



CHRISTOPHER T. SUNUNU  
GOVERNOR

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DIVISION OF PLANNING  
DIVISION OF ENERGY  
www.nh.gov/osi

January 8, 2020

His Excellency, Governor Christopher T. Sununu,  
And the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Office of Strategic Initiatives (OSI) to enter into a Memorandum of Agreement (MOA) with the New Hampshire Department of Corrections (NH DOC) Concord, NH, in the amount not to exceed \$267,620.00 to utilize funding from the Volkswagen Environmental Mitigation Trust (Trust) to partially fund the purchase and replacement of certain DOC vehicles, effective upon Governor & Executive Council approval, through June 30, 2021. 100% Volkswagen Funds.

**EXPLANATION**

OSI requests approval to enter into a MOA with NH DOC, in an amount not to exceed \$267,620.00. The MOA specifies that the funds will be used to partially fund the purchase and replacement of certain DOC vehicles. The MOA also clarifies the tasks to be completed to ensure funds are used in compliance with the terms of the Trust. The Office of Strategic Initiatives will not be holding any of the Volkswagen Environmental Mitigation Trust funds in its accounts. All funds will be transferred directly from Wilmington Trust to NH DOC directly. These projects will be administered by NH DOC.

In the event Volkswagen Funds are no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

Jared Chicoine  
Director  
Office of Strategic Initiatives

**MEMORANDUM OF AGREEMENT  
BETWEEN  
NH OFFICE OF STRATEGIC INITIATIVES  
AND  
NH DEPARTMENT OF CORRECTIONS**

**Title:**

Memorandum of Agreement (MOA) between the New Hampshire Office of Strategic Initiatives (hereinafter OSI) and the New Hampshire Department of Corrections (hereinafter DOC) regarding use of Volkswagen Mitigation Trust Funds to replace certain DOC vehicles.

**Purpose:**

The purpose of this MOA is to partially fund the replacement of DOC diesel vehicles to reduce air pollution. Funds are available via New Hampshire's Volkswagen Mitigation Trust Agreement for State Beneficiaries (VW Trust). Total funding shall not exceed \$267,620 or 80 percent of the project cost, whichever is less. Funds shall be available to DOC upon approval by the Governor and Executive Council through June 30, 2021.

**Parties:**

The parties to this MOA are OSI and DOC. The New Hampshire Department of Environmental Services (NHDES) will be the recipient of certain data on behalf of or in conjunction with OSI as specified within this MOA, per the terms of a separate agreement between OSI and NHDES.

**Scope of Work:**

For the purposes of this MOA, OSI and DOC agree to the following:

1. OSI shall assign the appropriate staff to coordinate this project with DOC.
2. The Scope of Work consists of replacement of existing DOC diesel vehicles under the terms and specifications in Attachment 1.
3. VW Trust shall reimburse DOC up to 80 percent of eligible expenses, or \$267,620, whichever is less.
4. Eligible expenses shall include:
  - a. Cost of replacement vehicle (including cab, chassis and body)
  - b. Cost of the direct replacement of vehicle accessories that are necessary for the function of the vehicle for its intended use and that existed on the vehicle being replaced (i.e. plow frames, wings and blades on a plow truck, hydraulic systems, load cover)
5. Ineligible expenses shall include, but are not limited to:
  - a. Optional vehicle components or add-ons (such as racks, lights, tool boxes, etc.);
  - b. Vehicle registration;
  - c. Scrappage of replaced vehicle, engineering or project management; and
  - d. Personnel costs

6. DOC shall provide the following information on the trucks to be replaced to OSI and NHDES:
- a. Annual miles driven
  - b. Annual fuel use and fuel type
  - c. Annual idling hours
  - d. Vehicle Identification Number (VIN)
  - e. Engine Model Year
  - f. Gross Vehicle Weight Rating (GVWR)
  - g. Vehicle Class
  - h. Engine Manufacturer
  - i. Engine Serial Number
  - j. Description of routes or typical use
7. DOC shall not take delivery of a replacement vehicle prior to written approval from OSI that the proposed vehicle replacement is eligible under the terms of this MOA and the terms of the VW Trust requirements.
8. The replaced vehicle shall be taken out of service no later than 15 days of the replacement vehicle being placed into service.
9. DOC shall use the replacement vehicles in normal service for a period of no less than five (5) years. In the event that DOC sells or surpluses a replacement vehicle within five years of the effective date of this MOA, DOC shall follow the guidelines set forth in 2 CFR §200.313, and shall reimburse OSI in accordance with the following double declining balance depreciation formula:

Year Vehicle is Sold	Percent of funding to be returned to OSI
1	20.0
2	16.0
3	12.8
4	10.2
5	8.2

This section shall not apply in the case of a total loss due to collision, fire or other accident.

10. DOC shall:
- a. Register the replacement vehicle in accordance with New Hampshire law;
  - b. Maintain the replacement vehicle in accordance with manufacturer recommendations;
  - c. Make no modifications to the emission controls system on the replacement vehicle or engine; and
  - d. Make the vehicle and any operation and service documents (including maintenance records) available for follow-up inspection for five years from date of its placement in service, if requested by OSI.

11. All replaced vehicles shall be scrapped as defined in Attachment 1 to this MOA within 120 days from the date the replacement is put into service. Scrappage may be completed by DOC or by a salvage yard or similar service, provided all scrappage requirements have been met and all necessary documentation provided. OSI and NHDES shall be allowed the opportunity to witness the destruction of the vehicle engine and chassis by DOC providing a two week (minimum) advance notice of the event.
12. DOC shall submit to OSI and NHDES documentation confirming the scrappage requirements have been met including:
- The date the vehicle was disabled/scrapped;
  - Confirmation of the engine model year, engine family name, engine serial number, and VIN;
  - The name and contact information for the entity that scrapped the trucks, if other than DOC; and
  - Photographic images of the following:
    - Side profile of the vehicle;
    - Vehicle Identification Number (VIN);
    - The engine tag that includes the engine serial number and engine family number (if available);
    - Chassis rail cut in half;
    - Engine block prior to hole being burned, drilled or punctured; and
    - Engine block after hole has been burned, drilled or punctured.
13. DOC shall submit **Quarterly Project Status Reports** to OSI and NHDES within 15 days after the end of each calendar quarter, beginning the effective date of the MOA for a period of one year following vehicles acquisition. Quarterly Project Status Reports shall be in a mutually agreed upon format and include sufficient information for NHDES to estimate the emissions reductions attributable to any vehicle replaced under the terms of this MOA, including the following for each vehicle:
- The amount of fuel used during the preceding quarter;
  - The number of miles or hours the vehicle was used in the preceding quarter; and
  - The estimated hours of idling experienced in the preceding quarter.
14. DOC shall submit **Annual Project Status Reports** to OSI and NHDES by January 15th of each year, beginning one year from the last quarterly report, for a period of four years including, but not limited to, the following for each vehicle:
- The amount of fuel used during the preceding year;
  - The number of miles or hours the vehicle was used in the preceding year; and
  - The estimated hours of idling the vehicle experienced in the preceding year.
15. DOC shall not use grant funds for any costs not specified in this scope of work. DOC shall complete all activities, reports, and work products specified herein.

**Payment Schedule**

16. Requests for payment shall be submitted on DOC letterhead to OSI and NHDES and shall include:

- a. The following information for both the new and replaced vehicles:
  - Vehicle Identification Number;
  - Engine and vehicle model year;
  - Engine and vehicle manufacturer;
  - Engine serial number;
  - Vehicle class; and
  - Fuel type;
- b. A copy of all vendor invoices;
- c. Documentation verifying payment to the vendor;
- d. Contact information for any questions related to reimbursement requests.

17. A copy of the new vehicle registration and proof of scrappage of the replaced vehicle shall be submitted to OSI and NHDES within 120 days of the new vehicle being put into service.

18. OSI will submit appropriate forms to the Trustee of the VW Trust requesting release of funds to DOC within 15 days of receiving a request for payment, provided DOC is in compliance with all recordkeeping and reporting requirements in the Scope of Work.

19. All obligations of OSI and the State of New Hampshire are contingent upon availability and continued appropriation of funds for the services.

**Termination:**

20. This MOA may be terminated for good cause, or by agreement of the parties with the provision for orderly termination of the project. Termination of the MOA shall not occur until thirty (30) days after a "notice of termination" has been received by the other party. Said notice shall specify the cause for termination.

This MOA will become effective upon approval by Governor and Council through June 30, 2021, with reporting requirements to continue as specified herein.

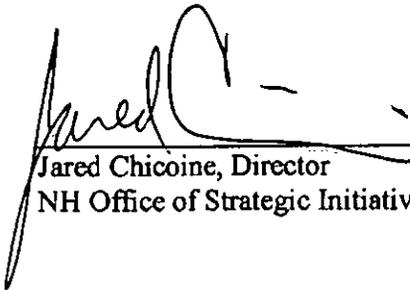
Initials JSB  
Date 12/20/19

**Agreement:**

In WITNESS THEREOF, the parties hereto have executed this agreement, which shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve the agreement.

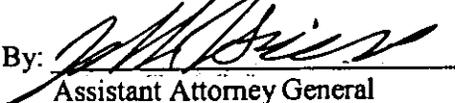
  
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Helen E. Hanks, Commissioner  
NH Department of Corrections

12/20/19  
Date

  
\_\_\_\_\_  
Jared Chicoine, Director  
NH Office of Strategic Initiatives

12/23/2019  
Date

OFFICE OF THE ATTORNEY GENERAL

By:   
\_\_\_\_\_  
Assistant Attorney General

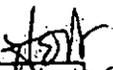
Date: 1/6, 2020

I hereby certify that the foregoing agreement was approved by the Governor and Council of the State of New Hampshire at their meeting on \_\_\_\_\_.

OFFICE OF THE SECRETARY OF STATE

By: \_\_\_\_\_

Title: \_\_\_\_\_

Initials   
Date 12/20/19

## ATTACHMENT 1

Projects shall conform to all relevant requirements of the VW Trust including the following:

“Class 4-7 Local Freight Trucks (Medium Trucks)” shall mean trucks, including commercial trucks, used to deliver cargo and freight (e.g., courier services, delivery trucks, box trucks moving freight, waste haulers, dump trucks, concrete mixers) with a Gross Vehicle Weight Rating (GVWR) between 14,001 and 33,000 lbs.

“Class 8 Local Freight, and Port Drayage Trucks (Eligible Large Trucks)” shall mean trucks with a Gross Vehicle Weight Rating (GVWR) greater than 33,000 lbs. used for port drayage and/or freight/cargo delivery (including waste haulers, dump trucks, concrete mixers).

“Scrapped” shall mean 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 as part of an eligible project, scrapped shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

Eligible Large Trucks include 1992-2009 engine model year Class 8 Local Freight or Drayage.

Eligible Medium Trucks include 1992-2009 engine model year class 4-7 Local Freight trucks

All replaced trucks must be scrapped.

Eligible Medium and Large Trucks may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Mitigation Action occurs or one engine model year prior.