

Carl Moyer Off-Road Equipment Replacement Program Agreement

This agreement (Agreement) is between Tehama County Air Pollution Control District (District) and Beeler Tractor Company (Dealership).

1.0 RECITALS

- 1.1 The entire District is classified as a state ozone nonattainment area due to the fact that the level of ozone in the ambient air exceeds the state health-based standards.
- 1.2 Ozone is formed by the interaction of Nitrogen Oxides (NOx) and other precursor pollutants in the atmosphere. The majority of NOx in the District is generated by vehicles, including off-road equipment. In order to bring the District into attainment with the state standards and keep the District in compliance with federal standards, we need to work together to reduce the levels of NOx emitted.
- 1.3 The California Air Resources Board (ARB) has developed several programs to help Air District's achieve the state standards and keep the District in compliance with federal ozone standards. One of these programs is the Off-Road Equipment Replacement Program (the Program).
- 1.4 The objective of the Program is to accelerate the retirement of older high polluting off-road equipment through financial incentives that will encourage the voluntary replacement of uncontrolled equipment with new equipment that uses low emission technology.
- 1.5 Under the Program, the District will provide financial incentives to equipment owners that agree to destroy their old equipment and then replace it with new, low emission equipment.
- 1.6 To ensure that actual reductions result from the Program, it is essential:
 - That the old equipment is inspected to verify that it qualifies for the Program
 - That the old equipment is destroyed properly to permanently eliminate its potential for emissions
 - That a digital hour meter is installed in the new equipment to measure future actual hours of operation within the District, and
 - That particulate emission control devices be installed if they are available, safe, and cost effective.
- 1.7 The Dealership is in the business of selling new or used off road equipment.
- 1.8 The Dealership has reviewed and is familiar with the District's Off-Road Equipment Replacement Program.
- 1.9 The Dealership understands that the purpose of the Program, and this Agreement, is to help the District achieve clean air standards as required by state and federal law.
- 1.10 The Dealership wishes to enter into this Agreement so that it will be eligible to market its equipment and services to program participants.
- 1.11 The District has not reviewed the Dealership's operations or reached any conclusion on the quality of the Dealership's operation. The District is permitting the Dealership to enter into this Agreement solely because the Dealership has represented to the District that it is aware of the Program goals and agrees to abide by the Program requirements. The Dealership shall not represent or imply, to any party, that the District has approved or endorsed the Dealership's operations.

2.0 CONDITIONS:

The parties agree that:

2.1 **DEFINITIONS:** As used in this Agreement, the following terms have the following meanings:

- **Program Participant**—the individual or business entity that is surrendering its off-road equipment and receiving funds to aid in the purchase of new off-road equipment.
- **Old or Existing Equipment**—the off-road equipment that the Program Participant surrenders for destruction.
- **Replacement Equipment**—the new equipment purchased by the Program Participant. Used equipment meeting the most recent Model Year CA emission standard qualifies as new equipment if sold by the dealer with the required warranties and documentation of how the price was depreciated to account for the used condition and the number of operating hours of accumulated use since new.

2.2 **PAYMENT:** The Dealership shall not be entitled to any compensation or reimbursement whatsoever from the District under this Agreement. The Dealership will not be paid or otherwise reimbursed directly by the District. Rather, the benefit received by the Dealership under this Agreement is the opportunity to participate in the Program, which carries the corresponding opportunity to profit through the sale of equipment to be purchased by Program Participants.

2.3 **DEALERSHIP QUALIFICATIONS:** Dealership warrants that it meets the following minimum qualifications for participation in the Program and will continue to meet these qualifications throughout its participation in the Program. During the term of this Agreement, Dealership may petition District's Air Pollution Control Officer to waive or modify any of these minimum qualifications.

- Owner holds a current and valid California business license for a minimum of two consecutive years prior to the date of this agreement.
- A minimum of one (1) employee has been trained by the District regarding the Program.
- Owner agrees to allow the District to inspect equipment covered under this agreement during normal business hours.

2.4 **DEALERSHIP REQUIREMENTS:** Unless otherwise indicated, the Dealership must meet each requirement before the District will be obligated to release the incentive funds to the Program Participant. The Dealership agrees to do the following:

1. Provide basic information to participants about the equipment replacement program. The District will provide training to dealership staff.
2. Help the participants correctly complete the application. It is important to make sure that all information is filled out correctly and that the participant understands the program and the meaning of the Grant Agreement. Information necessary for preliminary evaluation of the project includes, but is not limited to the following:
 - Description and specifications of the old equipment including year, model, horsepower rating, a list of included attachments and accessories, serial numbers of the equipment and engine, operating condition, and credible records of the previous two years of ownership and amount of usage in Tehama County.
 - Description and specifications of the proposed new equipment including year, model, horsepower rating, ARB engine Family Number and Executive Order

number, a list of included attachments and accessories, detailed price quote, warranty information, and financing information—if financed.

- If a verified diesel emission control system (VDECS) is feasible, specifications of the VDECS to be installed on the equipment including make, model, a price quote that will be valid at the time the VDECS is installed, warranty information, and identification of the installer. If a VDECS is not feasible, letter(s) from each VDECS manufacturer stating that a VDECS is not feasible for said equipment shall be submitted to the District.
3. The applicant/owner will schedule a time and place for the District to pre-inspect and to verify the identity, operation, and condition of the old equipment.
 4. After the Grant Agreement is executed, and the Dealership is notified, the new equipment can be ordered. It will be delivered to the dealership and, if feasible, arrange for installation of the VDECS.
 5. Before delivering the new equipment to the Grantee, the Dealership will schedule a time and place for the District to inspect and verify the identity, operation, and condition of the new equipment and VDECS, if installed. The Dealership may not deliver the equipment to the participant until the District inspects the new equipment and verifies that it is eligible for funding.
 6. The Dealership shall submit copies of itemized invoices, warranty information, and financing information to the District, prior to the District issuing payment for the grant.
 7. The Dealership will use only OEM certified parts for any repairs to any engine or equipment covered under the District Program.

2.5 **CANCELLATION:** The District may terminate this agreement if the Dealership fails to comply with its requirements. Any Dealership whose agreement was cancelled for cause and subsequently re-applies for a new agreement must include with the submittal a written description of the actions that will be taken to eliminate the cause of the termination of the previous agreement.

2.6 **AMENDMENTS:** No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by all parties.

2.7 **TERM:** This Agreement shall begin upon execution by both parties and terminate on December 31, 2027.

2.8 This Agreement consists of:

- This Agreement
- Exhibit A, TCAPCD Off Road Equipment Replacement Program
- Exhibit B, CARB Standard "Off Road Equipment Replacement Application"

2.9 Correspondence between the District and the Dealership should be addressed to the following:

To District:

Tehama Co. APCD
P. O. Box 1169
Red Bluff, CA 96080
Phone: (530) 527-3717
Fax: (530) 527-0959

To Dealership:

Contact: Tyler Dibel
Business: Beeler Tractor Company
Business Address: 2025 Barney Road
City, State Zip: Anderson, CA 96007
Phone: 530-378-1116
Fax: 530-378-0603

The address and/or contacts may be changed by written notice to the other party. Such written notice may be given by mail, email, or fax.

2.10 The undersigned representative of Dealership affirmatively states that he or she has legal authority to bind Dealership to the terms of this Agreement.

2.11 The Dealership shall, during the entire term of this agreement, be construed to be an independent contractor and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the District to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this agreement; provided always, however, that the services to be provided by the Dealership shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of the District is to ensure that the services shall be rendered and performed in a competent, efficient and satisfactory manner.

2.12 The Dealership shall defend, hold harmless, and indemnify the Tehama County Air Pollution Control District, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of District), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of District) being damaged, arising out of the Dealership's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, whether by negligence or otherwise. The Dealership shall, at its own expense, defend any suit or action founded upon a claim of the foregoing. The Dealership shall also defend and indemnify the District against any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency against the District with respect to the Dealership's "independent contractor" status that would establish a liability for failure to make social security or income tax withholding payments, or any other legally mandated payment.

2.13 All services to be performed by the Dealership pursuant to this Agreement shall be performed in accordance with all applicable federal, state, and local laws, rules, regulations, and ordinances. Any change in status, licensure, or ability to perform activities hereunder must be reported to the District immediately.

2.14 This agreement shall be deemed to be made in and shall be governed by and construed in accordance with the laws of the State of California (excepting any conflict of laws provisions which would serve to defeat application of California substantive law). The venue for any action arising from this agreement shall be in Tehama County, California.

Approved by Dealer

Tyler Dibel Store Manager

Name and Title

Date: 4-30-24

Approved by the Tehama County Air Pollution Control District

Joseph H. Tona

Joseph H. Tona, Air Pollution Control Officer

Date: 5-17-24

E-Contract Review
Approval as to Form

Department Name: Air Pollution Control District

Vendor Name: Beeler Tractor Company

Contract Description: For the purpose of Carl Moyer off Road Equipment Replacement Program

APPROVED AS TO FORM:

Date: 5/17/2024

A handwritten signature in blue ink, consisting of a large, stylized letter 'M' enclosed within a circular loop, with a short horizontal line extending to the right from the bottom of the loop.

Office of the Tehama County Counsel
Margaret E. Long, County Counsel