



City of Mission Viejo

Public Works Department

Brian Goodell
Mayor

Trish Kelley
Mayor Pro Tem

Wendy Bucknum
Council Member

Greg Rathes
Council Member

Edward Sachs
Council Member

November 6, 2020

The Honorable Kirk Nakamura
Superior Court of California, County of Orange
700 Civic Center West
Santa Ana, CA 92701

Subject: City of Mission Viejo Responses to Orange County Grand Jury Report “OC Recycling: Doing It the Right Way”

Dear Judge Nakamura:

The 2019-2020 Grand Jury of Orange County released a report titled “OC Recycling: Doing It the Right Way,” which can be found at <https://www.ocgrandjury.org/reports.asp>. The report evaluated trash and recycling services provided by the County of Orange and a sampling of ten (10) cities in Orange County. Mission Viejo was one of the sampled cities.

The report requires a written response from the City of Mission Viejo under California Penal Code Sections 933 and 933.05.

Penal Code Section 933.05(a) requires the respondent to agree, disagree wholly, or disagree partially with a finding.

Penal Code Section 933.05(b) requires the respondent to respond with one of the following choices to a recommendation:

- (1) The recommendation has been implemented, with a summary regarding the implemented action;
- (2) The recommendation has not yet been implemented, but will be implemented in the future with a timeframe for implementation;
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of analysis or study, and a timeframe [given]; or
- (4) The recommendation will not be implemented [with an explanation of why].

Consequently, on behalf of the City of Mission Viejo, please accept the following responses to the findings and recommendations presented in the report.

Finding F1: 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 Mission Viejo disagrees with this finding as it is implied the City has not been competitively bidding its exclusive franchise solid waste contract on a regular basis. The City has put these services out to bid five times in the past thirty-two years. As a result, the City has not had the same franchise solid waste hauler since the City’s incorporation in 1988. In 1990, the City issued its first request for proposals for solid waste and recycling services for residential services. As a result, for the period of September 1, 1990 to August 31, 1995, Dewey’s Rubbish Service was awarded an exclusive franchise for residential service. Commercial service was non-exclusive. In 1995, the City issued its second request for proposals for solid waste and recycling services for both residential and commercial service. Subsequently, for the period of September 1, 1995 to December 31, 2000, the City awarded an exclusive franchise to Browning-Ferris Industries for residential solid waste service and awarded an exclusive franchise to Western Waste for commercial service. In 2000, the City released its third request for proposals for solid waste and recycling services and awarded an eight-year exclusive franchise with two optional one-year extensions beginning January 1, 2001 to Waste Management of Orange County. Because those one-year extensions were exercised, that contract expired December 31, 2010. In 2010, the City issued its fourth request for proposals for solid waste and recycling services and awarded another eight-year exclusive franchise with two optional one-year extensions beginning January 1, 2011 to Waste Management of Orange County. Because those one-year extensions were exercised, that contract expires December 31, 2020. This year, the City completed its fifth request for proposals for solid waste and recycling services and awarded another eight-year exclusive franchise with two optional one-year extensions to Waste Management of Orange County. In all cases, award was based upon both most qualified and best pricing. It should be noted that changing solid waste and recycling service providers has its own set of unique challenges as documented in this archived *Los Angeles Times* article regarding Mission Viejo’s experience in changing from Dewey’s Rubbish Service to Browning-Ferris Industries and Western Waste in 1995: <https://www.latimes.com/archives/la-xpm-1995-10-23-me-60302-story.html>

Finding F2: 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 Mission Viejo disagrees partially with this finding. Waste Management of Orange County provides service to Mission Viejo. All of Waste Management’s residential carts have printed instructions on the lids indicating which materials belong in the cart. However, the recycling cart does not have instructions with regard to single use plastic shopping bags. As part of the City’s new contract with Waste Management, Waste Management will be providing new SB 1383 compliant carts to all residents. Residents are also entitled to complimentary change-outs of carts upon request. Therefore, if any printing is obscured or faded, carts can be replaced for this reason. The City and Waste Management jointly provide recycling education and outreach to its residents and businesses. Information is posted online at the City’s “Green” website at www.cityofmissionviejo.org/green under the “Reduce, Reuse, Recycle” tab and the “Trash and Recycling Services” tab, and online at Waste Management’s dedicated page for Mission Viejo at home.wm.com/Mission-Viejo.

Finding F3: 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 Mission Viejo disagrees with this finding. The City, Waste Management, and the City’s recycling education and outreach consultant, EcoNomics, jointly provide education and outreach efforts. For example, during October 2020, EcoNomics provided training to Mission Hospital staff on AB 341, AB 1826, and hazardous waste. In October 2020, EcoNomics also engaged with 17 restaurant and shopping center managers to confirm recycling practices in place. City staff provides recycling education and outreach as well through direct mailers, e-mails, and site visits. In October 2020, City staff reached out to local businesses and schools regarding AB 341 and AB 1826 compliance. Because of the City of Mission Viejo’s ability to manage solid waste and recycling programs, the City was chosen to provide solid waste program management services to the City of Rancho Santa Margarita. As part of the contract with Rancho Santa Margarita, City staff assists with direct recycling outreach and education and management of their exclusive franchise solid waste hauler agreement with CR&R.

Finding F4: Cities are not in compliance with AB 341 mandates with respect to providing recycling containers for multi-family units.

Response: The City of Mission Viejo disagrees with this finding. The City’s multi-family housing properties have all been compliant with AB 341 since 2016. In the latest annual report to the California Department of Resources Recycling and Recovery (CalRecycle), the City certified all 21 multi-family housing properties are compliant with AB 341 and have solid waste and recycling carts and/or dumpsters on-site and are being used.

Recommendation R1: 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 already implemented by the City of Mission Viejo. In fact, the City currently has a spreadsheet of all contract items and reviews compliance with those items on a regular basis. EcoNomics assists the City with these reviews. The City believes its current 8 to 10-year cycle of competitive bidding for solid waste services is more progressive than most cities. By the Grand Jury’s own service rate comparison table, this has resulted in some of the lowest residential and commercial service rates in Orange County.

Recommendation R2: 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 not yet been implemented, but will be implemented by the end of 2020. The City had already planned to review the labelling of carts in conjunction with the roll-out of new carts required under the new solid waste services agreement.

Recommendation R3: Cities, that have not already do 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 already been implemented by the City of Mission Viejo. In consideration that the City’s multi-family residential properties are already compliant with AB 341 and have been compliant with AB 341 since at least 2016, the City is in compliance with this portion of the law.

If you have any questions about the foregoing, please contact Joe Ames at 949-470-8419 or james@cityofmissionviejo.org or myself at 949-470-3091 or mchagnon@cityofmissionviejo.org.

Sincerely,



Mark Chagnon, P.E.
Director of Public Works

C: Brian Goodell, Mayor
Trish Kelley, Mayor Pro Tem
Wendy Bucknum, Council Member
Greg Raths, Council Member
Edward Sachs, Council Member
Dennis Wilberg, City Manager
William P. Curley, III, City Attorney
Joe Ames, Assistant City Engineer