



Feather River Air Quality Management District

Policies and Procedures Manual

Funding Agricultural Measures for Emission Reductions

(FARMER) Program

Updated on:  
January 15, 2020

## I. Introduction

In September 2017, Assembly Bill (AB) 134 and AB 109 appropriated \$135 million from the State of California Budget for fiscal year (FY) 2017-18 to the California Air Resources Board (CARB) for the reduction of criteria, toxic, and greenhouse gas (GHG) emissions from the agricultural sector. CARB staff developed the Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program to implement this program in accordance with the requirements of the Greenhouse Gas Reduction Fund (GGRF), the Air Quality Improvement Fund (AQIF), and the Alternative and Renewable Fuel and Vehicle Technology Fund (ARFVTF). CARB approved the state FARMER Program Guidelines<sup>1</sup> at the March 23, 2018, Board Meeting.

The FARMER Program funding in Fiscal Year 2018-19 was \$130 million (Year 2) and in Fiscal Year 2019-20 the State Legislature allocated \$65 million from the GGRF to CARB to fund grants to air districts under the FARMER Program (Year 3).

The FARMER Program funds projects that will “reduce agricultural sector emissions by providing grants, rebates, and other financial incentives for agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations.” The FARMER Program Guidelines provides the following definition of “agricultural operations:”

*“Agricultural Operations” means (1) the growing or harvesting of crops from soil (including forest operations) and the raising of plants at wholesale nurseries, but not retail nurseries, or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution, or (2) agricultural crop preparation services such as packinghouses, cotton gins, nut hullers and processors, dehydrators, and feed and grain mills. Agricultural crop preparation services included only the first processing after harvest, not subsequent processing, canning, or other similar activities. For forest operations, agricultural crop preparation services include milling, peeling, producing particleboard and medium density fiberboard, and producing woody landscape materials.*

Consistent with the In-Use Off-Road Regulation, a vehicle or equipment that is used for both agricultural and nonagricultural operations is considered to be a vehicle engaged in agricultural operations only if over half of its annual operating hours are for agricultural operations.

This Policies and Procedures Manual outlines how the Feather River Air Quality Management District (District) will implement the FARMER Program and meet the requirements in the FARMER Program Guidelines and Grant Agreement. These

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<sup>1</sup> <https://ww2.arb.ca.gov/sites/default/files/2018-07/farmerguidelines-final.pdf>

Policies and Procedures are not intended to conflict with California State law – in the event such a conflict exists State law should be followed.

## **II. Program Implementation**

The District shall implement the FARMER Program in accordance with the Policies and Procedures Manual for the Carl Moyer Program<sup>2</sup> for the following:

- Project solicitation
- Project selection
- Staff roles and responsibilities;
- Procedures for notifying successful applicants of their grant awards and for notifying applicants who have not been awarded grants;
- Method for calculating interest earned;
- Procedures for the Grantee to submit program invoices and receive payment, including itemization required to limit eligible cost;
- Method to verify the destruction of engines and equipment;
- Methods to store and retrieve digital photographs documenting project inspections and project specific information;
- Project annual reporting requirements and procedures, including requests for waivers;
- Types of documentation accepted for historical usage; and
- The District shall comply with the oversight responsibilities and auditing identified in the FARMER Program Guidelines, FARMER Grant Agreement, and the Carl Moyer Program Guidelines.

Due to the requirements of the FARMER Program Guidelines and Grant Agreement, the District shall administer the FARMER Program different than the Carl Moyer Program as described in sections A-E below.

### **A. Eligible Project Categories**

Eligible projects for FARMER Year 3 must be eligible under the 2017 Carl Moyer Program Guidelines and current and future Program Advisories and Mail-outs. In addition the FARMER Program shall only fund projects engaged in agricultural operations. The District will be accepting applications for off-road equipment replacement and repower projects of:

- Off-road mobile, diesel agricultural equipment;
- Off-road mobile, large spark-ignition (LSI) agricultural equipment; and
- Agricultural irrigation pump engines

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<sup>2</sup> Policies and Procedures Manual for the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), January 15, 2020

## B. Program Timeline

The FARMER Year 3 funding shall be paid from CARB to the District in two or more disbursements.

The FARMER Program Guidelines and Grant Agreement specify funding milestones and expenditure targets for the Year 3 Program. The following timeline will be adopted by FRAQMD to meet those goals:

<b>Milestone</b>	<b>Date</b>
1st Disbursement requested	May 2020
1 <sup>st</sup> Disbursement allocated to projects	Summer 2020
2nd Disbursement requested once 50% of 1 <sup>st</sup> Disbursement under contract	Summer/Fall 2020
2 <sup>nd</sup> Disbursement allocated to projects	Fall 2020
At least 50% funding allocated	June 30, 2021
75% allocated/25% expended	December 31, 2021
100% allocated/50% expended	June 30, 2022
All funding expended	June 30, 2023

## C. Project Selection

FARMER funding shall be allocated to projects that are within or benefitting disadvantaged communities and low-income households or communities, consistent with AB 1550 (Gomez, Chapter 369, Statutes of 2016)<sup>3</sup>. The District shall solicit and select projects as described in the Carl Moyer Program PPM.

## D. Records and Reporting

As done in the Carl Moyer Program, the FARMER Program records shall be stored in a safe and secure location that maintains confidentiality. The FARMER Program record retention and reporting schedule varies from the Carl Moyer Program, as noted below.

### 1. Project Records

Project records shall be maintained in accordance with the Carl Moyer Policy and Procedures. Project files shall be retained for the life of the project. Upon completion of the projects, all project records will be

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<sup>3</sup> <http://www.calepa.ca.gov/EnvJustic/GHGInvest/>

submitted to CARB within 45 days after end of the project life, either in hard copy or electronic file format.

**2. Financial Records**

Financial records shall be maintained in accordance with the Carl Moyer Policy and Procedures. Upon completion of the projects, all project records will be submitted to CARB within 45 days after end of the project life, either in hard copy or electronic file format.

**3. Semi-Annual Reports to CARB**

Semi-annual reports shall be submitted to CARB using the template provided by CARB through April 30, 2023, or until all funding has been expended. The reporting schedule will be in accordance with the Year 3 Grant Agreement.

**4. Annual Reports to CARB after April 30, 2023**

For projects with a project life that extends past April 30, 2023, the District must continue to report project data necessary to calculate emission reduction benefits and satisfy the requirements of the FARMER Program, using the reporting template provide by CARB, on an annual basis. Annual reports are due to CARB by August 29 each year and must cover data from July 1 of the previous year through June 30 of the current year.

**E. Disbursements and Expenditure Tracking**

The FARMER Program, like the Carl Moyer Program, allows the District to request advance disbursement of Project and Implementation (Administration) funding. However, unlike the Carl Moyer Program the FARMER Program allows only 50% of the disbursement of both Project and Implementation funds in the initial disbursement.

Once 50% of the initial 50% disbursement has been obligated to projects, the District will request the second 50% disbursement of Project and Administration funding.

Documentation of Program Implementation costs shall be tracked by use of personnel timesheets. Additional costs may be tracked through invoices and/or other documentation and may include advertising, legal counsel review of contracts, and travel expenses.

**III. Correspondence**

The CARB Project Liaison is Kersey Manliclic. Correspondence regarding the Program should be directed to:

Kersey Manlicic  
California Air Resources Board  
Innovative Strategies Branch  
Mobile Source Control Division  
PO Box 2815  
Sacramento, CA 95812  
Phone: (916) 323-8967  
Email: [kersey.manlicic@arb.ca.gov](mailto:kersey.manlicic@arb.ca.gov)

#### **IV. Exhibits**

1. Grant Agreement (to be added once received)
2. Funding Agricultural Replacement Measures for Emissions Reductions (FARMER) Program Guidelines, released February 16, 2018
3. Policies and Procedures Manual, Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), Guidelines Year 2017, released January 15, 2020

#### **V. Approval**

The APCO shall approve this version of the FARMER Program Guidelines:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

#### **VI. Attachments**

- A – FARMER Agreement
- B – FARMER Check Request Form

# FARMER AGREEMENT NO. 2020-xx

## FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT FUNDING AGRICULTURAL MEASURES FOR EMISSION REDUCTIONS PROGRAM AGREEMENT

This Agreement (Agreement) is between the Feather River Air Quality Management District (District), a public agency of the State of California, and xx (Participant).

### 1.0 Recitals

- 1.1 The State of California adopted Assembly Bill (AB) 134 (Committee on Budget, Chapter 254, Statutes of 2017) and AB 109 (Ting, Chapter 249, Statutes of 2017).
- 1.2 AB 134 and AB 109 appropriate \$135 million from the State Budget for Fiscal Year 2017/18 to the California Air Resources Board (CARB) for the reduction of criteria, toxic, and greenhouse gas emissions from the agricultural sector.
- 1.3 The CARB adopted the Funding Agricultural Replacement Measures for Emissions Reductions (FARMER) Program to achieve emission reductions from the agricultural sector as directed in AB 134 and AB 109.
- 1.4 The District Board of Directors approved Resolution No. 2019-14 authorizing the District's participation in the CARB FARMER Program which is hereby incorporated by reference and made part of this agreement.
- 1.5 To implement mobile source emission reduction projects, the Program provides incentives to fleet operators and individuals for the purchase, repower and/or retrofit of low-emission on-road motor vehicles, off-road mobile equipment, and agricultural water pumps in accordance with the Carl Moyer Program Guidelines, 2017 Revision.
- 1.6 The District Board of Directors approved authorizing the Air Pollution Control Officer (APCO) to execute agreements and make minor modifications to the Program for the purpose of maintaining consistency with the FARMER Program Guidelines and Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) Guidelines.
- 1.7 The Participant wishes to participate in the Program by purchasing and operating the equipment described in this Agreement and represents that the purchase is not required by any local, state, and/or federal rule, regulation, memorandum, or other legally binding agreement, with the exception of certain agricultural projects described in Health and Safety Code §44229(b).
- 1.8 The Participant has read and agreed to all requirements of the Program application and the current Carl Moyer Program Guidelines and FARMER Program Guidelines which are hereby incorporated into this Agreement.
- 1.9 This Agreement is a voluntary act intended to accelerate the introduction of low-emission vehicle and engine technology designed to reduce emissions of criteria, toxic, and greenhouse gas emissions within Yuba and Sutter counties.

### 2.0 Terms and Conditions

#### 2.1 Definitions

- 2.1.1 "Applicable emission standards" are defined as the emission standards for oxides of nitrogen (NOx), particulate matter (PM), hydrocarbons, and carbon monoxide established by the California Air Resources Board (CARB) or the United States Environmental Protection Agency (USEPA) for a model year vehicle or engine. For "phase-in" or "interim" engines, table 5-3 contained in the Off-Road CI chapter of the 2008 Carl Moyer Program Guidelines shall apply.
- 2.1.2 "Agricultural water pump" is defined as a stationary or portable device designed to move water used for agricultural purposes.
- 2.1.3 "Certified" is defined as a motor vehicle or engine that is certified by CARB or the USEPA to an emission standard or standards.

- 2.1.4 "Fleet Modernization" is defined as the transaction in which an older on-road motor vehicle or piece of off-road mobile equipment is destroyed and replaced with a similar motor vehicle or piece of equipment certified to a lower emission standard.
- 2.1.5 "Motor vehicle" is defined as a self-propelled device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.
- 2.1.6 "Off-road equipment" is defined as a self-propelled device not intended for operation on a highway and is powered by an engine certified to off-road or nonroad emission standards.
- 2.1.7 "Repower" is defined as the process in which an old engine is replaced with a new engine.
- 2.1.8 "Retrofit" is defined as the installation of a device designed to reduce emissions from an engine.
- 2.1.9 "Verified" is defined as a device, fuel, or system that is verified by CARB or the USEPA to reduce emissions from a mobile source by a verified amount.

## 2.2 Participant Obligations – the Participant will:

- 2.2.1 Complete project within 180 days of execution of this Agreement. Project completion is the time frame starting with the date of execution of the Agreement to the date the project post-inspection confirms that the project has become operational. This includes the time period when an engine, equipment, or vehicle is ordered, delivered, and installed. Participant may submit a written request to extend this section if the project cannot be successfully completed due to circumstances beyond the Participant's reasonable control.
- 2.2.2 Ensure that a functioning hour meter is installed on the equipment described in Exhibit A for the life of the project. An operational odometer, hour meter, or other District-approved usage measuring device must be installed on all projects and maintained for continuous operation. Should the device fail, Participant agrees to continue to record usage of the equipment and to immediately replace the defective device.
- 2.2.3 Operate the equipment described in Exhibit A in Yuba or Sutter counties during the term of this agreement in accordance with the requirements in Exhibit B. Minimum project timeframe will be 3 years unless otherwise approved by CARB. In addition to meeting the operating requirements established in Exhibit B, 75% of the vehicles total operation must occur within California. Agricultural water pumps are required to operate 100% within Yuba or Sutter counties. Cooperate with District and CARB in implementation, monitoring, and enforcement to assure the emissions benefits are real, quantifiable, surplus, and enforceable.
- 2.2.4 Submit an annual report commencing no more than 18 months after project completion and annually thereafter until end of project implementation period. The District will mail annual report to participant and participant shall return completed report by March 31 of each year. Failure to comply with reporting requirements shall result in on-site monitoring and/or inspections. The District may request additional performance documentation at its discretion.
- 2.2.5 For Off-Road Equipment Replacement Program projects, within 30 days of receiving new equipment, Participant will surrender old equipment to District approved dismantler.

## 2.3 Payment

- 2.3.1 The District will reimburse the Participant up to \$xx towards the cost of the vehicle(s) or equipment identified in Exhibit A. The maximum contract amount shall not exceed the maximum funding level corresponding to the program cost-effectiveness limit, nor may the maximum contract amount exceed the project incremental cost. The maximum contract amount must also comply with any funding caps and other criteria for the specific project category as identified in the current Carl Moyer Program Guidelines, the FARMER Program Guidelines, and the District's Policy and Procedures Manual.
- 2.3.2 All payments made under this Agreement are subject to the provisions and limitations of the California Health and Safety Code. The District shall have no liability for payment of any compensation and expenses that are found to be in contravention of the California Health and Safety Code or any other

local, state, or federal law. The Participant shall reimburse the District for any payments that are later found to be in contravention of the Health and Safety Code or any other local, state, or federal law.

- 2.3.3 No payments shall be issued under this Agreement prior to final inspection of the project by District personnel and verification that the new equipment is operational. The Project must meet milestones such as engine delivery and installation, post-inspection, and acceptance prior to payment issuance.
- 2.3.4 Payments made under this Agreement are subject to taxation and an IRS Form 1099 will be issued to the Participant. Participant shall be required to provide an IRS form W-9 prior to the issuance of any payment under this Agreement. Funds may be withheld by the County of Yuba or Sutter as required by law for payment of tax liabilities and/or other court-ordered payments.
- 2.3.5 Itemized invoices from engine supplier or paid invoices from vehicle owner for new vehicles must be received by District prior to payment issuance. Payments will be made directly to project applicant if invoice was paid by applicant and will serve as reimbursement. Payments to dealer will be specified in contract.
- 2.3.6 If the final invoice amount is lower than the estimate, the District shall reduce the amount in section 2.3.1 in accordance with the FARMER Program Guidelines and Carl Moyer Program Guidelines.
- 2.3.7 The District shall confirm that the existing vehicle/equipment/engine, as identified in Exhibit A, has been destroyed prior to issuing payment.
- 2.3.8 For Off-Road Equipment Replacement Program projects, the Participant may only finance their portion of the cost of the new equipment. The payments made under this Agreement must be paid toward the down payment of the new equipment.

## 2.4 General Program Requirements

- 2.4.1 The Participant warrants that, throughout the term of the agreement, the vehicle(s)/equipment/engine(s) covered under this Agreement shall meet all eligibility requirements described in the Program application, the FARMER Program Guidelines, and the current Carl Moyer Program Guidelines.
- 2.4.2 The Participant cannot apply for or receive additional incentive funds, including but not limited to the state Carl Moyer Program inter-district fund or any other air district fund, including those funds used as matching funds, for any equipment listed in Exhibit A of this Agreement, except federal programs to reduce greenhouse gas emissions or funding provided by the Alternative and Renewable Fuel and Vehicle Technology Program to reduce greenhouse gases. These funds must be disclosed to the District. If the District discovers that the Participant has applied for or received funds from these sources, the District will terminate this Agreement and require that any funds paid under this Agreement be returned to the District.

Participant certifies that they have disclosed all funding sources applied for or received for the equipment listed in Exhibit A of this Agreement. Participant shall notify the District within 10 days of additional sources of funding received for the equipment listed in Exhibit A of this Agreement, including any sources that become available after contract execution.

Participant Initials: \_\_\_\_\_

- 2.4.3 The Participant agrees to operate the equipment described in Exhibit A in a manner that is consistent with the eligibility requirements in the guidelines and the goals and objectives of the Program and within the manufacturer's specifications including all maintenance and fueling requirements. Under no circumstances may the Participant make any modifications to or tamper with the vehicle, equipment, engine, emission control system(s), or any recording devices on the vehicle or equipment prohibited under CARB and USEPA regulations. The Participant also agrees to operate the vehicle, engine, and/or equipment in compliance with all local, state, and federal rules, laws, and regulations. Repower projects must be completed in a manner such that it does not void the engine warranty provided by the manufacturer and any remaining warranty provided by the equipment/vehicle manufacturer.
- 2.4.4 The Participant must submit copies of invoices from service providers that confirm:
  - (i) Installation of digital odometer/hour meter; and

- (ii) Finance information (if applicable)

Each invoice must identify new equipment/engine through either a vehicle identification number or engine serial number, and date service was provided. In order to be eligible for funding, labor expenses must be included on invoices and detail the number of hours charged and the hourly wage.

2.4.5 The Participant agrees to the following motor vehicle title requirements:

- (i) The Participant will provide a copy of the replacement vehicle's title to the District, demonstrating that the District is named as a lien holder for the vehicle.
- (ii) The Participant must be the legal owner of the replacement vehicle through the length of this Agreement.
- (iii) If the replacement vehicle is financed, the Participant will list both the District and the Finance Company as lien holders for the vehicle.
- (iv) If the replacement vehicle is financed, and the loan is repaid before the termination of this Agreement, the Participant must ensure that the District remains a lien holder on the replacement vehicle through the end date listed in Section 2.7.1.
- (v) If the replacement vehicle is repossessed by the finance company, the Participant must reimburse the District in accordance with the termination formula in Section 2.5.
- (vi) Any changes to the replacement vehicle's title must be approved in writing by the District.

2.4.6 The Participant certifies that their fleet, engine, or equipment/vehicle is in compliance with all applicable federal, state, and local air quality rules and regulations at time of execution. The Participant agrees to maintain compliance with all applicable rules and regulations for full project implementation period as specified in section 2.7.1.

2.5 Repercussions for Nonperformance: The Participant understands and agrees to operate the vehicle/equipment/engine in Exhibit A according to the terms of this Agreement and to cooperate with the District and CARB in the implementation, monitoring, enforcement, and other efforts to assure the emission benefits are real, quantifiable, surplus, and enforceable. Repercussions to the Participant for noncompliance with the contract requirements include termination of the Agreement. Upon termination of this Agreement, and if the vehicle/equipment/engine fails to fulfill the minimum required operation, the Participant shall return to the District an amount based on the difference between the required operation amount and the actual amount operated according to the following formula:

$$A = I * [(O * L) - C] / (O * L)$$

A = Amount Owed to the District

I = Total Incentive Award

O = Annual Operational Requirement (miles, hours or years)

L = Length of the Agreement in Years

C = Actual Operation (miles, hours, or years)

The APCO may, at his or her sole discretion, relieve this obligation to return the funds after considering the circumstances leading to the failure to fulfill the minimum performance requirements. Additionally, the APCO may, at his or her sole discretion, require full reimbursement of all funds paid to the Participant as outlined in Section 2.7.9. Additionally, the APCO may grant a waiver to the engine owner for a defined time period if the owner demonstrates to the APCO's satisfaction that the equipment was significantly underutilized due to unforeseen conditions beyond the owners control. Waivers must be granted in accordance with section FF(4)(D) of the 2011 Carl Moyer Guidelines.

2.6 The parties acknowledge that this Agreement will be funded by incentive fund revenues being transferred to the District and that this Agreement is contingent upon the approval of District's funding request by the State for Carl Moyer Program funds and receipt of said funds by District. District shall notify Participant when District has received sufficient funds to fully fund the Agreement and Participant is authorized to begin implementation of the Agreement. District shall not be liable to Participant for any costs or expenses incurred by Participant prior to said notification from District. The Agreement may also be immediately terminated by District should sufficient funds not be received by June 30, 2020.

2.7 General Requirements

- 2.7.1 This Agreement shall begin upon execution by all parties and terminate on **xxx**. No work may begin on this project until this Agreement is executed by all parties. For this Agreement, the timeframe indicated by the project completion in Section 2.2.1 of this Agreement and the aforementioned termination date shall serve as the project implementation period. The Participant is required to operate and maintain the equipment described in Exhibit A according to the terms of this Agreement for the full project implementation period.
- 2.7.2 Except as specified in Section 2.7.2(ii), the receipt of funds and performance under this Agreement prohibits application for any form of emission reduction credit for the life of the contract term outlined in Section 2.7.1.
  - (i) This prohibition includes, but is not limited to all attainment, nonattainment, criteria and non-criteria pollutants, Application for Emission Reduction Credits (ERC), Mobile Emission Reduction Credits (MERC) and/or Certificates of Advanced Placement (CAP). This prohibition extends to credits from all Air Quality Management or Air Pollution Control Districts.
- 2.7.3 The District, CARB, or their designee may conduct an audit of the Participant's operations to verify that the Participant is complying with the Agreement terms.
  - (i) As a condition of accepting funds, the Participant agrees to designate CARB as a third-party beneficiary with full auditing, inspection, and enforcement rights throughout the entire term of the Agreement. The District, CARB (as an intended third party beneficiary), or their designee(s) reserves the authority and right to monitor and enforce the terms of this contract any time throughout project execution through the implementation period to ensure emission reductions are obtained for a minimum of 75% operation within California or as specified in the contract for marine projects, including 5 years after the end of project life for projects lasting more than 5 years.
  - (ii) Any audits will be conducted at a reasonable time and with reasonable notice to the Participant. The Participant agrees to provide the District and CARB with on-site access to the vehicle(s)/equipment described in Exhibit A.
- 2.7.4 The Participant shall defend, indemnify, and hold harmless District, CARB, its officers, agents, employees and volunteers from any and all losses, costs, damages, fines or expenses (including attorney fees, court costs and expert fees) or liability of any kind or character to any person or property arising from, or alleged to arise from, any breach of the responsibilities required of the Participant by this Agreement or which are related in any way to the vehicle(s)/equipment, including any and all liability for general, special, consequential, or other damages resulting from the use of the vehicle(s)/equipment by the Participant, for which financial assistance or other incentives are received from the District by the Participant.
- 2.7.5 **This section 2.7.5 shall survive the termination of this Agreement for three years following the end date listed in Section 2.7.1.** The Participant shall keep the following records from the beginning of operation of the equipment described in Exhibit A through the end of the term described in Section 2.7.1 and for three years following the end date listed in Section 2.7.1. It is the responsibility of the Participant to maintain records adequate to document the subsequent information. The District may request these records at any time during the term of this Agreement, including:

For On-Road Projects	For Off-Road/Stationary Projects
1. Copies of all driver log book entries for the preceding year	1. Hours operated or fuel consumed
2. Miles traveled	2. Fuel cost (if reported fuel consumed)
3. Fuel consumed	3. Engine downtime
4. Fuel cost	4. Type and cost of maintenance performed
5. Vehicle downtime	
6. Type and cost of maintenance performed	

- 2.7.6 No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by both parties.
- 2.7.7 The Participant shall observe and comply with all applicable federal, state and District statutes, ordinances, regulations, rules, directives, and laws. Projects funded by the FARMER Program must be included when defining the size of the fleet for determining regulatory compliance. Throughout the project implementation period as specified in section 2.7.1, projects must not be used to generate credits or compliance extensions, and must be included when determining the size of the fleet for determining regulatory requirements. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California. If a provision of this Agreement violates any applicable law or regulation, that provision will be stricken from the Agreement, and all other provisions will remain in full force. Any action or proceeding arising out of this Agreement shall be filed in a state court located in Sutter County or federal court located in Sacramento, California.
- 2.7.8 No performance rendered or payment due under this Agreement may be delegated or assigned without the written consent of all the parties hereto. If the Participant assigns any of its rights or obligations under this contract, all of the terms and conditions of this contract shall apply to the Participant's assignee. This Agreement will bind the successors of the District and Participant in the same manner as if they were expressly named.
- 2.7.9 This Agreement may be terminated by the District upon thirty (30) days written notice if the Participant fails to meet any of the obligations established in this Agreement or outlined in the FARMER Program Guidelines, the Carl Moyer Program guidelines, or the Health and Safety Code. The District may also terminate this Agreement upon ten (10) days written notice if: (i) the District does not receive all or a portion of the revenues identified in Paragraph 2.6; or (ii) funds are not specifically appropriated for this Agreement in the District's final budget prior to the expiration of the Agreement and any extensions thereto. If the Agreement is terminated for noncompliance, the Participant will refund the entire incentive paid by the District. The APCO may, at his or her discretion, waive the refund or allow the Participant an opportunity to cure its failure to meet the Agreement obligations. Additionally, the District and/or CARB may seek all available remedies under the law for breaches of any Agreement provisions, FARMER Program requirements, Carl Moyer Program requirements, or the California Health and Safety Code.
- 2.7.10 The Participant may not sell or encumber the equipment described in Exhibit A without the written consent of the District.
- 2.7.11 The District has made no representations or guarantees to the Participant regarding the quality, condition, or proposed use of the low emission vehicle and engine technology funded under this Agreement or the effects of such technology on the normal operations of the Participant.
- 2.7.12 If either of the events listed in this paragraph occur, the Participant must notify the District within 30 days of the date Participant knows, or reasonably suspects, that the event has occurred or is likely to occur:
  - (i) The Participant suffers a catastrophic loss; or
  - (ii) The Participant files for bankruptcy; or
  - (iii) Any other event has occurred or is likely to occur that could impair the Participant's ability to perform the conditions of this Agreement.

2.7.13 Correspondence between the District and Participant should be addressed to the following:

To District	To Participant
Carl Moyer Staff Feather River AQMD 541 Washington Avenue Yuba City, CA 95991 Phone: (530) 634-7659 FAX: (530) 634-7660 Email: <a href="mailto:sspaethe@fraqmd.org">sspaethe@fraqmd.org</a>	Phone: (530) FAX: Email:

The address and/or contacts may be changed only by written notice to the other party. Such written notice may be given by mail or personal service.

2.7.14 This Agreement consists of the following:

- (i) Participant Agreement
- (ii) Exhibit A – Vehicle and Engine Information Page
- (iii) Exhibit B – Performance Requirements

If any provision of this agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulations governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the agreement to either party is lost, the agreement may be terminated at the option of the affected party. In all other cases, the remainder of the agreement shall continue in full force and effect.

**DISCLOSURE AGREEMENT:** The undersigned represents and warrants that neither the Participant nor any representative of the Participant has received other incentive funding for the same engine(s), equipment, and/or vehicle(s) detailed in Exhibit A. The undersigned further warrants that neither the Participant nor any representative of the Participant will submit another application, sign another contract, or receive other incentive funding from any other source of funds, including but not limited to other air districts or multidistrict funding under the Carl Moyer Program for the same engine(s), equipment, and/or vehicle(s) detailed in Exhibit A.

Any owner or owner's designee who is found to have submitted multiple applications or signed multiple contracts for the same engine(s), equipment, and/or vehicle(s) shall, at a minimum, be disqualified from funding for that engine(s) from all sources, may be required to reimburse the public agencies for any monies received, and may also be banned from submitting future applications to any and all Program solicitations. In addition, as a violation of law, including but not limited to the Health and Safety Code and Business and Professions Code, ARB and the districts may levy fines and/or seek criminal charges.

The undersigned representative of Participant has read and agrees to comply with all terms and conditions in this Agreement and also affirmatively states that he or she has legal authority to bind Participant to the terms and conditions of this Agreement.

**Approved by Participant:**

\_\_\_\_\_ **Date:**  
Owner

**Approved by the Feather River Air Quality Management District:**

\_\_\_\_\_ **Date:**  
Christopher D. Brown, AICP  
Air Pollution Control Officer

**EXHIBIT A**

**Vehicle/Equipment Information Form and Performance Requirements**

**Equipment:**

**Project Type:**

**County(ies) Where Vehicle/Equipment/Engine Currently Operates:**

County:	
Main Location of Operation (include cross streets)	

**Annual Vehicle/Equipment Usage Information** (be able to prove mileage/hours)

	Within the Yuba and Sutter Area	Outside of Yuba or Sutter Area	Total Operation
Miles/Hours	<-id_mo_miles0,#,##0->	<-od_mo_miles0,#,##0->	

**Existing Vehicle/Equipment Information**

Make: N/A	Model: N/A	Model Year: N/A	GVWR: N/A
Identification Number: N/A	Fleet Identification Number: N/A	License Plate: N/A	Odometer: N/A

**Existing Engine Information**

Make:	Model:	Model Yr:	Serial Number: <-o_eng_sn->	HP:	Hour Meter: <-miles,#,##0->
Fuel Type: <-o_eng_fuel->					

**New or Replacement Vehicle/Equipment Information**

Make: N/A	Model: N/A	Model Year: N/A	GVWR: N/A
Identification Number: N/A	Fleet Identification Number: N/A	License Plate: N/A	Odometer: N/A

**New Engine or Retrofit System Information**

Make: <-n_eng_make->	Model: <-n_eng_model->	Model Yr: <-n_eng_year->	Serial Number: <-n_eng_sn->	HP:	NOx Cert:
Fuel Type: <-n_eng_fuel->					

**PERFORMANCE REQUIREMENTS**

The below listed vehicle/equipment(s)/engine(s) must meet the minimum performance requirements shown to avoid reimbursement according to Section 2.5 of this Agreement

Minimum Usage (hours or miles)	Anticipated Annual NOx Reduction (tons)	Payback Requirement per Hour/Mile	Maximum Incentive Amount
Annual Usage x Contract Life = Total Usage	<-\$E2NOxReduct0,0.00\$>	<-\$Payback,#,##0.00\$>	<-\$fundingAmt0,#,##0\$>

**FRAQMD Check Request Form**

Project Number: 2018-19

Grantee: Windswept Orchards LLC

Address: PO Box 3747, Yuba City, CA 95992

Request Amount: \$56,160.00

Fund: FARMER Year 1

Salvage Confirmed 10/30/2019

By: SS

Invoice Number: fy00453

Received on: 9/17/2019

Check Number: \_\_\_\_\_

Check Amount: \_\_\_\_\_

Check Date: \_\_\_\_\_

Grant Staff Signature:  
(sign after fill the project information listed above and before submit to the administrative staff)

Date:  
\_\_\_\_\_

Administrative Staff Signature:  
(sign after fill the check information listed above and

Date:  
\_\_\_\_\_

Note:  
1. The Administrative staff shall return this form to the Grant Program staff after completing the above procedures.