




air pollution control district  
SANTA BARBARA COUNTY

Agenda Item: F-5  
Agenda Date: December 15, 2022  
Agenda Placement: Admin  
Estimated Time: N/A  
Continued Item: No

## Board Agenda Item

TO: Air Pollution Control District Board

FROM: Aeron Arlin Genet, Air Pollution Control Officer 

CONTACT: Jim Fredrickson, Planning Division Supervisor, (805) 979-8328

SUBJECT: Old Car Buy Back Program Contract with Santa Maria Recycling Center

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### RECOMMENDATION:

Consider recommendation as follows:

Approve and authorize the Chair to:

1. Execute the attached Professional Services Contract AP222301 between the Santa Barbara County Air Pollution Control District and Santa Maria Recycling Center for the Old Car Buy Back program in the amount not to exceed \$500,000 and with a term of December 15, 2022, to August 20, 2025; and,
2. Approve and authorize the Air Pollution Control Officer, in accordance with the contract listed in recommendation 1 above, to issue Spending Authorizations not to exceed \$100,000 (§29).

### BACKGROUND:

Over the past 29 years, the District has expended \$8.6 million of funds, primarily from the Department of Motor Vehicles (DMV) surcharge fees, to implement the Old Car Buy Back program, which allows individuals in Santa Barbara County to receive a financial incentive to voluntarily retire their light-duty cars, trucks, and SUVs. Participants with eligible vehicles work directly with licensed auto dismantlers who permanently destroy the vehicles as a participating dismantler under the Old Car Buy Back program. The individual receives \$1,000 for their vehicle, and the participating dismantler receives \$250 for the services they perform.

Participating dismantlers are responsible for implementing these four critical steps of the Old Car Buy Back program:

- 1) Interface with the vehicle owner;
- 2) Verify vehicle eligibility (i.e., ownership, registration history, and vehicle functionality);
- 3) Issue payment to the vehicle owner; and,
- 4) Submit required documentation to the District.

Since 2011, the District has had professional service agreements in place with three regional dismantlers to implement the Old Car Buy Back program: Steelhead Recyclers in Goleta, Black Road Auto & Tow in Santa Maria, and Perry's Auto Wrecking & Salvage in Lompoc. In 2020, Perry's Auto Wrecking & Salvage sold their business to Central Valley Auto in Lompoc, who later signed a District contract to continue to implement the Old Car Buy Back program. The District also added Bedlo in Lompoc as a fourth dismantler to the Old Car Buy Back program in 2020.

On July 1, 2022 Black Road Auto & Tow sold their business to Santa Maria Recycling Center and requested termination of their Professional Services Contract AP202102 with the District. The District accepted the termination request on July 29, 2022 (Attachment A). This past fall the Santa Maria Recycling Center requested a contract to operate the Old Car Buy Back program.

The Board-adopted contracts with the current dismantlers were executed on August 20, 2020, with a time of performance sunset date of August 20, 2025. The Santa Maria Recycling Center contract was designed to align the time of performance sunset date with the other three existing dismantler contracts. To control the expenditures of contract funds, each contract requires a Spending Authorization letter from the Air Pollution Control Officer that specifies the amount of contract funding a dismantler may expend over a period of several months. This process ensures that the total Old Car Buy Back program expenditures are within the Board-authorized spending limits.

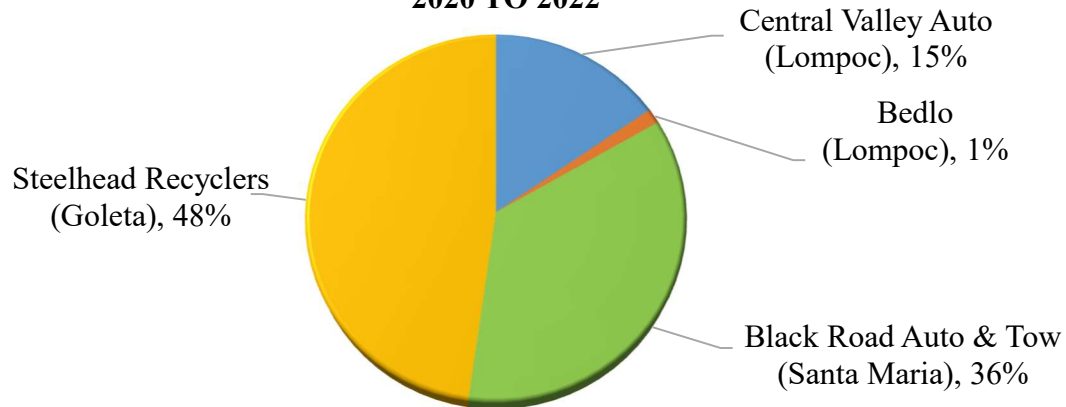
Since its inception in 1993, the Old Car Buy Back program has cost-effectively retired or repaired over 8,000 vehicles. This program has reduced an estimated 966 tons of NOx, ROC, and PM emissions throughout Santa Barbara County, and led to important incremental emission reductions in the on-road vehicle emission inventory. The Old Car Buy Back program is also an essential part of the District's attainment strategy with the state ozone standard, and it achieves reductions at an average cost-effectiveness of approximately \$16,900 per ton. The Old Car Buy Back program provides broad community benefits and is an effective partnership between the District and local auto dismantler businesses.

## **DISCUSSION:**

Historically the Old Car Buy Back program participation has been popular in the Santa Maria area. Since 2020, Black Road Auto & Tow in Santa Maria processed 134 out of 377 total vehicles, accounting for 36% of Old Car Buy Back Program activity, as shown in Figure 1. Now that Black Road Auto & Tow has closed, executing a new contract with Santa Maria Recycling Center will allow the Old Car Buy Back program to continue to serve northern Santa Barbara County and would also support this new local business.

**FIGURE 1**

**PERCENT OF CARS PROCESSED BY DISMANTLER  
2020 TO 2022**



The owner of the Santa Maria Recycling Center, Timoteo Hernandez, also operates Central Valley Auto in Lompoc, a participating dismantler through the District's Old Car Buy Back program since 2020, and Timo's Auto Wrecking, a separate company located in Arroyo Grande that has successfully participated in the equivalent light-duty vehicle scrap program in San Luis Obispo County. Central Valley Auto has properly implemented the District's Old Car Buy Back program and successfully followed all program and contract requirements. The District is confident in the ability of Timoteo Hernandez's team to properly implement the Old Car Buy Back program at their new Santa Maria location. Staff recommends that your Board approve the attached contract with Santa Maria Recycling Center included as Attachment B.

**FISCAL IMPACTS:**

Funding for the Old Car Buy Back program is included in the District's adopted budget for Fiscal Year 2022-23 and primarily funded from Department of Motor Vehicle (DMV) surcharge fees and, as needed, California Air Resources Board Carl Moyer program funds. The Air Pollution Control Officer will continue to provide regular reports on the Old Car Buy Back program at District Board meetings.

**ATTACHMENTS:**

- A. Notice of Contract Termination Black Road Auto & Tow - [Dated July 1, 2022] and District Acknowledgement of Termination of Professional Services Contract AP202102 for the Old Car Buy Back Program [Dated July 29, 2022].
- B. Professional Services Contract between the Santa Barbara County Air Pollution Control District and Santa Maria Recycling Center [AP222301].

## ATTACHMENT A

Notice of Contract Termination Black Road Auto & Tow and  
District Acknowledgement of Termination of Professional  
Services Contract AP202102 for the Old Car Buy Back  
Program

December 15, 2022

Santa Barbara County Air Pollution Control District  
Board of Directors

260 San Antonio Road, Suite A  
Santa Barbara, California 93110



## BLACK ROAD AUTO & TOW

1500 Black Road  
Santa Maria, CA 93458  
(805) 346-2770

July 1, 2022

Santa Barbara County APCD  
260 N San Antonio Rd, Ste A  
Santa Barbara, CA 93110

RE: Old Car Buy Back Program contract AP202102

Dear OCBB:

I am writing to request to terminate our above contract as of July 31, 2022. I am selling the business and this will be the date that the sale will be final.

We will not purchase any more cars for the program as of today and we will follow the termination procedure described in our contract.

We have enjoyed working with you for so many years.

Sincerely,

A handwritten signature in black ink, appearing to read "Lorne B Leeds Sr".

Lorne B Leeds Sr  
Owner



air pollution control district  
SANTA BARBARA COUNTY

July 29, 2022

Black Road Auto & Tow  
Attn: Lorne Leeds  
1500 Black Road  
Santa Maria, CA 93458

**RE: Termination of Professional Services Contract AP202102 for the Old Car Buy Back Program**

Dear Lorne Leeds:

The Santa Barbara County Air Pollution Control District (District) received your letter dated July 1, 2022 requesting termination of Professional Services Contract AP202102 as executed on August 20, 2020 for the Old Car Buy Back Program. This letter serves as the District's acknowledgement and acceptance of your termination of the contract for good cause, pursuant to Section 12 (Termination). Per Section 30 (Deposit) of the contract, we have received the balance of the deposit in the joint bank account for the Old Car Buy Back program and no further action is required on your part.

Thank you for being a critical part of the Old Car Buy Back program over the years. Please contact Jim Fredrickson of my staff at [fredricksonj@sbcapcd.org](mailto:fredricksonj@sbcapcd.org) or (805) 979-8328 if you would like to discuss this issue further. Thank you.

Sincerely,

Aeron Arlin Genet,  
Air Pollution Control Officer

## ATTACHMENT B

Professional Services Contract between the Santa Barbara  
County Air Pollution Control District and  
Santa Maria Recycling Center  
AP222301

December 15, 2022

Santa Barbara County Air Pollution Control District  
Board of Directors

260 San Antonio Road, Suite A  
Santa Barbara, California 93110

## **OLD CAR BUY BACK PROGRAM**

### **PROFESSIONAL SERVICES CONTRACT**

**between**

**The Santa Barbara County Air Pollution Control District**

**and**

**Santa Maria Recycling Center AP222301**

This Professional Services Contract, hereinafter referred to as "Contract", is made this \_\_\_\_\_ day of \_\_\_\_\_ 2022, between Santa Barbara County Air Pollution Control District, hereinafter referred to as "DISTRICT," and Santa Maria Recycling Center, hereinafter referred to as "CONTRACTOR."

#### **RECITALS**

**WHEREAS**, DISTRICT is a county air pollution control agency with the primary responsibility for preparing and implementing air quality attainment plans and measures to achieve and maintain state and federal ambient air quality standards in the County of Santa Barbara as mandated by the California Clean Air Act and Federal Clean Air Act;

**WHEREAS**, Santa Barbara County is designated as nonattainment for the state ambient air quality standard for particulate matter less than 10 microns in diameter ("PM<sub>10</sub>"), and, effective July 1, 2020, Santa Barbara County is designated as attainment for the state ambient air quality standard for ozone;

**WHEREAS**, oxides of nitrogen ("NOx") and reactive organic compounds ("ROC") are precursors to the formation of ozone and the generation of NOx, ROC, and PM<sub>10</sub> from internal combustion engines used in light-duty and medium-duty motor vehicles are a significant contributor to Santa Barbara's County's total emissions of these pollutants;

**WHEREAS**, the California Air Resources Board (CARB) has specified the program requirements that must be met by any Old Car Buy Back program to be eligible for Carl Moyer funds and those requirements are set forth in Attachment B (Program Requirements) to this Contract;

**WHEREAS**, DISTRICT has funds provided by CARB pursuant to the Carl Moyer Program and the California Department of Motor Vehicles (DMV) vehicle registration fee surcharge program, and wishes to utilize a portion of these funds for an Old Car Buy Back program to purchase and permanently retire qualified passenger cars or light-duty trucks as described in Attachment B (Program Requirements);

**WHEREAS**, CARB is an intended third-party beneficiary for the purposes of this Contract and, as such, CARB reserves the right to enforce the terms of this Contract to ensure emission reductions are obtained;

**WHEREAS**, CONTRACTOR represents it is highly qualified and experienced in its professional field, is able to perform the activities described in the Scope of Work attached to

this Contract as Attachment A (Scope of Work), and will not commence these activities until this Contract is fully executed;

**WHEREAS**, DISTRICT or its agents has reviewed CONTRACTOR's qualifications and Scope of Work and has selected CONTRACTOR for the DISTRICT's Old Car Buy Back program at an amount determined by the District Board of Directors; and

**NOW, THEREFORE**, in consideration of the mutual promises and conditions listed below, it is hereby agreed between DISTRICT and CONTRACTOR as follows:

### **CONTRACT TERMS AND CONDITIONS**

#### **1. Obligations to be Performed Under this Contract**

Within the time specified in Section 2 (Time of Performance), CONTRACTOR shall perform all obligations described in this Contract and set forth in the Scope of Work, which is attached hereto as Attachment A and incorporated herein by reference. Said Scope of Work shall fully implement and comply with all the program requirements of the California Air Resources Board, which are attached hereto as Attachment B and incorporated herein by reference.

CONTRACTOR agrees to furnish all labor, materials, equipment, required licenses, permits, fees, and other appropriate legal authorization from all applicable federal, state, and local jurisdictions necessary to perform and complete, per schedule, in a professional manner, the obligations described herein.

#### **2. Time of Performance**

This Contract shall commence on the date of signing by CONTRACTOR and DISTRICT Board of Directors. The contract term shall expire on August 20, 2025 unless terminated sooner in accordance with Section 12 (Termination).

#### **3. Contract Funding**

DISTRICT hereby agrees to provide funds to CONTRACTOR in the amount not to exceed \$500,000 for the CONTRACTOR to purchase and permanently retire qualified passenger cars or light-duty trucks as described in Attachment B (Program Requirements). CONTRACTOR shall invoice DISTRICT as described in Attachment C (Cost Schedule and Reimbursement Schedule). CONTRACTOR shall provide DISTRICT any information necessary to verify the accuracy of the invoice. DISTRICT or its agents will pay CONTRACTOR within thirty (30) days of receipt of CONTRACTOR's invoice. All invoices or other payment documents must include the assigned DISTRICT contract number. Failure to properly reference this contract number may result in a delay of payment.

#### **4. Non-Partnership**

This Contract is not intended by the parties to constitute or create a joint venture, pooling arrangement, or formal business organization of any kind. The rights and obligations of the parties shall be only those expressly set forth herein.

#### **5. Status of CONTRACTOR**

CONTRACTOR shall perform all services under this Contract as an independent contractor and not as employees, officers or agents of DISTRICT or the County of Santa Barbara.

6. Records

CONTRACTOR shall keep and provide to DISTRICT or its agents and CARB or its agents upon request, accurate financial records necessary to enable DISTRICT and CARB to review CONTRACTOR's performance of this Contract. These records shall demonstrate the contract funding has been used to meet the requirements specified in Attachment A (Scope of Work) and Attachment B (Program Requirements). CONTRACTOR shall maintain all such records for at least three (3) years after the termination of this Contract.

7. Contract Reporting

CONTRACTOR shall submit report(s) to DISTRICT in accordance with the schedule and format specified in Attachment D (Contract Reports). Should CONTRACTOR fail to submit any required reports to DISTRICT, CONTRACTOR shall be subject to DISTRICT audit inspection. Any DISTRICT audit inspections shall not relieve CONTRACTOR of its obligation to submit all required reports.

8. Audit and Review

DISTRICT or its agents and CARB or its agents shall have the right to audit and review the records identified in Section 6 (Records), maintained by CONTRACTOR pursuant to the terms of this Contract to the extent necessary to verify the contract funding has been used in accordance with the terms of this Contract. Any such audit and review will be conducted by DISTRICT or CARB auditors or, at CONTRACTOR's option and expense, by a mutually acceptable third-party accounting firm.

9. Indemnification and Insurance

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in Attachment E (Standard Indemnification and Insurance Provisions) attached hereto and incorporated herein by reference.

10. Nondiscrimination Clause

CONTRACTOR shall abide by the Unlawful Discrimination Ordinance, Article XIII of Chapter 2 of the Santa Barbara County Code, which is attached hereto as Attachment F (County of Santa Barbara Unlawful Discrimination Ordinance) and incorporated herein by reference.

11. Rights to Emission Reductions

CONTRACTOR affirmatively certifies to DISTRICT that the project described in Attachment A (Scope of Work) is not required by any local, state and/or federal rule, regulation or Memorandum of Understanding currently in effect. CONTRACTOR transfers and conveys to DISTRICT all rights and claim to ownership of the emission reductions achieved through the purchase and permanently retire qualified passenger cars or light-duty trucks purchased by the CONTRACTOR. CONTRACTOR shall not use or attempt to use the emission reductions achieved by the permanent destruction of the vehicles. CONTRACTOR hereby fully and completely relinquishes any such rights.

## 12. Termination

- a) DISTRICT may, in its sole discretion, terminate this Contract for convenience by giving thirty (30) days prior written notice to CONTRACTOR. CONTRACTOR shall not incur any unnecessary expenses or costs that are reimbursable under this Contract during this period except those absolutely necessary to close out all activities related to the Contract. Any other charges incurred by CONTRACTOR during this period will not be compensated by DISTRICT unless approved in writing by the Air Pollution Control Officer.

DISTRICT may terminate this Contract for cause should CONTRACTOR default in the performance of this Contract or materially breach any of its provisions. Such termination shall be by written notice and shall be effective upon receipt by CONTRACTOR.

DISTRICT may seek whatever legal, equitable, and other remedies available under State law for CONTRACTOR's failure to comply and fully perform under the Grant Agreement.

- b) CONTRACTOR may terminate its obligation to purchase and permanently retire qualified passenger cars or light-duty trucks funded under this Contract for good cause. Notice of termination shall be in writing and shall be effective upon completion of the terms of Section 12 (Termination). Such notice shall terminate CONTRACTOR's obligation under Section 1 (Obligations to be Performed Under this Contract) and Section 2 (Time of Performance) of this Contract. Upon termination, CONTRACTOR shall fulfill the terms in Section 30 (Deposit).

## 13. Conflict of Interest

CONTRACTOR understands and acknowledges that the funds awarded under this Contract may only be awarded to CONTRACTOR in compliance with the requirements of the California Political Reform Act ("PRA"), California Government Code section 87100 *et seq.* CONTRACTOR understands and acknowledges that the PRA prohibits any public official from participating in any governmental decision in which the public official knows they have a financial interest.

For the purposes of this provision, a "public official" is any person employed at DISTRICT or any other public official of DISTRICT or County of Santa Barbara who participated in the negotiation or making of this Contract.

For the purposes of this provision, "CONTRACTOR" includes CONTRACTOR and CONTRACTOR's subcontractors and employees, business associates and business partners (including all personnel named in CONTRACTOR's proposal) who will receive a financial benefit from this Contract.

CONTRACTOR represents and warrants that a "conflict of interest" did not exist during the process that led to the award of this Contract. A conflict of interest exists if any of the following are true:

- a) CONTRACTOR is a business entity in which a public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more;
- b) CONTRACTOR has been a source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more

in value provided to, received by, or promised to a public official within 12 months prior to CONTRACTOR's submission of an application to DISTRICT for this Contract award.

- c) CONTRACTOR is a business entity in which a public official is a director, officer, partner, trustee, employee, or holds any position of management;
- d) CONTRACTOR has been a donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating four hundred seventy dollars (\$520) or more in value provided or promised to a public official within 12 months prior to CONTRACTOR's submission of an application to DISTRICT for this Contract award.

CONTRACTOR shall disclose any conflict of interest to DISTRICT in writing prior to execution of this Contract. The DISTRICT may, in its sole discretion, decline to award or may terminate the Contract to CONTRACTOR if a conflict of interest existed prior to the full execution of this Contract. Failure of CONTRACTOR to comply with this provision shall be a material breach of this Contract and shall, at the DISTRICT's discretion, result in a total forfeiture of all Contract funds received under this Contract. CONTRACTOR shall also be liable to DISTRICT for treble damages of the amount of the Contract and DISTRICT's reasonable attorney's fees in any litigation necessary to enforce this provision.

#### 14. Taxes

CONTRACTOR shall be responsible for payment of all taxes due as a result of the Contract. CONTRACTOR shall provide DISTRICT with their Federal Tax Identification Number or Social Security Number prior to DISTRICT payment of Contract funds.

#### 15. Program Information and Logos

At the option of DISTRICT or its agents CONTRACTOR shall allow the placement of a DISTRICT logo or other program-related information on project facilities or equipment. The placement of the information will be determined by DISTRICT or its agents.

#### 16. Public Education

CONTRACTOR, upon request of DISTRICT or its agents will participate in and assist with a one-day public education and demonstration concerning CONTRACTOR's project. CONTRACTOR will allow reasonable access by DISTRICT or its agents and the public to project facilities and equipment during this demonstration.

#### 17. Remedies Not Exclusive

No remedy herein conferred upon or reserved to DISTRICT is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

#### 18. Publication

DISTRICT or its agents shall have the right of prior written approval of any document that shall be disseminated to the public by CONTRACTOR in which CONTRACTOR utilized information obtained from DISTRICT in connection with performance under this Contract.

Any advertising conducted by the CONTRACTOR for the purpose of recruiting vehicle owners to sell their cars into the program shall not contain any language stating that the



program is anything but voluntary for the consumer or that the program is affiliated with or is operated by the State of California.

Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to the Contract, shall be part of DISTRICT's public record. CONTRACTOR may use or publish, at its own expense, such information provided to DISTRICT. The following acknowledgment of support and disclaimer must appear in each document disseminated, whether copyrighted or not, and based upon the work performed under this Contract.

"This report was prepared as a result of work sponsored by the DISTRICT. The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of DISTRICT. DISTRICT, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report. DISTRICT has not approved or disapproved this report, nor has DISTRICT passed upon the accuracy or adequacy of the information contained herein."

CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and require compliance with the above publication terms.

19. Waivers

The waiver by either party to this Contract of any term, covenant, or condition of this Contract or of any provision, ordinance, or law, shall not be deemed to be a continuing waiver of such term, covenant, condition, or law, or of any subsequent breach or violation of the same, or of any other term, covenant, and ordinance of law.

20. Amendment

This Contract may only be amended in writing executed by DISTRICT Board and CONTRACTOR or, where authorized by the DISTRICT Board, by the Air Pollution Control Officer and CONTRACTOR.

21. California Law to Apply

This Contract shall be construed under and in accordance with the laws of the State of California. All obligations created under this Contract are performable in California.

22. Non-Assignment

This Contract shall not be assigned by CONTRACTOR without the prior written consent of the Air Pollution Control Officer. In the event CONTRACTOR desires to sell or transfer its business to another operator, CONTRACTOR shall promptly notify DISTRICT and shall provide the potential buyer or other transferee with a copy of this Contract. The buyer or other transferee must agree in writing to abide by the terms of this Contract prior to CONTRACTOR closing any such sale or other transfer.

23. Contract Integrated

This Contract represents the entire and integrated Contract between DISTRICT and CONTRACTOR and supersedes any and all other negotiations, representations, and/or Contracts, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Contract, statement or promise relating to the subject matter of this Contract that is not contained herein shall be valid or binding.

24. Conflicts Between Contract and Incorporated Attachments

With the exception of the County's Unlawful Discrimination Ordinance, to the extent that any provisions in any of the other attachment(s) that are incorporated into this Contract by reference, conflict with any provision contained in this Contract, the provision of this Contract shall take precedence and govern.

25. Provisions Required by Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon application of either party, this Contract shall forthwith be physically amended to make such insertion or correction.

26. Unusual Circumstances

The parties shall be excused from performing their respective obligations under this Contract in the event they are prevented from performing so by reason of circumstances beyond their control, including, but not limited to, strikes and other labor disputes, wars, civil commotion, natural calamity, pandemic, fire, equipment breakdown or failures. In the event of any delay described above, the time for performance may be extended by mutual agreement for a period equal to the length of the delay.

27. California Air Resources Board as Third-Party Beneficiary

CONTRACTOR acknowledges that CARB Funds or California DMV vehicle registration fee surcharge program funds may be provided for this Contract by the State of California through the administration and oversight of CARB. CARB shall be a third-party beneficiary for the purposes of this Contract and, as such, CARB shall have the right to enforce the terms of this Contract, including seeking whatever legal, equitable and other remedies are available under State law for CONTRACTOR's failure to fully perform under this Contract.

28. Point of Contact

All notices referenced in this Contract shall be in writing and shall be given by first-class mail and/or via email and shall be addressed as follows, or at such other address or to such person that the parties may from time to time designate in writing:

**CONTRACTOR**

Santa Maria Recycling Center  
1544 Black Road  
Santa Maria, CA 93458  
Attn: Timoteo Hernandez  
[SantaMariaRecyclingCenter@gmail.com](mailto:SantaMariaRecyclingCenter@gmail.com)  
(805) 346-2770

**DISTRICT**

Santa Barbara County Air Pollution Control  
District  
260 North San Antonio Road, Suite A  
Santa Barbara, CA 93110  
Attn: Jim Fredrickson  
[FredricksonJ@sbcapcd.org](mailto:FredricksonJ@sbcapcd.org)  
(805) 979-8328

29. Spending Authorization

CONTRACTOR shall not perform any work under this Contract until CONTRACTOR is provided Spending Authorization from DISTRICT by a Spending Authorization Letter

signed by the Air Pollution Control Officer, in an amount not to exceed \$100,000. Such authorization shall specify the time period and the amount of Contract funding that CONTRACTOR may expend during specified time period. Once the time period of the written authorization expires, CONTRACTOR shall not spend any additional funds until a new Spending Authorization is provided by the Air Pollution Control Officer.

### 30. Deposit

At the time of issuance of a Spending Authorization by DISTRICT pursuant to Section 29 (Spending Authorization), DISTRICT or its agents shall deposit funds into a CONTRACTOR owned, Federal Deposit Insurance Corporation-insured, non-interest bearing, joint bank account to cover projected vehicle purchase costs for the specified time period established in the Spending Authorization. The joint bank account will have CONTRACTOR as primary owner and DISTRICT as secondary owner. Both CONTRACTOR and DISTRICT shall have full real-time access to the joint bank account. CONTRACTOR shall access the joint bank account for the sole purpose of making payments to qualified Old Car Buy Back program participants.

CONTRACTOR shall utilize said funds to pay the owners of vehicles purchased pursuant to Attachment B (Program Requirements) and Attachment C (Cost Schedule and Reimbursement Schedule) of this contract. CONTRACTOR shall not pay out any funds unless approved by a DISTRICT Spending Authorization.

If this Contract is terminated pursuant to Section 12 (Termination), DISTRICT, or its agents, shall withdraw the balance of the deposit within thirty (30) days of termination.

### 31. Stop Work Order

Notwithstanding any Spending Authorization(s) provided pursuant to Section 29 (Spending Authorization) of this Contract, the Air Pollution Control Officer may, in its sole discretion, require CONTRACTOR to cease any expenditure of funds that are reimbursable under this Contract for convenience by giving forty-eight (48) hours prior written notice to CONTRACTOR. CONTRACTOR shall not incur any unnecessary expenses or costs that are reimbursable under this Contract during this forty-eight-hour period except those absolutely necessary to close out all activities related to the Contract. Any other charges incurred by CONTRACTOR during this forty-eight-hour period will not be compensated by DISTRICT unless approved in writing by the Air Pollution Control Officer. The Air Pollution Control Officer may rescind such stop work order by providing written notice to CONTRACTOR.

### 32. Debarment and Suspension

CONTRACTOR certifies to DISTRICT that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

### 33. Execution of Counterparts

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

This Professional Services Contract between Santa Barbara County Air Pollution Control District and Santa Maria Recycling Center was executed in Santa Barbara County and is effective on the last date written below.

SANTA BARBARA COUNTY  
AIR POLLUTION CONTROL DISTRICT

ATTEST:

AERON ARLIN GENET  
CLERK OF THE BOARD


By \_\_\_\_\_  
Deputy

Date \_\_\_\_\_

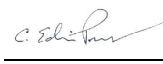
APPROVED AS TO FORM:  
RACHEL VAN MULLEM  
COUNTY COUNSEL

By   
Jennifer R. Anderson (Nov 16, 2022 21:34 PST)  
District Counsel

APPROVED AS TO FORM:  
GREG MILLIGAN, ARM  
RISK MANAGER

By   
Samantha Francis (Nov 17, 2022 08:52 PST)  
Risk Manager


APPROVED AS TO ACCOUNTING FORM:  
BETSY M. SCHAFFER, CPA  
AUDITOR-CONTROLLER

By   
Deputy

By \_\_\_\_\_  
Chair

Date \_\_\_\_\_

CONTRACTOR: SANTA MARIA  
RECYCLING CENTER

By   
Timoteo Hernandez (Nov 9, 2022 15:57 PST)  
Timoteo Hernandez  
CEO

Date 11/09/2022

ATTACHMENT A:  
SCOPE OF WORK



Dear Santa Barbara County APCD,

We would like to participate as a new dismantler for the air district's Old Car Buy Back Program. We understand that we need to provide a detailed Scope of Work to demonstrate our company's capabilities to implement program requirements. This letter serves as our Scope of Work.

- 1) Santa Maria Recycling Center is located at 1544 Black Road in Santa Maria. This location was recently purchased from Black Road Auto & Tow, which was part of the Old Car Buy Back Program for many years. I own Central Valley Auto in Lompoc which has been participating in the Old Car Buy Back Program since 2020. I also own another dismantling facility in San Luis Obispo (SLO) County which participates in SLO County's equivalent program. I have over 30 years of experience in the dismantling business.
- 2) Gloria Zarate will oversee managing the day-to-day operations of the Old Car Buy Back Program in Santa Maria. We will have two additional employees involved in the operation of the Old Car Buy Back Program. All our Santa Maria employees involved are fluent in Spanish.
- 3) Santa Maria Recycling Center will verify that vehicles meet the Old Car Buy Back Program's eligibility requirements as follows:
  - a. Vehicle owners will provide proof of vehicle registration to an address within Santa Barbara County for 24 months prior to the sale date.
  - b. Vehicle owners will provide proof of Smog Checks performed on the vehicle.
  - c. Staff members will conduct a vehicle function and equipment eligibility inspection according to program requirements and using air district approved forms.
  - d. All air district approved forms will be submitted to the air district as directed by air district staff.
- 4) To perform the dismantling, Santa Maria Recycling Center will use a crusher located on the property. The vehicles will be fully dismantled on-site. During the 10-day vehicle waiting period, the vehicles will be placed in a storage yard on the property.
- 5) To meet the financial requirements for the program, a new joint checking account will be established with Santa Maria Recycling Center listed as the primary owner and the air district listed as the secondary owner. From this account, we will reimburse the program participants and the air district can replenish the account on an as needed basis. By having a joint account, the air district will have full, real-time access to the account and will be able to review all transactions and bank statements.

- 6) We will send records of purchased vehicles to the air district. We acknowledge that the 10-day waiting period to dismantle a vehicle does not begin until the air district is notified of the vehicle purchase. We will then invoice the air district periodically for the contractor processing fees.
- 7) We will keep all program records separate from other business records for the facility. All records would be made available for review by air district staff. We are required as licensed dismantlers by the DMV to keep vehicle records for seven years.
- 8) Santa Maria Recycling Center will comply with all program insurance requirements. Proof of Workers' Compensation and General and Automobile Liability Insurance will be provided to the air district. The Santa Barbara County Air Pollution Control District and the California Air Resources Board will be named as an Additional Insured and will be covered under our policies.
- 9) Santa Maria Recycling Center will comply with all program licensing requirements. Copies of DMV dismantler license and City of Santa Maria business licenses will be provided to the air district. These licenses will be maintained throughout the term of the contract and copies of license renewals will be forwarded to the air district.

I verify that the information provided in this Scope of Work is true and accurate to the best of my knowledge. Under penalty of perjury, I certify compliance with local water conservation regulations, state, county, and city energy and hazardous materials response regulations, and local water agency soil, surface, and ground water contamination regulations; and any other information requested in applicable District rules.

*Timoteo Hernandez*  
Timoteo Hernandez (Nov 9, 2022 15:37 PST)

Timoteo Hernandez  
CEO, Santa Maria Recycling Center

ATTACHMENT B:  
PROGRAM REQUIREMENTS

CONTRACTOR will purchase and scrap eligible vehicles in compliance with the following requirements and procedures and in compliance with the California Air Resources Board (CARB) Voluntary Accelerated Vehicle Retirement regulations, California Code of Regulations, Title 13, Sections 2601, *et. seq.*, (the “VAVR Regulations”). The CONTRACTOR shall contact the DISTRICT with any questions or issues regarding vehicle eligibility requirements. DISTRICT or its agents may not reimburse CONTRACTOR for the purchase of any vehicle and fees for services associated with that purchase if such vehicle fails to meet the following requirements:

**1. Vehicle Eligibility Requirements**

All vehicles scrapped as a part of the Old Car Buy Back program shall meet the VAVR Regulations. In addition, CONTRACTOR shall only purchase and scrap vehicles meeting the following status requirements:

- (A) Participation shall be entirely voluntary for vehicle owners.
- (B) The vehicle must be a 1997 Model Year or older diesel or gasoline-powered passenger car or light-duty truck up to 10,000 pounds gross vehicle weight. The Model Year may be changed at the Air Pollution Control Officer’s discretion to a more recent model year if it meets the cost-effectiveness threshold established in CARB guidelines. Should the Air Pollution Control Officer choose to change the model year, the DISTRICT or its agents will notify the CONTRACTOR in writing and will provide updated program forms.
- (C) The vehicle must be currently registered with the Department of Motor Vehicles (DMV) as an operable vehicle and must have been registered for at least twenty-four (24) months prior to the final date of sale to the Old Car Buy Back program to an address, or addresses, within Santa Barbara County.
  - (1) Smog Checks must be performed as required by the DMV in order for the vehicle to be considered registered. Currently, diesel-powered vehicles 1998 model year and older and gasoline-powered vehicles 1975 model year and older are exempt from Smog Check and are not required to pass a Smog Check test to be eligible.
  - (2) A vehicle may also be eligible if the owner of the vehicle placed the vehicle in planned non-operational status per Vehicle Code Section 4604, *et seq.*, for a total of two (2) or fewer months during the continuous twenty-four (24) month registration period, provided that the vehicle has an active and operational registration for at least ninety (90) days prior to the date of sale to the Old Car Buy Back program.
  - (3) A vehicle may also be eligible if the registration has lapsed for less than 181 days during the previous twenty-four (24) months and all appropriate registration fees and late penalties have been paid to the DMV, provided that the vehicle has an active and operational registration for at least ninety (90) days prior to the date of sale to the Old Car Buy Back program.
  - (4) Determination of an individual vehicle’s registration history shall be based on registration data for that vehicle, obtained from DMV records or copies of the applicable vehicle registration certificates.



- (D) The vehicle shall not be operating under a Smog Check repair cost waiver or economic hardship extension.
- (E) If a vehicle volunteered for retirement is within sixty (60) days of its next required Smog Check inspection, the vehicle shall pass the inspection without receiving a repair cost waiver or economic hardship extension prior to acceptance by the Old Car Buy Back program. Owners of vehicles requiring Smog Check inspections will be required to submit documentation issued by a Bureau of Automotive Repair (BAR) licensed Smog Check station demonstrating compliance with this requirement. The documentation must be submitted to the CONTRACTOR performing the functional and equipment eligibility inspection.
- (F) Vehicles that have a tampered emissions control system (missing, modified, or disconnected components) shall not be eligible for acceptance in the Old Car Buy Back Program.
- (G) If a vehicle volunteered for retirement is within sixty-one (61) days to ninety (90) days of its next required Smog Check inspection, the CONTRACTOR shall verify that the vehicle has not failed a Smog Check inspection during this time frame using the following web site: [www.bar.ca.gov/pubwebquery/Vehicle/PubTstQry.aspx](http://www.bar.ca.gov/pubwebquery/Vehicle/PubTstQry.aspx)
- (H) The vehicle must pass functional and equipment eligibility inspections as specified in the VAVR Regulation.

## **2. Vehicle Functional and Equipment Eligibility Inspection**

CONTRACTOR will only scrap vehicles meeting the following requirements. The vehicle functional and equipment eligibility inspection must be conducted on-site at CONTRACTOR's facility using DISTRICT approved forms. The following elements shall be included in the inspection:

- (A) The vehicle must have been driven to the inspection site under its own power. If CONTRACTOR has knowledge that a vehicle was towed or pushed for any portion of the trip to the inspection site, then CONTRACTOR shall not approve the vehicle for eligibility into the Old Car Buy Back program.
- (B) CONTRACTOR must inspect the vehicle to ensure it meets the following equipment eligibility requirements and must reject the vehicle if the vehicle fails **any one** of these requirements:
  - (1) All doors must be present and in place;
  - (2) The hood shall be present and in place;
  - (3) The dashboard shall be in place;
  - (4) Front windshield shall be present and in place;
  - (5) One side window glass shall be present and in place;
  - (6) Driver's seat shall be present and in place;
  - (7) One bumper and all side and/or quarter panels shall be present and in place;
  - (8) One headlight, one taillight, and one brake light shall be present and in place;
  - (9) Interior pedals shall be operational;
  - (10) Vehicle drive-ability must not be affected by any steering, suspension or body damage;
  - (11) Exhaust system shall be present and in place;

- (C) CONTRACTOR shall complete the following functional eligibility inspection, and shall reject the vehicle if the vehicle fails to complete the following test:
  - (1) Insert key and start the vehicle engine using the keyed ignition system. The vehicle must start readily through ordinary means without the use of starting fluids or external booster batteries;
  - (2) The vehicle shall be driven both forward and in reverse for a minimum of 25 feet under its own power;
- (D) Upon satisfactory completion of the inspection, CONTRACTOR will issue a DISTRICT-approved certificate of functional and equipment eligibility form.
- (E) Vehicles failing the requirements pursuant to Section 2(B) may be retested by CONTRACTOR for compliance with these requirements and issued a certificate of functional and equipment eligibility at any time after modifications have been made to the vehicle to correct all deficiencies.
- (F) Vehicles failing the requirements pursuant to Section 2(A) or 2(C) may be retested by CONTRACTOR for compliance with these requirements and issued a certificate of functional and equipment eligibility provided the vehicle has traveled a minimum of 50 miles subsequent to the failure determination. Vehicles with inoperable vehicle odometers must have the odometer fixed prior to conducting this test.

### **3. Vehicle Buy Back Program Contractor Requirements**

- (A) CONTRACTOR must be an auto dismantler, licensed for the purpose of vehicle disposal after purchase according to the requirements of the California Vehicle Code, the regulations of the DMV, and any other applicable business code. CONTRACTOR must have a permanent dismantling facility located in Santa Barbara County and all vehicle disposal activities conducted pursuant to this Contract must be performed at that facility.
- (B) At least thirty (30) days prior to commencing operations as an Enterprise Operator for the Old Car Buy Back Program, CONTRACTOR shall provide DISTRICT, in writing, information demonstrating the ability to comply with all provisions of the VAVR Regulations. This information must include CONTRACTOR's name and business address; a written statement from CONTRACTOR under penalty of perjury certifying compliance with local water conservation regulations, state, county, and city energy and hazardous materials response regulations, and local water agency soil, surface, and ground water contamination regulations; and any other information requested in applicable DISTRICT rules.
- (C) For a vehicle purchased as part of the Old Car Buy Back program, the CONTRACTOR shall verify that the vehicle meets the vehicle registration eligibility and functional equipment eligibility requirements.
- (D) At time of final sale of a vehicle to the Old Car Buy Back program, CONTRACTOR must verify that the person delivering the vehicle for sale is the legal owner or an authorized representative of the legal owner, properly empowered to complete the sale.
- (E) Violation of any provision of these regulations by CONTRACTOR, including falsification of any information or data, shall constitute a citable violation making the violator subject to all applicable penalties specified in California Health and Safety Code.

### **4. Offering Vehicles to the Public**

- (A) The CONTRACTOR must inform the DISTRICT of any vehicles that are offered for sale into the Old Car Buy Back program and ready for dismantling.
- (B) After the vehicle is purchased by the Old Car Buy Back program, the CONTRACTOR must wait a minimum of ten (10) days before submitting a Report of Vehicle to be Dismantled and Notice of Acquisition (REG-42) to the DMV.
- (C) If an interested person from the public contacts the CONTRACTOR regarding purchasing a vehicle during the ten (10) day waiting period, then the CONTRACTOR must hold the vehicle for at least another seven (7) days. During this extended seven (7) day waiting period, the CONTRACTOR shall arrange for the interested person to examine the vehicle, and if appropriate, negotiate the sale of the vehicle. The CONTRACTOR is not obligated to hold the vehicle for an interested party that has missed two or more prior appointments to examine any vehicle or sell the vehicle if a mutually acceptable price cannot be negotiated.
- (D) If the CONTRACTOR sells a vehicle to an interested party:
  - (1) The CONTRACTOR shall send payment to DISTRICT in the amount to cover the Old Car Buy Back program vehicle purchase price;
  - (2) The CONTRACTOR shall not invoice the DISTRICT for the CONTRACTOR services for the vehicle; and
  - (3) The DISTRICT shall not claim any emission reductions for the vehicle.

## **5. Parts Recycling**

- (A) Except as provided in Section 4, a vehicle purchased as part of the Old Car Buy Back program, must be permanently destroyed by CONTRACTOR within ninety (90) days of the date it is sold to CONTRACTOR, and may not be resold to the public or put into operation in any way. Such a vehicle may be briefly operated for purposes related to the disposal of the vehicle as part of the normal disposal procedures.
  - (1) The vehicle will be considered destroyed when it has been punched, crushed, shredded or otherwise rendered permanently and irreversibly incapable of functioning as originally intended, and when all appropriate records maintained by the DMV have been updated to reflect that the vehicle has been acquired by CONTRACTOR for the purposes of dismantling.
  - (2) Except as provided below, no parts may be removed, for sale or reuse, from any dismantled retired vehicle. The only allowable use for any retired vehicle is as a source of scrap metal and other scrap material:
    - a. The CONTRACTOR may separate ferrous and non-ferrous metals from a dismantled retired vehicle as a source of scrap metal only.
    - b. The CONTRACTOR may sell tires and batteries to an intermediary tire/battery recycler only. All facilities generating or receiving waste tires must use the service of a registered tire hauler/recycler. Battery recyclers must be registered and licensed by the State of California to handle batteries.
  - (3) All activities associated with retiring vehicles, including but not limited to the disposal of vehicle fluids and vehicle components, must comply with all applicable federal, state and local regulations including but not limited to local water conservation regulations, state, county, and city energy and hazardous materials response regulations, and local water agency soil, surface, and ground water contamination regulations.

## **6. Records, Auditing and Enforcement**

The following requirements for records, auditing, and enforcement shall be met:

- (A) CONTRACTOR shall be responsible for maintaining and storing the following information for each vehicle removed from operation for the Old Car Buy Back program:
  - (1) Vehicle Identification Number (VIN);
  - (2) Vehicle license plate number;
  - (3) Vehicle model year;
  - (4) Vehicle odometer reading;
  - (5) Vehicle make and model;
  - (6) Name, address and phone number of legal owner selling vehicle to the CONTRACTOR;
  - (7) Name, address and phone number of registered owner if different from Section 6(A)(6);
  - (8) Date of purchase of vehicle by CONTRACTOR;
  - (9) Date of vehicle retirement;
  - (10) Reproduction of California Certificate of Title and registration, as signed-off by seller at time of final sale to the Old Car Buy Back program;
  - (11) Reproduction of the applicable certificate of functional and equipment eligibility;
  - (12) Reproduction of the applicable Report of Vehicle to be Dismantled and Notice of Acquisition (DMV REG-42 form);
  - (13) Reproduction of written documentation from the DMV verifying that a vehicle meets the eligibility requirements of Section 1(C);
  - (14) Reproduction of relevant smog check documentation;
  - (15) Any other pertinent data requested by DISTRICT or its agents (e.g. Old Car Buy Back program survey);
- (B) Upon request of DISTRICT or its agents the data contained in records required in Section 6(A)(1) through Section 6(A)(15) shall be transmitted to DISTRICT in a DISTRICT approved electronic format, in lieu of paper copies.
- (C) CONTRACTOR shall maintain copies of the information listed in Section 6(A)(1) through Section 6(A)(15) for a minimum period of three (3) years and shall make those records available to DISTRICT or its agents upon request.
- (D) DISTRICT or its agents may conduct announced and unannounced audits and on-site inspections of the CONTRACTOR's operations to ensure operations are being conducted according to all applicable rules and regulations. DISTRICT or its agents shall notify any noncompliant CONTRACTOR of the nature of the violation and shall initiate any enforcement or remedial action necessary.
  - (1) CONTRACTOR and its subcontractors shall allow DISTRICT or its agents to conduct announced and unannounced audits and inspections and shall cooperate fully.
- (E) CONTRACTOR shall handle all DMV paperwork associated with the purchase, dismantling, and scrapping of vehicles.
- (F) At the time of final sale of the vehicle to the Old Car Buy Back Program, CONTRACTOR shall ensure payment is made to vehicle owner and all of the requirements are met.

ATTACHMENT C:  
COST SCHEDULE AND REIMBURSEMENT SCHEDULE

**1. Cost Schedule**

- (A) Payment to vehicle owner per vehicle purchased pursuant to this Contract:
  - (1) Initial payment amount: \$1,000
  - (2) Payment modification: The Air Pollution Control Officer has authority to make periodic increases to the payment amount to vehicle owners, subject to the following restrictions: the payment amount shall not exceed \$1,250 per vehicle and the modified per vehicle payment shall apply to all vehicle owners from that date forward.
- (B) Payment to CONTRACTOR for services provided per vehicle purchased pursuant to this Contract:
  - (1) Initial payment amount: \$250
  - (2) Payment modification: The Air Pollution Control Officer has authority to make periodic increase to the payment amount to CONTRACTORS for services provided per vehicle, subject to the following restrictions: the payment amount shall not exceed \$300 per vehicle payment and the modified payment shall apply to all CONTRACTORS from that date forward.

**2. Reimbursement Schedule**

- (A) While a DISTRICT Spending Authorization is in effect, CONTRACTOR shall invoice the DISTRICT for CONTRACTOR services described in 1(B) above as follows:
    - (1) No less frequently than every two months.
    - (2) CONTRACTOR shall not invoice DISTRICT unless a DISTRICT Spending Authorization is in effect.
  - (B) Invoice shall include all information necessary for the DISTRICT or its agents to verify the eligibility of the retired vehicles for which a reimbursement is sought.
  - (C) Each invoice shall be accompanied with a report with information on each vehicle purchased. The invoice report requirements are in Attachment D, (Contract Reports).
  - (D) Invoice eligible costs shall only consist of the CONTRACTOR fees as specified under Section 1(B).
  - (E) Invoice must include the assigned DISTRICT contract number. Failure to properly reference this contract number may result in a delay of payment.
- 3.** CONTRACTOR shall provide a cost breakdown for all eligible costs when requesting payment from the DISTRICT.
- 4.** Within thirty (30) days of receiving a complete invoice, DISTRICT or its agents will pay the CONTRACTOR for the costs claimed per Section 2(D).

ATTACHMENT D:  
CONTRACT REPORTS

CONTRACTOR shall submit the following reports to DISTRICT in a DISTRICT-approved electronic format:

**1. Daily Report**

The Daily Report shall be submitted by the end of each day that the CONTRACTOR operates and handles transactions related to the Old Car Buy Back program. The Daily Report shall include the following information:

(A) Details for each vehicle that qualified for the Old Car Buy Back program:

- (1) Vehicle make;
- (2) Vehicle model;
- (3) Vehicle model year;
- (4) Vehicle license number;
- (5) Vehicle fuel type: gasoline or diesel.

**2. Invoice Report**

The Invoice Report shall be included with each invoice submittal to document vehicles purchased and contain the following information:

- (A) Date of vehicle purchase;
- (B) Vehicle make;
- (C) Vehicle model;
- (D) Vehicle model year;
- (E) Vehicle Identification Number (VIN);
- (F) Vehicle license number;
- (G) Odometer reading;
- (H) Vehicle fuel type: Gasoline or diesel;
- (I) Contact information for legal vehicle seller:
  - (1) Name;
  - (2) Address;
  - (3) City;
  - (4) ZIP Code;
  - (5) Phone Number;
- (J) Date of permanent vehicle dismantling;
- (K) Contact information for inspector assessing the vehicle's eligibility:
  - (1) Name;
  - (2) Business address;
  - (3) Phone number;
  - (4) Check number from payment to owner;
- (L) Reproduction of California Certificate of Title and registration, as signed-off by seller at time of final sale to the Old Car Buy Back program;

- (M) Reproduction of the applicable Report of Vehicle to be Dismantled and Notice of Acquisition (DMV REG-42 form);
- (N) Reproduction of written documentation from the DMV verifying that a vehicle meets the registration and Smog Check requirements of Section 1(C) and Section 1(F) of Attachment B (Program Requirements);
- (O) Reproduction of the Certificate of Vehicle Qualification, Equipment, and Function Eligibility documentation;
- (P) Reproduction of Notice of Release of Liability, Bill of Sale, and General Release and Waiver documentation;
- (Q) Reproduction of Certificate of Permanent Vehicle Dismantling documentation.

### **3. Bank Statement**

- (A) The CONTRACTOR shall submit a reproduction of any bank statements used for the payment of vehicles that participate in the Old Car Buy Back program. The bank statements must include check numbers that correlate with the payments made to vehicle owners. The bank statements must be submitted to the DISTRICT with each invoice.

ATTACHMENT E:  
STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by DISTRICT) and hold harmless DISTRICT and the California Air Resources Board and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by DISTRICT on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to DISTRICT's active as well as passive negligence but does not apply to DISTRICT's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify DISTRICT immediately in the event of any accident or injury arising out of or in connection with this Contract. The indemnification provisions in this Contract shall survive any expiration or termination of this Contract.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if GRANTEE has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation: As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the CONTRACTOR maintains higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT.

B. Other Insurance Provisions



The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured – DISTRICT, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. Primary Coverage – For any claims related to this Contract, the CONTRACTOR's insurance coverage shall be primary insurance as respects the DISTRICT, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. Notice of Cancellation – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the DISTRICT.
4. Waiver of Subrogation Rights – CONTRACTOR hereby grants to DISTRICT a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the DISTRICT by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the DISTRICT has received a waiver of subrogation endorsement from the insurer.
5. Deductibles and Self-Insured Retention – Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT. The DISTRICT may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. Acceptability of Insurers – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A-VII".
7. Verification of Coverage – CONTRACTOR shall furnish the DISTRICT with proof of insurance, original certificates and amendatory endorsements as required by this Contract. The proof of insurance, certificates and endorsements are to be received and approved by the DISTRICT before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Contract. The DISTRICT reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. Failure to Procure Coverage – In the event that any policy of insurance required under this Contract does not comply with the requirements, is not procured, or is canceled and not replaced, DISTRICT has the right but not the obligation or duty to terminate the Contract. Maintenance of required insurance coverage is a material element of the Contract and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by DISTRICT as a material breach of contract.
9. Subcontractors – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that DISTRICT is an additional insured on insurance required from subcontractors.
10. Special Risks or Circumstances – DISTRICT reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of DISTRICT to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of DISTRICT.

ATTACHMENT F:

COUNTY OF SANTA BARBARA UNLAWFUL DISCRIMINATION ORDINANCE

**Sec. 2-94. - Exceptions.**

The provisions of this article shall not apply to contracts or agreements for the acquisition, exchange or disposition of real property or interests therein, nor to contracts or agreements with the State of California, or its political subdivisions, or with the United States of America. (Ord. No. 2946, § 1)

**Sec. 2-95. - Prohibition of unlawful discrimination in employment practices.**

The County of Santa Barbara reserves the right to terminate forthwith each and every written contract and agreement (except purchase orders) respecting real property, goods and/or services entered into by the County of Santa Barbara including but not limited to concessions, franchises, construction agreements, leases, whether now in effect or hereinafter made if the county finds that the contractor is discriminating or has discriminated against any person in violation of any applicable state or federal laws, rules or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex, color, national origin, physical or mental disability, Vietnam era veteran/disabled, age, medical condition, marital status, ancestry, sexual orientation, or other legally protected status. This right of termination extends to contracts entered into by the County of Santa Barbara or by its joint powers, agencies or agents so long as the county obtains the consent of those parties.

Such finding may only be made after contractor has had a full and fair hearing on notice of thirty days before an impartial hearing officer at which hearing contractor may introduce evidence, produce witnesses and have the opportunity to cross-examine witnesses produced by the county. Further, any finding of discrimination must be fully supported by the facts developed at such hearing and set forth in a written opinion; and in addition, contractor may move in the appropriate court of law for damages and/or to compel specific performance of a contractor or agreement if any of the above procedures are not afforded to the contractor. If contractor is not found to have engaged in unlawful discriminatory practices, county shall pay all costs and expenses of such hearing, including reasonable attorneys' fees, to contractor in accordance with current Santa Barbara County Superior Court schedule of attorneys' fees for civil trials. If contractor is found to have engaged in such unlawful discriminatory employment practices, contractor shall pay all such costs, expenses and attorneys' fees.

Whether or not a contract or agreement is still in existence at the time of final determination of such unlawful discrimination, the contractor shall forthwith reimburse the county for all damages directly stemming from such discrimination; however, those damages shall not exceed and are not reimbursable in an amount which exceeds amounts paid to contractor under the terms of the contract or agreement.

Nothing in this section 2-95 shall directly or by interpretation give a private cause of action to any third party (not a signatory to the contract or agreement) including employees past or present, or applicants for employment to contractor, it being the sole purpose of this clause to administratively assure compliance with the nondiscrimination clauses contained herein.

With respect to employment discrimination, employment practices shall include, but are not limited to, employment, promotion, demotion, transfer, recruitment and advertising for

recruitment, layoff or other termination, rate of pay, employee benefits and all other forms of compensation or selection for training and apprenticeship and probationary periods.

Contractor shall permit access at all reasonable times and places to all of its records of employment, advertising, application forms, tests and all other pertinent employment data and records, to the County of Santa Barbara, its officers, employees and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced, provided that such records are relevant to a complaint of an unlawful discriminatory practice which has been forwarded to contractor reasonably prior to the time contractor is asked to make such records available. In addition, all such records shall be deemed "Confidential" by the officers, employees and agents of the county. No records or copies of such records may be removed from the premises of contractor, and no disclosure, oral or written, of such record may be made to third parties except as provided within the agreement. Provided, however, that in the event of a hearing to determine whether or not contractor is engaging in unlawful discrimination in employment practices as defined herein, the board of supervisors of Santa Barbara County may issue subpoenas to require that certified copies of such records be made available to the hearing.

Failure to fully comply with any of the foregoing provisions shall be deemed to be a material breach of any contract or agreement with the County of Santa Barbara. All persons contracting with or who have contracts for goods or services with the county shall be notified that this chapter applies to their contract or agreement with the County of Santa Barbara. (Ord. No. 2946, § 1; Ord. No. 2993, § 1; Ord. No. 3018, § 1; Ord. No. 4413, § 1)

#### **Sec. 2-95.5. - Exceptions.**

Notwithstanding any other provisions in this article, any party contracting with the County of Santa Barbara having an affirmative action program which has been approved within twelve months from the date of the contract by an agency of the federal government shall be deemed to be in compliance with the provisions of this article upon furnishing documentary evidence of such approval satisfactory to the county affirmative action officer. Loss of such approval shall be immediately reported by such party to the county affirmative action officer.

#### **Sec. 2-96. - Purchase orders.**

Purchase orders shall contain the following clause as grounds for termination of such purchase order.

"If complaint is made that seller is engaging in discriminatory employment practices made unlawful by applicable state and federal laws, rules or regulations, and the State Fair Employment Practice Commission or the Federal Equal Employment Opportunities Commission determines that such unlawful discrimination exists, then the County of Santa Barbara may forthwith terminate this order." (Ord. No. 2946, § 1)

#### **Sec. 2-97. - Affirmative action officer.**

At the discretion of the county affirmative action officer, he or she shall promptly and thoroughly investigate, or cause to be investigated reports and complaints from whatever source, that any party contracting with the County of Santa Barbara is engaging, or during the term of a contract or agreement with the County of Santa Barbara has engaged, in any unlawful discriminatory employment practices as described in section 2-95 of this Code. If the investigation discloses reason to believe such unlawful discrimination does exist or has existed and the conditions giving rise thereto have not been changed so as to prevent further such unlawful discrimination, and the said party shall not forthwith terminate such unlawful

discrimination, take all appropriate steps to prevent a recurrence of such or other unlawful practices, and compensate the person or persons unlawfully discriminated against for any and all loss incurred by reason of such unlawful discrimination, all to the satisfaction of the affirmative action officer, then the affirmative action officer shall cause the matter to be presented for action to the State Fair Employment Practices Commission or the Federal Equal Employment Opportunities Commission, or both, and to any other concerned state or federal agencies or officers.

If and when it has been finally determined by the affirmative action officer, county counsel, or state or federal regulatory agencies that such unlawful discriminatory employment practice has in fact so occurred or are being carried on, then the affirmative action officer shall forthwith present the entire matter to the board of supervisors of the county, together with all damages, costs and expenses related thereto and incurred by county, for appropriate action by the board of supervisors in accord with the intent and purposes of this article and of the affirmative action program of the County of Santa Barbara.

(Ord. No. 2946, § 1)

**Sec. 2-98. - Youth group anti-discrimination.**

(a) Neither the County of Santa Barbara, nor any of its agencies, departments, affiliates, or political subdivisions over which it exercises jurisdiction, shall:

(1) Deny any youth group equal access to, or fair opportunity to conduct meetings or other events at, or otherwise utilize any public facility;

(2) Deny any youth group use permits or licenses regarding, or otherwise withhold from any youth group permission to use, any public facility; or

(3) Otherwise discriminate against any youth group; on the basis of the membership or leadership criteria of such youth group.

(b) For purposes of this section, a public facility shall include any public forum, limited public forum, public property, or public area including any public building, park, beach, campground, or any other area controlled or operated by the County of Santa Barbara.

(c) For purposes of this section, a youth group means any group or organization intended to serve young people under the age of twenty-one. (Ord. No. 4434, § 1).