

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal

From: William E. Murray

Dept.: City Manager

Dept.: Public Works

Subject: AGREEMENT WITH WM CURBSIDE, LLC
FOR USED MOTOR OIL COLLECTION AND
ADMINISTRATION OF USED OIL GRANTS

Date: August 9, 2011

OBJECTIVE

To receive City Council approval to enter into an agreement with WM Curbside, LLC to administer the City's Used Oil Recycling Program.

BACKGROUND

Assembly Bill 939 (AB 939) requires diversion of many materials from landfills including used motor oil. Along with AB 939, the California Oil Recycling Enhancement Act was developed to stop the illegal disposal of used oil. As part of the administration of this act, CalRecycle (previously known as the California Integrated Waste Management Board) issues grants to help local governments establish or enhance permanent, sustainable used oil recycling programs. Since 1993, the City has received funding from the state to provide a used oil recycling and curbside collection program in the City. Also, since 1993, the City has contracted with Curbside, Inc. for the implementation of the City's program, as well as the administration of grant requirements. In October 2010, WM Curbside, LLC purchased Curbside Inc.; however, all services and personnel remain unchanged.

DISCUSSION

The City has been awarded funding from CalRecycle to continue the City's Used Oil Recycling Program. Grant funds are estimated to total \$150,000 through June 30, 2014. Grant funds are to be used to continue the City's Door-to-Door Used Oil Collection Program, maintain and establish Certified Collection Centers, and provide public education to inform and motivate the public to recycle used oil.

Staff has surveyed other Orange County cities that receive used oil grants and determined that WM Curbside, LLC is the only contractor that services cities which elect to provide residential door-to-door collection. Furthermore, staff has surveyed other businesses with the permits necessary to transport hazardous waste and have been unable to find a business that has contracted with any jurisdiction for curbside collection, inspection of Certified Collection Centers, and administration of state oil

grants. In addition, Curbside, Inc. has been administering used oil grants for the City since 1993 and is familiar with CalRecycle requirements. Pursuant to Garden Grove Municipal Code Section 2.50.060(d), the Finance Director has determined that Curbside, Inc. is the only company that offers the services that the City and CalRecycle require to continue the Used Oil Collection Program. Therefore, a public bidding process is not required.

In addition, the purchase of Curbside Inc, by WM Curbside, LLC has requested that the City execute the attached Contract Assignment, which certifies that the contract with Curbside, Inc. is in effect and that the City does not have any pending claims against Curbside, Inc. Staff has confirmed that there are no pending claims.

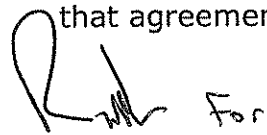
FISCAL IMPACT

This program is funded entirely by used oil grant funds. There is no impact to the General Fund.

RECOMMENDATION

It is recommended that the City Council:

- Approve the attached agreement with WM Curbside, LLC, for used motor oil collection and the administration of the used oil grants, in the amount not to exceed \$150,000 through June 30, 2014; and authorize the City Manager to execute the agreement and each of the option year extensions; and
- Approve the Assignment Agreement and authorize the City Manager to execute that agreement.

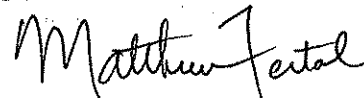


WILLIAM E. MURRAY, P.E.
Public Works Director/City Engineer



By: Ann Eifert
Sr. Administrative Analyst

Recommended for Approval



Matthew Ferial
City Manager

Attachment: (1) Agreement with WM Curbside, LLC
(2) Contract Assignment

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2011, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and WM Curbside, LLC, here in after referred to as "CONTRACTOR".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove Council authorization dated _____.
2. CITY desires to utilize the services of CONTRACTOR to **Furnish all labor, materials, and equipment to administer the CalRecycle Fifteenth Cycle Used Oil Recycling Grant Program, Oil Payment Programs, and collection of the City's battery collection program.**
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** This term of the agreement shall be for period of three (3) years from full execution of the agreement, with an option to extend said agreement for an additional two (2) years, for a total of five (5) years. Option years shall be exercised one (1) year at a time, at the sole option of the City. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with proposal, which is attached as Attachment "A" and is hereby incorporated by reference. Contractor is required to present evidence to support performed work completion.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Proposal. The Proposal is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows:
 - 3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) amount of **One Hundred Fifty Thousand Dollars (\$150,000) for the first three years**, payable in arrears and in accordance with proposal in Attachment A.

- 3.2 Payment. For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in Proposal (Attachment A).
- 3.3 Records of Expenses. CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 Termination. CITY shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. Insurance requirements.

- 4.1 COMMENCEMENT OF WORK. CONTRACTOR/CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 INSURANCE AMOUNTS. CONTRACTOR/CONSULTANT shall maintain the following insurance for the duration of this Agreement:
- (a) Commercial general liability in an amount of \$1,000,000.00 per occurrence: **claims made and modified occurrence policies are not acceptable;** Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A- Class VII or better, as approved by the CITY.
 - (b) Automobile liability in an amount of \$1,000,000.00 per occurrence, including pollution liability and MCS 90 Endorsement. Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A- Class VII or better, as approved by the CITY.
 - (c) Pollution liability in an amount of \$1,000,000.00 per occurrence. Insurance companies must be

acceptable to CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY.

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) and 4.3(c) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement, and MCS 90 Endorsement, for the policy under section 4.3 (b) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, it's officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, it's officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

5. **Non-Liability of Officials and Employees of the City.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount, which may become due to CONTRACTOR.
6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

a. (CONTRACTOR)

WM Curbside, LLC
500 S. Jefferson Street
Placentia, CA 92870

b.	(Address of City)	(with a copy to):
	City of Garden Grove	Garden Grove City Attorney
	13802 Newhope Street	11222 Acacia Parkway
	Garden Grove, CA 92843	Garden Grove, CA 92840

10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Audit of Records.** CONTRACTOR acknowledges the CITY, CalRecycle, the California Department of Finance, the California Bureau of State Audits, or their designated representatives, have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. CONTRACTOR agrees to maintain such records for possible audit for a minimum of three (3) years after expiration of this Agreement or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. CONTRACTOR agrees to allow the designated representatives access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

If any such audit results in a finding that CalRecycle Program funds were used by CONTRACTOR for ineligible expenditures or were not supported by adequate documentation and the CITY is therefore required to return to CalRecycle funds in an amount equal to the questioned amount, CONTRACTOR hereby agrees to and shall return the questioned amount to the CITY within the period of time

set forth in the CITY's written request therefore so that the CITY may, in turn, return such amount to CalRecycle. The failure of CONTRACTOR to timely return the questioned amount to the CITY shall constitute a material breach of this Agreement, in which event the CITY may exercise any rights it may have, either at law or in equity, including but without limitation termination of this Agreement.

15. **CalRecycle Requirements.** The CITY has heretofore entered into an agreement with CalRecycle for the purpose of securing the used oil grant funds referred to in this Agreement. Accordingly, the work performed under this Agreement is subject to the requirements of the CalRecycle Used Oil Recycling Grant Program and the Oil Payment Program. The CONTRACTOR hereby agrees to inform itself of all requirements and to adhere to all of the terms and conditions and applicable grant administration requirements established in the CalRecycle Program.

Furthermore, the CONTRACTOR agrees to comply with CalRecycle Used Oil Recycling Block Grant Program Fifteenth Cycle's Terms and Conditions (Attachment B) and Procedures and Requirements (Attachment C) and the Oil Payment Program Guidelines (Attachment D). The CONTRACTOR also agrees to comply with all other applicable federal, state and local laws, regulations, and policies governing the funds provided under this contract.

16. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.
17. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
18. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR,

CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

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(Agreement Signature Block On Next Page)

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: _____

"CITY"
CITY OF GARDEN GROVE

By: _____
City Manager

ATTESTED:

City Clerk

Date: _____

"CONTRACTOR"
WM Curbside, LLC

By: _____

Name: Carl V. Rush Jr

Title: President

Date: 7/28/11

Tax ID No. 27-3473785

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

Garden Grove City Attorney

7/20/11
Date

CITY OF GARDEN GROVE

**USED OIL COLLECTION
And
MANAGEMENT PROGRAM

PROPOSAL**

**Prepared by WM Curbside, LLC.
July 1, 2011**

INTRODUCTION

This proposes that WM Curbside, LLC. continue the City's existing Used Oil Management Program comprised of the following five elements. In addition to the used oil program Curbside will also implement the City's existing battery recycling program.

- Collection of used oil directly from homes: Door-to-Door Collection
- Collection of used oil by Certified Used Oil Collection Centers
- Hotline system Public Education program to support collection efforts.
- Used oil filter collection from Certified Centers
- Used Oil Filter collection events (optional)

Through this program the City of Garden Grove will continue to provide its residents with a safe and convenient method to dispose of used oil and oil filters (HHW).

Door-to-Door used oil collection programs collect from those who will not drive to certified centers or the County permanent centers. Door-to-Door programs help to collect a portion of the 65% of used oil that is not being collected by permanent centers, and certified collection centers. The program accommodates even the most under-served resident's (elderly and disabled) citizens through residential, door-to-door collection. Many elderly and disabled residents who, although may not change their own motor oil, have used motor oil stored on their property or left by their siblings.

Certified Used Oil Collection Centers collect used oil from those who are willing to drive. The average quantity dropped off at Certified Centers is less than four gallons.

Instead of asking residents to transport their used oil and filters to Certified Collection Centers this program will collect the material directly from the homes of participating residents. No transportation is required on the part of the resident, and residents do not have to be home for collection to occur. The proposed program offers greater convenience, than transporting material to Certified Centers.

DOOR-TO-DOOR COLLECTION

ACTION STEPS:

The proposed program will be made available to all City residents. Residents can call a toll-free hotline (1-800-449-7587) to schedule a collection. Operators will staff the hotline Monday through Friday from 5AM to 5PM, Pacific Time. After-hours callers will reach WM Curbside, LLC.'s voice mail system. All voice mail calls will be returned the next business day. The voice mail operates 24 hours a day, and on weekends. Service can be provided (if needed) to participants within 24 hours of the call being received.

Contractor will collect the following items per stop:

- Up to 10 gallons of used motor oil in containers of five gallons or less

- Up to 5 used oil filters

When the participant calls, demographic and location data are obtained. Participants will give the operator a verbal inventory of the material to be collected. If the participant has any ineligible material, the operator will inform the participant whom to contact about the waste. The operator will inform the participant of the program parameters over the phone. A collection date will be scheduled at that time.

Special service will be provided on an as needed basis for senior/disabled participants. Often senior/disabled residents are not able to lift or gather their material for collection. WM Curbside, LLC. will gather and package material for these individuals free of charge.

The entire collection process is summarized as follows:

1. Resident contacts WM Curbside, LLC. via a toll-free hotline.
2. A WM Curbside, LLC. operator schedules a pick-up date.
3. On the scheduled day, our highly trained service person arrives and collects material.
4. The materials are then placed into proper containers.
5. Complete reporting will be provided to the City. Reports will show what was collected, from whom, and when.

Trained clean up personnel will conduct all clean up operations if ever needed. After conducting over 200,000 residential HHW collections, we have never had a spill or accident during collection or transportation of the material.

PROGRAM TRACKING / MONITORING

The goal of performance monitoring is two-fold:

- Ensure the program is performing as expected
- To make informed adjustments to program strategy in effort to regulate or stimulate program use.

Programs are monitored by:

- Program Performance Reports

PROGRAM PERFORMANCE REPORTS:

Two types of reports will be produced:

- A Daily Routing Sheet
- A Monthly (as needed) Performance Report

The quantitative performance of the program will be monitored through the used of timely reports. Routing reports are compiled for each collection day. Quantitative reports are compiled once each month (or as needed by the City). City staff can obtain data at any time upon request.

ROUTING REPORTS:

Each day, WM Curbside, LLC. will create a daily routing report. This report will show the names and locations of participants as well as a rough inventory of what material the resident has, and an inventory of what was actually collected. A routing sheet will be kept for each day of collection.

MONTHLY PERFORMANCE REPORTS:

At the end of each month (or as needed), a report will be created and sent to the City staff contact. These reports will include a complete breakdown of pounds and/or gallons of material collected by class. These reports will give current and cumulative monthly totals.

The City will also receive all paperwork that pertains to the collection, quantification, processing and transportation of the material as needed.

CERTIFIED CENTER PROGRAM

During the contract period the Contractor will make yearly site visits to Centers as required by the Used Oil Block Grant and complete all required paperwork. The Certified Centers participation in the program is very important so as to offer the residents the opportunity to immediately dispose of their oil small quantities of oil. Door-to-Door program cards will be given to all centers to direct the residents that may have large quantities of used oil to the DTD program rather than having the centers accept these large amounts which most are reluctant to accept if at all. Referral cards have proven to be very successful where centers have become over burdened by larger quantities of oil coming into their facility.

WM Curbside, LLC. will complete the "Collection Center Assessment Checklist" as required by the CIWMB for each certified collection center. At the time the form is completed, WM Curbside, LLC. staff will also check for required signage and ask each collection center representative if they have encountered any problems. The forms will be included in reports to the State.

HOTLINE

Residents will call a toll free hotline to either schedule a collection at their home or to ask for the location of a Certified Center near them. If residents call for a collection of less than two gallons, they will be advised of Certified Centers. Although on the surface it may appear that WM Curbside, LLC. may be turning callers away, there will be other callers more deserving of the service (with larger quantities). Other valuable information will be communicated i.e. location of

Orange County Permanent Centers for the disposal of other household hazardous waste materials.

PUBLIC EDUCATION

All Curbside Inc archived artwork is available to the City free of charge. We can further provide camera-ready art including finished artwork that can be used without additional work by a printer or publisher for fees as listed in the monetary portion of proposal. Curbside archived art is typically provided for brochures, flyers, posters, door hangers and B&W print advertising for city newsletters or local news publications.

Upon request, we will also help plan and prioritize media and outreach event activities. Through experience we understand how to build community interest and involvement in door-to-door collection programs. In fact, we will evaluate the success of each activity by determining how participants learned of the program. If the City requires assistance in purchasing printing or media, this will be provided as well. Once a budget is confirmed for collections, a budget for public education can then be established.

USED OIL FILTER COLLECTION

The CIWMB has developed a separate line item in the block grant for the purpose of paying for the cost of collecting used oil filters. Since there is no separate charge to the City by Curbside Inc. for the collection of used oil filters from residents through the door-to-door program, a program was developed to collect them from Certified Used Oil Collection Centers.

The purpose of this program is to encourage Certified Centers to remain in the program by allowing them to accept used oil filters from the public along with used motor oil. Certified Centers must agree that their used oil filters will be collected only if they agree to accept used oil filters from the public. If the Certified Center decides to terminate their program, the filter collection element will terminate as well.

The City agrees to compensate Curbside Inc. the amount of \$65.00 per drum of non crushed filters collected from eligible Certified Centers. There is an initial deposit of \$65 per drum which will be deducted from the final invoice when either this element is terminated or the Certified Center terminates the program. The cost for crushed filters is \$85.00 per drum.

This element is consistent with the existing Certified Center management efforts which are included in the Certified Center portion of this proposal. The cost of this program will be reimbursed to the City through the Used Oil Block Grant.

USED OIL FILTER COLLECTION EVENTS (OPTIONAL)

Curbside will coordinate used oil filter collection events at locations within the City, at this time locations have yet to be determined. In addition to coordination of the events Curbside will be responsible for all collection and disposal of filters in addition to all public education efforts as needed to promote the events.

BATTERY RECYCLING PROGRAM

Curbside will continue to provide the city with a used battery recycling program comprised of placing 5 gallon battery buckets at pre determined locations within the City. Curbside will service these buckets as needed.

MONETARY PROPOSAL

DOOR-TO-DOOR PROGRAM

WM Curbside, LLC. will bill the City on a completed stop basis. The cost of a completed stop is \$70.00. WM Curbside, LLC. has the capability of completing several hundred stops per month should the City require it. Only completed stops will be billed. Those participants who do not place material out for collection on their specified day will be marked as a "no-show" and the City will not be billed.

The following are included in the per stop cost:

WM Curbside, LLC. will collect up to 10 gallons of used motor oil, and up to 5 used oil filters. All liquid waste must be in sealed containers of 5 gallons or smaller.

- Collection of material
- Separation / bulking Transportation of material to final destinations
- Recycling of materials
- Program Administration
- Operation of Hotline
- Public Education as listed

CERTIFIED CENTER PROGRAM

WM Curbside, LLC. will make grant required site visits to all certified centers one time per year and complete all grant required paperwork and submit to City along with annual report.

Cost per visit: \$85.00

Any subsequent visits to centers will also be billed at the same rate as above.

HOTLINE

Hotline costs are included in the door-to-door per stop cost

PUBLIC EDUCATION

Standard archived artwork is provided at no charge. Any and all outside services will be billed at cost plus a 15% markup. Any additional work performed by our staff will be billed at an hourly rate of \$95.00 to be billed in 15 minute segments.

OIL FILTER PROGRAM

WM Curbside, LLC. will collect drums of non-crushed used oil filters from the certified centers at a cost of \$ 65.00 per drum. The cost for crushed filters is \$85.00 per drum.

USED OIL FILTER COLLECTION EVENTS

Collection events will be priced at time of the event of event and will vary based upon coordination time and public education cost incurred.

REPORTS

WM Curbside, LLC. will complete all reports required by the CIWMB and DTSC to cover all aspects of the Used Oil Program. Including all year end Block Grant Reports and 303 forms.

Cost' \$270.00

CURBSIDE STAFF TIME

All WM Curbside, LLC. staff time associated with the grant will be billed at an hourly rate of \$95.00 per hour billed in 15 min segments. Time sheets will be kept for all staff time.

BATTERY RECYCLING PROGRAM

WM Curbside, LLC. will service battery buckets as needed and recycle all batteries collected.

Cost \$175.00 per bucket

EXHIBIT A

TERMS AND CONDITIONS

Used Oil Recycling Block Grant Fiscal Year 2009/10 (Cycle 15th)

This grant may not be funded unless the proposed Grantee meets the following two conditions:

1. The proposed Grantee must pay or bring current all outstanding debts or scheduled payments owed to the Department of Resources Recycling and Recovery (CalRecycle) within ninety (90) days from the date of the grant award.
2. The proposed Grantee must complete, sign, and return the Grant Agreement within ninety (90) days from the date recorded on the Grant Agreement package's cover letter.

The following terms used in this Grant Agreement (Agreement) have the meanings given to them below, unless the context clearly indicates otherwise:

"CalRecycle" means the Department of Resources Recycling and Recovery.

"Director" means the Director of CalRecycle or his or her designee.

"Grant Agreement" and "Agreement" means all documents comprising the agreement between CalRecycle and the Grantee for this Grant.

"Grant Manager" means CalRecycle staff person responsible for monitoring the grant.

"Grantee" means the recipient of funds pursuant to this Agreement.

"Program" means the Used Oil Recycling Block Grant Program.

"State" means the State of California, including, but not limited to, CalRecycle and/or its designated officer.

1. ACKNOWLEDGEMENTS

The Grantee shall acknowledge CalRecycle's support each time projects funded, in whole or in part, by this Agreement are publicized in any medium, including, but not limited to, news media, brochures, or other types of promotional material. The acknowledgement of CalRecycle's support must incorporate CalRecycle Initials or abbreviations for CalRecycle shall not be used. The Grant Manager may approve deviation from this prescribed language on a case-by-case basis where such deviation is consistent with CalRecycle's Communication Strategy and Outreach Plan. If, subsequent to this Agreement, CalRecycle adopts updated or new logos or language (language), the Grant Manager may require the Grantee to include this language in newly printed or generated materials.

2. ADVERTISING/ PUBLIC EDUCATION

The Grantee shall submit copies of all draft public education or advertising materials to the Grant Manager for review and approval prior to the Grantee's production of materials. Unless omission of the following copyright designation is pre-approved in writing by the Grant Manager, all public education and advertising materials shall state: "© {year of creation} by the California Department of Resources Recycling and Recovery (CalRecycle). All rights reserved. This publication, or parts thereof, may not be reproduced without permission from CalRecycle."

3. AIR OR WATER POLLUTION VIOLATION

Under the State laws, the Grantee shall not be:

- a. In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
- b. Subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge

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- requirements or discharge prohibitions; or
- c. Finally determined to be in violation of provisions of federal law relating to air or water pollution.
-

4. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated into this Agreement is binding on any of the parties.

5. AMERICANS WITH DISABILITIES ACT

The Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. § 12101 et seq.)

6. ASSIGNMENT, SUCCESSORS AND ASSIGNS

- a. This Agreement may not be assigned by the Grantee, either in whole or in part, without CalRecycle's prior written consent.
- b. The provisions of this Agreement shall be binding upon and inure to the benefit of CalRecycle, the Grantee, and their respective successors and assigns.
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7. AUDIT/RECORDS ACCESS

The Grantee agrees that CalRecycle, the Department of Finance, the Bureau of State Audits, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment date or grant term end date, whichever is later, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Grantee agrees to allow the designated representative(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any contract or subcontract related to performance of this Agreement.

[You may find it helpful to share the Terms and Conditions and Procedures and Requirements with your finance department, contractors and subcontractors. Examples of audit documentation include, but are not limited to: expenditure ledger, payroll register entries and time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts, change orders, invoices, and/or cancelled checks.]

8. AUTHORIZED REPRESENTATIVE

The Grantee shall continuously maintain a representative vested with signature authority authorized to work with CalRecycle on all grant-related issues. The Grantee shall, at all times, keep the Grant Manager informed as to the identity and contact information of the authorized representative.

9. AVAILABILITY OF FUNDS

The CalRecycle's obligations under this Agreement are contingent upon and subject to the availability of funds appropriated for this grant.

10. CHILD SUPPORT COMPLIANCE ACT

For any agreement in excess of \$100,000, the Grantee acknowledges that:

- a. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. The Grantee, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
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11. COMMUNICATIONS

All communications from the Grantee to CalRecycle shall be directed to the Grant Manager. All notices, including reports and payment requests, required by this Agreement shall be given in writing by E-mail, letter, or FAX to the Grant Manager as identified in Exhibit B – Procedures and Requirements. If an original document is required, prepaid mail or personal delivery to the Grant Manager is required following the E-mail or FAX.

12. COMPLIANCE

The Grantee shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits. The Grantee shall provide evidence, upon request, that all local, state, and/or federal permits, licenses, registrations, and approvals have been secured for the purposes for which grant funds are to be expended. The Grantee shall maintain compliance with such requirements throughout the grant period. The Grantee shall ensure that the requirements of the California Environmental Quality Act are met for any approvals or other requirements necessary to carry out the terms of this Agreement. Any deviation from the requirements of this section shall result in non-payment of grant funds.

13. CONFLICT OF INTEREST

The Grantee needs to be aware of the following provisions regarding current or former state employees. If the Grantee has any questions on the status of any person rendering services or involved with this Agreement, CalRecycle must be contacted immediately for clarification.

Current State Employees (Public Contracts Code (PCC) § 10410):

- a. No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity, or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC § 10411):

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- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
 - b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve month period prior to his or her leaving state service.

If the Grantee violates any provisions of above paragraphs, such action by the Grantee shall render this Agreement void. (PCC § 10420).

14. CONTRACTORS/ SUBCONTRACTORS

The Grantee will be entitled to make use of its own staff and such contractors and subcontractors as are mutually acceptable to the Grantee and CalRecycle. Any change in contractors or subcontractors must be mutually acceptable to the parties. Immediately upon termination of any such contract or subcontract, the Grantee shall notify the Grant Manager.

Nothing contained in this Agreement or otherwise, shall create any contractual relation between CalRecycle and any contractors or subcontractors of Grantee, and no agreement with contractors or subcontractors shall relieve the Grantee of its responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to CalRecycle for the acts and omissions of its contractors and subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its contractors and subcontractors is an independent obligation from CalRecycle's obligation to make payments to the Grantee. As a result, CalRecycle shall have no obligation to pay or to enforce the payment of any moneys to any contractor or subcontractor.

15. COPYRIGHTS AND TRADEMARKS

- a. To the extent the Grantee shall have the legal right to do so, Grantee shall assign to CalRecycle any and all rights, title, and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement, but which originated from previously copyrighted or trademarked material. With respect to all other copyrightable and trademarkable materials, CalRecycle shall retain any and all rights, title and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement. These rights, both assigned and retained, shall include the right to register for copyright or trademark of such materials. Grantee shall require that its contractors and subcontractors agree that all such materials shall be the property of CalRecycle. The Grantee is responsible for obtaining any necessary licenses, permissions, releases or authorizations to use text, images or other materials owned, copyrighted or trademarked by third parties and for assigning such licenses, permissions, releases, or authorizations to CalRecycle pursuant to this section. Copies of any licenses, permissions, releases or authorizations obtained pursuant for the use of text, images or other materials owned, copyrighted or trademarked by third parties shall be provided to the Grant Manager. Under unusual and very limited circumstances, where to do so would not conflict with the rights of CalRecycle and would serve the public interest, upon written request by the Grantee, CalRecycle may give, at the Director's sole discretion,
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written consent to the Grantee to retain all or any part of the ownership of these rights.

- b. The CalRecycle hereby grants to the Grantee a royalty-free, nonexclusive, nontransferable world-widelicense to reproduce, translate, and distribute copies of the copyrightable materials produced pursuant this Agreement, for nonprofit, non-commercial purposes, and to have or permit others to do so on the Grantee's behalf. This license is limited to the copyrightable materials produced pursuant to this Agreement and does not extend to any materials capable of being trademarked. The following shall appear on all intellectual property used by Contractor pursuant to this license, solely for the purpose of protecting CalRecycle's intellectual property rights therein: "© {year of creation} by the Department of Resources Recycling and Recovery (CalRecycle). Used pursuant to license granted by CalRecycle. All rights reserved. This publication, or parts thereof, may not be reproduced without permission."
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**16. CORPORATION
QUALIFIED DOING
BUSINESS IN
CALIFORNIA**

When work under this Agreement is to be performed in California by a corporation, the corporation shall be in good standing and currently qualified to do business in the State. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

**17. DISCLAIMER OF
WARRANTY**

The CalRecycle makes no warranties, express or implied, including without limitation, the implied warranties of merchantability and fitness for a particular purpose, regarding the materials, equipment, services or products purchased, used, obtained and/or produced with funds awarded under this Agreement, whether such materials, equipment, services or products are purchased, used, obtained and/or produced alone or in combination with other materials, equipment, services or products. No CalRecycle employees or agents have any right or authority to make any other representation, warranty or promise with respect to any materials, equipment, services or products, purchased, used, obtained, or produced with grant funds. In no event shall CalRecycle be liable for special, incidental or consequential damages arising from the use, sale or distribution of any materials, equipment, services or products purchased or produced with grant funds awarded under this Agreement.

**18. DISCRETIONARY
TERMINATION**

The Director shall have the right to terminate this Agreement at his or her sole discretion at any time upon thirty (30) days written notice to the Grantee. Within forty-five (45) days of receipt of written notice, Grantee is required to:

- a. Submit a final written report describing all work performed by the Grantee;
 - b. Submit an accounting of all grant funds expended up to and including the date of termination; and,
 - c. Reimburse CalRecycle for any unspent funds.
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19. DISPUTES

Unless otherwise instructed by the Grant Manager, the Grantee shall continue with its responsibilities under this Agreement during any dispute.

**20. DRUG-FREE
WORKPLACE
CERTIFICATION**

The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California, that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (GC § 8350 et seq.)

and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions that will be taken against employees for violations.
 - b. Establish a drug-free awareness program to inform employees about all of the following: (1) the dangers of drug abuse in the workplace, (2) the Grantee's policy of maintaining a drug-free workplace, (3) any available counseling, rehabilitation, and employee assistance programs, and (4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Require that each employee who works on the grant: (1) receive a copy of the drug-free policy statement of the Grantee, and (2) agrees to abide by the terms of such statement as a condition of employment on the grant.
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21. EFFECTIVENESS OF AGREEMENT

This Agreement is of no force or effect until signed by both parties.

22. ENTIRE AGREEMENT

This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with all attachments hereto, contains the entire Agreement of the parties.

23. ENVIRONMENTAL JUSTICE

In the performance of this Agreement, the Grantee shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State.

24. FAILURE TO PERFORM AS REQUIRED BY THIS AGREEMENT

The CalRecycle will benefit from the Grantee's full compliance with the terms of this Agreement only by the Grantee's:

- a. Investigation and/or application of technologies, processes, and devices which support reduction, reuse, and/or recycling of wastes; or
- b. Cleanup of the environment; or
- c. Enforcement of solid waste statutes and regulations, as applicable.

Therefore, the Grantee shall be in compliance with this Agreement only if the work it performs results in:

- a. Application of information, a process, usable data or a product which can be used to aid in reduction, reuse, and/or recycling of waste; or
- b. The cleanup of the environment; or
- c. The enforcement of solid waste statutes and regulations, as applicable.

If the Grant Manager determines that the Grantee has not complied with the Grant Agreement, the Grantee may forfeit the right to reimbursement of any grant funds not already paid by CalRecycle, including, but not limited to, the ten percent (10%) withhold.

25. FORCE MAJEURE

Neither CalRecycle nor the Grantee, its contractors, vendors, or subcontractors, if any, shall be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is

caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, flood, or other contingencies unforeseen by CalRecycle or the Grantee, its contractors, vendors, or subcontractors, and beyond the reasonable control of such party.

26. FORFEIT OF GRANT FUNDS/REPAYMENT OF FUNDS IMPROPERLY EXPENDED

If grant funds are not expended, or have not been expended, in accordance with this Agreement, or if real or personal property acquired with grant funds is not being used, or has not been used, for grant purposes in accordance with this Agreement, the Director, at his or her sole discretion, may take appropriate action under this Agreement, at law or in equity, including requiring the Grantee to forfeit the unexpended portion of the grant funds, including, but not limited to, the ten percent (10%) withhold, and/or to repay to CalRecycle any funds improperly expended.

27. GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

The Grantee is required to use Generally Accepted Accounting Principles in documenting all grant expenditures.

28. GRANT MANAGER'S AUTHORITY

The Grant Manager does not have the authority to approve any deviation from or revision to the Terms and Conditions (Exhibit A) or the Procedures and Requirements (Exhibit B), unless such authority is expressly stated in the Procedures and Requirements (Exhibit B).

29. GRANTEE ACCOUNTABILITY

The Grantee is ultimately responsible and accountable for the manner in which the grant funds are utilized and accounted for and the way the grant is administered, even if the Grantee has contracted with another organization, public or private, to administer or operate its grant program. In the event an audit should determine that grant funds are owed to CalRecycle, the Grantee is responsible for repayment of the funds to CalRecycle.

30. GRANTEE'S INDEMNIFICATION AND DEFENSE OF THE STATE

The Grantee agrees to indemnify, defend and save harmless the State and CalRecycle, and their officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Grantee in the performance of this Agreement.

31. GRANTEE'S NAME CHANGE

A written amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change, CalRecycle will process the amendment. Payment of Payment Requests presented with a new name cannot be paid prior to approval of the amendment.

32. NO AGENCY RELATIONSHIP CREATED/ INDEPENDENT CAPACITY

The Grantee and the agents and employees of Grantee, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of CalRecycle.

33. NO WIAIVER OF RIGHTS

The CalRecycle shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by CalRecycle. No delay or omission on the part of CalRecycle in exercising any rights shall operate as a waiver of such right or any other right. A waiver by CalRecycle of a provision of this Agreement shall not prejudice or constitute a waiver of CalRecycle's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by CalRecycle, nor any course of dealing between CalRecycle and Grantee, shall constitute a waiver of any of CalRecycle's rights or of any of Grantee's obligations as to any future transactions. Whenever the consent of CalRecycle is required under this Agreement, the granting of such consent by CalRecycle in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of CalRecycle.

34. NON-DISCRIMINATION CLAUSE

During the performance of this Agreement, Grantee and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment on the bases enumerated in Government Code §§ 12900 et seq.

35. OWNERSHIP OF DRAWINGS, PLANS, AND SPECIFICATIONS

The State shall have separate and independent ownership of all drawings, design plans, specifications, notebooks, tracings, photographs, negatives, reports, findings, recommendations, data, software, and memoranda of every description or any part thereof, paid for in whole or in any part with grant funds. Copies thereof shall be delivered to CalRecycle upon request. Grantee agrees, and shall require that its contractors, subcontractors, and vendors agree that the State shall have the full right to use said copies in any manner when and where it may determine without any claim to additional compensation.

36.. PAYMENT

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- a. Upon execution of this Agreement by both parties, CalRecycle may advance grant funds to Grantee provided that Grantee, in the discretion of CalRecycle Grant Manager, qualifies for such advance payment and has satisfactorily complied with the applicable requirements contained in this Grant Agreement Package. The CalRecycle may elect not to advance payment if Grantee has not satisfactorily complied with the applicable terms and conditions of previous grants and/or does not meet other threshold requirements identified in the Procedures and Requirements (Exhibit B).
 - b. All expenditures must be directly related to the tasks identified in the Procedures and Requirements (Exhibit B).
 - c. Upon receipt of grant funds, the Grantee shall deposit and maintain until expended all grant funds in an interest bearing account in a federally insured financial institution. All interest accrued and received from this account must be used for eligible expenses related to the performance of this Agreement. Interest funds must be accounted for in all grant reports. All unused interest funds must be returned to CalRecycle at the end of the grant term.
 - d. Ten percent (10%) will be withheld from each Payment Request and paid at the end of the grant term, when all reports and conditions stipulated in this Agreement have been satisfactorily completed.
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- e. Lodgings, Meals and Incidentals: Grantee's Per Diem eligible costs are limited to the amounts authorized in the *California State Administrative Manual* (contact your Grant Manager for more information).
 - f. Payment will be made only to the Grantee.
 - g. Reimbursable expenses shall not be incurred unless and until the Grantee receives a Notice to Proceed as described in Exhibit B.
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37. PERSONNEL COSTS

If there are eligible costs pursuant to Exhibit B, Procedures and Requirements, any personnel expenditures to be reimbursed with grant funds must be computed based on actual time spent on grant-related activities and on the actual salary or equivalent hourly wage the employee is paid for his or her regular job duties, including a proportionate share of any benefits to which the employee is entitled, unless otherwise specified in the Procedures and Requirements (Exhibit B).

**38. REAL AND
PERSONAL PROPERTY
ACQUIRED WITH GRANT
FUNDS**

- a. All real and personal property, including equipment and supplies, acquired with grant funds shall be used by the Grantee only for the purposes for which CalRecycle approved their acquisition for so long as such property is needed for such purposes, regardless of whether the Grantee continues to receive grant funds from CalRecycle for such purposes. In no event shall the length of time during which such property, including equipment and supplies, acquired with grant funds, is used for the purpose for which CalRecycle approved its acquisition be less than five (5) years after the end of the grant term, during which time the property, including equipment and supplies, must remain in the State of California.
 - b. Subject to the obligations and conditions set forth in this section, title to all real and personal property acquired with grant funds, including all equipment and supplies, shall vest upon acquisition in the Grantee. The Grantee shall execute all documents required to provide CalRecycle with a purchase money security interest in any real or personal property, including equipment and supplies, and it shall be a condition of receiving this grant that CalRecycle shall be in first priority position with respect to the purchase money security interest on any such property acquired with the grant funds, unless pre-approved in writing by the Grant Manager that CalRecycle will accept a lower priority position with respect to the purchase money security interest on the property. Grantee shall inform any lender(s) from whom it is acquiring additional funding to complete the property purchase of this grant condition.
 - c. The Grantee may not transfer Title to any real or personal property, including equipment and supplies, acquired with grant funds to any other entity without the express authorization of CalRecycle.
 - d. The CalRecycle will not reimburse the Grantee for the acquisition of equipment that was previously purchased with CalRecycle grant funds, unless the acquisition of such equipment with grant funds is pre-approved in writing by the Grant Manager. In the event of a question concerning the eligibility of equipment for grant funding, the burden will be on the Grantee to establish the pedigree of the equipment.
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**39. RECYCLED-
CONTENT
CERTIFICATION**

The Grantee shall certify the minimum, if not the exact, percentage of postconsumer and secondary material in the products, materials, goods, and supplies purchased with grant funds. This certification shall be provided to CalRecycle on the Recycled Content Certification Form (CalRecycle 74G) available at www.ciwmb.ca.gov/Grants/Forms/CalRecycle074.pdf.

40. RECYCLED-CONTENT PAPER	All documents submitted by the Grantee must be printed double-sided on recycled-content paper containing one hundred percent (100%) post-consumer fiber. Specific pages containing photographs or other ink-intensive graphics may be printed on photographic paper.
41. RECYCLED-CONTENT PRODUCT PROCUREMENT	In the performance of this Agreement, for purchases made with grant funds, the Grantee shall purchase recycled-content products (RCP), as defined by the State Agency Buy Recycled Campaign (SABRC) minimum recycled content requirements see www.ciwmb.ca.gov/BuyRecycled/StateAgency/ . If the Grantee cannot purchase RCPs, the Grantee must document why it was unable to comply with this requirement and request written pre-approval from its Grant Manager to deviate from this policy..
42. REDUCTION OF WASTE	In the performance of this Agreement, Grantee shall take all reasonable steps to ensure that materials purchased or utilized in the course of the project are not wasted. Steps should include, but not be limited to: the use of used, reusable, or recyclable products; discretion in the amount of materials used; alternatives to disposal of materials consumed; and the practice of other waste reduction measures where feasible and appropriate.
43. REDUCTION OF WASTE TIRES	Unless otherwise provided for in this Agreement, in the performance of this Agreement, for all purchases made with grant funds, including, but not limited to, equipment and tire-derived feedstock, the Grantee shall purchase and/or process only California waste tires and California waste tire-derived products. As a condition of final payment under this Agreement, the Grantee must provide documentation substantiating the source of the tire materials used during the performance of this Agreement to the Grant Manager.
44. REMEDIES	Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under this Agreement, at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.
45. SELF ASSESSMENT CHECKLIST	The Grantee shall submit with its Final Report a completed and signed Self Assessment Checklist form, which is designed to aid the Grantee and CalRecycle in measuring compliance with grant administrative requirements.
46. SEVERABILITY	If any provisions of this Agreement are found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement without affecting any other provision of this Agreement. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.
47. SITE ACCESS	The Grantee shall allow the State to inspect sites at which grant funds are expended and related work being performed at any time during the performance

of the work and for ninety (90) days after completion of the work, or until all issues related to the grant project have been resolved.

**48. STOP WORK
NOTICE**

Immediately upon receipt of a written notice from the Grant Manager to stop work, the Grantee shall cease all work under this Agreement.

**49. TERMINATION FOR
CAUSE**

The CalRecycle may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, CalRecycle may proceed with the work in any manner deemed proper by CalRecycle. All costs to CalRecycle shall be deducted from any sum due the Grantee under this Agreement. Termination pursuant to this section may result in forfeiture by the Grantee of any funds retained pursuant to CalRecycle's ten percent (10%) retention policy.

**50. TIME IS OF THE
ESSENCE**

Time is of the essence of this Agreement.

**51. TOLLING OF
STATUTE OF
LIMITATIONS**

The statute of limitations for bringing any action, administrative or civil, to enforce the terms of this Agreement or to recover any amounts determined to be owing to CalRecycle as the result of any audit of the grant covered by this Agreement shall be tolled during the period of any audit resolution, including any appeals by the Grantee to the Director.

52. UNION ORGANIZING

By signing this Agreement, the Grantee hereby acknowledges the applicability of Government Code §§ 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Agreement and hereby certifies that:

- a. No grant funds disbursed by this grant will be used to assist, promote, or deter union organizing by employees performing work under this Agreement.
 - b. If the Grantee makes expenditures to assist, promote, or deter union organizing, the Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.
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52. UNRELIABLE LIST

Prior to authorizing a contractor(s) to commence work under this Grant, the Grantee shall submit to CalRecycle a declaration from the contractor(s), signed under penalty of perjury, stating that within the preceding three (3) years, none of the events listed in Section 17050 of Title 14, California Code of Regulations, Natural Resources, Division 7, has occurred with respect to the contractor(s). See www.ciwmb.ca.gov/Regulations/Title14/ch1.htm#ch1a5. If a contractor is placed on CalRecycle Unreliable List after award of this Grant, the Grantee may be required to terminate that contract.

**53. VENUE/ CHOICE OF
LAW**

- a. All proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder shall be held in Sacramento County, California. The parties hereby waive any right to any other venue. The place where the Agreement is entered into and
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place where the obligation is incurred is Sacramento County, California.

- b. The laws of the State of California shall govern all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder.

**54. WAIVER OF CLAIMS
AND RECOURSE
AGAINST THE STATE**

The Grantee agrees to waive all claims and recourse against the State, its officials, officers, agents, employees, and servants, including, but not limited to, the right to contribution for loss or damage to persons or property arising out of, resulting from, or in any way connected with or incident to this Agreement. This waiver extends to any loss incurred attributable to any activity undertaken or omitted pursuant to this Agreement or any product, structure, or condition created pursuant to, or as a result of, this Agreement.

55. WORK PRODUCTS

The Grantee must provide CalRecycle with copies of all printed materials and photographs of all other final products paid for with Grant funds. Physical copies of the final product shall be provided upon request of the Grant Manager.

**56. WORKERS'
COMPENSATION/LABOR
CODE**

The Grantee is aware of Labor Code section 3700, which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the Labor Code, and the Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement.

EXHIBIT B
PROCEDURES AND REQUIREMENTS
 Used Oil Recycling Block Grant (15th Cycle) for FY 2009/10

*Copies of these Procedures and Requirements should be shared with BOTH the Finance Department
 AND the staff responsible for implementing the grant activities.*

**Introduction/General
 Information**

These Procedures and Requirements of the Department of Resources Recycling and Recovery (CalRecycle) Used Oil Recycling Block Grant (UGB) Agreement describe project and reporting requirements, report due dates, report contents, grant payment conditions, eligible and ineligible project costs, publicity, education and copyright requirements, supporting documentation for all expenditures, overhead/indirect costs, projects completion and close-out procedures, records and audit requirements.

Expenditures incurred by the Grantee before both parties have executed the UBG15 Grant Agreement are subject to the Procedures and Requirements and Terms and Conditions of UBG14, and are incurred at the Grantee's own risk. All grant awards are contingent upon compliance with the requirements of the UBG Program and certain other factors, which will be set forth in detail in the Award Letter the Grantee will receive from CalRecycle. Grantees may choose, at their own risk, to incur grant-eligible expenses after July 1, 2009 and prior to receipt of the fully executed Grant Agreement.

Questions?

All communication regarding this grant should be directed to your CalRecycle Grant Manager (Grant Manager) unless otherwise specifically stated. To find the name and telephone number of your Grant Manager, refer to:
<http://www.calrecycle.ca.gov/HomeHazWaste/Grants/Contacts.htm>

The Grantee may also call the Financial Assistance Division, Grant and Loan Resources Branch at (916) 341-6457.

Important Dates

July 1, 2009 – August 15, 2012	Grant Term for UBG15
July 1, 2009 – June 30, 2012	Grant Performance Period
August 16, 2010 August 15, 2011	Annual Report Due Annual Report Due
June 30, 2012	Grant Performance Period Ends
July 1, 2012 – August 15, 2012	Report Preparation Period
August 15, 2012	Grant Term Ends and Final Report Due

**Grant Performance
Period, Grant Term
and Report
Preparation Period**

The Grant Performance Period begins on July 1, 2009, at which time eligible grant expenditures for UBG15 may start (subject to the Procedures and Requirements and Terms and Conditions of UBG14, until such time as the UBG15 Grant Agreement becomes effective.) In all cases, all eligible UBG15 costs must be incurred no later than June 30, 2012.

The Grant Term and Grant Performance Period both begin on July 1, 2009, and the Grant Performance Period ends on June 30, 2012. The period between July 1, 2012, and August 15, 2012, is referred to as the Report Preparation Period. The Grant Term encompasses both the Grant Performance Period and the Report Preparation Period and ends August 15, 2012, at the conclusion of the Report Preparation Period. **Costs incurred to prepare the Final Report and Final Payment Request, if any, are the only costs that are eligible for reimbursement during the Report Preparation Period.**

Definitions

For purposes of this Grant Program, the following definitions apply:

Contractor: An individual, business or company with which the Grantee enters into an agreement to perform grant-related services or activities, or provide materials or supplies for grant-related projects, services or activities.

CalRecycle: The Department of Resources Recycling and Recovery (CalRecycle), formerly known as the California Integrated Waste Management Board (CIWMB).

Grant Manager: The CalRecycle staff person responsible for monitoring a particular grant.

Grantee: The recipient of funds pursuant to a grant agreement.

Letter of Authorization: A letter submitted by a jurisdiction (Regional Participant) to authorize another jurisdiction (Regional Lead) to apply for a Used Oil Recycling Block Grant and to act on its behalf in the implementation and administration of the grant.

Letter of Designation: A letter submitted by the signature authority of an Applicant or Grantee which delegates authority to another individual (or position title) to execute, on behalf of the Applicant or Grantee, all grant-related documents, as authorized in the Resolution.

Subcontractor: An individual, business or company with which the Grantee's Contractor enters into an agreement to perform grant-related services or activities, or provide materials or supplies for grant-related projects, services or activities.

All contracts and subcontracts related to the performance of the Grant Agreement are required to include the right of CalRecycle to audit records and interview staff as set forth in the Audits/Records Access section of the Terms and Conditions (Exhibit A).

Prior To Commencing Work

Grant Self-Assessment Form and other Grant Forms

Prior to commencing work under this Grant, the Grantee's Grant Manager and authorized Signature Authority should review the Grant Self Assessment Checklist Form, and other Grant Forms, so as to identify key administrative requirements. Evaluation of the Grantee's compliance with these requirements is a major part of all Grant audits.

As set forth more fully in the Terms and Conditions (Exhibit A), the Grantee shall submit with its Final Report a completed and signed Self-Assessment Form. To obtain the Grant Self-Assessment Form (CIWMB 641), contact your Grant Manager, or go to <http://www.calrecycle.ca.gov/Grants/Forms/>.

Reliable Contractor Declaration

Prior to authorizing a contractor(s) to commence work under this Grant, the Grantee shall submit to the Grant Manager a declaration from the contractor(s), signed under penalty of perjury, stating that within the preceding three (3) years, none of the events listed in Section 17050 of Title 14, California Code of Regulations, Natural Resources, Division 7, has occurred with respect to the contractor(s) and the subcontractor(s), respectively. See <http://www.calregs.com/> to access the referenced Section of Title 14.

Where To Send Reports, Payment Requests, etc.

Send Reports, Grant Payment Requests, and all other written correspondence to your Grant Manager's attention at:

Department of Resources Recycling and Recovery
Financial Assistance Division
Grant and Loan Resources Branch – MS #9A
P.O. Box 4025, 1001 "I" Street
Sacramento, CA. 95812-4025
Attn: (your Grant Manager's name)

General Requirements

Grantees must meet the minimum requirements at the beginning of the grant cycle to be eligible to expend funds. Eligibility includes having at least one Certified Collection Center (CCC) per 100,000 residents of the jurisdiction or a curbside collection program which includes used oil collection.

Grantees, or their contractors, must possess or acquire all applicable agreements/permits necessary to carry out the activities funded by the UBG and a copy or copies must be available for review upon request. The Grantee is responsible to ensure that contractors who administer and/or implement the grant on behalf of the Grantee comply with the Grant Agreement.

UBG15 applicants who miss the July 31, 2009 application submission date or who miss the August 31, 2009 date for submission of local government resolutions will not be eligible for UBG15 but will retain their eligibility for subsequent UBGs if they submit an Annual Report for all other UBGs by November 15, 2009, that is subsequently approved by the Grant Manager.

Grantees who are invoiced for outstanding UBG funds may apply for UBGs and competitive grants, but any grants awarded will not be funded unless any outstanding invoices are paid within 90 days of the date the Board awards the grant.

Annual Site Visits

Annual site visits to the Grantee's CCCs are a grant requirement during each fiscal year. Grantees must visit at least one CCC per 100,000 population. Please submit site visit forms (CIWMB 664 or CIWMB 665) as soon as completed, to your Grant Manager. Unless previously submitted within the current fiscal year, these forms must be submitted with the Annual Report.

Grant Expenditures

All expenditures must be incurred, and payment made, with services provided and goods received during the Grant Performance Period, July 1, 2009 – June 30, 2012.

- a) The Grantee must spend all of the available funds from the oldest UBG prior to spending any funds from more recent UBGs. For example, utilize all funds from the 14th cycle grant before showing any 15th cycle expenses on the Expenditure Itemization Summary (EIS).
- b) It is acceptable to split an invoice across two separate UBG cycles in order to "zero out" all funds in the oldest UBG before using funds from a more recent UBG. Expenditures that are split need to be clearly identified on the Expenditure Itemization Summary form(s) as to what expenditures are attributed to which grant cycle.

Expenditures Requiring Advance Approval By CalRecycle Grant Manager

Expenditures associated with the tasks or products listed below must be approved in writing by the Grant Manager prior to purchase or production. Please retain all approvals for audit purposes. Items not pre-approved MAY NOT be an eligible expenditure and payment may be denied.

Allow at least five (5) working days for approval of the following items:

- Premiums if the per item cost exceeds twenty dollars (\$20, not including sales tax)
- All television, video, and radio scripts
- School presentations (submit script and presentation purpose)
- Purchase of equipment, vehicles, and trailers, if \$5,000 or more total for the grant or more than 10 percent of the grant award
- Purchase of computer equipment and software, if over \$1,000 total for the grant or more than 10 percent of the grant award
- Financial incentives, if over \$1,000 per year or more than 10 percent of the grant award (includes: sponsorships, stipends, etc.)
- Planning, background, or feasibility studies

Pre-Approved Expenditures

The expenditures listed below **DO NOT** require advance approval by the Grant Manager if they are related to the establishment, maintenance, or enhancement of used oil and used oil filter collection programs:

- Travel expenses (Note: Travel expenses will only be reimbursed at the
-

State rate (the rate allowed by the State of California Department of Personnel Administration); contact your Grant Manager if you need assistance in identifying applicable rates)

- **Used oil collection**
 - Used oil and used oil filter collection (includes curbside and door-to-door)
 - Certified and non-certified used oil collection center support
 - Used oil collection through Household Hazardous Waste (HHW) Programs, including transportation costs of used oil
 - Certified Unified Program Agency (CUPA) inspection fees of Certified and Non-Certified Used Oil Collection Centers with or without service bays (regardless of whether used oil is or is not generated as part of business operations); Grantees can verify whether the billing agency is a certified CUPA by going to: www.calepa.ca.gov/CUPA/Directory/default.aspx; CUPA inspection fees reimbursement must be proportionally related to the percentage of do-it-yourself (vs. do-it-for-me) used oil generated at the business
 - Set up and operation of temporary facilities for one-day or multi-day HHW collection events where used oil will be accepted
 - Hazardous Waste Operations and Emergency Response Standard (HAZWOPER) 8-hour refresher training course for personnel who are directly involved with used oil and HHW collection
 - Agricultural used oil collection projects
 - Marina used oil collection projects
 - Airport used oil collection projects
 - Construction of Permanent HHW Collection Facility and Antifreeze, Battery, Oil, and Paint Facility (ABOP) where used oil is accepted – permanent features, used oil-related equipment and supplies are eligible
 - **Re-Refined Oil use for public fleets**
 - Covers only the cost differential between re-refined and virgin oil and the cost of promotion to fleet managers
 - **Re-refined oil for non-fleet (consumer) promotion and distribution**
 - Grantees must first confirm and document the availability of re-refined oil for sale in the community at a retail establishment and provide information to the public on where to purchase the re-refined oil
 - **Publicity and education materials** (refer to the "Publicity and Education Requirements" section for minimum requirements)
 - Purchase and distribution of used oil containers, funnels, shop rags, coupons
 - Other premiums whose cost is less than \$20.00 and directly relate to and/or will be used for used oil and used oil filter collection and recycling needs and/or will be clearly linked to behavioral change that leads to an increase in used oil and used oil filter recycling
 - **Personnel costs for used oil/used oil filter recycling activities**
 - Training costs directly related to used oil/used oil filter recycling activities
 - **Load checking projects** related to the identification of used oil
 - **Indirect or Overhead Costs** that do not exceed 10% of the grant funds
-

reimbursed and are supported with a cost-allocation plan

- Storm water mitigation (refer to the "Storm Water Expenses" section below for details)
- Additions/modifications that update an existing Grantee Web-page
- Audit expenses for UBG and Opportunity Grant cycles. Time and funds related to the audit should be described in the current UBG Expenditure Itemization Summary and must be for an audit of specific cycle(s) of the UBG and/or Opportunity Grant conducted by CalRecycle, the California Department of Finance and/or the California State Controller's Office. Expenses for audits of the Grantee's entire organization, or portions thereof, which include a review of one or more UBG and/or Opportunity Grant cycles are not eligible for reimbursement.

Storm Water Expenses

Since January 2002, some storm water mitigation expenditures are considered eligible expenses. Storm water mitigation is defined in Public Resources Code Section 48618.4 to include "...the prevention of storm water pollution from used oil and oil byproducts and the reduction or alleviation of the effect of storm water pollution from used oil and oil byproducts by means of action taken on public property. Mitigation includes the installation of devices and implementation of practices that prevent used oil and oil byproducts from causing storm water pollution. Mitigation does not include the cleanup or restoration of polluted areas".

- **Storm water expenses may not exceed 50% of the UBG award**
- All related storm water expenses such as personnel, publicity and education, stenciling, and storm water filter purchase/maintenance is counted towards the 50% cap
- To be eligible, each jurisdiction must self-certify that it has a storm water mitigation program that has been approved by its local Regional Water Quality Control Board
- All storm water expenses must be accounted for and reported on the Expenditure Itemization Summary

The following types of storm drain filters (inserts; debris screens) are eligible:

- A debris screen that covers the opening to the storm drain inlet; regular municipal street-sweeping must occur where debris screens are installed
- A catch basin (street side) inlet insert that **does not** contain oil absorbent media
- A catch basin inlet insert that **does** contain oil absorbent media plus a debris screen that covers the opening to the storm drain inlet; (the debris screen prevents debris and sediment from entering the storm drain and obstructing the oil absorbent media)
- A vertical drop-in parking lot inlet insert that **does** contain oil absorbent media (must be covered by a grate or debris screen)

Note: Periodic clean-out of catch basin inlet inserts and replacement of their oil-absorbent media are eligible for grant funding. However, street sweeping,

parking lot cleaning, and clean-out of catch basin inlets without inserts are not eligible for grant funding.

**Ineligible
Expenditures**

Any expenditure that does not support the implementation of used oil and used oil filter collection programs is ineligible for UBG funding. The activities, products, or expenditures listed below are specifically identified as ineligible. The ineligible expenditures include, but are not limited to:

- Costs incurred prior to July 1, 2009, or after June 30, 2012
- Costs incurred during the Report Preparation Period (July 1, 2012 – August 15, 2012), except for the costs incurred to prepare the Final Report and Final Payment Request, if any
- Costs incurred during the Grace Period (August 16, 2012 – November 15, 2012)
- Purchasing or leasing of land or buildings
- Costs currently covered by or incurred under another CalRecycle or CIWMB loan, grant or contract
- Purchasing or leasing of vehicles by non-governmental agencies
- Remediation (any cleanup or restoration of polluted areas)
- HAZWOPER 40-hour and 24-hour courses
- Enforcement activities
- Profit or mark-up by the Grantee
- Preparation of Household Hazardous Waste elements (HHWE)
- Out-of-State travel
- Developing or customizing school curricula
- Overtime costs/Compensated Time Off (except for local government staffing during specially scheduled evening or weekend events outside of staff's normal work hours when law or labor contract requires overtime compensation)
- Any food or beverages (e.g., as part of meetings, workshops, or events)
- Cell phones, pagers, cameras, personal digital assistants, and other similar electronic devices
- Premiums that contribute to the HHW waste stream
- Transportation & disposal of non-oil HHW from any facility or event
- Equipment, materials, or supplies at HHW or ABOP facilities not directly related to the collection of used oil and used oil filters
- Any costs not consistent with local, State, or federal laws, guidelines and regulations
- CUPA fines or penalties
- Travel expenditures that exceed the State rate (for hotel and meal rates, see http://www.dpa.ca.gov/jobinfo/Short-TermTravel/Excluded/599_619.shtm for hotel maximum rates and for Meals and Incidentals)
- Any personnel costs incurred as a result of time an employee assigned to the project funded by the grant does not work on the project (e.g., use of accrued sick leave, accrued vacation, etc.)
- Any pre-paid expenditures for future goods or services delivered beyond the end of the Grant Performance Period (Exemption: The Grant Manager may consider approving products purchased in full before the end of the Grant Performance Period but delivered after the Grant Performance Period if the

delay is caused solely by the supplier, and not by the Grantee. The Grantee must request an exemption in writing and receive written pre-approval from the Grant Manager. In no event may products be delivered after the end of the Grant Term)

- Fines or penalties due to violation of federal, State or local laws, ordinances, or regulations
- Costs to maintain an existing HHW program where used oil is not collected
- Developing any type of permanent facility on non-local government-owned property
- Expenses for audits of the Grantee's entire organization, or portions thereof that include a review of one or more UBG and/or Opportunity Grant cycles are not eligible for reimbursement
- Costs deemed by the Grant Manager to be unreasonable or not related to the purpose of the grant

Overhead/Indirect Costs

Overhead and indirect costs can be claimed by Grantees. The following guidelines must be used when claiming these costs:

- a) The total cost of overhead and indirect costs charged to the grant shall not exceed 10% of grant funds reimbursed. These costs are expenditures not capable of being assigned or not readily itemized to a particular project or activity, but considered necessary for the operation of the organization and the performance of the program. The costs of operating and maintaining facilities, accounting services, and administrative salaries are examples of overhead and indirect costs. All overhead and indirect costs charged to the grant must be associated with grant-related activities.

If you are uncertain whether a given cost is considered an overhead/indirect cost by CalRecycle, contact your Grant Manager.

- b) Costs charged directly to the grant shall not be included in the overhead/indirect cost formula.
- c) Supervision performed by Managers and Supervisors can be included in the overhead/indirect cost formula; and therefore, will not be a direct charge to the grant. On the other hand, if a Manager or Supervisor performs an activity that is directly related to the execution of the grant (not supervision), costs associated with this activity may be included as a direct charge. Such activity must be **clearly supported** by appropriate documentation and shall not be charged to the grant as overhead or indirect cost.
- d) The Grantee must maintain organized and accurate records that follow generally accepted accounting principles and leave an audit trail. The Grantee must provide access to all documents related to the grant program and fiscal operation of the grant program as deemed necessary by CalRecycle.
- e) The Grantee must have on file an internally approved Cost Allocation Plan which specifically documents how the overhead rate was established and which is supported by formal accounting records to substantiate the charges.

The Cost Allocation Plan must be approved by an appropriate Supervisor/Manager in your agency. The Cost Allocation Plan must identify program elements included in the overhead/indirect cost calculation. See the sample "Cost Allocation Plan" calculation listed below:

Total department indirect cost *divided by* total department direct cost base equals the overhead/indirect cost rate.

- f) If the Grantee utilizes a contractor to administer and/or implement the grant, then the overhead and indirect costs of such contractor may be charged to the grant only to the extent that such costs could have been charged by the Grantee.

Publicity And Education Requirements

Premiums must directly relate to and/or be used for used oil and used oil filter collection and recycling needs and/or be clearly linked to behavioral change that leads to an increase in used oil and used oil filter recycling. Premiums must be appropriate for the target audience durable; and not likely to be disposed of in a short time or contribute to the waste stream or hazardous waste stream (e.g., any item containing batteries, mercury, etc.); and not promoting a particular brand-name product or private business.

For all languages other than English, the Grantee must work with a person fluent in reading and writing the language. A description of the translator's qualifications, as well as an English version of the material must be submitted with the Final Report. Of key importance is that the translated material is at a reading level appropriate for its targeted audience.

Materials or items purchased may be denied full reimbursement if they do not meet the requirements detailed in this section.

All items/materials, as appropriate, must meet the acknowledgement, advertising/public education, and recycled-content product requirement as set forth in the Terms and Conditions, and must include the following:

- a) Acknowledgement of CalRecycle funding that reads "Funded by a Grant from the Department of Resources Recycling and Recovery (CalRecycle)." ¹
Exception: The acknowledgement line is not required on small items (pencils, magnets, etc.) where space constraints would not allow for this line or if it would interfere with the message.
- b) Specific information on used oil/used oil filter recycling/disposal.
- c) A list of used oil collection centers within the targeted community or a telephone number to call for information on local collection centers. When locations are listed, include the following language: "Call for hours of

¹ There are only two acceptable Spanish translations: "Financiado por una beca del Department of Resources Recycling and Recovery" or "Patrocinado por fondos del Department of Resources Recycling and Recovery." For other languages, you must work with a certified translator or person fluent in reading and writing that language.

operation." (Use the 1-800-CLEANUP number [or www.cleanup.org website] if your jurisdiction does not maintain its own 24-hour hotline.)"

- d) The "Used Oil Drop" logo with the words "Recycle Used Oil" or "Recycle Used Oil and Used Oil Filters" as appropriate.

Copyright Requirements

The following language must appear on any copyrightable material produced with CalRecycle grant funds:

Copyright language: © Copyright {year of creation} by the California Department of Resources Recycling and Recovery (CalRecycle). All rights reserved. This publication, or parts thereof, may not be reproduced without permission from CalRecycle.

For copyrightable material produced in Spanish, the following language must appear:

© Copyright {year of creation} the California Department of Resources Recycling and Recovery (CalRecycle). Todos los derechos reservados. Esta publicación, o partes, no puede ser reproducido sin permiso de CalRecycle.

Examples of copyrightable material include but are not limited to:

- CDs and DVDs of audio and/or visual material
- Computer Software
- Brochures, pamphlets, and reproductions of advertisements designed for distribution

Please check with your Grant Manager with specific questions about the applicability of using the copyright language.

Combining Used Oil With Other Environmental Programs

Both storm water and/or HHW recycling programs may be incorporated with the used oil recycling message on publicity and education (P&E) items. The funding level for the P&E portion for these programs will be determined on a case-by-case basis by the Grant Manager. To be eligible for any funding, the proposal must meet the minimum requirements for Used Oil P&E, and clearly support all of the key components of the UBG program.

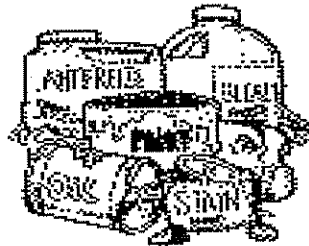
Graphics



Graphics are available on CalRecycle's website at:

www.calrecycle.ca.gov/UsedOil/graphics/default.htm#usedoil

Use the State colors (blue oil drop on yellow background) on any material produced in four or more colors. (The color designation for professional printing is Yale Blue-Pantone 286C; Golden Yellow-Pantone 123C.)



Recycled-Content Product Requirements

All Grantees must report the percentage of recycled-content material for all products purchased in the product categories listed below. Grantees must use a separate Recycled-Content Product Certification Form (CIWMB 74G) for **each supplier** and submit them with the Final Report. The form can be found on CalRecycle's website at: <http://www.calrecycle.ca.gov/Grants/Forms>.²

Paper Products
Compost & Co-
Compost
Paint
Tires

Printing & Writing Paper
Glass Products
Solvents
Steel Products

Plastic Products
Lubricating Oils
Tire-Derived
Products

Any exceptions to the above requirements must be pre-approved in writing by the Grant Manager.

Large Equipment CalRecycle Acknowledgement

A CalRecycle sticker (bumper sticker size) that displays the "used oil drop" logo including the text "Recycle Used Oil" and "Funded by a grant from the Department of Resources Recycling and Recovery (CalRecycle)" is required to be affixed to all large pieces of equipment purchased with grant funds. When submitting the Final Report, the picture of this equipment should include the affixed sticker. CalRecycle has stickers available at no cost which may be requested from your Grant Manager.

Reporting Requirements

The Grantee must submit an Annual Report for each year of the approved grant project, as well as a Final Report which, after approval by the Grant Manager, will enable CalRecycle to close the grant and release the 10% funds withheld. (NOTE: All forms for the following reports can be downloaded from the CalRecycle website at: www.calrecycle.ca.gov/Grants/Forms/) The last Annual Report can also serve as the Final Report as long as it covers the period from the last Annual Report to the end of the Grant Performance Period. These reports are described below.

² For information on minimum recycled-content products, see www.calrecycle.ca.gov/BuyRecycled/StateAgency/.

Annual Reports

Grantees are required to submit an Annual Report (CIWMB Form 644) on **August 15th** of each year demonstrating program progress and how they have spent their UBG funds for the previous fiscal year (July 1 – June 30). Grantees are required to report on each active UBG *in a single Annual Report*.

The Annual Report must be filled out using the Online Block Grant Annual Reporting System (BGR). To access this system go to the following web site: <http://secure.calrecycle.ca.gov/BGR/Signin.aspx> and sign into the system. All documents requiring wet signature must be mailed to CalRecycle. Questions concerning use of this System are to be directed to your assigned Grant Manager.

The report must clearly identify each of the grant cycles and the activities conducted under each cycle. Grantees that do not show progress toward implementation of a used oil and used oil filter collection and education program may not receive all or part of the UBG allocation for the fiscal year beginning on July 1 of the year in which the Annual Report was submitted. This lack of performance will also be noted if Grantees apply for future Used Oil and/or HHW grants.

Grantees will lose eligibility for the current grant cycle which began on July 1 if the grantee fails to submit the completed Annual Report by August 15 or fails to submit any missing information and receive approval of the completed report during the Grace Period (August 16 – November 15). No reports will be accepted after August 15. The Grace Period is only for submission of missing information to complete the report and receive approval of the report. Grantees will not lose their eligibility for subsequent grant cycles if they submit a completed application during the next cycle's application period and meet the mandates of the Terms and Conditions and the Procedures and Requirements of all previous UBG cycles, including submission of all required completed reports. **Grantees will also be required to submit a statement explaining why they missed the Annual Report deadline and what corrective action they have taken to ensure future compliance. The corrective action must meet the approval of the Grant Manager.**

Grace Period for Submittal of Information to Complete Reports

The deadline for Annual Reports is August 15 of each fiscal year and the deadline for the Final Report is August 15, 2012. However, the period from August 16 to November 15 of each year is a Grace Period during which the Grantee may submit missing information and receive approval of the Final Report. Expenses incurred by the Grantee after August 15 will not be eligible for reimbursement.

UBG15 applicants who miss the July 31, 2009, application submission date or who miss the August 31, 2009, date for submission of local government resolutions will not be eligible for UBG15 but will retain their eligibility for subsequent UBGs if they submit an Annual Report for all other open UBGs by November 15, 2009, that is approved by the Grant Manager.

Final Report

The Final Report is not required to be submitted on a specific form; however, if the Final Report is done simultaneous with the final/last Annual Report, it can be done on the Annual Report form. The Final Report must include all of the information and additional documentation enumerated below. *The Final Report covers activities*

conducted between the last Annual Report and the end of the Grant Performance Period. Grantees are encouraged to submit the Final Report early if activities are completed and all funds are expended before the end of the Grant Performance Period. Costs incurred for preparation of the Final Report are eligible for reimbursement at any time during the Grant Term; however, during the Report Preparation Period (July 1, 2012 – August 15, 2012), costs incurred for preparation of the Final Report and Final Payment Request, if any, are the **only** costs that are eligible for reimbursement. Grants are not considered closed until all the reporting requirements have been met, all available funding has been expended or returned to CalRecycle, and/or the grant term has expired.

If an advance was approved and there are any unexpended advanced grant funds and/or interest accrued (if applicable) at the end of the Grant Term, the Grantee will be invoiced by CalRecycle (as an Accounts Receivable) for funds due to CalRecycle. After the Grantee pays CalRecycle any unspent funds owed, CalRecycle will then release any 10% withhold amount due the Grantee. *Note that no extensions will be given for submittal of the Final Report.*

Additional items to be submitted for the Final Report

1. The last Annual Report Form if the grant is completed by June 30 or a summary of activities completed since the last August 15 Annual Report if the grant is closed early.

The following disclaimer must appear on the cover page of the report:

"The statements and conclusions of this report are those of the Grantee and not necessarily those of the Department of Resources Recycling and Recovery (CalRecycle), its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for the information contained in the succeeding text."

2. Certified Collection Center Site Visit Checklists (if not submitted previously for the final reporting period) (CIWMB 665).
3. Recycled-Content Product Certification Form (RCP) (CIWMB 74G)¹ for each item purchased with grant funds (submit a separate form for each supplier.)
4. Samples of Premiums and Printed Material
 - a. A digital image of each premium item in a commonly accepted format, and all final printed publicity and education materials. The photographs of the premiums must show compliance with requirements of the grant (i.e. oil logo, "Funded by a Grant from the CalRecycle". More than one digital image may be submitted if needed to capture all required components or to accurately illustrate the item. If compliance with procedures cannot be clearly captured in a photographic image, then an original copy of the premium item must be submitted.
 - b. A PDF copy of graphics is acceptable. The Grant Manager may ask for a copy of the graphic in its original format.

- c. Two photographs, from different angles, for large items such as equipment or structures.
 - d. A photograph of each event attended or conducted (if not previously submitted).
 - e. For Regional Programs that have developed printed materials (including item 5 below) with grant funds, only the Regional Lead is required to submit copies of the materials to CalRecycle; and include information as to who the other regional participants are. Thus, Grantees participating in the Regional Program are not each required to submit copies of the materials, but each Grantee should reference the Regional Program in its Annual Report and identify the Regional Lead in its report.
5. Samples of Final Television, Video and Radio Ads. A final copy of each ad (if not previously submitted) in the appropriate media format (DVD format for videos and CD-Rom for radio ads).

FAILURE TO SUBMIT THE REQUIRED ANNUAL REPORT/FINAL REPORT BY THE SPECIFIED DEADLINE MAY CAUSE THE GRANTEE TO BE INELIGIBLE FOR THE CURRENT OR FUTURE UBG CYCLES AND MAY RESULT IN INVOICING OR TERMINATION OF OTHER OPEN UBG CYCLES.

Payments

UBG funds will be disbursed on a reimbursement basis, with only the following exceptions: the advance payment option is at the Grant Manager's discretion for Grantees receiving \$20,000 or less and for multi-jurisdictional and regional grantees whose individual jurisdictions would have received \$20,000 or less had they applied individually. *The Grant Manager will consider exceptions to the reimbursement policy for financial hardship situations on a case-by-case basis.*

Advance Payment Option

Where advance payment has been approved, UBG recipients will receive 90% of their UBG award in advance once the Grant Agreement is fully executed and a signed Grant Payment Request is submitted. Advancement of funds is conditional upon full repayment of all outstanding UBG funds and interest owed to CalRecycle.

The Grantee will have to incur eligible costs for the 90% advanced and the interest accrued or return any unspent advanced funds to CalRecycle. If the Grantee does not incur costs equivalent to the 10% withheld from the overall UBG amount, CalRecycle will retain the 10% withhold and close the grant.

If the Grantee incurs costs that cover all or part of the 10% withheld, CalRecycle will reimburse eligible costs. The remaining funds from the overall UBG amount will be released to the Grantee after 100% of grants funds have been expended and the Annual Report has been approved by Grant Manager.

Note: CalRecycle will formally invoice (as an Accounts Receivable) any unspent advanced grant funds or interest accrued.

**Interest on
Advance
Payments**

Interest earned for each UBG Cycle advance must be tracked and accounted for separately. Any unused interest accrued must be returned to CalRecycle at the end of the grant term. Grantees should contact their administration and finance office to establish a process to track and report this interest.

All grant funds where an advance was given to the Grantee must be placed in an interest-bearing account with a fully insured financial institution. Any interest accrued and received from this account may only be used for eligible expenses related to the grant. **Interest accrued must be stated on the FINAL Expenditure Itemization Summary only.**

In cases where grant funds are forwarded directly to a contractor for expenditure, the Grantee is subject to the same requirements pertaining to tracking of accrued interest, unless the money is spent by the Grantee within 90 days of issuance of the funds to the Grantee. Therefore, the Grantee is required to impose upon any contractor to which it entrusts advanced grant funds the obligation to comply with the requirements of the Grant Agreement regarding interest. The Grantee is ultimately responsible for all advanced funds and accrued interest thereon.

The Grantee is responsible for ensuring that subcontractors who administer and/or implement the grant on behalf of the Grantee comply with the terms of this Grant Agreement.

**Reimbursement
Payments**

Most UBG funds will be paid by reimbursement payments. Under this payment method, CalRecycle retains 10% of the requested amount until the grant is closed out. The remaining 10% reimbursement payment (withhold amount) will be released to the Grantee at the conclusion of the grant term once the Grantee has complied with all grant provisions.

To receive a reimbursement payment, Grantees must submit a completed EIS and Grant Payment Request Form. Reimbursement payment requests must be submitted no later than December 31, 2012. Once reviewed and approved, the payment reimbursement will be processed. Grantees may request up to four reimbursement payments per year, per cycle, and no less than one per year, per cycle. Exceptions to this schedule must be pre-approved in writing by your Grant Manager.

**Submittal of
Payment
Requests**

Required Documents and Format for Payment Request

A complete payment request must include the following items in the order listed in addition to a brief narrative that explains for what activities the expenses were incurred, if the payment request is not submitted with the Annual Report. (The Grant Manager may require additional narrative to fully understand the nature of the expenditures.)

1. **Grant Payment Request Form** (CIWMB 87) – This form must be signed by the individual authorized by the resolution.
2. **Expenditure Itemization Summary** (CIWMB 667 or Grantee's own version) - All expenditures must be itemized and arranged by the Reporting and Expenditure Categories. (See the "Expenditure Itemization Summary" section below.)

3. Personnel Expenditure Itemization Summary (CIWMB 165) – Only applicable to contractors and Grantee's staff.

Note: All expenditures must be accompanied by documentation that describes the EIS categories for which the funds were spent, when they were spent, who did the work or spent the funds and the invoice numbers associated with the spent funds. Please contact your Grant Manager for approval if you intend to provide some other form of supporting documentation.

**Expenditure
Itemization
Summary (EIS)**

Grantees are required to submit the EIS Form (CIWMB 667) covering expenses for the previous fiscal year (July 1 – June 30) by grant cycle or for any period in which expenses were incurred. ***Please contact your Grant Manager for pre-approval if you intend to provide some other form of supporting documentation.***

Use the reporting and expenditure categories listed below when preparing the EIS. Only directly applicable eligible expenses should be included. Summarize all of the expenses that were incurred by grant cycle over the 12 month reporting period and use only the categories that are applicable to the Grantee's grant program, including personnel costs related to that task(s). For each category, identify the related tasks and expenses. If there is more than one invoice from a company, list them separately on the EIS. Include invoice numbers.

Permanent Collection Facilities – Includes eligible expenses for collection centers, PHHWC and ABOP facilities. **Do not** include publicity and education or oil containers in this category.

Temporary or Mobile Collection – Eligible expenses for temporary events at an established facility, and mobile events.

Residential Collection – Curbside or door-to-door collection of used oil and used oil filters.

Load Checking Program – Inspection of loads for used oil at solid waste landfills or transfer stations.

Publicity and Education – All eligible publicity, public education, and community outreach events (except those related to storm water education).

- A partial list of examples includes newspaper ads; radio spots; public service announcement TV spots; flyers; brochures; door hangers; utility bill inserts; billboards; collection center handouts (such as "shelf talkers"), and premiums.
- Material/supply expenses for community events and school presentations should be included in this category.
- Local government personnel expenses should be placed into the Personnel/Other category.

EIS Certification - The EIS MUST include the following certification:

"I certify under penalty of perjury, under the laws of the State of California, that the above information is correct and that all funds received have been expended in accordance with the Used Oil Recycling Block Grant."

The certification MUST be dated and signed by the Signature Authority specified in the Grantee's resolution. An EIS received without the signed certification will not be approved.

**Personnel
Expenditure
Itemization
Summary
(PES)**

A Personnel Expenditure Itemization Summary (CIWMB 165) for Grantee staff as well as contractors or an equivalent form must be submitted to document all grant-related personnel costs. In consideration of the sensitivity of the data that may be contained on the payroll journal/register, personnel time logs, or copies of timesheets, a Grantee may not want to submit these forms to CalRecycle. As an alternative, the Grantee may submit the PES or equivalent form with two signatures (Signature Authority and/or staff from the Personnel or Accounting Office) verifying the information is accurate. Grantees must retain payroll journals/registers and personnel time logs/timesheets for audit purposes.

Please contact your Grant Manager if you have any questions.

**Supporting
Documentation for
Expenditures**

Documentation for all expenditures claimed on the Grant Payment Request **must** be retained by the Grantee for a minimum of three years after closeout of the grant term for audit purposes. (See Audit/Records Access section of the Terms and Conditions Exhibit A.)

Retain the original documents at your office. Types of acceptable documentation include but are not limited to:

- **Invoices** that include vendor's name, telephone number, and address; a description of goods or services purchased, amount due, and date; invoices must be accompanied by proof of payment (e.g., copies of cancelled checks)
- **Receipts** that include the same information as invoices
- **Purchase orders** that include the same information as invoices; purchase orders must be accompanied by proof of payment (e.g., copies of cancelled checks)
- **Personnel Expenditure Summary Form** (CIWMB 165 or your own version if pre-approved) that documents actual time spent on grant-related activities
- **Travel Expense Form** (CIWMB form or your own version) that documents costs related to travel and includes supporting documentation
- **Samples** of all publicity and education materials purchased or developed with grant funds
- **Proof of Payment** (e.g. copies of cancelled checks and/or documented payment within the financial records)

**Ten Percent
Withhold**

Ten percent of grant funds will be withheld from each Grant Payment Request and paid at the end of the grant term when all reports and conditions, stipulated in the Grant Agreement, have been satisfactorily completed. For Grantees with reimbursement grants, the 10% withhold will be released when Final Report has been

approved by the Grant Manager. For Grantees who have received Advance Payments, the 10% withhold will be released when the Grant Manager has approved the Final Report and verified through documentation submitted by the Grantee that 100% of the advanced grant funds and any earned interest have been expended.

Audits

Documentation and a clear audit trail are essential to grant management.

The Grantee agrees to maintain records for a possible audit for a **minimum of three years after final payment or grant term end date, whichever is later**, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later.

Examples of audit documentation include, but are not limited to, expenditure ledger, payroll register entries, time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts and change orders, samples of items and materials developed with grant funds, invoices and/or canceled checks.

Refer to the Terms and Conditions (Exhibit A) for more information.

Used Oil Payment Program (OPP) GUIDELINES for FY 2010/11

May 2010

Submittal of an OPP Application constitutes acceptance of these Guidelines as the controlling requirements for receiving, spending, and accounting for OPP funds and for annual reporting. The Application and these Guidelines shall constitute the OPP Agreement.

OVERVIEW AND STATUTORY AUTHORITY

The California Public Resources Code (PRC) §48601 et seq. describes the California Oil Recycling Enhancement Act (Act), which, among other things, provides up to \$11 million annually in payments to local governments for implementation of local used oil and filter collection programs. The new Used Oil Payment Program (OPP) authorized in SB 546 (Lowenthal, Chapter 353, Statutes of 2009) replaces the Used Oil Block Grant Program (UBG). While the purpose of the OPP is similar to the UBG, there are significant differences regarding Application, administration, and reporting requirements. The Department of Resources Recycling and Recovery (CalRecycle), formerly the California Integrated Waste Management Board (CIWMB), is responsible for administering the OPP.

These Guidelines describe the Application and administrative processes to implement the OPP. Consistent with the intent of SB 546, the OPP is designed to streamline administrative requirements within a fiscally sound framework. Payment Recipients (Recipients) are responsible and accountable for ensuring that expenditures are appropriate and that proper internal supporting documentation is maintained. To ensure full compliance with OPP's processes and requirements, OPP Applicants/Recipients should carefully review and adhere to these Guidelines and the program provisions set out in the Act, paying particular attention to PRC §§ 48674, 48690, and 48691.

PROGRAM ADVISOR COORDINATION

A Program Advisor (Advisor), previously known as a Grant Manager, is assigned to each Recipient to provide assistance and/or guidance in developing or enhancing a successful used oil collection program.

ELIGIBILITY AND THE APPLICATION PROCESS

Local governments that comply with PRC §§ 48690 and 48691 are eligible to apply for and, if approved, receive payment through the OPP. Generally, Applicants are required to have a used oil collection program, which includes at least one certified used oil collection center per 100,000 residents and/or a curbside program that includes used oil collection at least monthly, and a public education program that informs the public of locally available used oil recycling opportunities. For specific and additional requirements, see PRC §§ 48690 and 48691. To apply, a local government or the governmental entity acting on behalf of the local government must: (1) submit a completed online Application to CalRecycle by 3:00 p.m. on June 30*, and post an electronic (scanned) version of the signed Application summary page in the online system; (2) retain in its OPP file the original hard copy of the Application summary

page signed by Applicant's Signature Authority; and (3) submit by July 30*, the applicable required authorizing documents (see the AUTHORIZING DOCUMENTATION section below). Additional application information is available at the [OPP Cycle web page](#). If you have any questions regarding the Application process, please call (916) 341-6118 or send an e-mail to: GrantAssistance@CalRecycle.ca.gov

In addition to the above Application requirements, the Applicant must: (1) submit by August 15*, a complete online Annual Report for a UBG or OPP cycle active during the preceding fiscal year and such Annual Report must be subsequently approved by the Advisor; and (2) have no outstanding debt(s) owing to CalRecycle. (Refer to the ANNUAL REPORTING section for additional information on reporting activities.)

*When a due date falls on a Saturday or Sunday, items must be submitted the following Monday.

Note: A [WebPass](#) and online system access is required to complete and submit the online Application. If you already have a WebPass for the UBG Reporting system, use the same WebPass for the OPP. If you do not have a WebPass, you should immediately obtain one in order to allow adequate time to use the new online Application system and minimize delays in the Application process.

AUTHORIZING DOCUMENTATION: RESOLUTIONS, LETTERS OF COMMITMENT, AND LETTERS OF AUTHORIZATION/DESIGNATION

Applicants, subject to a governing body, are required to submit an adopted Resolution that: (1) authorizes submittal of OPP Applications; and (2) identifies the name of the job title (rather than the name of a person) authorized to sign on behalf of the Applicant (Signature Authority). [Refer to the [OPP Cycle web page](#) for specific due dates and timelines related to submission of these documents.] Resolutions must be specific to the OPP; previous Resolutions referencing the UBG will not be accepted. Unlike used oil grants, Resolutions for the OPP may be "open ended." That is, rather than specifying an end date, the Resolution may state that it is effective "until rescinded." If such an "open ended" Resolution is not appropriate for your jurisdiction, an Applicant may submit a Resolution for a shorter term and must include a specific end date.

Applicants, not subject to a governing body must submit a Letter of Commitment. This letter must: (1) be prepared on the Applicant's official letterhead; (2) authorize submittal of OPP Applications; (3) contain a specific end date or state that it is effective until rescinded; (3) authorize submittal of OPP Applications; and (4) be signed by a person with authority to contractually bind the Applicant. As discussed above for Resolutions, authorizations pursuant to this Letter may be effective "until rescinded."

For regional Applications, the lead jurisdiction (Regional Lead) must submit an adopted Resolution or Letter of Commitment (as appropriate), and in addition to the above requirements, state that it is applying as a Regional Lead. Each participating jurisdiction (Regional Participant) must submit a Letter of Authorization (or other applicable document as provided in the [examples](#)) that authorizes its Regional Lead to apply for the OPP, implement the program, and administer the OPP funds on its behalf. *A new Letter of Authorization is required from each Regional Participant for each new OPP Application cycle.*

When authorized by Resolution or Letter of Commitment, an Applicant's Signature Authority may issue a Letter of Designation, which delegates to another person (identified by job title rather than name) the authority to sign and submit required OPP documents, such as Applications, Annual Reports, or extension requests. This delegation may be done either at the time of Application or later; however, it must be uploaded (by the Applicant) into the OPPO application system and accepted by CalRecycle staff prior to the Designee's exercise of his/her authority. A Letter of Designation must: (1) be prepared on the Applicant's official letterhead; (2) contain a specific end date or state that it is effective until rescinded by the identified Signature Authority; (3) identify the job title of the Designee; (4) identify the scope of the Designee's authority; and (4) be signed by the Signature Authority.

Applicants must scan and upload (as a pdf document) the applicable documents addressed above to the online system, and retain the original signed hard copy in its OPP file. If the Applicant is unable to upload any of these documents, contact Cycle Support for assistance at:

GrantAssistance@CalRecycle.ca.gov.

Proposed language, including examples, for the above documents (Resolutions, Letter of Commitment, Letter of Authorization, and Letter of Designation) are available through the "examples" link above.

NOTICE OF AWARD

Upon approval of Applications and Annual Reports, Recipients will be notified in writing that an OPP award has been made and that they are authorized to incur costs and expend funds in furtherance of their programs. A listing of the award amounts for all Recipients will be posted at OPP Cycle web page.

Costs incurred or funds expended prior to the receipt of written notification of award are done so at Applicant's/Recipient's own risk.

TERM AND PAYMENTS

The OPP term is 24 months. Payment will be made by CalRecycle to Recipients in April (of the first year of the term). Funds must be expended by the end of the term or returned to CalRecycle as described in UNSPENT FUNDS section below.

An Applicant/Recipient may request (as part of the Application process) receipt of its annual payment in October (of the first year of the term). In order for CalRecycle to approve this request, the requesting jurisdiction must demonstrate that other funds are not available (such as prior year UBG or OPP monies).

Tracking and reporting of interest earned (if any) is not required for the OPP.

Recipients may request up to a 6 month extension of this term. At least 90 days prior to the end of the cycle term, the Signature Authority may submit an extension request to their Advisor outlining compelling reasons (such as an equipment purchase or other expense that exceeds two annual payment awards) that warrant consideration of the extension. Recipient's inability to spend the entire payment amount within the term is not a compelling reason; and repeated requests for extensions are not favored. Extension requests will be decided on a case by case

basis. Approval of requests shall not be unreasonably withheld. Advisors will respond to the Signature Authority within 30 days of receipt of the request.

State funding is always subject to availability based on an approved State budget. Delays in the State budget approval process may impact the timing of automatic payments.

PROGRAM EXPENDITURES AND COSTS

All expenditures must be for the purposes of establishing and maintaining a used oil program as discussed in the OVERVIEW AND AUTHORITY section of these Guidelines. Costs must be incurred and/or accrued during the term for which they are reported.

Used oil and used oil filter collection and recycling activities, educational and stormwater management are statutory components of local used oil collection programs (PRC § 48691). Accordingly, these activities should be the focus of OPP expenditures.

Preapprovals by CalRecycle are not required for OPP expenditures.

Recipients must account for all OPP funds in a manner that provides for clear tracking of expenditures in accordance with Generally Accepted Accounting Principles. Proper business procedures dictate that OPP supporting documentation (including, but not limited to, the original signed Application and Annual Report summary pages, invoices, payroll registers/logs, travel expense claim forms, etc.) be retained in a single file to facilitate review and retention. Recipients must follow their jurisdiction's purchasing and/or contracting policies/requirements and ensure the proper and exclusive use of items purchased with OPP funds.

OPP funds are subject to audits (refer to RECORDS RETENTION AND AUDIT CONSIDERATIONS section). Audit findings against Recipients can result in the need for reimbursement of the subject OPP funds, and/or ineligibility for future OPP funds.

ELIGIBLE COSTS

Eligible costs include, but are not limited to:

- Establishing, maintaining, and/or enhancing used oil and used oil filter collection/recycling programs.
- Developing, purchasing and distributing educational and promotional materials informing the public about used oil and used oil filter collection and recycling.
- Stormwater mitigation activities pursuant to PRC § 48691.
- Certified Unified Program Agency (CUPA) or other agency inspection fees directly related to establishing and maintaining an effective oil and oil filter collection and recycling program.
- HAZWOPER 8-hour refresher course.
- Indirect/overhead costs up to 10% of the OPP expenditures. (Note: This limitation applies to Recipients and consultants/contractors who administer and/or implement a program.)
- Reasonable costs for a consultant or contractor to administer and/or implement Recipient's OPP funded used oil program.

- Expenses related to an audit of a specific UBG, OPP or Used Oil Opportunity grant requested by CalRecycle, the Department of Finance, or the Bureau of State Audits.
- Purchase or rental of storage facilities dedicated to oil-related activities and supplies; installation of ancillary structures solely for protection of oil related equipment and/or supplies.

INELIGIBLE PROGRAM COSTS

Any expenditure that does not support used oil and/or used oil filter collection and/or recycling activities, educational activities, stormwater management, or expenses not directly related to Recipient's (or consultant's/contractor's) administration of the OPP are ineligible for funding.

Ineligible costs include, but are not limited to:

- Costs incurred before (refer to NOTICE OF AWARD section) or after the cycle term.
- Purchasing or leasing of land or buildings.
- Costs currently covered by or incurred under a separate CalRecycle loan, grant, or contract.
- Remediation activities (any cleanup or restoration of polluted areas).
- HAZWOPER 40-hour and 24-hour courses.
- Enforcement activities.
- Preparation of Household Hazardous Waste (HHW) elements.
- Development of any HHW permanent facility on non-local government-owned property.
- Transportation and disposal of non-oil HHW from any facility or event.
- Maintaining equipment, materials, or supplies at HHW facilities or ABOP (antifreeze, battery, oil, and paint) facilities not directly related to the collection of used oil and used oil filters.
- Fines or penalties due to violation of federal, State or local laws, ordinances, or regulations, including CUPA fines or penalties.
- Employee time off (vacation or sick leave), overtime costs, or Compensated Time Off (except for local government staffing during specially scheduled evening or weekend events outside of staff's normal work hours when law or labor contract requires overtime compensation).
- Food or beverages (e.g., as part of meetings, workshops, or events).
- Cell phones, pagers, cameras, personal digital assistants, and other similar electronic devices.
- Out-of-state travel or travel expenditures that exceed the State rate (for hotel and meal rates, see Department of Personnel Administration provision 599.619 or ask your Advisor for hotel maximum rates and for meals and incidentals). If, in order to reach an in-state destination, travel is reasonably required outside the border of California, this is not considered "out-of-state travel." [For audit purposes, expenses exceeding the State rate, involving travel outside the border, or are contrary to other terms in this provision, should be explained in writing and kept in the OPP file.]
- Expenses for audits of the Recipient's entire organization, or portions thereof that include a review of the UBG, OPP, or Used Oil Opportunity (or its successor program) or other competitive grants.
- Any costs not consistent with local, State, or federal laws, guidelines and regulations.

- Any costs “excessive” or “unreasonable” as determined by CalRecycle or its auditors.

PUBLICITY AND EDUCATION REQUIREMENTS

Premiums must directly relate to used oil, used oil filter collection and recycling, proper oil disposal practices, and/or other OPP activities and either encourage behavioral change or provide an educational opportunity for the public. Premiums must be appropriate for the target audience, durable, and not likely to be disposed of in a short time or contribute to the waste stream or hazardous waste stream (e.g., any item containing batteries, mercury, etc.). Premiums must not promote a particular brand-name product or private business.

Stormwater and HHW recycling program messages may be incorporated with the used oil recycling message on publicity and education items. The funding level for the publicity and education portion for these programs is 50% for any item which contains a reasonable mention of used oil and/or used oil filter collection and recycling; and, 100% if over half of the text or image(s) relates to used oil and/or used oil filter collection and recycling.

Acknowledgement: The following acknowledgement of funding should be included on premiums, in advertising, and in public education information, as appropriate:

"Funded by the Department of Resources Recycling and Recovery (CalRecycle)" or
"Funded by CalRecycle"

For materials produced in Spanish, use the following:

"Financiado por el Departamento para el Reciclaje y Recuperacion de Recursos (tambien conocido como CalRecycle)" or "Financiado por CalRecycle"

For premiums, the acknowledgement need not be included if space is limited and/or it would interfere with the message.

Copyright Requirement: Examples of copyrightable material include, but are not limited to:

- CDs and DVDs of audio and/or visual material
- Computer Software
- Brochures, pamphlets, and reproductions of advertisements designed for distribution

Copyrightable materials, which do not need to include the above acknowledgement language, shall state:

- “© [year of creation] by the California Department of Resources Recycling and Recovery (CalRecycle). All rights reserved. This publication, or parts thereof, may not be reproduced without permission from CalRecycle.”
- For copyrightable material produced in Spanish, the following language must appear:
© Copyright {year of creation} California Departamento para el Reciclaje y Recuperacion de Recursos (tambien conocido como CalRecycle)". Todos los derechos reservados. Esta publicación, o partes, no puede ser reproducido sin permiso de CalRecycle.

Recipient shall assign to CalRecycle any and all rights, title and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of OPP funding, including the right to register for copyright or trademark of such materials. Such title will include exclusive copyrights and trademarks in the name of the State of California.

A press release is not subject to copyright language requirements.

Advertising and Public Education: Materials must provide as appropriate:

- Information on used oil and used oil filter collection and recycling/disposal.
- A list of used oil collection centers within the targeted community or a local telephone number or website to obtain further information on local collection centers. (Use the 1-800-CLEANUP number or [earth911](http://earth911.com) website if your jurisdiction does not maintain its own 24-hour hotline.)
- The "Used Oil Drop" logo with the words "Recycle Used Oil" or "Recycle Used Oil and Used Oil Filters" as appropriate. On any material produced in four or more colors, use the State colors (blue oil drop on yellow background) for this logo. (The color designation for professional printing is Yale Blue-Pantone 286C; Golden Yellow-Pantone 123C.)

Oil program related graphics and signs are available on CalRecycle's website.

RECORDS RETENTION AND AUDIT CONSIDERATIONS

Recipients are responsible and accountable for all OPP funds; therefore, it is essential that adequate documentation and a clear paper/audit trail are maintained. Recipient accounting of OPP funds must be maintained in a manner that provides clear separate tracking of OPP funds and related transactions for fiscal program management and audit purposes.

CalRecycle, the Department of Finance, the Bureau of State Audits, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the use of OPP funds; and shall have the right to interview staff relevant to the audit. The Recipient agrees to maintain such records for possible audit for a minimum of three (3) years after the OPP term end date, or until completion of any action and resolution of all issues, which may arise as a result of any litigation, dispute, or audit, whichever is later.

Recipient agrees to include in all contracts and subcontracts funded in whole or part from OPP funds, a similar audit right of the State to such records and to interview staff.

Examples of audit documentation include, but are not limited to, expenditure ledgers, payroll register entries, time sheets, travel logs, paid warrants, contracts and change orders, samples/pictures of items and materials developed with OPP funds, invoices, receipts, and canceled checks.

ANNUAL REPORTING

Annual reporting is a statutory requirement for ongoing eligibility for the OPP. Recipients must meet CalRecycle's online reporting requirements. Annual Reports must be submitted no later

than August 15*, of each calendar year (commencing August 15, 2011). Failure to meet this reporting due date may result in the denial of future funding.

*When a due date falls on a Saturday or Sunday, items must be submitted the following Monday.

Upon completion of the online Annual Report (including the expenditures portion of the report), the report summary page is to be printed out and given to the Signature Authority for approval and signature. The signed Annual Report summary page is to be uploaded to the online system (by the Recipient) and the original signed hard copy is to be retained in the Recipient's cycle file. If the Recipient is unable to upload the signed Annual Report summary page, they should scan and email or fax it to their Advisor for uploading. Program Advisors will review and approve submitted reports.

All expenditures will be reported through the OPP online system "Expenditures" tab. Failure of Recipient to properly spend or account for OPP funds may result in denial of future OPP funding for Recipient, requiring reimbursement from Recipient and /or Recipient's forfeiture of funds.

UNSPENT FUNDS

Funds that are unspent at the end of the OPP term must be reimbursed by check to CalRecycle within 45 days. Checks must contain the OPP number (i.e., OPP1-10-xxxx), specify "OPP Unspent Funds," and be mailed to: CalRecycle, Accounting, P.O. Box 4025, Sacramento, CA 95812-4025. If there are questions or other issues related to expenditures, work with your Advisor to resolve these issues. Funds due to CalRecycle but left unpaid may result in a Recipient not being eligible for future OPP funding.

EXCEPTIONS

These Guidelines govern the administration of the OPP. Under compelling circumstances "exceptions" may be granted on a case-by-case basis by your Program Advisor. Requests for exceptions must be made and approved in writing. Work with your Program Advisor if you have questions.

DISCRETIONARY TERMINATION

The Assistant Director, Materials Marketing and Local Assistance Program, shall have the right to terminate this Agreement at his or her sole discretion at any time upon thirty (30) days written notice to the Recipient. Within forty-five (45) days of receipt of written notice, the Recipient is required to:

- a) Submit a final written report to the appropriate Advisor describing all work performed by the Recipient and provide an accounting of all funds expended up to and including the date of termination; and,
- b) Reimburse CalRecycle any unspent funds.

TERMINATION FOR CAUSE

In the event the Recipient fails to comply with the requirements of these Guidelines at the time and in the manner herein provided, CalRecycle may terminate the OPP Agreement.

WITHDRAWAL BY RECIPIENT

Recipient may withdraw from this OPP cycle under the following conditions:

- (1) Submission of a letter, signed by the Signature Authority, stating the reasons for withdrawal;
- (2) Accompanied by documentation/Annual Report that reconciles all payments received; and
- (3) Within 90 days from the date of the withdrawal letter, refund any OPP funds owed to CalRecycle, if applicable.

Before taking action under this provision, Recipients are encouraged to discuss the matter with their Advisor to determine if CalRecycle can be of assistance in resolving the reason for withdrawal.

INDEMNITY

Recipient agrees to indemnify, defend and save harmless the State and CalRecycle, and their officers, agents, and employees from any and all claims and/or losses accruing or resulting from the performance of OPP.

COMPLIANCE

Recipient shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits.

USED OIL PAYMENT PROGRAM DEFINITIONS

For purposes of the OPP, the following definitions apply:

Agreement: Submission of an OPP Application constitutes acceptance of these Guidelines as the controlling requirements for receiving, spending and accounting for OPP funds and for annual reporting. The Application and these Guidelines constitute the OPP Agreement between Recipient and CalRecycle.

CalRecycle: The Department of Resources Recycling and Recovery (CalRecycle)--previously known for purposes of statutory language and this program as the California Integrated Waste Management Board.

Consultant: A professional who advises on or manages the OPP on behalf of an OPP Recipient.

Contractor: An individual, business or company with which the Recipient enters into an agreement to perform program-related services or activities including providing materials or supplies for oil and oil filter collection/recycling projects. (Note: Also refer to the Subcontractor definition.)

Indirect/Overhead Costs: These costs are expenditures not capable of being assigned or not readily available to a particular project or activity but considered necessary for the operation of the Recipient's business and the performance of the OPP. These costs may include up to 10% of eligible OPP expenditures. Examples include costs of operating and maintaining facilities, accounting services and administrative salaries.

Letter of Authorization: A letter submitted by a Regional Participant to authorize another jurisdiction (Regional Lead) to apply for and to act on its behalf in the implementation and administration of the OPP.

Letter of Commitment: A letter from an Applicant, not subject to a governing body, that authorizes submittal of OPP Applications. This letter must be prepared on the Applicant's

official letterhead, contain a specific end date or state that it is effective until rescinded, and designates the job title of the person authorized to execute all documents necessary to secure OPP funds to support the Used Oil Collection Program (Signature Authority). This letter shall be signed by a person with authority to contractually bind the Applicant.

Letter of Designation: A letter submitted by an Applicant's Signature Authority that delegates his/her authority to another individual (identified by job title not name) as authorized in the Resolution or Letter of Authorization. The person to whom this authority is delegated is the "Authorized Designee." A Letter of Designation is required prior to the Designee's exercise of his/her authority. The letter must be on the Applicant's letterhead, contain a specific end date or state that it is effective until rescinded by the identified Signature Authority, and be signed by the Signature Authority.

OPP: The acronym means the Used Oil Payment Program (see Used Oil Payment Program definition below).

Premiums: Premiums are items purchased by Recipients consistent with information in the PUBLICITY AND EDUCATION REQUIREMENTS section.

Program Advisor or Advisor (previously known as Grant Manager): The CalRecycle staff person responsible for monitoring the OPP and related program activities for a particular jurisdiction.

Payment Recipient or Recipient: The recipient of funds pursuant to section 48690 of the Public Resources Code. The recipient may be a local government (which includes any chartered or general law city, chartered or general law county, or any city and county) and/or a public agency/entity that has been given the authorization to act on behalf of a local government.

Signature Authority: The person authorized to approve/sign OPP documents, such as Applications, Annual Reports, etc., as authorized by an adopted Resolution, Letter of Commitment, or Letter of Designation from a local government.

Subcontractor: An individual, business or company with which the Recipient's Contractor enters into an agreement to perform program-related services or activities, or provide materials or supplies for oil and oil filter recycling/collection-related projects, services or activities.

Used Oil Payment Program (OPP): This is the Used Oil Payment Program established pursuant to Public Resources Code § 48690 et seq., that provides payments/funding to eligible participants for establishing and maintaining an effective local used oil and used oil filter collection/recycling program.

Assignment of Contract

This Assignment of Contract (this "Assignment") is entered into on date _____ [by Curbside, Inc., a California Corporation ("Assignor"), WM Curbside, LLC, a Delaware limited liability company (Assignee), and [City of Garden Grove-] (the "Customer").

Background:

- A. Assignor and the Customer are parties to a Service Agreement effective 7/28/2009] (the "Contract") relating to Assignor's provision of hazardous and other waste collection, transportation and/or disposal services to the Customer.
- B. Assignee and Assignor have entered into an Asset Purchase Agreement dated as of October 11, 2010 (the "Asset Purchase Agreement") pursuant to which Assignor will sell and Assignee will purchase substantially all of Assignor's assets. This transaction will include Assignor's assignment of its interest in the Contract to Assignee.
- C. The Customer is willing to consent to Assignor's assignment of its interest in the Contract to Assignee upon the terms and subject to the conditions of this Assignment.

Now, therefore, in consideration of their mutual promises and intending to be legally bound, the parties agree as follows:

1. Assignment and Modification

Assignor hereby sells, assigns, transfers and conveys to Assignee, its successors and assigns, effective as of the Closing Date (as "Closing Date" is defined in Paragraph 8 of this Assignment), all of Assignor's rights, title and interest in and under the Contract; provided however, that Assignee shall not provide collection, transportation, disposal or treatment of pharmaceutical waste under the Contract and Customer agrees to modify and amend the Contract such that the provision of such services related to pharmaceutical waste is removed from the Contract, effective as of the Closing Date.

2. Assumption

Assignee, for itself and its successors and assigns, hereby accepts Assignor's assignment and assumes and agrees to be bound by and perform, effective as of the Closing Date, all of the obligations, liabilities and duties of Assignor under the Contract that arise or accrue after the Closing Date (but not including any

obligation, liability or duty that may arise or accrue after the Closing Date in respect of any matter or event occurring prior to the Closing Date). Assignee's assumption shall run directly in favor of the Customer and shall be enforceable by the Customer against Assignee as if Assignee were the original party to the Contract instead of Assignor.

3. Customer's Consent

The Customer hereby consents, effective as of the Closing Date, to Assignor's assignment of its interest under the Contract to Assignee, and to Assignee's assumption of Assignor's interest under the Contract, upon the terms and subject to the conditions of this Assignment. Prior to the Closing Date, the Customer's consent shall be of no effect whatever.

4. Customer's Certification

The Customer certifies to Assignee that, as of the date of this Assignment:

- a. the Contract is in full force and effect in the form attached as Exhibit A and has not been modified, amended or otherwise supplemented or altered in any way; and
- b. there are no claims by or against Assignor or any defaults or liabilities by Assignor under the Contract.

The Customer agrees to confirm the continuing accuracy of its certification (or disclose any inaccuracies that may have arisen) upon Assignee's written request at any time prior to the Closing Date.

5. Governing Law

This Assignment shall be governed in accordance with the laws of the state whose laws govern the Contract.

6. Counterparts

This Assignment may be signed in any number of counterparts, all of which together shall constitute one and the same instrument.

7. Binding Effect

If and when this Assignment becomes effective, this Assignment shall be binding upon Assignor and the Customer, and their respective successors and assigns, and shall inure to the benefit of Assignee, its successors and assigns.

8. Closing Date

This Assignment shall not be or become effective until the date of closing of the Asset Purchase Agreement takes place (the "Closing Date"), when this Assignment shall become effective without the necessity of any notice or other action by any party.

In witness whereof, the parties have executed this Assignment.

[City of Garden Grove]

By: _____

Name: _____

Title: _____

WM Curbside, LLC

By: _____

Name: CARL V. RUSH JR

Title: President

Curbside, Inc.

By: _____

Name: William Anderson

Title: President

APPROVED AS TO FORM

[Signature]
City Attorney

7/29/11