



September 23, 2020

The Honorable Kirk H. Nakamura
Presiding Judge
Superior Court of California, Orange County
700 Civic Center Drive West
Santa Ana, CA 92701

RE: Response of City of Buena Park to 2019-2020 Orange County Grand Jury Report, "OC Recycling: Doing it the Right Way."

Dear Honorable Judge Nakamura:

Please accept this response to the Grand Jury's report entitled, "OC Recycling: Doing it the Right Way." The City of Buena Park is committed to developing and implementing programs to reduce the amount of refuse being deposited in our local landfills. We are pleased to offer the following responses to this report.

FINDINGS

F.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 Buena Park disagrees partially with this finding. EDCO Disposal, the current franchisee, has served as the waste disposal contractor since 1972. Previous names that EDCO has operated under include Park Disposal, Park Waste and Recycling, and currently EDCO Disposal (EDCO). The current agreement with EDCO was entered into on June 1, 1984. It was subsequently amended (Amendment No. 1 – March 20, 1989) to establish a four to five year annually renewing term. It was again amended (Amendment No. 2 – February 8, 1991) to implement the commingled recycling program in response to the mandate of AB 939. Amendment No. 2 also increased the term of the annually renewing term to 10 years in order to enable EDCO to enter into a long-term agreement with CR transfer for the use of the material recovery facility.

The agreement was again amended (Amendment No. 3 - July 12, 2005) to implement the automated collection of refuse and recyclables and the source separated collection of greenwaste.

The agreement was again amended (Amendment No. 4 - July 28, 2009) to require the use of less polluting sweepers (EDCO also provides street sweeping services) as mandated by the California Air Resources Board (CARB) and South Coast Air Quality Management District (SCAQMD).

The amendments listed above demonstrate the value to the city and its residents of having a long-term relationship with EDCO. EDCO's ongoing commitment to develop a working and viable collection and processing program for refuse and recyclables and their ability to capitalize their equipment, machinery, and investment in employees was enabled by the long-term agreement with Buena Park. It is not reasonable to expect that a private family-owned company would make these substantial investments in capital equipment, industrial processes, and employees without a long term agreement and commitment with the City. The City also finds value in an active and engaged provider with a facility based in Buena Park that is capable of providing immediate response to operating conditions, as well as a walk-up office for the community.

More recently, the services were modified to add additional automated services, including transitioning the collection of greenwaste to an automated cart (the previous service featured manual collection using traditional waste cans), updating EDCO's fleet to clean air vehicles (once again mandated by CARB and SCAQMD), and most recently the addition of a third (blue) recycling container, which transitions the City to a three-bin curbside recycling program. In addition, this facilitated the investment in the development of a renewable natural gas (RNG) time fill overnight fueling station, as well as a public RNG fueling station for residents, business, and vehicles owned and operated by the City of Buena Park.

Each of the programs listed above were implemented in response to mandates from Sacramento. The long term agreement with EDCO made possible the modifications to our collection and recycling programs in order to comply with the legislated mandates. The timing of these mandates from Sacramento never coincides with contract terms and expiration dates and it would not be possible to structure a franchise agreement that would facilitate bidding the contract as each new mandate comes along. At some point, in order to remain compliant with ever-changing legislation, it is inherent that cities have long-term relationships with their refuse haulers that enable them to make these significant and costly investments and service changes.

F.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 Buena Park disagrees partially with this finding. The City of Buena Park agrees that legible and comprehensive *enough* instructions on the lids of containers are important during the initial start-up of new collection and recycling programs. At the time these programs were established, the automated carts were purchased and imprinted with instructions that were appropriate at that time, based on the current legislated laws and regulations, and based on the industrial processes used in the waste processing facilities and associated equipment. As laws, mandates, and industrial processes change it is not economically feasible to replace these containers with new containers that have updated directions imprinted on them.

As you will observe in the attached photos, our recycling lids are imprinted with comprehensive information. The recently implemented blue bin recycling program includes verbiage, "Do Not Bag!", and also includes lists of items that may be included, along with easily understood graphics that portray the acceptable items.

As noted by the Grand Jury, ongoing educational efforts are critical to the success of recycling programs. Towards this end, the City is committed to continue and expand our education programs. In addition, as automated carts are replaced we will endeavor to imprint current information on the lids.

F.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 Buena Park disagrees partially with this finding. The City of Buena Park takes its responsibility to educate its residents very seriously and we also realize that the success of the costly programs that we implement depend on the cooperation of knowledgeable and informed residents for success. Towards that end, the City utilizes several established printed materials to communicate with, and to educate its citizenry. The *Buena Park Today* Quarterly Newsletter is a professionally printed magazine-quality publication that is mailed to all residential addresses and businesses in the City. It features appropriate seasonal information on City programs and activities and also helpful and educational information on items such as recycling, disposal of large and bulky items, and proper disposal of hazardous materials.

The Buena Park utility bill is mailed to all residential water and refuse customers bi-monthly and includes inserted information that is selected by the City and often seasonal in nature. Working closely with EDCO, the City has produced the *Environmental Times* Quarterly Newsletter with a focus on our recycling programs and the recycling industry. It includes helpful information about how to separate recyclables and how to dispose of items that should not go into the waste bins. The City Council has recently authorized the regular quarterly publication and mailing of the *Environmental Times* in the utility bill. City staff will work closely with EDCO staff to continue refining and improving the *Environmental Times* to make it a successful ongoing education campaign. Please refer to the attachment to see specific guidance in the Fall 2020 edition regarding single-use plastic trash bags.

In addition, the City also includes useful information on our webpage and on our social media platforms (FaceBook, Twitter, etc.). This presence enables us to quickly provide information and to answer questions in a real-time scenario.

Included as attachments you will also find the complete public education package of materials that were mailed, emailed, and hand delivered to customers with the implementation of the recent third bin (blue bin) for commingled recycling. A similar campaign was utilized when we implemented the automated collection program in 2005 and the green waste automation in 2017.

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

Response: The City of Buena Park disagrees partially with this finding. While some of the cities included in this investigation may not be compliant with the mandates of AB341, the City of Buena Park is fully compliant in providing recycling services to all commercial accounts. AB341 requires that recycling *services* be provided to commercial accounts. It does not specifically state that recycling *containers* be provided for multi-family units. Many cities across

California implemented mixed waste processing programs that feature state-of-the-art Material Recovery Facilities. This was done at great expense and has proven to be equally effective as curbside separation programs in the diversion of waste from landfills. The following statement and guidance is pasted from CalRecycle's website:
(<https://www.calrecycle.ca.gov/recycle/commercial>)

From CalRecycle – AB 341 Key Elements of the Law

Business Commercial Recycling Requirements. A business (includes public entities) that generates four cubic yards or more of commercial solid waste per week or is a multifamily residential dwelling of five units or more shall arrange for recycling services. Businesses can take one or any combination of the following in order to reuse, recycle, compost or otherwise divert solid waste from disposal:

- Self-haul.
- Subscribe to a hauler(s).
- Arrange for the pickup of recyclable materials.
- *Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.*

The program currently in place in Buena Park includes a combination of mixed waste processing and source separated dedicated recycling containers for commercial customers and multifamily residential dwelling units. As noted, it is fully compliant with the rules and regulations of CalRecycle. Nevertheless, the programs put in place by the City of Buena Park and our franchisee, EDCO, enable us to continually assess and modify our collection and diversion programs as changes in the economy and industry dictate. This is a key benefit of our long-term relationship with EDCO.

RECOMMENDATIONS

R.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 City of Buena Park partially agrees with this recommendation. The City agrees that a regular contract review process should be implemented and hereby commits to conduct an audit of the activities and contract performance of EDCO every three years, beginning in 2021. The City also agrees to review the contract terms at that time to ensure that they are appropriate and relevant with the changes that occur from time to time in our programs.

The City is presently reviewing and revising various sections of the municipal code relevant to the refuse collection program.

The City partially agrees with the suggestion that serious consideration should be given to shortening the length of contracts to facilitate opportunities for competitive bidding where feasible. This will be considered at the next anticipated refuse rate review in 2021. The City notes, however, that it is afforded the rights to continue at its sole discretion with or without competitive bidding under Public Resources Code Section 40059(a).2 (attached).

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

Response: The City of Buena Park agrees with this recommendation. As noted in the response to Finding No. F-2, the collection bins were imprinted with appropriate language at the time of implementation of the programs. In addition, comprehensive educational campaigns were conducted with the introduction of each program and distribution of each bin. The City and EDCO will continue with our educational efforts and will refine the recycling instructions on new and replacement bins as they are purchased and distributed.

R.3. Cities, that have not already do (sic) 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 City of Buena Park agrees with this recommendation. As noted in the above response to Finding No. F-4, Buena Park has fully implemented mixed-waste processing throughout our commercial and multi-family customer base. In addition, we also make available dedicated source-separated collection of recyclables to customers at their discretion. This program has been very successful at many of our "showcase" commercial properties such as Porto's Bakery and many of our large industrial tenants.

City staff will continue to work closely with EDCO staff and CalRecycle staff to monitor and further refine our programs and activities as we seek to fully comply with all waste collection, diversion, and recycling rules and regulations.

The City is pleased that the Grand Jury recognizes the importance of addressing waste disposal practices in Orange County. You are welcome to contact Mr. Nabil Henein, P.E., Director of Public Works/City Engineer, at (714) 562-3670 or at NHenein@buenapark.com if you require additional information regarding our refuse collection, recycling, and disposal programs.

Sincerely,



Fred R. Smith
Mayor

Attachments:

Public Education Information – Greenwaste Implementation 2017
Public Education Information – Blue Bin Recycling Implementation 2020
Environmental Times – Fall 2020 Edition
Photos of Recycling Bin Lids
Buena Park Today – Various Articles
Public Resources Code Section 40059(a).2

cc: Orange County Grand Jury
The Honorable City Council, City of Buena Park
Aaron France, City Manager, City of Buena Park
Nabil Henein, Director of Public Works/City Engineer, City of Buena Park