subject to the following maximum DEQ funding shares (see Tables 1-3). Eligible applicants may submit more than one project proposal; each project is subject to the individual project funding limits detailed in this section. The maximum DEQ funding shares listed in Tables 1-3 refer to the percentage of eligible project costs that may be funded by this

funding opportunity, not to exceed \$500,000 (e.g., a project costing \$350,000 with 85 percent maximum funding may be eligible for a \$297,500 award ( $\$350,000 \times 85\% = \$297,500$ ) or a project costing \$1,000,000 with a 75 percent maximum funding may be eligible for a \$500,000 maximum award).

Other sources of funding, including federal funding, may supplement funding from this RFA, as those funding sources allow. For electric school bus projects eligible in Category C, the cost share from the applicant may not be provided by an award from DEQ’s Clean School Bus Program funded by the Environmental Protection Agency’s Diesel Emissions Reduction Act. A successful applicant for the funds in Category C in the Clean Bus, Truck & Airport Equipment RFA is ineligible for award funding from the Clean School Bus Program for the same project.

**Table 1: Categories A & B – Class 4-8 local freight or delivery trucks; Class 4-8 shuttle or transit buses\***

Technologies for Categories A & B	Costs Covered	Maximum DEQ Funding Share, not to exceed \$500,000	
		Government-Owned	Non-Government-Owned
Replace with new alternate fuel vehicle	Vehicle purchase	60%	25%
Replace with new diesel vehicle	Vehicle purchase	20%	20%
Replace with new all-electric vehicle	Vehicle purchase; purchase & installation of electric charging or fuel cell infrastructure	85%	75%

\*Category B eligible projects under Table 1 include Shuttle or Transit Buses. School Bus projects are eligible under Category C outlined in Table 2.

**Table 2: Category C – Electric school buses**

Technologies for Category C	Costs Covered	Maximum DEQ Funding Share, not to exceed \$500,000	
		Government-Owned	Non-Government-Owned
Replace with new all-electric vehicle	Vehicle purchase; purchase & installation of electric charging or fuel cell infrastructure	85%	75%

**Table 3: Category D– Airport ground support equipment**

Technologies for Category D	Costs Covered	Maximum DEQ Funding Share, not to exceed \$500,000	
		Government-Owned	Non-Government-Owned
Replace with new all-electric AGSE	AGSE purchase; purchase & installation of electric charging or fuel cell infrastructure	70%	50%

**2.E. Recycling and Scrapping of vehicle/AGSE and engine:**

Applicants must ensure that any vehicle/AGSE to be replaced under this RFA is scrapped and shall bear the cost of scrapping. Successful applicants must agree to meet the following scrapping requirements:

- a) All eligible vehicle/AGSE to be replaced under this RFA must be scrapped within 90 days of new vehicle/AGSE delivery.
- b) “Scrapped” shall mean rendered inoperable and available for recycling, and, at a minimum, to cut a 3-inch hole in the engine block and to disable the chassis by cutting the vehicle’s frame rails completely in half.

- c) Written and photographic evidence of appropriate scrapping including verification of engine serial number and Vehicle Identification Number (VIN) of scrapped vehicle/AGSE is required as part of the deliverables submitted to DEQ and for final payment. Vehicle/AGSE owner is responsible for documenting the scrapping of the existing vehicle/AGSE and engine. DEQ will provide successful applicants with a scrapping verification form.

### **Section 3. Project Selection & Scoring Criteria**

Each eligible proposal will be ranked according to the following evaluation ranking criteria which are based on “Montana’s Overall Goal for Use of the Funds” included in [Montana’s Beneficiary Mitigation Plan](#). Please submit one proposal per vehicle/AGSE; applicants may submit more than one proposal.

- A. **NOx emissions** – Please provide an estimate of the remaining useful life of the existing vehicle/AGSE, and emission calculation methodology explaining the annual NOx emissions reductions that will occur through the implementation of the proposed project. Projects achieving the greatest NOx emission reductions over the first five years of operation will receive priority over projects with lesser emissions reductions. Tools that can calculate annual NOx reduction estimates include Argonne National Lab’s AFLEET tool located at: [https://greet.es.anl.gov/afleet\\_tool](https://greet.es.anl.gov/afleet_tool) and the EPA’s Diesel Emissions Quantifier located at <https://cfpub.epa.gov/quantifier/>. (15 points)
- B. **Achieving long-term air quality benefits for the greatest number of Montanans** – Priority will be given to projects operating within counties that include areas that are currently in non-attainment, maintenance, or high risk for pollutants associated with mobile sources under the National Ambient Air Quality Standards (NAAQS); counties with the highest mobile-source NOx emission rankings for Montana as provided in the 2017 National Emissions Inventory (2017 NEI); and/or areas that are eligible for designation as a Class I area. See Appendix A for a listing of priority air quality counties and areas. (15 points)
- C. **Investing in clean alternative fuels/infrastructure** – Projects proposing to replace an older vehicle/ASGE with an alternate fuel or all-electric vehicle/AGSE will be given priority over proposals to replace diesel with diesel. (10 points)
- D. **Reducing diesel emission exposure of sensitive populations** – Priority will be given to projects operating in proximity to sensitive populations that may bear a disproportionate burden associated with high concentrations of diesel emissions. Please provide documentation of the proposed project location (e.g., map showing vehicle route or address of vehicle/AGSE storage/operational location). DEQ staff will evaluate proximity of the proposed project location to sensitive populations using the U.S. Environmental Protection Agency EJSCREEN tool (<https://ejscreen.epa.gov/mapper/>) for diesel particulate matter exposure, on a Montana-based percentile scale (EJ Index, NATA Diesel PM). (10 points)
- E. **Project timeline** – Provide a proposed schedule detailing the steps necessary for completing the project including expected dates for key project milestones such as ordering and delivery of the new vehicle/AGSE, scrapping the old vehicle/AGSE, and when the new vehicle/AGSE is expected to begin service. All project milestones must be completed within 20 months of the contract execution date. If requesting an all-electric or fuel cell vehicle/AGSE, provide information about the required charging or fueling infrastructure and indicate if that infrastructure is in place or provide the installation timeline. (5 points)
- F. **Project budget** – Detailed cost estimates for preferred vendor and any other purchase costs associated with the project to be paid by the applicant or with the requested funding. (5 points)
- G. **Maintenance plan** – Plan for ongoing maintenance of the new vehicle/AGSE that details resources and/or personnel that will be utilized for both regular service and emergency repairs. (5 points)

Criteria	Points Available		
<b>A. NOx emissions</b>	Estimated five-year NOx emissions reduction of greater than 0 to 99 pounds. (5 points)	Estimated five-year NOx emissions reduction of 100 to 349 pounds. (10 points)	Estimated five-year NOx emissions reduction of 350 pounds or greater. (15 points)
<b>B. Achieving long-term air quality benefits for the greatest number of Montanans</b>	Not operating in top 15 NOx emission areas or Priority Air Quality Area/County. (0 points)	Operating in a county ranking 1-15 for highest NOx emissions in Appendix A. (8 points)	Operating in Priority Air Quality Areas/Counties and/or Class I Areas listed in Appendix A and ranked 1-15 for highest NOx emissions in Appendix A. (15 points)
<b>C. Investing in clean alternative fuels/ infrastructure</b>	Project does not include alternate fuel or electric replacement. (0 points)	Project is for an alternate fuel replacement. (5 points)	Project is for an electric replacement. (10 points)
<b>D. Reducing diesel emission exposure of sensitive populations</b>	Vehicle/AGSE operates in an area in which the population is less than the 50 <sup>th</sup> percentile in the EJ Index for diesel particulate matter exposure. (0 points)	Vehicle/AGSE operates in an area in which the population is between the 50 <sup>th</sup> and 79 <sup>th</sup> percentile in the EJ Index for diesel particulate matter exposure. (5 points)	Vehicle/AGSE operates in an area in which the population is between the 80 <sup>th</sup> and 100 <sup>th</sup> percentile in the EJ Index for diesel particulate matter exposure. (10 points)
<b>E. Project timeline</b>	Project timeline provided but with minimal details on milestones. (0 points)	Application includes a project timeline with some detail. (2 points)	Application includes a detailed project timeline. (5 points)
<b>F. Project budget</b>	Project budget provided but with minimal information. (0 points)	Proposal includes a detailed budget and requests the maximum grant amount. (2 points)	Proposal anticipates as many projects costs as possible. Budget includes a higher cost-share than required. (5 points)
<b>G. Maintenance plan</b>	Maintenance plan provided, but with minimal information. (0 points)	Application includes maintenance plan with some detail. (2 points)	Application includes a detailed maintenance plan. (5 points)

## **Section 4. Proposal Materials & Instructions**

Starting on the issue date of this RFA, until proposals are selected and announced by DEQ, applicants are prohibited from communication regarding this RFA with any other Montana state agency staff, officials, or evaluation team members regarding this solicitation, except for the following DEQ contact person listed below. Any unauthorized contact may disqualify the applicant from further consideration.

Interested parties must submit one proposal and the required following information for each vehicle/AGSE proposed to be funded to the following DEQ contact person listed below. All proposal materials must be postmarked or e-mailed by 5:00pm Mountain on the application due date. If the electronic proposal materials are significantly large or exceed 15MB, please submit materials via the State of Montana's File Transfer Service (<https://transfer.mt.gov/Home/Login>). Follow the prompts to access an existing ePass account or create one. The FTS recipient should be Neal Ullman at [neal.ullman@mt.gov](mailto:neal.ullman@mt.gov). Please note: E-mail accounts. Please verify the size of your attachment prior to attempting to submit. DEQ is not responsible for e-mails that are undeliverable due to the size of attachments.

Neal Ullman  
Montana DEQ – Energy Bureau  
P.O. Box 200901  
Helena, MT 59620-0901  
Phone: 406-444-6582  
E-mail: [neal.ullman@mt.gov](mailto:neal.ullman@mt.gov)

1. Completed DEQ Clean Truck, Bus & Airport Equipment application form with signature of individual from the lead applicant responsible for authorizing and overseeing completion of the project. Proposals that do not use the DEQ application form will not be considered for funding.
2. Letter(s) of Commitment from the applicant demonstrating assurance that project will operate primarily in Montana (i.e., for at least half of its operating time/mileage) and for at least five years.
3. Letter(s) of Commitment for match from the applicant and from additional project funding partners (if applicable), who will provide necessary matching funds for the project.
4. Copy of existing vehicle/AGSE title (if applicable), including model year and VIN (if applicable).
5. A clear, legible photo of the engine label that captures the engine make, model, year, horsepower, serial number and engine family name for each vehicle/AGSE proposed for replacement. If an engine label is not available, provide documentation of the information requested that would have been on the engine label.
6. A clear, legible photo of the VIN plate (if applicable) that includes VIN and gross vehicle weight rating (GVWR) for each vehicle/AGSE proposed for replacement. If a VIN plate is not available, provide documentation of the GVWR.
7. Three different bids for the replacement vehicle/AGSE. If you are not able to provide three bids, please include a written explanation of the reason why.

## **Section 5. Schedule of Events & Term**

DEQ will accept questions regarding this RFA that are submitted before 5pm Mountain on December 3, 2021. Answers to substantive questions will be posted by December 10, 2021. Non-substantive questions can be answered any time before the application deadline but should be submitted by the December 3 deadline. Answers will be posted to DEQ's Alternative Fuels & Transportation website at <https://deq.mt.gov/energy/Programs/fuels>.

DEQ will only review proposals received or postmarked by 5:00 pm local time on the due dates listed below and will notify applicants if a project will be awarded funding within approximately 30 days of the application due date.



Completed applications must be received on the due dates listed below to be considered for that application review round.

Round Number	Application Due Date
1	January 14, 2022
2	June 17, 2022

The submission of an application under this RFA confers no right upon any applicant. To be eligible for funding, proposals must meet the minimum eligibility requirements described in Section 2. DEQ intends to evaluate and score applications based on the criteria listed under Section 3. If additional funding becomes available and there are qualified applications not able to be funded through this RFA, those qualified applications would be considered for the additional funding. DEQ reserves the right to reject any application that does not meet the goals of Montana’s Beneficiary Mitigation Plan. DEQ may periodically provide additional information via its website at <https://deq.mt.gov/energy/Programs/fuels>.

The review team will evaluate submitted proposals for eligibility, completeness, and whether they meet the goals of this RFA. See Section 2 “Eligibility Requirements” and Section 4 “Proposal Materials & Instructions” for further details. Should funding requests total more than the amount available in this RFA, proposals will be competitively ranked using the “Project Selection & Scoring Criteria” in Section 3.

Once project awards have been awarded and accepted, DEQ will request EMT funds to be transferred to DEQ, a process that may take up to 60 days. Once EMT funds are transferred, DEQ will enter into a contract with those applicants selected to receive funding under this program. Grant contracts will define applicant’s responsibilities to include deliverables, schedule for project completion, and method of payment. All projects should be completed, and documentation provided to DEQ, within 20 months of the contract execution date. Payments for eligible project expenses will be made on a reimbursement basis after DEQ receives all required deliverables from the applicant. The term for funding of each successful applicant will end 20 months from the contract execution date. Extensions for project completion may be allowed if the applicant provides a reasonable justification to DEQ. The vehicle/AGSE being replaced must be scrapped within 90 days of receipt of the replacement vehicle/AGSE.

**Applicant’s Signature**

The application must be signed (electronically or in ink) by an individual authorized to legally bind that party. The applicant's signature on an application in response to this RFA guarantees that the offer has been established without collusion and without effort to preclude the State of Montana from obtaining the best possible supply or service. Proof of authority of the person signing the request for application response must be furnished upon request.

**Reporting Requirements & Payment Requests**

Quarterly reporting will be required from the project start date until the project is completed and project funds are paid. More information on quarterly reporting, including deadlines and report templates will be provided to recipients after award notification. Payment of project expenses will take place on a reimbursement basis after DEQ receives documentation of scrapping, vehicle replacement and other required deliverables. The successful applicant must purchase the vehicle/AGSE and submit required proof of total costs and reimbursement invoice documentation before payment can occur.

## Appendix A: Priority Air Quality Counties and Areas

**Table 1: Counties that include nonattainment, maintenance, or at-risk areas for certain pollutants associated with mobile sources (transportation).**

<b>Pollutant</b>	<b>County</b>	<b>Status</b>
PM-2.5	Lincoln	Nonattainment
PM-2.5	Flathead	At risk
PM-2.5	Missoula	At risk
PM-2.5	Lewis and Clark	At risk
PM-2.5	Silver Bow	At risk
PM-2.5	Powder River	At risk
PM-2.5	Ravalli	At risk
CO	Yellowstone	Maintenance
CO	Cascade	Maintenance
CO	Missoula	Maintenance

### Eligible Class I Areas

- Fort Peck Reservation
- Northern Cheyenne Reservation
- Flathead Reservation
- Yellowstone National Park
- Glacier National Park

### Mobile On-road NOx emissions – Top 15 Counties

- |                |                  |
|----------------|------------------|
| 1. Yellowstone | 9. Lewis & Clark |
| 2. Gallatin    | 10. Stillwater   |
| 3. Missoula    | 11. Park         |
| 4. Jefferson   | 12. Silver Bow   |
| 5. Cascade     | 13. Powell       |
| 6. Mineral     | 14. Sweetgrass   |
| 7. Big Horn    | 15. Beaverhead   |
| 8. Flathead    |                  |

### Mobile Non-road NOx Emissions – Top 15 Counties

- |                |              |
|----------------|--------------|
| 1. Flathead    | 9. Gallatin  |
| 2. Lincoln     | 10. Blaine   |
| 3. Roosevelt   | 11. Phillips |
| 4. Yellowstone | 12. Toole    |
| 5. Valley      | 13. Big Horn |
| 6. Glacier     | 14. Missoula |
| 7. Hill        | 15. Custer   |
| 8. Sanders     |              |



## Clean Truck, Bus & Airport Equipment Truck & Bus Application Form

### Instructions

This application form supplements the Clean Truck, Bus & Airport Equipment Request for Applications (RFA). The Clean Truck, Bus & Airport Equipment RFA includes detailed information about project and application eligibility, funding schedule, cost-share and scoring criteria.

Applicants must complete and submit the following information via e-mail to Neal Ullman at [neal.ullman@mt.gov](mailto:neal.ullman@mt.gov) by 5:00 pm local time on the application deadline for this round of funding listed Section 5 of the Montana Clean Truck, Bus & Airport Equipment RFA:

- 1) Completed DEQ Clean Truck, Bus & Airport Equipment application form with signature of individual from the lead applicant responsible for authorizing and overseeing completion of the project. Proposals that do not use the DEQ application form will not be considered for funding.
- 2) Letter(s) of Commitment from the applicant demonstrating assurance that project will operate primarily in Montana (i.e., for at least half of its operating time/mileage) and for at least five years.
- 3) Letter(s) of Commitment for match from the applicant and from additional project funding partners (if applicable), who will provide necessary matching funds for the project.
- 4) Copy of existing vehicle title, including model year and VIN.
- 5) A clear, legible photo of the engine label that captures the engine make, model, year, horsepower, serial number and engine family name for each vehicle proposed for replacement.
- 6) A clear, legible photo of the VIN plate (if applicable) that includes VIN and gross vehicle weight rating (GVWR) for each vehicle proposed for replacement. If a VIN plate is not available, provide documentation of the GVWR.
- 7) Three different bids for the replacement vehicle. If you are not able to provide three bids, please include a written explanation of the reason why.

### Applicant Information

Organization Name: \_\_\_\_\_  Government  Nongovernment

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Employer/Taxpayer ID (EIN/TIN): \_\_\_\_\_ DUNS Code: \_\_\_\_\_

Authorized Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_

Alternate Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_

Is your organization/entity submitting more than one application for vehicle replacements?

Yes  No  If yes, how many? \_\_\_\_\_

## **Project Information**

### **Existing vehicle**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_  
VIN: \_\_\_\_\_ GVWR: \_\_\_\_\_ Fuel Type: \_\_\_\_\_  
Fuel Usage/Year: \_\_\_\_\_ Annual Mileage or Hours Used: \_\_\_\_\_  
Total Mileage (Odometer or hour reading): \_\_\_\_\_ (Bus Projects Only) Annual Ridership \_\_\_\_\_  
Estimated hours operated/year including idle hours: \_\_\_\_\_  
Estimated remaining life, in hours & years: \_\_

### **Existing Engine**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_ Serial/ID# \_\_\_\_\_  
Horsepower: \_\_\_\_\_

### **New vehicle**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_  
GVWR: \_\_\_\_\_ Fuel Type: \_\_\_\_\_

### **New Engine**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_ Horsepower: \_\_\_\_\_

### **Cost**

Total vehicle Cost: \_\_\_\_\_ Total Funding Requested: \_\_\_\_\_  
Percentage of Funding Requested of Total Project Cost: \_\_\_\_\_  
Total Infrastructure Cost (if applicable): \_\_\_\_\_  
Total Infrastructure Funding Requested: \_\_\_\_\_

## **Description of Proposed Project**

Responses to the following question will be used to evaluate and score this application. Incomplete applications will not be evaluated. The Project Scoring Criteria Matrix is in Section 3 of the Clean Truck, Bus & Airport Equipment RFA.

A. **NOx emissions** – Please provide an estimate of the remaining useful life of the existing vehicle/AGSE, and emission calculation methodology explaining the annual NOx emissions reductions that will occur through the implementation of the proposed project. Projects achieving the greatest NOx emission reductions over the first five years of operation will receive priority over projects with lesser emissions reductions. Tools that can calculate annual NOx reduction estimates include Argonne National Lab’s AFLEET tool located at: [https://greet.es.anl.gov/afleet\\_tool](https://greet.es.anl.gov/afleet_tool) and the EPA’s Diesel Emissions Quantifier located at <https://cfpub.epa.gov/quantifier/>. (15 points)

B. **Achieving long-term air quality benefits for the greatest number of Montanans** – Priority will be given to projects operating within counties that include areas that are currently in non-attainment, maintenance, or high risk for pollutants associated with mobile sources under the National Ambient Air Quality Standards (NAAQS); counties with the highest mobile-source NOx emission rankings for Montana as provided in the 2017 National Emissions Inventory (2017 NEI); and/or areas that are eligible for designation as a Class I area. See Appendix A for a listing of priority air quality counties and areas. (15 points)

C. **Investing in clean alternative fuels/infrastructure** – Projects proposing to replace an older vehicle with an alternate fuel or all-electric vehicle will be given priority over proposals to replace diesel with diesel. [\(10 points\)](#)

D. **Reducing diesel emission exposure of sensitive populations** – Priority will be given to projects operating in proximity to sensitive populations that may bear a disproportionate burden associated with high concentrations of diesel emissions. Please provide documentation of the proposed project location (e.g., map showing vehicle route or address of vehicle storage/operational location). DEQ staff will evaluate proximity of the proposed project location to sensitive populations using the U.S. Environmental Protection Agency EJSCREEN tool (<https://ejscreen.epa.gov/mapper/>) for diesel particulate matter exposure, on a Montana-based percentile scale (EJ Index, NATA Diesel PM). (10 points)

E. **Project timeline** – Provide a proposed schedule detailing the steps necessary for completing the project including expected dates for key project milestones such as ordering and delivery of the new vehicle, scrapping the old vehicle, and when the new vehicle is expected to begin service. All project milestones must be completed within 20 months of the grant agreement/contract execution date. If requesting an all-electric or fuel cell vehicle, provide information about the required charging or fueling infrastructure and indicate if that infrastructure is in place or provide the installation timeline. (5 points)

Milestones	Proposed Completion Date	Notes
Purchase order issued for new vehicle		
Delivery of new vehicle		
Existing vehicle scrappage with required documentation (scrappage requirements listed in Section 2.E of RFA)		
New vehicle begins service		
Reimbursement request with required documentation		

F. **Project budget** – Detailed cost estimates for preferred vendor and any other purchase costs associated with the project to be paid by the applicant or with the requested funding. (5 points)

	Total Project Cost	Total Funding Request	Request Percentage of Total Project Cost	Cost Share from Applicant	Percentage Cost Share from Applicant
Vehicle replacement					
Electric vehicle or fuel cell charging infrastructure (if applicable)					

\* Use N/A for any fields that are not applicable to this project.

G. **Maintenance plan** – Plan for ongoing maintenance of the new vehicle that details resources and/or personnel that will be utilized for both regular service and emergency repairs. (5 points)

**Application Acknowledgement**

Authorized Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

Authorized Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Clean Truck, Bus & Airport Equipment Airport Equipment Application Form

### Instructions

This application form supplements the Clean Truck, Bus & Airport Equipment Request for Applications (RFA). The Clean Truck, Bus & Airport Equipment RFA includes detailed information about project and application eligibility, funding schedule, cost-share and scoring criteria.

Applicants must complete and submit the following information via e-mail to Neal Ullman at [neal.ullman@mt.gov](mailto:neal.ullman@mt.gov) by 5:00 pm local time on the application deadline for this round of funding listed Section 5 of the Montana Clean Truck, Bus & Airport Equipment RFA:

1. Completed DEQ Clean Truck, Bus & Airport Equipment application form with signature of individual from the lead applicant responsible for authorizing and overseeing completion of the project. Proposals that do not use the DEQ application form will not be considered for funding.
2. Letter(s) of Commitment from the applicant demonstrating assurance that project will operate primarily in Montana (i.e., for at least half of its operating time/mileage) and for at least five years.
3. Letter(s) of Commitment for match from the applicant and from additional project funding partners (if applicable), who will provide necessary matching funds for the project.
4. Copy of existing AGSE title (if applicable), including model year and VIN (if applicable).
5. A clear, legible photo of the engine label that captures the engine make, model, year, horsepower, serial number and engine family name for each AGSE proposed for replacement. If an engine label is not available, provide documentation of the information requested that would have been on the engine label.
6. A clear, legible photo of the VIN plate (if applicable) that includes VIN and gross vehicle weight rating (GVWR) for each AGSE proposed for replacement. If a VIN plate is not available, provide documentation of the GVWR.
7. Three different bids for the replacement AGSE. If you are not able to provide three bids, please include a written explanation of the reason why.

### Applicant Information

Organization Name: \_\_\_\_\_  Government  Nongovernment

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Employer/Taxpayer ID (EIN/TIN): \_\_\_\_\_ DUNS Code: \_\_\_\_\_

Authorized Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_

Alternate Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone: \_\_\_\_\_

Is your organization/entity submitting more than one application for AGSE replacements?

Yes  No  If yes, how many? \_\_\_\_\_

## **Project Information**

### **Existing AGSE**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_  
VIN: \_\_\_\_\_ GVWR: \_\_\_\_\_ Fuel Type: \_\_\_\_\_  
Fuel Usage/Year: \_\_\_\_\_ Annual Mileage or Hours Used: \_\_\_\_\_  
Total Mileage (Odometer or hour reading): \_\_\_\_\_  
Estimated hours operated/year: \_\_\_\_\_  
Estimated remaining life, in hours & years: \_\_

### **Existing Engine**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_ Serial/ID# \_\_\_\_\_  
Horsepower: \_\_\_\_\_

### **New AGSE**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_  
GVWR: \_\_\_\_\_ Fuel Type: \_\_\_\_\_

### **New Engine**

Type: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_ Horsepower: \_\_\_\_\_

### **Cost**

Total AGSE Cost: \_\_\_\_\_ Total Funding Requested: \_\_\_\_\_  
Percentage of Funding Requested of Total Project Cost: \_\_\_\_\_  
Total Infrastructure Cost (if applicable): \_\_\_\_\_  
Total Infrastructure Funding Requested: \_\_\_\_\_

## **Description of Proposed Project**

Responses to the following question will be used to evaluate and score this application. Incomplete applications will not be evaluated. The Project Scoring Criteria Matrix is in Section 3 of the Clean Truck, Bus & Airport Equipment RFA.

A. **NO<sub>x</sub> emissions** – Please provide an estimate of the remaining useful life of the existing AGSE, and emission calculation methodology explaining the annual NO<sub>x</sub> emissions reductions that will occur through the implementation of the proposed project. Projects achieving the greatest NO<sub>x</sub> emission reductions over the first five years of operation will receive priority over projects with lesser emissions reductions. Tools that can calculate annual NO<sub>x</sub> reduction estimates include Argonne National Lab’s AFLEET tool located at: [https://greet.es.anl.gov/afleet\\_tool](https://greet.es.anl.gov/afleet_tool) and the EPA’s Diesel Emissions Quantifier located at <https://cfpub.epa.gov/quantifier/>. (15 points)



B. **Achieving long-term air quality benefits for the greatest number of Montanans** – Priority will be given to projects operating within counties that include areas that are currently in non-attainment, maintenance, or high risk for pollutants associated with mobile sources under the National Ambient Air Quality Standards (NAAQS); counties with the highest mobile-source NOx emission rankings for Montana as provided in the 2017 National Emissions Inventory (2017 NEI); and/or areas that are eligible for designation as a Class I area. See Appendix A for a listing of priority air quality counties and areas. (15 points)

C. **Investing in clean alternative fuels/infrastructure** – Projects proposing to replace an older AGSE with an alternate fuel or all-electric AGSE will be given priority over proposals to replace diesel with diesel. [\(10 points\)](#) – **Note:** Per Section 2.B of the RFA, AGSE can only be replaced by new electric powered AGSE.

D. **Reducing diesel emission exposure of sensitive populations** – Priority will be given to projects operating in proximity to sensitive populations that may bear a disproportionate burden associated with high concentrations of diesel emissions. Please provide documentation of the proposed project location (e.g., map showing address of AGSE storage/operational location). DEQ staff will evaluate proximity of the proposed project location to sensitive populations using the U.S. Environmental Protection Agency EJSCREEN tool (<https://ejscreen.epa.gov/mapper/>) for diesel particulate matter exposure, on a Montana-based percentile scale (EJ Index, NATA Diesel PM). (10 points)

E. **Project timeline** – Provide a proposed schedule detailing the steps necessary for completing the project including expected dates for key project milestones such as ordering and delivery of the new AGSE, scrapping the old AGSE, and when the new AGSE is expected to begin service. All project milestones must be completed within 20 months of the grant agreement/contract execution date. If requesting an all-electric AGSE, provide information about the required charging or fueling infrastructure and indicate if that infrastructure is in place or provide the installation timeline. (5 points)

<b>Milestones</b>	<b>Proposed Completion Date</b>	<b>Notes</b>
Purchase order issued for new AGSE		
Delivery of new AGSE		
Existing AGSE scrappage with required documentation (scrappage requirements listed in Section 2.E of RFA)		
New AGSE begins service		
Reimbursement request with required documentation		

F. **Project budget** – Detailed cost estimates for preferred vendor and any other purchase costs associated with the project to be paid by the applicant or with the requested funding. (5 points)

	<b>Total Project Cost</b>	<b>Total Funding Request</b>	<b>Request Percentage of Total Project Cost</b>	<b>Cost Share from Applicant</b>	<b>Percentage Cost Share from Applicant</b>
AGSE replacement					
Electric AGSE charging infrastructure (if applicable)					

\* Use N/A for any fields that are not applicable to this project.

G. **Maintenance plan** – Plan for ongoing maintenance of the new AGSE that details resources and/or personnel that will be utilized for both regular service and emergency repairs. Please attach the plan to this application. (5 points)

**Application Acknowledgement**

Authorized Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

Authorized Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **FY22 Clean Truck, Bus & Airport Equipment Grant Draft Model Contract**

This Contract No **522XXX** is hereby made between **XXXXXX** (Contractor) and the **Montana Department of Environmental Quality (DEQ)** for the purpose of replacing **PROJECT DESCRIPTION** funded under this Contract. This Contract is issued in accordance with Title 18, Montana Code Annotated (MCA), and the Administrative Rules of Montana (ARM), Title 2, Chapter 5. The parties, in consideration of mutual covenants and stipulations described below, agree as follows:

### **SECTION I. TERM OF CONTRACT**

Performance of the Contract shall begin upon signature by both parties with the effective date being the latter of the two signatures. The services provided pursuant to Section II paragraph A must be completed within 20 months of execution of this contract, except for the assurances provided in Section II paragraph A.2., which is a continuing obligation, unless this Contract is terminated or modified as provided herein.

### **SECTION II. SERVICES**

A. Contractor shall do the following:

1. Replace the following **PROJECT DESCRIPTION**. The contractor shall purchase the **VEHICLE/AGSE** through blanket purchase agreements or some other mechanism that ensures a fair and reasonable price for the item from one of the vendors as submitted with the application. The **VEHICLE/AGSE** being scrapped and replaced will be:
  - a. Make/Model/Year: **PROJECT INFORMATION**
2. Ensure that for its minimum five-year lifespan, the **VEHICLE/AGSE** purchased with funding under this Contract is used only by the Contractor.
3. **(IF APPLICABLE) Purchase and install electric vehicle charging infrastructure. This charging infrastructure must be installed for the purpose of charging the vehicle/AGSE funded through this Contract. The Contractor may also use this charging infrastructure for other vehicle/AGSE owned by the Contractor. The Contractor shall purchase the Infrastructure through blanket purchase agreements or some other mechanism that ensures a fair and reasonable price for the item from one of the vendors as submitted with the application.**
4. As soon as practicable, provide DEQ with the following:
  - a. Copies of the title of the old **VEHICLE/AGSE** showing the VINs
  - b. Photos of the old **VEHICLE/AGSE** VIN plate with the gross vehicle weight rating (GVWR);
5. Provide copy of the **VEHICLE/AGSE** Purchase Order (PO), including the line item sheet, sent by the **VEHICLE/AGSE** manufacturer noting estimated delivery of the purchased **VEHICLE/AGSE** on or before Contract end date.
6. **(IF APPLICABLE)** Provide copies of the Infrastructure Purchase Order (s), including Infrastructure serial number(s).
7. Upon manufacturer's delivery to Contractor of the new **VEHICLE/AGSE**, provide DEQ with copies of the bills of lading, reflecting total amount of the purchases, including line item sheet indicating item-by-item pricing, and actual date(s) of delivery to the Contractor. The line item sheet must include the model years and vehicle Identification Numbers (VIN) of the purchased **VEHICLE/AGSE**. The line item sheets must also clearly identify the **(IF APPLICABLE)** battery capacity, model, gross vehicle weight rating and horsepower.

8. Provide a copy of the invoices from the vendor showing total **VEHICLE/AGSE** purchase price (for each **VEHICLE/AGSE**).
9. **(IF APPLICABLE)** Provide a copy of the invoice(s) from the charging Infrastructure vendor showing total Infrastructure purchase price.
10. **(IF APPLICABLE)** Provide a copy of the line item invoice(s) from the electrical or other contractor(s) installing the Infrastructure.
11. Provide DEQ with photographic (color electronic images are sufficient) evidence of the new **VEHICLE/AGSE**, **VEHICLE/AGSE** serial/identification number, **VEHICLE/AGSE** production date, **VEHICLE/AGSE** VIN plate, the DEQ-supplied decal(s), and side and front views showing the **VEHICLE/AGSE** number and license (if available at the time of photographing). Said written and photographic verification must be submitted to DEQ before final payment is processed.
12. **(IF APPLICABLE)** Provide DEQ with photographic (color electronic images are sufficient) evidence of the installed electric vehicle charging infrastructure clearly showing the serial number and location of the Infrastructure. Said written and photographic verification must be submitted to DEQ before final payment is processed.
13. Provide DEQ with documentation that shows Contractor complied with the RECYCLING/SCRAPPAGE requirements. This includes the method used to recycle the replaced **VEHICLE/AGSE**. Contractor must submit written and photographic verification of the **VEHICLE/AGSE** disposal process that includes the engine serial number and chassis vehicle identification numbers (VIN) of the **VEHICLE/AGSE** to be recycled described in Section II paragraph A1, and the Certificate of Engine/Chassis Destruction with this information. Said written and photographic verification must be submitted to DEQ before final payment is processed.
14. Notify DEQ immediately should the Contractor receive notice of a significant delay in the delivery of the **VEHICLE/AGSE** and/or installation of the Infrastructure **(IF APPLICABLE)** that will impact completion of tasks required by this section, and work with vehicle/AGSE manufacturer and DEQ to resolve any issues to the satisfaction of Contractor and DEQ.
15. Contribute matching funds equal or greater than **XX%** of the total **VEHICLE/AGSE** cost for each **VEHICLE/AGSE** shown on the final invoice.
16. **(IF APPLICABLE)** Contribute matching funds equal to the total charging infrastructure costs minus \$50,000.
17. Comply with all applicable federal and state laws, executive orders, regulations, and applicable written policies in performance of services under this Contract.
18. Contractor and any subcontractors must have a DUN and Bradstreet Universal Number System (DUNS) number ([www.dnb.com](http://www.dnb.com)) and must maintain active and current contractor registration profiles in the System for Award Management (SAM <https://www.sam.gov/SAM/>), [formerly the Central Contractor Registration – CCR] for the duration of this Contract.

B. DEQ shall upon request provide consultation to Contractor concerning the subject matter of this Contract.

C. Both parties agree that Contractor shall have control over the disposition of the **VEHICLE/AGSE** at the conclusion of the **VEHICLE/AGSE** typical lifespan and that the requirements outlined in Section II.A no longer applies.

### **SECTION III. CONSIDERATION**

**A.** In consideration of services rendered pursuant to this Contract, the value of which constitutes good and sufficient consideration, DEQ agrees to reimburse Contractor up to a maximum of \$**XXX,XXX** for the purchase of one (1) new **VEHICLE/AGSE**. Contractor agrees to provide at least **XX%** of the total

**VEHICLE/AGSE** cost for each **VEHICLE/AGSE** as match towards the purchase. **(IF APPLICABLE)** DEQ agrees to reimburse the Contractor up to a maximum of \$50,000 for the purchase and installation of electric vehicle charging infrastructure for the purpose of charging two **VEHICLE/AGSE** funded under this Contract.

1. Subject to DEQ approval of the documentation required under Section II paragraph A, DEQ shall reimburse Contractor within 30 days after receipt and approval of said documentation.
2. This Contract is funded through the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.

#### **SECTION IV. ACCOUNTING, AUDITING and RETENTION OF RECORDS**

- A.** Contractor shall maintain books, records, documents, other evidence directly pertinent to performance of work under this Contract and current accounting for all funds received and expended pursuant to this Contract in accordance with generally accepted accounting principles. Contractor's accounting system must be capable of allocating costs associated with this Contract in a manner that keeps these costs separate from the costs of other contracts, and Contractor shall so allocate all such costs accordingly.
- B.** DEQ, the Legislative Auditor, the Legislative Fiscal Analyst, the Wilmington Trust, or their authorized agents, have the right of access to accounting records of Contractor for purposes of making an inspection, audit, excerpts, or transcripts of funds received and expended by Contractor pursuant to this Contract. Contractor shall maintain the records at the address of its liaison in Section X and allow the entities in the preceding sentence to have access to them for review and copying during normal business hours for as long as the Contractor retains the records under paragraph IV.E. This Contract may be terminated by DEQ upon any refusal of Contractor to allow access to such records (§18-1-118, MCA).
- C.** Contractor shall disclose all information and reports resulting from access to the records maintained in paragraph IV.A to any of the agencies referred to in paragraph IV.B.
- D.** Audits conducted under this section must be in accordance with generally accepted auditing standards as established by the American Institute of Certified Public Accountants and with established procedures and guidelines of the reviewing or auditing agency.
- E.** All books, records, reports, accounting, and other documents maintained by Contractor under this Contract must be retained for a period of eight years after either the completion date of this Contract, or the conclusion of any litigation, claim, audit or exception relating to this Contract taken by DEQ or a third party. Contractor may not destroy any records without first offering the records to DEQ.
- F.** In the event that an audit shows that Contractor has not complied with federal or state laws and rules concerning the handling and expenditure of the funds received under this Contract, including any grant-related income, Contractor shall correct the areas of non-compliance within six months after DEQ receives the audit report.

#### **SECTION V. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING**

In accordance with §18-4-141, MCA, Contractor may not assign, transfer, or subcontract any portion of this contract, other than services related to the purchase and installation of the infrastructure, without the State's prior written consent. Any subcontracting of services under this Contract, must be done in a competitive manner. Contractor is responsible to DEQ for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and DEQ under this contract.

## **SECTION VI. HOLD HARMLESS/INDEMNIFICATION AND INSURANCE REQUIREMENTS**

**A.** Each party shall be responsible and assume liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent required by law, and shall indemnify and hold the other party harmless from any such liability.

**B.** Each party shall maintain reasonable coverage for such liabilities, either through commercial insurance or a reasonable self-insurance mechanism under the provisions of Title 2, Chapter 9, MCA, at the minimums prescribed by law.

**C.** Each party shall provide the other party with a certificate of insurance upon request.

## **SECTION VII. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for State of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire Contract term and any renewal of the Contract term. Upon expiration, a renewal document must be sent to the Montana Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.

## **SECTION VIII. COMPLIANCE WITH LAWS**

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by Contractor shall subject subcontractors to the same provisions, and Contractor shall ensure the same via any subcontract. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

## **SECTION IX. RETIRED STATE EMPLOYEE REQUIRED EMPLOYER REPORTING**

In accordance with ARM 2.43.2114, state agencies are required to file employee reports with the Montana Public Employee Retirement Administration (MPERA). The employee reports required under ARM 2.43.2114 include a working retiree report covering Montana's Public Employees' Retirement System (PERS) retirees performing work in a PERS-covered position as an employee, an independent contractor, or through an employee leasing arrangement, or a temporary service contractor. ARM 2.43.2114(6) (a) requires DEQ to include the social security number of employees and workers in the employer report. Contractor's staff assigned to perform work under this contract will be asked to provide a social security number.

The purpose of collecting the social security number of an individual hired as an independent contractor or through a professional employer arrangement, an employee leasing agreement, or a temporary service contractor is to determine whether the individual is a retiree. Determining an individual's status

as a retiree will determine whether DEQ must make employer contributions into the public employee retirement system for retirees who return to work in a PERS-covered position as required by Section 19-3-1113, MCA.

## **SECTION X. CONTRACT TERMINATION**

**A. Termination for Cause with Notice to Cure Requirement.** Either party may terminate this Contract in whole or in part for failure of the other party to materially perform any of the services, duties, terms, or conditions contained in this Contract after giving the other party written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**B. Reduction of Funding.** In accordance with §18-4-313(4), MCA, DEQ must terminate this Contract if funds are not appropriated or otherwise made available to support DEQ's continuation of performance of this Contract in a subsequent fiscal period. If state or Settlement funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Contract (whether at an initial Contract payment level or any Contract increases to that initial level) in subsequent fiscal periods, DEQ shall terminate this Contract as required by law. DEQ shall provide Contractor the date DEQ's termination shall take effect. DEQ shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, DEQ shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date DEQ's termination takes effect. This is Contractor's sole remedy. DEQ shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

**C.** Any termination of this Contract is subject to the exception that Section IV (ACCOUNTING, AUDIT AND RETENTION OF RECORDS), relating to retention of and access to records, must remain in effect.

## **SECTION XI. LIAISONS**

Contractor's liaison to DEQ for purposes of this Contract is **CONTACT NAME** or successor at Contractor's address **CONTACT ADDRESS** Phone: **CONTACT PHONE**, e-mail: **CONTACT E-MAIL**. DEQ's liaison to Contractor for purposes of this Contract is Neal Ullman or successor at DEQ's Energy Bureau, 1520 East Sixth Avenue, Helena, Montana 59620, phone (406) 444-6582, e-mail [Neal.Ullman@mt.gov](mailto:Neal.Ullman@mt.gov).

## **SECTION XII. CHOICE OF LAW AND VENUE**

In accordance with §18-1-401, MCA, Montana law governs this Contract. If there is a dispute under this Contract the Parties will meet in person and attempt to resolve the dispute. If the dispute cannot be settled through negotiation, the parties agree that prior to resorting to litigation they will attempt to settle the dispute by nonbinding mediation administered by a neutral mediator agreed to by the parties.

Both parties waive objection to personal jurisdiction in the First Judicial District in and for the County of Lewis and Clark, State of Montana. Any litigation concerning this bid, proposal, or contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

**SECTION XIII. SCOPE, AMENDMENT AND INTERPRETATION**

**A.** This Contract consists of 6 numbered pages and contains the entire Contract of the parties. A copy of the original has the same force and effect for all purposes as the original. Any enlargement, alteration, or modification requires a written amendment signed by both parties.

**B.** A declaration by any court, or any other binding legal source, that any provision of this Contract is illegal or void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.

**SECTION XIV. EXECUTION**

To express the parties' intent to be bound by the terms of this Contract, they have executed this document on the dates set out below.

**ENTITY NAME**

\_\_\_\_\_

DATE

\_\_\_\_\_

**ENTITY SIGNER, TITLE**

**ADDRESS**

**CITY, MT ZIP**

Federal Employer's ID No. 81-XXXXXXX

**MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

\_\_\_\_\_

DATE

\_\_\_\_\_

**VICKI J. WOODROW, Contracts Officer**

Centralized Services Division  
Financial Services Bureau  
Metcalf Building, Room 003  
1520 E. Sixth Avenue  
Helena, MT 59620-0901

Approved as to Legal Content:

\_\_\_\_\_

DATE

\_\_\_\_\_

DEQ Attorney