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CITY OF SANTA ANA

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December 14, 2020

Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to the 2019/2020 Orange County Grand Jury Report, "OC Recycling: Doing it the Right Way"

Dear Judge Nakamura:

As the City Manager of the City of Santa Ana, I am pleased to respond on behalf of the City to the 2019/2020 Orange County Grand Jury Report, "OC Recycling: Doing it the Right Way." We take very seriously the role that local government has in the solid waste and recycling industry that impacts the lives of Santa Ana residents, businesses and visitors that we serve. The City values the opportunity to respond to this report. The City's responses address the Orange County Grand Jury Report's findings and recommendations relevant to our City in accordance with the California Penal Code Section 933 and 933.05.

FINDINGS:

Finding 1: *In nine of the ten cities investigated, the waste hauler has been the sole source provider to their respective city(s) anywhere from 39 to 72 years. Where there is an opportunity for service providers to compete, there is an opportunity for competitive bidding, which may result in improvements in cost and performance.*

Response: The City of Santa Ana agrees with this finding. The City has retained the services of its current franchise hauler, Waste Management (WM) since 1993, resulting from a competitive Request for Proposals process. This agreement has been in place for 27 years. On March 24, 2020, the City issued a competitive Request for Proposals for solid waste services. Proposals have been received, and are in the evaluation stage. The timeline for this process includes council action to approve a new agreement in July 2021, with a service start date of July 1, 2022.

Finding 2: *The labeling on residential bins are not always legible or have comprehensive enough instructions laminated or otherwise made a part of the lid, especially with regards to single use plastic shopping bags. Education and outreach efforts need to be reinforced as often as possible and a visual reminder on the recycle container will help alleviate confusion.*

Response: The City of Santa Ana agrees with this finding. Labeling for both residential bins and carts is hot-stamped into the lids as part of the manufacturing process. Historically, WM has recycled plastic bags and so included them in the allowable recycling waste stream. The City is finalizing this year's Program Brochure for residents, which is to be mailed before year-end. The brochure specifies that plastic bags are to be disposed of as trash, and not recycling.

Section 4.2.4.1 G. Cart Labeling and Hot Stamping in the contract that will be effective July 1, 2022, requires labels on the inside of lids, and hot stamping on the top of the lid and/or body of the cart. Information in English and Spanish will include what materials should and should not be placed in each, and requires City approval. Additionally, all carts shall be labeled in accordance with CalRecycle requirements under SB 1383 throughout the term of the agreement.

Finding 3: *Orange County Waste and Recycling as well as the waste haulers provide helpful recycling education to the public where contractually required to do so. It is the Grand Jury's view that most cities delegate much of the customers/public education efforts to the waste haulers. Contracts indicate both parties are responsible for educating the public.*

Response: The City of Santa Ana agrees with this finding. The City has several education and outreach programs, such as the Santa Ana Green quarterly newsletter, mailed to all residents, including multi-family. The newsletter provides program information, resources, and recycling education.

The City contracts with the Discovery Science Center of Orange County to provide Santa Ana families no cost entry on the first Tuesday of each month on Santa Ana Waste Free Days. Residents have access to a range of programs, activities, and guest incentives focused on the promotion of positive recycling and waste disposal habits.

City-led programs are enhanced through work with WM, which is contractually required. In addition to the annual Service Guides mailed to all customers, the City and WM participate in the Party for the Planet at the Santa Ana Zoo to educate residents and visitors about recycling. WM participates in a variety of community events such as: National Night Out, Fiestas Patrias, Com-Link, and neighborhood association meetings, and provides presentations to educate residents about recycling,

In 2018, the City amended its agreement with WM to add an expanded education program. On behalf of the City, WM contracts with EcoNomics, Inc., (EcoNomics) an environmental consulting company, to provide education, outreach, and implementation for AB 341 and AB 1826 applicable customers in English, Spanish, and Vietnamese. Each year a letter and compliance reporting form are mailed to non-compliant customers. The Compliance Reporting Form is to be completed by the customer by a date certain, and returned to the City via mail, email or fillable form located on the City's website. EcoNomics reviews the responses, verifies compliance if applicable, and follows up with customers to provide free program implementation services, including; waste audits, education and training, signage, and assistance with scheduling bin/cart delivery with WM. As a result, compliance, 3rd party recycling program verification, and new program implementation have increased significantly.

Finding 4: *Cities are not in compliance with AB 341 mandates with respect to providing recycling containers for multi-family units.*

Response: The City of Santa Ana disagrees with this finding. The City is in compliance with AB 341. As detailed in the response to Finding 3 above, the City continues its recycling education, outreach, and implementation program for multi-family units. To date, CalRecycle has expressed their satisfaction with the City's strategy, and our implementation progress.

The City does face challenges in program implementation due to space constraints, which have led to implementing split-bin collection, smaller bin size availability, and the allowance for customers to share bins.

RECOMMENDATIONS

Recommendation 1: *All cities and county entities that do not have a contract review process in place should establish one to ensure regular reviews of service contracts are performed and that contract terms are still relevant as legislative changes are enacted. Serious consideration should be given to shortening the length of contracts to facilitate opportunities for competitive bidding where feasible. (F1)*

Response: The recommendation has been implemented. Section 43 of the City's franchise agreement requires that WM make its records, reports, and methods of accounting available to the City's designated representative to review and verify the information reported. Staff regularly reviews contract obligations, audits contract invoicing, and conducts field service audits.

The current RFP process will result in a contract that will assist the City in remaining compliant with State mandates, including AB 939, AB 341, AB 1594, AB 1826 and SB 1383. It will also include a variety of contract review processes: audits of extraordinary rate adjustment requests, compliance with terms, customer service level and billing, fee payments, compliance with State mandates, route audits, performance hearings, and right to inspect records. The contract will also contain liquidated damages for failure to meet service performance standards or failure to submit required documents in a timely manner. The term of the agreement will be ten years, with a mutual option to extend for five years, and a City option to extend for up to 36 months.

Recommendation 2: *Municipalities should ensure that recycle bins be labeled with comprehensive recycling instructions to facilitate proper sorting of waste (F2 and F3).*

Response: The recommendation has been implemented. As noted in the City's response to Finding 2, labeling for both residential bins and carts is hot-stamped into the lids as part of the manufacturing process.

The new contract includes cart labeling and hot stamping requirements as detailed in the City's response to Finding 2, which will be compliant with CalRecycle's SB 1383 requirements.

Recommendation 3: *Cities, that have not already done so, should implement the requirements of AB 341 as they pertain to multi-family recycling programs. Additionally, such programs need to be closely monitored by city contract administrators rather than relying solely on waste haulers to fulfill the mandates (F4).*

Response: The recommendation has been implemented. The City continues with its education, outreach, and implementation program for AB 341 and AB 1826, providing significant services detailed in the City's response to Finding 3, to ease the process of implementation for multi-family units.

The new contract will include a significant outreach, education and implementation program for continued compliance. Space constraints will continue to be an issue, especially in the downtown, which is built-out. The contract will also include full-time recycling coordinators to provide technical assistance to multi-family and commercial properties for implementation of AB341 compliant services.

I would like to express my appreciation for the effort of the Orange County Grand Jury. Thank you for the opportunity to submit comments. If you have any questions for need additional information, please contact Christy Kindig, Projects Manager via email at ckindig@santa-ana.org or by phone at 714-647-5088.

Sincerely,



Kristine Ridge
City Manager