



October 5, 2018

ATTN: VW Settlement
Texas Commission on Environmental Quality (TCEQ)
Air Quality Division Implementation Grants Section, MC-204
PO Box 13087
Austin, TX 78711-3087

RE: Comments on the TCEQ Draft VW Environmental Mitigation Trust Beneficiary Mitigation Plan for Texas

The Capital Metropolitan Transportation Authority ('CMTA' or 'Capital Metro') appreciates the opportunity to comment on the Texas Volkswagen Mitigation Program. We strongly support the four goals of the program: to reduce nitrogen oxides ('NO_x') emissions; reduce potential exposure of the public to pollutants; prepare for increased and sustained use of Zero Emission Vehicles ('ZEVs'); and complement other incentive funding. We also support TCEQ's decision to involve the relevant regional units of government, like Councils of Governments, regarding disbursement of the Volkswagen Environmental Mitigation Trust. However, we are very concerned that the Austin metro region is not eligible for funding in the draft plan. We believe that the state cannot meet its goals without a portion of the funding being made available to the Austin-Central Texas Region.

The Trust Agreement states that "the Defendants are required to establish this State Mitigation Trust and to fund it with funds to be used for environmental mitigation projects that reduce emissions of nitrogen oxides ('NO_x') where the Subject Vehicles were, are, or will be operated ('Eligible Mitigation Actions')." The Austin-Round Rock region had, by far, the largest number of vehicles under the consent decree per capita and far more total vehicles than all listed Priority areas except the Dallas-Fort Worth and the Houston-Galveston-Brazoria Areas. In the Austin-Round Rock MSA, there were 2.39 affected vehicles for every 1,000 people (5,052 total affected vehicles), far more per capita than any of the regions that received funding and representing over 12% of all affected vehicles.

Applied thoughtfully, this funding can help communities meet their clean air goals while achieving additional community and sustainability benefits. Capital Metro believes that this opportunity can be leveraged to support the strong commitments of the coalition of local governments and partners in Central Texas to keep our air clean through voluntary partnerships. The preamble to the TCEQ draft plan states: "A primary purpose of the Trust Agreement is to mitigate NO_x emissions especially in regards to impacted communities. Those communities most impacted are those that likely had additional emissions from the vehicles under the consent decree that are measuring levels at or above the National Ambient Air Quality Standard (NAAQS) for ozone." The governments and the people of Central Texas have worked voluntarily to reduce harmful emissions and maintain a high standard of air quality, however the Austin-Round Rock MSA is currently at a significant risk of violating the 2015 Ozone ('O₃') NAAQS by the end of 2019 and has O₃ levels higher than 1 of the five areas proposed for funding. This funding is critical at a time when the region is at risk for becoming non-attainment.

Texas Commission on Environmental Quality (TCEQ)
October 5, 2018
Page 2

As stated in the Draft Beneficiary Mitigation Plan, the operation of public and transit fleets results in NO_x emissions that can impact the formation of ground-level ozone in the local and regional area. We encourage TCEQ to prioritize public fleets which provide community benefits along with air quality benefits. Transit fleets, in particular, provide opportunities for a cleaner bus fleet and an affordable, clean, and shared mobility option for many commuters in the region. Additionally, prioritizing public fleet projects with a high matching contribution would increase the impact of funds from the Trust and encourage local commitment and stewardship of these funds. We encourage TCEQ to consider matching contributions and community benefits as it drafts the final mitigation plan.

As the final plan is developed, we urge TCEQ to bear in mind the projects funded by the Trust “are intended to mitigate the excess NO_x emissions from affected vehicles,” not simply address areas in or near nonattainment. With over 12% of the affected vehicles, it is consistent with the goals of the Trust to include the Austin-Round Rock MSA among the eligible areas. We urge TCEQ to include the Austin-Central Texas region that is within the geographic bounds of the Capital Area Metropolitan Planning Organization (CAMPO) and to consider the air quality and community benefits of prioritizing public fleets.

Sincerely,



Randy Clarke
President & CEO